

AGREEMENT IN THE FORM OF AN EXCHANGE OF LETTERS**between the European Community and the United States of America relating to the method of calculation of applied duties for husked rice***A. Letter from the European Community*

Sir,

Following negotiations between the European Community (EC) and the United States of America, the EC agrees to the conclusions as outlined below.

Applied rate of duty for certain husked rice (CN code 1006 20)

1. The EC shall apply a rate of duty for certain husked rice in accordance with paragraphs 2 to 7.
2. Annual reference import level
 - (a) First marketing year: in the first marketing year within the scope of this agreement (1 September 2004 to 31 August 2005), the annual reference import level shall be calculated as the average volume of total husked rice imports entering the EC-25 from all origins in the marketing years 1 September 1999-31 August 2000, 1 September 2000-31 August 2001, and 1 September 2001-31 August 2002, less imports of Basmati husked rice into the EC-25, plus 10 % (i.e. 431 678 MT).
 - (b) Increase in subsequent marketing years: for each marketing year 2005/06, 2006/07 and 2007/08, the annual reference import level shall be increased by 6 000 MT/year from the level of the previous marketing year. No later than 90 days before the end of the marketing year 1 September 2007, to 31 August 2008, both parties shall enter into consultations on the annual increase for subsequent marketing years, taking into account the developments in the EC's rice market notably as regards the evolution of consumption, and shall agree on the annual increase no later than 31 August 2008.
3. Six-month reference import level: in each marketing year, a six-month reference import level shall be calculated as 50 percent of the annual reference import level calculated in paragraph 2 above, which in the first marketing year would be 215 839 MT.
4. Mid-year adjustment to applied tariff rate: within 10 days after the end of the first six months of each marketing year, the EC shall review and, if necessary, adjust the applied tariff rate as follows:
 - (a) if actual husked rice imports for the just-completed six-month period are more than 15 percent below the six-month reference import level for that period, as calculated under paragraph 3 above (i.e., for the first marketing year less than 183 463 MT), the EC shall apply a tariff rate of EUR 30/MT;
 - (b) if actual husked rice imports for the just-completed six-month period are more than 15 percent above the six-month reference import level for that period, as calculated under paragraph 3 above (i.e., for the first marketing year more than 248 215 MT), the EC shall apply a tariff rate of EUR 65/MT;
 - (c) if actual husked rice imports for the just-completed six-month period are within 15 percent (inclusive) of the six-month reference import level for that period, as calculated under paragraph 3 above (i.e., for the first marketing year between 183 463 and 248 215 MT), the applied rate shall be EUR 42,5/MT.

For purposes of (a) through (c) above, actual husked rice imports are all imports entering the EC-25 from all origins under the CN codes 1006 20 less imports of Basmati husked rice into the EC-25.

5. End-of-year adjustment to applied tariff rate: within 10 days after the end of the marketing year, the EC shall review and, if necessary, adjust the applied tariff rate as follows:
 - (a) if actual husked rice imports for the just-completed marketing year are more than 15 percent below the annual reference import level for that twelve-month period, as calculated under paragraph 2 above (i.e., for the first marketing year less than 366 926 MT), the EC shall apply a tariff rate of EUR 30/MT;
 - (b) if actual husked rice imports for the just-completed marketing year are more than 15 percent above the annual reference import level for that twelve-month period, as calculated under paragraph 2 above (i.e., for the first marketing year more than 496 430 MT), the EC shall apply a tariff rate of EUR 65/MT;
 - (c) if actual husked rice imports for the just-completed marketing year are within 15 percent (inclusive) of the annual reference import level for that twelve-month period, as calculated under paragraph 2 above (i.e., for the first marketing year between 366 926 and 496 430 MT), the EC shall apply a tariff rate of EUR 42,5/MT.

For purposes of (a) through (c) above, actual husked rice imports are all imports entering the EC-25 from all origins under the CN codes 1006 20 less imports of Basmati husked rice into the EC-25.

