

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

MTN/DP/W/42

3 October 1978

Special Distribution

Multilateral Trade Negotiations

Original: English

Group "Agriculture"

Sub-Group on Dairy Products

PROPOSAL BY AUSTRALIA

Protocol Regarding Cheese

PART ONE

Article 1 - Product Coverage

1. This Protocol applies to cheese having a minimum fat content in dry matter of not less than 40 per cent, 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 20 kgs. or 40 lbs. 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 acceptance; or free-at-frontier export country.

Prompt payment against documents.

Note 1: For the countries mentioned below, the following reference points have been designated /...../. The Committee established in pursuance of Article VIII:2(a) of the Arrangement (hereafter referred to as the Committee) may amend the provisions of this note.

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 1 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.

2. [(a) The minimum price provided for in paragraph 1 of the present Article has 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 set out in the present Article has been established at a level which takes 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 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 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. (a) The level of the minimum price 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 level of the minimum price 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 level of the minimum price set out in paragraph 2(b) of the present Article and the dairy support levels in the major producing participants.

Adjustment of minimum price

4. If the products actually exported differ from the product specified in Article 2 in respect of the packaging or terms of sale specified in Article 2 the minimum price shall be adjusted so as to protect the minimum price established in 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 <u>/20 kgs. or 40 lbs/</u> the minimum price shall be adjusted so as to reflect the differences 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 <u>/2/</u> of this Protocol, Note 1, 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 rates in the country concerned <u>/or in line with other traditional practices/</u> .

Special conditions of sales at prices below the minimum

5. Participants recognize:

(a) the special characteristics inherent to the maturation and storage of cheese and therefore to the trade in cheese, whereby serious quality deterioration will eventually occur unless natural, unprocessed cheese is consumed or processed or otherwise disposed of.

(b) that it is therefore necessary on occasion for participants to market some supplies of natural, unprocessed cheese which has already begun to show detectable evidence of deterioration and which has been graded by a competent authority as below normal export quality and certified accordingly or which is considered to be likely, in the imminent future, to begin to show such detectable evidence of deterioration.

6. Participants therefore agree that sales of cheese at specially discounted prices may be made in exceptional circumstances in order to minimize economic losses arising from quality deterioration.

7. Participants exercising the rights conferred on them under paragraph 6 of this Article shall notify the Committee quarterly of all sales of cheese effected by them under the provisions of this Article, specifying in respect of each transaction, the quantities, prices and destinations involved. Participants shall also furnish to the Committee /declarations/ /attestations/ by their competent authorities that the transactions were made strictly in accordance with the provisions of this Article and that there were sufficient reasons, based on actual or imminent risks of deterioration which justified the transactions.

8. Participants undertake within the limit of their institutional possibilities to ensure that in respect of all transactions other than those referred to in Articles 3 and 7 of this Protocol, 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

9. 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

10. The provisions of paragraphs 1 to 9 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.

PART THREE

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 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 - Co-operation of Importing Participants

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

(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;

(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 FOUR

Article 6 - 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.

Article 7 - Derogations

1. Upon request by a participant, the Committee shall have the authority, if it considers that exceptional circumstances exist, to grant derogations from the provisions of Article 3 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.