



Treaty Series No. 93 (1973)

Protocol relating to Milk Fat

Geneva, 2 April, 1973

[The Protocol entered into force for the United Kingdom on 17 May, 1973]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
September 1973*

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PROTOCOL RELATING TO MILK FAT

The participants to the present Protocol,

Having considered that paragraph 1 of Article I of the Arrangement Concerning Certain Dairy Products, done at Geneva on 12 January, 1970,⁽¹⁾ provides that the said Arrangement applies to skimmed milk powder and to such other products as may be added at a later date,

Have, through their representatives, agreed as follows:

ARTICLE I

Product Coverage

This Protocol applies to:

anhydrous milk fat, anhydrous butter oil or anhydrous butterfat, having a fat content of not less than 99·8 per cent by weight;
ghee, having a milk fat content of not less than 99·6 per cent by weight;
butteroil and butterfat, having a fat content of not less than 99·3 per cent by weight.

ARTICLE II

Pilot Product

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

Designation: butteroil or butterfat.
Fat content: 99·3 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 lb., as appropriate.
Terms of Sale: f.o.b. from the exporting country or, for a land-locked country, f.o.b. from one maritime port of its choice to be designated at the time it signifies its acceptance; or free at frontier exporting country. Prompt payment against documents.

ARTICLE III

Minimum Price

Level and observance of minimum price

1. Participants undertake to take the steps necessary to ensure that the export price of the product defined in Article II shall not be less than the minimum price applicable under the present Protocol. The participants

⁽¹⁾ European Communities: Treaties and related instruments, Volume VIII-3, HMSO.

shall take the steps necessary to avoid the circumvention of the price provisions of this Protocol if the product is exported in the form of goods in which it has been incorporated, or if because of its quality or fat content it differs from the pilot product defined in Article II.

2. 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\$68 per 100 kgs.

3. The level of the minimum price specified in the present Article can be modified by the Management Committee established in terms of Article VII. However, any such modification may be decided upon only at the time when the question of extension of the duration of this Protocol is being considered in terms of paragraph 2 of Article VIII, or, at other times, only when an emergency situation is deemed to exist.

Adjustment of minimum price

4. If the product actually exported differs from the pilot product type with regard to packaging or terms of sale as specified in Article II, the minimum price shall be adjusted so as to protect the minimum price established in this Protocol for the product specified in Article II according to the following provisions:

Packaging: if the product is offered otherwise than in packages normally used in the trade of a net content by weight of not less than 25 kgs., or 50 lb., as appropriate, 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. from the exporting country or, for a land-locked country, f.o.b. from the maritime port of its choice or free at frontier exporting country, the minimum price shall be calculated on the basis of the minimum f.o.b. price specified in paragraph 2 above 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 rate.

Special conditions of sales

5. Participants undertake within the limit of their institutional possibilities to ensure that practices such as sales in association with sales of other products, special rebates or discounts, do not have the effect of directly or indirectly bringing the export price of the products subject to the minimum price provisions below the agreed minimum price.

Field of application

6. For each participant this Protocol is applicable to exports of the products 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

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 welfare purposes in developing countries. Such exports, and other transactions which are not normal commercial transactions, shall be effected in accordance with the FAO Principles of Surplus Disposal and shall be subject to the procedures for notification, consultation and establishment of usual marketing requirements agreed upon in FAO.

ARTICLE IV

Provision of information

All participants agree to provide regularly and promptly to the Management Committee established in terms of Article VII of this Protocol details of exports and imports of the products covered by this Protocol, and any other information the Committee requires in order to assess the functioning of this Protocol and the situation in and the evolution of the international market.

ARTICLE V

Co-operation of importing countries

Participants which import the products covered by 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 this Protocol are not imported at less than the appropriate customs valuation equivalent to the prescribed minimum price; and
- (b) to supply information concerning imports of the products covered by this Protocol from non-participants; and
- (c) to consider sympathetically proposals for appropriate remedial action if imports at prices inconsistent with the minimum price threaten the functioning of this Protocol.

