



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 22 June 2009

**10359/09
ADD 2**

AGRI 238

COVER NOTE

from: Secretary-General of the European Commission,
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date of receipt: 29 May 2009

to: Mr Javier SOLANA, Secretary-General/High Representative

Subject: Communication from the Commission to the European Parliament, the
Council, the European Economic and Social Committee and the Committee of
Regions on Agricultural Product Quality Policy
- Impact Assessment Report
• Part A(II) Marketing standards

Delegations will find attached Commission document SEC(2009) 670.

Encl.: SEC(2009) 670

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ANNEX A(II): MARKETING STANDARDS

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A(ii) 1. INTRODUCTION

EU marketing standards are regulations that lay down:

- definitions of products, also referred to as ‘product identities’,
- minimum product standards,
- production methods,
- product categories, and
- labelling requirements.

for a significant number of agricultural products and some processed foods.

Other functions of marketing standards, which will however not be taken forward in this report concern¹:

- tools for price reporting,
- eligibility for market intervention measures.

In general, EU marketing standards are designed to facilitate the proper functioning of the internal market and the efficient transfer of products on the domestic or international market. By developing common trading references, trade in products, especially over longer distances, is made easier.

Derived from the general objective, marketing standards may function as a "quality development target" for producers, especially in developing markets. They help establish a quality reputation in an international context as well as providing a tool for obtaining a return on investment when value has been added to products. Standard trading terms also help provide standardised products to the consumer and inform the consumer on product characteristics and/or farming process. Marketing standards are also used to protect consumers from deception and unacceptable practices. For example, the maximum proportion of added water to poultry meat is set in a marketing standard. It is technologically possible to add a much higher percentage of water to poultry meat, which is not a problem from the hygiene and safety perspective, but would mislead consumers.

In most cases, public marketing standards are laid down at EU level. In other cases, national standards exist, as is the case for example for early and ware potatoes².

¹ As marketing standards' prime objective concerns the placing on the market of a product and the fact that market intervention measures are used to a limited extent or are about to disappear.

Definitions of certain categories of cheese, and their appropriate labelling, are laid down by CODEX and applied directly by Member States in the EU (without EC regulatory implementation). In addition to public marketing standards, private standards exist. These may be laid down in the context of private quality assurance schemes (see Annex D) or form part of the contractual terms agreed upon by the buyer and seller. In general these private requirements go beyond the requirements laid down in EU public marketing standards.

According to UN/ECE the benefits of marketing standards are:

“The commercial quality standards developed by the UNECE Working Party on Agricultural Quality Standards help facilitate international trade, encourage high-quality production, improve profitability and protect consumer interests.”³

Most EU public marketing standards are laid down in Council Regulation (EC) No 1234/2007 (single CMO); others are laid down in product specific directives, sometimes referred to as the ‘vertical directives’. For an overview of marketing standards, please see Annex I.

Product categories for which marketing standards apply are:

Beef and veal	Cocoa and chocolate products
Coffee extracts	Eggs
Fruit and vegetables, excluding potatoes	Fruit juice
Sugar	Wine
Fruit jams, jellies and marmalades	Honey
Milk	Hops
Olive oil	Poultry
Spirit drinks	Spreadable fats

Sectors covered by marketing standards

The following section provides some background on specific marketing standards for fresh fruit and vegetables, fruit juices, eggs, and veal.

² Potatoes are only covered in the sCMO with respect to state aid rules. The sector opposes the enforcement of a European quality standard for early and ware potatoes as the potato production (related to varieties and growing conditions) and the markets (presentation, packaging, ...) are largely differentiated in all EU member states and as the retail sector is defining different quality classes according to the wishes of the consumers

³ <http://www.unece.org/trade/agr/standard/fresh/FFV-Standards.htm>

Fresh fruit and vegetables standards

The first European marketing standards for fresh fruit and vegetables, covering most of the important products (around 20 already) were established in the early 60s within the first Common Organisation of the Market for fruit and vegetables. The marketing standards (at that time called "quality standards") were in fact one of the central element of this first CMO for fruit and vegetables.

They were preceded by national standards in several EU members such as the Netherlands, France, Germany or Italy. In a lot of non EC-founding countries also, marketing standards existed (Spain, South Africa, USA), some even before the start of the XXth Century (for Citrus fruit trade in particular).

They had been already subject to a certain degree of harmonisation/discussion within the framework of 1951 Geneva Protocol on standardization of fresh fruit and vegetables and dry and dried fruit intended for international trade, managed by the UN Economic Commission for Europe (UNECE) (UNECE and in particular the Working Party on Agricultural Quality Standards also covers standards on dry and dried produce, meat, egg products, cut flowers and seed potatoes). OECE and then OECD also interested themselves very early to these issues for facilitation of international trade. The creation in 1985 of a Codex Committee on Fresh Tropical fruit and vegetables, transformed in 1995 into a Codex Committee for fresh fruit and vegetables allowed the development of another forum for international harmonization of fruit and vegetables standards. All these institutions are committed to cooperate and avoid having different standards for the same products.

Main justifications of such marketing standards (as described in the recitals of the Regulation mentioned above) are facilitating trade on the base of fair competition, helping producers to meet consumer expectations and keeping off the market unsatisfactory products, thus contributing to higher profitability for producers.

There are different concrete elements in marketing standards for fresh fruit and vegetables.

* Definition of product.

Usually for fresh fruit and vegetables, this is not a complicated issue. In certain cases however, the definition, the delimitation between different fruits or vegetables, delimitation between the large number of hybrids in small citrus fruit, some names with more added value on the market than others may create difficulties. The definition section of marketing standards has also been used to define different types of products of a certain fruit or vegetable (round tomatoes, oblong tomatoes, ribbed tomatoes, cherry or cocktail tomatoes).

* Minimum requirements

Standards provide for all fresh fruit and vegetable basic requirements concerning their fair, sound and marketable character, with some variation depending on products: cleanliness, wholeness, absence of decay or other type of deterioration, of pests and of strong pests damage, of unusual smell and/or taste, of other severe defects specific to the products concerned.

For fruits (and some vegetable like tomatoes), maturity should be acceptable, avoiding under-maturity. Many fruit can go on ripening after harvest (so-called climacteric fruit), for example, peaches, kiwifruit, avocados, etc....: in these cases, standards try to define a minimum physiological stage allowing the fruit to properly continue it's ripening process after harvest (including after having been purchased by the consumer). In several cases, objective maturity indexes reflecting these problems have been adopted: minimum or maximum sugar level (e.g. apples, table grapes, peaches, and melons), juice contents (e.g. citrus fruit), acidity level and/or sugar-acid ratio (e.g. table grapes), dry matter (e.g. kiwifruit), etc...

*** Classification & sizing**

Standards for classification in 2 or 3 quality Classes: Extra Class (“superior quality”), Class I (“good quality”) and Class II (above minimum requirements). This “quality classification” is relying on the degree of defects (skin defects, development defect, misshapen, etc...). Compliance with standards implies the products are classified according this “quality classification”.

Standards also provide for means to size fruit and vegetables. Three elements are defined:

The way the size of a certain fruit or vegetable should be sized (diameter, weight, count,...),

the degree of uniformity in size required in the same package, this can be set by a maximum difference between the smallest and the largest fruit in the same package (e.g.: 5mm for Class I apples) or by fixed size scales (e.g.: tomatoes and citrus fruit),

a minimum size and for few cases a maximum size, (e.g.: courgettes and asparagus). Historically, minimum sizes are supposed to reflect a minimum stage of development but the development of other maturity criteria has weakened the justifications for laying down minimum sizes.

Contrary to “quality classification”, sizing is not always compulsory. Many vegetables in particular, as well as Class II products shall usually not be sized.

*** Other elements in marketing standards for fresh fruit and vegetables**

Marketing standards also provide for some further elements on uniformity of products (products packed together should be of same quality Class, type, origin, and, where appropriate, size and variety). Packages should be clean and fit for the fruit and vegetables concerned. The visible fruit and vegetables in a package should be representative of the full package.

The standards also include some tolerances in terms of quality classification and sizing.

*** Labelling**

Finally the marketing standards require some elements to be labelled on any package of fruit and vegetables: name and address (or code allowing tracing it back) of the packer, name of product if not visible, quality Class and country of origin. Depending on the products, extra information can be required: type or variety of product where this information is not self-evident from the appearance of the product (varieties of apples, pears, oranges, etc...); size when products are sized, in few cases crop year (when products can be kept long in storage: walnuts), etc...

Reform of the fruit and vegetables sector in 2007

In implementing this 2007 reform, the Commission decided in November 2008 to introduce a general marketing standard (GMS) for fresh fruit and vegetables⁴. This GMS includes minimum requirements and some elements concerning presentation (uniformity, packages) and labelling (including country of origin). Neither quality classification is required under this GMS, nor sizing. However, products in compliance with UN/ECE standards (which remain as before and incorporate all the elements listed above including quality classification and sizing) are considered to be in compliance with the EC GMS.

⁴ The general marketing standard covers the 72 fruit and vegetables listed in Part IX of Annex 1 of Regulation (EC) 1234/2007 excluding fruit and vegetables covered by specific marketing standards and non cultivated mushrooms, capers, bitter almonds, shelled almonds, shelled hazelnuts, shelled walnuts, pine nuts, saffron.

At the same time, the Commission has repealed 26 specific EC marketing standards on fruit and vegetables out of the 36 existing and maintained the specific marketing standards for 10 families of products (apples, citrus fruit, kiwi fruit, lettuces, peaches and nectarines, pears, strawberries, sweet peppers, table grapes and tomatoes). The 10 families of products represent 75% of intra-Community trade. It should be noted that an eleventh fruit (bananas) is still covered by a specific marketing standard.

This modification also foresees that Member States may exempt from the specific marketing standards, products presented for retail sale to consumers for their personal use and labelled "product intended for processing" or with any other equivalent wording. Controls by Member States of compliance to the GMS and the 10 remaining specific standards have been also simplified, allowing Member States to rely more on assessment of risk of non-compliance in order to target their control activities. This Regulation will apply from 1.7.2009.

