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A REPORT FOR
THE CALIFORNIA
CHERRY BOARD

SPECIFIC ISSUES OF INTEREST TO THE CCB:

Updates on Decrees 248 and 249

- On December 6, the U.S. Food & Drug Administration (FDA) issued a [constituent update](#) recommending that facilities currently producing or storing products for export to China that fall under 18 specific product categories voluntarily submit information for facilities registration via the FDA's Export Listing Module (ELM). Fresh fruit does not fall within these categories.
- While the U.S. still interprets Decree 248 as allowing for self-registration of all product categories under the Phase One Economic and Trade Agreement, General Administration of Customs for China (GACC) has not confirmed this interpretation. Thus, FDA is collecting this information to prevent future trade disruptions. FDA has provided [step-by-step guidance](#) for using the ELM.
- On Thursday, December 2, GACC [published](#) an English version of [Decree 249 Measures of the People's Republic of China for the Administration of Import and Export Food Safety](#).
- On Wednesday, December 1, the USDA published GAIN reports on Chinese Decrees 248 and 249.
 - [Decree 248 Information Update](#) shares clarification provided verbally by the GACC to U.S. government officials. Most importantly for the CCB, GACC confirmed that "fresh" fruit producers do **not** need to register or label registration numbers on packages.
 - [Decree 248 HS Codes Published in GACC Single Window](#) includes a list of H.S. codes of the scope of products covered by Decree 248 as of November 30. The list had been updated since initially being published on November 19, so may not be the most current version of the list. FAS advises U.S. manufacturers to translate rows associated with H.S. codes they are interested in, as many H.S. codes are listed multiple times in slightly different iterations.
- While the United States and other countries have requested a delayed entry into force, both Decree 248 and Decree 249 are set to enter into force on January 1, 2022.

Canada Allowing Temporary Packaging and Labeling Flexibility for U.S. Product Sold in British Columbia

- In response to extreme flooding in British Columbia, the Canadian Food Inspection Agency (CFIA) has published a [notice to industry](#) allowing for temporary flexibility regarding labeling and packaging of products imported from the U.S., including fresh fruits and vegetables.
- Products must continue to meet all Canadian food safety requirements and include key information for consumers. Non-compliant products sold in accordance with the notice must still include appropriate documentation.
- The temporary arrangement only applies to product sold in BC and will end on December 31, 2021.

APHIS to Remove Federal Domestic Quarantine for Light Brown Apple Moth

- On December 3, the USDA Animal and Plant Health Inspection Service (APHIS) [announced](#) it is removing the light brown apple moth (LBAM) quarantine in California and Hawaii, reclassifying LBAM as a non-quarantine pest, removing all areas under quarantine, and removing movement restrictions on LBAM host material. Changes are effective on December 17, 2021.
- The announcement states that APHIS has determined that LBAM is no longer a pest of regulatory significance.
- Additionally, APHIS will remove the requirement for certain fruits imported from Australia and New Zealand to have a phytosanitary certificate containing a declaration that the shipment is free of LBAM.

GENERAL ISSUES OF INTEREST TO THE CCB:

Korea Updates Food Contact Material Requirements

- Korea's Ministry of Food and Drug Safety (MFDS) has published [Notice No. 2021-76](#) (in Korean), finalizing amendments to its Standards and Specifications for Food Apparatus, Containers, and Packages regarding the use of food contact materials.
- The changes implemented include the following:
 - revised standards for recycled synthetic resins
 - newly added standards for active and intelligent packaging
 - newly established standards for polyketone synthetic resin
 - revised testing methods and terminology
- The amendments are part of a new MFDS program facilitating the incorporation of recycled plastics into food packaging. Beginning in January 2022, plastics collected from transparent bottles through a separation and collection project may be used to manufacture food containers meeting the safety standards established by MFDS. The changes were originally [announced](#) (in Korean) by MFDS in May 2021 (*BCI Monitor 6-8-21*).

