Introduction

1. The Management Committee held its fifty-first meeting on 17 March 1973.

Adoption of the agenda

2. The Committee adopted the following agenda:

1. Adoption of the agenda
2. Adoption of the minutes of the fiftieth meeting (MCDP/52)
3. Information required by the Committee under Article IV of other Articles of the Arrangement:
   (a) General information
   (b) Information under the Decision of 10 May 1976
4. Decision of 10 May 1976
5. Review of the market situation. Possible modification of the minimum price
6. Other business

Adoption of the minutes of the fiftieth meeting (MCDP/52)

3. The Committee adopted the minutes in document MCDP/52.
Information required by the Committee under Article IV or other Articles of the Arrangement

(a) General information

4. The Committee urged members who had not yet supplied data for the fourth quarter of 1977 to do so soon.

(b) Information under the Decision of 10 May 1975

5. The Committee had before it a summary table (MCDP/52/Rev.13) prepared by the secretariat and based on communications received in pursuance of the Decision of 10 May 1975.

6. The representative of the HFC said that, according to some sources, Switzerland was preparing to sell about 3,000 tons of skimmed milk powder for animal feed. He asked the representative of Switzerland whether he could provide information in this respect.

7. The representative of Switzerland confirmed that his country was preparing to export 3,000 tons of second grade skimmed milk powder intended for animal feed. The country of destination would probably be Spain and the sale would take place in conformity with the derogation granted to Spain. He further informed the Committee that his delegation would furnish details concerning this sale to the secretariat in the near future.

8. The representative of the HFC recalled his statement which had been recorded in the minutes of the previous meeting (MCDP/52, paragraph 9) concerning the question which he had put to the representative of Japan about the possibility for the Japanese customs authorities to issue attestations. He added, however, that, if it proved impossible for the Japanese customs authorities to issue such attestations, the Community had already made arrangements in order to consider as valid the customs clearance certificates which Community operators could obtain and which might be used as evidence in order to secure payment of the refund.

9. In reply, the representative of Japan said that according to the Customs Tariff Law, an importer who wanted to import, with customs duty exempted, skimmed milk powder for purposes of animal feed, shall in advance make an application to the Director of Customs Office so that his factory be authorized to produce mixed feed with the duty exempted skimmed milk powder.
The importer shall go through necessary importation formalities and customs officers at a port of entry shall keep a record on the quantity of skimmed milk powder thus imported. The importer shall submit some documents to be certified by customs officers. Those certified documents could prove that the imported skimmed milk powder would surely be used for animal feed purposes. The exporter of the EEC could obtain copies of these certified documents which could be used as attestations.

10. The representative of the EEC said that he would pass on this information to Community operators, who would thus be in a position to obtain certificates from the importing Japanese firm, in addition to customs clearance certificates.

11. The representative of Canada informed the Committee that with respect to the contract concluded with Spain in February 1975, this contract was completed. Consequently, there would be no further shipments to Spain under this contract.

Decision of 10 May 1976

12. It was recalled that under paragraph 4(a) of the Decision of 10 May 1976, thereafter extended as decided on 24 March 1977 and 26 September 1977, the Committee was required, not later than thirty days before the date of expiry of the Decision, to determine in the light of the market situation prevailing at that time whether, and if so under what conditions, it should be extended.

13. The representative of Canada recalled that Article III:5 of the Arrangement explicitly provided for an automatic derogation from the minimum price provided that the proposed processes and control measures were approved by the Committee and recorded in a register established by it. The built-in safety-valve of Article III:5 was completely different from the permissive derogation provision contained in Article VII:5 of the Arrangement. Any member of the Committee had the right to invoke the provisions of Article III:5 subject only to agreement by the Committee that the proposed processes and control measures were adequate. Under the present Arrangement, the perfection of the derogation provided for in Article III:5 did not require an economic justification in terms of an assessment of world or particular countries' market situation. He recalled that the existing derogations of Japan and Spain as regards imports of skimmed milk powder for animal feed purposes at prices below the minimum price, were open-ended. He pointed out that presumably if at any time the Committee felt that the Decision of 10 May 1976, the Japanese or the Spanish derogations were inadequate in terms
of the breakdown in the control procedures, the Committee could remove the control measures from the register. He stressed that it was clear from the operation of the Decision of 10 May 1976 that the processes and control measures approved by the Committee had been effective in practice. There had not been one single allegation that skimmed milk powder sold for animal feed purposes under the Decision of 10 May 1976 had leaked into the market of skimmed milk powder for human consumption. For all these reasons, the Decision of 10 May should continue for the life of the existing Arrangement. However, the Committee ought to take into account that in the near future the existing Arrangement might be replaced by the Dairy Arrangement currently being negotiated in the framework of the Multilateral Trade Negotiations. If participants were somewhat uncertain as to when the current Arrangement might be replaced by a new Dairy Arrangement, the Canadian delegation firmly believed that any extension should not be less than the current period of six months. It would be understood that the extended Decision would cover exports effected within that period of six months and, provided that such exports were in respect of contracts entered into within that period, to exports effected within six months after its expiry.

