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## A REPORT FOR THE CALIFORNIA CHERRY BOARD

### SPECIFIC ISSUES OF INTEREST TO THE CCB:

#### APHIS Publishes Dates for Upcoming Plant Bilateral Meetings

- The U.S. Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) updated information on its Plant Health Technical Bilateral Meetings [webpage](#), including the following:
- The date for the U.S. – Mexico Plant Health Bilateral Meeting has been scheduled for July 15-19, 2024 (in person, Seattle, WA). Contact Amanda Elkhateeb for details, [amanda.m.elkhateeb@usda.gov](mailto:amanda.m.elkhateeb@usda.gov).
- The date for the U.S. – Japan Plant Health Bilateral Meeting has been scheduled for September 17-19, 2024 (in person, Idaho Falls, ID). Contact Lisa Kohl for details, [lisa.m.kohl@usda.gov](mailto:lisa.m.kohl@usda.gov).

#### Japan Notifies Draft Revisions to Regulation of Quarantine Pests

- On March 12, Japan's Ministry of Agriculture, Forestry, and Fisheries (MAFF) [notified](#) the WTO of proposed revisions to the *Ordinance for Enforcement of the Plant Protection Act* regarding quarantine pests.
- Of potential interest to CCB, the [summary of proposed revisions](#) notes that the provisional quarantine pests *Cherry virus A* and *Prunus necrotic ringspot virus* will be newly designated as non-quarantine pests.
- Current quarantine pest lists are available in English on the MAFF Plant Protection Station [website](#).
- The dates of adoption and entry into force are to be determined.
- Comments can be sent to the U.S. SPS Inquiry Point at [us.spsenquiry@fas.usda.gov](mailto:us.spsenquiry@fas.usda.gov). The WTO comment deadline is May 11, 2024.

### GENERAL ISSUES OF INTEREST TO THE CCB:

#### South Korea's Revised Resource Recycling Act Enters into Force

- On March 29, South Korea's Ministry of Environment's [amendments](#) to the [Law on Promotion of Saving and Recycling of Resources](#) (both in Korean) will enter into force (*BCI Monitor 4-4-23*).
- As previously reported and based on machine translation, the amendments include the following changes of potential interest:
  - Article 9-2 on Standards for Material and Structure of Packaging Materials, etc.: Obligated packaging producers must also comply with packaging parameters such as material, weight, color, ease of recycling, etc., as announced by the Ministry of Environment.
  - Article 9-4 (former Article 9-3) on Evaluation of the material and structure of packaging materials: Evaluation criteria shall include parameters for material, color, weight, and ease of recycling.
  - Newly added is Article 33-2 on indications of recycled content on packaging. Labeling packaging with a recycled content mark is only permitted when use of recycled materials exceeds the ratio prescribed by the Ministry of Environment and when labels comply with the Ordinance of the Ministry of Environment.
- BCI continues to monitor publication of ordinances and announcements related to Article 9-2 and Article 33-2 by the Ministry of Environment.

## South Korean Ministry of Food and Drug Safety Meets to Discuss Imported Food Safety Management Policy

- On March 6, South Korea's Ministry of Food and Drug Safety (MFDS) held [a plenary meeting](#) (in Korean) of the Imported Food Industry-Academia-Government Council to discuss progress on and future direction for imported food safety management.
- Included in the meeting was a progress report on South Korea's previously announced [100 Tasks for Food and Drug Regulatory Innovation](#) (BCI Monitor 8-16-22). Notable progress was made in training Artificial Intelligence to improve and inform imported food inspection rates (Task Item #3). Additionally highlighted were revisions to South Korea's rapid custom clearance system (Task Item #35) and consolidated inspection regulations (Task Item #78).
- BCI continues to monitor South Korea's progress on its [100 Tasks for Food and Drug Regulatory Innovation](#) and will report on milestones and regulations pertinent to CCB as they arise.

