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Working Party on Agricultural Quality Standards

Specialized Section on Standardization of Seed Potatoes

Thirty-seventh session
Geneva, 19-21 March 2007
Item 5 of the provisional agenda

ARBITRATION RULES/DISPUTE SETTLEMENT

Note by the secretariat

This note presents the results of considerations of the above topic at the October 2006 Extended Bureau meeting in Arras, France, and at the November 2006 meeting of the Working Party on Agricultural Quality Standards in Geneva. This document is for discussion.

I. SUMMARY OF DISCUSSION AT THE BUREAU MEETING

1. At its October 2006 meeting, the Extended Bureau considered the list of dispute situations compiled by France. The list included situations such as: differing standards on sizes; confusing references to official and commercial standards; official inspectors rejecting lots when using commercial, not governmental, standards; unreasonably strict plant health tolerances; the mandatory use of refrigerated containers; delays in dispute settlements; the difficulty of finding an expert to arbitrate in a dispute; and the absence of any measures to control a lot under dispute (ECE/TRADE/C/WP.7/GE.6/2007/2, paras. 10-12).

2. France proposed the inclusion of guidelines for dispute settlement within the UNECE Standard on Seed Potatoes. The guidelines would focus on resolving disputes between two parties who have referred in their marketing agreement to the UNECE Standard. The Bureau decided to submit the following list of issues/recommendations, with regard to pre-sale requirements, to the March meeting of the Specialized Section:

- (a) The designation of official services to settle a dispute.
- (b) The date of the dispute.
- (c) The reason for the dispute.
- (d) In the case of developing pests, there should be a deadline of 48 hours from import inspection. After the deadline, the quality of the original load can no longer be determined, unless there is adequate storage available. One question is whether this dispute can be resolved under the RUCIP procedures (Rules and Practices of the Inter-European Trade in Potatoes).
- (e) When a non-quarantine pest or disease organism is present in the country, there should not be a no-tolerance requirement in the agreement.
- (f) Photographs showing the appropriate surface area coverage should be available to assist with the inspection of the tubers, according to the sampling methods described in the UNECE Standard.
- (g) Both parties may call in an international expert, from a list to be made available at the UNECE office.
- (h) A country's import requirements should enable marketing to take place according to the natural size distribution of tubers in the crop.
- (i) The two parties must produce a report of the dispute.

Items (d), (e), (f) and (h) were questioned by the experts.

3. The question was raised whether, where appropriate, the RUCIP dispute settlement procedures should be used. Participants noted that some unreasonable import requirements can only be solved on a political level, and that sovereign countries have the right and possibility to establish their own import requirements.

II. SUMMARY OF DISCUSSION AT THE WORKING PARTY MEETING

4. At its November 2006 meeting, the Working Party was informed about the work on dispute settlements initiated by the Specialized Section. Some delegations expressed concerns

regarding this work, which, they felt, should only be to provide voluntary guidelines for disputes related to seed potatoes for use by the industry or other organizations (i.e. not to develop binding instruments or become involved in actual dispute settlement). The Working Group also invited the Specialized Section to take into account existing industry procedures for dispute settlement as well as related work by other international organizations (ECE/TRADE/C/WP.7/2006/20, para. 33).