



# AFI newsletter

ASSOCIATION OF FOOD INDUSTRIES • 3301 ROUTE 66 • SUITE 205, BLDG C  
NEPTUNE, NJ 07753 732-922-3008 FAX 732-922-3590

SEPTEMBER/OCTOBER 2003

## **FDA ISSUES INTERIM FINAL RULES ON BIOTERRORISM ACT**

The Food and Drug Administration issued its interim final rule on Oct. 10 requiring foreign and domestic facilities that manufacture/process, pack or hold food intended for human or animal consumption in the U.S. to register with FDA by Dec. 12, unless exempt. The interim final rule, together with the prior notice of imported food shipments, are the first two of four rules implementing the Bioterrorism Act. The Act's provisions are intended to protect the U.S. food supply from acts of bioterrorism or intentional contamination.

In addition to the registration rule, FDA published a second interim final regulation that requires FDA be provided advance notice of shipments of human and animal food being imported or offered for import into the U.S., also effective as of Dec. 12.

It's important AFI importer members ensure their suppliers are aware of the registration requirement and that overseas members of AFI understand they will need to register their facilities. To help ease the registration burden, AFI implemented a program through which AFI will serve as the U.S. agent for foreign facilities. Many members have encouraged their suppliers to register through AFI. Overseas companies who join AFI will receive this service free as one of the many benefits to belonging to AFI. As AFI members, the overseas companies are assured of being informed of any changes in U.S. regulations with regard to the Bioterrorism Act or any other matter.

Information on the program was sent to all members. Those needing additional copies may

contact the AFI office. The information is also on the AFI Web site at [www.afius.org](http://www.afius.org).

## **FDA TO HOLD MEETINGS ON BIOTERRORISM ACT**

FDA will hold a series of meetings to provide information on the interim final rules for the registration and prior notice requirements of the Bioterrorism Act. Meetings, all scheduled for 9 a.m.-noon, will be held as follows:

- Nov. 12 – Marriott Detroit Metro Airport
- Nov. 14 – Hilton Los Angeles Airport
- Nov. 17 – La Guardia Airport Marriott
- Nov. 18 – San Antonio Westin Riverwalk
- Nov. 20 – Marriott Miami Airport
- Nov. 21 – Baltimore Hyatt Regency

There is no charge to attend the meetings. You may register online at <http://cfsan.fda.gov/dms/fsbtac15.html> or by fax at 202-479-6901.

## **AFI BOARD MEMBERS VISIT WASHINGTON**

Three members of the AFI Board of Directors – Dee Bartlett, Jill Bush and Joe Christovao, along with AFI President Bob Bauer, traveled to Washington in late October to meet with key government officials with regard to the many free trade agreement negotiations under way.

The delegation, along with Jeff Levin of Harris, Ellsworth & Levin, met with negotiators from the U.S. Trade Representative's office and with negotiators with the Department of Agriculture.

The purpose of the meetings was to ensure the negotiators realize the imported food industry has concerns and wishes regarding the free trade agreement negotiations.

AFI's comments were well received. All of the negotiators stressed the importance of making sure the viewpoint of the import industry is made known. It's likely that members importing products from countries with whom the U.S. is negotiating will soon be asked to write letters to the negotiators so the voice of the food import industry continues to be heard.

With all of the AFI delegation working and/or living in New Jersey, the delegation also met with staff of Sens. Corzine and Lautenberg. Sen. Lautenberg sat in on much of the meeting in his office. Again, the main purpose of the meeting was to make certain the senators knew that the imported food industry is an important part of the state's economy and that there are issues of concern that the industry would like addressed.

Our thanks to Dee, Jill and Joe for taking the time from their busy schedules to help us with this important effort.

### **ANTIDUMPING DUTY PETITION FILED ON HAZELNUTS**

On Oct. 21, six Oregon firms filed an antidumping duty petition on certain processed hazelnuts from Turkey. AFI's Nut & Agricultural Products Section immediately formed an AFI Hazelnut Group to fund an effort to protect the interests of the import trade. Any companies wishing to join that group should immediately contact the AFI office.

