



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 7.7.2004
COM(2004) 485 final

2004/0142 (ACC)
2004/0143 (ACC)

Proposal for a

COUNCIL DECISION

on the conclusion of an Agreement in the form of an exchange of letters between the European Community and India pursuant to Article XXVIII of GATT 1994 relating to the modification of concessions with respect to rice provided for in Schedule CXL annexed to the GATT 1994

Proposal for a

COUNCIL DECISION

on the conclusion of an Agreement in the form of an exchange of letters between the European Community and Pakistan pursuant to Article XXVIII of GATT 1994 for the modification of concessions with respect to rice provided for in EC Schedule CXL annexed to the GATT 1994

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. On 26 June 2003, the Council authorised the Commission to notify the WTO that the European Community intended to modify concessions on products of HS codes 1006 20 (husked rice), 1006 30 (milled rice) included in Schedule CXL of the European Community annexed to GATT. Accordingly, the European Community has notified the WTO on 2 July 2003 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, having a principal supplying interest in products of HS code 1006 20 (husked rice) and substantial supplier interest in product of HS code 1006 30 (milled rice), Thailand, having a principal supplying interest in product of HS code 1006 30 (milled rice) and substantial supplier interest in product of HS code 1006 20 (husked rice) and India and Pakistan, each having a substantial supplier interest in product of HS code 1006 20 (husked rice).
4. In spite of its efforts, the Commission could not negotiate an acceptable agreement with the United States and Thailand.
5. The Commission has negotiated an agreement in the form of an exchange of letters with India and Pakistan.

The exchange of letters was initialled by the Commission on July 2004.

6. This proposal asks the Council to approve the agreement in the form of an exchange of letters between the European Community and India. Once the Council adopts the present Decision, the Commission will notify the WTO of the necessary changes to the European Community's Schedule CXL.
7. As the necessary modifications to Council Regulation (EC) N° 1785/2003 require the European Parliament's opinion is required it is necessary to provide for the Commission to put in place the necessary transitional arrangements. Therefore, in order to ensure the application of these two agreements from 1 September 2004, the two decisions enable the Commission to derogate from Council Regulation (EC) N° 1785/2003 for a transitional period, i.e. until the modification has entered into force, but not later than 30 June 2005.

The Commission will present a proposal for the necessary modification to the Council Regulation as soon as possible.

Proposal for a

COUNCIL DECISION

on the conclusion of an Agreement in the form of an exchange of letters between the European Community and India pursuant to Article XXVIII of GATT 1994 relating to the modification of concessions with respect to rice provided for in Schedule CXL annexed to the GATT 1994

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 Commission¹,

Whereas:

- (1) On 26 June 2003, the Council authorised the Commission to open negotiations under Article XXVIII of the GATT 1994 with a view to modify certain concessions for rice. Accordingly, the European Community notified the WTO on 2 July 2003 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, having a principal supplying interest in products of HS code 1006 20 (husked rice) and substantial supplier interest in products of HS code 1006 30 (milled rice), Thailand, having a principal supplying interest in products of HS code 1006 30 (milled rice) and substantial supplier interest in products of HS code 1006 20 (husked rice) and India and Pakistan, each having a substantial supplier interest in products of HS code 1006 20 (husked rice).
- (4) The Commission has successfully negotiated an agreement with India. The agreement in the form of an exchange of letters between the European Community and India should therefore be approved.
- (5) In order to ensure that the agreement may be fully applied by 1 September 2004 and pending the amendment of Council Regulation (EC) No 1785/2003 of 29 September

¹ OJ C ..., ..., p. ...

2003 on the common organisation of the market in rice², 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 Commission³,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement in the form of an exchange of letters between the European Community and India pursuant to Article XXVIII of the GATT 1994 relating to the modification of concessions with respect to rice provided for in 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 September 2004, the Commission may derogate from Regulation (EC) No 1785/2003, in accordance with the procedure referred to in Article 3(2) of this Decision, until that Regulation is amended but at the latest until 30 June 2005.

