Introduction

1. The Management Committee held its twenty-ninth meeting on 5, 6 and 10 May 1976.

Adoption of agenda

2. The Committee adopted the following agenda:

   1. Adoption of agenda.
   2. Adoption of the minutes of the twenty-eighth meeting (MCDP/29).
   3. Draft decision of the Management Committee (MCDP/W/48).
   4. Other business.

Adoption of the minutes of the twenty-eighth meeting

3. The representative of New Zealand requested the following modifications to the minutes MCDP/29: in paragraph 19, delete the first sentence and substitute the following two sentences: "The representative of New Zealand said that the escape valve for exports for animal feed purposes was intended to cover intermittent surplus problems. Therefore, he did not believe that in the context of a joint action to meet the current market situation, a derogation to exporters should be granted in perpetuity".

4. The representative of Australia requested the following modifications to the minutes MCDP/29: in paragraph 7, third sentence, between the words "some" and "discipline" insert "joint"; at the end of the same sentence add: "and that it was to facilitate consideration of such joint discipline that he had submitted the Australian communication"; in paragraph 28, last sentence, delete the word "internal"; in the Annex - List of Representatives, AUSTRALIA, add "Mr. R.E. Moore".
5. At the request of the observer of Austria the Management Committee agreed that the following paragraph be inserted between paragraphs 6 and 7 of the minutes MCEP/29: "The observer of Austria expressed concern that the decision permitting skimmed milk powder for animal feed purposes to be sold at prices below the minimum price would undermine the Arrangement to which he attached great importance".

6. The representative of the Federal Republic of Germany requested the following modification to the minutes MCEP/29: in the Annex - List of Representatives, between France and Ireland insert, "Germany, Federal Republic of, Mr. M. Spengler".

7. The Committee agreed to these modifications and adopted the minutes MCEP/29 as amended.

Draft decision of the Management Committee (MCDP/W/48)

8. The Committee had before it a draft Decision prepared at its request by the secretariat which incorporated elements of a proposed joint action and to which were annexed the Australian, Canadian and New Zealand denaturing processes (MCDP/W/48/Rev.1).

9. The representative of the EEC referred to the derogation requests that had been presented by Canada, New Zealand and Australia and asked the representatives of those countries whether, taking into account the Committee's discussions at the two preceding meetings, the considerations that had been put forward by the EEC as well as by the representatives that had requested a derogation, and likewise taking into account recent developments in the market for skimmed milk powder, it was still their belief that the best way of protecting the Arrangement was to attempt to sell skimmed milk powder for animal feed at prices below the minimum price established under the Arrangement.

10. In reply to the representative of the EEC the representative of Canada recalled that the Canadian request for a derogation had been communicated in early March and that his delegation had agreed at the last meeting to consider subsuming its request into the joint discipline approach suggested by the representative of New Zealand. The basic position of his country with respect to the need to utilize the "escape valve" provided for under the Arrangement remained the same.

11. In reply to the representative of the EEC the representative of Australia said that the best way to find a solution to the world market crisis for skimmed milk powder would be for the members of the Committee to apply realistic production policies. However, he stressed 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. The price of skimmed milk powder for human consumption was
down at or slightly above the minimum price implying that sales of skimmed milk powder for animal feed purposes had to be effected at prices below the minimum price. Therefore a derogation from the price provisions of the Arrangement was needed. The Committee should take a practical approach and decide collectively that some form of joint discipline and control over the derogation was necessary in order to protect the price of skimmed milk powder for human consumption.

12. The representative of the EEC recalled that at earlier meetings he had stated that the EEC did not believe that the Arrangement would be protected by pursuing the course that had been first outlined by the Canadian delegation and subsequently supported by the delegations of New Zealand and Australia. In the view of his delegation, the fact that prices of skimmed milk powder had dropped to the minimum level in no way implied that skimmed milk powder for animal feed must be sold at prices below the minimum price established under the Arrangement. The EEC was endeavouring to respect the Arrangement and did not believe there were any compelling reasons in support of the requests that had been presented by Canada, New Zealand and Australia.

13. Referring to the draft Decision MCDP/W/48/Rev.1, the representative of Canada suggested that the Committee should examine the joint action in respect of the members which had already signified that they were prepared to undertake such a discipline.

