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Hong Kong

Food and Agricultural Import Regulations and Standards - Narrative

FAIRS Country Report

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Report Highlights:

Hong Kong's unique nutrition labeling law will take effect on July 2010. At that time, U.S. food products will have to adhere to Hong Kong's new nutrition labeling requirements. However, products selling less than 30,000 units a year, having no nutrition claims on the packaging, are eligible for exemption. Applications for a Small Volume Exemption (SVE) may be made by Hong Kong importers to the Hong Kong Government (HKG) as early as September 1, 2009. There have not been any significant changes in Hong Kong's food import regulations since the last report. Updated sections are as follows:

- (Section I) The HKG enacted an Amendment Bill to the existing food law to give authority to the Food & Environmental Hygiene Department

- (FEHD) on all food recalls when necessary.
- (Section VI) The HKG is planning to introduce a new law to implement the Cartagena Protocol, which is expected to be passed in 2010. The Bill, once enacted, may affect U.S. food/agricultural commodities exported to Hong Kong because the proposed Bill has documentation requirements for imports and exports of Living Modified Organisms (LMOs) even if products are traded for food or feed, or for processing purposes. A HKG paper revealed that information required includes the common name, scientific name of the LMOs, and its transformation event code.

Section I. Food Laws:

This report was prepared by the Office of Agricultural Affairs of the USDA/Foreign Agricultural Service in Hong Kong for U.S. exporters of domestic food and agricultural products. While every possible care was taken in the preparation of this report, information provided may not be completely accurate either because policies have changed since its preparation, or because clear and consistent information about these policies was not available. It is highly recommended that U.S. exporters verify the full set of import requirements with their foreign customers, who are normally best equipped to research such matters with local authorities, before any goods are shipped. FINAL IMPORT APPROVAL OF ANY PRODUCT IS SUBJECT TO THE IMPORTING COUNTRY'S RULES AND REGULATIONS AS INTERPRETED BY BORDER OFFICIALS AT THE TIME OF PRODUCT ENTRY.

In Hong Kong, the legal framework for food safety control is defined in part V of the Public Health and Municipal Services Ordinance, Cap.132 and subsidiary legislation. The basic tenet is that no food intended for sale should be unfit for human consumption. List of subsidiary legislation follows:

- Coloring Matter in Food Regulations
- Dried Milk Regulations
- Food Adulteration (Artificial Sweeteners) Regulations
- Food Adulteration (Metallic Contamination) Regulations
- Food and Drugs (Composition and Labeling) Regulations
- Food Business Regulation
- Frozen Confections Regulation
- Harmful Substances in Food Regulations
- Imported Game, Meat and Poultry Regulations
- Milk Regulation
- Mineral Oil in Food Regulations

- Preservatives in Food Regulations

Note: Exporters can purchase and order the basic (main) ordinance and subsidiary legislation via international mail order at the following address:

Publications Sales Section
Information Services Department
Room 402, 4/F
Murray Building
Garden Road
Hong Kong
Tel: 852 - 2842-8844
Fax: 852 -2523-7195
email : puborder@isd.gov.hk

Hong Kong Ordinance can also be obtained from the website:

<http://www.legislation.gov.hk/eng/home.htm>

Given the immense public concern on food safety as a result of the detection of melamine in Chinese milk powder and infant formula in 2008, the Hong Kong Government (HKG) introduced an Amendment to the existing food law that empowers the Director of Food & Environmental Hygiene (FEHD) to prohibit the import and supply of problem food and order a recall of the problem food when the authority has reasonable grounds to believe that the making of the order is necessary to prevent or reduce a possibility of danger to the public's health.

The purpose of the law is to address public health concerns. In cases when only the food products produced by a particular overseas plant or only the food products of a particular batch to be imported from overseas are problematic, a prohibition of import is likely to apply to that particular plant or that particular batch of food, instead of all of the relevant food products from the whole exporting country/place. The order to prohibit supply will be issued in situations when the problem food has already entered Hong Kong or the food is locally produced or manufactured. Food traders will not be allowed to sell the products concerned for the period specified in the order. In cases of a food-recall-order, traders must recall their food from all points in the food chain, including final consumers.

The Amendment was passed by the Legislative Council on April 29, 2009 and came into operation on May 8, 2009.

The HKG has been working on a Food Safety Bill to introduce new food safety control tools, such as the introduction of a mandatory registration scheme for food importers and distributors, requiring food traders to maintain proper records on the movement of food so as to enhance traceability. The proposed Bill will also require egg and fish and aquatic products to be accompanied by health certificates. The USG and HKG have agreed on certification requirements for eggs. Whether U.S.

exports to Hong Kong will be affected by the new Food Bill depends on whether the USG will reach an agreement with the HKG on certification requirements for seafood products. The HKG has not yet approached ATO for certification requirements for seafood products. The HKG indicated that the new law will probably be implemented two years after its enactment so that the industry will have time to cope with the changes. (For details of the proposed food bill, please see report HK8002.)

The HKG initially planned to introduce the Food Safety Bill to the Legislative Council in late 2008/early 2009, but probably could not meet this planned time frame. There is no revised legislative timetable for the proposed Food Safety Bill announced.

