



CONFIDENTIAL

From the Secretary of State

John Coles Esq
Private Secretary
10 Downing Street
London SW1

2 December 1982

Dear John,

EUROPEAN COUNCIL: PROTECTIONIST AND TREATY INFRINGEMENTS

Following this afternoon's briefing meeting with the Prime Minister I attach the following:-

- (i) "league tables" of Treaty infringements by Member States;
- (ii) A note on French protectionist measures; and
- (iii) A copy of my 26 October letter to Michael Scholar, outlining German protectionist measures.

I should emphasise, as the note to the "league tables" explains, that the figures have to be treated with some caution, and that they do not relate simply to trade "crimes". We believe that the 1981 figures are more trade related. That said, France and Italy do seem to dominate both tables.

I am copying this letter to the Private Secretaries of the Chancellor of the Exchequer and the Foreign Secretary.

Yours sincerely,

JOHN RHODES
Private Secretary



INFRINGEMENT OF THE TREATY OF ROME

Two tables are attached as examples of the apparent number of Treaty infringements by EC Member States. The first shows allegations of infractions made to the Commission. It appeared in 1980, was said to be based on a Commission Working Paper, and was widely quoted at the time. The second shows infringements by Member States for which procedures had been opened as of 1 October 1981. This table was produced by a private research organisation, European Research Associates, which also attributed its calculations to a Commission Working Paper.

There is a similarity of "league position" of the Member States in the two tables. It should be noted that neither set of calculations, or any others which have been produced, make clear exactly what is being counted. The Commission has said, in a reply to the European Parliament, that it does not "keep a record of the national regulations or measures against which it has taken action in order to ensure compliance with Community law". The figures do not, unfortunately, distinguish between serious and relatively trivial infringements. Nor is it possible to say how many of the infringements amounted to a direct obstruction to trade.

Department of Trade

2 December 1982



ALLEGATIONS OF TREATY INFRINGEMENTS MADE TO THE COMMISSION: 1980

Italy	70
France	60
Belgium	48
FRG	41
UK	
Luxembourg	32
Netherlands	
Ireland	30
Denmark	24

TREATY INFRINGEMENTS BY MEMBER STATES FOR WHICH PROCEDURES HAD BEEN OPENED: 1.10.81

France	40
Italy	27
Germany	17
Denmark	12
Netherlands	11
Belgium	11
UK	9
Ireland	7
Luxembourg	5



FRENCH PROTECTIONIST MEASURES

1 A programme of measures "to recapture the home market" (a Socialist pre-election slogan) was announced in Paris in December 1981. See Annex A.

2 A list of 13 further measures (Annex B) was announced on 20 October 1982 but has apparently not yet been fully implemented. Those marked * appear to be most significant. In addition, the well-publicised requirement that video-tape-recorders can only be cleared through customs at Poitiers was announced at the same time.

3 A member of the Cabinet of M. Jobert, the French Foreign Trade Minister, told the British Embassy on 29 October that he has a further 50-60 measures "up his sleeve" to introduce in the coming weeks. There has been speculation that they may include an import deposit scheme and more Poitiers-type measures.

4 By way of counter-attack against the widespread international criticism of French protectionism that has been evoked, the French have prepared and circulated in Paris lists of "protectionist measures" of a couple of dozen countries including the UK (Annex C). A recent public opinion poll indicated that 35% of Frenchmen thought the UK the most protectionist country in Europe; they appear to have been influenced by the poultry dispute.



FRENCH MEASURES TO RECAPTURE THE INTERNAL MARKET

Early in December 1981, the French Government announced a programme for the "reconquête du marché intérieur". Subsequent press and other reports said that the plan covered fourteen industrial sectors including furniture, textiles, toys, footwear, machine tools, domestic appliances and TV and Radio. For some sectors only, so far, have specific schemes been announced. Precise details of all the plans are not known but measures are reported to include new state aids and measures to reduce imports (producer/distributor agreements).

2. The UK joined other Member States in voicing concern at the potential implications of these measures. The French subsequently played the matter down. Although they have left some ambiguity about whether their main interest was to strengthen exploitation of the Community market, there is little doubt that their main preoccupation was the flood of imports into the home market following reflationary policies. On 22 June President Mitterrand was reported as having told the French cabinet that the recapture must be pursued with "fierce determination". More recently Mitterrand has been quoted as describing the policy in terms of improving the quality of French goods, adapting them to the requirements of the French market, and "managing public sector markets" in a manner consistent with these aims.

3. In the UK, so far, actual complaints of trade distortion have, perhaps significantly, far from matched the publicity given to the French measures. Most vociferous has been the footwear and leather sector. So far we have been able to obtain copies of certain exchanges between the French authorities and footwear and leather industries. However, we have not been able to detect concrete evidence of formal arrangements under which the French are breaching the Treaty or that they are going any further than we have been in trying to get domestic suppliers and consumers together in the Sector Working Party. There is anxiety that we are failing to match what the French may be doing but we believe, if the Commission would use its powers of enquiry with vigour, the situation could be kept in check. But it is perhaps inevitable that business circles are anxious about frustration or diversion of trade, and that some are pressing governments to adopt similar measures.

