

INTERNATIONAL DAIRY ARRANGEMENT

PREAMBLE

Recognizing the importance of milk and dairy products to the economy of many countries¹ 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 (hereinafter referred to as "General Agreement" or "GATT")² and, in carrying out the aims of this Arrangement, 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:

¹In this Arrangement and in the Protocols annexed thereto, the term "country" is deemed to include the European Economic Community.

²This preambular provision applies only among participants that are contracting parties to the GATT.

PART ONE

GENERAL PROVISIONS

*Article 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 even 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:

CCCN

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

2. The International Dairy Products Council established in terms of Article VII: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. Participating developing countries shall furnish the information available to them. In order that these participants may improve their data collection mechanisms, developed participants, and any developing participants able to do so, shall consider sympathetically any request to them for technical assistance.
3. 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 make known, 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.

Note: It is understood that under the provisions of this Article, the Council instructs the secretariat to draw up, and keep up to date, an inventory of all measures affecting trade in dairy products, including commitments resulting from bilateral, plurilateral and multilateral negotiations.

*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 VI 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 matter¹ affecting this Arrangement, *inter alia*, for the same purposes provided for in paragraph 2 of this Article. Each participant shall promptly afford adequate opportunity for consultation regarding such matter¹ affecting this Arrangement.

6. If the matter affects the application of the specific provisions of the Protocols annexed to this Arrangement, 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

¹It is confirmed that the term "matter" in this paragraph includes any matter which is covered by multilateral agreements negotiated within the framework of the Multilateral Trade Negotiations, in particular those bearing on export and import measures. It is further confirmed that the provisions of Article IV:5 and this footnote are without prejudice to the rights and obligations of the parties to such agreements.

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

*Food Aid and Transactions other than
Normal Commercial Transactions*

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.
 - (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. 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.
 - (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, consumption and international trade, to exchange views in the Council on their arrangements for the supply and requirements 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 and other than those covered by the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade.

PART TWO

SPECIFIC PROVISIONS

*Article VI**Protocols*

1. Without prejudice to the provisions of Articles I to V 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*
Milk powder and cream powder, excluding whey powder

Annex II

- *Protocol Regarding Milk Fat*
Milk fat

Annex III

- *Protocol Regarding Certain Cheeses*
Certain cheeses

PART THREE

*Article VII**Administration of the Arrangement*

1. *International Dairy Products Council*
 - (a) An International Dairy Products Council shall be established within the framework of the GATT. 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 decisions by consensus. The Council shall be deemed to have decided 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, 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 Certain Cheeses. 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 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 Certain Cheeses 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 decisions by consensus. A committee shall be deemed to have decided on a matter submitted for its consideration if no member of the Committee formally objects to the acceptance of a proposal.

PART FOUR

*Article VIII**Final Provisions*1. *Acceptance*¹

- (a) This Arrangement is open for acceptance, by signature or otherwise, by governments members of the United Nations, or of one of its specialized agencies and by the European Economic Community.
- (b) Any government² 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 is subject to the approval of the participants.
- (c) This Arrangement shall be deposited with the Director-General to the CONTRACTING PARTIES to the GATT 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.
- (d) 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.

2. *Provisional application*

Any government may deposit with the Director-General to the CONTRACTING PARTIES to the GATT a declaration of provisional application of this Arrangement. Any government depositing such a declaration shall provisionally apply this Arrangement and be provisionally regarded as participating in this Arrangement.

¹The terms "acceptance" or "accepted" as used in this Article include the completion of any domestic procedures necessary to implement the provisions of this Arrangement.

²For the purpose of this Arrangement, the term "government" is deemed to include the competent authorities of the European Economic Community.

3. *Entry into force*

- (a) This Arrangement shall enter into force, for those participants having accepted it, on 1 January 1980. For participants accepting this Arrangement after that date, it shall be effective from the date of their acceptance.
- (b) The validity of contracts entered into before the date of entry into force of this Arrangement is not affected by this Arrangement.

4. *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.

5. *Amendment*

Except where provision for modification is made elsewhere in this Arrangement the Council may recommend an amendment to the provisions of this Arrangement. The proposed amendment shall enter into force upon acceptance by the governments of all participants.

