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on the Rules of Origin in Economic Partnership Agreement regional negotiations

Impact assessment

on

**Rules of origin for the fisheries sector for the specific case of the Pacific ACP
region**

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Executive summary

This report analyses the current rules of origin applying under the Cotonou Agreement to fishery products exported from the ACP countries for the specific situation of the Pacific ACP (PACP) region and assesses a proposal for more development friendly rules of origin for this region under the forthcoming EPA.

The analysis shows that under current de facto restrictive rules of origin Pacific exports to the EU have remained minimal despite a large preferential margin. Allowing for simple rules that confer origin to fish caught within one of the Pacific Exclusive Economic Zones (EEZ, a zone comprising 200 miles of sea around a country) and sufficiently processed onshore in one of the PACP countries is a plausible means that can effectively contribute to reach the objectives set by the EPAs in terms of sustainable development, growth and employment for the Pacific ACP (PACP) countries. Increasing investment, processing activities and exports from the Pacific region should have a substantial positive impact on job creation, especially for women traditionally employed in canning operations, growth and development of the local small-scale economies of the Pacific States.

Other issues relating to sanitary standards, stock conservation, measures to combat illegal, unregulated and unreported (IUU) fishing or to the creation of a FDI-friendly environment for the development of the canning industry in the PACPs are also necessary in order to ensure the maximisation of the benefits from a change of the rules of origin.

The current volume and share of PACP exports of processed fish to the EU market is very small (they represent 3,5% of total imports of fish products from all ACP countries). The likely increase of exports to the EU following the introduction of development friendly rules of origin for the Pacific would not have a significant impact on the EU processing industry. Existing capacity constraints in the Pacific will restrain exploitation of the opportunities. Moreover, fish caught in the Pacific EEZ waters is currently processed in other countries of the region and exported to the EU. In view of the relatively high duties imposed on fish products (up to 24 %), a change in the rules would make it considerably more attractive for fish caught in the waters of the Pacific ACPs has to be transformed in the same countries, and therefore lead to more of this fish being processed and exported by the beneficiaries of the preferences themselves i.e. the Pacific ACP.

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Introduction

Rules of Origin (RoO) need to ensure that ACP producers benefit from the EU market access offer. This implies clearly that RoO should in parallel, allow an increase of the ACP exporters to EU markets, and prevent circumvention, i.e. they must not simply become a transit channel for exports from third countries. The 6 ACP regions need simpler, more transparent and easier to apply Rules of Origin in order to ensure EPAs deliver the maximum benefit and the ACP can source inputs where they need them.

This report assesses the impact of a change in preferential rules of origin for fish processed products in the framework of the Commission's currently on-going negotiations for the Economic Partnership Agreements (EPA) with the PACP ACP (PACP) region.

A presentation of the specific situation of the PACP is outlined. From one side, the PACP region is amongst the richest in the world in terms of natural resources in fish and more in particular tuna, offering thus significant opportunities for economical development (for some comparable to countries with oil resources). From the other side, the region is composed of small and remote island developing countries with nonexistent economies of scale, having thus difficulties to the development of sustainable and competitive fishing industry.

In respect of the latter, an analysis is made of the role, of the preference granted to the Pacific fish products and of the problematic raised due to the stringency of the rule conferring origin to the canned fish produced from fish caught basically solely by PACP or EU operators in the region's EEZ. A subsequent proposal is made for relaxing this rule substantially by allowing other operators fishing in the PACP countries' EEZs to supply the canning industry of the PACP region with originating fish.

Finally, in view of the expected increase in the ACP exports to EU market from a change in RoO for fisheries products, the impact on the PACP region and the EU industry is evaluated. As it will be shown, whereas the economical and social impact in the PACP region can be significant, the EU industry is not expected to suffer any material injury from an even substantial increase in imports from the PACP region, given their low share as of the total imports from the ACP countries and their likely substitution with third exporting countries' processed fish, using fish originating in the PACP EEZs, imported into the EU market with the high MFN duty.

