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Report Highlights:

On November 12, 2020, China notified a revised draft of the Administrative Measures on Import and Export Food Safety to the WTO SPS Committee as G/SPS/N/CHN/1191. The Measures intend to replace the AQSIQ Decree 144 of the same title, applying to the inspection, quarantine, and regulation of food imports and exports. A previous revised draft of the Measures was issued for domestic comments in June 2020. The comment deadline is January 11, 2021. Comments can be sent to China's SPS Enquiry Center at sps@customs.gov.cn. This report contains an unofficial translation of the draft Measures.

Executive Summary

The Administrative Measures on Import and Export Food Safety currently in effect were issued in September 2011 and entered into force on March 1, 2012. Also known as AQSIQ Decree 144 (Decree 144), the Measures are the primary regulation for the inspection and oversight of food imports and exports, including overseas facilities registration requirements, imported food inspection procedures, and a food safety risk alert mechanism.

China has released several revised drafts of Decree 144 since its entry into force in 2012:

- On September 13, 2017, China notified a revised draft to the WTO SPS Committee as SPS 1056. Some of the articles in SPS 1056 reflect measures already implemented, while others are currently being considered for implementation by the relevant authorities. However, SPS 1056 has never been finalized.
- In 2018, the Measures were revised to reflect the Chinese government reorganization, through which the authority for the inspection and quarantine of import and export safety was transferred from the former General Administration of Quality Supervision, Inspection, and Quarantine (AQSIQ) to the General Administration of Customs of China (GACC).
- In June 2020, a revised draft was issued for domestic comments.

In comparison with the Measures currently in effect, the draft Measures notified to the WTO as G/SPS/N/CHN/1191 include the following changes:

- Make reference to the provisions for the import of foods without eligible national food safety standards.
- Introduce the concept of “conformity assessment,” which covers the evaluation of foreign food safety management systems, the registration of overseas food export facilities, and required record filing by importers and exporters. (Article 12)
- Identify the conditions that trigger an evaluation and review of the food safety oversight system of a foreign country/region, as well as the content and methods of the evaluation and review. (Articles 14 – 16)
- Specify the use of video as a medium of facility inspection. (Article 18)
- Elaborate on labeling requirements. (Article 38)
- Stipulate measures to be taken for imported food determined to be noncompliant with import requirements. (Articles 41 - 43)
- Add a provision for the suspension of imports from an exporting facility or country/region when imported foods are determined to be contaminated by infectious pathogens, or when imported food is deemed to be a potential vector of infectious disease. (Article 44)
- Replace and revoke the AQSIQ decrees on the import and export inspection and quarantine of meat products, aquatic products, dairy products, and honey.

Stakeholders are encouraged to comment on the notified draft Measures by sending comments to China's SPS Enquiry Center at sps@customs.gov.cn before January 11, 2021.

BEGIN TRANSLATION

Administrative Measures on Import and Export Food Safety of the People's Republic of China

Chapter I General Provisions

Article 1 [Legislation Basis] To safeguard import and export food safety and protect the health and life of the public, these Measures are formulated in accordance with the Customs Law of the People's Republic of China, the Food Safety Law of the People's Republic of China (hereinafter referred to as the "Food Safety Law") and the implementing regulation thereof, the Law of the People's Republic of China on the Inspection of Import and Export Commodities and the implementing regulation thereof, the Law of the People's Republic of China on the Quarantine of Animals and Plants at Entry and Exit and the implementing regulation thereof, the Law of the People's Republic of China on Quality and Safety of Agricultural Products, and the Special Rules of the State Council on Strengthening the Supervision and Administration of the Safety of Food and Other Products.

Article 2 [Application Scope] These Measures should be observed in the following activities:

1. The production and other business operations of food imports and exports (not including food additives or food-related products; this applies to the rest of the Measures) regulated by Customs according to their jurisdictions; and
2. The inspection, quarantine, supervision and administration of food imports and exports.

Article 3 [Working Principles] The oversight of import and export food safety should adhere to the principles of safety first, prevention-oriented, risk management, whole-process control, and global co-governance; establish modern governance mechanisms that are science-based, rigorous, efficient, convenient, coordinated, unified, open, and transparent.

Article 4 [Corporate Responsibility] Producers and operators should be held accountable for the safety of the food imports and exports they produce and handle.

Producers and operators of food imports and exports conduct production and other business operations in accordance with multilateral and bilateral agreements between China and relevant countries or international organizations, and Chinese laws, regulations, and national food safety standards, and are supervised accordingly; they should ensure import and export food safety, be responsible to society and the public, and assume social responsibilities.

Article 5 [Division of Responsibilities] The General Administration of Customs of the People's Republic of China (GACC) is in charge of oversight of import and export food safety in the country.

Local Customs offices are responsible for oversight of import and export food safety in the areas under their jurisdiction.

Article 6 [Regulatory Informatization] Customs uses information technology means to improve oversight of import and export food safety.

Article 7 [Credit Management] Customs implements credit management on producers and operators of food imports and exports in accordance with relevant enterprise credit management provisions.

Article 8 [Public Education, Exchange and Cooperation] Customs strengthens publicity and education on the safety of food imports and exports, and launches public education on food safety laws, regulations, national food safety standards, and relevant knowledge, in order to enhance consumers' awareness of import and export food safety and their self-protection capacity.