14. The representative of New Zealand said that his delegation could agree with the Canadian interpretation of the legal situation under Article III:5 of the Arrangement. However, the item under discussion was the extension of the Decision of 10 May 1976 and not the extension of a derogation. Consequently, the Committee needed to have some consideration of the economic factors affecting the market. He requested the representative of Canada to inform the Committee on the current situation regarding the Canadian stocks of skimmed milk powder. He wished also to have some indication of the quantities of skimmed milk powder currently sold by Canada and of the export prices both for powder intended for animal feed and for human consumption.

15. The representative of Canada recalled that what was relevant in the consideration of this item was the technical adequacy of the control measures. Consequently, economic considerations were not relevant in the context of this item. However, his delegation was ready to provide the information concerning the market situation requested by the representative of New Zealand. He informed the Committee that total milk production in Canada for the period April to November 1977 had increased by 2.9 per cent as compared to the same period a year earlier. Butter production for the period April 1977 to January 1978 had increased by 10.1 per cent as compared to the period April 1976 to January 1977. Skimmed milk powder production for the period April 1977 to January 1978 had increased by 13.7 per cent compared to the same period a year earlier and amounted to 325 million pounds (approximately 148,000 tons). Stocks of skimmed milk powder at 1 February 1978 amounted to 103 million pounds (approximately 46,700 tons).
a decline by 64.9 per cent as compared to 1 February 1977. Current prices of skimmed milk powder for human consumption in international trade were between US$475 and 500 per metric ton. In the coming dairy year starting on 1 April 1978, the Canadian Dairy Commission was anticipating an exportable surplus of about 250 million pounds (approximately 113,400 tons) of skimmed milk powder compared to about 280 million pounds (approximately 127,000 tons) in the current dairy year 1 April 1977 to 31 March 1978.

16. The representative of New Zealand said that his delegation believed that the exercise of the right to a derogation under Article III:5 should be taken against the background of the general rights and obligations which were contained in the Arrangement. One of the purposes of the Arrangement was to establish a minimum price and to make sure that this minimum price was observed. His delegation was of the view that the continued use of a derogation when many participants were feeling that it was not necessary to effect sales at prices below the minimum price, was not really consistent with the intention of the Arrangement to establish and maintain a minimum price. He expressed the hope that the Canadian delegation would give some consideration to the intention of the Arrangement and to the obligations under it. He asked the representative of Canada whether Canada would go ahead and exercise its right to an individual derogation if the Decision of 10 May 1976 was not extended.

17. In reply, the representative of Canada said that if the Committee determined that the control procedures already recorded in the register were inadequate, his delegation would respect the decision of the Committee to delete some control measures. In this case, his delegation would propose new control measures for approval by the Committee. The Management Committee had a right to modify the existing Decision of 10 May 1976 only in the circumstances just outlined by his delegation.

18. The representative of the EEC said that the Committee should not lose sight of the purpose of the Arrangement and should consider it in its totality. His delegation did not wish to oppose a possible extension of the Decision of 10 May 1976. However, the Committee should take account of the economic factors involved in the Decision of 10 May 1976. Prices for skimmed milk powder in international trade had remained at satisfactory levels. Thus, powder intended for human consumption was exported at prices ranging between US$460 and US$470 per ton f.o.b., whereas powder intended for animal feed was exported at prices ranging between about US$300 and US$310 per ton f.o.b. In order to take account of the objectives of the
Arrangement and without prejudice to any decisions which might be taken by the competent Community authorities, his delegation intended to terminate the Decision of 10 May 1976 six months from now. In view of this intention, his delegation could now accept that the Decision of 10 May 1976 be extended for a period of six months. Participants should ensure that, during these six months, prices for skimmed milk powder intended for animal feed reached the minimum price established under the Arrangement. He informed the Committee that, as at 15 March 1978, stocks of skimmed milk powder amounted to 331,864 tons. His delegation hoped that as from 31 March 1978 stocks would continue declining to about 300,000 tons. Thus, the skimmed milk powder market situation was improving. In addition, prices for soybean meal, which was the most important substitute protein, had recently started rising and were slightly above US$200 per ton c.a.f. Rotterdam at the beginning of March 1977. He concluded in repeating that his delegation could accept an extension of the Decision for a period of six months. He further invited other participants, in particular the Canadian delegation, to study the question of the termination of the Decision upon the expiry of this period of six months, i.e. as of 10 November 1978.

