

GENERAL AGREEMENT ON TARIFFS AND TRADE

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Group "Agriculture"

Sub-Group on Dairy Products

DRAFT

INTERNATIONAL DAIRY ARRANGEMENT

Revision

1. The present document contains the text of the draft International Dairy Arrangement, as it results from the July 1978 negotiations.¹

¹In the course of the July meeting the text of the draft, circulated in document MTN/DP/W/27/Rev.5 and Corr.1, was the subject of two successive revisions which were circulated in documents INT(78)29 and Add.1 and INT(78)29/Rev.1 respectively.

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/INTERNATIONAL DAIRY ARRANGEMENT

PREAMBLE

- Recognizing the importance of milk and dairy products to the economy of many countries in terms of production, trade and consumption;
- Recognizing the need, in the mutual interests of producers and consumers, and of exporters and importers, to avoid surpluses and shortages, and to maintain prices at an equitable level;
- Noting the diversity and interdependence of dairy products;
- Noting the situation in the dairy products market, which is characterized by very wide fluctuations and the proliferation of export and import measures;
- Considering that improved co-operation in the dairy products sector contributes to the attainment of the objectives of expansion and liberalization of world trade, and the implementation of the principles and objectives concerning developing countries agreed upon in the Tokyo Declaration of Ministers dated 14 September 1973 concerning the Multilateral Trade Negotiations;
- Determined to respect the principles and objectives of the General Agreement on Tariffs and Trade and, in carrying out the aims of this Agreement, effectively to implement the principles and objectives agreed upon in the said Tokyo Declaration;
- The participants to the present Arrangement have, through their representatives, agreed as follows:

PART ONEGENERAL PROVISIONSArticle I - Objectives

The objectives of this Arrangement shall be, in accordance with the principles and objectives agreed upon in the Tokyo Declaration of Ministers dated 14 September 1973 concerning the Multilateral Trade Negotiations,

- 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;
- to further the economic and social development of developing countries.

Article II - 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:

	<u>CCCN</u>
(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

2. The International Dairy Products Council established in terms of Article VIII:1(a) of this Arrangement (hereinafter referred to as the Council) may decide that the Arrangement is to apply to other products in which dairy products referred to in paragraph 1 of this Article have been incorporated if it deems their inclusion necessary for the implementation of the objectives and provisions of this Arrangement.

Article III - Information

1. The participants agree to provide regularly and promptly to the Council the information required to permit it to monitor and assess the overall situation of the world market for dairy products and the world market situation for each individual dairy product.

2. The information that the participants undertake to provide pursuant to paragraph 1 of this Article, according to the modalities that the Council shall establish, shall include data on past performance, current situation and outlook regarding production, consumption, prices, stocks and trade, including transactions other than normal commercial transactions, in respect of the products referred to in Article II of this Arrangement, and any other information deemed necessary by the Council. Participants shall also provide information on their domestic policies and trade measures, and on their bilateral, plurilateral or multilateral commitments, in the dairy sector and shall notify, as early as possible, any changes in such policies and measures that are likely to affect international trade in dairy products. The provisions of this paragraph shall not require any participant to disclose confidential information which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.

Article IV - Functions of the International Dairy
Products Council and Co-operation between the
Participants to this Arrangement

1. The Council shall meet in order to:

(a) make an evaluation of the situation in and outlook for the world market for dairy products, on the basis of a status report prepared by the secretariat with the documentation furnished by participants in accordance with Article III of this Arrangement, information arising from the operation of the Protocols covered by Article VII of this Arrangement, and any other information available to it;

(b) review the functioning of this Arrangement.

2. If after an evaluation of the world market situation and outlook, referred to in paragraph 1(a) of this Article, the Council finds that a serious market disequilibrium, or threat of such a disequilibrium, which affects or may affect international trade, is developing for dairy products in general or for one or more products, the Council will proceed to identify, taking particular account of the situation of developing countries, possible solutions for consideration by governments.

