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Information and Notices

Contents

I

(Information)

COUNCIL AND COMMISSION

Missions of third countries: Accreditations

The President of the Council and the President of the Commission of the European Communities received H. E. Ambassador Surjit Singh Puri, who presented to them his letters of credence in his capacity as Head of the Mission of the Republic of India to the European Economic Community (EEC) and the European Coal and Steel Community (ECSC) with effect from 14 September 1981.

On this occasion the newly appointed Head of Mission also presented his predecessor's letters of recall.

COMMISSION

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

1 October 1981

Currency amount for one unit:

Belgian and Luxembourg franc con.	40·7227	United States dollar	1·06912
Belgian and Luxembourg franc fin.	44·5822	Swiss franc	2·10937
German mark	2·48463	Spanish peseta	103·277
Dutch guilder	2·76474	Swedish krona	5·98385
Pound sterling	0·582625	Norwegian krone	6·31314
Danish krone	7·82326	Canadian dollar	1·28850
French franc	5·95605	Portuguese escudo	69·4392
Italian lira	1265·30	Austrian schilling	17·4587
Irish pound	0·682052	Finnish markka	4·79125
Greek drachma	61·4742	Japanese yen	248·837
		NZLD	1·22221
		AUSD	0,879883

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.

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(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.

STATE AIDS

(Articles 92 to 94 of the Treaty establishing the European Economic Community)

Notice given in accordance with the first subparagraph of Article 93 (2) of the Treaty to interested parties other than Member States regarding two United Kingdom aid schemes concerning export credits for ships

As required by the abovementioned provision of Article 93, the Commission hereby gives notice to all interested parties other than Member States to submit their comments on these schemes within four weeks from the date of this Notice to:

Commission of the European Communities,
200 rue de la Loi,
B-1049 Brussels.

The Commission considers that the proposal to grant, over a ten-year period, credit facilities for 95 % of the contract value of two product tankers to be sold to a Panamanian shipowner does not satisfy the test for authorization in Article 2 of Council Directive 81/363/EEC and the relevant OECD Arrangement.

Commission communication under Article 115 of the EEC Treaty

The Commission, by Decision of 1 October 1981 has rejected an application by Ireland for authorization not to apply Community treatment to imports of products of category 15 B falling within heading No 61.02 B II of the Common Customs Tariff, originating in India and in free circulation in the other Member States.

COURT OF JUSTICE

ORDER OF THE PRESIDENT OF THE COURT

of 21 August 1981

in Case 232/81 R: 1. Agricola Commerciale Olio Srl, 2. Astolio Srl, 3. Azienda Agricola Bellaria SpA, 4. Italiana Olii e Risi SpA and 5. S. Giorgio Sezione Agricoltura SpA v. the Commission of the European Communities and Savma SpA (intervener)

(Language of the Case: Italian)

(Provisional translation; the definitive translation will be published in the Reports of Cases Before the Court)

In Case 232/81 R: 1. Agricola Commerciale Olio Srl, Ostuni, 2. Astolio Srl, Ostuni, 3. Azienda Agricola Bellaria SpA, Trecate, 4. Italiana Olii e Risi SpA, Aprilia, and 5. S. Giorgio Sezione Agricoltura SpA, Pomezia, represented by Giuseppe Celona of the Milan Bar, Giovanni B. Compagno of the Rome Bar, Giuseppe Guarino of the Rome Bar and Paolo M. Tabellini of the Milan Bar, against the Commission of the European Communities, represented by Cesare Maestripieri, Principal Legal Adviser, acting as Agent, assisted by Guido Berardis, a member of its Legal Department, and Savma SpA, Milan (intervener), represented by Edouard Jakhian and Michel Mahieu of the Brussels Bar, the President of the Court made an order on 21 August 1981 of which the operative part is as follows:

1. *Formal note is taken, at the applicants' request, that the Commission has stated that the applicants' participation in the tender procedure laid down by Commission Regulation (EEC) No 2239/81 of 3 August 1981 entails no waiver whatsoever on their part of any rights which they may derive from the sales which it was the purpose of Commission Regulation (EEC) No 2238/81 of the same date repealing Commission Regulation (EEC) No 71/81 of 12 January 1981 to cancel.*

