

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



From the Minister

PRIME MINISTER

*ms*

Prime Minister

To note, pending possible comments from other Ministers, the arrangements Mr. Walker plans for UHT milk in future.

A.J.C. 2/3

2 March 1983

*an A/C attached*

UHT Milk: implementation of the European Court Judgment

At our meeting on 7 February I undertook to let my colleagues have before 7 March an indication of my proposals for permanent arrangements for animal and public health controls on imports of UHT milk and cream.

The final shape of these arrangements can of course only be determined after we have had some discussion with the Commission and the interested Member States and my officials will be seeking an early meeting with the Commission for this purpose. As a first step I have written to Dalsager emphasising the UK's intention to comply with the Judgment as soon as possible and that the licensing changes which were introduced on 8 February were intended purely as a temporary stopgap designed merely to preserve the status quo while more permanent arrangements providing for the admission of imports under suitable safeguards are worked out. I have confirmed specifically that there is no intention that the temporary measures should in practice prevent the import of products which could legally be marketed in the UK before the introduction of these measures ie that it is not the intention to prevent existing trade in cream and flavoured milk from continuing.

The Judgment makes it clear that we are entitled to apply measures in relation to imports of UHT milk in order to protect human health. We can lay down objective conditions regarding:

- // (i) the quality of the milk before treatment; and
- // (ii) methods of treatment and packing;

and we can specify:

- (iii) a requirement for official certificates of compliance from exporting member states; and
- (iv) arrangements for testing imports on arrival in the United Kingdom and if necessary refusing entry to consignments that do not conform to the standards laid down.

/The judgment .....



The judgment also refers to the possibility of co-operation between the authorities of member states making it possible to facilitate and simplify frontier checks. Since such co-operation would be on a voluntary basis it would not be limited by any specific legal provisions and where member states have, for example, indicated their willingness to permit inspections by the UK, such inspections could take place in the context of such co-operation. We shall seek to build on this so as to obtain as much assurance as possible about the standard of milk entering the UHT plants of those member states who wish to supply our market. We shall point out that the greater the assurance we can have on this the more we should be able to simplify frontier formalities and reduce the level and scope of testing that would otherwise be necessary.

Our basic approach will be to seek to apply to imports standards of equivalent effect to the measures we apply to our own production subject to the criteria that we should not seek to impose arrangements which go beyond what can be justified on public or animal health grounds or which would entail applying higher standards to imports than to domestic UK production. We propose to put forward proposals regarding the standards of raw milk entering the UHT plant, for its processing and for the finished product.

As regards the first of these, the quality of raw milk produced in the United Kingdom is maintained at a high level by a combination of legal requirements and commercial practices. At farm level detailed provisions are laid down in our Milk and Dairies (General) Regulations which specify the physical arrangements for milk production and the practices which should be applied by farmers. There are animal health provisions and provisions in the Food and Drugs legislation regarding the health status of dairy cattle. At a commercial level milk is subject to a number of requirements including standards for bacterial quality, for contaminants and residues and for storage temperatures. Where necessary these are backed up by commercial or statutory penalties. As a result some 97% of our milk achieves a bacterial count of 100,000 per ml or better. Continental standards are often significantly lower.

In order to ensure that the quality of milk before treatment meets standards equivalent to those applying in the United Kingdom we cannot realistically expect other Member States to take over identical provisions to those which we apply ourselves. We shall therefore need to lay down some broad criteria and to discuss with the Commission and then with Member States the ways in which they would be able to achieve these. Given the lack of Community harmonisation and the varying practices in different Member States it may not be possible to lay down exactly the same arrangements in all cases but we shall seek to agree with the other Member States concerned arrangements which ensure that the milk used for the purpose of UHT production in countries exporting to the United Kingdom achieves a similar quality to our own.

/The arrangements .....



The arrangements which are applied for the processing of UHT milk are laid down in specific terms in United Kingdom legislation. Given the low bacteriological quality of much continental raw milk and the importance of the various provisions in ensuring that the UHT process is carried out safely, we shall want the same (or very similar) provisions applied in any UHT plant which is to export to the United Kingdom, including appropriate arrangements for processing, packing, record keeping, control of batches, sampling and testing. In addition we would seek to have at least an initial inspection of any UHT plants preparing milk for export to UK before such exports started.

As regards the finished product we shall wish the export certificate to cover the following points:

- (i) the milk conforms to Community standards for drinking milk (butterfat content);
- (ii) the milk has been tested for bacterial contamination following heat treatment;
- (iii) the milk is free from added water;
- (iv) the milk is safe for sale for human consumption (ie it is free from toxic residues, pesticide residues, antibiotics, trace metal contaminants, and harmful organisms such as staphylococci and salmonella.)