3. Depending on whether the Council considers that the situation defined in paragraph 2 of this Article is temporary or more durable, the measures referred to in paragraph 2 of this Article could include short-, 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 paragraphs 2 and 3 of this Article, due account shall be taken of the special and more favourable treatment to be provided for developing countries, where this is feasible and appropriate.

5. Any participant may raise before the Council any matter affecting this Arrangement. Each participant shall promptly afford adequate opportunity for consultation regarding such matter affecting this Arrangement.

6. 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 Cheese, 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 VIII: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 fifteen days to consider the matter with a view to facilitating a satisfactory solution.

Article V - Other General Provisions

(a) Safeguards¹

First alternative²:

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.

¹If a satisfactory solution is reached in the Group "Safeguards", such a provision would not be necessary.

²Proposal by Argentina.

In any case, and without prejudice to the provisions of Article XIX of the General Agreement on Tariffs and Trade and Article IV, paragraphs 5 and 6 of this Arrangement, participants adversely affected by the action may refer the matter to the Council.

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

[Second alternative¹:

Emergency action on imports

(i) The provisions of the General Agreement on Tariffs and Trade, in particular those of Article XIX, shall remain applicable in the case of emergency action as referred to in this paragraph.

(ii) Participants agree that the notification referred to in Article XIX:2 of the General Agreement shall likewise be made to the Council established under this Arrangement where the emergency action envisaged concerns products covered by this Arrangement.

(iii) Any participant may bring before the Council any question concerning the action referred to in this paragraph.]

[(b) Export subsidies²

[First alternative³:

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.

¹Proposal by the European Communities.

²If a satisfactory solution is reached in the Sub-Group "Subsidies and Countervailing Duties", such a provision would not be necessary.

³Proposal by Argentina.

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./

Second alternative¹:

(i) Participants recognize that export subsidies, including any form of income or price support, which operate directly or indirectly to increase exports of any product covered by Article II may endanger the fulfilment of the objectives of this Arrangement and accordingly undertake to avoid the use or maintenance of such subsidies.

(ii) If a participant grants or maintains any such subsidy it shall on 1 January each year notify the Council in writing of (a) the extent and nature of the subsidization, (b) the effect of the subsidization on the quantity exported from its territory and (c) of the circumstances making the subsidization necessary.

(iii) If a participant applies any subsidy which operates directly or indirectly to increase its exports such subsidies shall not be applied in a manner which results in that participant having more than an equitable share of trade of that product either globally or in an individual country market, account being taken of the shares of the participant in such trade in the product during a previous representative period and any special factors which may have affected or may be affecting such trade in the product.

(iv) If a participant considers that serious prejudice to its interests under this Arrangement is caused or threatened by exports benefiting from export subsidies, the participant applying the measure shall, upon request, discuss with the other participant or participants concerned or with the Council the possibility of limiting or eliminating the subsidized exports in question./

¹Proposal by Australia.

/Third alternative¹:

Participants reaffirm the principles and operative provisions set forth in Article XVI of the General Agreement on Tariffs and Trade.⁷

/[(c) Health and veterinary measures, standards, rules on packaging and labelling, designation of origin²/

/First alternative³:

(i) In accordance with the provisions of Article XX of the General Agreement on Tariffs and Trade, participants recognize that nothing shall prevent a country from taking the measures necessary to protect human or animal life or health, but they likewise recognize the need to avoid that the measures referred to in this paragraph are adopted or applied in such a way as to constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade.

(ii) Participants undertake to notify the Council in writing of any measures they propose to adopt or apply, with an indication of the circumstances which, in their opinion, make the adoption or enforcement of such measures necessary; in case of emergency, participants may dispense with making this prior notification, but shall notify the measures without delay.

(iii) Participants undertake to enter into consultation with any country that so requests concerning the measures that they propose to adopt or that they are applying, with the objective of seeking appropriate solutions.

(iv) In its rules of procedure the Council shall establish procedural provisions regarding the notifications and consultations referred to in the preceding paragraphs.⁷

¹Proposal by the European Communities.