Article 3

1. The Commission shall be assisted by the Management Committee for Cereals instituted by Article 25 of Regulation (EC) No 1784/2003.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 4(3) of Decision 1999/468/EC shall be one month.

Article 4

The President of the Council is hereby authorised to designate the person empowered to sign the agreement in order to express the consent of the Community to be bound thereby⁴.

² OJ L 270, 21.10.2003, p. 96.

³ OJ L 184, 17.7.1999, p. 23.

⁴ The date of entry into force of the agreement will be published in the Official Journal of the European Communities.

Done at Brussels,

*For the Council
The President*

ANNEX

AGREEMENT

in the form of an exchange of letters between the European Community and India pursuant to Article XXVIII of the GATT 1994 relating to the modification of concessions with respect to rice provided for in EC Schedule CXL to the GATT 1994

Letter No 1

Letter from the European Community

Brussels,

Sir,

Following negotiations between the European Community (EC) and India under Article XXVIII of GATT 1994 for the modification of concessions with respect to rice provided for in EC Schedule CXL annexed to the *General Agreement on Tariffs and Trade 1994* (GATT 1994), the EC agrees to the conclusions as outlined below.

Final Import regime

The tariff rate for husked rice (CN code 1006 20) shall be 65€/ton.

With respect to the import regime of husked rice (CN codes 1006 20 17 and NC 1006 20 98) of the varieties Basmati 370, Basmati 386, Type-3 (Dehradun), Taraori Basmati (HBC-19), Basmati 217, Ranbir Basmati, Pusa Basmati and Super Basmati, the EC's specific bound rate of duty shall be zero. To that purpose:

- a Community control system based on DNA analysis at the border shall be created; India shall actively cooperate with the EC to set up such a control system and the EC shall provide the appropriate technical assistance in this matter.
- it is understood that Basmati rice of the varieties described above is produced in certain geographical areas and that India will protect Basmati rice as a geographical indication. The EC would welcome an application for protection as a geographical indication of Basmati rice under Council Regulation (EC) No. 2081/92. The EC shall process any such application as expeditiously as possible. The EC shall provide any necessary technical assistance in this matter.

Transitional Arrangement

As from 1st September 2004 and until the date of entry into force of the above-mentioned Community control system, the EC shall put in place a transitional regime with regard to husked rice (CN codes 1006 20 17 and 1006 20 98) of the varieties described above based on the following elements.

The EC's autonomous applied rate of duty shall be zero. However, if market disturbance occurs, the EC will consult with India's competent authorities to agree an appropriate solution. If no agreement is reached, the EC reserves the right to revert to the bound rate of duty of 65 €/t for husked rice (CN code 1006 20).

General

For the purposes of this agreement:

- the EC shall establish separate tariff lines for Basmati rice of the varieties indicated in the agreements with India and Pakistan.
- the competent Indian authorities shall continue to issue the authenticity certificates prior to the issuance of import licences, meaning that the current system of administration of the certificates of authenticity shall be maintained.

The EC recognises that India has initial negotiating rights with respect to the concessions specified in the present letter.

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

The provisions of this Agreement shall be applicable from 1 September 2004.

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.

On behalf of the European Community

Letter No 2

Letter from India

Brussels,

Sir,

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

“Following negotiations between the European Community (EC) and India under Article XXVIII of GATT 1994 for the modification of concessions with respect to rice provided for in EC Schedule CXL annexed to the *General Agreement on Tariffs and Trade 1994* (GATT 1994), the EC agrees to the conclusions as outlined below.

Final Import regime

The tariff rate for husked rice (CN code 1006 20) shall be 65€/ton.

With respect to the import regime of husked rice (CN codes 1006 20 17 and NC 1006 20 98) of the varieties Basmati 370, Basmati 386, Type-3 (Dehradun), Taraori Basmati (HBC-19), Basmati 217, Ranbir Basmati, Pusa Basmati and Super Basmati, the EC's specific bound rate of duty shall be zero. To that purpose:

- a Community control system based on DNA analysis at the border shall be created; India shall actively cooperate with the EC to set up such a control system and the EC shall provide the appropriate technical assistance in this matter.

