



Dan Wheat/Capital Press File  
**Workers sort Red Delicious apples at McDougall & Sons Inc., in Wenatchee, Wash. Japan will reduce its tariffs on some tree fruit but phytosanitary rules remain a concern.**

# Japan reduces tariffs on apples, almonds, cherries

By **DAN WHEAT**  
Capital Press

YAKIMA, Wash. — The U.S.-Japan Trade Agreement reduces tariffs on U.S. apples, almonds and cherries but does not address phytosanitary restrictions.

The agreement, signed Oct. 7, cuts a 17% tariff on apples to 11.4% on Jan. 1 and to 10.2% on April 1. It then drops the rate further over the following eight years until it expires.

“It’s a large amount so getting rid of it is a positive but it doesn’t mean the market is wide open,” said Mark Powers, president of Northwest Horticultural Council in Yakima.

Phytosanitary barriers must be addressed in the next phase to make the deal meaningful, he said. Phytosanitary barriers prohibit U.S. pears and a 5% tariff does not change, he said.

Stemilt Growers, in Wenatchee, is the only company shipping small amounts

of apples to Japan. It does it at a loss because of the cost of phytosanitary protocols, including cold storage and fumigation, but is banking on it building Japanese consumer demand for Washington apples.

The agreement eliminates a 2.4% tariff on in-shell and kernel almonds, eliminates a tariff on roasted almonds and could lead to similar help for almond meal, flour and paste, according to Julie Adams, vice president of the Almond Board of California in Modesto.

“Over the last few years, we’ve seen an average shipment growth of 5%. With our ongoing promotional efforts combined with tariff reduction, we would expect to see that or greater shipment increase,” Adams said.

Japan is the fifth largest export market for California almonds, buying 81 million pounds in 2018-19, up 3% from the previous year and valued at \$255 million.

Japan’s 8.5% tariff on

cherries will be reduced to 3.4% on Jan. 1 and 2.5% on April 1, 2020. On April 1 over the subsequent three years it goes to 1.7%, 0.8% and then zero.

“Any decrease in the tariff is good. It minimizes our landed cost but doesn’t change the commercial situation significantly. Unfortunately, China has been a declining market for cherries as they increase their own production,” Powers said.

B.J. Thurlby, president of Northwest Cherry Growers in Yakima, has said Japanese domestic production has quadrupled over the past decade while imports of U.S. cherries have declined.

Northwest cherry exports to Japan average about 180,000, 20-pound boxes worth \$7 million to \$9 million annually, he said. That’s just 2.1% of Northwest cherry exports, far behind exports to Canada, China, South Korea and Taiwan.

# NORPAC’s assets may be split up among any new buyers

Farm entrepreneur Tiegs alleges multiple problems at processor

By **MATEUSZ PERKOWSKI**  
Capital Press

An attorney for NORPAC Foods believes the bankrupt processor’s assets may be divided among several buyers if farm entrepreneur Frank Tiegs refuses to buy most of them.

Tiegs had planned to buy the farm cooperative’s Oregon facilities in Brooks, Salem and Stayton, as well as its plant in Quincy, Wash., for \$155 million as part of the company’s debt restructuring in Chapter 11 bankruptcy.

However, shortly before competing bids were due for the assets on Oct. 18, Tiegs said he was terminating the “asset purchase agreement,” citing concerns about environmental and regulatory problems at NORPAC.

During an Oct. 28 bankruptcy court hearing in Portland, Ore., NORPAC’s attorney, Albert Kennedy, said the company’s been approached by other “potential purchasers” who’d each be willing to buy a portion of the assets that Tiegs had intended to buy.

At this point, though, NORPAC Foods and a committee representing its creditors don’t believe the termination of the “asset purchase agreement” is legally effective and want U.S. Bankruptcy Judge Peter McKittrick to approve the sale, Kennedy said.

If the dispute ends up in litigation, NORPAC doesn’t want Tiegs to present the defense that there was no contract, Kennedy said.

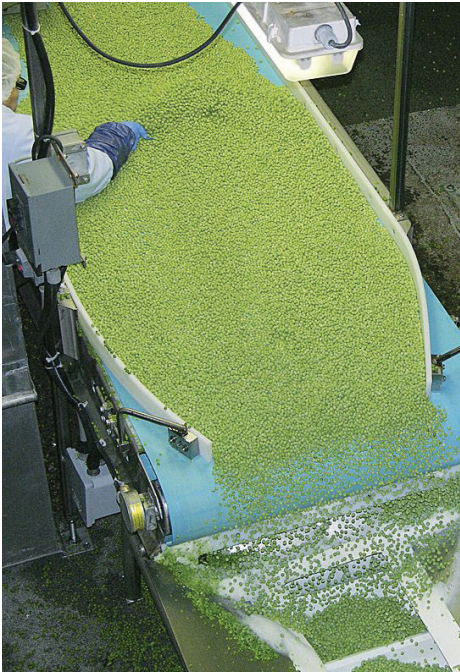
The company believes the “grounds for termination are baseless” and has told Tiegs the “termination notice was given in bad faith,” Kennedy said during a previous Oct. 21 court hearing.