Companies importing hazelnuts must immediately take steps to protect themselves because all antidumping duties are collected directly from importers. Importers should communicate regularly with their suppliers to

ensure that if the supplier is requested by the Department of Commerce to do so, that it provides the requested information, even if the supplier is no longer or plans to stop selling to the U.S. market.

If the International Trade Commission and Commerce find that dumping is taking place, a preliminary determination would be issued by about the end of March 2004. Commerce will calculate an estimated dumping margin on a company-specific basis for each of the foreign producers/exporters subject to the investigation, based on the companies' unverified questionnaire responses. If there is an affirmative preliminary determination (that is, the estimated dumping margin calculated by Commerce is 2 percent or more), Customs will suspend liquidation of entries of the subject imports, and U.S. importers will be required to make a deposit with Customs at the time of entry of the product into the United States in an amount equal to the estimated dumping margin (for example, if the product is valued at \$100, and the estimated dumping margin is 20 percent, a deposit of \$20 must be paid to Customs at the time of importation). A final determination would likely come by about Sept. 1, 2004. If at any point during the investigation process the ITC or Commerce find that no dumping is taking place, the investigation is terminated.

### **AFI CONTINUES TO LEAD BYRD AMENDMENT FIGHT**

AFI continues to be the lead voice in efforts to repeal or amend the Byrd Amendment, an egregious trade policy that rewards companies that submit antidumping duty and countervailing duty petitions by giving them the funds collected from the importers.

Meetings have been held with several key members of Congress and AFI continues to work to educate members of Congress about this law's pitfalls. Members are encouraged to contact their

senators and representatives and ask them to support repeal. It's important members of Congress realize the Byrd Amendment money comes directly from the pockets of U.S. companies and letters from U.S. companies such as members of AFI will go a long way to help educate them.

### **USDA ISSUES PROPOSED RULE FOR COUNTRY OF ORIGIN LABELING**

The U.S. Department of Agriculture issued a proposed rule for the mandatory country of origin labeling program as required by the 2002 Farm Bill.

Under the proposed rule, muscle cuts of beef (including veal), lamb and pork; ground beef, ground lamb and ground pork; farm-raised fish and shellfish; wild fish and shellfish; perishable agricultural commodities (fresh and frozen fruit and vegetables); and peanuts must be labeled at retail to indicate their country of origin. In addition, the notice of country of origin for fish and shellfish must include and distinguish between wild and farm-raised fish and shellfish, as required by the legislation.

Covered commodities are excluded from mandatory country of origin labeling if they are an ingredient in a processed food item. Examples of covered commodities excluded under this provision of the proposed rule would be bacon, orange juice, mixed nuts and fruit/vegetable party trays.

Comments on the proposed rule are being accepted until Dec. 29.

### **CIT ISSUES DECISION ON CANNED PINEAPPLE FROM THAILAND**

On September 15 the United States Court of International Trade (CIT) affirmed the Department of Commerce's results of redetermination on remand of the final results of

the fifth administrative review of the antidumping duty order on canned pineapple from Thailand. Consistent with the decision of the United States Court of Appeals for the Federal Circuit in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (Timken), Commerce said that Maui Pineapple and the CIT's earlier opinion in this case were "not in harmony" with the Department's original results.

Commerce will continue the suspension of liquidation. If this decision is not appealed, or if appealed and upheld, the Department will publish amended final antidumping duty results.

### **DEPT. OF DEFENSE TO REQUIRE RFID TAGS**

The Department of Defense will require all suppliers to use Radio Frequency Identification (RFID) tags on shipments to the military by January 2005.

### **CONSUMER DEMAND ON THE RISE FOR DRIED FRUITS, NUTS AND DATES**

Despite adverse weather conditions at intermittent times during the growing season, industry leaders in California were upbeat about the 2003-04 marketing season for dried fruits and nuts, reported *TheProduceNews.com*. Some of the commodities that were affected by too much rain followed by a heat wave in July were apricots, dates, dried plums, pistachios and almonds. However, both pistachios and almonds were expected to have crops second to last year's record yields.

Most company executives described consumer demand for dried fruits and nuts as on the "upswing," due to the United States' growing concern for healthier on-the-go snacks. Most suppliers believed they would have enough products to meet demand.

