



MINISTRY OF AGRICULTURE, FISHERIES AND FOOD
WHITEHALL PLACE, LONDON SW1A 2HH

From the Minister

CONFIDENTIAL

N. S. P. R.

A. J. C. $\frac{20}{3}$

The Rt Hon Lord Cockfield
Secretary of State for Trade
Department of Trade
1 Victoria Street
London SW1H 0ET

30 March 1983

Thank you for your letter of 14 March about the Chris bananas case and about the implications for UHT milk.

I entirely agree that the judgment highlights the need for speedy action on UHT milk. As you know, my officials are having discussions with the Commission and I shall be writing separately about the need for legislation: I certainly agree with you that controls which are matters of food and agricultural policy should be exercisable by the Minister of Agriculture and not by the Secretary of State for Trade, and it also goes without saying that our permanent regime must not be open to the sort of challenge in the Courts which our temporary arrangements on UHT milk have had to face.

As regards that challenge my officials have done their best to help yours in terms of workload. We have also, throughout the case, followed the advice of the Solicitor General, first in deciding to refuse to admit UHT imports from Ireland, and secondly in deciding that we should seek to reach an understanding with the Irish Dairy Board. We have, of course, now reached an agreement which seems likely to be far more satisfactory than any special arrangement which could have been introduced in early February, since at that stage we would have been seeking something from the Irish rather than the reverse. I welcome this satisfactory outcome.

As regards bananas, I understand that arrangements have now been made to ensure that the procedures for handling applications fully comply with the judgment. We would certainly need to consider urgently the need for further steps should the legal challenge to our existing arrangements be renewed.

I am copying this letter to those who received copies of your own.

PETER WALKER

Euro RSI: CAP P44

30 MAR 1985





MINISTRY OF AGRICULTURE, FISHERIES AND FOOD
WHITEHALL PLACE, LONDON SW1A 2HH

From the Minister

N. S. P. D.

Peter Rees Esq QC MP
Minister for Trade
Department of Trade
1 Victoria Street
London SW1H 0ET

A. F. C. 23

23 March 1983

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UHT MILK IMPORTS FROM THE IRISH REPUBLIC

Thank you for your letter of 15 March about UHT milk imports from the Irish Republic.

The meeting with the Irish Dairy Board and the negotiations which have taken place subsequently now provide a reasonable basis for the resumption of their imports of UHT milk but on a controlled basis. Officials have agreed the terms of a statement by the Irish authorities on the various health measures which are applicable to the production of the UHT imports. My officials have also visited the UHT plant in the Republic. I am content that the various steps being taken, including the fact that there will be a quantitative control of imports (no more than 15 tonnes per month) and a requirement for landing at nominated ports, should provide adequate controls in relation to health as an interim measure prior to the introduction of the full regime on which negotiations are taking place with the Commission. It is, of course, being made clear to the Irish Dairy Board and the Irish authorities that these provisional arrangements are entirely without prejudice to the arrangements to apply in the longer term.

I understand that officials have now brought these matters to a satisfactory conclusion in the form of an agreement with the Irish Dairy Board and I can agree to you issuing licences on the lines you suggest.

I am copying this letter to the Prime Minister, the Lord Chancellor, Geoffrey Howe, Francis Pym, James Prior, Patrick Jenkin, Norman Fowler, the Attorney General and the Solicitor General.

Peter Walker

PETER WALKER

23 MAR 1983





From the
Minister for Trade

DEPARTMENT OF TRADE
1 VICTORIA STREET
LONDON SW1H 0ET

TELEPHONE DIRECT LINE 01 215 5144
SWITCHBOARD 01 215 7877

The Rt Hon Peter Walker MBE MP
Minister of Agriculture, Fisheries
and Food
Whitehall Place
London SW1A 2HH

15 March 1983

N. B. P. R.

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[Handwritten signature: Sean H. W.]

I am writing to you in Arthur Cockfield's absence overseas about the question of issuing a temporary licence to the Irish Dairy Board in order to restore the control of UHT milk imports to the position that existed prior to the import ban announced on 8 February.

Arthur Cockfield wrote to you about this on 11 March, since when a meeting with the Irish Dairy Board and the Irish Department of Agriculture has been held, chaired by an official of this Department and attended by your officials and representatives of the FCO and the Treasury Solicitor's Department. I understand that at this meeting the Irish Dairy Board said that they would be prepared to abandon their action against the Secretary of State for Trade on condition that they were granted a licence permitting the import of up to 15 tonnes of UHT milk a month into the UK, ie roughly the established trade in this product. The Irish indicated that it was their intention to import the milk through Fleetwood and possibly Cardiff.