Customs strengthens exchange and cooperation with international organizations engaged in food safety, foreign governments, domestic and foreign food industry associations, and foreign consumer associations, in order to create a pattern of global co-governance of the safety of food imports and exports.

Article 9 [Qualification Requirements] The Customs officials engaging in oversight of import and export food safety should possess the necessary professional knowledge.

Chapter II Food Imports

Article 10 [Basis for Oversight of Import] Food imports should meet the provisions of Chinese laws, regulations, and national food safety standards.

To import foods without applicable Chinese national food safety standards, such foods should conform to the temporarily applied standard announced by the State Council's health department¹; foods without applicable Chinese national food safety standards should not be imported until the temporarily applicable standard is issued.

Foods produced with new food materials should, according to Article 37 of the Food Safety Law, obtain administrative licensing for new food materials issued by the State Council's health department.

¹ The health authority under the State Council is the National Health Commission

Article 11[Re-export Supervision] If imported food materials are re-exported after processing, Customs may request inspection according to the standards of the destination country/region or the trade contract; quarantine of such products should be conducted in accordance with existing regulations.

Article 12 [Import Conformity Assessment] Customs conducts conformity assessments on food imports in accordance with relevant laws and regulations for import and export commodity inspection.

A conformity assessment of food imports includes: evaluation and review of the food safety management system of a foreign country/region, registration of overseas production facilities (overseas facilities that engage in production, processing, and storage of food for export to China, hereinafter collectively referred to as overseas production facilities), record filing and conformity guarantee of importers and exporters (overseas exporters or agents exporting food to China, and food importers), quarantine and approval of entry animals and plants, verification of the compliance certification documents, document examination, on-site inspection, supervision and sampling testing, examination of the import and sales records, as well as a combination of these activities.

Article 13 [Evaluation and Review] GACC may evaluate and review the food safety management system and food safety situation of a country or region exporting food to China, and determine the inspection and quarantine requirements based on the results of the evaluation and review.

Article 14 [Evaluation and Review Initiation] Under any of the following circumstances, GACC may initiate the evaluation and review of a country/region that exports food to China:

1. The country/region applies to export a certain category of food to China for the first time;
2. The country/region had a significant change in its regulations on food safety or animal and plant quarantine, or had a significant change in the regulatory authorities;
3. The foreign competent authority applies for the adjustment of major inspection and quarantine requirements for a certain category of food the country exports to China;
4. A foreign country/region had an outbreak of a significant animal or plant disease or food safety incidents;
5. Customs detects serious problems in food imports and deems there is animal/plant disease or food safety risks; or
6. Other circumstances requiring evaluation and review.

Article 15 [Contents of Evaluation and Review] The evaluation and review of a country/ region's food safety management system mainly includes evaluation and confirmation of the following items:

1. Laws and regulations related to food safety, and animal and plant diseases;

2. The regulatory authorities of food safety;
3. Spread, prevention, and control of animal and plant diseases;
4. Management and control of pathogenic microorganisms, pesticides and veterinary drugs, contamination, etc.;
5. Safety and sanitation control over food production, processing, transportation, and storage;
6. Oversight of export food safety;
7. Food safety defense, traceability, and recall system;
8. Alert and emergency response mechanisms;
9. Technical support capacity; and
10. Other situations involving animal or plant disease and food safety.

Article 16 [Means of Evaluation and Review] GACC may organize experts to conduct evaluation and review by means of document review, video inspection, on-site inspection, etc., or a combination of these means.

Article 17 [Document Review] GACC organizes expert groups to conduct document review on the application materials submitted by the country/region undergoing evaluation and review; the document review will check the authenticity, integrity, and validity of the materials. GACC may request the foreign competent authority to submit information or materials that are lacking.

After the document review, the expert group will write a review report.

Article 18 [Video Inspection] GACC may develop and implement video inspection plans. GACC organizes expert groups to conduct video inspection on the application materials submitted by the country/region undergoing evaluation and review; the video inspection will verify authenticity of the submitted materials, the effectiveness of the food safety management system, and the food safety situation. The country/region undergoing evaluation and review should provide necessary assistance for the video inspection.

After the video inspection, the expert group will write a review report about the video inspection. Based on the video inspection, GACC may request that the country/region undergoing evaluation and review and the relevant facilities take corrective actions for the problems found in the video inspection.

Article 19 [On-site Inspection] GACC may develop and implement on-site inspection plans. GACC organizes expert groups to conduct on-site inspections for the application materials submitted by the country/region undergoing evaluation and review; the on-site inspection verifies the authenticity of

the submitted materials, the effectiveness of the food safety management system, and the food safety situation. The country/region undergoing evaluation and review should provide necessary assistance for the on-site inspection.

After the on-site inspection, the expert group will write a review report about the on-site inspection. GACC may request that the foreign competent authority of the country/region undergoing evaluation and review and the relevant facilities take corrective actions for the problems found in the on-site inspection.

Article 20 [Termination of Evaluation and Review] During the evaluation and review process, if the country/region undergoing evaluation and review falls under any of the following circumstances, the evaluation and review should be terminated and GACC will inform the foreign competent authority undergoing evaluation and review about the termination:

1. It fails to respond to the questionnaire and submit relevant materials within 12 months after receiving the questionnaire;
2. It fails to provide supplementary information and materials within three months upon receipt of a request from GACC;
3. An outbreak of significant animal or plant disease or food safety incident in the country/region;
4. It fails to cooperate with China's video inspection or on-site inspection, or fails to effectively take corrective actions;
5. The country/region undergoing the evaluation and review applies for termination of the evaluation and review; or
6. Other circumstances where it is considered necessary to terminate the evaluation and review.

