

COMMISSION OF THE EUROPEAN COMMUNITIES

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Draft

DECISION OF THE ACP-EEC CUSTOMS COOPERATION COMMITTEE

derogating from the definition of the concept of 'originating products'
to take account of the special situation of Mauritius
with regard to its production of canned tuna

Proposal for a
COUNCIL REGULATION (EEC)

regarding the application of Decision
of the ACP-EEC Customs Cooperation Committee derogating from the
definition of the concept of 'originating products' to take account of
the special situation of Mauritius with regard to its production of
canned tuna

(presented by the Commission)

EXPLANATORY NOTE

Since 1977, Mauritius has been granted a series of derogations from the rules of origin of the Lomé Convention for its exports of canned tuna to the Community. These derogations resulted from the difficulties encountered by the single canning plant on the island in being supplied regularly with tuna from ACP or Community states.

In 1979 this situation, which results from a still unreliable fishing environment in the Indian Ocean, was partially improved by the Mauritian tuna canning company's acquisition of a fishing vessel. Whilst the catch of native fish was increased and regularized, the vessels's capacity was not sufficient to bring the yield of the Mauritian industry up to a minimum level. Further progress was made in 1987, when a second vessel was bought. However, this second vessel is not yet reliably contributing to the cannery the expected quantities of raw fish, due to initial teething problems caused by recurrent mechanical failures and by the need to complete the training of the new local crew.

The latest derogation expired on 29 February 1988 and in a letter received by the Commission on 14 June 1988, the ACP States requested an extension on behalf of Mauritius.

Under the terms of the request, Mauritius is seeking the renewal of the derogation for a three-year period, in accordance with the procedure laid down in Article 30 of Protocol No. 1 to the Lomé Convention, for a quantity of 1 000 tonnes of preserved tuna per annum.

The reasons given by Mauritius are as follows :

- the situation as regards supplies of tuna in the region has only improved in the sense that the Mauritian company has obtained occasional fish supplies from Community and ACP vessels, but these do not offer the guaranteed regularity necessary;
- the intake of native fish by the Mauritian vessels remains insufficient, especially from the point of view of continuity;

- the Mauritian canning company has undertaken important investments to improve the economic viability of their activity, and the jobs of the workforce (489) cannot be safeguarded without a relatively long period of derogation.

During the negotiation leading up to the last renewal of the Lomé Convention, a great stumbling block in the discussions was the question of rules of origin governing fishery products; the Community was able to avoid fundamental changes only by undertaking, under Annex XXX in particular, to examine in a positive spirit the requests for derogations presented by the ACP States.

Although the Mauritian request does not come under the criteria of the declaration in Annex XXX the ACP States will attach special significance to the way in which it is handled, in particular following the unfortunate experience encountered in 1986 by Fiji, to which a derogation could not be granted before their potential market had vanished.

This is of central importance in the light of the re-examination of matters relating to origin as applied to fishing which had been originally planned for the first year of the Convention's implementation and which the ACP's have already requested at the 17th meeting of the EEC-ACP Customs Cooperation meeting in January, 1988.

Finally, the Community will more than certainly find itself stuck in undesirable major discussions on the rules of origin for fishery products when the next Convention is negotiated if we appear to try to avoid the commitments underwritten at the time of the adoption of the present Convention.

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For these reasons the Commission proposes to respond favourably to the Mauritian request, as follows :

- (i) the new derogation will be implemented from 1 July 1988 till 28 February 1990, when the third Lomé Convention expires, in accordance with the procedure provided for in Article 30 (8)(a) of Protocol 1 to Lomé III.
- (ii) the annual ceiling will be 1.000 tonnes of canned tuna. This amount is the same as in the past and represents a tiny percentage of total Community imports. (1)

(1) See Annex

ANNEXE

Importations de conserves de thon
dans la Communauté
code NIMEXE 16.04 75
(Source : EUROSTAT)

ORIGINE	1985 (EUR 10)			1986 (EUR 12)			1987 (EUR 12)		
	tonnes	%		tonnes	%	+/- %	tonnes	%	+/- %
Pays tiers	71146	100		73627	100	+ 3,48 %	88371	100	+24,21
ACP	51692	72,65		48568	65,96	- 6,69	58698	66,39	-6,26
Ile Maurice	3331	4,68		3051	4,14	- 0,54	2738	3,09	-1,59
Montant de la dérogation	1000	1,40		1000	1,35	- 0,05	1000	1,13	-0,27

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THE ACP-EEC CUSTOMS COOPERATION COMMITTEE,

Having regard to the third ACP-EEC Convention, signed at Lomé on 8 december 1984,

Whereas Articles 28 and 30 of Protocol 1 to the Third APC-EEC Convention concerning the definition of the concept of originating products and methods of administrative cooperation make provision for derogations to be made from the rules of origin by the Customs Cooperation Committee, in particular to facilitate the development of existing industries or the creation of new industries;