19. The Management Committee agreed to extend for an additional period of six months the Decision of 10 May 1976, which had already been extended on 24 March 1977 and 26 September 1977. The Decision would apply to exports made during this period of six months and, provided shipments were made in pursuance of contracts entered into during this period, to exports actually taking place within a period of six months following the expiry of the Decision. The text of the Decision, which would enter into force on 10 May 1978, was distributed under the reference MCDP/30/Rev.3.

Review of the market situation. Possible modification of the minimum price

20. The Committee had before it a summary table (MCDP/31/525/Rev.6) prepared and updated by the secretariat for the information of delegations and concerning food aid in the form of skimmed milk powder. The Committee also had before it a document concerning the situation of the international market for skimmed milk powder which had been prepared by the secretariat in response to its request made at the meeting of 19 December 1977 in relation with a possible modification of the minimum price for skimmed milk powder (MCDP/31/90).
21. The representative of Australia recalled that the level of the minimum price had remained unchanged at US$35 per 100 kgs. since December 1973. Taking into account the rate of inflation, the rate of increase in the farmers' costs and the changes in the exchange rates the minimum price should now be increased. He noted that the world market situation of skimmed milk powder was improving; prices were continuing to firm and stocks held by major producers were continuing to decline. In proposing an increase in the minimum price, his delegation was not asking consumers to pay more for skimmed milk powder but was seeking a technical adjustment to this minimum price which had remained unchanged for more than four years. He recalled that the negotiations currently underway in the Sub-Group on Dairy Products in the framework of the Multilateral Trade Negotiations provided no argument against reviewing the minimum price. Moreover, at this stage the outcome of these negotiations were not yet known. In the view of his delegation, the Multilateral Trade Negotiations should in no way affect decisions which might be taken in relation to the Arrangement. If the minimum price was not adjusted from time to time, the Arrangement was in danger of falling into disuse and of ceasing to have any realistic base at all. For all these reasons, the Management Committee should increase now the minimum price to the level of US$40 per 100 kgs.

22. The representative of New Zealand recalled that his delegation had supported the proposal of the representative of Australia to increase the minimum price to US$40 per 100 kgs. He pointed out that the economic justification for an increase in the minimum price was even stronger now since New Zealand Dairy Board's prices for spot sales were recently raised to US$500 per metric ton f.o.b. for skimmed milk powder for human consumption. This proved that the market for skimmed milk powder was very healthy. He agreed with the representative of Australia that the fact that negotiations were going on in the framework of the Multilateral Trade Negotiations should not prejudice the proper functioning of existing Arrangements. He added that if such an argument could be used in the context of a possible modification in the minimum price, it could also be used in other areas. He said in conclusion that since an increase in the minimum price was justified by a number of factors, the Committee should agree now to an increase in the minimum price to US$40 per 100 kgs.
23. The representative of the EEC, after recalling his statement recorded in paragraph 25 of the minutes of the regular meeting of December 1977 (MCDP/50), said that he wished to inform participants who desired an increase in the minimum price of a recent development in the international market for skimmed milk powder. According to some information, the United States, which participated in the work of the Committee as an observer, was preparing to export some 66,000 tons of skimmed milk powder. Half of this volume was to be sold in Mexico at a price of about US$425 per ton, whereas the balance of 34,000 tons had been proposed to Japan at a price which had not been fixed. In the view of his delegation, as long as the United States was not in the world market for skimmed milk powder, the Committee could, from the economic point of view, envisage an increase in the minimum price established under the Arrangement. He recalled that the Community expected the Multilateral Trade Negotiations to establish a harmonious balance between the various dairy products. Furthermore, his delegation was of the opinion that the Committee should take into account this new development, which consisted in the re-emergence of the United States in the market for this product. It was true that the United States had promised to conform to the rules of the Arrangement and had given evidence that they would, by proposing to Mexico skimmed milk powder at a price of about US$425 per ton. However, the contract had not yet been entered into and the final price might be slightly below US$400 per ton f.o.b. On the occasion of recent discussions on a possible modification of the minimum price, the Community had not been prepared to accept an increase in the price. There was another doubt of an economic nature which did not permit the Community to envisage that the minimum price could be increased to US$400 per ton at this stage. He recalled that, as regards skimmed milk powder intended for human consumption, the Community was already selling this product at prices ranging between US$460 and US$470 per ton f.o.b. In addition, the Community hoped to arrive at an export price of about US$500 per ton f.o.b. within a few weeks. In the view of his delegation, the minimum price could still remain at its current level of US$350 per ton for some time because, in any case, the minimum price did not influence sales in the international market.

