ECASBA PLENARY WEBINAR

Moderator: Marco Tak, Committee Chair

Discussion Panels:

- "Crew Changes and the European Entry/Exit Scheme, and their Impact on Ship Agents"
  - "An Introduction to ICS 2"

Welcome Address:

Aziz Mantrach, FONASBA President

FONASBA

ECSA
European Community Shipowners' Associations

European Commission

ECASBA

"Crew Changes, the European Entry/Exit Scheme, and their Impact on Ship Agents"

Moderator: Marco Tak, Committee Chair

Speaker: Claudia Vella Casagrande, the European Community Shipowners Association

FONASBA

ECSA
European Community Shipowners' Associations

ECASBA

The Entry/Exit System (EES)

Claudia Vella Casagrande
Director – Social, Fiscal and Legal Affairs

ECASBA Plenary Webinar 10 February 2021

ECSA
European Community Shipowners' Associations

Facts & Figures

- Representing 20 national shipowners' associations of the EU, the UK and Norway

- Founded in 1965

- Promotes and protects the interests of European shipping

- European Social Dialogue partner since 1999 – partner of the European Transport Workers' Federation, ETF

- Brussels Secretariat – 11 employees

Background of the Entry/Exit System (EES)

- Europe's migratory pressures and terrorist attacks over the last few years, has made border management a priority for the European Commission (expected influx of persons to Schengen is 887M by 2025).

- Need to make Border checks quicker, simpler and manageable.

- The Visa Information System (VIS) has been operational since 2015 in Member State consulates, and its consultation is now compulsory for visa-holders entering the Schengen area.

- Since February 2013, the concept of **Smart Borders Package** has been introduced. An ambitious package of legislative measures drawn up in consultation with the European Parliament.

'Smart Borders' Package

Smart Borders?

- Third Country Nationals (TCN) only.

- Enforcement of current Schengen Border Code rules.

- Border control.

Package?

- Entry/Exit System (EES) and European Travel Information and Authorisation System (ETIAS).

- It will be used in conjunction with the other parts of the package (i.e. PNR, VIS, etc.).

- Expected launch of operation: EES in May – Q1 of 2022 and ETIAS in December 2022.

Objectives of the Entry/Exit System (EES)

- The EES will radically change the Schengen Borders Code by:
  - ✓ Making external borders smart by automating checks and controls on legitimate visitors while strengthening methods for combating irregular migration
  - ✓ Creating a central register of cross-border movements.

- It will modernise and increase automation, effectiveness and efficiency of the external border management of the Schengen Area.

- It will strengthen internal security and fight terrorism and organised crime.

- It will help Member States to deal with ever-increasing traveller flows without having to supplement the number of border guards.

- It will allow for better monitoring of authorised stays and the identification of possible over-stayers in the Schengen Area.
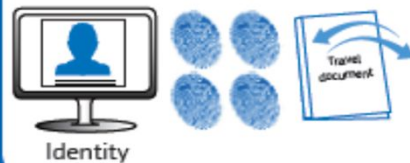
What is the Entry/Exit System (EES)?

- The EES has been adopted via two Regulations [2017/2225](#) and [2017/2226](#) in November 2019, following negotiations of the Council and EP.

- Creates a **centralised information system of Entry/Exit recording data of non-EU nationals crossing the EU external borders for a short stay.**

- It is a **new large-scale IT system** being developed by the EU Agency for operational manaement of large scale IT systems in are of Justice, freedom and security (eu-LISA) that will enable the recording of entry and exit of TCN to and from the Schengen Area. DG HOME is overlooking the legal and policy aspects.

- **Applies to both visa exempted and visa required passengers but not to EU nationals or residence permit holders.**

- It will **replace the current practice of manual stamping of passports with electronic registration in a central database of biographic and biometric information**, as well as the date and place of entry/exit for visits up to 90 days in a 180 day period.

Entry/Exit System (EES) in practice

Disclaimer: This picture has been taken from a presentation given by the Commission during a WG Carriers meeting. It should not be regarded as an official position of the Commission and contains only preliminary views of the Commission services.

