

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(77) 486 final.

Brussels, 13 October 1977

Draft

ACP-EEC-COUNCIL OF MINISTERS DECISION

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

---

(submitted to the Council by the Commission)

COM(77) 486 final.



## Explanatory Note

### I. Presentation of the request

At a meeting of the Customs Co-operation Committee on 22 May, the Chairman of the ACP Working Party informed the Community of a request from Mauritius, based on Article 27 of Protocol No 1 annexed to the Lomé Convention, for a derogation from the definition of the concept of originating products as regards an annual quantity of 3 120 tonnes of canned tuna for a period of two years.

On this occasion the Mauritian representative put forward the following arguments:

Since 1972, Mauritius has had a tuna canning industry; this was started up by a Japanese company which got its supplies from Madagascar, since that country already had a fishing venture and was able to supply the quantities required to ensure the profitability of the operation. Since the fish came under the heading of originating products, the canned tuna was admitted into the Community under the preferential arrangements. This situation deteriorated in 1975 following political changes in Madagascar and the fishing company was wound up, which at the same time cut off the cannery's sources of supply. Other ACP suppliers were sought and a load of 600 tonnes from Ghana enabled the company to keep going for some time. When a contract with the Ivory Coast was terminated a few days before loading, the cannery had to close for several weeks and its 278 employees were laid off.

At present work has resumed and the tuna is bought from fishermen in the Maldive Islands and dispatched to Mauritius subject to the payment of a very high freight charge which adds heavily to the cost price of the finished product; since this no longer counts as an originating article the customs duty applicable to third countries namely 24%, must be paid on entry into the Community.

Mauritius has restructured this canning industry, first of all by acquiring 51% of the company's capital, with the aim of increasing its participation to 76% at a later stage, and also by creating its own fishing fleet. The preparatory stage for this is already under way (training of crews).

This derogation has been requested so as to enable the factory to sell on the Community market up to the time when the products can be considered as originating - namely within two years.

Exports in 1975 were as follows:

Belgium:	11,200 boxes	
Netherlands:	28,000 "	
Germany:	65,700 "	
France:	28,000 "	
United States:	7,850 "	(one box is approximately equal to 13 kg net weight)
Reunion:	1,827 "	
Comores:	400 "	
Burundi:	500 "	
	<hr/>	
Total	143,127 boxes	or 1 860 tonnes

During 1975, about 3,190 t of fish were treated and this yielded 2 520 t of canned fish.

Exports to the Community in 1976 only came to about 600 t, because of the difficulties referred to above.

Prices were US \$ 22 per box, whereas production costs came to US \$ 24, but losses were temporarily offset by bank credit.

## II. Opinion of the Commission departments

### A. Situation of the Community tuna canning industry

The request from Mauritius can only be examined bearing in mind the effects which the importation of more than 3,000 t of canned fish could have on the Community industry. Therefore a close look should be taken at the present situation in this branch of industry.

Only two Member States, namely France and Italy, are involved in tuna fishing. In 1975, tuna catches came to about 54,000 t (France: 50,000 t of which half comes from the West African Coast, Italy: 4,000 t). Moreover imports of tuna are made by France (8,000) and Italy (50,000 t) and are intended almost exclusively for the canning industry.

The Community tuna canning industry is concentrated in Italy and France. Italy produced 36,500 t in 1975 and France produced 26,300 t. At the same time, the Community imported 38,920 t. The main suppliers are Japan, Senegal, Ivory Coast (which is becoming an increasingly large supplier), and Taiwan. In 1975 Mauritius supplied 1,573 t.

France is the main importer with 16,547 t, followed by Germany (10,474 t) and the United Kingdom (5,335 t). Exports are negligible. Intra-Community trade comes to about 2,500 t.

Apparent consumption comes to about 100,000 t of canned fish, with the self-supply rate around the 60% mark.

#### B. Legal aspect

The request, submitted and supported by all the ACP States, complies entirely with the criteria specified in Article 27 of Protocol n° 1 to the Convention.

The object is to maintain an existing industry which is in temporary difficulties due to unforeseen circumstances and whose access to the Community market is jeopardized by having to pay a very high customs duty, which could also threaten the future development of the industry.

#### C. Conclusion

The request from Mauritius has a legal basis and corresponds to the provisions of Article 27 of Protocol n° 1 and as previously mentioned, since Community imports come to about 39,000 t, it does not appear that serious disturbances could result from granting the requested derogation.

However, if the Community market is seen as the only outlet, there are bound to be difficulties. Consequently, it would be wiser to grant a derogation for a quantity slightly higher than that of exports in 1975, namely 1,600 t.

Consequently, the Commission proposes the following draft decision.



**Draft**

ACP-EEC COUNCIL OF MINISTERS DECISION

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

THE ACP-EEC COUNCIL OF MINISTERS,

Having regard to the ACP-EEC Convention of Lomé, signed on 28 February 1975  
hereinafter called the "Convention", and in particular Article 9(2) thereof,

Whereas Article 27 of Protocol No 1 to the Convention, concerning the definition of the concept of "originating products" and methods of administrative co-operation, states that derogations from the rules of origin may be made, in particular to facilitate the development of existing industries or the creation of new industries;

Whereas the ACP States have submitted a request from the Government of Mauritius for a derogation from the definition set out in the said Protocol for canned tuna produced by that State; whereas a one-year derogation should be sufficient to satisfy that request;

Whereas, in accordance with Article 27 of Protocol No 1, the Customs Co-operation Committee has adopted a report on the said request;

Whereas, in order not to hinder the future development of an existing industry, the very existence of which is at present threatened as a result of unforeseen circumstances, temporary derogation should be granted from the definition in the Protocol,

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 produced by Mauritius and falling within tariff heading No ex 16.04 shall be considered as originating in Mauritius subject to the following conditions.

Article 2

This derogation shall relate to 1600 tonnes of canned tuna falling within tariff heading No ex 16.04 imported into the Community from .....  
to .....

Article 3

Movement certificates EUR 1 issued pursuant to this Decision shall bear one of the following endorsements:

- "marchandises originaires en vertu de la décision n°            du Conseil des Ministres ACP-CEE",
- "Ursprungswaren gemäss Beschluss Nr.            des AKP-EWG-Ministerrates",
- "merci originarie in vertu della decisione n.            del Consiglio dei ministri ACP-CEE",
- "goederen van oorsprong uit hoofde van Besluit nr.            van de ACS-EEG-Raad van Ministers",
- "originating products by virtue of Decision No            of the ACP-EEC Council of Ministers",
- " varer med oprindelsesstatus i henhold til AVS/EF-ministerradets afgørelse nr.            ".

This endorsement shall be entered under the heading "Remarks".

#### Article 4

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 pursuant to this Decision.

#### Article 5

The ACP States, the Member States and the Community shall each take the measures necessary to implement this Decision.

#### Article 6

This Decision shall enter into force on .....

It shall apply until .....

Done at Brussels

For the ACP-EEC Council of Ministers

The President