Fruit juices

Since 1975 definitions of fruit juices and nectars have been laid down at EC level, justified by the fact that differences between national laws concerning fruit juices and nectars intended for human consumption could result in conditions of unfair competition likely to mislead consumers, and thereby have a direct effect on the establishment and functioning of the common market.

Three main products defined are: « fruit juice »; « fruit juice from concentrate »; and « Fruit nectar ». The directive also includes a list of authorised ingredients, treatments and substances.

At international level, an ad-hoc *Codex alimentarius* taskforce has amended the *Codex alimentarius* standards on fruit and vegetables juices a few years ago.

In Europe, there is a well-organised association of fruit juice producers (AIJN), significantly representative of the sector⁵. This organisation elaborated a code of practice which their members implement and which is regularly updated. This code of practice sets quality requirements and criteria for the evaluation of identity and authenticity of fruit juices. It includes, for example, the minimum brix (soluble solids) levels for the main fruit juices from concentrate, giving clear references for the EU requirement "organoleptic and analytical characteristics at least equivalent".

During the 2007 Reform, the Commission proposed to replace the fruit juice Council Directive by a Commission regulation to introduce the concept of co-regulation and to entrust AIJN with the powers to enact its code of practice. The Council rejected this proposal. The Commission is now in a position where parts of the AIJN code of practice are being proposed as Commission directive amending the fruit juice directive.

⁵ AIJN membership covers the national associations of 16 MS (AT, BE, CY, DE, DK, ES, FI, FR, HU, IE, IT, NL, PL, PT, SE, UK); except CZ, other MS do not have a national association.

Eggs

In 1975 Common Market Organisation for eggs provided for the setting of marketing standards which relate in particular to grading by quality and weight, packing, warehousing, transport, presentation and marking of eggs. Purpose of such standards was to contribute to an improvement in the quality of eggs and, consequently, facilitate their sale: whereas it is therefore in the interest of producers, traders and consumers that marketing standards should be applied in respect of hen eggs suitable for human consumption. Currently, Council reg. 1234/2007 (Single CMO) art 116, 121 and Annex XIV, and Commission reg. 589/2008 provide for marketing standards for eggs at the EU level.

The main functions of the standard are: 1. facilitate trade; 2. set size classifications; 3. provide basic information to consumers; 4. reserve value-adding terms

1. Definition of the product qualities to facilitate the trade on the internal and international markets (A and B eggs). Eggs are classified in 2 categories A and B, depending of certain parameters, which are based on international standards (UN-ECE). Only A eggs can be commercialised as "table eggs", B eggs can be used by the industry as egg products only. For A eggs the denomination "extra" or "extra fresh" can be used on a voluntary basis up to the 9th day after eggs are laid.

2. Size classification:

A eggs are classified by weight in 4 categories. This classification allows comparisons between comparable products on the EU market and producer prices may be very different between categories of size.

Example of price quotation by size on the German market (05.02.2009).

	<i>weight</i>	<i>€/100 pieces</i>
XL	>73g	11.40
L	>63g / <73g	10.20
M	>53g / <63g	9.50
S	<53g	5.80

Such classification and comparison between comparable products also allows the Commission to follow prices trends in the EU. Price reporting system provides that on a weekly basis, Member States communicate the "selling price in packing stations for eggs in class A from caged hens, being the average of categories L and M". Without having such obligatory classifications and compulsory price reporting, it would be difficult for the Commission to have the data to be able to follow price and market trends.

3. Providing information to consumers (methods of production, durability, etc.).

Indication of the method of production (defined precisely and based on animal welfare parameters) shall be labelled on the eggs (code) and the pack (wording). The 4 denominations on farming method to be used are exclusive:

<i>code</i> (on egg)	<i>wording</i> (on box)
0	"Organic"
1	"Free range"
2	"Barn"
3	"Cage"

Producer prices also differ depending of the farming method since eggs value on the retail market is different. Table eggs imported from third countries that are produced under equivalent farming methods may be labelled using the same indications of farming method. Alternatively, the expression "non-EC standard" shall appear on the pack, and an indication that the farming method is "not determined" on the egg.

Indication of origin appears through the ISO code included in the producer code on the egg.

4. Protect value-adding terms. This allows products which have particular characteristics or attributes to be distinguished from standard production (e.g. "free range"). Production costs are substantially different depending of the farming method. Since the indication of the farming method is mandatory, and the reserved terms are exclusive, consumers can easily select the value-added product and at the same time they are less likely to select the standard product by mistake since it too must be labelled ("cage"). In this way the marketing standard aims at guaranteeing a fair financial return to the producer of the value-added product.

Veal

Until recently, the production and marketing of the meat of bovine animals aged twelve months or less varied depending on the Member State. Essentially, two major types of production system exist. In the first, the animals are fed mainly on milk and milk products and are slaughtered, generally at around six or seven months. In the second, the animals are fed almost exclusively on cereals supplemented with fodder, and are slaughtered at an age of ten months and above.

The first type of production system exists in almost all the Member States, but has developed in five of them in particular (FR, IT, NL, BE and DE). The second, on the other hand, is known and has developed in only a small number of Member States, mainly NL, DK and ES.

Meat produced under these two systems was generally marketed under one single sales description, at least on the main consumer markets in the Community. No reference was made to the type of feed received by the animals or their age at the time of slaughter.

Experience showed that this practice had a direct effect on the establishment and functioning of the single market: ex slaughterhouse, there were price differences of about EUR 2 to EUR 2.50 per kg between meats produced under the two systems.

This practice also caused confusion for consumers as regards the actual characteristics of the product they were buying. After several years of discussions between the different stakeholders, it was very difficult to find a compromise.

Finally, at the beginning of 2007 the Council agreed a compulsory labelling scheme for veal in two categories, meat from animals of 8 months or less (Category V), and meat from animals of 8-12 months (Category Z). Member States have chosen specific terms for the two kinds of meat, according to the custom, consumer expectations and specificities in each market, e.g. for category Z, the meat is labelled 'jeune bovin' (BE and FR), and 'jongrundvlees' (BE) and 'beef' (UK), but 'rosé kalfsvlees' (NL) and 'rosé veal' (EI). Thus, the marketing standard assures that the product categories are harmonised throughout the EU while it is sold to final consumer using the respective national terms.

Examples of marketing standards for certain processed agricultural products covering the composition, quality and production method include the following:

Wine

'wine' can only be produced from grapes and produced in accordance with approved oenological practices; imported wine must comply with practices approved in the EU or by the OIV, which sets the international standard.⁶

Chocolate

The definition and composition of product labelled as chocolate was the result of protracted discussions within the EU owing to differences in consumer expectations and differences in manufacture in different Member States. As a result, 'chocolate' has a defined product identity, which permits the inclusion of up to 5% of certain vegetable fats other than cocoa butter – which must be indicated on the label. Various other designations of chocolate are defined, including 'milk chocolate', for which special labelling provisions apply in three Member States. The chocolate directive, which took some 30 years of negotiations, shows how difficult it can be to agree product identities for processed products applicable throughout the EU.⁷

Milk

Drinking milk rules were revised in 2007. Formerly, drinking milk could only be sold in three categories according to fat content: milk with a fat content falling between two classifications could not be sold. However, in the ten new Member States a series of specially negotiated derogations applied for their home market based on their domestic situation at the time of accession. In 2007 this was changed to allow the sale of all drinking milk, EU-wide, whereby milk with a fat content between the compulsory designations must indicate the percentage fat content.

<i>fat content of drinking milk compulsory indication (equivalents in each language)</i>	<i>Marketing until 2007</i>	<i>Post-2007</i>
	at least 3.5%	
1.8%-3.5%	whole milk _____ whole milk (only in certain Member States with derogations)	% fat
	at most 1.8%	
at least 1.5%	semi-skimmed milk	semi-skimmed milk
0.5-1.5%	(only in certain Member States with derogations)	% fat
not more than 0.5%	skimmed milk	skimmed milk

⁶ Regulation (EC) No 479/2008.

⁷ Directive 2000/36/EC of the EP and of the Council relating to cocoa and chocolate products intended for human consumption.

International aspects of marketing standards⁸

Through its *Scheme for the Application of International Standards for Fruit and Vegetables*, the OECD facilitates the adoption of quality standards to present production, trade and marketing conditions, promotes uniform quality control procedures and disseminates quality assurance guidelines. The OECD applies the UN/ECE fresh fruit and vegetable standards to the 47 products listed below.

These international standards are designed for products moving in international trade between and to UN/ECE or OECD member countries. They are intended for application at the point of dispatching control. Of these UN/ECE fresh fruit and vegetable standards, there is no EU equivalent for bilberries and blueberries, early and ware potatoes, raspberries, rhubarb, Chinese cabbage and broccoli.

⁸ See ADAS Consulting Limited and the University of Reading

<p>Annonas, Apples and pears, Apricots, Artichokes, Asparagus, Aubergines, Avocados, Beans, Bilberries and Blueberries, Broccoli, Brussels sprouts, Headed Cabbages, Carrots, Cauliflowers, Chinese Cabbages, Cherries, Citrus fruit, Cucumbers, Courgettes, Cultivated mushrooms, Edible sweet chestnuts, Fennel, Fresh figs, Garlic,</p>	<p>Horse-radish, Kiwifruit, Leeks, Lettuce and endives, Mangoes, Melons, Onions, Peaches and Nectarines, Peas, Plums, Potatoes, Early, Ware, Seed, Radishes, Raspberries, Ribbed celery, Rhubarb, Scorzoneria, Spinach, Strawberries, Sweet peppers, Table grapes, Tomatoes, Watermelons, Witloof chicory.</p>
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OECD and UN/ECE fruit and vegetable standards

A(ii) 2. PROBLEM DEFINITION

2.1. Problem identification

In addition to the benefits of EU marketing standards, a number of potential difficulties are also apparent. These potential difficulties may be grouped in two categories – process related and content related.