Entry/Exit System (EES) border infrastructure

10/02/20

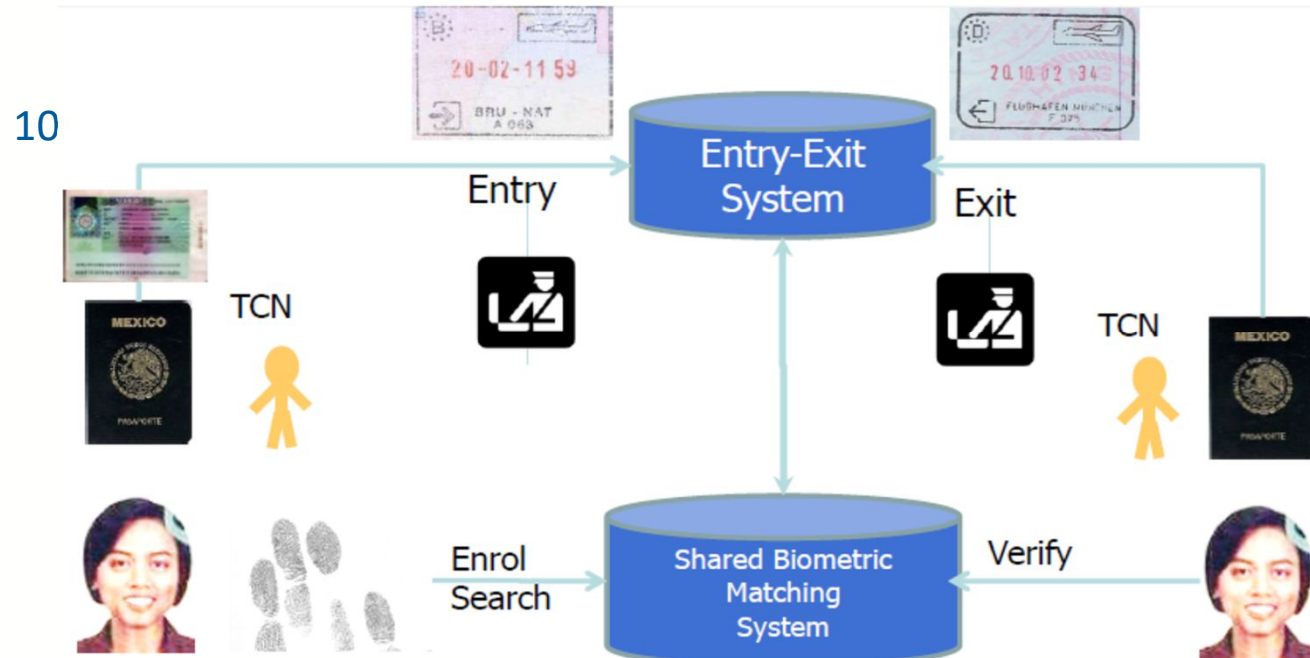## Entry/Exit System (EES) in a nutshell

The identity (alphanumerical data, 4 **fingerprints and facial image)** together with details of the travel document will be linked to electronic entry/exit records. No more stamping to travel documents.

10

Implications of Entry/Exit System (EES)

- Visas are no longer stamped at entry.

- EES will replace the current manual stamping of passports with an electronic system.

- An alert will be issued to national authorities when no exit is recorded by the expiry of the max 90-day duration period.

- Impossibility to check from the visa sticker if a single or double entry visa was 'consumed' or is still valid.

- Different way of checking whether or not third country nationals holding a single or double entry visa have already used the visa.

Carriers' Obligations

- Take responsibility for passengers who have been refused entry and return them to their country of embarkation.

- Make sure that passengers have travel documents = 'are administratively in order'.

- Check whether the visa is for single or multiple entries.

- Verify the status prior to boarding but not earlier than 48 hours before the scheduled time of departure.
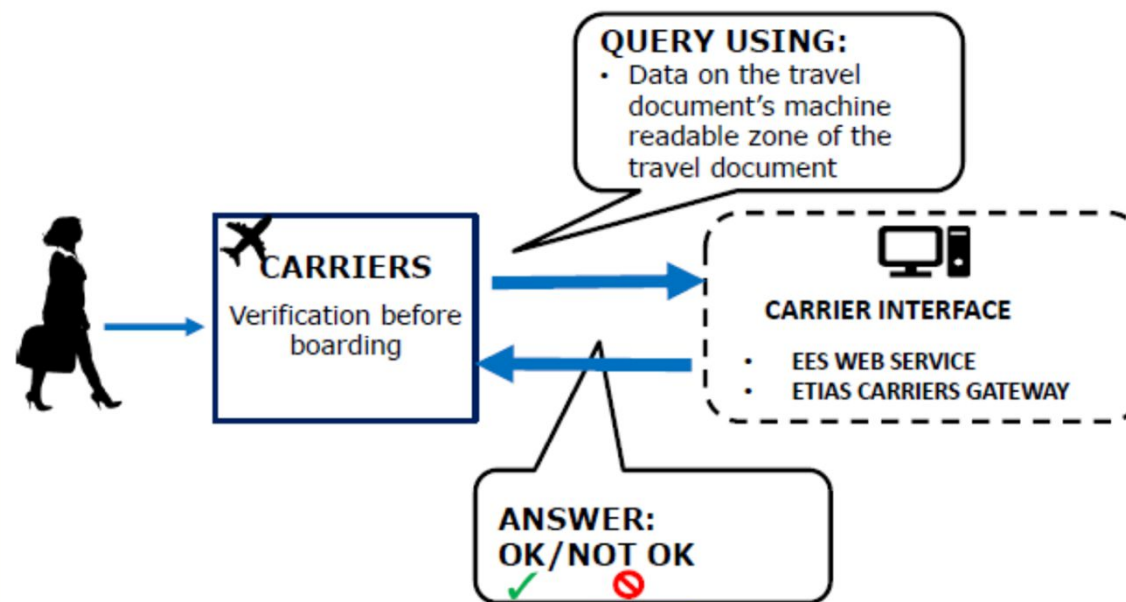
How will carriers' fulfil their obligations?

- Carriers shall use the web service (hosted by eu-LISA) to verify whether Third-Country Nationals (TCN) hold a short-stay visa issued for one or two entries have already used the number of entries authorised by their visa.