4. The Commission have been investigating the French measures. In the Official Journal of 17 June the Commission announced its intention, pursuant to the state aids provisions of the Treaty, of making a thorough assessment of all assistance to the textile and clothing industries in France. It is particularly

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critical of a measure relieving these industries of certain social security payments. After eight months, however, the Commission should be ready to make a more comprehensive and definite statement about the French 'recapture'. A reaffirmation by the Commission that they are carrying out their responsibilities and not letting the French off the hook should help to allay concern.

Department of Trade

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GRS 305
UNCLASSIFIED
FRAME ECONOMIC
FM PARIS 211814Z OCT 82
TO IMMEDIATE FCO
TELEGRAM NUMBER 993 OF 21 OCTOBER 1982
INFO PRIORITY UKREP BRUSSELS, BONN.
INFO ROUTINE ATHENS, BRUSSELS, COPENHAGEN, THE HAGUE, LUXEMBOURG,
ROME, DUBLIN, WASHINGTON, TOKYO.
INFO SAVING TO UKDEL OECD (PASSED BY PARIS)

ANNEX B

FRENCH TRADE POLICY

1. THE FRENCH COUNCIL OF MINISTERS YESTERDAY APPROVED WHAT THE COMMUNIQUE DESCRIBED AS A 'FIRST SERIES' OF MEASURES DESIGNED TO IMPROVE FRANCE'S EXTERNAL TRADE BALANCE.

2. DETAILS OF THE NEW MEASURES, AS DESCRIBED IN THE COUNCIL COMMUNIQUE, ARE AS FOLLOWS:-

A. ENERGY SAVING

I) A NEW INVESTMENT PROGRAMME FOR ENERGY CONSERVATION IN THE NATIONALISED INDUSTRIES

II) MORE EFFECTIVE APPLICATION OF RULES RELATED TO NIGHT - TIME ILLUMINATION AND HEATING IN SHOPS AND PUBLIC BUILDINGS

III) INCREASED CREDIT FOR ENERGY - SAVING IN THE LOW COST HOUSING SECTOR

B. STIMULATION OF EXPORTS, PARTICULARLY TOWARDS EUROPE, US AND JAPAN

I) EXEMPTION FROM 1983 OF COMPANIES' 30% TAX LIABILITY IN RESPECT OF EXPENDITURE ON GENERAL OVERHEADS LINKED TO EXPORTS

II) IMPROVEMENT OF CREDIT INSURANCE COVER FOR SHORT TERM EXPORT BUSINESS

III) MORE AID FOR COMMERCIAL INVESTMENT UNDERTAKEN BY SMALL AND MEDIUM SIZED FIRMS.

C. NON - ENERGY IMPORTS

I) ALL PRODUCTS SOLD IN FRANCE MUST IN FUTURE SHOW THEIR COUNTRY OF ORIGIN

II) SURVEILLANCE OF UNFAIR COMMERCIAL PRACTICE WITH REGARD TO IMPORTS TO BE STRENGTHENED AND THE REROUTING OF GOODS TO BE FIRMLY SUPPRESSED.

111) ALL DOCUMENTATION ACCOMPANYING IMPORTS PASSING THROUGH CUSTOMS
TO BE WRITTEN IN FRENCH *

D. OTHER MEASURES

I) NATIONALISED INDUSTRIES TO ESTABLISH BEFORE THE END OF THE YEAR A BALANCE SHEET OF THEIR FOREIGN EXCHANGE TRANSACTIONS AND TO ACCEPT PRECISE COMMITMENTS (ON FUTURE DEALINGS) WITHIN THE FRAME - WORK OF THEIR PLANNING CONTRACTS WITH THE GOVERNMENT

II) COMMERCIAL NEGOTIATIONS TO BE BEGUN (AND CONTINUED) WITH SEVERAL COUNTRIES, WITHIN THE FRAMEWORK OF TRADITIONAL BILATERAL CONTACTS, WITH A VIEW TO RESTORING BALANCE TO THEIR TRADE WITH FRANCE

III) THE TRANSFER OF PATENTS AND LICENCES ABROAD TO BE STRICTLY CONTROLLED

IV) NATIONAL SERVICE VOLUNTEERS TO BE INCREASINGLY DIRECTED TOWARDS OVERSEAS ACTIVITY.

3. ACCORDING TO THE COUNCIL OF MINISTERS COMMUNIQUE THESE MEASURES ARE TO IMPLEMENTED WITHIN SIX WEEKS.

4. SEE MIFT.

FRETWELL.

FRAME ECONOMIC
ECD (E)

LTS1434/82/French/CD

Protectionist practices employed by Great BritainI Barriers.1 Barriers created by the government1.1. Customs regulations and practices

- Tariffs: Excise duties preferential to beer rather than wine.

Delays in payment of excise duties discriminating against imported products.

- Voluntary restraint agreements with: Japan, Korea, Taiwan, Singapore, India, Bangladesh, Poland and Czechoslovakia for about ten products.

