

Original: English

**INDIA - QUANTITATIVE RESTRICTIONS ON IMPORTS OF AGRICULTURAL,
TEXTILE AND INDUSTRIAL PRODUCTS**

Notification of Mutually Agreed Solution

The following communication, dated 14 September 1998 and received on 1 December 1998, from the Permanent Missions of India and New Zealand to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 3.6 of the DSU.

In accordance with paragraph 6 of Article 3 of the Understanding on Rules and Procedures Governing the Settlement of Disputes, the Governments of India and New Zealand hereby notify the Dispute Settlement Body that, with respect to the matter raised by the Government of New Zealand in its request for consultations with India dated 16 July 1997 (WT/DS93/1 of 22 July 1997) concerning quantitative restrictions maintained by India on the importation of a large number of agricultural and industrial products, the parties have reached a mutually agreed solution as set forth in the attached exchange of letters of 21 November 1997 and of 14 September 1998.

We would ask you to circulate the attachments of this letter to the Dispute Settlement Body and the relevant Councils and Committees.

Permanent Mission of India to the
World Trade Organization

Dear Ambassador,

I have the honour to refer to the discussions between representatives of the Government of India and the Government of New Zealand on the issue of the removal of quantitative restrictions by India.

Further to the request for consultations lodged by the Government of New Zealand with the Government of India pursuant to Article 4 of the 1994 Understanding on the Rules and Procedures Governing the Settlement of Disputes, Article XXII of the General Agreement on Tariffs and Trade 1994 (GATT 1994), Article 19 of the Agreement on Agriculture and Article 6 of the Agreement on Import Licensing Procedures, concerning the quantitative restrictions maintained by India on the importation of a large number of agricultural and industrial products (WT/DS93/1 of 22 July 1997), the Government of India and the Government of New Zealand have now reached a mutually agreed solution, as comprised in this exchange of letters.

Without prejudice to the rights and obligations of either Member under the Agreement Establishing the World Trade Organization, and on the understanding that provided the Government of India duly implements the provisions of this exchange of letters the Government of New Zealand will not initiate action under GATT Articles XXII or XXIII as regards the quantitative restrictions on imports during the phase-out period as defined below, the Government of India and the Government of New Zealand have mutually agreed the following arrangements:

1. Without prejudice to India's rights and obligations under the WTO Agreement, the quantitative restrictions on imports maintained by India by reference to Article XVIII:B of GATT 1994, as notified to the WTO in Annex Part B, of document WT/BOP/N/24, dated 22 May 1997, will be removed at the latest by 31 March 2003.
2. The Government of India will remove these restrictions for the products in the attached Annex and in Annex III of document WT/BOP/N/24, in accordance with the following time-schedules: Phase I will commence on 1 April 1997 and finish on 31 March 2000; Phase II will commence on 1 April 2000 and finish on 31 March 2002; and Phase III will commence on 1 April 2002 and finish on 31 March 2003. The Government of India will remove these restrictions in annual tranches in a balanced manner.
3. India will grant to New Zealand treatment no less favourable than that granted by India to any other country with respect to the elimination or modification of import restrictions on the products in the Annex and those in Annex III of document WT/BOP/N/24, either autonomously or pursuant to an agreement or understanding with that country, including pursuant to the settlement of any outstanding dispute under the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes.
4. Without prejudice to the rights and obligations of India and New Zealand under the WTO Agreement, India will refrain during the phase-out period from making more restrictive the import arrangements for the products in the attached Annex and Annex III of document WT/BOP/N/24.

5. In the interests of transparency and to ensure that importers and exporters may be aware of the various changes being implemented, the removal of the quantitative restrictions on imports of the products identified in WT/BOP/N/24 Annex 1, Part B will be published in a timely manner and notified to the WTO, in particular in accordance with the requirements of the WTO Agreement on Import Licensing Procedures.
6. Where imports are channelled through a state trading enterprise or an enterprise enjoying exclusive or special rights, the elimination of quantitative import restrictions on imports will be without prejudice to India's rights under Article XVII of the GATT 1994 and the Understanding on the Interpretation of Article XVII of the GATT 1994 as well as India's obligations to comply with the requirements of Articles II:4 and XVII of the GATT 1994 and with the Understanding on the Interpretation of Article XVII of the GATT 1994.
7. The Government of India and the Government of New Zealand will notify the relevant bodies of the WTO that they have reached a mutually agreed solution based on the undertakings set out in this document with regard to the matter raised in WT/DS93/1 of 22 July 1997.
8. India tends upon reaching bilateral solutions with all the trading partners which have requested consultations under Article XXII of the GATT 1994, to seek multilateral accommodation of its revised time-schedules. New Zealand will cooperate with India in this regard.
9. The implementation of the arrangements set out in this exchange of letters will be reviewed annually by India and New Zealand if either party so requests. In this framework, India will provide information on the implementation of the time-schedules, and there will be an opportunity for New Zealand to raise questions regarding the functioning of the licensing procedures during the phase-out period.
10. This letter together with its Annex and your letter in reply confirming the acceptability of the arrangements set out herein to New Zealand will constitute the mutually agreed solution between India and New Zealand regarding the matter raised in WT/DS93/1 of 22 July 1997.