- Carriers shall provide the data listed under points (a), (b) and (c) of Article 16(1):
  a) surname (family name); first name or names (given names); date of birth; nationality or nationalities;
  b) the type and number of the travel document or documents and the three letter code of the issuing country of the travel document or documents;
  c) the date of expiry of the validity of the travel document or documents;

- On that basis, the web service shall provide carriers with an OK/NOT OK answer.

- Carriers may store the information sent and the answer received in accordance with the applicable law.

- Carriers shall establish an authentication scheme to ensure that only authorised staff may access the web service. It shall not be possible to regard the OK/NOT OK answer as a decision to authorise or refuse entry in accordance with Regulation (EU) 2016/399.

Smart Borders and carriers in practice

EU-LISA is developing technical solutions with the objective of minimising impact on carriers:

- Combined query for both EES and ETIAS

- Combined answer for both EES and ETIAS

- Possibly in the future an extension to an interactive API system

QUERY USING:
- Data on the travel document's machine readable zone of the travel document

✈ **CARRIERS**
Verification before boarding

CARRIER INTERFACE
- EES WEB SERVICE
- ETIAS CARRIERS GATEWAY

**ANSWER:
OK/NOT OK**

How will non-EU seafarers with no biometric passports be affected?

- The e-passport is not compulsory.

- The construction of the initial file, which is used to check every subsequent registration <u>does not</u> require e-passports.

- The facial image and fingerprints are taken live and verified by a Border Guard (see slide 8).

- Further details can be found mainly in Articles 14(4), 16(1) and (6), 17(1) and 18(1) of the <u>Entry/Exit System (EES) Regulation</u>.

Definition of Carriers

- The definition used in Article 1 of Convention Implementing the Schengen Agreement (CISA) is : "carrier: shall mean any natural or legal person whose occupation it is to provide passenger transport by air, sea or land;"

- The definition used in Article 2(15) of Schengen Border Code (SBC) is: "carrier means any natural or legal person whose profession it is to provide transport of persons."

- Whatever ship falls in the scope of the definition of carrier (ferry, cruise ship, etc.) of the CISA/SBC remains covered by the scope of the definition of carrier, **no matter the number of passengers it carries**.

- Cargo ships are **not** in the scope of the definition of carrier, based on the understanding that they transport goods and not persons.

Working Group for Carriers

- eu-LISA and DG HOME have established a Working Group for Carriers composed of carrier association representatives from all transport modes. For seaborne transport – ECSA, CLIA and Interferry participate.

- 4 technical carriers meetings have been held since its commencement in June 2019. In December 2019, ECSA invited DG HOME and eu-LISA to an ad-hoc meeting with sea carriers to discuss specific issues of concern to sea carriers.

- The Working Group last met in March 2020.

- The next meeting is expected to be held in March 2021.

Work underway for Implementation of EES

- In order to clarify the technical details for the implementation of EES, work has been underway to prepare Implementing Decision and Regulation.

- In 2019, Commission adopted an Implementing Decision (EU) 2019/329 laying down the specifications for the quality, resolution and use of fingerprints and facial image for biometric verification and identification in EES

- Work is underway to prepare the Implementing Regulation:
  1. Commission's draft is prepared based on feedback received from carriers and MS.
  2. It is discussed in the Smart Borders Committee.
  3. Undergoes Commission inter-service consultation.
  4. Then it is formally consulted with relevant stakeholders.
  5. Finally it is adopted by the Smart Borders Committee.

- We will be soon entering phase (3), the Commission inter-services consultation of the draft text.

EES Implementing Act will clarify obligations and use of the web service by carriers

- Obligations of carriers

- Connection and access means to the interface

- Authentication scheme

- Assistance Centre Service

- Queries/Replies

- Certification for the use of the API

EES indicative implementation timeline

✓ April 2019 – February 2022: System development phase

✓ November 2020 – May 2022: Testing phase

✓ May 2022: Entry in Operation (EiO)

✓ Prior to EiO, the systems will be tested for compliance by doing rehearsals and testing procedures. During this time, staffers from the side of both the authorities and the carriers will be trained.

✓ Post-EiO, staff authorisation and access will be sorted out. Verifications for all systems will take place.

ECSA engagement

ECSA has engaged with the Commission and eu-LISA and within the Carriers Working Group so as to:

- Put forth concerns related to the removal of the stamping of visas and seek solutions found before EES enters in force.

- Put forth concerns regarding the lack of infrastructure in ports to deal with biometric checks.

- Ensure the scope is restricted to passenger vessels.

- Put forth concerns regarding the implementation by carrier including: lack of a trip reference in seaborne transport (unlike air), ensuring web interfaces are compatible with those used by seaborne carriers, raise importance of use of European Maritime Single Window environment.

Crew passport stamping

- As a general rule, Third Country Nationals (TCN) fulfilling entry conditions have the right to enter for a short stay of up to 90 days within any 180-day period.

- Currently the **stamping** of the travel document indicating the dates of entry and exit is the sole method available to border guards and immigration authorities to calculate the duration of stay of TCN and to verify if someone is over-staying.

- Current practice shows MS have recognised the importance of exit stamps as they allow visas to remain valid for crew members. If the visa is not stamped on exit, the validity period of the visa remains active either until the visa runs out or until it automatically expires 90 days after the seafarer has entered the Schengen region.

- Failing to stamp the visa would cause the seafarers to be travellers on an expired document and thus in "non-compliance" with the visa/immigration requirements, which means they will have to apply for the visa at the border at the end of their contract.