Hong Kong's Center for Food Safety, which operates under the Hong Kong Food and Environmental Hygiene Department (FEHD) is responsible for implementing territory-wide food safety control policies and enforcing food related legislation. It encourages Hong Kong food importers to obtain health certificates issued by health authorities of countries of origin, which should accompany imports certifying the food product concerned is fit for human consumption. The legislation empowers FEHD to take food samples at point of entry to Hong Kong for various kinds of tests, including bacteriological examination and chemical analyses. FEHD, upon request, will pay market prices of any food samples taken.

Hong Kong and China Relationship

Hong Kong became the Special Administrative Region of the People's Republic of China on July 1, 1997. The Basic Law (mini-constitution) provides a constitutional framework for the Hong Kong Special Administrative Region (SAR). It institutionalizes the concept of "one country, two systems". The Basic Law clearly prescribes that the social, economic and political systems in Hong Kong will be different from those in the mainland of China. It protects the rights, freedoms and life-style of Hong Kong people until the year 2047. The Basic Law guarantees the independence of Hong Kong's judiciary and, apart from foreign affairs and defense, gives Hong Kong people full responsibility to manage their own affairs. It allows Hong Kong complete financial autonomy, and the independence of its monetary system. Perhaps most importantly, it establishes Hong Kong as a separate international customs territory, enabling it to work directly with the international community to control trade in strategic commodities, drugs, illegal transshipments, and to protect intellectual property rights. Hong Kong remains a free port, maintaining free trade practices.

The Sino-British Joint Declaration and the Basic Law define Hong Kong as a separate customs territory and allows, using the name "Hong Kong, China", independent participation in international organizations and international trade agreements. While being a separate member of World Trade Organization (WTO) and Asia-Pacific Economic Cooperation (APEC), Hong Kong participates in Codex

as a member of China's delegation and serves as an observer of the World Organization for Animal Health (OIE). Hong Kong claims that it draws reference from Codex and OIE in the context of food safety standards and animal health standards.

Hong Kong has its own food and agricultural import regulations, which are different from those in China.

Section II. Labeling Requirements:

The Food and Drugs (Composition and Labeling) Regulations require food manufacturers and packers to label their products in a prescribed, uniform and legible manner. The following information is required to be marked on the label of all prepackaged food except for 'exempted items' as provided in the Regulations. Prepackaged food means any food packaged in such a way that the contents cannot be altered without opening or changing packaging and the food is ready for presentation to the ultimate consumer or a catering establishment as a single food item.

General Requirements



1. Name of the Food

- Prepackaged food shall be legibly marked or labeled with its name or designation.
- The food name should not be false, misleading or deceptive but should serve to make the nature and type of food known to the purchasers.

2. List of Ingredients

- Preceded by an appropriate heading consisting of the words “ ingredients”, “composition”, “contents” or words of similar meaning, the ingredients should be listed in descending order of weight or volume determined as at the time of their use when the food was packaged.
- If a food consists of or contains any of the following substances, the name of the substance shall be specified in the list of ingredients.
 - cereals containing gluten, (namely wheat, rye, barley, oats, spelt or their hybridized strains and their products);
 - crustacean and crustacean products;
 - eggs and egg products;
 - fish and fish products;
 - peanuts, soybeans and their products;
 - milk and milk products (including lactose);
 - tree nuts and nut products;
- An additive constituting one of the ingredients of a prepackaged food shall be listed by both its functional class and its specific name or its identification number under the International Numbering System (INS) for Food Additives. The trade is also at liberty to use the prefix “E” or “e” with the INS number as adopted by the European Union under the E-numbering system.
- If a food consists of or contains sulphite in a concentration of 10 parts per million or more, the functional class of the sulphite and its name shall be specified in the list of ingredients.

3. Indication of “best before” or “use by” date

Prepackaged food shall be legibly marked or labeled with the appropriate durability indication as follows:

- a “best before” (in Chinese characters as well) date; and
- in the case of a prepackaged food which, from the microbiological point of view, is highly perishable and is likely, after a short period, to constitute an immediate danger to human health, a “ use by” (in Chinese characters as

well) date.

The words “use by” and “best before” in English lettering and Chinese characters followed by the date up to which specific properties of the food can be retained, to indicate the shelf life of the food. The “use by” or “best before” date should be shown either in Arabic or in both the English and Chinese languages.

The indication of durability in Arabic numerals is no longer required to be expressed in the strict order of a day, a month and a year. Instead, the day, month and year can appear in any order but the exact sequence has to be clearly declared in both Chinese and English. For specific details refer to the Regulation.

Deep-frozen food and any food with a shelf life of more than 18 months are also required to mark a “best before” date.

4. Statement of Special Conditions for Storage or Instruction for Use

If special conditions are required for storage to retain the quality or special instructions are needed for prepackaged food use, a statement should be legibly marked on the label.

5. Name and Address of Manufacturer or Packer

Prepackaged food shall be legibly marked or labeled with the full name and address of the manufacturer or packer, except under the following situations:

- The package is marked with an indication of the country of origin and the name and address of the distributor or brand owner in Hong Kong, and the address of the manufacturer or packer of the food in its country of origin has been notified in writing to the Director of FEHD.
- The package is marked or labeled with an indication of its country of origin and with a code marking identifying the manufacturer or packer in that country and particulars of the code marking and of the manufacturer have been notified in writing to the Director of FEHD.

6. Count, Weight or Volume

The food label should include the numerical count or net weight or net volume of the food.

