



## The EU's Marketing Standards for Fruit and Vegetables: The End of a Myth?

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In July 2009, following a decision by its Management Committee for the Common Organisation of Agricultural Markets in November 2008, the European Union confined to the archives a hundred of its most (in)famous pages of *acquis communautaire*: standards regulating the size, shape, and colour of fruit and vegetables marketed in the EU, including the well-known regulation of the maximum curvature of cucumbers.

The much derided regulation was introduced in 1988 on the request of retailers, who hoped to reduce packaging and transport costs. Standards were set for four quality classes. Produce that did not meet the standard of the lowest class had to be transformed or eliminated. To quote just two examples, to qualify for Class 1, cucumbers were not to bend more than 10 mm for each 10 cm of length and green asparagus had to be green for 80% of its length.

Although these standards were not actually invented by the European Commission, but were identical to rules previously set down by the United Nations Economic Committee for Europe (UNECE) to prevent the multiplication of national rules and to facilitate trade, they rapidly came to be invoked as a symbol of overregulation by the European Union. Throughout Europe, they were cited by critics (and cynics) as a symbol of the absurdity of the European project.

How then did these norms come to be adopted, how did they survive until now and why were they revised in 2008? Finally, what is the likely impact of the revision?

### *The Issues at Stake*

Presenting the November 2008 decision to repeal a number of the standards as a "concrete example of our drive to cut red tape", Agricultural Commissioner Mariann Fischer Boel highlighted the role played by the negative publicity associated with the regulations for the European Commission and the EU generally; only rules with an impact on health and safety were to remain in place. In addition, the initiative was to limit waste and increase product choice for the consumer. At a time of economic difficulties, the reduction of waste was also expected to have a positive impact on prices.

The Commission's reference to expected price cuts indicates that aside from issues of public legitimacy the matter is underlain by very concrete interests and policy preferences. Justified in terms of consumer choice, reduced waste and a decrease in prices, the repealing of the marketing standards was supported by most consumer



associations and environmental lobbies. It is also in line with the increased agri-environmental orientation of the Common Agricultural Policy since the late 1990s.

Amongst producers, wholesalers, and retailers, there were, however, also many voices in favour of the marketing standards. Many farmer unions across the EU opposed the changes. The European umbrella organisation for farmers and agri-cooperatives, Copa-Cogeca, warned that it would be more difficult to compare prices and that consumers would not have certainty about product quality. Fear of price drops also played a role. Thus the expert on fruit and vegetables at Copa-Cogeca pointed out that farmers must be able to live decently from their work, adding that 20 years ago Europeans spent an average of 21% of their income on food against 13% today.

Fears of price cuts were articulated particularly clearly in France. In other member states, farmer unions emphasised the comparability of quality and price across the EU. On these grounds, the German Farmers' Union described the revoking of the rules as 'unintelligible and inscrutable' (unverständlich und nicht nachvollziehbar). German retailers, like Aldi or Kaiser's, also opposed the proposed changes.

In Britain on the other hand, producers and retailers favoured the scrapping of the regulations. The supermarket chain Sainsbury's even initiated a large scale campaign against the norms, inviting the public to express themselves on a specifically established blog. The British National Farmers' Union was one of the few farmers' associations not to oppose the repealing of the rules, although it also pointed to the irony of a campaign led by retailers who had called for the norms in the first place. The different positions of the British, French, and German farmers' unions can be accounted for partially by structural differences between agricultural sectors and in the representation of different types of farmers in the unions. Whereas large farming enterprises have adjusted their production to the norms, smaller producers are more likely to benefit from the change.

These diverging positions suggest that the marketing standards, described by some as the height of absurdity and perceived by others to be perfectly self-evident, were not as senseless as they might seem, but simply in the interest of certain groups and unfavourable to others, as well as, of course, a very attractive example for those wishing to criticise the EU and the Commission's regulatory role.

### *Policy Formation at the Domestic and European Level*

When the issue was addressed at the European level, in the Management Committee for the Common Organisation of Agricultural Markets in the summer of 2008, the Commission did not manage to secure agreement on its proposals. In particular, producing countries like France, Spain, Italy and Poland, as well as initially Germany, opposed the revocation of the rules.

The acceptance of the Commission's initiative was facilitated by a last-minute swing in the German position in the autumn of 2008. One may only speculate about the reasons leading to the change in the German position. Did the consumer lobby gain the upper hand? Or did Germany receive backing for other points on the CAP agenda in November



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2008 in return for agreement on the repealing of the norms? Most probably, the bad publicity associated with Germany's defence of the directive also played a role. Indeed, *Agence France Presse* reported that the German Agricultural Minister at the time, Horst Seehofer, had transferred an official who had voted against the repealing of the rules, which highlights the sensitivity of the issue.

In any case, the German about-face illustrates that differences exist within as well as between countries. In other words, differences between countries result from the ways in which national representatives construct national policy positions. After all, farmers only accounts for 3% of total employment even in France, so that even the French emphasis on agricultural interests and farmers' livelihood is all but self-evident.

