



EUROPEAN COMMISSION

DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
International and General Affairs

Trade facilitation, rules of origin and international coordination: Europe and neighbouring countries
and International Organisations

Brussels, 25 August 2021

TAXUD/E4/AM/GD

GUIDANCE TRANSITIONAL PEM RULES OF ORIGIN (v1.0 – 16 AUGUST 2021)

TABLE OF CONTENTS

1.	TRANSITIONAL RULES OF ORIGIN (HOW IT WORKS, THE CHOICE OF THE EXPORTERS).....	3
1.1.	Details on the transitional rules of origin	3
1.2.	Permeability between the two sets of rules of origin	5
1.3.	Matrix – Commission’s Notice	10
2.	THE MAIN CHANGES.....	10
2.1.	Wholly obtained products.....	10
2.1.1.	Aquaculture	10
2.1.2.	‘vessels’ conditions	11
2.2.	Sufficient working or processing – Average basis	11
2.3.	Tolerance	16
2.4.	Cumulation	16
2.5.	Accounting segregation	17
2.6.	Principle of territoriality	18
2.7.	Non-alteration.....	19
2.8.	Prohibition of drawback of, or exemption from, customs duties	20
2.9.	Proof of origin	20
2.10.	Validity of a proof of origin	22
3.	SPECIAL FOCUS ON THE PRODUCT SPECIFIC RULES.....	22
3.1.	Agricultural products.....	22
3.2.	Industrial products	24

3.3. Textiles	26
4. USEFUL LINKS	30

General disclaimer

This guidance document is of an explanatory and illustrative nature. Customs legislation in the EU and its Member States, as well as customs legislation of the applying Contracting Parties takes precedence over the content of this document and should always be consulted. The authentic texts of the EU legal acts are those published in the Official Journal of the European Union. There may also be national instructions.

Drafting procedure

This guidance document has been drafted by origin experts and has been endorsed by the Customs Expert Group – Origin Section (CEG-ORI).

ACRONYMS AND DEFINITIONS

Applying Contracting Parties: means a Contracting Party to the PEM Convention that incorporates the transitional rules of origin in its bilateral preferential trade agreements with another Contracting Party to the PEM Convention.

HS: Harmonised system. The Harmonised Commodity Description and Coding System (HS), commonly referred to as the Harmonised System, is an international system to classify goods developed by the World Customs Organisation (WCO).

PEM Convention: Regional Convention on preferential pan-Euro-Mediterranean rules of origin, EU OJ L54 of 26 February 2013.

Transitional rules of origin: set of rules of origin based on the revised rules of origin of the PEM Convention that are applicable on a bilateral basis in parallel with the current rules of the PEM Convention. These rules are transitional pending the adoption and entry into force of the revised PEM Convention.

UCC: Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013.

UCC-DA: Commission Delegated Regulation (EU) 2015/2446, as amended.

UCC-IA: Commission Implementing Regulation (EU) 2015/2447, as amended.

VERSIONS

V1	First published version (25 August 2021)
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1. TRANSITIONAL RULES OF ORIGIN (HOW IT WORKS, THE CHOICE OF THE EXPORTERS)

1.1. Details on the transitional rules of origin

In 2020, trade between the European Union and the countries of the PEM region accounted for more than 40 % of the EU's preferential trade, of which exports represent 385 billion euros and EU imports for 294 billion euros.

PEM Trade of EU Trade (in Millions of EUR)			
EU27-PEM Total Trade	PEM Countries Total EU Trade	PEM Imports	PEM Exports
	€679,142	€294,104	€385,038
EU27 - All trade	Total Trade (All)	All Imports	All Exports
	€9,274,491	€4,497,863	€4,776,628
	PEM of all trade	PEM of all imports	PEM of all exports
	7.3%	6.5%	8.1%
EU27 - Extra-EU trade	Extra-EU Total Trade	Extra-EU Imports	Extra-EU Exports
	€3,646,521	€1,714,344	€1,932,177
	PEM of all extra-EU trade	PEM of all extra-EU imports	PEM of all extra-EU exports
	18.6%	17.2%	19.9%
EU27 - Trade with FTA Partners (preferential trade)	EU FTA Total Trade	FTA Imports	FTA Exports
	€1,667,293	€727,337	€939,956
	PEM of all FTA trade	PEM of all FTA imports	PEM of all FTA exports
	40.7%	40.4%	41.0%
Source: COMEXT			
Unit: Millions of EUR			

Nature of goods most traded with PEM countries in 2020 are the following:

Top Imports from PEM Countries			
By Chapter		By Heading	
HS Chapter	Import value (Million EUR)	HS Heading	Import value (Million EUR)
30	31853	3004	17749
27	31475	2709	15874
84	21570	3002	10644
85	20319	8703	9149
87	19546	2933	9003
29	18366	2711	8872
71	12450	7108	7700
99	10051	8544	7036
03	8871	0302	5089
90	8795	8708	4414
Top Exports to PEM Countries			
By Chapter		By Heading	
HS Chapter	Export value (Million EUR)	HS Heading	Export value (Million EUR)
84	48725	3004	26750
30	37521	8703	21251
87	36971	2710	10743
85	32638	7108	9776
39	17644	3002	9626
71	15857	8708	6602
27	14917	8517	5127
90	12620	8471	4571
72	9921	8802	3918
73	8541	8704	3525

Discussions to modernise the PEM Convention began in 2012 in order to adapt the rules of origin to the changing economic realities. The revised Convention must be endorsed by unanimity within the Joint Committee of the PEM Convention. Several Contracting Parties are still expressing reservations towards the adoption of the revised PEM Convention.

A majority of Contracting Parties¹ of the PEM Convention have decided to start applying in advance the revised rules among themselves, while maintaining discussions with the rest of the Contracting Parties to reach an agreement on the revision process. This temporary solution enables companies in the applying Contracting Parties to already benefit from modernised, simplified and more flexible rules of origin.

To this end, the protocols on origin contained in each bilateral trade agreement signed by the EU and the different partners have been amended to include an appendix A containing the transitional rules, without prejudice to the application of the current rules of the PEM Convention².

The target date for the application of the transitional rules is 1 September 2021. Information on which countries apply them will be made public and updated regularly (see section 1.3 below).

The two sets of rules of origin will coexist among the applying Contracting Parties. The economic operators will be able to **choose** between the applicable rules of origin in the pan-Euro-Mediterranean area: the current rules of the PEM Convention or the transitional rules of origin. This choice shall be made for each consignment.

NB: Before opting for the transitional rules of origin, economic operators should consider the different partners involved in the trade flow.

Example 1 - Final country of destination is not an applying Contracting Party.

The final exporter needs to issue a proof of origin based on the rules of the PEM Convention. This has an impact on the suppliers of the materials incorporated in the exported product who also need to provide proofs of origin according to this set of rules of origin.

If for those materials issued proofs of origin are according to the transitional rules of origin, those materials should be considered as non-originating.

Example 2 – Final country of destination is an applying Contracting Party

The final exporter may issue a proof of origin based on the transitional rules of origin. If materials incorporated in the exported product have not been covered by a “transitional” proof of origin, suppliers may use the possibility to retrospectively issue a correct proof of origin (Article 21(1)(d) of the Appendix A of the protocol on rules of origin of the FTA).

