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GENERAL AGREEMENT ON TARIFFS AND TRADE

International Dairy Arrangement

The attached note concerning the adequacy of measures to ensure observance of minimum prices under Article 3:3 (b) of the Protocols of the International Dairy Arrangement has been received from the Permanent Mission of Australia for distribution to all participants.

Adequacy of Measures to Ensure Observance of Minimum Prices
Note by Australian Delegation

Introduction

1. This note outlines Australia's concern that following recent pressures on the International Dairy Arrangement, there should be a detailed discussion of the actual measures implemented by participants to ensure observance of the Arrangement's minimum prices. The adequacy of these measures also needs to be considered afresh.

Case

2. Article 3.1 of the Protocols states that "Participants undertake to take the steps necessary to ensure that the export prices of the products defined in Article 2 of the Protocol shall not be less than the minimum prices applicable under the present Protocol". Australia has consistently expressed its view that the continued effectiveness of the Arrangement depends on the willingness of participants to put in place adequate measures to ensure that their exporters fully observe the Arrangement's minimum prices. Where such measures are not fully effective this can lead to an erosion of confidence in the market about the viability of the Arrangement. Moreover, it puts pressure on other exporters to relax their own measures to avoid imposing an inequitable burden on their own exporters by inhibiting them from competing on an equal commercial footing. Australia has also expressed the firm view that the concept implies an obligation on those adhering to the Arrangement, to reduce supplies when it is clear that these cannot be marketed consistently with the Arrangement. In other words the disciplines of the Arrangement are there to be accepted and applied rather than being regarded as variable by consensus in ways which would simply bring the Arrangement's mechanisms into conformity with the actual or desired practices which members wish to pursue.

3. Given the differing domestic institutional arrangements among participants, it would be neither realistic nor necessary to expect that precisely the same measures would be implemented by all participants. Nevertheless, in the context of accepting obligations by membership of the International Dairy Arrangement, participants are required to impose effective measures to ensure equitable burden sharing.

4. The enforcement of the Arrangement's minimum prices is the critical element of the credibility of the Arrangement in the market place. It would be highly desirable to increase the transparency of the measures implemented by participants, individually and collectively. These measures are as an essential part of the functioning of the dairy market as are the other domestic and trade policies of which an inventory is already kept by the Secretariat.

5. The steps taken by Australia are unique, insofar as there are Australian legal requirements placed on dairy importers to observe the Arrangement and there are powerful sanctions and penalties for breaches of the law. Australia put these measures in place on the basis of its interpretation of what constituted "the steps necessary" to ensure observance of minimum prices. However there are considerable differences in practical terms, between the various options for implementing what might be regarded as "the steps necessary....". This consideration could become very important to the future of the Arrangement which could depend on a decision about the adequacy of those steps taken by individual members.

Conclusion

6. The lack of enforcement by any participant of the Arrangement's minimum prices undermines the credibility of the Arrangement as well as placing an inequitable burden on other participants. In order to increase the transparency of measures adopted to implement obligations incurred under the Arrangement and to facilitate future discussion on the adequacy of those measures, Australia proposes that each participant report on its own measures for observance as part of its replies to Questionnaire 5: Inventory of Domestic Policies and Trade Measures. However, the first replies on observance measures should be forwarded to the Secretariat to enable circulation before the meetings of the Protocol Committees on December 16-18 1985.