ECSA advocacy for a solution for crew members' needs

- Concerns raised about the potential for seafarers to be perceived as "overstaying" their allotted period, should the current arrangements be abolished, since their visas would never "paused" via the exit stamp.

- This would seriously hamper the swift embarkation or disembarkation of seafarers in EU ports and potentially result in crew members subsequently being no longer granted Schengen visas to return to work on ships due to the afore-mentioned problem.

- It would thus place seafarers in a precarious position since it will hinder their ability to travel to the EU for either work or tourism purposes for the foreseeable future.

Maritime stakeholders meeting with relevant Commission Services and Member States

- Over the coming month, ECSA will be organising a meeting of all interested maritime stakeholders – including representatives of carriers (CLIA and Interferry), representatives of ship agents (ECASBA), representatives of port operators (ESPO) and any other interested maritime stakeholders – to meet with the responsible officials within DG HOME, Frontex, eu-LISA, DG MOVE and Member States so as to understand better the practical measures needed for a smooth implementation and raise and discuss pending concerns.

- Input and participation by FONASBA/ECASBA and its members would be very appreciated.

Useful sources

- The Regulations:
  - Regulation (EU) 2017/2225
  - Regulation (EU) 2017/2226

- The Implementing Acts

- The Factsheet

- EES Information Leaflet

- Repot of the Working Group on ICT Solutions for External Borders (sea/land)

- EES website

Thank you for your attention!

Claudia Vella Casagrande

Please feel free to send any input to vellacasagrande@ecsa.eu

ECSA
European Community Shipowners' Associations

mail@ecsa.eu

"An Introduction to ICS 2"

Moderator: Marco Tak, Committee Chair

Speaker: Klemen Oven, The European Commission

ICS2

Customs Pre-Arrival Security and Safety Programme (C-PASS)

ECASBA virtual seminar: 10th February 2021
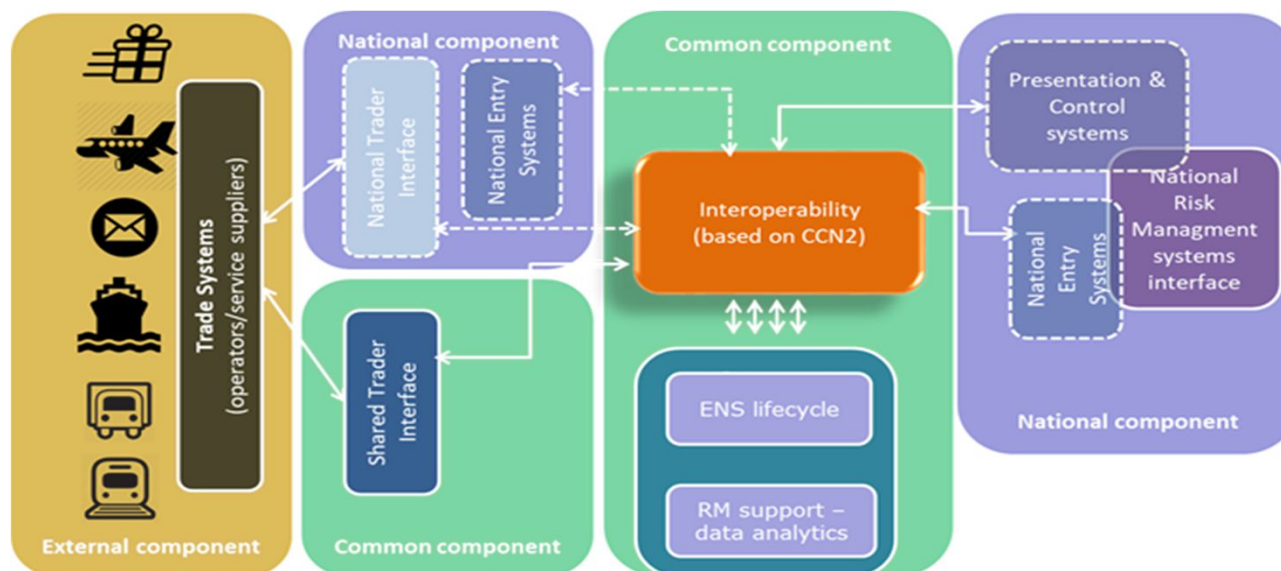
European Commission

ICS2 in context

- Post 9/11 attacks ➔ **Security amendment to the Union Customs Code**

  ➢ ICS

    o Customs risk management - advance cargo information (Entry Summary Declaration for each consignment)…

    o … on which customs run Common Risk Criteria (CRC) for safety & security since 2009

- Yemen 2010 ➔ **EU action plan on Air Cargo Security**

- **EU Strategy and Action Plan for customs risk management (2014)**

  ➢ Shortcomings of ICS - >ICS2

  ➢ Union Customs Code amendment to implement reform -> ICS2 to support customs 1st line of defense

European Commission

ICS2 system
High level overview

- **Completely new, large scale information system**

- **Orchestrates 24/7 collaborative real-time** security and safety **risk management and border controls processes** (+ 1.000 entry points)