Process related potential problems refer to difficulties resulting from the procedure that is followed to establish EU public marketing standards:

- An asynchronous development between EU public marketing standards and market trends, which may lead to lack of flexibility in operation and prohibitions on the retail sale of innovative or sub-standard, but safe and hygienic foodstuffs⁹;
- Farmers and producers are confronted with various rules on farming methods and standards from other sources, public or private, that vary, overlap and in cases may be duplicative.

Content related potential problems refer to difficulties that result from the actual content of EU marketing standards, the product requirements, compliance and control duties:

- Complying with EU marketing standards requires efforts from farmers, packers, processors, even if the farmer does not want to make use of specific elements of the marketing standard, as they are compulsory;
- Controlling and enforcing EU marketing standards is burdensome and costly for Member State authorities, whereas at the same time private controllers, in the context of private quality schemes or hired by retailers, may also carry out controls
- Inspections on compliance with EU marketing standards is burdensome to operators (farmers, packers, processors, traders, retailers)¹⁰;
- Unintended side effects of obligatory regulation: see box.

⁹ See ADAS Consulting Limited and the University of Reading, an economic evaluation of marketing standards – horticulture and eggs, May 2003, page viii: “Marketing standards can have side effects. By removing from the market produce which is fit for human consumption, they can reduce supplies in the short term even though there are no overall shortages. They also unnecessarily restrict consumer choice in those situations where the quality criterion is effectively cosmetic rather than organoleptic”. Also, same study, page 19: “Marketing standards and grades may inhibit product innovation and the extent of variety and novelty in a market.”

¹⁰ Commission working document COM(2009)16; "Reducing Administrative Burdens in the European Union Annex to the 3rd Strategic Review on Better Regulation" identifies that: "in a majority of priority areas, “cooperation with audits and inspections by public authorities” is the most expensive activity for businesses; such cooperation often mobilises highly qualified staff for a fairly long time".

Is the marketing standard favouring unblemished responsible for pesticide use?

Some stakeholders are concerned that pesticides may be used in order to perfect the visual appearance of fruit and vegetables (see for example, "The hidden price of cosmetics" (Friends of the Earth 2002)¹¹. The accusation is that pesticides are used in circumstances where they are not needed for, say, plant health reasons. Blemishes in fruit may be a consequence of disease that needs to be treated for the health of the plant and the crop. However, more difficult is to determine whether farmers are using the pesticides to meet consumer demand for unblemished produce or whether it is only to meet a marketing standard. The Friends of the Earth document refers to retailer demands that go beyond the EU marketing standard, which points to consumer demand or at least retailer interpretation of consumer demand. In the organic sector, some effort is put into educating consumers that they should expect small blemishes and imperfections in produce as a positive characteristic¹². This also supports the case that retailer/consumer demand rather than the standards are behind the drive for perfect-looking produce.

The **core problems** on which the impact assessment will focus are:

- The asynchronous development of EU marketing standards and market trends as a result of a time consuming and often cumbersome process of updating and modernising EU marketing standards.
- The efforts that have to be made by farmers, operators and Member States' authorities to comply with, implement and enforce EU marketing standards.

2.2. What are the underlying drivers of the problem?

The underlying drivers of the problem are:

- With constantly changing market conditions and consequently evolving consumer demands, markets face an increasing trend toward differentiation of products.
- Within this dynamic market place and its increasing trend toward differentiation farmers, producers, operators face multiple sets of rules and requirements, stemming from different sources; public and/or private.
- The decision-making structure for adapting EU marketing standards is time-consuming and often cumbersome. It is therefore difficult to ensure in parallel adaptation of marketing standards to the latest market developments.

¹¹ http://www.foe.co.uk/resource/briefings/supermarket_british_fruit.pdf and
http://www.foe.co.uk/resource/briefings/pesticide_supermarket_food.pdf

¹² http://www.ifoam.org/growing_organic/1_arguments_for_organic/criticisms_misconceptions/misconceptions_no19.html

2.2.1. *Market conditions*

Market conditions change as a result of many factors. These include financial, energy and economic issues as well as environmental and societal influences. They have an effect on the supply and demand side, on producers and consumers. Examples of changing market conditions and trends include the increased search for low priced products during times of a financial downturn, consumers looking for environmentally friendly produced food or products whose production and distribution generates a low carbon footprint.

Consumers are on the lookout for products that meet their changing and developing requirements. Evolving market conditions and drivers have an impact on operators, as operators try to anticipate these developments and differentiate their product from that of competitors, whilst responding to these changing market conditions. Such differentiation may result in different packaging, quality, size, shape or colours of products. Suppliers may respond to evolving market demands from consumers but may just as well try to develop a new trend via the introduction of a new and different product.

2.2.2. *Multiple sets of rules*

Farmers and operators face demands, product requirements from different sources, private or public, which may apply to some products and not to others. The requirements are sometimes overlapping and may in other respects be duplicative. This maze of rules can lead to duplication of efforts, as for example is the case with controls. These may be carried out by more than one official control authority – one to control application of the marketing standard and a separate body to inspect application of hygiene and safety rules. In addition, private control services (such as certifiers) may need to control compliance with private standards. A grower or cooperative may have to cooperate several times with controllers visiting his premises, for public and for private control purposes.

Other examples to illustrate the various rules an operator may face are measures related to the identity (generally concerning its method of production) or to labelling, not regulated in marketing standards but in horizontal rules. These horizontal rules also apply to products subject to marketing standards and concern for example rules on labelling of net weight or date of minimum durability, on the possible use of additives, etc.

2.2.3. *Decision making structure*

At the moment, updating of specific EU marketing standards is a cumbersome and time consuming process, which results in a regulatory framework that lags behind market innovation and consumer demand. Where the rules are obligatory terms, in that the operator has no alternative (such as not labelling the product), the effect will be more significant than where the marketing standard rule is optional. This asynchronous development may be an incentive for private parties to develop standards that go beyond public standards. However, if the rule is obligatory, the public standards may obstruct the placing on the market of non-conform but safe and hygienic product.

In addition, the implementation of, the practical follow up to changes in the regulatory framework takes time and may go together with costs for growers and producers, for example with regard to changes that affect labelling.

Since the first adoption of EU marketing standards, the number of Member States, the geographical area but also the marketing "landscape" has grown and developed. With a varied market situation, consumer preferences, climatic conditions and production structures it may now take longer to find common ground on EU marketing standards.

2.3. Who is affected, in what ways and to what extent by the problem?

Several economic parties are affected by these problems: The first party concerned are farmers. They produce food products and ingredients for retail and for the processing industry that have to comply with applicable marketing standards.

Other parties affected by marketing standards are found upstream, trading companies, food processors, retailers and consumers.

Finally, administrations are affected as they are involved in developing and enforcing the correct implementation of marketing standards.

2.3.1. Farmers, first processors and packers

Farmers are affected in the sense that they deliver products that respect requirements set by trading partners as well as marketing standards. This conditions their production process and farm management. Marketing standards therefore have an important effect on the output delivered by a farmer in terms of quantity and quality as well as on the income generated by the farmer's products.

Process

From a farmer's or operator's perspective, marketing standards may prevent the placing on the market of a product that is new, innovative but for which EU marketing standards have not made provision yet. Alternatively, the marketing standard may prevent the retail sale of products that are basically safe to consume but do not correspond to the minimum quality requirements laid down in the EU marketing standard.

For example, in the fresh fruit and vegetables sector, depending on the crops and the possibility to easily process them, products in theory fit for consumption but not complying with the standards are not-harvested or sent to waste. The proportion of such fruit can be minimal (cases of not very perishable and easy to process fruits such as citrus fruit and apples) or represent up to 10% of the total production for products difficult to process or more perishable (carrots, cauliflower)¹³.

In the egg sector, approximately 5-6% of eggs do not comply with the conditions for class A, table eggs. These eggs may then be classified as class B and are destined for use by the industry.

In their daily activities, farmers and operators may be confronted with a wide set of requirements. Requirements laid down in EU marketing standards, contractual

¹³ An example provided by a British retailer states that up to 15% of its harvested carrots and up to 20% of its harvested onions that are safe to eat but go to waste as they are not in compliance with the requirements set out in EU marketing standards and may therefore not be placed on the market.

requirements that have been agreed upon and which may vary between buyers as well as conditions set out in private certification schemes, to which farmers/operators have signed up. These various requirements may be complementary, additional or contradictory and may lead for example to an operator having to install several, different processing lines in order to be able to comply with these various conditions.

Content

Farmers incur costs and have to make investments in order to comply with EU marketing standards. An example for compliance costs concerns the costs associated with sizing and grading of products. This is done via the use of grading machines (representing an investment) that require an operator (personnel costs). According to a 2003 study,¹⁴ the average costs of preparation for the market, including sorting, packing, labelling and quality control is estimated to be 26% of annual sales. That same study estimates that the costs to businesses of rejection/downgrading of produce due to produce not meeting the requirements of the official marketing standards is less than 1% of sales. Even in the absence of obligatory marketing standards, farmers and packers will choose to grade their products if and as required by the market.

What's more, mandatory changes in policy can also lead to additional costs for farmers/operators as the changes may require for example the design and printing of a new label.

In most Member States, inspection is free-of-charge for operators, where the cost is covered for by the administration at national level (UK, FR) or regional level (ES). Globally, in the case of fruit and vegetables and eggs in the UK (ADAS evaluation study), the total inspection costs is estimated to represent around 0.1% of the total turnover of the sectors concerned.

Farmers and packers incur costs for respecting standards, cooperating with inspections (administrative burden). In some Member States, they contribute directly to the costs of controls, when these are carried out on demand. Such is the case in the Netherlands for example, where costs associated with inspections on imported/exported products are charged to the operator.¹⁵

Stakeholders say:

- public controls are often bureaucratic and take a lot of time
- enforcement of (parts) of marketing standards reduces administrative burden as otherwise each business would draw up separate specifications.
- procedures should be simplified and the costs lowered. Control could be transferred to self-control.
- EU standard requires resources and difficult to fulfil by small operators and is to the disadvantage of small and medium sized enterprises.

