

GENERAL AGREEMENT ON
TARIFFS AND TRADE

Multilateral Trade Negotiations

Group "Agriculture"

Sub-Group on Dairy Products

DOCUMENTS BRINGING TOGETHER THE ELEMENTS CONTAINED IN THE PROPOSALS
OF THE EUROPEAN COMMUNITIES (MTN/DP/W/24) AND NEW ZEALAND
(MTN/DP/W/25) CONCERNING AN ARRANGEMENT IN THE
DAIRY PRODUCTS SECTOR AND THE CONSIDERATIONS
EXPRESSED DURING THE DISCUSSION

Note by the Secretariat

Revision

1. At its November meeting, the Sub-Group invited the secretariat to prepare, on its own responsibility and in the light of the discussions, a revised text presenting in the most precise terms possible the various provisions contained in document MTN/DP/W/27. With a view to the furtherance of the negotiations, the Sub-Group agreed to consider the revised document as a working hypothesis and to discuss it at its next meeting (MTN/DP/6, paragraph 5).
2. The terminology used in this document has been adopted for reasons of convenience only.
3. The possibility of additional proposals was noted (MTN/DP/6, paragraph 5).

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/COMPREHENSIVE ARRANGEMENT REGARDING THE DAIRY PRODUCTS SECTOR

PREAMBLE

OBJECTIVES

Note: No attempt has been made to draft the preamble
or the objectives.

The participants to the present Arrangement have, through their representatives,
agreed as follows:

PART ONE

GENERAL PROVISIONS

Article I - Product Coverage

1. This Arrangement applies to the dairy products sector. For the purpose of this Arrangement, the term "dairy products" is deemed to include the following products, as defined in the Customs Co-operation Council Nomenclature:

CCCN

(a) Milk and cream, fresh, not concentrated or sweetened	04.01
(b) Milk and cream, preserved, concentrated or sweetened	04.02
(c) Butter	04.03
(d) Cheese and curd	04.04
(e) Casein	ex 35.01

Article II - Information

1. All participants agree to communicate regularly and promptly to the Dairy Products Council, established in terms of Article VII of this Arrangement, all information to allow the Council to assess the overall situation of the world market for dairy products and the world market situation for each individual dairy product.
2. The information to be furnished by participants under paragraph 1 of this Article, at intervals and according to modalities to be agreed on by the Council, shall include (numerical) data on trends and (to the extent possible, numerical) data on prospects for production, consumption, imports and exports, including transactions other than normal commercial transactions, prices and stocks of the products covered by Article I of this Arrangement, and any other information deemed necessary by the Meat Council. Participants shall likewise communicate changes in their dairy policy at the level of production, consumption, imports, exports and stocks and shall use all reasonable means in their power that are consistent with their legislation to communicate their intentions on the matter where these are likely to have repercussions on international trade in dairy products.
3. In establishing the modalities of the information procedure the Council shall endeavour to avoid any duplication. It shall take account, in particular, of information communicated by participants in the context of the Protocols covered by Part Two of this Arrangement.

Article III - Consultations

1. The Dairy Products Council shall meet in order to:
 - (a) make an evaluation of the world market situation for dairy products, on the basis of a status report prepared by the secretariat of the Arrangement with the documentation furnished by participants and information communicated by the Management Committees of the Protocols covered by Part Two of this Arrangement, in accordance with Article II of this Arrangement;
 - (b) review the functioning of this Arrangement.
2. If the evaluation referred to in paragraph 1(a) of this Article leads the Council to consider that difficulties or the threat thereof are emerging in the dairy market in general or in the market for one or more products in this sector, the Council shall identify the measures that should be taken by the participants in order to remedy the situation.
3. The measures referred to in paragraph 2 of this Article could include the following:
 - (a) where, in pursuance of the provisions of paragraph 1 of this Article, the Council considers that the situation defined in paragraph 2 of this Article is temporary: temporary measures bearing on the volume of supply in the international market, on demand or on prices, without prejudice to the provisions of Article III of each of the Protocols covered by Part Two of this Arrangement;
 - (b) where, in pursuance of the provisions of paragraph 1 of this Article, the Council considers that the situation defined in paragraph 2 of this Article is more durable: medium- or long-term measures to contribute to improve the overall situation of the world market.
4. When considering measures that could be taken pursuant to paragraph 2 of this Article, due account shall be taken of the special and more favourable treatment to be provided for developing countries.

Article IV - Other General Provisions¹

(a) Safeguards

Note: It was noted that negotiations were currently being held in the Group "Safeguards" and it would be appropriate to await the outcome of those negotiations.

(b) Export subsidies

Note: It was noted that negotiations were currently being held in the Sub-Group "Subsidies and Countervailing Duties" and it would be appropriate to await the outcome of those negotiations.

(c) Health and veterinary measures

Note: The following proposal was made:

Without prejudice to whatever might be decided elsewhere concerning the applicability to these measures of all or part of the rules deriving from the Code of Conduct, and without bringing into question the legitimate necessity for each government to protect human and animal health and life, it should be accepted that all such measures would be notified if possible before their implementation, that consultations would be initiated among interested countries (upon request) and that the negative effects of any of the measures on trade could be the subject of appropriate possible solutions.⁷

(d) Rules on packaging and labelling, designation of origin

Note: It was noted in connexion with paragraphs (c) and (d) that negotiations were currently being held in the Sub-Group "Technical Barriers to Trade". Group "Agriculture" has agreed to examine the applicability to agricultural products of the draft standards code drawn up in that Sub-Group. It would be appropriate to await the outcome of that examination.

¹It was recalled that, in all the measures enumerated in this Article, provision should be made for special and differential treatment for developing countries.

