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

1. At its meeting from 17-27 February 1969 the Working Party on Dairy Products resumed negotiations for an arrangement on minimum prices. In the negotiations the order was followed of the provisions of the draft arrangement proposed by New Zealand in October 1968 (Spec(68)112).

2. Certain problems of a technical nature were entrusted to groups of experts. Expert Group I dealt with the problems relating to the product coverage of an arrangement. Expert Group II examined in particular the price provisions of an arrangement. The chairman of each group reported on the result of the work to the Working Party on 21 February 1969 (Spec(69)25 and Spec(69)26).

3. Subsequently the Working Party continued discussions in a single expert group from 25-27 February in order to seek areas where further progress could be made. The chairman of the group reported to the Working Party on 27 February 1969 (Spec(69)34).

4. The Working Party requested the secretariat to prepare an annotated consolidated draft of a possible arrangement in the light of the discussion. This draft is attached. In the annotations, wherever possible, reference has been made to the three reports which record the discussions in the groups.

For the sake of completeness the three reports are also attached to this note.
Arrangement for the Establishment of Minimum Prices for International Trade in Butter and Butterfats and Skimmed Milk Powder

Preamble

Article I - Product Coverage

This arrangement applies to all types of butter, anhydrous milk fat, butter oil, ghee and similar products falling within Brussels Tariff Nomenclature 04.03/ and skimmed milk powder and such other products as may hereafter be agreed. For the purpose of this arrangement minimum prices shall be established for pilot products of the following descriptions.

Product type A(1) butter

Description of product:

- Fat content: 82 per cent.
- 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 any port in the export country, or free at frontier from the exporting country.
- Prompt payment against documents.

Product type A(2) anhydrous milk fat (also known commercially as anhydrous butterfat, butter oil, ghee and the like)

(Annotations)

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

There is one reservation as regards the inclusion in the arrangement of anhydrous milk fat, butter oil, ghee and similar products. The suggestion was also made that the arrangement should prevent undue competition from certain butter mixtures. (Spec(69)34, paragraph 2; Spec(69)25, paragraph 10.)

There is agreement on the description of butter as regards fat content, packaging and form of payment. (Spec(69)25, paragraph 3.)

The description of the terms of sale, in so far as they refer to the question of a f.o.b. or c.&f. basis, was not discussed. (Spec(69)25, paragraph 2.)

There is agreement on the description of anhydrous milk fat as regards fat content, packaging and form of payment (Spec(69)25, paragraph 4; Spec(69)34, paragraph 3), subject to the reservation referred to above under the first sub-paragraph.
Article I (cont'd)

Description of product:

Fat content: not less than 99.3 per cent by weight.

Packaging: in bulk, in usual commercial containers of a net content of not less than 20 kgs.

Terms of sale: f. o. b. ocean-going vessel from any port in the export country, or free at frontier from the exporting country.

Promt payment against documents.

Product type B: skimmed milk powder

(1) Skimmed-milk powder sold for human consumption.
(2) Skimmed milk powder sold for other purposes.

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.

Promt payment against documents.

The description of the terms of sale, in so far as they refer to the question of a f. o. b. or c. & f. basis, was not discussed. (Spec(69)25, paragraph 2.)

A number of representatives favoured a single product description. Some other representatives preferred a system based on two pilot products and a dual pricing system. The view was also expressed that skimmed milk powder for animal feeding should be excluded from an arrangement. (Spec(69)25, paragraphs 4, 5, 6; Spec(69)34, paragraphs 4, 5.)

There is agreement on the description of skimmed milk powder as regards fat content, packaging and form of payment. (Spec(69)25, paragraph 4.)

The description of the terms of sale, in so far as they refer to the question of a f. o. b. or c. & f. basis, was not discussed. (Spec(69)25, paragraph 2.)
**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 products specified below for export from their respective countries, and prices borne by users for the products specified below used for manufacture into other products for export, will not be less than:

\[ \text{(a) ... US dollars per 100 kgs. for product type A(1) butter, with a fat content by weight of 82 per cent; } \]

\[ \text{(b) ... US dollars per 100 kgs. for product type A(2) anhydrous milk fat with a fat content by weight of not less than 99.3 per cent; } \]

\[ \text{(c) ... US dollars per 100 kgs. for product type B(1) skimmed milk powder sold for human consumption with a fat content by weight of less than or equal to 1.5 per cent. } \]

\[ \text{(d) ... US dollars per 100 kgs. for product type B(2) skimmed milk powder sold for other purposes with a fat content by weight of less than or equal to 1.5 per cent. } \]

There was consensus that in the case of specified products 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 understood that the term "other products" would not be limited to products covered by BTN 04.03 as defined in the first sub-paragraph of Article I. (Spec(69)34, paragraph 6.)

