

April 27, 2022

Dr. Susan Mayne
Director
Center for Food Safety and Applied Nutrition

Mr. Frank Yiannas
Deputy Commissioner
Office of Food Policy and Response

Dear Dr. Mayne and Mr. Yiannas,

The Food & Beverage Issue Alliance (FBIA) appreciates the opportunity to have spoken you both regarding supply chain disruptions which are impacting the food and agriculture sector. As requested, FBIA has compiled feedback presented during this discussion, as well as additional critical considerations shared by FBIA members.

Global and Inflationary Overview

Most global commodities are experiencing higher than normal prices due to a global production deficit of most major crops and lingering COVID-19 supply chain impacts in transportation, labor, materials, and commodities. Additionally, factors such as rising energy costs, changing consumer demands, and the impact of the Russia-Ukraine war have further strained the already stressed supply chain. Balancing all of these factors, commodity price increases, resulting food price increases, and volatility are anticipated to continue for the foreseeable future.

According to the U.S. Department of Agriculture's (USDA) Food Price Outlook 2022 March [Report](#), food-at-home (grocery store or supermarket food purchases) and food-away-from-home (restaurant purchases) prices are expected to continue to increase between 4.5-5.5% in 2022, with food-away-from-home prices expected to be impacted the most, between 5.5 and 6.5%. From February 2021 to February 2022 alone, food prices increased by 7.9%, which was the largest price jump in one year since July 1981.

“While prices did not decrease for any reported food price category, prices for 11 disaggregate food categories increased by more than a percent in February. The impacts of the conflict in Ukraine and the recent increases in interest rates by the Federal Reserve are expected to put upward and downward pressures on food prices, respectively.”

Meanwhile, the United Nations (UN) Food and Agriculture Organization (FAO) [reported](#) that world food prices jumped nearly 13% in March to a new record high.

“Disruption to supplies of crops from the Black Sea region has exacerbated price rises in food commodities, which were already running at 10-year highs in the FAO's index before the war in Ukraine due to global weather and harvest challenges.”

As reported by many news outlets, [gasoline prices](#) are fluctuating a great deal and are likely to keep moving higher, particularly during peak summer travel seasons. According to an [article](#) this week, CNBC is reporting that:

“For the year, U.S. natural gas prices are now up 108%, which is adding to inflationary concerns across the economy. The move is less extreme than in Europe, where natural

gas futures have risen to record levels as the bloc scrambles to move away from dependence on Russian energy.”

Russia-Ukraine Impact

As noted during FBIA’s recent meeting with FDA, Russia and Ukraine produce a significant portion of several key global commodities, including 78% of the world’s sunflower exports, 29% of the world’s wheat exports, 31% of the world’s barley exports, 19% of the world’s corn exports, and 23% of the world’s rapeseed exports. While neither Russia nor Ukraine are big exporters to the U.S., having so many commodities impacted on the global market already has, and will continue to result in volatility in global commodity prices and availability as well as pressure on U.S. production, with developing countries bound to experience the most significant impact.

While Ukrainian farmers may be attempting to plant as much as possible for the fall harvest, much of the conflict is overlaid in agriculture-rich areas of the country as well as key ports for shipping commodities, that have been completely stalled. Expectations that Russia will continue to put increased tension on these key parts of Ukraine will likely further impact the ability of farmers to plant and harvest key commodities.

Furthermore, Ukrainian farmers, as well as farmers around the world, are experiencing challenges with accessing fertilizer and fuel due to lack of availability and significant price increases. While there has been some suggestion that planting can be shifted to other parts of the world, including the U.S., farmers in the U.S. are now making or have already made planting decisions, due in part of fertilizer availability and cost. According to the March 31, 2022, USDA Prospective Planting [Report](#), the indicated soybean planted area for all purposes in 2022 is estimated at 91.0 million acres, up 4 percent or 3.8 million acres from last year. Corn planted area for 2022 is estimated at 89.5 million acres, down 4 percent from last year. While Spring wheat acreage is expected to be trimmed to 11.2 million acres, down slightly from last year, durum is estimated to increase 19% from last year to 1.9 million acres. Soybeans have a lower threshold need for fertilizer inputs, which appears to be having some impact on planting decisions. While this may change as farmers make final decisions on spring planting in the coming weeks, it is a telling sign that market signals and input availabilities are leading farmers to make planting decisions.

