

English edition

Information and Notices

Contents

I *Information***Commission**

ECU — European unit of account 1

Notice of initiation of an anti-dumping procedure concerning imports of codeine and its salts originating in Poland, Czechoslovakia, Hungary and Yugoslavia 2

Communication from the Commission concerning the estimated production levy for the 1980/81 sugar year 3

Court of Justice

Case 49/81: Reference for a preliminary ruling by the Bundesfinanzhof by order of that court of 10 February 1981 in the case of Paul Kaders GmbH v. Hauptzollamt Hamburg-Waltershof 4

Case 50/81: Reference for a preliminary ruling by the Bundesfinanzhof by order of that court of 10 February 1981 in the case of Paul Kaders GmbH v. Hauptzollamt Hamburg-Ericus 4

Case 51/81: Action brought on 9 March 1981 by De Franceschi Spa Monfalcone against Council of the European Communities and Commission of the European Communities 5

Case 52/81: Action brought on 10 March 1981 by oHG in Firma Werner Faust against European Economic Community, represented by the Commission 6

Case 54/81: Reference for a preliminary ruling by the Verwaltungsgericht Frankfurt am Main by order of that court of 5 February 1981 in the case of Firma Wilhelm Fromme, Landhandel, v. Bundesanstalt für Landwirtschaftliche Marktordnung 6

Case 55/81: Reference for a preliminary ruling by the Tribunal du Travail, Liège, (Seventh Chamber) by judgment of that court of 25 February 1981 in the case of Georges Vermaut v. Office National des Pensions pour Travailleurs Salariés 7

Case 56/81: Action brought on 11 March 1981 by Colette Novi against Commission of the European Communities 8

I

(Information)

COMMISSION

ECU ⁽¹⁾ — EUROPEAN UNIT OF ACCOUNT ⁽²⁾

31 March 1981

Currency amount for one unit:

Belgian and Luxembourg franc	41.5836	United States dollar	1.20966
German mark	2.53630	Swiss franc	2.31445
Dutch guilder	2.81186	Spanish peseta	103.087
Pound sterling	0.539065	Swedish krona	5.54932
Danish krone	7.99284	Norwegian krone	6.49407
French franc	5.98420	Canadian dollar	1.43442
Italian lira	1266.82	Portuguese escudo	68.6120
Irish pound	0.695808	Austrian schilling	17.9393
Greek drachma	62.0798	Finnish markka	4.91244
		Japanese yen	253.969

The Commission has installed a telex with an automatic answering device which gives the conversion rates in a number of currencies. This service is available every day from 3.30 p.m. until 1 p.m. the following day.

Users of the service should do as follows:

- call telex number Brussels 23789;
- give their own telex code;
- type the code 'cccc' which puts the automatic system into operation resulting in the transmission of the conversion rates of the EUA;
- the transmission should not be interrupted until the end of the message, which is marked by the code 'ffff'.

Note: The Commission also has an automatic telex answering service (No 21791) providing daily data on calculation of monetary compensatory amounts for the purposes of the common agricultural policy.

⁽¹⁾ Council Regulation (EEC) No 3180/78 of 18 December 1978 (OJ No L 379, 30. 12. 1978, p. 1).
Council Decision 80/1184/EEC of 18 December 1980 (Convention of Lomé) (OJ No L 349, 23. 12. 1980, p. 34).

Commission Decision No 3334/80/ECSC of 19 December 1980 (OJ No L 349, 23. 12. 1980, p. 27).
Financial Regulation of 16 December 1980 concerning the general budget of the European Communities (OJ No L 345, 20. 12. 1980, p. 23).

Council Regulation (EEC) No 3308/80 of 16 December 1980 (OJ No L 345, 20. 12. 1980, p. 1).

⁽²⁾ Decisions of the Council of Governors of the European Investment Bank of 18 March 1975 and of 30 December 1977.

Notice of initiation of an anti-dumping procedure concerning imports of codeine and its salts originating in Poland, Czechoslovakia, Hungary and Yugoslavia

The Commission has received a complaint indicating that dumping is being practised in respect of imports of codeine and its salts originating in Poland, Czechoslovakia, Hungary and Yugoslavia and that serious injury is thus being caused to a branch of Community industry.

The complaint was lodged by the two major German manufacturers, which account for a large proportion of the total Community output of the products in question.