²If a satisfactory solution is reached in the Group "Agriculture" concerning the applicability to agricultural products of the draft code on standards, such a provision would not be necessary.

³Proposal by the European Communities.

Second alternative¹:

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 those of the present Arrangement.

The Council, in pursuance of Article IV, paragraphs 5 and 6 of this Arrangement, may adopt such recommendations as it deems appropriate.⁷

Article VI - Food Aid and Transactions other than
Normal Commercial Transactions

1. The participants agree:

(i) 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.

(ii) 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. Participants should notify the Council in advance each year, as far as practicable, of the scale, quantities and destinations of their proposed contributions of such food aid. Participants should also give, if possible, prior notification to the Council of any proposed amendments to the notified programme. It would be understood that contributions could be made bilaterally or through joint projects or through multilateral programmes, particularly the World Food Programme.

¹Proposal by Argentina.

(iii) 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.

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.

3. The Council shall, in accordance with conditions and modalities that it will establish, upon request, discuss, and consult on, all transactions other than normal commercial transactions.7

PART TWO

SPECIFIC PROVISIONS

Article VII - Protocols

1. Without prejudice to the provisions of Articles I to VI 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 /and Casein/
Milk powder and cream powder, excluding whey powder
/Casein/

Annex II - Protocol Regarding Milk Fat
Milk fat

/Annex III - Protocol Regarding Cheese
Cheese/

PART THREE

Article VIII - Administration of the Arrangement

1. International Dairy Products Council

- (a) An International 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. The Council shall establish its own rules of procedure.

(b) 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 Committees established under paragraph 2(a) of this Article, or at the request of a participant to this Arrangement.

(c) Decisions

The Council shall reach its conclusions by consensus. The Council shall be deemed to have agreed on a matter submitted for its consideration if no member of the Council formally objects to the acceptance of a proposal.

(d) Co-operation with other organizations

The Council shall make whatever arrangements are appropriate for consultation or co-operation with intergovernmental and non-governmental organizations.

(e) Admission of observers

(i) The Council may invite any non-participating country to be represented at any meeting as an observer.

(ii) The Council may also invite any of the organizations referred to in paragraph 1(d) of this Article to attend any meeting as an observer.

2. Committees

- (a) The Council shall establish a Committee to carry out all the functions which are necessary to implement the provisions of the Protocol Regarding Certain Milk Powders [and Casein]/[and] a Committee to carry out all the functions which are necessary to

implement the provisions of the Protocol Regarding Milk Fat /and a Committee to carry out all the functions which are necessary to implement the provisions of the Protocol Regarding Cheese/. Each of these Committees shall comprise representatives of all participants to the relevant Protocol. The Committees shall be serviced by the GATT secretariat. They shall report to the Council on the exercise of their functions.

(b) Examination of the market situation

The Council shall make the necessary arrangements, determining the modalities for the information to be furnished under Article III of this Arrangement, so that

-the Committee of the Protocol Regarding Certain Milk Powders /and Casein/ may 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;

-the Committee of the Protocol Regarding Milk Fat may 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;

/-the Committee of the Protocol Regarding Cheese may 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./

(c) Regular and special meetings

Each Committee shall normally meet at least once each quarter. However, the Chairman of each Committee may call a special meeting of the Committee on his own initiative or at the request of any participant.

(d) Decisions

Each Committee shall reach its conclusions by consensus. The Committee shall be deemed to have agreed on a matter submitted for its consideration if no member of the Committee formally objects to the acceptance of a proposal.

