



ABC GLOBAL UPDATE

February 2021

EU-UK and Rules of Origin.... Lots of Questions!

As the EU-27 and UK move forward in their new relationship, questions are coming up regarding “triangular trade” – in effect, goods imported from a 3rd country into EU-27, then “re-exported” to the UK. The question is whether these goods are considered “EU Origin” and therefore have tariff preference at import into the UK.

ABC is working with USDA, USTR, and trade organizations in Europe to understand the situation.

But the short answer seems to be “no” ...

Rules of Origin are complicated, but a critical part of the EU-UK trade picture. Origin is “conveyed” if the product is:

- Wholly obtained
- Change of tariff code
- Value added/percentage
- Specified processes

In effect, California almonds exported and duty-cleared into EU-27 or the UK will likely be subject to tariffs if they are subsequently re-exported to the other market, *unless they are substantially transformed*.

This is where the Rules of Origin become critical: if there has been a change in tariff code (e.g., from 0802 to 2008), then “origin is conveyed.” The other criteria would be if the % of almonds in the final product is below 40% of the weight, or the total value of the almonds does not exceed 30% of the price of the product (think about the proportion of almonds in marzipan...).

Understanding how Rules of Origin will be applied is still being worked out. But in it clearly highlights the importance of seeing negotiations get

underway for an FTA with the EU and the UK.

China COVID-19 Certificates and Shipments to China

Several handlers have contacted ABC regarding communications they have received saying they need to have “COVID-Free” Certifications in China.

ABC contacted the USDA Foreign Agricultural Service (FAS) office in Beijing, China Customs (GACC), and several local ports to understand the current requirements for food imports clearance at Customs. Currently the “COVID-19 free test certificate” is **not** required by the local Customs. Instead, local Customs is conducting random nucleic acid testing on imported food (the COVID-19 testing that China is using for imported products and packaging). Evidently, all products are subject to testing, not just food and ag products.

ABC is actively engaged in this issue and will be reporting developments as they occur. For more information, or to share any experiences with exports to China as related to COVID-19, please contact Julie Adams at the ABC: jadams@almondboard.com

Japan Aflatoxin Rejections less than 1%

Japan continues to implement a 100% import testing regime on almonds. This is based on Japan’s approach to mycotoxin control. In 2020, there was a total of 13 rejections – which accounts for about **0.5%** of consignments. This is the lowest rate in four years, despite the increasing volume of shipments.

A key concern continues to be the fact that Japan does not take a

representative sample of the consignment, which would likely reduce some of the variability in the results (and potentially reduce the number of rejections). ABC is working closely with USDA/FAS, AMS and FDA in engaging with Japan’s Ministry of Health.

USDA Publishes Report on China Diversifying Agricultural Imports

The USDA/FAS released a **GAIN report** on China’s efforts to diversify its sources of agricultural imports. According to the report, U.S. agricultural products in China will continue to see increasing competition from other countries and Chinese domestic production.

The report advises U.S. exporters to consider differentiating their products from the mainstream, promoting the superior quality, safety, and sustainability of U.S. products.

USTR Publishes 2020 Reports on WTO Compliance by China and Russia

The Office of the U.S. Trade Representative **released its annual reports** on China’s and Russia’s compliance with the WTO’s rules, criticizing both for unfair trade practices.

Agriculture-specific sections start on page 51 of the **China** report and page 18 of the **Russia**.

The report on China highlights that despite expanded U.S. agricultural exports in 2020 under the Phase One agreement, China remain an unpredictable export market for U.S. agricultural products with inconsistent enforcement of regulations.

The report on Russia notes Russia’s many non-tariff barriers and that in

2020 the U.S. continued to raise concerns to the WTO on Russia's subsidization of railway freight and other agriculture-related activities.

USDA Publishes GAIN Report on EU Food Labeling Revision Roadmap

The USDA recently published a new **GAIN Report** summarizing the European Commission's roadmaps of proposed changes to labeling requirements.

The EU is considering revisions to requirements on Front-of-Pack (FOP) nutrition labeling and nutrient profiles, expanding mandatory origin labels for new product categories, and expiration dates as part of the Farm to Fork Strategy.

Korea Publishes 2021 Imported Food Distribution Management Plan

South Korea's Ministry of Food and Drug Safety (MFDS) recently **announced** (in Korean) the implementation of its 2021 Food Distribution Management Plan.

MFDS establishes and implements an annual plan to ensure the safety and quality of imported food under the **Special Act on Imported Food Safety Control** (in Korean).

The main elements of the plan are increased inspection depending on company history, expanded sampling of certain imported foods based on risk, and improved reporting methods to prevent the distribution of non-reported consignments.

India Customs Notification Raises Questions

On January 19, 2021, the Commissioner of Customs issued public notice 7/2021 outlining mandatory uploading of documents in e-Sanchit. For almonds, (0802.11 and 0802.12), the requirements are to upload (1) phytosanitary certificate, (2) specimen copy of label, and (3) FSSAI license number.

The notification did not convey any specific labeling requirements. USDA/FAS met with India's Food Safety and Standards Authority to confirm that there are no changes to previous guidance related to labeling, and the fact that almonds are considered a "primary food." ABC's understanding is that shippers need to send a photo/scan of the bag label to their importer so it can be uploaded to the system.

India's Draft Notification on Licensing and Registration Rules for Food Business Operators Notified to the WTO

The Food Safety and Standards Authority of India (FSSAI) **notified the WTO** on January 25, 2021 of **draft regulation amendments** (English begins on pg. 70) to the **Food Safety and Standards (Licensing and Registration of Food Businesses), Regulations 2011**.

The notification outlines proposed compliance rules for licensed and registered Food Business Operators (FBOs) engaged in other businesses and how FBOs must conform to food safety and sanitary measures. There seems to be confusion, however, as to whether the rules apply to food operators from exporting countries. ABC is reviewing the regulations, to clarify the requirements.

The regulations will enter into force on either January 1 or July 1, subject to a minimum of 180 days from their final publication in the official Gazette.

Comments are due by March 26, 2021 and can be sent by e-mail to regulation@fssai.gov.in.

Logistics Delays Continue

As we enter February, the excessive delays for ag exporters at California ports remain front and center. A recent ABC survey conducted of the top 20 export handlers showed that **all respondents** have been heavily impacted; some as much as 90% of

shipments delayed in some fashion. Excessive fees, i.e., detention and demurrage are commonplace.

The Ag Transportation Coalition has taken the national lead on this critical issue, and is addressing concerns with elected officials, the Federal Maritime Commission, and others. On February 5, AgTC produced a very useful two-page document that summarizes the extent of the problem and the actions being taken to address it. See the link below:

[AgTC-The-Current-Export-Crisis.pdf \(netdna-ssl.com\)](https://www.netdna-ssl.com/agtc-the-current-export-crisis.pdf)

Please contact Geoffrey Bogart for more information or to share experiences with export delays: gobogart@almondboard.com

Registration Open for 2021 MRL Workshop May 26-27

The 2021 MRL Harmonization Workshop **Webinar** is to be held on May 26-27 from 8-12 PT. Registration can be accessed on the California Specialty Crops Council CSCC website at <http://specialtycrops.org/mrlworkshop.html>. Costs are \$250/person, wotj some rebates for groups of 5+.

Speakers include representatives from South Korea, China, United Kingdom, European Union, Central America, and Codex. Ms. Elisa Fertig with FAS-USDA will discuss EU Pesticide MRL Policies.

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