PROPOSAL BY THE EUROPEAN COMMUNITIES

The following communication, dated 3 October 1977, has been received from the European Communities.

FURTHER WORK IN SUB-GROUP ON DAIRY PRODUCTS

Proposal by the European Communities

PRELIMINARY REMARKS

At earlier meetings of the Sub-Group on Dairy Products, the Community has had occasion to present an approach to negotiations in the dairy products sector comprising two series of provisions:

- the negotiation of one or more international agreements or arrangements for the most homogeneous dairy products;

- the negotiation of concerted disciplines between importing and exporting countries for the other dairy products that enter into international trade significantly.

The Community considers it appropriate to clarify and supplement this approach as follows, in particular in the light of earlier discussions in the Sub-Group and of the decisions made by Group "Agriculture" on 27 July last.

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INTRODUCTION

1. Several situations already exist in respect of international trade in dairy products:

- Some of these products, such as skimmed milk powder, whole milk powder and milk fat, are the subject of international agreements or arrangements concluded under the auspices of GATT or OECD. But although the major exporting countries are members of these, the participating countries are few in number.

- Other dairy products, such as cheese and butter, are the subject of bilateral or plurilateral agreements between certain exporting countries and importing countries.

There is, therefore, a very wide diversity in the international disciplines that govern trade in the major dairy products.

2. Given that the dairy products market is marginal (less than 2 per cent of world milk production is marketed) and is narrow for certain products, and that there is some interdependence between these various products, when difficulties arise they are particularly serious and are complicated to solve. These difficulties are further aggravated by the absence of any link between the existing agreements and the fact that some major countries do not participate in these disciplines.

The Community proposes, therefore that in the Multilateral Trade Negotiations a "Multilateral Framework Agreement on Dairy Products" be negotiated which would cover all products in the sector and in which the great majority of countries participating in the trade negotiations would participate.

3. This "Multilateral Framework Agreement" (hereinafter referred to as "the Agreement") would comprise:

   (i) a general machinery applicable to all dairy products, comprising information procedures and a consultation system with a view to determining the action to be taken in the light of situations that arise;

   (ii) specific machinery adapted to trade in each of the products, either in the form of international arrangements or in the form of concerted disciplines in respect of the trade régime.

I. GENERAL MACHINERY

(a) Information procedure

4. "The Agreement" should comprise first of all a new machinery for mutual information covering the overall situation of the dairy market and the market situation for each individual dairy product.
(i) Indeed, at the present stage of international co-operation there are no information exchanges covering dairy products as a whole; the information at present collected and exchanged covers only a few products and this process takes place in various international fora. It would be appropriate, therefore, for information to be furnished periodically by participants in "the Agreement". Such information would bear on trends and prospects for production and consumption of milk and dairy products as well as imports and exports (quantities and, to the extent possible, prices). The participating countries would likewise inform each other of their intentions in regard to dairy policy at the level of production, consumption and trade.

(ii) The participating countries would meet periodically (for example, once every six months) to try to make an evaluation of the market situation for dairy products; for this exercise, they would have before them a status report prepared by the secretariat of "the Agreement" on the basis of documentation furnished by the participating countries as well as information communicated by the management bodies of the international Arrangements.

(b) Consultation machinery

5. If it appeared from this evaluation that the situation for the dairy market in general, or for one or more products in this sector, was encountering difficulties or the threat thereof, consultations would be initiated under "the Agreement" to identify the types of measures that could be taken in order to afford a remedy. These measures could be the following:

(i) Where there is a threat of disruption of the market, measures to strengthen the information procedure (at shorter intervals, supplementary information ...);

(ii) In cases where the situation is more serious, temporary measures bearing on the volume of supply in the market, on demand or on prices could be taken by the participating countries.

In the case of a product covered by an international Arrangement, the appropriate body of "the Agreement" could recommend to the management body of the Arrangement that a particular amendment or adjustment be made to the existing machinery or that a particular new machinery be adopted;

(iii) If the disturbances seem to result from more durable factors, agreement should be reached on medium- or long-term measures to be implemented by each participating country, it being understood that all the countries should contribute to the effort to improve the overall market situation.