7. Appropriate Language

The marking or labeling of prepackaged food can be in either the English or the Chinese language or in both languages. If both the English and Chinese languages

are used in the labeling or marking of prepackaged food, the name of the food and the list of ingredients shall appear in both languages.

8. Exempt from Labeling Regulations

The following food categories are exempted from labeling regulations: individually wrapped confectionery products and preserved fruits intended for sale as a single item; prepackaged foods for sale at catering establishment for immediate consumption and wines, fruit wines and other drinks with an alcoholic strength by volume of 10 percent or more.

For alcoholic drinks with an alcoholic strength by volume of more than 1.2 per cent but less than 10 per cent, the durability period will need to be labeled on the drinks. Apart from this, they will be exempted from all other labeling requirements.

The HKG released a Code of Practice regarding the Labeling of Alcoholic Drinks. This labeling guideline is provided to the trade for them to follow on a voluntary basis. (Under the Dutiable Commodities Regulation, every container containing liquor for local consumption is required to be labeled with the alcoholic strength.) Details refer to Gain Report HK#5021.

9. Note

- The HKG accepts stick-on labels as long as they meet local requirements.
- Under the Food and Drugs (Composition and Labeling) Regulations, it is an offense to sell any food after its “use by” date. Furthermore, any person who, not being the food manufacturer or packer or without their written authorization, removes or obliterates any particulars on the label required under these regulations also commits an offense.

10. Labeling on Biotech Food

The HKG does not have any specific biotechnology regulations with regard to the labeling of biotech food products. The HKG makes no distinction between conventional and biotech foods. All are subject to the same food safety regulation.

The HKG, after evaluating the impact of its voluntary labeling scheme for biotech food products, released its conclusions to the Legislative Council on July 8, 2008, suggesting there is no need for a mandatory labeling law in Hong Kong. The HKG noted difficulty in carryout a law that currently does not have an international standard to back it up. As a result of its evaluation, the HKG plans to continue to promote voluntary labeling of GMO products as a viable alternative for the trade.

The HKG released a set of guidelines on voluntary labeling for biotech foods in

2006. The guidelines on labeling for biotech foods are advisory in nature and do not have any legal effect. Adoption is entirely voluntary and is not binding. The guidelines apply to prepackaged food. The guidelines are based on the following four principals.

- The labeling of biotech food will comply with the existing food legislation.
- The threshold level applied in the guideline for labeling purpose is 5 percent, in respect of individual food ingredient.
- Additional declaration on the food label is recommended when significant modifications of the food, e.g. composition, nutrition value, level of anti-nutritional factors, natural toxicant, presence of allergen, intended use, introduction of an animal gene, etc, have taken place.
- Negative labeling is not recommended.

As the guideline is voluntary, U.S. food exports should not be affected if they choose not to have any biotech labeling. However, it should be noted that the HKG does not encourage negative labeling particularly for the use of the following terms:

- GMO free,
- Free from GM ingredients, etc

For products with such definite negative labeling, the HKG may take the initiative to test the products against GM ingredients and zero tolerance will be adopted for testing purposes. If products are found to have misleading labeling, a retailer may be subject to prosecution under Section 61 – False Labeling and Advertisement of Food or Drugs of Chapter 132 Public Health and Municipal Services Ordinance. (Available at <http://www.legislation.gov.hk/eng/home.htm>)

If the trade chooses to apply negative labeling, the government advises to use less definite terms such as “sourced from non-GM sources” (which contains less than 5 percent of GM content) and to have documentation to substantiate such declaration.

For more details on the voluntary labeling guidelines and biotechnology in Hong Kong, please refer to Gain Report HK#6026 & HK#8019 respectively.

Requirements Specific to Nutritional Labeling

Hong Kong’s Legislative Council on May 28, 2008 passed a nutrition labeling regulation which will take effect July 1, 2010. Hong Kong’s nutrition labeling regulation requires all prepackaged food sold in Hong Kong have to label energy plus seven nutrients namely, protein, carbohydrate, fat, saturated fat, trans fat, sodium and sugars. Products selling less than 30,000 units a year can apply for

small volume exemption provided that the products do not carry any nutritional claims. Traders applying for exemption have to pay HK\$345 (US\$44) per product variety for the first year and HK\$335 (US\$43) for annual renewal.

Hong Kong's nutrition labeling regulation is unique; meaning all imported foods making nutrition claims from all sources will have to be re-labeled for the Hong Kong market. Despite the U.S. requires the labeling of 15 energy/nutrients, U.S. products still cannot meet with the Hong Kong nutrition labeling requirements due to different nutrient definitions, rounding practices, and recommendations for daily consumption. Virtually all U.S. products carrying claims will require labeling changes and/or nutrient testing.

In fact, Hong Kong's nutrition labeling requirements are stricter than Codex recommendations, and no major food supplying countries have nutrition labeling requirements equivalent to Hong Kong's new regulation. Thus, all imported foods making nutrition claims from all sources will have to be re-labeled for the Hong Kong market.

Given below are some key areas that U.S. labels cannot comply with Hong Kong's nutrition labeling requirements.

1) U.S. products carrying claims on vitamins and minerals need to label claimed vitamins in absolute value per 100 gm or per serving size, if they are to be sold in Hong Kong. The U.S. labeling law requires vitamin and mineral content to be labeled in percentage of minimum daily requirement while Hong Kong requires all claimed nutrients to be labeled in absolute value.

