

Voluntary Report – Voluntary - Public Distribution

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Report Name: French legislation threatens millions of dollars of US fruit and vegetable exports

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Report Highlights:

A French ban on the sales of fruit and vegetables with identifying stickers threatens exports of U.S. sweet potatoes (approx. \$20 million in sales annually) and grapefruits (\$8 million annually). The ban on stickers is scheduled to be implemented on January 1, 2022. Most U.S. grapefruits and some sweet potatoes shipped overseas bear stickers for traceability and marketing purposes. French fruit and vegetable producers and importers will also face a ban on plastic packaging.

A French ban on the sales of fruits and vegetables with identifying stickers threatens exports of U.S. sweet potatoes (approx. \$20 million in sales annually) and grapefruits (\$8 million annually). The ban on stickers is scheduled to be implemented on January 1, 2022. Most U.S. grapefruits and some sweet potatoes shipped overseas bear stickers for traceability and marketing purposes. French fruits and vegetables producers and importers will also face a ban on plastic packaging.

In February 2020, the French parliament passed [the anti-waste law for a circular economy](#). The aim of the legislators was to change France's production and consumption model in order to limit waste and preserve natural resources, biodiversity and protect against climate change.

The bill has five main goals:

- eliminate disposable plastic;
- provide consumers better information;
- reduce waste and increase recycling;
- prohibit companies from developing products that have an embedded expiry date, known as planned obsolescence; and
- improve production methods.

The bill addresses many non-agricultural issues; however, two articles specifically target the fruit and vegetable sector. Article 77 prohibits plastic packaging for fruit and vegetables when its weight is below 1.5 kilograms (3.3 lbs). It also allows for exceptions for fruit and vegetables that cannot be packaged in non-plastic packaging. Article 80 prohibits non-compostable stickers on fruits and vegetables sold in France with implementation as soon as January 1, 2022.

The ban on plastic packaging for fruit and vegetables was added during the parliamentary discussion of the bill. According to several sources, it was a trade-off for removing a similar ban on plastic packaging for dairy products after large French dairy companies lobbied against such a prohibition.

Because of the Covid-19 worldwide pandemic, the bill and those two articles remained unnoticed by most of the French fruit and vegetable sector until later in 2020.

Ban on plastic packaging for fruits and vegetables

While most fruits and vegetables are sold in bulk in France, plastic packaging is still widely used for the marketing of fragile fruits and vegetables such as strawberries and other berries, stone fruits, cherry tomatoes, some salads and trimmed vegetables like fresh green beans and peas. Avocados and mangoes are also occasionally packed in plastic. The main goal of such packaging is to reduce spoiling and the waste at point of sale.

In September 2020, the French National Council for Food (CNA - a advisory body to the French government) published a [report](#) listing exempted products. Based on the CNA report, the French government proposed a decree listing the exempted fruit and vegetables as well as the term of the exemption. Of interest to U.S. exporters, cranberries and lingonberries would be exempted from the ban on plastic packaging until December 31, 2024.

Because the restriction on plastic packaging could hamper the free flow of trade between France and other EU Member States, France notified the proposed decree to the Commission under the TRIS system

(<https://ec.europa.eu/growth/tools-databases/tris/en/search/?trisaction=search.detail&year=2021&num=149>)

Both the Commission and Spain delivered comments, as well as numerous organizations and foreign countries including the United States. Because of the comments by the Commission and Spain, the period for comments has been extended to September 13, 2021. France could either disregard the comments and face potential litigation because of its infringement on the EU common market or amend its proposed decree to address the concerns.

Ban on non-compostable stickers

The article 77 of the law for a circular economy specifically prohibits non-home-compostable stickers on any fruit and vegetables sold in France beginning on January 1, 2022.

