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Subject: The Fresh Produce Alliance (FPA) comments on Proposed changes to the Units of Measurement for the Net Quantity Declaration of Certain Foods for fresh fruits or vegetables packaged in non-retail containers

To whom it may concern,

The Fresh Produce Alliance (FPA) welcomes the opportunity to provide feedback to the Canadian Food Inspection Agency (CFIA) regarding the ongoing consultation on Proposed changes to the Units of Measurement for the [Net Quantity Declaration of Certain Foods for fresh fruits or vegetables packaged in non-retail containers](#).

About FPA

The Fresh Produce Alliance (FPA) is a joint initiative of the Canadian Produce Marketing Association (CPMA), the Fruit and Vegetable Growers of Canada (FVGC), and the Fruit and Vegetable Dispute Resolution Corporation (DRC). The intent of FPA is to build an improved business climate for the fresh produce industry. FPA was established to identify and consolidate multi-stakeholder issues that are cross-sectoral in nature, to validate potential solutions, and to facilitate the necessary actions to generate change.

About CPMA

Based in Ottawa, Ontario, the Canadian Produce Marketing Association (CPMA) is a not-for-profit organization representing companies that are active in the marketing of fresh fruits and vegetables in Canada from the farm gate to the dinner plate. CPMA members cover various industries, integrating all segments of the fresh produce industry, including major growers, shippers, packers and marketers; importers and exporters; transportation and logistics, brokers, distributors and wholesalers; retailers, fresh cuts and foodservice distributors, operators and processors. Founded in 1925, CPMA is proud to represent over 850 domestic and international members who are responsible for 90% of the fresh fruit and vegetables sales in Canada.

About DRC

The Fruit and Vegetable Dispute Resolution Corporation (DRC) is a not-for-profit, member-based entity whose core work is business-to-business private commercial dispute resolution. In other words, the DRC is a referee between parties when the purchase and sale do not go according to plan.

Established in 1999 through a provision for private commercial dispute resolution in the former NAFTA, DRC has members in 17 countries who are representative of the entire supply chain, from growers through to retail.

The *Safe Food for Canadians Regulations* require that Canadian buyers and sellers of fresh fruits and vegetables be members of the DRC unless exempted from the requirement.

About FVGC

The Fruit and Vegetable Growers of Canada (FVGC) represents growers across the country involved in the production of over 120 different types of crops on over 14,000 farms, with a farm gate value of \$6.8 billion in 2022. FVGC is an Ottawa-based voluntary, not-for-profit, national association, and, since 1922, has advocated on important issues that impact Canada's fresh produce sector, promoting healthy, safe, and sustainable food, ensuring the continued success and growth of the industry.

Comments:

The Fresh Produce Alliance (FPA), composed of the Canadian Produce Marketing Association (CPMA), the Fruit and Vegetable Growers of Canada (FVGC) and the Fruit and Vegetable Dispute Resolution Corporation (DRC), support allowing the use of count for the net quantity declaration on non-retail containers (such as crates, master containers, and shipping containers) of fresh fruits or vegetables in the [Units of Measurement for the Net Quantity Declaration of Certain Foods](#).

As per the [Units of Measurement for the Net Quantity Declaration of Certain Foods](#) which has been incorporated by reference (IBR) in the *Safe Food for Canadians Regulations* (SFCR), only certain commodities can use numerical count as the net quantity declaration on shipping containers or cases ([SFCR, 244](#)). These include ears of sweet corn, heads of cauliflower or lettuce, celery, greenhouse cucumbers, closed containers of tiered apples, peaches, and pears. All other fresh fruits and vegetables must use weight or volume as their net quantity declaration.

The FPAs support amending [Table 1 – Units of measurement for prepackaged food](#) to allow net quantity for fresh fruits and vegetables to be declared either by weight, volume, or numerical count on shipping containers or cases. This means for item 50, adding an X under column 2 Numerical count and replacing the current text in column 1 with the proposed text below:

Amend Table 1 – Units of measurement for prepackaged food

Item 50: replace the current text in Column 1 with the proposed text below and add an "X" under Column 2 Numerical count

Compare current and proposed item	Item	Column 1 Prepackaged Food	Column 2 Weight	Column 2 Weight of the edible contents in the container exclusive of free liquid or glaze content	Column 2 Volume	Column 2 Numerical Count
Current	50.	Fresh fruits or vegetables, other than those for which the net quantity has to be declared by numerical count in accordance with a provision of this table or table 2	X		X	
Proposed	50.	Fresh fruits or vegetables, other than those for which the net quantity must be declared in accordance with a provision of this table, Table 2 or Table 3	X		X	X

The proposed amendments in the [Units of Measurement for the Net Quantity Declaration of Certain Foods](#) would allow for weight/volume to continue to be used as desired/required but would also provide the necessary flexibility to allow for numerical count to be used where it makes sense to do so. In either case, the broader regulatory requirement for net quantity to be declared on shipping containers/cases would be met.