¹ These parties are the EU, Turkey, Albania, Bosnia and Herzegovina, Egypt, Faroe Islands, Georgia, Iceland, Israel, Jordan, Kosovo (This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence), Lebanon, Liechtenstein, Montenegro, North Macedonia, Norway, Palestine (this designation shall not be construed as recognition of a State of Palestine and is without prejudice to the individual positions of the Member States on this issue), the Republic of Moldova, Serbia, Switzerland, and Ukraine.

² The various bilateral protocols are published in the Official Journal of the EU.

1.2. “Permeability” between the two sets of rules of origin

As the rules of origin provided by the PEM Convention are in general more restrictive than the Transitional rules of origin, with some exceptions goods fulfilling the rules of the PEM Convention could qualify under the Transitional set of rules.

In this sense, Article 21(1)(d) of the transitional rules of origin provides for the issuance of a retrospective proof of origin replacing the initial proof of origin issued according to the rules of origin of the PEM Convention.

1.2.1. Background

The ongoing process of amending the Regional Convention on pan-Euro-Mediterranean preferential rules of origin (PEM Convention) has resulted in a new set of modernised and more flexible rules of origin. These rules have not yet been unanimously agreed by all Contracting Parties of the PEM Convention. Therefore, the PEM Convention can't yet be amended. Pending the conclusion of the negotiations and the formal adoption by all Contracting Parties, the revised rules can start being applied by those PEM Contracting Parties that are interested, alternatively to the current rules of the Convention (so called “Transitional Rules”).

The transitional rules of origin are intended for provisional application, on an **optional** and **bilateral** basis, by the interested PEM members pending the conclusion and entry into force of the amendment of the PEM Convention. These rules apply alternatively to the rules of the PEM Convention, as the latter are laid down without prejudice to the principles of each relevant agreement and other related bilateral agreements among Contracting Parties. Accordingly, these rules will not be mandatory but are optional. They don't replace the PEM Convention, which will remain in application among the Contracting Parties, and will not alter the rights and obligations of the Contracting Parties under the PEM Convention.

Exporters have therefore the choice to use either rules of origin:

1. The rules of origin of the PEM convention;
2. The revised rules of origin of the PEM Convention (so called “Transitional Rules”) with the PEM Contracting Parties that apply them.

In case they use the transitional rules, the origin has to be determined exclusively in accordance with the revised rules. In case they use the PEM Convention, origin has to be determined only in accordance with the PEM Convention rules. In other words, there is **no** “permeability” between the two sets of rules, which will operate separately.

Consequence

This implies that to claim preferential treatment based on the revised rules, only movement certificates EUR.1 bearing the indication “Transitional rules” in box 7 can be used (or the corresponding text for origin declaration³). Cumulation of origin is possible among applying Contracting Parties only if the origin of the materials and components used in the cumulation have acquired origin in accordance with the transitional rules.

³ Origin declaration is a type of proof of origin that can be made out by any exporters for consignment below 6.000 € or by approved exporters.

Thus, even if in most instances a product which is compliant with the PEM Convention rules is also compliant with the transitional rules, as the latter are more flexible, a movement certificate EUR.1 (or corresponding origin declaration) cannot be used to establish the origin under the revised rules, as one of the conditions for cumulation under the revised rules is that the rules applied by all parts in the transaction are identical. The same principle applies for the acquisition of preferential origin under the PEM Convention.

This principle also applies with respect to suppliers' declarations (both supplier's declarations and long-term supplier's declarations) for materials and components that are required under domestic legislation by some PEM Contracting Parties (in particular the EU), although in that case operators can avail themselves of the flexibility possible under those regulations.

To be noted: Article 21(1)(d) of the transitional rules of origin provides for the possibility of issuing of a retrospective proof of origin replacing an initial proof of origin issued according to the rules of origin of the PEM Convention.

Some stakeholders have reported that the application of two sets of rules for export to the same countries may raise practical difficulties of different kinds:

- One of them is that it is not practicable, especially for companies with complex supply chains, to collect origin proofs (movement certificates, origin declarations, and suppliers' declarations) issued in accordance with both sets of rules, as it would be very cumbersome and would require that this is done systematically by all the suppliers: not having the two complete sets of proofs of origin under the revised rules and the PEM Convention could imply that exporters would be unable to prove the origin in accordance with either of them.
- Another difficulty raised is that companies with complex supply chains would need to adjust their IT system so that origin for a product exported to one country can be proved according to two sets of rules. This cannot be done on short notice, as business needs sufficient time to adapt to implement the new rules.

With the exception of very few cases where the transitional rules are more strict than the PEM Convention rules (in particular for products containing sugar), and provided that there is no cumulation with PEM Contracting Parties that do not apply the transitional rules, a product compliant with the PEM Convention rules should comply also with the transitional rules.

For this reason, the question whether and how a proof of origin issued in accordance with the PEM Convention can be used to prove origin under the transitional rules would require multiple amendments to the bilateral protocol containing the transitional rules of origin.

Recommendation 1

Insofar as the suppliers of materials and components used to manufacture a product – for which preferential origin will be claimed – do not provide with proofs of origin under both sets of rules, and *in particular for those sectors where such problems have been raised, in practical terms it would be advisable that the **suppliers of such materials and components provide proofs of origin under the PEM Convention rules** when applicable. This would ensure that manufacturers can at least continue using the PEM Convention to determine the preferential origin of their products.*

With respect to supplier's declarations including long-term supplier's declarations, it has to be noted that as far as the EU is concerned, the text contained in Annexes 22-15 and 22-16 of the Union Customs' Code Implementing Regulation⁴ indicates that the issuer has to specify that the product concerned "satisfies the rules of origin governing preferential trade with" the country concerned. As there can be several rules applicable to the same PEM country, ***it would be necessary that the supplier's declaration specifies the applicable rules according to which the product is originating, and in particular whether the rules of origin complied with are those of the PEM Convention, the transitional rules, or both of them, as the case may be.*** Otherwise, it would not be possible for the exporter to know in which cases it can use such supplier's declaration.

In any event the issuer of the supplier's declaration has to be satisfied of the correctness of the origin, taking into account that compliance with the PEM Convention does not automatically mean compliance with the transitional rules.

The Commission will examine the possible introduction of amendments to the Union Customs Code Implementing Regulation as may be necessary in order to provide greater clarity in order to facilitate the use of the transitional rules.

Recommendation 2

When issuing supplier's declarations and long-term supplier's declarations, ***issuers should specify whether the product concerned complies with the PEM Convention, the transitional rules, or both as the case may be.***

NB: For materials which comply with the transitional rules, delivered before the application of the transitional rules in the context of different bilateral agreements, operators may issue supplier's declarations according to those rules.

1.2.2. Practicalities:

1. Origin declaration within the framework of the transitional rules of origin

Economic operators using "origin declarations" (by an approved exporter within the meaning of Article 19 of the transitional rules, or by any exporter for any consignment consisting of one or more packages containing originating products the total value of which does not exceed EUR 6 000) need to indicate "*according to the transitional rules of origin*" in the origin declaration.

