

## **Interpretation of New Version “Administrative Measures on Import and Export Food Safety”**

*neoficiálny preklad z ČJ do AJ*

<http://www.customs.gov.cn/customs/302249/302270/302272/3735918/index.html>

### **Interpretation of Order No. 249 of the General Administration of Customs**

The new "Administrative Measures on Import and Export Food Safety" (hereinafter referred to as the "New Administrative Measures") was promulgated on 12 April 2021 through Order No. 249 of the General Administration of Customs, and will be implemented on 1 January 2022. The “Administrative Measures” is the first comprehensive revision of the current regulations in nearly 10 years since the implementation in 2012. The provisions have been expanded from the original 64 provisions to 79 provisions.

#### **Part 1**

##### **Realize the organic integration of the top-level system of import and export food safety supervision**

★The new "Administrative Measures" comprehensively sorts out and integrates existing regulations and normative documents in the field of import and export food safety supervision, revises and perfects regulations that are no longer adapted to the actual situation, make targeted new regulations for new situations and new problems arising from existing regulations, and focus on absorbing long-term practices and experience of import and export food safety work, to realize the organic integration of import and export food safety management systems.

#### **Part 2**

Clarify the basic principles of import and export food safety work

Article 3 Import and export food safety work adheres to the principles of safety first, prevention is primary, risk management, whole-process control, and international co-governance.

★The new "Administrative Measures" adhere to the bottom line thinking of food safety first, strengthen prevention is primary and risk management, establish a whole-process supervision system, guide all parties to participate in governance in an orderly manner, and form an international co-governance pattern for food safety, thereby building a wide range of diverse subjects participate and collaborate in a modern governance system for import and export food safety.

#### **Part 3**

To establish an imported food safety governance system covering the three links of "before import, during import and after import".

##### **1. Introduce the concept of "conformity assessment", clarify the content of imported food conformity assessment activities,**

Article 10 The customs shall implement conformity assessment on imported food in accordance with the relevant laws and administrative regulations on the inspection of import and export commodities. Imported food conformity assessment activities include: food safety management system evaluation and review of foreign countries (regions) exporting food to China (hereinafter referred to as foreign countries (regions)), registration of overseas producers, filing and qualification assurance of importers and exporters, entry animal and plant quarantine approval, accompanying with inspection of

qualification certificates, document review, on-site inspection, supervision and random inspection, inspection of import and sales records, and a combination of various items.

In accordance with the Import and Export Commodity Inspection Law, this article introduces the concept of "conformity assessment" to imported and exported food, and integrates the management requirements of all links in the entire food import chain, and stipulates 9 content of conformity assessment activities, making the supervision of imported food more scientific and rigorous.

## **2. Clarify the circumstances that need to be evaluated and reviewed for foreign countries (regions), as well as the content and methods of the evaluation and review.**

Article 11 stipulates that the General Administration of Customs could conduct assessment and review of the food safety management system and food safety status of foreign countries (regions), and determine the corresponding inspection and quarantine requirements based on the results of the assessment and review.

Articles 12 to 17 stipulate the conditions, content, methods, review materials, and application of results for the assessment and review of foreign countries (regions) by the General Administration of Customs.

The above clauses further refine the six situations under which the General Administration of Customs can assess and review about the foreign countries (regions). It clarifies that foreign countries (regions) can initiate assessment and review when they apply for the first export of certain types of food to China.

In addition, the provisions of Articles 14 and 15 of the new "Administrative Measures" make it clearer that the General Administration of Customs can conduct assessment and review through various forms and combinations, such as video inspection and on-site inspection, it brings great convenience for food supervision.

## **3. Require food importers to conduct independent audits and actively cooperate with customs supervision and inspections**

Article 22 Food importers shall establish a review system for overseas exporters and overseas producers, focusing on the following items:

- (1) Develop and implement food safety risk control measures
- (2) Ensure that the food complies with Chinese laws and regulations and national food safety standards.

Article 23 The customs shall supervise and inspect the review activities carried out by food importers in accordance with the law. Food importers should actively cooperate and truthfully provide relevant information and materials.

★The above clauses clarify that food importers should establish an independent review system, and the customs shall supervise and inspect their review activities, which strengthens the implementation of the main responsibility of the company's food safety.

## **4. Implement differentiated control measures on imported foods based on the results of risk assessment**

Article 34 stipulates the conditions for specific control measures such as increasing the proportion of supervision and random inspection, checking and verifying inspection reports on a batch-by-batch basis.

Article 35 stipulates the conditions for the suspension and prohibition of import control measures.

Article 36 stipulates the conditions for the removal of the above control measures when the food safety risk is reduced to a controllable level.

★The new "Administrative Measures" detailed the implementation of control measures for increasing the proportion of supervision and sampling, checking the inspection reports submitted by importers, and suspending or prohibiting imports for overseas food producers or countries (regions) that have safety risks. It fully embodies the application of risk management in China's import and export food safety management.

#### **Part 4**

### **Establish a scientific, rigorous, and clearly defined rights and responsibilities of export food safety supervision and management system**

#### **1. Clarify the main content of export food supervision and management measures**

Article 39 The customs shall supervise and manage exported foods in accordance with the law. Export food supervision and management measures include: export food raw material planting and breeding farm filing, export food producers filing, enterprise verification, document review, on-site inspection, supervision and random inspection, port inspection, overseas notification and inspection, and a combination of various items.