When these discussions with the Commission and other Member States have been completed it will be possible to determine more precisely the terms of the UK legislation necessary, but in general terms I envisage the need for a short enabling Bill giving order making powers to provide for public health controls on imports and parallel regulations filling in the detailed requirement: some less extensive changes to our existing regulations dealing with domestic arrangements may also be needed.

I am sending copies of this minute to those who were at your meeting on 7 February, to Norman Fowler and to Sir Robert Armstrong.

Robert Lara

for PETER WALKER

(Approved by the Minister  
and signed in his absence)



Euro 12

CAF

12-MAR-1983



10 DOWNING STREET

From the Private Secretary

cc FCO  
CSec O  
DOT  
LOD  
Butler N10  
Mansfield SO  
Duss CO  
7 March 1983

He

UHT Milk: Implementation of the European Court Judgement

The Prime Minister has seen your Secretary of State's minute of 2 March. She has also seen Mr. Hurd's letter of 4 March. Pending possible comments from other Ministers, the Prime Minister has made no observations on the substance of this matter.

I am sending copies of this letter to John Holmes (Foreign and Commonwealth Office), John Gieve (Chief Secretary's Office), John Rhodes (Department of Trade), Henry Steel (Law Officers' Department), William Haire (Mr. Adam Butler's Office), David Middleton (Lord Mansfield's Office), David Clark (Department of Health and Social Security) and Richard Hatfield (Cabinet Office).

A. J. COLES

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





**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

28 March 1983



N. B. P. R.

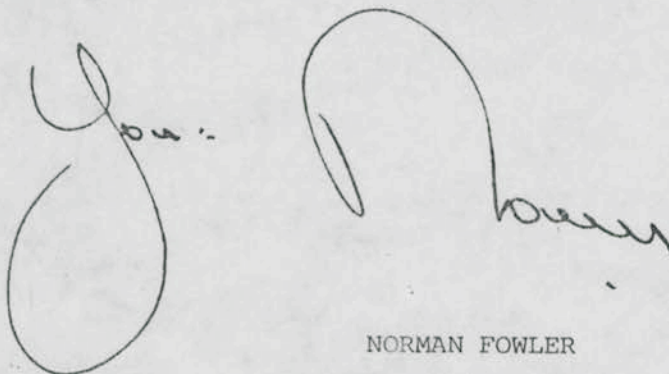
AR 28/3

UHT MILK: IMPLEMENTATION OF THE EUROPEAN COURT'S JUDGMENT

You copied to me your minute of 2 March to the Prime Minister. I have seen the reply from No. 10 together with the exchanges you have had with Douglas Hurd and Francis Pym.

I freely endorse, from the public health point of view, your intention that any future imports must be of a similar quality to the domestic product. What requirements should be laid down for this purpose will become clearer when we know the Commission's reaction to the proposals which your officials put to them.

A separate matter is the powers needed to lay down and to enforce the requirements when these have been settled. It is, of course, essential to ensure that future controls are fully effective but given the present framework, including the role of local authorities and port health authorities, we need to be able clearly to demonstrate its inadequacy before inviting Parliament to enact a fresh one. I think I ought to put down a marker that we may have a little controversy with local government and their environmental health officers if we appear to be taking powers away from them for no clearly defensible reason.



NORMAN FOWLER

EWB M  
CAP YR 11

RECEIVED  
FEB 11 1965  
7 5 4

11 8 MAR 1965





SECRETARY OF STATE  
FOR  
NORTHERN IRELAND

NORTHERN IRELAND OFFICE  
GREAT GEORGE STREET,  
LONDON SW1P 3AJ

cc [initials]  
EURO POL

Rt Hon Douglas Hurd CBE MP  
Minister of State  
Foreign and Commonwealth Office  
LONDON  
SW1A 2AH

28 March 1983

*Douglas Hurd*

N. B. P. D.

A-S-C. 257  
13

UHT MILK : IMPLEMENTATION OF THE EUROPEAN COURT JUDGMENT

I have seen your correspondence with Peter Walker on the question of legislative provision for the envisaged controls over imports of UHT milk.

I fully agree with Peter's line that the introduction of new primary legislation is the only way we can be assured of clear, unambiguous and unchallengeable controls over imports.

It is also of course important that the new Bill extends to Northern Ireland and confers on DANI powers to make subordinate legislation. The Office of the Legislative Draftsmen for Northern Ireland have already been in touch with the Office of the Parliamentary Counsel and the Home Office Legal Adviser's Branch about the details.

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

*[Handwritten signature]*



was for  
CAF # 11

183





FCS/83/50

MINISTER FOR AGRICULTURE, FISHERIES AND FOOD

UHT Milk: Implementation of the European Court Judgement

1. Thank you for your letter to Douglas Hurd of 9 March. *attached*

2. I realise that, during the initial consideration of this issue in the two or three days immediately preceding the Court's judgement of 8 February, there was an assumption that new primary legislation might be necessary in order to institute new arrangements for the import of UHT milk. But the actual terms of the judgement, which effectively ruled out the idea of any compulsory system of overseas inspection, seem to me to have altered the situation. As Douglas Hurd suggested in his letter of 4 March, the need for new primary legislation is now by no means obvious.