2) U.S. and Hong Kong have set different conditions for making nutritional claims. For example, Hong Kong's standard for "low fat" is 3 gm per 100 gm of food, while the U.S. standard is 3 gm per serving. Therefore, a "low fat" U.S. product may not be allowed to make a low fat claim if it is to be sold in Hong Kong.

3) U.S. and Hong Kong have set different definition of zero for various nutrients. For example, Hong Kong's zero definition of transfat is 0.3 gm/100 gms, while the U.S. is 0.5 gms/serving. Therefore, a "0 transfat" on the nutrition panel of a U.S. product may violate Hong Kong's nutrition regulation if it is to be sold in Hong Kong.

Hong Kong's nutrition labeling regulation also covers nutrient function claims, which have to fulfill the following criteria:

- The nutrient function claim is based on scientific substantiation and scientific consensus;
- The nutrient function claim must contain information on the physiological

role of the claimed nutrient; and

- The content of the claimed nutrients must meet the relevant condition of nutrient content claim for “source”, if applicable.

For more information on the impact of Hong Kong’s nutrition labeling regulation, please see reports HK#7011 & HK#8017. Details of the regulation are contained in the Technical Guidance Notes on Nutrition Labeling and Nutrition Claims, which are available at

http://www.cfs.gov.hk/english/food_leg/food_leg_nl_guidance.html. Further supplementary information will be provided in the form of FAQ on the Hong Kong government’s Center for Food Safety website - <http://www.cfs.gov.hk/eindex.html>

Section III. Packaging and Container Regulations:

Hong Kong currently has no special requirements for packaging and containers.

Section IV. Food Additives Regulations:

According to Hong Kong food laws, food additives do not include vitamins and minerals used for enriching food nutrients, nor seasoning substances like salt, herbs or spices. Food additives are not allowed in the following circumstances:

- to disguise defective raw materials like those which are bad or rotten
- to enhance the color, odor and flavor or shelf-life of food but consequently leads to substantial damage or reduction of nutrients
- to simplify or facilitate food processing where the desired effect can be obtained by proper processing practices and good hygienic standards
- when the additives used are hazardous to health

Hong Kong food laws provide a list of permitted food preservatives, coloring matter and artificial sweeteners. Details can be found in the following Regulations.

- Preservatives in Food Regulations
- Coloring Matter in Food Regulations
- Food Adulteration (Artificial Sweeteners) Regulations;
- Food Adulteration (Metallic Contamination) Regulations
- Harmful Substances in Food Regulations
- Food and Drugs (Composition and Labeling) Regulations – Additives in Certain Milk Products

Listings of permitted chemicals are available at corresponding regulations or could be referred to Gain Report #8022.

Hong Kong amended its Preservatives Regulation, which became effective July 1,

2008. Compared to the original regulation, there is one preservative (propyl parahydroxybenzoate) no longer allowed for use, and eleven additional preservatives permitted in the new standard, as listed below:

Guaiac resin
Isopropyl citrates
Stannous chloride
Tertiary butylhydroquinone (TBHQ)
Thiodipropionic acid
Dimethyl dicarbonate
Ferrous gluconate
Formic acid
Hexamethylene tetramine
Lysozyme
Pimaricin

Another change brought about by the regulation amendment is the adoption of a food category system based on Codex's GSFA (Codex General Standard for Food Additives) and the incorporation of those preservatives and antioxidants, as well as their permitted levels of use, in GSFA.

To help trade better understand the amended regulation, the HKG issued a "User Guideline", which provides the definition of each food category of the newly adopted food category system. Also, the Guidelines include some questions and answers pertaining to the amended regulations. The full Guidelines are available at the following website:

http://www.cfs.gov.hk/english/whatsnew/whatsnew_fstr/files/User_Guideline_e.pdf

Hong Kong's Preservatives Regulation adopts the principle of a positive list. In other words, Hong Kong does not allow any preservatives or antioxidants in foods if they are not expressly permitted by the Preservatives Regulation. The list of permitted preservatives and their maximum permitted levels may be retrieved from the following website:

<http://www.legco.gov.hk/yr07-08/english/subleg/negative/ln085-08-e.pdf>

More information on the amended Preservatives Regulation, please see gain reports HK#7018 and HK#8021.

In HKG's regular food surveillance program of last year, a number of U.S. beverages were found containing benzoic acid exceeding Hong Kong level (160 ppm). The corresponding standard for Codex is 600 ppm. In principle, Hong Kong's amended Preservatives Regulation adheres to Codex standard except for benzoic acid in beverages. The HKG explained that it is not following Codex with respect to this preservative because Codex's standard for benzoic acid is of interim standard. In addition, HKG's risk assessment concluded that the setting of benzoic acid at a 160 ppm is more appropriate for Hong Kong. The U.S. allows a

maximum level of 0.1 percent of benzoic acid in food.

Section V. Pesticides and Other Contaminants:

Pesticide Residues in Food

The Food and Environmental Hygiene Department (FEHD) is responsible for the overall safety of food on sale in Hong Kong. Hong Kong presently has no specific law regulating pesticide residue in foods.