14. The representative of the EEC said that should the members of the Committee decide that a derogation was the right course, clearly the principle of equity would have to be respected. In those conditions, and albeit reluctantly and for reasons of equity, the EEC would be obliged to follow the other delegations. In the interest of maintaining equilibrium in the Arrangement, the EEC was presenting to the Committee the processes and control measures applied in the Community, for recording in the register established by the Committee for that purpose. Taking into account the provisions set forth in draft form in the draft Decision (MCDP/W/48/Rev.1) and furthermore the processes and control measures applied in the Community which had been communicated to the Committee, the EEC could not concur in the draft Decision and associate itself with the joint action envisaged therein. No doubt certain exporting countries had agreed to certain control measures being applied prior to export. Experience had shown, however, that what might be approved was not always respected. Furthermore, some importing countries were not disposed to import skimmed milk powder for purposes of animal feed in the forms envisaged in the draft Decision (MCDP/W/48/Rev.1). The EEC could not agree to use of the dyeing process described in the Australian request that was also included in the New Zealand request, nor indeed to use of any other dyeing process, because the processes as such did not offer sufficient guarantees to prevent any diversion to other uses of skimmed milk powder intended for animal feed. In the view of his delegation, the
denaturing processes would not be applied at the outset, so that participants would have to come back before the Committee to request a derogation under Article VII after the relevant contracts had been concluded. From the equity aspect, all participants must be able to carry out operations on the same basis. For those reasons the Community was proposing to the Committee three processes and control measures by virtue of which skimmed milk powder for use as animal feed could be exported to third countries either after being denatured in the customs territory of the Community in accordance with the process described in the EEC communication, or after being incorporated in prepared animal feedingstuffs falling within sub-heading ex 23.07 B of the common customs tariff, or if the skimmed milk powder was exported in an unaltered state, subject to presentation by an official organization of the country of destination of an attestation certifying that the product imported would be subject to a control to ensure that it was used exclusively for animal feed and was not re-exported. The representative of the EEC proposed that the processes and control measures applied in the Community, as specified in the communication of 5 May 1976, be recorded in the register of processes and control measures, in accordance with Article III:5 of the Arrangement.

15. The representative of Australia recalled 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. He recalled that 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. There was no evidence that skimmed milk powder treated according to the Australian dyeing process was being diverted to human food use. Consequently, unless such evidence were to be forthcoming, his delegation wished to maintain this dyeing process in the list of processes contained in its request.

16. The representative of New Zealand expressed agreement with the view that in the absence of evidence that skimmed milk powder treated by the dyeing process included in the New Zealand request might be diverted into human food use, there was no reason to delete this process from the list of processes contained in its request.

17. The representative of Japan suggested that paragraph 3 of the draft Decision MCDP/W/48/Rev.1 should read: "This decision shall not prejudice in any way the existing derogations of Australia as regards Malaysia and Singapore, and of Japan and Spain".

18. Referring to paragraph 4(a) of the draft Decision MCDP/W/48/Rev.1 the representative of Canada suggested that assuming that the Committee could agree on a common list of processes any exporter who sought to join this derogation would be free to choose from any one of the processes relating to this decision and approved by the Management Committee.
19. The representative of New Zealand stated that each participant should individually be responsible for the denaturing processes contained or which might be added to its specific list. The Committee should also continue to keep new processes under review. On this basis his delegation was prepared to accept the disciplines envisaged in paragraph 4(a) of the draft decision MCDP/W/48/Rev.1.

20. The representative of Australia said that his delegation was prepared to agree either that all the processes relating to this decision be recorded in one common list of processes and control measures and be available for use by all the participants to this decision or that the list ultimately submitted by each participant contain all the processes submitted by any one of the participants. In the view of his delegation, it was important that the participants to this decision ensure that skimmed milk powder exported for animal feed purposes would be denatured prior to export in accordance with one of the processes recorded in a common list.

21. Referring to paragraph 4(b) of the draft decision MCDP/W/48/Rev.1, the representative of Australia suggested that in respect of exports of undenatured skimmed milk powder to an importing country which is not a participant in the Arrangement, the exporter participant to this decision might present a request to the Committee giving a description of the processes and control measures to be applied by the importing country including the nature of any assurances received from the importing country that these processes and control measures would be carried out.

22. The representatives of New Zealand and Canada said that they were prepared to agree to the suggestions of the representative of Australia as to the redrafting of paragraph 4(b) of the draft decision MCDP/W/48/Rev.1.

23. The representative of the EEC asked whether traders would eventually be able to meet the conditions prescribed in sub-paragraph 4(b) of the draft decision MCDP/W/48/Rev.1. In his delegation's view the conditions prescribed in sub-paragraphs 4(a) and (b) of that draft decision did not correspond to trade realities, and the Community could not accept those sub-paragraphs. Following the presentation of derogation requests by Canada, New Zealand and Australia that were integrated in a joint discipline, the EEC had felt constrained to present to the Committee its own individual request for a derogation.