In addition, the FPA recommends providing greater flexibility for how net quantity is declared for prepackaged fruits and vegetables, other than consumer prepackaged fruits and vegetables found in [Table 3 – Units of measurement for prepackaged food other than consumer prepackaged food](#), below. The FPA proposes the following amendments:

- For item 1, fresh fruits or vegetables packaged in a bag, other than those for which the net quantity has to be declared by numerical count in accordance with a provision of this table or table 1, the FPA recommends that an X be added under column 2 (volume) and an X be added under column 2 (numerical count).
- For item 9, ears of fresh sweet corn, the FPA recommends that an X be added under column 2 weight.

Although the proposed amendments to Table 3 were not previously raised by FPA to CFIA, the FPA recommends providing flexibility for how net quantity is declared for fresh fruits and vegetables on shipping containers and cases. This will provide sellers and buyers the opportunity to use a net quantity on shipping containers/cases for fresh fruits and vegetables that is most practical and accurate for the specific commodity in question during the sale of fresh fruits and vegetables. In addition, providing flexibility for how net quantity is declared for fresh fruits and vegetables on shipping containers and cases, will create a more streamlined approach and reduce unnecessary

confusion for the industry. CFIA may want to consider adding items 1 and item 9 from [Table 3 – Units of measurement for prepackaged food other than consumer prepackaged food](#) to [Table 1 – Units of measurement for prepackaged food](#) so that the requirements for fruits and vegetables on cases/shipping containers are all located in one table, as opposed to multiple tables. This will make it easier for industry to access this information, and reduce the risk that the information in [Table 3 – Units of measurement for prepackaged food other than consumer prepackaged food](#) for fresh fruits and vegetables is overlooked or missed.

Table 3 – Units of measurement for prepackaged food other than consumer prepackaged food

Item	Column 1 Prepackaged food, other than consumer prepackaged food	Column 2 Weight	Column 2 Volume	Column 2 Numerical count
1.	Fresh fruits or vegetables packaged in a bag, other than those for which the net quantity has to be declared by numerical count in accordance with a provision of this table or table 1	⌘		
2.	Ice cream and food containing ice cream		⌘	
3.	Ice milk and food containing ice milk		⌘	
4.	Sherbet and food containing sherbet		⌘	
5.	Ice cream cake		⌘	
6.	Sour cream		⌘	
7.	Concentrated milk or evaporated milk products in a hermetically sealed package		⌘	
8.	Processed fruit or vegetable products that are liquid or viscous		⌘	
9.	Ears of fresh sweet corn		⌘	⌘

Under the current requirements, only certain commodities—ears of sweet corn, heads of cauliflower or lettuce, celery, greenhouse cucumbers, closed containers of tiered apples, peaches, or pears—can use numerical quantity as the net quantity declaration on the shipping container. However, the broad variability among different fruit and vegetable commodities means that, while weight may be the most accurate and practical measure for declaring net quantity for some commodities, numerical count is the more accurate and practical measure for others. For example, bunches of herbs, bunched carrots, or heads of broccoli are commodities that currently require a net quantity declaration using weight/volume on the shipping container, but for which a wide variability in weight makes accurate net quantity labelling challenging. For example, broccoli heads, like nearly all produce, can vary greatly in size and weight. This applies to a variety of similar produce, such as collard greens (*Brassica oleracea*), which can have leaves ranging from 6 inches to over one foot in size. Fruits and vegetables are highly variable in weight given characteristics such as dry matter, oil content, and moisture levels. As a result, the weight is impacted, but not always the size of an item.

In addition, the inventory for fruits and vegetables is often managed and sold by numerical count (i.e., by bunch or by head), making numerical count not only the more accurate and practical measure for grower/packers, but also for wholesale/retail. According to a major retailer in Canada, being able to list by count is a good measure for the supplier-buyer relationship, as a seller is selling to a particular quantity and the buyer is buying a particular quantity. It is very hard for retailers to always purchase by weight in some instances, given the variability in the product.

