Arrangement Concerning Certain Dairy Products

MANAGEMENT COMMITTEE

Minutes of the Twenty-Eighth Meeting
Held on 23 April 1976

Introduction

1. The Management Committee held its twenty-eighth meeting on 23 April 1976.

Adoption of agenda

2. The Committee adopted the following agenda:
   1. Adoption of agenda.
   2. Adoption of the minutes of the twenty-seventh meeting (MCDP/28).
   3. Sales of skimmed milk powder at reduced prices for animal feed purposes: Request for derogation by the delegation of Canada and other related questions (MCDP/W/44 and MCDP/28, paragraphs 21 to 45).
   4. Other business.

Adoption of the minutes of the twenty-seventh meeting

3. The Committee adopted the minutes MCDP/28.

Sales of skimmed milk powder at reduced prices for animal feed purposes: Request for derogation by the delegation of Canada and other related questions (MCDP/W/44 and MCDP/28, paragraphs 21 to 45)

4. The representative of New Zealand informed the Committee that his delegation had transmitted to the secretariat a communication dated 23 April 1976 made in pursuance of Article III, paragraph 5, of the Arrangement. To facilitate the disposal of inventories of skimmed milk powder his authorities sought a derogation from the minimum price of skimmed milk powder for export for animal feeding purposes.
His Government undertook to ensure that skimmed milk powder exported under the derogation for animal feed purposes would be denatured in New Zealand prior to export, according to one of the processes outlined in the schedule attached to the communication. He recalled that in the previous meeting of the Committee he had expressed the view that the Committee should consider the consequences of such a decision for the disciplines of the Arrangement and the question as to whether each exporter participant should seek his own derogation or whether a joint decision might be taken covering all exporter participants. Recalling that the Canadian delegation had already submitted a request for derogation, he suggested that the Committee might proceed on the basis of examining whether some joint discipline in the interest of safeguarding the purposes of the Arrangement might be superimposed on these two applications. In this case the Committee might consider the possible elements which would be involved in a joint derogation.

5. The representative of Australia said that if his delegation were to submit a request for derogation it would be giving the same undertakings as New Zealand, namely his authorities would be prepared to ensure that skimmed milk powder exported for animal feed purposes would be denatured prior to export. He added that his delegation would be prepared to consider sympathetically the last suggestions made by the representative of New Zealand.

6. The representative of the EEC stated that the Community's position regarding the Canadian request for a derogation was unchanged and the EEC could not consider signifying its agreement to that request. It would be neither opportune nor appropriate for the Committee to agree to the New Zealand request for a derogation or to any request that might be made by Australia. Referring to the suggestions made by the New Zealand representative concerning a joint discipline, he pointed out that in the event that the Committee examined a general derogation covering all exporter participants, it would be important that those members participate in one and the same discipline. The EEC delegation was keeping an open mind with a view to trying to find a solution to the serious problems currently besetting the market for skimmed milk powder.

7. The representative of Australia submitted to the Committee a communication made in pursuance of Article III, paragraph 5, of the Arrangement. This communication outlined the Australian denaturing processes and the form of undertakings which would be given by his authorities. Moreover, he stated that this request could readily be subsumed into some discipline action as suggested by the representative of New Zealand. He added that his Government, in seeking a derogation, did so on the basis that its existing derogation covering sales of skimmed milk powder for animal feed purposes to Malaysia and Singapore at prices below the minimum price provided for in the Arrangement, would continue. It was the view of his Government, that, as the purpose of the derogation in respect of sales to Malaysia and Singapore was to permit a long established stock feed trade
to continue, it was neither necessary nor appropriate to have that existing derogation subsumed into a wider derogation granted in different circumstances and for a different purpose. Nevertheless, to the extent that the Management Committee might agree to institute new or more detailed reporting procedures in the context of a joint discipline action, the Australian Government was prepared to apply the same reporting procedures to any sales made under its existing derogation in respect of Malaysia and Singapore.

