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COMMISSION DIRECTIVE

of 22 December 1969

based on the provisions of Article 33 (7), on the abolition of measures which have an effect equivalent to quantitative restrictions on imports and are not covered by other provisions adopted in pursuance of the EEC Treaty

(70/50/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the provisions of the Treaty establishing the European Economic Community, and in particular Article 33 (7) thereof;

Whereas for the purpose of Article 30 *et seq.* 'measures' means laws, regulations, administrative provisions, administrative practices, and all instruments issuing from a public authority, including recommendations;

Whereas for the purposes of this Directive 'administrative practices' means any standard and regularly followed procedure of a public authority; whereas 'recommendations' means any instruments issuing from a public authority which, while not legally binding on the addressees thereof, cause them to pursue a certain conduct;

Whereas the formalities to which imports are subject do not as a general rule have an effect equivalent to that of quantitative restrictions and, consequently, are not covered by this Directive;

Whereas certain measures adopted by Member States, other than those applicable equally to domestic and imported products, which were operative at the date of entry into force of the Treaty and are not covered by other provisions adopted in pursuance of the Treaty, either preclude importation or make it more difficult or costly than the disposal of domestic production;

Whereas such measures must be considered to include those which make access of imported products to the domestic market, at any marketing stage, subject to a condition which is not laid down for domestic products or to a condition differing from that laid down for domestic products, and more difficult to satisfy, so that a burden is thus placed on imported products only;

Whereas such measures must also be considered to include those which, at any marketing stage, grant to domestic products a preference, other than an aid, to which conditions may or may not be attached, and where such measures totally or partially preclude the disposal of imported products;

Whereas such measures hinder imports which could otherwise take place, and thus have an effect equivalent to quantitative restrictions on imports;

Whereas effects on the free movement of goods of measures which relate to the marketing of products and which apply equally to domestic and imported products are not as a general rule equivalent to those of quantitative restrictions, since such effects are normally inherent in the disparities between rules applied by Member States in this respect;

Whereas, however, such measures may have a restrictive effect on the free movement of goods over and above that which is intrinsic to such rules;

Whereas such is the case where imports are either precluded or made more difficult or costly than the disposal of domestic production and where such effect is not necessary for the attainment of an objective within the scope of the powers for the regulation of trade left to Member States by the Treaty; whereas such is in particular the case where the said objective can be attained just as effectively by other means which are less of a hindrance to trade; whereas such is also the case where the restrictive effect of these provisions on the free movement of goods is out of proportion to their purpose;

Whereas these measures accordingly have an effect equivalent to that of quantitative restrictions on imports;