- it is understood that Basmati rice of the varieties described above is produced in certain geographical areas and that India will protect Basmati rice as a geographical indication. The EC would welcome an application for protection as a geographical indication of Basmati rice under Council Regulation (EC) No. 2081/92. The EC shall process any such application as expeditiously as possible. The EC shall provide any necessary technical assistance in this matter.

Transitional Arrangement

As from 1st September 2004 and until the date of entry into force of the above-mentioned Community control system, the EC shall put in place a transitional regime with regard to husked rice (CN codes 1006 20 17 and 1006 20 98) of the varieties described above based on the following elements.

The EC's autonomous applied rate of duty shall be zero. However, if market disturbance occurs, the EC will consult with India's competent authorities to agree an appropriate solution. If no agreement is reached, the EC reserves the right to revert to the bound rate of duty of 65 €/t for husked rice (CN code 1006 20).

General

For the purposes of this agreement:

- the EC shall establish separate tariff lines for Basmati rice of the varieties indicated in the agreements with India and Pakistan.

- the competent Indian authorities shall continue to issue the authenticity certificates prior to the issuance of import licences, meaning that the current system of administration of the certificates of authenticity shall be maintained.

The EC recognises that India has initial negotiating rights with respect to the concessions specified in the present letter.

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

The provisions of this Agreement shall be applicable from 1 September 2004.

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

India 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 India

FINANCIAL STATEMENT

1. BUDGET HEADING: Article 100 APPROPRIATIONS: EUR 839.1 Mio.

2. TITLE:
Proposal for a Council decision on the conclusion of an Agreement in the form of an exchange of letters between the European Community and India pursuant to Article XXVIII of the GATT 1994 relating to the modification of concessions with respect to rice provided for in Schedule CXL annexed to the GATT.

3. LEGAL BASIS:
Article 133 of the Treaty

4. AIMS:
To modify concessions with respect to rice provided for in Schedule CXL annexed to the GATT.

5. FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR 2004 (EUR million)	FOLLOWING FINANCIAL YEAR 2005 (EUR million)
5.0 EXPENDITURE			
- CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS)	-	-	-
- NATIONAL AUTHORITIES			
- OTHER			
5.1 REVENUE	(1)	-	(1)
- OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES)			
- NATIONAL			
	2006	2007	2008
5.0.1 ESTIMATED EXPENDITURE	-	-	-
5.1.1 ESTIMATED REVENUE	(1)	(1)	(1)

5.2 METHOD OF CALCULATION:

6.0 CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET? YES / ~~NO~~

6.1 CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET? YES / ~~NO~~

6.2 WILL A SUPPLEMENTARY BUDGET BE NECESSARY? ~~YES~~ / NO

6.3 WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS? ~~YES~~ / NO

OBSERVATIONS:

(1) The measure should not lead to a change in own resources.

Proposal for a

COUNCIL DECISION

on the conclusion of an Agreement in the form of an exchange of letters between the European Community and Pakistan pursuant to Article XXVIII of GATT 1994 relating to the modification of concessions with respect to rice provided for in Schedule CXL annexed to the GATT 1994

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 Commission⁵,

Whereas:

- (7) On 26 June 2003, the Council authorised the Commission to open negotiations under Article XXVIII of the GATT 1994 with a view to modify certain concessions for rice. Accordingly, the European Community notified the WTO on 2 July 2003 of its intention to modify certain concessions in EC Schedule CXL.
- (8) 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.
- (9) The Commission has negotiated with the United States of America, having a principal supplying interest in products of HS code 1006 20 (husked rice) and substantial supplier interest in products of HS code 1006 30 (milled rice), Thailand, having a principal supplying interest in products of HS code 1006 30 (milled rice) and substantial supplier interest in products of HS code 1006 20 (husked rice) and India and Pakistan, each having a substantial supplier interest in products of HS code 1006 20 (husked rice).
- (10) The Commission has successfully negotiated an agreement with Pakistan. The agreement in the form of an exchange of letters between the European Community and Pakistan should therefore be approved.
- (11) In order to ensure that the agreement may be fully applied by 1 September 2004 and pending the amendment of Council Regulation (EC) No 1785/2003 of 29 September

⁵ OJ C ..., ..., p. ...