8. The representative of Canada said that his delegation would be prepared to consider sympathetically the approach outlined by the representative of New Zealand regarding joint disciplines in the interest of safeguarding the purposes of the Arrangement. It would be useful to consider the problems raised in the context of joint disciplines on the understanding that if an agreement were not reached on that basis his delegation would wish to revert to its initial request for derogation. He recalled that at the previous meeting his delegation had been prepared to revise its request and to agree that the denaturing should take place in Canada prior to export. He recalled at the same time that it might often make more sense to denature in the importing country. If the importing country were not a member of the Committee it would probably be prudent for the exporting country to bring to the Committee a proposal with specific indications of the control system applied by the importing country and to request a derogation under Article VII, paragraph 5, of the Arrangement. He reiterated his agreement to the suggestion of the representative of New Zealand on the need of a form of joint discipline and added that the decision that might eventually be taken by the Committee in relation to it would not in any way prejudice or detract from the existing derogations enjoyed by Japan and Spain.

9. The representative of the EEC reminded the Committee of his statement at its preceding meeting to the effect that the EEC did not believe that the Arrangement and the minimum price would be protected by attempting to win new markets for skimmed milk powder for animal feed by means of sales at prices below the minimum price established under the Arrangement. In the view of his delegation, the best way of protecting the Arrangement would be that, as regards exports of skimmed milk powder for animal feed, the participants should endeavour to respect the machinery of the Arrangement. Nevertheless the EEC did not wish to go against some participants who believed that controlled sales of skimmed milk powder for animal feed would be the best way of overcoming the current crisis. His delegation was not opposed, therefore, to the Committee continuing its discussions along the lines indicated by the New Zealand representative. In the view of his delegation, the first problem arising in connexion with joint action by the parties to the Arrangement was that of the denaturing processes described in the derogation requests. He wondered whether processes 2 to 5 described in the Canadian request and included in the requests by New Zealand (processes 2 to 5)
and Australia (processes 3 to 6) could be considered as denaturing processes, since the resulting products could not be termed denatured skimmed milk powder, but were goods in which skimmed milk powder had been incorporated. Provision for such a case was made in Article III, paragraph 1 of the Arrangement. Referring to process No. 2 described in the Canadian request, he was of the opinion that some guarantee of mesh standard was essential in that the bran, potato flour or other starch must have a mesh standard equivalent to that of the skimmed milk powder so as to prevent any sifting in order to remove those other products. Process No. 1 described in the Australian request, which was included as No. 6 in the New Zealand request, was a dyeing process already included in the Register for the purposes of Article III, paragraph 5 in respect of Malaysia and Singapore only. The EEC could not agree to the use of that or any other dyeing process in the context of joint action, because dyeing processes as such did not offer sufficient guarantees to prevent any diversion to other uses of skimmed milk powder intended for animal feed. Furthermore, in the dyeing process proposed by Australia, the dye had to be added to liquid skimmed milk before drying. In that connexion, the Canadian request for a derogation was designed to facilitate the disposal of inventories of aged skimmed milk powder rather than the manufacture of powder specifically for animal feed. The Australian and New Zealand representatives could perhaps furnish some clarification as to the purpose of their requests and the reasons why that dyeing process had been included in their respective lists.

10. In reply to the representative of the EEC the representative of Australia pointed out that the process of dyeing skimmed milk powder proposed by his country was already recorded in the Register and had operated for years without causing problems. The objective of the processes and control measures was to ensure that the minimum price of skimmed milk powder for human consumption would not be undermined. He expressed the view that the Australian process of dyeing skimmed milk powder for animal feed purposes provided an effective safeguard to ensure that skimmed milk powder so treated was used exclusively for animal feed since the colouring was chemically locked into the protein material during processing and could not be removed from the powder by any economically feasible means. Consequently, his delegation was not favourable to deleting this process of dyeing from the list of processes contained in its request. This process of dyeing and five other alternative denaturing processes which were the same as those proposed in the Canadian request had been included in his country's request in order to take account of importers' requirements having regard to the different uses and to the cost of carrying out these processes. These six alternative denaturing processes would ensure a desirable and necessary flexibility in this area.
11. In reply to the representative of the EEC the representative of New Zealand pointed out that exports of dyed powder for purposes of animal feed produced in accordance with the process of dyeing proposed by Australia and his country, might release some stocks of skimmed milk powder to be sold for food uses. He said that in the context of a possible agreement on joint disciplines, the Committee should agree that the technical problem raised by the EEC on this process of dyeing should be subject to further scrutiny in the light of any factual evidence that the EEC might be able to supply to the Committee. He added that if the Committee were to agree to institute more detailed reporting procedures, it would have the continuing opportunity to monitor the effects of sales made under a joint discipline. Moreover, he supported the view expressed by the representative of Australia that various alternative denaturing processes might be needed. A certain degree of flexibility was needed on this question in order to adapt the skimmed milk powder for animal feed purposes to the expected end-uses and to utilize an economic and efficient way of denaturing.

