

# The Revised PEM Convention: Parallel Application of the Transitional PEM Rules of Origin since 1 September 2021

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The common rules of origin and cumulation of the [Pan-Euro-Mediterranean \(PEM\) Convention](#) are a central instrument in the facilitation of trade and the integration of supply chains by way of preferential tariff treatment within the PEM zone, which stretches across the European Union to the other 24 contracting parties (EFTA countries, the Faroe Islands, Turkey and the Mediterranean countries of the Western Balkans, North Africa and the Middle East, including some of their neighbouring countries). The Contracting Parties have been negotiating a revision of the convention since 2012, in order for it to better reflect changing economic realities.

In November 2019, the final adoption of [the proposed revision of the PEM Convention](#) failed. The required unanimous decision in favour of adoption of the new rules was hindered by the reservations of a few parties. To allow companies to benefit from the modernised and simplified rules of origin already, instead of having to wait for further negotiations to conclude, most Contracting Parties (*applying Contracting Parties*) decided to allow application of the revised rules (*transitional rules*) on a bilateral basis. Only Algeria, Tunisia and Morocco have rejected the application of the transitional rules. Among the remaining Contracting Parties, the progress of adopting the amendments to the bilateral agreements is at different stages. So far, the transitional rules are applicable in the EU, Albania, Georgia, Iceland, Jordan, Palestine as well as Norway and Switzerland.

## Parallel Application of the Transitional Rules until Adoption

Since 1 September 2021 and until final adoption of the revised PEM Convention (*transitional period*) the transitional rules can be applied in applying Contracting Party states. The two sets of rules, the original PEM rules of origin and the transitional rules, will co-exist and be applied alongside one another. Economic operators will be able to choose which set of rules they want to be applied to their consignments.

The transitional rules will operate without prejudice to the current rules of the PEM Convention and thus create a **parallel cumulation zone**. As permeability between the two regimes is not foreseen, origin will be determined exclusively in accordance with either the original PEM Convention or the transitional rules. It is thus recommended that economic operators decide on the applicable set of rules for each consignment in advance.

## **Main Differences in the Application of the Transitional Rules of Origin**

With the aim to reduce administrative bureaucracy and to better serve the demands of globalised supply chains as well as the development of new products due to modern technology, the transitional rules provide for full cumulation, administrative simplifications as well as a relaxation on the obtainment of preferential treatment regarding non-originating materials and transport of goods via third countries.

### **Full Cumulation Instead of Diagonal Cumulation**

The PEM-Convention enabled diagonal cumulation across all Contracting Parties. Diagonal cumulation allows materials which have obtained originating status in one Contracting Party to be incorporated in products manufactured in another Contracting Party without the loss of preferential treatment upon export to a third Contracting Party.

The transitional rules extend this principle of diagonal cumulation to full cumulation. In contrast to diagonal cumulation, full cumulation also takes into account non-originating production and processing steps in other Contracting Parties. Accordingly, working or processing steps that together meet the minimum requirements do not have to take place within one country of the customs territory but can take place in multiple countries within the entire cumulation zone of the transitional rules. Textile products under Chapter 63 of the Harmonized System (*HS*) are excluded from full cumulation.

### **EUR.1 as the Single Type of Proof of Origin**

The transitional rules achieve significant simplification of the documentation system by relying upon the EUR.1 certificate as single type of proof of origin. Under the PEM Convention, both the EUR-MED certificate and the EUR.1 certificate could be obtained if the respective conditions were met, whereby the consignee in the country of destination often relied on a EUR-MED certificate as proof of origin for re-exporting. Furthermore, under the transitional rules EUR.1 proof of origins will have a validity of 10 months, which is comparatively longer.

Proofs and declarations of origin issued in accordance with the transitional rules must be designated as such by including a statement pointing to the rules applied, e.g., “*transitional rules*”. This procedure allows for consistent distinction of products originating under the transitional rules and the PEM Convention and ensures strict separation of the respective cumulation zones. In most cases, a product that complies with the provisions of the original rules will also meet the lower requirements of the EUR.1 certificate. However, EUR-MED certificates shall not count towards cumulation under the transitional rules as all participants of a transaction must apply the same rules. For one consignment, exporters may issue a proof of origin according to the PEM Convention as well as a proof according to the transitional rules. According to the current rules of the PEM Convention, a EUR.1 certificate or EUR.MED certificate may also be issued retrospectively where products comply with both sets of rules but only hold one certificate. This temporary

process of double certification during the phase of successive growth of the new cumulation zone is likely to be impracticable in bulk businesses. In some cases, however, double certification will be crucial in avoiding interruptions in established production chains.

## **Easier Recognition of Value Added in Third Countries**

Product-specific list rules of the PEM-Convention determine the maximal amount as well as the required working or processing of non-originating materials to achieve preferential treatment. To consider fluctuations in cost and currency rates, under the transitional rules economic operators may request that custom authorities calculate the ex-works price of the product and the value of non-originating materials on an average basis instead of concrete values for the respective product. The basis for the calculation is the preceding fiscal year. Companies that choose this calculation method must also apply it consistently to the subsequent year.

Value added in third countries is also considered through a general increase of the value tolerance for non-originating materials. The transitional set of rules increase the percentage of the general tolerance from 10% to 15 %.

The transitional rules include numerous changes in the list rules for industrial products, which provide for simpler procedures and a lower threshold to achieve preferential status in this product group. First, numerous derogations from the HS chapter rules, which applied only to industrial products, were abolished. Second, the cumulative conditions of HS Chapters 74-78, 79 were reduced to a single condition. Third, the permissible value of non-originating materials was increased from 40 % to 50 % of the ex-works price and the methods to achieve sufficient working and processing was extended. Lastly, the number of origin-conferring methods are extended by several possible working or processing procedures (e.g., processes with cell cultures, industrial fermentation, and chemical reactions).

## **Higher Flexibility for Logistics**

More leniency is provided in the movement for originating products between applying Contracting Parties. Failure to meet the formal requirements of the direct transport provision shall no longer exclude products from preferential treatment, where their originating status is ensured. The principle of direct transport meant that transportation of goods to third countries must take place without intermediary customs treatment. Under the new non-alteration rule, goods can be transported via third countries without losing originating status, provided the importer can prove that the products have not been modified. Under the transitional rule of non-alteration, consignment splitting in third states and labeling, sealing, or marking operations as required by domestic regulations will be allowed. Especially economic operators who use regional distribution hubs will benefit from this aspect of the transitional rules.

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BLOMSTEIN will continue to monitor the development of the new rules of origin and will provide further updates on significant changes relating trade matters. Please do not hesitate to contact [Roland M. Stein](#) or [Leonard von Rummel](#) if you have any questions.