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COMMITTEE FOR TRADE, INDUSTRY AND
ENTERPRISE DEVELOPMENT

Working Party on Standardization of
Perishable Produce and Quality Development

Fifty-fourth session, 9 to 11 November 1998,
Geneva

Item 11 of the Provisional Agenda

TITLE OF STANDARDS ELABORATED BY THE WORKING PARTY

Note by the secretariat

Background

1. UN/ECE standards for fresh and dried produce are used widely throughout the world. Indeed, the majority of international trade in these products takes place according to UN/ECE standards.
2. Following a request from the Meeting of Rapporteurs on Seed Potatoes in 1997 and similar requests from delegates to meetings of experts, the Working Party at its 53rd session (12 to 14 November 1997) considered the possibility of changing the title of its standards. The Working Party requested the Committee for Trade, Industry and Enterprise Development to consider whether the reference to ECE could be omitted from the title, i.e. for the Standards to be called "UN standards". If the Committee agreed, the proposal would then need to be approved by UN/ECOSOC (See TRADE/WP.7/1997/11, paras. 54-56).

3. The Working Party decided to initiate the process by submitting a proposal to the Committee on Trade. The issue was discussed at the first session of the Committee (9-11 December 1997). It was that explained the advice of the Legal Counsel of the United Nations was required before any decision could be taken by the Committee (see ECE/TRADE/214, paras. 26-27). That advice has now been received and is summarized below.

Summary of the reply of the Legal Counsel of the United Nations

4. The legal counsel confirms the procedure necessary for the change of title as outlined in paragraph 1 above.

5. The legal counsel is of the opinion that the proposal may **easily be challenged on legal grounds** for the following reasons:

- (a) UN/ECE standards are de facto used internationally, but there are also de jure international standards agreed within the FAO/WHO Codex Alimentarius Commission.
- (b) Member countries having agreed on standards at a global level, in the framework, for example, of FAO, which are not necessarily identical to UN/ECE standards may oppose the renaming of UN/ECE standards.
- (c) Even if standards are the same or compatible, member countries may still oppose the renaming of UN/ECE standards for reasons of maintaining the respective competence of each organization within the existing statutory limits.
- (d) Even if standards are compatible, member countries of other regional commissions are likely to question any move by one Regional Commission which would imply an expansion of its competence and authority to the detriment of other regional commissions.

6. In view of these considerations, the Legal Counsel is of the opinion that the proposal to change the name of UN/ECE standards to UN standards is **unlikely** to be approved by ECOSOC.

Conclusion

7. The Working Party is therefore invited to reconsider this issue and to report its view to the Committee for the third session in 1999.