ICS2 system
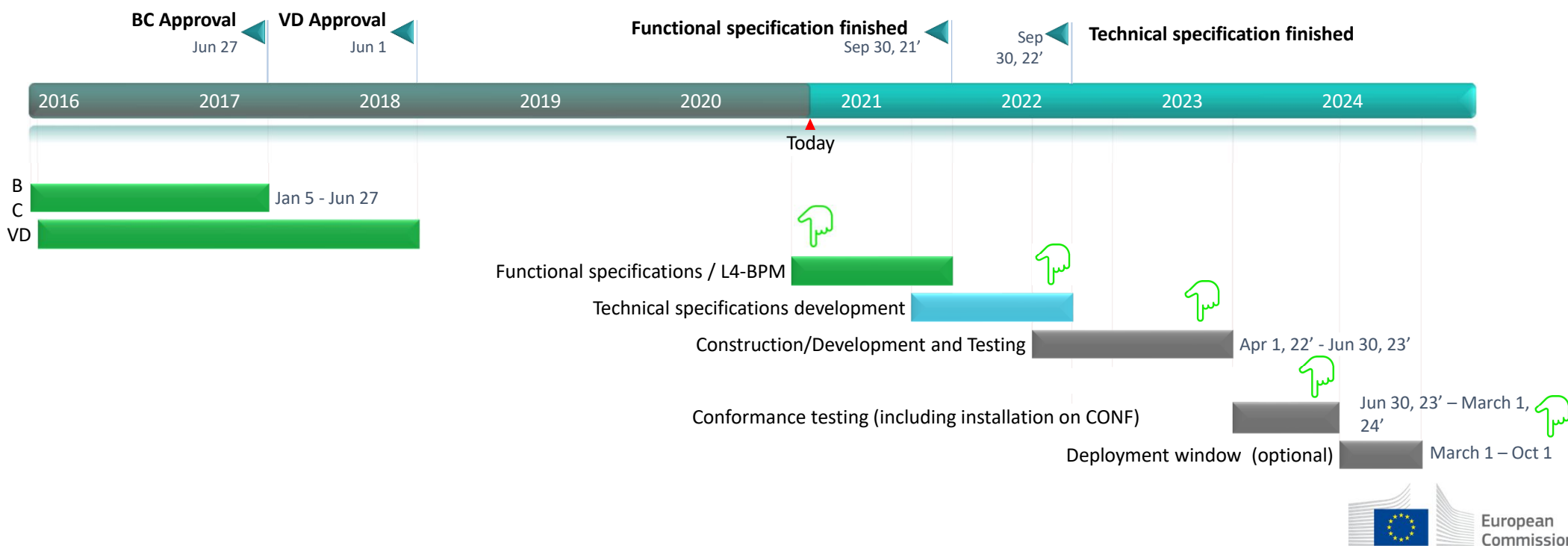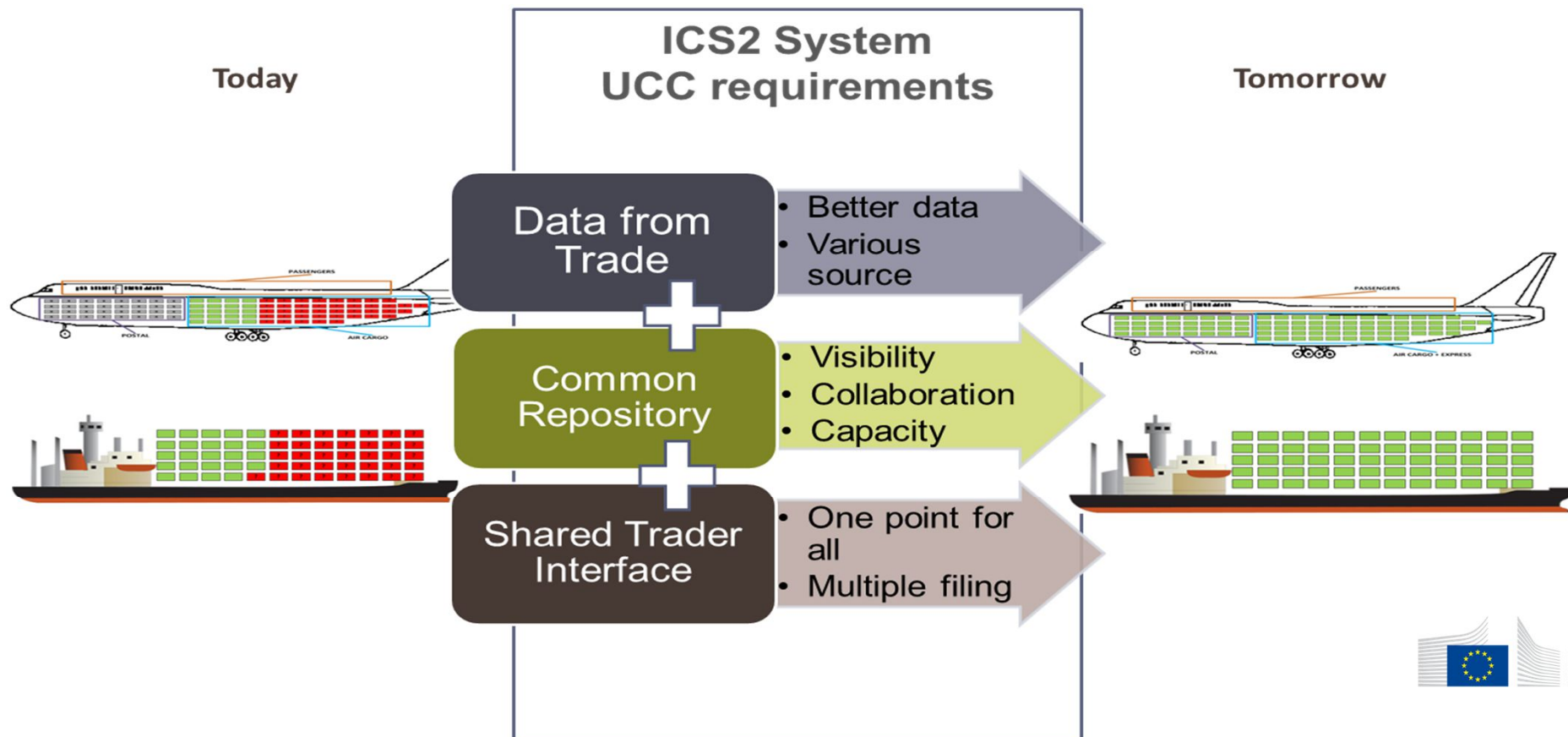## Phased implementation