¹⁴ ADAS Consulting Limited and the University of Reading, an economic evaluation of marketing standards – horticulture and eggs, May 2003.

¹⁵ See: www.kcb.nl; Costs consist of a basic annual registration fee of 60€, a start-tariff for each inspection of 45,45€ and a further tariff of 1,42€ per minute

2.3.2. *Food processors and retailers*

Process

Food processors and retailers in most cases require their supplies to comply with standards which go beyond the requirements laid down in marketing standards or, in other cases, these private standards function as complementary conditions. Official marketing standards may form the basis of private requirements. For enterprises without sufficient reach to impose their private standards, recourse to EU-level and indeed global standards, should facilitate trade.

With regard to retailers, the ADAS study states:

The EU standards were acknowledged by all large retailers as having played a significant role in improving the quality of produce on the UK marketplace in the past. The standards formed part of the basis for development of all of the major retailer's own product specifications, which now cover supply to these outlets. However, while the largely cosmetic quality criteria covered by the standards remains important, the retailer specifications also include a wide range of other quality and presentational criteria which are not included in the EU Standards, e.g. taste, texture, shelf life, specific packaging requirements and so on.

All of the representatives of the national multiples stated that the EU Standards do not add anything to their own specifications, having no impact on quality, availability, range or price of produce on offer. They did not believe that they would encounter any problems in quality should the Standards be withdrawn immediately, even for imported product. This is a result of the direct supply arrangements which are in place even for relatively minor lines.

The smaller, regional retailers also have detailed crop specifications in place for their major product lines. However, they are currently more reliant on the EU standards for minor lines, particularly for imported product, where sourcing may be carried out through an intermediary and there is no direct contact with the producer. The standard may therefore currently form the quality base line for any purchase of unseen product.

None of those interviewed believe that product lines covered by the Standards are of any better quality than those for which no Standards exist, or that there was any difference in return to the producer or in price to the consumer between the two types of product (only between 50% and 60% of produce sold is currently thought to be covered due to the exclusion of 3 major lines - potatoes, bananas (at retail level) and broccoli). They strongly believe that, if the Standards are to remain in place, they should apply to all fresh produce. However, the preferred alternative is that they should be removed completely. The current position is potentially confusing to all involved in the chain, including, most importantly, the consumer.

The Standards are now seen as one of the least important factors in maintaining and improving fresh product quality, lagging well behind consumer demand, retailer specifications, food safety legislation and production industry codes of practice.

Abolition of the Standards would have no impact on the quality or availability of product in the multiples and, following a potential small cost to write or rewrite some of their crop specifications, the only financial impact on the retailers would be a small positive one due to reduced loss of staff time.

Content

Costs for verifying compliance with marketing standards is associated with value of production. To illustrate, in the honey sector these costs may amount to around 40€ per metric ton.

Stakeholders say:

- the current legislative approach is appropriate

2.3.3. *Consumers*

Process

In the present situation, marketing standards may deny consumers the opportunity to purchase products that are sound and safe but do not meet the requirements laid down in marketing standards. For example, it was until recently difficult for consumers to purchase cooking-grade fruit on the retail market.

The above not only applies to blemished or odd-looking products, but also to innovative products. Marketing standards will limit the range of products consumers can choose from.

Moreover, the various information elements and terminology on a label a consumer is confronted with may be confusing. It is not clear what the relation is between the various "messages", whether they concern the same issue, are they complementary etc.

Content

Consumer does not seem to be affected.

The ADAS study states:

From a consumer standpoint, there was not felt to be a rationale for the involvement of a government inspectorate except to monitor/control food safety risks. They felt that the market could function fairly through consumer choice rather than regulation. There was some indignation that there are inspectors for minimum quality standards. Little value was placed on the Class I and Class II system. Given a government inspectorate, they saw no harm in paying for it as taxpayers, since they believed that any costs in the marketing chain find their way to the end-consumer anyway

Stakeholders say:

- From the consumers' point of view, uniform EU legislation is advantageous.
- Il y a déjà trop d'information sur l'étiquetage des produits.

2.3.4. Public authorities

Process

Public authorities are first of all concerned as marketing standards are laid down by the legislator. In addition, there are several international intergovernmental forums where marketing standards are discussed and where the EU and/or the Member States are represented (in particular *Codex Alimentarius*, but also for specific commodities UNECE, OECD, OIV, IOC, etc...).

Content

Secondly, the enforcement and control on the respecting of marketing standards is a role mainly carried out by public authorities, which have to allocate, at national and/or regional level, the necessary resources for this task. To illustrate, in England and Wales a staff of approximately 93 is engaged in the development and enforcement of standards in the horticultural sector, which costs about GBP 3.2 million per year¹⁶.

Stakeholders say:

- Public controls are often bureaucratic and take a lot of time.
- A simple and effective inspection system is necessary
- Marketing standards can be controlled by private parties under supervision of the public authorities.

2.4. How would the problem evolve without a change in policy?

Without a change in policy the existing situation would continue, that is ad hoc development of EU marketing standards, applied largely obligatorily.

With regard to the regulatory aspect, as in the past, public marketing standards will continue to trail commercial practices, therefore needing a constant updating. Moreover duplication of efforts, in particular as a result of the existence of commercial standards will continue.

¹⁶ ADAS Consulting Limited and the University of Reading, an economic evaluation of marketing standards – horticulture and eggs, May 2003, page vi.

2.5. Does the EU have the right to act?

Marketing standards are currently laid down within the framework of the Common Organisation of the Market for a good number of products by the EU. In order to change or continue the existing situation the EU should take action or decide to refrain from taking action.

The Treaty foresees that a common organisation of the market in agricultural products shall be established in order to attain the objectives set out in Article 33.

A(ii) 3. OBJECTIVES

3.1. General objective

To improve the functioning of the market in agricultural products¹⁷;

To find an appropriate and clear (set of) instrument(s) that will enable setting the conditions for a smooth disposal of agricultural products. This/these instrument(s) should create a common language for market partners; ensure a clear mutual understanding between buyer and seller. Moreover, the (set of) instrument(s) should enable the producer to receive a reward for adding value to a product and provide accurate information to the consumer. At the same time this (set of) instrument(s) should be clear and simple and reduce burdens to farmers whilst not hindering the placing on the market of sound and safe products.

3.2. Specific objective

Building further on the distinction between process (development of marketing standards) and the content of marketing standards.

Process:

- To promote flexible employment of marketing standards, which keep up with changing market conditions.

Content:

- To reduce burden for compliance with EU marketing standards for farmers and operators;
- To maintain a certain minimum level of quality in the market place which may function as a quality development target.
- To establish terms of reference for buyers and sellers, which allow producers to obtain a fair return for value added products.
- To Reduce the control burden on public authorities and the burden associated with controls on farmers and operators.

¹⁷ Products listed in Annex I, mainly

A(ii) 4. POLICY OPTIONS

The policy options presented below are divided in two different types. The first type of options concern the process, the way marketing standards are developed. Options one to seven fall into this first process-category.

The second type of policy option concerns the content of marketing standards. In this case, option 8, which is the policy option on reserved terms.

The policy options in the process category are considered as mutually exclusive. It is however possible to apply option 9 on reserved terms in combination with one or more process policy options.

4.1. No EU Action

Taking no EU action with regard to marketing standards actually means a complete removal of marketing standards from Community legislation and all the tasks associated with the implementation and enforcement of the EU marketing standards.

Consequently, the basis on which the sale of sound and safe products may have been prohibited will no longer apply. Moreover, the regulatory environment on standards and product requirements will become less complex.

Without EU marketing standards, public terms of reference disappear at an EU level. In practical terms, traders may make reference to internationally agreed standards in the absence of EU standards.

In the absence of community marketing standards, it is not excluded that Member States develop national, divergent marketing standards. This would have substantial negative effects on the functioning of the internal market.

Another consequence is that the already existing private requirements will take over the role of EU public marketing standards. This is certainly the case in markets where a substantial volume of produce is sold via retailers.

Finally, doing away with public EU marketing standards also has as a consequence that there is no longer a need for controls and inspections, thereby reducing the burden to national authorities. It also reduces the administrative burden to farmers and operators, as they no longer have to comply with public marketing standards and no longer have to cooperate with audits and inspections for EU marketing standards.

4.2. International standards

In this option, EU laws (and producers, traders and retailers) could simply make reference to internationally agreed standards instead of developing EU specific marketing standards. It could for example be foreseen to refer in Community legislation to internationally agreed standards that have been developed by UN/ECE. A recent example of referring to internationally agreed standards, in this case it concerns methods of analysis can be found in the wine sector. In the wine reform it was decided that the

methods of analysis determining the composition of products shall be those recommended by the International Organisation of Vine and Wine (OIV).

In a sector without public EU standards, the potato sector, international UN/ECE quality standards for early and ware potatoes are used as a guideline for minimal standards for early and ware potatoes by the potato trade. Referring to international standards in Community legislation has as an advantage that these standards are widely agreed, also with third country trading partners.

A drawback of making reference to internationally agreed standards is that these standards are available in the languages in which they have been adopted (English, French and Russian, in the case of UN/ECE standards) and not all Community languages. This may place certain farmers, traders and operators in a disadvantaged position.

Also, developing discussing and deciding upon standards at an international level requires participation and allocation of staff resources of the associated members.

Finally, on an international level, with a large number of participants, covering a large market with possibly a wide variety of product characteristics and market developments, finding common ground and agreement on standards may be a time consuming process.

Stakeholders say:

- Making direct reference to international standards would facilitate international harmonisation and reduce emergence of 3rd countries standards, however they may be too general and not address regional specificities.
- Codex and UNECE could be relevant even if Codex can be very bureaucratic and favour imports and not exports.

4.3. EU marketing standards

4.3.1. Status quo

In this option, the existing provisions on EU marketing standards will continue to apply.

