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COMMITTEE FOR TRADE, INDUSTRY AND
ENTERPRISE DEVELOPMENT

Working Party on Standardization of
Perishable Produce and Quality Development

Specialized Section on Standardization of
Seed Potatoes

31 January -3 February 2000, Geneva

Item 3 of the Provisional Agenda

**Report of the Meeting of Rapporteurs on Standardization of Seed Potatoes
Seattle, 29 November to 2 December 1998**

1. The Meeting of Rapporteurs was held between 29 November and 2nd December, 1998, at the invitation of Oscar Gutbrod, Oregon State University, USA, and kindly hosted by Washington State and the National Potato Council. A list of attending Rapporteurs and observers is annexed to this report. The meeting was chaired by Mr B Borrel (Canada).

Matters of Interest to the Meeting

2. Mr Borrel reviewed the comments that he made to the UN/ECE Working Party on Standardisation of Perishable Produce and Quality Development which were recorded in document WP.7/1998/9 of 15 November 1998. The representative of the EU expressed surprise that recommendations on changes to the Standard had been accepted with reservations expressed by some countries, as he felt that this was contrary to how decisions had progressed previously. It was explained that this procedure was commonly used, but would oblige the Meeting of Experts to address the reservation from time to time.

Relative to the acceptance by the Working Party of recent changes to the Standard, the E.U. representative requested that the UN/ECE provide a legal interpretation about provision E. (Note: the word "viruses" in provision E was changed to "regulated non-quarantine pest", in order to harmonise the text with related UN Standards)

Status of Revised UN/ECE Standard for Seed Potatoes and its Promotion

3. Mr Priester, Vice-Chairman of the UN/ECE Working Party on Perishable Produce and Quality Development, outlined the recent changes in the UN/ECE and in their new reporting and decision-making structures. He stressed the commitment of the UN/ECE is trying to widen the acceptance of the Standards world-wide by better communication, through the Internet for example, with all UN countries. To this end, UN/ECE has created CEFACT (Centre for the Facilitation of Procedures and Practices for Administration, Commerce and Transport) which is intended to expand global participation in its work.
4. During this and other agenda items, there was considerable discussion on the legal status of the Standard and the role of Standard in trade in relation to other organisations, eg, WTO. For example, what did a country's acceptance of the Standard mean in terms of its freedom to reject seed meeting the ECE Standard? Was it allowed to impose stricter standards than those shown in the Standard? Mr Priester reminded the Group that the Standard applied only at the level of export, and set **minimum** standards which were a benchmark for starting to develop exports. A discussion paper, initially prepared by Mr W Callison, was revised by the Rapporteurs and will be forwarded to the ECE Secretariat for response, when finalised. Mr. Borrel undertook to seek further input from Rapporteurs on the Discussion paper.(see Annex 2 for the discussion paper)

Review of Tolerances for Common Scab and Rhizoctonia

5. It was felt that it was inappropriate to review these at this time as the present tolerances had just been accepted in the revised Standard (WP.7/1998/6 of 31 August 1998) by the Working Party at its meeting in November.

Powdery Scab Tolerances for Inclusion in the Standard

6. Rapporteurs of seed importing countries initially proposed very strict tolerances ranging from 0.2% to 1% of tubers affected by powdery scab with no allowance for surface area. After a lengthy discussion, the Rapporteurs finally accepted a proposed tolerance for pre-basic seed of 1% of tubers with a surface area affected of >10%. This is the tolerance also being proposed by EPPO in their draft Seed Potato Certification scheme. There was no agreement on a tolerance for basic/certified seed with proposals ranging from 1% to 3% for the same surface area affected as for pre-basic (i.e.>10%). The Rapporteurs from The Netherlands and UK were requested to collate published information on powdery scab for the Group and undertook to do so before next September's meeting.

Proposal to Lower Virus Tolerances in Direct Progeny of Basic and Certified Potatoes

7. The Rapporteur from Portugal proposed dividing the present 4% tolerance into 2 separate tolerances for mild and severe virus. The Rapporteur from Holland proposed that the tolerance for basic seed be lowered to 2%. The Rapporteurs from The Netherlands and UK expressed reservations on lowering the tolerance for certified seed from 10% **severe virus**. It was felt that such seed could still find a market in Northern Europe and could produce an acceptable yield commensurate with the price. The same would be not true for countries with warmer climates where virus transmission was much greater. There was no agreement on any of the proposals and discussion is to be carried forward to the next meeting of Rapporteurs.

