

UNITED STATES TARIFF COMMISSION

NONFAT DRY MILK

**Report to the President on Investigation No. 22-30
Under Section 22 of the
Agricultural Adjustment Act, as Amended**



**TC Publication 541
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January 1973**

UNITED STATES TARIFF COMMISSION

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REPORT TO THE PRESIDENT

U.S. Tariff Commission
January 29, 1973

To the President:

Pursuant to your request of December 30, 1972, the U.S. Tariff Commission has completed an investigation 1/ under subsection (d) of section 22 of the Agricultural Adjustment Act, as amended, (7 U.S.C. 624), to determine whether 25,000,000 pounds of dried milk described in item 950.02 of the Tariff Schedules of the United States (hereinafter referred to as "nonfat dry milk") may be imported into the United States during the period beginning December 30, 1972, and ending February 15, 1973, in addition to the "regular" quota-quantity specified for such article (1,807,000 pounds), without rendering or tending to render ineffective, or materially interfering with, the price support program now conducted by the Department of Agriculture for milk, or reducing substantially the amount of products processed in the United States from domestic milk.

On December 30, 1972, Presidential Proclamation No. 4177 authorized the importation of 25,000,000 pounds of nonfat dry milk during the period ending February 15, 1973, in addition to the 1,807,000 pounds permitted entry under the existing annual quota under section 22. The additional quota quantity shall continue in effect pending your action upon receipt of the report and recommendations of the Tariff Commission with respect thereto.

1/ Public notice of the Commission's section 22 investigation (No. 22-30) was issued January 5, 1973. The notice was posted at the Commission's offices in Washington, D.C., and in New York City, and was published in the Federal Register of January 10, 1973 (38 F.R. 1240). A public hearing was held on January 15, 1973; all interested parties were afforded opportunities to produce evidence and to be heard.

You requested the Commission to report its findings and recommendations to you at the earliest practicable date.

The information contained in this report was obtained from evidence submitted at the public hearing, from briefs, from other Government agencies, and from the Commission's files.

Finding and Recommendation of the Commission

On the basis of the investigation, the Commission finds that the importation of 25 million pounds of nonfat dry milk into the United States during the period beginning December 30, 1972, and ending February 15, 1973, in addition to the annual quota quantity specified for such article under item 950.02 of the Tariff Schedules of the United States, as provided for in Presidential Proclamation No. 4177 of December 30, 1972, will not render or tend to render ineffective, nor materially interfere with, the price support program now conducted by the Department of Agriculture for milk, nor reduce substantially the amount of products processed in the United States from domestic milk.

We recommend that no action be taken to alter the enlarged quota provided for by Presidential Proclamation No. 4177.

Statement of the Commission

The Agricultural Act of 1949, as amended, requires the Secretary of Agriculture to support the price of milk through purchases of milk and the products of milk at such level between 75 percent and 90 percent of parity as he determines necessary in order to assure an adequate supply. In order to protect the price support program maintained by the Secretary from import interference, quotas were imposed on imports of certain dairy products--including nonfat dry milk--in mid-1953 under section 22 of the Agricultural Adjustment Act, as amended. The annual quota for nonfat dry milk (1,807,000 pounds) remained unchanged until December 30, 1972, when an additional special temporary quota of 25 million pounds was established for the period ending February 15, 1973, pursuant to emergency action taken by the President in Proclamation 4177.

During the 20-year period following the imposition of the quota in 1953, there generally were no abrupt changes in the domestic market situation for nonfat dry milk. Production increased gradually, reaching a peak of about 2 billion pounds in the mid-1960's, and then declined irregularly to an estimated 1.3 billion pounds in 1972. The decline in the production of nonfat dry milk--a byproduct of the production of butter--resulted primarily from a drop in the production of butter. Commercial consumption, meanwhile, increased irregularly from 646 million pounds in 1953 to 1,040 million pounds in 1969 and thereafter, declined gradually to 929 million pounds in 1972. During the 20-year period the Commodity Credit Corporation (CCC) of the Department of Agriculture purchased, under the price support program, the surplus production. Such purchases ranged from about one-third

to one-half of the annual output and U.S. market prices were at or virtually at the support price level. Nearly all of the purchases of nonfat dry milk by the CCC were diverted to non-commercial uses.

Annual domestic production of nonfat dry milk is cyclical, reaching a high point in May or June and gradually receding to a low point in November. Toward the end of 1972, however, the U.S. supply-demand situation for nonfat dry milk changed significantly from the long-term trend. In the last quarter of 1972, production went down about 15 percent more than the seasonal decline in recent years. As noted earlier, for several years commercial consumption of nonfat dry milk had also been declining. The decline in production, however, had been about 2-1/2 times greater than the drop in consumption.

