



CALIFORNIA
TABLE GRAPE
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November 14, 2013

Ms. Jane Doherty
Director of Sanitary and Phytosanitary Affairs
Office of the U.S. Trade Representative
600 17th St. NW
Washington, DC 20508

Dear Ms. Doherty:

This document is in response to the Office of the U.S. Trade Representative's (USTR) request for assistance as announced in the Federal Register notice issued on October 23, 2013 (FR Doc No: 2013-24722) identifying significant barriers to U.S. exports for inclusion in the 2014 Sanitary and Phytosanitary (SPS) Report on foreign trade barriers.

With this letter, the commission is submitting comments on the following trade barriers that California table grapes (HS 0806.10) face in Argentina, Australia, Brazil, Chile, China, the European Union (EU), Hong Kong, Indonesia, Japan, Peru, South Korea, Taiwan, and Vietnam. The commission is charged with maintaining and expanding the market for fresh California table grapes worldwide. California produces 99 percent of the table grapes grown commercially in the U.S. with a value of over \$1.7 billion in the 2012/13 season. Despite an active commission trade policy program designed to eliminate international trade barriers in foreign markets, a number of significant trade barriers remain. These trade restrictions adversely affect table grape exports.

The following report provides a summary of the most significant SPS barriers to trade currently facing California table grapes. The commission respectfully requests that information in this document be included in the final SPS Report published by USTR.

Regards,

Susan Day
Vice President International Marketing

cc: Kathleen Nave, CTGC
Dr. Alan K. Dowdy, USDA/APHIS/PPQ
Dennis Voboril, USDA/FAS/OASA

ARGENTINA

I. Market Access Issue

In 2010, Argentina stopped issuing import permits due to the presence of European grapevine moth (EGVM: *Lobesia botrana*) in California. This restriction continues despite a U.S. Department of Agriculture Animal and Plant Health Inspection Service (USDA/APHIS) announcement in March 2012 that EGVM was eradicated from the one small table grape-growing area in California in which it was intercepted.

Argentina also announced in 2011, that it would not issue import permits for potential hosts of spotted wing drosophila (SWD: *Drosophila suzukii*) from the U.S. This restriction remains in effect despite the fact that SWD has never been found on California table grapes.

In mid-2013, USDA/APHIS presented Argentina with information on SWD. Argentina has not yet officially responded to USDA/APHIS.

The commission requests that the U.S. government continues to work with Argentine officials to resolve these issues and re-open the market with no mitigation measures.

II. Estimate of Potential Increase in Exports if Barriers Were Removed

Prior to the import permit suspension in 2010, due to SPS reasons the U.S. was the third largest exporter of table grapes to Argentina.

If Argentine trade barriers are eliminated, the market could grow to \$400,000.

AUSTRALIA

I. Restrictive Quarantine Standards on U.S. Table Grapes

Australia has become a major market since it was opened to California table grapes in 2002 but access to the state of Western Australia was not granted at that time. In July 2013 access to Western Australia was granted to California table grapes for the first time. However, unresolved phytosanitary issues prevent the industry from fully developing the Australian market.

In 2010, Australia raised concerns regarding SWD on table grapes from California. Australia requires a CO₂/SO₂ treatment plus a cold treatment to address SWD, despite the fact that SWD has never been found on California table grapes either before or since 2010 and despite no interceptions during pre-clearance inspections by Australian quarantine officials.

The commission believes that no mitigation measures are necessary to address SWD however, pending no such agreement by Australia, approval of a cold treatment protocol at a higher temperature and for a longer time period than is currently required is requested. Such a cold treatment could allow for in-transit cold treatment. Other phytosanitary issues of importance include onerous pre-inspection (OPI) requirements prior to shipping; and access for table grapes from San Luis Obispo county.

In October 2013, USDA/APHIS re-sent new research data to Australia on a revised cold treatment protocol for California table grapes. USDA/APHIS and Australia held bilateral plant health technical meetings on October 7-8, 2013 to address the issues.

