

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Special Distribution

Multilateral Trade Negotiations

Group "Agriculture"

Sub-Group on Dairy Products

PROVISIONAL DRAFT COMPREHENSIVE ARRANGEMENT REGARDING THE DAIRY PRODUCTS SECTOR

Corrigendum

1. The present corrigendum, prepared by the secretariat in the light of the discussions at the meeting of June 1978, contains the text of the articles, paragraphs and sub-paragraphs amended at that meeting.
2. Where any additional proposals have been announced, a note to that effect appears in the text.

Pages 7 to 11: Replace the text of Article V by the following text:

Article V - Other General Provisions¹

/Pro memoria/ /(a) Safeguards

Note: The following proposal was made:

/The notification referred to in Article XIX:2 of the General Agreement on Tariffs and Trade shall likewise be made to the Council established under this Arrangement where the emergency action envisaged in that Article concerns products covered by this Arrangement.

The notification shall include a statement of the facts that are causing or threatening to cause, in the opinion of the participant intending to take the action, serious injury to domestic producers of like or directly competitive products.

In any case, and without prejudice to the provisions of Article XIX of the General Agreement on Tariffs and Trade and paragraph (f) of this Article, participants adversely affected by the action may refer the matter to the Council.

The Council may adopt such recommendations as it deems appropriate./

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

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

/Pro memoria/ / (b) /Export/ subsidies

Note: A proposal will be made at a later date.

The following proposal was made:

/Participants recognize that subsidies that contribute to distort markets for the products covered by the present Arrangement, including those applied at stages other than that of export whether they have the effect of increasing exports or of reducing imports of those products, jeopardize the achievement of the objectives of this Arrangement.

Accordingly, they undertake to avoid the use of such subsidies and gradually to reduce any that are in force with the object of eliminating them as soon as possible.

Accordingly, participants agree, without prejudice to the provisions of Article XVI of the General Agreement on Tariffs and Trade, to notify in writing to the Council the purpose and nature of any subsidies maintained by them, with an indication of their estimated effects on the quantity of the product or products imported or exported by them and the circumstances which, in their opinion, make the subsidy necessary.

Likewise, participants maintaining subsidies shall examine, with any participant or participants that so request, or in the Council, upon request by an interested participant, the modalities for implementing the undertaking gradually to reduce the said subsidies. The Council shall make such recommendations as it deems necessary.]

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

It was noted that the commitments entered into in terms of Article VI of this Arrangement were a contribution to the practical solution of this problem.]

/Pro memoria/ .(c) Health and veterinary measures

Note: Two proposals were made.

First proposal:

/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./

Second proposal:

/In accordance with the provisions of Article XX of the General Agreement on Tariffs and Trade, participants recognize the need to avoid that the measures referred to in this paragraph constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade in the products covered by this Arrangement.

Consequently, participants undertake to notify the Council in writing of any measures they propose to adopt, with an indication of the circumstances which, in their opinion, make the adoption of such measures necessary.

Notification prior to application of a measure may be omitted in the event of urgent problems of human or animal health or of environmental protection, and provided such omission is justified to the entire satisfaction of the Council in the light of the provisions of Article XX of the General Agreement on Tariffs and Trade and of the present Arrangement.

The Council, in pursuance of paragraph (f) of this Article, may adopt such recommendations as it deems appropriate.//

/Pro memoria/ /(d) Standards, 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./

(e) Food aid and transactions other than normal commercial transactions

/Note: A proposal will be made at a later date./

1. The participants agree:

(a) 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.

/First alternative:

(b) 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 Council 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.

(c) 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 Council on their arrangements for the supply of dairy products as food aid or on concessional terms./

/Second alternative:

(b) In accordance with the objectives of this Arrangement, to furnish, within the limits of their possibilities, dairy products to developing countries by way of food aid.

(c) In order to allow the harmonization and development of their efforts in this field, to indicate /each year/ to the Council the contributions that they intend to make in this respect in the course of the / / coming years. It is understood that contributions can be made bilaterally or through joint projects or through World Food Programme./

2. Donated exports to developing countries, exports destined for relief purposes or welfare purposes in developing countries, and other transactions which are not normal commercial transactions shall be effected in accordance with the FAO Principles of Surplus Disposal and Consultative Obligations. Consequently, the Council shall co-operate closely with the Consultative Sub-Committee on Surplus Disposal and 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 said principles.

/ (f) Settlement of disputes /

/ (i) Each participant shall promptly afford adequate opportunity for consultation regarding such representations as may be made by any other participant with respect to any matter affecting this Arrangement.

(ii) Any participant may raise before the Council any matter affecting this Arrangement.