2. *Formal note is taken, at the applicants' request, of the Commission's statement that if one or more of the lots were not to be allocated by the tender procedure in question, those lots would not be disposed of without a new decision by the Commission of which the applicants would be informed in due time. Consequently, the Commission is hereby prohibited from disposing of or allowing the disposal of any unallocated lots before the date on which judgment is given on the substance of the case, unless permission is obtained from the President of the Court by way of an application for the adoption of an interim measure.*

3. *The application of Article 10 of Commission Regulation (EEC) No 2239/81 of 3 August 1981 shall be partially suspended inasmuch as the applicants, who, subject to the abovementioned reservation of their vested rights, shall have participated in the sale by tender by submitting applications to purchase not later than 24 August 1981 at 2 p.m. and who must be permitted to submit their tenders subject to the said reservation of their rights, shall, in respect of the lot to be allocated to each of them on the basis of their tenders, be required to pay to the Azienda di Stato per gli Interventi sul Mercato Agricolo (hereinafter referred to as 'the Italian intervention agency') for each part of that lot, as referred to in Article 9 of the Regulation, at the time of the withdrawal of that part, only so much of the price tendered as is equal to the amount which they would have had to pay under the terms of the sale undertaken under Regulation (EEC) No 71/81. Payment of the*

remainder shall be suspended until the Court has decided on the substance of the main action, unless in the meantime any amendment is obtained from the President of the Court by way of an application for the adoption of an interim measure. The Commission shall be responsible for ensuring that the Italian intervention agency delivers the goods on the abovementioned conditions.

4. *The guarantee to be provided under Article 4 (5) of Commission Regulation (EEC) No 2239/81 of 3 August 1981 shall also be calculated on the basis of the amount to be paid on a provisional basis and not on the basis of the amount of any tender which may be accepted, as provided for by Article 6 of that Regulation.*

5. *The remainder of the application is dismissed and the application of Commission Regulation (EEC) No 2239/81 of 3 August 1981 shall proceed subject to the abovementioned conditions.*

6. *The costs, including those of the intervention, are reserved.*

Action brought on 9 September 1981 by the Commission of the European Communities against the French Republic

(Case 243/81)

An action against the French Republic was brought before the Court of Justice of the European Communities on 9 September 1981 by the Commission of the European Communities, represented and assisted by Rolf Wägenbaur, Legal Adviser to the Commission, with an address for service in Luxembourg at the Chambers of Oreste Montalto, a member of the Commission's Legal Department, Jean Monnet Building, Kirchberg.

The applicant claims that the Court should:

1. declare that the French Republic, by encouraging certain authorities to purchase certain national products, to the detriment of the products of other Member States, has failed to fulfil its obligations under Article 30 *et seq.* of the EEC Treaty;

2. order the French Republic to pay the costs.

Principal submissions and arguments relied upon:

A series of circulars and letters appears to demonstrate an administrative practice consisting of encouraging the purchase of domestic products only, within the meaning of Article 2 (3) (k) of Commission Directive 70/50/EEC of 22 December 1969. Such a practice sets up a serious obstacle to the importation into France of the products involved in certain public contracts; it is thus incompatible with Article 30 of the Treaty.

Reference of a preliminary ruling by the Hessicher Verwaltungsgerichtshof by order of that court on 17 August 1981 in the case of Edeka Zentrale AG v. Federal Republic of Germany, represented by the Bundesamt für Ernährung und Forstwirtschaft

(Case 245/81)

Reference has been made to the Court of Justice of the European Communities by an order of the Eight Senate of the Hessicher Verwaltungsgerichtshof [Higher Administrative Court, Hessen] of 17 August 1981, which was received at the Court Registry on 9 September 1981, for a preliminary ruling in the case of Edeka Zentrale AG, represented by its board of directors, Hans-Jürgen Klussmann, Ulrich Schmidt, Bachelor of Commerce, and Rolf Unverzagt, 6 New-York-Ring, D-2000 Hamburg 60, v. Federal Republic of Germany, represented by the Bundesamt für Ernährung und Forstwirtschaft [Federal Office for Food and Forestry], 40 Adickesallee, D-6000 Frankfurt am Main 1, on the following question:

Was Commission Regulation (EEC) No 1102/78 of 25 May 1978 adopting protective measures applicable to imports of preserved mushrooms (OJ No L 139, 26. 5. 1978, p. 26) valid or did it offend against the prohibition of discrimination because, as the plaintiff believes, certain importers were in practice generally debarred thereby from effecting imports from non-member countries?

