



**REFORM OF PREFERENTIAL RULES OF ORIGIN
APPLICABLE TO THE PANEUROMED ZONE
ACCORDING TO THE REGIONAL CONVENTION
APPROVED BY THE COUNCIL ON 14.4.2011
CONSULTATION OF DG TAXUD**

CEFS REVISED REPLY – 18.5.2011

On 14.4.2011 the European Council adopted a Decision authorising the signature on behalf of the EU of the Regional Convention on Pan-Euro-Mediterranean (PEM) rules of origin. This Convention provides in particular for the extension of the current cumulation system to the countries of the EU's Stabilisation and Association Process (Western Balkans). The Council called for rapid proposals on reviewed PEM rules of origin. DG TAXUD is asking the opinion of the sugar sector on some of the general provisions to be applied (sufficient processing and list rules, minimal operations, cumulation, Regulation N° 1063/2010 on GSP rules of origin as a basis for new PEM rules to some extent). **The interests at stake for the European sugar industry are extremely important.**

Minimal operations never conferring the origin

CEFS very much welcomes the proposed Article for “insufficient working or processing”, retaining the same minimal operations as in the GSP Regulation, as follows:

- g) operations to colour or flavour sugar or form sugar lumps; partial or total milling of crystal sugar;
- n) mixing of sugar with any material.

The “**mixing of sugar with any material**” considered as a **minimal operation** is actually of extreme importance for the sugar industry in order to prevent any circumvention.

Sufficient processing – List rules

In the list rules for chapter 17, the same rules as in the Regulation for GSP rules of origin are mainly retained, in particular **the change in 4-digit heading** for sugars and sugar confectionery. **This rule prevents refining from conferring the origin**, which is essential since the number of refineries operating in Africa, the Mediterranean countries and the Gulf countries is constantly increasing. In actual fact these refineries generally handle sugar from the world market. The quantities involved are considerable. If refining did confer the origin, the European market could be submerged by imports that would be impossible to manage. In fact refining should never confer the origin, which is also the EC position in the context of non preferential rules.

For heading 1704 (sugar confectionery), the list rules provide for **lower thresholds** as in the Regulation for GSP rules of origin, as follows: “the individual weight of sugar... used does not exceed 20 % of the weight of the final product AND the total combined weight of sugar and the material of ch. 4 used (dairy products) does not exceed 40 % of the weight of the final product” instead of respectively 40 % and 60 % in the current GSP Regulation on rules of origin. **Chemically pure fructose and maltose** are also submitted to more restrictive rules.

CEFS welcomes these proposals since the diagonal cumulation system which will be applied within the PEM zone allows to acquire the origin in a much easier way than in the GSP system, because the materials originating in the zone do not have to be sufficiently worked or processed as they are already considered as originating when further processed in the zone.

For the same reason, we approve and judge necessary **the lowering of the thresholds applicable to chapters 18, chapter 19, ex chapter 20, chapter 21, chapter 22, as provided for heading 1704.**

Cumulation of origin

The current exclusion from cumulation for high sugar content products originating in the Balkan countries imported into the EU is retained. **However the possible cumulation between the Western Balkan countries and the Mediterranean countries would be extremely concerning for the European sugar industry.** A number of TRQs are applied to Balkan countries, in particular a TRQ of 180.000 t for Croatia and a similar TRQ for Serbia for CN 1701 and 1702. Lower TRQs are also applied to Albania, Bosnia & Herzegovina, Fyrom¹. We understand that the new cumulation system could in the future also apply to other neighbouring countries. For recall a TRQ is also applied to Moldavia and a trade agreement is in course of negotiation with Ukraine. **The main risk would be the importation of high sugar content products from the same countries, but classified under tariff headings different from the TRQs ones, not subject to tariff quotas.** This would just be a circumvention of existing rules.

Regarding **high sugar content products**², we are therefore asking that **cumulation is forbidden between the Western Balkan countries and the Mediterranean countries when the final country of destination is the European Union.** As in the current GSP Regulation for rules of origin (Annex II – 13 b), a table should clearly summarize the exclusions provided between different zones each time there is a risk of circumvention of the trade rules agreed upon between the EU and the concerned third countries through trade agreements (TRQs, customs duties).

We are also concerned by the fact that some countries of the PEM zone are currently applying **full cumulation** between themselves and diagonal cumulation with the other PEM countries (EEA – Maghreb countries). Here again, **high sugar content products should be excluded from diagonal cumulation when the final country of destination is the European Union.** The new cumulation system should not undermine the current customs duties, which are for instance maintained for sugar coming from the Maghreb countries.

General tolerance rule

The general tolerance rule provided in the Regional Convention referred to by the Council amounts to 10 %. Due to the wider availability of original materials within the diagonal cumulation system, CEFS estimates that **a 10 % percentage in weight is more adequate than the 15 % one** retained in the Regulation on GSP rules of origin. In addition CEFS understands that **this general tolerance rule constitutes an exemption from the list rules**, but in no case from the list of minimal operations, which prevents the granting of originating status to sugar mixes with any material.

SUMMARY

The CEFS approves TAXUD proposals based on the Commission Regulation N° 1063/2010 regarding minimal operations, as well as the proposals regarding the sufficient working or processing, but providing lower thresholds taking into account the wider availability of originating materials through the diagonal cumulation system. The rule of change in 4-digit heading is also essential to prevent refining from conferring the origin. Regarding the cumulation provisions, the CEFS is demanding that the utmost attention is given to preserve the existing trade arrangements, mainly in terms of TRQs applying to Balkan countries, and other possible neighbouring countries in the future if and when they are admitted in the new PEM system. Exclusion from diagonal cumulation in the PEM zone should be foreseen for high sugar content products when the final country of destination is the EU, at least each time there is a risk of circumvention regarding TRQs, or customs duties. The general tolerance rule of maximum 10 % in weight – considered as an exemption from the list rules - should be retained. This tolerance rule should never be considered as an exemption from the list of minimal operations.

¹ TRQs Albania : 1.000 – Bosnia & Herzegovina : 12.000 – FYROM : 7.000

² See the Notice to importers 2007/C 265/07 – JO C 265/6 of 7.11.2007