24. The representative of Australia pointed out that if the Committee decided to increase the minimum price to US$40 per 100 kgs, the United States who had undertaken to respect the minimum price would surely continue to respect the new minimum price.

25. The representative of Japan said that the position of the Japanese Government had remained unchanged on the question of an increase in the minimum price. He pointed out that some exporting countries were still holding important stocks of skimmed milk powder. He also pointed out that
the Committee had just extended the Decision of 10 May 1976 until 10 November 1978. Finally, he pointed out that negotiations concerning a possible comprehensive arrangement on dairy products, including skimmed milk powder, were going on in the Sub-Group on Dairy Products. In the view of his delegation, it would not be realistic to negotiate a new minimum price of skimmed milk powder in the Management Committee at the present time. Referring to the proposals of the United States to export to Japan skimmed milk powder either for human consumption or for animal feed purposes, he recalled that traders had made inquiries about potential import demand for skimmed milk powder in Japan. For the time being, private contracts had not been concluded on this subject.

26. The representative of New Zealand said that his country was very concerned that the United States should now be contemplating the resumption of subsidized exports of dairy products. The international market for skimmed milk powder had shown signs of improvement in the recent months and there were prospects for further improvements in the prices of skimmed milk powder for human consumption. This improvement could stop if the United States were to re-enter the market for skimmed milk powder with subsidized exports. On the other hand, the United States had indicated its readiness to respect the minimum price provided for in the Arrangement. His delegation hoped that if the Committee decided to increase the minimum price the United States would observe the new minimum price.

27. The representative of Canada said that his delegation could, in principle, support the proposal of the representative of Australia to increase the minimum price to US$40 per 100 kgs. His delegation shared the concern expressed by the representative of the EEC and New Zealand with regard to the re-emergence of the United States as a major seller in the skimmed milk powder market. It seemed that the proposed sales of 68,000 tons by the United States were specified as being for "non-commercial" purposes. However, even if these sales were effected for food aid they would certainly have an impact on the commercial sales.

28. The representative of Spain said that, for the time being, the minimum price should be maintained at its current level of US$35 per 100 kgs. for the reasons mentioned by several delegations, in particular by the Japanese delegation, and for the reasons which the Spanish delegation had mentioned at the preceding regular meeting of the Committee, which had been recorded in paragraph 26 of the minutes of the meeting (MCDP/50).
29. The representative of Australia proposed that the item on the possible modification of the minimum price should be maintained in the agenda of the next regular meeting of the Committee. In order to facilitate the discussion of this item, he requested the secretariat to update for the next regular meeting the note on the situation of the international market for skimmed milk powder.

30. The Committee noted that no consensus had been arrived at concerning a change in the minimum price under Article III:3 of the Arrangement. It was therefore agreed that the matter would be placed on the agenda of the next regular meeting. In order to facilitate the discussion on this matter, the Committee requested the secretariat to update the document MCDP/W/90 on the market situation for the next regular meeting.

Other business

Validity of the Arrangement

31. The Committee had before it a document which had been prepared by the secretariat in response to its request made at the meeting of 20 February 1978 in relation with a possible termination of the Arrangement concerning certain dairy products (MCDP/W/92).

32. It was suggested that, in all likelihood, it would not be necessary for the Committee itself to envisage a possible termination of the Arrangement, because the matter would probably be settled within the framework of the negotiations currently taking place within the Sub-Group "Dairy Products".

33. The representative of Canada pointed out that the Committee did not have to be too concerned about the impact of the Multilateral Trade Negotiations on this Arrangement. Even assuming that agreement in principle on ad referendum basis would be reached by the end of July 1978 in the Multilateral Trade Negotiations, certain delegations had indicated that they would not propose to implement any MTN concessions until after the United States Congress had ratified various MTN measures. The date of this ratification would probably be in 1979. Consequently, the existing Arrangement would remain in force at least for another twelve months.

