



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.10.2005
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Proposal for a

COUNCIL DECISION

**on the conclusion of an Agreement in the form of an exchange of letters
between the European Community and the United States of America
on matters related to trade in wine**

(presented by the Commission)

EXPLANATORY MEMORANDUM

On 23 October 2000 the Council authorised the Commission to negotiate an agreement on trade in wine between the European Community and the United States of America.

These negotiations have been concluded and the Agreement between the European Community and the United States of America on trade in wine as well as an Agreement in the form of an exchange of letters between the European Community and the United States of America on matters related to trade in wine was initialled by both Parties on 14 September 2005. Certain derogations from the Community rules relating to wine-making practices and certain certification practices are provided for in particular in Council Regulation (EC) No 1037/2001 of 22 May 2001 authorising the offer and delivery for direct human consumption of certain imported wines which may have undergone oenological processes not provided for in Regulation (EC) No 1493/1999 and in Commission Regulation (EC) No 883/2001 of 24 April 2001 laying down detailed rules for implementing Council Regulation (EC) No 1493/1999 as regards trade with third countries in products in the wine sector in favour of wines originating in the United States. These derogations will expire on 31 December 2005. Articles 4 and 9 of the Agreement will continue to treat wines originating in the United States in the same way but, according to Article 17(2) of the Agreement, these provisions will only apply from the first day of the second month following receipt of the written notice referred to in Article 6(3) of the Agreement. Therefore it was necessary to negotiate a separate agreement in the form of an exchange of letters to cover the period from 31 December 2005 until the date of application of Articles 4 and 9 of the Agreement. Notwithstanding the exemption from the US certification requirements for the Community low-alcohol wines, which is unlimited, this separate agreement is foreseen for a limited period of time of three years, which can be renewed for an additional two year period if the Wine Agreement has entered into force but its Articles 4 and 9 have not yet entered into force.

This agreement should now be adopted by the Council. To that effect, the Commission submits to the Council a proposal for the conclusion of the Agreement in the form of an exchange of letters.

Proposal for a

COUNCIL DECISION

on the conclusion of an Agreement in the form of an exchange of letters between the European Community and the United States of America on matters related to trade in wine

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 23 October 2000 the Council authorised the Commission to negotiate an agreement on trade in wine between the European Community and the United States of America.
- (2) The negotiations have been concluded and the Agreement between the European Community and the United States of America on trade in wine as well as an Agreement in the form of an exchange of letters between the European Community and the United States of America on matters related to trade in wine was initialled by both Parties on 14 September 2005.
- (3) Certain derogations from the Community rules relating to wine-making practices and certain certification practices are provided for in particular in Council Regulation (EC) No 1037/2001 of 22 May 2001 authorising the offer and delivery for direct human consumption of certain imported wines which may have undergone oenological processes not provided for in Regulation (EC) No 1493/1999¹ and in Commission Regulation (EC) No 883/2001 of 24 April 2001 laying down detailed rules for implementing Council Regulation (EC) No 1493/1999 as regards trade with third countries in products in the wine sector² in favour of wines originating in the United States.
- (4) The derogations will expire on 31 December 2005. Articles 4 and 9 of the Agreement on trade in wine will continue to treat wines originating in the United States in the same way but, in accordance with Article 17(2) of that Agreement, Articles 4 and 9 will only apply from the first day of the second month following receipt of the written notice referred to Article 6(3) of the Agreement on trade in wine.

¹ OJ L 145, 31.5.2001, p. 12. Regulation as amended by Regulation (EC) No 2324/2003 (OJ L 345, 31.12.2003, p. 24).

² OJ L 128, 10.5.2001, p. 1. Regulation as last amended by Regulation (EC) No 908/2004 (OJ L 163, 30.4.2004, p. 56).

- (5) It was therefore necessary to negotiate a separate agreement in the form of an exchange of letters to cover the period from 31 December 2005 until the date of application of Articles 4 and 9 of the Agreement on trade in wine.
- (6) The agreement in the form of an exchange of letters should therefore be approved.
- (7) In order to facilitate the implementation of the agreement in the form of an exchange of letters, the Commission should be authorised to adopt the necessary acts for their implementation, in accordance with the procedure referred to in Council Regulation (EC) No 1493/1999 of 17 May 1999 on the common organisation of the market in wine³, including any necessary prolongation of the derogation provided for in Regulation (EC) No 1037/2001,

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 on matters related to trade in wine (hereinafter referred to as “the Agreement”) is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

Article 2

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 thereby.

