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Prepared By: USTR, FDA, and USDA Staff

Approved By: Adam Branson

Report Highlights:

This report is an update on U.S. Government efforts to inform industry and facilitate trade as China prepares to implement Decrees 248 and 249. FAS China will continue to provide information on the implementation of the decrees as it becomes available. The United States continues to press China for information regarding the application of Decrees 248 and 249 on U.S. food and agricultural products exported to China.

THIS REPORT CONTAINS ASSESSMENTS OF COMMODITY AND TRADE ISSUES MADE BY USDA STAFF
AND NOT NECESSARILY STATEMENTS OF OFFICIAL U.S. GOVERNMENT POLICY

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UPDATE ON U.S. GOVERNMENT EFFORTS TO FACILITATE TRADE AS CHINA IMPLEMENTS DECREES 248 AND 249

The Foreign Agricultural Service (FAS) office in China provides the following update to inform U.S. industry on U.S. Government efforts to facilitate trade as China prepares to implement Decrees 248 and 249. The information is developed in coordination with agencies of the U.S. Department of Agriculture (USDA) as well as the U.S. Food and Drug Administration (FDA) and the Office of the U.S. Trade Representative (USTR).

U.S. Government agencies are working to confirm with China's General Administration of Customs (GACC) specific information regarding implementation of Decrees 248 and 249. This information includes determining which provisions will apply to U.S. food facilities considering the existing agreements between the United States and China covering trade in food and agricultural products. The United States continues to press for information regarding the application of these Decrees on U.S. food and agricultural products exported to China. The U.S. Government is working to ensure minimal new requirements for the United States, while ensuring trade continues uninterrupted past China's current implementation date of January 1, 2022. In response to the significant uncertainty and the need for prompt, clear communication, FAS China has published a series of reports on this matter, listed below:

- [Decree 248 Unofficial Self-Registration Guide for Overseas Food Facilities - November 10, 2021](#)
- [GACC Issues Interpretation of Decree 248 - November 10, 2021](#)
- [Decree 248 Foreign Facilities Self-Registration Website Launched - November 3, 2021](#)
- [Notes from Information Sessions on GACC Decrees 248 and 249 - October 22, 2021](#)
- [GACC Issues Explanatory Letter on Decree 248 - October 8, 2021](#)
- [Interpretative Guidance on Imported Food Labeling Requirements in Decree 249 - August 13, 2021](#)
- [Decrees 248 and 249 Status Update on Facilities Registration and Food Safety Measures - May 25, 2021](#)
- [Administrative Measures on Import and Export Food Safety - Decree 249 - May 7, 2021](#)
- [Overseas Facilities Registration Regulation - Decree 248 - April 20, 2021](#)
- [China Notified the Draft Administrative Measures on Import and Export Food Safety - December 11, 2020](#)
- [China Notifies Revised Overseas Facilities Registration Regulations as TBT 1522 - December 2, 2020](#)
- [China Released Draft Administrative Measures for Registration of Overseas Producers of Imported Foods - December 6, 2019](#)

On September 29, GACC transmitted a form letter to Beijing-based embassies, including the U.S. Embassy, in which GACC provided additional information regarding the registration requirements for currently registered facilities and facilities subject to new registration requirements. The letter discusses requirements for producers of 14 categories of products for

which foreign regulatory authorities were asked to provide lists of facilities for registration by October 31, 2021, but the letter does not define the specific products subject to these registration requirements. The September 29 letter also requested that a “Declaration of Conformity”, which references unspecified Chinese regulations, accompany these facility lists and be signed by a national competent authority in the country of export. The United States continues to seek clarification regarding the declaration GACC is seeking, which, in its current form, no U.S. regulatory agency can provide.

Article 11 of Decree 248 indicates that if China has separate agreements with trade partners on facility registration, registration shall be carried out following those pre-existing bilateral agreements. The U.S.-China Phase One Economic and Trade Agreement (Phase One Agreement) includes detailed procedures for facility registration for certain products, along with Chapter 3, Annex 17.1 outlining China’s obligations regarding food safety regulations and actions required of U.S. regulatory authorities.

Considering the above, Article 11 of Decree 248, and China’s commitments under the Phase One Agreement, the United States interprets Decree 248 to allow U.S. producers of the 14 categories of products specified in the September 29 letter, and all other producers of products for which facility registration is not currently required, to self-register through GACC’s website without additional action by the United States Government. The United States also interprets Decree 248 to allow producers of all U.S. products for which facility registration is already carried out according to existing regulator-to-regulator procedures to continue registering and exporting according to those procedures. The United States Government has several outstanding questions on these Decrees pending with GACC and is waiting for GACC to confirm this interpretation.

According to the September 29 letter, facilities currently registered with GACC to export meat and poultry, seafood, and dairy products will remain registered to export after January 1, 2022, without additional action by facilities or regulators. The FDA and USDA intend to continue utilizing their existing process for registering producers of these products. Further, facilities exporting all other types of food products appear to be eligible for self-registration through GACC’s website identified in the September 29 letter and as described in the above-mentioned GAIN report “Decree 248 Foreign Facilities Self-Registration Website Launched,” dated November 3, 2021. Facilities following the self-registration process should also review the above-mentioned GAIN Report “Decree 248 Unofficial Self-Registration Guide for Overseas Food Facilities,” dated November 10, 2021.

Even if GACC can confirm the U.S. interpretation of Decree 248 with sufficient time for producers to self-register, there remain significant unanswered questions related to implementation of Decrees 248 and 249. Therefore, the United States and several likeminded trade partners have requested that GACC delay implementation of these Decrees for at least 18

months, until no sooner than July 1, 2023, provided exporting countries have received the necessary clarity.

USDA's FAS and the U.S. FDA will continue to publish new information as GACC provides it to support U.S. exporters seeking to comply with these Decrees. Exporters with further questions should first contact GACC at the contact information on the following page.

GACC Contact Information:

Contacts: Ding Tianjian and Shang Kaiyuan

Phone: +86 15900270722; +86 10-65194443

Fax: +86 10-65194715

Email: shipinjuychu@customs.gov.cn; division_registration@customs.gov.cn

Attachments:

No Attachments.