3. As you know, officials of the various Departments concerned considered this question in a meeting at the Cabinet Office on 2 March. It was agreed that the point needed further examination, and that your Department would prepare a paper. Whilst we await that paper, and its proper examination by officials and lawyers, I think it would be premature to foreclose the issue by writing to the Agriculture Commissioner in the terms you suggest. I quite see that his communication needs early acknowledgement. But I suggest that at the moment all that needs to be said to him is that we share his concern that we should be in a position to comply with the Court's judgement as rapidly as possible; that we are undertaking an urgent examination, in the light both of his message and of the preliminary exchanges your officials

/have had

BF 18/3/83.

Amint ref from Dr Walla

AR 11/3





have had with the Commission, of exactly what might and might not be possible under existing legislation; and that we will let him know as soon as possible once we have reached a conclusion on the matter.

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

A handwritten signature in dark ink, appearing to be 'FP', with a horizontal line underneath.

(FRANCIS PYM)

Foreign and Commonwealth Office  
11 March 1983



Envo Pat.  
COP, Pt 1

11 MAR 1984

11 12 1 2 3 4  
5 6 7 8 9 10



The Rt Hon Douglas Hurd CBE MP  
Minister of State  
Foreign and Commonwealth Office  
London SW1A 2AH

9 March 1983

UHT MILK: IMPLEMENTATION OF THE EUROPEAN COURT JUDGMENT

Thank you for your letter of 4 March on this subject.

The need for primary legislation was generally recognised at the Prime Minister's meeting on 7 February. My officials, before your letter was received, expressed to the Commission the firm view that both primary and secondary legislation would be needed. I have, of course, considered whether the view we took then is affected by the terms of the Court's judgment, but in the light of legal advice I have concluded that new legislation is essential if the control over imports which I need to apply at the frontier in order to protect public health is to be effective and safe from challenge in the Courts. The current threat to our interim ban, to which you allude, is a cogent reminder of the need for absolute certainty on the latter point.

I acknowledge that there are difficulties in this course, but I believe your letter over-estimates them. In particular, the favourable parliamentary and public reaction to the statement I made on 9 February suggests that legislation may not be as controversial as you anticipate. Secondly, the timetable need not be as extended as you suggest: a great deal of preparatory work has already been done, and provided we now move quickly there is no reason why primary legislation should take any longer than the subordinate legislation which will also be necessary. This is a point which I make in the enclosed letter to Mr Dalsager, which I would be grateful if your officials could forward via UKREP, Brussels.

/I am copying ...



7 I am copying this letter to the recipients of my original minute, and I shall, of course, be seeking formal clearance for my proposals in the usual way.

PETER WALKER





Foreign and Commonwealth Office

London SW1A 2AH

4 March 1983

From The Minister of State

Rt Hon Douglas Hurd CBE MP

Prime Minister

A.S.C. 4/3

*Dear Mr. Walker,*

## UHT MILK: IMPLEMENTATION OF THE EUROPEAN COURT JUDGEMENT

In Francis Pym's absence overseas, I would like to make two preliminary comments on the approach to this question which you outlined in your minute of 2 March to the Prime Minister.

Since a formal system of compulsory overseas inspection is no longer on the cards, I hope that we can dispense with the need for new primary legislation. There would to my mind be great advantages in avoiding such a course. New legislation would be very controversial. It would give those in Parliament opposed to our membership of the EC a field day; and it would serve to bring the more contentious aspects of the European Community back into the public eye at a highly inconvenient time. Moreover, broad enabling legislation of the kind you suggest always provokes Parliamentary criticism. Moreover, with the best will in the world, the passage of primary legislation would take time, perhaps several months. This would expose us to a period of protracted difficulty with the Commission and our European partners, at just the time when we are seeking to make headway on the Internal Market. It would also heighten the risks that our interim ban on imports, already challenged by the Irish Dairy Board in the Courts, could be struck down - leaving us with a very difficult hiatus.

I therefore think it would be greatly preferable if we can instead have the necessary checks and sampling that we will want to apply to milk imports at the point of entry on existing legislation, including the 1955 Food and Drugs Act. I understand that

/officials

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



CONFIDENTIAL



officials are considering whether there are any essential elements in the regime of control you envisage which cannot be based on existing powers. It would surely make sense to do what we can to ensure that the new system can be operated without recourse to new legislation.

I am copying this letter to the recipients of your minute.

Yours sincerely  
Stefan Lamb

(Approved by Mr Hurd and signed in his absence by his Private Secretary)

CONFIDENTIAL



1942

1942

