

RULES AND REGULATIONS GOVERNING THE IMPORTATION OF FRESH APPLES (MALUS DOMESTICA) AND PEARS (PYRUS COMMUNIS) FROM ARGENTINA INTO THE PHILIPPINES

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WHEREAS, the Plant Quarantine Service of the Bureau of Plant Industry by virtue of Presidential Decree No. 1433, otherwise known as the "Plant Quarantine Law of 1978", as revised by the Administrative Code of 1987, (EO 292), has the primary function of preventing the entry of foreign pests into the country and the further spread of these pests already introduced to places where they are not known to exist;

WHEREAS, the World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) and the FAO International Plant Protection Convention (IPPC) reaffirms the sovereign right of the country to institute appropriate measures deemed necessary to protect human, plant, and animal life and health, provided that such measures do not unnecessarily restrict trade;

WHEREAS, the Pest Risk Analysis (PRA) for fresh apples (*Malus domestica*) and pears (*Pyrus communis*) from Argentina were conducted and completed in accordance with the IPPC International Standard for Phytosanitary Measures ISPM No. 11, which takes into account evaluation of the biological or other scientific and economic evidence to determine whether a pest should be regulated and the strength of any phytosanitary measures to be taken against it;

WHEREAS, the completed PRA served as the basis for the issuance of this AC, wherein low pest prevalence areas shall be used as a quarantine measure and a combination of a systems approach shall applied;

NOW, THEREFORE, I, PROCESO J. ALCALA, Secretary of the Department of Agriculture, by the powers vested in me by law, do hereby issue this Circular providing guidelines governing the importation of fresh apples (*Malus domestica*) and pears (*Pyrus communis*) from Argentina into the Philippines.

ARTICLE I

SCOPE AND DEFINITION OF TERMS AND ACRONYMS

Section 1. SCOPE - This Circular shall govern the importation of fresh apples (*Malus domestica*) and pears (*Pyrus communis*) from Argentina.

Section 2. DEFINITION OF TERMS - For the purpose of this Circular, the following terms, words and phrases herein used shall be construed to mean as follows:

A. DEFINITION:

- Additional Declaration - a statement that is required by the BPI Plant Quarantine Service (PQS) to be entered on a Phytosanitary Certificate (PC) which provides specific additional information pertinent to the consignment.

- Consignment - a specific quantity of fresh apples (*Malus domestica*) and pears (*Pyrus communis*) being moved from Argentina to the Philippines covered by a single Phytosanitary Certificate
- Maximum Residue Limit - allowable limit of pesticide level on fresh apples (*Malus domestica*) and pears (*Pyrus communis*) set by the Codex Alimentarius Commission.
- Pest Risk Analysis - the process of evaluating biological or other scientific and economic evidence to determine whether an organism is a pest, whether it should be regulated, and the strength of any phytosanitary measures to be taken against it [FAO, 1995; revised IPPC, 1997; ISPM No. 2, 2007]
- Phytosanitary Certificate - Certificate patterned after the model certificates of the IPPC [FAO, 1990; ISPM No. 5, 2006]
- Phytosanitary Certification - use of phytosanitary procedure leading to the issuance of a Phytosanitary Certificate [FAO, 1990; ISPM No. 5, 2006]
- Phytosanitary Measure - any legislation, regulation or official procedure having the purpose to prevent the introduction and/or spread of quarantine pests, or to limit the economic impact of regulated non-quarantine pests. [FAO, 1990; ISPM No. 5, 2006]
- Plant Quarantine Clearance (Import Permit) - official document issued by the BPI authorizing importation of a commodity into the Philippines in accordance with specified phytosanitary import requirements.

B. ACRONYMS:

BPI - Bureau of Plant Industry (the NPPO of the Philippines)

MRL - Maximum Residue Limit

NPPO - National Plant Protection Organization

PC - Phytosanitary Certificate

PQC - Plant Quarantine Clearance

PQO - Plant Quarantine Officer of the BPI

PQS - Plant Quarantine Service

PRA - Pest Risk Analysis

SENASA (Argentina) - Servicio nacional de Sanidad y Calidad Agroalimentaria

ARTICLE II

IMPORTER REGISTRATION GUIDELINES AND PROCEDURES

The following guidelines and procedures shall be implemented in the accreditation of the Importers of Fresh Apples and Pears

Registration - Prior to the issuance of SPS IC for purposes of importation of plants, planting materials and plant products, all importers are required to register with the BPI.

Requirements for Registration as Importer - The following documentary requirements must be submitted to the BPI for purposes of registration as importer. For documents requiring Certified True Copy, the importer may bring the original copy and the scanned or photocopy shall be stamped Verified from the Original upon its presentation.