24. The representative of Canada pointed out that the whole purpose of the meetings of the Committee since March had been to ensure to the maximum extent possible that the international co-operation in this area of trade in dairy products would continue. He recalled that his delegation together with the Australian and New Zealand delegations were prepared to agree that the denaturing should take place prior to export. He asked the representative of the EEC whether the EEC authorities had analyzed all the potential implications of seeking an individual derogation which did not contain a commitment to denature prior to export.
25. The representative of New Zealand recalled that some members of the Committee had accepted the idea of joint discipline regarding sales of certain skimmed milk powder at prices below the minimum price. His delegation was not prepared to accept any lesser discipline by other members of the Committee. In these circumstances, the Committee might consider the individual requests for derogation on the understanding that they might be modified in the light of discussions at this meeting of the Committee.

26. The representative of Australia supported the views expressed by the representative of New Zealand and added that if the Committee were to make this Decision from the point of view of equity, the conditions attached to it should be similar for all exporters participants.

27. The representative of the EEC said that on the basis of the derogation that might be granted to it his delegation was prepared to accept the following joint disciplines: with respect to sub-paragraph 4(c) of the draft decision MCDP/W/48/Rev.1 the EEC was disposed to accept that the decision, if adopted, should remain in force for one year on the understanding that a six-month period for performance was allowed thereafter. With respect to sub-paragraph 4(d) of the draft decision MCDP/W/48/Rev.1 the EEC was prepared to accept that the Committee hold two meetings during each quarterly period, in addition to its regular session, and to undertake to furnish the information mentioned in that sub-paragraph.

28. It was understood that in the event that the Committee decided to approve a joint action in terms of Article III:5 of the Arrangement and that the Committee's decision entered into force on 10 May 1976, the decision would cover exports carried out prior to 10 May 1977; in addition, however, it could apply to exports carried out between 10 May and 10 November 1977 in the case of deliveries in pursuance of contracts entered into between 10 May 1976 and 10 May 1977.

29. The Management Committee requested the secretariat to prepare for the meeting next day, 6 May, a draft decision taking account of the previous day's discussions. That draft text was circulated as MCDP/W/48/Rev.2.

30. The representative of Australia recalled that his delegation together with the delegations of Canada and New Zealand had been willing to accept the conditions set out in paragraphs 4(a) and 4(b) of MCDP/W/48/Rev.1, in the interests of preserving the minimum price provisions of the Arrangement. In this context he noted with concern that certain processes and control measures contained in the list of processes and control measures submitted by the EEC did not contain safeguard provisions as effective as those set out in paragraphs 4(a) and 4(b) of MCDP/W/48/Rev.1. His delegation would have preferred more effective disciplines. He doubted whether the approach suggested by the EEC would protect the minimum price of the Arrangement and he expressed concern at the consequences of that approach on the operation of the Arrangement.
31. The representative of the EEC reminded the Committee that the Community's objective was that the minimum price established under the Arrangement be maintained in respect of powder for human food use as well as that intended for animal feed. Under the provisions currently in force in the Community, exports of both types of skimmed milk powder, to all destinations, were precluded at prices below the minimum price established under the Arrangement. Potential importers of skimmed milk powder who had initially considered that denaturing must be carried out prior to export of the product concerned had subsequently formed the view that it was preferable for them to obtain the powder in an unaltered state. With respect to denaturing, the potential importers had considered that they could reduce the costs of the process and as regards incorporating the product in prepared feeding stuffs they had preferred to incorporate the powder in products manufactured by them or imported at lower prices. In view of the fact that certain importers were not prepared to accept powder that had been denatured or incorporated in other products, the EEC was constrained to adopt a new attitude regarding the matter of denaturing prior to export. Furthermore, because of the existence of different marketing systems in the principal exporting members of the Committee, the EEC could not accept the procedure laid down in sub-paragraph 4(b) of the draft MCDP/W/48/Rev.1. From the equity aspect, if the major exporters had different marketing systems, the processes and control measures must likewise be different. In that context, with respect to exports of skimmed milk powder in an unaltered state intended for animal feed, the regulations mentioned in the EEC communication prescribed stringent control measures that offered adequate safeguards for preventing any diversion to other uses.

32. The representative of Canada said that it was in the interest of his country to see the EEC run down its stocks because world stocks, which were primarily held by the EEC, were having the effect of depressing prices in the international market. He expressed the view that the EEC's concern that it would not be able to take full advantage of the procedure set out in paragraph 4(b) of MCDP/W/48/Rev.1 was overstated. He noted that the EEC could negotiate conditional contracts prior to bringing a request for a special derogation before the Management Committee.

33. The representative of New Zealand, referring to the procedure set out in paragraph 4(b) of MCDP/W/48/Rev.1, said that on technical grounds there was no threat to EEC traders from a procedure which involved reference back to the Management Committee for approval of the guarantees given by an importer non-member of the Arrangement. He expressed the view that it was difficult to accept that an attestation issued by an importing non-member of the Arrangement was more useful as a way of furthering the objectives of the Arrangement than was a member's guarantee to denature prior to export.
34. The representative of Australia supported the views expressed by the representative of New Zealand and questioned the effectiveness of an importer's attestation.