ARTICLE VI

Food aid

The 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. Where possible and appropriate, to incorporate the donation or sale on concessional terms of dairy products or related equipment in their respective aid programmes. Participants should notify the Committee in advance each year of the scale of their proposed contributions of such food aid. It would be understood that contributions could be made bilaterally or through joint projects or through the World Food Programme.

3. Recognizing the desirability of harmonizing their efforts in this field, as well as the need to avoid harmful interference with normal patterns of production and international trade, to exchange views in the Management Committee established in terms of Article VII on their arrangements for the supply of dairy products as food aid or on concessional terms.

ARTICLE VII

Administration of this Protocol

Management Committee

1. A Management Committee shall be established within the framework of the General Agreement on Tariffs and Trade. The Committee shall comprise representatives of all participants to this Protocol and shall carry out all the functions which are necessary to implement the provisions of this Protocol. The Committee shall be serviced by the GATT secretariat.

Review of Market

2. The Committee shall 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.

Regular and special meetings

3. The Committee shall normally meet at least once each quarter. However, the Chairman may call a special meeting of the Committee on his own initiative. Any participant which considers that its commercial 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 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.

Emergency action

4. Any participant, which considers that its interests are seriously endangered by a country not bound by this Protocol, can request the Chairman 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 participants concerned are likely to be materially prejudiced, that participant may take unilateral action to safeguard the position, on the condition that any other participants likely to be affected are immediately notified. The Chairman of the Committee shall also be formally advised immediately of the full circumstances of the case and shall be requested to call a special meeting of the Committee at the earliest possible moment.

ARTICLE VIII

Other provisions

1. *Entry into force*

- (a) This Protocol shall enter into force, for those participants having accepted it, on 14 May, 1973. For participants accepting this Protocol 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 Protocol is not affected by this Protocol.

2. *Duration*

This Protocol shall remain in force for one year. The duration of this Protocol shall be extended for further periods of one year at a time, unless the Management Committee, at least eighty days prior to each date of expiry, decides otherwise.

3. *Amendment*

The provisions of this Protocol may be amended by the Management Committee established in terms of Article VII.

4. *Acceptance*

- (a) This Protocol is open for acceptance, by signature or otherwise, to governments (including the competent authorities of the European Communities) members of the United Nations or of one of its specialized agencies.
- (b) This Protocol shall be deposited with the Director-General to the Contracting Parties who shall promptly furnish a certified copy thereof and a notification of each acceptance thereof to each participant to the Protocol.

5. *Withdrawal*

Any government (including the competent authorities of the European Communities) may withdraw from this Protocol upon the expiration of sixty days from the day on which written notice of such withdrawal is received by the Director-General to the Contracting Parties.

DONE at Geneva this second day of April one thousand nine hundred and seventy-three, in a single copy, in the English and French languages,⁽²⁾ both texts being authentic.

⁽²⁾ The text in the French language will be published in the United Nations Treaty Series, available through Agency Section, Her Majesty's Stationery Office, PO Box 569, London SE1 9NY. Tel. 01-928 6977, ext. 410.

ACCEPTANCES

Australia	...	...	...	...	...	11 May, 1973
Denmark	...	...	...	...	...	13 June, 1973
European Communities			...	...	...	17 May, 1973
France	...	...	...	...	...	4 June, 1973
Japan ⁽³⁾	17 May, 1973
Luxembourg	...	...	...	...	...	29 May, 1973
Netherlands	...	...	...	...	...	28 June, 1973
New Zealand	...	...	...	...	...	30 April, 1973
Switzerland	...	...	...	...	...	5 June, 1973
United Kingdom	...	...	...	...	...	17 May, 1973

(³) The Government of Japan accepts the said arrangement as a gentleman's agreement and intends to co-operate in implementing the objective of the arrangement within the limits of the existing laws and regulations.

It is further the understanding of the Government of Japan that due consideration will be given to the interests of importing participants in the course of implementation of the arrangement.