

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED
Spec(85)3
18 January 1985

International Dairy Arrangement

INTERNATIONAL DAIRY PRODUCTS COUNCIL

SPECIAL MEETING

Draft Report

Chairman: Mr. D. Greenfield

1. The International Dairy Products Council held a special meeting on 13 and 16 November 1984, under the terms of Article IV:6 of the Arrangement.
2. The Chairman recalled that, under the terms of Article IV:6 of the Arrangement, the Council was requested to meet on 24 October to take note of a report by the Committee of the Milk Fat Protocol on its meeting of 23 and 24 October. The Committee had considered the measures announced by the Commission of the European Communities (document DPC/F/W/15 and Corr.1) but was not able to reach a satisfactory solution under the terms of Article IV:6 of the Arrangement. The Council had agreed that intensive consultations should be held in view to seeking a solution. Consultations had been held and participants had received a draft resolution, which was the result of these consultations. The Chairman stressed the importance of the problem and the urgency of finding a solution thereto.
3. The representative of the European Economic Community said that in the course of intensive discussions between the three parties most interested in the matter an in-depth examination had been made of the content and scope of the EEC measures, whose entry into force had been postponed for ten days or so. The examination had covered internal measures as well as measures that had or could have an effect on exports. With respect to internal measures, the EEC had explained all those taken at the level of production and consumption and had noted the alternatives proposed for

eliminating surplus stocks, the main subject of the concern expressed. It had been agreed that contacts should be maintained at both bilateral and multilateral level, and the EEC remained ready to study any suggestions made. With respect to the impact of export measures, particular account had been taken of two elements. First of all it had been agreed that everything should be done to preserve the Arrangement, which was a fundamental instrument. In addition, in the detailed examination of markets to which sales were to be made, it had become apparent that operators viewed the action envisaged by the EEC as disruptive for the world market, and it had been recognized that the relevant regulations would have to be revoked as soon as possible. It had been agreed that the EEC's trade partners should be able to safeguard their position because of the effect that the Community measures could have on their competitive situation. It was important in those conditions to maintain a balance between the rights and obligations of all concerned. Various possibilities had been studied for dealing with the matter within the framework of the Arrangement. It had been agreed that a solution should preferably be found in terms of Article IV:6, i.e. by endeavouring to define the duration of application of the Community measures, the attitude of the EEC's partners and the safeguards to be attached to all the operations concerned. That was the aim of the draft resolution which had been drawn up to contribute to a pragmatic solution that seemed the best course in current circumstances. If that text was adopted the Council would have a threefold rôle. It would have to monitor the operations envisaged by the EEC and consequently by its partners, and would also have to continue to review EEC measures taken at internal level, and would have to act as counsellor. In the second place, the current market situation being that described in Article 4 of the Protocols (independently of the operations envisaged), the Council would have to ensure that a maximum of information was communicated on the products covered by the Protocols. Lastly it had been agreed that at its next meeting the Council would begin to consider how the Arrangement could be supplemented or amended so as to preclude any recurrence of the situation which in recent months had been threatening the operation of the Protocols and had led to the EEC action. Such discussions, possibly followed by negotiations, should show how the

Protocols could be strengthened because in the consultations just held it had been recognized that the Arrangement must remain the framework for the policy, rules and disciplines to be observed by each partner in dairy trade, production and consumption.

4. The representative of New Zealand noted that the representative of the EEC had presented the new and important decision according to which the provisions of Title II of Regulation (EEC) No. 2956/84 were to be revoked at a very early date. His delegation wished to make the point that the fact that the representative of EEC had addressed the meeting first did not imply that he had been speaking on behalf of the parties who had conducted the intensive consultations. His delegation would wish to recognize that the Community had participated on a very fair and appropriate basis in the consultations. His delegation wished also to note the important decision taken by the Commission to suspend the entry into force of the regulation while those consultations had taken place and while this Council had the opportunity to reassess its position. However, his delegation ought to underline that the problem remained one of considerable seriousness. He reiterated the view expressed by his delegation at the previous special meeting of the Council, namely that the situation could still be defined as a cross-road. There was a choice to seek to find on a co-operative basis some way of dealing with the present difficulties or there was no other option but the utmost damage to the International Dairy Arrangement and its potential total failure. He noted that there had been three stages in the consideration of the problem. In the first stage, the Committee of the Protocol Regarding Milk Fat had found that the sales envisaged under Title II of the Regulation (EEC) No. 2956/84 were not consistent with the provisions of Article 3 of the Protocol. The proposal for the sales at prices below the minimum price had been open-ended in time, open-ended in its adverse market potential effect. In addition, there had been no limitations implied as to how extensive the disposal might be. He recalled that at the special meeting of the Protocol Committee the effects of that action on the interests of other participants had been analysed. He recalled also that the view was shared that that action was dangerous and damaging. The second stage had been to refer that judgement to the Council