- Letter of Intent addressed to the Chief of BPI- Plant Quarantine Service

- Notarized Accomplished Application Form accomplished by the applicant, together with attached latest 2x2 colored picture (white background) of the owner and representative/s;
- Company Profile
- Board Resolution of the Corporation/Cooperative or Special Power of Attorney issued by the importer authorizing the legal representative/s of the importer. Current Mayor's Permit (Certified True Copy);
- BOC Accreditation - Accounts Management Office (AMO) Certification (CTC);
- For Single Proprietorship - DTI Registration (CTC);
- For Corporation/Partnership/Cooperative/Joint Venture/Associations -
 - Proof of SEC Registration (CTC) / Cooperative Development Authority (CDA) Certificate of Registration (CTC);
 - General Information Sheet and certified list of incumbent executive officers
 - Current Certificate of good standing from the Securities and Exchange Commission (SEC) or CDA or other applicable registering agencies, whichever is applicable (CTC);
 - Additional Requirements for Farmers' Cooperative/ Confederation
 - 1) List of farmers cooperative and their addresses; If not a confederation, list of farmers, addresses and voters ID or barangay ID
 - 2) Board Resolution authorizing the importation
- BIR Registration, Importers Clearance Certificate (ICC) and Brokers Clearance Certificate (BCC)
- Tax Identification Number of the Corporation/Partnership/Sole Proprietorship;
- Audited Financial Statement for the previous year (CTC) except for the following businesses:
 - Newly established business which is less than one year in its operation; or
 - Other entities or bodies which are explicitly exempted under the law, agreement or other similar legal instruments.
- Declaration of warehouse/storage facility (location, capacity);
- Notarized contract of lease or proof of ownership of warehouse/cold storage/farm land (CTC);
- DA-Certificate of Accreditation for Cold Storage Warehouse (if applicable)
- Fees to be collected
- PHP 1,000.00 Application Fee (AF).

The BPI-PQS shall then issue a Certificate of Accreditation duly signed by the BPI Director upon recommendation of the PQS Chief.

Documentary Requirements for Renewal of Registration - The applicant shall submit the following documents at least two (2) months prior to the expiry date of registration:

- Letter of Intent addressed to the Chief of BPI- Plant Quarantine Service

- Notarized Accomplished Application for Renewal Form with attached latest 2x2 colored picture (white background) of the applicant and duly authorized representative;
- Current or updated documents of the following:
 - Mayor's Permit or Business Permit
 - BOC AMO Certificate (CTC);
 - BIR Registration; ICC and BCC
 - For Single Proprietorship: DTI Registration (CTC)
 - For Corporation/Partnership/Cooperative:
 - 1)
Updated SEC Registration (CTC)/ CDA Certificate of Registration;
 - 2)
Latest General Information Sheet and Certified List of incumbent executive officers
 - 3)
Certificate of Good Standing from the Securities and Exchange Commission (SEC) or CDA or other applicable registering agencies, whichever is applicable (CTC);
 - Current Audited Financial Statement for the previous two (2) years (CTC)
 - Current or updated Annual Income Tax Return received by the Bureau of Internal Revenue (BIR)
 - Declaration of warehouse/storage facility (location, capacity);
 - Notarized contract of lease or proof of ownership of warehouse/cold storage/farm land (CTC);
 - DA-Certificate of Accreditation for Cold Storage Warehouse (if applicable)
 - Summary report of importation and utilization of SPSIC for the past two (2) years
- 4)
Fees to be Collected
 - PHP2,500 Renewal Fee

ARTICLE III

APPLICATION FOR AND ISSUANCE OF PLANT QUARANTINE CLEARANCE

- Any BPI-accredited fresh apples and pears importer who desires to import from Argentina must secure an SPS Import Clearance from the BPI.
- The application form can be secured from and submitted electronically to BPI-PQS with the following attached documents:
 - Pro-forma invoice;
 - Certification of GM content;

- Other commodity specific requirements, including permits/clearances from other agencies.
- The application shall undergo automated validation for compliance to the submission of mandatory data, and manual review for compliance to the requirements and attached documents. It shall be placed "under review" status. If it is sufficient in form and substance, the reviewer shall endorse to the PQ Chief. If the application is incomplete or not in the right format, the application shall be rejected and the applicant shall be informed accordingly of the additional requirement.
- If the PQ Chief found the application sufficient in form and substance it shall be forwarded to the BPI Director.
- The BPI Director approves the application and the applicant can view and print the approved SPS Import Clearance. The application shall only be approved and issued a SPS Import Clearance by BPI-PQS upon determination of the following:
 - Latest advisory of the relevant international bodies and/or Argentina pertaining to the pest status of the source areas;
 - The applicant importer is accredited by BPI-PQS;
 - The applicable risk management protocols that are to be prescribed including certifications of exporting governments.