Current Examples of Supply Chain Disruptions

As noted above, the COVID-19 pandemic has caused major disruptions in supply chains, with substantial cost impacts, and Russia’s invasion of Ukraine has been the greatest shock to commodity markets since 1973, which is only beginning to appear in supply chain disruption. Further, new pandemic-related impacts keep coming, which will continue to have significant economic impact on all sectors of our economy. On April 1, Shanghai, the busiest container port in the world, entered a COVID-19 lockdown which remains in effect. Shanghai normally handles four times the tonnage of the port of Los Angeles. This lockdown means arrested movement for 10% of the world’s shipping containers. Even prior to the Shanghai port lockdown, the Logistics Managers’ Index (LMI) for March 2022 reached an all-time high of 76.2%, demonstrating the increasing stress on freight logistics. The LMI score addresses several components that make up the logistics industry, including inventory levels and costs, warehousing capacity, and transportation capacity, and a score about 50% indicates that logistics are expanding.

Transportation issues continue to hamper availability of commodities as supply of raw commodities is not necessarily the main issue. A recent survey of U.S. agriculture exporters reported that over 20% of confirmed U.S. agriculture export sales in 2021 were lost due to carrier problems. This is symptomatic of problems being felt by importers and those in domestic transport. Metrics of transportation systems indicate that disruptions are higher in the first quarter of this year compared to last year, including for Pacific transit times, unfilled rail car orders, train speeds, and trucking shortages. For example, even before the Shanghai shutdown, the average container transit time from Asia was up to 111 days, and it is expected to take a couple of years for Pacific freight traffic to resolve itself.

The issues with U.S. rail and Pacific transit can be characterized through the example of food starch, which is one of the many products named by food companies as currently difficult to source. As noted by the Corn Refiners Association (CRA) during the FBIA discussion, U.S. rail service failures have forced at least two temporary shutdowns of corn refineries this year, the effect of which is unheard of. Corn refineries normally operate 24/7 for 361 days per year to produce a number of products, including food starches, that are used in numerous categories of food. Production schedules are finalized months in advance, and customers receive shipments in rail car quantities, if not train load quantities. However, if rail cars do not show up, production comes to a halt. Further, food companies who may have been sourcing food starches from Asia are no longer able to acquire these shipments reliably, leaving these companies to frantically work to reformulate with other starches. Although one may assume that with lots of corn and corn refining capacity that corn refiners would be able to produce more starch to help with sourcing, refiners are operating near finishing capacity for drying and packaging. In order to respond to the surge in demand, refiners would need to acquire large industrial equipment and modify facilities to accommodate, as well as undergo necessary permitting. Prior to COVID-19, this process would have taken about two years, and it is unknown how long it would take now.

As noted by the Consumer Brands Association (CBA) during the FBIA discussion, many food companies are experiencing significant sourcing issues with a number of ingredients, and when an ingredient sourcing issue is addressed through substitution, oftentimes, that substitute ingredient then becomes difficult to source. For example, the Russia-Ukraine War continues to exasperate the global sunflower supply and has had a direct impact on the U.S. market when it comes to sunflower lecithin availability. Currently the U.S. does not produce sunflower lecithin and predominately sources it from Russia and Ukraine. Since that market and supply is no longer available, manufacturers are moving away from using sunflower lecithin and are sourcing canola lecithin and soy lecithin, among other substitutes.

Moreover, when ingredients are available, costs are higher and labor shortages and unprecedented trucking and rail disruptions continue to impact deliveries of ingredients and products.