For items 1 and 2, if the country/region undergoing the evaluation and review needs an extension due to special reasons, it may apply to GACC for an extension. Upon approving the extension, GACC will determine the new deadline for submission of relevant materials.

In the evaluation and review of the food safety management system of a country/region, GACC may enter the next step of the evaluation and review only after confirming the risk is controllable; confirming the risk is not controllable, GACC will terminate the evaluation and review.

Article 21 [Results of Evaluation and Review] After completing the evaluation and review, GACC notifies the evaluation and review conclusions to the foreign competent authority. GACC publishes the list of countries/regions that have passed the evaluation and review.

Article 22 [Registration and Administration] GACC should, in accordance with relevant provisions for registration of overseas production facilities of food imports, impose registration on overseas production facilities that export food to China, and publish the list of registered facilities.

Article 23 [Record Filing of Importers and Exporters] Overseas exporters or agents exporting food to China should file records with GACC. Food importers should file records with Customs at the place of their respective business registration (i.e. the local Customs office).

GACC is responsible for publishing the list of filed importers and exporters of food imports.

Article 24 [Management of Record Filing of Importers and Exporters] Overseas food exporters or agents and food importers should be held accountable for the authenticity and validity of the information they provide for record filing in accordance with Article 23 of these Measures. If there is any change in the filed information, the importer should, within 60 days from the date the change takes effect, revise its recorded information with the local Customs.

Finding that a food importer provided erroneous information in the record filing or that the filing content was not changed in time, Customs may order the food importer to make correction within the prescribed period; if the food importer refuses to do so, Customs may temporarily suspend accepting the food importer's import declarations.

Article 25 [Records of Imports and Sales] Food importers should establish their food import and sales record systems, which faithfully record the food name, net content/specifications, quantity, date of production, production or import batch number, shelf life, name/address/contact information of overseas exporters and purchasers, and delivery date, etc.; such records may be made in hardcopy or electronically, with the relevant certifying documents saved. The records and documents should be kept for at least six months after the expiry of the food shelf life; if the shelf life is not specified, the records and documents should be kept for at least two years after the products are sold.

Article 26 [Self-Review of Overseas (Producers and Exporters)] A food importer should establish a system for review of overseas exporters and overseas production facilities; the review will focus on the following content:

1. The formulation and implementation of food safety risk control measures by overseas exporters and overseas production facilities; and
2. Overseas exporters and production facilities ensure their food exported to China conforms to the provisions of Chinese laws, regulations, and national food safety standards.

The food importer should only import food from overseas food exporters and overseas production facilities that have passed the review.

Customs oversees the food importers' review; Customs (may) request to view or instruct food importers to submit materials listed in item 1 and 2 of this Article. Food importers should cooperate and truthfully provide relevant information and materials.

Article 27 [Pre-inspection] Based on the application of a food importer or its agent, Customs may conduct pre-export inspections on import food. Customs may, based on the result of the pre-inspection, provide facilitation in Customs clearance for import food that has passed the pre-inspection. The product scope, procedures, and requirements for the pre-inspection of import food will be formulated and announced by GACC.

Article 28 [Import Quarantine Supervision] For import foods subject to entry quarantine, Customs should perform quarantine in accordance with the provisions in relevant laws, regulations, and GACC rules.

Article 29 [Quarantine and Approval] Customs carries out quarantine examination and approval of food imports that are subject to quarantine examination and approval of entry animals and plants. Food importers should apply for and obtain the Quarantine Permit for Import Animals and Plants before signing a contract or agreement.

GACC formulates, adjusts, and publishes the catalogues of food imports that requires quarantine examination and approval in accordance with the relevant laws, regulations, and catalogues of objects prohibited from entry into China issued by the relevant State Council departments.

Article 30 [Designated Ports] Foods required to enter through designated ports should be imported through GACC designated ports; such ports should construct designated sites under Customs supervision that conform to relevant requirements. GACC develops and issues the lists of foods to be imported through designated ports and the list of designated sites under Customs supervision, and the construction requirements for the designated sites under Customs supervision.

Article 31 [Designated Sites under Customs Supervision] The construction of a designated site under Customs supervision should take into consideration factors such as regional economic development and international trade development, natural conditions of the port and transportation and logistics conditions, as well as facilities/conditions that could ensure safety of imports; the construction plans should be proposed by the provincial government.

For a designated site under Customs supervision, the local provincial government should formulate and implement corresponding food safety guarantee plans, establish and improve the working mechanism for basic capacity building of the designated site under Customs supervision, integrate port resources, coordinate the various inspection units and administrative departments at the port to establish a coordinated site management mechanism, which aims to strengthen oversight of the designated site under Customs supervision.

Article 32 [Requirements for Designated Site under Customs Supervision] The construction and management of designated sites under Customs supervision for food imports should be carried out in accordance with the relevant provisions of GACC.