The commission requests that USDA/APHIS continues to work with Australia to resolve these issues before March 2014.

II. Maximum Residue Levels (MRLs)

Australia has a limited number of pesticide MRLs. Unlike New Zealand, Australia does not defer to Codex to supplement its limited MRL list. In July 2013 Food Standards Australia New Zealand published Proposal M1009, which included 19 new table grape MRLs equivalent to the U.S. MRLs. It is expected that the MRLs will enter into force the first quarter of 2014. While the commission is grateful for these 19 MRLs and thanks the Australian government for its work on this issue, six MRLs under the commission's original request did not receive MRLs under Proposal M1009.

The commission requests that the U.S. government continue to work with Australian officials to ensure these remaining MRLs will be established in the coming year.

III. Estimate of Potential Increase in Exports if Barriers Were Removed

During the 2012/13 marketing year, the U.S. shipped \$53.3 million worth of California table grapes to Australia, making Australia the fourth largest export market for California table grapes by value. Once market access issues are resolved, it is estimated that at least \$65 million worth of table grapes will be exported to Australia annually.

BRAZIL

I. Market Access Issue

In 2010, Brazil suspended import permits due to the presence of EGVM and SWD in California. Brazil still maintains restrictions on California table grapes even though USDA/APHIS announced in March 2012 that EGVM was eradicated from the one small table grape-growing area in California in which it was intercepted.

In June 2011, Brazil proposed import requirement options addressing its concerns with SWD. Options included fumigation with methyl bromide; a formal systems approach; or evidence of pest free areas. USDA/APHIS sent Brazil information about SWD in early 2013, but has not received an official response. The restriction remains in place despite the fact that SWD has never been found on California table grapes.

The commission requests that the U.S. government continues to work with Brazilian officials to resolve these issues and re-open the market with no mitigation measures.

II. Estimate of Potential Increase in Exports if Barriers Were Removed

Once these phytosanitary barriers are addressed and the market is re-opened, exports of California table grapes to Brazil could resume.

CHILE

I. Market Access Issue

On September 23, 2011, Chile issued new provisional phytosanitary requirements for imported hosts of SWD and Light Brown Apple Moth (LBAM) that required a methyl bromide or cold treatment, plus additional requirements. In November 2012, it was clarified by USDA/APHIS that the priority issue for Chile was EGVM. This restriction continues despite a USDA/APHIS announcement in March 2012 that EGVM was eradicated from the one small table grape-growing area in California in which it was intercepted.

To address Chile's provisional phytosanitary requirements on SWD, USDA/APHIS proposed a systems approach protocol for Chile to consider in May 2013. Chile has not officially responded to USDA/APHIS. Despite the fact that SWD has never been found on California table grapes, this restriction remains in effect.

The commission requests that the U.S. government continues to work with Chilean officials to resolve these issues and re-open the market.

II. Estimate of Potential Increase in Exports if Barriers Were Removed

In the 2012/13 marketing year, Chile was the 37th largest export market for California table grapes with exports valued at \$649,000. Once these phytosanitary barriers are addressed, it is estimated that larger volumes of California table grapes could be exported to Chile annually.

PEOPLE'S REPUBLIC OF CHINA

I. Maximum Residue Levels (MRLs)

China is in the process of updating its national pesticide MRL list. In the recent past, China has not strictly enforced its limited MRL list, and has unofficially used Codex as a standard on pesticide residues. Once China begins to apply its national MRLs, U.S. agriculture exports to China could be negatively affected due to the lack of harmonization. It is expected that this transition will begin in the near future.

In July 2011, China notified its trading partners of a draft MRL amendment. This was the first such announcement in many years. Additional MRL amendments have been proposed since that time and hundreds of Chinese MRLs have been proposed, including several new table grape tolerances. The commission has commented on the proposed table grape MRLs when necessary.

