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MINISTRY OF AGRICULTURE, FISHERIES AND FOOD  
WHITEHALL PLACE, LONDON S.W.1



From the Minister

CONFIDENTIAL

PRIME MINISTER

Prime Minister

I suggest you merely note, pending  
comments from colleagues. Lord  
Welby may see differently.

A.J.C.  $\frac{33}{2}$

30 March 1983

Noted

ms

*[Handwritten signature]*

UHT MILK: IMPLEMENTATION OF THE EUROPEAN COURT JUDGMENT

In the penultimate paragraph of my minute of 2 March on this subject I indicated that, following discussions with the Commission and other Member States, it would be possible to determine more precisely the terms of the United Kingdom legislation needed to deal with the situation arising from the Court's Judgment. My officials have now had three meetings with the Commission. In addition, there have been preliminary discussions with the Irish, which have resulted in their withdrawing their Court action against our interim measures; and we are planning further discussions with other Member States.

In the light of the discussions which have already taken place it is now possible to take a view of the legislative provisions which will be needed and I have sought the views of the Solicitor-General on what form these should take. He has discussed this question with the Solicitor-General for Scotland and the legal advisers of the other Departments involved. Their view is that the only safe course is to go for primary legislation and that this, together with the necessary subordinate legislation must be enacted quickly in order to avoid prejudicing our position. In the light of his advice I am now circulating a summary of my proposals in the annex to this minute for consideration and policy clearance by my colleagues.

Although the Commission seem at present to be reasonably relaxed about the progress being made on this issue, we remain vulnerable to further challenge in the Courts against our interim measures and need to get our legislation in place as soon as possible. In view of the evident urgency, I hope that my colleagues will be able to respond quickly, and with that in mind it may be helpful if I explain my proposal that responsibility for enforcement of the new import regime should rest with officials of the Agricultural Departments. This reflects the fact that enforcement will need to be very carefully judged taking account of our Community obligations, the

/need to avoid a ...

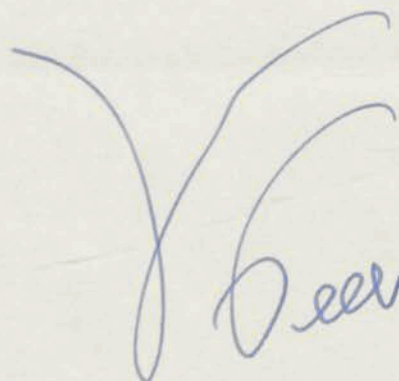
CONFIDENTIAL

need to avoid a further Court case, the need to protect public and animal health and of the legitimate concern of the United Kingdom dairy industry that imports should be required to meet health and hygiene standards equivalent to those imposed under domestic legislation. The day to day decisions on this will need to strike a just balance between conflicting considerations calling for an element of political judgement and co-ordination which could not be achieved without central co-ordination and Ministerial supervision. Moreover, responsibility for imports is a natural extension of the Agricultural Departments' role in promoting the health and hygiene of domestic milk production and would link up naturally with results of the visits abroad we shall be seeking to make in accordance with the co-operation arrangements envisaged in paragraph 30 of the Judgment. I appreciate, however, that there could be difficulties for Norman Fowler in such an arrangement and I am asking my officials to explore with him whether we could not find some administratively practicable way of involving Port Health Authorities in the implementation of import controls while reserving the effective operational decisions to my Department.

My statement on 9 February received a wide measure of support in the House and more generally. In the light of that reaction I think it unlikely that the legislation I am now proposing will prove controversial or time-consuming.

With these explanations and in the light of the Solicitor-General's advice I seek the formal agreement of my colleagues to my proposals and their agreement that the Bill should now be promoted from the contingent to the essential category for this Session of Parliament, and the agreement of the Leader of the House of Commons to give drafting authority for the Bill.

✓ I am copying this minute to members of Cabinet, to the Attorney General and Solicitor-General, to the Lord Advocate, to the Chief Whips (Lords and Commons) and to Sir Robert Armstrong.

A handwritten signature in blue ink, appearing to read 'Peter Walker', with a large, stylized initial 'P'.