Article 33 [Import Declaration] A food importer and its agent should declare to Customs in accordance with the relevant laws, regulations, and GACC provisions, along with the following attached documents:

1. Required official documents²;
2. Approval documents such as the Quarantine Permit for Imported Animals and Plants;
3. Compliance certification documents;
4. Documents related to record filing of overseas exporters or agents of food imports, record filing of importers of food imports, and registration number of overseas production facilities of food imports.

GACC determines and announces the declaration requirements and the method of submitting the attached documents.

Article 34 [Declaration Responsibilities] Food importers or their agents should make truthful declarations to Customs, and are held accountable for the authenticity, accuracy, completeness, and normalization of the declaration content. If Customs needs to verify the original documents, the food importer or the entrusted declaration agent should submit such documents to Customs in time; if Customs requests supplementary declaration, the food importer or its agent should make a supplementary declaration as requested.

Article 35 [On-site Inspections of Food Imports] Customs should conduct on-site inspections on food imports in accordance with the oversight requirements, such as risk control and prevention instructions; on-site inspections include but are not limited to the following:

1. Whether transportation tools and storage sites conform to safety and sanitary requirements;
2. Whether the container number and the seal number are consistent with the declaration information and attached documents, and whether the goods are consistent with the declaration content;
3. For food of animal or plant origin, whether the package and bedding materials have problems that are stipulated in Article 22 of the Regulations for the Implementation of the Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine;
4. Whether the inner and outer packages conform to the requirements of national food safety

² Such required official documents refer to registration certificates, record filing certificates, and other documents required for food imports

standards, whether non-toxic and harmless materials are used, and whether there is contamination, damage, soaking, or leaking;

5. Whether the labels, markings, and instructions on the inner and outer packages conform to provisions of laws and regulations, national food safety standards, and GACC rules;

6. Whether the labeling content on the inner and outer package is consistent with the declaration information and the attached documents;

7. Whether there is abnormal food sensory problems, such as spoilage, rancidity, mildew, maggots, fouling, mingling with foreign matters, adulteration, abnormal color/taste/smell, powder agglomeration, abnormal layering, blooded ice, excessive frost, visible parasite cysts or pests; and

8. Frozen and refrigerated food should be checked for freshness, whether the center temperature conforms to the requirements, whether there are lesions, whether the cold storage temperature conforms to requirements by regulations and standards, whether the temperature control equipment in the cold chain is in normal operation, and whether the temperature records conform to the requirements. If necessary, a boiling test may be conducted.

Article 36 [Supervision and Sampling Testing Plan of Food Imports] GACC formulates the annual nation-wide import food safety supervision and sampling testing plans and the ad hoc supervision and sampling testing plans. In accordance with the requirements of such plans, Customs directly under GACC should formulate the implementing plan based on the actual situation of the area, and may formulate a supplementary plan based on the import food safety status of the area; the plans, after filed for records with GACC, are implemented. The subordinate customs department implements the annual nation-wide import food safety supervision and sampling testing plans, the ad hoc supervision and sampling testing plans, and the supplementary plan developed by the supervising Customs directly under GACC.

Article 37 [Supervision and Sampling Testing of Food Imports] Customs conducts supervision and sampling testing on food imports in accordance with relevant requirements, including the supervision and sampling testing plans; Customs takes samples, conducts testing, and disposes (the tested samples).

Article 38 [Label and Mark] The packages, labels, and markings of food imports should comply with the provisions of Chinese laws, regulations, and national food safety standards; if product instructions are required, instructions in Chinese should be attached.

For fresh and frozen meat imports, the inner and outer packages should have labels in Chinese and English or Chinese and the foreign language that are firm, clear, and easy to recognize; the label should provide the following content: country/region of origin, product name, registration number of the production facility, and batch number; the outer package should label in Chinese the product

specification, place of production (specific to state/province/city), destination, date of production, shelf life, storage temperature, etc. The destination must be labeled as the People's Republic of China, with the official inspection and quarantine labels of exporting country/region affixed.

For aquatic product imports, the inner and outer packages should have labels in Chinese and English or Chinese and the foreign language that are firm, clear, and easy to recognize. The label should provide the following content: commodity name and scientific name, product specifications, date of production, batch number, storage period and storage conditions, production methods (ocean catch, freshwater catch, or aquaculture), production area (marine fishing area, freshwater fishing country or region, country or region where the aquaculture products come from), the name/serial number/address (specific to city/province/state) of all production and processing facilities involved (including fishing vessels, processing vessels, transport vessels, and independent cold storage); and the destination which must be marked as the People's Republic of China.

The Chinese labels of imported health food and imported foods for special dietary purposes must be printed on the minimum sales package, and they must not be affixed.

If special marks/logos are required by relevant regulations on inner and outer packages of food imports, the relevant regulations should be followed.

Article 39 [Designated and Accredited Supervision Site] Food imports should be stored in a site under Customs supervision designated or accredited by Customs at the port of arrival; if the food imports need to be moved, the move must be approved by Customs, and necessary safety protection measures should be taken in accordance with the requirements of Customs.

The designated or accredited site under Customs supervision should comply with the requirements stipulated in laws, regulations, and national food safety standards; the requirements and procedures for designating or accreditation of such sites should be formulated and announced by GACC.

Bulk food imports should be inspected at the port of discharge in accordance with the requirements of Customs.

