GENERAL AGREEMENT ON TARIFFS AND TRADE

Arrangement Concerning Certain Dairy Products

MANAGEMENT COMMITTEE

Minutes of the Thirty-Seventh Meeting
held on 28 January 1977

Introduction

1. The Management Committee held its thirty-seventh meeting on 28 January 1977.

Adoption of agenda

2. The Committee adopted the following agenda:
   1. Adoption of agenda
   2. Adoption of the minutes of the thirty-sixth meeting (MCDP/38)
   3. Information required by the Committee under Article IV or other Articles of the Arrangement. Information under the Decision of 10 May 1976.
   4. Other business.

Adoption of the minutes of the thirty-sixth meeting (MCDP/38)

3. The Committee adopted the minutes in document MCDP/38.

Information required by the Committee under Article IV or other Articles of the Arrangement:

Information under the Decision of 10 May 1976

4. The Committee had before it a summary table (MCDP/W/58/Rev.5) prepared by the secretariat and based on communications received in pursuance of the Decision of 10 May 1976. It also had before it a non-exhaustive list, for some importing countries, of competent authorities under paragraph 4(c)(i) of the Decision of 10 May 1976 (MCDP/W/67/Rev.2), revised by the secretariat in response to the request made by the Committee at its meeting of 22 November 1976 (MCDP/37, paragraph 19).
5. Referring to the list MCDP/W/67/Rev.2, the representative of Canada suggested that the "General Philippines Chamber of Commerce" should be deleted from the list and that the "Department of Trade of the Philippines" should remain in the list without square brackets. He further suggested that the "China Survey Company" appearing in the list against Taiwan should be deleted from the list, and that the "Singapore Chinese Chamber of Commerce" should continue to appear in square brackets in the list of competent authorities for the time being.

6. The representative of New Zealand said that with regard to the Dominican Republic, the "Secretary of Agriculture, Department of Livestock" should be added as the competent authority of that country to the list MCDP/W/67/Rev.2.

7. The representative of the EEC informed the Committee that the Commission had just adopted a decision whereby four new destinations were added to the list of competent authorities of importing countries which his delegation had communicated to the secretariat. The list in document MCDP/W/67/Rev.2 already contained the Ministry of Agriculture for Indonesia, the Customs Service for Taiwan, and the Ministry of Trade for Thailand. He suggested adding to the list the "Ministry of Trade" in the case of Israel. He also suggested adding "Hranexport" to the competent authorities of Bulgaria and "Romagrimex" to those of Romania.

8. The Committee requested the secretariat, by the next meeting, to revise, in the light of the Committee's discussion, the non-exhaustive list of suitable competent authorities of importing countries that could issue the attestations called for by paragraph 4(c)(i) of the Decision of 10 May 1976. It was understood that participants would refer exclusively to that list for competent authorities in respect of any exports to the countries mentioned therein.

9. The Committee had before it a communication from the Permanent Mission of Spain concerning supplementary control measures applied by the Spanish Government to skimmed milk powder for animal feed (MCDP/W/69). At the Committee's meeting of 17 December 1976, the representative of Spain had proposed that the Committee approve the control measures as supplementing those already recorded in document L/3552/Add.4. In view of the fact that the authorities of certain participants had not yet taken cognizance of the control measures set forth in document MCDP/W/69, the Committee had decided to revert to the matter at its present meeting, with a view to deciding on possible inclusion of those measures in the register of processes and control measures. The Committee had also decided to revert to the question of recent Spanish imports of skimmed milk powder intended for animal feed (MCDP/38, paragraphs 4 and 13).
10. The representative of Spain stated that he had just handed in to the secretariat data prepared by the General Sub-Directorate of Commercial-Data Processing of his country's Ministry of Trade indicating inter alia that imports actually effected during the first three quarters of 1976 had amounted to 20,459 tons. He hoped to be able to provide the Committee, at its next meeting, with data showing the imports actually effected during the fourth quarter of 1976. With respect to information communicated to the Committee by some exporting participants concerning their sales of skimmed milk powder to Spain under the provisions of document L/3552/Add.4, he observed that account had to be taken of the imports actually effected and of the tonnages of skimmed milk powder which were still on Customs premises and therefore were not yet reflected in the statistics of the Ministry of Trade. Thus, on 20 December 1976, there had been 20,400 tons of skimmed milk powder in the free-port premises of Santander. Moreover, between 20 and 31 December 1976, a further 3,000 tons of skimmed milk powder had arrived at Santander, bringing the quantity of skimmed milk powder not yet cleared through Customs at the end of 1976 to approximately 23,400 tons. As to whether the free-port régime of the Canary Islands could constitute a loophole for possible diversion, he informed the Committee, in reply to the question raised by the representative of Australia at the last meeting, that the Regional Delegate of the Canary Islands did not think there had been any diversion and that no licences had been issued that could have been used in effecting such a diversion. In view of that information, he invited the representative of Australia to explain the reasons for the fears he had expressed at the last meeting of the Committee. With reference to the data which New Zealand had communicated on sales of skimmed milk powder to Spain, he invited the representative of New Zealand to furnish details on the state of shipments from New Zealand to Spain, in particular during the months of November and December 1976, and on the unloading of shipments of skimmed milk powder of New Zealand origin during those months in Spanish ports. In conclusion, he stressed that his country's authorities had instituted a satisfactory method of assembling statistics, which would be based on data furnished by the Customs Service and would reflect imports actually effected.