6. Data: The calculation of the annual and six-month actual import levels under paragraphs 4 and 5 above shall be determined using EC rice imports license data. The EC shall publish these data on the Internet on a weekly basis.
7. Transparency: The EC shall promptly provide public notice of any adjustment in the applied tariff rate.
8. Consultation: At the request of either party, the parties shall, within 30 days of the receipt of such a request, enter into consultations on matters covered by this agreement.
9. If the parties are unable to resolve the issues subject to consultation within 30 days after receipt of the request, the United States may submit written notification to the EC that it intends to exercise any rights under Article XXVIII:3(a) of the GATT 1994 as provided in paragraph 10 below and the EC may submit written notification to the United States that it intends to withdraw from the present agreement as provided in paragraph 11 below.
10. Extension of deadline for exercise of any rights under Article XXVIII of the GATT 1994:
 - (a) The parties agree that the deadline for withdrawal of substantially equivalent concessions pursuant to Article XXVIII:3(a) shall be considered to be extended. Accordingly, the United States may exercise any right to withdraw substantially equivalent concessions under Article XXVIII:3(a) at any time after the expiration of 30 days written notice to the EC of the U.S. intent to exercise such rights, and the EC shall not assert that the United States is precluded from taking action pursuant to Article XXVIII:3(a) on the ground that the action was untimely.
 - (b) Notwithstanding (a) above, the United States shall not exercise any right to withdraw substantially equivalent concessions unless it has requested consultations and provided notification pursuant to paragraph 9 above. Should the EC withdraw from the agreement, the US shall be entitled to exercise any applicable rights under Article XXVIII:3(a) with immediate effect.

11. The EC shall not withdraw from the present agreement unless it has requested consultations and provided notification pursuant to paragraph 9 above. The EC may withdraw from the agreement at any time after the expiration of 30 days from the notification referred to in paragraph 9. Should the United States withdraw concessions pursuant to paragraph 10 above, the EC shall be entitled to withdraw from the present agreement with immediate effect.
12. Subject to the provisions of paragraph 10, this agreement is without prejudice to any right of the EC to challenge any withdrawal of concessions by the United States if it considers the withdrawal to be incompatible with Article XXVIII of the GATT 1994 or other relevant provisions of the WTO Agreement.
13. The EC shall consult and cooperate with the United States to obtain the approval by the WTO General Council of the extension of the deadline for withdrawal of substantially equivalent concessions pursuant to Article XXVIII:3(a).
14. This agreement shall be approved by the parties in accordance with their own procedures. The EC considers that this agreement shall not serve as a precedent for future Article XXVIII negotiations.
15. The provisions of this agreement shall be applicable as from 1 March 2005. To this purpose, the EC shall put in place the necessary internal procedures in order to ensure the implementation of paragraph 4 for husked rice imports entering in the period 1 March 2005 to 31 August 2005.

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

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:

Following negotiations between the European Community (EC) and the United States of America, the EC agrees to the conclusions as outlined below.

Applied rate of duty for certain husked rice (CN code 1006 20)

1. The EC shall apply a rate of duty for certain husked rice in accordance with paragraphs 2 to 7.
2. Annual reference import level
 - (a) First marketing year: in the first marketing year within the scope of this agreement (1 September 2004 to 31 August 2005), the annual reference import level shall be calculated as the average volume of total husked rice imports entering the EC-25 from all origins in the marketing years 1 September 1999-31 August 2000, 1 September 2000-31 August 2001, and 1 September 2001-31 August 2002, less imports of Basmati husked rice into the EC-25, plus 10 % (i.e. 431 678 MT).
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3. Six-month reference import level: in each marketing year, a six-month reference import level shall be calculated as 50 percent of the annual reference import level calculated in paragraph 2 above, which in the first marketing year would be 215 839 MT.
4. Mid-year adjustment to applied tariff rate: within 10 days after the end of the first six months of each marketing year, the EC shall review and, if necessary, adjust the applied tariff rate as follows:
 - (a) if actual husked rice imports for the just-completed six-month period are more than 15 percent below the six-month reference import level for that period, as calculated under paragraph 3 above (i.e., for the first marketing year less than 183 463 MT), the EC shall apply a tariff rate of EUR 30/MT;
 - (b) if actual husked rice imports for the just-completed six-month period are more than 15 percent above the six-month reference import level for that period, as calculated under paragraph 3 above (i.e., for the first marketing year more than 248 215 MT), the EC shall apply a tariff rate of EUR 65/MT;
 - (c) if actual husked rice imports for the just-completed six-month period are within 15 percent (inclusive) of the six-month reference import level for that period, as calculated under paragraph 3 above (i.e., for the first marketing year between 183 463 and 248 215 MT), the applied rate shall be EUR 42,5/MT.

