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**SPECIFIC ISSUES OF INTEREST TO THE CCB:****South Korea Exempts Unpackaged Products in Natural State from Photo Requirement at Time of Import**

- A recent amendment to the [Enforcement Rules of the Special Act on Imported Food Safety Management](#) (in Korean) requires that the import declaration forms include a photo of the imported foods (*BCI Monitor* 11-29-22). The final version of the *Rules* grants the Ministry of Food and Drug Safety (MFDS) authority to set exemptions. On December 6, MFDS [published](#) (in Korean) a related notice, which exempts from this requirement agricultural products in their natural state (fresh or refrigerated) that are not in a container/package.
- BCI expects that fresh cherries are likely subject to the photo requirement because they are at a minimum packaged for shipment. We urge shippers to work with their importers to ensure that all required documentation is provided with the import declaration form.

**EU Sets Risk-Based Import Inspection Rates**

- On December 8, the European Union (EU) published [Commission Implementing Regulation \(EU\) 2022/2389](#), establishing rules for frequency of identity checks and physical checks on consignments of plants and plant products at EU-level.
- Base inspection rates are set to 100%, with derogations granted for certain product-origin combinations based on a risk-based approach detailed in Annex II.
- According to Annex I, minimum frequency of inspection is set to 100% for all products of the prunus family originating in the United States.
- The regulation entered into force on December 9, 2022 and applies from December 14. *Regulation (EC) No 1756/2004* on rules for setting inspection rates is repealed with effect from 14 December 2022.

**GENERAL ISSUES OF INTEREST TO THE CCB:****India Publishes Draft Amendment to Labeling Regulations**

- On December 1, the Food Safety and Standards Authority of India (FSSAI) published [draft Food Safety and Standards \(Labelling & Display\) Amendment Regulations, 2022](#) (in English starting page 5), amending the [Food Safety and Standards \(Labelling & Display\) Regulations, 2020](#) (July 2022 compendium linked).
- The draft labeling and display regulations have already been operationalized by [Direction File No: STD/SP-08/A1.2022/N-01-Part \(1\)](#) on July 1, 2022.
- The draft regulation clarifies which food and agricultural products are exempt from mandatory nutrition labeling. The new exemption reads as follows: "Raw agricultural minimally processed products such as wheat, rice, cereals, pulses, fruits and vegetables and/or products that comprise a single ingredient". It replaces points (i) and (ii) of clause 5(3)(c).
- Further, labeling requirements for non-retail containers are revised.
- Comments can be submitted via email to [regulation@fssai.gov.in](mailto:regulation@fssai.gov.in) until January 30, 2023.