PART TWO

SPECIFIC PROVISIONS

Article V - Protocols

1. Without prejudice to the provisions of Articles I to IV of this Arrangement, the products listed below shall be subject to the provisions of the Protocols annexed to this Arrangement:

Annex I - Protocol regarding certain milk powders

Skimmed milk powder

Whole milk powder (including partly skimmed milk powder)

/Buttermilk powder/

Annex II - Protocol regarding milk fat

Anhydrous milk fat, anhydrous butteroil or anhydrous butterfat

Ghee

Butteroil and butterfat

Butter

PART THREE

ADDITIONAL PROVISIONS

Article VI

A. Concerted disciplines

1. The provisions of paragraphs 2 and 3 of Section A of this Article shall be applicable to cheese (CCCN 04.04).
2. Each participant shall undertake to take all necessary action to adjust
 - its import policy in all necessary elements so as to ensure that its imports take place in the most orderly and regular conditions possible;
 - its export policy in such a way that its exports take place in the most orderly and regular manner possible.
3. The bilateral or plurilateral commitments specifying the nature of the commitments entered into are set forth in Annex III to this Arrangement.7

B. Minimum access commitments

1. The provisions of paragraph 2 of Section B of this Article shall be applicable to the products listed in Article I, paragraphs (b), (c), (d) and (e) of this Arrangement.
2. The obligations entered into by the participants under Section B of this Article are set forth in Annex III to this Arrangement.7

PART FOUR

Article VII - Administration of the Arrangement

1. Dairy Products Council

A Dairy Products Council shall be established within the framework of the General Agreement on Tariffs and Trade. The Council shall comprise representatives of all participants to the Arrangement and shall carry out all the functions which are necessary to implement the provisions of the Arrangement. The Council shall be serviced by the GATT secretariat.

2. Regular and special meetings

The Council shall normally meet at least twice each year. However, the Chairman may call a special meeting of the Council either on his own initiative, at the request of the Management Committee of one of the Protocols covered by Part Two of the Arrangement, or at the request of a participant to the Arrangement in the light of information communicated under Article II of this Arrangement.

PART FIVE

Article VIII - Final Provisions

Note: This Article should include the following headings:

1. Entry into force
2. Duration
3. Amendment
4. Relationship between the Arrangement and its annexes

The annexes shall be deemed to be an integral part of this Arrangement.

5. Acceptance
6. Withdrawal

ANNEX I

Protocol Regarding Certain Milk Powders

(Existing Arrangement within GATT)

ARRANGEMENT CONCERNING CERTAIN DAIRY PRODUCTS

PART ONE

Article I - Product Coverage

1. This Arrangement applies to skimmed milk powder and to such other products as may be added at a later date.

PART TWO - SKIMMED MILK POWDER

Article II - Pilot Product

1. For the purpose of this Arrangement a minimum export price shall be established for the pilot product of the following description:

Fat and water content: less than or equal to 1.5 per cent of fat by weight and
 less than or equal to 5 per cent of water by weight.

(Proposals for additions or amendments)

PROTOCOL REGARDING CERTAIN MILK POWDERS

PART ONE

Article I - Product Coverage

1. This Protocol applies to skimmed milk powder, whole milk powder including partly skimmed milk powder and buttermilk powder.

PART TWO - MILK POWDERS

Article II - Pilot Products

1. For the purpose of this Protocol, minimum and maximum export prices shall be established for the pilot products of the following descriptions:

Designation: Skimmed milk powder

Fat and water content: Less than or equal to 1.5 per cent of fat by weight and less than or equal to 5 per cent of water by weight

Designation: Whole milk powder

Fat content: 26 per cent of fat by weight

Manufacturing process: Spray

Designation: Buttermilk powder

Fat and water content:

J

(Existing Arrangement within GATT)

PART TWO (cont'd)

Article II (cont'd)

Packaging: in packages normally used in the trade of a net content by weight of not less than 25 kgs. or 50 lbs. as appropriate.

Terms of sale: f.o.b. from the exporting country or, for a land-locked country, f.o.b. from one maritime port of its choice to be designated at the time it signifies its acceptance; or free-at-frontier exporting country. Prompt payment against documents.

(Proposals for additions or amendments)

PART TWO (cont'd)

Article II (cont'd)

Packaging: Packages normally used in the trade of a net content by weight of not less than 25 kgs. or 50 lbs., as appropriate.

Terms of sale: f.o.b.¹ [Ocean-going vessels] from the exporting country or, for a land-locked country, f.o.b. from one maritime port of its choice to be designated at the time it signifies its acceptance; or free-at-frontier exporting country.
Prompt payment against documents.

¹By reason of their particular geographical situation, certain countries have suggested that the f.o.b. price mentioned in this Article be an adjusted f.o.b. price taking account of the cost of insurance and freight.

(Existing Arrangement within GATT)

PART TWO (cont'd)

Article III - Minimum Price

Level and observance of minimum price

1. Participants undertake to take the steps necessary to ensure that the export price of the product defined in Article II shall not be less than the minimum price applicable under the present Arrangement. If the product is exported in the form of goods in which it has been incorporated, the participants shall take the steps necessary to avoid the circumvention of the price provisions of the Arrangement.

(Proposals for additions or amendments)

PART TWO (cont'd)

Article III - Minimum /and maximum/ prices

Level and observance of minimum /and maximum/ prices

1. Participants undertake to take the steps necessary to ensure that the export prices of the products defined in Article II shall not be less than the minimum prices /nor more than the maximum prices/ applicable under the present Protocol. Participants shall take the steps necessary to avoid the circumvention of the price provisions of this Protocol, if the products are exported in the form of goods in which they have been incorporated /or if in respect of their quality or their fat content they differ from the pilot products defined in Article II/.

Note 1: It was stated that an examination should be made of the principles against which minimum prices are established and, in particular, that of an economic return to the efficient producer. The possibility would have to be examined of establishing a relationship between minimum prices and the prices received by the majority of producers.

Note 2: In case of non-observance of minimum prices, it was suggested that it would be possible to accept presumption of injury and imposition of a fine. /A compensation procedure might be used as a penalty in case of non-observance of maximum prices./ It was pointed out, however, that no such measure had been found necessary in existing arrangements. The possibility of invoking Article XXIII would be sufficient.