Maintaining a status quo will mean that the lack in flexibility in operation will continue to exist. Safe and hygienic foodstuffs will be banned from being placed on the retail market. Farmers and operators will continue being confronted with all kinds of rules including the potential duplication of efforts.

What's more, the level of administrative costs arising from EU legislation will remain unchanged.

At best the system will not deteriorate, at worst it will lead to increased difficulties. In case of an increased rate of changes of market conditions, marketing standards may become obsolete quicker.

Stakeholders say:

- Maintaining the current status is the optimal solution.
- We only agree with the current legislative approach.
- Keep current approach for the benefit of both producers and consumers. Stakeholders should be more involved in the decision making process.

4.3.2. *Simplification*

Simplification of marketing standards means a harmonisation of standards where possible. When simplifying marketing standards, elements that are shared by some marketing standards can be harmonised, obsolete provisions may be removed and the legal act(s) will be drafted in line with the latest legal drafting principles; all with a view to simplify and render the legal framework more transparent.

In this option, neither the process nor the content related difficulties will be substantially addressed. Simplification allows primarily for a more transparent and coherent legal framework.

Derived from that, whilst harmonising the policy framework, it is not excluded that beneficial changes may be made for example with regard to control arrangements, which could result in a reduction in burden associated with them, both for controlling authorities, as well as for farmers and operators.

Stakeholders say:

- La recherché d'une simplification et d'un allégement des mécanismes ne doivent pas être le prétexte d'une dérégulation qui déstabiliserait les marchés.
- In the framework of European legislation, a simplification of the path of adoption and modification of the standards would be desirable.
- Procedures should be simplified and the costs lowered. We also feel that control could be transferred to a so-called self control.

4.4. **Co-regulation**

Co-regulation is the process whereby a Community legislative act entrusts the attainment of clearly defined objectives by the legislator to parties which are recognised in the field such as economic operators, the social partners, non-governmental organizations, or associations. For marketing standards, the legislator would concentrate on the essential aspects of the legal act, whereas representatives of the parties concerned would be asked to complete the legislation and lay down the technical data and specifications on the basis of their experience.

This approach implies setting a regulatory framework in which the deadlines and mechanisms for implementation, the methods of monitoring the application of the

legislation and any sanctions are set out. The legislative authority also determines to what extent defining and implementing the measures can be left to the concerned parties. Such provisions, for example sectoral agreements, must be compatible with Community law and must be in the interests of the public.

Co-regulation must be transparent. Members of the public must have access to the act and to the implementing provisions. Sectoral agreements and means of implementation must be made public in accordance with arrangements that have yet to be defined. The parties concerned must be considered to be representative, organised and responsible by the Commission, Council and European Parliament and must be recognised in the field.

Co-regulation combines the advantages of the binding nature of legislation with a flexible self-regulatory approach to implementation that encourages innovation and draws on the experience of the parties concerned. A drawback is the need to set up monitoring arrangements.

Co-regulation shares the advantage with self-regulation that policy is made, implemented by practitioners close to what is actually happening in the market. The procedures for drafting standards can be simpler and allow more flexibility and faster adjustment in a dynamic market environment.

Co-regulation is associated with costs for stakeholders as they are involved in drafting the legal framework.

In addition, when applying co-regulation, a certain level of organisation of the sector is required. In case the sector has a high level of fragmentation, co-regulation may be difficult to achieve. At best it is an incentive to develop certain structures and ways of cooperation by the sector.

In practical terms, co-regulation seems to have found limited use and a "tension" with competition policy exists¹⁸ as "such arrangements can only be effective if the sector concerned is more or less covered by a small number of identifiable actors who can represent the sector vis-à-vis the authorities and ensure implementation of the agreements".

Stakeholders say:

- Co-regulation is important for product identity and can be used for creating obligatory marketing standards.
- The advantage of co-regulation would consist in the higher relevance for the practice. Disadvantage results from the higher burden for operators in the chain.
- The public should be consulted prior to adoption.
- There could be different approaches: co-regulation for new innovative products, marketing standards with simplification, for others, respecting international standards.
- It would not guarantee enough controls.

¹⁸ See "Alternative Methods and EU Policy-Making; what does "co-regulation" really mean?" by Dr Edward Best, in EIPASCOPE 2008/2

4.5. Self-regulation

The operators in the sector concerned can be entrusted to lay down and monitor marketing standards, including product identities, product classifications and reserved terms. Where international standards exist, these can simply be used by producers and traders in commercial transactions.

Traders and business people in a particular sector can take the initiative themselves to develop reference standards or codes of practice. This process is known as self-regulation. Self-regulation does not involve a legislative act.

The ability to use self-regulation largely depends on the existence of bodies and processes to support self-regulation, including the building up of consensus amongst market players on the contents and the monitoring of enforcement.

Self-regulation may provide greater speed, responsiveness and flexibility as it can be established and altered more quickly than legislation. It may therefore be preferable in markets that are changing rapidly.

Self-regulation needs to be an open and transparent process as it may provide an opportunity for collusive arrangements amongst rivals. In some cases however self-regulation may prepare the ground for industries to abstain from competing and to coordinate their actions to fence off competition by newcomers to the disadvantage of consumers. This could also be true for liberal professions characterised by a high level of self-regulation by professional bodies. Price fixing, recommended prices, advertising regulations, entry requirements, reserved rights and rules governing business structure and multi-disciplinary practices enacted by such bodies may indeed be restrictive and harmful for consumers.¹⁹

Costs for public enforcement are low, as any disputes are resolved between the parties concerned, e.g. by arbitration. Self-regulation has the advantage that policy is made, implemented and enforced by practitioners close to what is actually happening in the market. The procedures for drafting standards can be simpler and allow more flexibility and faster adjustment in a dynamic market environment. At the same time, the technical regulations are only applicable to those businesses that have undertaken to respect them (also referred to as "inter pares" arrangements, or arrangements between signatory parties).

Free riders may benefit of the general reputation of the sector without fully respecting the rules laid down. This may potentially endanger the self-regulation approach and its expected results.

The Commission is required to scrutinise self-regulation practices in order to verify that they comply with the general provisions of the EC Treaty and to report on the fact they are, or not, satisfactory in terms of representativeness of the parties concerned.

¹⁹ See the Commission's report of 9 February 2004 on competition in liberal professions; http://europa.eu.int/comm/competition/liberal_professions/final_communication_en.pdf.

Stakeholders say:

- Self-regulation is drafted by all economic actors in the food chain in an equitable and transparent way. Implementation and control of marketing standards through self-regulation should be adequate, comparable and compatible with EU legislation. Self-regulation would be preferable to legal norms.
- Self-regulation should only be attempted by properly constituted representative bodies.
- It could be allowed only on a case by case basis, for example only in the case of direct sales by farmers to consumers.
- It would add costs to enterprises.
- It could be only for additional requirements, for very specific products or in areas not regulated by the EU or by international standards.
- Few actors would be involved and as the power in the food chain is not balanced enough due to conflicting interests, the strongest actor of the food chain would impose its rules to the other actors.

4.6. Replacement of product specific EU marketing standards, by a general base standard

This policy option foresees the replacement of all specific EU marketing standards by a general base standard.

It would mean a complete removal of specific marketing standards from Community legislation, as has been done for 26 marketing standards in the fruit and vegetables sector.

According to the ADAS study:

- Horticultural traders considered the EU Marketing Standards to have less effect on the quality of fresh produce than retailers' demands, consumers' demands, competition from imports, food safety legislation and the industry's own voluntary codes/standards.
- The costs of the official standards were generally less than 1% of firms' sales. 85% of businesses in the marketing chain would make no changes if the standards were abolished.

This first step of removing specific marketing standards would be accompanied by laying down a general standard, applicable to all products. This will avoid the need (or the legal possibility) for Member States to introduce stricter, national rules, which could lead to a fragmentation of the single market.

As a result of introducing a base standard, the reason for which the sale of sound and safe products may have been prohibited will no longer apply. In the fruit and vegetable sector, a general standard was introduced, requiring products to be to be sound, fair and marketable, as well as indicate the country of origin. The general standard also specifies that products in compliance with UN/ECE standards (which remain as before and incorporate all

the elements listed above including quality classification and sizing) are considered to be in compliance with the general base standard.

The number of requirements faced by farmers and operators will be reduced as a result of the abolition of product specific EU marketing standards.

In this option it is likely that compliance costs for operators will be reduced. It will also reduce control costs, as controls will only address the base standard and not the detailed requirements laid down in product specific marketing standards.

The absence of specific public standards will not automatically mean that there are no standards at all. The standards and requirements presently in use by the private sector will continue to exist or be further developed, and they will continue to be able to refer to the international standards and apply them on a voluntary basis.

Stakeholders say:

- Minimum marketing standards must be set at EU level.
- Recent reform of fruit and vegetable standards is a good example.
- If there is compliance with common, general standards of hygiene and product safety, the marketing standards can be left to self-regulation.

4.7. Combined approach

Under the New Approach to the regulation of standards for non-agricultural products, voluntary standards have proved to be efficient to ensure the free circulation of products in the Single Market, whilst providing a level playing field for interoperability, safety, security, environmental protection and quality. The basis of the New Approach is to place the essential requirements or base standard in legislation (as in Option 4.6) and technical specification in standards agreed by industry using self-regulation (Option 4.5) or co-regulation (Option 4.4).

For industrial products, compliance to standards provides a presumption of conformity to legislation and in particular safety legislation. However in the agricultural sector, safety and hygiene is regulated under an entirely separate structure, based on the General Food Law (“farm to fork”). Not only should marketing standards not cut across the GFL legislation, but greater coherence, for example in the matter of controls, is desirable. Nevertheless, within the scope of agricultural product marketing standards, the New Approach model is worth examining further.

