

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(81) 303 final

Brussels, 12 June 1981

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 Fiji with regard to its production of canned tuna

PROPOSAL FOR A COUNCIL REGULATION (EEC)

regarding the application of Decision No. .../81 of the ACP-EEC Customs Cooperation Committee derogating from the definition of the concept of "originating products" to take into account the special situation of Fiji with regard to its production of canned tuna fish

(presented by the Commission to the Council)

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EXPLANATORY NOTE

In recent time Fiji has already invested a considerable amount of capital in the fishery sector. The country has a canning industry and in order to supply the canneries with fish, particularly skipjack tuna caught mainly in the 12 miles territorial sea, it has set up its own fleet of vessels.

Next to skipjack tuna (which is not landed in sufficient quantities to maintain the economic viability of the canning industry) there is a need to use alternative types of fish such as albacore tuna which are caught either within a zone of 200 miles or else outside this zone.

By lettre No. ACP/L.078/81 of 23 January 1981 the ACP States have submitted a request on behalf of the Government of Fiji for a derogation from the rules of origin in respect of canned tuna falling under heading 16.04 in Protocol No. 1 to the second ACP-EEC Convention.

The cannery in Fiji is faced with a shortage of supply of sufficient quantities of fish for its processing sector which is mainly due to the relatively short skipjack fishing season. As a consequence of poor catch seasons for skipjack tuna and lack of supply of alternative types of fish the cannery was even forced into a temporary shutdown of its operations in recent times causing part of the workforce to be laid off.

For these reasons the cannery is currently operating at a level of only 15 tons per day which is far below its potential processing capacity of 45 tons per day. Accordingly while the company could provide employment for 350 persons if it were operating at full capacity the number of employees is at present only 210. The only way to reach this level of employment would be to extend the canning season which would involve an increase in the supply of albacore tuna to the cannery.

As the Fijian fishing fleet is not at present equipped for the specialized type of fishing required for albacore tuna vessels of Korean and Taiwanese origin have been chartered. These boats do not fulfil the criteria as regards registration, flag, ownership and crew in Protocol No. 1 and therefore, the fish caught by them and canned afterwards in Fiji, does not acquire originating status and accordingly does not qualify for preference in the Community.

Depending on the outcome of the survey on the economic feasibility of Fiji undertaking this type of fishing, the government will proceed to acquire its own long line vessels in the future.

In this context reference should be made to Article 155 of the second ACP-EEC Convention which applies to Fiji and which provides for special measures to be introduced for island ACP States in order to enable them to overcome the specific difficulties resulting from their geographical location. According to Article 30 of Protocol No. 1 the examination of the derogation request should in particular take into account this geographical situation.

The Fijian Government has made a request for a derogation from the rules of origin for 2000 tonnes of canned tuna which will be added to the amount of originating tuna at present imported onto the Community market (United Kingdom principally).

The Commission has noted that Fiji already benefits from a preferential régime accorded to ACP States for originating products - a régime which has allowed a rapid progression of exports from 1976 to 1979 of canned tuna from this country (c.f. Annex I). It is necessary that the Community market should not be the only outlet for the increase in Fijian production. In fact, Canada is usually the most important customer where Fiji benefits from preferential access (1320 tonnes in 1978, 2130 tonnes in 1979). Furthermore, Fijian canned tuna may also benefit from preferential access in geographically closer third countries (Australia, New Zealand, Japan).

In consequence, in order to favourize the increase in Fijian production and to encourage the diversification of markets for Fijian products, the Commission proposes to accept a derogation from the rules of origin for a quantity calculated on the basis of the average over the last three years (1978, 1979, 1980) in respect of which exports of Fijian canned tuna to the Community represent 37% of total world exports (c.f. Annex II).

The Commission therefore proposes to accord a derogation from the rules of origin for two years to Fiji for tuna conserves in respect of an amount of 750 tonnes per year.

For reasons of simplicity and clarity a draft regulation to apply this decision after its adoption by the EEC-ACP Customs Cooperation Committee in the Community has also been annexed.

