

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(78) 726 final.

Brussels, 19 December 1978

Proposal for a
COUNCIL REGULATION (EEC)

on the application of Decision No of the ACP-EEC
Council of Ministers derogating from the concept of 'ori-
ginating products' to take account of the special situation
of Mauritius with regard to its production of canned tuna

Draft
DECISION OF THE ACP-EEC COUNCIL OF MINISTERS

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

(submitted to the Council by the Commission)

COM(78) 726 final.

EXPLANATORY NOTE

I. Presentation of the request

- a) Background : Since 23 November 1977 Mauritius has benefited from a derogation to the definition of the concept of originating products for canned tuna within a quota of 1,600 tonnes. The canned fish are made from fish caught in the Maldivé Islands by local fishermen and which are transported to Mauritius by a Japanese refrigerator ship. The majority of the company's shares are held by Mauritius.

A derogation for one year was foreseen to enable the Mauritian company to obtain supplies of tunny caught using live bait using a vessel corresponding to the definition in note No. 6 to Protocol No. 1 of the Lomé Convention.

- b) Request for extension of the derogation made by the Mauritian Government: In a letter dated 10 October 1978 the ACP countries' General Secretariat sent, with a favourable opinion, a request for an extension presented by the Mauritian Ambassador in the name of his Government.

The Mauritian Ambassador observed that his original request had referred to a two year period and a volume of 3,200 tonnes per year and that the derogation had only been for one year and for 1,600 tonnes.

He explained that the company concerned had attempted to comply with the origin rules applicable by trying to introduce a system of fishing corresponding to the rules, that is fishing using live bait which they were unable to obtain in sufficient quantities in the waters surrounding Mauritius with the consequence that the attempt had to be given up.

In order to resolve the problem the company therefore decided to turn to the system of purse seining and envisages buying the type of vessel needed for this kind of fishing and which fulfils all the conditions necessary.

At present, negotiations for purchase are proceeding and should succeed about by 20 January 1979. Parallel discussions are being conducted with the Seychelles and Comores in order to obtain fishing rights in their economic zones.

In order to allow the canning works to continue to operate in good financial conditions until these discussions are concluded, Mauritius requests the extension of the derogation for one year, although in fact the derogation would only be used for 10 months. In effect the Decision previews the benefit of the derogation to products imported between 23 November 1977 and 23 November 1978. The first shipments were not started until after the date of the entry into force and in view of the length of time needed by sea shipment (some two months) the last shipments which could benefit from the derogation should have left Mauritius in the second half of September if they were to be cleared through customs before the final date.

II. Opinion of the Commission

The Commission has not been informed of any disruption caused by the imports of canned tunny. It is sure that they do not consist of more than a very modest percentage of the total of imports into the Community of this product which totalled 43,500 tonnes in 1977.

The situation of the tunny canning industry in the Community is concentrated in two countries. France and Italy; Japan, Senegal, Ivory Coast and Taiwan are the main suppliers. Mauritius only sold 618 tonnes in 1977.

The request presented, which has been supported by all the ACP countries, responds exactly with the criteria fixed by Article 27 of Protocol No. 1 to the Convention.

It seems evident that Mauritius cannot obtain under satisfactory conditions tunny from other ACP countries and that imports of non-originating products are vital in order to maintain the activity of an industry employing 250 persons and whose market openings and profitability would be put at risk by the payment of increased customs duties.

A Decision should be taken shortly concerning the purchase of a boat whose entry into service should take place in the second half of 1979, the Commission proposes an extension for a period of one year for a quantity of 1,600 tonnes.

This new derogation, agreed to for one year, cannot in any eventuality, be subject to a further prolongation.

COUNCIL REGULATION (EEC)

on the application of Decision No _____ of the ACP-EEC Council of Ministers derogating from the concept of 'originating products' to take account of the special situation of Mauritius with regard to its production of canned tuna

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 Council of Ministers set up under the ACP-EEC Convention of Lomé⁽¹⁾ signed on 28 February 1975, 'adoption', adopted, pursuant to Article 9(2) of the said Convention, Decision No _____/78 of _____ derogating from the concept of 'originating products' to take account of the special situation of Mauritius with regard to its production of canned tuna;

Whereas it is necessary, in accordance with Article 74 (3) of the Convention, to take the measures required to implement that Decision,

HAS ADOPTED THIS REGULATION,

Article 1

Decision No _____ of the ACP-EEC Council of Ministers shall apply in the Community.

The text of the Decision is annexed to this Regulation.

Article 2

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

It shall apply from 23 November 1978 until 24 November 1979.

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

Done at Brussels,

For the Council
The President

⁽¹⁾ OJ No L 25, 30. 1. 1976, p. 2.

ANNEX
Draft
DECISION **OF THE ACP-EEC COUNCIL OF MINISTERS**

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

THE ACP-EEC COMMITTEE OF AMBASSADORS

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 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, in order to catch fish for its canneries, Mauritius has decided to set up its own fleet of vessels so that the finished products have the status of originating products within the meaning of Protocol No 1 to the Lomé Convention;

Whereas the fleet will become operational only in about one year's time;

Whereas, in accordance with Article 27 of Protocol 1, the Customs Cooperation Committee has adopted a report on the said request;

Whereas the derogation accorded for 1978, taken together with that envisaged for 1979, represents a period of time sufficient to allow the Mauritian authorities to resolve their problem in obtaining originating raw materials; whereas the present derogation should be limited to a maximum period of twelve months;

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

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 manufactured in 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 1 600 tonnes of canned tuna falling within tariff heading No ex 16.04

and exported from Mauritius between 25 November 1978 and 24 November 1979.

Article 3

The movement certificates EUR.1 issued for products originating by virtue of the derogation contained in Article 1 shall contain in box 7 "remarks" one of the following endorsements:

- "Dérégation thons"
- "Abweichung Thunfisch"
- "Derogation tuna fish"
- "Deroga tonno"
- "Afwijking tonijn"
- "Undtagelse tunfisk"

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 be required, each for its own part, to take the necessary steps to implement this Decision.

Article 6

This Decision shall enter into force on 25 November 1978.

It shall apply until 24 November 1979.