Codeine and its salts are substances derived from raw opium and used in the manufacture of cough medicines and painkillers⁽¹⁾, and are subject to international trade control under the 1961 Single Convention. Owing to the import restrictions applied on this basis by the other Member States, the Federal Republic of Germany is the only important Community market on which such goods can be freely imported.

The allegation of dumping is based on a comparison of the export prices of the products from the countries in question with the selling price of like products in Yugoslavia. The Polish, Czechoslovakian and Hungarian export prices were compared with the domestic price in a third country since those countries do not have market economies. The comparison revealed dumping margins estimated at between 39 % and 47 %.

With regard to injury, the complaint shows that imports of these products into the Community from the four countries in question rose from 1 751 kg in 1977 to 5 329 kg in 1979, increasing their market share in the Federal Republic of Germany from 15 % to 33 %, while consumption over that period by 40 %. At the same time the average price of the exported products free at the Community frontier fell by 59 %.

This has led to a corresponding fall in the market share of the Community producers lodging the complaint and price pressures which are forcing them to sell their products below cost price. In 1980, the complainants therefore stopped production of these products temporarily and are faced with the considerable cost (due to strict safety precautions) of financing large stocks which cannot be sold at economic prices.

Having decided, after consultation, that there is sufficient evidence to justify initiating a procedure, the Commission has commenced an investigation in accordance with the provisions of Article 7 of Council Regulation (EEC) No 3017/79 on protection against dumped or subsidized imports from countries not members of the European Economic Community⁽²⁾.

Any information relating to the matter may be sent in writing to the Commission of the European Communities, Directorate-General for External Relations (Division I-D-1), rue de la Loi, 200, B-1049 Brussels⁽³⁾.

Interested parties may, within 30 days following publication of this notice, make known their views in writing, in particular by replying to the questionnaire addressed to the parties known to be concerned and by providing supporting evidence.

Furthermore, the Commission will hear parties who so request when making their views known, provided that they can show that they are likely to be affected by the result of the procedure.

This notice is in lieu of formal notification to Poland, Czechoslovakia and Hungary, and is published in accordance with Article 7 (1) (a) of the aforementioned Regulation.

⁽¹⁾ Common Customs Tariff subheading ex 29.42 A II. NIMEXE Code: ex 29.42-19.

⁽²⁾ OJ No L 339, 31. 12. 1979.

⁽³⁾ Telex: Comeurbru 21877.

Communication from the Commission concerning the estimated production levy for the 1980/81 sugar year

In accordance with the provisions of Article 4 of Regulation 700/73 ⁽¹⁾ the production levy for the 1980/81 sugar year has been estimated at 0 ECU per 100 kilograms.

The amount referred to in Article 5 (1) (a) of Regulation (EEC) No 700/73 also being zero, Member States should not collect that amount.

⁽¹⁾ OJ No L 67, 14. 3. 1973, p. 12.

COURT OF JUSTICE

Reference for a preliminary ruling by the Bundesfinanzhof by order of that court of 10 February 1981 in the case of Paul Kaders GmbH v. Hauptzollamt Hamburg-Waltershof

(Case 49/81)

Reference has been made to the Court of Justice of the European Communities by an order of the Bundesfinanzhof [Federal Finance Court], Seventh Senate, of 10 February 1981, which was received at the Court Registry on 9 March 1981, for a preliminary ruling in the case of Paul Kaders GmbH, 21 Schauenburgerstraße, Hamburg 1, represented by its Directors, Dr Hermann Protzen, Klaus-Dieter Protzen and Peter Protzen, v. Hauptzollamt [Principal Customs Office] Hamburg-Waltershof, represented by the Principal Inspector, on the following question:

How must tariff heading 13.03 (vegetable extracts) and tariff subheading 33.01 C (resinoids) be interpreted and demarcated in relation to one another? Is a product described as extract of ginger containing, in addition to 25 % essential oils, all the soluble contents of the ginger root to be regarded as vegetable extract coming within tariff heading 13.03 or, having regard to the amounts of odoriferous substances or fragrant constituents, as resinoid falling within tariff subheading 33.01 C, even though as vegetable extract it contains all the typical contents and constituent substances of the ginger root? In addition to the essential oils, does for example 'Gingerol' also belong to the odoriferous substances or fragrant constituents?