Article IV

VALIDITY AND NON-TRANSFERABILITY OF THE PQC

A. Validity of the PQC:

- The SPS Clearance shall be valid for a period of two (2) months. This validity shall be indicated in the PQC unless revoked for any of the grounds set forth in Article VIII. Consignment of fresh apples and pears has to be loaded at the port in Argentina after the issuance of the PQC.
- The date of leading at the port in Argentina as specified in the Bill of Lading shall not be earlier than the date of issuance of the PQC, otherwise the consignment shall be subjected to a prescribed commodity treatment or returned to the country of origin or destroyed at the Port of Entry, and all fees, charges and other expenses relative to such quarantine action shall be borne by the importer (pursuant to Section 14 of PD 1433).

B. Non-Transferability of the PQC

The PQC is non-transferable and shall only be used by the person/company whose name appears in the PQC.

Article V

FEES AND CHARGES

Registration fee shall be collected in the amount of Php5,000.00 inclusive of application fee. Yearly renewal shall also be subjected to processing fee of Php2,500.00.

Article VI

REQUIREMENTS AND CONDITIONS ON PRE-EXPORT QUARANTINE INSPECTION

A. Source Areas

- Fresh apples (*Malus domestica*) and pears (*Pyrus communis*) to be exported to the Philippines should be sourced only from production areas, processing/packing facilities approved/accredited by SENASA.
- Exporters, production areas and processing facilities of fresh apples (*Malus domestica*) and pears (*Pyrus communis*) intended for export to the Philippines shall be registered with SENASA. An official list shall be

provided to BPI-PQS. Only those indicated in the list shall be allowed to export to the Philippines and approved by BPI-PQS.

B. Sorting Cleaning and Packing

- Fresh apples (*Malus domestica*) and pears (*Pyrus communis*) intended for export to the Philippines shall be sorted, cleaned and packed in SENASA accredited facilities. These activities should be under the supervision of SENASA Officers and a BPI- PQ representative who will conduct pre- clearance inspection for one month during the initial export. All expenses related to the dispatch of BPI- PQ representative shall be borne by the exporting country.

- All fresh apples (*Malus domestica*) and pears (*Pyrus communis*) for export should be packed in new carton boxes. Packed apples and pears in boxes should be stored at pulp temperature of 1-1.5[0]C.

C. Pre-export Quarantine Inspection

- Prior to sealing of the carton boxes, 2% of the finished boxes shall be inspected by a SENASA Officer and the Philippine PQ Officer.

- The SENASA Officer shall ensure that the consignment is free from quarantine pests before a PC can be issued for the shipment.

D. Sealing and Labeling of Carton Boxes

If the consignment satisfactorily passes the inspection, each carton box shall be sealed and labeled with the following information conspicuously displayed on the two sides of the box:

- "FOR THE PHILIPPINES";

- The accreditation code issued by SENASA; and

- Source of fresh apples and pears (province, orchard or groves and lots) The label should be placed on conspicuous area of the box.

E. Loading of Consignment and Sealing of Reefer Vans

- Packed fresh apples (*Malus domestica*) and pears (*Pyrus communis*) shall be immediately loaded in clean (disinfested/disinfected) reefer vans and transported as soon as possible.

- The commodity shall be under cold storage condition throughout the transport. The container van shall maintain a temperature of 2[o]C or below during transit.

- The vans shall be closed and sealed under supervision of a SENASA Officer and BPI-PQ Officer.

F. Phytosanitary Certification

An original Phytosanitary Certificate (PC) shall be issued by SENASA for each consignment that satisfactorily passed the pre-export quarantine inspection. Integral to the PC is an additional declaration stating the following information:

- "This shipment is covered by Plant Quarantine Clearance (PQC) no. _____ "

- Container van and seal number

- Name and SENASA Accreditation Number of the accredited processing and packing facility

The Phytosanitary Certificate issued by SENASA shall be authenticated and validated by the BPI-PQS Pre-Clearance Inspectors.

H. Maximum Residue Level (MRL) Certificate

Each shipment shall be accompanied by a certificate of analysis for pesticide residue issued by a relevant government laboratory in Argentina or issued by a government accredited laboratory, attesting that the pesticides used during production conform to the required Codex MRL for each pesticide

Article VII

ENTRY AND POST-ENTRY INSPECTION

- Forty-eight (48) hours before the arrival of a consignment at the port of entry, the importer or his authorized representative shall notify the concerned PQO by completely filling out Application for Inspection.

- Upon arrival, the consignment shall be subjected to the following inspection requirements:

- Documentation Check

Original PQC, original PC from SENASA, airway bill/bill of lading and invoice, and MRL certificate must be presented and surrendered to the PQO at the border.

Any fresh apples (*Malus domestica*) and pears (*Pyrus communis*) consignment with incomplete documentation shall be refused entry with options of returning the whole shipment to Argentina, re-export to other countries or destruction of the consignment at the importer's expense.