II

(Preparatory Acts)

COMMISSION

Proposal for a Council Decision on general conditions to be followed for establishing microbiological criteria for foodstuffs and feedingstuffs, including the conditions for their preparation, in the veterinary, foodstuffs and animal nutrition sectors

(Submitted by the Commission to the Council on 22 September 1981)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the creation of a single market for foodstuffs and feedingstuffs calls for the elimination of technical barriers tor trade, and in particular the coordination of measures concerning the microbiological criteria applicable to foodstuffs and feedingstuffs in the veterinary, foodstuffs and animal nutrition section;

Whereas the object of microbiological control and microbiological criteria for foodstuffs and feedingstuffs is to protect the consumer, and in particular his health;

Whereas the Council resolution of 12 March 1968 on Community measures to be taken in the veterinary sector [1] laid down the principles underlying Community measures to be taken in the veterinary sector; whereas that resolution was expanded by the Council resolution of 22 July 1974 [2];

Whereas the resolution of 28 May 1969 [3], as amended [4], laid down the principles underlying Community measures to be taken in the foodstuffs sector;

Whereas, to ensure the uniform implementation of the Community rules, the microbiological criteria for foodstuffs and feedingstuffs must be based on Community principles;

Whereas the basis of the control of microbiologically sensitive foodstuffs and feedingstuffs must also be the application of Community rules;

Whereas, for the revision and adoption of Community provisions and measures, the exchange of scientific information between the Commission and Member States must be maintained and intensified by all appropriate means (including contacts with the international organizations concerned), with the specific purpose of regularly reviewing questions relating to microbiology in the fields in question,

[1] OJ No C 22, 18. 3. 1968, p.18.

[2] OJ No C 92, 6. 8. 1974, p. 2.

[3] OJ No C 76, 17. 6. 1969.

[4] OJ No C 117, 31. 12. 1973.

HAS DECIDED AS FOLLOWS:

Article 1

1. In the veterinary, foodstuffs and animal nutrition sectors the microbiological criteria for foodstuffs and feedingstuffs, including the conditions for their preparation, shall be laid down in accordance with the general principles listed in Annex A hereto.

2. Paragraph 1 shall apply in particular for the establishment of Community microbiological criteria for, first of all, the products listed in Annex B hereto.

Article 2

This Decision is addressed to the Member States.

ANNEX A

GENERAL PRINCIPLES TO BE FOLLOWED FOR ESTABLISHING MICROBIOLOGICAL CRITERIA

1. For the purposes of Community legislation, a microbiological criterion consists of:

   — a statement of the micro-organisms to be sought and/or their toxins or metabolic products, including relevant microscopic parasites,

   — the microbiological limits where appropriate,

   — a sampling plan,

   — the methods for their detection and quantification.

2. For the purpose of this Decision:

   (a) a 'microbiological guideline' defines a microbiological criterion used at a specified point during or after processing or in distribution and storage to monitor hygiene. It must be based on data obtained from microbiological monitoring during production and must be compatible with good manufacturing practice;

   (b) a 'microbiological end-product specification' defines a microbiological criterion that is applied by the competent control authorities and is intended to increase assurance that the provisions of Community legislation relating to hygiene have been adhered to. It must be derived from criteria which have been applied to the products or from data obtained in monitoring programmes during production;

   (c) a 'microbiological standard' defines a microbiological criterion used in Community legislation for an end-product and fixes the acceptable limits for micro-organisms, their toxins or metabolic products of significance for public health in a foodstuff or feedingstuff produced, packed or stored in, or imported into, the Community. The 'microbiological standard' must be derived from criteria which are based on the results of collaborative studies or which have been tested in practice or are the result of experience in the practical application of guidelines and end-product specifications;

   (d) a 'microbiological sampling plan' is the particular choice of sampling procedure including the number of samples to be taken, the way they are to be taken, the size of the sample unit, and the place and, if appropriate, the time at which the samples are to be taken and the number of samples which must not exceed the limits laid down.