35. The representative of the EEC observed that the control measures described in the EEC communication in respect of exports of skimmed milk powder in an unaltered state were more stringent than the procedures envisaged in sub-paragraph 4(b) of the draft in MCDP/W/48/Rev.1. In that connexion Regulation (EEC) 196/76 provided inter alia that when lodging the application for the certificate of advance fixing of the refund, the exporter must produce the contract of delivery which must indicate the exporter's name and address, the quantity or quantities of the products to be delivered, the selling price, the delivery period, and evidence that the product was intended exclusively for animal feed. Furthermore, the certificate had to specify the country of destination, making it obligatory to export to that country. Lastly, payment of the refund was subject to production of a certificate issued by an official organization of the country of destination, certifying that the product imported would be subject to a control to ensure that it would be used exclusively for animal feed and would not be re-exported. He enquired whether comparable conditions and penalties were laid down in the regulations of other participating exporters.

36. The representative of Australia stated that Australia did not lack effective control because the Australian Dairy Corporation licensed the traders and attached conditions to their licences. Withdrawal of the licence was an effective penalty for any form of malpractice on the part of a licensed trader. Exporters were required to indicate tonnage, destination, the end-use of skimmed milk powder and to produce evidence of a contract. Australia could give effect to any commitment undertaken and was prepared to fulfil the commitments set forth in paragraphs 4(a) and 4(b) of MCDP/W/48/Rev.1.

37. The representative of Canada recalled that at the two previous meetings his delegation had been prepared to agree that the denaturing should take place in Canada prior to export. He expressed the view that this was the major safeguard to protect the minimum price of skimmed milk powder for human consumption. He recalled at the same time that in some cases it might make more sense to denature in the importing country. If the importing country were not a member of the Committee it would be prudent for the exporting country to bring to the Committee a proposal with specific indications as to the control system applied by the importing country and to request a derogation under Article VII paragraph 5 of the
Arrangement. Therefore, his delegation was prepared to agree to the conditions set forth in paragraphs 4(a) and 4(b) of MCDP/W/48/Rev.1 and preferred this draft to the subsequent revision MCDP/W/48/Rev.2 where these two conditions were deleted. Commenting on trade rumours regarding the sale of 45,785 tons of skimmed milk powder made by Canada to Spain in February 1976 under the Spanish derogation he informed the Committee that deliveries were scheduled throughout the current year. Of the 45,785 tons sold to Spain, about 10,000 tons would be denatured in Canada prior to export and the balance would be denatured in a Spanish port. All contracts entered into required that skimmed milk powder be sold only to Spain unless the Canadian Dairy Commission gave written permission to a change in destination and so far no request had been received for such a change. The traders involved were also required by the contracts to provide the Canadian Dairy Commission with copies of the Spanish Customs documents and letters from the Spanish buyers that the product would not be re-exported. Up to 23 April 1976, the Commission had shipped 7,356 tons of skimmed milk powder to Spain. All the powder so far sold to Spain had been manufactured in the 1974-75 dairy year. The Government of Canada would be prepared if requested to provide to the Management Committee on a regular basis the name of the vessels, the date of sailing and the quantities of denatured and undenatured skimmed milk powder being shipped from Canada to Spain.

38. The representative of the EEC thanked the Canadian representative for the clarifications he had given concerning the recent sale by Canada of approximately 46,000 tons of skimmed milk powder to Spain under the derogation granted to the latter country. The guarantees offered by Canada to prevent any diversion to other uses of skimmed milk powder intended for animal feed existed likewise in the Community regulations concerning exports of skimmed milk powder in an unaltered state for use as animal feed, as mentioned in the EEC request for a derogation. The EEC was ready to participate in discussions with a view to preserving the Arrangement, but was not disposed to put itself in a competitive position that would not be equivalent vis-à-vis the other participating exporters. The EEC could not await authorization by the Committee prior to selling skimmed milk powder in an unaltered state for use as animal feed.