PART FOUR

Article IX - Final Provisions

1. Acceptance

- (a) This Arrangement is open for acceptance, by signature or otherwise,
 - /(i) by the governments¹ of ... and
 - (ii) by other governments members of the United Nations, or of one of its specialized agencies./
- /(b) Any government accepting this Arrangement may at the time of acceptance make a reservation with regard to its acceptance of any of the Protocols annexed to the Arrangement. This reservation must be accepted by the participants./
- (c) Any government which is not a contracting party to the General Agreement on Tariffs and Trade, or has not acceded provisionally to the General Agreement, may accede to this Arrangement /on terms to be agreed between that government and the participants/.
- (d) This Arrangement shall be deposited with the Director-General to the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade who shall promptly furnish a certified copy thereof and a notification of each acceptance thereof to each participant. The texts of this Arrangement in the English, French and Spanish languages shall all be equally authentic.
- (e) Acceptance of this Arrangement shall carry denunciation of the Arrangement Concerning Certain Dairy Products, done at Geneva on 12 January 1970 which entered into force on 14 May 1970, for participants having accepted that Arrangement and denunciation of the Protocol Relating to Milk Fat, done at Geneva on 2 April 1973 which entered into force on 14 May 1973, for participants having accepted that Protocol. Such denunciation shall take effect on the date of entry into force of this Arrangement.

¹For the purposes of this Arrangement, the term "government" is deemed to include the competent authorities of the European Economic Community.

2. Entry into force

- (a) This Arrangement shall enter into force, for those participants having accepted it, on 1 January 1980 /provided that all governments listed under paragraph 1(a)(i) of this Article have accepted it before 1 December 1979/. For participants accepting this Arrangement after that date, it shall be effective from the date of their acceptance.
- (b) The participants having accepted the Arrangement shall meet in December 1979 and if the conditions under sub-paragraph (a) of this paragraph have not been fulfilled adopt any decision they deem appropriate with regard to its entry into force and application, including a decision to apply provisionally the Arrangement or any of its parts.
- (c) The validity of contracts entered into before the date of entry into force of this Arrangement is not affected by this Arrangement.

3. Validity

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

4. Amendment

Except where provision for modification is made elsewhere in this Arrangement, the provisions of this Arrangement may be amended by the Council. In such case, these amendments shall enter into force upon acceptance by the governments of all participants.

5. Relationship between the Arrangement and the Annexes

- (a) The Protocols mentioned in Article VII of this Arrangement and contained in its Annexes I, II /and III/ shall be deemed to be an integral part of this Arrangement, and likewise the register of processes and control measures referred to in Article 3:5 of the Protocol Regarding Certain Milk Powders /and Casein/.
- /(b) Annex IV shall be deemed to be an integral part of this Arrangement for the purposes of the obligations in respect of information and consultation./

5.bis. The commitments entered into by participants under this Arrangement including the Protocols annexed thereto, shall be deemed to be obligations of a contracting party under the General Agreement on Tariffs and Trade.⁷

6. Relationship between the Arrangement and the General Agreement on Tariffs and Trade

(a) Nothing in this Arrangement shall affect the rights and obligations of participants under the General Agreement on Tariffs and Trade.^{1,2}

(b) This Arrangement and its Annexes shall be annexed to the Final Act [...].

7. Withdrawal

(a) Any participant may withdraw from this Arrangement. Such withdrawal shall take effect upon the expiration of sixty days from the day on which written notice of withdrawal is received by the Director-General to the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade.

(b) Any participant which, upon withdrawal of any contracting party from this Arrangement, considers that the overall balance of rights and obligations has been affected, shall be free not later than thirty days from the day on which such withdrawal has taken effect, to withdraw substantially equivalent concessions initially negotiated with the contracting party withdrawing from this Arrangement.⁷

¹This provision applies only to participants contracting parties to the General Agreement on Tariffs and Trade.

²Reservation by Mexico.

ANNEX I

Protocol Regarding Certain Milk Powders
/and Casein/

PROTOCOL REGARDING CERTAIN MILK POWDERS
/AND CASEIN/

PART ONE

Article 1 - Product Coverage

1. This Protocol applies to:

- (a) milk powder and cream powder falling under CCCN heading No. 04.02, excluding whey powder;
- /(b) casein having a milk fat content of less than or equal to 2 per cent by weight./

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 powder¹

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 weight²

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. ocean-going vessels from the exporting country or, for the countries listed in Note 2, f.o.b. from reference points to be designated at the time they signify their acceptance² or free-at-frontier exporting country.