## EU Gazettes Directive Regulating Environmental and Sustainability-Related Claims

- On March 6, the European Union (EU) published [Directive \(EU\) 2024/825](#), amending [Directive 2005/29/EC](#) on unfair business-to-consumer commercial practices to empower consumers for the green transition (*ECGT Directive*). The *ECGT Directive* addresses commercial practices that may mislead consumers due to non-transparent and non-credible sustainability labels ('greenwashing') and applies to all products, including food and packaging. While the *ECGT Directive* also amends [Directive 2011/83/EU](#), the amendments pertain to a producer's commercial guarantee of durability and corresponding labeling.
- The amendments to [Directive 2005/29/EC](#) add definitions for the terms "environmental claim", "generic environmental claim", "sustainability label", "recognized excellent environmental performance", and "certification scheme".
- The *ECGT Directive* adds several points to Annex 1 of [Directive 2005/29/EC](#) on the commercial practices which are considered unfair in all circumstances and that are prohibited in all EU Member States:
  - Point 2(a): "Displaying a sustainability label that is not based on a certification scheme or not established by public authorities."
  - Point 4(a): "Making a generic environmental claim for which the trader is not able to demonstrate recognized excellent environmental performance relevant to the claim." Recital 10 of the *ECGT Directive* provides further information on how to interpret this statement, especially in relation to claims about biodegradability. The *ECGT Directive* provides several examples of generic claims: 'environmentally friendly', 'eco-friendly', 'green', 'nature's friend', 'ecological', 'environmentally correct', 'climate friendly', 'gentle on the environment', 'carbon friendly', 'energy efficient', 'biodegradable', 'biobased' or similar statements that suggest or create the impression of excellent environmental performance.
  - Point 4(b): "Making an environmental claim about the entire product or the trader's entire business when it concerns only a certain aspect of the product or a specific activity of the trader's business."
  - Point 4(c): "Claiming, based on the offsetting of greenhouse gas emissions, that a product has a neutral, reduced or positive impact on the environment in terms of greenhouse gas emissions."
  - Point 10(a): "Presenting requirements imposed by law on all products within the relevant product category on the Union market as a distinctive feature of the trader's offer." Recital 15 of the *ECGT Directive* provides further information on how to interpret this requirement for claims on imported products. Only if the legal requirements would not apply to the imported product, claims highlighting compliance can be made.
- According to the definition (*Article 1(b)(r) of the ECGT Directive*), certification schemes for sustainability labels must comply with specific criteria: the scheme is open, transparent, and fair; the scheme's requirements are developed by the scheme owner in consultation with experts; the scheme sets out procedures for dealing with non-compliance; and the monitoring of compliance is subject to a third party's objective procedure.
- Additionally, the *ECGT Directive* amends the description of "main characteristics of the product" under Article 6(1)(b) of [Directive 2005/29/EC](#) on misleading actions. The revised description now includes environmental or social characteristics and circularity aspects (such as durability, reparability, or recyclability).

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### *EU Gazettes Directive Regulating Environmental and Sustainability-Related Claims (Continued)*

- Two new misleading commercial practices are also added under Article 6(2) of *Directive 2005/29/EC*: 1) Making an environmental claim related to future environmental performance without clear, objective, publicly available and verifiable commitments set out in a detailed and realistic implementation plan, and 2) Advertising benefits to consumers that are irrelevant and do not result from any feature of the product or business.
- The *ECGT Directive* will enter into force March 26, 2024. EU Member States must adopt and publish measures to comply with the *ECGT Directive* by March 27, 2026, and those measures must be applied from September 27, 2026.
- This *ECGT Directive* is complementary to the EU's draft [Directive on Green Claims](#), regulating the use of voluntary, explicit claims about environmental impacts of a product, service or trader itself (*BCI Monitors* 3-28-23, 6-6-23). On March 11, Parliament [adopted its position](#) on the draft *Directive* to start negotiations with the Council. Based on the EU's Legislative Train Schedule, Parliament will only take a final decision on the file after the European election on June 6-9, 2024. As noted in the previous *BCI Monitors*, the *Green Claims Directive* will apply to food packaging; environmental claims on food products were to be regulated under a separate [Sustainable Food Systems Law](#), however, the EC is not moving forward with the proposal.

### **USTR Requests Comments on Promoting Supply Chain Resilience**

- On March 7, the Office of the United States Trade Representative (USTR) [published](#) a request for comments to inform objectives and strategies that advance U.S. supply chain resilience in trade negotiations, enforcement, and other trade-related initiatives.
- USTR requests that comments address one or more of the questions posed in *Section II* of the request for comments. Of potential particular interest to CCB, are the following questions:
  - What are examples of trade and investment policy tools that potentially could be deployed in the agricultural sector to enhance supply chain resilience? What features of the current policy landscape are working well, or less well, to advance resilience?
  - How does access to capital equipment, manufacturing equipment, and technology support supply chain resilience for U.S. producers, and is there a role for trade and investment policy?
  - How can the development of technical standards and regulations support supply chain resilience?
- In February 2022, USDA [published](#) an "[Agri-Food Supply Chain Assessment: Program and Policy Options for Strengthening Resilience](#)". Results under Priority 5 "Transportation Bottlenecks" and 6 "Trade Disruptions" highlight key vulnerabilities and actions related to the consultation.
- USTR strongly prefers comments be submitted electronically through the [Federal Rulemaking Portal](#) by April 22, 2024. Instructions for use of the portal can be found in *Sections IV* and *V* of the request for comments.
- USTR will also hear comments in-person at a public hearing May 2, 2024. Requests to appear at the hearing are due by April 12, 2024, and can be submitted to Sandy McKinzy via phone at (202) 395-9483.
- President Biden's 2024 Trade Policy Agenda [released](#) by USTR on March 1 places an emphasis on development of supply chain resilience.

