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Ukraine Implements Major Food Safety System Change

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Report Highlights:

On September 20, 2015, The Ukrainian Parliament has conducted a major reform of the food safety system by implementing Law 1602. The Law changed functions of the controlling authorities by establishing a single food safety authority and harmonized many Ukrainian food safety practices with those adopted by the EU. It also changed import requirement as to labeling and accompanying shipping documents.

Executive Summary

On September 20th, 2015, Ukraine enacted Law No 1602-VII “On changes to Some Ukrainian Regulations as to Food Products” adopted on July 22nd, 2014. The Law introduced significant changes into state food safety regulatory system. The law had been discussed by stakeholders for 3 years and had a 1 year implementation period that expired on September 20th. The following general changes are introduced into food safety system including deregulatory package:

- The system of competent authorities in charge for production and import of processed food products, plants, live animals, products of animal origin and feeds, conformity certification, sanitary and hygiene regulations was replaced by the single competent authority – State Service on Safety of Foodstuffs and Consumer Protection (SSFCP).

Note: The agency was created by the Government of Ukraine Resolution No 442 adopted on September 10th, 2014. For more information please refer to GAIN Report [New Single Food Safety Authority is Created Kiev Ukraine 9-16-2014](#).

Important Note: At the time of the publication of this report, the newly created SSFCP is still in development. The competent authority responsible for production, import and circulation of food and animal products is now the State Veterinary and Phytosanitary Service of Ukraine (SVPS). The State Sanitary and Epidemiological Service (SSES) of the Ministry of Health of Ukraine has lost its status as competent authority. This status transfer is established by the joint letter of the SVPS and SSES issued on September 18th, 2015.

- The Law 1602 changed the current edition of the fundamental Law “On Food Safety and Quality” (now Law “On Main Principles and Requirements to Safety and Quality of Food Products”). The Law also changed 2 Codes, 7 different Laws and 1 Resolution.
- The Law canceled almost 40 different permits introducing over 150 of other changes.

Attention! All US exporters should change their procedure to be compliant with requirements below.
Changes to Custom Procedure implemented on September 20th, 2015

- An importer of food products (other than animal products and feeds) may proceed with customs clearance without Sanitary-hygiene certificate (also known as sanitary-epidemiological or “Conclusion”). The product still should comply with the World Health Organization’s (WHO) [International Health Regulations 2005](#) with producer, exporter and importer being ultimately responsible for safety of the product. This recommendation is contained in the State Sanitary - Epidemiological Service (SSES) letter No 02.02/871-I issued on September 18, 2015. This commendation has “recommendatory” status as food controlling authority is taken away from the SSES. Hygienic requirements are in a separate chapter of the Law and they largely coincide with the [EU Regulation No 852/2004](#).
- The Law requires an importer to present an “International Certificate” for imported food products of non-animal origin. However, the definition of such certificate is not provided in the Law 1602. The FAS/Kyiv is aware that official certificates from U.S. controlling authorities may not exist. In a verbal exchange with SVPS, the SVPS representative stated that a wholesomeness letter issued by the exporting company should serve as such certificate. Although written confirmation of this statement is not yet provided, the FAS/Kyiv would like to notify US producers that their Ukrainian counterparts may

contact them with such request. This should not change the procedure on the U.S. side significantly as such letters were previously frequently requested and served as justification for sanitary-hygiene certificate issuance.

- The Competent authority is tasked with maintaining the positive list of approved exporting facilities for products of animal origin. Specific exporting facilities may be included in the list after of country of origin food safety systems audit. The audit may be initiated by the competent authority of the exporting country. Countries and facilities that have an import history at the time when Law 1602 was enacted (September 20th, 2015) will be included in the list automatically. No additional action from the competent authority is required. The Law also canceled the fee charged for inspection of exporting facilities.

Note: FAS/Kyiv is unaware of the state budget funding of export facilities inspection program. FAS/Kyiv is even less aware of any funding envisaged for this program in 2016 budget.