**A REPORT FOR  
THE CALIFORNIA  
CHERRY BOARD**

## EU Adopts Draft Revised Packaging and Packaging Waste Directive

- On November 30, the European Commission [adopted a proposal for a regulation](#) on packaging and packaging waste (including an Annex), amending Regulation (EU) 2019/1020 and Directive (EU) 2019/904, and repealing Directive 94/62/EC.
- The draft proposal complements the [EU Policy framework on biobased, biodegradable and compostable plastics](#), also adopted on November 30, 2022. The European Union (EU) published FAQ documents for the [draft packaging and packaging waste regulation](#), and [the policy framework](#).
- Article 2 states that the regulation applies to all packaging and all packaging waste, regardless of material. Article 4(1) requires all packaging placed on the market to comply with the regulations. Article 4(5) grants Member States authority over labeling requirements for extended producer responsibility schemes. Of note, Article 3(9) defines manufacturers also as those businesses that have packaging designed or manufactured to sell products under their own name or trademark.
- Sustainability requirements (Chapter II)
  - Article 5 lays down requirements for substances in packaging, in particular a restriction on the concentration level of lead, cadmium, mercury, and hexavalent chromium. The Commission is empowered to adopt delegated acts lowering the level of this restriction as well as establishing exemptions from it.
  - Article 6 requires packaging to comply with “design for recycling criteria” by January 1, 2030, and stricter “recycling at scale criteria” by January 1, 2035. Annex II provides an indicative list of packaging materials for which standards, methods and recycling performance grades will be established in delegated acts.
  - Packaging with a recyclability rate lower than 70% will not be considered recyclable. Compliance must be demonstrated by maintaining technical documentation as set out in Annex VII on the conformity assessment procedure.
  - Article 7 requires plastic packaging to contain certain minimum recycled content recovered from post-consumer plastic waste starting January 1, 2030. Minimum content shall be increased by January 1, 2040. Compostable plastic packaging is exempt from the requirement. Article 7(1) and (2) set out the exact thresholds for different plastic categories.
  - According to Article 8, all packaging, including packaging made of biodegradable plastic polymers, shall be designed such that its material recycling does not affect the recyclability of other waste streams. Fruit and vegetable stickers, and lightweight produce bags shall be compostable in industrially controlled environments.
  - Article 9 restricts excessive packaging by setting out qualitative performance criteria. Packaging that only increases the perceived volume of a product is prohibited. Details are presented in Annex IV. Article 21 requires manufacturers, as defined in Article 3(9), and importers to ensure that the empty space ratio is no more than 40% when supplying products in grouped, transport, or e-commerce packaging to a final distributor or end user.
  - Article 10 sets out qualitative requirements for reusable packaging which must also comply with recyclability requirements (Article 6).
- Labeling requirements (Chapter III)
  - According to Article 11(1), packaging must be marked with a label containing information on its material composition. Transport packaging is exempt. A standard for digital marking will be set via an implementing act, adopted within 24 months after entry into force of the regulation.
  - According to Article 11(2), packaging shall bear a label regarding its reusability and a QR code or other type of digital data carrier that provides further information on packaging reusability.
  - Article 11(3) requires labels to provide information about the share of recycled content in a packaging unit. Labeling of packaging units with biobased plastic content shall follow exact specifications.
  - To establish all labeling specifications, the Commission will adopt implementing acts 18 months after entry into force of the regulation.
- Product bans (Article 22 and Annex V)
  - Article 22 prohibits placing on the market packaging in formats and for purposes listed in Annex V. Of note to CCB, the list includes single use plastic packaging, single use composite packaging or other single use packaging for fresh fruit and vegetables, if the product is sold in units smaller than 1.5 kg. Exemptions may be granted if there is a demonstrated need to avoid water loss or turgidity loss, microbiological hazards, or physical shocks.
- Waste reduction and recycling targets
  - Article 26 also sets out reuse targets for transport packaging by different categories.

- Article 46 sets out recycling targets for different packaging categories at Member States level.
- Article 38 requires each Member State to progressively reduce the packaging waste generated per capita compared to 2018 by 5% by 2030, 10% by 2035, and 15% by 2040.
- Extended Producer Responsibility (EPR)
  - Article 39 establishes a producer register on Member State level. Producers, including manufacturers and importers, shall register with the Member State in which they make packaging available for the first time. Packaging can only be placed on the market when the producer is registered.
  - Articles 40 to 42 complement EPR requirements set out in Directive 2008/98/EC.
- Comments on the draft regulation can be submitted through the [EC's Have Your Say Portal](#). The eight weeks available for feedback will not officially begin until the proposal has been published in all EU languages.
- The draft regulation, and feedback received, will be discussed, and voted on in the European Parliament and Council. After approval by both legislative bodies, it will be published in the Official Journal of the European Union and shall enter into force 20 days after publication. It shall apply 12 months after entry into force, with the following exemptions of interest to CCB:
  - Article 8 will be applied 24 months after entry into force.
  - Article 11(1) will be applied 42 months after entry into force.
  - Article 11(2) will be applied 48 months after entry into force.
  - [Article 8\(2\)](#) of Directive 94/62/EC on the identification system for packaging materials will apply until 42 months after the date of entry into force.