### **Argentina Opens Consultation on Digital Certification System for Wood Packaging Treatment**

- Argentina's National Service of Agri-Food Health and Quality (SENASA) has opened a [public consultation](#) regarding a [draft resolution](#) (both in Spanish) on the approval of an Integrated Management System for Wood Packaging Treatments (SIG-TEM).
- The resolution proposes to establish an electronic system to verify and provide digital certification of phytosanitary treatments carried out on wooden packaging as required by Argentina in accordance with [ISPM 15](#).
- Feedback is due by April 4, 2024, and may be submitted to [consultapublica474@senasa.gob.ar](mailto:consultapublica474@senasa.gob.ar).

### India Publishes Draft Greenwashing, Environmental Claims Regulation

- India's Central Consumer Protection Authority (CCPA) recently published [Draft Guidelines for Prevention and Regulation of Greenwashing](#).
- The draft guidelines would apply to all advertisements (regardless of form, format, or medium) and product sellers (Article 3). Advertisements are defined as any visual representation, endorsement, or pronouncement made by means of print and includes labels and wrappers (Article 2,b).
- The draft guidelines would prohibit any person to whom the guidelines apply from engaging in greenwashing (Article 5). Article 2,e defines greenwashing as "any deceptive or misleading practice, which includes concealing, omitting, or hiding relevant information, by exaggerating, making vague, false, or unsubstantiated environmental claims;" and the "use of misleading words, symbols, or imagery, placing emphasis on positive environmental aspects while downplaying or concealing harmful attributes." This does not include the use of generic color schemes or pictures or the use of obvious hyperboles.
- Environmental claims are defined as any representation regarding a good (in its entirety or as a component), the manufacturing process, packaging, the good's manner of use, or its disposal, suggesting a sense of environmental responsibility or eco-friendliness (Article 2,f). According to the definition, examples are claims stating that product has a neutral or positive impact on the environment, contributes to sustainability, causes less harm to the environment compared to other competing goods, and is beneficial to the environment.
- All advertisements making environmental claims must be substantiated, backed up by verifiable evidence, precise, and all material information must be adequately disclosed. Details are set out in Articles 6 and 7.
- Specific environmental claims such as Carbon Offsets, carbon neutral, Compostable, Degradable, Free-of, Sustainability claims, Non-Toxic, 100% Natural, Ozone-Safe and Ozone-Friendly, Recyclable, Refillable, Renewable, or other similar assertions must be supported by disclosure about credible certification, reliable scientific evidence, or independent third-party verification (Article 7,e).
- Aspirational or futuristic environmental claims may be made only when clear and actionable plans have been developed detailing how those objectives will be achieved (Article 8).
- The draft guidelines also contain a Guidance Note (Annexure 1) providing help and guidance for making environmental claims. The note provides a list of items to keep in mind when making environmental claims and provides examples.
- Comments are due by March 21, 2024, and can be emailed to [com-ccpa@gov.in](mailto:com-ccpa@gov.in). The guidelines will enter into force on the date of publication in the Official Gazette.

### India Publishes Several Draft Food Contact Material Standards

- India's Bureau of Indian Standards (BIS) recently published several draft food contact material (FCM) standards of potential interest to CCB:
  - [PCD 12\(24899\) \(Details\)](#) amending *IS 1673: 2018* on the positive list of constituents for polypropylene, polyethylene and their copolymers for their safe use in contact with foodstuffs. The amendment modifies the value of Benzo (a) pyrene content.
  - [PCD 12 \(24900\) \(Details\)](#) amending *IS 9833: 2018* on the list of colorants for use in plastics in contact with foodstuffs. The amendment modifies the value of Benzopyrene.
- Comments are due for both draft standards by April 15, 2024, and can be submitted [online](#). The final drafts are expected by June 15, 2025, with gazettal expected by August 15, 2024.