RELEASE 1
15/03/2021

AIR EXPRESS PRE-LOADING

POSTAL AIR PRE-LOADING

RELEASE 2
01/03/2023

AIR GENERAL CARGO

AIR EXPRESS FULL

POSTAL BY AIR FULL

RELEASE 3
01/03/2024

MARITIME

ROAD

RAIL

ICS2 timeline

European Commission

ICS2 Release 3

BC Approval
Jun 27

VD Approval
Jun 1

Functional specification finished
Sep 30, 21'

Sep 30, 22'

Technical specification finished

| 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 |

Today

B
C
VD

Jan 5 - Jun 27

Functional specifications / L4-BPM

Technical specifications development

Construction/Development and Testing

Apr 1, 22' - Jun 30, 23'

Conformance testing (including installation on CONF)

Jun 30, 23' – March 1, 24'

Deployment window (optional)

March 1 – Oct 1

ICS vs ICS2 & Objective of ICS2

ICS2 vs ICS – wholesale transformation

Technology
- Completely new system
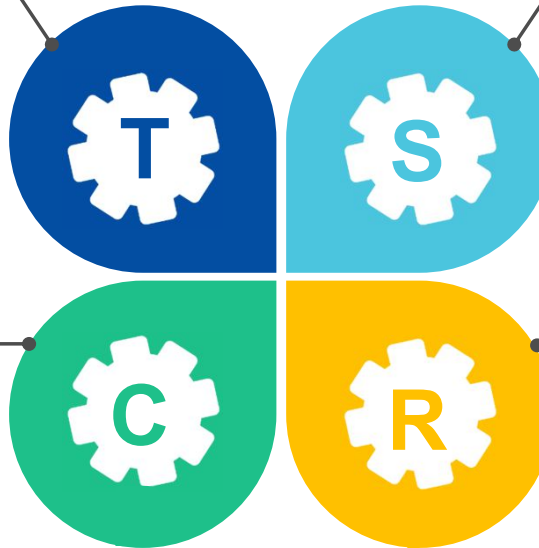- ICS will phase out

Supply Chain processes
- New actors
- New and better data
- Collaboration and exchange of info between actors

Customs Business processes
- Pre-loading
- Pre-arrival
- Arrival
- Presentation

Risk Management and controls
- Real time pan-European risk analysis
- Co-ordinated controls