Questionnaire on National Certification Schemes for Seed Potatoes

8. The Chairman is to proceed with the final drafting of the questionnaire, in consultation with the Rapporteurs and the ECE Secretariat. It will then be issued to member countries as soon as possible as it is important to gather such intelligence to support the standardisation activities. The Secretariat will eventually be requested to issue the results of the questionnaire in printed format, replacing the 1987 document entitled: "National Certification Schemes for Seed Potatoes".

The publication is considered to be of significant interest to potato producing countries globally and could play an important role in promoting the UN/Standard world-wide. Rapporteurs agreed that it should be given high priority.

Routine Procedures for Sampling Seed Potatoes

9. The Rapporteur from The Netherlands presented some graphs and tables on the sampling of tubers for post-harvest testing for virus. This presentation was continued and supplemented by the Rapporteur from France who suggested that such an inclusion in the Standard should contain protocols for all sampling, eg, tuber inspections.

It was agreed that the two Rapporteurs would focus on post-harvest virus testing, for the moment, and present a more generalised draft annex setting out the principles involved in such testing rather than being prescriptive. They committed to do so for the next meeting of Rapporteurs.

Laboratory Accreditation

10. The Chairman provided, for information, two papers on the above topic; one from the ILAC (International Laboratory Accreditation Co-operation) and the other entitled: "NAPPO Standards on Phytosanitary Measures". There was no opportunity to discuss the items and the question whether test results obtained by "accredited" laboratories can be considered "official" will be addressed at the next Meeting of Rapporteurs.

Update on Other Standardisation Activities

11. The Rapporteur from The Netherlands informed the Group that a draft of the EPPO Seed Potato Certification Scheme had been issued to member countries and that the Certification Panel would be meeting on 16-17 March 1999, in Nyon, Switzerland, to consider all the comments. Mr Callison outlined the principles of the NAPPO Standard to the Rapporteurs. The Rapporteurs from the Netherlands and from Canada undertook to provide the meeting of Rapporteurs with an update of EPPO and NAPPO activities respectively.

Close of the Rapporteurs' Session

12. The Rapporteur from Italy proposed that the next meeting of the Rapporteurs be held in Milan, Italy, from 27 - 29 September 1999. This was agreed.

13. The Meeting of Rapporteurs expressed its appreciation to the State of Washington and National Potato Council for waiving the registration fee for the 17th Annual Seed Seminar and for allowing them to attend and contribute to the Seminar. The Rapporteurs from Israel, Canada and The Netherlands presented papers at the Symposium of the Certification Section on “Importing Seed Potato Stock from Europe for Propagation in Israel”, “UN/ECE Standards for Seed Potatoes Moving in International Trade”, and “European Standards for Seed Potatoes” respectively. As part of the Seminar, the Rapporteur from the UK spoke on “United Nations Activities in Standardisation of Certification of Seed Potatoes for Global Trade”.

Adoption of The Report

14. The Meeting of Rapporteurs adopted this report of its session.

Annex 1
List of Rapporteurs and Observers attending
The Meeting of Rapporteurs in Seattle, Washington, Nov. 29 - Dec. 2, 1998

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Annex 2
TERMS OF REFERENCE: DISCUSSION PAPER

I INTRODUCTION

At the UN/ECE Meeting of Rapporteurs on Standardization of Seed Potatoes on November 29 - December 2, 1998 in Seattle, Washington, USA, there was lengthy discussion and debate of the role, impact, application and enforcement of the UN/ECE Standard for Seed Potatoes. It was decided that a terms of reference discussion paper would be prepared. Relevant issues would be in the discussion paper, including specific questions for legal opinion by the Secretariat.

II ROLE OF THE UN/ECE STANDARD FOR SEED POTATOES IN INTERNATIONAL TRADE

The Standard represents the consensus of the UN/ECE Meeting of Experts on Standardization of Seed Potatoes. It was developed pursuant to and in accordance with the United Nations Economic and Social Council guidelines and approved by the Committee for Trade, Industry and Enterprise Development (CTIED). The Standard plays a trade facilitation role. A governing principle is that no unreasonable barrier to trade should be developed. However, the principal outcome, given common and uniform application, would be the optimal degree of order for seed potatoes moving in international trade between and to UN/ECE member countries.

