

etc. and *specifically excepted* "articles packaged for distribution in the retail trade and ready for use by the purchaser at retail for an edible purpose or in preparation of an edible article."

The President, in his April 3, 1967 letter to the U.S. Tariff Commission, used the same language in outlining the articles or products to be considered in the investigation to be made by the Tariff Commission.

Thus, the request of USDA and the President to the Tariff Commission in late March and early April, 1967 covered bulk goods but did not cover imports of canned evaporated milk or sweetened condensed milk for retail distribution. At that time (14 April 1967) the evaporated milk industry directed a letter to the Secretary of Agriculture vigorously protesting any possible retail exemption. It was pointed out on that occasion that imports of evaporated milk into Puerto Rico increased almost 300% during the period 1965 through 1966 and were running at a rate of almost a million pounds a year, *from practically no imports in 1963*. All of these imports were replacing sales in Puerto Rico that have been made traditionally by U.S. suppliers.

Thus, at that time the pattern of imports of these products into the United States was clear and concise.

It was not until the industry was poised on the brink of disaster in the spring of 1968 that the Secretary of Agriculture took the necessary measures under Section 22 to head off imports. It should be noted that the quotas that are established by the Presidential Proclamation of June 10, 1968 set the rate of imports for evaporated milk and sweetened condensed milk at their highest level, i.e., 1967. Thus, it is obvious that importers of foreign evaporated milk or sweetened condensed milk are being given more than their fair share, on a historical basis, of the U.S. market.

IMPORT MILK ACT IMPLICATIONS

At the time of the Presidential Proclamation, June, 1967, any country wishing to export evaporated milk or sweetened condensed milk to the United States had to comply with the Import Milk Act. Briefly, this Act states that the exporting country must apply for a permit and meet certain farm or plant standards before their products will be acceptable in the United States. In September, 1966, the Food and Drug Administration ruled that evaporated milk and sweetened condensed milk were covered by the Act.⁶

However, on March 22, 1968, a Justice Department opinion prompted the Food and Drug Administration to *reverse* its ruling by revoking Section 3.56 of the Food and Drug regulation. Thus evaporated milk and sweetened condensed milk no longer came under the jurisdiction of the Import Milk Act.⁷

On May 10 the Federal Food and Drug Administration *again changed* its position and announced that while sterilized evaporated milk in cans continues to remain outside the coverage of the Federal Import Milk Act, all other milks and creams, including canned sweetened condensed milk, would from that date require permits.

A calm appraisal of the requirements of the Import Milk Act, however, reveals that they afford only minimal protection against importation of foreign products. The Act puts forth simple health requirements that can be complied with easily by any foreign plant and should not and cannot be confused with a quota limitation.

This is dramatically emphasized by the fact that imports of canned milk *reached an all time high in 1967 when the provisions of the Import Milk Act applied* to both canned evaporated milk and canned sweetened condensed milk.

Furthermore, since Food and Drug has waived the right to make necessary inspections with U.S. personnel and allowed such certification to be made by an agency of the exporting government, the import permits under the Act do not provide the protection for U.S. consumers we believe was intended by the Congress.

It should also be pointed out that the Federal Import Milk Act does not apply to Puerto Rico—the major target for evaporated milk imports through 1967 and in early 1968.

⁶ 31 F.R. 11935, September 10, 1966.

⁷ 33 F.R. 4881, March 22, 1968.