The exporter of the products covered by this document (customs authorization No(1)) declares that, except where otherwise clearly indicated, these products are of(2) preferential origin **according to the transitional rules of origin.**

.....
..... (Place and date) (3)

.....
(Signature of the exporter, in addition the name of the person signing the declaration has to be indicated in clear script) (4)

⁴ 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

2. Movement certificates EUR.1 within the framework of the transitional rules

Economic operators requesting the issuance of a movement certificate under the transitional PEM rules of origin need to indicate “TRANSITIONAL RULES” (in English) in box 7

WARENVERKEHRSBESCHEINIGUNG			
1. Ausführender/Exporteur (Name, vollständige Anschrift, Staat)		EUR. 1 Nr. L 771085	
Vor dem Ausfüllen Anmerkungen auf der Rückseite beachten			
3. Empfänger (Name, vollständige Anschrift, Staat (Identifizierung optional))		2. Bescheinigung für den Präferenzverkehr zwischen und (Angabe des Herkunftslandes, Staatengruppe oder Gebiet)	
6. Angaben über die Beförderung (Wartung, Inspektion)		4. Staat, Staatengruppe oder Gebiet, als dessen bzw. deren Ursprungswaren die Waren gelten	
		5. Bestimmungssatz, -stammgruppe oder -gebiete	
		7. Bemerkungen TRANSITIONAL RULES	
8. Laufende Nr.; Zeichen, Nummern, Anzahl und Art der Packstücke; Warenbezeichnung		9. Bruttogewicht (kg) oder andere Maße (l, m³, usw.)	10. Packungseinheit (Anzahl, Folienzahl)
11. SICHTVERMERK DER ZOLLBEHÖRDE Die Richtigkeit der Erklärung wird bescheinigt. Ausführer (per 7) An/Muster: Nr. Zufuhrort: Ausfuhrland: Staat/Gebiet Bundesrepublik Deutschland (Stempel und Datum) Unterschrift:		12. ERKLÄRUNG DES AUSFÜHRERS/EXPORTEURS Der Unterzeichnete erklärt, dass die vorgenannte Waren die Voraussetzungen erfüllen, um diese Bescheinigung zu erhalten. (Stempel und Datum) Unterschrift:	

3. Supplier's declaration

In the context of the pan-Euro-Mediterranean zone, economic operators issuing a supplier's declaration at the request of the exporter may indicate what are the rules fulfilled by their products.

Supplier's declaration for products having preferential origin status

DECLARATION

I, the undersigned, declare that the goods listed on this document⁽¹⁾ originate in⁽²⁾ and satisfy the rules of origin governing preferential trade with⁽³⁾:

I declare that ⁽⁴⁾:



Indicate here: name of the EU partner
(PEM Convention *and/or* transitional rules)

☐ Cumulation applied with (name of the country/countries)

☐ No cumulation applied

I undertake to make available to the customs authorities any further supporting documents they require:

.....⁽⁵⁾

.....⁽⁶⁾

.....⁽⁷⁾

⁽¹⁾ If only some of the goods listed on the document are concerned, they shall be clearly indicated or marked and this marking entered in the declaration as follows:

'..... listed on this document and marked originate in

⁽²⁾ The European Union, country, group of countries or territory, from which the goods originate.

⁽³⁾ Country, group of countries or territory concerned.

⁽⁴⁾ To be completed, where necessary, only for goods having preferential origin status in the context of preferential trade relations with one of the countries, with which pan-Euro-Mediterranean cumulation of origin is applicable.

⁽⁵⁾ Place and date.

⁽⁶⁾ Name and position in the company.

⁽⁷⁾ Signature.

NB: Where no specific rules of origin are mentioned in field 3), it is considered by default that the rules of the PEM Convention are complied with.

1.3. Matrix – Commission’s Notice

The procedure of adoption of the transitional rules of origin between the EU and its partners and among themselves is an ongoing and dynamic process.

The European Commission will publish updated information related to the progress in the pan-Euro-Mediterranean area reflected in a new Commission’s notice in the series C of the Official Journal of the EU.

This notice will be under the form of a table (so-called Matrix) and will provide information related to the cumulation possibilities based on the transitional rules.

DG TAXUD will communicate this information also on [its website](#).

1.4. Codes to be used in the customs declarations

For the application of the transitional rules two new codes have been created in TARIC:

U075 = Movement certificate EUR. 1 (under the condition that in box 7 the remark "Transitional Rules" is inserted) in the context of the Pan euro Mediterranean transitional rules of origin

U076 = Origin declaration (under the condition that the declaration mentions “origin according to the transitional rules”) in the context of the Pan euro Mediterranean transitional rules of origin

The code for origin declaration shall be used regardless of the amount of the consignment or the type of the exporter.

2. THE MAIN CHANGES

This section will focus on the **main changes** brought by the transitional rules of origin. Economic operators are invited to consult websites of the customs administrations or DG TAXUD to obtain more information on the common provisions constituting the core of the rules of origin.

Explanations on these [common provisions are accessible on DG TAXUD’s website](#).

[Preferential Trade: Guidance on the Rules of Origin](#).

2.1. Wholly obtained products

2.1.1. Aquaculture

The transitional rules of origin explicitly refers to products of aquaculture. Under Article 3(1)(g) – wholly obtained products of Appendix A of the protocol on rules of origin, a specific definition has been introduced for these products.

“products of aquaculture where the fish, crustaceans, molluscs and other aquatic invertebrates are born or raised there from eggs, larvae, fry or fingerlings”

2.1.2. 'vessels' conditions

The so-called vessel conditions contained in the alternative set of rules are simpler and provide for more flexibility. Compared to the provision of the PEM Convention (Article 4(2) of Appendix I) certain conditions have been deleted (i.e. specific crew requirements); others have been amended in order to provide for more relaxation (bilateral cumulation possibility).

According to the Article 3(2) – wholly obtained products of the Transitional rules of origin, the conditions are the following:

The terms 'its vessels' and 'its factory ships' in points (h) and (i) of paragraph 1 respectively shall apply only to vessels and factory ships which meet each of the following requirements:

- (a) they are registered in the exporting or the importing Party;*
- (b) they sail under the flag of the exporting or the importing Party;*
- (c) they meet one of the following conditions:*
 - (i) they are at least 50 % owned by nationals of the exporting or the importing Party; or*
 - (ii) they are owned by companies which:*
 - have their head office and their main place of business in the exporting or the importing Party; and*
 - are at least 50 % owned by the exporting or the importing Party or public entities or nationals of these Parties.*

Example 1 – crew requirement

Fishes are caught in the open sea outside territorial waters and landed in EU (Spain). The vessel is flying a German flag and respect all criteria listed under Article 3(2) of the Transitional rules. The crew is constituted of Turkish nationals and a Moroccan captain. Under the alternative set of rules, fishes are considered as being wholly obtained in EU.

Example 2 – Exporting from Poland to Switzerland

Fish are caught in the open sea by a Swiss owned ship. The vessel is registered in Poland having a 50% Indian crew and Norwegian officers. Under the alternative set of rules, the fish are regarded as being wholly obtained in EU.

2.2. Sufficient working or processing – Average basis

For general information on sufficiently worked or processed products see Chapter B.1 “List rules” of the [Guidance on the Rules of Origin](#).

When assessing if a product comply with a product-specific rule based on a value limitation for non-originating materials, the proposed PEM transitional set of rules (art. 4) offers the exporter the flexibility to ask the customs authorities an authorisation to calculate the ex-works price and the value of non-originating materials on an average basis in order to take account of fluctuations in costs and currency rates. This should provide exporters with more predictability.

For some products the list rules confer originating status based on a value limitation for non-originating materials. In that case the value of all or specific non-originating materials may not exceed a given percentage of the ex-works price of the final product.