Reference for a preliminary ruling by the Bundesfinanzhof by order of that court of 10 February 1981 in the case of Paul Kaders GmbH v. Hauptzollamt Hamburg-Ericus

(Case 50/81)

Reference has been made to the Court of Justice of the European Communities by an order of the Bundesfinanzhof [Federal Finance Court], Seventh Senate, of 10 February 1981, which was received at the Court Registry on 9 March 1981, for a preliminary ruling in the case of Paul Kaders GmbH, 21 Schauenburgerstraße, Hamburg 1, represented by its Directors, Dr Hermann Protzen, Klaus-Dieter Protzen and Peter Protzen, v. Hauptzollamt [Principal Customs Office] Hamburg-Ericus, represented by the Principal Inspector, on the following question:

How must tariff heading 13.03 (vegetable extracts) and tariff subheading 33.01 C (resinoids) be interpreted and demarcated in relation to one another? Is a product

described as 'Extract of black pepper decolorized' [sic] consisting of 16 or 20 % essential oils, 40 or 46 % piperine and 38 or 40 % other extracts to be regarded as vegetable extract coming within tariff heading 13.03 or, having regard to the amount of odoriferous substances or fragrant constituents as resinoid falling within tariff subheading 33.01 C, even though as vegetable extract it contains all the typical contents and constituent substances of the fruit of the peppercorn? In addition to the essential oils, does for example piperine also belong to the odoriferous substances of fragrant constituents?

Action brought on 9 March 1981 by De Franceschi SpA Monfalcone against Council of the European Communities and Commission of the European Communities

(Case 51/81)

An action against the Council of the European Communities and the Commission of the European Communities was brought before the Court of Justice of the European Communities on 9 March 1981 by De Franceschi SpA Monfalcone, whose registered office is at Monfalcone, through its legal representative for the time being, Coclite De Franceschi, assisted and represented by Professor Giovanni Maria Ubertazzi and Fausto Capelli of the Milan Bar, with an address for service in Luxembourg at the Chambers of Louis Schiltz, 83 Boulevard Grande-Duchesse Charlotte.

The applicant claims that the Court should:

Order the European Economic Community, and through it the Council and the Commission, to compensate the applicant for the damage caused to it as a result of the abolition of the production refunds in respect of maize groats and meal used for the manufacture of beer (which abolition was provided for by Regulation (EEC) No 665/75 of the Council of 4 March 1975) and as a result of the failure to resume the said refund for the period from 4 April 1977 to 18 October 1977.

The sum claimed as damages by the applicant amounts to Lit 54 327 278 together with interest from the time when that sum became due as is shown by the calculations indicated in the documents submitted to the competent authorities and which have never been disputed by such authorities. It is further requested that the European Economic Community should be ordered to pay the costs, expenses and fees of these proceedings.

The right is reserved to submit any other documents which may be required by the Court of Justice.

The principal submissions and arguments relied upon:

The principal submissions and arguments relied upon are the same as those in Case 256/80 (1).

(1) OJ No C 340, 31. 12. 1980.

Action brought on 10 March 1981 by oHG in Firma Werner Faust against European Economic Community, represented by the Commission

(Case 52/81)

An action against the European Economic Community, represented by the Commission, Brussels, was brought before the Court of Justice of the European Communities on 10 March 1981 by the Offene Handelsgesellschaft in Firma [ordinary commercial partnership] Werner Faust, represented by its partners Henry-Hartwig Masuhr and Horst Hoffmann, 41 Wandsbeker Stieg, D-2000 Hamburg 76. Counsel: Rechtsanwälte Herbert W. Samuel, Dr Gerd Horeis, Dr Dietrich Mankowski, Klaus-Dieter Quack and Jörg D. Hisam, 11 Alter Fischmarkt, D-2000 Hamburg 11. The address for service in Luxembourg is at the Chambers of Ernest Arendt, 34B Rue Philippe II.

The applicant claims that the Court should:

Order the defendant to pay to the applicant US \$ 114 930 together with interest at 4 % from the date of the lodging of the application, together with the costs.

Principal submissions and arguments:

The applicant negotiates imports of, *inter alia*, preserved mushrooms from Taiwan. The import licences which have been required since 1974 for such importations into the EEC were originally issued on the basis of a reference system. That scheme was abolished with effect from 1 January 1977 by Commission Regulation (EEC) No 3096/76 ⁽¹⁾, and subsequently the reference system was abandoned in favour of a system which amounts in the case of goods from Taiwan — with minor exceptions — to suspension of supplies. The regulations issued in that regard, Commission Regulations (EEC) No 3096/76 ⁽¹⁾, No 1102/78 ⁽²⁾ and No 1449/78 ⁽³⁾ are unlawful. The abandonment of the reference system offends against the principle of equality and the prohibition of discrimination; it is liable to disturb the traditional flow of trade and penalizes individual undertakings concerned in marketing these products, which — like the applicant — are losing commercial connexions established over a lengthy period. The amount of the payment sought corresponds to the commission which the applicant would have earned in 1979 and 1980 had the reference system been retained.