Jeff Freeman, vice president of sales and marketing for Mariani Packing Co., said that the California supply of apricots was expected to be off by 70 percent due to poor growing conditions. However, the Turkish crop was expected to be normal, with a small carry-over of supplies from last year.

“In the raisin market, the worldwide pricing is firm due to catastrophes in offshore raisins, including Turkey, Chile and Argentina,” Freeman said. “California raisins are in large supply, so this should balance worldwide inventories. Prices should stay steady or go up.”

### **WTO FORMS DISPUTE SETTLEMENT PANEL**

The World Trade Organization formed a dispute settlement panel to arbitrate over claims from the U.S.A. and Australia that European Union (EU) regulations on the protection of trademarks and geographical indications for foodstuffs break world trade rules.

Washington alleges the EU rules are illegal by not allowing the registration of non-EU geographical indications unless the designation was from a country that offered geographical indication protection equivalent to that in the European Union. Australia says the EU regime breaks WTO rules banning discriminatory treatment of products, does not properly protect trademarks, and is too “complex and prescriptive”.

### **ORGANIC FOOD CONSUMPTION ON THE RISE**

More than one-half of Americans (54 percent) have tried organic foods, with nearly one-third (29 percent) claiming to consume more organic foods and beverages than one year ago, according to the 2003 Whole Foods Market

Organic Foods Trend Tracker. The survey, which was released one year after USDA’s National Organic Standards went into effect, shows organic options including snacks, ready-to-go and packaged goods have increased in the last year.

The majority (69 percent) of “frequent organic eaters” (eat organic several times a week) claim they are eating more organic foods than one year ago. Forty-three percent of “occasional organic eaters” (eat organic several times a month) and 16 percent of “infrequent organic eaters” (have tried, but do not consume regularly) report eating more organic foods than one year ago. Overall, 14 percent of the U.S. population is eating more organic foods than they consumed one year ago.

Produce continues to be the primary gateway to organics, however, consumers are purchasing more organic foods in expanding categories. The category with the most growth over the year is “snacks,” with 18 percent of infrequent users claiming to purchase organic snacks.

### **CUSTOMS DELAYED ON NEW ACE RELEASE**

Officials with the Bureau of Customs and Border Protection said that the third release of the Automated Commercial Environment (ACE) that was scheduled for this winter has been delayed and won't be released until Spring 2004. The new release will enable importers to create monthly statements and make periodic payments.

The next release in the ACE sequence, originally set for Spring 2004, has been pushed back five months. That portion of the system will give truckers an automated manifest system for first time.

Officials said that the “slippage” in the release dates is to be expected in an information-technology project as large as ACE.

## **RESEARCH SHOWS PRIVATE LABEL GOODS GROWING**

ACNielsen U.S., released its U.S. Trends in Private Label report, which shows that sales of private label consumer packaged goods (CPG) are growing much faster than branded products. While branded products still constitute the majority of all CPG sales, private label products, also known as store brands, are not only enjoying faster sales growth, they are expanding into an increasing number of categories, becoming the share leader in more categories and gaining an increased presence in more retail channels.

Since 1997, private label products have grown from having a presence in 69 percent of the categories tracked by ACNielsen to 75 percent, entering 88 new categories in that time. In 2002, private label had the dollar volume share lead in 25 percent of the categories in which it competed – up from 21 percent in 1997.

## **HOME-STYLE MEALS DECREASING SALES OF CANNED FRUIT & VEGETABLES**

According to Mintel's Canned Fruit and Vegetables Report, food processing represents about 13 percent of the value of all goods produced in the U.S., including the 7 billion pounds of fruit and vegetables canned each year. The canned fruit and vegetables market has grown slightly since 1998, from \$4.2 billion to \$4.7 billion – held back by consolidation in grocery retailing and wholesaling, which has gradually increased retailers' bargaining power over the last decade.

The report indicated consumers have shown they are willing to pay a premium for the convenience and a wider range of choices, exemplified by the rise of minimally processed fruit and vegetables. Home-meal replacements are also increasing in popularity. These home-style meals prepared by

grocery retailers have decreased sales of canned fruit and vegetables.