- On-arrival Quarantine Inspection

Upon arrival of the shipment at the port of entry, the PQO, together with the BOC examiner at the port shall conduct routine inspection and examination of the consignment.

A sample size of 5% of the consignment shall be inspected by the PQO, for quarantine pests. The inspection shall include the packaging material of the fresh apples (*Malus domestica*) and pears (*Pyrus communis*).

If the consignment of fresh apples and pears arrived in any a port of entry in Metro Manila, the collection of such samples shall be the responsibility of the PQS station having jurisdiction over the port of entry. Fresh apples and pears showing symptoms of pest infection/infestation or presence of pest shall be forwarded to the nearest BPI-Plant Quarantine Laboratory for diagnosis and pest identification. Diagnosis and pest identification shall be completed within seven (7) working days. Samples from the same lot shall be forwarded to National Pesticide Analytical Laboratory (NPAL) for the determination of pesticide residue level.

- Inspection shall be conducted by the PQO in the presence of the importer or his authorized representative. There after the PQO shall place a stamp on the BOC entry permit to indicate whether the consignment is cleared for released, for further inspection, on hold or for confiscation.

Article VIII

PENALTIES AND SANCTIONS

Section 1. Suspension/Revocation of PQC:

- The PQC may be suspended or revoked at any time for any of the following grounds:

- Providing false information in the application for import inspection form or in any of the accompanying documents to the application.

- Misdeclaration of consignment.
- Violation of relevant SPS rules and regulations or any conditions imposed in the PQC
- Refusal to allow the inspection of the commodity, physical containment facility or intermediate destination of the product
- Accreditation of the exporter has been suspended or revoked; or
- New technical information becomes available to the BPI indicating that the fresh apples and pears, if allowed for its intended use will result to risks to human, animal or plant health or life and the environment.
- Revocation or cancellation of the PQC shall be without prejudice to being further subjected to penalties.

Section 2. Confiscation and Disposal:

- If the border inspection shows that:
 - The fresh apples (*Malus domestica*) and pears (*Pyrus communis*) are found to be infested/infected with regulated pests;
 - The consignment is contaminated, misbranded, misdeclared, or in violation of the terms and conditions embodied in the PQC; this Administrative Circular; and other sanitary and/or phytosanitary regulations;
 - The consignment arrived without the required documentation; or
 - Fake documents have been presented

The PQS shall inform the BOC of the violations and the consignment shall be disposed of in any of the following manner:

- Confiscated and destroyed
- Returned to the country of origin
- Shipped to a third country, where possible

In no case shall a confiscated consignment be auctioned, redeemed, donated or sold by any government bureau or agency.

- Notice of Confiscation shall be issued on to the importer the reason/s for the confiscation. Three (3) copies of the said Notice shall be issued as follows: one (1) copy shall be given to the BOC; one (1) copy to the importer and one (1) copy shall be retained by the PQS.

Further, the notice shall provide indicative date of condemnation and disposal of the product.

- All expenses (including travel, per diem or subsistence, and overtime pay) of officers or employees of the Philippine government in connection with the destruction or disposition of the seized fresh apples and pears and all expenses in connection with the storage, cargo or labor with respect to the refusal for admission shall be paid by the importer.
- The importer concerned shall then be blacklisted from the list of accredited importers.
- The impounding or seizure shall not be a bar to subsequent prosecution in the court of the person/s concerned in accordance with law.

Section 3. Suspension of Fresh Apples and Pears Importation:

- In case of non-compliance with the requirements and conditions of this AC, quarantine pest Interceptions at the port of entry, and/or pest outbreak at the source, the BPI reserves the right to suspend the fresh apples and pears importation.

- An audit of the export program shall be conducted . The program shall resume only when the BPI and SENASA have mutually agreed on and instituted the necessary corrective actions to comply with requirements and conditions of this AC.

Section 4. Other Penalties:

The existing laws and rules and regulations of the BPI prescribing the violations and corresponding penalties shall be applied and imposed.

Section 5. Notification:

The Department of Agriculture through the BPI shall immediately notify the SENASA in writing, through the DFA-Philippine Embassy in Argentina or the Embassy of Argentina in Manila, of any detection or interception of quarantine pests in the shipment and non-compliance with the requirements and conditions of this AC.

Article IX

REPEALING CLAUSE

All existing administrative orders, rules and regulations or parts there of, which are inconsistent with the provisions of this Circular are hereby repealed or modified accordingly.

Article X

SEPARABILITY CLAUSE

If any portion of this Circular is declared unconstitutional or invalid, the other portions thereof which are not affected thereby shall continue to be in full force and effect.

Article XI

EFFECTIVITY

This Circular shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

(SGD) PROCESO J. ALCALA

Secretary

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