During the first three quarters of 1972 the supply was substantially in excess of commercial market demand and the CCC purchased 298 million pounds of the output at the support price level, and diverted most of it to non-commercial uses, as authorized by law. As a result of these removals and the abnormal seasonal lag in the production of nonfat dry milk, CCC stocks in October 1972 became exhausted for the first time in more than a decade. In October the CCC had stopped its foreign dispositions of nonfat dry milk. Commercial stocks of the product also had been drawn down to by far the lowest level since 1953. Commercial users turned to the CCC for supplies. For the first time since 1967 the CCC sold some nonfat dry milk (13 million pounds at 35 cents per pound) to commercial users during September-October 1972. These sales were at the minimum price at which the CCC was permitted to sell for unrestricted use stocks acquired under the price support program. This was about 3 cents above the support level

since the market price had advanced to that point. By the end of December, after the CCC stocks were exhausted, market prices had advanced to 39 cents per pound, or about 7 cents per pound above the CCC support price level and 4 cents above the CCC sale price--a phenomenon that had not occurred since the annual quota was established.

Under the emergency action taken by the President, a special temporary quota quantity of 25 million pounds of nonfat dry milk was authorized to be imported during the period December 30, 1972, through February 15, 1973. Imports began January 4 and the quota was entirely filled by January 15, 1973. The latest date on which market price information is available (January 26) clearly indicates that prices have not been depressed because of imports under the temporary quota, but rather have remained at the higher 39-cent average level, which resulted from the short supply.

The above-described supply-demand situation for nonfat dry milk clearly demonstrates that the additional supply permitted to enter under the special quota will be consumed by the time seasonal production increases enough to satisfy commercial demand. Thus, it is clear that the additional imports under the temporary quota will not result in additional purchases having to be made by the CCC under the price support program by reason of such emergency action.

On the basis of the changed circumstances described above, we have concluded that the additional importation of 25 million pounds of nonfat dry milk, as provided for in Presidential Proclamation 4177, will not render or tend to render ineffective, nor will it materially interfere with, the price support program now conducted by the Department of Agriculture for milk, nor reduce substantially the amount of products processed in the United States from domestic milk.

Additional Statement of Commissioner Leonard

In addition to the previously set forth views of the Commission in which I concur, two further observations merit attention.

First, the Commission's investigation in this instance and the accompanying finding and recommendation, while required under the law are essentially an exercise in futility. By the time of the Commission's public hearing on January 15, which was scheduled as quickly as it could reasonably be, all of the nonfat dry milk permitted entry by the temporary quota had been imported into the United States. Consequently, the Commission's investigation and its finding and recommendation can have little practical effect.

Second, the temporary quota that allowed the importation of 25 million pounds of nonfat dry milk was established as a global quota to be filled on a first-come, first-served basis (except that no individual importer was permitted to enter more than 2.5 million pounds). Inevitably, the great bulk of such a quota would be filled by the nearest foreign supplier having available stocks. In this instance, most of the nonfat dry milk entered under the quota was supplied by Canada. Australia (the largest U.S. supplier of nonfat dry milk for many years) and other potential suppliers (e.g., New Zealand and European countries) had little opportunity to supply nonfat dry milk under the temporary quota. Thus, the major historical foreign supplier, as well as others, were--as a practical matter--denied a share of the temporarily opened market. If the avoidance of such discriminatory effects is desirable, consideration should be given in the future to establishing such emergency quotas so as to allocate the quota amounts on a more equitable basis among potential suppliers.

Additional Statement of Commissioner Ablondi

I concur with the Commission's finding, recommendation, and statement respecting this investigation as set forth above. In addition, I have further observations. An underlying factor in the market situation for nonfat dry milk, in recent years, has been the relationship of the product to the total nonfat milk solids consumed in the United States in forms other than nonfat milk. Indeed it is the changed consumption patterns for nonfat milk solids--only in part the subject of the current investigation, that have had a significant bearing on the U.S. consumption of nonfat dry milk. For example, the increase in consumption of cheese (which has more than doubled since 1953) and low-fat milk (which rose 50 percent in the past 5 years) has dwindled the U.S. supply of nonfat milk solids available for drying inasmuch as the raw milk went to those products rather than to butter.