Prompt payment against documents.³

¹Derived from the manufacture of butter and anhydrous milk fat.

²For the countries mentioned below, the following reference points have been designated:

The Committee established in pursuance of Article VIII:2(a) of the Arrangement (hereinafter referred to as the Committee) may amend the provisions of this note.

³Provisional reservation by the United States.

PART TWO (cont'd)

Article 3 - 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 2 of this Protocol shall not be less than the minimum prices /nor more than the maximum prices/ applicable under the present Protocol. If the products are exported in the form of goods in which they have been incorporated, participants shall take the steps necessary to avoid the circumvention of the price provisions of this Protocol.

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 /, as far as possible, / a minimum return to the most efficient producers in order to ensure stability of supply over the longer term.]

(b) 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:

- (i) US\$/350-500/ per metric ton for the skimmed milk powder defined in Article 2 of this Protocol.
- (ii) US\$/700-800/ per metric ton for the whole milk powder defined in Article 2 of this Protocol.
- (iii) US\$/350-500/ per metric ton for the buttermilk powder defined in Article 2 of this Protocol.
- /[(iv) US\$/.../ per metric ton for the casein defined in Article 2 of this Protocol.]

/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:

- (i) US\$/850/ per metric ton for the skimmed milk powder defined in Article 2 of this Protocol.

PART TWO (cont'd)

Article 3 (cont'd)

- (ii) US\$/1,000 per metric ton for the whole milk powder defined in Article 2 of this Protocol.
- (iii) US\$/850 per metric ton for the buttermilk powder defined in Article 2 of this Protocol.
- /(iv) US\$/... per metric ton for the casein defined in Article 2 of this Protocol.//

3. (a) The levels of the minimum and maximum prices specified in the present Article can be modified by 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.

(b) 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 of each year for this purpose. In undertaking this review the Committee shall take account in particular, to the extent relevant and necessary, of costs faced by producers, other relevant economic factors of the world market, the need to maintain a long-term minimum return to the most economic producers, the need to maintain stability of supply and to ensure acceptable prices to consumers, and the current market situation and shall have regard to the desirability of 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.

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 milk fat content of the milk powders described in Article 1:1(a) 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 upward 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

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

²See schedule of price differentials according to fat content.

PART TWO (cont'd)

Article 3 (cont'd)

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 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 the countries listed in Article 2 of this Protocol, Note 2, 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 rates in the country concerned /or in line with other traditional practices/.

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, under the conditions defined below, export or import, as the case may be, skimmed milk powder and buttermilk powder for purposes of animal feed at prices below the minimum prices provided for in this Protocol for these products. 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 and buttermilk powder thus exported or imported are used exclusively for animal feed, are approved by the Committee and recorded in a register established by it.¹ /A participant seeking such derogation should indicate that it is not feasible to direct the product in question to food aid./ /Participants

¹Participants agree that before this Arrangement comes into force the processes and control measures annexed to this Protocol will be entered in the register. (It is proposed that the initial list of approved processes and control measures include all those currently in the register of the GATT Arrangement Concerning Certain Dairy Products, excluding control measures registered by exporting countries which permit exports in an unaltered state.)

PART TWO (cont'd)

Article 3 (cont'd)

wishing to make use of the provisions of this paragraph shall give advance notification of their intention to do so to the Committee which shall meet, at the request of a participant, to examine the market situation. The 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 Committee may follow developments in this sector and periodically make forecasts concerning the evolution of this trade.

Special conditions of sales

6. Participants undertake within the limit of their institutional possibilities to ensure that practices such as those referred to in Article 4:1 of this Protocol 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, this Protocol is applicable to exports of the products specified in Article 1 of this Protocol manufactured or repacked inside its own customs territory.

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 food-related development purposes/ or welfare purposes in developing countries /or to concessional sales/.