(Existing Arrangement within GATT)

PART TWO (cont'd)

Article III (cont'd)

2. The minimum price provided for in paragraph 1 of the present Article applicable at the date of entry into force of this Arrangement is fixed at US\$20 per 100 kgs.

(Proposals for additions or amendments)

PART TWO (cont'd)

Article III (cont'd)

2. The minimum prices provided for in paragraph 1 of the present Article applicable at the date of entry into force of this Protocol are fixed at:

(a) US\$ per 100 kgs. for the skimmed milk powder defined in Article II.

(b) US\$ per 100 kgs. for the whole milk powder defined in Article II.

(c) US\$ per 100 kgs. for the buttermilk powder defined in Article II.

The maximum prices provided for in paragraph 1 of the present Article applicable at the date of entry into force of this Protocol are fixed at:

(a) US\$ per 100 kgs. for the skimmed milk powder defined in Article II.

(b) US\$ per 100 kgs. for the whole milk powder defined in Article II.

(c) US\$ per 100 kgs. for the buttermilk powder defined in Article II.

(Existing Arrangement within GATT)

PART TWO (cont'd)

Article III (cont'd)

3. The level of the minimum price specified in the present Article can be modified by the Management Committee established in terms of Article VII, during the period of validity of the present Arrangement taking into account, on the one hand, the results of the application of the Arrangement, and, on the other hand, the evolution of the situation of the international market.

(Proposals for additions or amendments)

PART TWO (cont'd)

Article III (cont'd)

Note: No formal proposal was made for any amendment of the modalities for modification of price. However, the following considerations were expressed: an examination should be made of the guidelines against which minimum prices might be reviewed, including the intervals at which reviews might be undertaken, and of the question whether market prices or production costs should predominate in the analysis of whether adjustments are warranted. Their determination should be made more automatic and more precise, for example by establishing a link with some constant, such as the support prices applied in certain countries.

(Existing Arrangement within GATT)

PART TWO (cont'd)

Article III (cont'd)

Adjustment of minimum price

4. If the product actually exported differs from the pilot product type with regard to packaging or terms of sale, the minimum price shall be adjusted so as to protect the minimum price established in the Arrangement for the product specified in Article II according to the following provisions:

- Packaging:** if the product is offered otherwise than in packages normally used in the trade of a net content by weight of not less than 25 kgs. or 50 lbs., as appropriate, the application of the minimum price shall be adjusted so as to reflect the difference in the cost of packaging from the type of package specified above.
- Terms of sale:** if sold on terms other than f.o.b. from the exporting country or, for a land-locked country, f.o.b. from the maritime port of its choice or free-at-frontier exporting country, the minimum price shall be calculated on the basis of the minimum f.o.b. price specified in paragraph 2 above plus the real and justified costs of the services provided; if the terms of the sale include credit, this shall be charged for at the prevailing commercial rate.

(Proposals for additions or amendments)

PART TWO (cont'd)
Article III (cont'd)

Adjustment of minimum and maximum prices

4. If the products actually exported differ from the pilot products in respect of the fat content, manufacturing process, packaging or terms of sale, the minimum and maximum prices shall be adjusted so as to protect the minimum and maximum prices established in this Protocol for the products specified in Article II according to the following provisions:

Fat content: if the fat content of whole milk powder is greater or less than 26 per cent, the minimum price and the maximum price for this product shall be increased or reduced by US\$... for each 1 per cent of fat.

Manufacturing process: if the whole milk powder exported is manufactured by the roller process, any difference in price as between this product and the pilot product that may result from the manufacturing cost, the domestic market situation or commercial practices may be reflected in the minimum price and in the maximum price. At the export level, this difference shall not, however, exceed US\$... per 100 kgs.

Packaging: if the products are offered otherwise than in packages normally used in the trade of a net content by weight of not less than 25 kgs. or 50 lbs., as appropriate, the application of the minimum and maximum prices shall be adjusted so as to reflect the difference in the cost of packaging from the type of package specified above.

Terms of sale: if sold on terms other than f.o.b. from the exporting country or, for a land-locked country, f.o.b. from the maritime port of its choice, or free-at-frontier exporting country, the minimum and maximum prices shall be calculated on the basis of the minimum and maximum f.o.b. prices specified in paragraph 2 above plus the real and justified costs of the services provided; if the terms of the sale include credit, this shall be charged for at the prevailing commercial rate.

(Existing Arrangement within GATT)

PART TWO (cont'd)

Article III (cont'd)

Exports for purposes of animal feed

5. By derogation from the provisions of paragraphs 1 to 4 of this Article participants may, under the conditions defined below, export or import, as the case may be, skimmed milk powder for purposes of animal feed at prices below the minimum price provided for in this Arrangement. The participants may make use of this possibility only to the extent that the processes and control measures, which they intend to apply or which will be applied in the country of destination, so as to ensure that the skimmed milk powder thus exported or imported is used exclusively for animal feed, are approved by the Management Committee and recorded in a register established by it. The participants shall furnish the necessary information concerning their transactions in respect of skimmed milk powder for purposes of animal feed, so that the Management Committee may follow developments in this sector and periodically make forecasts concerning the evolution of this trade.

(Proposals for additions or amendments)

PART TWO (cont'd)

Article III (cont'd)

Exports /and imports/ of skimmed milk powder /and buttermilk powder/ for purposes of animal feed

5. By derogation from the provisions of paragraphs 1 to 4 of this Article participants may be authorized by the Management Committee on conditions to be determined to export or import, as the case may be, skimmed milk powder and buttermilk powder for purposes of animal feed at prices below the minimum price s provided for in this Protocol for this product these products. The processes and control measures which participants intend to apply or which will be applied in the country of destination, so as to ensure that the skimmed milk powder and buttermilk powder thus exported or imported is are used exclusively for animal feed, must be approved by the Management Committee and recorded in a register established by it. Participants shall furnish the necessary information concerning their transactions in respect of skimmed milk powder and buttermilk powder for purposes of animal feed, so that the Management Committee may follow developments in this sector and periodically make forecasts concerning the evolution of this trade.