(c) Other general machinery

6. "The Agreement" should also include provisions concerning the adoption or application of health and veterinary measures in trade in dairy products.
Without prejudice to whatever might be decided elsewhere concerning the applicability to these measures of all or part of the rules deriving from the "Code of Conduct", and without bringing into question the legitimate necessity for each government to protect human and animal life and health, it should be accepted that all these measures would be notified if possible before their implementation, that consultations would be initiated among interested countries (upon request), and that the negative effects of any of the measures on trade could be the subject of appropriate possible solutions.

7. "The Agreement" could possibly be accompanied by measures concerning food aid in the form of dairy products.

II. INTERNATIONAL COMMODITY ARRANGEMENTS

8. The three international arrangements now in existence - covering skimmed milk powder, whole milk powder and butterfat - should be renegotiated and embodied in the "Multilateral Framework Agreement on Dairy Products".

The elements to be renegotiated would be the field of application, prices and the relevant obligations, the derogation clauses and food aid.

(a) Field of application

9. The "Milk Powders" Arrangement would cover skimmed milk powder, whole milk powder (these being defined as in the existing agreements) as well as butter-milk powder. This latter product was not included in the existing arrangements because at that time it was not so important in international trade as it has become in recent years. Its importance now warrants its being taken into consideration.

The "butterfat" Arrangement would also include butter.

(b) Price machinery

10. The two international Arrangements would each make provision for a machinery of minimum and maximum prices together with certain mutual purchase and sale obligations taken on by the participating countries.

The minimum and maximum prices to be fixed under the Arrangements would have to be considered as safeguard prices. Indeed, the objective that the Community proposes is not to contain prices within narrow limits, but to eliminate unduly wide fluctuations in world prices and to ensure a certain preference for sale or purchase as between participating countries.

Obligations at the level of the minimum price and the maximum price

- at the level of the minimum price:

11. Member exporting countries would undertake not to sell below the minimum price in their trade with both member and non-member countries. When market prices are at the level of the minimum price, each member exporting country would
notify to the management body of the Arrangement all the relevant elements for evaluating its market situation, such as availabilities (weekly production ...), specific utilizations, quantities in stock, etc.

12. In evaluating prices, with a view to determining whether they are consistent with the minimum prices, consideration should also be given to the financial elements of sale conditions that are relevant to the purchaser's decision-making and are thus an integral part of the conditions of competition.

In cases where prices are approaching the minimum price, these measures should be notified so that the management bodies of the Arrangements can make a verification. The measures to be notified would be credit or loan practices, twinning with other products, barter or three-sided transactions, refunds or rebates of any kind, and exclusivity contracts.

13. Member importing countries would undertake to buy supplies solely from exporting member countries.

- at the level of the maximum price:

14. Member exporting countries would enter into an individual undertaking to supply member importing countries on a priority basis and to deliver to them, at a price not above the maximum price, on the basis of traditional trade (when the time comes, the "basis of traditional trade" should be determined in relation to a given reference period, taking into account current trade development) certain quantities of milk powders, butter or butteroil.

Member importing countries would enter into an undertaking not to resell the quantities thus delivered by member exporting countries.

Price level

15. Although the determination of a minimum price and a maximum price for each of the two components of milk (i.e. unit of fat and unit of nitrogenous matter) has the advantage of creating an ideal link between the various products of the dairy sector, it would not be realistic from the Community's viewpoint, given the situation of markets and their varying behaviour, to establish such a rigid link between these products. Minimum and maximum prices should be fixed, therefore, for each of the products, while taking account of the links existing between them.

The following elements of reflection could be taken into consideration in the discussion concerning the fixing of minimum and maximum price levels, the data mentioned below being taken only as indicative and illustrative figures:
16. Minimum prices

Skimmed milk powder: the floor price currently in force is $350/ton f.o.b., and is normally valid for all skimmed milk powders, whether intended for human consumption or for animal feed; nevertheless, derogations have been granted for the sale of powder intended for animal feed at prices below the minimum price (these prices have generally been in the vicinity of $220/ton). It should be noted, furthermore, that suggestions for raising the floor price were recently made in the Management Committee of the Arrangement. Considering the rôle that the minimum price plays (as a floor price, not a transaction price) and the need to maintain some degree of competition for skimmed milk powder with products that are directly or indirectly substitutable for it, the present level of the floor price could conceivably be retained as a minimum price.