Article 40 [Follow-up Supervision] Food imports which have been assessed as compliant in the compliance evaluation are allowed to enter the market, to be sold and used. Customs issues certificates of noncompliance to food imports assessed as noncompliant; if food imports fail in safety, health, or environmental protection items, Customs should instruct the food importer to destroy or return the goods and notify the importer in writing. If food imports fail in other items, (the importer may) take technical treatment under Customs supervision within the specified time; the food imports may be sold in market or used only after passing the re-evaluation. If a food importer cannot complete the technical treatment within the specified time, Customs may instruct the food importer to destroy or return the food imports.

Article 41 [Reinforced Import Control Measures] Customs at ports, Customs supervising the specific sites, and Customs of the destination should, according to their respective jurisdictions, carry out routine oversight of food imports in the form of document review, on-site inspection, supervision and sampling testing, etc.

On the basis of risk assessment, Customs may, in accordance with risk management principles, impose reinforced control measures on food exports to China from (certain) overseas food production facilities or countries/regions; such reinforced control measures include reinforced supervision and automatic detention.

Article 42 [Reinforced Supervision] If food safety incidents abroad may impact food safety in China, or Customs detects noncompliant food imports in its oversight work, or notices other food safety problems, GACC and Customs directly under GACC may impose reinforced supervision on the food imports. Such reinforced supervision includes increasing the proportion of on-site inspections and supervision and sample testing.

Article 43 [Automatic Detention] If noncompliant food imports are found again under reinforced supervision, or there is evidence of significant safety hazards in the food imports, GACC and Customs directly under GACC may impose automatic detention on the food imports.

For food imports subject to automatic detention, food importers should submit inspection reports issued by qualified inspection agencies to Customs lot by lot. Customs should verify the inspection reports provided by food importers.

Food that is automatically detained should not be taken away from the designated site under Customs supervision without permission from Customs.

Article 44 [Suspension and Prohibition Measures] When the following circumstances exist, GACC may suspend or prohibit import of food from overseas food production facilities or countries/regions based on the results of risk assessment:

1. There is a major animal or plant disease outbreak or a significant change in the food safety situation in the exporting country/region, which makes it impossible to effectively guarantee the safety of food exports to China;
2. Food imports are contaminated by quarantined infectious pathogens, or there is evidence proving that (the food) could become a vector of quarantined infectious diseases, and there is no effective sanitation treatment to be taken;
3. Food imports that are subject to automatic detention are again found to be noncompliant in items of safety, health, and environmental protection;
4. The overseas production facility of food imports violates relevant Chinese laws and regulations,

and circumstances are serious; or

5. Other information indicates that food imports from an overseas production facility or a country/region has significant safety risks.

Article 45 [Lifting of Reinforced Control Measures] When the safety risk of food imports and exports has been reduced to a manageable level, GACC and Customs directly under GACC may lift the risk alert and remove the original reinforced control measures, suspension, or prohibition of imports in the following ways:

1. Food subject to reinforced supervision that has no noncompliance within the specified time period and within the specified batches may be lifted from reinforced supervision on the basis of risk assessment;

2. Food subject to automatic detention may be released from automatic detention on the basis of a risk assessment if it conforms to one of the following conditions:

1) The exporting countries/regions have taken precautionary measures, and GACC's risk assessment shows that such measures can ensure food safety and control the risk of animal or plant disease; and

2) From the date of implementation of the automatic detention, no noncompliant food is found within the specified time period and the specified batch of automatic detention.

3. Foods that are suspended or prohibited from import may have the suspension or prohibition lifted if the competent authority of the exporting country/region has taken risk control measures and the food passes GACC assessment; upon the resumption of food imports GACC may, depending on assessment, adopt measures of automatic detention, reinforced supervision, or regular supervision.

Article 46 [Voluntary Recall and Reporting] Finding food imports noncompliant with laws, regulations, or national food safety standards, or when there is evidence showing that the food imports may harm human health, food importers should, in accordance with the provisions Article 63.2, Article 63.3 and Article 94.3 of the Food Safety Law, stop importing, selling, and using the food imports immediately, recall the foods that have already been sold in market, notify relevant market operators and consumers, record the recall and notification, and report the food recall and disposal to the local customs.

Chapter III Food for Export

Article 47 [Basis of Export Supervision] (Chinese) production facilities should ensure that their food for export complies with the standards of the importing countries/regions or the requirements of contracts; for international treaties and agreements concluded or participated in by China, the production

facilities should also ensure that their food for export complies with the requirements of such treaties and agreements.

If there are no such requirements, (production facilities) should ensure their food for export complies with the national food safety standards of China.

Article 48 [Export Supervision and Administration] Customs implements oversight on food for export. Measures for oversight of food for export include but are not limited to record filing of the crop and animal farms for raw materials, record filing of production facilities of food for export, facility verification, document review, on-site inspection, supervision and sample testing, sampling inspection at ports, overseas notification verification and various combinations of such measures.

Article 49 [System for Crop and Animal Farms] A crop or animal farm producing materials that are used in food for export should file for record at the local Customs; raw materials produced by crop or animal farms without such record filing should not be used to produce food for export. The catalogue of foods for export that require record filing of crop or animal farms for raw material and the specific requirements and procedures for record filing of crop or animal farms will be formulated and announced by GACC. The list of raw material crop and animal farms which have obtained record filing should be uniformly announced by GACC.

