ARRANGEMENT FOR THE ESTABLISHMENT OF MINIMUM PRICES FOR INTERNATIONAL TRADE IN BUTTER, BUTTERFATS AND SKIMMED MILK POWDER

Part I

SKIMMED MILK POWDER

(Subsequent parts of the Draft Arrangement will be issued at a later date)

The present draft was established by the secretariat in the light of the discussion in the Group of Experts on 16 and 17 October 1969.
Arrangement for the Establishment of Minimum Prices for International Trade in Butter and Butterfats and Skimmed Milk Powder

PART I

SKIMMED MILK POWDER

Preamble

No attempt has been made to draft a preamble at this stage.

Article I – Product Coverage

This arrangement applies to skimmed milk powder. For the purpose of this arrangement a minimum price shall be established for the pilot product of the following description.

Product: skimmed milk powder

Description of product:

- Fat and water content: less than or equal to 1.5 per cent of fat and not more than 5 per cent of water by weight.
- Packaging: in bulk, in usual commercial containers of a net content of not less than 25 kgs.
- Terms of sale: f.o.b. ocean-going vessel from the exporting country, or free at frontier exporting State.

Prompt payment against documents.
Article II - Minimum or Floor Prices

Establishment of minimum prices

1. The participating countries undertake to take the steps necessary to ensure that the prices of the product specified below for export from their respective countries, and prices borne by users for the product specified below used for manufacture into other products for export, will not be less than:

... US dollars per 100 kgs. for skimmed milk powder sold for human consumption, with a fat content by weight of less than or equal to 1.5 per cent.

There was consensus that in the case of the specified product being sold on the domestic market at prices below the minimum for manufacture into other products, this provision could satisfactorily be implemented if measures were applied at the border to the other products, in case these were offered for export, so as to offset any such price differential. (Spec(69)34, paragraph 6.)

It was agreed that the price obligations might be reviewed annually. (Spec(69)26, paragraph 15.)

Provision will have to be made for differentiating between skim milk powder for human consumption and for other uses. The feasibility and practicability of various methods were discussed in the Expert Group, as well as the desirability of differentiation. There was a wide measure of agreement that no single method would provide a system that would absolutely prevent the diversion to human consumption of powder allegedly destined for other uses. It would appear that any system that would effectively prevent the disruption of an arrangement would have to consist of a combination of measures. Such measures might, among others, include a labelling scheme such as described in the joint proposal, and assurances by individual countries as to the final use of imported skim milk powder. (Spec(69)125.)
Article II (cont'd)

Adjustment of minimum prices

2. If the product actually exported differs from the pilot product type with regard to fat content, the packaging or terms of sale, the minimum price shall be adjusted so as to protect the minimum price established in the arrangement for the product listed in the preceding paragraph according to the following provisions:

   Fat content: for skimmed milk powder with a fat content exceeding 1.5 per cent by weight, increase the minimum price by US cents \( x \) per 100 kgs. for each 0.1 per cent increase in the fat content by weight above 1.5 per cent.

   Packaging: if the product is offered otherwise than in bulk in usual commercial containers of a net content of not less than 25 kgs. the application of the minimum price shall be adjusted so as to reflect the difference in the cost of packaging from the type of package specified above.

It has been suggested that provisions for adjustment of the price of skimmed milk powder according to fat content might not be necessary since milk powder with a fat content over 1.5 per cent was covered by the provisions of the OECD Gentlemen's Agreement on whole milk powder. (Spec(69)34, paragraph 9). It was however also pointed out that participation in the Gentlemen's Agreement and in the present arrangement might not be the same. It was generally felt that to the extent that their respective provisions covered skim milk powder with the same fat content, it was desirable that the respective price levels should concord.
Article II (cont'd)

Terms of sale: if sold on terms other than f.o.b. or free at frontier, the minimum price shall be adjusted by the difference in the costs of the services provided, if the terms of the sale include credit, this will be charged for at the prevailing commercial rate.

Special conditions of sales

3. Participating countries undertake to ensure that commercial practices such as sales in association with sales of other products, special rebates or discounts, or sales of the products specified in this arrangement combined with other products, do not have the effect of directly or indirectly bringing the export prices of the products specified below the agreed minimum prices.

Effective date

4. The minimum prices will take effect with respect to all contracts for sale of the products specified entered into on or after the date this arrangement comes into force.

Field of application

5. For each participating country the arrangement is applicable to commercial exports of the product specified in Article I manufactured or repacked inside its own customs territory, whether the destination is temporary or final.
Transactions other than normal commercial transactions

6. The provisions of paragraphs 1 to 5 of this Article shall not be regarded as applying to donated exports to less-developed countries or to exports destined for relief or welfare purposes. Such exports shall be effected in accordance with the FAO - Principles of Surplus Disposal. Special care should be taken by participating countries to ensure that such exports are additional to and should not have any adverse repercussions on normal commercial trade, nor would in any way prejudice the functioning of this arrangement. In cases where the proposed transaction to a country exceeds .... tons over a period of .... months, participating countries shall give prior notification to interested member countries and to the committee established in terms of Article IV of any such exports of the product specified in Article I and shall enter into prior consultations about the effects of such exports if so requested by any other participating country.

7. In the case of exports for welfare purposes such as school lunch programmes, all sales as distinct from donations of the products covered by this arrangement shall be subject to the pricing provisions of this Article except where sales at concessional rates for specific programmes are approved pursuant to the derogation procedure provided for in Article ...