The commission requests that USTR, USDA, and the U.S. Environmental Protection Agency (EPA) work cooperatively with China during this transition and encourage China to harmonize new MRLs with U.S. levels and defer to Codex MRLs when no Chinese MRL is established in the market. The commission also requests that the U.S. government secure a deferral to Codex level policy as early as possible to address the numerous differences between the current U.S. and Chinese MRL list.

II. Estimate of Potential Increase in Exports if Barriers Were Removed

In the 2012/13 marketing year, China* was the second largest export market by value for the California table industry, with exports totaling \$108.6 million.

If the trade barriers with China were eliminated, the Chinese market could grow to \$120-150 million.

*Includes shipments to Hong Kong

THE EUROPEAN UNION

I. EU Pesticide Residue Harmonization

The United Kingdom (U.K.) is the California table grape industry's largest export market in the European Union (EU). Though the EU harmonized its member state pesticide maximum residue levels (MRLs) in September 2008, many EU MRLs are still being established at levels significantly more restrictive than U.S. or Codex MRLs, which may disrupt trade.

The EU's adoption of restrictive MRLs could also result in disruptions to California table grape exports to other countries that adopt and defer to EU standards.

The commission has additional concerns that new EU legislation covering pesticide authorizations will result in the withdrawal of certain pesticides in the EU market. Some of these crop protection tools will remain in use in the U.S.

The commission notes the EU's willingness to consider adopting a Codex MRL when such an MRL is not yet in place in the EU. This has benefited shipments. However, the current import tolerance application process in the EU is costly and cumbersome and results in few tolerances being pursued through the system.

The commission requests that the U.S. government work with the European Commission both directly and through the Trans-Pacific Partnership (TPP) to ensure that acceptable import tolerances remain in place for California table grapes in the EU even when a product has been withdrawn from active use in Europe.

II. Estimate of Potential Increase in Exports if Barriers Were Removed

In the 2012/13 market year, the U.K. and Ireland combined were the U.S. grape industry's 15th largest market by value, with exports worth \$14 million. Exports to U.K. and Ireland represented 88 percent of exports to the EU in 2012/13.

If trade barriers in the EU were eliminated, the EU market could grow to \$35 million.

HONG KONG

I. Maximum Residue Levels (MRLs)

Hong Kong will implement its own MRL list on August 1, 2014. In 2008, 2011, 2012, and again in February 2013, the commission provided comments to the Hong Kong government regarding its proposed MRLs for grapes. These comments by the commission resulted in numerous grape MRLs being included in the new MRL list.

Despite these efforts, there are at least eight grape MRLs needed in Hong Kong for California table grapes.

The commission requests that the U.S. government continue working to ensure these additional grape MRLs are established as quickly as possible in Hong Kong.

II. Estimate of Potential Increase in Exports if Barriers Were Removed

In the 2012/13 marketing year, China (including shipments to Hong Kong) was the second largest export market by value for California table grapes at \$108.6 million.

INDONESIA

I. Market Access Issues

California table grape exports to Indonesia declined over 66 percent thus far in the 2013/14 marketing year compared to the same period in the 2012/13 marketing year due to Indonesia's constantly changing and restrictive trade measures. While the commission's primary concerns are addressed in the Technical Barriers to Trade (TBT) Report comments that will be separately submitted to USTR, following is a summary of SPS concerns with Indonesia's new import regulations.

Indonesia's Food Safety Equivalency Recognition

Indonesia currently recognizes the U.S.'s food safety system as equivalent per a two-year agreement renewed in January 2013. This recognition allows U.S. exporters to ship to Indonesia without some of the more restrictive requirements of Regulation 88, an Indonesian regulation implemented in December 2011 covering food safety requirements for food of plant origin. The recognition agreement is also necessary for retaining access to the Port of Jakarta, since under Regulation 42, issued in June 2012, table grape imports were restricted to four ports. Because the equivalency agreement was renewed, U.S. horticultural products may continue to enter all Indonesian ports, including the Port of Jakarta, through which 90 percent of U.S. produce enters the country.

