Arrangement Concerning Certain Dairy Products

MANAGEMENT COMMITTEE

Minutes of the Sixth Meeting, Held on 30 March 1971

Introduction

1. The Management Committee held its sixth meeting on 30 March 1971.

2. The Committee adopted the following agenda:

   1. Adoption of agenda
   2. Adoption of the minutes of the fifth meeting (MCDP/6)
   3. Review of the market situation (MCDP/6 paragraphs 23-40, MCDP/W/7)
   4. Skimmed milk powder for welfare purposes in Japan (MCDP/W/10)
   5. Other business

Adoption of the minutes of the fifth meeting

3. The Committee adopted the minutes of the fifth meeting held on 11 March 1971 (MCDP/6).

Review of the market situation

(a) Discussion on the possible modification of the minimum price

4. The representative of Australia pointed out with reference to paragraphs 35 to 37 of MCDP/6, that the minimum price level of $22 to $24 per 100 kgs. f.o.b. which he had proposed at the previous meeting had also been proposed by other delegations. He stated that he could now accept a minimum price of $24, subject to a satisfactory solution of the particular problem facing Australia.

5. The representative of the EEC stated that the new minimum price level of $27-28 which he had proposed at the last meeting was the smallest possible increase that his authorities could now envisage due to developments in the market since then. It was known that skimmed milk powder was at present being offered at above $40.

6. The representative of New Zealand recalled that his Government had envisaged a new minimum price level in the range from $23-25 per 100 kgs. He could agree to a level of $25 if this were the consensus of the Committee.
7. The representative of the United Kingdom indicated that $25 per 100 kgs. f.o.b. was the highest minimum price level to which he could agree.

8. The representative of Canada said that while he would prefer the minimum price to remain unchanged, or raised only very slightly, he could now accept a level of $24 per 100 kgs. f.o.b. as this reflected a reasonable average of the proposals made. However, if the majority in the Committee supported a level of $25, he would, although reluctantly, also agree to this.

9. The representative of Denmark supported the view expressed by the delegation of the European Economic Communities. He would prefer a minimum price level not below $27 but would, in the light of the discussion, give full consideration to the proposals with regard to a minimum price level of $25 which had been made by a number of participants. He was not in a position to give his acceptance at this meeting, but underlined that if the consensus within the Committee was to accept the level of $25 this would be the absolute minimum his Government could agree to.

10. The representative of Australia said that he could not now give his acceptance to a minimum price of $25 but, if this level were agreed upon by all other members, he would urge his Government to accept also, subject to a satisfactory solution of Australia's particular problems.

11. The representative of Japan informed the Committee that his Government had given careful consideration to the arguments made with regard to an increase in the minimum price at the last meeting, but that his Government's opinion remained unchanged. He repeated, that the Arrangement was conceived as a means of preventing the market for skimmed milk powder from deteriorating further. The improvement of the market was a healthy development, but was in itself no reason to increase the minimum price. If exporters could find a market they were free to sell at prices higher than the minimum price. The arguments by the exporters to raise the minimum price had not fully convinced the Japanese Government.

12. The Chairman of the Committee proposed that participants to the Arrangement should agree ad referendum to raise the minimum price to $25 per 100 kgs. f.o.b. and that objections to or observations on this proposal, if any, should be made by 19 April 1971. If none were received by that date, participants would be informed accordingly by the secretariat and, as a consequence, the new minimum price of $25 per 100 kgs. would enter into force on Monday, 26 April 1971.

13. The representative of New Zealand in accepting the proposal considered that the proposed level of $25 per 100 kgs. f.o.b. would not raise current prices which had already increased substantially above that level.

14. The representative of Australia said that he could accept the proposal made by the Chairman and hoped that his authorities could take a decision in good time. The conditions as regards the solution of Australia's particular problem would, of course, still apply.
15. The representative of Japan said that his Government was not likely to change its position with regard to the raising of the minimum price in the coming two weeks. He pointed out that Japan as an importing country obviously had different interests from the exporting countries. His Government was always prepared to meet to the extent possible the interests of the exporting countries, which was demonstrated by the fact that Japan had taken part in the arrangement from the very beginning. He understood that there was a wide agreement amongst the exporting countries to agree to an increase in the minimum price on an ad referendum basis, but would regret a procedure whereby the Japanese Government would be forced to take a decision to accept the increase in the minimum price or to withdraw from the arrangement. Such a development would cause an undesirable precedent in the GATT and make the arrangement similar to a Gentleman's Agreement concluded in another forum in which only exporting countries took part. If the Japanese Government were to be forced to make such a choice, this could have an important bearing on its position, also with regard to the future. He emphasized that it was not his Government's wish to obstruct the working of the Arrangement, and promised to convey the opinions expressed and the proposals made to his authorities.