(Existing Arrangement within GATT)

PART TWO (cont'd)

Article III (cont'd)

Special conditions of sales

6. Participants undertake within the limit of their institutional possibilities to ensure that practices such as sales in association with sales of other products, special rebates or discounts, do not have the effect of directly or indirectly bringing the export price of the product subject to the minimum price provisions below the agreed minimum price.

Field of application

7. For each participant the Arrangement is applicable to exports of the product specified in Article II and in paragraph 4 of Article III manufactured or repacked inside its own customs territory, whether the destination is temporary or final.

(Proposals for additions or amendments)

PART TWO (cont'd)

Article III (cont'd)

Special conditions of sales

6. Participants undertake within the limit of their institutional possibilities to ensure that practices such as sales in association with sales of other products, sales of the products covered mixed with other products, special rebates or discounts, do not have the effect of directly or indirectly bringing the export prices of the products subject to the minimum price provisions below the agreed minimum prices nor of raising the export prices of the products subject to the maximum price provisions above the agreed maximum prices.

Field of application

7. For each participant, the Protocol is applicable to exports of the products specified in Article II and in paragraph 4 of Article III manufactured or repacked inside its own customs territory, whether their destination is temporary or final.

(Existing Arrangement within GATT)

PART TWO (cont'd)

Article III (cont'd)

Transactions other than normal commercial transactions

8. The provisions of paragraphs 1 to 7 of this Article shall not be regarded as applying to donated exports to developing countries or to exports destined for relief purposes or welfare purposes in developing countries. Such exports, and other transactions which are not normal commercial transactions, shall be effected in accordance with the FAO Principles of Surplus Disposal and shall be subject to the procedures for notification and consultation agreed upon in FAO.

9. Exports for welfare purposes in developed countries, such as school lunch programmes, of the products covered by this Arrangement shall be subject to the pricing provisions of this Article, it being understood however that a derogation under Article VII shall be granted, when justified, after taking into account the specific character of welfare shipments, including school lunch programmes, their sales conditions, trade effects and other factors.

(Proposals for additions or amendments)

PART TWO (cont'd)

Article III (cont'd)

Transactions other than normal commercial transactions

8. By derogation from the provisions of paragraphs 1 to 7 of this Article, donated exports to developing countries or exports destined for relief purposes or welfare purposes in developing countries of products covered by Article I may be effected at prices below the minimum prices provided for in this Protocol.

Consequently, the Management Committee shall exercise over transactions other than normal commercial transactions, and in accordance with conditions and modalities established by it, continuing surveillance in order to ensure that such transactions are effected in accordance with the FAO Principles of Surplus Disposal and consultation procedures.⁷

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^{1/} Under this proposal, paragraph 9 of Article III of the existing Arrangement would not be retained.

(Existing Arrangement within GATT)

PART TWO (cont'd)

Article IV - Provision of Information

1. All participants agree to provide regularly and promptly to the Committee established in terms of Article VII of this Arrangement details of exports and imports of skimmed milk powder, and any other information the Committee requires in order to assess the functioning of this Arrangement and the situation in and the evolution of the international market.

(Proposals for additions or amendments)

PART TWO (cont'd)

Article IV - Provision of Information

1. All participants agree to provide regularly and promptly to the Committee established in terms of Article [...] of this Protocol details of exports and imports of products covered by Article I and any other information the Committee requires in order to assess the functioning of this Protocol and the situation in and the evolution of the international market.

2. In cases where prices in international trade of the products covered by Article I are approaching the minimum prices mentioned in paragraph 2 of Article III, participants exporting these products shall notify to the Committee all the relevant elements for evaluating their own market situation and, in particular, credit or loan practices, twinning with other products, barter or three-sided transactions, refunds or rebates and exclusivity contracts, so that the Committee can make a verification.]

(Existing Arrangement within GATT)

(Proposals for additions or amendments)

PART TWO (cont'd)

Article 7 - Obligations of Exporting Participants
at the Level of Maximum Prices

1. Exporting participants undertake to supply importing participants on a priority basis and to deliver to them, at prices consistent with the prices determined in paragraph 2 of Article III, certain quantities of products covered by Article I.

Note: It was noted that provision should be made for the possibility of special and differential treatment for developing countries.

(Existing Arrangement within GATT)

PART TWO (cont'd)

Article V - Co-operation of Importing Countries

1. Participants which import skimmed milk powder undertake in particular:
 - (a) to co-operate in implementing the minimum price objective of this Arrangement and to ensure, as far as possible, that skimmed milk powder is not imported at less than the appropriate customs valuation equivalent to the prescribed minimum price; and
 - (b) to supply information concerning imports of skimmed milk powder from non-participants; and
 - (c) to consider sympathetically proposals for appropriate remedial action if imports at prices inconsistent with the minimum price threaten the functioning of this Arrangement.

2. Paragraph 1 of this Article shall not apply to imports of skimmed milk powder for purposes of animal feed, provided that such imports are subject to the measures and procedures provided for in paragraph 5 of Article III.

(Proposals for additions or amendments)

PART TWO (cont'd)

Article 7 - Co-operation of Importing Countries

1. Participants which import products covered by Article I undertake in particular:
 - (a) to co-operate in implementing the minimum prices objective of this Protocol and to ensure, as far as possible, that the products covered by Article I are not imported at less than the appropriate customs valuation equivalent to the prescribed minimum prices;
 - (b) to supply information concerning imports of products covered by Article I from non-participants; and
 - (c) to consider sympathetically proposals for appropriate remedial action if imports at prices inconsistent with the minimum prices threaten the functioning of this Protocol.

2. Paragraph 1 of this Article shall not apply to imports of skimmed milk powder and buttermilk powder for purposes of animal feed, provided that such imports are subject to the measures and procedures provided for in paragraph 5 of Article III.