12. In reply to the representative of the EEC, the representative of Canada recalled that the denaturing process No. 2 included in his country's request was the same as that which was already in the Register in relation to the derogation invoked by Spain. He recalled also that five alternative denaturing processes had been included in the request in order to take account of importers' requirements having regard to the different uses. These processes were all effective in ensuring that skimmed milk powder so denatured would not find its way into the human consumption market.

13. It was understood that should the Committee decide to approve joint action under Article III, paragraph 5, of the Arrangement, that would imply that some time beforehand the various processes and control measures would have been communicated to the Committee, for examination and approval, by the participants in such joint action.

14. The representative of Japan pointed out that his country had already obtained a derogation in pursuance of Article III, paragraph 5, namely that the Japanese system of safeguard measures had been approved by the Management Committee and recorded in the Register. Therefore his country could continue to import denatured or undenatured skimmed milk powder for the purposes of animal feed under its own derogation. He expressed the view that the Committee should agree that a possible decision on a collective derogation should not in any way affect the existing derogation enjoyed by his country.

15. It was understood that should the Committee decide to approve joint action under Article III, paragraph 5, of the Arrangement, and without prejudice to the rights devolving upon the parties under the provisions of the Arrangement, the Committee's decision could be subject to the following qualifications, inter alia:
(a) The joint action shall not prejudice in any way the existing derogations which have been granted to Australia as regards Malaysia and Singapore, to Japan and Spain.

(b) The participants in that action undertake to ensure that skimmed milk powder will be denatured according to one of the processes recorded in the Register on their respective customs territories and prior to export of the product concerned.

(c) In the event that it proved necessary to carry out the denaturing in an importing country not a member of the Committee, the exporting country will present a proposal to the Committee giving a precise description of the control system applied by the importing country. After examination of the request, the Committee may grant the requesting country a derogation under Article VII, paragraph 5, of the Arrangement.

16. The representative of Spain suggested that the secretariat should prepare immediately after the meeting a document which would include all the decisions taken by the Committee with respect to the collective action.

17. The representative of the EEC pointed out that any derogation from the provisions of the Arrangement was tied to its period of validity. Furthermore, in the event that the Committee decided to approve joint action, that decision could not be a permanent part of the Arrangement. In the view of his delegation, unless the decision was of specified duration, exporter participants would not carry out the exports they were expecting. A period of validity should therefore be set for the decision. A limited period of validity would be in the trade interests of the exporter participants, since it would help them to carry out the exports they wished to make. Furthermore, the Committee would have to review the decision before the end of its period of validity and exercise strict surveillance over the joint action.

18. The representative of Canada considered that it was not desirable to include a time-limit in the framework of a collective action. For practical commercial reasons, a certain degree of flexibility was needed in this context. The decision which might be approved by the Committee would be reviewed at a given time. The purpose of that review would be to consider whether the decision might be extended, modified or rescinded. That decision would be taken by the consensus of the Committee.

19. The representative of New Zealand said that his delegation was not prepared to accept a collective action without a time-limit. The decision which might be approved by the Committee would be reviewed by the Committee within twelve months of the date of its adoption in order to determine whether it should be modified or rescinded.
20. The representative of **Australia** supported the views expressed by the representative of New Zealand. He expressed the view that the Management Committee should reinforce its surveillance work and institute new and/or more detailed reporting procedures to monitor sales under the collective action.

21. The representative of **Canada** said that it was not the intention of his delegation to make permanent the decision which might be approved by the Committee. This decision would remain in force during the continuance of the emergency situation which had given rise to it. It was possible that the emergency situation might last two years. He supported the views expressed by the representative of New Zealand on the review by the Committee of its decisions.

22. The representative of **Japan** said that as a result of competition among exporters operating under a collective derogation and wishing to dispose of their stocks as soon as possible, a very tight supply situation might result for skimmed milk powder for human consumption. His country, an importer of skimmed milk powder, would prefer to have a sufficient safeguard against the possibility of the emergence of a very tight supply situation. On the basis of these considerations his country would be concerned if a consensus would not be required in order to continue this type of emergency agreement. If the emergency situation remained at the time of the review the Committee could rely on the goodwill and co-operation of all its members.

23. The representative of **Spain** shared the concern expressed by the representative of Japan and supported his views on the possibility of the emergence of a problem in terms of the security of supply of skimmed milk powder for human consumption.