Italy Transposes EU Single-Use-Plastics Directive Into National Law

- European Union (EU) [Directive EU 2019/904](#) regarding single-use plastics entered into force with bans on some products effective on July 3 (*BCI Monitor 6-1-21*).
- As part of [EU Directive 2019/904](#) on Single-Use Plastics, each EU member state must transpose the directive into national law, with some room for national differences. On November 30, Italy published [Legislative Decree N. 196](#) from November 8, 2021 (in Italian, p. 10 in the PDF) transposing the EU Directive into national law.
- In line with the EU Directive, starting July 3, 2024, plastic beverage containers listed in Part C of the Annex can only be placed on the market when the plastic caps and lids remain attached to the containers during use.
- The Italian decree diverges from the EU Directive in that it exempts plastic products made from bioplastics, certified in compliance with European standard of UNIEN 13432 or UNIEN 14995, when they contain at least 40% renewable material at the date the decree enters into force, and at least 60% by January 1, 2024. The exemption is conditional upon meeting other criteria related to the environmental impact of substitutes, hygiene standards for food contact materials, and the collection and recycling system in place for the products. These rules infringe the EU Directive as specified by [Commission Notice 2021/C 216/01](#) but apply in Italy, until Italy and the European Union have settled the case.
- The decree enters into force on January 14, 2022.

EU Publishes Updated Trigger Volumes for Additional Import Duties

- The European Commission (EC) has updated its trigger volumes for the years 2022 and 2023 by publishing [Commission Implementing Regulation \(EU\) 2021/2140](#).
- The trigger volume is set to 37,031 MT for the period May 16 to August 15, 2022. No trigger volume has been announced for 2023.
- The regulation entered into force upon its publication in the Official Journal on December 6 and applies from January 1, 2022 through June 30, 2023.

UK Notifies Revised Risk-Based Phytosanitary Import Inspection System

- The United Kingdom (UK) Department for Environment, Food, and Rural Affairs (DEFRA) [notified the WTO](#) of revisions to Great Britain's import inspections for plant products.
- The proposed inspection system will apply to a wider range of commodities with phytosanitary relevance and be based on the risk associated with a particular commodity and origin, rather than including specified inspection levels for certain products as proposed in an earlier [WTO notice](#) (*BCI Monitor* 6-15-21).
- A [summary document](#) provides details regarding the expected frequency of phytosanitary inspections based on risk classifications. Unless otherwise specified, plant products such as fruits, vegetables, and some cereal seeds remain classified as low risk and will be inspected at a frequency of 1% of consignments. Annex 1 of the summary document outlines baseline inspection frequencies for higher risk imports and proposed processes for identifying plant products for which higher inspection frequencies may be warranted.
- Adoption on May 31, 2022 and entry into force on July 1, 2022 are proposed. Feedback on the notification is due by February 4, 2022.

Russia Notified WTO of EAEU Draft Amendments to List of Quarantine Pests

- Russia [notified the WTO](#) of a Eurasian Economic Commission Council [draft decision on amendments to the Common List of Quarantine Pests](#) (in Russian) established by *Eurasian Economic Commission Council Decision No. 158* from November 30, 2016.
- The draft amendment provides for the inclusion of 11 new quarantine pests:
 - Natal fruit fly (*Ceratitis rosa* Karsch);
 - Cucurbit beetle (*Diabrotica speciosa* Germar);
 - Western potato flea beetle (*Epitrix subcrinita* LeConte);
 - Emarginate ips (*Ips emarginatus* LeConte);
 - Monterey pine engraver (*Pseudips mexicanus* Hopkins);
 - Western cherry fruit fly (*Rhagoletis indifferens* Curran);
 - African armyworm (*Spodoptera exempta* Walker);
 - Sunflower fruit fly (*Strauzia longipennis* Wiedemann);
 - American dagger nematode (*Xiphinema americanum sensu stricto* Cobb);
 - Bricolense dagger nematode (*Xiphinema bricolense* Ebsary, Vrain & Graham);
 - Californian dagger nematode (*Xiphinema californicum* Lamberti & Bleve-Zacheo).
- The members of the EAEU are Armenia, Belarus, Kazakhstan, Kyrgyzstan, and Russia.
- Submissions can be sent to the U.S. SPS Inquiry Point at us.spsenquiry@fas.usda.gov until February 4, 2022.