CBA noted a number of ingredients which their members are having trouble sourcing, including, but not limited to:

- Food gums and food starches, including corn starch
- Shortening, edible oils, and lecithin
- Phosphates, such as sodium hexametaphosphate
- High fructose corn syrup (HFCS)
- Garlic
- Emulsifiers
- Organic acids and salts, such as lactic acid and citric acid
- Flavorings

- Maltodextrins
- Dietary fibers
- Gelatin
- Enrichments
- Rice crisps
- Carrageenan
- Sugar alcohols/polyols

It was also noted that companies are experiencing shortages of packaging materials, such as plastics and corrugate, as well as shortages of labeling stock, which is causing delays in new labels being printed. Lack of available packaging materials is impacting the ability of industry to introduce incremental package updates for minor labeling changes. Additionally, lead times have increased up to six months for packaging materials, and standard packaging updates takes approximately 12 weeks from content/artwork creation to printed materials, regardless of material availability. Therefore, with these significant delays, companies are increasing size orders to protect against supply chain volatility, leading to increased disposition costs and material waste if labels are not used.

Industry Request

As noted during the discussion, FDA's flexibility guidance for labeling has been, and remains, instrumental in ensuring that food manufacturers are able to get products to store shelves. FBIA greatly appreciates this flexibility, and submits that the labeling flexibility and temporary enforcement discretion should continue for the longer term, at least through the end of this year due to continued supply chain disruptions and the substantial impact on the entire food and agriculture sector. While FDA may consider instituting enforcement discretion on a case-by-case basis, given the breadth of current ingredient sourcing issues, FBIA believes that FDA would quickly be overwhelmed. As described during our discussion, we anticipate these supply chain challenges to worsen over the coming months, exacerbated by ongoing COVID-19 pandemic disruptions globally and the Russia-Ukraine war.

During the FBIA discussion, several additional labeling flexibilities were noted that could provide more options to manufacturers without introducing food safety or consumer risk concerns, including:

- In some cases, increase (or elimination) of the 2% minor ingredient threshold limit as long as all other parameters specified by FDA are met
- Allow for "and/or" labeling or use of a broader category listing similar to "Modified Food Starch" to address starch sourcing issues
- Allow for labeling as "plant gum(s)" or "vegetable gum(s)" to address shortages of food gums, such as locust bean gum and guar gum
- Utilize similar language to that approved by USDA for "fried in vegetable oil", when applicable, to address supply chain disruptions of certain edible oils
- Consider allowing labeling flexibilities for substitutions of alternate sources of similar ingredients or ingredients with the same technical function, such as for starches, chemical leavening agents, and emulsifiers
- Allow for flexibility around where items fall within the ingredient declaration

Further, FBIA agrees with FDA that consumers need to be able to trust the ingredient and nutrition information on product labels as this, helps consumers with their purchasing decisions. We believe that we can accomplish this goal while allowing for reasonable, necessary labeling flexibilities to ensure that Americans are able to seek a diverse array of available food with minimal disruptions.

Finally, while FDA has suggested that stickering could be used to update labels more quickly, as noted in the FBIA discussion, this is not a viable option to manage short-term labeling deviations for a number of reasons. Given the speed at which production lines operate, sticker application typically would have to occur after a product is packaged, meaning that finished products would be put on hold or sent to a secondary location to be stickered, which is difficult to manage, costly, and adds complexity to an already challenged supply chain. Further, stickers can fall off, are difficult to place accurately, and can diminish the quality perception of a product. Additionally, stickering requires additional staffing that is difficult due to persistent labor shortages, and even if there are available staff to sticker, there is the possibility for human error with incorrect stickering or covering up important product information. Lastly, stickers need to be printed, and as noted above, delays in printing would impact the ability to sticker products appropriately.

FBIA greatly appreciates the opportunity for continued dialogue to address and partner on supply chain disruption concerns and solutions. We would be pleased to address any questions.

Sincerely,

American Bakers Association
American Beverage Association
The Association for Dressings & Sauces
American Frozen Food Institute
Corn Refiners Association
Council for Responsible Nutrition
FMI - The Food Industry Association
Institute of Shortening and Edible Oils
International Food Additives Council
Juice Products Association
National Confectioners Association
National Seasoning Manufacturers Association
North American Millers' Association
Peanut and Tree Nut Processors Association
Refrigerated Foods Association
SNAC International