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JOINT POSITION PAPER

GENERALISED SYSTEM OF PREFERENCES CLEAR AND COHERENT RULES OF ORIGIN SEEN AS ESSENTIAL IN RETURN FOR THE OPENING-UP OF FRONTIERS

Within the framework of their Sectoral Dialogue Committee, the social partners in the European sugar industry earnestly draw the attention of the European Commission and the Council of Ministers to the gaps that exist at present in the legislation relating to the rules of origin under the Generalised System of Preferences. Liable to conflict with the Common Agricultural Policy and, therefore, to have major consequences for industrial capacities and employment, this legislation in no way guarantees the development of the countries that should be the first to benefit from it.

The social partners in the sugar industry therefore request the legislator to base the rules of origin on real added value.

Current adaptation of the legislation

The Commission Regulation on the "rules of origin", No 1602/2000¹, laying down the rules of origin applicable in particular to the Generalised System of Preferences (GSP), the Balkans and the LDCs is currently being adapted².

At the same time, a new draft Association Decision between the European Union and the Overseas Countries and Territories is being finalised at the Council of Ministers and in the normal course of events should come into effect on December 1st 2001.

When the "Everything But Arms"³ regulation was adopted, the Commission undertook to incorporate in the general regulation on "rules of origin" the list of "insufficient working operations" to be included in the future OCT Decision. This list will thus become applicable to all the developing countries.

¹ Regulation No 1602/2000 amending Regulation No 2454/93 laying down provisions for the implementation of Council Regulation No 2913/92 establishing the Community Customs Code (OJ L 188 of the 26.7.2000)

² Customs Committee - Competence of the European Commission.

³ Regulation 416/2001 of the 28.2.2001 (OJ L 60 of the 1.3.2001).

Gaps in the present legislation for the sugar sector

The rules on bilateral and regional cumulation allow origin to be conferred on a product imported from a third country by means of operations "***going beyond insufficient operations***"⁴ **although without being "sufficient"**⁵ within the meaning of Article 69 of Regulation 1602/2000. Such operations provide virtually no added value but give rise to numerous dysfunctions :

EU-beneficiary country bilateral cumulation : EU-originating products are considered to originate in the beneficiary country if they are the subject, in this country, of working operations not included on the list of insufficient working operations. EU/OCT cumulation has thus allowed the exponential development of imports of quota and non-quota sugar and, more recently, sugar mixed with cocoa by dishonest operators, providing no benefit to the third country. Safeguard clauses have constantly had to be applied since February 2000.

Regional cumulation : ACP/OCT cumulation has given rise to the same operations, also leading to the constant application of safeguard clauses since 1997. GSP regional cumulation has the same drawbacks, even if an added value of 50% is laid down. Due to the difference between the price of sugar on the world market and that in the Union, it is in fact extremely easy to show on an invoice that a fictitious value of 50% not corresponding to any economic reality has been added⁶.

Need to clarify and strengthen the legislation

As things stand at present - and in the absence of more effective measures - it is essential to strengthen the list of insufficient working operations by adding the operations of **colouring of sugar, making into lumps and refining**⁷ which at present allow substantial profits to be made with no added value.

However, whilst the initial intention of the legislator was to favour the development of the developing countries, experience⁸ shows that the concessions granted under bilateral and regional cumulation essentially allow certain operators to **profit from the difference between the price of sugar on the world market and that in the Union.**

Contrary to the legislator's intentions, the operations carried out in practice provide **the countries concerned with no added value and therefore do not contribute anything to their development.**

On the other hand, they seriously disturb the common organisation of the market in sugar. Under the present GATT and WTO rules, the quantities wrongly entering the Union cannot be re-exported and their main effect is therefore to **reduce sugar production quotas.**

They make it necessary to resort frequently to the application of **safeguard clauses, which were never designed to be a substitute for a defective rule.**

As it leads to a reduction in industrial capacities,

⁴ Insufficient operations are, for example, packaging, preservation, simple mixing, labelling and other very simple operations (see Article 70 of Regulation 1602/2000).

⁵ See Article 69 and Annex 15 of Regulation 1602/2000 - The product obtained is classed under a different heading (CN 4 digits) from those under which all the originating materials used are classed - The value of the materials in Chapter 17 (sugar) that are used must not exceed 30% of the ex-works price of the product.

⁶ Value of one to three : Intervention price in the Union : 631.9 Euros/tonne - Price on the World Market : fluctuating around 200 Euros/tonne.

⁷ Refining provides only a low added value, well below 50%.

⁸ See for example Overseas Countries and Territories - Case of Emesa Sugar (Aruba) - Decision of the Court of Justice C-17/98.

*the faculty of not carrying out sufficient processing
within the framework of bilateral and regional cumulation
has an immediate effect on employment
and working conditions for employees in the sugar sector.*

*With a concern for fair trade and transparency of the rules of origin and to
ensure real development for the beneficiary countries,
the social partners in the sugar industry therefore urge the officials
responsible at the European Commission
and the Council of Ministers representatives
to take all the necessary measures to ensure that origin is conferred
only on the basis of authentic added value
based on genuinely sufficient processing⁹.*

*Only this authentic added value will guarantee aid to the developing countries
and compliance with the rules of the Common Agricultural Policy.*

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⁹ See Article 69 and Annex 15 of Regulation 1602/2000 -