Waiver:

The present report commits only the Commission's services involved in the preparation of a proposal for the rules of origin for fisheries products in the framework of the currently on-going negotiation for the Economic Partnership Agreements with the PACP countries. The text is prepared as a basis for comment and does not prejudge the final form of any decision to be taken by the Commission at a later stage.

1. PROBLEM DEFINITION

1.1. Importance of the Exclusive Economic Zone (EEZ) ¹

Tuna fishing is very important for the PACP ACP countries, which rely principally on this sector (along with tourism) for their economic development. The fact that over half the world's tuna resources are located in the Western and Central Pacific Ocean (WCPO) together with the growing scarcity of the resource in other traditional fishing grounds means that there is a major opportunity for the economic development of the PACP countries.

The WCPO, the most important area for tuna fishing in the world, provides 1/3 of the global tuna catch². The increase in the value of the tuna fishery has been dramatic over the past 20 years, rising from US\$375 million in 1982 to US\$1.9 billion in 1998³. The Exclusive Economic Zones (EEZs) of the PACP countries (roughly 30.5 million km²) represent 74% of the water surface of the WCPO, which means that they control a significant proportion of the world's tuna fishery.

To catch large volume of fish on the high seas, large vessels (purse seiners, industrial long liners) are necessary. They are too expensive for local/regional companies and only long distance water fishing nations (LDWFN) have such vessels.

The increase in global demand for tuna products will enhance competition between the LDWFNs for the exploitation of stocks in the richly-endowed EEZs of the PACP countries. The EU is a minor player in tuna fishing in the WCPO and is likely to remain one, compared to countries such as New Zealand, Australia, the United States, China, Korea and Taiwan.

¹ EEZs cover a 200 mile marine area over which coastal states exercise jurisdictional rights, further to the 1982 UN Convention on Law of the Sea Convention.

² Gillett R., M. McCoy, L. Rodwell and J. Tamate (2001).

³ Gillett *et al.*, (2001).

1.2. Available fishing vessels fleet in the PACP

On the basis of a study realised by the University of Hawai at Manoa⁴, in 1998, around 150 distant water fishing nation (DWFN) purse seiners were licensed to operate in the region of the fishery managed by the Forum Fisheries Agency (FFA)⁵. The main DWFN countries are the United States (46), Taiwan (43), Japan (32) and Korea (29). The FFA member countries of Kiribati, Papua New Guinea, Solomon Islands and Vanuatu also operated a total of around 10 domestic tuna purse seiners.

Based on a report⁶ prepared for the Asian Development Bank and the FFA, a major

Country	Longline	Purse Seine	Pole/Line	Total
China	97	0	0	97
Japan	255	36	39	330
Korea	144	26	0	170
Pacific Island countries	9	21	0	30
Philippines	0	15	0	15
Taipei,China	184	42	0	226
US	1	35	0	36
Other	26	19	0	45
Total	716	194	39	949

financial benefit from the extensive tuna resources comes in the form of access fees paid by foreign fishing vessels that fish for tuna in the EEZs of the FFA member countries. With very few exceptions, all licences issued to foreign fishing vessels plying the territorial waters of the Pacific islands are for tuna fishing. The table below shows the total number of vessels that qualified for such a licence, as of August 2000.

Table 1: Tuna fishing vessels in the FFA regional register, as of August 2000

From the above, it is shown that only 30 fishing vessels out of 949 operating in the WCPO are owned by PACP region⁷. All the others, with some exceptions which may be of EU ownership, are foreign owned and therefore, unless they satisfy the stringent criteria of Article 3 of the Cotonou Agreement, they can not land in the PACP region fish considered to be originating when exporting to the EC.

On the basis of the above, it seems clear that whereas there is a large number of LDWFN fishing vessels, there are very few locally owned or EU owned vessels. We will see further below why this is an important factor in relation with the rule of origin for processed fish products.