PETER WALKER

OUTLINE OF MILK BILL

1. I originally envisaged powers to enable my officials to do the following:

- a) Authorise individual overseas plants
- b) Inspect and approve individual plants
- c) Inspect and approve farms supplying them
- d) Require certificates with individual consignments of imports
- e) Sample and check imports at the ports to ensure that certificates are valid
- f) Specify ports of entry

2. These proposals have been reviewed in the light of the terms of the Judgment and in the light of discussions with the Commission. It is clear that the terms of the Judgment rule out items a)-c) but it explicitly provides for d) and e), and f) can be defended as a reasonable consequence of e).

3. Legislation is therefore proposed which would consist of brief enabling provisions applying to milk, cream and flavoured milk (in UHT or other forms) and providing for the certification, inspection and sampling of imports at specified ports, these measures to be operated by agricultural officials under the aegis of Agriculture Ministers. The legislation would also provide for the repeal of those aspects of our existing legislation which have been declared contrary to Community law. The Bill would apply to the United Kingdom as a whole, taking account as necessary of the differences in existing legislation in different parts of the United Kingdom. Detailed arrangements would be provided for in subordinate legislation (subject to negative resolution procedure and without the complex consultation requirements of the Food and Drugs Act):

subordinate legislation too may differ according to country.

4. The main sanction provided by the Bill would be the refusal to admit imports which were not properly certificated, which did not satisfy inspections or which were not presented at a specified port, but additional sanctions may be necessary.

5. It is not possible to indicate manpower needs with any precision since much will depend on the level of trade which develops. It is, however, obvious that there will be an additional claim on manpower resources. I recognise that this will have to be contained to the extent that it falls within 1983/84. I cannot however guarantee the position beyond April 1984 and must therefore put up a marker in the manpower exercise for the period to 1988. I do not anticipate any other significant expenditure as a result of this legislation.

30 MAR 1983



CONFIDENTIAL

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DES DEW, WPS  
WO SO  
31 March 1983 D/Eng.  
D/Eng. CIL D/Tide  
+ list below,

10 DOWNING STREET

From the Private Secretary

31 March 1983

UHT MILK: IMPLEMENTATION OF THE EUROPEAN COURT JUDGMENT

The Prime Minister has seen Mr. Walker's minute of 30 March describing his proposals for primary legislation on this subject. Mrs. Thatcher has noted these proposals, pending possible comments from her colleagues.

I am copying this letter to the Private Secretaries to Members of the Cabinet, to the Attorney General and Solicitor General, to the Lord Advocate, to the Chief Whips (Lords and Commons) and to Sir Robert Armstrong.

A. J. COLES

Robert Lowson, Esq.,  
Ministry of Agriculture, Fisheries and Food.

CONFIDENTIAL

VC



*Kenneth P. D.*

DEPARTMENT OF HEALTH & SOCIAL SECURITY

Alexander Fleming House, Elephant & Castle, London SE1 6BY

Telephone 01-407 5522

*From the Secretary of State for Social Services*

The Rt Hon Peter Walker MBE MP  
Minister of Agriculture, Fisheries  
and Food  
Whitehall Place  
London SW1

*N. S. P. M.*

*A. S. C. 14/4.*

14 April 1983

*1/2 Peter...*

UHT MILK - IMPLEMENTATION OF THE EUROPEAN COURT JUDGEMENT

I have seen your minute of 30 March to the Prime Minister together with the reply from No. 10.

As you will by now know, our officials have discussed possible ways in which officers of port health authorities might be associated with the running of the type of scheme you have in mind. The discussion made it clear how difficult it would be to give these officers any worthwhile role without countering your wish to have responsibility firmly within MAFF. However I do think that it would be wise to consult as early as possible in order to seek to minimise controversy and I would suggest that your proposals should be put as soon as possible to the Association of Sea and Air Port Health Authorities. Subject to this I have no other comments to offer at this stage on the proposals annexed to your minute.

I am copying this letter to those to whom you copied your minute.