★ This clause stipulates the main content of the export food supervision and management measures, and makes the export food supervision content and process links more clear and scientific and standardized.

#### **2. Emphasize that enterprises should establish a traceable food safety and hygiene control system**

Article 44 The export food production enterprise shall establish a complete and traceable food safety and sanitation control system, ensure the effective operation of the food safety and sanitation control system, and ensure that the export food production, processing, and storage processes continue to comply with relevant Chinese laws and regulations, and the safety of export food production enterprises Hygiene requirements; if the relevant laws and regulations of the importing country (region) and relevant international treaties and agreements have special requirements, they should also meet the relevant requirements.

An export food production enterprise shall establish a supplier evaluation system, a purchase inspection record system, a production record file system, a factory inspection record system, an export food traceability system, and a substandard food disposal system. The relevant records shall be true and effective, and the storage period shall not be less than 6 months after the expiration of the food shelf life; if there is no clear guarantee of the shelf life, the preservation period shall not be less than 2 years.

★In order to achieve rapid response to food safety incidents and ensure food safety, the new "Administrative Measures" clearly stipulates that enterprises should establish a complete and traceable food safety and hygiene control system. On the basis of current regulations, enterprises are required to

establish a supplier evaluation system, Export food traceability system and substandard food disposal system.

### **3. Clarify the supervision and inspection of export food producers**

Article 47 The customs shall supervise and inspect the operation of the food safety and hygiene control system of export food production enterprises within its jurisdiction. Supervision and inspection include daily supervision and inspection and annual supervision and inspection.

Supervision and inspection can adopt methods such as document review, on-site inspection, and enterprise verification, and can be carried out in conjunction with overseas notification and verification of exported food, supervision and random inspection, and on-site inspection.

★该条款明确了海关对出口食品生产企业的食品安全卫生控制体系运行情况进行监督检查的内容方式,监督企业食品安全卫生控制体系持续有效运行。

★This clause clarifies that the content and method of supervision and inspection on the operation of the food safety and hygiene control system of export food producers which taken by the customs, supervise the continuous and effective operation of the enterprise's food safety and sanitation control system.

### **4. Proposed the concept of "pre-export declaration supervision"**

Article 49: Export food producers and exporters shall, in accordance with laws, administrative regulations and the provisions of the General Administration of Customs, submit an application for supervision before export declaration to the customs at the place of production or the place of organization.

After the customs of the place of origin or the place of organization accepts the application for supervision before the declaration of food export, it shall carry out on-site inspection and supervision and random inspection of the exported food that needs to be inspected and quarantined in accordance with the law.

★The new "Administrative Measures" put forward the concept of "pre-export declaration supervision" for the first time, clarifying that after export production enterprises and exporters submit pre-export declaration supervision applications, the customs can implement the main content of the pre-export declaration supervision on exported food in accordance with the law, and adjust the export Food declaration procedures.

### **5, Added the control measures for the notified export food**

Article 54: Where exported food is notified by international organizations or foreign government agencies due to safety issues, the General Administration of Customs shall organize inspections, adjust the proportion of supervision and random inspections as necessary, food exporters are required to submit inspection reports issued by a qualified inspection agency to the customs batch by batch, and withdrawal of control measures such as registration recommendation to overseas official competent authorities

★The new "Administrative Measures" added the specific control measures adopted for the notified export food, which reflects that China's food safety supervision model is becoming more and more improved.

## **Part 5**

### **Increase penalties for violations of laws and regulations in the field of import and export food safety**

Article 68 to Article 73 specify the legal responsibilities that food importers and import and export food producers and operators should bear when they violate relevant laws and regulations when importing and exporting food.

★The above clauses have added penalties for violations of the importer filing management system, producers and operators not cooperating with inspections, and violations of the relevant regulations on imported Chinese labels, penalties for non-compliance with the provisions of the export of food have been refined, strengthen the penalties for a number of illegal acts in the field of import and export food safety

#### **Key points**

1. The Chinese labels of imported health foods and foods for special dietary use must be printed on the smallest sales package and must not be affixed.

Related Articles: Article 30

2. If the imported food cannot be technically processed within the specified time or is still unqualified after technical processing, the customs shall order the food importer to destroy or return it.

Related Articles: Article 33

3. If imported food is contaminated by pathogens of quarantine infectious diseases, or there is evidence that it can become a vector of quarantine infectious diseases, and sanitary treatment cannot be implemented effectively, the General Administration of Customs may, based on the results of the risk assessment, take control measures of the suspension or prohibition of import on related foods.

Related Articles: Article 35

4. If the inspection result shows that the microbiological index exceeds the standard, the customs will not accept the re-inspection.

Related Articles: Article 67

5. "Administrative Measures for the Inspection and Quarantine of Exported Honey" "Administrative Measures for the Inspection and Quarantine of Imported and Exported Aquatic Products"

Five regulations including the Measures for the Supervision and Administration of Inspection and Quarantine of Exported Meat Products, the Measures for the Supervision and Administration of Inspection and Quarantine of Imported and Exported Dairy Products, and the Regulations on the Recordation and Administration of Exported Food Production Enterprises, will be repealed on 1 January 2022.

Related Articles: Article 79