Article 3

The Commission is hereby authorised to adopt the necessary acts for implementation of the Agreement, in accordance with the procedure referred to in Article 75(2) of Regulation (EC) No 1493/1999, including any necessary prolongation of the derogation provided for in Regulation (EC) No 1037/2001.

Article 4

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels,

For the Council
The President

³ OJ L 179, 14.7.1999, p. 1. Regulation as last amended by Regulation (EC) No 1428/2004 (OJ L 263, 10.8.2004, p. 7).

ANNEX

AGREEMENT IN THE FORM OF AN EXCHANGE OF LETTERS

BETWEEN

THE EUROPEAN COMMUNITY AND THE UNITED STATES OF AMERICA

ON MATTERS RELATED TO TRADE IN WINE

A. Letter from the Community

Dear Sir,

I have the honour to confirm the following understanding reached between the European Community (hereinafter the “Community”) and the United States of America (hereinafter the “United States”) in connection with the Agreement between the European Community and the United States of America on Trade in Wine (the “Wine Agreement”) initialled on 14 September 2005.

1. Taking into account the need not to disrupt trade in wine between the Parties pending the entry into force of the Wine Agreement and in particular the date of application of its Articles 4 and 9 as provided for in its Article 17(2), the Community shall continue to apply:
 - (a) its authorisations regarding wine-making practices in effect as of the date of this letter for wines originating in the United States set forth in Council Regulation (EC) No 1037/2001, and prolonged by Council Regulation (EC) No 2324/2003; and
 - (b) the certification requirements in effect as of the date of this letter specified in Commission Regulation (EC) No 883/2001.
2. Provided that the conditions in paragraphs 1(a) and 1(b) are satisfied, the United States shall not restrict, on the basis of either wine-making practices or product specifications, the importation, marketing or sale of wine originating in the territory of the Community that is produced using wine-making practices and procedures that are authorised under laws, regulations and requirements of the Community as of the date of this letter, and the United States accepts those practices and procedures within the meaning of Section 2002(a)(1)(B) of US Public Law 108-429. This undertaking by the United States is with respect to wine that falls within the scope of the Wine Agreement and, in particular, Article 3 thereof. Measures taken by either Party for the protection of human health and safety are outside the scope of this undertaking. The agreement hereinafter described does not contain any requirement for a certification by the Community that the practices and procedures used to produce wine in the Community constitute proper cellar treatment within the meaning of Section 2002 of US Public Law 108-429.
3. Recognising that the Wine Agreement does not apply to wines with an alcohol content of less than 7 percent (7%) by volume, but also recognising that such wine originating in the territory of the Community is produced using the wine-making practices and procedures that are authorised under laws, regulations and requirements of the Community listed in Annex I of the Wine Agreement, the United States accepts those practices and procedures with respect to such wine within the meaning of

Section 2002(a)(1)(B) of US Public Law 108-429 for so long as either the conditions of paragraphs 1(a) and 1(b) above are satisfied or Articles 4 and 9 of the Wine Agreement are in force. Furthermore, the agreement hereinafter described does not contain any requirement for certification by the Community that the practices and procedures used to produce wine with an alcohol content of less than 7 percent (7%) by volume in the Community constitute proper cellar treatment within the meaning of section 2002(a)(1)(B) of US Public Law 108-429. Measures taken by either Party for the protection of human health and safety are outside the scope of this undertaking.

4. Paragraphs 1 and 2 shall apply until the date of application of Articles 4 and 9 of the Wine Agreement, as provided for in Article 17.2 thereof, but no longer than for a period of three years from the date of entry into force of this agreement hereinafter described. Notwithstanding the foregoing, if Articles 4 and 9 are not in application within this three-year period, the period shall be extended for an additional two years.
5. Should either Party notify the other of its intention not to sign the Wine Agreement, or should it withdraw from the Wine Agreement, the agreement hereinafter described shall terminate twelve months after the date of receipt of notification by a Party that the other Party does not intend to sign the Wine Agreement, or on the date that withdrawal from the Wine Agreement under Article 14 thereof is effective, as applicable.
6. Either Party may withdraw from the present agreement hereinafter described at any time by providing written notification to the other Party. Withdrawal shall take effect twelve months after the date of receipt of the notification by the other Party, unless the notification specifies a later date or the notification is rescinded prior to the specified date.