given that the Committee had found itself in a situation where a satisfactory solution could not be reached. The Council had urged participants to hold intensive consultations. These consultations had been conducted and the parties were now reporting to the Council. Therefore, the third stage was in the view of this delegation an adjudication. His delegation wished to reiterate that the Commission had reached the important decision to terminate the regulation at a very early date. However, it had been the hope of New Zealand that the Commission would withdraw the regulation without any sales being made at all. His delegation had to recognize that once the action had been taken by the Commission, certain juridical and commercial forces had come into play of which it had been appropriate to take account. A second consideration was, in the view of his delegation, an examination of the motivations of the Community in initiating that action. In the course of the consultations, the parties had been able to draw the conclusion that the Community's motive had not been essentially a selfish one. His delegation had to acknowledge the Community's argument that there was an opportunity for sale in one major market which would in fact be potentially additional to the anticipated international trade this year. In those circumstances, it had been possible for New Zealand to recognize that there was a way in which the impact of the action could be limited in its effect on the international trade of other interested parties. He underlined that his delegation had expressed and continued to express the utmost caution. It was not certain that it would end that way. However there was a basis on which one could judge the potential effects as being limited to those mentioned earlier. If this conclusion proved to be wrong then a very serious problem would arise. In these circumstances, the only way to proceed sensibly was to require reporting and to monitor that action closely in order to maintain the surveillance responsibility. The second requirement in these circumstances was that the rights of other participants were preserved and their ability to act to protect their interests in the market conditions which would prevail in the coming weeks. The third element examined in the consultations was the long-term approach. His delegation had hoped that the domestic constraint policies which the EEC and other participants had put in train would in fact work in a

reasonably speedy time frame to bring greater balance into national and international supply and demand situation. His delegation had urged the EEC to evaluate alternative proposals for disposing its surplus stocks, particularly of butter, in the domestic market and had been encouraged by the positive nature of the Commission's response. His delegation had recognized that efforts had already been made in the EEC and in some other countries holding surplus stocks not to place the burden of the adjustment totally on the external market. He hoped that this process would continue to be carried out even more intensively. The other part of the analysis regarding the long-term approach had been to examine the possible attitude of the EEC should the stocks build up again in the future to a very high level comparable to the present level and to see if the EEC would seek to repeat the action. It was the intention of the EEC not to come forward in the future with a programme of the kind discussed in the present meeting. If a difficult situation arose, participants should work out the answers in a consultative manner and discuss the policies and the programmes before taking action to implement them in order to be certain that the interests of all parties were taken into account in trying to resolve the problem. The reaffirmation of the commitment was an important element in dealing with the difficulties and working towards a solution. Following all that evaluation, a number of options had been examined before concluding that the proposal that was tabled before the Council, i.e. a resolution of the Council was the preferred route. His delegation wished to make clear that by proposing a resolution in this form there was no judgement other than that the Community had infringed its obligations under the Arrangement. However, his delegation believed that a balanced judgement leaned in the direction of registering a very firm caution to the Community. There was a need for regular reporting by the EEC and evaluation of its position. He believed that this approach was consistent with the GATT practice. He agreed with the representative of the EEC that this was a pragmatic solution to the problem. He said that the proposed text was not a perfect document and that delegations might wish to consider introducing amendments. In these circumstances, it was possible that the Council could not reach a definitive judgement on the present day. However, his delegation ought to underline that there was an absolute requirement to

resolve this matter in the course of the present week. The market implications were considerable. He suggested that the Council might adjourn now and reconvene later in the present week with a view to reaching a decision on the matter. His delegation wished to underline again that the objectives set upon were to find solutions which were consistent with maintaining the integrity of the International Dairy Arrangement and protecting the interests of other participants in the international dairy trade. His delegation believed that the approach put before the Council went as far as possible to reaching a balanced adjudication consistent with those two objectives.

