

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(84) 374 final

Brussels, 3 July 1984

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 Maritius with regard to its production of canned tuna

COM(84) 374 final

EXPLANATORY MEMORANDUM

Since the end of 1977, Mauritius has been granted a series of derogations from the origin rules in order to allow its canned tuna, processed from non-originating fish, to come in under the preferential arrangements laid down under the Lomé Convention. This special concession has from the outset been seen as a response to the considerable difficulties experienced by the island's sole cannery in obtaining supplies of fish with originating status.

Mauritius has been making great efforts to put an end to this situation, and in 1979 the operator acquired a vessel which was to supply most of the cannery's requirements. But the uncertainty regarding fishing rights in this part of the Indian Ocean, and the limited potential, in these circumstances, of a single boat, have meant that so far the vessel has managed to provide only just over half of the of the cannery's output. Mauritius has been importing the remainder of the fish for processing on the strength of the derogation.

The last derogation in favour of the island ran for two years, and related to 1 000 tonnes of canned tuna a year, manufactured from fish originating in the Maldives. It expires on 31 July.

By letter No. ACP/64/7 (Vol. 1) 84 of 11 April this year the ACP States submitted a request on behalf of the Mauritian Government for a further derogation in respect of the same quantities, to run from 1 August 1984 until the entry into force of the new Convention, following on the expiry of Lomé II. The terms suggested in the letter would also enable Mauritius to obtain supplies from sources other than the Maldives.

The request is based on the following considerations :

- the catches of the Mauritian vessel (the "Lady Sushil") did not exceed 3 000 tonnes in 1983. To remain viable the cannery needs a minimum of 4 500 tonnes of fresh tuna;

- despite repeated attempts, the Mauritian operator has been unable to find fresh sources of supply in other ACP States;
- catches off the Maldives have dropped sharply. The consequences for the Mauritian cannery have been quite serious; it has twice been shut down for about a week;
- in order to remain financially sound and be able to pay for a second boat later on, the Mauritian operator has to be able to count on preferential access to the Community market for all its exports;
- the Seychelles have recently accorded fishing rights in their exclusive economic zone to 12 Community vessels. However, the commercial channels used by the fleet do not seem to allow for regular deliveries at quantities adapted to the storage capacity of the Mauritian factory;
- in addition, even in the context of a E.D.F. regional project, four Indian Ocean countries, including Mauritius, are getting ready to introduce concerted programmes for the development of tuna fishing in the area, which will result in the supply of the necessary quantities of "originating" catches to the factory in the terms required.

In connection with the current Convention renewal negotiations, the ACP States are again pressing for more flexible origin rules for fishery products. The Community's line has been that the procedure for derogations from those rules has always made it possible to solve particular problems on their merits. If the Community refuses to allow the derogation here applied for, it could upset this whole negotiating line.

In view of the foregoing and in conformity with the provisions of Protocol No. 1, in particular Article 30 thereof, the Commission proposes that a derogation from the origin rules be granted in respect of 600 tonnes of canned tuna - equivalent, for the period under consideration, to 1 000 tonnes a year - to run from 1 August 1984 to 28 February 1985, when the second Lomé Convention expires.

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

THE CUSTOMS COOPERATION COMMITTEE,

Having regard to the Second ACP-EEC Convention signed at Lomé on 31 October 1979,
hereinafter referred to as 'the Convention',

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 (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 there
Mauritius from 1 August 1982 to 31 July 1984 benefited from a derogation from
the definition set out in Protocol No 1 for canned tuna ;

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

Whereas this vessel, while increasing its catches steadily, is not in a
position to supply sufficient quantities of tuna fish for the canneries;
whereas the company must stabilize its financial situation in order to be able
to buy a second ship should it prove impossible to guarantee fresh sources of
originating fish;

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originating fish;

Whereas Mauritius has been unable to obtain sufficient supplies of fish originating in other ACP States or in the Community; whereas this deficiency may nevertheless shortly be remedied by fishery developments in this part of the Indian Ocean; whereas until that time, the Mauritian canning industry must be able to use supplies of tuna from third countries to keep up its exports to the Community;

Whereas Mauritius can obtain some of the tuna it requires for its canneries from other developing countries; whereas pursuant to Article 30(5) of Protocol No. 1 the examination of a request for a derogation should take particular account of such a possibility;

Whereas in these circumstances a temporary derogation from the definition of the concept of originating products should be accorded to Mauritius, to run until the expiry of the second ACP-EEC Convention,

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 Mauritius from non-originating tuna and falling within heading No. ex 16.04 of the Common Customs Tariff shall be considered as originating in Mauritius on the following conditions.

.../...

Article 2

The derogation provided for in Article 1 shall relate to 600 tonnes of canned tuna falling within heading No . ex 16.04 of the Common Customs Tariff and exported from Mauritius between 1 August 1984 and 28 February 1985.

Article 3

The competent authorities of Mauritius shall take the necessary steps to ensure that a quantitative check is kept on exports of the products referred to in Article 2. To this end they 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, indicating the precise origin of the tuna used.

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 August 1984 until 28 February 1985.

Done at

For the ACP-EEC Customs
Cooperation Committee

Joint Chairman