Buttermilk powder: the minimum price level determined for skimmed milk powder could be applicable to this product.

Whole milk powder: the current level of the floor price could likewise be applied as the minimum price level.

Butter: having regard to current prices in trade and also to the need to maintain a certain price relation with other dairy products, the minimum price - still to be considered as a floor price - could be set in the region of $900-1,000 per ton.

Butteroil: the minimum price level which is $680/ton under the existing Arrangement could be raised substantially so as to make it consistent with the minimum price level for butter.

17. Maximum prices

As regards the level of maximum prices to be set, account should be taken primarily of the need not to affect traditional trade, because past experience has shown that excessively high prices bring a reduction in trade.

In these conditions, the maximum price levels that could be proposed as elements for discussion would be the following:

skimmed milk powder and buttermilk powder: in the region of $700-800/ton
whole milk powder: in the region of $900-1,000/ton
butteroil and butter: in the region of $1,400-1,500/ton

(c) Derogation clauses

18. Derogations from observance of the minimum price could be authorized for exports of milk powder intended to promote consumption of dairy products in developing countries, such measures being in connexion with welfare measures, school canteens or hospitals.
19. The Arrangement on milk powders should provide the possibility of granting derogations from observance of the minimum price for the sale of skimmed milk powder and buttermilk powder intended for animal feed.

The decision to grant a derogation would have to be made by the appropriate body of the Arrangement on the basis of economic criteria (authorization procedure), it being understood that conditions for verification are adequate.

(d) Implications for import and export policies

20. Since obligations entered into by participating member countries under the provisions of the Arrangements would be more stringent than those deriving from application of the provisions of the General Agreement, their observance implies not only conformity with the obligations under the General Agreement (Article XX) but furthermore that member importing countries do not apply on imports any measures covered by Article VI.

In addition, importing countries would have to make it possible for member exporting countries to benefit reasonably, on import markets, from the adjustments they have granted in respect of their export policy.

III. CONCERTED DISCIPLINES

21. International arrangements do not seem appropriate in respect of cheese. The trade covers a wide variety of products and sometimes meets the very specific requirements of certain markets because of the importance of quality considerations. On the other hand, these products represent the most active sector of world trade in dairy products. They constitute a substantial share of utilization of milk production and also play a decisive rôle in the balance of the sector as a whole.

It is important, therefore, not only that cheese be included within the general machinery of "the Agreement" (information procedure - consultation machinery, etc.) but also that trade in cheese be systematically subject to an international discipline.

22. Such a discipline should be sought through the negotiation of rules of conduct to be applied by all the members of "the Agreement"; these rules could be clarified and supplemented, in respect of their implementing conditions, by bilateral or plurilateral undertakings.

23. The satisfactory operation of rules of conduct implies that undertakings are entered into by both importing and exporting countries, adjustments of import and/or export policy being closely involved.
- Each country should undertake to adjust its import policy in all necessary elements so as to ensure that its imports take place in the most orderly and regular conditions possible;

- Each country should undertake to adjust its export policy in such a way that its exports take place in the most orderly and regular manner possible.

24. These rules of conduct should normally be reflected, at the level of practical implementation, in the conclusion of bilateral or plurilateral agreements that would specify the nature of the undertakings entered into.

Such agreements could provide, for example, for a minimum price for imports or exports (whether defined in absolute terms or in relation to the domestic price in the importing country). Importing countries would make adjustments to a corresponding extent in their import régime.

25. The Community does not wish at this stage to draw up an exhaustive list of the requests and offers that might be exchanged between it and its partners in this sector - that process would have to be decided upon and carried out within this Sub-Group; nevertheless, the following example can be cited to illustrate this approach: the EEC could envisage the negotiation with the United States (or any other of its trading partners) of a bilateral agreement concerning its cheese exports and providing on its part for observance of an export price and on the part of the United States (or another client) for import free of any obstacles other than customs duties.

The Community would likewise be prepared to envisage responding to requests that might be presented to it by its suppliers.

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CONCLUSION

The Community considers that this approach - negotiation of a Multilateral Framework Agreement on Dairy Products, negotiation of agreements on concerted disciplines - forms a whole to which all the major producing countries participating in the negotiations should adhere, and that the broader the participation, the more positive the results will be.