Example – Umbrellas (HS heading 66.01)

According to the PEM transitional rules of origin the list rule for umbrellas (Chapter 66) requires:

"Manufacture in which the value of all the [non-originating] materials used does not exceed 50% of the ex-works price of the product"

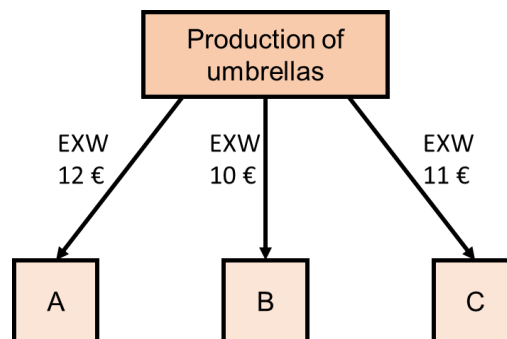
In order to determine whether a product fulfils the aforementioned list rule, at first it is necessary to determine the value of non-originating materials used as well as the ex-works price of the final product. A distinction has to be made thereby between the Regional Convention and the PEM transitional rules of origin.

Context of the current PEM Convention

Often companies sell the same products at different prices to different customers (or to the same customer at different times) or source the same materials at different prices, then for the calculation of value limitation the **specific** ex-works price as well as the **concrete** value of the non-originating materials for the respective consignment must be taken into account. The determination of whether a product fulfils the value limitation shall be carried out for each product. It is not allowed to use an average ex-works price or the average value of the non-originating materials used in the production.

Example:

A factory sells the same umbrellas (HS heading 66.01) to a number of customers at different ex-works prices (EXW).



According to the PEM Convention the ex-works price of the specific consignment applies to the calculation of the maximum value of non-originating materials. Therefore, the umbrellas sold to customer A may contain non-originating materials up to a maximum value of EUR 6, the ones sold to customer B up to a value of EUR 5 and the umbrellas sold to customer C up to a value of EUR 5,50. It is not allowed to use the average of the ex-works prices (EUR 11) as basis for the calculation. Furthermore, the concrete values of the non-originating materials actually used in the production of the umbrellas and not an average value shall be used for the purpose of establishing compliance with the maximum content of non-originating materials.

Context of the transitional PEM rules of origin

Pre-authorisation

According to the transitional PEM rules of origin the determination of whether a product fulfils the list rule shall be carried out also for each product. However, unlike the PEM Convention, the transitional rules offers in Article 4 exporters the flexibility to ask the customs authorities for an authorisation to calculate the ex-works price of the product and the value of the non-originating materials on an average basis, in order to take into account the fluctuations in costs and currency rates.

Although the wording of article 4 refers only to “exporters”, this simplification can also be authorised for EU suppliers which make out supplier’s declarations according to the UCC-IA for the preferential trade with PEM partner countries also applying the PEM transitional set of rules.

Definition of “same products” and averaging periods

The Article 4(3) provides the method of calculation : “An average ex-works price of the product and average value of non-originating materials used shall be calculated respectively on the basis of the sum of the ex-works prices charged for all sales of the same products carried out during the preceding fiscal year and the sum of the value of all the non-originating materials used in the manufacture of the same products over the preceding fiscal year as defined in the exporting Party, or, where figures for a complete fiscal year are not available, a shorter period which should not be less than three months”.

The “same products” referenced in Article 4(4) corresponds to identical and interchangeable products. This means they must be of the same kind and commercial quality, with the same technical and physical characteristics.

For exemple, umbrellas can only be considered the same if they present the same characteristics such as materials, colors, branding, etc.

When calculating the average ex-works price, all sales of the same product in the preceding fiscal year are taken into account. Regarding the limit of the fiscal year, it can be difficult to distinguish between sales made in one or in the other fiscal year, especially at the beginning and at the end of a fiscal year. In that case, it depends always on the date of invoicing.

In contrast to that, when determining the average value of non-originating materials also materials sourced in earlier years need, where appropriate, to be included in the determination of the average value. That is particularly the case with companies whose materials have a longer storage period, because the average value of the non-originating materials is based on the values of these non-originating materials that are actually used in the manufacture of the products sold in the preceding fiscal year.

Conditions of application

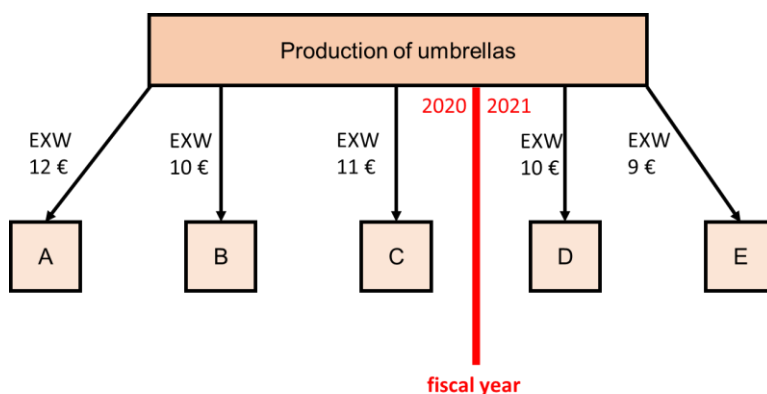
Where an exporter/supplier requests the calculation based on average values, both the average ex-works-price of the same product and the average value of the non-originating materials used to produce those products shall be calculated. Through this method, it is not

allowed to determine only the average ex-works price or only the average value of the non-originating materials used. Furthermore, this method shall be used for all products and non-originating materials the company is dealing with. It is not possible to use this simplification just for specific goods.

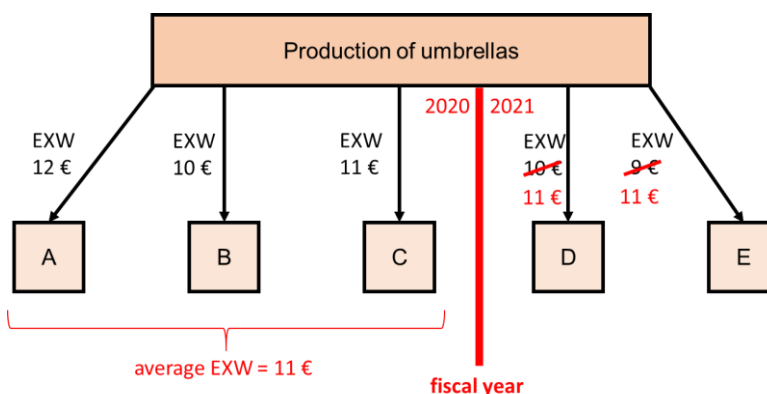
Exporters/Suppliers having opted for calculation on an average basis shall consistently apply such a method during the year following the fiscal year of reference, or, where appropriate, during the year following the shorter period used as a reference. They may cease to apply such a method where during a given fiscal year, or a shorter representative period of no less than three months, they record that the fluctuations in costs or currency rates which justified the use of such a method have ceased.

The averages calculated as described above shall be used as the ex-works price and the value of non-originating materials, respectively, for the purpose of establishing compliance with the maximum content of non-originating materials.

Example:



An umbrella factory received on prior application an authorisation to calculate their ex-works price and the value of the non-originating material used on an average basis at the end of September 2021. The preceding fiscal year of the company started on 01.01.2020 and ended on 31.12.2020. Accordingly, in the example there are three ex-works prices that shall be taken into account at calculation of the average ex-work price. Consequently, the average ex-works price is EUR 11 ($\frac{12€+10€+11€}{3}$) in the year 2020.



