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**ECONOMIC COMMISSION FOR EUROPE**

**COMMITTEE ON TRADE**

Working Party on Agricultural Quality Standards

**Specialized Section on Standardization of Seed Potatoes**

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Item 6 of the provisional agenda

**NON-COMPLIANCE AT DESTINATION**

Submitted by the Chairman of the Specialized Section \*

This text, drawn up by the delegation of the United Kingdom and agreed upon at the Extended Bureau meeting in Belgium/Luxembourg, is submitted to the Specialized Section for inclusion in the Standard as a new annex.

This document is being issued pursuant to paragraph 5 of the Working Party's Terms of Reference.

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\* The present document has been submitted after the official documentation deadline by the Trade and Timber Division due to resource constraints.

## **Annex X. International dispute settlement**

### **1. Context**

Disputes may arise between exporters and importers of seed potatoes.

These disputes may concern:

- non-compliance at official inspection, or
- non-compliance at commercial inspection

The non-compliance could be as a result of finding quarantine pests, or non-quarantine pests or other faults above the agreed tolerance(s). It could also be the result of failure to meet non-plant health requirements such as sizing, packaging or administrative requirements.

In the case of commercial disputes, the non-compliance could also result from failure to meet contractual requirements which may include presence of faults within official limits but over contractually stated limits or could relate to the presence of faults not mentioned in the official standards.

To settle a dispute it is important to be clear about whether the non-compliance is with official regulations or commercial/contractual requirements.

### **2. Settlement of official disputes**

Where a designated importing authority identifies a non-compliance it should inform the exporting authority, giving details of the reason for the non-compliance. If the non-compliance relates to regulated pests or phytosanitary issues, members of the IPPC have defined obligations relating to notification of non-compliance. Specific IPPC standards (International Standards for Phytosanitary Measures, ISPM No.13: Guidelines for the notification of non-compliance and emergency action) exist on this subject.

It may be possible to resolve the dispute quickly by negotiation, particularly when a problem is administrative or minor. Wherever possible this should be expedited by both parties.

Resolution of the problem may require that a joint inspection of the lot/part lot be carried out. The joint investigation may include re-sampling and/or re-testing of the potatoes to confirm (or refute) the initial findings. The investigation can be done with or without the agreement of the buyer and seller.

### **3. Settlement of commercial disputes**

In the case of commercial disputes resolution between buyer and seller, these may agree to ask for direct intervention of private experts within a framework e.g. RUCIP rules.

#### **4. Establishment of framework for resolution**

In the case of official disputes, the importing authority should inform the exporting authority of the problem as soon as possible after the arrival of the consignment to allow prompt commencement of the resolution process.

In any case where a lot or part lot is rejected as a result of an official import inspection, the authority should inform the exporting authority as soon as possible after rejecting the lot/part lot giving details of the lot and the reason for rejection.

It is recommended that notification to the exporting authority, seller and buyer should be made within three working days of identifying the problem.

Where a joint investigation is carried out, experts from both countries should participate in the joint re-inspection of the lot/part-lot. The methodology used in the investigation should be in accordance with internationally recognized sampling procedures and analysis methodologies, particularly those formally adopted in international standards such as those of the UNECE, IPPC, EPPO and NAPPO.

#### **5. Reporting the results of the resolution process**

The report of the resolution process and, if applicable, the joint investigation should be made available to the parties concerned with a recommendation for resolving the dispute.

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