

**Annex II - Draft amendments discussed during the 15 December 2016 meeting related to the 3<sup>rd</sup> CLEN proficiency test on sugars and sugar containing products**



EUROPEAN COMMISSION

DIRECTORATE-GENERAL

TAXATION AND CUSTOMS UNION

Customs Policy, Legislation, Tariff

Combined Nomenclature, Tariff classification, TARIC and integration of trade measures

**DRAFT**, revised 25 May 2016 (modification in blue track-change) during the preparatory meeting of the CLEN 3<sup>rd</sup> test on sugars and sugar containing products and revised 15 December 2016 (modifications in red track-changes) during the discussion meeting of the CLEN 3<sup>rd</sup> test on sugars and sugar containing products

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**Limited / Limité / Intern**

**CUSTOMS CODE COMMITTEE**

**Tariff and Statistical Nomenclature Section**

(Agriculture/Chemistry)

**COMITE DU CODE DES DOUANES**

**Section de la nomenclature tarifaire et statistique**

(Agriculture/Chimie)

**AUSSCHUSS FÜR DEN ZOLLKODEX**

**Fachbereich Zolltarifliche und Statistische Nomenklatur**

(Landwirtschaft/Chemie)

- Subject:** Possible amendment of Additional notes 4 and 5 to Chapter 17 as well as Additional notes 3 and 4 to Chapter 21 (under discussion - CLEN).
- Ref.:** Working document TAXUD/0083517/2016; outcome of the proficiency test on sugars and sugar containing products 2012-2013; minutes of 163<sup>rd</sup> Customs Code Committee meeting, item 4.19
- Objet:** Amendement possible des notes complémentaires 4 et 5 du chapitre 17 ainsi que des notes complémentaires 3 et 4 du chapitre 21 (sous discussion - CLEN).
- Réf.:** Document de travail TAXUD/0083517/2016; rapport de clôture en matière de "proficiency test on sugars and sugar containing products 2012-2013"; rapport de la 163<sup>ème</sup> réunion du Comité du code des douanes, point 4.19
- Betreff:** Mögliche Änderung der Zusätzlichen Anmerkungen 4 und 5 zu Kapitel 17 sowie der Zusätzlichen Anmerkungen 3 und 4 zu Kapitel 21 (in Diskussion - CLEN).
- Bezug:** Arbeitsdokument TAXUD/0083517/2016; Abschlussbericht betreffend "proficiency test on sugars and sugar containing products 2012-2013"; Bericht der 163. Sitzung des Ausschusses für den Zollkodex, TOP 4.19

The enclosed document is submitted to the Customs Code Committee for discussion at a forthcoming meeting.

Le document ci-joint est présenté au comité du code des douanes pour examen lors d'une prochaine réunion.

Das beiliegende Dokument wird dem Ausschuss für den Zollkodex zur Beratung in einer der nächsten Sitzungen vorgelegt.

# COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

## **amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff<sup>1</sup>, and in particular Article 9(1)(e) thereof,

Whereas:

- (1) Regulation (EEC) No 2658/87 established a nomenclature of goods (hereinafter referred to as the “Combined Nomenclature”), which is set out in Annex I to that Regulation.
- (2) Commission Regulation (EC) No 951/2006 of 30 June 2006<sup>2</sup> will be repealed as of 30 September 2017 due to the termination of the sugar quota management. Consequently, the references to its Article 42 in the Additional notes 4 and 5 to Chapter 17 as well as Additional notes 3 and 4 to Chapter 21 will become obsolete.
- (3) In the interest of maintain legal certainty and avoid legal void, it is necessary to amend those Additional notes by integrating the analytical methods directly into them.
- (4) This occasion should also be used for an update of the analytical methods. The 'Lane & Eynon method' is an old-fashioned technique which may be influenced by the sample matrix or interfering compounds. Therefore this method should be replaced in most cases by the High-Performance Liquid Chromatography (HPLC) method which, as a modern method, is providing more accurate results.
- (5) Several studies have shown that HPLC is the preferable method; it is directly related to sugars, provides information about the individual sugars, is less influenced by the sample matrix and can be easily automated. Determination of sugars by HPLC is a common method which is routinely applied by the Customs Laboratories in the EU. For a number of products, HPLC cannot be applied to determine the sugar content; for these products the ‘dry matter method’ according to method 2 laid down in Annex II of Directive 79/796/EEC of 26 July 1979<sup>3</sup> should be applied.