In view of the change in conditions since 1953 (as described above), it is my view that in the future the Commission should undertake periodic reviews of developments respecting imports of all dairy products to determine whether the annual import restrictions on dairy products should be modified from time to time as changes occur in the domestic market.

APPENDIX A

Presidential Proclamation No. 4177

FOR IMMEDIATE RELEASE

DECEMBER 30, 1972

Office of the White House Press Secretary

THE WHITE HOUSE

PROCLAMATION AMENDING PART 3 OF THE APPENDIX TO THE
TARIFF SCHEDULES OF THE UNITED STATES WITH RESPECT TO THE
IMPORTATION OF AGRICULTURAL COMMODITIES

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS, pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), by Presidential Proclamation limitations have been imposed on the quantities of certain dairy products which may be imported into the United States in any quota year; and

WHEREAS, in accordance with section 102(3) of the Tariff Classification Act of 1962, the President by Proclamation No. 3548 of August 21, 1963 (28 F.R. 9279), proclaimed the additional import restrictions set forth in part 3 of the Appendix to the Tariff Schedules of the United States; and

WHEREAS the import restrictions on certain dairy products set forth in part 3 of the Appendix to the Tariff Schedules of the United States as proclaimed by Proclamation No. 3548 have been amended by Proclamation No. 3558 of October 5, 1963; Proclamation No. 3562 of November 26, 1963; Proclamation No. 3597 of July 7, 1964; section 88 of the Tariff Schedules Technical Amendments Act of 1965 (79 Stat. 950); Proclamation No. 3709 of March 31, 1966; Proclamation No. 3790 of June 30, 1967; Proclamation No. 3822 of December 16, 1967; Proclamation No. 3856 of June 10, 1968; Proclamation No. 3870 of September 24, 1968; Proclamation No. 3884 of January 6, 1969; Proclamation No. 4026 of December 31, 1970; and Proclamation No. 4138 of June 3, 1972; and

WHEREAS the Secretary of Agriculture has reported to me that he believes that additional quantities of dried milk provided for in item 950.02 of the Tariff Schedules of the United States (hereinafter referred to as "nonfat dry milk") may be imported for a temporary period without rendering or tending to render ineffective, or materially interfering with, the price support program now conducted by the Department of Agriculture for milk or reducing substantially the amount of products processed in the United States from domestic milk; and

WHEREAS, under the authority of section 22, I have requested the United States Tariff Commission to make an investigation with respect to this matter; and

WHEREAS the Secretary of Agriculture has determined and reported to me that a condition exists with respects to nonfat dry milk which requires emergency treatment and that the quantitative limitation imposed on nonfat dry milk should be increased during the period ending February 15, 1973, without awaiting the recommendations of the United States Tariff Commission with respect to such action; and

WHEREAS I find and declare that the importation during the period ending February 15, 1973, of the additional quantity of nonfat dry milk specified below will not render or tend to render ineffective, or materially interfere with, the price support program which is being undertaken by the Department of Agriculture for milk and will not reduce substantially the amount of products processed in the United

more

(OVER)

States from domestic milk; and that a condition exists which requires emergency treatment and that the quantitative limitation imposed on nonfat dry milk should be increased during such period without awaiting the recommendations of the United States Tariff Commission with respect to such action;

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, acting under and by virtue of the authority vested in me as President, and in conformity with the provisions of section 22 of the Agricultural Adjustment Act, as amended, and the Tariff Classification Act of 1962, do hereby proclaim that headnote 3(a) of Part 3 of the Appendix to the Tariff Schedules of the United States is temporarily amended by adding a new subdivision as follows:

(vi) Notwithstanding any other provision of this part, 25,000,000 pounds of dried milk described in item 115.50 may be entered during the period beginning December 30, 1972, and ending February 15, 1973, in addition to the annual quota quantity specified for such article under item 950.02, and import licenses shall not be required for entering such additional quantity. No individual, partnership, firm, corporation, association, or other legal entity (including its affiliates or subsidiaries) may during such period enter pursuant to this provision quantities of such additional dried milk totaling in excess of 2,500,000 pounds.

The additional quota quantity provided for herein shall continue in effect pending Presidential action upon receipt of the report and recommendations of the Tariff Commission with respect thereto.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of December in the year of our Lord nineteen hundred and seventy-two, and of the Independence of the United States of America the one hundred and ninety seventh.