Private label canned fruit and vegetables performed much better than branded products, exceeding \$1.2 billion in 2002 – 31 percent of total sales for the category. Branded sales grew less than one percent from 2000 to 2002, compared to almost six percent growth in private label. Del Monte, the leading branded manufacturer of both canned fruit and canned vegetables, suggests that the total market share of private label canned fruit is 41.4 percent and for canned vegetables is 44.8 percent. Either way, private label product sales exceed sales of the largest name brand in each segment, and in some cases of the two largest name brands.

Mintel expects the total retail sales of canned fruit and vegetables will continue to expand at two percent or less per year, from \$4.7 billion in 2003 to \$5.1 billion in 2008, amounting to a marginal decline after adjusting for inflation. Consumers are more often turning to food service or prepared meals from the supermarket.

## **FDA ISSUES TEMPORARY PERMIT TO DEL MONTE CORPORATION**

The Food and Drug Administration announced the extension of a temporary permit issued to Del Monte Corporation to market test canned tomato products that deviate from the U.S. standard of identity for canned tomatoes. The extension allows the permit holder to continue to collect data on consumer acceptance of the products while the agency takes action on a petition to amend the standard of identity for canned tomatoes that was submitted by the permit holder.

## **MEMBERSHIP NEWS**

The following companies were approved for membership by the AFI Board of Directors at its

September 9, 2003 meeting:

**A. Ferreira Industria**, Mossoro-RN, Brazil – producer/processor of cashew nuts.

**A.S. Cashew Exporters**, Kerala, India, manufacturer/exporter, cashew nut kernels

**Aceitunas Sevillanas S.A., Pilas-Sevilla**, Spain – growers, manufacturers and exporters of olives.

**Aliment Food Packers Pvt. Ltd.**, Santiago, Chile – exporter of raisins, prunes, almonds, walnuts.

**Amendoas Do Brasil Ltda.**, Ceara, Brazil – processor/trader of cashew nut kernels.

**Assorted Food Packers Pvt. Ltd.**, Kollam, India – manufacturer/exporter of cashew kernels and cashew nut shell liquid (CNSL).

**Belmar Dis Ticaret AS**, Izmir, Turkey, manufacturer/exporter, dried fruit, spices.

**Berns & Koppstein**, New York, NY – importer of canned fruits and vegetables.

**Cannex S.A.**, Las Condes, Santiago – exporter of canned fish.

**Cascaju Agroindustrial S/A**, Maracanu, Brazil – processor/packer/exporter of cashew nuts.

**Cia. Brasileira de Resinas – RESIBRAS**, Ceara, Brazil – processor of cashew nuts.

**CMS Commodity Management Services Ltda.**, Ceara, Brazil – exporters, cashew nuts, Brazil nuts, honey.

**Compania Industrial De Oleos Do Nordeste-Cione**, Fortaleza/CE, Brazil – producer/processor/exporter of cashew nut kernels and cashew nut shell liquid (CNSL).

**CONAGRO S.A.R.L.**, Kenitra, Morocco – manufacturer of olives, vegetables, olive oil, capers.

**Dakao Trading and Service, Ltd.**, Hochiminh City, Vietnam – exporter of cashew nut kernels/importer food stuff

**El Coco Manufacturing and Trading Corp.**, Makati City, Philippines – manufacturer/exporter of

banana chips.