(iii) If the matter affects the application of the specific provisions of the Protocol Regarding Certain Milk Powders /and Casein/ or the application of the specific provisions of the Protocol Regarding Milk Fat /or the

application of the specific provisions of the Protocol Regarding Cheese⁷, any participant which considers that its trade 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 of the Committee for the relevant Protocol established under Article VII:2(a) of this Arrangement, 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. If a satisfactory solution cannot be reached, the Council shall, at the request of the Chairman of the Committee for the relevant Protocol, meet within a period of not more than days to consider the matter with a view to facilitating a satisfactory solution.⁷

(iv) First alternative:

The commitments entered into between participants to this Arrangement including the Protocols annexed thereto, shall be deemed to be obligations of a contracting party under the GATT.⁷

Second alternative:

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Annex I - Protocol Regarding Certain Milk Powders and casein

Page 21 - Replace the text of Article 2, Pilot Products, by the following text:

PART TWO

Article 2 - 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:

- (a) Designation: Skimmed milk powder
- Milk fat content: Less than or equal to 1.5 per cent by weight
- Water content: Less than or equal to 5 per cent by weight
- (b) Designation: Whole milk powder
- Milk fat content: 26 per cent by weight
- Water content: Less than or equal to 5 per cent by weight
- (c) Designation: Buttermilk powder^{1/}
- Milk fat content: Less than or equal to 11 per cent by weight
- Water content: Less than or equal to 5 per cent by weight
- (d) Designation: Casein
- Milk fat content: Less than or equal to 2 per cent by weight
- Water content: Less than or equal to 12 per cent by weight^{1/}

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

^{1/} Derived from the manufacture of butter and anhydrous milk fat.

Terms of sale: F.o.b. ocean-going vessels from the exporting country or, for a land-locked country, f.o.b. from /one/ /the/ maritime port/s/ of its choice to be designated at the time it signifies its acceptance /in accordance with Article VIII:1(b) of the Arrangement; /or for the countries to be listed in a note, f.o.b. from reference points to be designated at the time they signify their acceptance /in accordance with Article VIII:1(b) of the Arrangement; /or free-at-frontier exporting country.
/Prompt payment against documents./ /The minimum prices are exclusive of credit charges./

Page 22 - Replace the text of Article 3:2(a), Level and observance of minimum /and maximum/ prices, by the following text:

2. / (a) The minimum prices provided for in paragraph 1 of the present Article have been established with a view to ensuring a greater degree of stability in trade in the products concerned by narrowing the range of fluctuations in international price levels. Accordingly, the price levels set out in the present Article have been established at levels which take account, in particular, of the current market situation, /the need to establish and maintain a broad relationship with/ /the/ dairy price support levels in the major producing participants, the need to ensure an appropriate relationship between the minimum prices established in the Protocols to the present Arrangement, the need to ensure equitable prices to consumers; and the need to establish and maintain a minimum return to the most efficient producers in order to ensure stability of supply over the longer term./

Page 23 - Replace the text of Article 3:3 by the following text:

3. The levels of the minimum and maximum prices specified in the present Article can be modified by the Committee established in terms of Article VII:2(a) of the Arrangement, hereinafter referred to as "the Committee", taking into account, on the one hand, the results of the operation of the Protocol and, on the other hand, the evolution of the situation of the international market.] The levels of the minimum prices specified in the present Article shall be subject to review at least once a year by the Committee. The Committee shall meet in September October of each year for this purpose. In undertaking this review the Committee shall take account, to the extent relevant and necessary, of costs faced by producers, currency factors,] the need to maintain a long-term minimum return to the most economic producers, the need to maintain stability of supply and to ensure equitable prices to consumers, and the current market situation and shall have regard to the desirability of maintaining and improving the relationship between the levels of the minimum prices set out in paragraph 2(b) of the present Article and the dairy support levels in the major producing participants].

Pages 24 and 25 - Replace the text of Article 3:4, Adjustment of minimum and maximum prices, by the following text:

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 2 of this Protocol according to the following provisions:

Milk fat content: If the fat content of the milk powders described in sub-paragraph (a) of Article 1:1 of the present Protocol excluding buttermilk powder¹ differs from the milk fat content of the pilot products as defined in Article 2:1(a) and (b) of the present Protocol, then for each full percentage point by which the milk fat content exceeds 2 per cent, there shall be an upwards adjustment of the minimum price in proportion to the difference between the minimum prices established for the pilot products defined in Article 2:1(a) and (b) of the present Protocol.²

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 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 designated maritime port/s/, or, for the countries to be listed in a note, f.o.b. from the designated reference points/ 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 of this Article, 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 or in line with other traditional practices/.

¹As defined in Article 2:1(c) of this Protocol.

²See schedule of price differentials according to fat content.

Pages 25 and 26 - Replace the text of Article 3:5, Exports /and imports/ of skimmed milk powder /, whole milk powder⁷ and buttermilk powder for purposes of animal feed, by the following text:

Exports /and imports/ of /skimmed milk powder /, whole milk powder/ and buttermilk powder/ /products referred to in Article 1 of this Protocol/ for purposes of animal feed

/First alternative:

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 /, whole milk powder⁷ and buttermilk powder⁷ /products referred to in Article 1 of this Protocol/ for purposes of animal feed at prices below the minimum prices provided for in this Protocol for these products. 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 /, whole milk powder⁷ and buttermilk powder⁷ /products/ thus exported or imported are used exclusively for animal feed, are approved by the Committee and recorded in a register established by it. /A /An exporting/ participant seeking such a derogation must first submit information demonstrating that it is not feasible to direct the product in question to food aid.⁷

/Participants wishing to make use of the provisions of this paragraph shall give the Committee advance notification of their intention to do so./ The participants shall furnish the necessary information concerning their transactions in respect of /skimmed milk powder /, whole milk powder/ and buttermilk powder/ /these products/ for purposes of animal feed, so that the Committee may follow developments in this sector and periodically make forecasts concerning the evolution of this trade./

/Second alternative: A proposal will be made at a later date./

Page 27 - Replace the text of Article 3:8, Transactions other than normal commercial transactions, by the following text:

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 /nor to concessional sales/.