⁴ Pelagic Fisheries Research Program, Joint Institute for Marine and Atmospheric Research, University of Hawai'i at Manoa, April 1998

⁵ Forum Fisheries Agency on behalf of its members based on the US treaty area

⁶ "Tuna a key economic resource in the Pacific Islands", R. Gillet, M. McCoy, L. Rodwell, J. Tamate, March 2001

⁷ A more recent report for the FFA⁷ indicates that at the end of 2002 there were 14 pole-and-line vessels, 40 purse seiners (mainly foreign-owned) and 495 longliners based in the Pacific Island countries

1.3. Trade Flows

The fisheries sector (as a whole) is very important for the exports of several PACP countries, although there are differences among them. Fisheries exports account for 94.7% of total exports of FSM, 81.9% for Cook Islands, 73% for Palau, 61.5% for Samoa, 23.8% for Tonga, 20% for Solomon Islands. However, its weight in the total exports of Fiji and the Marshall Islands is less than 10%, and under 2% in the remaining five countries, including Kiribati.

However, levels of trade in fishery products between the EU and the PACP countries are relatively low. Only three PACP countries export fish and fish products to the EU – the Solomon Islands, Papua New Guinea and Fiji – and the weight of these exports is negligible relative to total EU imports (Table 2 below).

Table 2: EU Imports of Fish and Fish Products from the PACP Region (2003)

	Total EU Imports ('000 EUR)	Value of Import from PACP ACP ('000 EUR)	Share of Imports from ACP (%)	Share of Extra-EU imports (%)
0301. Live fish. 121,444 207 8.6 0.17	121,444	207	8,6	0,17
0303. Frozen fish (excl. fish fillets etc.)	1.057.574	1.063	0,68	0,10
1604. Prepared or preserved fish; caviar, etc.	1.596.031	23.926	11,04	1,50

Source: EU DG Trade – Expanding Export Helpdesk.

The above very low trade flows of exported PACP tuna products to the EU are due to the long distance and the high costs of transportation. Because of this, PACP exporters cannot compete in the 'traditional' raw-product fish market. Rather they have to target EU 'niche' markets for processed fish products (smoked, flavoured, prepared filets), that produce more local value-added. Therefore, specific attention should be paid to differentiating treatment, which would allow PACP producers to increase their exports of processed fish to the EU more lucrative market.

1.4. Fish processing industry

There are major constraints facing the development of industrial fisheries in the PACP countries. As we showed in section 1.2 above, a large number of vessels operate in the PACP countries's EEZs. However, there is very little incentive to develop a domestic processing industry, or to invest in the PACP countries, because so little of the fish caught in the EEZs of the PACP countries is ever landed, which is mainly attributed to the greater competitiveness and better infrastructure of processing zones in larger and more equipped countries outside the PACP; e.g. Thailand.

Table 3: Domestic Tuna Industry Development in the PACP countries

Country	Active locally based tuna vessels	Canneries and dedicated loining facilities	Air export packing and value adding facilities
Cook Islands	10L/L	0	3
Fiji	96L/L-1P/L	2	6
FSM	34L/L-8P/S	0	4
Kiribati	2L/L-1P/S	0	2
Marshall Islands	54L/L-5P/S	1	2
Nauru	1L/L	0	0
Niue	100 skiffs	0	0
Palau	71L/L-1P/L	0	2
Papua New Guinea	40L/L-24P/S	1	7
Samoa	153L/L	0	4
Solomon Islands	12P/L-2P/S-8L/L	1	1
Tonga	26L/L	0	4
Tuvalu	20 skiffs	0	1
Vanuatu	10 skiffs	0	0
Total	14P/L-40P/S-495L/L	5	36

The region has a total of five canneries located in Fiji (2), the Marshall Islands, PNG and the Solomon Islands. These four countries also include the majority of the air export packing and other processing facilities in the region. However, several PACP countries also benefit from industrial facilities (notably the FSM, Samoa and Tonga) but levels of development differ and a viable tuna processing industry only exists in five countries in the region: Fiji, Tonga, Samoa, the Marshall Islands and PNG⁸. There does not appear to be a lack of industrial capacity in the region, considering the volume of catch that is landed. The development of further processing facilities in the region will only be viable in specific areas where catches are high and if there is a significant increase in the volume of fish landed (incentive or compulsory landing provisions).