Vegetables supplied to Hong Kong and Macao as processing materials must come from farms which have obtained record filing, except for minor varieties of vegetables as otherwise specified by GACC.

Article 50 [Management of Crop and Animal Farms] Customs oversees the record filed crop and animal farms. The oversight on the record filed crop and animal farms can be conducted through document review and on-site inspection. The record filed crop and animal farms should issue certifying documents for each batch of raw materials they produce.

Article 51 [Export Qualification] Production facilities of food for export should obtain relevant production and operation qualifications for food and edible agricultural products in China. Where the State Council departments of food safety³ and agriculture⁴ have special provisions on the production and operation qualifications for facilities that produce food for export, such provisions should prevail.

Article 52 [Export Filing] Production facilities of food for export should file for record with the local Customs. Record filing of production facilities of food for export should be implemented in accordance with the relevant provisions of GACC.

Article 53 [Recommendation and Registration to the Public] If an importing country/region requires registration of an overseas food production facility, the Chinese production facilities exporting

³ State Administration for Market Regulations

⁴ Ministry of Agriculture and Rural Affairs

food to the country/region should submit application to the local Customs; the Customs handles facility recommendation in other countries based on the facilities' credit and their supervision and administration, etc. Relevant procedures and requirements for recommendation and registration in other countries are formulated and announced by GACC.

Article 54 [Routine Export Supervision] Production facilities of food for export should establish a complete and traceable food safety and sanitation control system, and ensure the effective operation of the system to ensure that the production, processing, and storage processes for food for export continuously comply with Chinese laws, regulations, and safety and sanitary requirements for production facilities of food for export, and laws and regulations of the importing countries/regions, and requirements in relevant international treaties and agreements.

Production facilities of food for export should establish a review system for the crop and animal farms for raw materials, a supplier evaluation system, a receiving inspection record system, a production record keeping system, a delivery inspection record system, a traceability system for food exports, and a disposal mechanism for unqualified food. Relevant records should be authentic and kept for at least six months after the expiry of the food shelf life; if the shelf life is not specified, the records should be kept for no less than two years.

Article 55 [Packaging and Transportation Methods] Production facilities of food for export should ensure that the packaging and transportation methods of food for export conform to safety and sanitary requirements.

Article 56 [Transport Package Labeling] Production facilities of food for export should indicate on the transportation packages the facility's record filing number, product name, production batch number, and date of production. Customs should include the aforesaid information in the certification document issued. If the importing country/region or the contract has special requirements, the labeled information may be adjusted by the production facilities with approval of Customs directly under GACC, as long as the products remain traceable.

Article 57 [Export Supervision and Inspection] Customs oversees the operation of the food safety and sanitation control systems of production facilities of food for export in the region. The oversight includes routine inspections and annual inspections.

The inspections can be conducted through document review and on-site inspection and can be carried out in conjunction with the verification of overseas notifications of food exporters, supervision and sample testing, and on-site inspection.

Article 58 [Supervision before Export Declaration] Food for export should be inspected and quarantined by Customs of the place of origin. GACC may, for the purpose of facilitating foreign trade and export food inspection/quarantine, designate other offices to carry out the inspection and quarantine. Production facilities of food for export and exporters should submit the pre-declaration supervision

applications to Customs at the place of origin or where the goods are assembled in accordance with laws, regulations, and provisions of GACC.

Article 59 [Export Inspection and Quarantine] After Customs at the place of origin or at the place where goods are assembled accepts the pre-declaration supervision application, it conducts on-site inspection and supervision and sample testing on the food for export in accordance with the relevant inspection and quarantine regulations and requirements.

Article 60 [Supervision and Sample Testing Plan of Exported Food] GACC formulates the annual nation-wide export food safety supervision and sample testing plans. Customs directly under GACC should formulate the implementing plans based on the actual situation of the area and may formulate a supplementary plan based on the export food safety status of the area; the plans, after filed for records with GACC, are implemented. The subordinate Customs implements the annual nation-wide export food safety sampling inspection plans and the supplementary plan developed by the supervising Customs directly under GACC.

Article 61 [Supervision and Sample Testing on Export Food] According to relevant requirements including the supervision and sample testing plans, Customs conducts sampling inspection and carries out sampling, inspection, and disposal of food for export.

Article 62 [Certificates for Food Exports] If food for export conforms to the export requirements, Customs issues certificates in accordance with multilateral and bilateral agreements between China and relevant countries and the requirements of the importing countries/regions. If the importing country/region has new requirements on the form or content of the certificate, Customs directly under GACC may modify the certificate with GACC's approval.

If the food for export is noncompliant with the export requirements, Customs issue a certification of noncompliance. If technical treatment may be taken, such technical treatment should be carried out under the supervision of Customs, and export is allowed only after the food for export conforms to requirements; if technical treatment cannot be made, or the food for export is still noncompliant after the technical treatment, the food is not allowed for export.

Article 63 [Export Declaration] In accordance with the Customs requirements of declaration of import and export goods, a food exporter or its agent should make a declaration to Customs with the conclusion of pre-declaration supervision of food for export, relevant license documents and attached documents, relevant business documents and other export documents stipulated by GACC.

Article 64 [Port Inspection] Customs at ports should conduct inspections on food for export in accordance with the risk control and prevention instructions; if the food for export fails to pass the port inspection, it should not be exported.