The wording in this Article will depend on the system for the establishment of minimum prices eventually adopted (f.o.b.; c.&f.; or f.o.b. by zones). (Spec(69)26, paragraphs 3-9; Spec(69)34, paragraph 7.) In the discussion reference was made to prices ranging from $60-$64 per 100 kgs. for butter and from $13.50-$25 per 100 kgs. for skimmed milk powder. It was pointed out that these prices were on a f.o.b. basis, but that this did not imply any preference for any system. It was agreed that the price obligations might be reviewed annually. (Spec(69)26, paragraph 15.)

It is still open whether for skimmed milk powder two minimum prices should be set or only a single price. (Spec(69)25, paragraphs 5, 6; Spec(69)34, paragraphs 4, 5.)
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 minimum prices established in the arrangement for the products listed in the preceding paragraph according to the following provisions:

Fat content: (a) in the case of butter as defined in Article I decrease the minimum price by US cents \(X\) per 100 kgs. for each full 1 per cent decrease in the fat content below 82 per cent and increase the minimum price by US cents \(X\) per 100 kgs. for each full 1 per cent increase in the fat content in excess of 82 per cent;

(b) for products containing less than 99.3 per cent but more than 45 per cent by weight of milk fat, the minimum price for the product is that specified for product type A(1), increased or decreased by US cents \(X\) per 100 kgs., for each full 1 per cent by which the fat content by weight of the product either exceeds or falls below 82 per cent;

(c) for skimmed milk powder with a fat content exceeding 1.5 per cent by weight, increase the minimum price by US cents \(X/10\) per 100 kgs. for each 0.1 per cent increase in the fat content by weight above 1.5 per cent.

The figure of X US cents will be calculated by dividing the minimum price for butter by 82. It is understood that the adjustment will become operative for butter with a fat content just below 81 per cent and just above 83 per cent. (Spec(69)25, paragraph 7.)

The text of sub-paragraph (b) may have to be revised in the light of the discussions and suggestions made recorded in Spec(69)34, paragraph 8.

It has been suggested that provisions for adjustment of the price of skimmed milk powder according to fat content would probably 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.)


Article II (cont'd)

Packaging:
if the product is offered otherwise than in bulk in usual commercial containers of a net content of not less than 25 kgs. (or 20 kgs. in the case of product type A(2)), 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.

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, the minimum price shall be increased by the cost of the credit, which shall, for the purpose of this arrangement, be taken to be 0.5% per cent of the invoiced amount for each period of thirty days from the date of shipping.

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 affect of directly or indirectly bringing the export prices of the products specified below the agreed minimum prices.

The minimum price should be adjusted by the cost of the credit at prevailing commercial rates. It was also suggested that a minimum rate for the cost of the credit be set. 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. (Spec(69)26, paragraph 12; Spec(69)34, paragraph 10.)

The description of the terms of sale, in so far as they refer to the question of a f.o.b. or c.& f. basis, were not discussed. (Spec(69)25, paragraph 2.)
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.

Derogations

5. The committee established in terms of Article V shall have the authority to grant derogations from the provisions of paragraphs 1 and 2 of this Article in order to remedy difficulties which observance of minimum prices could cause certain exporting countries.

Minimum prices not fixed sale prices

6. As the objective of this arrangement in establishing minimum prices for certain dairy products is to prevent prices in the international market settling at abnormally low levels, the minimum prices established in accordance with the present Article should not be interpreted as being fixed sale prices.

Field of application

7. For each participating country the arrangement is applicable to commercial exports of the products specified in Article I manufactured or repacked inside its own customs territory, whether the destination is temporary or final.
Article II (cont'd)

Transactions other than normal commercial transactions

8. The provisions of paragraphs 1 and 2 of this article shall not be regarded as applying to donated exports to less-developed countries or to exports destined for relief 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 V of any such exports of the products specified in article I and shall enter into prior consultations about the effects of such exports if so requested by any other participating country.

9. 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  

There was wide support for the suggestion that prior notification should be made of any transactions covered by paragraph 8 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)34, paragraph 12.)

Some delegations would favour that welfare programmes of the kind referred to in paragraph 9 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.)
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 V of this arrangement details of exports and imports of the pilot dairy products specified in this arrangement and the related products also covered by the 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 objectives 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 less than 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.)
Article IV - British Market for Butter and Butterfat Products

Participating countries agree that the provisions relating to minimum prices in this arrangement should not apply in respect of the British market for butter and butterfat products containing not less than 50 per cent butterfat where alternative techniques have been implemented for the purpose of stabilizing the market with the concurrence of the major external suppliers.

For one delegation the position of the British market with regard to the arrangement is an essential question. A suitable rearrangement should be found in that market in order to achieve a better balance.
Article V - Administration of the Arrangement

Establishment of a committee
1. All participants agree to establish a provisional committee on trade in dairy products 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.

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.
Article V (cont'd)

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.
Article VI - 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.