

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(86) 582 final

Brussels, 13 February 1987

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 into account the special situation
of Fiji with regard to its production of canned tuna fish

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

(submitted to the Council by the Commission)

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Explanatory Note

Origin rule-tariff heading 16.04

1. The origin rule in List A of the Lomé Convention for canned tuna falling within tariff heading ex 16.04 requires that it has to be processed from originating raw fish that is caught in ACP territorial waters or by ACP vessels, (as defined in Explanatory Note 7 in Annex I to Protocol n° 1 of the Convention).

Background

2. The skipjack tuna canned in Fiji satisfies this rule, as this species is caught in their territorial waters.
The situation is different for albacore tuna (for which Fiji has found an outlet on the EEC market, subject to the condition that it is allowed to benefit from the tariff preferential treatment laid down for originating products) as this species is only found on the high sea.
Fiji has only one specialized vessel which operates there and contributes roughly 10 % of the catch of albacore processed by their cannery.
The problem concerns the remaining quantity of albacore, which is caught by chartered third country fishing vessels, and therefore does not fulfill the origin rules.
There are no practical alternative suppliers which could solve the problem via cumulation with the ACP's, OCT's or EEC due to the geographical situation of the Fiji Islands.
Consequently, the ACP States, on behalf of Fiji, introduced a derogation request in accordance with Article 30 of Protocol n° 1, received by the Commission on 3 July 1986, with a view to obtain that tuna fish, caught by third country vessels outside the Fijian territorial waters and processed in Fiji, may obtain preferential originating status.
According to information available to the services of the Commission, Fiji plans a progressive replacement of the third country chartered vessels with ACP ones, but this depends upon finding a market for their products.
The firm concerned has been reducing third country share in its ownership, which was 75 % Japanese a few years ago and will be 100 % Fijian by the end of this year.

Derogation criteria

3. Fiji is an island state whose geographical situation should be taken into account (Article 30, (2)(a) of Protocol n° 1). The nearest ACP state is Tonga, some 600 miles away.
Its request is also justified under Article 30, (1) (development of an existing industry).

Economic impact

4. The quantity for which the derogation is requested (1500 tons) corresponds to about 2 % of the total imports into the EEC of Ten in 1985.
The share of Fiji in the total imports of canned tuna in the Community of Ten declined from 5 % in 1983 and 1984 (3338 and 3421 tons respectively) to 3,4 % (2472 tons) in 1985. (See Annex I)/
It should be noted that a former derogation for 750 tons per year for two years was not used due to the market situation (1).

Conclusions

5. The Commission therefore proposes to introduce a derogation from the rules of origin for three years for tuna conserves from Fiji in respect of an amount of 1125 tons per year.
The amount, which represents a reduction of the Fijian request, is calculated on the basis of the share of the Community over the last three years (1983, 1984, 1985) in the total exports by Fiji of canned tuna (73 %) thus respecting the principle that the Community shall not be the sole outlet for Fijian exports of canned tuna, as it was already established in the occasion of the previous derogation.

(1) Regulation (EEC) n° 2392/81 of 18 August 1981 O.J. N° L 235 of 21.8.81, p. 1.

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 into account the special situation of Fiji with regard to its production of canned tuna fish

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

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 in Lomé on 8 December 1984, adopted pursuant to Articles 28 (3) and 30 (1) of Protocol 1 to the Convention, Decision No 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;

Whereas, in accordance with Article 33 of the said Protocol 1, the measures required to implement that Decision should be taken,

Article 1

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

"In the absence of a further decision or corresponding regulation the derogation laid down in the annex may be applicable after 31.12.1987".

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 1.1.1987 until 31.12.1987

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

Done at Brussels,

For the Council
The President

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

THE CUSTOMS COOPERATION COMMITTEE.