16. The representative of the EEC stated that he could accept the proposal by the Chair. With regard to the preoccupation expressed by the representative of Japan, he considered that account should be taken of the operation of paragraphs 5 and 9 of article III. He suggested that in the event that the decision to raise the minimum price was taken on 19 April, participants should refrain, between that date and the entry into force of the new minimum price on 26 April, from entering into contracts at prices inconsistent with the new minimum.

17. The representative of Australia agreed with the principle as outlined by the EEC. However, he, together with other participants, felt that this question was theoretical as present market prices for skimmed milk powder were considerably higher than the proposed new minimum price.

18. The representative of the EEC thought in the event that the new minimum price entered into force, it would be desirable that participants to the Arrangement should forward to the Committee by 15 May 1971 information regarding old contracts still outstanding.

19. The Committee then agreed that if observations or refusals as to an increase of the minimum price to $25 per 100 kgs. f.o.b. were received by the secretariat by 19 April 1971, the secretariat would so inform the participants and consequently the new minimum price for skimmed milk powder of $25 per 100 kgs. f.o.b. would not enter into force. If, on the other hand, no such observations or refusals were received by 19 April, the new minimum price would enter into force on Monday 26 April 1971. A solution to the Australian problem would have to be agreed upon in due time.
20. The representative of South Africa observed that in a situation of abundant supplies in the market it would be preferable for the importing countries that the minimum price be decreased. He wondered under which criteria the Committee would consider a request for a decrease in the minimum price.

21. The Committee recalled that paragraph 3 of Article III dealt with the modification of the minimum price generally which implied that the Committee in a certain situation could also decide to decrease the level of the minimum price.

(b) Discussion on the impact of an increase in the minimum price for skimmed milk powder on the position of reconstitution factories

22. The Committee had before it the following proposal for a text aimed at solving the particular Australian problem with regard to the reconstitution factories in the Philippines:

If the observance of the level of the new minimum price of $25 per 100 kgs. f.o.b. adversely affects Australian exports of skimmed milk powder to the Philippines for the purpose of reconstitution, as compared to such exports during the corresponding period in the year ended 31 March 1971, the Management Committee shall meet promptly pursuant to Article VII paragraph 3 in order to find a mutually acceptable solution to the problem including, if necessary, the granting of a derogation to the Government of Australia in accordance with paragraph 5 of that Article, authorizing it to apply, in respect of the exports specified above, a minimum price that shall not be below the level of the minimum price specified in Article III paragraph 2. The Management Committee recognized that similar action would be necessary if like difficulties were to arise in other markets.

23. In commenting on the proposal, the representative of Australia stated that it should be regarded as a way of seeking a solution for the problem which would arise for reconstitution factories, if the minimum price for skimmed milk powder were to be raised. He emphasized, however, that this was not a "take it or leave it" proposal, and that it did not as yet have any official approval by his authorities.

24. In a further comment, he recalled the view expressed previously by Australia, that there should be a direct relation between prices of skimmed milk powder and the conventionally produced condensed milk, not covered by the Arrangement, so that in case the minimum price for skimmed milk powder were raised and this caused difficulties for the raw material costs of reconstitution factories, this situation would have to be reflected in the prices of the products not covered by the Arrangement. This was no longer part of the Australian position and he could at present accept a new minimum price of $24 per 100 kgs. f.o.b. without insisting on the specific price discipline in relation to the conventionally produced condensed milk. He was, however, seeking an assurance from the Committee that if the reconstitution factories were to be adversely affected by an increase in the minimum price, the Committee would recognize that this would create a problem for Australian exports of skimmed milk powder to these factories.
25. The representative of Australia further indicated that recently the Australian Dairy Board had taken an important decision to raise as from 1 April 1971, the price of skimmed milk powder delivered to the Philippines to £24 per 100 kgs. f.o.b. This decision was made with a view to testing the market situation in the Philippines. In this connexion, it should be noted that these factories had already absorbed a price increase of their raw materials when the present level of the minimum price became effective. The test envisaged by the Australian Dairy Board would reveal whether the market situation would permit the factories to shift their higher production costs onto their selling price or not. In the latter case, the question of pricing would have to be looked into again. It was in this context that the Committee should regard the proposal.