11. Referring to the information shown in the summary table MCDP/W/58/Rev.5 with regard to the sales of New Zealand's skimmed milk powder to Spain under the provisions of L/3552/Add.4, the representative of New Zealand said that the table indicated the months of the shipments from New Zealand. With regard to shipments loaded toward the end of 1976, he said that a certain amount of powder could still be in transit. He added that the figure of 11,850 metric tons for a shipment to Spain in December 1976 was subject to revision. The representative of New Zealand said that, according to certain rumours, some of the skimmed milk powder which had been sold by New Zealand to Spain for stockfeed had been taken from the free port
of Santander by an EEC trader and shipped to Pakistan presumably for human con-
sumption. In the view of his delegation, if a leakage had occurred, the respon-
sibility rested with the new owner of the powder. He noted that according to the
control measures applied by Spain to skimmed milk powder imported for purposes of
animal feed and recorded in the Register of procedures and control measures, the
powder for animal feed must be denatured either in the country of origin or at a
Spanish free port before customs clearance is authorized. He pointed out that
the New Zealand Dairy Board sold its produce in good faith and it was impossible
for the Board to retain control and prevent resale. However, the Board had
advised the trade in Pakistan that all New Zealand powder sold in Europe had been
of stockfeed grade only. He suggested that it might be useful if the representa-
tive of Spain could inform the Committee about the possibilities of extending the
control systems applied by Spain to imports of skimmed milk powder to cover the
product held in bond in a Spanish free port.

12. The representative of Spain observed that goods situated in Spanish free-
port premises had not yet entered the country's Customs territory and that,
consequently, the Spanish authorities could probably not exercise any control over
such goods. He added that he intended to transmit to his authorities the remarks
of the representative of New Zealand concerning the possibility of extending
Spain's control to goods held in free-port premises.

13. The representative of the EEC informed the Committee that Community traders
had recently concluded with Spain a contract for 30,000 tons of skimmed milk
powder intended for animal feed. In addition, Community traders were preparing
to conclude a further contract, again with Spain, covering 15,000 tons of skimmed
milk powder intended for animal feed. With reference to the statement of the
representative of New Zealand dealing with the possibilities of diversion, he
pointed out that as long as the powder was in a free-port zone, the Spanish
authorities were not responsible for it. On the other hand, the exporting country,
which had concluded a contract to the effect that the powder would be imported
into Spain after being denatured and would be used in that country for animal feed,
would, in the view of his delegation, have a certain responsibility. He pointed
out that when Community exporters undertook to export powder intended for animal
feed to Spain, they had to submit documentation in support of any claim for the
refund granted for such exports. Consequently, the refund was paid only upon
presentation of a certificate issued by Spanish Customs attesting that the
denatured skimmed milk powder had been released to the market in Spain.
What was more, under existing regulations, the export certificates for which
refunds had been scheduled expired on 31 October 1977. That meant that the
Community could have maximum guarantees of impeccable execution of a contract.
For reasons of equity, he wished to raise the question whether exporters of other
countries were subject to direct or indirect penalties in case they did not fulfil
all the conditions of the import contract stipulating that the powder was to be
used for animal feed.
14. The representative of Spain said that he might suggest to his country’s Ministry of Trade that it introduce a change in the system of import declarations relating to milk powder. The effect of the change would be that the import declarations would state that milk powder imported through a Spanish free port would have to be cleared through Customs within a certain period and used in Spain for animal feed.

15. Referring to the statement made by the representative of Spain, the representative of Canada said that the rumours according to which a certain amount of Canadian skimmed milk powder shipped under the Spanish derogation had been diverted to human food use had in fact been unsubstantiated and that all Canadian powder shipped to Spain had arrived in that country. Referring to the question of the representative of the EEC with regard to the control systems applied by the Canadian Dairy Commission to exports of skimmed milk powder intended for animal feed, he said that the Dairy Commission had the capability of not providing powder to a trader in the future if it felt that the trader was not acting in good faith.

16. The representative of Australia thanked the representative of Spain for the assurances given on the question of a possible diversion of Canadian skimmed milk powder for purposes of animal feed to Cuba via the Canary Islands. Referring to the recent trade rumours regarding trans-shipments to Pakistan, reported by the representative of New Zealand, he pointed out, however, that the whole question was still open.

17. The representative of the EEC thanked the representative of Spain for the efforts which the Spanish authorities would undertake in order that skimmed milk powder arriving in Spain’s geographical territory might be imported to the destination and for the end-use for which it was shipped. He remarked, however, that effective control did not depend only on the authorities of the importing country. In the opinion of his delegation, it was ultimately the exporting countries which should try to prevent any diversion to other destinations or end-uses. Commenting on the statement of the representative of Canada that the Canadian Dairy Commission could cease providing powder to a trader when there was a presumption of diversion, he observed that even in such a case there would meanwhile be a certain “floating” quantity of powder on the international markets which could be diverted from its stated use to human consumption.