5. The representative of Uruguay noted two positive developments since the Council's last meeting - postponement of the date of entry into force of Regulation (EEC) No. 2956/84, originally set for 5 November 1984, and a statement that the provisions of Title II of that regulation would be revoked in the near future. Nevertheless, the draft resolution caused some problems for his delegation. The Committee of the Protocol Regarding Milk Fat had found at its meeting of 23 and 24 October 1984 that the sales planned under Title II of that regulation were not consistent with the provisions of Article 3 of the Protocol. At that same meeting, a derogation had been requested under Article 7 of the Protocol. In the view of his delegation the draft resolution failed to make clear that the EEC was attacking the very essence of the Arrangement, namely the minimum price mechanism. Paragraph 2 of the draft resolution would allow other participants to take measures to safeguard their position, for example by making sales at prices below the minimum prices, which was tantamount to saying that the EEC could infringe the minimum price provisions and that other participants with sufficient financial capacity could follow that example. Uruguay was a small exporter of butter and accordingly could not compete with major exporters for lack of the necessary financial capacity. Uruguay's butter exports were not subsidized and any sales by large exporters at prices below the minimum would cause it serious injury. In the view of his delegation, the draft resolution in fact constituted an arrangement among major exporters. With respect to the trade aspect of the matter, the two markets to which the EEC was to export butter - the USSR

and Iran - were precisely two markets to which his country had exported butter in recent years. EEC sales in breach of the minimum price provisions of the Protocol would exclude Uruguay from those markets. The objectives of the Arrangement were to achieve the expansion and ever greater liberalization of world trade in dairy products under market conditions as stable as possible, on the basis of mutual benefit to exporting and importing countries, and to further economic and social development of developing countries. One could well wonder how the latter objective could be achieved having regard to current circumstances in which his country would suffer serious injury. In the view of his delegation, the text of the draft resolution afforded no satisfactory solution to the problem under reference.

6. The representative of the United States said that his delegation was very concerned at the problem. He expressed the view that the future course of this Council and the future course of trade policy in dairy products would be determined by the decision to be taken on this issue. His delegation was concerned that the draft resolution focused almost entirely on a short term problem created by the sale of butter to the USSR. His authorities foresaw a long period of structural over-supply in the dairy sector. For this reason, his delegation was very concerned about the practical solution proposed in the draft resolution and thought that the long-term aspect had not been taken into account sufficiently. He recognized that the parties which had entered into consultations to arrive at this solution had acted in good faith. His authorities had examined very carefully the draft resolution. The immediate concern was to preserve the International Dairy Arrangement but at the same time in this resolution the fact was accepted that the Arrangement did not work. His delegation could not consider that the basic tenet of the Arrangement was sustained by the draft resolution. If a decision was to be taken on this resolution at the present meeting, his country could not support it. At the same time, his delegation had no alternative to offer, but it was imperative that the Council evaluate the situation carefully with particular attention to the implications of this draft resolution in its current form with regard to the world supply and demand situation in the future.

7. The representative of Australia said that his country had entered into urgent tripartite consultations in Brussels with a view to seeing what could be done to retrieve a very difficult situation. The outcome of these consultations was reflected by the draft resolution proposed to the Council at the present meeting. His authorities considered that the International Dairy Arrangement was now facing a very serious crisis and that the trade in dairy products was also in crisis at least in the short term and probably on a continuing basis for some years ahead. He pointed out that Australia had always seen the Arrangement as a very fragile instrument. In the view of his delegation, the only manner to keep in place the minimum price provisions was the commitment and goodwill on the part of the participants. He pointed out that participants were facing a difficult situation where a delicate balance should be maintained between the disciplines contained in the Arrangement, in particular the observance of minimum prices and the provisions for safeguard and emergency action. As a result of the intensive consultations in Brussels, his delegation considered that it was worth trying to bring the International Dairy Arrangement back into operation by means of the proposals in the draft resolution. If the Arrangement could be revived this way, then the market would receive a signal that the Arrangement was still workable despite the pressures it had come under, but it needed to receive that signal very quickly. In fact, a decision one way or the other on the draft resolution was needed in the course of the present week. If a decision could not be reached very quickly his country might have to have recourse to the provisions of the Arrangement providing for either unilateral safeguard action or withdrawal. 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 dairy products and, in some circumstances, fines, may be imposed in relation to breaches by them of the Arrangement. He noted that other participants had not taken such drastic measures requiring the strict observance of the minimum prices. The fact that Australia had taken such drastic measures was one of the reasons why his authorities needed a very quick decision on this draft resolution. His country had to reserve its