If the foregoing is acceptable to the United States, I have the honour to propose that this letter and your letter in reply confirming that you share this understanding shall constitute an agreement between the Community and the United States, which shall enter into force on the date of your letter in reply.

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

For the European Community

B. Letter from the United States

Dear Sir,

I have the honour to acknowledge receipt of your letter of this date which reads as follows:

"I have the honour to confirm the following understanding reached between the European Community (hereinafter the "Community") and the United States of America (hereinafter the "United States") in connection with the Agreement between the European Community and the United States of America on Trade in Wine (the "Wine Agreement") initialled on 14 September 2005.

1. *Taking into account the need not to disrupt trade in wine between the Parties pending the entry into force of the Wine Agreement and in particular the date of application of its Articles 4 and 9 as provided for in its Article 17(2), the Community shall continue to apply:*
 - (a) *its authorisations regarding wine-making practices in effect as of the date of this letter for wines originating in the United States set forth in Council Regulation (EC) No 1037/2001, and prolonged by Council Regulation (EC) No 2324/2003; and*
 - (b) *the certification requirements in effect as of the date of this letter specified in Commission Regulation (EC) No 883/2001.*
2. *Provided that the conditions in paragraphs 1(a) and 1(b) are satisfied, the United States shall not restrict, on the basis of either wine-making practices or product specifications, the importation, marketing or sale of wine originating in the territory of the Community that is produced using wine-making practices and procedures that are authorised under laws, regulations and requirements of the Community as of the date of this letter, and the United States accepts those practices and procedures within the meaning of Section 2002(a)(1)(B) of US Public Law 108-429. This undertaking by the United States is with respect to wine that falls within the scope of the Wine Agreement and, in particular, Article 3 thereof. Measures taken by either Party for the protection of human health and safety are outside the scope of this undertaking. The agreement hereinafter described does not contain any requirement for a certification by the Community that the practices and procedures used to produce wine in the Community constitute proper cellar treatment within the meaning of Section 2002 of US Public Law 108-429.*
3. *Recognising that the Wine Agreement does not apply to wines with an alcohol content of less than 7 percent (7%) by volume, but also recognising that such wine originating in the territory of the Community is produced using the wine-making practices and procedures that are authorised under laws, regulations and requirements of the EC listed in Annex I of the Wine Agreement, the United States accepts those practices and procedures with respect to such wine within the meaning of Section 2002(a)(1)(B) of US Public Law 108-429 for so long as either the conditions of paragraphs 1(a) and 1(b) above are satisfied or Articles 4 and 9 of the Wine Agreement are in force. Furthermore, the agreement hereinafter described does not contain any requirement for certification by the Community that the practices and procedures used to produce wine with an alcohol content of less than 7 percent (7%) by volume in the Community constitute proper cellar treatment within the meaning of*

section 2002(a)(1)(B) of US Public Law 108-429. Measures taken by either Party for the protection of human health and safety are outside the scope of this undertaking.

4. *Paragraphs 1 and 2 shall apply until the date of application of Articles 4 and 9 of the Wine Agreement, as provided for in Article 17.2 thereof, but no longer than for a period of three years from the date of entry into force of this agreement hereinafter described. Notwithstanding the foregoing, if Articles 4 and 9 are not in application within this three-year period, the period shall be extended for an additional two years.*
5. *Should either Party notify the other of its intention not to sign the Wine Agreement, or should it withdraw from the Wine Agreement, the agreement hereinafter described shall terminate twelve months after the date of receipt of notification by a Party that the other Party does not intend to sign the Wine Agreement, or on the date that withdrawal from the Wine Agreement under Article 14 thereof is effective, as applicable.*
6. *Either Party may withdraw from the present agreement hereinafter described at any time by providing written notification to the other Party. Withdrawal shall take effect twelve months after the date of receipt of the notification by the other Party, unless the notification specifies a later date or the notification is rescinded prior to the specified date.*

If the foregoing is acceptable to the United States, I have the honour to propose that this letter and your letter in reply confirming that you share this understanding shall constitute an agreement between the Community and the United States, which shall enter into force on the date of your letter in reply.”

I have the honour to confirm that the United States of America shares the understanding set forth in your letter and to confirm that your letter and this letter in reply shall constitute an agreement between the United States of America and the European Community, which shall enter into force on the date of this reply.

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

For the United States of America