However, the FEHD has announced to be introducing a new subsidiary legislation to govern pesticide residues in food in Hong Kong. The proposed regulatory framework will take a positive list approach by primarily adopting the maximum residue limits (MRLs) and extraneous maximum residue limits (EMRLs) of pesticides recommended by Codex. In the public consultation document, FEHD indicated that Hong Kong's future standard will be supplemented by related standards of China, Thailand and the United States since these are major produce supplying countries for Hong Kong. An estimated total of some 400 pesticides will be covered. The pesticide proposal also plans to develop a "default value" for pesticide residues without specific maximum residue limits.

The published proposal has not yet provided any details on the actual proposed MRLs and EMRLs, default values and the definition of residues. How U.S. produce exports to Hong Kong will be affected depends very much on these details.

The HKG is planning to submit the proposal to the Legislative Council Food Panel for discussion in late 2009. It plans to provide a two-year grace period for the trade to cope with the changes after the passage of the new pesticide legislation.

For more details, please see gain report #8001.

Meanwhile, the Center for Food Safety allows the presence of pesticide residues in food up to a certain MRL. It adopts the MRL recommended by the Codex Alimentarius Commission of the WHO/FAO (World Health Organization/Food and Agriculture Organization of the United Nations). Currently, Codex Alimentarius Commission has recommended MRL's for around 190 pesticides, which are revised from time to time and made public via its various publications.

For more information on Hong Kong's current regulation on MRL, please refer to gain report #HK4015.

Cadmium

In the past years, the HKG repeatedly found U.S. produce samples collected in its

regular food surveillance containing cadmium ranging from 0.19 ppm to 0.37 ppm, at levels exceeding Hong Kong's standard. U.S. exporters are reminded that the maximum permitted level of cadmium in vegetables is 0.1 ppm. While the U.S. has no specific regulation regarding cadmium residues in lettuce or other vegetables, the Codex standard is 0.2 ppm.

Section VI. Other Regulations and Requirements:

Exotic Meats

Hong Kong's Center for Food Safety expects U.S. exporters to produce a health certificate issued by the Food Safety and Inspection Service for all U.S. exotic meat imports to Hong Kong.

Additionally, US exporters are advised to contact the Fish and Wildlife Service to obtain the scientific name of the animal. If the animal is an endangered species, a C.I.T.E.S. (Convention on International Trade in Endangered Species of Wild Fauna and Flora) certificate is required for the importation and exportation of the product. In addition, the Hong Kong importer has to apply for an import license from the Hong Kong Agriculture, Fisheries & Conservation Department before the meat products of any endangered species can be imported into Hong Kong.

If the animal is not an endangered species, the US exporter is required to obtain a certificate from the Fish and Wildlife Service certifying the animals' scientific name and its domesticated origin. This certificate is necessary for the importation of all exotic meats into Hong Kong. U.S. exporters, however, are strongly advised to enquire about the documentation requirements from the Hong Kong Food and Environmental Hygiene Department on a case-by-case basis.

Endangered Species

CITES has been implemented in Hong Kong since 1976 through the enactment of the Animals and Plants (Protection of Endangered Species) Ordinance, Cap. 187. It was repealed and replaced by the Protection of Endangered Species of Animals and Plants Ordinance, Cap. 586, in December 2006. CITES imposes different export and import controls according to the Appendices in which a species is listed. In general, species listed in Appendix I require an export license and an import permit, while an export license is adequate for species listed in Appendix II. No import permit is required for species listed in Appendix II. However, Hong Kong's control measures over endangered species covered by the old ordinance were more stringent than CITES requirements. Species listed on Appendix II of CITES were required to have an import permit before they could be imported to Hong Kong, according to Hong Kong's old ordinance. This requirement was not in line with CITES'.

The HKG decided to introduce a new ordinance in order to keep abreast with the

changes incorporated by CITES. The salient points of the new ordinance, Protection of Endangered Species Animals and Plants, are as follows:

- 1) The ordinance gives effect to the CITES in Hong Kong.
- 2) Unlike the old ordinance, the new ordinance does not require an import license for the importation of species listed on CITES Appendix II. (Except for live species of wild origin.) Export licenses issued by the exporting country are still required.
- 3) Different from CITES requirements, the importation to Hong Kong of live species of wild origin from CITES Appendix II is required to have an import license in addition to an export license issued by the exporting country.
- 4) The new licensing system covered by the new ordinance will be based on consignment or keeping premises rather than on individual species as in the case of the existing ordinance.
- 5) According to the old ordinance, the importation of wild and cultivated ginseng, regardless for trade or personal use, requires an export license from the exporting country. The importation of wild ginseng also needs to have an import license as well. After the enactment of the new ordinance in December 2006, individuals bringing wild and cultivated ginseng to Hong Kong for personal use will no longer require to produce an export license issued by the exporting country.
- 6) Also, the importation of wild ginseng, both for trade and personal use, no import licenses are required. In short, the importation of both wild and cultivated ginseng only requires an export license issued by the exporting countries. Traders will no longer need to apply for any import licenses.
- 7) For CITES Appendix III listed species, the importation to Hong Kong requires to have export licenses issued by exporting countries. Traders do not need to apply for any import licenses from the Hong Kong government.