Scott Cargill, an attorney for unsecured creditors, echoed that sentiment, characterizing those reasons as a “pretext” to “renegotiate the acquisition in light of there being no other bidders coming to the table.”

Tiegs told the Capital Press that NORPAC had problems with soil and water contamination while company executives didn’t supply him with requested documents and had deleted an internal email system.

It was a “lack of information on due diligence” that prompted the deal’s termination, Tiegs said. “If you got a turd in the skillet, you want to avoid anyone seeing it.”

An attorney for Tiegs’ Oregon Potato



Eric Mortenson/Capital Press  
**Frozen peas head to the bagging machines at NORPAC Foods in Salem.**

Co., Joseph VanLeuven, opposed the approval of the asset sale, alleging that NORPAC wanted such an order to file a lawsuit arguing the contract was binding.

While questioning Winston Mar, NORPAC’s chief restructuring officer, VanLeuven said the company hadn’t developed a federally mandated “project safety management plan” and had instead “misappropriated” one from National Frozen Foods, another processor owned by Tiegs.

“They were literally verbatim copies,” VanLeuven said of the plans, which identify ways to mitigate hazards to workers.

VanLeuven also said an environmental review had detected arsenic contamination of a well at the Quincy, Wash., facility and that NORPAC had sold off corn ahead of schedule that Tiegs had expected to buy at a discount.

McKittrick, the judge, ultimately said the court hearing wasn’t the appropriate time and place to determine whether Tiegs could validly terminate the agreement, saying that discussion was “for a different day and potentially different court.”

McKittrick said he’s also prepared to authorize the sale of NORPAC’s assets without reaching a conclusion as to whether Tiegs had legitimately terminated the deal.

NORPAC Foods has more than 1,125 full-time employees and 1,000 seasonal employees. The company’s most recent monthly operating report for August disclosed nearly \$2 million in labor expenses.

# Washington justice paints bleak picture of life for farmworkers

By **DON JENKINS**  
Capital Press

OLYMPIA — A Washington Supreme Court judge depicted farmworkers as exploited as he challenged a lawyer Oct. 24 to justify exempting farmers from paying employees time-and-a-half for overtime hours.

Glancing at notes, Justice Steven Gonzalez prefaced his question with a minute-long, wide-ranging indictment of how farmworkers are treated.

He said they were likely to be people of color and unlikely to “have lobbyists” or “make campaign contributions to elected officials.”

“Would you still suggest it’s a coincidence labor laws have consistently excluded them from protections afforded other workers?” Gonzalez asked Timothy O’Connell, attorney for the Washington State Dairy Federation and Washington Farm Bureau.

O’Connell disputed the premise that farmworkers are neglected and politically weak.

“I believe that is belied by the facts,” he said. “There has been extensive action by the state of Washington regulating safety, regulating other provisions of farmworker livelihoods.”

The exchange came during a hearing on whether exempting agriculture from the state’s overtime law violates the state constitution.

The case stems from a lawsuit brought by two former milkers at DeRuyter Brothers Dairy in Yakima County. A ruling by the Supreme Court would apply to all agriculture.

Washington lawmakers in 1959 adopted



**Steven Gonzalez**

the federal act that exempts agriculture from paying a premium for hours worked beyond 40 in a week.

Farm groups argue the exemption reflects the seasonal nature of agriculture and the fact that farmers can’t pass on higher labor costs.

Farmworkers argue that state lawmakers failed to follow the state constitution.

The state constitution directs legislators to pass “necessary laws” to protect miners, factory workers and workers in other dangerous jobs. The constitution doesn’t specify what other jobs are dangerous, and the two sides dispute how hazardous farm work is.

Attorneys also are arguing over whether the state constitution’s prohibition on granting special privileges to some people but not others applies. In this case, the privilege is overtime pay.

Race has become part of the case. In amicus briefs, farmworker activists argue the decades-old exemption is rooted in discrimination — first against blacks in the South and now against Latinos.

Washington farmers were exempted from paying overtime when most of their workers were white, O’Connell said.

Gonzalez said farmworkers are exposed to toxins, vulnerable to sexual assault and financial exploitation, and expected to labor in the “heat and cold” and in “geographic isolation.”

“They’re less likely to be voters, less likely to speak English as a first language. Aren’t wealthy, in fact, are among the poorest workers in the nation,” he said.

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