39. The representative of Canada said that if the Committee were to consider the approach outlined by the representative of the EEC it would be necessary to determine exactly what were the safeguards and the various elements which would be notified to the Committee in order to minimize the risks of such an approach. However, he recalled that in the view of his delegation, the best solution would be to accept the conditions set forth in the draft decision MCDP/W/48/Rev.1.
40. The representative of **Australia** shared the views expressed by the representative of Canada. He submitted to the Committee a communication dated 6 May 1976 made in pursuance of Article III, paragraph 5 of the Arrangement (MCDP/W/50). He stressed that it was with reluctance that his delegation had submitted this communication and it had done so in the light of the statement made by the representative of the EEC that the EEC was not prepared to contemplate the sort of disciplines envisaged in paragraphs 4(a) and 4(b) of MCDP/W/48/Rev.1. He also stressed that it was with reluctance that his delegation would be prepared to go along with the EEC approach in the interest of maintaining at least a minimum joint discipline. For reasons of equity the process outlining the control measures with respect to exports of skimmed milk powder in an unaltered state and set forth in the request of the EEC under paragraph (c) was included as paragraph C in the list of Australian processes set out in the Addendum 2 to the Australian communication MCDP/W/50. He expressed serious concern about the possible results of the inclusion of such a process and added that the minimum price of skimmed milk powder for human consumption might in this case come under severe pressure. He recalled with regard to the dyeing process proposed by his country that there was no evidence that dyed skimmed milk powder might be diverted to human food use. However, in a spirit of compromise, this process of dyeing had been deleted from the Australian list of processes. Moreover, he pointed out that the Australian communication contained two requests. He said that the first request set out in Addendum 1 to MCDP/W/50 described a process in respect of the Province of Taiwan. Australia was prepared to limit sales to the Province of Taiwan under this process to 3,000 tons. The second request contained the Australian processes and control measures set out in Addendum 2 to MCDP/W/50. He stated that the Australian Government was prepared to apply in regard to both of these requests, such time-limit, review and reporting procedures, as might be agreed by the Committee as having general applications to any member seeking to avail itself of the provisions of Article III, paragraph 5 of the Arrangement. In conclusion, he stated that his delegation was prepared to tighten the commitment set out in paragraph (c) of the list of Australian processes and control measures provided other participants were also prepared to consider such a tightening.

41. The representative of **New Zealand** said that his delegation still remained insufficiently convinced that the control measures described in paragraph (c) of the EEC request and included in paragraph C of the Australian request would operate as a satisfactory safeguard to the minimum price of skimmed milk powder for human consumption. Therefore, his delegation could not consider at this point signifying its agreement to recording these particular control measures in the Register. If both the delegations of EEC and of Australia were prepared to delete or tighten these control measures to make them consistent with the disciplines envisaged in paragraph 4(b) of the draft Decision MCDP/W/48/Rev.1 progress could be made towards finding a solution to the problem under discussion.
42. The representative of Australia stressed that it was in a spirit of trying to make progress that his delegation had submitted the communication MCDP/50. He shared the apprehensions expressed by the representative of New Zealand and he added that he would have preferred to accept the disciplines envisaged in paragraphs 4(a) and 4(b) of the draft Decision MCDP/W/48/Rev.1.

43. The representative of the EEC said that his delegation had no objection to make regarding the processes described by Australia in Addendum 2 of its request, and could accept the process described in Addendum 1 on the understanding that it was applicable only in respect of Taiwan. The EEC delegation could likewise envisage concurring with the Canadian suggestions that the Committee strengthen the information procedure in respect of sales of skimmed milk powder in an unaltered state for use as animal feed.

44. The representative of Canada said that should the Committee decide to approve exports of skimmed milk powder in an unaltered state for animal feed purposes these exports should be carefully controlled. He suggested that the sorts of controls which should be considered if the risk of leakage into the human consumption market were to be minimized would include the following disciplines:

(i) The competent authorities of the Government of the country of import shall issue an attestation certifying that the product imported will be subject to a control to ensure that it will be used exclusively for animal feed and will not be re-exported.

(ii) Skimmed milk powder shipped under the Decision shall be owned by an official agency of the exporting country until its delivery to the port or point of arrival in the country of destination (or adjacent port for land-locked countries).

(iii) The importer attestation shall be filed with the GATT secretariat within thirty days of the contract being entered into.

(iv) The exporting participant, within seven days of entering into a contract shall report to the secretariat the following details: destination, tonnage and delivery schedule.

(v) Individual shipments made under such contracts shall be reported to the secretariat within seven days of leaving the country of origin. Following details must be given:

- date and quantity of shipment
- port of export
- port of import
- receiving country
- age of skimmed milk powder shipped (month and year of manufacture).

(vi) The exporting participant shall furnish to the secretariat, within thirty days of arrival of each shipment in the country of destination, a copy of an acknowledgement by the governmental authorities of the importing country concerned of the quantity received.

(vii) Any member of the Management Committee having evidence that skimmed milk powder shipped under this Decision is being or may be diverted to human food use, may request the Chairman to call an emergency meeting of the Management Committee within two working days, to consider such evidence in order to agree upon appropriate action.

45. The representative of Canada recalled that, in the view of his delegation, should the Committee decide to approve a joint action each exporting participant would have the option of utilizing any one or more of the processes or control measures agreed under this Decision.

46. The Committee requested the secretariat to prepare a new revised draft Decision to take account of the discussions that had just taken place. That text was circulated as document MCDP/N/48/Rev.3.