USDA Schedules Public Meeting to Prepare for Upcoming Codex Meeting on Food Hygiene

- On January 27, 2022, the United States Codex Office will [hold a public meeting](#) to prepare for the 52nd Session of the Codex Committee on Food Hygiene (CCFH) of the Codex Alimentarius Commission. The meeting is scheduled for 1:00-3:00 p.m. EST and will take place via video conference. Early [registration](#) is encouraged.
- Agenda items for discussion during the public meeting include the work of the United Nations Food and Agriculture Organization (FAO) and World Health Organization (WHO) on microbiological risk assessment, information from the World Organisation of Animal Health (OIE), draft guidance for the management of biological foodborne outbreaks, draft guidelines for the safe use and re-use of water in food production, and draft guidelines for the control of Shiga toxin-producing *Escherichia coli* (STEC) in beef, raw milk, and cheese produced from raw milk, leafy greens, and sprouts.
- Information regarding the 52nd session of the CCFH, hosted by the United States, can be found [here](#). For further information regarding the meeting, please email the [U.S. Codex office](#).

Call for Projects on NAPPO Plant Health Standards and their Implementation

- On November 15, North American Plant Protection Organization (NAPPO) issued a [call for projects](#) with a deadline for submission of projects of January 15, 2022.
- USDA's Animal and Plant Health Inspection Service (APHIS) [invites](#) stakeholders to submit their project ideas on new plant health standards by NAPPO and on tools that support the implementation of standards. Submissions may be made until January 2, 2022 to PPQ's Acting NAPPO Technical Director, [Stephanie Dubon](#).

UK Opens Consultation on Precautionary Allergen Labeling

- The United Kingdom (UK) Food Standards Agency (FSA) has [opened a consultation](#) regarding the use of precautionary allergen labeling on food.
- In cases where a food business cannot sufficiently control risk of cross contamination (e.g., multiple foods are prepared in the same kitchen), it is best practice for a precautionary allergen labeling statement to be used to communicate risk. This may be done on a product label or be provided on signs or menus.
- Feedback may be submitted via the [FSA website](#) until March 2022.

UK Publishes Guide for Importers

- The United Kingdom (UK) published a [guide on how to import products](#) from any country to the UK, including information on certificates and licenses, and taxes and duties.

EU Notified Draft Regulation on Recycled Plastic Materials as Food Contact Materials

- The European Commission (EC) [notified](#) the WTO of a [draft regulation](#) on recycled plastic materials and articles used as food contact materials (including [Annexes](#)), repealing and replacing *Regulation (EC) No 282/2008*. The EC also opened the public feedback period for this regulation on its own [Have your say portal](#) on December 6.
- The draft regulation sets out rules for the manufacture and collection of recycled food contact plastics so that the final packaging does not harm consumer health or product quality and taste. Recycled plastics will be allowed as food contact materials if raw materials originate exclusively from municipal, food retail, or food business plastic waste that was intended and used for contact with food. Collection of the raw material for recycled food contact plastics shall happen separately from other plastic waste collection, as further defined in the draft regulation, and be traceable and certified by an independent third party. To operate recycling systems for recycled food contact materials, food business operators shall communicate recycling instruction on the product label, where relevant.
- Publication of the final regulation is expected on June 30, 2022, with entry into force 20 days thereafter on July 20, 2022.
- Submissions can be sent to the U.S. SPS Inquiry Point at us.spsenquiry@fas.usda.gov until February 5, 2022.

Update on the Market for Organic Products in Mexico

- USDA's Foreign Agricultural Services (FAS) published a [GAIN report](#) following a seminar held by Mexico's National Service for Food and Agricultural Health, Safety, and Quality (SENASICA) on the implementation of Mexico's Organic Products Law (LPO) (*BCI Monitors 5-4-21, 5-11-21, 6-29-21, 11-9-21*).
- SENASICA confirmed that organic products imported before January 1, 2022 can be commercialized in 2022 if the food business operator can provide documentation of importation before the LPO entered into force.
- Mexico's Ministry of Agriculture and Rural Development [announced](#) a new seal for organic products certified by SENASICA ([GAIN report MX2021-0046](#), *BCI Monitor 8-17-21*). The organic labeling measure will enter into force the day following its publication in Mexico's Official Journal and food business operators have 36 months to adjust labels.