⁽¹⁾ OJ No L 348, 18. 12. 1976, p. 26

⁽²⁾ OJ No L 139, 26. 5. 1978, p. 26

⁽³⁾ OJ No L 173, 29. 6. 1978, p. 25.

Reference for a preliminary ruling by the Verwaltungsgericht Frankfurt am Main by order of that court of 5 February 1981 in the case of Firma Wilhelm Fromme, Landhandel, v. Bundesanstalt für Landwirtschaftliche Marktordnung

(Case 54/81)

Reference has been made to the Court of Justice of the European Communities by an order of the Verwaltungsgericht [Administrative Court] Frankfurt am Main (First Chamber) of 5 February 1981, which was received at the Court Registry on 11 March

1981, for a preliminary ruling in the case of Firma Wilhelm Fromme, in the person of its sole proprietor Wilhelm Fromme, Kaufmann [merchant], PO Box 61 11 40, 3320 Salzgitter 61 against the Bundesanstalt für Landwirtschaftliche Marktordnung [Federal Office for the Organization of Agricultural Markets] represented by its board of management, 40 Adickesallee, D-6000 Frankfurt am Main 18 on the following questions:

- (a) Is it compatible with the Treaty establishing the European Economic Community for the Federal Republic of Germany to charge on undue payments of denaturing premiums interest calculated from the day of payment at 3 % above the prevailing discount rate of the German Federal Bank but at any rate not less than 6.5 %, without being authorized to do so by any provision of Community law?
- (b) If the answer to the foregoing is in the negative:
Does Article 8 (1) of Regulation (EEC) No 729/70 of the Council of 21 April 1970 on the financing of the Common Agricultural Policy (Official Journal, English Special Edition 1970 (I), p. 218) confer any authority entitling the Federal Republic to charge interest of the kind mentioned in Question (a)?
- (c) If the answer to the foregoing is in the negative:
Is there any other provision or general principle of Community law from which such authority may be deduced?

Reference for a preliminary ruling by the Tribunal du Travail, Liège, (Seventh Chamber) by judgment of that court of 25 February 1981 in the case of Georges Vermaut v. Office National des Pensions pour Travailleurs Salariés

(Case 55/81)

Reference has been made to the Court of Justice of the European Communities by a judgment of the Tribunal du Travail [Labour Tribunal], Liège, of 25 February 1981, which was received at the Court Registry on 11 March 1981, for a preliminary ruling in the case of Georges Vermaut v. Office National des Pensions pour Travailleurs Salariés [National Pensions Office for Employed Persons] on the following questions:

1. Where the length of the periods of insurance under the legislation of a Member State does not amount to one year, is the competent institution — in this case the Office National des Pensions pour Travailleurs Salariés — permitted not to take account of those periods because entitlement to a national pension exists; or
Must the competent institution take those periods into account as if they had been completed under the legislation of the State of that institution?
(Application of Article 48 of Regulation No 1408/71 (1)).
2. In the case of pensions taking effect after 1 January 1977, Belgian law requires payment of contributions. If Belgium must regard the periods in question as having been completed under its legislation, is it entitled to require payment of contributions

(1) OJ, English Special Edition 1971 (II), p. 416.

by the plaintiff, may it request transfer of contributions paid to the Federal Republic of Germany and the United Kingdom or must it take the periods in question into consideration without being able to claim anything from the plaintiff, the Federal Republic of Germany or the United Kingdom?

Action brought on 11 March 1981 by Colette Novi against Commission of the European Communities

(Case 56/81)

In action against the Commission of the European Communities was brought before the Court of Justice of the European Communities on 11 March 1981 by Colette Novi, represented by François van der Mensbrugge of the Brussels Bar, with an address for service in Luxembourg at the Chambers of Jean Hoss, 15 Côte d'Eich.

The applicant claims that the Court should:

Declare the application admissible and well founded and consequently order the Commission to pay the applicant the sum of Bfrs 220 205 together with interest and costs.

The principal submissions and arguments:

The applicant is entitled to the sum claimed under Article 38 (d) of the Staff Regulations of officials.