The system's credibility is based on the following:

- Flexibility: as it leaves it to public authorities to intervene only where public action is necessary (legislation), whilst voluntary technical standards are agreed amongst stakeholders (farmers, consumers, retailers, etc.)
- Better regulation principles: reducing legislation to the minimum base standard decreases administrative burden, allowing stakeholders to decide themselves voluntarily on further rules;

- Coordination with international standardisation: Provided the technical standard-setting bodies have the capacity, they can develop relations with international standard setting bodies, such as UN/ECE and ISO, promoting the development of common standards at European and international level ;
- Commitment: since standards are developed by stakeholders, i.e by those operators who will implement those standards,
- Transparency: as all stakeholders have a say in the standards development process, either during discussions in committees or during public enquiries performed in all Member States on each single draft standard;
- Consistency: as each European standard, whilst remaining voluntary, must be implemented as a national standard in all EU and EFTA countries, and any conflicting national standard shall be withdrawn;
- Availability: as all standards are available in each national standards body, in the national language;
- Consensus: all standards are developed by consensus of all parties involved. The stronger the consensus is, the wider the application of the standard by market players can be ensured.

The viability of the system on the model of CEN would depend on the participation in standards setting. Existing structures ensure that all stakeholders are consulted on every proposal and not only those represented on the national standards setting organizations. In addition particular attention is paid to the consultation in sectors where there are many SMEs. Costs of standards development, however, are paid for by stakeholders.

Standards may be revised as often as necessary, and a review takes place at the latest every 5 years. Workshop agreements, for example, can be reached in 6 to 12 months. Self- regulation through European standards makes it impossible for some stakeholders to fence off competition, as consumer organisations are part of the standards development process. Free-riders do not get a chance to succeed, as they cannot claim compliance to a European standard. European Standards are based on a large and strong consensus of stakeholders, which is a robust guarantee for a wide application.

Stakeholders say:

- La voie du CEN pourrait être explorée.
- Producers should be involved in the drafting of marketing standards.

Farmers to be given more freedom to classify their product.

4.8. Reserved terms

This option concerns the laying down of optional, clear, unambiguous definitions, identities, standards and classes, which have to be respected if referred to at the stage of placing on the market. This could apply in a vertical, product-specific manner, but also in a horizontal, general way to several products.

Reserved terms tell buyers that the product on which the reserved term is used corresponds to an identity, a defined farming method or a product characteristic. They are intended to provide the consumer with useful, accurate, technical information and help farmers to secure an additional financial return for additional production efforts.

Reserved terms may apply to a specific product, vertically, such as for eggs, but may also be applied across products, horizontally, such as "mountain", indicating that the product was produced in a mountainous region.

When deciding to make use of reserved terms, a producer voluntarily accepts the requirements of that term and commits to placing a product on the market which meets the terms of reference that correspond to the reserved terms.

A buyer or consumer can then rely on the fact that the product corresponds to these requirements and may expect a consistent quality of such a product, corresponding to the buyer's or consumer's expectations.

In this option it is foreseen that reserved terms, horizontal and vertical, are laid down by the legislator, when relevant and with an obvious and pressing need for such terms.

To illustrate, in the United States, quality standards are applied as voluntary tools²⁰:

Agricultural Marketing Service's quality grade standards, grading, certification, auditing, inspection, and laboratory analysis are voluntary tools that industry can use to help promote and communicate quality and wholesomeness to consumers. Industry pays for these services and since they are voluntary, their widespread use by industry indicates they are valuable tools in helping market their products.

Control on the use of reserved terms

Reserved terms can be an integral part of an agreement between supplier and purchaser. When signing an agreement the two parties agree to deliver/purchase a product that meets the conditions set out in the terms of reference for a particular reserved term. In case of conflict/arbitrage between buyer and seller, an independent service may intervene to control the actual quality of products and verify compliance with the conditions set out in the reserved terms. The costs for such an intervention will be borne by the parties that have requested the intervention.

²⁰ See: www.ams.usda.gov

When a product is placed on the retail market, using a reserved term voluntarily, such term should not mislead the consumer.

Stakeholders say:

- The sector would not communicate on negative aspects.
- Farmers to be given more freedom to classify their products to avoid industrialisation.
- It would be possible as soon as the rules are decided at EU level and uniformly applied.
- Producers will be weakened vis-à-vis retailers.
- It should however not mislead consumers.

4.9. Fine-tuned shortlist for further analysis

Technical screening

The first option described above, no EU action and complete removal of marketing standards from Community legislation, does not seem an appropriate way forward. As it leaves "the field unoccupied" it is possible that divergent, national marketing standards may be introduced. Such could have serious and negative consequences for the functioning of the internal market and the smooth disposal of agricultural goods on the market. For this reason, option 4.1 will not be assessed further.

The option on international standards whereby Community legislation would make direct reference to internationally agreed standards does not seem feasible as a legally enforced instrument. First it may take too long to update standards. Secondly, as international standards are available in only a few languages, EU operators may have the disadvantage of not being able to access the standards in their own language. However, the use of international standards as an optional reference for traders in the marketplace remains always possible.

The combined approach, based on the CEN model for standard setting for non-agricultural products overcomes many of the deficiencies of choosing self- and co-regulation or international standards alone. However, three factors distinguish the position in the agricultural sector: first, the standards to be set could not provide the guarantee of compliance with hygiene and safety provisions under the General Food Law; secondly, the control of marketing standards should be brought closer to other food law controls by the Member States, and thirdly, it is not at all clear in a sector as fragmented as the agricultural sector that the technical standard setting body would be sufficiently representative and that the body would be able to reach agreement.

A status quo, no change to EU public marketing standards will not be assessed further as it does not address the potential difficulties identified.

The options on co-regulation and self-regulation alone will not be included in the further assessment as in general the high level of fragmentation in the agricultural sector seems incompatible with these instruments for which a certain degree of organisation on a

representative level is required. However, they will be retained in consideration of the combined approach, based in part on the New Approach, that is a legislated general base standard and technical standards set by a new body which can determine EU technical standards by reference to international standards or by self regulation.

Shortlist

From the policy options listed above, the following options will be taken forward and impacts will be evaluated.

Option 4.3.2: Status quo– simplification;

Option 4.6: Replacement of specific EU marketing standards, by a general base standard;

Option 4.7: Combined approach;

Option 4.8: Reserved terms.

Options 4.1, no EU action, 4.2 international standards, 4.3.1 status quo, 4.4 on co-regulation and 4.5 on self- regulation will not be taken into consideration for further assessment.

A(ii) 5. IMPACT OF OPTIONS

Options concerning **marketing standards**: impacts on:

- Flexible employment of marketing standards;
- Speed up the process of establishing standards;
- Simplify the functioning of EU marketing standards;
- Reduction in burden for farmers and operators;
- Maintain a certain minimum level of quality;
- Stable set of terms of reference;
- Reduce the control burden on public authorities

5.1.1. *Impact matrix*

Herewith an assessment of impacts compared to status quo/no change at all.

	1) Simplification	2) Replacing specific standards by general standard	3) Combined approach	4) Reserved terms
Flexibility	/	++	+	++
Speed up process	/	/	+/-	+/-
Simplify	+	++	+	+/-
Reduce admin burden	/	++	+	++
Minimum quality level	/	/	/	N.A.
Stable set	/	+	+	++
Reduction of control burden	/	++	+	++
Return on added value	/	--	+	++

5.1.2. *Simplification*

The prime advantage of the option simplification is an improvement of the regulatory framework, with a view to making it more transparent, easier to work with and harmonised.

The drawback of this option that it will not bring changes to for example the asynchronous development of EU marketing standard and market conditions and the administrative burdens to farmers and operators.

5.1.3. *Replacing specific by general standard*

The advantages of this option are first of all a simplification of the regulatory framework, a reduction of administrative burden to farmers and operators as well as that it allows for the sale of ugly or innovative products.

A drawback of this option is that primarily in developed markets the base standard will not function as a quality target. However, in developed markets, with a high level of retail sale and private quality schemes, the quality target element in marketing standards was already very minimal.

5.1.4. Combined approach

Advantage of the combined approach is that it allows for involving all stakeholders in the establishment of standards, with their experience, being close to the market, and provides the possibility of aligning to international standards.

Drawbacks of the combined approach may be found in a high degree of fragmentation of the farming sector, with approximately 14.5 million farmers, not to mention processors and retailers and the fact that the terms of reference of a standard have to be acquired.

5.1.5. Reserved terms

Advantages of reserved terms are first of all that use, employment of reserved terms is optional. The flexibility is offered to farmers to decide if they would like to make use of them. Farmers no longer have to make efforts, investments to comply with certain requirements unless they decide otherwise. This optional employment of terms can also lead to a (substantial) reduction in administrative burden to farmers. In addition, the use of reserved terms is an effective tool for farmers to communicate about the value they have added to products and ensure a reward for those additional efforts.

A drawback of the use of reserved terms may be that they are laid down by the public legislator, which may take long. Moreover, operators will not employ reserved terms for negative aspects.

A(ii) 6. COMPARING THE OPTIONS

	Advantages	Drawbacks
Option simplification.	A simplified and coherent framework.	It does not address the issues identified; no increase in flexibility for example, not a reduction of administrative burden for farmers and operators.
Replacing specific by general standard	A very lean legal framework, which allows for the placing on the market of ugly or innovative products. It is likely to lead to a reduction in administrative burden to farmers.	The general base standard may not necessarily function as a "quality target" in some markets.