Skimmed milk powder used for welfare purposes

34. The Committee examined a request from the Japanese Government who wished to obtain a derogation from the provisions of Article III:9. In this respect, the Committee had before it a communication from the Japanese delegation concerning the school lunch and welfare programmes in this country (MCDP/W/93).
35. The representative of New Zealand said that since the subject of derogation was being discussed in the Sub-Group on Dairy Products he wondered whether this question should also be discussed in the Committee. Moreover, he pointed out that the provisions of this derogation had been used only once in 1976. Given the level of the present minimum price in relation to the costs of production and in relation to the present trend in market prices, it did appear unlikely that this derogation, if granted, would be used again in the near future. He expressed the view that if Japan felt that it would be possible to negotiate contracts at prices below the minimum price provided for in the Arrangement it could apply to the Management Committee if and when was necessary. He added that the Management Committee might undertake at the present meeting to give sympathetic consideration to any request that Japan might make at that time for a derogation concerning welfare shipments of skimmed milk powder to Japan.

36. The representative of the EEC said that his delegation was prepared to grant to Japan the derogation which Japan had been requesting. He added that, in any case, in practice, Japan had hardly ever taken advantage of this derogation. In addition, imports to be covered by the derogation were fairly insignificant and had no damaging effect on the international market. In the view of his delegation, the derogation should be granted to Japan at this current meeting rather than convene a separate meeting in the month to come, the more so as following a suggestion made by some delegations the Committee would undertake, to grant Japan, when Japan had so requested, a derogation concerning welfare shipments of skimmed milk powder to Japan.

37. The representative of Japan called the attention of the Committee to the fact that, in February 1977, his country had imported from New Zealand, under this derogation, skimmed milk powder at a price of US$33.25 per 100 kgs. f.a.s., which was less than the minimum price provided for under the Arrangement. He added that the Japan School Lunch Corporation and the Japan Food Aid Association for Child Welfare were conducting negotiations with the competent bodies of some exporting countries with a view to the importation of skimmed milk powder for welfare purposes during the year 1978/79. The export prices of such skimmed milk powder would depend on the result of the negotiations, but could be less than the minimum price provided for under the Arrangement.

38. The representative of Canada said that his delegation could share the comments made by the representative of the EEC. Consequently, his delegation was ready to grant to Japan at the present meeting a derogation concerning welfare shipments of skimmed milk powder to that country.
39. The representative of Australia said that his delegation had received no instructions on this question. However, if a consensus were reached within the Committee to grant to Japan the derogation, the Australian delegation would not oppose it.

40. The representative of New Zealand said that since it did not seem to be firm support from other exporter participants to his proposal, he could agree to grant to Japan at the present meeting a derogation concerning welfare shipments of skimmed milk powder to that country.

41. The Committee agreed to grant Japan a derogation from the provisions of Article III:9, under Article VII:5, subject to the following terms and conditions:

(a) the derogation would be valid for the fiscal year 1978/79;

(b) the derogation would be valid in respect of imports made by Japan within the framework of the school lunch and welfare programmes;

(c) the derogation would be valid in respect of imports made during the fiscal year 1978/79 and not exceeding 11,400 tons.

(d) Japan would report to the Committee concerning the carrying out of the programme and of the imports concerned.

Date of next meeting

42. The Committee decided to hold its next special meeting on 17 April 1978, subject to confirmation by the secretariat.
ANNEX/ANNEXE

List of Representatives/Liste des représentants

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

AUSTRALIA
Mr. R. Hall
Mr. B. Moore

BELGIUM
Mr. M. Vandeputte
Mr. H. Hooijberghs

CANADA
Mr. N. Gifford

COMMUNAUTES EUROPEENNES COMMISSION
M. A. Barsuglia

DENMARK
Mr. B. Bitch

FRANCE
M. R. Louzé
M. A. Roguet
M. J.-M. Travers

GERMANY, FEDERAL REPUBLIC OF
Mr. E. Mägele

ITALY
Mr. G. Giorgieri

JAPAN
Mr. H. Shirai

NETHERLANDS
Mr. M. Hoogesteger

NEW ZEALAND
Mr. A.H. McPhail

SPAIN
Mr. A. Iranzo
Mr. M.A. Díaz-Mier

SUISSE
M. R. Beuret

UNITED KINGDOM
Mr. R. Lowson

OBSERVERS/OBSERVATEURS

AUSTRIA
Mr. V. Segalla