RICHARD NIXON

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APPENDIX B
Statistical Tables

Table 1.--Dairy products: U.S. milk production and milk equivalent (fat-solids basis) of U.S. exports of domestic merchandise and imports for consumption, annual 1968-72, and January-November 1971 and 1972

Period	Exports					Imports					Export or import (-) balance
	Total milk production	Sales 1/	Donations 2/	Total 1/		Quantity	Ratio to total milk production	Quantity	Ratio to total milk production	Export or import (-) balance	
				Million pounds	Million pounds						
Annual:	Million pounds	Million pounds	Million pounds	Million pounds	Percent	Million pounds	Percent	Million pounds	Percent	Million pounds	
1968-----	117,234	455	730	1,185	1.0	1,780	1.5	-595			
1969-----	116,345	444	477	921	.8	1,600	1.4	-679			
1970-----	117,149	397	41	438	.4	1,874	1.6	-1,436			
1971-----	118,640	480	2,000	2,458	2.1	1,347	1.1	1,111			
1972-----	120,500	3/	3/	3/	3/	3/	3/	3/			
Jan.-Nov.:											
1971-----	109,217	3/	3/	1,522	1.4	1,185	1.1	337			
1972-----	110,995	3/	3/	1,426	1.3	1,499	1.4	-73			

1/ Includes some commercial sales subsidized by the Commodity Credit Corporation (CCC).

2/ Donations by CCC chiefly to relief agencies for shipment to overseas destinations.

3/ Not available.

Source: Compiled from official statistics of the U.S. Department of Agriculture.

Table 2 .--Milk: U.S. utilization of domestic output, 1968-72

(In billions of pounds of milk or milk equivalent)

Year	Manufactured dairy products							Grand total	Percent of total used for--	
	Fluid use	Butter	Cheese	Condensed and evaporated milk	Frozen products	Other ^{1/}	Total		Butter	Cheese
1968	56.3	25.1	17.4	3.9	11.0	1.7	59.1	115.4	22	15
1969	55.3	23.8	17.7	3.8	11.0	3.0	59.3	114.6	21	15
1970	54.2	24.1	19.5	3.3	11.0	3.3	61.2	115.4	21	17
1971	53.9	24.0	20.9	3.2	11.0	4.0	63.1	117.0	21	18
1972	53.8	23.5	23.3	3.0	11.2	4.3	65.3	119.1	20	20

^{1/} Includes dry whole milk, malted milk, dry ice-cream mix, creamed cottage cheese, and other miscellaneous products.

Source: Compiled from official statistics of the U.S. Department of Agriculture, Economic Research Service, Dairy Section.

Table 3.--Nonfat Dry Milk: U.S. production and prices f.o.b. Wisconsin shipping points, by months, 1968-72

Year	January	February	March	April	May	June	July	August	September	October	November	December	Total or average
<u>1968</u>													
Production (1,000 pounds)-----	125,050	126,056	142,956	165,594	191,018	198,460	152,222	119,452	89,401	88,815	89,356	114,983	1,594,363
Price (cents per pound)-----	20.5	20.5	20.4	24.0	24.0	23.8	23.8	23.8	23.8	23.8	23.8	23.8	23.0
<u>1969</u>													
Production (1,000 pounds)-----	117,604	114,207	129,260	147,216	175,717	176,495	140,367	113,000	83,629	79,592	72,444	102,747	1,452,278
Price (cents per pound)-----	23.8	23.8	23.8	23.8	23.8	23.8	23.8	23.8	23.9	23.9	23.9	23.9	23.8
<u>1970</u>													
Production (1,000 pounds)-----	104,331	104,116	128,356	139,586	171,234	169,508	141,386	117,685	88,174	89,551	81,524	108,909	1,444,360
Price (cents per pound)-----	23.8	23.8	24.6	27.8	27.7	27.7	27.7	27.7	27.7	27.7	27.7	27.7	26.8
<u>1971</u>													
Production (1,000 pounds)-----	108,949	106,683	125,269	142,465	164,414	171,119	137,530	116,690	86,025	86,813	78,546	93,146	1,417,648
Price (cents per pound)-----	27.7	27.6	27.6	32.0	32.0	32.0	32.0	31.7	31.5	31.5	31.5	31.6	30.7
<u>1972</u>													
Production (1,000 pounds)-----	98,500	100,000	118,000	128,935	153,040	159,956	127,408	99,427	76,965	69,603	61,631	1/	1/
Price (cents per pound)-----	31.7	31.7	31.7	31.6	31.6	31.6	31.6	31.7	32.2	34.4	36.3	38.6	2/ 32.9

1/ Not available
2/ Preliminary

Source: Compiled from official statistics of the U.S. Department of Agriculture.

Note.--The prices for nonfat dry milk generally increased in response to increases in the CCC purchase prices.