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

Yours sincerely,

(Signed) S. Narayanan

H.E. Mr. Wade Armstrong
Ambassador/Permanent Representative
of New Zealand to the WTO
Geneva

ANNEX

SI. No.	ITC (HS) Code	Description of the products
Phase I: 1 April 1997-31 March 2000		
11	020430.00	Carcasses and half carcasses, as meat of lamb frozen
13	020442.00	Other cuts with bone in, as meat of sheep, frozen
14	020443.00	Boneless meat of sheep, frozen
63	030310.00	Pacific salmon, excluding livers and roes, frozen
81	030375.00	Dogfish and other sharks, excluding livers and roes, frozen
84	030378.00	Hake, excluding livers and roes, frozen
174	070200.00	Tomatoes, fresh or chilled
181	070519.00	Other lettuce, fresh or chilled
184	070610.00	Carrots and turnips, fresh or chilled
194	070920.00	Asparagus, fresh or chilled
197	070951.00	Mushrooms, fresh or chilled
200	070960.09	Other fruits of the genus Capsicum or of the genus Pimenta, fresh or chilled
205	070990.04	Green pepper, fresh or chilled
209	071021.00	Peas, frozen
210	071022.00	Beans, frozen
213	071040.00	Sweet corn, frozen
215	071080.09	Other vegetables, frozen
1014	Ex 392690.02	Plastic credit cards
1015	Ex 392690.09	Plastic credit cards
2589	Ex 940540.00	Theatre and studio lighting equipment
150	040310.00	Yoghurt
151	040390.01	Butter milk
152	040390.09	Curdled milk and cream, kephir and other fermented or acidified milk or cream
153	040410.01	Whey, concentrated, evaporated or condensed
154	040410.02	Whey, dry, blocks and powdered
168	040900.00	Natural honey
689	200980.09	Other single fruit or vegetable juice
690	200990.00	Mixture of juices

SI. No.	ITC (HS) Code	Description of the products
Phase II: 1 April 2000-31 March 2002		
7	020410.00	Carcasses and half carcasses, as meat of lamb, fresh or chilled
8	020421.00	Carcasses and half carcasses, as meat of sheep, fresh or chilled
9	020422.00	Other cuts with bone in, as meat of sheep, fresh or chilled
10	020423.00	Boneless meat of sheep, fresh or chilled
12	020441.00	Carcasses and half carcasses, as meat of sheep, frozen
137	040110.00	Milk and cream, not concentrated nor containing added sugar or other sweetening matter, of a fat content by weight, not exceeding 1%
138	040120.00	Milk and cream, not concentrated nor containing added sugar or other sweetening matter, of a fat content by weight, exceeding 1% but not exceeding 6%
143	040229.02	Whole milk, containing added sugar or other sweetening matter, in powder, granules or other solid forms, of a fat content, by weight exceeding 1.5%
161	040630.00	Processed cheese, not grated or powdered
162	040640.00	Blue-veined cheese
720	220421.01	Port and other still red wines, in containers holding 2 l. or less
721	220421.02	Sherry and other still white wines in containers holding 2 l. or less
722	220421.09	Other wine, including grape must in containers holding 2 l. or less

New Zealand Permanent Mission to the
Office of the United Nations at Geneva

Dear Ambassador,

I have honour to acknowledge receipt of your letter of today's date to Ambassador Armstrong which reads as follows:

"Dear Ambassador,

I have the honour to refer to the discussions between representatives of the Government of India and the Government of New Zealand on the issue of the removal of quantitative restrictions by India.

Further to the request for consultations lodged by the Government of New Zealand with the Government of India pursuant to Article 4 of the 1994 Understanding on the Rules and Procedures Governing the Settlement of Disputes, Article XXII of the General Agreement on Tariffs and Trade 1994 (GATT 1994), Article 19 of the Agreement on Agriculture and Article 6 of the Agreement on Import Licensing Procedures, concerning the quantitative restrictions maintained by India on the importation of a large number of agricultural and industrial products (WT/DS93/1 of 22 July 1997), the Government of India and the Government of New Zealand have now reached a mutually agreed solution, as comprised in this exchange of letters.

