

# WORLD TRADE ORGANIZATION

WT/DS72/7  
G/L/157/Add.1  
G/TBT/D/12/Add.1  
G/LIC/D/4/Add.1  
18 November 1999  
(99-5028)

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Original: English

## EUROPEAN COMMUNITIES - MEASURES AFFECTING BUTTER PRODUCTS

### Notification of Mutually Agreed Solution

The following communication, dated 11 November 1999, from the Permanent Mission of New Zealand and the Permanent Delegation of the European Commission, is circulated at the request of those delegations.

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In accordance with Article 3.6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes, New Zealand and the European Communities hereby notify the Dispute Settlement Body (the "DSB") that, with respect to the dispute "EC - Measures Affecting Butter Products" (WT/DS72), they have reached a mutually agreed settlement, as set forth in the attached letter and annexes thereto.

**Letter from**  
**Ambassador Roger Farrell, Permanent Representative of New Zealand in**  
**Geneva and Ambassador Roderick Abbott, Permanent Representative of the**  
**European Communities in Geneva,**  
**dated 11 November 1999,**  
**to the Chairman of the Dispute Settlement Body**

We are pleased to notify you of the attached mutually agreed solution, which should be duly notified to the Dispute Settlement Body and the relevant Councils and Committees in accordance with Article 3.6 of the Dispute Settlement Understanding.

We take this opportunity to thank the Panel for the extensive work they have carried out in relation to this dispute.

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**Spreadable and Ammix Butter: Notification Pursuant to Article 3.6 of the**  
**Dispute Settlement Understanding**

With reference to the Panel proceedings "EC - Measures Affecting Butter Products" requested by New Zealand on 6 November 1997 (WT/DS72/2) relating to the dispute between New Zealand and the European Communities (EC) on the eligibility for entry under the New Zealand country-specific tariff quota of butter manufactured by the Spreadable and Ammix methods, New Zealand and the EC hereby notify the Dispute Settlement Body that they have reached a mutually agreed settlement.

New Zealand requested the suspension of the proceedings of the Panel "EC - Measures Affecting Butter Products" on 24 February 1999 in accordance with Article 12.12 of the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (the "DSU"), in order to explore with the European Communities avenues for the resolution of this dispute.

Discussions between New Zealand and the EC following the suspension of the proceedings on 24 February 1999 have resulted in a mutually agreed solution pursuant to Article 3.6 of the DSU in the following terms:

1. The EC has adopted a new EC Council Regulation No 2250/1999 (text attached, hereinafter referred to as "the Regulation"). This Regulation, as adopted by the European Council of Ministers on 22 October 1999, specifies that the meaning of the requirement in the New Zealand country-specific tariff quota (Schedule LXXX, Section I-B Tariff Quotas) "manufactured directly from milk or cream" does not exclude butter manufactured from milk or cream, without the use of stored materials, in a single, self-contained and uninterrupted process which may involve the cream passing through a stage of concentrated milkfat and/or the fractionation of such milkfat.

2. In the expectation that the EC will not take any action which has the direct or indirect purpose or effect of undermining or offsetting the basis of this settlement, New Zealand accordingly agrees to terminate the Panel proceedings in "EC - Measures Affecting Butter Products" as from the date of this Joint Notification to the Dispute Settlement Body, without prejudice to its WTO rights with respect to the interpretation of the requirement referred to in paragraph 1 above.

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COUNCIL REGULATION (EC) No 2250/1999  
of 22 October 1999  
concerning the tariff quota for butter of New Zealand origin

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The Community concessions referred to in the agreements concluded under the Uruguay Round of multilateral trade negotiations and contained in Schedule CXL/European Communities, include a tariff quota of 76 667 tonnes of butter of New Zealand origin, at least six weeks old, of a fat content by weight of not less than 80% but less than 82% manufactured directly from milk or cream;
- (2) The eligibility under the tariff quota of butter manufactured in New Zealand using the processes referred to as "Ammix" and "Spreadable" has been questioned;
- (3) In the interest of legal certainty it is appropriate to specify that such butter manufactured from milk or cream without the use of stored materials is not excluded from the tariff quota by virtue of the fact that it is manufactured by a process which may involve the cream passing through a stage of concentrated milkfat and/or the fractionation of such milkfat,

HAS ADOPTED THIS REGULATION:

Article 1

For the purpose of the implementation of the tariff quota for butter of New Zealand origin, the phrase "manufactured directly from milk or cream" does not exclude butter manufactured from milk or cream, without the use of stored materials, in a single, self-contained and uninterrupted process which may involve the cream passing through a stage of concentrated milkfat and/or the fractionation of such milkfat.

Article 2

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 22 October 1999.

*For the Council*  
*The President*  
S. MÖNKÄRE

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