On the basis of the above, and the analysis made in section 1.2 above, the PACP owned fishing vessels capacity does not seem to suffice to cover the needs of the local tuna industry's capacity, which needs "wholly obtained" fish (see section 1.7 below) for exporting duty free its final product to the EU market. The local industry is therefore mainly relied upon the raw fish supplied by the EU vessels operating in the area in order to export their final products to the EU market and benefit from the preference. However, EU vessels have manifestly not an important presence in the PACP region, due to the remoteness of the area from the EU and the supply coverage in raw fish from other ACP regions. In addition, this is likely to remain as such for the future.

⁸ Gillett, R., (2003).

1.5. Small-scale fisheries

For ten of the PACP countries, tuna (and tuna-like fish) accounts for over 75% of the total small-scale fishery. Nearly all the tuna caught on a small-scale is consumed in the region. It plays the most important role as a source of income for the smallest and most vulnerable islands, which are deprived of virtually any other resource. There is no real competition between LDWFN and local fleets because the only way to catch large number of fish is on the high seas and this requires large boat (purse seiners, industrial long-liners) that the domestic sector could not afford.

While small-scale fisheries plays a key role in supplying nutrition to the local population, industrial tuna fishing is becoming increasingly important in the food supply of the PACP countries. Gillett *et al.* (2001) indicate that “ *the emergence of medium-scale tuna long-line operations in most PACP Island Countries has resulted in the sale of damaged tuna, undersized tuna and by-catch on the domestic markets*”. Of course, this issue is closely linked with the conservation of the stocks of fish governed by international fisheries law and regional conventions.

1.6. Employment and poverty

The fisheries sector is very important in terms of employment in the PACP countries with around 11.5% of the total official wage earners employed in the sector⁹. The number of people involved in subsistence fishing is even higher¹⁰. Business conditions including proximity to processing facilities, frequency of air connections and levels of fuel taxation, are most important for formal employment in the fishery sector while the size of the island is a crucial determinant for subsistence fisheries.

Evaluating the importance of employment in the tuna fishery is more feasible than for fisheries generally, as a large proportion of workers in the tuna fishery are formally employed¹¹. An estimated 15,000 PACP islanders are formally employed on tuna vessels and in tuna-processing plants. Moreover, total direct and indirect tuna-related employment is estimated at between 21,000 and 31,000 — that is, between 5% and 8% of all wage employment in the region¹².

The tuna industry offers equally employment opportunities for women. Gillet states in its report "Tuna, a key economic resource in the Pacific Islands", *"The canneries in Pago, Levuka, Noro and Madang employ over 6.500 Pacific Islands women. The tuna fishing and processing company Solomon Taiyo was the first to provide cash employment to women without tertiary education in the Solomon Islands and still is the only one providing significant opportunities of this kind. Women compose around 85% of the employees of the tuna cannery at Madang. Operators of the cannery say that loining and other processing operations will likely employ a similar proportion of women. If women are assumed to hold roughly one third of the estimated 388.000 jobs, then six tuna processing plants alone directly employ 5% of all job-holding women in the region."*

Data indicate that foreign fishing vessels do not contribute significantly to total employment in the fishery sector in the PACP countries, offering fewer opportunities than the smaller artisan fishery. There are few employment opportunities for local workers on EU vessels under the current EU Bilateral Fisheries Agreement (BFAs) and there has been a decrease in provisions mandating the employment of local seamen on the EU vessels. Moreover, without improvements in levels of FDI, for example, and the development of a viable processing industry, employment prospects in the sector could decline over the long term if the tuna fishery declines or small-scale fishers are unable to compete with larger vessels for the finite resource.

⁹ Gillet and Lightfoot (2001).

¹⁰ idem

¹¹ idem.

¹² idem.

1.7. Current rules of origin applicable to the processed products and their problematic

The importance of the preferential rule of origin is directly tied with the preference margin level. The 24% MFN duty for processed fish (prepared or preserved fish, cans, loins) indicates clearly the still comparative advantage that the PACP exporting producers can have given the DFQF EU market access offered. Therefore, the rule determining this market access becomes crucial.