A. Issue: What is the Legal Status of the Standard?

Pursuant to the "Introduction", the Standard is "intended for application at the export control point by the authorities of the exporting countries." Questions for legal analysis and decision are:

- 1) Does United Nations approval create a legal obligation for enforcement? If so, under what body of law and how?
- 2) If United Nations approval creates an enforcement obligation, who are the legally constituted enforcement officials? Authorities of the exporting countries? Authorities of the importing countries? Or both?

B. Discussion

The UN/ECE Rapporteurs on Standardization of Seed Potatoes believe that, although approved by the UN/ECE CTIED, there is no legal obligation on the part of the UN/ECE for enforcement. While a trade dispute could result from the failure of the "control authorities of the exporting countries" to apply (enforce) the requirements of the Standards "at the export control point," resolution would be achieved in accordance with a relevant dispute resolution procedures, such as, possibly, any dispute resolution procedures provided in the World Trade Organization (WTO) Technical Barriers to Trade Agreement (TBT). Conversely, any seed potato TBT dispute arising between WTO member countries might take into consideration the UN/ECE Standard for Seed Potatoes as a relevant standard. Given the foregoing possibilities, a legal determination/opinion by the UN/ECE is potentially quite important relative to future optimal orderliness of seed potato trade between and among UN/ECE member countries -

indeed, between a UN/ECE member and an other seed potato trading partner anywhere in the world.

The Rapporteurs on Standardization of Seed Potatoes request UN/ECE legal determination/opinion on these questions.

III EFFECT ON TRADE OF THE UN/ECE STANDARD FOR SEED POTATOES

The Standard establishes minimum quality requirements for seed potatoes moving into international trade, for the following aspects:

- 1) Specified plant health conditions (pest and disease tolerances),
- 2) Tuber size, shape, defects, etc.

In addition, the Standard specifies requirements for labelling.

The effect is to establish a quality “floor” (ie. minimum standard) for seed potatoes moving in international trade between and into UN/ECE member countries.

A Issue: May Importing Countries Establish and Enforce Requirements Stricter than those Specified in the Standard?

Discussion

The Meeting of the Rapporteurs believes that, quite clearly, member countries **may** establish and enforce requirements stricter than those specified in the Standard. The rationale is:

Part II, Subpart E provides that the provisions of the Standard:

- 1) Do not hinder (ie. are without prejudice to) national legislation provisions justified by reasons of the protection of the health of persons and animals or the protection of crops or industrial or commercial property;
- 2) Each producer country for the marketing of seed potatoes, in the whole or any part of its territory, (may) take more vigorous measures than those provided for in Annexes III and V against the introduction of certain regulated non-quarantine pests which do not exist there or which seem particularly injurious to the crops in that country or in any part of its territory. Note: (The word “may” has been inserted in the belief that it was inadvertently omitted in the text).

If the above is correct, does it follow from 2) that stricter provisions are not justified for regulated non-quarantine pests which are not listed in Annexes III and V eg. those in Annex IV? Or would it be justified for any pest, provided it is regulated in the country of importation?

While the second part of the foregoing provision in the Standard would seem to be limited to producer countries, this distinction has little effect, if any, on the authority of a UN/ECE member country to set stricter standards. The reason for this is simple; practically all member countries are, (or can be) at the same time, producers, importers and exporters of seed potatoes.

In addition, other agreements, both regional and global, may override the UN/ECE Standard:

- a) The WTO - SPS Agreement and the International Plant Protection Convention (IPPC) both contain provisions affecting trade. Both make reference to “national sovereignty”, and, particularly so under the SPS Agreement, sovereign countries are allowed to establish their own acceptable levels of protection with respect to phytosanitary requirements. The recently revised IPPC defines “quarantine pest” and “regulated non-quarantine pest.” Both pest categories relate to plant health.
- b) Marketing Directive 66/403 of the European Union, sets out minimum requirements for the marketing of seed potatoes between EU member states. These requirements also apply to seed potatoes imported from third countries.
- c) Provisions also exist under the North American Free Trade Agreement, which affects trade at the regional level which override the minimum requirements established in the UN/ECE Standard for Seed Potatoes.

The Rapporteurs on Standardization of Seed Potatoes seek UN/ECE affirmation of its conclusion on this issue and ask specifically what a country’s acceptance of the Standard means in terms of its freedom to impose stricter requirements on imported seed, and is this freedom restricted to parts defined by 2) above.