- Quantitative restrictions

- Administrative formalities:

Small number of customs clearing posts.

The possibility of delaying customs clearance indefinitely in order to verify the origin of a product.

Special procedures for verifying export licences for China, Portugal, Spain and Cyprus.

1.3. Consumer protection regulations

Plant health regulations:

Poultry and eggs: market closed for one year.

Pork (swine fever): frontier closed particularly to French products.

Milk, untreated, sterilised, pasturised, UHT. The regulations guarantee that British organisations have a monopoly on processing and distribution.

Spirits: Requirement for a certificate of ageing which closes the market to our clear spirits.

Standard for denaturing alcohol: Treats our perfumes and toilet waters in the same way as alcohol for consumption and thus makes them subject to the duties on spirits.

The marketing of crème Chantilly in aerosol packs containing vanilla is prohibited.

- Origin marking on certain products (clothes, other textile products, footwear, domestic electrical appliances, cutlery) at the retail stage. These regulations also apply to products originating in the Community. The publicity documents relating to these products are also affected.

Origin marking also affects all imported products when the names on the labels suggest that they could be British products.

Technical controls restricting individual imports of cars.

1.5. Other barriers arising from the public sector

Public sector buying policy

Adaptation of the rules on the awarding of contracts in favour of the lowest bidders. These arrangements favour British firms.

Organisation of privileged links between British suppliers and public purchasers.

Aim: To direct the supplies from firms and arrange the purchasing programmes of public bodies to favour the development of certain industrial sectors.

Creation of a special line of credit of £10M for administrations buying British products likely to be exported.

List of suppliers authorised to tender.

Setting up of a small administration for public purchasing and for the centralisation of public orders.

- Purchasing policy for public undertakings.

Coalmining: 97% of purchases are of British origin.

Petroleum exploitation. Setting up of a body (the OSO) to supervise orders for equipment for the North Sea. The OSO must be consulted when a foreign company is likely to win an order. It then attempts to find a British substitute. About 70% of orders go to British undertakings.

Foreign oil companies must associate themselves with British research bodies in order to perfect new techniques.

On the other hand, denationalisation in theory means an opening of the markets of the former public undertakings: railway and telephone equipment. However, these markets will be open only for countries open to British exports.

- "Buy British" campaigns set up by the government and managed by a body representing the government, management and unions.

- Details of imported products given in order to encourage competitive British offers.

2. Barriers arising from the private sector

- Participation of management and unions in the "Buy British" campaign.

- Union pressure in favour of protectionist measures. Threats to boycott vehicles imported from Spain.

- Purchasing policy of department stores and advertising in favour of British products. Some state that they sell 90% British products (Marks and Spencer, Debenhams).

- Company cars: foreign makes have a smaller share.

- Advertising in favour of British agricultural products.



From the Secretary of State

PS/MFT
PS/Secretary
Mr Cairnes
Mr Gray
Miss Lacey
Mr Burbidge
Mr Wells
Mr Gammal

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Michael Scholar Esq
Private Secretary to the Prime Minister
10 Downing Street
London
SW1

MT

26 October 1982

Dear Michael,

ANGLO-GERMAN SUMMIT: PROTECTIONISM

At her briefing meeting this afternoon the Prime Minister asked for a note of some examples of what might be termed German protectionism.

The most glaring relate to the services sector, notably:-

Insurance:

the Germans are among the most rigid Community countries in their insistence on retaining national controls, impeding operation of the proposed non-life insurance services directive and so obliging United Kingdom insurance companies to establish subsidiaries in Germany rather than write business for German policyholders direct from the United Kingdom.

Air Transport:

again the Germans are one of the most illiberal of our partners. Their attitude to the modest Community reforms that have been proposed - in respect of both fares and new services - is dominated by regard to the cost of support for their railways and by energy-conservation considerations.



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From the Secretary of State

Road Transport:

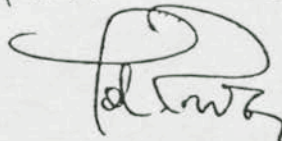
the Germans have a very restrictive quota against movements by lorries operated by, and from, other Member States. The United Kingdom is permitted only 40,000 lorry movements per annum: our quota is particularly small, being based on our pre-Accession trade pattern. We operate a similar quota only by means of retaliation. Germany's quota is only matched in its severity by the Italians'.

In trade in goods, the German market is in theory as open as any. However, the operation of their machinery safety regulations creates, in practice, as the Germans well know, significant impediments to the sale of foreign machinery, particularly if it is not constricted to a German standard.

A celebrated German non-tariff barrier is the medieval law on the "purity of beer", which in practice prevents the sale of foreign beer in Germany. This has, we believe, recently caught M. Mitterand's attention, and the Commission are at last taking the matter up in Bonn.

The Prime Minister will no doubt prefer to avoid the area of public procurement.

I am copying this to John Kerr (Treasury), Brian Fall (FCO) and to Jonathan Spencer (Industry).

Yours sincerely,


JOHN RHODES
Private Secretary