For processed fish products the ROO are contained in Annex II to Protocol I which lists the working or processing required for non-originating materials conferring origin. In the case of processed fish products (HS Chapter 16 including tuna loins and canned tuna) the rules require that the starting materials must be raw fish (HS Chapter 3) that is already “wholly obtained”.

The ‘wholly obtained’ rules governing raw fish (including tuna) are contained in Article 3 of the Protocol. Subparagraph 1(e) clearly states that fish caught ‘there’ by any vessel, regardless of its ownership, will be originating within the ACP State. ‘There’ is taken to mean the territorial sea of the ACP State over which it has sovereignty, which international law¹³ defines as the sea within 12 miles of its coast. Complexities arise with the concept of “their vessels” and “their factory ships” which are introduced in subparagraphs 1(f) and (g). Fish caught outside the ACP’s territorial waters will only be granted originating status if the vessels which caught the fish comply with the stringent registration, ownership, flag and employment conditions of paragraph 2. Thus fish caught by an ACP or EU owned vessel which fulfil all these criteria outside its territorial waters and exported under the Cotonou Agreement will be originating. However, fish from an ACP State’s EEZ caught by a vessel owned by a third country will not be originating (unless there is significant joint ownership with either an ACP or EU State as detailed in paragraph 2, or the EU has already declined this particular fishing opportunity and several other conditions have been met as required in paragraph 3).

Further, Article 3(3) states that if an ACP State catches fish within its EEZ with a leased or chartered vessel from a third country the fish caught will only be originating if the ACP-EU Customs Cooperation Committee has accepted the lease or charter as “providing adequate opportunities for developing the capacity of the ACP State to fish on its own account.” This paragraph was intended for temporary situations where an ACP State was developing sufficient capacity to fish its own EEZ. However, as we showed in paragraphs 1.2 and 1.4 above, the PACP do not dispose of a sufficient fleet fishing capacity to supply their fishing industry with originating fish.

The stringent conditions for granting wholly originating status to raw fish are therefore paralleled with respect to the originating status of processed tuna products. It is therefore clear that these wholly originating ROO for fish turn to be very stringent in the specific case of the PACP, since a legitimate discrimination between EU vessels and any third country which may have an interest in fishing in the EEZ distort the ROO applicable to the processed fish products and in such a way undermine the value of trade preferences.

¹³ UN Convention on the Law of the Sea (UNCLOS). Part II, Section II, Article 3.

The ROO creates a bias between *sources* of investment in ACP States, providing an incentive for ACP States to grant EU access to their EEZ over other countries. There may be circumstances however where the EU is not interested in such opportunities. The remoteness of most PACP States from the EU, have in the past represented such instances. This may effectively exclude these countries from the trade preferences to which they are eligible.

The recently concluded bilateral EU fisheries agreements with Kiribati and the Solomon Islands should reduce the likelihood of this situation occurring. However, the current situation demonstrates that the interest of EU fishing vessels is still lacking.

In any case, the possibility that the EU may withdraw from the PACP EEZ in which its vessels currently fish presents a constant threat to the viability of PACP processing operations which export to the EU.

2. OBJECTIVE

For the PACP countries, the main challenge is very obviously to improve current preferential market access opportunities in the EU.

Rules of Origin must be used to ensure that PACP producers benefit from access to EU markets by generating increase of their exports. Rules of Origin must ensure the EU-PACP EPA deliver the maximum benefit and that the PACP can source inputs where they need them.

In the particular case of fisheries sector for the PACP region, in view of the low performance of their exports to the EU, the importance of the fisheries sector for this region and its specificities:

A preferential rule of origin should facilitate in the specific case of the PACP region the maximisation of the benefit from the tuna caught in its countries' EEZs and landed in the region in such a way to support the port activities and the other related sectors and to ensure the development of the local processing activities.