(Annotations)

There was wide support for the suggestion that prior notification should be made of any transactions covered by paragraph 6 which involved quantities above a certain minimum amount. (Spec(69)26, paragraph 13; Spec(69)34, paragraph 11.)

There was some discussion on the question in what forum the consultations should be held. (Spec(69)24, paragraph 12.)

Some delegations would favour that welfare programmes of the kind referred to in paragraph 7 be generally excepted from the pricing provisions. It was also suggested that a derogation might be acceptable if its conditions could be agreed upon in the overall context of the arrangement. It was also suggested that particular pricing provisions might be considered in respect of welfare programmes exceeding a certain amount. (Spec(69)26, paragraph 14; Spec(69)34, paragraph 13.)

It was suggested that the insertion of the words "or welfare" in line 4 of paragraph 6 would obviate the need for paragraph 7. The Expert Group agreed to revert to the topic of these transactions later.
Article III - Provisions of Information - Obligations of Importing Countries - Non-Member Countries

1. All participating countries agree to provide regularly and promptly to the committee established in terms of Article IV of this arrangement details of exports and imports of the product specified in this arrangement, details of production, all relevant details concerning export subsidies (or equivalent payments) and any other information the Committee may reasonably require.

2. Participating countries which import the products covered by this arrangement undertake in particular:

   (a) to co-operate in implementing the minimum price objective of this arrangement and to refrain from importing the products specified in this arrangement at less than the appropriate customs valuation equivalent to the prescribed minimum prices; and

   (b) to supply information concerning imports of the products specified in the arrangement from non-member countries, and

   (c) to consider sympathetically proposals for appropriate remedial action if imports at prices inconsistent with the minimum price threaten the functioning of this arrangement.

It was agreed that the information referred to in paragraph 1 should be provided regularly and promptly, and that the working out of details of procedure should be left to the Committee administering the arrangement when it determined its normal procedures. (Spec(69)34, paragraph 14.)

Importing countries can only comply with the provisions of sub-paragraph (a) to the extent that their legislation makes this possible. Moreover, they would want to consider their obligations under this paragraph in the overall framework of the arrangement as a whole. (Spec(69)34, paragraph 15.)

It was suggested that the words "and to use their best endeavours so as to prevent the importation of" might replace the first five words in the square brackets.
Article IV - Administration of the Arrangement

Establishment of a committee

1. All participants agree to establish a provisional committee on trade in skimmed milk powder within the framework of the General Agreement on Tariffs and Trade. The committee which will comprise representatives of all governments subscribing to the arrangement, will administer the arrangement and ensure its effective application.

Election of chairman

2. The committee shall elect a chairman and a vice-chairman.

Appointment of secretary

3. The committee shall designate its secretary following consultation with the Director-General of GATT. The secretary may, with the agreement of the committee and the Director-General, be assisted by such staff as are necessary to ensure the effective administration of the arrangement.

Review of market for dairy products

4. The committee shall keep the international market for dairy products under constant review in the light of the minimum prices established in terms of Article II of this arrangement.

It was suggested to replace the words "governments subscribing" by "participants" or other appropriate words.
Regular and special meetings

5. The committee should meet at least once each quarter to consider and review developments in international trade in dairy products. However, the chairman may call a special meeting of the committee on his own initiative. The chairman must convene the committee within seven days if requested to do so by any participating country which considers its interests are being threatened.

Emergency action

6. Any participating country, which considers that its interests are seriously endangered by a country not bound by this arrangement, can request the chairman to convene an emergency meeting of the committee within forty-eight hours to determine and decide on whether special measures would be required to meet the situation. If such a meeting cannot be arranged within the forty-eight hours and the commercial interests of the member country concerned are likely to be materially prejudiced, that country may take unilateral action to safeguard the position, on the condition that any other participating countries likely to be affected are immediately notified. The chairman of the committee shall also be formally advised immediately of the full circumstances of the case and shall be requested to call a special meeting of the committee at the earliest possible moment.
Derogations

7. The committee shall have the authority to grant derogations from the provisions of paragraphs 1 and 2 of Article II in order to remedy difficulties which observance of minimum prices could cause certain participating countries.

Article V - Food Aid

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

1. In co-operation with FAO and other interested organizations, to foster recognition of the value of dairy products in improving nutritional levels and of ways and means through which they may be made available for the benefit of developing countries.

2. To donate or supply on concessional terms to developing countries dairy products recognized as suitable for aid purposes, or other forms of aid with the aim of increasing the consumption of dairy products in those countries. It would be understood that contributions could be made bilaterally through joint projects or through the World Food Program. Participants should notify the committee in advance each year of the scale of their proposed contributions of food aid.

3. Recognizing the need to avoid undue interference with international trade or with domestic dairy development and trade in developing countries, to consult within the framework of the arrangement about arrangements they have entered into for the supply of dairy products as food aid or on concessional terms.

There was wide agreement in the Expert Group that the arrangement should contain provisions on food aid. It was suggested that in drawing up the provisions, account should be taken of the product coverage of the arrangement and of the rôle of food aid in relieving the pressure on markets. It was further suggested that the committee should keep itself informed of needs and availabilities, in order to enable efforts in the field of food aid to be increased. The view was also expressed that voluntary food aid programmes alone would not provide a sufficient basis.