

TRADE AND INVESTMENT

Exports of Pasta

**Agreement Between the
UNITED STATES OF AMERICA
and the EUROPEAN ECONOMIC COMMUNITY**

Settlement with Exchange of Letters at
Brussels and Washington
August 12 and September 15, 1987 with
Annex and Related Letter

Entered into force September 15, 1987



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

SETTLEMENT
IN THE FORM OF AN EXCHANGE OF LETTERS
BETWEEN THE EUROPEAN ECONOMIC COMMUNITY AND THE
UNITED STATES OF AMERICA CONCERNING EXPORTS OF PASTA
FROM THE COMMUNITY TO THE UNITED STATES

EL/EEC/USA/1

Brussels, 12. VIII. 1987

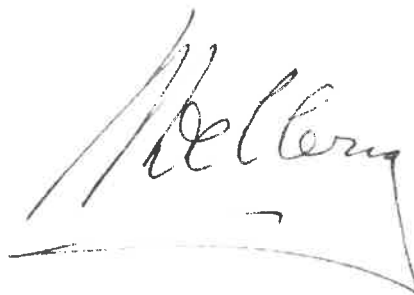
Sir,

I hereby enclose the text and the Annex of the Settlement reached between our two sides on the pasta issue pursuant to paragraph D of the US/EC Agreement of 10 August 1986 and subject to the conditions thereof.

I confirm the acceptance of this Settlement by the Community.

I would be grateful if you would confirm acceptance of the Settlement in the same terms by the Government of the United States of America.

On behalf
of the Council of the European
Communities

A handwritten signature in dark ink, appearing to read 'M. C. ...', is written over a faint, large, stylized signature or stamp that is mostly illegible.

EL/EEC/USA/2

Washington, **SEP 15 1987**

Sir,

I acknowledge receipt of your letter of August 1987 to which you annexed the text of the Settlement on pasta, of which the text is as follows:

"I hereby enclose the text and the Annex of the Settlement reached between our two sides on the pasta issue pursuant to paragraph D of the US/EC Agreement of 10 August 1986 and subject to the conditions thereof.

I confirm the acceptance of this Settlement by the Community.

I would be grateful if you would confirm acceptance of the Settlement in the same terms by the Government of the United States of America."

I hereby confirm acceptance of the Settlement in the same terms by the Government of the United States of America.



For the Government
of the United States of America

EL/EEC/USA/3

US - EC PASTA SETTLEMENT

In order to avoid a new conflict between the United States and the European Community at a particularly critical moment for the world trading system, the US and the EC have agreed to the following Settlement of the US-EC dispute regarding EC export refunds on pasta products (1) exported to the US.

1. The export refund for pasta exported from the EC to the US will be reduced. The initial reduction will be 27,5 per cent of the prevailing level of the general refund for pasta exports.
2. Inward Processing Relief (IPR) with equivalent compensation will be permitted for exports of pasta products from the EC to the US in conformity with Regulation 3677/86. Under IPR, durum wheat will be available for Community producers at world market prices and therefore exports of pasta products for the equivalent thereof shall not qualify for export refunds.
3. Neither the method of calculating the general refund for pasta exports nor the regulations on IPR as they existed on 1 August 1987 will be altered in a manner which would undermine the effects of this Settlement.
4. The actions referred to in paragraphs 1 and 2 above are intended to result in 50 per cent of such exports taking place under Inward Processing Relief (hereinafter referred to as the "agreed level") throughout this Settlement.
5. The two sides shall monitor the evolution of EC pasta exports to the US both under the IPR system and through the use of export refunds. The EC shall report bi-annually on exports in each 6-month reference period, extending from August through January and from February through July of each year, within 45 days of the end of the period concerned.
- 6a) In the event that EC pasta exports to the US under the IPR system fail to reach the agreed level in any 6-month reference period, the percentage reduction in the export refund referred to in Paragraph 1 above will be increased so as to achieve the agreed level, as it may be modified pursuant to sub-paragraph (c).

(1) falling under CCT n° 19.03, and with effect from 1.1.88, HS heading 1902.11 and 1902.19

- b) In the event that EC pasta exports to the US under the IPR system exceed the agreed level in any 6-month reference period, the percentage reduction in the export refund referred to in Paragraph 1 above will be reduced so as to achieve the agreed level, as it may be modified pursuant to sub-paragraph (c).
- c) Starting in 1989, the EC and the US agree to examine jointly during March and September whether during the preceding six-month reference period the actual level of pasta exports from the EC to the US utilizing IPR has differed from the agreed level. The resulting shortfall or surplus, if any, shall be added to or subtracted from the agreed level in the subsequent six-month period.
- d) The adjustments referred to in sub-paragraphs a) and b) above shall take effect on the first day of the month following the 45-day periods referred to in Paragraph 5.
7. For the duration of this Settlement, the EC shall not introduce any new export incentives for pasta exported to the US. Should any new export incentives for pasta exported from the EC to the US be introduced which undermine the operation of this Settlement, the US will have the right to pursue renegotiation of this Settlement or to terminate it.
8. For the duration of this Settlement, the US Administration shall refrain from unilateral action against pasta imports from the EC and shall not seek redress in the GATT Subsidies Code Case on pasta. Should any administrative or legislative measures be taken against pasta imports from the EC, the EC will have the right to pursue renegotiation of this Settlement or to terminate it.
9. The parties shall consult as agreed in the Annex to this Settlement. In addition, consultations will be held at any time at the request of either party regarding the operation of this Settlement or any matter pertaining thereto. Such consultations will be held within 10 working days of the request by either party.
10. The provisions of this Settlement are without prejudice to the legal positions of either party regarding the consistency with GATT of the use of export subsidies or export refunds for any product processed from primary agricultural products. Both parties agree to seek resolution of the pasta export refund issue on a definitive basis in the Uruguay Round of Multilateral Trade Negotiations as quickly as possible.
11. Should either party take any action which would undermine the effects or operation of this Settlement, or fail to take appropriate action to implement this Settlement, the other party will have the right to terminate the Settlement.
12. The Annex to this Settlement shall constitute an integral part of this Settlement. The provisions of this Settlement and Annex shall take effect provisionally on 1 October 1987. The Settlement and Annex shall take effect definitively simultaneously with the implementation of parts A and B of the Annex to the Agreement of 10 August 1986.