Page 29 - Replace the text of Article 6:2, Co-operation of importing countries, by the following text:

2. Paragraph 1 of this Article shall not apply to imports of /skimmed milk powder /, whole milk powder/ and buttermilk powder/ /the products referred to in Article 1 of this Protocol/ for purposes of animal feed, provided that such imports are subject to the measures and procedures provided for in paragraph 5 of Article 3 of this Protocol.

Annex II - Protocol Regarding Milk Fat

Page 33 - Replace the text of Article 2, Pilot Products, by the following text:

PART TWO

Article 2 - 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:

(a) Designation: Anhydrous milk fat

Milk fat content: 99.5 per cent by weight

(b) Designation: Butter

Milk fat content: 80 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/ /the/ maritime port/s/ of its choice to be designated at the time it signifies its acceptance /in accordance with Article VIII:1(b) of the Arrangement/; /or for the countries to be listed in a note, f.o.b. from reference points to be designated at the time they signify their acceptance /in accordance with Article VIII:1(b) of the Arrangement/; /or free-at-frontier exporting country.

/Prompt payment against documents./ /The minimum prices are exclusive of credit charges./

Page 34 - Replace the text of paragraph 2(a) of Article 3, Level and observance of minimum and maximum prices, by the following text:

2. [(a)] The minimum prices provided for in paragraph 1 of the present Article have been established with a view to ensuring a greater degree of stability in trade in the products concerned by narrowing the range of fluctuations in international price levels. Accordingly, the price levels set out in the present Article have been established at levels which take account, in particular, of the current market situation, [the need to establish and maintain a broad relationship with] [the] dairy price support levels in the major producing participants, the need to ensure an appropriate relationship between the minimum prices established in the Protocols to the present Arrangement, the need to ensure equitable prices to consumers, and the need to establish and maintain a minimum return to the most efficient producers in order to ensure stability of supply over the longer term.]

Page 35 - Replace the text of Article 3:3 by the following text:

3. The levels of the minimum and maximum prices specified in the present Article can be modified by the Committee established in terms of Article VII:2(a) of the Arrangement, hereinafter referred to as "the Committee" [, taking into account, on the one hand, the results of the operation of the Protocol and, on the other hand, the evolution of the situation of the international market.] The levels of the minimum prices specified in the present Article shall be subject to review at least once a year by the Committee. The Committee shall meet in [September] [October] of each year for this purpose. [In undertaking this review the Committee shall take account, to the extent relevant and necessary, of costs faced by producers,] [currency factors,] the need to maintain a long-term minimum return to the most economic producers, the need to maintain stability of supply and to

ensure equitable prices to consumers, and the current market situation
/and shall have regard to the desirability of maintaining and improving
the relationship between the levels of the minimum prices set out in
paragraph 2(b) of the present Article and the dairy support levels in the
major producing participants/.]

Page 36 - Replace the text of Article 3:4, Adjustment of minimum /and
maximum/ prices, by the following text:

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 2
of this Protocol according to the following provisions:

Milk fat content:

/First alternative: If the fat content of the butter defined in
Article 2, paragraph 1(b) of this Protocol is
equal to or greater than 82 per cent or less
than 80 per cent, the minimum price /and maximum
price/ of this product shall be increased or
reduced by /.../ dollars for each full percentage
point of milk fat¹./

¹See schedule of price differentials according to fat content.

Second alternative:

If the milk fat content of the product defined in Article 1 of the present Protocol differs from the milk fat content of the pilot products as defined in Article 2 of the present Protocol then, if the milk fat content is equal to or greater than 82 per cent or less than 80 per cent, the minimum price of this product shall be, for each full percentage point by which the milk fat content is less than or more than 80 per cent, increased or reduced in proportion to the difference between the minimum prices established for the pilot products defined in Article 2 of the present Protocol.¹

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 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 designated maritime port s/ or, for the countries to be listed in a note, f.o.b. from the designated reference points s/ 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 of this Article 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 or in line with other traditional practices s/.

¹See schedule of price differentials according to fat content.

Page 37 - Replace the text of Article 3:7, Transactions other than normal commercial transactions, by the following text:

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 [nor to concessional sales].

Page 40 - Replace the text of Article 7:1, Derogations, by the following text:

PART THREE

Article 7 - Derogations

1. Upon request by a participant, the Committee shall have the authority to grant derogations from the provisions of paragraphs 1 to 4 of Article 3 of this Protocol 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.