Whereas the African, Caribbean and Pacific (ACP) States have submitted a request from the Government of Mauritius for a derogation from the definition set out in Protocol No. 1 in respect of canned tuna produced by Mauritius;

Whereas, in order to maintain its existing fishery industry and to take the measures necessary for its finished products to obtain originating status, Mauritius has from 1 March 1985 to 29 February 1988 benefited from a derogation from the rule set out in Protocol No. 1 for canned tuna;

Whereas Mauritius has already purchased two vessels with a view to supplying the canneries with raw fish for its production of canned tuna;

whereas the vessels, while increasing their catches steadily, are not in a position to supply in a reliable way sufficient quantities of tuna fish for the canneries; whereas the problem appears to be of a temporary nature and likely to be solved as soon as the second of the said vessels becomes fully operative;

Whereas Mauritius has been able to obtain supplies of fish originating in other ACP States, or in the Community; whereas, however, there is no guarantee, for the moment, that such supplies can be regularly obtained, and therefore, the Mauritius canning industry may need to call upon supplies of tuna fish from third countries in order to continue its exports of canned tuna to the Community;

Whereas in these circumstances a temporary derogation from the definition of the concept of originating products should be accorded to Mauritius in accordance with Article 30 (8) of Protocol 1; whereas it seems appropriate to grant such a derogation for a period expiring on 28 February 1990, when the Convention also expires;

HAS DECIDED AS FOLLOWS :

Article 1

By way of derogation from the special provisions of List A in Annex II to Protocol No. 1, canned tuna falling within heading No. 16.04 of the Common Customs Tariff and manufactured by Mauritius shall be considered as originating in Mauritius under the conditions set out in this Decision.

Article 2

The derogation provided for in Article 1 shall relate to an annual quantity of 1 000 tonnes of canned tuna falling within heading No. 16.04 of the Common Customs Tariff and exported from Mauritius between 1 July 1988 and 28 February 1990.

Article 3

The competent authorities of Mauritius shall take the necessary steps to carry out quantitative checks on exports of the products referred to in Article 2 and shall forward to the Commission every three months a statement of the quantities in respect of which movement certificates EUR 1 have been issued on the basis of this Decision.

Article 4

The ACP States, the Member States and the Community shall be bound, each to the extent to which it is concerned, to take the measures necessary to implement this Decision.

Article 5

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

For the ACP-EEC Customs
Cooperation Committee
The Chairmen

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and
in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas the ACP-EEC Customs Cooperation Committee set up under the Third
ACP-EEC Convention, signed at Lomé on 8 december 1984 (1), adopted, pursuant to
Articles 28 (3) and 30 of Protocol No. 1 to the Convention, Decision No
derogating from the definition of the concept of "originating products" to take
account of the special situation of Mauritius with regard to its production of
canned tuna;

Whereas, in accordance with Article 33 of the said Protocol No. 1 and with
article 4 of the above mentioned Decision, the measures required to implement
that Decision should be taken,

HAS ADOPTED THIS REGULATION :

(1) O.J. No. L 86, 31 March 1986.

Article 1

Decision No. of the ACP-EEC Customs Cooperation Committee attached to this Regulation shall apply in the Community.

Article 2

This Regulation shall enter into force on the day of its publication in the Official Journal of the European Communities.

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

Done at Brussels,

For the Council

The President

FICHE FINANCIERE

PROJET DE DECISION DU COMITE DE COOPERATION DOUANIERE ACP-CEE

portant dérogation à la définition de la notion de produits originaires pour tenir compte de la situation particulière de l'Ile Maurice en ce qui concerne sa production de conserves de thon.

PROJET DE REGLEMENT (CEE) DU CONSEIL

relatif à l'application de la décision n° du comité de coopération douanière ACP-CEE portant dérogation à la définition de la notion de "produits originaires" pour tenir compte de la situation particulière de l'Ile Maurice en ce qui concerne sa production de conserves de thon.

Il n'est pas possible d'établir un lien direct entre l'octroi de la dérogation et une perte de recettes. Si la dérogation n'est pas accordée, il n'est pas possible de déterminer à l'avance auprès de quels fournisseurs (préférentiels ou non) le marché communautaire s'approvisionnera.

A titre d'information on peut mentionner les données suivantes :

Valeur CIF moyenne des importations originaires de l'Ile Maurice pour les conserves de thon en 1986	:	2966 ECU/tonne (source : EUROSTAT)
Taux de droit	:	24 %
Montant des droits pour 1 tonne	:	712 ECUS

FICHE D'IMPACT
SUR LA COMPETITIVITE ET L'EMPLOI DANS LA COMMUNAUTE

La proposition n'a aucun impact sur la compétitivité et l'emploi dans la Communauté.

