

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(82) 269 final

Brussels, 13 May 1982

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL

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

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EXPLANATORY NOTE

Up to 1977, Mauritius was able to fulfil its requirements of raw tuna fish for its cannery, set up in 1972, in other ACP States with the result that the canned tuna qualified as an originating product and thus benefitted from the preferential regime provided for by the Lomé Convention on import into the Community. The ACP States from which the cannery in Mauritius usually obtained its supplies, progressively terminated then their exports of tuna fish.

As the maintenance of the preferential regime was indispensable for the continuation of the working of the cannery and in order to give Mauritius the opportunity to take the measures necessary to satisfy the origin rules in the origin Protocol to the Lomé Convention, a series of derogations were granted to Mauritius.

Since then Mauritius has taken steps to conform to the origin rules. A fishing vessel was purchased in 1979 and has supplied part of the raw fish used by the cannery with mixed success.

The last derogation Mauritius benefitted from was for one year and expired on 29 January 1982. Unfavourable conditions at that time had prevented the Mauritian vessel from exploiting its maximum potential fishing capacity. Hopes of obtaining additional supplies of originating fish in the Seychelles, a neighbouring ACP State, did not materialize because the catches there were not up to expectations.

By letter No. ACP/6408/82 of 18 February 1982 the ACP States submitted a request on behalf of the Mauritian Government for a further derogation from the origin rules in respect of canned tuna for a period of three years and relating to 1,000 tonnes a year.

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This request is based on the following considerations :

- a) the Mauritian vessel, while increasing its catches steadily, cannot in itself ensure sufficient supplies of originating tuna fish for the cannery as its maximum fishing capacity is between 2,000 and 2,500 tonnes of fish per year.
- b) the possibilities of obtaining supplies of raw fish in the Seychelles (which is developing its fishing industry with the help of an EEC Member State) are very limited. A project, started in the Seychelles was interrupted in 1981 and although a Community vessel is fishing there at present on an experimental basis, it is doubtful whether there will be sufficient fish available for the cannery in Mauritius.
- c) efforts to find alternative sources of supply of fish originating in other ACP States have not had any result.
- d) given its financial commitments, particularly those resulting from repayments of the loan obtained to acquire the fishing vessel, the company operating the cannery need to maintain its present level of sales on the Community market. It can only do this if it can benefit from the tariff preference provided for by the Lomé Convention.

Consequently, there is a large deficit in supply of originating fish for the cannery which can only be made up by imports from third countries. This means in effect that Mauritius remains dependent upon supplies of fish originating in the Maldives Islands, one of the least developed countries. In this context, attention should be drawn to Article 30 (5) of Protocol No. 1 which states "the examination of requests shall in particular take into account on a case-by-case basis, the possibility of conferring originating status on products which include in their composition products originating in neighbouring developing countries or in developing countries with which one or more ACP States have special relationships, provided that satisfactory administrative cooperation can be established. "

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Furthermore, it should be noted that Mauritius is now definitively looking into the possibility of acquiring a second vessel in the near future with a view to reducing its dependency upon imports of fish from third countries.

To conclude, it should be recalled that the whole question of the origin rules for fishery products is a very sensitive point in our relations with the ACP States. In accordance with Joint Declaration XXI annexed to the second Lomé Convention, discussions are now taking place in a Working Group under the ACP-EEC Customs Cooperation Committee on this question. It is most probable that should the Community refuse to accept this derogation request for processed products in the fishery sector (which it promised to examine with an open mind) the consequences for these discussions could be very serious.

In view of the foregoing and in conformity with the general provisions of Protocol Nr 1, in particular Article 30 (5) and (7)(a), the Commission proposes to accept a derogation from the rules of origin for an annual quantity of 1,000 tonnes during two years limited to canned tuna manufactured in Mauritius from raw fish originating in the Maldives.

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 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 has from January 1981 to January 1982 benefitted under the Convention 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 the canneries with raw fish for its 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 Mauritius therefore intends purchasing a second fishing vessel within a period of 3 years if experience shows that further supplies of originating fish cannot be guaranteed;

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Whereas Mauritius has been unable to obtain sufficient supplies of fish originating in other ACP States; whereas the Mauritius canning industry therefore continues to be dependent upon supplies of tuna fish from third countries in order to continue its exports of canned tuna to the Community;

Whereas it is possible for Mauritius to meet its needs of tuna fish for the canneries originating in other developing countries; whereas pursuant to Article 30(5) of Protocol No. 1 the examination of a request for a derogation should in particular take into account such a possibility;

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

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 raw fish originating in the Maldives and falling within heading No. ex 16.04 of the Common Customs Tariff shall be considered as originating in Mauritius subject to the following conditions.

Article 2

The derogation provided for in Article 1 shall relate to 1,000 tonnes per year of canned tuna falling within heading No. ex 16.04 of the Common Customs Tariff and exported from Mauritius between 1982 and 1984.

Article 3

The competent authorities of Mauritius shall take the necessary steps to ensure that the raw fish used in the manufacture of the canned tuna referred to in Article 1 originates in the Maldives. These authorities shall also carry out quantitative checks on exports of the canned tuna in question and shall forward to the Commission every three months a statement

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of the quantities in respect of which movement certificates EUR.1 have been issued on the basis of 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 1982 until 1984.

Done at

For the ACP-EEC Customs
Cooperation Committee

The President