6. *Relationship between the Arrangement and the Annexes*

The following shall be deemed to be an integral part of this Arrangement, subject to the provisions of paragraph 1 (b) of this Article:

- the Protocols mentioned in Article VI of this Arrangement and contained in its Annexes I, II and III;
- the lists of reference points mentioned in Article 2 of the Protocol Regarding Certain Milk Powders, Article 2 of the Protocol Regarding Milk Fat, and Article 2 of the Protocol Regarding Certain Cheeses, contained in Annexes I (a), II (a) and III (a) respectively;
- the schedules of price differentials according to milk fat content mentioned in Article 3:4, note 3 of the Protocol Regarding Certain Milk Powders and Article 3:4, note 1 of the Protocol Regarding Milk Fat, contained in Annexes I (b) and II (b) respectively;
- the register of processes and control measures referred to in Article 3:5 of the Protocol Regarding Certain Milk Powders, contained in Annex I c.

7. *Relationship between the Arrangement and the GATT*

Nothing in this Arrangement shall affect the rights and obligations of participants under the GATT.¹

8. *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 GATT.
- (b) Subject to such conditions as may be agreed upon by the participants, any participant may withdraw from any of the Protocols annexed to 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 GATT.

Done at Geneva this twelfth day of April nineteen hundred and seventy-nine.

ANNEX I

PROTOCOL REGARDING CERTAIN MILK POWDERS

PART ONE

Article I

Product Coverage

1. This Protocol applies to milk powder and cream powder falling under CCCN heading No. 04.02, excluding whey powder.

¹This provision applies only among participants that are contracting parties to the GATT.

PART TWO

*Article 2**Pilot Products*

1. For the purposes of this Protocol, minimum export prices shall be established for the pilot products of the following description:

- (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

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

Terms of sale: f.o.b. ocean-going vessels from the exporting country or free-at-frontier exporting country.

By derogation from this provision, reference points are designated for the countries listed in Annex I (a).² The Committee established in pursuance of Article VII:2 (a) of the Arrangement (hereinafter referred to as the Committee) may amend the contents of that Annex. Prompt payment against documents.

*Article 3**Minimum Prices**Level and observance of minimum 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 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 price levels set out in the present Article take account, in particular, of the current market situation, dairy prices in 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 desirability of

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

²Annex I (a) is not reproduced.

maintaining 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\$425¹ per metric ton for the skimmed milk powder defined in Article 2 of this Protocol.
 - (ii) US\$725² per metric ton for the whole milk powder defined in Article 2 of this Protocol.
 - (iii) US\$425³ per metric ton for the buttermilk powder defined in Article 2 of this Protocol.
3. (a) The levels of the minimum 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 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 prices shall be adjusted so as to protect the minimum 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 of the present Protocol excluding buttermilk powder⁴ 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 of milk fat as from 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.⁵

¹US\$600 per metric ton since 1 October 1981.

²US\$830 per metric ton since 5 June 1985.

³US\$600 per metric ton since 1 October 1981.

⁴As defined in Article 2:1 (c) of this Protocol.

⁵See Annex I (b), "Schedule of price differentials according to milk fat content". (Annex I (b) is not reproduced.)

Packaging:

If the products are offered otherwise than in packages normally used in the trade, of a net content by weight of not less than 25 kgs. or 50 lbs., as appropriate, the minimum 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 free-at-frontier exporting country¹, the minimum prices shall be calculated on the basis of the minimum f.o.b. prices specified in paragraph 2 (b) 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.

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 they subject the products exported or imported to the processes and control measures which will be applied in the country of export or destination so as to ensure that the skimmed milk powder and buttermilk powder thus exported or imported are used exclusively for animal feed. These processes and control measures shall have been approved by the Committee and recorded in a register established by it.² Participants 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 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.

¹See Article 2.

²See Annex I (c), "Register of Processes and Control Measures". It is understood that exporters would be permitted to ship skimmed milk powder and buttermilk powder for animal feed purposes in an unaltered state to importers which have had their processes and control measures inserted in the Register. In this case, exporters would inform the Committee of their intention to ship unaltered skimmed milk powder and/or buttermilk powder for animal feed purposes to those importers which have their processes and control measures registered. (Annex I (c) is not reproduced.)