rights and to safeguard its particular interests. In the view of his delegation, the proposed draft resolution put the International Dairy Arrangement back in place with one exception, perhaps two exceptions. On the one hand, the EEC would have made a major sale clearly in breach of the Arrangement. On the other hand, other participants such as Australia might need to take safeguard action in the short term to protect their interests. He noted that it seemed that in the present circumstances it would be very difficult to effect sales of butter at or above the minimum price fixed in the Arrangement. The market was damaged and exporters had to operate in that market and had to take a very urgent safeguard action.

8. The representative of Austria thanked the delegations principally concerned for the additional explanations they had given. While understanding the concern of other parties, his delegation considered nevertheless that the draft resolution proposed a pragmatic solution to the problem and, after having examined the conditions set forth in the text, could accept it.

9. The representative of Finland, speaking on behalf of the Nordic countries recalled that at the meeting of the Committee of the Protocol Regarding Milk Fat held on 23 and 24 October 1984, the delegations of the Nordic countries had emphasized the importance they attached to the strict observance of the International Dairy Arrangement and in particular to the minimum price provisions contained in that Arrangement. The delegations of the Nordic countries had also expressed their concerns as to the implications of sales effected at prices below the minimum prices. The Council disposed now of a draft resolution and had received explanations from the delegations having participated in the drafting of this resolution. In the light of his statement made in the earlier meeting, he could note with some satisfaction that the draft resolution contained in its paragraph (6) the reaffirmation of the importance that all participants attached to the Arrangement and the need to pursue the objectives set for it. He also noted that in paragraph (4) the EEC stated that the provisions of Title II of Regulation (EEC) No. 2956/84 were to be revoked at a very early date. It was his sincere hope that this could be done as soon as

possible. He also agreed that in the present situation, close co-operation among participants was more than ever necessary (paragraph 7 of the draft resolution). He asked whether the detailed information sought in pursuance of Article 4 of each of the Protocols was a reaffirmation of existing requirements concerning information. He stated that as the delegations of the Nordic countries had received the draft resolution the day before the present meeting they had not had enough time to consult their authorities. He noted that the representative of New Zealand had proposed that the Council might revert to this question later during the present week, with a view to reaching a decision on the matter. He could support this proposal because in this way the delegations of the Nordic countries might receive proper instructions from their authorities.

10. The Chairman noted that paragraph (7) of the draft resolution did not add anything to the obligations which already existed in Article 4 of each of the Protocols.

11. The representative of Japan stated that his country, as a member of the Arrangement and although being a net importer of dairy products, was very concerned at the issue discussed because the survival of the Arrangement was at stake by the action taken by the EEC. He recalled that at the meeting of the Committee on 23 and 24 October 1984, his delegation had noted that the Arrangement was facing a crisis. After having noted the explanations given by the representatives of New Zealand and Australia on the proposed draft resolution his delegation had to reaffirm that the Arrangement was facing a crisis. The essential mechanism of the Protocol i.e. the observance of the minimum price provisions, was in danger. In these circumstances, his delegation doubted that the present levels of the minimum prices were appropriate taking into account the current market situation. With regard to the draft resolution, he noted that the provisions of Title II of Regulation (EEC) No. 2956/84 were to be revoked at a very early date. In this connection, he asked the representative of the EEC to indicate the quantities of butter expected to be exported to the USSR until the regulation was abolished. He asked also some clarification on the safeguard action provided in paragraph (2) of the draft resolution.

He noted that the draft resolution recalled that the Committee of the Protocol Regarding Milk Fat had found that the sales envisaged under Title II of the above-mentioned regulation were not consistent with the provisions of Article 3 of the Protocol. His delegation felt doubts on the question of the legality of the draft resolution itself and would welcome a clarification on this matter. He concluded by recalling that a consensus was needed in order to reach a solution.

