

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93) 714 final

Brussels, 21 December 1993

Amended recommendation for a

COUNCIL DECISION

on the conclusion of an agreement with the United States of America
on the mutual recognition of certain spirit drinks

(presented by the Commission pursuant to
Article 189A(2) of the EC Treaty)

EXPLANATORY MEMORANDUM

Subject: Spirit drinks - agreement EC/USA

Modification of a Recommendation for a Council Decision

On 14 January 1993 the Council received from the Commission a Recommendation for a Council Decision on the conclusion of an agreement with the United States of America on the protection and mutual recognition of certain spirit drinks⁽¹⁾. The agreement is in the form of an exchange of letters.

During subsequent discussions with the USA it became evident that certain modifications were necessary. Other than minor drafting revisions, there are two changes to note in the attached text, in comparison with the earlier one received by the Council:

- The insertion of an article in the Decision authorising the French Republic to maintain in force the agreement with the USA in the form of an exchange of letters dated 2 December 1970 and 18 January 1971 insofar as it is complementary to this agreement, together with a supplementary exchange of letters between the EC and the USA on this point.
- The inclusion of "Bourbon" as a designation for Bourbon whisk(e)y in Paragraph B of the exchange of letters.

(1) COM(93)6 final

Amended recommendation for a

COUNCIL DECISION

**on the conclusion of an agreement with the United States of America
on the mutual recognition of certain spirit drinks**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 113 thereof,

Having regard to the recommendation of the Commission,

Whereas exports of Community spirits drinks are a significant share of trade in this sector; whereas the trend in exports is progressing satisfactorily as a result of the quality for which these products are recognised on the markets of third countries;

Whereas recognition by non-member countries, and in particular by the United States of America, of Community geographical designations for spirit drinks is an essential factor in maintaining and increasing these exports;

Whereas the Community may only conclude an agreement on protection and mutual recognition in this sector on the basis of the principle of reciprocity as laid down in Article 11 of Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down the general rules on the definition, description and presentation of spirit drinks⁽¹⁾, hereinafter referred to as the "spirit drinks regulation";

Whereas it is necessary to authorise the French Republic to maintain in force the agreement in the form of an exchange of letters dated 2 December 1970 and 18 January 1971 insofar as it is complementary to this agreement;

Whereas the negotiations between the Community and the United States of America have resulted in an agreement which is equally advantageous to both parties,

(1) OJ No L 160, 12.6.1989, p. 1.

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 the mutual recognition and protection of certain spirit drinks is hereby approved on behalf of the European Community.

The text of the Agreement is attached to this Decision.

Article 2

The French Republic is authorised to maintain in force the agreement in the form of an exchange of letters dated 2 December 1970 and 18 January 1971 insofar as it is complementary to this Agreement.

Article 3

The President of the Council is hereby authorised to designate the person empowered to sign the Agreement.

This Council Decision shall be published in the Official Journal of the European Communities.

Done at

For the Council
The President

**AGREEMENT IN THE FORM OF AN EXCHANGE OF LETTERS
BETWEEN THE EUROPEAN COMMUNITY AND
THE UNITED STATES OF AMERICA ON THE
MUTUAL RECOGNITION OF CERTAIN
DISTILLED SPIRITS/SPIRIT DRINKS**

Letter No. 1

Dear

I have the honour to refer to recent discussions between representatives of the European Community (EC) and the United States of America (USA) relating to the issue of recognition of distilled spirits/spirit drinks. These discussions have resulted in the conclusions outlined hereafter:

- A. The USA agrees to restrict, within its regulatory framework (27 CFR 5.22 or an equivalent successor regulation), the use of the product designations: "Scotch whisky", "Irish whiskey"/"Irish whisky", "Cognac", "Armagnac", "Calvados" and "Brandy de Jerez" to distilled spirits/spirit drinks products of the Member States of the EC, produced in compliance with Council Regulation (EEC) No 1576/89 and with the laws of the Member States in which those products originate. Further, it is recognized that these products shall continue to be subject to all of the labelling requirements of the USA.
- B. The EC agrees to restrict, within its regulatory framework (Council Regulation (EEC) No 1576/89, Article 11 or an equivalent successor regulation), the use of the product designations: "Tennessee whisky"/"Tennessee whiskey", "Bourbon whisky"/"Bourbon whiskey" and "Bourbon" as a designation for Bourbon whisk(e)y to distilled spirits/spirit drinks products of the USA produced in compliance with the laws and regulations of the USA (27 CFR 5.22 or an equivalent successor regulation). Further, it is recognized that these whiskies shall continue to be subject to all of the labelling requirements of the EC.
- C. The USA and the EC agree to meet at a mutually convenient time in the future to discuss the possibilities of extending restrictive recognition to additional distilled spirits/spirit drinks products which either Party may propose for such consideration. This willingness to meet and consider such requests is without prejudice to the rights and rulemaking processes of either Party.
- D. Both Parties agree to consult, upon request, regarding the operation of this Agreement.