3. The need for the establishment of microbiological criteria shall be based on evidence of hazards to health and the practical feasibility of effective health protection through their application. For that purpose the following shall be taken into consideration:

   — information from Member States on the microbiology of the particular foodstuff or feedingstuff, including the raw material and the results of comparative studies using uniform microbiological techniques,

— the effect of processing on the microbiology of the foodstuff or feedingstuff,

— the likelihood and consequences of microbial contamination and/or changes in the number and types of micro-organisms during subsequent handling, storage and distribution,

— the categories of consumers at risk, with special reference to vulnerable categories,

— the relative advantage of other forms of inspection during the production, storage and distribution of products.

4. The micro-organisms taken into consideration shall be accepted as relevant to the particular type of foodstuff or feedingstuff and its technology. The aim must be to provide the consumer with a sound, genuine and merchantable product. Micro-organisms whose significance with regard to the foodstuff or feedingstuff is in doubt should not be used in a criterion.

5. In the choice of a test for detecting an indicator organism, there must be a clear understanding as to whether the test for this organism is used to indicate an unsatisfactory manufacturing practice or whether it is used to indicate the possible presence of pathogen. When pathogens can be detected directly, a method specific to those pathogens must be used.

6. For use in a standard or end-product specification: (a) official methods elaborated by international organizations are to be preferred; (b) methods of which the reliability (accuracy, reproducibility, inter- and intra-laboratory variation) has been statistically established in comparative or collaborative studies in several laboratories within the Community should be preferred.

   Reference methods to be used in standards and end-product specifications must also be as sensitive and reproducible as possible. Methods to be used in guidelines may, to some degree, sacrifice sensitivity and reproducibility in the interest of speed and simplicity. They must, however, have been shown to give the requisite information in a reliable form. Reference methods must serve as a basis of comparison where other methods are being selected. A criterion should ideally contain a reference method and simplified methods for routine examinations.

7. Methods of broad application shall be given preference over methods which apply only to individual foodstuffs. Methods for testing rapidly perishable foodstuffs or feedingstuffs should be so designed that the results can be available before the foodstuffs are marketed.

8. The microbiological limits must take into consideration the risk associated with the organisms likely to affect the acceptability of the foodstuff or feedingstuff and the way in which the foodstuff or feedingstuff has to be handled and consumed.

   The limits must also take account of the distribution of micro-organisms in the foodstuff or feedingstuff and the inherent variability of analysis methods.

9. If a criterion requires the absence of a particular micro-orgnism, the size of the sample must be indicated. No feasible sampling plan can ensure complete absence of a particular organism.

   Nevertheless for acceptance of a lot, absence is assumed when the criterion is met.

10. Microbiological limits for a foodstuff or feedingstuff can be related only to the time and place of sampling and not to the presumed number of micro-organisms at an earlier or a later stage. Good manufacturing practice aims at producing a foodstuff or feedingstuff with better microbiological characteristics than those required by public health considerations. A microbiological limit in a guideline may therefore be more stringent than in a standard or an end-product specification.

11. Sampling plans must be administratively and economically feasible and indicate the decision criteria to determine lot acceptability. They must, in particular, take into account the heterogeneity of distribution of micro-organisms.

12. The extent of testing shall be as defined in the criterion and shall not be exceeded.

13. When a product fails to meet the microbiological criteria, the measures to be taken may vary according to the type of criterion and circumstances. They must preferably be indicated at the time the criteria are established.

In particular:

(a) if the limit exceeded is part of a standard, the product concerned must be rejected as unfit for its intended use;

(b) if the limit exceeded is part of an end-product specification, action taken may vary in accordance with Community legislation applicable to the product in question;

(c) if a limit exceeded is part of a guideline, this should not necessarily result in rejection of the product. However, if such a limit is exceeded, the causative factors must be identified and corrected in current and future production, storage or distribution.

When a product is rejected as unfit for its intended use, several possible options are open, depending on findings and circumstances. The options include re-processing (e.g. heat treatment). In deciding on the option the major consideration must be to keep to a minimum the risk that an unacceptable foodstuff or feedingstuff reaches the consumer. However, foodstuffs or feedingstuffs must not be needlessly destroyed or declared unfit for consumption.