Having regard to the third ACP-EEC Convention signed at Lomé on 8 December 1984 hereinafter referred to as 'the Convention',

Whereas Article 30 of Protocol 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 ACP States have submitted a request from the Government of Fiji for a derogation from the definition set out in Protocol 1 in respect of canned tuna produced by Fiji;

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

Whereas the Fijian canning industry is temporarily dependent upon supplies of tuna fish of third country origin;

Whereas in these circumstances a derogation limited to 1.125 tonnes per year for three years will permit additional exports to the Community without changing the traditional patterns of trade;

HAS DECIDED AS FOLLOWS

Article 1

By way of derogation from the special provisions of List A in Annex II to Protocol 1, canned tuna manu-

factured 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 1.125 tonnes per year of canned tuna falling within heading No ex 16.04 of the Common Customs Tariff and exported from Fiji between 1.1.1987 and 31.12.1987. The derogation may be renewed for two consecutive periods of one year subject to the provisions of Article 30 (8) of Protocol No 1".

Article 3

The competent 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 the day of its adoption.

It shall apply from 1.1.1987 until 31.12.1987.

Done at Brussels,

*For the ACP-EEC Customs
Cooperation Committee*

The Chairmen

IMPORTS OF CANNED TUNA INTO THE COMMUNITY OF TEN

IMPORTATIONS DE CONSERVES DE THON DANS LA COMMUNAUTE A DIX

(tonnes)

NIMEXE NUMBER 16.04.75

	1981	1982	1983	1984	1985
Espagne	645	400	581	686	1.392
Portugal	1.046	1.603	1.522	1.644	2.531
Norvège	0	1	0	0	3
Suède	27	1	3	14	13
Finlande	0	0	5	0	0
Suisse	0	4	0	0	
Yougoslavie	325	296	385	397	288
Turquie	1	1	1	0	0
URSS	40	0	0	0	0
Canaries	0	0	20	0	5
Maroc	601	393	187	102	90
Egypte	0	5	0	0	0
Mauritanie	13	26	58	0	0
Cap Vert	61	43	260	203	165
Sénégal	14.172	15.631	20.265	20.161	22.435
Gambie	0	1	0	0	0
Côte d'Ivoire	17.470	18.914	21.029	21.351	21.209
Ghana	1.021	908	1.018	739	924
Somalie	0	7	0	0	0
Maurice	1.315	1.666	2.171	2.239	3.331
USA	1.199	662	548	306	52
Canada	74	74	0	110	145
Nicaragua	0	0	1	0	0
Cuba	0	0	2	44	0
Equateur	107	30	0	0	53
Pérou	86	53	266	70	0
Brésil	39	0	79	0	0
Israël	2	0	1	2	0
Yemen Sud	0	0	36	0	0
Maldives	173	179	0	53	316
Thaïlande	539	963	568	979	4.321
Indonésie	26	54	273	207	398
Malaisie	426	267	210	137	167
Singapour	0	0	18	94	113
Philippines	1.597	2.090	3.289	2.747	2.744
Chine	55	69	23	40	16
Corée du Sud	0	0	10	5	0
Japon	6.598	5.060	4.115	349	4.887
Taïwan	7.139	3.499	3.235	2.462	1.894
Hong-Kong	0	0	15	0	15
Australie	1	0	0	0	0
Papouasie	0	13	12	13	0
Salomon	806	605	1.021	1.014	1.139
Kiribati	13	0	37	0	0
Fidji	2.221	1.691	3.338	3.421	2.472
Samoa	0	0	0	2	0
Nouvelle Zélande	0	0	0	0	8
Vanuatu	0	0	0	0	14
ND	5	6	5	5	10
Tous pays tiers	57.837	55.206	64.601	67.226	71.146

(Source : Nimexe)

ANNEX II

Fijian exports of canned tuna

CTS = 1000 cartons

% = percentage in relation to total exports

Destination	1983		1984		1985	
	CTS	%	CTS	%	CTS	%
CEE	344	64.9	365	74	237	80.6
OTHERS	185	35.1	124	26	56	19.4
TOTAL	529	100	489	100	293	100

Source : extrapolation from Fiji request.