Article 65 [Export Control Measures] GACC verifies risk alert information notified by international organizations and foreign governments and other food safety information related to China's food exports; on the basis of risk assessment and following the principles of risk management, GACC takes control measures including adjusting the ratio of supervision and sample testing, stopping foreign registration recommendations, and suspending or banning exports.

Article 66 [Proactive Reporting] Finding food for export with safety problems that have caused or may cause harm to human health and life, the producer or operator of the food for export should take immediate actions to avoid and mitigate such harm and report the safety problem to the local Customs.

Article 67 [Notification of Problems] Finding safety problems in food for export in its oversight work, Customs of the place of production or where the goods are assembled should notify the local government and the food safety authority in the higher-level government. Customs may take measures, such as instructing the relevant accountable entity (the producer, crop farm, or animal farm) of the food for export to make rectifications within a given time period, not accepting an export declaration during rectification, or revoking or cancelling the record filing of the entity, etc.

Chapter IV Supervision and Administration

Article 68 [Safety Information of Food Imports and Exports] In accordance with Article 100 of the Food Safety Law, GACC collects and categorizes safety information of food imports and exports and establishes the import and export food safety information management system. Customs offices at all levels collect and collate import and export food safety information in the region and collect information designated by higher-level authorities; such information should be notified to the local government, relevant government agencies, institutions and facilities in the region. If the notified information relates to other regions, it should be timely notified to Customs of relevant regions.

In addition to the import and export food safety information stipulated in Article 100 of the Food Safety Law, Customs should collect and categorize information related to foreign technical trade measures on food.

Article 65 [Risk Analysis, Decision Making, and Handling] Customs analyze import and export food safety information collected, draw conclusions from the analysis, and take actions according to their jurisdictions. If the conclusion of the risk analysis involves only the local jurisdiction, the Customs may impose risk alert measures in a timely manner in the region; if the issue is systemic or nationwide, the Customs should report it to GACC in a timely manner; GACC conducts risk assessment based on the collected information and the analysis conclusions reported by Customs directly under GACC and decides the risk control measures to be taken.

Article 70 [Risk Alert and Warning] Noticing food safety incidents or diseases in China or abroad that may affect safety of food imports and exports, or detecting serious food safety problems in food imports and exports, Customs directly under GACC should report the findings to GACC in a

timely manner; GACC should issue early risk warnings accordingly and notify the State Council's departments of food safety, health, and agriculture; early risk warnings should be issued to consumers when necessary.

GACC may issue risk warnings, and Customs at all levels should take reinforced control measures on food imports and exports in accordance with the requirements of the risk warning.

Article 71 [Risk Monitoring] GACC formulates the annual national risk monitoring plan for the safety of food imports and exports, which is a part of the national food safety risk monitoring plan; under the plan, data and relevant information on foodborne illnesses, food contamination, and harmful factors in food imports and exports are systematically and continuously collected. Customs directly under GACC should follow the national risk monitoring plan for the safety of food imports and exports and formulate implementation plans for their regions; they may formulate their own risk monitoring plans in addition to the implementation of the national risk monitoring plan; such supplementary plans are implemented after record filing with GACC. The subordinate Customs are responsible for the implementation of the annual national risk monitoring plan developed by GACC and the Customs directly under GACC.

Article 72 [Early Risk Warning Measures] GACC may, following international practices, directly issue an early risk warning notice or early risk warning notification and take control measures if food safety incidents occurring abroad may impact China, or such incidents may bear uncontrollable risks; at the same time, GACC timely collects relevant information and data to conduct risk assessments and adjust control measures.

Article 73 [Emergency Response] GACC formulates a national emergency response plan for safety emergencies of food imports and exports; Customs directly under GACC should formulate their own emergency response plans for emergencies of food imports and exports in the region.

Article 74 [Compulsory Measures] When performing their duties of import and export food safety oversight, Customs have the right to take the following measures:

1. Entering production and operation facilities to carry out on-site inspections;
2. Conducting sampling inspection on food in production and operation;
3. Checking and copying relevant contracts, bills, accounting books, and other documents;
4. Seizing and detaining food proven to be noncompliant with food safety standards, food proven to have safety hazards, or food used for illegal production and operation;
5. Shut down sites engaged in illegal production and business activities.

Article 75 [Transit Quarantine] Food transit through China should comply with the regulatory requirements of GACC for goods in transit. During transit, food should not be unpacked or removed from the transportation equipment without the approval of Customs.

Food in transit should be transported out of China within the specified period.

Article 76 [Re-inspection] If in disagreement with a Customs inspection result, a producer or an operator of imported food or food for export may apply for re-inspection in accordance with the Measures for Re-inspection of Import and Export Commodities. Customs rejects re-inspection applications if the inspection results made by Customs are disputed under any of the following circumstances:

1. The inspection results show that the microbiological indicators exceed the limit;
2. The back-up samples for re-inspection have passed shelf life; or
3. The back-up samples cannot be used for the re-inspection due to other reasons.

Article 77 [Oversight Involving Food Smuggling] If suspected of involvement in smuggling, producers and operators of food imports and exports should be held liable in accordance with law and are subject to control measures, such as reinforced supervision by Customs, or Customs suspending accepting its applications for declaration.

Chapter V Legal Liability

Article 78 [Penalty for Importer's Filing] If the content of record filing of a food importer has changed and the importer fails to apply for a change with Customs, Customs may issue a warning if the circumstances are serious.