For purposes of (a) through (c) above, actual husked rice imports are all imports entering the EC-25 from all origins under the CN codes 1006 20 less imports of Basmati husked rice into the EC-25.

5. End-of-year adjustment to applied tariff rate: within 10 days after the end of the marketing year, the EC shall review and, if necessary, adjust the applied tariff rate as follows:
 - (a) if actual husked rice imports for the just-completed marketing year are more than 15 percent below the annual reference import level for that twelve-month period, as calculated under paragraph 2 above (i.e., for the first marketing year less than 366 926 MT), the EC shall apply a tariff rate of EUR 30/MT;
 - (b) if actual husked rice imports for the just-completed marketing year are more than 15 percent above the annual reference import level for that twelve-month period, as calculated under paragraph 2 above (i.e., for the first marketing year more than 496 430 MT), the EC shall apply a tariff rate of EUR 65/MT;
 - (c) if actual husked rice imports for the just-completed marketing year are within 15 percent (inclusive) of the annual reference import level for that twelve-month period, as calculated under paragraph 2 above (i.e., for the first marketing year between 366 926 and 496 430 MT), the EC shall apply a tariff rate of EUR 42,5/MT.

For purposes of (a) through (c) above, actual husked rice imports are all imports entering the EC-25 from all origins under the CN codes 1006 20 less imports of Basmati husked rice into the EC-25.

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7. Transparency: The EC shall promptly provide public notice of any adjustment in the applied tariff rate.
8. Consultation: At the request of either party, the parties shall, within 30 days of the receipt of such a request, enter into consultations on matters covered by this agreement.
9. If the parties are unable to resolve the issues subject to consultation within 30 days after receipt of the request, the United States may submit written notification to the EC that it intends to exercise any rights under Article XXVIII:3(a) of the GATT 1994 as provided in paragraph 10 below and the EC may submit written notification to the United States that it intends to withdraw from the present agreement as provided in paragraph 11 below.
10. Extension of deadline for exercise of any rights under Article XXVIII of the GATT 1994:
 - (a) The parties agree that the deadline for withdrawal of substantially equivalent concessions pursuant to Article XXVIII:3(a) shall be considered to be extended. Accordingly, the United States may exercise any right to withdraw substantially equivalent concessions under Article XXVIII:3(a) at any time after the expiration of 30 days written notice to the EC of the U.S. intent to exercise such rights, and the EC shall not assert that the United States is precluded from taking action pursuant to Article XXVIII:3(a) on the ground that the action was untimely.
 - (b) Notwithstanding (a) above, the United States shall not exercise any right to withdraw substantially equivalent concessions unless it has requested consultations and provided notification pursuant to paragraph 9 above. Should the EC withdraw from the agreement, the US shall be entitled to exercise any applicable rights under Article XXVIII:3(a) with immediate effect.

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12. Subject to the provisions of paragraph 10, this agreement is without prejudice to any right of the EC to challenge any withdrawal of concessions by the United States if it considers the withdrawal to be incompatible with Article XXVIII of the GATT 1994 or other relevant provisions of the WTO Agreement.
13. The EC shall consult and cooperate with the United States to obtain the approval by the WTO General Council of the extension of the deadline for withdrawal of substantially equivalent concessions pursuant to Article XXVIII:3(a).
14. This agreement shall be approved by the parties in accordance with their own procedures. The EC considers that this agreement shall not serve as a precedent for future Article XXVIII negotiations.
15. The provisions of this agreement shall be applicable as from 1 March 2005. To this purpose, the EC shall put in place the necessary internal procedures in order to ensure the implementation of paragraph 4 for husked rice imports entering in the period 1 March 2005 to 31 August 2005'.

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

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

On behalf of the United States of America