12. The representative of the EEC answered questions raised by certain delegations. In reply to the representative of Uruguay, who saw the draft resolution as an arrangement between major exporters that would place other exporters in a difficult situation, he said that the measures adopted by the EEC provided for two kinds of sales. On the one hand, sales at prices above the minimum price and, on the other hand, low-priced sales aimed at consumers who were purchasing vegetable fats or no fat at all taking into account the situation existing in the USSR. To a certain extent and having regard to the safeguards attached to the operation, the Community had taken account of the interests of other exporters such as Uruguay for which the USSR market was of interest. Referring to the remarks made by the United States representative, the EEC representative said that whereas the United States viewed the draft resolution as aiming to deal with a short-term difficulty, the real problem was the surplus situation that was likely to continue for months or even years. The EEC had taken measures at the level of both production and consumption. Since the introduction of a system of production quotas for milk on 31 March 1984, butter output had declined by 9 per cent and for 1984 as a whole was expected to be down 6 to 7 per cent in relation to 1983. The EEC was indeed faced with a problem of surpluses, as were other participants. The Council should endeavour to strengthen its activity, and the EEC, for its part, was ready to examine the long-term problem and seek possible solutions. Referring to certain remarks made by the representatives of the United States and of Japan, the EEC representative concurred that some participants might understandably have difficulty in agreeing to a draft resolution. Article VII:1(c) of the Arrangement stipulated that the Council was to reach its decisions by consensus. It was deemed to have decided on a matter submitted for its

consideration if no member of the Council formally objected to the acceptance of a proposal. Since the representative of the United States had stated that his country had no alternative solution to propose, it would suffice if he made no formal objection to acceptance of the resolution.

13. The representative of the EEC said, in reply to the Japanese representative, that he was not currently in a position to give any estimate of the butter quantities that could be sold to the USSR at low prices. Under paragraph 2 of the draft resolution, other participants could make sales at prices below the minima in order to safeguard their trade interests. The draft resolution proposed a pragmatic solution to the problem under reference. If maintained, the EEC butter stocks would affect international prices because the very existence of such a substantial surplus had a depressive effect on the international market. In connection with paragraph 7 of the draft resolution, it would be useful to implement the provisions of Article 4 of each of the Protocols annexed to the Arrangement, and detailed information should be furnished in pursuance of that provision.

14. The representative of New Zealand made the following comments with respect to statements made by certain delegations. Referring to the statement made by the representative of Uruguay he recalled that the draft resolution contained the finding of the Committee of the Protocol according to which the sales envisaged under Title II of the EEC Regulation No. 2956/84 were not consistent with the provisions of Article 3 of the Protocol. Referring to the statement made by the representative of the United States he said that he could fully acknowledge that the approach in the draft resolution did address essentially the short term given the nature of the problem and the concerns felt by certain delegations. However, the longer term aspects were not neglected. He noted that in paragraph (5) the Council urged the EEC, and all participants concerned, to pursue a policy designed to reduce stocks and ease market pressure caused by them, both through measures at the level of production and measures in regard to developing consumption, and requested them to keep it informed of

progress made in this area. Obviously this paragraph was directed to participants holding non-commercial stocks. He added that paragraph (6) of the draft resolution dealt also with the longer term aspects of the problem. Referring to the concerns expressed by the representatives of Uruguay and Japan as to how the paragraph (2) of the proposed text would operate, he said that it was the hope of New Zealand's commercial authorities not to take safeguard action. However, the intentions of the major buyers were not yet known. Therefore, other participants placed themselves in an essentially defensive reaction mood. He underlined that paragraph (2) of the draft resolution might be interpreted as a measured set of responses which were open to the participants affected by the Community measures. He also underlined that all the measures would be subject to the monitoring and review by the Council over the intervening period and in a further meeting envisaged in December 1984. He hoped that commercial operators would certainly closely co-operate together to ensure that a further set of actions and reactions would not occur. With regard to the question raised by Japan about the legal position, he pointed out that the Council was meeting under the terms of Article IV:6 of the Arrangement with a view to facilitating a satisfactory solution. He indicated that if the draft resolution was adopted by consensus it would be considered as a decision by the Council and would therefore meet the legal requirements.

15. The representative of Uruguay said that while his delegation had no doubt that the Council was entitled to take such a decision, the problems his delegation had mentioned remained. On the one hand, the EEC had decided to sell butter at prices below the minimum price and on the other hand, the draft resolution stipulated that in the circumstances thus created other participants might wish to take action to safeguard their position by making sales at prices below the minima specified in the Protocols. His delegation feared that the EEC or another participant might undertake similar action in the future. He reiterated that the draft resolution raised problems for his delegation.