**Empesca Alimentos Ltd.**, Ceara, Brazil – processor/trader of cashew nut kernels.

**Envasadora del Norte de Extremadura, S.L.**, Caceres, Spain – canning plant, olives.

**Eurobrasil Crustaceos Ltd.**, Centro - Parnaiba – PI – fresh shrimp.

**Europa Industria de Castanhas Ltd.**, Altos, PI. – Cashew nuts.

**Exportadora Florenzano Ltd.**, Para, Brazil – exporter of Brazil nuts.

**Florestal Maracacume Ltd.**, Maracanau, Brazil – agrobusiness (honey).

**Golden Sea, Inc.**, Downey, CA – importer/distributor canned seafood, canned vegetables & fruits, pasta, etc.

**GSL Foods Enterprises**, Davao Del Sur, Philippines – supplier, banana chips.

**Honeymax S.A.**, Bueonos Aires, Argentina – Exporter, honey.

**India Food Exports**, Kollam, India – manufacturer/exporter cashew kernels and cashew nut shell liquid (CNSL).

**Indian Resins and Polymers**, Kerala, India – exporter cashew kernels and other food items.

**Irmaos Fontenele S/A Com. Ind. & Agric.**, Ceara, Brazil – processor of cashew nut kernel and CNSL.

**Jacobsens Bakery, Ltd.**, Hedensted, Denmark – manufacturer of Danish butter cookies.

**J.S. Cashew Exporters**, Kerala, India – manufacturer/exporter, cashew nut kernels.

**Kailas Cashew Exports**, Kerala, India – processor of cashew kernels.

**Kora Oliva**, Sevilla, Spain – producer of olives, olive oil and capers.

**Lekshmi Enterprises**, Kerala, India – exporter of cashew nut kernels.

**Luisy (Shaanxi) Food Co., Ltd.**, Dian Zi Yilu, China – canned food producer and exporter, asparagus, canned yellow peaches, solid packed apples.

**Mahachai Marine Products Co., Ltd.**, Samutsakorn, Thailand – seafood cannery, light and white tuna

**Nila Exports**, Kerala, India – processor of cashew kernels.

**Premier Mushroom Farms**, Andhra Pradesh, India – exporter of canned mushrooms.

**Quinlon Export Enterprises**, Kerala, India – exporter of blanched cashew kernels.

**Quinlon Foods, Kerala, India** – exporter of blanched cashew kernels.

**Rajan Cashew Company**, Kerala, India – manufacturer/exporter, Indian cashew kernels.

**RDA S.r.l.**, Marittima (PI), Italy – exporter, tomato and vegetable sauces.

**Royal Food Exporters**, Kerala, India – exporter, cashew nut kernels.

**Shinjin Corporation**, Kyungnam, South Korea – cannery, canned seafoods.

**Shinjin Moolsan Co. Ltd.**, Kyungnam, South Korea – cannery, canned seafoods.

**SMP Foods Products Co., Ltd.**, Samltsongeram, Thailand – manufacturer/exporter, frozen shrimp

**Superstar Coconut Products, Inc.** – Quezon, Philippines – manufacturer/exporter of desiccated coconut.

**T-Boli Agro-Industrial Dev't. Inc.**, Pasig City, Philippines – exporter/manufacturer of canned tropical fruit cocktail canned pineapple, dried fruits, etc.

**Tagum Commodities**, Tagum Davao Del Norte, Philippines – exporter, banana chips.

**Terramare S.A.**, Prov. B.A., Argentina – exporter, anchovies in salt brine, fillets of anchovies.

**Tropical Synergy International**, Davao City, Philippines – manufacturer/exporter of banana chips.

**U.D. Mandiri Jaya**, Sidoarjo, Indonesia – processor/exporter of cashew kernels.

**Unity Food Company, Ltd.**, Bangkok, Thailand – manufacturer of dehydrated fruits.

**Usibras-Usina Brasileira de Oleos e Castanha Ltd.**, Mossoro, Brazil – Cashew kernel and juice.

## MEMBERS IN THE NEWS

**J. F. Braun** announced the appointment of Stephen O'Mara to the office of vice president. O'Mara joined J.F. Braun three years ago after being associated with Braun's parent company, Atalanta, for several years.

Bharani Kumar has joined **Western India Cashew Company Pvt. Ltd.** from International Flavors and Fragrances as vice president, production, quality assurance and engineering.

P. Bharathan Pillai was unanimously elected as chairman of the **Cashew Export Promotion Council of India** for the year 2003-2004. Earlier he served as the chairman for four terms. He is the chief executive of **Asiatic Export Enterprises**.

## UPCOMING MEETINGS

The NAOOA Mid-Year Meeting will take place January 16, 2004 at the Hilton San Francisco in San Francisco, Cal.

The 2004 AFI Convention will take place at Disney's Boardwalk Inn Resort in Walt Disney World, Orlando, Fla. April 15-18, 2004.

