



**Economic and Social
Council**

Distr.
GENERAL

TRADE/WP.7/GE.1/2001/17
5 March 2001

ORIGINAL : ENGLISH

ECONOMIC COMMISSION FOR EUROPE

COMMITTEE FOR TRADE, INDUSTRY AND
ENTERPRISE DEVELOPMENT

Working Party on Standardization of
Perishable Produce and Quality Development

Specialized Section on Co-ordination of
Standardization of Fresh Fruit and Vegetables
Forty-seventh session, 15-18 May 2001, Geneva

Item 6 of the provisional agenda

ISSUES CONCERNING TRADE MARKS AND NAMES OF VARIETIES

Note by the secretariat

This document contains:

- the information sent to the Legal Counsel of the United Nations concerning the request from Sun World to remove any reference to "Superior Seedless" from the annex to the UN/ECE Standard for Table Grapes.
- The reply from the Legal Counsel

The information has also been provided to Sun World.

GE.01-

Information sent to the legal council:

The question concerns fruit marketed under a trade mark name. Usually there is also a non-protected varietal name for these fruit but some companies prefer to just mark the trade mark name on the package. To allow quality inspectors to identify which variety it is the trade mark names have been included in the list of varieties as synonyms. An additional complication is that some new varieties only exist under a trade mark name.

At the last session of the group the question was discussed as follows :

“Concerning the use of trademarks it was recognized that for quality control the variety of fruit marketed under a trade mark name was important information. Nevertheless there had been problems for standards (table grapes) where the trade mark holder had protested against any kind of use of the trade mark name in the standard (see also TRADE/WP.7/GE.1/2000/INF.5). Two options were discussed:

- remove all trade marks from the list of varieties and require the additional marking of the variety each time a trade mark name is used;
- to maintain trade mark names in the list for now and clarify the legal situation with the legal Counsel of the United Nations.

The delegation of Chile said that his country pays to use the trade mark superior seedless. He asked what would happen if the trade mark was removed from the standard as demanded by Sun World. Would Chile still be authorized to export these grapes to Europe.

It was replied that the exports could still be done but the variety would have to be marked on the packages as well.

It was decided to draft a letter to the legal Counsel of the United Nations explaining the position of the Specialized Section with regards to:

- the difficulties for quality control if only the trade mark is marked;
- varieties exist that only have a trade mark name - how should these be treated if trade marks cannot be mentioned anymore;
- should varieties that are trade marks be marked as such in the standard or not.

This letter would be sent to the Legal Counsel of the United Nations together with the letter received by Sun World (with a copy to Sun World). A final decision on the use of trade marks in the standards would be taken according to the opinion of the legal counsel.”

Attachment: TRADE/WP.7/GE.1/2000/INF.5 (letter from SUN World)

Reply received:

Referring to our exchanges and discussion on the above matter, I would like to advise you as follows:

As a matter of principle, the UN avoids to make reference, in official documents and publications, of brand names and private companies. However, there are instances, where, because of the context, brand names, trademarks, etc are mentioned, in a factual way. I am not aware of any instances where the UN has been

challenged by a private company holding a trademark, not to mention that trademark or related brand name. In the case of Sun World, a private company which is holder of the "Superior Seedless" Trademark, I am not aware of the precise legal reasons which have motivated SUN World to request UNECE to delete that brand name.

May I suggest you enquire with Sun World company on those reasons. You may also wish to explore the possibility of including a footnote to the trademarked brand name in the UNECE document which might read as follows:

"According to a letter from Sun World of May 15, 2000 , "Superior Seedless" is a trademark owned by Sun World."

Kindly keep me abreast of the outcome of your talks. Please call on me in case you need to discuss this further.