The following represents the list of stakeholder groups that could be affected as a result of allowing greater flexibility for the net quantity declaration on non-retail containers on fresh fruits or vegetables in the [Units of Measurement for Net Quantity Declaration of Certain Foods](#):

- **Specific industry sectors:** This proposed IBR change will benefit sectors of the fresh produce industry that use a net quantity declaration on fresh produce- i.e., growers, shippers, packers, and retailers. As stated above, the proposed IBR change would provide greater flexibility around net quantity declaration on shipping containers/cases and allow the most appropriate measurement to be used during transactions.
- **Individual businesses:** Individual businesses such as packers, producers, shippers, and retailers would be positively impacted by this proposed IBR change, as it would give them greater flexibility in how they declare their net quantity on their shipping containers or cases.
- **Industry associations impacted:** As stated above, this change will provide greater flexibility to growers, packers, and shippers in how they declare their net quantity on their shipping containers or cases. Members of the Canadian Produce Marketing Association (CPMA), the Fruit and Vegetable Growers of Canada (FVGC), the Fruit and Vegetable Dispute Resolution Corporation (DRC), International Fresh Produce Association (IFPA), as well as regional organizations representing the fresh produce sector, would benefit from the proposed IBR change.
 - IFPA has indicated that the US federal net quantity requirements are consistent with the proposed IBR change. The United States *Declaration of net quantity of contents* regulation stipulates: *“The principal display panel of a food in package form shall bear a declaration of the net quantity of contents. This shall be expressed in the terms of weight, measure, numerical count, or a combination of numerical count and weight or measure [...] When the declaration of quantity of contents by numerical count does not give adequate information as to the quantity of food in the package, it shall be combined with such statement of weight, measure, or size of the individual units of the foods as will provide such information”* ([Code of Federal Regulations](#)).
- **International counterpart organizations:** Based on consultation with IFPA, CPMA, FVGC, and DRC, we anticipate that this proposed IBR change will not have a negative impact on harmonization or trade with the United States or other countries as it would allow importers/exporters to have greater net quantity labelling flexibility on their shipping

containers. Shippers, packers, and growers will therefore be positively affected by the proposed IBR change.

The proposed IBR change to add an X under column 2 numerical count in [Table 1 – Units of measurement for prepackaged food](#) will have no impact on regulations or other IBR documents such as the: *Weights and Measures Act*, *Safe Food for Canadians Regulations*, or the *Canadian Grade Compendium*.

The proposed IBR change to item 1 fresh fruits or vegetables packaged in a bag, other than those for which the net quantity has to be declared by numerical count in accordance with a provision of this table or table 1 and item 9 ears of fresh sweet corn to [Table 3 – Units of measurement](#) may impact the *Safe Foods for Canadians Regulations* (SFCR, 188 (1)), which is related to [standard container sizes](#):

“Size corresponding to net quantity:

188 (1) *The container of a prepackaged food, including a hermetically sealed food container listed in the Standard Container Sizes Document, must be of a size that corresponds to a net quantity by weight or volume or of a maximum capacity by net weight, as the case may be, that is set out in that document and, if the hermetically sealed container is made of metal, it must be of the dimensions that correspond to the net quantity by volume that is set out in that document.”* ([SFCR, 188\(1\)](#))

The following represents the potential impact this change could have on consumers, domestic and international trade, regulated parties and regulators:

- **Health and safety:** The proposed IBR change would not have any impact to health and safety.
- **Consumer protection:** This proposed IBR change does not impact consumer protection, as the net quantity declaration on the shipping container is not consumer-facing or used by consumers.
- **Market access:** As noted above, the proposed IBR change has no negative impact on market access. FPA’s proposed IBR change would allow the industry to use either numerical count or count by weight/volume for net quantity declarations on shipping containers/cases for fresh fruit and vegetable products. This would allow the necessary flexibility to meet the requirements for different buyer markets.
- **Financial burden or resource:** The proposed IBR change has no financial burden for industry stakeholders or for the regulator, as it provides greater flexibility in net quantity labelling on shipping containers.
- The proposed IBR change does not impact CODEX’s *General standard for the labelling of non-retail containers of foods*.

Please see the two stakeholder letters of support attached to these comments.

The FPA is appreciative of the opportunity to provide comments to the Canadian Food Inspection Agency regarding providing greater flexibility for net quantity declaration on non-retail containers (such as crates, master containers, and shipping containers) of fresh fruits or vegetables in the [Units of Measurement for the Net Quantity Declaration of Certain Foods](#). The FPA would be pleased to answer any questions you may have.

Sincerely



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