I also understand that the Irish Dairy Board agreed to send your officials, within the next few days, a draft statement dealing with the measures taken in Ireland to safeguard the quality of UHT milk. I understand from what was said at the meeting that the statement is likely to be satisfactory from the point of view of UK health requirements. They also raised no objection to your officials visiting their UHT factory to satisfy themselves about the safety standards employed.

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The Irish attached a great deal of importance to the prompt issue of a licence so that UHT milk at present held at Fleetwood could be released without further delay. The purpose of this letter is to let you know that, assuming that a satisfactory statement on the safety aspects can be agreed, and the Irish agree to withdraw proceedings, it is my intention to authorise by the end of the week the issue of a licence permitting the import of up to 15 tonnes of UHT milk a month.

I am copying this letter to the Prime Minister, the Lord Chancellor, Geoffrey Howe, Francis Pym, James Prior, Patrick Jenkin, Norman Fowler, the Attorney General and the Solicitor General.

John Major *PM*

PETER REES

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15 MAR 1963





From the Secretary of State

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The Rt Hon Peter Walker MBE MP
 Minister of Agriculture, Fisheries and Food
 Ministry of Agriculture, Fisheries and Food
 3 Whitehall Place
 London, SW1A 2HH

Prime Minister

For information.

MF

A-F-C. 11.3

11 March 1983

Dear Mr Walker,

As you will know, judgement was given against us in the Divisional Court on Friday in the Chris bananas case. The Judge decided that the Secretary of State for Trade had no legal right to transfer to the Minister of Agriculture, Fisheries and Food effective responsibility for the issue of import licences under the Import, Export and Customs (Defence) Powers Act 1939. The Judge indicated that my Department might consult yours in individual cases, where you had the policy lead, but could not act as a simple "rubber stamp". The Judge concluded that having found for the plaintiff on this point, it was not necessary for him to decide whether or not the banana licensing system itself fell within the policy and objects of our 1939 powers. He did, however, air his doubts on this subject and this may give rise to further action against us in the future.

The Judgement raises a number of serious issues and we are urgently considering whether to appeal against it. My decision on this must clearly take into account its relevance to the case which the Irish Dairy Board has brought against us on UHT milk.

The most immediate question facing us, however, is on UHT milk where we must see whether we can reach an accommodation with the Irish Dairy Board by granting them a temporary limited import licence. I understand that the Solicitor General advises that this is the best course to follow. As you know, neither I nor my officials were aware of the outstanding problems with Ireland when I agreed to ban imports

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From the Secretary of State

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of UHT milk on 7 February. Had I been so informed, I should have insisted that some special arrangements be made for them since it was quite clear at our discussions on 3 and 7 February that my action to ban imports was purely to maintain the status quo and was not intended to introduce new restrictions into existing trade.

With this in mind, I am, of course, prepared to co-operate with you fully to try to settle the Irish Dairy Board problem. Bearing in mind the need for us to protect ourselves as far as possible against the implications of the Chris bananas judgement I am reluctantly prepared to agree that my officials take the lead in discussions with the Board, relying of course on yours for advice and assistance. My personal view is that we are unlikely to be able to buy the Irish off at this late juncture, but I suppose one ought to try.

I must make the point at this stage that the unavoidably increased involvement of my Department in the exercise of import controls on your behalf is going to have quantifiable resource implications. When I have a clearer idea of what these are, I shall consult you about the necessary adjustments which may need to be made to the staff ceilings of our two Departments.

All of this recent action reinforces the paramount need for quick results from your discussions on a new UHT regime with the Commission and other Member States. We were, perhaps, ~~un~~fortunate that the Judge in the Chris bananas case did not feel called upon to pronounce upon the legal basis for our actions under the 1939 Act. We are clearly working on a shaky basis and whether we appeal that Judgement or not we need an urgent Resolution on the regime to be applied to UHT milk in the wake of the European Court Judgement.

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From the Secretary of State

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These developments underline the fact that it is absolutely essential that controls which are essentially matters of food and animal policy should be exercisable by the Minister of Agriculture and not by the Secretary of State for Trade. Any legislation needed to achieve this must be dealt with very urgently.

I am copying this to the Prime Minister, Geoffrey Howe, Francis Pym, Patrick Jenkin, the Lord Chancellor, the Attorney General, the Solicitor General and to Norman Fowler.

Yours sincerely,

for LORD COCKFIELD

[Approved by the Secretary of State
and signed in his absence.]

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MAR 1983