Note: The following proposal was made:

1. In cases where prices in international trade of the products covered by Article I are at the level of the agreed minimum prices, participants importing these products shall undertake to buy supplies solely from participants exporting these products.

2. In cases where prices in international trade of the products covered by Article I are at the level of the agreed maximum prices, participants importing these products shall undertake not to resell the quantities delivered by participants exporting these products.

(Existing Arrangement within GATT)

PART THREE

Article VI - Food Aid

In pursuance of the objectives of this Arrangement, participants agree:

1. In co-operation with FAO and other interested organizations, to foster recognition of the value of dairy products in improving nutritional levels and of ways and means through which they may be made available for the benefit of developing countries.
2. Where possible and appropriate, to incorporate the donation or sale on concessional terms of dairy products or related equipment in their respective aid programmes. Participants should notify the committee in advance each year of the scale of their proposed contributions of such food aid. It would be understood that contributions could be made bilaterally or through joint projects or through the World Food Program.
3. Recognizing the desirability of harmonizing their efforts in this field, as well as the need to avoid harmful interference with normal patterns of production and international trade, to exchange views in the Management Committee on their arrangements for the supply of dairy products as food aid or on concessional terms.

(Proposals for additions or amendments)

PART THREE

Article 7 - Food Aid

Note: To the extent that the Sub-Group decides to adopt the provisions suggested in the second sub-paragraph of paragraph 8 of Article III, paragraph 3 of Article VI of the existing Arrangement could be dropped.

(Existing Arrangement within GATT)

PART FOUR

Article VII - Administration of the Arrangement

Management Committee

1. A Management Committee shall be established within the framework of the General Agreement on Tariffs and Trade. The Committee shall comprise representatives of all participants to the Arrangement, and shall carry out all the functions which are necessary to implement the provisions of the Arrangement. The Committee shall be serviced by the GATT secretariat.

Review of market

2. The Committee shall keep under constant review the situation in and the evolution of the international market for skimmed milk powder and such other products as are subsequently included in this Arrangement, and the conditions under which the provisions of this Arrangement are applied by participants.

Regular and special meetings

3. The Committee shall normally meet at least once each quarter. However, the chairman may call a special meeting of the Committee on his own initiative. Any participant which considers that its commercial interests are being seriously threatened and which is unable to reach a mutually satisfactory solution with the other participant or participants concerned, may request the chairman to convene a special meeting of the Committee on an urgent basis so as to determine as rapidly as possible, and within four working days if requested, any measures which may be required to meet the situation.

Emergency action

4. Any participant, which considers that its interests are seriously endangered by a country not bound by this Arrangement, can request the chairman to convene an emergency meeting of the Committee within two working days to determine and decide whether measures would be required to meet the situation. If such a meeting cannot be arranged within the two working days and the commercial interests of the participant concerned are likely to be materially prejudiced, that participant may take unilateral action to safeguard the position, on the condition that any other participants likely to be affected are immediately notified. The chairman of the Committee shall also be formally advised immediately of the full circumstances of the case and shall be requested to call a special meeting of the Committee at the earliest possible moment.

Derogations

5. Upon request by a participant, the Committee shall have the authority to grant derogations from the provisions of paragraphs 1 to 5 and 9 of Article III in order to remedy difficulties which observance of minimum prices could cause certain participants. The Committee shall pronounce on such a request within three months from the date of the request.

(Proposals for additions or amendments)

PART FOUR

Article / 7 - Administration of the Protocol

Management Committee

1. A Management Committee shall be established within the framework of the General Agreement on Tariff and Trade. The Committee shall comprise representatives of all participants in this Protocol, and shall carry out all the functions which are necessary to implement the provisions of the Protocol. The Committee shall be serviced by the GATT secretariat.

Review of market

2. The Committee shall keep under constant review the situation in and the evolution of the international market for the products covered by this Protocol, and the conditions under which the provisions of this Protocol are applied by participants.

(Existing Arrangement within GATT)

PART FIVE

Article VIII - Final Provisions

1. Entry into force

- (a) This Arrangement shall enter into force on 15 January 1970 subject to the provisions of sub-paragraph (b) below.
- (b) The members of the Working Party on Dairy Products shall meet in the week prior to 15 January 1970 to decide whether the provisions of sub-paragraph (a) above should be modified.
- (c) The validity of contracts entered into before 15 January 1970 is not affected by this Arrangement.

2. Duration

This Arrangement shall remain in force for one year. The duration of this Arrangement shall be extended for further periods of one year at a time, unless the Management Committee, at least eighty days prior to each date of expiry, decides otherwise.

3. Amendment

The provisions of this Arrangement may be amended by the Management Committee.

4. Relationship of register to the Arrangement

The register of processes and control measures to be established by the Management Committee shall be regarded as an integral part of this Arrangement.

5. Acceptance

- (a) This Arrangement is open for acceptance, by signature or otherwise, by governments (including the competent authorities of the European Communities) members of the United Nations or of one of its specialized agencies.
- (b) This Arrangement shall be deposited with the Director-General to the CONTRACTING PARTIES who shall promptly furnish a certified copy thereof and a notification of each acceptance thereof to each participant in the Arrangement.

6. Withdrawal

Any participating country may withdraw from this Arrangement upon the expiration of sixty days from the day on which written notice of such withdrawal is received by the Director-General to the CONTRACTING PARTIES.

DONE at Geneva this twelfth day of January one thousand nine hundred and seventy, in a single copy, in the English and French languages, both texts being authentic.

(Proposals for additions or amendments)

PART FIVE

Article / 7 - Final Provisions¹

¹No attempt has been made to amend the final provisions, which will depend on the final provisions of the Arrangement.