18. The representative of Spain recalled that, in the past, Community exporters had obtained from the Spanish authorities a declaration that the skimmed milk powder intended for animal feed had been released to the market in Spain. He suggested that other exporters, when concluding contracts with Spanish importers, could stipulate that the sale of skimmed milk for animal feed depended on the presentation of a certificate issued by the competent Spanish authorities attesting that the imported product had been made available for consumption in Spain.
19. The representatives of Canada and New Zealand referring to the request of the representative of Spain that the control measures contained in document MCDP/W/69 should be entered in the register, informed the Committee that the authorities of their countries saw no objection to entering the control measures contained in document MCDP/W/69 in the register of processes and control measures.

20. The Committee approved the control measures in document MCDP/W/69 and agreed to enter them in the register of processes and control measures as document L/3552/Add.4/Supp.1, in accordance with Article III, paragraph 5 of the Arrangement.

21. At its next extraordinary meeting, the Committee will revert to the question of recent Spanish imports of skimmed milk powder for animal feed.

Other business

22. The representative of the EEC stated that as at 24 January 1977 stocks of skimmed milk powder amounted to 1,077,000 tons. He added that EEC departmental services had proposed to the Commission that it modify Regulation (EEC) No. 2054/76 relating to the sale, for export to third countries, of skimmed milk powder intended for animal feed. After the proposed changes, the date of expiry of that Regulation would be extended by one month. Again, the reduction, which since 22 November 1976 had been 11 UA per 100 kg, would thereafter be only 9 UA per 100 kg. The export prices of skimmed milk powder intended for animal feed, which had been in the neighbourhood of US$225 per 100 kg, f.o.b., would thus be raised to approximately US$250-250 per 100 kg, f.o.b. Lastly, the period of validity of the export certificate issued in connexion with the advance fixing of the refund would be limited to 10 November 1977 in keeping with the conditions stipulated in paragraph 4(a) of the Decision of 10 May 1976.

23. The representative of Canada said that industrial milk production in Canada for the period April to November 1976 had declined by 11 per cent as compared to the same period a year earlier. Production of skimmed milk powder in Canada for the period April to December 1976 had declined by nearly 25 per cent as compared to the same period a year earlier. He added that at 1 January 1977 stocks of skimmed milk powder had declined by 3 per cent as compared to stocks at 1 January 1976 and amounted to 145,000 tons. It was expected that Canadian stocks of skimmed milk powder would continue to decrease in the coming months and it was anticipated that at 1 April 1977 stocks would amount to about 100,000 tons. He recalled that industrial milk production had been declining in Canada because of the severe supply management controls.
24. The representative of Australia said that in his country the supply and demand situation for skimmed milk powder was more or less in balance. The Australian Dairy Corporation had indicated that current prices of skimmed milk powder were between US$375 and US$390 per metric ton f.o.b. In the view of the Dairy Corporation, the skimmed milk powder situation for 1977 would depend very much on developments in the EEC market. He said that according to certain reports the EEC intended to direct 600,000 tons of aged skimmed milk powder to its domestic market and to increase the subsidy for liquid skimmed milk for use as animal feed. He added that according to unconfirmed reports, the restitution for up to 200,000 tons of skimmed milk powder had been prefixed and the restitution for skimmed milk powder would probably be reduced.

25. The representative of the EEC stated that as from January 1977 a refund had been fixed in advance in respect of more than 100,000 tons of skimmed milk powder. With regard to a possible modification of the amount of the refund applicable to skimmed milk powder, he said in reply to a question by the representative of Australia that he was not able to furnish any information on that subject. He added that the Council was considering a number of measures proposed by the Commission with regard, inter alia, to the co-responsibility of producers and the disposal of the EEC's structural surplus of skimmed milk powder.

Date of the next meeting

26. The Committee agreed to hold its next extraordinary meeting on 28 February 1977, subject to confirmation by the secretariat.
ANNEX/ANNEXE

List of Representatives/Liste des représentants

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

AUSTRALIA
Mr. I.R. Rischbieth

BELGIUM
Mr. H. Hooyberghs

CANADA
Mr. M. Gifford
Mr. M. Hart

DENMARK
Mr. E. Olsen

COMMUNAUTES EUROPEENNES COMMISSION
M. A. Barsuglia
M. B. Bevilacqua

FRANCE
M. M. Leflon

GERMANY, FEDERAL REP. OF
Mr. G. Schütz

IRELAND
Ms. A. Aneron

ITALY
Mr. G. Giorgieri

JAPAN
Mr. H. Shirai

NETHERLANDS
Mr. M. Hoogesteger

NEW ZEALAND
Mr. A.H. McPhail

SOUTH AFRICA
Mr. N. Sulaex
Mr. D.J. Bezuidenhout

SPAIN
Mr. A. Iranzo

SUISSE
M. J.D. Gerber

UNITED KINGDOM
Mr. I. Redfern

OBSERVERS/OBSERVATEURS

AUSTRIA
Mr. V. Segalla

UNITED STATES
Mr. E. Koenig