If a food importer provides false information for record filing, Customs impose a fine of less than 10,000 yuan.

Article 79 [Penalty after Verification] If a producer or an operator of imported food or food for export refuses to cooperate with Customs in verifying the safety of the food, or refuses to accept inquiries or requests for materials, or the responses and the provided materials are inconsistent with the actual situation, Customs impose a fine of less than 10,000 yuan.

Article 80 [Penalty for Import Labels] Finding Chinese labels are not affixed to imported prepackaged food, or the Chinese labels of imported prepackaged food do not conform to laws, regulations, and national food safety standards, and the food importer refuses to destroy, return, or undertake technical treatment of the food as required by Customs, Customs issues a warning and imposes a fine of less than 10,000 yuan.

Article 81 [Penalty for Taking away Imported Food from the Designated or Accredited Site under Customs Supervision] If an entity takes imported food away from the designated or accredited site under customs supervision without Customs approval, the entity should be instructed by Customs to take corrective measures and be imposed a fine of less than 10,000 yuan.

Article 82 [Penalty for Violating Export Rules] An entity that falls under any of the following circumstances within the scope of “failing to abide by the provisions of the Food Safety Law for food export” stipulated in Paragraph 1 (3) of Article 129 of the Food Safety Law should be punished by Customs according to Article 124 of the Food Safety Law:

1. It switches, without approval, food for export which has passed Customs supervision and sample testing and Customs has issued certificates for the product;
2. It exports food which is adulterated or fake, substitutes low quality food for high quality food, or substitutes noncompliant food for compliant food;
3. It exports food produced by product facilities that have not obtained record filing;
4. It exports foods produced by an unregistered facility to a country/region that has registration requirements for food production facilities; or exports foods produced by a registered facility, but the product is not within the scope of registered food categories;
5. Food for export is not produced using materials from crop or animal farms which have obtained record filing; or
6. The producer or operator of food for export falls under the circumstances prescribed in Articles 123, 124, 125 and 126 of the Food Safety Law, and the food has been exported but does not comply with the requirements of the importing country/region.

Article 83 [Penalty for Declaration] If an entity fails to make an accurate declaration in accordance with the provisions of Articles 33, 34 and 63 of these Measures, evades the oversight of import and export food safety by Customs, the illegal income should be confiscated by Customs and a fine of 5-20% of the value of the goods should be imposed.

If the consignee or consignor of import and export goods fails to provide true information to the Customs declaration company about the entrusted declaration items, which results in the circumstances specified in Paragraph 1 of this Article, the trustor should be punished in accordance with the preceding paragraph.

If the Customs declaration company fails to reasonably examine the authenticity of the information provided by the trustor, or if the circumstances specified in Paragraph 1 of this Article occur due to negligence in its work, Customs impose a fine of 20,000 to 200,000 yuan, and may suspend the declaration company’s declaration business or qualification for no more than six months; in case of

serious circumstances, Customs revokes the company's declaration registration and cancels its qualification for customs declaration.

Article 84 [Other Penalties] A producer or an operator of food imports or food for export, a Customs office, or customs staff which commits any other illegal act should be punished according to the provisions of relevant laws and regulations.

Chapter VI Supplementary Provisions

Article 85 [Special Trade and Regional Food Supervision] The safety oversight of food entering and exiting areas under special Customs supervision or the bonded zones, food purchased from market for export, and food trade through small-scale border trade or barter trade should be performed pursuant to relevant GACC rules.

Article 86 [Supervision of Food from Special Channels] The import and export of food through express delivery, mail, cross-border e-commerce, or carried by travelers should conform with relevant provisions of GACC.

Article 87 [Non-trading Food Supervision] The import and export of food as samples, presents, gifts, exhibits, or donations for non-trading purposes, the import of food for duty free business operations or for an embassy's or consulate's own or public use, and the export of food for an embassy's or consulate's own use or for the own use of personnel of Chinese facilities stationed abroad should be governed by the relevant provisions of GACC.

Article 88 [Interpretation of Producers and Operators] The producers and operators of food imports and exports referred to in these Measures include overseas production facilities and exporters/agents exporting food to China, food importers, facilities producing food for export, exporters, and related personnel.

Article 89 [Oversight of Food Additives and Food-Related Products] Inspection and quarantine of import and export food additives and food-related products should be carried out pursuant to relevant GACC provisions. Where there are no provisions in these Measures, the provisions of relevant laws, regulations, customs regulations, public announcements, and normative documents should be followed.

Article 90 [Power of Interpretation] GACC is responsible for interpretation of these Measures.

Article 91 [Entry into Force and Repeal] These Measures should come into force on **, 2020. The regulations stipulated in the Measures for the Supervision and Administration of Inspection and Quarantine of Imported and Exported Meat Products, the Measures for the Supervision and Administration of Inspection and Quarantine of Imported and Exported Aquatic Products, the Measures for the Supervision and Administration of Inspection and Quarantine of Imported and Exported Dairy Products, the Measures for the Administration of Inspection and Quarantine of Exported Honey, the

Measures for the Supervision and Administration of Inspection and Quarantine of Vegetables Supplied to Hong Kong and Macao, and other regulations should be repealed simultaneously.

END TRANSLATION

Attachments:

No Attachments.