ANNEX II

Protocol Regarding Milk Fat

(Existing Protocol within GATT)

PROTOCOL RELATING TO MILK FAT

The participants to the present Protocol,

Having considered that paragraph 1 of Article I of the Arrangement Concerning Certain Dairy Products, done at Geneva on 12 January 1970, provides that the said Arrangement applies to skimmed milk powder and to such other products as may be added at a later date,

Have, through their representatives, agreed as follows:

Article I - Product Coverage

1. This Protocol applies to:

- anhydrous milk fat, anhydrous butteroil or anhydrous butterfat, having a fat content of not less than 99.8 per cent by weight;
- ghee, having a fat content of not less than 99.6 per cent by weight;
- butteroil and butterfat, having a fat content of not less than 99.3 per cent by weight.

(Proposals for additions or amendments)

PROTOCOL REGARDING MILK FAT

PART ONE

Article I - Product Coverage

1. This Protocol applies to:
 - anhydrous milk fat, anhydrous butteroil or anhydrous butterfat, having a fat content of not less than 99.8 per cent by weight;
 - ghee, having a fat content of not less than 99.6 per cent by weight;
 - butteroil and butterfat, having a fat content of not less than 99.3 per cent by weight;
 - butter, having a fat content of by weight.

(Existing Protocol within GATT)

Article II - Pilot Product

1. For the purpose of this Protocol a minimum export price shall be established for the pilot product of the following description:

Designation: butteroil or butterfat.

Fat content: 99.3 per cent by weight.

Packaging: in packages normally used in the trade of a net content by weight of not less than 25 kgs. or 50 lb., as appropriate.

Terms of sale: f.o.b. from the exporting country or, for a land-locked country, f.o.b. from one maritime port of its choice to be designated at the time it signifies its acceptance; or free-at-frontier exporting country. Prompt payment against documents.

(Proposals for additions or amendments)

PART TWO - MILK FAT

Article II - Pilot Products

1. For the purpose of this Protocol, minimum and maximum export prices shall be established for the pilot products of the following descriptions:

Designation: Butteroil or butterfat

Fat content: 99.3 per cent by weight

Packaging: in packages normally used in the trade of a net content by weight of not less than 25 kgs. or 50 lb., as appropriate

Terms of sale: f.o.b.¹ from the exporting country or, for a land-locked country, f.o.b. from one maritime port of its choice to be designated at the time it signifies its acceptance; or free-at-frontier exporting country. Prompt payment against documents

Designation: Butter

Fat content:

Packaging: in bulk, in packages normally used in the trade of a net content by weight of not less than 25 kgs. or 50 lb., as appropriate⁷

Terms of sale: f.o.b.¹ from the exporting country or, for a land-locked country, f.o.b. from one maritime port of its choice to be designated at the time it signifies its acceptance; or free-at-frontier exporting country. Prompt payment against documents⁷

¹By reason of their particular geographical situation, certain countries have suggested that the f.o.b. price mentioned in this Article be an adjusted f.o.b. price taking account of the cost of insurance and freight.

(Existing Protocol within GATT)

Article III - Minimum Price

Level and observance of minimum price

1. Participants undertake to take the steps necessary to ensure that the export price of the product defined in Article II shall not be less than the minimum price applicable under the present Protocol. The participants shall take the steps necessary to avoid the circumvention of the price provisions of this Protocol if the product is exported in the form of goods in which it has been incorporated, or if because of its quality or fat content it differs from the pilot product defined in Article II.

(Proposals for additions or amendments)

PART TWO (cont'd)

Article III - Minimum /and Maximum/ Prices

Level and observance of minimum /and maximum/ prices

1. Participants undertake to take the steps necessary to ensure that the export prices of the products defined in Article II shall not be less than the minimum prices /nor more than the maximum prices/ applicable under the present Protocol. Participants shall take the steps necessary to avoid the circumvention of the price provisions of this Protocol, if the products are exported in the form of goods in which they have been incorporated, or if in respect of their quality or their fat content they differ from the pilot products defined in Article II.

Note 1: It was stated that an examination should be made of the principles against which minimum prices are established and, in particular, that of an economic return to the efficient producer. The possibility would have to be examined of establishing a relationship between minimum prices and the prices received by the majority of world producers.

Note 2: In case of non-observance of minimum prices, it was suggested that it would be possible to accept presumption of injury and imposition of a fine. /A compensation procedure might be used as a penalty in case of non-observance of maximum prices./ It was pointed out, however, that no such measure had been found necessary in existing arrangements. The possibility of invoking Article XXIII would be sufficient.

(Existing Protocol within GATT)

Article III (cont'd)

2. The minimum price provided for in paragraph 1 of the present Article applicable at the date of entry into force of this Protocol is fixed at US\$68 per 100 kgs.

(Proposals for additions or amendments)

PART TWO (cont'd)

Article III (cont'd)

2. The minimum prices provided for in paragraph 1 of the present Article applicable at the date of entry into force of this Protocol are fixed at:

(a) US\$ per 100 kgs. for the butteroil or butterfat defined in Article II.

(b) US\$ per 100 kgs. for the butter defined in Article II.

 The maximum prices provided for in paragraph 1 of the present Article applicable at the date of entry into force of this Protocol are fixed at:

(a) US\$ per 100 kgs. for the butteroil or butterfat defined in Article II.

(b) US\$ per 100 kgs. for the butter defined in Article II.

(Existing Protocol within GATT)

Article III (cont'd)

3. The level of the minimum price specified in the present Article can be modified by the Management Committee established in terms of Article VII. However, any such modification may be decided upon only at the time when the question of extension of the duration of this Protocol is being considered in terms of paragraph 2 of Article VIII, or, at other times, only when an emergency situation is deemed to exist.

(Proposals for additions or amendments)

PART TWO (cont'd)

Article III (cont'd)

Note: No formal proposal was made for any amendment of the modalities for modification of price. However, the following considerations were expressed:

An examination should be made of the guidelines against which minimum prices might be reviewed, including the intervals at which reviews might be undertaken, and of the question whether market prices or production costs should predominate in the analysis of whether adjustments are warranted. Their determination should be made more automatic and more precise, for example by establishing a link with some constant, such as the support prices applied in certain countries.