16. The representative of South Africa said that his delegation recognized that the proposed resolution constituted a pragmatic solution to the problem. He wished to express the appreciation of his delegation to the three parties who engaged consultations in the previous week. However, he wished to express his delegation's serious concern as to the apparent papering-over of the real issue. In this regard, his delegation shared the concerns expressed by the delegations of the United States, Japan and Uruguay. However, in the light of explanations given by the participants which had entered into consultations, his delegation would not oppose the adoption of the resolution. He emphasized that he was concerned firstly as to the adequacy of the resolution in satisfying all the implications of the proposed measures and secondly by the precedent which might be set in the adopting of such a resolution.

17. The representative of the United States said that after having taken careful note of the remarks made by the parties to the drafting of the proposed resolution, his delegation still had not been persuaded by the arguments presented. Consequently, his delegation opposed the adoption of the resolution.

18. The representative of the EEC noted that the United States viewed the solution suggested as aiming to deal with a short-term problem, but had presented no other explanations for opposing adoption of the resolution. Furthermore the EEC and New Zealand delegations had tried to reply to the concern expressed by the United States in regard to long-term surplus problems. The text of paragraph 5 of the draft resolution, which referred to long-term surplus problems, could perhaps be made more specific in order to respond to United States concern.

19. The representative of the United States said that he had taken careful note of the discussions held on that day and that he was prepared to give them due and proper consideration.

20. Summing up the discussion, the Chairman said that due note had been taken of statements made and explanations given regarding the consultations

held. Participants had been informed of the reasons for the proposed action and could appreciate the implications of adopting the draft resolution before them. Some amendments had been made to it, and others were possible. His first concern was to maintain the viability of the Arrangement; in the current complex and difficult situation it was important to maintain a balance between the disciplines set forth in the Arrangement and the Protocols, and provisions regarding safeguards and emergency action. Consequently, the matter and the proposed action should be evaluated very carefully. Some time was needed to consider the draft resolution and allow consultations, and the meeting would therefore be adjourned until 16 November. The Council had noted that the Commission of the European Communities had decided to revoke the regulation provisions providing for disposal of a certain quantity of butter at a price not consistent with Article 3 of the Protocol Regarding Milk Fat. It had likewise noted what had just been said regarding long-term approaches to deal with stock problems that could be considered at a later stage.

21. When the Council resumed its discussion on 16 November it had before it the revised text of the draft resolution. The Chairman expressed the hope that in the interim, participants had been able to obtain the necessary instructions, and recalled the importance for certain delegations of a decision being taken at the current meeting.

22. The representative of the United States recalled the statement he had made on the first day of the meeting. Following consultations and requests made to him, his delegation had reconsidered its position but wished nevertheless to underline that in its opinion the infringement of the Arrangement's provisions would deprive that instrument of some of its significance. In case the decision were to be adopted, his delegation wished to make certain points clear. With respect to paragraph 2 of the draft resolution, his delegation considered that the safeguard measures foreseen concerned all participants and could not be limited to certain markets. With respect to the resolution itself, his delegation considered that it went beyond the framework of the Arrangement. The latter had been negotiated carefully, a resolution did not have the force of a treaty and

could not modify the Arrangement. His delegation had responded to the request made to it not to oppose adoption of the resolution, but would study the situation in order to see whether the United States would withdraw from the Arrangement.

23. The representative of Finland, speaking on behalf of the Nordic countries, recalled that their position had already been indicated in October. One of their principal concerns was that in their view sales of that kind could well result in a general decline in world market prices for butter. Several options were possible in that situation, such as a temporary reduction of the minimum prices. The Council had preferred to examine the possibility of a resolution and the Nordic countries were ready to follow that course, while sharing the concern expressed by the United States representative, in particular regarding safeguard action; the latter concerned all participants and could not be limited to certain markets. The Nordic countries were also concerned over the fact that adoption of the resolution must not be viewed by operators as an invitation to sell at less than the minimum prices. Paragraph 3 should emphasize that participants must exercise the greatest restraint. The Nordic countries would be studying the world market for butter very carefully, and reserved their rights to revert to the matter at a future session.

24. The representative of Poland said that his delegation would not oppose adoption of the resolution, but nevertheless felt some reticence regarding it. Given the general situation of the dairy market it was and would be impossible to restrict the trade effects of the transaction under reference to any particular market. It should be made very clear that if Polish traders were confronted with a negative price consequence of this situation on the markets where they operated, the provisions of paragraph 2 of the draft resolution would be fully taken into consideration as regards the necessity to safeguard the legitimate commercial interests.

