

International Dairy Arrangement

COMMITTEE OF THE PROTOCOL REGARDING CERTAIN CHEESES

Nineteenth Session

Draft Report

Introduction

1. The Committee of the Protocol Regarding Certain Cheeses held its nineteenth session on 24 and 26 September 1984.

Adoption of the Agenda

2. The Committee adopted the following agenda:

1. Adoption of report on the eighteenth session
2. Information required by the Committee:
 - Replies to Questionnaire 3
 - Summary tables
 - Other information
3. Review of the market situation for products covered by the Protocol
4. Review of the level of the minimum price for products covered by the Protocol
5. Other business

Adoption of report on the eighteenth session

3. The Committee adopted the report on its eighteenth session. The report will be distributed as document DPC/C/29.

Information required by the Committee

- Replies to Questionnaire 3

4. The Committee reviewed the replies to Questionnaire 3 and requested members which had not yet communicated information for the second quarter of 1984 to do so without delay. In addition, it was pointed out that replies to Questionnaire 3 relating to the third quarter of 1984 should reach the secretariat not later than 15 December 1984.

- Summary tables

5. The Committee had before it a document containing revised summary tables (DPC/C/W/1/Rev.18) prepared in conformity with Rule 28 of the Rules of Procedure and reproducing the information furnished in Tables A and B of Questionnaire 3 regarding cheeses. The Committee took note of document DPC/C/W/1/Rev.18.

- Other information

6. No other information was requested.

- Simplified presentation of the questionnaire

7. With a view to simplifying presentation of the questionnaire the Committee agreed that the quarterly replies would in future be circulated in the form of photocopies and not documents. The summary tables circulated before the Committee's session would be revised and circulated again afterwards.

- Harmonization of questionnaires

8. The representatives of the EEC and the United States expressed the hope that the questionnaires would be simplified as much as possible and harmonized with the other questionnaires to which participants had to reply. The representatives of New Zealand and Australia observed that the questionnaires established under the Arrangement were designed for a different purpose than that of other questionnaires to which participants had to reply. The Chairman said that harmonization with other questionnaires had already been carried out. There were certain differences between the needs of the Committees and those of other bodies. She asked participants to indicate how and to what extent it would be possible, in their view, to harmonize the questionnaires still more with other questionnaires to which participants had to reply.

Review of the market situation for products covered by the Protocol

(a) Current situation and prospects

9. The representative of the United States said that, after increasing for three years, Government purchases of dairy products were dropping. They were declining because commercial sales were up and milk production and marketings were down. With regard to cheese, he said that uncommitted stocks of cheese held by the Commodity Credit Corporation (CCC) had been at 352,000 tons on 21 September 1984, as compared to 412,000 tons on 23 September 1983. Total stocks, i.e. private and government stocks, might decline sharply to 415,000 tons at the end of 1984 as compared to 574,000 tons at the beginning of the year. Commercial disappearance of American cheese has increased by 11 per cent in the period January to July 1984. In the same period, commercial disappearance of other cheeses had increased by 8 per cent as compared to the corresponding period of 1983.

10. The representative of Switzerland said that following measures taken to limit cheese production, output of the product in the third quarter of 1984 would be 6.5 per cent below the level for the corresponding period of 1983. Production would continue to be limited until October 1984 and it was hoped that as a result, output for 1984 as a whole would remain stable in relation to the preceding year. Imports and exports had been increasing slightly in the third quarter of 1984. Consumption was expected to continue to develop, notwithstanding increased prices. Stocks had declined as a result of the measures taken to limit production:

11. The representative of Sweden said that output, imports and exports of cheese had increased in the first six months of 1984. Consumption had dropped back during that same period, but it was hoped that the downtrend would end and that consumption would revive.

12. The representative of Norway said that output and consumption of cheese had increased in the first half of 1984, while exports had declined. At 1 July 1984, stocks had been below their level one year earlier.

13. The representative of Finland estimated that cheese production would show an increase of 1.6 per cent in 1984, reaching 74,200 tons. Consumption could rise by 5 per cent in 1984 to the level of 42,000 tons. Exports were expected to total 35,000 tons in 1984, as against 32,300 tons in 1983. Stocks at 1 July 1984 had totalled 14,000 tons, as at 1 July 1983.

14. The representative of South Africa said that cheese consumption had been increasing in the second quarter of 1984, when consumers had been buying the product in large quantities before an increase in retail prices took effect. As a result, stocks had reached a very low level at the end of the second quarter, but were expected to show an increase at the end of the third quarter of 1984.