The recognition agreement is currently valid through January 2015. The commission requests that the U.S. government seeks a permanent extension of this equivalency.

The commission appreciates the U.S. government's ongoing efforts bilaterally and through the World Trade Organization (WTO) dispute settlement process to address the restrictive measures of Indonesian regulations and supports USDA and U.S. Trade Representative's (USTR) efforts.

II. Estimate of Potential Increase in Exports if Barriers Were Removed

In the 2012/13 marketing year, the U.S. shipped a record \$42.8 million worth of table grapes to Indonesia. Indonesia represented the fifth largest export market by value for California table grapes in 2012/13.

Current USDA trade data for May through August, 2013 indicates that California table grape exports to Indonesia have declined 66 percent compared to the same period last year and a decrease of 42 percent is likely in the 2013/14 marketing year. Once these trade barriers and those identified in the commission's comments to USTR for the TBT Report are resolved, trade with Indonesia will return to previous levels and expand further in years to come.

JAPAN

I. Japan's Pesticide Policy

Japan implemented its "positive" pesticide regime with thousands of new MRLs on May 29, 2006. The commission has three concerns with Japanese pesticide policies: Japan's sanctions policy, delays in establishing new MRLs, and the possible elimination of on-arrival fumigation options.

First, since 2006, Japan's policies on residue non-compliance have been more restrictive than necessary and are among the most restrictive in the world. Initially, residue violations resulted in trade restrictions for entire industries, including shippers that have not had a violation. More recently, Japan has taken action against single violators, as opposed to entire industries, which is an improvement. However, as few as two violations can still result in industry-wide actions.

Second, although Japan established many table grape MRLs, new crop protection products are becoming available. These products are having difficulty obtaining Japanese MRLs due to the length of time it takes to undergo Japan's review process. The lack of MRLs for these products raises concerns regarding their use on U.S. products exported to Japan. While the commission welcomed the Ministry of Health, Labour, and Welfare's (MHLW) announcement on May 14, 2013 that Japan would begin regulatory reviews at the same time other countries conduct their reviews, it is concerned that the length of time to establish a MRL in Japan will remain too long.

Third, fumigants are used in Japan as contingency options for on-arrival should a pest be detected. Japan established an October 2013 deadline for petitions to be submitted for reregistering fumigants for use on each approved commodity. The commission is working to ensure that fumigation on-arrival options remain available in Japan.

With Japan's recent inclusion in the Trans-Pacific Partnership (TPP), the commission requests that USTR and USDA continue working with MHLW to resolve these three MRL issues to ensure that trade will not be affected.

II. Estimate of Potential Increase in Exports if Barriers Were Removed

In the 2012/13 marketing year, the U.S. shipped a record \$26 million worth of California table grapes to Japan. Japan represented the 8th largest export market by value for California table grapes in 2012/13.

If trade barriers in Japan were eliminated, the Japanese market could grow to over \$30 million annually.

PERU

I. Market Access Issue

Peru stopped issuing import permits in 2010 due to concerns over the presence of EGVM in California. The restrictions continue despite the fact that USDA/APHIS issued an announcement in March 2012 that EGVM was eradicated from the one small table grape-growing area in California in which it was intercepted.

USDA/APHIS reported that Peru also had concerns regarding SWD. The restrictions due to SWD remain even though the pest has never been found on California table grapes.

USDA/APHIS submitted requested information to Peru early in 2013, and continues working with their counterparts to resolve these issues.

The commission requests that USDA/APHIS continue working with Peruvian officials to address the EGVM and SWD concerns and re-open the market to California table grapes with no mitigation measures.

II. Estimate of Potential Increase in Exports if Barriers Were Removed

In the marketing year prior to the import permit suspension in 2010 the U.S. shipped \$31,253 of table grapes to Peru.