25. The representative of Hungary recalled that at the special meetings in October he had expressed misgivings over the EEC's intention in regard to butter sales at a price below the minimum price fixed by the Arrangement.

His delegation was particularly concerned over the legal aspect of the infringement. For Hungary, to preserve its trade interests, it was of vital importance that GATT rules and obligations be fully respected by all contracting parties and it could not accept any policy of accomplished fact. Accordingly, it would have been logical for his delegation to oppose the draft resolution. Such an attitude, however, could be detrimental to certain efficient producers particularly affected by the Community measure. Accordingly, his delegation would not oppose acceptance of the resolution, while reserving its position of principle and all its rights whether under the Arrangement and the resolution, or under the General Agreement.

26. The representative of Uruguay reiterated that in legal terms the Community measures constituted an infringement of the Arrangement, and in particular of Article 3 of the Protocol, and would have serious consequences, probably on most markets. The draft resolution did not take account of the interests of all participants, in particular developing participants, because the safeguard clause allowing sales at prices below the minimum price would be applied to most markets, including those of interest to Uruguay which had neither the means nor any intention of subsidizing its exports.

27. The representative of Argentina, recalling that he had already had occasion to indicate his position, agreed with earlier speakers that the principle of adoption of such a resolution ran counter to the Arrangement which called for observance of minimum prices. The Council had been placed before an accomplished fact since the regulations communicated to it, which could not be amended, provided for sales at a price below the minimum price. The speaker referred to statements made since the entry into force of the Arrangement and to appeals that had been made since that time for responsibility in EEC stock policies. Adoption of the draft resolution could have very harmful consequences for other codes and arrangements by creating a precedent. In the text proposed, paragraph 2 should stipulate the rights of other participants, in particular developing-country participants which did not have the means to grant subsidies.

28. Supplementing his earlier comments, the representative of Japan noted that the fundamental cause of the problem was the EEC's dairy policy, referred to in paragraph 5 of the draft resolution. All participants recognized the dilemma in which they found themselves and the difficulty of finding a satisfactory solution within the strict framework of the Arrangement. Given that situation, an attitude of harmonious co-operation between participants was fundamental, and his delegation could accept the text, while reserving its rights under the Arrangement and the General Agreement. His delegation felt some concern over the remarks by the representatives of the United States and the Nordic countries regarding the impossibility of restricting safeguard action to certain markets.

29. The representative of New Zealand concurred with the statements just made. The current situation was giving rise to difficulties for all participants and they were in agreement that those difficulties must be overcome. The solution to which they were prepared to contribute offered at least the possibility of preserving the essential elements of the Arrangement, and while not satisfactory to all participants, would allow them to safeguard their position in the short term and give them time to reconsider in more appropriate circumstances how to solve those difficulties in the future. In its very essence, that solution was a short-term one. The EEC had stated that the provisions under reference would be revoked at a very early date and, while regretting that no specific indication of that date could be given, the New Zealand representative believed that the action would be taken within a period of days rather than months. It was likewise in the very near future that, under the resolution, the Council was to hold a further meeting. If the negative impact of the measures taken continued to be felt on the international market, the Council would have to examine the matter then but could not do so comprehensively for the moment. The nature of the action contemplated now was containment of a problem until it would be possible to understand how wide its dimensions were. The representative of New Zealand had said that while appreciating the concern expressed over unduly narrow limits that might be fixed for measures deemed necessary by certain

participants in order to protect their interests, he feared that too much flexibility might be seen as an invitation to sell milk fat anywhere and at any price. It was important for the significance of the action to be well understood in the interest of all participants, namely that it was very limited action and in the short term. At the Council's December meeting, it should examine the implications of the action in the light of reactions to it from operators. The latter should not in the meantime suffer any negative effects if, being well prepared and guided by their governments, they considered the entire operation in its proper context. Such short-term action was in the interest of the Arrangement and the General Agreement.