15. The representative of New Zealand estimated that cheese production might increase slightly in 1984/85 as compared to 1983/84. A very active sales promotion campaign had been undertaken in order to further stimulate domestic consumption of cheese. Export prices had been stable over the previous quarter at between US\$1,150 and US\$1,200 per ton f.o.b. in major markets and competition continued to be strong.

16. The representative of Japan said that, in the period January to July 1984, imports of cheese had increased by 13 per cent as compared to the corresponding period of 1983. Average import prices in that period had been weak at the level of around US\$1,600 per ton c.i.f. as compared to the average import price of US\$1,760 per ton c.i.f. in 1983. In reply to a question, he indicated that, in the first six months of 1984, imports from New Zealand had increased while imports from the EEC had remained stable and imports from Australia had decreased.

17. The representative of Hungary said that output, exports and consumption of cheese had increased in the first six months of 1984 in relation to the corresponding period of 1983.

18. The representative of Bulgaria indicated that in the second quarter of 1984 cheese production had declined in relation to the corresponding quarter of 1983. Cheese exports were developing satisfactorily. In the second quarter of 1984, average export prices ex factory had been US\$2,500 per ton for ewe's milk cheese, US\$2,950 for Kashkaval and US\$1,300 per ton for cow's milk cheese.

19. The representative of Poland said that cheese production had increased substantially in the first eight months of 1984 in relation to the corresponding period of 1983. Notwithstanding that increase however, it was difficult to meet domestic market requirements. Imports and exports were negligible and stocks were currently at very low levels.

20. The representative of the EEC estimated that output and consumption of cheese could increase in 1984 by 3.2 per cent and 1.8 per cent respectively in relation to the previous year. According to certain projections, production and consumption could increase by a further 1.2 per cent in 1985 in relation to 1984. Exports were expected to show an increase in 1984 and total some 450,000 tons. Replying to a question, he said that exports of Cheddar cheese could amount to 15,000-20,000 tons. Community operators could export Cheddar cheese at prices in a bracket between US\$1,200 and US\$1,250 per ton f.o.b. Leaving aside the situation on the market for Cheddar cheese, characterized by the high level of stocks, the Community could consider itself satisfied with trends in internal consumption and in its trade with third countries.

21. The representative of Australia said that cheese output had increased by 1.8 per cent in 1983/84, to reach 161,000 tons. A slight decline was expected in output in 1984/85 as against 1983/84, to the level of 160,000 tons. Exports had risen to 56,600 tons in 1983/84 as against 53,100 tons in 1982/83. As a result of intensified promotion activities, the Australian market for cheese was developing rapidly. Domestic consumption had increased by 9.9 per cent in 1983/84 in relation to 1982/83. Stocks of Cheddar cheese had been at a fairly high level at 30 June 1984: 75,700 tons as against 64,000 tons one year earlier. Those stocks were increasing and their level was causing some concern. Export prices for Cheddar cheese on the Japanese market were in the region of US\$1,150-1,200 per ton f.o.b.

22. The representative of Uruguay said that cheese output had increased by about 5 per cent in the second quarter of 1984 in relation to the corresponding period of 1983. Exports had also increased in the same period, the principal destinations being other Latin American countries. In the second quarter of 1984, average export prices had been US\$1,636 per ton f.o.b. for soft cheeses, US\$1,474 per ton f.o.b. for semi-hard cheeses, US\$2,208 per ton f.o.b. for hard cheeses and US\$1,200 per ton f.o.b. for processed cheeses.

23. The observer of Canada said that strong cheese consumption in both Cheddar and variety cheeses during the 1983/84 dairy year had served to offset weakened demand for butter. It was not expected that this consumption growth could be maintained in 1984/85. As a result, butter and skimmed milk powder availabilities were expected to increase further. Cheddar cheese consumption had increased during the 1983/84 dairy year by 6,000 tons to reach a level of 97,800 tons. The unprecedented growth reflected increased disposable incomes evident during the year. Variety cheese consumption had also strengthened during 1983/84 to reach 105,700 tons. For 1984/85, cheese consumption was expected to maintain the levels attained in 1983/84; real disposable incomes were not forecast to increase markedly during the period. Further large increases as occurred in 1983/84 were not likely to be realizable.

(b) Communication from the Australian Permanent Mission

24. The Committees had before them a communication from Australia, circulated as DPC/P/W/20, DPC/F/W/14, DPC/C/W/19, regarding an aspect of observance of the Arrangement's minimum price provisions with respect to tenders requiring quotations other than in US dollars.