European Commission

ICS2 vs ICS

- National trader interfaces replaced by harmonised trader interface

- Harmonised specification of messages and communication protocols

- ENS lifecycle process will be managed centrally

- Enabling MS collaboration to risk analyse in real time and coordinate safety and security controls at appropriate place
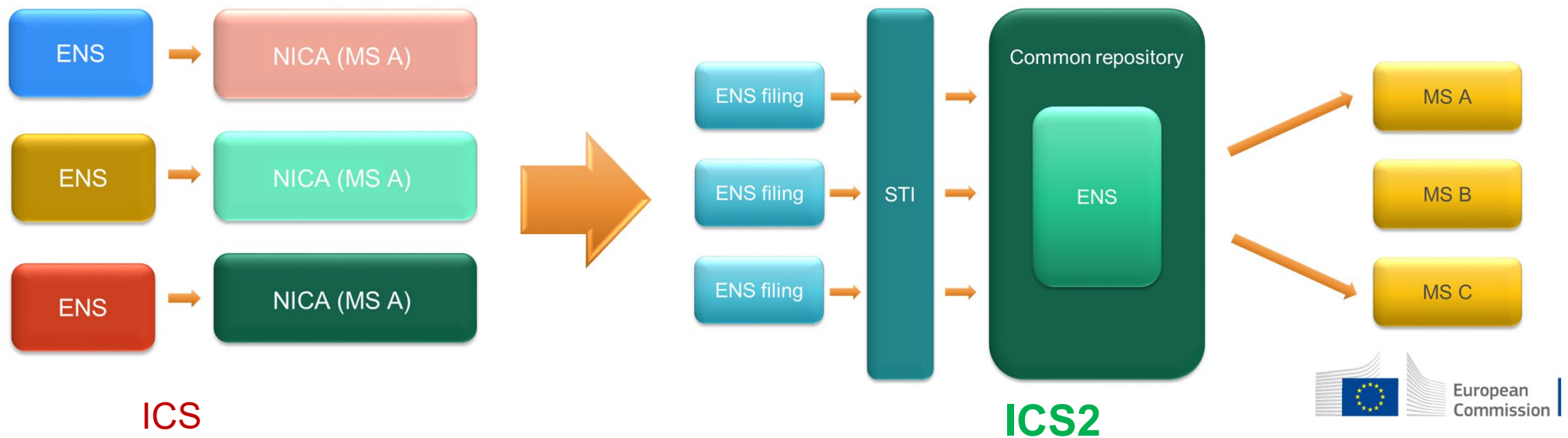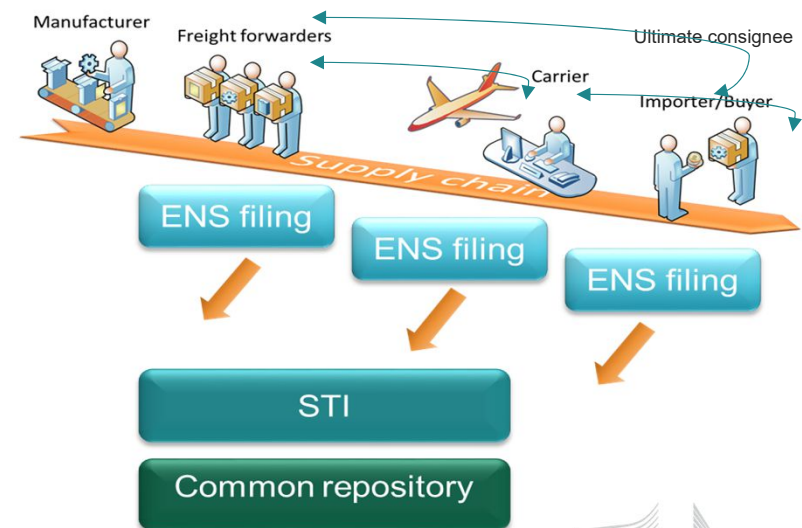
ICS2 vs ICS

- Single filing by the carrier is replaced by multiple filings by the carrier and other parties in the supply chain

- Improved data quality through harmonisation of data requirements and data structures

- Carriers and other contracted filing parties (FFW, ultimate consignee) must share certain information among each-other, for ENS filing purposes
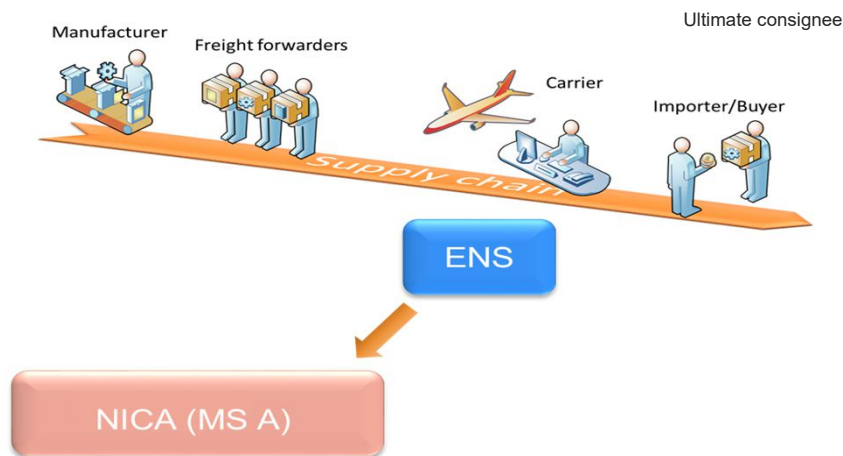
ICS2 vs ICS

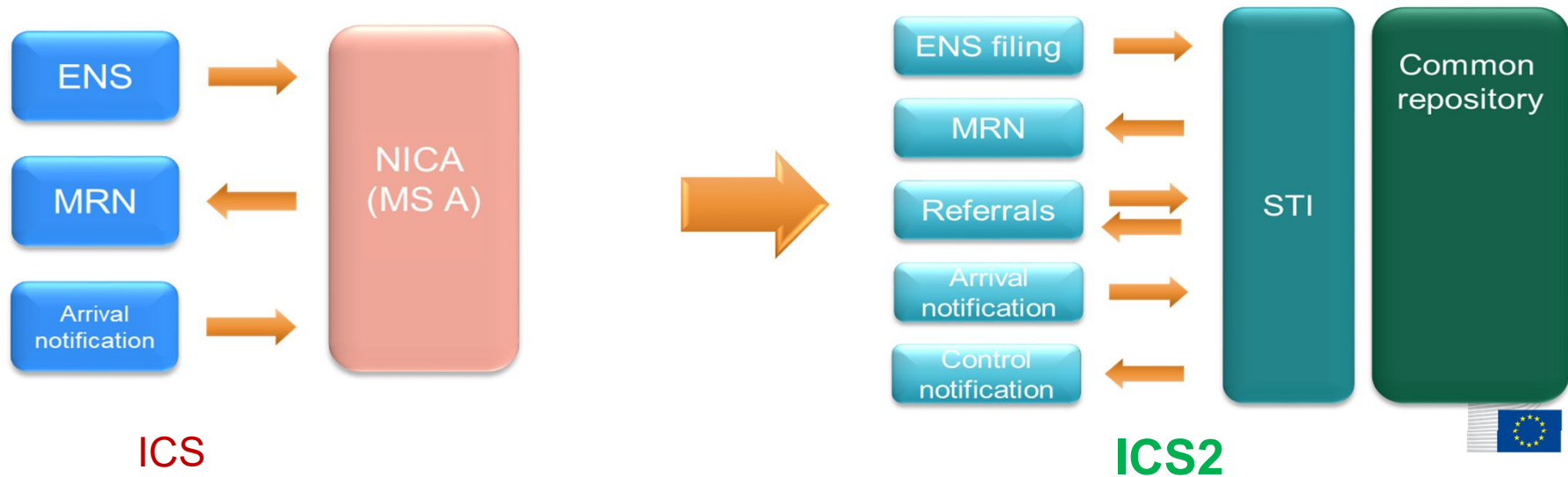- Not only one direction - filing of the ENS - but also additional communication with customs is done via the system: Risk Mitigation Referrals, Notification after completion of the risk analysis process, Arrival notification, Control notification, Advance AEO control notification.