3. POLICY OPTION: RELAXATION OF THE RULE OF MANUFACTURE OF PROCESSED FISH PRODUCTS FROM WHOLLY OBTAINED

3.1. Proposal

The rule of origin for processed fish products will allow fish caught in the PACP countries' EEZs by fishing vessels regardless of their nationality to be landed in the PACP region and used for manufacturing processed fish, which then could be considered originating and exported to the EU market benefiting from the DFQF access.

This would allow the local canning industry's development through an expected increase in its production and exports of processed fish products to the EU market. In parallel, raw fish or fillets of fish fresh or frozen caught by foreign fishing vessels not satisfying the specific conditions stipulated under Article (3) of the Cotonou Protocol will not be able to benefit from the preference as they will not be considered "wholly obtained".

3.2. Trade deflection

Preferential rules of origin aim at preventing trade deflection. This means countries outside preferential trading arrangements circumventing MFN tariffs by diverting their exports through preference receiving countries. In preference receiving countries, trade deflection can nullify the intended competitive export advantage created by preferences. Central to the difficulty in reaching consensus on ROO for processed tuna products is the implicit interpretation of trade deflection created by the RoO.

Both the EU and the PACP region have an incentive to ensure tuna caught by foreign owned vessels in a PACP State EEZ's and manufactured by these same countries do not receive EU trade preferences. This could happen for example with foreign owned factory ships operating within the PACP States EEZ's. This clearly constitutes trade deflection and as such the ROO should protect against it. However, the current ROO implies that this kind of trade deflection is also applicable to processed tuna, i.e. a third country owned vessel catching fish in a PACP State EEZ and supplying it to a (domestically or foreign owned) cannery in that country for processing fish to be exported to the EU market is treated the same way as the fish that was caught outside their EEZ.

However, if these finished products were conferred originating status, benefiting thus from the preference, the manufacturing activity occurred within a PACP State would imply that substantial transformation of the tuna fish occurred there, creating considerable local added value and increasing exports with positive impact on economic and social development, including job creation and poverty reduction, and with important secondary effects on the local economy. This is precisely the objective that trade preferences are supposed to serve.

Trade deflection generally refers to assembly industries with little value added being established in preference receiving countries. Fundamentally it is a process that occurs when the act of substantially transforming raw materials into a manufactured product has not been undertaken in the country which is claiming origin on the final product. This is however, *not* the case with fish caught by a non-PACP vessel but processed within a PACP State.

It is essential that the relevant authorities within both preference receiving and granting countries install adequate defences against RoO fraud and trade deflection, intentional or otherwise, through establishing and maintaining adequate 'management procedures and supervisory and safeguard mechanisms.' However, this trade deflection should not be extended to a scheme where the benefits from the canning process, which provides the bulk of the value added, do not accrue to the PACP region interests, due to the capture fishery provisions set out in the Cotonou Agreement. However, rules of origin whereas they should prevent trade deflection should not prevent trade diversion or trade creation within the preferential area undermining thus their purpose to build up progressively competitiveness in the global market.

4. ANALYSIS OF IMPACTS

4.1. Impact on economic growth and employment for the PACP countries

The current rule favours EU fishing vessels to use the fishing rights and supply the local canning industry with originating fish. However, given the low interest manifested up to now from the EU vessels and the scarcity of locally owned fishing vessels capacity, there is no room for development of the PACP canning industry benefiting the maximum from the preference. As we showed above, the employment in the tuna sector is very important and it is very likely to remain in the future. As a report on tuna¹⁴ stated:

"In the future, ... it is inevitable that the currently underexploited tuna resources of the PACP region will assume an importance very much greater than at present. Quite simply, most countries have few if any alternatives. Fortunately, those Pacific Islands that are in the most development situation appear to be the countries with the greatest tuna resources available for future development. ... With the exception of Vanuatu, all of the relatively poor Pacific Island countries could be considered "tuna countries". ...The poorest Pacific Islands countries have considerable tuna resources, which could be developed using technology available today".

This capital development needs to be exploited. The development of the local canning industry can contribute the maximum to this process. Preferential rules of origin can play a major role in this respect by offering to the industry the chance to be adapted to the forces of globalization having evidently driven manufacturing companies to buy raw materials from the cheapest available source in order to keep being competitive and selling more finished products internationally.