25. The representative of Australia said that competition for tenders was becoming more and more intense and it was in this area of trade where quotation and offer practices were likely to be subject to closest scrutiny in relation to the Arrangement. The Arrangement required the conversion of an export price to its US dollar equivalent to be made on the basis of the exchange rate on the day of actual sale. He pointed out that there could be difficulties and disputes about compliance with the minimum prices if exchange rates moved between the closing of a tender and the conclusion of the contract, typically four weeks but at times up to six weeks. The risks of substantial exchange rate movements during the period of tendering procedures could be considerable. He emphasized that Australian exporters had been made well aware by the Government that breaches of the Arrangement's minimum price or other provisions were to be avoided and that

certain statutory penalties by way of the revocation of their licences to trade in dary products and in some circumstances, fines may be imposed in relation to breaches by them of the Arrangement. He said that the communication had been made with a view to clarification of the situation and in the view of his delegation, the proposal contained in paragraph 7 of the communication would assist in strengthening the operation of the Arrangement. He emphasized that it was important that equity considerations be satisfied in respect of the level of observance of the provisions of the Arrangement and, in this case, in relation to participation in tenders. Inability to submit a fixed price quote for fear of breaching the Arrangement would further impair the competitive ability of exporters in affected member countries of the Arrangement and would be unsatisfactory in terms of equity considerations as between participants if some members adopted a flexible, more liberal interpretation of the provisions than did others, in order to secure a competitive trading advantage. His delegation hoped that it would be possible to adopt guidelines in order to remove the difficulty.

26. The representative of the United States said that his delegation wished to express its appreciation to the Australian delegation for bringing to the attention of the Committees this very important problem. He noted that his country was not an important exporter of dairy products and that sales were made in US dollars. With regard to the interpretation of the minimum price provisions, his delegation would interpret minimum prices as meaning prices at the time of actual export. However, the Australian delegation had raised a practical problem and the Committees had to find a practical solution to that problem. With regard to the adoption of guidelines, he pointed out that there were very imaginative traders who did not necessarily share with the participants to the Arrangement the importance of observance of the minimum prices. Consequently, the Committees should be very careful if they had to formulate any guidelines.

27. The representative of New Zealand expressed his gratitude to the delegation of Australia for bringing this problem to the attention of the

Committees. His delegation was largely persuaded by the arguments contained in the communication by Australia which suggested that an exporter be required to observe minimum prices on the basis of the United States dollar exchange rate on the day of submission of bids. He agreed that, if the successful tender price was subsequently reduced by post-tender negotiations, compliance with the minimum price provisions should be assessed on the basis of the United States dollar exchange rate on the day on which the contract was awarded. Referring to the suggestion by Australia with regard to the need for additional reporting requirements to be introduced by the Committees, he pointed out that his delegation did not feel that it was necessary to introduce additional reporting procedures to cover such cases. Taking into account the current market situation, in particular current international prices, participants might bring any case before the Committee concerned, for examination.

28. The representative of Australia noted that a great deal of additional reporting would not be required. However, his delegation was open on this point and could accept a consensus.

29. The representative of South Africa thanked the delegation of Australia for raising this problem. His country was not an important trader in dairy products and had since March 1984 quoted in United States dollars. The note by Australia outlined a very specific problem. His delegation could go along with the practical solution proposed in the note by Australia.

30. The representative of the EEC thanked the Australian delegation for having raised a problem of some importance. Under Article 3:1 of each of the Protocols, participants undertook to take the steps necessary to ensure that the export prices of the products defined in the Protocols were not less than the minimum prices. With regard to steps taken by the Community in accordance with that provision, the Community had fixed an export refund taking account of the market price of the product, various costs, inter alia, conversion to f.o.b., administrative and financial costs and

the operators' margin. In addition, the refund was fixed taking account of costs of the most efficient operators, involving some discrimination in respect of operators who in fact had higher costs. Furthermore, the refund was fixed in advance when an operator participated in a tender procedure. Accordingly, on the basis of the refund, various costs and the exchange rate for the US dollar on the date of submission of the offer, the Community operator was in a position to observe the minimum price. However, after the closing date for submission of offers, the price fixed by the successful bidder could be lowered following negotiations. In particular, the operator concerned could lower his initial price by foregoing part of his profit. Such negotiations could sometimes last one to two months. Meanwhile, the reference currency - the US dollar - could appreciate in relation to the currency indicated by the bidder in his tender. As a result of that monetary fluctuation, the offer price, which initially had not been below the minimum price, could fall below it. Furthermore, if Community operators made offers with products not of Community origin, the Community could not oblige them to observe the minimum prices. The problem raised by Australia was indeed an important one. Nevertheless, account should also be taken of other elements such as freight and credit which could influence the offer price and observance of minimum prices. Often, for example, offers were made on a c.i.f. basis and the terms of sale involved a credit. Maritime freight and insurance costs were variable and not verifiable. Having regard to the current market situation, a sale on a c.i.f. basis could result in an f.o.b. price lower than the minimum price. An interpretation of the provisions of the Arrangement such as had been proposed by Australia could be used to create abuses of the Arrangement or in a manner not readily verifiable. Accordingly, the Community could not support the Australian proposal. In the view of his delegation, a pragmatic solution should be sought to the important problem that Australia had raised. Consequently, he suggested that in the event that, because of unforeseen exchange-rate fluctuations, the fixing of an offer price in national currency would result in a selling price lower than the minimum price, participants should undertake to inform