Table 4.--Nonfat dry milk: U.S. production, imports for consumption, exports of domestic merchandise, yearend stocks, and apparent consumption, annual 1968-72, and January-October 1971 and 1972

Year	Production	Imports	Exports	Yearend stocks	Apparent consumption	Ratio exports to production
	<u>1,000</u> <u>pounds</u>	<u>1,000</u> <u>pounds</u>	<u>1,000</u> <u>pounds</u>	<u>1,000</u> <u>pounds</u>	<u>1,000</u> <u>pounds</u>	<u>Percent</u>
1968-----	1,610,400	1,654	396,755	278,000	1,193,299	25
1969-----	1,431,656	1,733	329,372	222,000	1,160,017	23
1970-----	1,442,801	1,807	416,000	138,000	1,112,608	29
1971-----	1,417,648	1,805	347,627	90,000	1,119,826	25
1972-----	1,300,000 ^{1/}	1,807	<u>2/</u>	<u>2/</u>	<u>2/</u>	<u>2/</u>
Jan.-Oct.:	:	:	:	:	:	:
1971-----	1,246,000	<u>2/</u>	279,935	<u>2/</u>	<u>2/</u>	22
1972-----	1,132,000	<u>2/</u>	264,485	<u>2/</u>	<u>2/</u>	23
	:	:	:	:	:	:

^{1/} Preliminary.

^{2/} Not available.

Source: Production, imports, and stocks compiled from official statistics of the U.S. Department of Agriculture; exports compiled from official statistics of the U.S. Department of Commerce.

Note.--Imports are those entered under absolute quota pursuant to Sec. 22 of the Agricultural Adjustment Act, as amended.

Table 5 .--Butter, Cheddar cheese, nonfat dry milk, and all milk for manufacturing: U.S. market prices, Commodity Credit Corporation purchase prices, and CCC support objectives, marketing years annual 1968-71, and April-December 1972

Period (marketing years beginning April 1)	(Money figures in cents per pound)									
	Butter (Grade A): at Chicago	Cheddar cheese		Nonfat dry milk: (spray process)		Milk for manufacturing				
	CCC purchase price	Market price (Wisconsin assembly points)	CCC purchase price	Market price (U.S. average)	CCC purchase price	CCC purchase price	Market price (U.S. average)	Market price (U.S. average)	CCC support objective	Per- cent Amount of parity
Annual:										
1968-----	66.9	48.3	47.0	23.3	23.1	23.1	4.30	4.28	89	
1969-----	68.0	53.6	48.0	23.6	23.4	23.4	4.55	4.28	83	
1970-----	69.9	55.3	52.0	27.3	27.2	27.2	4.76	4.66	85	
1971-----	67.9	57.0	54.8	31.8	31.7	31.7	4.91	4.93	85	
April-December:										
1972-----	68.9	60.1	54.8	1/32.9	31.7	31.7	5.09	4.93	79	
1/ April-November.										

Source: Compiled from official statistics of the U.S. Department of Agriculture.

Table 6 .--Butter, Cheddar cheese, and nonfat dry milk: Commodity Credit Corporation (CCC) and sec. 32 purchases, utilization (disposals), and CCC uncommitted supplies, 1968-72

(In millions of pounds)

Year	Purchases <u>1/</u>	Utilization	Uncommitted supplies at end of year <u>2/</u>
Butter			
1968-----	193	255	77
1969-----	188	223	33
1970-----	246	242	37
1971-----	324	328	33
1972-----	224	216	43
Cheddar cheese			
1968-----	78	111	24
1969-----	<u>3/</u> 36	58	4
1970-----	43	47	-
1971-----	101	86	15
1972-----	21	36	-
Nonfat dry milk <u>4/</u>			
1968-----	625	582	246
1969-----	354	461	137
1970-----	447	560	29
1971-----	444	462	14
1972-----	298	353	-

1/ On the basis of contracts made; some deliveries were made in the subsequent reporting period.

2/ Owing to rounding of figures and purchase contract tolerances, the supplies at the end of a period do not always equal the supplies at the beginning plus purchases less utilization.

3/ Includes 13.5 million pounds purchased for school lunches under sec. 709 of the Food and Agriculture Act of 1965.

4/ Includes instant nonfat dry milk.

Source: Compiled from official statistics of the U.S. Department of Agriculture.

Note.--Table does not include 107 million pounds of evaporated milk purchased between April 1, 1969 and April 1, 1970, with sec. 32 funds for domestic welfare use.