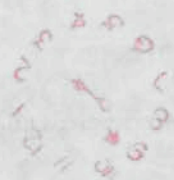
*Norman Fowler*

NORMAN FOWLER

EURO. POL : CAP : PE 11

DEPARTMENT OF THE POLICE  
COMMUNICATIONS SECTION  
1000

14 APR 1983



11 APR 1983



CONFIDENTIAL

*Feeney* (2)



DEPARTMENT OF TRADE  
1 VICTORIA STREET  
LONDON SW1H 0ET

TELEPHONE DIRECT LINE 01 215 5144  
SWITCHBOARD 01 215 7877

From the  
Minister for Trade

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

Prime Minister

For information.

A.S.C.  $\frac{11}{4}$

11 April 1983

*John Major*

*MS*

**UHT MILK: IMPLEMENTATION OF THE EUROPEAN COURT JUDGMENT**

In Arthur Cockfield's absence abroad I am responding to your letter of 30 March to the Prime Minister.

I had hoped that it would have been possible to provide adequate safeguards without new primary legislation. However, my main concern is that the present reliance on the Secretary of State for Trade's powers to control UHT milk imports should be brought to an end as soon as possible, and I am therefore glad that you propose seeking new powers as a matter of urgency.

As regards the detailed proposals outlined in the annex to your letter, I do not think you should underestimate the possible reaction to your taking powers to specify ports of entry. As Ian Percival says in his letter of 29 March, this raises the spectre of Poitiers and careful thought will have to be given to the way in which this requirement is expressed.

I understand that in view of the special circumstances of this case, our officials are making arrangements to keep in particularly close contact at the drafting stage.

I am copying this letter to the recipients of yours.

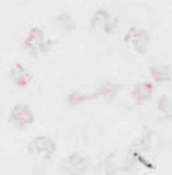
*Peter Rees*

PETER REES

CONFIDENTIAL

Euro Pol,  
COP, P411

11 APR 1983





SCOTTISH OFFICE  
WHITEHALL, LONDON SW1A 2AU

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

*N. S. P. M.*

11 April 1983

*AN 12/4*

UHT MILK: IMPLEMENTATION OF THE EUROPEAN COURT JUDGEMENT

I am writing in response to your minute of 30 March to the Prime Minister seeking policy clearance for primary legislation to take account of the European Court's Judgement.

As you say, the two Solicitors General are agreed on the need for a Bill. In view of the pressure from the Commission and other member states, I go along with your view that it is essential to move as quickly as possible. Accordingly, while my officials are still clarifying with yours certain details as regards the implementation of the control arrangements in Scotland, I would wish to support your request for authority to proceed with primary legislation.

I am copying this letter to the recipients of yours.

GEORGE YOUNGER

Line PA,  
COR, P76

RECEIVED  
APR 2 1983

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Treasury Chambers, Parliament Street, SW1P 3AG

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

N. B. P. M.

A. J. C. 12/4.

11 April 1983

P. Peter,

UHT MILK: IMPLEMENTATION OF THE EUROPEAN COURT JUDGEMENT

I have seen a copy of your minute of 30 March to the Prime Minister setting out your proposals for the content of new legislation following the European Court Judgement.

You commented both in your minute and in the attached Annex on the possible manpower and expenditure implications. I recognise at this stage it is difficult to assess these with any precision, and this will have to await both the outcome of the discussions you propose with Norman Fowler and an indication of the level of trade which develops. I am pleased to note your acceptance of the need to contain any 1983-84 effect within the existing resources. As for the position after April 1984, I have noted your wish to put up a marker about possible manpower effects; but equally I am sure you would not expect me to accept any commitment to make a special allowance for this in the manpower exercise for the period to 1988. Similarly in the case of non-manpower effects, I am pleased to note you do not anticipate any other significant expenditure effects, and I would expect these to be absorbed within the existing planned resources.

There is, however, another aspect of these proposals which must be a matter of potential concern to the Treasury. This is that the imposition of a new system of certification could impose a substantial workload on HM Customs & Excise. It is therefore essential that there should be the closest liaison between your department and the Customs in developing your proposals, in order to ensure that they do not have untoward staffing implications for the latter.

I am sending copies of this letter to the recipients of your minute.

  
LEON BRITTAN

CONFIDENTIAL

2 APR 1983