47. Referring to paragraph 4(c) of the draft Decision MCDP/W/48/Rev.3, the representative of Australia said that his delegation had no basic problem with the principles of each of the particular proposals as submitted by the representative of Canada and included in that paragraph of the revised draft Decision. However, there might be certain commercial and legal implications of instituting certain of these procedures.

48. The representative of New Zealand said that his delegation still doubted that the discipline envisaged in paragraph 4(c) of the draft Decision MCDP/W/48/Rev.3 and proposed by the representative of Canada represented an adequate safeguard which would protect the minimum price of skimmed milk powder for human consumption.

49. With reference to the Canadian proposals set forth in sub-paragraph 4(c) of the draft Decision MCDP/W/48/Rev.3, the representative of the EEC stated that the proposal that skimmed milk powder shipped under the Decision must be owned by an official agency of the exporting country until its delivery in the country of destination was inapplicable for the Community. He wondered whether the proposals mentioned under (v) and (vi) of that sub-paragraph really constituted safeguards. The proposal mentioned in point (vii) of the sub-paragraph seemed to his delegation to afford the major safeguard in that any member of the Committee having evidence
of diversion of skimmed milk powder from its declared use could request the convening of an emergency meeting of the Committee to examine such evidence in order to agree upon appropriate action.

50. The representative of New Zealand said that his delegation was unable at this point to take a decision on the control measures submitted by the EEC and included in the Australian request MCDP/W/50 with respect to exports of skimmed milk powder in an unaltered state. His delegation needed time to examine fully the implications of these control measures proposed by the EEC and Australia.

51. The representative of Canada said that in view of the Management Committee's inability to agree on a joint action decision his delegation wished to revert to its request for an individual derogation on the understanding that the denaturing would take place in Canada prior to export and that the list of destinations mentioned in the initial request would be deleted. He proposed that the five Canadian processes for denaturing skimmed milk powder be approved by the Management Committee and recorded in the Register of processes and control measures for the purpose of paragraph 5 of Article III of the Arrangement.

52. The representative of the EEC stated that his delegation was not empowered to approve the Canadian request for a derogation.

53. The representative of Canada recalled that the EEC representative had earlier agreed with Canada's interpretation of the legal rights and obligations of a member seeking to perfect a derogation under the provisions of paragraph 5 of Article III of the Arrangement and asked the EEC representative on what grounds the EEC was objecting to the Canadian application. He noted that in his delegation's view the Arrangement clearly indicated the only valid ground for objection was if the proposed Canadian processes and control measures were not technically adequate to ensure that skimmed milk powder thus exported is used exclusively for animal feed.

54. The representative of New Zealand said that his delegation had no technical objections to the denaturing processes outlined in the request of Canada and that his delegation was satisfied with these processes, on the understanding that the denaturing of skimmed milk powder would take place in Canada prior to export. Therefore, his delegation could agree that these processes be recorded in the Register. His delegation did not seek a decision of the Management Committee on its own request in the hope that a decision on some kind of joint discipline could yet be approved.
At its meeting on 10 May, the Committee had before it a draft decision revised in the light of discussions on 6 May which incorporated the elements of a joint action and which had been circulated under the responsibility of the Acting Chairman of the Committee (MCDP/W/48/Rev.4).

The representative of New Zealand stated that the basic aim of his country was to try to maintain the Arrangement. His delegation would have preferred to discuss on the basis of the draft decision MCDP/W/48/Rev.1 which contained the concept of guarantees given by exporters that skimmed milk powder for animal feed purposes would be denatured prior to export and the concept that exports of skimmed milk powder in an unaltered state for animal feed purposes would be effected subject to a case-by-case derogation granted under Article VII, paragraph 5, of the Arrangement. However, in a spirit of compromise and in the light of the discussions of the Committee his delegation had reviewed its position and would be willing to use the draft decision MCDP/W/48/Rev.4 as a basis for the discussions of the Committee.

The representative of Australia requested that the dyeing process set out in Annex I to the draft decision MCDP/W/48/Rev.4 be inserted as process No. A.7 in the list of Australian processes and control measures set out in Annex II to the draft decision under discussion. He stated that his delegation would be prepared to withdraw its request in respect of the Province of Taiwan on the understanding that the Australian dyeing process would be inserted in the list of Australian processes and control measures set out in Annex II to the draft decision under discussion.

The representative of the EEC stated that his delegation was prepared to accept that the dyeing process which Australia had just reintroduced in its list of processes and control measures and New Zealand had included in its request might be used within the framework of the joint action to the extent that the provisions of sub-paragraph 4(c) of the draft decision MCDP/W/48/Rev.4 concerning exports of skimmed milk powder in an unaltered state were likewise applicable to that process.

The representatives of Australia and New Zealand said that they were willing to accept the suggestions made by the representative of the EEC as to the disciplines to be applied in regard to the dyeing process included in their lists of processes and control measures.