Without prejudice to the rights and obligations of either Member under the Agreement Establishing the World Trade Organization, and on the understanding that provided the Government of India duly implements the provisions of this exchange of letters, the Government of New Zealand will not initiate action under GATT Articles XXII or XXIII as regards the quantitative restrictions on imports during the phase-out period as defined below, the Government of India and the Government of New Zealand have mutually agreed the following arrangements:

1. Without prejudice to India's rights and obligations under the WTO Agreement, the quantitative restrictions on imports maintained by India by reference to Article XVIII:B of GATT 1994, as notified to the WTO in Annex Part B, of document WT/BOP/N/24, dated 22 May 1997, will be removed at the latest by 31 March 2003.
2. The Government of India will remove these restrictions for the products in the attached Annex and in Annex III of document WT/BOP/N/24, in accordance with the following time-schedules: Phase I will commence on 1 April 1997 and finish on 31 March 2000; Phase II will commence on 1 April 2000 and finish on 31 March 2002; and Phase III will commence of 1 April 2002 and finish on 31 March 2003. The Government of India will remove these restrictions in annual tranches in a balanced manner.
3. India will grant to New Zealand treatment no less favourable than that granted by India to any other country with respect to the elimination or modification of import restrictions on the products in the Annex and those in Annex III of document WT/BOP/N/24, either autonomously or pursuant to an agreement or understanding with that country, including pursuant to the settlement of any outstanding dispute under WTO Understanding on Rules and Procedures Governing the Settlement of Disputes.
4. Without prejudice to the rights and obligations of India and New Zealand under the WTO Agreement, India will refrain during the phase-out period from making more restrictive the import arrangements for the products in the attached Annex and Annex III of document WT/BOP/N/24.

5. In the interests of transparency and to ensure that importers and exporters may be aware of the various changes being implemented, the removal of the quantitative restrictions on imports of the products identified in WT/BOP/N/24 Annex 1, Part B will be published in a timely manner and notified to the WTO, in particular in accordance with the requirements of the WTO Agreement on Import Licensing Procedures.
6. Where imports are channelled through a state-trading enterprise or an enterprise enjoying exclusive or special rights, the elimination of quantitative import restrictions on imports will be without prejudice to India's rights under Article XVII of the GATT 1994 and the Understanding on the Interpretation of Article XVII of the GATT 1994 as well as India's obligations to comply with the requirements of Articles II:4 and XVII of the GATT 1994 and with the Understanding on the Interpretation of Article XVII of the GATT 1994.
7. The Government of India and the Government of New Zealand will notify the relevant bodies of the WTO that they have reached a mutually agreed solution based on the undertakings set out in this document with regard to the matter raised in WT/DS93/1 of 22 July 1997.
8. India intends upon reaching bilateral solutions with all the trading partners which have requested consultations under Article XXII of the GATT 1994, to seek multilateral accommodation of its revised time-schedules. New Zealand will cooperate with India in this regard.
9. The implementation of the arrangements set out in this exchange of letters will be reviewed annually by India and New Zealand if either party so requests. In this framework, India will provide information on the implementation of the time-schedules, and there will be an opportunity for New Zealand to raise questions regarding the functioning of the licensing procedures during the phase-out period.
10. This letter together with its attachment and your letter in reply confirming the acceptability of the arrangements set out herein to New Zealand will constitute the mutually agreed solution between India and New Zealand regarding the matter raised in WT/DS93/1 of 22 July 1997.

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

Yours sincerely,

(S. Narayanan)"

With reference to paragraph 10 of your letter, I am pleased to confirm that the Government of New Zealand accepts the arrangements set out in your letter and that, accordingly, your letter and this letter in reply constitute a mutually agreed solution in relation to the matter raised by New Zealand in WT/DS93/1 of 22 July 1997.

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

Yours sincerely,

(Signed) Martin Harvey
Deputy Permanent Representative

H.E. Ambassador S. Narayanan
Permanent Representative of India to the WTO
Geneva

ANNEX

SI.No.	ITC (HS) Code	Description of the products
Phase I: 1 April 1997-31 March 2000		
11	020430.00	Carcasses and half carcasses, as meat of lamb, frozen
13	020442.00	Other cuts with bone in, as meat of sheep, frozen
14	020443.00	Boneless meat of sheep, frozen
63	030310.00	Pacific salmon, excluding livers and roes, frozen
81	030375.00	Dogfish and other sharks, excluding livers and roes, frozen
84	030378.00	Hake, excluding livers and roes, frozen
174	070200.00	Tomatoes, fresh or chilled
181	070519.00	Other lettuce, fresh or chilled
184	070610.00	Carrots and turnips, fresh or chilled
194	070920.00	Asparagus, fresh or chilled
197	070951.00	Mushrooms, fresh or chilled
200	070960.09	Other fruits of the genus Capsicum or of the genus Pimenta fresh or chilled
205	070990.04	Green pepper, fresh or chilled
209	071021.00	Peas, frozen
210	071022.00	Beans, frozen
213	071040.00	Sweet corn, frozen
215	071080.09	Other vegetables, frozen
1014	Ex 392690.02	Plastic credit cards
1015	Ex 392690.09	Plastic credit cards
2589	Ex 940540.00	Theatre and studio lighting equipment
150	040310.00	Yoghurt
151	040390.01	Butter milk
152	040390.09	Curdled milk and cream, kephir and other fermented or acidified milk or cream
153	040410.01	Whey, concentrated, evaporated or condensed
154	040410.02	Whey, dry, blocks and powdered
168	040900.00	Natural honey
689	200980.09	Other single fruit or vegetable juice
690	200990.00	Mixture of juices

