



EUROPEAN PARLIAMENT

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*Committee on Fisheries*

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**2008/0250(NLE)**

27.10.2010

## **OPINION**

of the Committee on Fisheries

for the Committee on International Trade

on the draft Council decision on the conclusion of the Interim Partnership Agreement between the European Community, of the one part, and the Pacific States, of the other part  
(05078/2010 – C7-0036/2010 – 2008/0250(NLE))

Rapporteur: Carmen Fraga Estévez

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## SHORT JUSTIFICATION

### 1. Substance of the proposal

On 23 November 2007 the European Commission and the countries of Papua New Guinea and Fiji concluded a new interim agreement which enabled the Pacific States to start benefiting from the improved access to the European market offered by the EU in the context of negotiations towards an economic partnership agreement (EPA). At the same time, the agreement sought to avoid disrupting trade between the Pacific States and the EU on the expiry, on 31 December 2007, of the trade preferences granted under the Cotonou Agreement, pending the conclusion of a comprehensive EPA.

Under this agreement, which has been provisionally implemented since 1 January 2008, customs duties on all products from a Pacific State, except for a few very limited exceptions, have been abolished, including those on all fishery products.

The agreement includes, in an annex, the rules governing the origin of raw materials, in this case live fisheries products that are fished by the vessels of the countries concerned outside their territorial waters. The rules set out a number of criteria (country of registration, flag state, ownership of the vessel) so that a sufficient link can be established between the vessels and the countries benefiting from the preferences.

The definition of the origin of processed fish products, including that of canned fish falling under HS (Harmonised System) code 1604, is subject to the conditions for the sufficient processing of raw materials set out in a list annexed to the protocol, which sets a limit of 15% on the use of non-originating raw materials when establishing the origin of the finished products.

An exception to this rule, however, allows a Pacific State to obtain 'originating product' status, and hence access to the EU market totally exempt from customs duties, for HS 1604 products that are manufactured on production sites located on the territory of that State from non-originating raw materials that have been landed in a port of that State. Countries wishing to benefit from this exemption therefore have to notify the Commission that they have insufficient raw materials to meet the demand from their processing plants, i.e. their vessels cannot catch enough fish to meet the supply needs of their processing industries.

This means that the processing industries of countries accorded preference under the agreement can export to the EU, free of duties, processed fish products caught either by vessels from third countries or in third countries that have not been granted any tariff preferences by the EU.

### 2. Rapporteur's comments

Your rapporteur would first like to stress the EU fisheries sector's great dissatisfaction with, and frustration at, this state of affairs and highlight the substantially adverse impact of this agreement on the industry, especially the tuna canning sector, owing to the totally outrageous exemption from the normal rules of origin that has been included in this agreement.

The main aim of the preferential rules of origin is to establish the existence of a sufficient economic link between the products imported into the EU and the countries benefiting from the preferences granted by the latter, in order to ensure that those preferences are not wrongfully diverted to other countries for which they were not intended. The agreement, however, does the contrary.

With regard to a product with as little value added as canned tuna, all autonomous preferential agreements and regimes applied by the EU have hitherto always stipulated that finished products could only be deemed to be originating products if most of the raw material used was itself originating, i.e. from fishing carried out by vessels having a sufficient connection to the beneficiary country.

The derogation granted to the Pacific States, which is being actively used by Papua New Guinea, has made this country into a genuine hub for the processing of huge quantities of tuna from a variety of sources (Philippines, Thailand, China, United States, Australia, etc.), which is landed in its ports and processed in factories that have been hastily set up by operators from the countries concerned for the sole purpose of benefiting from the total customs duty exemption granted by the EU under this interim agreement (direct exports from those countries are, meanwhile, subject either to a 24% MFN duty or to a duty that has simply been reduced under the GSP).

What is more, given that most of these countries are direct competitors of EU producers, the scale of this phenomenon has caused considerable disruption to the canned tuna market and constitutes totally unfair competition for a European processing sector that is already at an economic disadvantage owing to much higher labour costs and much tighter environmental and health and hygiene constraints, to the extent that thousands of jobs in this sector are currently at serious risk. It is also causing serious harm to other ACP or GSP beneficiary countries which, not having been granted similar derogations, can only count on their own raw materials for the operation of their processing industries.

The justification often cited by the Commission that this is development aid for a Pacific State consisting of a measure to encourage investment in that state does not really hold water when one notes that the factories built locally to take advantage of the 'windfall' derogation from the rules of origin have been equipped in a totally rudimentary fashion, employ mostly Asian staff brought in from other countries in the region rather than local workers, pay pathetic wages and are suspected of having a negative environmental impact.

Without disputing the merits that the Interim Partnership Agreement with the Pacific States might have in other respects, the Committee on Fisheries wishes, therefore, to draw the attention of the Committee on International Trade, which is responsible for proposing the approval of this agreement by Parliament, to the harmful, inappropriate nature of the derogation provided for in Article 6(6) of Protocol II on the Rules of Origin.

Your rapporteur welcomes the Commission's repeated assurances that no further derogations of this kind will be granted under any other preferential partnership with the EU, and considers that such assurances could be seen as the recognition that a mistake was made; she is therefore confident that – although it is too late to repair the damage inflicted on the

fisheries sector during the interim application period – the situation will be resolved as soon as possible.

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The Committee on Fisheries calls on the Committee on International Trade, as the committee responsible, to propose that Parliament approve the conclusion of the agreement and to incorporate the following paragraphs into its motion for a legislative resolution:

1. Insists that the exceptional arrangements regarding the rules of origin for processed fishery products laid down in Article 6(6) of Protocol II annexed to the Interim Partnership Agreement between the European Community, of the one part, and the Pacific States, of the other part, be suspended after the consultations provided for in subparagraph (d) of that paragraph;
2. Calls on the Commission to ensure that no further such derogation from the rules of origin for processed fishery products appears in the final partnership agreement with the Pacific States, which is still being negotiated.

## RESULT OF FINAL VOTE IN COMMITTEE

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| <b>Date adopted</b>                             | 26.10.2010   |
| <b>Result of final vote</b>                     | + : 19<br>- : 2<br>0 : 0   |
| <b>Members present for the final vote</b>       | Josefa Andrés Barea, Antonello Antinoro, Kriton Arsenis, Alain Cadec, João Ferreira, Carmen Fraga Estévez, Pat the Cope Gallagher, Marek Józef Gróbarczyk, Carl Haglund, Iliana Malinova Iotova, Werner Kuhn, Isabella Lövin, Gabriel Mato Adrover, Guido Milana, Maria do Céu Patrão Neves, Britta Reimers, Crescenzo Rivellini, Ulrike Rodust, Struan Stevenson, Catherine Trautmann, Jarosław Leszek Wałęsa |
| <b>Substitute(s) present for the final vote</b> | Diane Dodds  |