30. The representative of Australia said that for his delegation too the action envisaged, i.e. adoption of such a resolution, was not a satisfactory solution any more than the infringement of the Arrangement that had been the cause of it. It was nevertheless necessary to face the situation and consider how to preserve the interests of participants and regain some of the ground lost. The EEC had made a first step in that direction by indicating its intention to revoke its measures at a very early date. It was not currently possible to evaluate the impact of the short-term action on which the Council was being asked to decide. Operators were always trying to avoid disciplines imposed upon them by governments and to make sales, being more interested in their commissions on sales than in actual prices for sales. Trade interests must be preserved and it was only each participant ultimately that could determine where its own trade interests lay. A balance must be sought between protecting those interests and maintaining some order in the market, in trying to master the current situation. In trying to improve matters, therefore, one must recognize the action as being designed to control an essentially unsatisfactory situation. It was necessary in the immediate weeks and months ahead to try to repair damage and, in the longer term, to restore a sound market situation and put the Arrangement back on a firm basis. That second phase depended on a commitment in respect of the Arrangement and could only be undertaken once the current situation had been overcome; it would have to include an examination of the real

significance for it of obligations under the Arrangement, not with a view to revising or reinterpreting them for their own ends but in order to determine their exact, basic implications. Citing the provisions of Article 3:1 of the Protocols, the Australian representative asked what obligations it implied if no sale could be made at the level of the minimum price. It seemed clear in accordance with those provisions that no sale could take place, and, depending on the participant's stock situation, that measures would have to be taken at the level of production to turn off the supply of unsaleable products. All participants should reflect on problems of that kind which also arose under other Articles of the Arrangement, for example Article 6 of the Protocols regarding co-operation of importing participants. The provisions of the Arrangement were remarkably balanced between strict observance of minimum prices, and, in inextricable situations, a possibility of some relaxation allowing the Arrangement's credibility to be preserved. In conclusion, the Australian representative underlined that the draft resolution should be examined very carefully, bearing in mind that it was perhaps the only means of overcoming the current situation.

31. The Council examined the draft resolution paragraph by paragraph and made some amendments to it after the Chairman had recalled that it was applicable to all participants and that the situation would be kept under review - moreover, the Council was to hold a further meeting in December. He emphasized that it was regarded as a short-term and limited containment.

32. During the examination of the draft resolution a number of statements were made to clarify interpretation of its wording.

33. The representative of Uruguay said that in the view of his delegation, paragraph 2 of the draft resolution as amended should be interpreted as meaning that for any future transaction, the participants concerned would be consulted in advance, with reasonable advance notice, and would not be placed before an accomplished fact. In addition, exports or export forecasts of the exporting participants concerned should be taken into consideration. In conclusion, the representative of Uruguay reserved his country's rights under the Arrangement.

34. The representative of the European Economic Community said that in the event that another similar operation was envisaged, there would have to be consultations and his delegation could give an assurance that that would be the case where the EEC was concerned.

35. The representative of New Zealand underlined that if sales were to be made throughout the world without any relation to the action taken by the EEC, that would mean the end of the Arrangement. He asked whether delegations that would prefer not to include any limitation in the text of the resolution in respect of short-term measures that they might wish to take to safeguard their position would undertake, in communicating with their traders on the outcome of the meeting, to make most strongly to them the view of their government that this was intended not to be an open invitation but was in fact a highly limited and constrained situation, which was to be reviewed again in the Council in a short time, and that the hope and intent of the participants in the Arrangement were to recommit and reconfirm themselves to the Arrangement.

36. The representative of Australia approved the statement just made and said that he could accept that no limitation should be spelt out, provided it was understood that the whole exercise was one of restraint and containment aimed at preserving the Arrangement.

37. The representative of the United States indicated that it was difficult to commit oneself to certain limitations since it was not possible to evaluate the consequences of the problem currently facing the Council. Certainly, the United States would not go out and deliberately undercut the market.

38. The representative of Finland reiterated that the Nordic countries wanted to avoid the current exercise being considered by operators as an invitation to sell below the minimum price. Accordingly, they were laying emphasis on paragraph 3 of the draft resolution and would draw the attention of their operators to the importance of those provisions. In that paragraph the term "their sales" referred to sales below the minimum price.

39. Referring to paragraph 5, the representative of New Zealand said that in the view of his delegation the term "all participants concerned" referred to non-commercial stock holdings and did not imply the same discipline for countries where there were no stocks held by government authorities.

40. The Council adopted the draft resolution as amended which will be distributed as DPC/13. It agreed that an addendum would be prepared to the report submitted to the CONTRACTING PARTIES (L/5693) to cover the special meeting and the resolution adopted. It further agreed that the text of the resolution could be communicated to the press.

41. The date of the Council's December meeting will be fixed in consultation with participants.