A relaxation of the rule for fish processed products could be an important driving force behind an increase in exports from PACP countries and have significant economic and social impacts, including job creation and poverty reduction, with important secondary effects on the local economy, which can not be overlooked. As we showed in paragraph 1.6 above, 15.000 jobs are directly linked with tuna sector out of which 9.000 in the processing and export sector. In parallel, we showed that the tuna industry have the possibility of further development and thus of further contribution to the local small scale economies of the PACP countries.

Tuna industry employment provides support for government policies related to decentralisation, women's activities, and private sector development. Many Pacific countries governments favour policies that further decentralise employment, increase opportunities in rural areas, and stem the population drift to urban areas. Viable mechanisms for accomplishing these goals are unfortunately not common, but tuna industry employment contributes to the solution; e.g. the high employment at the canneries in relatively remote areas becomes especially important. The canneries at Levuka in Fiji and Noro in the Solomon Islands provide formal employment in non urban areas for about 2.000 people¹⁵.

4.1.1. Sustainability considerations

Relaxed rules of origin for processed fish products would certainly help the PACP region to fully exploit the duty/quota free access to the EU market. The development needs for the PACP region should be nevertheless conformed with sustainable fisheries

¹⁴ "Tuna a key economic resource in the Pacific Islands"

¹⁵ idem

policies. Specific capacity building action should be implemented to allow the PACP fish and fish products to fulfil EU (and international) SPS requirements and to support the private sector business development in the region. Development policies should also support the PACP countries, at the regional level, to implement and effectively enforce sustainable fishery policies, including CMS, both off-shore and in-port inspection, ban off-shore transshipment and fight against all forms of IUU and other unsustainable fishing. Finally, specific EPA provisions should help to provide the adequate environment for the development of the sector, ensuring a FDI-friendly environment, adequate access to the credit, the development of public policy dialogue initiatives and the promotion / adoption of the good governance international standards. At the public level, an EPA should also include specific support to implement the fiscal reform necessary to compensate the potential loss of public revenues due to the lowering of duties on specific products.

4.2. Impact on EU industry

The development of canneries in the PACP region is limited by natural resource constraints such as a lack of freshwater and poor transportation facilities. The main opportunities seem to be in Papua New Guinea. Major constraints facing industrial development in the tuna sector include:

- *Infrastructure.* This includes a lack of physical infrastructure as well as inefficient harbour management and air freight (low capacity and high cost)¹⁶.
- *Government policies.* The PACP countries do not offer a stable, reliable policy climate to support FDI in the tuna industry. In addition, there are high levels of taxation on fuel and fisheries, administrative problems, and poor dialogue between government and industry. There is also a need to foster good governance in the fishery sector.
- *Business conditions.* This includes lack of access to credit. Provisions in current EU Bilateral Fisheries Agreements (BFAs), particularly the absence of further compulsory landing provisions do not favour development of local processing facilities.
- *Human resources and capacity.* Low levels of entrepreneurship and technical skill related to modern fisheries, and inadequate training to meet food safety requirements¹⁷.

Although these problems are considerable handicaps, the possibility of exporting with zero duty processed fish caught in the area would make investments in processing more attractive.

On the basis of the above, it is clear that a significant improvement of the RoO for processed fish will certainly give an important incentive for increased landed fish and its further processing before it is exported to the EU. However, although this is an important export driving force, this is far from being the only factor, as in reality a number of other important factors (mentioned above) will finally condition and limit the maximisation of the benefits from the relaxation of the RoO.

From another perspective, the PACP exports to the EU market are very low. In 2005, total imports from the PACP into the EU market represented 0,11% of the total imports worldwide. From this figure, 4% represented fish products imported from all ACP countries out of which 3,5%, or €45,3 million for a total quantity of 20.465 tonnes (HS 1604: prepared or preserved fish) originated from the PACP (Eurostat, Comext), as the table below shows.