PART TWO (cont'd)

Article 4 - Provision of Information

1. In cases where prices in international trade of the products covered by Article 1 of this Protocol are approaching the minimum prices mentioned in Article 3:2 of this Protocol, without prejudice to the provisions of Article III of the Arrangement, participants 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, exclusivity contracts, packaging costs and details of the packaging, so that the Committee can make a verification.

/Article 5 - 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 Article 3:2 of this Protocol, products covered by Article 1 of this Protocol/.

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

Article 6 - Co-operation of Importing Participants

1. Participants which import products covered by Article 1 of this Protocol 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 1 of this Protocol are not imported at less than the appropriate customs valuation equivalent to the prescribed minimum prices /and, within the limit of their institutional possibilities, to seek, as far as possible, to buy supplies, subject to contracts already concluded, solely from participants exporting products covered by Article 1 of this Protocol, in cases where prices in international trade of those products are at the level of the agreed minimum prices/;
- (b) without prejudice to the provisions of Article III of the Arrangement and Article 4 of this Protocol, to supply information concerning imports of products covered by Article 1 of this Protocol from non-participants;
- (c) to consider sympathetically proposals for appropriate remedial action if imports at prices inconsistent with the minimum prices threaten the operation of this Protocol.

PART TWO (cont'd)

Article 6 (cont'd)

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 Article 3:5 of this Protocol.

PART THREE

Article 7 - Derogations

1. Upon request by a participant, the Committee shall have the authority to grant derogations from the provisions of Article 3, paragraphs 1 to 5 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.

Article 8 - Emergency Action

1. Any participant, which considers that its interests are seriously endangered by a country not bound by this Protocol, can request the Chairman of the Committee 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 its 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.

ANNEX II

Protocol Regarding Milk Fat

PROTOCOL REGARDING MILK FAT

PART ONE

Article 1 - Product Coverage

1. This Protocol applies to milk fat falling under CCCN heading No. 04.03, having a milk fat content equal to or greater than 50 per cent by weight.

PART TWO

Article 2 - Pilot Products

1. For the purposes 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 the countries listed in Note 1, f.o.b. from reference points to be designated at the time they signify their acceptance¹ or free-at-frontier exporting country.

Prompt payment against documents.²

¹For the countries mentioned below, the following reference points have been designated:

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The Committee established in pursuance of Article VIII:2(a) of the Arrangement (hereinafter referred to as the Committee) may amend the provisions of this note.

²Provisional reservation by the United States.

PART TWO (cont'd)

Article 3 - 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 2 of this Protocol shall not be less than the minimum prices /nor more than the maximum prices/ applicable under the present Protocol. If the products are exported in the form of goods in which they have been incorporated, participants shall take the steps necessary to avoid the circumvention of the price provisions of this Protocol.

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 /, as far as possible, / a minimum return to the most efficient producers in order to ensure stability of supply over the longer term./

(b) 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:

- (i) US\$ /1,200/ per metric ton for the anhydrous milk fat defined in Article 2 of this Protocol.
- (ii) US\$ /950-1,000/ per metric ton for the butter defined in Article 2 of this Protocol.

/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:

- (i) US\$ /1,800/ per metric ton for the anhydrous milk fat defined in Article 2 of this Protocol.
- (ii) US\$ /1,500/ per metric ton for the butter defined in Article 2 of this Protocol./

PART TWO (cont'd)

Article 3 (cont'd)

3. (a) The levels of the minimum /and maximum/ prices specified in the present Article can be modified by 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.

(b) 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 of each year for this purpose. In undertaking this review the Committee shall take account in particular, to the extent relevant and necessary, of costs faced by producers, other relevant economic factors of the world market, the need to maintain a long-term minimum return to the most economic producers, the need to maintain stability of supply and to ensure acceptable prices to consumers, and the current market situation and shall have regard to the desirability of 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.

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 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 more than or less than 80 per cent, increased or reduced in proportion to the difference between the minimum prices established for the pilot¹ products defined in Article 2 of the present Protocol.

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 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.

¹See schedule of price differentials according to fat content.