Community imports of canned tuna from Fiji (tonnes)

| 1976 | 1977 | 1978 | 1979 | 1980 |
|------|------|------|------|------|
| 215 | 639 | 788 | 1820 | 1024 |
| 523 | 1571 | 2032 | 4533 | 3201 |

Q (tonnes)

V (,000 EUA)

Source : OECD

Fijian exports of canned tuna

V = Value in ,000 \$ US

% = Percentage in relation to total value of exports

| Destination | | 1977 | 1978 | 1979 | 1980 |
|-------------|---|------|------|-------|------|
| CEE | V | 1164 | 1891 | 4554 | 4051 |
| | % | 16.7 | 21.2 | 44.6 | 47.0 |
| Canada | V | 4035 | 6541 | 4949 | 3785 |
| | % | 58.0 | 73.5 | 47.4 | 43.9 |
| Australia | V | 510 | 296 | 782 | 629 |
| | % | 7.3 | 3.3 | 7.5 | 7.3 |
| USA | V | 1251 | 169 | 74 | 109 |
| | % | 20.0 | 1.9 | 0.7 | 1.2 |
| TOTAL | V | 6959 | 8896 | 10440 | 8616 |
| | % | 100 | 100 | 100 | 100 |

Source : Fiji

DRAFT

Decision No/ 81 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 Fiji with regard to its production of canned tuna

THE CUSTOMS COOPERATION COMMITTEE,

Having regard to the second ACP-EEC Convention signed in Lomé on 31 October 1979 (hereinafter referred to as "the Convention"), ⁽¹⁾

Whereas Article 30 of Protocol No. 1 to the Convention concerning the definition of the concept of "originating products" and methods of administrative cooperation, makes 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 States (ACP) have submitted a request from the Government of Fiji for a derogation from the definition set out in Protocol No. 1 in respect of canned tuna produced by Fiji;

Whereas Fiji disposes of a fleet of vessels in order to supply its canning industry with raw material for the production of canned tuna;

Whereas at present this fleet cannot supply sufficient quantities of tuna fish for the canneries to maintain the economic viability of its canning operations;

Whereas Fiji has made plans for the extension of its fishing fleet; whereas these plans will take several years to implement before the fleet is sufficiently large to catch the required quantities of originating tuna fish for the canneries;

(1) OJ No L 347 of 22.12.1980, p.1

Whereas Fiji has been unable to obtain supplies of fish originating in other ACP States;

Where the Fijian canning industry is therefore dependent upon supplies of tuna fish of third country origin;

Whereas in these circumstances a temporary derogation from the definition of the concept of originating products should be accorded;

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 manufactured in Fiji and falling within heading No. ex 16.04 of the Common Customs Tariff shall be considered as originating in Fiji subject to the following conditions.

Article 2

This derogation provided for in Article 1 shall relate to 750 tonnes per annum of canned tuna falling within heading No. ex 16.04 of the Common Customs Tariff and exported from Fiji between 1st June 1981 and 31 May 1983.

Article 3

The authorities of Fiji 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 pursuant to 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

It shall apply from 1 June 1981 until 31~~st~~st May 1983.

Done at Brussels,

For the ACP-EEC Customs Cooperation
Committee

The Chairman

COUNCIL REGULATION (EEC)

regarding the application of Decision No. /81 of the ACP-EEC Customs Cooperation Committee derogating from the definition of the concept of "originating products" to take into account the special situation of Fiji with regard to its production of canned tuna fish.

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 second ACP-EEC Convention, signed in Lomé on 31 December 1979⁽¹⁾, adopted pursuant to Article 28(3) and 30(1) of Protocol No. 1 to the Convention, Decision No. /81 derogating from the definition of the concept of "originating products" to take into account the special situation of Fiji with regard to its production of canned tuna until 31 May 1983;

Whereas it is necessary in accordance with Article 33 of the said Protocol No. 1 to take the measures required to implement that Decision;

HAS ADOPTED THIS REGULATION :

Article 1

Decision No. /81 of the ACP-EEC Customs Cooperation Committee annexed to this Regulation shall apply in the Community.

.../...

(1) OJ No L 347 of 22.12.1980, p.1

Article 2

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

It shall apply from 1st June 1981 until 31 May 1983.

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

Done at Brussels,

For the Council
The President