Table 4: Total 2005 exports to EU in 000EUR from the ACP and the PACP				
	HS1604	HS0304	HS0306	total
ACP	517.108	412.148	364.774	1.294.030
Pacific	45.283			45.283
share(%) of PACP	8,8%	0,0%	0,0%	3,5%

¹⁶ Tamate (2002).

¹⁷ HACCP (Hazard Analysis and Critical Control Point) requirements by the US Food and Drugs Administration (<http://www.cfsan.fda.gov/~comm/haccpsea.html>).

This latter value stands for 2,7% share of extra-EU imports of fisheries products.

In the case of increased exports of canned tuna, as expected from the relaxation of the relevant preferential rule, the PACP tuna processors will be able to benefit from competitive sources (cheaper fish), and therefore become more competitive vis-à-vis the other exporting countries' prices which have to include the high MFN duty. This will likely have a substitution effect with other countries exporting to the EU rather than with the EU industry's sales.

Account being taken of the above analysis, it looks evident that a significant relaxation of the rule of origin for processed fish in the specific case of the PACP would unlikely have, if any, a significant negative impact on the EU market and EU canning industry.

4.3. Summary

In the PACP countries, the lack of raw material due to limited own fishing capacities combined with the lack of capital and investment constitutes an obstacle for the development of a processing industry. They therefore need to source inputs from third countries vessels, and current rules of origin prevent them to do so. For the PACP canning industry, the best option seems to be to allow them using fish caught in their EEZ by third countries fishing vessels. It is well known the concerns on the impact this might have on the interests of the EU fishing industry. However, in addition to that the negative impact, if any, on the EU industry is assessed to be low, these legitimate concerns should not lead to overlook the main objective of making rules of origin more development friendly.

The unique situation of the Pacific region has to be taken into account. The region is composed mainly of small island developing countries with few natural resources (except for fish) and characterized by structural development problems, such as small domestic markets, isolation from major markets and geographical dispersion both within and between countries. With limited natural resources and nonexistent economies of scale, manufacturing activities are largely import-based. These factors have been a major constraint to the growth of a strong export-oriented sector in the region. If this region wants to increase its exports of goods at competitive prices or at the quality standards required by niche markets, they need sufficient flexibility on the sourcing of inputs from their EEZ irrespective of whether the fish is caught by PACP, EU or foreign vessels. All of these vessels need of course to fish in accordance with international law and the requirements for a sustainable exploitation of the world's largest natural resource in tuna.

One of the very few products where the Pacific see a potential for improvements in market access and sector development is fish, due to the availability of the resource and the (still) existing high preference margin. Pacific see improved market access for fisheries products in the EPA context as an opportunity to develop their tuna processing industry, which might suffer from further preference erosions negotiated in WTO. The main problem here is the lack of fishing capacities and the almost nonexistent presence of the EU fishing fleet. Due to current rules of origin, Pacific operators do not have the possibility to process tuna caught in their Exclusive Economic Zone (EEZ) by foreign operators and export it to the EU.

5. MONITORING AND EVALUATION

Rules of Origin must be used to ensure that ACP producers benefit from access to EU market. To evaluate this, a simple, quantifiable and easily monitored indicator is the export performance of the ACP exporters.

In addition, solid monitoring and enforcement mechanisms should be implemented in order to ensure compliance with the provisions set out in the Convention on the Conservation and management of highly migratory fish stocks in the Western and Central Pacific Ocean. In this direction, specific actions can be undertaken and financed by the EPA, in order for instance to:

- support the effective application of the Vessel Monitoring System (VMS) on all vessels fishing in the PACP EEZs, and
- Support the PACP countries to effectively implement the VMS in each country and support the existing training actions

Full compatibility with relevant EU policies

- Monitoring of all aspects of implementation of liberalised RoO re fisheries sector to check its continued with CFP policy, social and environmental matters
- Regular stakeholder consultations, including social partners and non-government organisations

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- **RISKS AND ASSUMPTIONS**

This report is based on the following risks and assumptions:

- Acceptance of an analysis made available from a study commissioned by DG TRADE (SIA for fish EPA Pacific);
- acceptance of an analysis based on documentary research;
- timely availability of statistical analysis.