COUNCIL DECISION

of 19 December 2002

on the conclusion of an Agreement in the form of an Exchange of Letters between the European Community and the United States of America relating to the modification of concessions with respect to cereals provided for in EC Schedule CXL to the GATT 1994

(2003/254/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 in conjunction with the first sentence of the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) On 26 July 2002, the Council authorised the Commission to open negotiations under Article XXVIII of the GATT 1994 with a view to modifying certain concessions for cereals. Accordingly, the European Community notified the WTO on 26 July 2002 of its intention to modify certain concessions in EC Schedule CXL.

(2) Negotiations have been conducted by the Commission in consultation with the Committee established by Article 133 of the Treaty and within the framework of the negotiating directives issued by the Council.

(3) The Commission has negotiated, with the United States of America, the WTO Member having a substantial supplying interest, an Agreement in the form of an Exchange of Letters.

(4) The Agreement in the form of an Exchange of Letters between the European Community and the United States of America should therefore be approved.

(5) In order to ensure that the Agreement may be fully applied by 1 January 2003 and pending the amendment of Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals [1], the Commission should be authorised to adopt temporary derogations from that Regulation.

(6) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [2],

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement in the form of an Exchange of Letters between the European Community and the United States of America relating to the modification of concessions with respect to cereals provided for in EC Schedule CXL annexed to the GATT 1994 is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

Article 2

To the extent necessary to permit the full application of this Agreement by 1 January 2003, the Commission may derogate from Regulation (EEC) No 1766/92, in accordance with the procedure referred to in Article 3(2) of this Decision, until that Regulation is amended but not later than 30 June 2003.

Article 3

1. The Commission shall be assisted by the Management Committee for Cereals instituted by Article 23 of Regulation (EEC) No 1766/92.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its rules of procedure.

Article 4

The President of the Council is hereby authorised to designate the person empowered to sign the Agreement in order to bind the Community.

Done at Brussels, 19 December 2002.

For the Council

The President

M. FISCHER BOEL

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[1] OJ L 181, 1.7.1992, p. 21. Regulation as last amended by Regulation (EC) No 1666/2000 (OJ L 193, 29.7.2000, p. 1).

[2] OJ L 184, 17.7.1999, p. 23.

AGREEMENT IN THE FORM OF AN EXCHANGE OF LETTERS

between the European Community and the United States of America relating to the modification of concessions with respect to cereals provided for in EC Schedule CXL to the GATT 1994

A. *Letter from the European Community*

Sir,

The European Community (EC) and the United States of America, with respect to the concessions on cereals provided for in EC Schedule CXL to the General Agreement on Tariffs and Trade 1994 (GATT 1994), agree to the conclusions as outlined below.

Common wheat

1. For item 1001 90 95 (other spelt, common wheat, and meslin), the concessions contained in EC Schedule CXL shall continue to apply to high quality common wheat (as specified in Annex I to Commission Regulation (EC) No 1249/96 (28 June 1996), OJ L 161, p. 125).

2. (a) For other spelt, medium and low quality common wheat (as specified in Annex I to Commission Regulation (EC) No 1249/96), and meslin under item 1001 90 95 (other spelt, common wheat, and meslin), the EC shall establish a tariff quota of 2 981 600 metric tonnes.

   (b) Within the tariff quota specified in 2(a), 572 000 metric tonnes shall be allocated to the United States of America. Subject to prior approval by the United States of America, in the event the United States of America is unable to fill its allocation, this allocation may be opened to other countries.

   (c) The in-quota tariff rate for the tariff quota specified in 2(a) shall be EUR 12/metric tonne, and the out-of-quota tariff rate shall be no higher than the lower of the bound rate of duty for item 1001 90 95 (other spelt, common wheat, and meslin) in EC Schedule CXL as of 1 July 2002 or the most-favoured-nation rate of duty.

3. Once the EC has established the tariff quota as specified in 2, the EC need not apply the concessions for other spelt, medium and low quality common wheat (as specified in Annex I to Commission Regulation (EC) No 1249/96 (28 June 1996), OJ L 161, p. 125) and meslin under item 1001 90 95, contained in headnote 6 of EC Schedule CXL.

Barley

4. (a) For item 1003 00 50 (barley), the EC shall establish a tariff quota of 50 000 metric tonnes for malting barley (barley intended for the production of malt used for manufacture of beer aged in vats containing beechwood and with quality criteria as specified in Article 2(3) of Commission Regulation (EC) No 1234/2001 (22 June 2001), OJ L 168, p. 12) and a tariff quota for all other barley of 300 000 metric tonnes.

   (b) The in-quota tariff rate for the malting-barley tariff quota specified in 4(a) shall be EUR 8/metric tonne, and the out-of-quota tariff rate shall be no higher than the lower of the bound rate of duty for item 1003 00 50 (barley) in EC Schedule CXL as of 1 July 2002 or the most-favoured-nation rate of duty. The in-quota tariff rate for the all-other-barley tariff quota specified in 4(a) shall be EUR 16/metric tonne, and the out-of-quota tariff rate shall be no higher than the lower of the bound rate of duty for item 1003 00 50 (barley) in EC Schedule CXL as of 1 July 2002 or the most-favoured-nation rate of duty.

5. Once the EC has established the tariff quotas as specified in 4, the EC need not apply the concessions for item 1003 00 50 (barley) contained in headnote 6 of EC Schedule CXL.