Stickers are widely used on fruits and vegetables whether domestically produced or imported. They are primarily used to differentiate the higher quality products, for branding, or to facilitate the purchases with a PLU code. Without a sticker it is nearly impossible to differentiate between an organic Golden Delicious apple produced in France and a normal Golden Delicious apple imported when both are sold in bulk. The price difference between the two is significant. The lack of stickers could lead marketers of higher quality products (including organic products) to move away from bulk sales and sell their products packaged. This rule therefore could paradoxically increase packaging, the opposite of its goal.



Zespri stickers on yellow kiwis imported from New Zealand at a Paris market (Photo © FAS Paris)



Producer logo and website on peaches imported from Spain at a Paris market (Photo © FAS Paris)



US exporter name and PLU sticker on grapefruits imported from the U.S. at a Paris market (Photo © FAS Paris)

Article 80 bans non-home-compostable stickers. However, there is no internationally recognized norm for home-composting of stickers, and thus stickers manufacturers cannot use the NF EN 13-432 norm applicable to industrial composting. TUV Austria is working on the norm EN 17-427 for the home composting of packages. While the paper used for the sticker can be home compostable, the adhesive may not, as its technical characteristics could interfere with composting.

Placing stickers on fruit and vegetables is done at the packaging station close to the production site in many cases. As most fruits and vegetables are freely traded within the EU single market, a French-only ban on stickers create logistical hurdles for fruits and vegetable packers and exporters as they would have to dedicate lines of products destined only to the French market. France has not notified the sticker ban to the EU Commission through the TRIS system, but from the contributions to the Article 77 decree, France's trading partners would consider the sticker ban as a technical barrier to trade.

Additionally, there is a legal nuance of article 80 in question. Article 80 bans the "affixing of a sticker", not the sticker itself. The French Fruit and Vegetable Importer Association questioned French authorities regarding the wording and its legal interpretation: Does the article 80 ban "the action to affix a sticker in France", meaning that a fruit which already bear a sticker affixed in a foreign country could be legally sold in France? Or does the article mean that a fruit and vegetable to which a sticker HAS BEEN AFFIXED on it cannot be legally sold in France? The first version would result in disadvantaging French producers as compared to their foreign competitors. Preliminary answers by the French fraud and competition office seem to support the second interpretation, that it is a ban on the sale of a product with a sticker in France.

Several French fruit and vegetable organizations have asked parliament amend article 80 in subsequent legislation to grant a longer delay as no technical solution will be available for several years but this effort has not been effective to date. While the French Ministry of Agriculture seemed more receptive to the producers' concerns, the French Ministry of Ecology is against making this allowance.

Impact on U.S. fruit and vegetable exports to France

The United States is a large supplier of fruits and vegetables to France. Top U.S. exports are nuts, sweet potatoes and grapefruits. While nut exports will not be impacted by the bill, exports of cranberries, lingonberries and blueberries will be impacted by the ban on plastic packaging although the implementation is later.

Some U.S. sweet potato exports, valued at \$20 million in 2020, may be impacted by the ban on stickers, but not all U.S. sweet potatoes exported to France are sold with individual stickers.

The situation is more problematic for U.S. grapefruit exports to France. The U.S. is the fourth largest supplier of grapefruits to France, with exports exceeding \$8 million in 2020. It is also estimated that a significant share of the \$17 million exports of U.S. grapefruits to the Netherlands and \$2.6 million U.S. grapefruits exports to Belgium are sold in France after being transshipped. Most U.S. grapefruits shipped to France bear stickers with a

PLU code (see photo above) in addition to the exporter's name or other information for both traceability and marketing purposes.

If France implement article 80 as scheduled (January 1, 2022), U.S. exporters will only be able to ship to grapefruits without stickers, creating logistical and marketing difficulties. Products shipped to another EU country, such as Netherland or Belgium, with stickers affixed could not be rerouted to France.

Overall, this rule could severely limit the volume of grapefruits exported to France in 2022 as well as impact sweet potatoes sold with stickers.

Attachments:

No Attachments.