## MAILBAG MEMO

The following is a partial list of mailings and

faxes sent out by AFI over the past two months. If you did not receive a particular mailing or fax for a section or group to which you belong, please call the AFI office.

September 3 – E-Mail/Fax – New Member Applications (All Members)

September 3 – Mail – Import Reports for July (Subscribers)

September 5 – E-Mail/Fax – Free Trade Agreements Action Program (All Members)

September 8 – E-Mail/Fax – Posting Unsatisfied Arbitration Awards (All Members)

September 8 – E-Mail/Fax – Bob Sessler Notice (All Members)

September 17 – E-Mail/Fax – Bioterrorism Act (All Members)

September 19 – Possible Duty Reduction Efforts (All Members)

September 19 – Affirmative Final Determinations of Circumvention of AD & CVD Orders on Pasta from Italy (Pasta Group)

September 25 – E-Mail/Fax – FDA Registration Program Brochures (All Members)

September 25 – E-Mail/Fax – New Member Applications (All Members)

September 30 – Mail – Statistical Reports for June (Subscribers)

September 30 – Mail – Detention Reports for June (Subscribers)

October 1 – Mail – Import Reports for August (Subscribers)

October 1 – E-Mail/Fax – Opportunity to Request Administrative Review (Pistachio Group)

October 2 – E-Mail/Fax – AFI Town Meeting/Bioterrorism Seminar (All Members)

October 2 – E-Mail/Fax – News Article – “Calif. Olive Farmers Struggle With Glut” (NAOOA & Olive Group)

October 3 – E-Mail/Fax – 2004 AFI Convention (All Members)

October 3 – E-Mail/Fax – Product Codes Survey (NAOOA)

October 3 – E-Mail/Fax – Extension of Time Limit for Preliminary Results of AD and New Shipper Reviews (Mushroom Group)

October 6 – E-Mail/Fax – “Chile – Canned Deciduous Fruit Annual 2003” released by USDA (Canned Fruit Group)

October 7 – E-Mail/Fax – New Shipper AD Review Initiated (Mushroom Group)

October 8 – E-Mail/Fax – Rescission of AD New Shipper Review on Mushrooms from China (Mushroom Group)

October 10 – E-Mail/Fax – Publication of Interim Final Rules on Bioterrorism (Overseas Members)

October 10 – E-Mail/Fax – Publication of Interim Final Rules on Bioterrorism Act (All Members)

October 10 – E-Mail/Fax – Bioterrorism Regulations (All Members)

October 15 – E-Mail/Fax – Survey re: Olive Oil Research & Promotion Order (NAOOA)

October 15 – E-Mail/Fax – New Member Applications (All Members)

October 15 – E-Mail/Fax – Rescission of New Shipper Review on Honey from Argentina (NHPDA)

October 15 – E-Mail/Fax – Unsatisfied Arbitration Awards (All Members and Trade Associations)

October 15 – E-Mail/Fax – Detailed Summaries of Facility Registration, Prior Notice of Imported Foods (All Members)

October 16 – E-Mail/Fax – Partial Rescission of AD New Shipper Review on Mushrooms from China (Mushroom Group)

October 20 – E-Mail/Fax – Meetings in Wash., DC re Free Trade Agreements (Board of Directors)

October 20 – E-Mail/Fax – Free Trade Agreements Action Program Alert (All Members)

October 21 – E-Mail/Fax – Partial Rescission of AD Review on Pineapples from Thailand (Pineapple Group)

October 22 – E-Mail/Fax – Duty Free Legislation for Certain Tuna (Tuna Group)

October 22 – E-Mail/Fax – FDA Satellite Conference on Bioterrorism Protection Rules (All Members)

October 22 – E-Mail/Fax – Extension of Time for Final Results of Administrative and New Shipper Reviews (Juice Group)

October 23 – E-Mail/Fax – Conference Call re Hazenut Antidumping Petition (Hazelnut Group)

October 23 – E-Mail/Fax – AFI Town Meeting – Display Tables (Associate Members)

October 27 – Mail – Statistical Reports for July (Subscribers)

October 27 – Mail – Detention Reports for July (Subscribers)