(Existing Protocol within GATT)

Article III (cont'd)

Adjustment of minimum price

4. If the product actually exported differs from the pilot product type with regard to packaging or terms of sale as specified in Article II, the minimum price shall be adjusted so as to protect the minimum price established in this Protocol for the product specified in Article II according to the following provisions:

Packaging: if the product is offered otherwise than in packages normally used in the trade of a net content by weight of not less than 25 kgs., or 50 lb., as appropriate, the application of the minimum price shall be adjusted so as to reflect the difference in the cost of packaging from the type of package specified above.

Terms of sale: if sold on terms other than f.o.b. from the exporting country or, for a land-locked country, f.o.b. from the maritime port of its choice or free-at-frontier exporting country, the minimum price shall be calculated on the basis of the minimum f.o.b. price specified in paragraph 2 above plus the real and justified costs of the services provided; if the terms of the sale include credit, this shall be charged for at the prevailing commercial rate.

(Proposals for additions or amendments)

PART TWO (cont'd)

Article III (cont'd)

Adjustment of minimum /and maximum/ prices

4. If the products actually exported differ from the pilot products in respect of the /fat content/ packaging or terms of sale, the minimum /and maximum/ prices shall be adjusted so as to protect the minimum /and maximum/ prices established in this Protocol for the products specified in Article II according to the following provisions:

/Fat content:

Packaging: /if the products are offered otherwise than /in bulk, in packages normally used in the trade of a net content by weight of not less than 25 kgs., or 50 lb., as appropriate, the application of the minimum /and maximum/ prices shall be adjusted so as to reflect the difference in the cost of packaging from the type of package specified above./

Terms of sale: /if sold on terms other than f.o.b. from the exporting country or, for a land-locked country, f.o.b. from the maritime port of its choice, or free-at-frontier exporting country, the minimum /and maximum/ prices shall be calculated on the basis of the minimum /and maximum/ f.o.b. prices specified in paragraph 2 above plus the real and justified costs of the services provided; if the terms of the sale include credit, this shall be charged for at the prevailing commercial rate./

(Existing Protocol within GATT)

Article III (cont'd)

Special conditions of sales

5. Participants undertake within the limit of their institutional possibilities to ensure that practices such as sales in association with sales of other products, special rebates or discounts, do not have the effect of directly or indirectly bringing the export price of the products subject to the minimum price provisions below the agreed minimum price.

Field of application

6. For each participant this Protocol is applicable to exports of the products specified in Article I manufactured or repacked inside its own customs territory, whether the destination is temporary or final.

(Proposals for additions or amendments)

PART TWO (cont'd)

Article III (cont'd)

Special conditions of sales

6. Participants undertake within the limit of their institutional possibilities to ensure that practices such as sales in association with sales of other products, sales of the products covered mixed with other products, special rebates or discounts, do not have the effect of directly or indirectly bringing the export prices of the products subject to the minimum price provisions below the agreed minimum prices nor of raising the export prices of the products subject to the maximum price provisions above the agreed maximum prices.

(Existing Protocol within GATT)

Article III (cont'd)

Transactions other than normal commercial transactions

7. The provisions of paragraphs 1 to 6 of this Article shall not be regarded as applying to donated exports to developing countries or to exports destined for relief purposes or welfare purposes in developing countries. Such exports, and other transactions which are not normal commercial transactions, shall be effected in accordance with the FAO Principles of Surplus Disposal and shall be subject to the procedures for notification, consultation and establishment of usual marketing requirements agreed upon in FAO.

(Proposals for additions or amendments)

PART TWO (cont'd)

Article III (cont'd)

Transactions other than normal commercial transactions

7. By derogation from the provisions of paragraphs 1 to 6 of this Article, donated exports to developing countries or exports destined for relief purposes or welfare purposes in developing countries of products covered by Article I may be effected at prices below the minimum prices provided for in this Protocol.

Consequently, the Management Committee shall exercise over transactions other than normal commercial transactions, and in accordance with conditions and modalities established by it, continuing surveillance in order to ensure that such transactions are effected in accordance with the FAO Principles of Surplus Disposal and consultation procedures.7

(Existing Protocol within GATT)

Article IV - Provision of Information

1. All participants agree to provide regularly and promptly to the Management Committee established in terms of Article VII of this Protocol details of exports and imports of the products covered by this Protocol, and any other information the Committee requires in order to assess the functioning of this Protocol and the situation in and the evolution of the international market.

(Proposals for additions or amendments)

PART TWO (cont'd)

Article IV - Provision of Information

1. All participants agree to provide regularly and promptly to the Committee established in terms of Article [] of this Protocol details of exports and imports of products covered by Article I and any other information the Committee requires in order to assess the functioning of this Protocol and the situation in and the evolution of the international market.

2. In cases where prices in international trade of the products covered by Article I are approaching the minimum prices mentioned in paragraph 2 of Article III, participants exporting these products shall notify to the Committee all the relevant elements for evaluating their own market situation and, in particular, credit or loan practices, twinning with other products, barter or three-sided transactions, refunds or rebates and exclusivity contracts, so that the Committee can make a verification.]

(Existing Protocol within GATT)

(Proposals for additions or amendments)

PART TWO (cont'd)

/Article / - Obligations of Exporting
Participants at the Level of Maximum Prices/

1. Exporting participants undertake to supply importing participants on a priority basis and to deliver to them, at prices consistent with the prices determined in paragraph 2 of Article III, certain quantities of products covered by Article I.

Note: It was noted that provision should be made for the possibility of special and differential treatment for developing countries.

(Existing Protocol within GATT)

Article V - Co-operation of Importing Countries

1. Participants which import the products covered by this Protocol undertake in particular:
 - (a) to co-operate in implementing the minimum price objective of this Protocol and to ensure as far as possible that the products covered by this Protocol are not imported at less than the appropriate customs valuation equivalent to the prescribed minimum price; and
 - (b) to supply information concerning imports of the products covered by this Protocol from non-participants; and
 - (c) to consider sympathetically proposals for appropriate remedial action if imports at prices inconsistent with the minimum price threaten the functioning of this Protocol.