Important Note: The Cabinet of Ministers' Resolution 118 adopted on April 1st 2014 (as discussed in the GAIN Report [Ukraine Opens Market for EU Meat Products Kiev Ukraine 5-14-2014](#)) envisaged compulsory EU-certification of the exporting facilities or separate audit that must be conducted prior to inclusion of exporting facilities into the List. The Law 1602 allows for automatic inclusion of all existing exporters thus contradicting Resolution No 118. FAS/Kyiv is working on the resolution of this inconsistency as no official explanation has been provided to date.

- Other import procedures for products of animal origin remain unchanged. The importer will have to present the bilateral certified issued by the U.S. competent authorities (AHPIS, FSIS or NOAA) as outlined in the Joint letter of the SVPS No 15-1-1-14/24288 and SSES 02.02/869-I issued on September 18th, 2015.
- Border control procedure will now be split into 2 major stages:
 - Control in the border crossing points will be conducted by the Ukrainian Border Guards and preliminary documentary control by employees of the Ministry of Revenues and Fees.
 - At the customs of destination, the control will be conducted by competent authorities. Sampling and testing will be periodic, risk-based, and conducted in accordance with the methods listed in the national standards.
Exporters should be aware that sampling and testing procedures will be separate from the border crossing procedures. This may result in additional expense should the problem arise.
- "Without GMO" compulsory labeling for products that do not contain GMO's is canceled! However the exporter may choose to keep "Without GMO" labeling. In this case, absence of GMO's must be confirmed as stipulated by existing regulations. Lack of information from the ingredients suppliers about GMO presence in an ingredient shipment may serve as sufficient reason for such labeling. It is not clear whether a "don't ask - don't tell policy" will result in truthful labeling, especially if ingredients suppliers have no knowledge of a GMO presence in their products. In case a product contains GE materials, and in case their share in product exceeds 0.9 percent in any of the ingredients of product, which includes, composed of or made of GE materials, food product labeling must contain label "Containing GMO".
- Shipping boxes that contain retail packs of food products classified under HS Groups 1-21 that required the same set of label parameters as retail packaging (including ingredients, additives, energy value, expiration date etc.) in Ukrainian language is canceled.

- US exporters supplying dietary and special functional food products (athlete formulae etc.) do not need to register their products with the SSES anymore. The labeling text explaining the function of the product does not need an approval from the SSES, will not require a separate permit. However the marking requirement (Chapter 1.6.13) requires the producer to insure clear labeling that will enable a conscious selection of the product. The labeling may contain a list of substances or ingredients without specific traits (i.e. lowers blood pressure). The composition of the product must be confirmed by laboratory testing.
- No registration will be required for foods, feeds, drugs, veterinary drugs and cosmetics that are GMO or contain ingredients that were derived from a GMO product. All related State Registers (that were never created with exception of the Register of GM Feeds) will be canceled. Registration of the GMO events (referred to in the Law as “sources”) of food products, feeds and drugs will be required. The sanitary-epidemiological expertise of the products produced with GMO use to justify its safety for human health is canceled. In conclusion the new Law eliminates registration for GMO products and requires registration of GMO events.
- The Law will require general traceability of food products based on “step forward – step back” principle (Chapter 1.5.2.3). The importer will be required to keep all papers related to a food batch for 6 months after expiration date of the product. However, no “internal traceability” is required. Inside the facility traceability is voluntary.
- The Law requires Ukraine to officially publish the positive list of allowed food additives. The Law requires all EU-approved additives to be included in the list automatically.
Note: No official list was publicly available when this report was drafted.

FAS/Kyiv is not clear how implementation of the new law will affect U.S. exports to Ukraine. There are many positives to the law, such as changes the GMO registration and labeling changes. However there are several concerns. Of primary concern is the requirement for an “international certificate” of wholesomeness and/or food safety and how that will be enforced. Likewise, FAS Kyiv is concerned that the law’s dependence on EU regulations and laws, as well as the positive list of food additives based on EU regs could pose a barrier to U.S. exports. FAS/Kyiv will continue to engage the GoU to ensure the new law does not impede U.S. exports.