Combined approach	The combined approach rests on the voluntary nature of the marketing standards (beyond matters set in the baseline legislation). It provides a mechanism to develop trading rules and standards that the stakeholders can agree and has been shown to work in non-agricultural sectors. It is compatible with continued fruitful development of international standards, which is important for the international aspect.	<p>- articulation with the GFL structure needs to be assured</p> <p>- the farming sector may simply be too fragmented to be able to staff the technical committees;</p> <p>- other attempts to find industry agreement on technical issues in the agriculture sector have shown that consensus can be difficult.</p>
Reserved terms	Its optional or voluntary character, as farmers can pick and choose from the "reserved terms" menu; they will have more flexibility in their operations. It provides a tool to farmers to obtain a reward for adding value to a product.	<p>Reserved terms are laid down by the legislator, which is a process that may take some time.</p> <p>Operators will not communicate on negative aspects.</p>

Comparison of retained options by effectiveness, efficiency and consistency

Evaluation criteria	Effectiveness		Efficiency		Consistency	
Options						
1. Status quo = no EU action	Baseline		Baseline		Baseline	
2. Simplification	Low	-	Low	-	Medium	+/-
3. Replacing specific standards by general standard	High	+	Medium	+/-	High	+
4. Combined approach	High	+	Medium	+/-	Medium	+/-
5. Reserved terms	High	+	High	+	High	+

6.1.1. Identification of impacts

6.1.1.1. Simplification

Economic impacts:

- a. Functioning of the internal market and competition: Hardly any impact is expected.
- b. Competitiveness, trade and investment flows: Hardly any impact is expected.
- c. Impact on Small and Medium Enterprises: Hardly any impact is expected.
- d. Operating costs and conduct of business: Hardly any impact is expected.
- e. Administrative burdens on businesses: Hardly any impact is expected.
- f. Consumers and households: Hardly any impact is expected.
- g. Third countries and international relations: Hardly any impact is expected.
- h. Public authorities: Hardly any impact is expected

Social impacts:

- Transparency: As a result of simplifying the regulatory framework, the EU legal provisions on marketing standards will become clearer and more transparent.
- Participation of stakeholders in scheme development and implementation: Hardly any impact is expected.
- Contribution to EU development policy: Hardly any impact is expected.
- Environmental impacts: Hardly any impact is expected.

Qualitative assessment of impacts that are most significant

Impacts deemed to be most significant are:

- A simplification of the legal framework related to marketing standards.

6.1.1.2. Replacing specific standards by a general base standard

Economic impacts:

a. Functioning of the internal market and competition: The option will have a positive impact. It will first of all do away with the ban on placing of the market of ugly or innovative products. Secondly, it may lead to a reduction in compliance costs as well as a reduction in burden associated with controls.

b. Competitiveness, trade and investment flows: This option will have a positive impact on innovation, it may increase consumer choice and reduce costs to enterprises.

c. Impact on Small and Medium Enterprises: For especially small and medium enterprises, a reduction in compliance costs/administrative burden will have a positive impact on their daily running of the business.

d. Operating costs and conduct of business: Businesses will have more autonomy on how to market their products and the compliance costs currently associated with preparing products for placement of the market will reduce. Moreover, costs associated with letting comestible produce that does not correspond to marketing standards go to waste will no longer exist.

e. Administrative burdens on businesses: The administrative burden to farmers and operators are expected to come down as a result of this option. The reason for this is twofold; first of all the costs for complying with detailed conditions and requirements laid down in marketing standards no longer exist. Secondly, as cooperating with inspections is concerned, the costs for cooperating should also come down as inspections will only concern a simple, general base standard and not the detailed conditions and requirements laid down in marketing standards.

f. Consumers and households: As in the option of simplification it will be possible to market odd looking products, as well as innovative products that may have been banned under detailed marketing standards, it is expected that consumer choice will increase.

g. Third countries and international relations: Hardly any impact is expected

h. Public authorities: The impact of this option on public authorities consists first of all out of a reduced inspection activity. Secondly, a general base standard will not require updating or modifying as frequently as detailed, specific marketing standards do.

Social impacts:

- Transparency: This option will increase transparency as it replaces detailed, specific standards by a single, general base standard.
- Participation of stakeholders in scheme development and implementation: Hardly any impact is expected
- Contribution to EU development policy: Not much of an impact is expected, although it is not excluded that some of the benefits obtained by this option, in particular the sale of ugly or odd looking produce may have somewhat of a positive impact for suppliers from developing countries, but may be limited by the perishing of produce.
- Environmental impacts: Hardly any impact is expected

Qualitative assessment of impacts that are most significant

Impacts deemed to be most significant are:

- Products will no longer be banned from placing on the market, as long as they are sound, fair and marketable.
- Providing a potentially wider consumer choice, either at the lower end of the market for ugly products, or at the high end of the market for highly innovative products.
- A reduction in compliance costs and administrative burden to farmers.
- A decrease in control activities for public authorities.

6.1.1.3. Combined approach

Economic impacts:

a. Functioning of the internal market and competition: The option will have a positive impact. It will first of all do away with the ban on placing of the market of ugly or innovative products. Secondly, it may lead to a reduction in compliance costs as well as a reduction in burden associated with controls. It is expected that as a result of this option, competition will benefit. Producers

have increased flexibility in how to market their products, choosing the option that best fits their operations from a cost-benefit point of view.

b. Competitiveness, trade and investment flows: This option will have a positive impact on innovation, it may increase consumer choice and reduce costs to enterprises.

c. Impact on Small and Medium Enterprises: For especially small and medium enterprises, a reduction in compliance costs/administrative burden will have a positive impact.

d. Operating costs and conduct of business: A benefit of this option is that standards developed under the new approach are optional. Farmers, operators decide for themselves, in negotiations with their buyers, which terms to use, depending on the costs and benefits the use of one or several terms may generate. In addition, a farmer or operator wanting to use a standard has an additional cost as the terms of reference of this standard need to be purchased.

e. Administrative burdens on businesses: The level of burden on business depends on the choices made by farmers and operators. Moreover, they may have a burden; spending time and resources for the development of marketing standards.

f. Consumers and households: In this option, consumers are involved in the setting of standards. Moreover, consumers and households may benefit from this option as it is a flexible scheme, it may lead to products being supplied against lower prices. On the other hand, consumers benefit from the use of a clearly defined set of terms, which provides transparency and confidence in products marketed by the use of reserved terms.

g. Third countries and international relations: third country traders may not be involved in the setting of standards, but may very well employ and benefit from these standards when placing products on the European market. Moreover, from an international perspective, it would be possible to translate/implement international standards.

h. Public authorities: The role of public authorities changes as a result of this option in particular with regard to the control of marketing standards.

Social impacts:

- Transparency: as all stakeholders are involved in the development of standards, the procedure is very transparent. However, standards that are developed via the new approach are not publicly available.
- Participation of stakeholders in scheme development and implementation: In this option, stakeholders will be actively involved in setting marketing standards.

- Contribution to EU development policy: Not much of an impact is expected, although it is not excluded that some of the benefits obtained by this option may have somewhat of a positive impact for suppliers from developing countries.
- Environmental impacts: Not much of an impact is expected. It is not excluded that if the use of a reserved term for example with regard to environmentally friendly production method turns out to be beneficial to a farmer or operator, the employment of such a term will increase and the environment may benefit from such an increase.

Qualitative assessment of impacts that are most significant

Impacts deemed to be most significant are:

- Flexibility of employment of marketing standards. Farmers and operators have a choice on employing standards, taking into account the costs and benefits associated with the use or reserved terms;
- Stakeholders are involved in the setting of standards
- A reduction in the control tasks of public authorities

6.1.1.4. Reserved terms

Economic impacts:

a. Functioning of the internal market and competition: It is expected that as a result of this option, competition will benefit. Producers have increased flexibility in how to market their products, choosing the option that best fits their operations from a cost-benefit point of view.

b. Competitiveness, trade and investment flows: A system of reserved terms will enable framers and operators to communicate on the value they have added to a product and obtain a return for this added value as well.

c. Impact on Small and Medium Enterprises: This option provides operational flexibility to small and medium sized enterprises, as they can freely pick and choose from the reserved terms menu, depending on the costs and benefits.

d. Operating costs and conduct of business: A benefit of the use of reserved terms is that they are optional. Farmers, operators decide for themselves, in negotiations with their buyers, which terms to use, depending on the costs and benefits the use of one or several terms may generate.

e. Administrative burdens on businesses: The burden level associated with this option is entirely dependent on the choices made by the farmer operator.

f. Consumers and households: Consumers and households may benefit from this option as it is a flexible scheme, it may lead to products being supplied against lower prices. On the other hand, consumers benefit from the use of a clearly defined set of terms, which provides transparency and confidence in products marketed by the use of reserved terms.

g. Third countries and international relations: Suppliers of agricultural products may benefit from this option as much as domestic operators do.

h. Public authorities: Public authorities will continue laying down definitions, identities, standards and classes. A possible impact may be seen in the number of reserved terms to will be developed. Secondly, as far as controls are concerned, it is expected that the workload will be reduced.

Social impacts:

- Transparency: The option of reserved terms allows for communicating certain characteristics of products. Conditions, terms of reference for reserved terms are clearly defined and as such, consumer are well informed about what to expect from a product for which a reserved term is used. Moreover, especially horizontal reserved terms may prevent confusion about certain claims and terminology.
- Participation of stakeholders in scheme development and implementation: Hardly any impact is expected
- Contribution to EU development policy: Not much of an impact is expected, although it is not excluded that some of the benefits obtained by this option may have somewhat of a positive impact for suppliers from developing countries.
- Environmental impacts: Not much of an impact is expected. It is not excluded that if the use of a reserved term for example with regard to environmentally friendly production method turns out to be beneficial to a farmer or operator, the employment of such a term will increase and the environment may benefit from such an increase.

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Qualitative assessment of impacts that are most significant

Impacts deemed to be most significant are:

- Flexibility of employment of marketing standards. Farmers and operators have a choice on employing standards, taking into account the costs and benefits associated with the use or reserved terms.
- Reserved terms are a tool for obtaining a reward for adding value.
- A reduction of control tasks for public authorities.

A(ii) 7. MONITORING AND EVALUATION

A further ex ante evaluation is foreseen in the form of a more detailed impact assessment which will accompany any relevant legislative proposals.

The evaluation will primarily focus on the issues listed above, in particular a flexible employment of marketing standards as well as reducing administrative burden to farmers and operators and providing farmers with a tool to obtain rewards for creating added value.

Once policy changes are implemented, regular monitoring may take place. These monitoring activities could relate to an ex post evaluation with regard to a reduction in administrative burden as well as to the disposable income of farmers and their rewards received for adding value to agricultural products.