the Committee concerned of all details of the transaction. He suggested furthermore that the Committees revert to the matter at their December 1984 sessions.

31. The representative of New Zealand said that he could support the proposal made by the representative of the EEC; however, he could not go along with all the reasoning behind that proposal. In the view of his delegation, a number of factors mentioned by the representative of the EEC, were not directly relevant to the problem raised by Australia. He noted that the EEC was unable to control the offers made by traders at prices below the minimum price given the prefixation of the restitution. In the view of his delegation, it was up to the EEC to put in place a mechanism in order to ensure the observance of the minimum prices. He emphasized that, in the case of his country, the Dairy Board had an obligation to observe the minimum prices.

32. The representative of Norway, speaking on behalf of the Nordic countries, thanked the representative of Australia for bringing this question before the Committees. The Nordic countries shared the views expressed by the representative of the EEC. With regard to the proposal made by Australia, he pointed out that it was not desirable to have guidelines outside the text of the Arrangement. He recalled that in conformity with the Arrangement, participants undertook to take the steps necessary to ensure that the export prices of the products defined in the Protocols were not less than the minimum prices. Consequently, the Nordic countries would not recommend any other reference for price fixing than that of the day of the sale. However, the position taken by the Nordic countries on this matter was preliminary. Since this question was discussed for the first time in the Committees, he suggested that a final solution or decision should be postponed to a later session. He supported the suggestion made by the representative of the EEC to revert to this question in the December sessions of the Committees.

33. The representative of Australia said that, as already reported, his government had taken steps to ensure observance of the minimum prices; in the event of infringement of the minimum price provision Australian exporters could be liable to certain statutory penalties and, in some cases, a fine. He reiterated that equity as between participants would not be observed if some members adopted a more flexible and liberal interpretation of these provisions than other members in order to secure a competitive trading advantage. In the view of his delegation, the minimum prices must be observed, and some verification should be possible. His country's communication suggested that the date of submission of the final offer should be considered to be the date of actual sale for purposes of interpretation of the Arrangement. Referring to the statement by the EEC representative, he wondered whether it would be possible to set up a specific mechanism applicable to refunds granted in the case of tenders.

34. The representative of the EEC reiterated that the export refund was fixed taking account of the Community's commitments under the Arrangement. When the Arrangement was being negotiated, efforts had been made to ensure that its provisions took account of the administrative and political possibilities of each of the participants. During those negotiations there had been no question of imposing penalties or fines in the event of infringement of the Arrangement's provisions.

35. The representative of Japan said that he can only express a preliminary view on this matter. His authorities were still examining the communication transmitted by Australia. This proposal deserved careful examination in order to find a practical solution on this specific issue.

36. The representative of Australia observed that on the one hand his country would not wish to place its exporters in a situation disadvantageous to them, but that on the other hand undertakings had been given in order to ensure observance of the minimum prices. As already

mentioned, his country's proposal had been made with a view to clarification of the situation and should contribute to strengthen the operation of the Arrangement. He asked what would happen if, because of exchange-rate fluctuations between the date of submission of the final offer and the closing date of the tender, the price dropped below the minimum price. Furthermore, he underlined that in the event that the price fixed by the successful bidder was lowered following negotiations after the submission, observance of the minimum price should be evaluated on the date on which the contract was awarded.

37. The Committees recognized that the problem was serious and thanked Australia for having raised it. They reaffirmed the importance of strict observance of the provisions of the Arrangement and participants were urged to do their utmost to ensure it. In the event that, because of unforeseen exchange-rate fluctuations, the fixing of an offer price in national currency would result in a selling price lower than the minimum price, the Committee concerned should be informed as soon as possible of all details of the transaction. The Committees agreed to keep the matter on the agenda for their next sessions.