Import Duties

Hong Kong is a free port, imposing no duties on products with the exception of four dutiable products: liquor, tobacco, hydrocarbon oils and methyl alcohol. Actually, these excise duties are not import tariffs because goods manufactured locally are also subject to the same tax rate. Local importers have to apply for a license from the Hong Kong Customs and Excise Department for the importation of dutiable commodities. In addition, a licensed importer has to apply for a permit for each and every consignment. The current duties are as follows:

Cigarettes per 1000 sticks US\$103 (HK\$804)
Cigars per kg US\$133 (HK\$1035)
Beer & liquor with less than 30% alcohol : 0%

Liquor with more than 30% alcohol : 100%
All wines: 0%

Note : Duties on wine and beer were both reduced to 0% effective February 27, 2008, from 40% and 20% respectively.

Starting June 6, 2008, under the amended Dutiable Commodities Ordinance, Cap. 109, Hong Kong wine/liquor traders will no longer be required to apply for any licenses or permits for the import or export, manufacture storage or movement of wine and liquor with an alcoholic strength of less than 30% by volume. No valuation of the alcoholic beverages concerned for duty purpose will be required. However, the existing licensing/permit controls on liquors with an alcoholic strength of more than 30% by volume measured at a temperature of 20% will remain unchanged.

To facilitate the customs clearance on wine and alcoholic beverages, traders are encouraged to provide clear description in the freight/shipping documents on the type of liquor and the alcoholic strength of the respective consignment.

Cartagena Protocol

The Environmental Protection Department of the HKG introduced the Genetically Modified Organisms (Control of Release) Bill to the Legislative Council for vetting in June 2009. A special Committee has been set up to scrutinize the details of the Bill. HKG expects the Bill to be passed in 2010, which would enable the HKG to implement measures set forth under the Cartagena Protocol on Biosafety. The Bill, once enacted, may affect U.S. bulk agricultural commodities exports to Hong Kong because the proposed Bill has documentation requirements for imports and exports of Living Modified Organisms (LMOs) even if products are traded for food or feed, or for processing purposes. A HKG paper stated that the information required includes the common name and scientific name of the LMOs, and its transformation event code. If the LMOs are for contained use or re-export purposes, the safe handling and storage requirements, if any, have to be specified on documents. However, there is no specific requirement regarding the form of documentation accompanying LMO shipments. The use of existing documents such as commercial invoice will be sufficient as long as the required information is stated. Once the Bill is enacted, all U.S. exports carrying LMOs must fulfill specific documentation requirements and suspected LMOs may be subject to random detection testings.

For LMOs with the intent to be released into the environment, importers are required to apply for prior approval. The impact on U.S. exports to Hong Kong is minimal in this aspect because both commercial farming and field trials of

scientific researches are limited in Hong Kong.

There are no labeling requirements for LMOs under the proposed legislation.

The proposed legislation and its legislative progress could be downloaded at the following link: <http://www.legco.gov.hk/english/index.htm>

For more details, please refer to gain report HK#9016.

Section VII. Other Specific Standards:

There are specific legal requirements or administrative arrangements for the import of the following items due to their perishable or high-risk nature --

- game, meat and poultry
- milk and milk beverages
- frozen confections
- marine products
- plants
- live animals
- health foods
- eggs

For samples of health certificates, exporters may read gain report #8031.

Game, Meat and Poultry

The importation of frozen or chilled beef, mutton and pork, and poultry is subject to import licensing control. The Center for Food Safety of Food and Environmental Hygiene Department (FEHD) is responsible for issuing import licenses for these foods.

The Imported Game, Meat and Poultry Regulations require meat or poultry to be imported to Hong Kong with an official certificate issued by a competent authority recognized by the FEHD. The Department recognizes the United States Department of Agriculture as a competent authority. However, the importation of ground meats and chilled meats from all supplying countries including the U.S. requires the importer to obtain a permit in advance. (New requirement for the importation of chilled meats is in place effective April 1, 2002. For details, please refer to Gain report #HK2012.)

Hong Kong suspended beef imports from the U.S. following the BSE case in December 2003. The market opened again for U.S. boneless beef effective December 29, 2005. Products now allowed include boneless beef from cattle less than 30 months of age slaughtered and processed in establishments which have

been certified by Agricultural Marketing Service (AMS) that they have complied with USDA Export Verification (EV) Program for Hong Kong. A listing of the Hong Kong EV Program certified plants is available at the following website: <http://www.ams.usda.gov/lsg/arc/bevlisting.htm>. Hong Kong traders importing U.S. beef are required to obtain a permit in advance. This measure is not required for frozen beef prior to the ban.

Following the OIE's designation of controlled risk BSE status for the U.S. in May 2007, the U.S. government requests the HKG to have full access of U.S. beef products to Hong Kong according to OIE guidelines.

Hong Kong government has also requested the U.S. health certification for poultry feet/paws to be aligned with the poultry meat if they are to be exported to Hong Kong, i.e, poultry feet/paws to have the same health certification as the poultry meat. The new requirement became effective on April 30, 2005.