SI. No.	ITC (HS) Code	Description of the products
Phase II: 1 April 2000-31 March 2002		
7	020410.00	Carcasses and half carcasses, as meat of lamb, fresh or chilled
8	020421.00	Carcasses and half carcasses, as meat of sheep, fresh or chilled
9	020422.00	Other cuts with bone in, as meat of sheep, fresh or chilled
10	020423.00	Boneless meat of sheep, fresh or chilled
12	020441.00	Carcasses and half carcasses, as meat of sheep, frozen
137	040110.00	Milk and cream, not concentrated nor containing added sugar or other sweetening matter, of a fat content by weight, not exceeding 1%
138	040120.00	Milk and cream, not concentrated nor containing added sugar or other sweetening matter, of a fat content by weight, exceeding 1% but not exceeding 6%
143	040229.02	Whole milk, containing added sugar or other sweetening matter in powder, granules or other solid forms of a fat content, by weight, exceeding 1.5%
161	040630.00	Processed cheese, not grated or powdered
162	040640.00	Blue-veined cheese
720	220421.01	Port and other still red wines, in containers holding 2 l. or less
721	220421.02	Sherry and other still white wines in containers holding 2 l. or less
722	220421.09	Other wine, including grape must in containers holding 2 l. or less

S. Narayanan
Ambassador/Permanent Representative
Permanent Mission of India to the
World Trade Organization

Dear Ambassador,

I have the honour to refer to recent discussions between representatives of the Government of India and the Government of New Zealand concerning our exchange of letters of 21 November 1997, which contained the mutually agreed solution regarding our dispute over the issue of the removal of quantitative restrictions by India.

These discussions revealed that there was a technical error in the Annex to the exchange of letters which resulted in the omission of tariff item "*080810.00 Apples, fresh*" from the list of items agreed for Phase II of India's phasing-out plan.

In order to correct this technical error, I propose that the attached amended Annex, which includes tariff item "*080810.00 Apples, fresh*" in Phase II, should replace the Annex attached to the letters exchanged on 21 November 1997.

Consequently, the exchange of letters of 21 November 1997 along with this letter and the amended Annex and your letter in reply confirming the acceptability to the Government of New Zealand of the arrangements set out herein will constitute a mutually agreed solution between India and New Zealand regarding the matter raised in WT/DS93/1 of 22 July 1997.

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

Yours sincerely,

(Signed) S. Narayanan

H.E. Mr. Roger Farrell
Ambassador/Permanent Representative
of New Zealand to the World Trade Organization
Chemin du Petit-Saconnex 28A
1209 Geneva

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263	080810.00	Apples, fresh
720	220421.01	Port and other still red wines, in containers holding 2 l. or less
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722	220421.09	Other wine, including grape must in containers holding 2 l. or less

New Zealand Permanent Mission to the Office
of the United Nations at Geneva

14 September 1998

Dear Ambassador,

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

"Dear Ambassador,

I have the honour to refer to recent discussions between representatives of the Government of India and the Government of New Zealand concerning our exchange of letters of 21 November 1997, which contained the mutually agreed solution regarding our dispute over the issue of the removal of quantitative restrictions by India.

These discussions revealed that there was a technical error in the Annex to the exchange of letters which resulted in the omission of tariff item "*080810.00 Apples, fresh*" from the list of items agreed for Phase II of India's phasing-out plan.

In order to correct this technical error, I propose that the attached amended Annex, which includes the tariff item "*080810.00 Apples, fresh*" in Phase II should replace the Annex attached to the letters exchanged on 21 November 1997.

Consequently, the exchange of letters of 21 November 1997 along with this letter and the amended Annex and your letter in reply confirming the acceptability to the Government of New Zealand of the arrangement set out herein will constitute a mutually agreed solution between India and New Zealand regarding the matter raised in WT/DS93/1 of 22 July 1997.

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

Yours sincerely,

(S. Narayanan)"

I am please to confirm that the Government of New Zealand accepts the arrangements set out in your letter and that accordingly, the exchange of letters of 21 November 1997, along with your letter and the amended Annex and this letter in reply constitute a mutually agreed solution between India and New Zealand regarding the matter raised in WT/DS93/1 of 22 July 1997.

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(Signed) Roger Farrell
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