24. The representative of **Australia** suggested that the decision which might be approved by the Committee should remain in force for one year subject to a review at the end of that period. The decision might be extended in the light of the international stock situation existing at that time.

25. It was understood that should the Committee decide to approve joint action under Article III, paragraph 5, of the Arrangement, and without prejudice to the rights devolving upon the parties under the provisions of the Arrangement, the Committee's decision could be subject to the following additional qualifications, *inter alia*:

   (a) the decision shall remain in force for one year. The Committee shall meet *number to be determined* days before the date of expiry in order to determine whether, and if so under what conditions, it should be extended, in the light of the market situation prevailing at that time.
(b) The Committee shall hold two meetings during each quarterly period, in addition to its regular session, in order to examine certain information and, generally, to follow the evolution of the situation.

26. The representative of New Zealand said the Committee should also review the continued maintenance of the minimum price for skimmed milk powder for human consumption in the framework of its increased surveillance work. To this end, it would be appropriate that the new and/or more detailed reporting procedures that the Committee might agree to institute to monitor sales under the collective action should be extended to transactions of skimmed milk powder for human consumption. He suggested moreover that the members of the Committee might communicate to the secretariat on an ad hoc and informal basis information on transactions in their knowledge which might have a bearing on the operation of the Arrangement.

27. The representative of the EEC reaffirmed his view that the best way to find a solution to the world market crisis for skimmed milk powder was not to request a derogation from the price provisions of the Arrangement. If any such decision were made in the context of joint action, his delegation would concur only reluctantly.

28. The representative of Australia recalled that at this stage the only immediate measure for the improvement of the stock situation would be the clearance of these stocks into animal feed end-uses with the appropriate safeguard measures in order to protect the price of skimmed milk powder for human consumption. He pointed out that his country had not played a very large part in contributing to this critical stock situation. He urged producers of skimmed milk powder to take the necessary domestic action in order to adjust their production to internal market realities.

29. The Committee agreed to hold a special meeting on 5 and 6 May to take a decision on the approval of a collective action. It requested the secretariat to prepare in advance of the next meeting a draft decision which would include the elements of the collective action. This draft decision would be distributed to the participants together with the denaturing processes which had already been (or which might shortly be) submitted to the secretariat. In case of the approval of the collective action by the Management Committee the denaturing processes joined to it would at the same time be approved and recorded in the Register of processes and control measures in pursuance of the provisions of Article III, paragraph 5, of the Arrangement.

Other business

Next meeting

30. The Committee will meet again on 5 and 6 May 1976.
ANNEX/ANNEXE

List of Representatives/Liste des Représentants

Acting Chairman: Mr. J.-M. Lucq
Président par intérim: Mr. J.-M. Lucq

- AUSTRALIA
  Mr. W.G. McGregor
  Mr. D. Spencer

- BELGIUM
  Mr. Hooyberghs

- CANADA
  Mr. P. Eastham
  Mr. L. Dickenson
  Mr. M. Gifford
  Mr. I.W. McLean

- CONSEIL

- DENMARK
  Mr. P. Jakobsen

- COMMUNAUTES EUROPEENNES
  COMMISSION
  M. M. Jacquot
  M. A. Barsuglia
  Mme A. Laurent

- FRANCE
  Mme A. Marsault
  M. I. Raigaut
  M. Leflon

- IRELAND
  Mr. P. O'Donoghue

- ITALY
  Mr. G. Giorgieri

- JAPAN
  Mr. T. Yoshikuni
  Mr. T. Manabe

- LUXEMBOURG

- NETHERLANDS
  Mr. J. Logger
  Mr. J. Fey
  Mr. D. Elekamp

- NEW ZEALAND
  Mr. W.J. Falconer
  Mr. S.T. Murphy
  Mr. R. Payne
  Mr. A.H. McPhail

- SOUTH AFRICA
  Mr. J.J. Pienaar

- SPAIN
  Mr. A. Iranzo

- SUISSE
  M. M. Besson
  M. R. Beuret

- UNITED KINGDOM
  Mr. I.C. Redfern
OBSERVERS/OBSERVATEURS

- ARGENTINA
  Mr. R. Willianbrosa
  Mr. F. Cordova Moyano

- AUSTRIA
  Mr. V. Segalla

- HUNGARY
  Mr. S. Bojtor

- UNITED STATES
  Mr. E. Koenig