ANNEX B

Fresh meat of chickens, turkeys, ducks, geese and guinea-fowl,

fresh meat of domestic bovine animals, swine, sheep, goats and solipeds,

minced, ground or similarly chopped meat,

meat products,

raw milk and milk for heat treatment,

egg products,

raw milk destined for processing into milk products,

fish and shellfish,

mineral water,

fruit juices and similar products,

casein and caseinates,

preserved milk,

precooked frozen seafoods,

ice-cream,

food additives,

foods for infants and young children,

feedingstuffs.

Proposal for a Council Directive amending Directive 71/118/EEC on health problems affecting trade in fresh poultrymeat

(Submitted by the Commission to the Council on 23 September 1981)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas Council Directive 71/118/EEC (1), as last amended by Directive 80/216/EEC (2), lays down the hygiene conditions under which fresh poultrymeat must be produced in slaughterhouses and cutting plants; whereas that Directive provided for health inspections to be carried out; whereas microbioligical analyses covering *inter alia* equipment, utensils, carcases and water, constitute a means for achieving an objective assessment of the standard of hygiene;

Whereas microbiological control provides the health inspection service with useful information and thus constitutes an effective means of checking and improving the standard of hygiene in establishments; whereas such control must provide the micro-biological guideline within the meaning of the Council Decision ...; whereas the veterinary inspection authority should therefore be granted the authority to make microbiological checks compulsory where it sees fit;

Whereas the execution of microbiological control in slaughterhouses and cutting plants must be based on the use of harmonized microbiological methods so that comparable results can be obtained;

Whereas provision should be made for employing Community microbiological methods for assessing the correct functioning of plant for chilling carcases by immersion in a counter flow of water and its influence on the standard of hygiene; whereas a uniform criterion of assessment should also be laid down;

Whereas decisions laying down and, where necessary, amending the microbiological methods to be employed for microbiological control should be adopted in accordance with a procedure ensuring close cooperation between the Member States and the Commission,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 71/118/EEC is modified as follows:

1. In Article 4 (1) the following words are added after 'when carrying out ante mortem and post mortem inspections': 'the microbiological control provided for in Article 5 (2a),'.

2. In Article 5 the following paragraph is added after paragraph 2:

'2a

(a) As part of the hygiene control of establishments the official veterinarian may, where he considers it necessary, have recourse to microbiological control in order to gather further information on which to base the assessment.

Microbiological control may relate to:

— the utensils, fittings and machinery, in order to determine the aerobic micro-organism count,

— poultrymeat, in order to determine, at all stages of the production line, the aerobic micro-organism, enterobacteriaceae or coliform count,

— the water in the various items of machinery, particularly the poultry carcase chilling tanks, in order to determine the aerobic micro-organism, enterobacteriaceae or coliform count.

(1) OJ No L 55, 8. 3. 1971, p. 23.
(2) OJ No L 47, 21. 2. 1980, p. 8.

(b) The results of a microbiological examination must be assessed by comparing them with the results of previous checks.

(c) The microbiological methods to be employed for microbiological control and the sampling plan shall be adopted within six months from the adoption of this Directive in accordance with the procedure laid down in Article 12a.

The microbiological methods and the sampling plan may be amended in accordance with that same procedure.

(d) The results of the microbiological control shall be recorded.'

3. Paragraph 28b (i) of Chapter V of the Annex I is amended to read as follows:

'— the correct functioning of the chilling plant and its effect on the hygiene level shall be evaluated by comparing the contamination of the carcases by aerobic micro-organisms and enterobacteriaceae before and after immersion. Such comparison must be carried out when the plant is first brought into use and thereafter periodically and in any case each time any alterations are made to the plant. The microbiological methods to be employed for such comparison and the sampling plan shall be adopted in accordance with the procedure laid down in Article 12a within six months from the adoption of this Directive.

The abovementioned methods and plan may be amended in accordance with that same procedure.

The functioning of the plant for chilling by immersion in a counter flow of water shall be regarded as acceptable in terms of hygiene where the geometric mean of aerobic micro-organisms and enterobacteriaceae found on the carcase at the point of exit from the chilling tank is lower than the number found before immersion using the same method. The functioning of the various parts of the chilling plant must be regarded so as to ensure a satisfactory standard of hygiene.

— the results of the abovementioned checks shall be recorded.'

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive on 1 July 1982 and immediately inform the Commission thereof.

Article 3

This Directive is addressed to the Member States.