PART TWO (cont'd)Article 3 (cont'd)

Terms of sale: If sold on terms other than f.o.b. from the exporting country, or, for the countries listed in Article 2 of this Protocol, Note 1, 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 rates in the country concerned /or in line with other traditional practices/.

Special conditions of sales

5. Participants undertake within the limit of their institutional possibilities to ensure that practices such as those referred to in Article 4:1 of this Protocol 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

6. For each participant, this Protocol is applicable to exports of the products specified in Article 1 of this Protocol manufactured or repacked inside its own customs territory.

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 food-related development purposes/ or welfare purposes in developing countries /or to concessional sales/.

Article 4 - Provision of Information

1. In cases where prices in international trade of the products covered by Article 1 of this Protocol are approaching the minimum prices mentioned in Article 3:2 of this Protocol, without prejudice to the provisions of Article III of the Arrangement, participants 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, exclusivity contracts, packaging costs and details of the packaging, so that the Committee can make a verification.

PART TWO (cont'd)

/Article 5 - 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 Article 3:2 of this Protocol, products covered by Article 1 of this Protocol/.

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

Article 6 - Co-operation of Importing Participants

1. Participants which import products covered by Article 1 of this Protocol 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 1 of this Protocol are not imported at less than the appropriate customs valuation equivalent to the prescribed minimum prices /and, within the limit of their institutional possibilities, to seek, as far as possible, to buy supplies, subject to contracts already concluded, solely from participants exporting products covered by Article 1 of this Protocol, in cases where prices in international trade of those products are at the level of the agreed minimum prices/;
- (b) without prejudice to the provisions of Article III of the Arrangement and Article 4 of this Protocol, to supply information concerning imports of products covered by Article 1 of this Protocol from non-participants;
- (c) to consider sympathetically proposals for appropriate remedial action if imports at prices inconsistent with the minimum prices threaten the operation of this Protocol.

PART THREE

Article 7 - Derogations

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

Article 8 - Emergency Action

1. Any participant, which considers that its interests are seriously endangered by a country not bound by this Protocol, can request the Chairman of the Committee 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 its 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.

ANNEX III

Protocol Regarding Cheese

First alternative¹:

PROTOCOL REGARDING CHEESE

PART I

Article 1 - Product Coverage

1. This Protocol applies to cheese and curd falling under CCCN heading No. 04.04.

PART TWO

Article 2

1. For the purposes of this Protocol, a minimum export price shall be established for the products mentioned in Article 1 in respect of which the packaging and the terms of sale are the following:

Packaging: In packages normally used in the trade of a net content by weight of not less than 5 kgs.7.

Terms of sale: F.o.b. from the exporting country or, for a land-locked country, f.o.b. from the maritime port/s/ of its choice to be designated at the time it signifies its acceptance;
/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;7 or free-at-frontier exporting country.

Prompt payment against documents.

Article 3 - Minimum Price

Level and observance of minimum price

1. Participants undertake to take the steps necessary to ensure that the export prices of the products defined in Article 2 of this Protocol shall not be less than the minimum price applicable under the Protocol. If the products are exported in the form of goods in which they have been incorporated, the participants shall take the steps necessary to avoid the circumvention of the price provisions of this Protocol.

¹Proposal by Australia.

PART TWO (cont'd)

Article 3 (cont'd)

2. The minimum price provided for in paragraph 1 of this Article, applicable at the date of entry into force of this Protocol, is fixed at US\$/800/ per metric ton.

3. The level of the minimum price specified in this Article can be modified by the Committee established in terms of Article VIII: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.

PART TWO (cont'd)

Article 3 (cont'd)

Adjustment of minimum price

4. If the products actually exported differ from the products specified in Article 2 of this Protocol in respect of the packaging or terms of sale, the minimum price shall be adjusted so as to protect the minimum price established in this Protocol for the products specified in Article 2 of this Protocol according to the following provisions:

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 5 kgs. 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/s/ of its choice, /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 price shall be calculated on the basis of the minimum f.o.b. price 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.

Special conditions of sales

5. Participants undertake within the limit of their institutional possibilities to ensure that practices such as those referred to in Article 4:1 of this Protocol 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 price.