Review of the level of the minimum price for products covered by the Protocol

38. In accordance with Article 3:3 of the Protocol, the Committee reviewed the level of the minimum price for products covered by the Protocol.

39. The representative of New Zealand recalled that in September of each year the minimum price was subject to review by the Committee on the basis of criteria listed in Article 3, paragraph 3(b) of the Protocol. In the view of his delegation, several factors would justify an increase in the minimum price, in particular costs faced by producers, the need to maintain a long-term minimum return to the most economic producers and the need to maintain stability of supply. However, the Committee must face the fact

that the current market situation was not conducive to an increase in the minimum price. For this reason, his delegation had decided to refrain from proposing an increase in the minimum price at the present session.

40. The representative of Australia supported the views expressed by the representative of New Zealand. He added that taking into account the current market situation, his delegation would not propose at the present session any increase in the minimum price. Equally though, his delegation did not believe that there was merit in contemplating a reduction in the minimum price. In his delegation's view, to decrease the minimum price simply because the market was in difficulty, would defect the purpose of the minimum price.

41. The representative of the EEC said that his delegation had no proposal to make regarding modification of the minimum price. On the other hand, his delegation considered it necessary to take account of exchange-rate fluctuations for the US dollar on exchange markets. The fact that, since 1 October 1981, the US dollar had appreciated by 45 per cent in relation to the ECU could be interpreted as a proportionate increase in the minimum prices.

42. It was noted that several factors that would justify an increase in the minimum price had been mentioned by certain delegations, in particular costs faced by producers. The Committee considered, nevertheless, that having regard to other factors, inter alia the market situation and monetary fluctuations, there was no need to modify the minimum price for the time being.

Other business

Communication from the New Zealand Permanent Mission

43. The Committee had before it a report on sales of cheese by New Zealand under Article 7:2 of the Protocol (DPC/C/W/15/Add.3).

44. The representative of New Zealand referred to communications circulated as DPC/C/W/15/Add.2 and Add.3 and said that sales in the period 1 January to 12 September 1984 had totalled 2,170 tons. It was not New Zealand's intention to carry out any other exports under the derogation during the remainder of 1984. In reply to a question by the EEC representative, he recalled the interpretative statement made by his country and included in the appendix to the Arrangement according to which the annual quantities of New Zealand's exports under Article 7:2 of the Protocol should normally be of the order of 1,000 metric tons and could, in exceptional circumstances, amount to some 2,000 metric tons. The current circumstances being exceptional, in 1984 his country had exported a quantity of 2,170 tons of cheese under the derogation.

Communication from the Australian Permanent Mission

45. The Committee had before it a communication from Australia regarding recourse by that country to the provisions of Article 7:2 of the Protocol (DPC/C/W/20).

46. Referring to the communication circulated as DPC/C/W/20, the representative of Australia said that in accordance with Article 7:2 of the Protocol his country had notified the secretariat of its intention to export, at a price below the minimum price, small quantities of cheese that had been downgraded after storage due to the development of off-flavours. In order to avoid any ambiguity, the second sentence of document DPC/C/W/20 should be amended to read: "A portion of that cheese had already been exported to Japan before the fault was discovered. This product will either need to be discounted in the Japanese market or re-exported to some other market". The quantity of cheese that had been downgraded and would have to be sold at a price below the minimum price was some 750 tons. Details of disposals of the cheese concerned would be communicated in accordance with Article 7:2 of the Protocol. On the other hand, a quantity of some 4,000 tons of inferior quality cheese was currently being downgraded following a production fault. His delegation was not yet in a position to give any indication as to the end-use of that batch of poor-quality cheese.

47. The representative of the EEC said that his delegation hoped that Australia would not export the batch of poor-quality cheese but would either dispose of it on the domestic market or destroy it.

48. The representative of Australia reiterated that no decision had yet been taken as to the end-use of the batch of 4,000 tons in question, and that information on the subject would be communicated to the Committee in due course.

Report to the Council

49. The Committee agreed that an oral report on the discussions at the current session would be presented to the Council.

Date of next session

50. In accordance with the preliminary calendar, it has been decided that the Committees will hold their twentieth session consecutively on 17, 18 and if necessary 19 December 1984, subject to confirmation by the secretariat. The session of the Committee of the Protocol Regarding Certain Milk Powders will be followed by the session of the Committee of the Protocol Regarding Certain Cheeses, and then the session of the Committee of the Protocol Regarding Milk Fat.

ANNEX/ANNEXE/ANEXO

LIST OF REPRESENTATIVES - LISTE DES REPRESENTANTS -
LISTA DE REPRESENTANTES

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