The representative of Canada recalled that on the grounds of equity if one process or control measure were approved for one participant that process or control measure should be extended to all participants in this Decision.

The representative of the EEC stated that while his delegation was not prepared to insert a dyeing process in its list of processes and control measures, it was ready nevertheless to allow other participants the possibility of inserting such a process in their respective lists.
62. It was agreed that should the Committee decide to approve a joint action under Article III:5 of the Arrangement, the lists of processes and control measures of Australia, Canada and New Zealand would contain all the processes and control measures approved under the Decision.

63. It was agreed that should the Committee decide to approve a joint action under Article III:5 of the Arrangement and without prejudice to the rights devolving upon the parties under the provisions of the Arrangement, the Committee's Decision might be made subject to the following conditions:

(a) The Decision shall remain in force for one year. It shall apply to exports effected within that period and, provided that such exports are in respect of contracts entered into within that period, to exports affected within six months after the expiry of this Decision. The Committee shall meet not later than thirty days before the date of expiry, in order to determine, in the light of the market situation prevailing at that time, whether, and if so under what conditions, it should be extended.

(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. The participants undertake to submit to the GATT secretariat, each fortnight, the data relating to the transactions carried out in pursuance of this Decision and to indicate the conditions of sales, volumes, destinations and, to the extent possible, prices, port of export, port of import and age of skimmed milk powder shipped (month and year of manufacture).

(c) With respect to exports of skimmed milk powder dyed according to the processes set forth in L/3552/Add.5, paragraph A.7 in respect of Australia; Add.6, paragraph 6 in respect of Canada; Add.7, paragraph 6 in respect of New Zealand; and with respect to exports of skimmed milk powder in an unaltered state as set forth in L/3552/Add.5, paragraph C in respect of Australia; Add.6, paragraph 10 in respect of Canada; Add.7, paragraph 10 in respect of New Zealand; Add.8, paragraph (c) in respect of the European Communities:

(i) The competent authorities of the participants shall obtain from the competent authorities of the country of import an attestation certifying that the product imported will be subject to a control to ensure that it will be used exclusively for animal feed and will not be re-exported.
(ii) The importer attestation shall be filed with the GATT secretariat within thirty days of the contract being entered into or presented to the competent authorities of the participant.

(iii) The exporting participant shall, prior to shipment and in any case within fifteen days of entering into a contract, report to the secretariat the following details: tonnage, delivery schedule and receiving country.

(d) Any member of the Management Committee having evidence that skimmed milk powder shipped under this Decision is being or may be diverted to human food use, may request the Chairman to call an emergency meeting of the Management Committee within two working days, to consider such evidence in order to agree upon appropriate action.

(e) This Decision shall enter into force on 10 May 1976.

64. The representative of Japan said that should the Committee decide to approve joint action under Article III, paragraph 5, of the Arrangement this decision shall not prejudice in any way the existing derogation of Japan. He recalled that his country could continue to import denatured or undenatured skimmed milk powder for the purposes of animal feed under its own derogation.

65. The Committee agreed that a possible decision on a joint action should not in any way affect the existing derogation enjoyed by Japan.

66. The Management Committee adopted the Decision of 10 May 1976, the text of which is annexed hereto. At the same time it approved the processes and control measures submitted by the Governments of Australia, Canada, New Zealand and by the European Communities and decided to record them in the Register of processes and control measures (L/3552), thus enabling Australia (L/3552/Add.5), Canada (L/3552/Add.6), New Zealand (L/3552/Add.7) and the European Communities (L/3552/Add.8) to resort to the provisions of Article III:5 of the Arrangement. The Decision by the Management Committee of 10 May 1976 has been circulated in document MCDP/30.

67. Commenting on the decision taken by the Management Committee, the representative of New Zealand recalled that his delegation had consistently sought a measure of discipline to be attached to exports of skimmed milk powder for purposes of animal feed under derogation and was disappointed that a greater degree of discipline had not been achieved. His delegation was willing to participate in the decision just taken in the interests of safeguarding the Arrangement which was of considerable importance to New Zealand. His delegation believed that by diligence on the part of the Management Committee the objectives and the minimum price contained in the Arrangement could be safeguarded.
68. The representatives of Canada said that the basic objective of all the members of the Committee was to preserve the Arrangement. His delegation was pleased that it had proved possible for the Committee to find a pragmatic solution to a very difficult problem. He hoped that the co-operation would continue in this area of international trade of dairy products.

69. The representative of Australia said that he was pleased that as a result of the Decision just taken by the Management Committee the Arrangement was preserved. His delegation believed that by monitoring closely the information required under this Decision, the Management Committee would be able to protect the minimum price contained in the Arrangement.

70. The representative of the EEC expressed his satisfaction that the Arrangement concerning Certain Dairy Products had been preserved. His delegation hoped that at its next meeting in the context of the multilateral trade negotiations, the Sub-Group on Dairy Products would begin to seek means for improving the devices of international arrangements existing in that sector.