Field of application

6. For each participant, this Protocol is applicable to exports of the products specified in Article 1 of this Protocol manufactured or repacked inside its own customs territory.

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.

PART TWO (cont'd)

Article 4 - Provision of Information

1. In cases where prices in international trade of the products covered by Article 1 of this Protocol are approaching the minimum price mentioned in Article 3:2 of this Protocol, without prejudice to the provisions of Article III of the Arrangement, 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.
2. Exporter participants undertake to provide information at quarterly intervals, concerning costs of packaging of products covered by this Protocol to the Protocol Committee. Importer participants undertake to provide information at quarterly intervals to the Protocol Committee concerning the volume of the various packaging sizes of imports of products covered by this Protocol.

Article 5 - Obligations of Exporting Participants

1. Exporting participants undertake to supply importing participants on a priority basis.

Article 6 - Co-operation of Importing Participants

1. Participants which import products covered by Article 1 of this Protocol undertake in particular:

/First alternative:

- (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 Article 1 of this Protocol are not imported at less than the appropriate customs valuation equivalent to the prescribed minimum price; /

/Second alternative:

- (a) to buy supplies, subject to contracts already concluded, solely from participants exporting products covered by Article 1 of this Protocol, in cases where prices in international trade of those products are at the level of the agreed minimum price; /

PART TWO (cont'd)

Article 6 (cont'd)

- (b) without prejudice to the provisions of Article III of the Arrangement and Article 4 of this Protocol, to supply information concerning imports of products covered by Article 1 of this Protocol from non-participants;
- (c) to consider sympathetically proposals for appropriate remedial action if imports at prices inconsistent with the minimum price threaten the operation of this Protocol.

PART THREE

Article 7 - Derogations

1. Upon request by a participant, the Committee shall have the authority to grant derogations from the provisions of Article 3, paragraphs 1 to 4 of this Protocol in order to remedy difficulties which observance of minimum price could cause certain participants. The Committee shall pronounce on such a request within three months from the date of the request.

Article 8 - Emergency Action

1. Any participant, which considers that its interests are seriously endangered by a country not bound by this Protocol, can request the Chairman of the Committee 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 its 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. /

Second alternative¹:

PROTOCOL REGARDING CHEESE

Article 1

1. Concerted disciplines shall be established in respect of cheese. They shall constitute instruments co-operating toward the objectives of the General Agreement on Tariffs and Trade. They shall comprise rules of conduct, applicable by all participants to the present Arrangement, which may be clarified and supplemented, in respect of their implementing conditions, by bilateral or plurilateral commitments.

2. Multilateral rules of conduct

In view of the fact that adjustments of import and/or export policy are closely involved, commitments must be entered into by both importing and exporting countries. Consequently, each participant shall undertake to take all appropriate action to adjust

- its import policy in all necessary elements /, in order to facilitate attainment of the objectives of this Arrangement,² so as to ensure that its imports take place in the most orderly and regular conditions possible;
- its export policy / in order to facilitate attainment of the objectives of this Arrangement,² in such a way that its exports take place in the most orderly and regular manner possible.

Article 2

1. Commitments between participants to this Arrangement

The bilateral or plurilateral commitments clarifying and supplementing the content and nature of the disciplines accepted by the participants to this Arrangement are set forth hereinafter./

¹Proposal by the European Communities.

²Amendment proposed by Argentina.

ANNEX IV

Results of Bilateral or Plurilateral Negotiations

/First alternative:

Extracted from the Schedules Annexed to the /Geneva/ Protocol (...) and annexed to this Arrangement for purposes of information /and consultation///

/Second alternative:

Extracted from the Schedules Annexed to the /Geneva/ Protocol (...) and annexed to this Arrangement for purposes of information and consultation, and for the purposes of the provisions of the General Agreement on Tariffs and Trade regarding nullification or impairment//

/Third alternative:

Annexed to the /Geneva/ Protocol (...) and annexed to this Arrangement//