



2023/2712

6.12.2023

**COMMISSION IMPLEMENTING REGULATION (EU) 2023/2712**

**of 5 December 2023**

**laying down rules for the application of Regulation (EU) 2019/1020 of the European Parliament and of the Council as regards the details of the information to be transmitted from national customs systems to the information and communication system for market surveillance concerning products placed under the customs procedure ‘release for free circulation’**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 <sup>(1)</sup>, and in particular Article 34(8) thereof,

Whereas:

- (1) Article 34(6) of Regulation (EU) 2019/1020 requires customs authorities, where relevant for the enforcement of Union harmonisation legislation and for the purpose of minimising risk, to extract from national customs systems information on products placed under the customs procedure ‘release for free circulation’ related to the enforcement of the Union harmonisation legislation, and to transmit it to the information and communication system referred to in Article 34(1) of that Regulation, known as the Information and Communication System for Market Surveillance (‘ICSMS’).
- (2) Information on products released for free circulation is already collected by customs authorities under Regulation (EU) No 952/2013 of the European Parliament and of the Council <sup>(2)</sup> and transmitted to the Commission using the electronic system referred to in Article 56(1) of Commission Implementing Regulation (EU) 2015/2447 <sup>(3)</sup> (the ‘Surveillance database’). That information should therefore be used for the purpose of the transmission of information to ICSMS referred to in Article 34(6) of Regulation (EU) 2019/1020.
- (3) However, the Surveillance database contains more extensive and more granular information than needed by market surveillance authorities for the purpose of Article 34(6) of Regulation (EU) 2019/1020. It is therefore necessary to define the relevant information sets to be aggregated and transmitted from the Surveillance database to ICSMS. These information sets should be defined in relation to the specific data elements set out in Annex B to Commission Delegated Regulation (EU) 2015/2446. <sup>(4)</sup>
- (4) In order to avoid double transmission of information by customs authorities, the information referred to in Article 34(6) of Regulation (EU) 2019/1020 should be transmitted to ICSMS in two stages: first, customs authorities should transmit that information to the Commission using the Surveillance database; second, the Commission should ensure that the information is retrieved from the Surveillance database and transmitted to ICSMS on behalf of the customs authorities.

<sup>(1)</sup> OJ L 169, 25.6.2019, p. 1.

<sup>(2)</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

<sup>(3)</sup> Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

<sup>(4)</sup> Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

- (5) The information transmitted to ICSMS pursuant to Article 34(6) of Regulation (EU) 2019/1020 should not remain in the electronic interfaces used for its transmission longer than necessary for that transmission. That information should be kept confidential by the users of ICSMS referred to in Article 34(1) of Regulation (EU) 2019/1020 (single liaison offices, market surveillance authorities, authorities designated under Article 25(1) of Regulation (EU) 2019/1020 and the Commission) and it should be used only for the purpose of enforcement of Union harmonisation legislation and for the purpose of minimising risk.
- (6) The date of application of this Regulation should be deferred in order to allow for the development of an adequate visualisation tool providing user-friendly access to the information transmitted to ICSMS pursuant to Article 34(6) of Regulation (EU) 2019/1020.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the committee established by Article 43(1) of Regulation (EU) 2019/1020,

HAS ADOPTED THIS REGULATION:

#### Article 1

### Information to be transmitted and transmission process

1. The information on products placed under the customs procedure 'release for free circulation' that is to be extracted from national customs systems and transmitted to the information and communication system referred to in Article 34(1) of Regulation (EU) 2019/1020 ('ICSMS') pursuant to Article 34(6) of Regulation (EU) 2019/1020 shall be the information:

- (a) set out in the Annex to this Regulation;
- (b) related to the products declared for release for free circulation under Chapters 24 to 96 of the Customs Nomenclature, as set out in Annex I to Council Regulation (EEC) No 2658/87 <sup>(<sup>1</sup>)</sup>;
- (c) available in the national customs systems under the data element set out in Annex B to Delegated Regulation (EU) 2015/2446, as referred to in the Annex to this Regulation, and in the electronic system referred to in Article 56(1) of Implementing Regulation (EU) 2015/2447 (the 'Surveillance database').

The information referred to in the first subparagraph shall be transmitted in an aggregated format removing all transaction- or operator-specific data.

Where Member States, in accordance with Regulation (EU) No 952/2013 or Articles 2, 143a and 144 of Delegated Regulation (EU) 2015/2446 or any other transitional rules set out in or pursuant to these Regulations, apply data requirements to the customs declaration that are different from the ones set out in the Annex, the information to be transmitted shall be the equivalent information available in the customs declaration subject to those data requirements.

2. Customs authorities shall transmit the information referred to in paragraph 1 to the Commission using the Surveillance database.

The Commission shall ensure that the information is retrieved from the Surveillance database and transmitted to ICSMS on a monthly basis. Each monthly transmission shall include the relevant information records covering a period of five years prior to the month of transmission.

<sup>(1)</sup> Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

*Article 2***Confidentiality of information**

1. The information transmitted pursuant to Article 1 shall not remain in the electronic interfaces used for its transmission longer than necessary for that transmission and shall be kept confidential by the Commission during the transmission.
2. The information transmitted pursuant to Article 1 shall be kept confidential by the users of ICSMS. It shall be used only for the purpose of enforcement of Union harmonisation legislation and for the purpose of minimising risk.

*Article 3***Entry into force and application**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 6 August 2024.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 5 December 2023.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

## ANNEX

Information referred to in Article 1(1)		Corresponding data element in Annex B to Delegated Regulation (EU) 2015/2446	
Data element	Description	Data element	Description
Acceptance Month	Month in which the declaration was accepted	15 09 000 000	Date of acceptance
Issuer	Member State where the declaration was accepted	Technical data element	Member State providing the data
Origin country	Country of customs' origin	16 08 000 000 or 16 09 000 000	Country of origin or Country of preferential origin
Destination Country	Country of final destination	16 03 000 000	Country of destination
Commodity Code	Commodity code up to 10 digit level	18 09 056 000 18 09 057 000 18 09 058 000	Harmonized System sub-heading code Combined nomenclature code TARIC code
Euro_Value	Statistical value converted to Euro	99 06 000 000	Statistical value <sup>(1)</sup>
Net Mass	Net mass of goods expressed in kg	18 01 000 000	Net mass

<sup>(1)</sup> This information is provided by Member States in their national currencies and automatically converted to euro using the official rate of the European Central Bank.