General

6. The tariff quotas specified in 2 and 4 shall open on 1 January of each year.

7. The tariff quotas specified in 2 and 4 shall be managed on a first-come, first-served basis.

8. Any modification of concessions in EC Schedule CXL pursuant to 3 and/or 5 shall add the concessions specified in 2, 4, and 6 to EC Schedule CXL.
9. The EC recognises that the United States of America has initial negotiating rights with respect to the concessions contained in headnote 6 of EC Schedule CXL and the concessions specified in 2, 4 and 6.
10. With respect to the notification of 26 July 2002 by the EC of its intention to modify certain concessions in EC Schedule CXL (circulated in G/SECRET/15), the EC is not modifying concessions contained in EC Schedule CXL on item 1001 90 95 as specified in 1 and on items 1001 10 50 (durum wheat), 1002 00 00 (rye), ex 1005 (maize, except hybrid seed), and ex 1007 (grain sorghum, except hybrids for sowing) and shall notify the WTO of such.

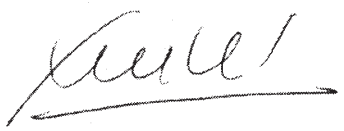
This Agreement shall be approved by the Parties in accordance with their own procedures.

The provisions of this Agreement shall be applicable from 1 January 2003.

I would be grateful if you could confirm the agreement of your Government to the above.

Please accept, Sir, the assurance of my highest consideration.

For the European Community



BRUSSELS, 20 DECEMBER 2002

B. *Letter from the United States of America*

Sir,

I have the honour to acknowledge receipt of your letter of today's date, worded as follows:

'The European Community (EC) and the United States of America, with respect to the concessions on cereals provided for in EC Schedule CXL to the General Agreement on Tariffs and Trade 1994 (GATT 1994), agree to the conclusions as outlined below.

Common Wheat

1. For item 1001 90 95 (other spelt, common wheat, and meslin), the concessions contained in EC Schedule CXL shall continue to apply to high quality common wheat (as specified in Annex I to Commission Regulation (EC) No 1249/96 (28 June 1996), OJ L 161, p. 125).

2. (a) For other spelt, medium and low quality common wheat (as specified in Annex I to Commission Regulation (EC) No 1249/96), and meslin under item 1001 90 95 (other spelt, common wheat, and meslin), the EC shall establish a tariff quota of 2 981 600 metric tonnes.

   (b) Within the tariff quota specified in 2(a), 572 000 metric tonnes shall be allocated to the United States of America. Subject to prior approval by the United States of America, in the event the United States of America is unable to fill its allocation, this allocation may be opened to other countries.

   (c) The in-quota tariff rate for the tariff quota specified in 2(a) shall be EUR 12/metric tonne, and the out-of-quota tariff rate shall be no higher than the lower of the bound rate of duty for item 1001 90 95 (other spelt, common wheat, and meslin) in EC Schedule CXL as of 1 July 2002 or the most-favoured-nation rate of duty.

3. Once the EC has established the tariff quota as specified in 2, the EC need not apply the concessions for other spelt, medium and low quality common wheat (as specified in Annex I to Commission Regulation (EC) No 1249/96 (28 June 1996), OJ L 161, p. 125) and meslin under item 1001 90 95, contained in headnote 6 of EC Schedule CXL.

Barley

4. (a) For item 1003 00 50 (barley), the EC shall establish a tariff quota of 50 000 metric tonnes for malting barley (barley intended for the production of malt used for manufacture of beer aged in vats containing beechwood and with quality criteria as specified in Article 2(3) of Commission Regulation (EC) No 1234/2001 (22 June 2001), OJ L 168, p. 12) and a tariff quota for all other barley of 300 000 metric tonnes.

   (b) The in-quota tariff rate for the malting-barley tariff quota specified in 4(a) shall be EUR 8/metric tonne, and the out-of-quota tariff rate shall be no higher than the lower of the bound rate of duty for item 1003 00 50 (barley) in EC Schedule CXL as of 1 July 2002 or the most-favoured-nation rate of duty. The in-quota tariff rate for the all-other-barley tariff quota specified in 4(a) shall be EUR 16/metric tonne, and the out-of-quota tariff rate shall be no higher than the lower of the bound rate of duty for item 1003 00 50 (barley) in EC Schedule CXL as of 1 July 2002 or the most-favoured-nation rate of duty.

5. Once the EC has established the tariff quotas as specified in 4, the EC need not apply the concessions for item 1003 00 50 (barley) contained in headnote 6 of EC Schedule CXL.

General

6. The tariff quotas specified in 2 and 4 shall open on 1 January of each year.

7. The tariff quotas specified in 2 and 4 shall be managed on a first-come, first-served basis.

8. Any modification of concessions in EC Schedule CXL pursuant to 3 and/or 5 shall add the concessions specified in 2, 4, and 6 to EC Schedule CXL.
9. The EC recognises that the United States of America has initial negotiating rights with respect to the concessions contained in headnote 6 of EC Schedule CXL and the concessions specified in 2, 4 and 6.
10. With respect to the notification of 26 July 2002 by the EC of its intention to modify certain concessions in EC Schedule CXL (circulated in G/SECRET/15), the EC is not modifying concessions contained in EC Schedule CXL on item 1001 90 95 as specified in 1 and on items 1001 10 50 (durum wheat), 1002 00 00 (rye), ex 1005 (maize, except hybrid seed), and ex 1007 (grain sorghum, except hybrids for sowing) and shall notify the WTO of such.

This Agreement shall be approved by the Parties in accordance with their own procedures.

The provisions of this Agreement shall be applicable from 1 January 2003.

I would be grateful if you could confirm the agreement of your Government to the above.'

The Government of the United States of America has the honour of confirming its agreement with the contents of this letter.

Please accept, Sir, the assurance of my highest consideration.

On behalf of the Government of the United States of America

Linnet F Deily
Geneva, Switzerland
December 27, 2002