2003 on the common organisation of the market in rice⁶, the Commission should be authorised to adopt temporary derogations from that Regulation

- (12) 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 Commission⁷,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement in the form of an exchange of letters between the European Community and Pakistan pursuant to Article XXVIII of the GATT 1994 relating to the modification of concessions with respect to rice provided for in 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 September 2004, the Commission may derogate from Regulation (EC) No 1785/2003, in accordance with the procedure referred to in Article 3(2) of this Decision, until that Regulation is amended but at the latest until 30 June 2005.

Article 3

1. The Commission shall be assisted by the Management Committee for Cereals instituted by Article 25 of Regulation (EC) No 1784/2003.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 4(3) of Decision 1999/468/EC shall be one month.

Article 4

The President of the Council is hereby authorised to designate the person empowered to sign the agreement in order to express the consent of the Community to be bound thereby⁸.

⁶ OJ L 270, 21.10.2003, p. 96.

⁷ OJ L 184, 17.7.1999, p. 23.

⁸ The date of entry into force of the agreement will be published in the Official Journal of the European Communities.

Done at Brussels,

*For the Council
The President*

ANNEX

AGREEMENT

in the form of an exchange of letters between the European Community and Pakistan pursuant to Article XXVIII of the GATT 1994 relating to the modification of concessions with respect to rice provided for in EC Schedule CXL to the GATT 1994

Letter No 1

Letter from the European Community

Brussels,

Sir,

Following negotiations between the European Community (EC) and Pakistan under Article XXVIII of GATT 1994 for the modification of concessions with respect to rice provided for in EC Schedule CXL annexed to the *General Agreement on Tariffs and Trade 1994* (GATT 1994), the EC agrees to the conclusions as outlined below.

Final Import regime

The tariff rate for husked rice (CN code 1006 20) shall be 65€/ton.

With respect to the import regime of husked rice (CN codes 1006 20 17 and 1006 20 98) of the varieties Kernel (Basmati), Basmati 370, Pusa Basmati and Super Basmati the EC's specific bound rate of duty shall be zero. To that purpose:

- a Community control system based on DNA analysis at the border shall be created; Pakistan shall actively cooperate with the EC to set up such a control system and the EC shall provide the appropriate technical assistance in this matter.

- it is understood that Basmati rice of the varieties described above is produced in certain geographical areas and that Pakistan will protect Basmati rice as a geographical indication. The EC would welcome an application for protection as a geographical indication of Basmati rice under Council Regulation (EC) No. 2081/92. The EC shall process any such application as expeditiously as possible. The EC shall provide any necessary technical assistance in this matter.

Transitional Arrangement

As from 1st September 2004 and until the date of entry into force of the above-mentioned Community control system, the EC shall put in place a transitional regime with regard to husked rice (CN codes 1006 20 17 and 1006 20 98) of the varieties described above based on the following elements.

The EC's autonomous applied rate of duty shall be zero. However, if market disturbance occurs, the EC will consult with Pakistan's competent authorities to agree an appropriate solution. If no agreement is reached, the EC reserves the right to revert to the bound rate of duty of 65 €/t for husked rice (CN code 1006 20).

General

For the purposes of this agreement:

- the EC shall establish separate tariff lines for Basmati rice of the varieties indicated in the agreements with India and Pakistan.
- the competent Pakistani authorities shall continue to issue the authenticity certificates prior to the issuance of import licences, meaning that the current system of administration of the certificates of authenticity shall be maintained.

The EC recognises that Pakistan has initial negotiating rights with respect to the concessions specified in the present letter.