Milk

The Milk Regulation requires any fluid milk or milk beverage to be imported into Hong Kong from a source of manufacture that has been approved by the Director of Food and Environmental Hygiene. Assistant Director of the Center for Food Safety exercises the authority on behalf of the Director of FEHD to make the approval. Before importing these food products into Hong Kong, importers need to apply to the Assistant Director in writing and provide the following information:

- the full name and address of the milk or milk beverage processing plant;
- the law of the country of origin governing the production of milk or milk beverages;
- empty containers of the milk or milk beverage with labels;
- information on the heat treatment method of the milk or milk beverage and facilities, including production equipment and water supply, in the processing plant;
- a certificate from an appropriate authority in the country of origin for the purpose of --
 1. certifying the effectiveness and efficiency of the heat treatment method in pasteurizing or sterilizing the milk or milk beverage and that the products have been handled, processed and packed under hygienic conditions
 2. showing the chemical and bacteriological quality of the products;and
- a statement from the manufacturer confirming the approximate shelf-life of the products.

After obtaining the approval and satisfying other conditions which may be imposed by the Assistant Director of the Center for Food Safety, importers may import the milk or milk (beverages) products into Hong Kong. Initially, an import permit is

valid for six months, after four renewals, an import permit valid for one year may be issued. When a milk or milk beverage consignment arrives before its release, products will be inspected and if necessary, sampled by the Center for Food Safety. Upon the Center's satisfaction, a "release" letter will be issued to the local importer.

Hong Kong's milk regulation allows two types of milk registration: pasteurized and sterilized milk. In 2007, a U.S. ultra pasteurized milk successfully registered as pasteurized milk with the HKG.

Frozen Confection

The Frozen Confections Regulation requires any frozen confection to be imported into Hong Kong from a source of manufacture approved by the Director of Food and Environmental Hygiene. Assistant Director of the Center for Food Safety exercises the authority on behalf of the Director of FEHD to make the approval. Before importing these food products into Hong Kong, importers need to apply to the Assistant Director in writing and provide the following information:

- the full name and address of the frozen confection processing plant;
- the law of the country of origin governing the production of frozen confections;
- empty containers or wrappers of the frozen confection with labels;
- information on the heat treatment method of the frozen confection and facilities, including production equipment and water supply, in the processing plant;
- a certificate from an appropriate authority in the country of origin for the purpose of :
 1. certifying the effectiveness and efficiency of the heat treatment method in sterilizing the frozen - confection and that the products have been handled, processed and packed under hygienic conditions
 2. showing the chemical and bacteriological quality of the products;and
- details of ingredients, including coloring matter, stabilizers and sweetening agents, etc., and their amount in the frozen confection.

After obtaining the approval and satisfying other conditions, which may be imposed by the Assistant Director of the Center for Food Safety, importers may import the frozen confections into Hong Kong. Initially, an import permit is valid for six months, after four renewals, an import permit valid for one year may be issued. When a frozen confection consignment arrives and before its release, the products will be inspected and if necessary, sampled by the Center. Upon the satisfaction of the Department, a "release" letter will be issued to the importer.

Marine Products

The Hong Kong government will make it mandatory to have health certificates accompanying seafood imports to Hong Kong through a newly proposed food safety law. A specific timeframe has not yet been announced. According to the proposed Food Safety Bill, each import consignment of fish and aquatic products must be accompanied with a health certificate. All U.S. fish and aquatic products are expected to be affected by this new measure in the future when the Food Safety Bill is passed.

Presently, it is not a mandatory requirement for all seafood products to be accompanied by a health certificate, but U.S. products to Hong Kong usually provide health certificates in order to facilitate customs clearance. However, the certificates submitted do not have a standard attestation and are issued by individual state, since the HKG has not officially requested any health certification requirements for U.S. seafood products. When a consignment of seafood products arrives at entry points in Hong Kong, it may be subject to inspection or sampling. If the importer concerned is not able to present health certificates during inspection, the Center of Food Safety may take consignment samples for examination before release.

With respect to the proposed Food Safety Bill's certification requirements, we believe that the HKG will be very likely to request a standard certificate with attestations. The HKG has not yet approached ATO to discuss certification requirements for seafood products

Plants

The importation of plants to Hong Kong is subject to the Plant (Importation and Pest Control) Ordinance, Cap. 207. Any plant imported into Hong Kong must be accompanied by a Plant Import License issued by the Agriculture, Fisheries & Conservation Department and a valid Phytosanitary Certificate issued by the competent authority in the country of its origin.

No Plant Import License or Phytosanitary Certificate will be required for import of the following items:

- Cut flowers
- Fruit & vegetables for consumption
- Grains, pulses, seeds and spices for human or animal consumption or for industrial use
- Timber and timber products including rattan and bamboo
- Dried tobacco and manufactured articles incorporating dried leaves
- Plants produced in and imported from China

In order to avoid unnecessary delay in customs clearance of plants on arrival, U.S. exporters are advised to ask their Hong Kong importers to obtain a Plant Import License from the Hong Kong Agriculture, Fisheries & Conservation Department

prior to shipment of plants. If application is found to be in order, a Plant Import License will normally be issued after two working days from receipt of the application.