Annex I: Overview of marketing standards and their legal bases

Beef labelling

Function of the standard	Current way of regulating
1. Consumer confidence	1. Community legislation Regulation (EC) N° 1760/2000 from the European Parliament and the Council, Commission Regulation (EC) N° 1825/2000 (implementing rules)

Cocoa and chocolate products

Function of the standard	Current way of regulating
1. Definition of what are chocolate and other cocoa products including rules on the process (authorised ingredients, in particular vegetable fats) 2. Information to consumer through labelling based on definitions and rules defined above	Council Directive 2000/36/EC

Coffee extracts and chicory extracts

Function of the standard	Current way of regulating
1. Definition of what are coffee extracts and chicory extracts 2. Information to consumer through labelling (sales designations defined and other characteristics – "decaffeinated" etc...)	Council Directive 1999/4/EC

Eggs

Function of the standard	Current way of regulating
1. Definition of the product qualities to facilitate the trade on the internal market (A and B eggs, methods of production etc). 2. Providing information to consumers (methods of production, durability, etc). 3. protect products which are sold with "mention valorisante" from standard production (e.g. free range) 4. Inform consumer about the origin	1. Community legislation (Council Regulation (EC) No 1234/2007, Commission Regulation (EC) No 2295/2003), * Règlement (CE) n° 2271/75 du Conseil (OCM)

Fresh (and processed) fruit and vegetables

Function of the standard	Current way of regulating
<ul style="list-style-type: none"> • Definition of product (base-line) by reference to a botanical classification (latin name) - minimum quality requirements (products are sound, clean, loyal, etc...). In some cases, this includes physical or chemical minimum parameters (e.g. top define minimum maturity requirements) • Labelling requirements providing information to consumers (Class, size, variety, origin, other particulars specific to one or the other fruit or vegetable ("pipless", date of harvest, etc...)) 	<p>Norms are set at Community level; there may be in addition some remaining national standards (potatoes in several MS, some other products in some other MS, e.g. shallots in France, Chestnuts in Italy, etc...).</p> <p>Following adoption of R 1182/2007, the fruit and vegetables marketing standards are currently under revision, with a view to reduce the number of products covered by a specific marketing standard.</p> <p>However, most of the norms are copies of international norms (UN/ECE).</p> <p>Products list :</p> <p>Fresh fruits: apples, pears, citrus fruit (except grapefruit), , kiwis, peaches and nectarines, strawberries, table grapes, bananas</p> <p>Processed fruits : dried grapes</p> <p>Fresh Vegetables : lettuce and other salads, sweet peppers, tomatoes, .</p> <p>Legal base : R 1234/2007, with the exception of bananas (R. 404/1993)</p> <p>Commission Regulation (EC) No 1580/2007</p>

Fruit juice

Function of the standard	Current way of regulating
<ol style="list-style-type: none"> 1. Classification: definition of different types of products: fruit juice, fruit juice from concentrate, nectars, etc... 2. Minimum requirements: rules on authorised ingredients for all products covered (types of sugar added, pulps, cells and aromas added, rules on addition of acids and carbon dioxide) and minimum sugar contents for nectars. 3. Information to the consumer: labelling rules: type of product (distinction between juice and juice from concentrate), addition of sugar and other ingredients mentioned above, national derogations 	<p>Norms set at Community level (Council <u>Directive</u> 2001/112/EC)</p>

Fruit jams, jellies and marmalades, chestnut puree

Function of the standard	Current way of regulating
<p>1. Classification: definition of different types of products: jam, extra jam, jelly, extra jelly, marmalade, jelly marmalade, sweetened chestnut purée.</p> <p>2. Minimum requirements for end-product (authorised additional ingredients for all products covered (honey, fruit juice, pectins, citrus peel, etc...)) and for raw material (treatment authorised for raw materials (freezing, heating, concentrating of raw material, additives,))</p> <p>3. Information to the consumer - Labelling rules : type of product, sugar and/or fruit contents, other requirements (presence of sulphur dioxide)</p>	<p>Norms set at Community level (Council <u>Directive</u> 2001/113/EC)</p>

Honey

Function of the standard	Current way of regulating
<p>1. Definition of what is honey. In this way the standards protect the consumer.</p> <p>2. Establishment of the conditions of competition between honey and competing products, avoiding distortion (avoidance of "false honey" being offered on the market)</p> <p>3. Deepening of the market (protect products which are sold with "mention valorisante" from standard production (e.g.monofloral honey)</p> <p>4 Inform consumers about origin.</p>	<p>Council Directive 2001/110/EC</p>

Hops

Function of the standard	Current way of regulating
<p>1. Obligatory certification following EU criteria exist to maintain the quality and the image of European hops.</p>	<p>1. Community legislation (Council Regulation (EC) No 1234/2007, Commission Regulation (EC) 1850/2006)</p>

Milk: Drinking milk

Function of the standard	Current way of regulating
1. Consumer protection and information, avoiding false competition and maintaining the natural image of milk: by defining the characteristics of what is milk (protein content) and 3 specific kinds of fat categories: whole milk, semi skimmed milk, skimmed milk.	1. Community legislation (Council Regulation (EC) No 1234/2007)

Milk and milk products: preserved milk

Function of the standard	Current way of regulating
1. Definition of products and product names (e.g. condensed milk, milk powder) authorised treatments (e.g. protein standardisation) Protection of the natural composition of these products in the interest of producers and consumers. 2. Establishes conditions of competition, avoiding distortion.	1. Community legislation Council Directive 2001/114/EC

Milk and milk products protected designations

Function of the standard	Current way of regulating
1. Definition of what is milk, protection of the natural composition of milk products in the interest of producers and consumers 2. Establishes conditions of competition between milk and competing products, avoiding distortion.	1. Community legislation (Council Regulation (EC) No 1234/2007, Commission Regulation (EC) 445/2007)

Olive oil

Function of the standard	Current way of regulating
1. Classification: definition of the different product categories (extra virgin oil, virgin oil, lampante olive oil, refined olive oil, "olive oil", etc...) 2. Minimum requirements: physical, chemical and organoleptic characteristics of olive oil products as well as detailed methods of analysis to be followed for the determination of the related criteria. 3. Information to the consumer: labelling rules applicable at retail stage for type of product: (origin, cold extraction, organoleptic properties, etc...., for blends with other seed oils and of foodstuffs containing olive oil as ingredient 5. Rules on control arrangements by MS and reporting.	. Community legislation (Council Regulation (EC) N° 1234/2007 (Descriptions and Definitions of olive oil), Commission Regulation (EEC) No 2568/91 (minimum physical, chemical and organoleptic characteristics of olive oil products and methods of analysis thereof), Commission Regulation (EC) No 1019/2002 (rules on labelling and controls).).

Poultry

Function of the standard	Current way of regulating
<p>1. Having fixed standards allows one to compare similar products. In this way it improves competition on the internal market.</p> <p>2. Minimum quality criteria to protect consumers (eg. maximum water content)</p> <p>3. Protect products which are sold with "mention valorisante" from standard production (e.g. free range)</p> <p>4. Inform consumer about the origin</p>	<p>1. Community legislation (Council Regulation (EEC) No 1234/2007, Commission Regulation (EEC) No 1538/91), * Règlement (CE) n° 2777/75 du Conseil (OCM), Règlement (CE) n°2782/75 du Conseil (production et commercialisation)</p>

Spirit drinks

Function of the standard	Current way of regulating
<p>1. Consumer and producer protection by definition of a list of types of spirits. Definition also covers production processes to be followed for most spirits.</p> <p>2. Consumer information through specific labelling requirements, compulsory (e.g. sales designation defined above,...) or voluntary (ageing, blending,...)</p>	<p>1. Community legislation (Council Regulation (EEC) No 110/2008; Commission Regulation (EEC) No 1014/90 on definition, description and presentation of spirit drinks</p>

Spreadable fats (butter, margarine and blends)

Function of the standard	Current way of regulating
<p>1. Standards create a level playing field for similar products. In this way it improves competition on the internal market.</p> <p>2. Consumer protection: by defining the minimum characteristics of butter, margarine and blends, the consumers have a certain guarantee on the product they buy.</p>	<p>1. Community legislation (Council Regulation (EC) No 1234/2007, Commission Regulation (EC) 445/2007</p>

Sugar

Function of the standard	Current way of regulating
<p>1. Definition of the product in the context of import quota management (raw sugar is recalculated into white sugar equivalents).</p> <p>2. Quality criteria for intervention.</p> <p>3. Definitions by vertical directive of types of sugar (white, semi-white, extra-white, etc...) and rules on labelling of products named according these designations. Harmonised method of analysis for the determination of the colour of sugar.</p> <p>4. The trade has other, more precise standards. The EU does not interfere.</p>	<p>1. Community legislation (Council Regulation (EC) No 1234/2007, Commission Regulation (EC) No 952/2006).</p> <p>2. Council Directive 2001/111/EC</p> <p>3. Standards applied by the trade are not regulated.</p>

Veal definition

Function of the standard	Current way of regulating
<p>1. Provision of a clear description of the product for consumers</p> <p>2. Avoidance of a distortion of competition between producers using different definitions of veal..</p>	<p>Council Regulation (EC) No 1234/2007 on the marketing of the meat of bovine animals aged 12 months or less.</p>

Wine

Function of the standard	Current way of regulating
<p>1. Consumer protection: by defining what wine (and their different types) and wine products (vinegar etc...) are, including the authorised production processes.</p> <p>2 Providing consumer information by regulating the labelling of wine (including both compulsory labelling requirements and voluntary labelling requirements).</p> <p>3 Protecting the interests of certain producers by regulating quality standards and labelling of wine.</p> <p>4. Methods of analysis : harmonised implementation of quality and labelling requirements above</p>	<p>1. Community legislation Council Regulation (EC) No 1234/2007 (as of 1-8-2009)</p> <p>* Labelling : Commission Regulation (EC) No 753/2002</p> <p>* Oenological practices : Commission Regulation (EC) No 1622/2000</p> <p>* Methods of analysis : Commission Regulation (EC) No 2676/90</p> <p>* Documentation and registers : Commission regulation (EC) No 884/2001</p>