26. The representative of the EEC stated that since the problem of the reconstitution factories had been raised in December 1969, the European Economic Community had been giving careful consideration to it, and especially to the difficulties pointed out by Australia at the last meeting. The Committee was, in fact, dealing with the problem of the production of an artificial product with high production costs; reconstituted condensed milk was a product manufactured with raw materials which had already undergone processing, while the conventionally produced product was manufactured from the primary product.

27. Continuing, he said that the EEC had made a thorough analysis of the prices of the conventional product and of the reconstituted product in the market concerned, and noted that since the entry into force of the Arrangement the price of the conventional product in that market had increased by 84 per 100 kgs. This, and other considerations, had led the EEC to the conclusion that the Australian problem lay in fact elsewhere.

28. The problem concerned the EEC as well, as some producers in the EEC had made similar investments as the Australian Dairy Board. However, the European Commission had always refused to support these investment policies, as it considered these unproductive. If, on the contrary, the EEC should now accept the proposal made by Australia, it would be forced to claim similar facilities for its own industries. Although the EEC recognized the proposal supported by Australia as a serious effort to achieve a compromise in a difficult situation, it was clear that it would create a precedent, i.e. that the Committee would be accepting the principle of granting a derogation to one country in respect of one specific destination.

29. The representative of the EEC then recalled the possibilities provided by the Arrangement in paragraph 5, Article VII, which offered in his view a more appropriate solution to remedy certain difficulties. In the absence of any precise economic data with regard to the problem of the reconstitution factories referred to by the representative of Australia, the EEC was not in a position to commit itself in advance to grant a special derogation.
30. Recalling the four suggestions which Australia had made in paragraph 35 of MCDP/6, the EEC representative expressed a strong preference for the third suggestion, i.e. that Australia enter a reservation to its acceptance of an increase in the minimum price. In his view, this reservation should be of a unilateral character. In case difficulties arose from the application of the minimum price, Australia could have recourse to paragraph 5 of Article VII in order to ask for a derogation from the application of the minimum price. The provisions as to possible action under the reservation must, however, contain specific limitations regarding time, destination and quantity.

31. The representative of Australia pointed out that, in his view, it was not the intention of the proposal to seek automatic approval of a derogation at this time. The proposal was merely a consequence of the problem which had existed for Australia since December 1969, and had now become more urgent in view of the discussions on the increase in the minimum price for skimmed milk powder. Australia would, therefore, prefer to have this problem recognized by the Committee at this stage.

32. He thought that it would be possible to find a solution in the light of the suggestion made by the EEC. He had some concern about the right procedure as the reservation would be unilateral, but its terms would have to be agreed upon by all participants. Furthermore, he was not certain whether a reservation limited to a single destination would meet the preoccupation of his authorities, as difficulties might also arise in other markets.

33. The representative of Canada stated that his authorities would not be favourable to the solutions of the type discussed. Canada would prefer a solution along the first suggestion put forward by Australia in paragraph 35 of MCDP/6, i.e. an increase in the selling price of canned milk products, exported to the areas serviced by the affected factories, which could be effected by a decrease in the restitution in the EEC for condensed milk products. In his view, it seemed anomalous that the effort to raise the minimum price was being frustrated by potential downward forces in a related commodity not covered by the Arrangement. In this context it did not appear justifiable to seek a solution by a procedure of reservation or derogation, and he hoped a better solution could be found.

34. The Committee agreed that if no objections to, or observations on, the Chairman's proposal were received by the secretariat by 19 April 1971, it would reconvene on that date in order (a) to take note that the new minimum price had been agreed upon, and (b) to agree on a solution of the problem raised by Australia. It was understood that, in the meantime, the participants mainly concerned with this problem would consult in order to find a solution.

Skimmed milk powder for welfare purposes in Japan

35. The Committee noted that the delegation of Japan had submitted a communication (MCDP/W/10) requesting a new derogation from the provisions of paragraph 9 of Article III, and agreed to deal with this question at its next meeting.