ANNEX

A. In order to promote early and accurate adjustment to the agreed level of IPR utilization referred to in paragraph 4 of the Settlement to which this Annex is attached ("agreed level"), the U.S. and the EC agree to a series of four initial reviews of the functioning of this Settlement.

1. The first review shall take place in the first half of December 1987 to examine the trade which has taken place during October 1987. On the basis of this review, the EC shall, in accordance with paragraph B below, alter the percentage reduction in the export refund referred to in paragraph 1 of the Settlement to which this Annex is attached, either upward or downward so as to achieve the agreed level. This change shall take effect from 1 January 1988.
2. A second review shall take place during the first half of March 1988 to examine the trade which has taken place from November through January. On the basis of this second review, the EC shall, in accordance with paragraph B below, alter the percentage reduction in the export refund applied between 1 January and 31 March 1988, either upward or downward so as to achieve the agreed level. This change shall take effect from 1 April 1988.
3. A third review shall take place during the first half of June 1988 to examine the trade which has taken place from February through April. On the basis of this third review, the EC shall, in accordance with paragraph B below, alter the percentage reduction in the export refund applied between 1 April and 30 June 1988, either upward or downward so as to achieve the agreed level. This change shall take effect from 1 July 1988.
4. A fourth review shall take place during the first half of September 1988 to examine the trade which has taken place from May through July. On the basis of this fourth review, the EC shall, in accordance with paragraph B below, alter the percentage reduction in the export refund applied between 1 July and 30 September 1988, either upward or downward so as to achieve the agreed level. This change shall take effect from 1 October 1988.

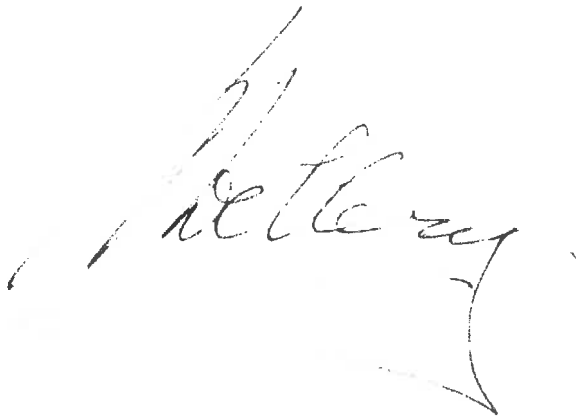
B. The magnitude of the changes to be made to the percentage reduction in the export refund referred to in paragraph 1 of the Settlement to which this Annex is attached as a result of each review referred to in paragraph A shall be designed to achieve the agreed level in the following period. If the rate of IPR utilization in any period is more than or equal to plus or minus 10 percentage points from the agreed level, the alteration resulting from that review shall be a minimum of 5 percent of the general refund, unless otherwise agreed. If the rate of utilization of IPR is less than plus or minus 10 percentage points from the agreed level, the alteration shall be a minimum of one percent of the general refund, unless otherwise agreed. If the rate of utilisation is at the agreed level, no alteration shall be required.

C. At the time of the fourth review mentioned above, the EC and the U.S. agree to examine the amount by which the actual level of pasta exports from the EC to the U.S. utilizing IPR has differed from the agreed level during the period from November 1987 through July 1988. Any resulting shortfall or surplus shall be added to or subtracted from the agreed level for the six-month period beginning 1 October 1988.

D. Following the initial review periods, i.e., beginning with the six-month period August 1988 through January 1989, in anticipation that EC pasta exports to the U.S. will be at or near the agreed level, reviews and changes in the rate of adjustment to the general refund level will take place as provided for in paragraph 6 of the Settlement to which this Annex is attached.

Side letter: from the Community to the United States

With reference to paragraph A.1 of the Annex to this Settlement (first review), and taking due account of the technical delays involved for the operation of the IPR system as well as the lack of representativity resulting from a 1-month period, I understand that both sides, while committed to an early implementation of this Settlement, are conscious of the difficulties for EC exporters to adapt in such a short period of time to the agreed level of trade under the IPR system. Consequently, the results of the first review should be treated with caution.

A handwritten signature in cursive script, appearing to read "H. H. H. H.", is written in the lower right quadrant of the page. The signature is written in dark ink and is somewhat stylized.