If the trade barriers with Peru were eliminated and the market re-opened, exports of California table grapes could resume.

SOUTH KOREA

I. Maximum Residue Levels (MRLs)

In May 2012, the South Korean government announced that it would transition to a national MRL list in the coming years. Although the Korea Food and Drug Administration (KFDA), now the Ministry of Food and Drug Safety (MFDS), originally intended to implement this new policy in January 2014, it announced in May 2013 that the new policy would be postponed with applications due by November 2014 and entering into force sometime after 2016.

With the announcement, Korea also provided guidelines for registering crop protection products through the Ministry of Agriculture and for seeking import tolerances through KFDA. Registrants are being encouraged to seek needed MRLs prior to the official Korean transition.

Currently, Korea uses a limited national list and then applies a unique and complicated deferral path using Codex MRLs when established for a specific commodity (not for a crop group) and then similar Korean MRLs. This system will remain in effect through the transition period. When the change is complete, Korea is not expected to defer to Codex MRLs.

Given that a large number of grape MRLs are missing from Korea's current national list, the commission requests that USTR and USDA work with registrants and the Korean government to have all requested grape MRLs established in Korea prior to the implementation of the new system.

II. Estimate of Potential Increase in Exports if Barriers Were Removed

In the 2012/13 marketing year, the U.S. shipped approximately \$16.4 million worth of table grapes to South Korea, the industry's 12th largest export market by value. Disruptions due to residue testing have the potential to greatly reduce exports to this market.

TAIWAN

I. Taiwan Pesticide Standards

Taiwan has a limited list of pesticide MRLs and does not defer to Codex MRLs. Additionally, many more crop protection products are registered in the U.S. than in Taiwan. Taiwan has over 80 grape MRLs established, while the U.S. has over 100. This situation was not problematic until Taiwan began to detain U.S. imports for residue detections in 2007. This year alone, several U.S. fruit shipments have been rejected in Taiwan due to the lack of established residue limits in the market.

The commission has been working with USTR and USDA to encourage the establishment of additional grape MRLs in Taiwan. In response to these efforts, Taiwan has established or proposed over 50 new grape MRLs since January 2009. Although this is positive news, a number of important MRLs for California grapes are still missing, and as violations on U.S. fruit shipments demonstrate, the penalties for violations are high.

The commission requests that the U.S. government continue working with Taiwan to encourage the prompt establishment of the remaining priority MRLs in Taiwan.

II. Estimate of Potential Increase in Exports if Barriers Were Removed

In 2012/13 the U.S. shipped \$21.4 million worth of table grapes to Taiwan. Taiwan represented the 10th largest export market for table grapes by value in 2012/13.

If the trade barriers in Taiwan were eliminated, the Taiwanese market could grow to \$30 million annually.

VIETNAM

I. Quarantine Regulatory Changes

In January 2013, Vietnam notified its draft law on plant protection and quarantine, to which the commission provided comments back to USDA/FAS. The commission expressed concerns about how Vietnam would implement the draft law once it was finalized and on the language that would impose a ban on critical pesticides.

In 2010, Vietnam announced that it would be conducting a Pest Risk Analysis (PRA) on U.S. table grapes. The commission worked with USDA/APHIS on a response to Vietnam's request for information. While Vietnam is within its WTO rights to conduct this PRA, California table grapes have enjoyed market access to Vietnam for over a decade without incident.

The commission requests that USDA/FAS and USTR continue to monitor Vietnam's implementation of the plant law to ensure it is based on sound science and does not restrict California table grape access. The commission also requests that USDA/APHIS monitor the PRA process to ensure it is scientifically based.

II. Estimate of Potential Increase in Exports if Barriers Were Removed

In 2012/13 the U.S. shipped \$17.8 million worth of California table grapes to Vietnam. Vietnam represented the 11th largest export market by value for California table grapes in 2012/13.

If the trade barriers in Vietnam were eliminated, the Vietnamese market could grow to \$25 million.