This ex-works price shall be used for the purpose of establishing compliance with the maximum content of non-originating materials. Therefore, non-originating materials up to a maximum value of EUR 5,50 may be used (50 % of EUR 11). The value of the non-originating materials actually used in the production of the umbrellas sold in 2020 is calculated in the same way as the average ex-works price.

Since the responsible customs authorities granted the authorisation at the end of September 2021, the average ex-works price of the umbrellas and average value of the non-originating materials of the year 2020 may be used for the purpose of establishing compliance with the maximum content of non-originating materials until 31.12.2021, the end of the current fiscal year. Furthermore, after receiving the authorisation it is also possible to make out retrospectively statements on origin based on the average method for consignments of umbrellas invoiced as from 01.01.2021.

For the calculation in year 2022, a new average ex-works price and value of the non-originating materials shall be determined on the basis of the sales carried out in 2021.

Application

When applying for authorisation on calculation of the ex-works price of the product and the value of the non-originating materials on an average basis, the economic operator needs to provide the necessary information. Each Member State may prescribe a special application form. The following elements could be requested, inter alia:

- corporate name
- EORI number
- address of the company - if different additionally the administration or establishment which holds the accounting records e.g. stock records, documents on origin, information on production process, etc.
- if held REX number, Approved Exporter number, Authorised Economic Operator (AEO)
- Contact person: first name and surname, e-mail address, phone number, position in the company;
- Fiscal year
- Partner country(ies) exported to

Inventory valuation methods

The averaging provided for in Article 4 of the transitional PEM rules are without prejudice to common inventory valuation methods accepted in the Party applied by businesses. Those methods can be used when calculating the compliance with rules based on a maximum value of non-originating materials.

Specifically, the value of the non-originating materials used in the production of the product may be calculated on the basis of the weighted average value formula or other inventory valuation method under accounting principles which are generally accepted in the Party.

2.3. Tolerance

For general information on tolerances, see Chapter B.2 “Tolerance” of the [Guidance on the Rules of Origin](#).

The percentage of the general tolerance for the PEM Convention is established at 10%. The transitional set of rules introduced by Appendix A sets a 15% tolerance for agricultural goods, as well for the other products (except for products falling within Chapters 50 to 63 of the Harmonised System). A distinction is made as to what this percentage refers to. For agricultural products, the 15 % is set to the net weight of the product, while for the rest of the products, this percentage is applied to the ex-works price of the final product.

Likewise, compared with the current provisions, more flexibility is offered as regards the textile products for which the tolerances mentioned in the introductory notes apply.

By applying the tolerance in the processing of a product, it is not allowed to exceed the maximum percentage of non-originating materials in the list rule. This means that the percentages cannot be cumulated in order for the list rule to be fulfilled.

2.4. Cumulation

For general information on cumulation see Chapter B.7 “Cumulation” of the [Guidance on the Rules of Origin](#).

The transitional rules (Article 7) maintain diagonal cumulation for all products under the condition that identical rules of origin are applied between the partners involved in the cumulation. In addition, the transitional rules provide for a generalised full cumulation for all products except textiles and clothing listed in Chapters 50-63 of the Harmonised System (HS).

Moreover, for products of HS Chapters 50-63, the transitional rules provide for bilateral full cumulation. In the context of application of the transitional rules, the partners will have the option to agree to extend the generalised full cumulation also to products of HS Chapters 50-63. A party who chooses this extension shall notify the other party and inform the European Commission (Article 7(5)).

For textiles and clothing products, only bilateral full cumulation applies without specific condition except those of Article 8 “Conditions for the application of cumulation of origin”. In this case, the Republic of Moldova and the participants of the EU Stabilisation and Association Process applying the transitional rules are considered as a single contracting party (Article 7 (4)).

Where the working or processing carried out in the exporting party does not go beyond the insufficient operations referred to in Article 6, the product obtained by incorporating materials originating in any other applying Contracting Party, shall be considered as originating in the exporting party **only where the value added there, is greater than the value of the materials used originating in any of the other applying Contracting Parties**. If this is not so, the product obtained shall be considered as originating in the applying Contracting Party which accounts for the highest value of originating materials used in the manufacture in the exporting party (Article 7(2)).

Products originating in the applying Contracting Parties which do not undergo any working or processing in the exporting party shall retain their origin if exported into one of the other contracting parties (Article 7(7)).

Article 8(1) lists the conditions for applying cumulation under the transitional set of rules:

- A preferential agreement exists between the contracting parties participating in the acquisition of originating status and the contracting party of destination;
- The goods acquired their originating status by applying identical rules of origin.

Article 8 (3) provides that the proof of origin issued by application of cumulation in accordance with Article 7 must include the following statement in English: “CUMULATION APPLIED WITH (name of country or countries in English)”.

Article 8 (4) allows the parties to waive the obligation of including on the proof of origin the statement above, for the products exported to them that obtained the originating status in the exporting Party by application of cumulation. The parties concerned shall provide the European Commission with a notification of this waiver.

In the Official Journal of the EU a matrix will be published and updated regularly containing information on:

- the possibilities of cumulation between parties under the transitional rules
- the extension of the full diagonal cumulation on products listed in Chapters 50 to 63
- the waiver of the obligation to include information on cumulation on the proof of origin

2.5. Accounting segregation

For more information on accounting segregation, see Chapter B.10 “Accounting Segregation” of [Guidance on the Rules of Origin](#).

General information and definitions

The purpose of accounting segregation is to provide a facilitation to producers allowing them to physically store together in the same place originating and non-originating materials. Under the accounting segregation method fungible originating and non-originating materials may be stored together without those originating materials losing their originating status.

At the date of determining the origin of the product, the economic operator must hold sufficient quantities of originating materials, as reflected in the stock records (recorded on the basis of the general accounting principles applicable in the exporting party), to produce that originating product.

Relevant changes in amended PEM rules

Under the current rules (art. 20 of ‘the Convention’), customs authorities may authorise accounting segregation where ‘considerable cost or material difficulties arise in keeping

separate stocks’. The transitional rules (Article 12) provides that customs authorities may authorise accounting segregation ‘if originating and non-originating fungible materials are used’.

Therefore, under the transitional rules, exporters will no longer have to justify when requesting an authorisation for accounting segregation that keeping separate stocks has a considerable cost or gives rise to material difficulties ; in order to obtain authorisation to apply accounting segregation, it will be sufficient to indicate that fungible materials are used in the working or processing of a product.

Exception for sugar

In general, products cannot benefit from accounting segregation since this provision can only be used by producers who process materials into products. However, under the amended rules, originating and non-originating stocks of sugar (heading 1701) will not have to be kept physically separated in order to maintain its preferential origin, regardless of whether it is processed as a material or sold as final product.

Example

A producer and exporter of chocolate products of heading 1806 uses both originating as well as non-originating sugar in its production process. For chocolate products, only a limited amount of non-originating sugar may be used in order for the product to obtain preferential origin on export. Therefore it is necessary to keep track and administrate the originating status of the sugar that is being used.

However, since the sugar he uses for his chocolate products can be qualified as a ‘fungible material’, the producer can obtain authorisation from its customs authorities to apply accounting segregation. He is then no longer obliged to keep separate stocks in order for the amount of originating sugar to maintain its originating status, obtaining and proving the originating status of his final products easier, and also allowing him to save on storage costs.

2.6. Principle of territoriality

For more information on the principle of territoriality, see Chapter B.6 “Territorial Requirements” of the [Guidance on the Rules of Origin](#).

The transitional rules no longer contain the exclusion for textiles (Article 13).