(Proposals for additions or amendments)

PART TWO (cont'd)

Article I - Co-operation of importing countries

1. Participants which import products covered by Article I undertake in particular:
 - (a) to co-operate in implementing the minimum prices objective of this Protocol and to ensure, as far as possible, that the products covered by Article I are not imported at less than the appropriate customs valuation equivalent to the prescribed minimum prices;
 - (b) to supply information concerning imports of products covered by Article I from non-participants; and
 - (c) to consider sympathetically proposals for appropriate remedial action if imports at prices inconsistent with the minimum prices threaten the functioning of this Protocol.

Note: The following proposal was made:

1. In cases where prices in international trade of the products covered by Article I are at the level of the agreed minimum prices, participants importing these products shall undertake to buy supplies solely from participants exporting these products.
2. In cases where prices in international trade of the products covered by Article I are at the level of the agreed maximum prices, participants importing these products shall undertake not to resell the quantities delivered by participants exporting these products.7

(Existing Protocol within GATT)

Article VI - Food Aid

The participants agree:

1. In co-operation with FAO and other interested organizations, to foster recognition of the value of dairy products in improving nutritional levels and of ways and means through which they may be made available for the benefit of developing countries.
2. Where possible and appropriate, to incorporate the donation or sale on concessional terms of dairy products or related equipment in their respective aid programmes. Participants should notify the Committee in advance each year of the scale of their proposed contributions of such food aid. It would be understood that contributions could be made bilaterally or through joint projects or through the World Food Programme.
3. Recognizing the desirability of harmonizing their efforts in this field, as well as the need to avoid harmful interference with normal patterns of production and international trade, to exchange views in the Management Committee established in terms of Article VII on their arrangements for the supply of dairy products as food aid or on concessional terms.

(Proposals for additions or amendments)

PART THREE

Article / 7 - Food Aid

Note: To the extent that the Sub-Group decides to adopt the provisions suggested in the second sub-paragraph of paragraph 7 of Article III, paragraph 3 of Article VI of the existing Protocol could be dropped.

(Existing Protocol within GATT)

Article VII - Administration of this Protocol

Management Committee

1. A Management Committee shall be established within the framework of the General Agreement on Tariffs and Trade. The Committee shall comprise representatives of all participants to this Protocol and shall carry out all the functions which are necessary to implement the provisions of this Protocol. The Committee shall be serviced by the GATT secretariat.

Review of market

2. The Committee shall keep under constant review the situation in and the evolution of the international market for the products covered by this Protocol and the conditions under which the provisions of this Protocol are applied by participants, taking into account the evolution of prices in international trade in each of the other dairy products having implications for the trade in products covered by this Protocol.

Regular and special meetings

3. The Committee shall normally meet at least once each quarter. However, the Chairman may call a special meeting of the Committee on his own initiative. Any participant which considers that its commercial interests are being seriously threatened and which is unable to reach a mutually satisfactory solution with the other participant or participants concerned, may request the Chairman to convene a special meeting of the Committee on an urgent basis so as to determine as rapidly as possible, and within four working days if requested, any measures which may be required to meet the situation.

Emergency action

4. Any participant, which considers that its interests are seriously endangered by a country not bound by this Protocol, can request the Chairman to convene an emergency meeting of the Committee within two working days to determine and decide whether measures would be required to meet the situation. If such a meeting cannot be arranged within the two working days and the commercial interests of the participant concerned are likely to be materially prejudiced, that participant may take unilateral action to safeguard the position, on the condition that any other participants likely to be affected are immediately notified. The Chairman of the Committee shall also be formally advised immediately of the full circumstances of the case and shall be requested to call a special meeting of the Committee at the earliest possible moment.

(Proposals for additions or amendments)

PART FOUR

Article / 7 - Administration of the Protocol

/Derogations/

/5. Upon request by a participant, the Committee shall have the authority to grant derogations from the provisions of paragraphs 1 to 4 and 7 of Article III in order to remedy difficulties which observance of minimum prices could cause certain participants. The Committee shall pronounce on such a request within three months from the date of the request./

(Existing Protocol within GATT)

Article VIII - Other Provisions

1. Entry into force

- (a) This Protocol shall enter into force, for those participants having accepted it, on 14 May 1973. For participants accepting this Protocol after that date, it shall be effective from the date of their acceptance.
- (b) The validity of contracts entered into before the date of entry into force of this Protocol is not affected by this Protocol.

2. Duration

This Protocol shall remain in force for one year. The duration of this Protocol shall be extended for further periods of one year at a time, unless the Management Committee, at least eighty days prior to each date of expiry, decides otherwise.

3. Amendment

The provisions of this Protocol may be amended by the Management Committee established in terms of Article VII.

4. Acceptance

- (a) This Protocol is open for acceptance, by signature or otherwise, to governments (including the competent authorities of the European Communities) members of the United Nations or of one of its specialized agencies.
- (b) This Protocol shall be deposited with the Director-General to the CONTRACTING PARTIES who shall promptly furnish a certified copy thereof and a notification of each acceptance thereof to each participant to the Protocol.

5. Withdrawal

Any government (including the competent authorities of the European Communities) may withdraw from this Protocol upon the expiration of sixty days from the day on which written notice of such withdrawal is received by the Director-General to the CONTRACTING PARTIES.

DONE at Geneva this second day of April one thousand nine hundred and seventy-three, in a single copy, in the English and French languages, both texts being authentic.

(Proposals for additions or amendments)

PART FIVE

Article / 7 - Final Provisions^{1/}

^{1/}No attempt has been made to amend the final provisions which will depend on the final provisions of the Arrangement.

ANNEX III

Results of bilateral or plurilateral negotiations
as taken from the schedules annexed to the /Geneva/ Protocol (...)
and annexed to the present Arrangement/