Working Party on Dairy Products

GROUP OF EXPERTS

Report by Chairman of Group
Presented on 27 February 1969


The discussion was held on the basis of the New Zealand proposals of October 1968 (Spec68112).

Product coverage

2. As regards the products which would be covered by the Arrangement there was no conclusive discussion as to whether anhydrous milk fats and similar products should be included. One member held the view that these products should not be covered by the Arrangement, while the other members of the Group considered their inclusion essential. There was, as these other members pointed out, a tendency for reconstituting butter on the basis of butter-oils and skimmed milk powder, and a possible price distortion between these products and butter would clearly endanger the effective operation of the Arrangement.

The suggestion was also made that the Arrangement should prevent undue competition from certain butter mixtures.

3. As to the description of the pilot products the Group did not reopen the discussion on the definition of butter, which was agreed in the Expert Group I earlier (see Spec6925), but accepted some amendments to the description of product type A(2), anhydrous milk fat, suggested by the New Zealand delegation in Spec6931.

4. As regards skimmed milk powder the Group addressed itself to the question whether a single or two pilot products should be established. The discussion was held in the light of suggestions made in respect of the levels of prices, which would be a major factor in the final decision. A member said that in setting price levels account should be taken of existing agreements on dairy products, in particular the OECD Gentlemen's Agreement on whole-milk powder where the minimum price was $45 per 100 kgs. for powder with a 26 per cent fat content, with provisions for adjustments of $1 for each percentage deviation of fat content. Having in mind the minimum price for whole-milk powder he suggested a price of $25 for skimmed milk powder on the assumption that there was to be a single pilot product. Another member considered that the price level of other agreements was only one of a number of factors, and suggested a price of $20 per 100 kgs. if it were agreed that there should be only a single price; this was only slightly above prevailing prices. He doubted however whether a single price would allow trade for feed purposes to continue. Another member could accept a price level of $20, and had equal doubts about the appropriateness of a single price. Another member also said that harmony was needed with the minimum price in the Gentlemen's Agreement.
Basing himself on the relative fat content and making deductions according to the OECD formula, he suggested a price for skimmed milk powder of $20.50. Another member recognized that there was an intrinsic price difference according to use, but pointed to the difficulties of controlling trade flows on a usage criterion. He considered that if there was to be a single price it should be a low price in the order of $15, which would allow prices of skimmed milk powder for human food to fluctuate freely well above that level. Another member concurred in a price of $15, but expressed a preference for one of $13.50. Another member stated that it was his continued view that the main cause of the problem was export subsidization. He did not consider a two-price system feasible because of difficulties of control, the legal problems involved in his country and because it would not relieve pressures on the trade for feed purposes; he therefore supported a single-price system for all skimmed milk powders. The Group noted a statement that the trade for feed purposes represented from 5 to 10 per cent of total trade in skimmed milk powder, but that even this was a substantial volume of trade.

5. Some members pointed out that a basis for differentiation between types of skimmed milk powder could be found in denaturing. A system of price differentiation could also be applied to non-denatured powder in cases where government regulations in particular countries would provide sufficient guarantee that it would not be used for human consumption. It would be open to countries not at present in a position to give such an assurance to take the steps that would enable them to do so and thereby to profit from differentiated prices. These members stated that they had no firm views as to whether under such a system two minimum prices should be set or only one, leaving the other price free to find its own level.

Establishment of minimum prices

6. The Group addressed itself to the first sub-paragraph of Article II.1. The question was raised whether all countries could give an undertaking as regards the level of prices borne by users of the specified products when these were on sale at exceptionally low prices on the domestic market and were used for manufacture into other products for export. There was consensus in the Group that the provision in question could satisfactorily be implemented if measures were applied to the exported product at the border that would offset the difference between the price at which the specified product was sold domestically and the relevant minimum price. The Group agreed to come back to the question of whether a legal drafting problem existed between the provisions of this sub-paragraph and the first sub-paragraph of Article I.

7. The Group had a further discussion on the system for the establishment of minimum prices. Certain views were expressed in favour of a single f.o.b. price system, which would have the advantage of simplicity and easy policing by the exporting country concerned. It would bring in the concept of geographic proximity, the advantages and disadvantages of which might to a great extent be self-balancing.
Other views were expressed which tended more to a single c. & f. price system, so as to take account of freight differentials and in order to bring all exporters on an equal footing at the destination. A number of countries normally effected their sales on a c. & f. basis and would have no difficulty in policing such prices.

There was also some discussion on the third alternative proposal to distinguish, in the establishment of minimum prices for butter, between two zones: the "Pacific zone" and on the other hand the "Atlantic and Mediterranean zone". A more precise definition of these zones was suggested on the basis of the actual trading conditions, i.e. as long as the Suez Canal would be closed for navigation. This system would imply a distinction by three zones for the establishment of prices for skimmed milk powder. This latter suggestion was not further elaborated on.

