

## EXPLANATORY MEMORANDUM FOR EUROPEAN UNION DOCUMENT

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### **PROPOSAL FOR A COUNCIL DECISION ON THE POSITION TO BE ADOPTED, ON BEHALF OF THE EUROPEAN UNION, WITH REGARD TO PROPOSALS OF QUALITY STANDARDS FOR FRUIT AND VEGETABLES TO BE ADOPTED IN THE UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE - WORKING PARTY ON AGRICULTURAL QUALITY STANDARDS (UNECE-WP.7)**

Submitted by the Department for Environment, Food and Rural Affairs



September 2017

#### **SUBJECT MATTER**

1. This Explanatory Memorandum covers a proposal to put in place a formal process at EU level for approving quality standards for fresh and dried fruit and vegetables put forward at United Nations Economic Commission for Europe (UNECE) level.
2. The UNECE sets quality standards for agricultural produce. Proposals are considered on an annual basis by the UNECE's Working Party on Agricultural Quality Standards (UNECE-WP.7) and are either adopted or are sent back for further work. These quality standards are important as they form the basis of EU marketing standards.
3. The work carried out by UNECE-WP.7 ensures that the standards in place are up-to-date and in line with current scientific or technical information, and developments within the trade including production and marketing. The standards define minimum quality levels as well as grading, packing, and marking requirements, to help facilitate fair trade, prevent technical barriers to trade and increase transparency in the markets. They promote sustainable marketing of quality agricultural produce, keep low quality agricultural produce off the market and protect consumers.
4. Member States of the European Union participate in the UNECE work on agricultural quality standards. The Rural Payments Agency usually attends on behalf of the UK. The European Commission participates as an observer, in the UNECE-WP.7 and its specialised sections for fresh and dried fruit and vegetables.
5. Articles 75 and 76 of Regulation (EU) No. 1308/2013 of the European Parliament and of the Council provide that products of the fruit and vegetables sector which are intended to be sold fresh to the consumer may only be marketed if they conform with the EU marketing standards, if they are sound, fair and of marketable quality and if the country of origin is indicated. Article 3 and Annex I of Commission Implementing

Regulation (EU) No. 543/2011 (as amended by Commission Delegated Regulation (EU) 2017/891, which preserves the effect of Article 3 and Annex I until they are replaced by future legislation) set out specific marketing standards for certain fruit and vegetable products. These marketing standards are based on the UNECE quality standards.

6. Under the proposal for a Council decision, a process would be put in place to ensure that a European Union position on all standards is formally agreed prior to meetings of UNECE-WP.7.

7. The proposed approach is as follows:

a) Where the Commission communicates particular concerns about a proposal which has not been discussed in the relevant UNECE specialised section meeting, or if new technical or scientific information likely to affect that proposal becomes available after a meeting, Member States participating in the UNECE-WP.7 shall request that a decision be postponed until such concerns or scientific information has been discussed in the specialised sections;

b) Where a number of Member States equivalent to a blocking minority oppose the proposal, the Member States participating in the UNECE Working Group must postpone the decision and ensure that the proposal is sent back to UNECE standardisation teams to be resolved;

c) However, Member States may agree to minor changes to the proposals of quality standards in the UNECE Working Groups, provided they do not alter the substance of the proposals.

8. In practice, this approach is already taken by the European Union, but the decision will formalise it.

## **SCRUTINY HISTORY**

9. There is no Parliamentary scrutiny history relevant to this proposal.

## **MINISTERIAL RESPONSIBILITY**

10. Responsibility lies with the Secretary of State for Environment, Food and Rural Affairs, Scottish Ministers, Welsh Ministers and Northern Ireland Executive Ministers.

## **INTEREST OF THE DEVOLVED ADMINISTRATIONS**

11. The Devolved Administrations have been consulted in the preparation of this Explanatory Memorandum.

## **LEGAL AND PROCEDURAL ISSUES**

### **12. i. Legal basis.**

The proposal falls within the boundaries of its legal basis: Article 43 in conjunction with Article 218(9) of the Treaty on the Functioning of the European Union (TFEU). The Justice and Home Affairs opt-in is not a consideration.

### **ii. European Parliament Procedure**

Not relevant for a Council decision.

### **iii. Voting procedure**

Qualified Majority Voting in the Council.

### **iv. Impact on United Kingdom Law**

On entry into force, this proposal would be directly applicable in the UK. No amendment would be required to domestic legislation.

### **v. Application to Gibraltar**

Not applicable.

### **vi. Fundamental rights analysis**

Not applicable.

## **APPLICATION TO THE EUROPEAN ECONOMIC AREA**

13. These proposals do not have any implications under the EEA Agreement.

## **SUBSIDIARITY**

14. Under Article 4(2)(d) of the TFEU , agriculture is an area of shared competence between the Union and Member States. The UK Government is content that the EU Marketing Standards accord with the principle of subsidiarity set out in Article 5 of the TFEU. The Council proposal is aligned with the subsidiarity principle.

## **POLICY IMPLICATIONS**

15. On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the

rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.

16. There are no policy implications. This proposal does not affect the marketing standards for fresh fruit and vegetables in the UK. It formalises the existing arrangements for ensuring appropriate EU representation in development of marketing standards by the UNECE.

#### **CONSULTATION**

17. Not applicable.

#### **IMPACT ASSESSMENT**

18. An impact assessment is not necessary, as no changes are proposed.

#### **FINANCIAL IMPLICATIONS**

19. None. This proposal has no budgetary implications.

#### **TIMETABLE**

20. The Council decision is not yet on the agenda for the next Agriculture Council on 9 or 10 October 2017, but we expect it to be discussed at that meeting.



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