Media coverage on matter reflects the evolution of debates and of the formation of policy position at the national level. The French press on the whole backed the Government's defence of the marketing standards. The emphasis was on farmers and their concerns. Even the price cuts feared by farmers were quoted as an argument for maintaining the norms, which is telling about the relative importance given to the interests of the farming community. In Germany, the press coverage was dominated by a more dispassionate analysis of the different reasons for and against the proposed change and its likely consequences, frequently with a certain distance in tone alluding to the absurdity of the rule, but also to the discussion surrounding the issue. In the UK, few voices opposed the repealing of the norms supported by the Government as a pragmatic solution, the attention was on the Commission's regulative activity generally. Some satisfaction was voiced that 'Brussels' had finally come to accept the flaws of the legislation - UK Independence Party Leader and MEP Nigel Farage, for example, spoke of a "rare moment of sense in an otherwise mad world" - without, however, much goodwill for the initiators of the change and even less discussion of the pros and cons of the subject matter.

In the end, a majority of EU member states continued to oppose the Commission's proposed changes, but did not manage to gather the necessary blocking majority and the amendments were pushed through by 11 member states for and 16 opposed.

### *Repercussions*

Nonetheless the impact of the decision remains uncertain. As a result of differences between as well as within states, only a small share of all fruit and vegetables produced in the EU is affected by the regulatory simplification. Indeed, the 26 types of fruit and vegetables covered by the relevant norms account for only 25% of all fruit and vegetables produced in the EU. It is true that even the ten remaining classes of fruit and vegetables, including apples, pears, citrus fruit or tomatoes, which account for the remaining 75% of total produce, may in future be sold if they do not meet the standards as long as they are labelled 'product intended for processing'. In addition, the agreement reached by the Agricultural Council in November 2008



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commits to the pursuit of endeavours to simplify conditionality rules for farmers and national administrations.

However, the limited scope of the norms affected by the revision is not the only reason why its concrete implications remain uncertain. In addition, many representatives of the sector expect that the norms will continue to be applied on a voluntary basis. In Germany, a number of large retailers have agreed to apply the original UNECE norms to the 26 categories of produce no longer covered by EU rules. In order to do so, translations of the UN rules into German have been commissioned and the German association for fruit and vegetable producers has requested the UNECE to introduce additional norms for a number of classes of produce not yet covered by the UNECE standards. In addition the German Farmers' Union and the German Fruit Retailers' Association have voiced fears that large producer organisations may develop their own, additional, norms. Even the German Retail Federation, which welcomed the greater flexibility, does not expect much change as the rules are likely to continue to be applied. Benefits are expected mainly for farmers who sell their own produce.

In general, experts do not anticipate a significant impact on prices. In the summer and autumn of 2009, prices for fruit and vegetables did drop in France, Germany and the UK, but it is difficult to disentangle the potential effect of the repealing of the standards from other factors, such as good weather conditions leading to a good harvest or the repercussions of economic difficulties. In addition, the price drops affected both products for which the marketing standards were repealed and products for which they remained in place.

In the light of these uncertainties, some conclude that the repealing of the marketing standards was only window-dressing: a largely symbolic initiative by the Barroso Commission, which had until then had little to show for the far-reaching rationalisation of the European legislative framework it had promised. Others, like Edmund Stoiber, a former candidate for the German Chancellery and the Chairman of the Anti-Bureaucracy Group in the European Commission, see it as a sign of new thinking, which will in due course lead to further rationalisation of the rules.

### *Where to from here?*

Window-dressing or not, it seems that rules that may not have been so absurd in the first place were revoked in the fight against red tape, but only partially, so that the likely impact is small yet potentially distorting.

This paper has attempted to trace this ambiguous outcome as the result of the interplay not only between the policy preferences of the different member states, but also between the interests of producers, distributors and farmers as well as national politicians and EU officials. But what has changed since the 1980s when the marketing standards were introduced? And can the circumstances leading to the partial repealing of the standards say anything about the future development of the remaining norms?

Since the introduction of the rules, the balance between the different players and their policy preferences has changed, even if the late reversal of the German position



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suggests that the balance between consumer, producer and retail interests remains highly complex and difficult to predict. In addition, the increased emphasis on the public legitimacy of policy choices introduces new stakes and new interests. Not only does public aversion to 'Eurobureaucracy' make it all but impossible for an elected official to defend anything that could be associated with the 'cucumber rule'. The quest for legitimacy also generates new interests with potentially far-reaching repercussions on policy. Indeed significant groups of civil servants are dedicated to the reduction of red tape and the improvement of public perceptions of the EU, not to speak of Sainsbury's building its own public relations campaign on the criticism of the marketing standards. To complicate matters further, it may be difficult to disentangle those who oppose the rules for their concrete implications on the fruit and vegetable sector from those fearing or drawing on fears of regulatory overkill. How the *rappports de force* between these different actors and their concerns play out in the future and what the balance will be - new thinking and further legislative improvements or limited and possibly distorting adjustments with uncertain consequences for public perceptions of the EU - remains to be seen.

#### Suggested Readings

- Ackrill, R., *The Common Agricultural Policy*, Sheffield, Sheffield Academic Press, 2000
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- Eurostat, *Agricultural Statistics Main Results 2007-2008*, Luxembourg, Office for Official Publications of the European Communities, 2009, available at [http://epp.eurostat.ec.europa.eu/cache/ITY\\_OFFPUB/KS-ED-09-001/EN/KS-ED-09-001-EN.PDF](http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-ED-09-001/EN/KS-ED-09-001-EN.PDF)
- Fouilleux, E., "Common Agricultural Policy", in Cini, M. (ed.), *European Union Politics* (2nd Edition), Oxford, Oxford University Press, 2006, pp. 340-355. 3<sup>rd</sup> edition forthcoming in 2009

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