- Different types of ENS filings for each transport mode/business model and for different business scenarios have been developed

ICS2 communication & public information

- **Already available:**
  - ✓ new ICS2 website https://ec.europa.eu/ICS2
  - ✓ animated video https://www.youtube.com/watch?v=iIjOTDwFwAw
  - ✓ social media messages

    (LinkedIn – *European Commission* and Twitter – *EU Tax & Customs*)

- **Coming later:**
  - ▪ magazine advertisements,
  - ▪ printed materials,
 - ▪ e-newsletters,
  - ▪ press release, etc.

- **Documents and more information on ICS2:**
  - ▪ CIRCABC https://circabc.europa.eu interest groups:
    - ○ ICS2 Release 1: air pre-loading postal and express
    - ○ ICS2 Release 2: air cargo general, postal and express pre-arrival
    - ○ ICS2 Release 3: maritime, road, rail and postal and express goods transported via those modes

European Commission
1 011 646 abonnés
5 j.

How well do you know the EU's new Advance Cargo Information System? ICS2 will impact the way you provide safety and security data and ship goods to or via the EU. Learn how to prepare your business for the upcoming changes: https://ec.europa.eu/ICS2

#ICS2 #EuropeanUnion #Trade

EU Tax & Customs @EU_Taxud · 11m
Shipping goods to or via the EU? How much do you know about the EU's new Advance Cargo Information System? Release 1 of #ICS2 comes into force in March 2021, stay ahead of the game and learn how to prepare your business. ec.europa.eu/ICS2

European Commission

ICS2 Release 3 – role of ECASBA (FONASBA)

- To be reliable partner - get involved at earliest stage as possible in R3
  - CFSS/CTSS, organization of CT, E2E, roll-out

- Co-implement and support transformation brought by ICS2
  - Data quality!
  - IT, collaboration with supply chain partners (maritime carriers, consignees), customs processes

- Manage orderly transition to ICS2 (for EOs in ICS and the new ones)

- We will need your help in global outreach – raise awareness to 3rd country EOs
  - Use info hub e.g. ICS2 website

- Be active and pro-active
  - We provide you up-to date information via PICS, Circabc, webinars
  - ECASBA (FONASBA) representatives can get access – send us request to functional mail!

European Commission
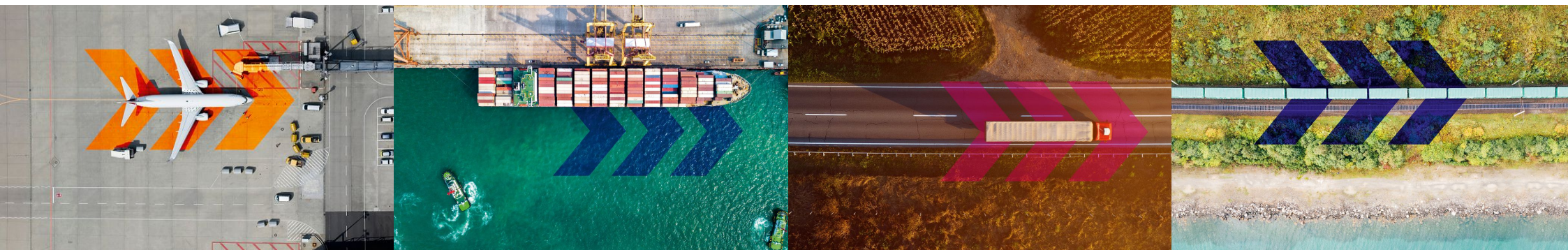
Thank you

ICS2 page on Europa website:

https://ec.europa.eu/taxation_customs/general-information-customs/customs-security/ics2_en

TAXUD ICS2 functional mailbox:

TAXUD-ICS2-PROJECT-TEAM@ec.europa.eu

European Commission

THANK YOU FOR JOINING US!
We hope to see you at the 2021 AGM in Antwerp!

5th – 9th October 2021

FONASBA