Other business

71. The Committee noted with regret that this was its last meeting in which Mr. Falconer (the representative of New Zealand) was participating, and wished him well in his future activities.

72. The Committee agreed to hold its next regular meeting on 28 June 1976, subject to confirmation by the secretariat.
ANNEX I

DECISION BY THE MANAGEMENT COMMITTEE

1. The Management Committee approved the processes and control measures submitted by the Governments of Australia, Canada, New Zealand and by the European Communities and decided to record them in the Register of processes and control measures (L/3552), thus enabling Australia (L/3552/Add.5), Canada (L/3552/Add.6), New Zealand (L/3552/Add.7) and the European Communities (L/3552/Add.8) to resort to the provisions of Article III, paragraph 5 of the Arrangement.

2. Should any participant, other than those mentioned in paragraph 1 of this Decision, wish to associate itself in the disciplines established under paragraph 4 below, such participant shall submit to the Committee a request providing indications as to the processes and control measures which it intends to apply. The Management Committee, after examining the request, may approve the processes and control measures submitted by the requesting participant and decide to record them in the Register of processes and control measures, thus enabling it to resort to the provisions of Article III, paragraph 5 of the Arrangement.

3. This decision shall not prejudice in any way the existing derogations of Australia as regards Malaysia and Singapore, and of Japan and Spain.

4. Without prejudice to the rights devolving upon the participants under the provisions of the Arrangement, the Management Committee has made the Decision subject to the following conditions:

(a) The Decision shall remain in force for one year. It shall apply to exports effected within that period and, provided that such exports are in respect of contracts entered into within that period, to exports effected within six months after the expiry of this Decision. The Committee shall meet not later than thirty days before the date of expiry, in order to determine, in the light of the market situation prevailing at that time, whether, and if so under what conditions, it should be extended.
(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. The participants provided for in paragraphs 1 and 2 above undertake to submit to the GATT secretariat, each fortnight, the data relating to the transactions carried out in pursuance of this Decision and to indicate the conditions of sales, volumes, destinations and, to the extent possible, prices, port of export, port of import and age of skimmed milk powder shipped (month and year of manufacture).

(c) With respect to exports of skimmed milk powder dyed according to the processes set forth in L/3552/Add.5, paragraph A.7 in respect of Australia; Add.6, paragraph 6 in respect of Canada; Add.7, paragraph 6 in respect of New Zealand; and with respect to exports of skimmed milk powder in an unaltered state as set forth in L/3552/Add.5, paragraph C in respect of Australia; Add.6, paragraph 10 in respect of Canada; Add.7, paragraph 10 in respect of New Zealand; Add.8, paragraph (a) in respect of the European Communities:

(i) The competent authorities of the participants referred to in paragraph 1 above shall obtain from the competent authorities of the country of import an attestation certifying that the product imported will be subject to a control to ensure that it will be used exclusively for animal feed and will not be re-exported.

(ii) The importer attestation shall be filed with the GATT secretariat within thirty days of the contract being entered into or presented to the competent authorities of the participant.

(iii) The exporting participant shall, prior to shipment and in any case within fifteen days of entering into a contract, report to the secretariat the following details: tonnage, delivery schedule and receiving country.

(d) Any member of the Management Committee having evidence that skimmed milk powder shipped under this Decision is being or may be diverted to human food use, may request the Chairman to call an emergency meeting of the Management Committee within two working days, to consider such evidence in order to agree upon appropriate action.

(e) This Decision shall enter into force on 10 May 1976.
## 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. R.E. Moore  
- Mr. D. Spencer

### BELGIUM
- Mr. H. Hooyberghs

### CANADA
- Mr. M. Gifford  
- Mr. I. McLean

### CONSEIL
- Mr. P. Sichlau

### DENMARK
- M. M. Jacquot  
- M. A. Barsuglia  
- Mme A. Laurent

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

### GERMANY FEDERAL REP. OF
- Mr. M. Spengler

### IRELAND
- Mr. P. O'Donoghue

### ITALY
- Mr. G. Giorgieri

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

### LUXEMBOURG
- Mr. J. Logger  
- Mr. D. Elskamp

### NEW ZEALAND
- Mr. W.J. Falconer  
- Mr. A.H. McPhail  
- Mr. C.J.M. Ross

### SOUTH AFRICA
- Mr. D. Bezuidenhout

### SPAIN
- Mr. A. Iranzo

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

### UNITED KINGDOM
- Mr. I. Redfern

### OBSERVERS/OBSERVATEURS

### ARGENTINA
- Mr. R. Williambrosa

### AUSTRIA
- Mr. V. Segalla

### HUNGARY
- Mr. E. Koenig