Working or processing can be carried out outside the PEM cumulation zone without the final product losing its originating status if the following four conditions are met:

- a) that the goods exported for working or processing outside the zone are originating within the zone;
- b) it has to be shown that the re-imported goods are the result of working or processing carried out in the third country on the previously exported materials;

- c) the total added value acquired outside the pan-Euro-Mediterranean cumulation zone does not exceed 10% of the ex-works price of the product for which preference is being sought.
- d) the working or processing done outside the exporting partner country shall be done under the outward processing arrangements or similar arrangements.

If any of the above conditions cannot be complied with, the re-imported goods will be treated as non-originating. Under conditions of the Pan-Euro-Mediterranean cumulation of origin, Article 13 applies not only when an originating product is exported to a third country but also to a country of the zone with which cumulation is not applicable.

2.7. Non-alteration

For more information on non-alteration see Chapter B.6 part 3 “Non-alteration” of the [Guidance on the Rules of Origin](#).

The proposed non-alteration rule (art. 14) provides for more leniencies for the movement for originating products between Contracting Parties. It should avoid situations whereby products, for which there is no doubt about their originating status, are excluded from the benefit of the preferential rate at importation because the formal requirements of the direct transport provision are not met.

The PEM transitional rules of origin are moving forward from the direct transport rule as provided in the current PEM rules of origin to the more lenient rule of non-alteration.

The principle remains the same: goods must be transported directly from one contracting Party’s territory to another. The purpose of this rule is to ensure that the goods arriving in the country of import are the same as those which left the country of export.

Under non-alteration however, the splitting of consignments and operations for the adding or affixing marks, labels, seals or any other documentation to ensure compliance with specific domestic requirements are allowed in addition to those of direct transport (unloading, reloading or any operation designed to preserve goods in good condition).

The splitting of consignments may take place in a third country where carried out by the exporter or under his responsibility, provided that the goods remain under customs supervision in the country of transit.

The requirements for the non-alteration rule are deemed to have been met unless the customs authorities have reasons to believe the contrary. In such cases importers may be required to provide evidence of compliance, such as:

- a) contractual transport documents such as bills of lading;
- b) factual or concrete evidence based on marking or numbering of packages;
- c) a certificate of non-manipulation provided by the customs authorities of the country(ies) of transit or splitting or any other documents demonstrating that the goods remained under customs supervision in the country(ies) of transit or splitting;
or
- d) any evidence related to the goods themselves.

2.8. Prohibition of drawback of, or exemption from, customs duties

Under the current PEM rules (Article 14) the general principle of the prohibition of drawback applies to materials used in the manufacture of any product. Under the transitional rules (Article 16) the prohibition is eliminated for all products, with the exception of materials used in the manufacture of products falling within the scope of HS Chapters 50 to 63. Nevertheless, the text also provides for some exceptions to the prohibition of duty drawback to these products (see point 3.3 of this Guidance document).

‘Drawback’ refers to the waiver or refund of such duties on materials used in the manufacture of a product for exportation.

The principle of “drawback” is illustrated by the following example:

When goods arrive in the EU from a third country they may be liable to customs duty at a specific rate. Similarly when EU originating goods arrive in a partner country they, too, are liable for duties. Before taking delivery of the goods these duties must be paid by the importer.

The intention of this Article is to prevent "drawback" on textile non-originating goods used in the working or processing of an originating product. All duties to which the non originating goods are liable must be paid and at no time waived or refunded and proof to that effect must be made available to the customs when they request it. Except textile, all other goods may benefit from drawback, meaning an inward processing regime for example.

2.9. Proof of origin

For more information on documents on origin see Chapter B.8 “Documents on origin” of the [Guidance on the Rules of Origin](#).

The transitional rules introduce a single type of proof of origin (EUR.1 or origin declaration), instead of the double approach EUR.1 and EUR.MED, which substantially simplifies the system of documentation. This should improve compliance by economic operators by avoiding mistakes due to complex rules as well as facilitate the management by the customs authorities. Moreover, it should not affect the capacity of verification of proofs of origin, which remains the same.

Products that are originating in one of the Parties can benefit from preferential tariff treatment when imported into the other Party, when one of the following proofs of origin are submitted:

- a. a movement certificate EUR.1;
- b. a declaration, subsequently referred to as the “origin declaration” given by the exporter on an invoice, a delivery note, or any other commercial document which describes the products concerned in sufficient detail to enable them to be identified.

In order to be able to distinguish products originating under the transitional set of rules from products originating under the PEM Convention, origin certificates or invoice declarations based on the transitional rules will have to include a statement pointing to the rules applied. To this end, exporters have to include the statement in English **“TRANSITIONAL RULES” in box 7.**

Just like in the current PEM rules of origin, a movement certificate EUR.1 may be issued after exportation of the products to which it relates if:

- a) it was not issued at the time of exportation because of errors or involuntary omissions or special circumstances; or
- b) it is demonstrated to the satisfaction of the customs authorities that a movement certificate EUR.1 was issued but was not accepted at importation for technical reasons.

In addition to those reasons, the PEM transitional rules of origin also allow for a EUR.1 certificate to be issued retrospectively if:

- a) the final destination of the products concerned was not known at the time of exportation and was determined during their transportation or storage and after possible splitting of consignments in accordance with the non-alteration rule;
- b) a movement certificate EUR.1 or EUR.MED was issued in accordance with the current rules of origin of the PEM Convention for products that are also originating in accordance with the PEM transitional rules; the exporter shall take all necessary steps to ensure that the conditions to apply cumulation are fulfilled and be prepared to submit to the customs authorities all relevant documents proving that the product is originating in accordance with these Rules; or
- c) a movement certificate EUR.1 was issued on the basis of Article 8(4) and the application of Article 8(3) is required at importation in another applying Contracting Party.

Article 8(3) provides that when products have obtained the originating status by application of cumulation of origin in accordance with Article 7, the proof of origin should include the statement in English “CUMULATION APPLIED WITH (name of the relevant applying Contracting Party/Parties in English).” Pursuant to Article 8(4) Parties may decide to waive the obligation of including the aforementioned statement on the proof of origin. However, if another applying Contracting Party is involved in the cumulation process and that Party still requires the aforementioned statement on the proof of origin, the exporter can request an EUR.1 certificate, including this statement, to be issued retrospectively.

The exporter has to indicate in his application the place and date of exportation of the products to which the movement certificate EUR.1 relates, and state the reasons for his request.

In the context of the PEM transitional rules of origin, the customs authorities may issue a movement certificate EUR.1 retrospectively within two years from the date of exportation and only after verifying that the information supplied in the exporter's application complies with that in the corresponding file.

In addition to the requirement under Article 20(3), movement certificates EUR.1 issued retrospectively shall be endorsed with the following phrase in English: “ISSUED RETROSPECTIVELY”.

The transitional rules (Article 17) also include the option to agree on the application of a system of registered exporters (REX). These exporters registered in a common database will be responsible for making out themselves statements on origin without going through the approved exporter procedure. The statement on origin will have the same legal value as the origin declaration or the movement certificate EUR.1.

Further, the transitional rules foresee the option to agree on the use of proof of origin that is issued and/or submitted electronically.

2.10. Validity of a proof of origin

The transitional rules prolong the period of validity of a proof of origin from 4 to 10 months, providing for more leniencies for the movement for originating products between the Parties.

The EUR.1 certificate or origin declaration must be submitted within that period to the customs authorities of the importing Party.