**Adjustment of minimum prices**

8. The Group did not reopen the discussion on the adjustment according to fat content for butter, which had already been dealt with by Expert Group I. As to anhydrous milk fats and skimmed milk powder new suggestions were made in document Spec(69)31. Several members were of the view that it was essential that the prices of butterfat were related by an arithmetic formula according to fat content to the minimum price for butter. This would bring the minimum price for butter-oils to $78 per 100 kgs., if the butter price were at $64. Similarly, a butter price of $60 would compare with a price for oils of $73. It was, however, suggested that probably account could be taken of processing costs for the reconstitution of butter which, it was suggested, could be estimated at $8 per 100 kgs.; the minimum price for butter-oils could be decreased by this amount without frustrating the minimum price for butter. Two other members could not express themselves on the actual amount of processing costs which should be taken into account. One of these members said that originally he had envisaged that the minimum price for butter-oils should be increased by the costs necessary for processing butter into butter-oil. He was however prepared to reconsider this point of view and possibly even to consider a reduction as suggested. In discussing anhydrous fats it was also pointed out that the minimum fat content of 45 per cent for anhydrous milk fats, to which reference was made, was probably too low for products falling under the description of BTN No. 04.03.

9. As regards the proposed adjustment for skimmed milk powder according to fat content it was suggested that such adjustments would probably not be necessary since milk powder with a fat content over 1.5 per cent would be covered by the provisions of the OECD Gentlemen's Agreement on whole-milk powder.

10. The Group discussed adjustments to be made to the minimum price if the terms of sale included credit. Generally the view was held that if the terms of sale included credit, the minimum price should be adjusted by the cost of the credit, the basic terms of sale being "prompt payment against documents". One representative expressed the view that normal commercial credit should not give rise to adjustment in the minimum price. It was also proposed that when sales were made against an irrevocable letter of credit the minimum price should be decreased.
Transactions other than normal commercial transactions

11. The Group left aside paragraphs 2-7 of Article II of the New Zealand proposal which had already been discussed in the Expert Groups. A redraft of paragraph 8 and a suggested new Article 9 proposed by the New Zealand delegation were discussed (Spec(69)33). The Group was generally in agreement, subject to some drafting amendments, to the suggested new paragraph 8. It was agreed that this paragraph should be amended so as to specify that the transactions other than normal commercial transactions should be effected in accordance with the FAO Principles on Surplus Disposal. It was also agreed that the notification procedure should apply only to cases where the proposed transaction to a country exceeded a certain tonnage over a certain period, to be specified later.

12. The Group had some discussion on whether the consultations on these transactions should be held in the Consultative Sub-Committee on Surplus Disposal in Washington, where such consultations already normally took place, or whether they should be held in the "Committee" to be established as administrative body of the Arrangement. This question would be referred to again later, so that account could be taken of both the results of discussions actually going on in the FAO on the future rôle of the CSD and in the Agriculture Committee on the review of GATT procedures for the notification and consultation on commodity surplus disposals.

13. The Group discussed the suggested new paragraph 9. This paragraph has the object of bringing export sales for welfare purposes under the pricing provisions of the Arrangement but would allow for sales at concessional rates for specific programmes if approved under a derogation procedure. Some countries felt that such welfare programmes should generally be excepted from the pricing provisions. It was also suggested, however, that a derogation might possibly be acceptable if its conditions could be agreed upon in the overall context of the Arrangement. It was also suggested that thought should be given to the possibility of particular pricing provisions in respect of welfare programmes above a given size.

Provision of information

14. As regards paragraph 1 of Article III the Group agreed on some drafting amendments to make the wording more precise. It was also agreed that the establishment of how "regularly and promptly" the information should be provided should be left to the committee administering the Arrangement when it determined its normal procedures. It was understood that the reporting procedures would apply to the pilot products specified in the Arrangement and to those which were covered by the minimum price adjustments. The wording might be considered by a drafting group at the proper stage.

Obligations of importing countries

15. The discussion on the proposed provisions dealing with obligations of importing countries was inconclusive. Importing countries generally were prepared to co-operate in the Arrangement, to supply information, including information on prices, and to consider sympathetically any suggestions which might be made to them to strengthen the effectiveness of the Arrangement. They felt, however, that they could only comply with the provisions of sub-paragraph (a), in particular the obligation to refrain from importing from non-participating countries at prices below the minimum, to the extent that their legislation made this possible. Moreover, they would want to consider their obligations in the overall framework of the Arrangement as a whole.