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.

*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 (b) of this Protocol, and 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*

1. Exporting participants agree to use their best endeavours, in accordance with their institutional possibilities, to supply on a priority basis the normal commercial requirements of developing importing participants, especially those used for food-related development purposes and welfare purposes.

*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 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 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 price threaten the operation of this Protocol.

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

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 purpose of this Protocol, minimum 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 lbs., as appropriate.

Terms of sale:

F.o.b. from the exporting country or free-at-frontier exporting country.

By derogation from this provision, reference points are designated for the countries listed in Annex II (a).¹ The Committee established in pursuance of Article VII:2 (a) of the Arrangement (hereinafter referred to as the Committee) may amend the contents of that Annex.

Prompt payment against documents.

¹Annex II (a) is not reproduced.

*Article 3**Minimum Prices**Level and observance of minimum 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 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 price levels set out in the present Article take account, in particular, of the current market situation, dairy prices in 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 desirability of maintaining 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\$1,100¹ per metric ton for the anhydrous milk fat defined in Article 2 of this Protocol.
 - (ii) US\$925² per metric ton for the butter defined in Article 2 of this Protocol.
3. (a) The levels of the minimum 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 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 prices shall be adjusted so as

¹US\$1,200 per metric ton since 5 June 1985.

²US\$1,000 per metric ton since 5 June 1985.

to protect the minimum 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 pilot 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 lbs., as appropriate, the minimum 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 free-at-frontier exporting country¹, the minimum prices shall be calculated on the basis of the minimum f.o.b. prices specified in paragraph 2 (b) 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.

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 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.

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.

¹See Article 2.

*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 (b) of this Protocol, and 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*

1. Exporting participants agree to use their best endeavours, in accordance with their institutional possibilities, to supply on a priority basis the normal commercial requirements of developing importing participants, especially those used for food-related development purposes and welfare purposes.

*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;
- (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 CERTAIN CHEESES

PART ONE

Article 1

Product Coverage

1. This Protocol applies to cheeses falling under CCCN heading No. 04.04, having a fat content in dry matter, by weight, equal to or more than 45 per cent and a dry matter content, by weight, equal to or more than 50 per cent.

PART TWO

*Article 2**Pilot Product*

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

Designation: *Cheese*

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 free-at-frontier exporting country.

By derogation from this provision, reference points are designated for the countries listed in Annex III (a).¹ The Committee established in pursuance of Article VII:2 (a) of the Arrangement (hereinafter referred to as the Committee) may amend the contents of that Annex.

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 Articles 1 and 2 of this Protocol shall not be less than the minimum price 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 price level set out in the present Article takes account, in particular, of the current market situation, dairy prices in 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 desirability of maintaining a minimum return to the most efficient producers in order to ensure stability of supply over the longer term.

¹Annex III (a) is not reproduced.

- (b) The minimum price provided for in paragraph 1 of the present Article applicable at the date of entry into force of this Protocol is fixed at US\$800¹ 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 pilot product 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, according to the following provisions:

Packaging:

If the products are offered otherwise than in packages as specified in Article 2, 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 free-at-frontier exporting country², the minimum price shall be calculated on the basis of the minimum f.o.b. price specified in paragraph 2 (b) 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.

Special conditions of sale

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

¹US\$1,000 per metric ton since 1 October 1981.

²See Article 2.

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.

*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 (b) of this Protocol and 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*

1. Exporting participants agree to use their best endeavours, in accordance with their institutional possibilities, to supply on a priority basis the normal commercial requirements of developing importing participants, especially those used for food-related development purposes and welfare purposes.

*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 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 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 thirty days from the date of the request.
2. The provisions of Article 3:1 to 4 shall not apply to exports, in exceptional circumstances, of small quantities of natural unprocessed cheese which would be below normal export quality as a result of deterioration or production faults. Participants exporting such cheese shall notify the GATT secretariat in advance of their intention to do so. Participants shall also notify the Committee quarterly of all sales of cheese effected under the provisions of this paragraph, specifying in respect of each transaction, the quantities, prices and destinations involved.

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.