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

The provisions of this Agreement shall be applicable from 1 September 2004.

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.

On behalf of the European Community

Letter No 2

Letter from Pakistan

Brussels,

Sir,

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

“Following negotiations between the European Community (EC) and Pakistan under Article XXVIII of GATT 1994 for the modification of concessions with respect to rice provided for in EC Schedule CXL annexed to the *General Agreement on Tariffs and Trade 1994* (GATT 1994), the EC agrees to the conclusions as outlined below.

Final Import regime

The tariff rate for husked rice (CN code 1006 20) shall be 65€/ton.

With respect to the import regime of husked rice (CN codes 1006 20 17 and 1006 20 98) of the varieties Kernel (Basmati), Basmati 370, Pusa Basmati and Super Basmati the EC's specific bound rate of duty shall be zero. To that purpose:

- a Community control system based on DNA analysis at the border shall be created; Pakistan shall actively cooperate with the EC to set up such a control system and the EC shall provide the appropriate technical assistance in this matter.

- it is understood that Basmati rice of the varieties described above is produced in certain geographical areas and that Pakistan will protect Basmati rice as a geographical indication. The EC would welcome an application for protection as a geographical indication of Basmati rice under Council Regulation (EC) No. 2081/92. The EC shall process any such application as expeditiously as possible. The EC shall provide any necessary technical assistance in this matter.

Transitional Arrangement

As from 1st September 2004 and until the date of entry into force of the above-mentioned Community control system, the EC shall put in place a transitional regime with regard to husked rice (CN codes 1006 20 17 and 1006 20 98) of the varieties described above based on the following elements.

The EC's autonomous applied rate of duty shall be zero. However, if market disturbance occurs, the EC will consult with Pakistan's competent authorities to agree an appropriate solution. If no agreement is reached, the EC reserves the right to revert to the bound rate of duty of 65 €/t for husked rice (CN code 1006 20).

General

For the purposes of this agreement:

- the EC shall establish separate tariff lines for Basmati rice of the varieties indicated in the agreements with India and Pakistan.

- the competent Pakistani authorities shall continue to issue the authenticity certificates prior to the issuance of import licences, meaning that the current system of administration of the certificates of authenticity shall be maintained.

The EC recognises that Pakistan has initial negotiating rights with respect to the concessions specified in the present letter.

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

The provisions of this Agreement shall be applicable from 1 September 2004.

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

Pakistan 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 Pakistan

FINANCIAL STATEMENT

1. BUDGET HEADING: Article 100	APPROPRIATIONS: EUR 839.1 Mio.			
2. TITLE: Proposal for a Council decision on the conclusion of an Agreement in the form of an exchange of letters between the European Community and Pakistan pursuant to Article XXVIII of the GATT 1994 relating to the modification of concessions with respect to rice provided for in Schedule CXL annexed to the GATT.				
3. LEGAL BASIS: Article 133 of the Treaty				
4. AIMS: To modify concessions with respect to rice provided for in Schedule CXL annexed to the GATT.				
5. FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR 2004 (EUR million)	FOLLOWING FINANCIAL YEAR 2005 (EUR million)	
5.0 EXPENDITURE				
- CHARGED TO THE EC BUDGET (REFUNDS/INTERVENTIONS)	-	-	-	
- NATIONAL AUTHORITIES				
- OTHER				
5.1 REVENUE	(1)	-	(1)	
- OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES)				
- NATIONAL				
	2006	2007	2008	2009
5.0.1 ESTIMATED EXPENDITURE	-	-	-	-
5.1.1 ESTIMATED REVENUE	(1)	(1)	(1)	(1)
5.2 METHOD OF CALCULATION:				
6.0 CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?				YES / NO
6.1 CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?				YES / NO
6.2 WILL A SUPPLEMENTARY BUDGET BE NECESSARY?				YES / NO
6.3 WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?				YES / NO
OBSERVATIONS:				
(1) The measure should not lead to a change in own resources.				