E. Both Parties agree to implement within sixty days of the date of your confirmatory reply all regulatory or administrative measures necessary to fulfil the obligations outlined in Paragraphs A and B above.

F. Either Party may terminate this Agreement by written notification to the other Party. This Agreement shall expire twelve months after the date of such notification.

I have the honour to propose that, if the foregoing is acceptable to your government, this letter and your confirmatory reply shall together constitute and evidence an agreement between the EC and the USA on this matter.

Sincerely,

Letter No. 2

Dear

I have the honor to refer to your letter of which reads as follows:

"I have the honour to refer to recent discussions between representatives of the European Community (EC) and the United States of America (USA) relating to the issue of recognition of distilled spirits/spirit drinks. These discussions have resulted in the conclusions outlined hereafter:

- A. The USA agrees to restrict, within its regulatory framework (27 CFR 5.22 or an equivalent successor regulation), the use of the product designations: "Scotch whisky", "Irish whiskey"/"Irish whisky", "Cognac", "Armagnac", "Calvados" and "Brandy de Jerez" to distilled spirits/spirit drinks products of the Member States of the EC, produced in compliance with Council Regulation (EEC) No 1576/89 and with the laws of the Member States in which those products originate. Further, it is recognized that these products shall continue to be subject to all of the labelling requirements of the USA.
- B. The EC agrees to restrict, within its regulatory framework (Council Regulation (EEC) No 1576/89, Article 11 or an equivalent successor regulation), the use of the product designations: "Tennessee whisky"/"Tennessee whiskey", "Bourbon whisky"/"Bourbon whiskey" and "Bourbon" as a designation for Bourbon whisk(e)y to distilled spirits/spirit drinks products of the USA produced in compliance with the laws and regulations of the USA (27 CFR 5.22 or an equivalent successor regulation). Further, it is recognized that these whiskies shall continue to be subject to all of the labelling requirements of the EC.
- C. The USA and the EC agree to meet at a mutually convenient time in the future to discuss the possibilities of extending restrictive recognition to additional distilled spirits/spirit drinks products which either Party may propose for such consideration. This willingness to meet and consider such requests is without prejudice to the rights and rulemaking processes of either Party.
- D. Both Parties agree to consult, upon request, regarding the operation of this Agreement.
- E. Both Parties agree to implement within sixty days of the date of your confirmatory reply all regulatory or administrative measures necessary to fulfil the obligations outlined in Paragraphs A and B above.

F. Either Party may terminate this Agreement by written notification to the other Party. This Agreement shall expire twelve months after the date of such notification.

I have the honour to propose that, if the foregoing is acceptable to your government, this letter and your confirmatory reply shall together constitute and evidence an agreement between the EC and the USA on this matter."

I have the honor to confirm that the foregoing is acceptable to the Government of the United States of America and that your letter and this reply shall together constitute and evidence an agreement between the United States of America and the European Community on this matter.

Sincerely,

SIDE LETTER TO THE EC-US SPIRITS AGREEMENT

EC letter

I have the honour to refer to the Agreement concluded between the European Community and the United States of America on the mutual recognition of certain distilled spirits/spirit drinks and to propose the following understanding:

The conclusion of the Agreement does not impede the continued application of the exchange of letters, signed on 2 December 1970 and 18 January 1971, between France and the United States of America concerning the protection in France of the US appellations "Bourbon" and "Bourbon whisky" and in the United States of the French appellations "Cognac", "Armagnac" and "Calvados".

I would be grateful if you would confirm that the foregoing is acceptable to the Government of the United States of America.

US reply

I have the honor to refer to the Agreement concluded between the European Community and the United States of America on the mutual recognition of certain distilled spirits/spirit drinks and to your letter which proposed the following understanding:

The conclusion of the Agreement does not impede the continued application of the exchange of letters, signed on 2 December 1970 and 18 January 1971, between France and the United States of America concerning the protection in France of the US appellations "Bourbon" and "Bourbon whisky" and in the United States of the French appellations "Cognac", "Armagnac" and "Calvados".

I have the honor to confirm the above understanding on behalf of the Government of the United States of America.

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DOCUMENTS

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