Proofs of origin which are submitted to the customs authorities of the importing Party after ten months may only be accepted under certain conditions, see Chapter B.8 lit. iv) “Validity period” of the [Guidance on the Rules of Origin](#).

3. SPECIAL FOCUS ON THE PRODUCT SPECIFIC RULES

3.1. Agricultural products

(a) Value and weight

The limit of non-originating materials was expressed only in value. The new thresholds are expressed in weight in order to avoid price fluctuation and currency fluctuation (e.g. ex-chapters 19, 20, 2105, 2106) together with a deletion of certain limit for sugar (e.g. chapter 8 or HS 2202).

The transitional set of rules raised the threshold of weight (from 20% to 40%) and the possibility for some headings to use an alternative choice value or weight. The HS chapters and headings concerned by the change are notably: ex-1302, 1704 (alternative rule weight or value), 18 (1806: alternative rule weight or value), 1901.

(b) Adaptation to sourcing patterns

Other agricultural products (i.e. vegetable oils, nuts, tobacco) contain more flexible rules adapted to the economic reality notably for HS chapters 14, 15, 20 (including heading 2008), 23, 24. The transitional set of rules strike the balance between regional and global sourcing like for chapters 9 and 12. Rules have also been simplified (reduction of exceptions) in chapters 4, 5, 6, 8, 11, ex-13.

Identified changes compared to the current list rules:

1. A new introductory note 4 for certain agricultural products is introduced providing explanation concerning certain agricultural products that are to be treated as originating. In addition, an explanation what sugars are to be taken into account, calculating the limitation expressed in the weight in the case the product is subject to such limitations, is provided.
2. Aiming to avoid possible fluctuation of prices of the materials used in the production of the product the threshold of non-originating materials expressed in value is changed by the threshold expressed in weight (with some exceptions where the possibility

to choose between limitations expressed in weight or in value is left e.g., the list rule for heading “ex 18.06”).

Example: List rule for HS heading 20.07

New rule:	Current rule:
Manufacture: - from materials of any heading, except that of the product, - in which the weight of sugar used does not exceed <u>40 % of the weight</u> of the final product	Manufacture: - from materials of any heading, except that of the product, and - in which the value of all the materials of Chapter 17 used does not exceed <u>30 % of the ex-works price of the product</u>

3. Trying to adapt to economic realities, to strike the balance between the regional and global sourcing the list rules are made:

3.1. *more flexible* – instead of wholly obtained materials possibility to use the materials of any heading, or any heading, except of that of the product in the manufacture process of the product is introduced.

Example: the list rule for HS chapter 14

New rule:	Current rule:
Manufacture from materials of any heading	Manufacture in which all the materials of Chapter 14 used are wholly obtained

3.2. *less complicated/simplified* – reduction of exemptions. It means that it is possible to use non originating materials in the manufacturing process of the product that in current rules are not allowed to be used, or the use of which is limited up to a certain threshold expressed in value.

Example: the list rule for HS heading 04.03

New rule:	Current rule:
Manufacture in which: - all the materials of Chapter 4 used are wholly obtained (the list rule is for the chapter, without any exceptions for certain HS headings)	Manufacture in which: - all the materials of Chapter 4 used are wholly obtained, - all the fruit juice (except that of pineapple, lime or grapefruit) of heading 2009 used is originating, and - the value of all the materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product (the particular list rule for the HS heading 04.03)

3.3. *clearer* – instead of the description of particular, non-originating materials in the list rule, particular chapters, headings, and subheadings of the materials are indicated.

Example: the list rule for HS chapter 11

New rule:	Current rule:
Manufacture in which all the materials of Chapters 8, 10 and 11, headings 0701, 0714, 2303 and 2303, and subheadings 0710 10 used are wholly obtained	Manufacture in which all the cereals, edible vegetables, roots, and tubers of heading 0714 of fruit used are wholly obtained

4. Though the majority of the new list rules for agricultural products are more favourable to obtain preferential origin status in comparison to the current list rules, it is important to underline that this must be checked case-by-case as a few rules are tighter, for example in the list rule for HS heading 19.01 (except malt extract) an additional limitation to the materials of Chapter 4 in weight is introduced.

Example: list rule for HS heading 19.01

New rule:	Current rule:
Manufacture for materials from any heading, except that of the product, in which the individual weight of sugar and of the materials of Chapter 4 used does not exceed 40 % of weight of the final product	Manufacture from the materials of any heading, except that of the product and in which the value of all the materials of Chapter 17 used does not exceed 30% of the ex-works price of the product

3.2. Industrial products

List rules – industrial products (except textiles chapters 50-63)

There are many changes in the list rules for industrial products in the transitional rules of origin (for textiles, please see point 3.3). The transitional list rules are more lenient and simpler, which means that it will be easier for the economic operators to apply the rules, as the more lenient rules mean that more products can achieve preferential status.

Changes can be regarded from three different types of criteria.

- Value percentage**, which means that the value of the non-originating materials must not exceed a certain percentage of the ex-works price of the finished product;
- Change of heading**: where the non-originating raw materials or components used must have a different HS tariff heading from the HS tariff heading of the finished product;
- Specific rules**: where very specific criteria are laid down

Changes can be observed:

- regarding a number of products the current Chapter rule contains a double cumulative condition. This is brought to a single condition (HS Chapters 74, 75, 76, 78 and 79);

- a large number of specific rules that are derogating from the Chapter rule have been deleted (HS Chapters 28, 35, 37, 38, 68 and 83). This more horizontal approach implies a simpler panorama for operators and customs;

- the inclusion in the current Chapter rule of an alternative rule thereby offering to the exporter more choices in meeting the origin criterion (Chapters 27, 40, 42, 44, 70 and 83, 84 and 85).

In addition, the above-mentioned possibility of using an average basis over a period of time to calculate the ex-works price and the value of non-originating materials will provide for further simplification for exporters.

The following examples illustrate some of the changes in the list rules criteria and illustrate how the economic operators can benefit from these changes.

Example of Chapter 31

New rule:	Current rule:
Chapter 31: Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20% of the ex-work price of the product or Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the products (No specific rule for ex3105)	ex Chapter 31: Manufacture from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20% of the ex-work price of the product or Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the products ex3105: Manufacture: -from materials of any heading, except that of the product. However, materials of the same heading as the product may be used, provided that their total value does not exceed 20% of the ex-work price of the product, and -in which the value of all the materials used does not exceed 50% of the ex-works price of the products or Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the products

Explanation

When applying the transitional set of rules, the economic operator only has to consider one criterion for the entire chapter. The chapter no longer contains a double cumulative condition as well as an alternative rule along with rules for specific headings in the chapter.

Example of Chapter 68

New rule:	Current rule:
Chapter 68: Manufacture from materials of any heading, except that of the product or Manufacture in which the value of all the materials used does not exceed 70% of the ex-works price of the products	ex Chapter 68: Manufacture from materials of any heading, except that of the product ex6803: Manufacture from worked slate ex6812: Manufacture from materials of any heading ex6814: Manufacture from worked mica (including agglomerated or reconstituted mica)

Explanation

The transitional rules add a value criterion, which makes it possible to use non-originating materials from the heading of the product as long as all the materials used does not exceed 70 % ex-works price. Furthermore, the specific rules have been deleted.

3.3. Textiles

In relation to textiles falling under HS Chapter 50 to 63, new origin conferring processes have been introduced in Annex II (please find the comparison of current PEM and Transitional PEM list rules in the Annex). With the new options introduced such as full bilateral cumulation, tolerances and principle of territoriality, the list rules on textiles are simplified in most of the Chapters when compared to the current PEM.