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<sup>1</sup> OJ L 256, 7.9.1987, p. 1.

<sup>2</sup> Commission Regulation (EC) No 951/2006 of 30 June 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 318/2006 as regards trade with third countries in the sugar sector (OJ L 178, 1.7.2006, p. 24).

<sup>3</sup> First Commission Directive 79/796/EEC of 26 July 1979 laying down Community methods of analysis for testing certain sugars intended for human consumption (OJ L 239, 22.9.1979, p. 24).

- (6) In order to ensure uniform interpretation of the Combined Nomenclature throughout the Union with regard to measuring the sugar content of various products, Additional notes 4 and 5 to Chapter 17, as well as Additional notes 3 and 4 to Chapter 21 of Part Two of the Combined Nomenclature should be amended.
- (7) Regulation (EEC) No 2658/87 should therefore be amended accordingly.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

In Chapter 17 of Part Two of the Combined Nomenclature set out in Annex I to Regulation (EEC) No 2658/87, Additional notes 4 and 5 are replaced by the following:

- "4. For ~~the purposes of establishing the duty applicable to~~ products of subheadings 1702 20 10, 1702 60 95 and 1702 90 71, the sugar content (sucrose including fructose and glucose expressed as sucrose) ~~sugar content~~ shall be determined by applying ~~the~~ high performance liquid chromatography ~~method~~ ~~(the "HPLC method")~~, using the following formula:

$$S + 0,95 \times (F + G)$$

where:

"S" is the sucrose content determined by ~~the HPLC method~~;

"F" is the fructose content determined by ~~the HPLC method~~;

"G" is the glucose content determined by ~~the HPLC method~~;

For ~~the purposes of establishing the duty applicable to~~ products of subheadings 1702 60 80, 1702 90 80 and 1702 90 95, the sucrose-sugar content (expressed as sucrose) ~~including other sugars expressed as sucrose~~, is based on the dry matter content (~~method 2 laid down in Annex II of Directive 79/796/EEC~~ \*refractometry according to reg. 974/2014). [Specifically for the products of 1702 60 80 and 1702 90 80 the conversion into sucrose equivalent shall be obtained by multiplying the dry matter by the coefficient 1.9.]

5. For the purposes of subheadings 1702 30 10, 1702 40 10, 1702 60 10 and 1702 90 30, 'isoglucose' means the product obtained from glucose or its polymers with a content by weight in the dry state of at least 10 % fructose.

For ~~the purposes of establishing the duty applicable to~~ products of the subheadings referred to in the preceding paragraph, the sugar content (expressed as sucrose) ~~dry matter content~~ is determined according to refractometry (reg. 974/2014) ~~method 2 laid down in Annex II of Directive 79/796/EEC~~.

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~~\*First Commission Directive 79/796/EEC of 26 July 1979 laying down Community methods of analysis for testing certain sugars intended for human consumption (OJ L 239, 22.9.1979, p. 24)."~~

## Article 2

In Chapter 21 of Part Two of the Combined Nomenclature set out in Annex I to Regulation (EEC) No 2658/87, Additional notes 3 and 4 are replaced by the following:

- "3. For the purposes of subheading 2106 90 30, 'isoglucose' means the product obtained from glucose or its polymers with a content by weight in the dry state of at least 10 % fructose.

~~For the purposes of establishing the duty applicable to products of subheading 2106 90 30 and 2106 90 59, the sugar content (expressed as sucrose) shall be determined by the dry matter content is determined according to refractometry (reg. 974/2014) method 2 laid down in Annex II of Directive 79/796/EEC\*.~~

4. ~~For the purposes of establishing the duty applicable to products of subheading 2106 90 59, the sucrose content, including other sugars expressed as sucrose, is based on the dry matter content (method 2 laid down in Annex II of Directive 79/796/EEC).~~

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~~\*First Commission Directive 79/796/EEC of 26 July 1979 laying down Community methods of analysis for testing certain sugars intended for human consumption (OJ L 239, 22.9.1979, p. 24)."~~

## Article 3

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, *DRAFT version 15 December 2016*

*For the Commission*

Stephen QUEST  
Director-General  
Directorate-General for Taxation and  
Customs Union