To give an example, the list rule for articles of apparel and clothing accessories (HS 62) in the current PEM provides that in order for the apparel to obtain preferential origin, the yarn should be manufactured in the Party.

Example: list rule for Chapter ex 62

New rule:	Current rule:
Weaving combined with making-up including cutting of fabric or Making-up including cutting of fabric preceded by printing (as standalone operation)	Manufacture from yarn

Unlike the current PEM, the Transitional Rules introduces two alternative rules for the same product. In order to acquire originating status either the non-originating materials

used have undergone the weaving combined with making-up including cutting of fabric or making-up including cutting of fabric preceded by printing.

The second alternative rule provides that in order for the apparel to obtain preferential origin, the non-originating materials used can be manufactured beyond the stage of yarn, which means that the fabric can be manufactured from non-originating yarn, and still obtain originating status, provided that it has been printed.

A. Full Bilateral Cumulation (please see 2.5 Cumulation)

The Article on Cumulation (Article 7) provides for a generalised full cumulation for all products except textiles and clothing listed in Chapters 50-63 of the HS. However, for those products, it provides for **bilateral full cumulation** in paragraph 4. It simply demands that the working or processing in the list rule must be carried out on non-originating materials in order for the final product to obtain origin, in the area that the Transitional Rules are applicable.

In the same paragraph, it is mentioned that for the purpose of the bilateral full cumulation, the participants in the European Union's Stabilisation and Association process and the Republic of Moldova are to be considered as **one applying Contracting Party**.

Example: list rule for HS 6209

Two alternative rules are provided for baby clothing (ex6209) which are separated by 'or'. While the second alternative rules are the same in the current PEM and Transitional PEM, there is a difference in the first alternative rule.

New rule	Current rule
Weaving combined with making-up including cutting of fabric or Manufacture from unembroidered fabric, provided that the value of the unembroidered fabric used does not exceed 40 % of the ex-works price of the product	Manufacture from yarn or Manufacture from unembroidered fabric, provided that the value of the unembroidered fabric used does not exceed 40 % of the ex-works price of the product

In order for manufacturing clothes for babies (ex6209), yarn (HS 52 04) originating in Bangladesh will be used.

As a first step, the Bangladesh originating yarn is imported into the EU. In the EU, weaving operation is done. The woven fabric does not qualify for the EU preferential origin since weaving (as a standalone operation) is not a sufficient processing in accordance with the list rule for woven fabrics of cotton (HS 52 08).

The non-originating fabric is exported from the EU to Switzerland based on the Transitional PEM Rules, where the woven fabric is treated for colour, dyed and cut. Then,

the made-up fabric is manufactured together with the lining materials originating in the EU into baby clothes.

In Switzerland, the garment for babies obtain preferential origin status because the working carried out in the EU (weaving) will be added to the working carried out in Switzerland. The requirement for obtaining preferential origin is fulfilled in the territory of the participating countries benefiting from bilateral full cumulation.

The final product obtains preferential Swiss origin and can be exported to the EU.

N.B.: This final product may benefit from preferential treatment at the import in other applying Contracting Parties if those parties opt for the extension of full cumulation for textile products as provided by Article 7(5).

B. Tolerance (please see 2.4 Tolerance)

Article on Tolerances (Article 5) regulates that the tolerances mentioned in this Article shall not apply to products falling within Chapters 50 to 63 of the HS. For these goods, the tolerances mentioned in Notes 6 and 7 of Annex I shall apply.

Note 6 of the Alternative Rules provides for textile materials a tolerance of maximum 15% of the weight of the product.

Note 7 provides that the textile materials (with the exception of linings and interlinings) which do not satisfy the rule set out in the list in column (3) for the made-up product concerned may be used, provided that they are classified in a heading other than that of the product and that their value does not exceed 15 % of the ex-works price of the product.

Example: list rule for HS 5205

<i>New rule</i>	<i>Current rule</i>
<i>Spinning of natural fibres</i> <i>or</i> <i>Extrusion of man-made fibres combined with spinning</i> <i>or</i> <i>Twisting combined with any mechanical operation</i>	<i>Manufacture from</i> — <i>raw silk or silk waste, carded or combed or otherwise prepared for spinning,</i> — <i>natural fibres, not carded or combed or otherwise prepared for spinning,</i> — <i>chemical materials or textile pulp, or</i> — <i>paper-making materials</i>

In North Macedonia, cotton fibres (HS 5203) originating in the Republic of Moldova and synthetic man-made filament fibres of polypropylene (HS 5506) originating in China are spun. The non-originating synthetic man-made filament fibres of polypropylene is used in the manufacture of the yarn which represents 12 % of the total weight of all the basic textile materials. In line with the list rule of the yarn (HS 5205) taking together with Note 6.1, the yarn acquires North Macedonian originating status within the Transitional Rules.

C) Principle of Territoriality (please see 2.7 Principle of Territoriality)

The principle of territoriality (Article 13) allows for working or processing to be done outside the territory under certain conditions. Under specific arrangements such as outward processing, the products can be exported from the Party to third countries for processing and subsequent re-importation in the form of specified processed product.

Example: list rule for HS 6101

New rule		Current rule	
Articles of apparel and clothing accessories, knitted or crocheted: – Obtained by sewing together or otherwise assembling, two or more pieces of knitted or crocheted fabric which have been either cut to form or obtained directly to form	Knitting or crocheting combined with making-up including cutting of fabric	Articles of apparel and clothing accessories, knitted or crocheted: – Obtained by sewing together or otherwise assembling, two or more pieces of knitted or crocheted fabric which have been either cut to form or obtained directly to form	Manufacture from yarn
– Other	Spinning of natural and/or man-made staple fibres combined with knitting or crocheting or Extrusion of man-made filament yarn combined with knitting or crocheting or Knitting and making-up in one operation	– Other	Manufacture from: — natural fibres, — man-made staple fibres, not carded or combed or otherwise processed for spinning, or — chemical materials or textile pulp

In order to manufacture overcoats for men (*HS 6101*) in Turkey, the yarn originating in Georgia is knitted combined with making-up including cutting of fabric. To buttonhole, the fabric is exported from Turkey to Russia under outward processing. Provided that the total added value acquired in Russia by applying the processing does not exceed 10 % of the ex-works price of the overcoats for which originating status is claimed, the overcoats acquired Turkish origin within the PEM Transitional Rules.

4. USEFUL LINKS

ROSA: the Rules of Origin Self-Assessment tool in Access2Markets. It offers guidance in simple steps to determine the rules of origin for your products:

<https://trade.ec.europa.eu/access-to-markets/en/content/presenting-rosa>

On the PEM Convention TAXUD Website:

https://ec.europa.eu/taxation_customs/business/calculation-customs-duties/rules-origin/general-aspects-preferential-origin/arrangements-list/paneuro-mediterranean-cumulation-pem-convention_en

On the adoption of the revised rules of origin by the Council of the EU (final Council Decision per country):

https://ec.europa.eu/taxation_customs/news/eu-enhance-preferential-trade-pan-euro-mediterranean-countries_en

On general information on Rules of Origin

https://ec.europa.eu/taxation_customs/system/files/2020-06/01_2019_guidance_preferential_origin.pdf

On Approved Exporter

https://ec.europa.eu/taxation_customs/system/files/2019-02/guidance-on-approved-exporters.pdf