Animal Quarantine

The relevant legislation covering the importation of live animals are as follows:

- Public Health (Animals and Birds) Ordinance and Subsidiary Legislation, Cap. 139 [Particularly the Public Health (Animals and Birds) Regulations]
- Prevention of Cruelty to Animals Ordinance, Cap.169
- Rabies Ordinance, Cap. 421
- Animals and Plants (Protection of Endangered Species) Ordinance, Cap. 187 (soon to be replaced by the Protection of Endangered Animals and Plants Ordinance)
- Public Health and Municipal Services Ordinance and Subsidiary Legislation, Cap.132

Requirement for a Permit in Advance

Importation of live animals and birds is regulated under the Public Health (Animals and Birds) Regulations, Cap. 139 and the Rabies Ordinance, Cap. 421. Importers must apply for a permit well in advance from the Agriculture, Fisheries & Conservation Department before importation. The importer must be a locally based person or a company incorporated in Hong Kong who shall be answerable to the laws of Hong Kong and shall take every precautionary measure to ensure that all permit terms are fully complied with. The permit is valid for three months and good for one consignment. In addition to import permits, a valid veterinary health certificate issued by the competent veterinary authority of the exporting country must accompany animals and birds imported to Hong Kong.

Agriculture, Fisheries and Conservation Department is the regulatory department. Its website provides import requirements for animals and birds, including dogs, cats, breeding pigs, horses, birds, poultry, reptiles, etc. Information is available at http://www.afcd.gov.hk/english/quarantine/qua_ie/qua_ie.html

Health and Organic Foods

In Hong Kong health and organic foods are subject to the same piece of food ordinance as conventional foods. Retailers are expected to provide truthful labeling as regulated by Chapter 132 Section 61 – False Labeling and Advertisement of Food or Drugs. It is available at the following website: <http://www.legislation.gov.hk/eng/home.htm>.

Health foods should not include medicinal ingredients, or they may be regarded as

pharmaceutical products. Pharmaceutical products are subject to registration under the Health Department and are regulated by the Pharmacy and Poisons Ordinance. On the other hand, Chinese medicine, some may be regarded as health food, is subject to the Chinese Medicine Ordinance. The Undesirable Medical Advertisements Ordinance (chapter 231) prohibits advertisements claiming that a product has curative or preventive effects on any of the diseases listed in the schedule to the Ordinance.

While the Hong Kong Organic Center provides organic certification for local produce, Hong Kong does not have a law regulating organic food products. U.S. organic products can be sold in Hong Kong with U.S. organic logo.

Eggs – Proposed Legislation to Regulate Import of Poultry Eggs

The HKG has plans to introduce a legislative amendment to include a mandatory requirement that poultry egg consignments to Hong Kong must be accompanied by a health certificate. The scope of poultry eggs to be kept under legislative control would include raw shell eggs, preserved shell eggs, cooked shell eggs and egg yolk. In 2008, the U.S. government concluded a certificate protocol for egg exports with the HKG. Once the food safety law is enacted, U.S. egg exports to Hong Kong will need to be accompanied by a health certificate issued by AMS (Agricultural Marketing Service). However, the HKG has not announced a timeframe as to when to introduce the amended regulation to the Legislative Council for vetting. Meanwhile, U.S. exporters provide health certificates for egg consignments on a voluntary basis.

Section VIII. Copyright and/or Trademark Laws:

The new Trade Marks Ordinance came into effect on April 4, 2003 replacing the existing Trade Marks Ordinance which was enacted in the 1950s. The new Trade Marks Ordinance simplifies the registration procedure of trade marks, increases the range of signs that can be registered as marks to allow sound and smell marks to be registered, simplifies the licensing and assignment procedures for trade marks, and provides increased protection for trade marks. Also, the new ordinance allows parallel imports except when "the condition of the goods has been changed or impaired after they have been put on the market, and the use of the registered trade mark in relation to those goods is detrimental to the distinctive character or repute of the trade mark".

The government has introduced an online trademarks search facility on January 30, 2003. The system contains all registered trademarks and trademark applications in force on the Hong Kong Register of Trade Marks. The facility is free at <http://ipsearch.ipd.gov.hk>.

Section IX. Import Procedures:

The Center for Food Safety of FEHD requires importers to provide an official health certificate for the importation of meat products, frozen confection and dairy products. When a consignment arrives and before its release, the products will be inspected and if necessary sampled. Upon the satisfaction of the Department, a “release” letter will be issued to the importer.

Appendix I. Government Regulatory Agency Contacts:

Department to implement food safety control policy

The Center for Food Safety
Food & Environmental Hygiene Department
43/F., Queensway Govt Offices
66 Queensway
Hong Kong
Tel: 852-2868-0000
Fax: 852-2834-8467
Web site: <http://www.fehd.gov.hk>
E-mail: enquiries@fehd.gov.hk

Department to control the importation of plants & live animals

Agriculture, Fisheries & Conservation Department
5-8/F., Cheung Sha Wan Govt Offices
303, Cheung Sha Wan Rd
Kowloon, Hong Kong
Tel: 852-2708-8885
Fax: 852-2311-3731
Web site: <http://www.info.gov.hk/afcd>
E-mail: mailbox@afcd.gov.hk

Department to register health foods containing medicinal ingredients

Department of Health
Pharmaceuticals Registration
Import & Export Control Section
18th Floor, Wu Chung House
213 Queen’s Road East, Wanchai
Hong Kong
Tel : 852-2961-8754
Fax : 852-2834-5117
Web site : <http://www.info.gov.hk/dh/index.htm>

Department to issue licence for imported dutiable commodities

Hong Kong Customs & Excise Department
Office of Dutiable Commodities Administration
6-9th floors, Harbor Building
38 Pier Road
Central
Hong Kong
Tel: 852-2815-7711
Fax: 852-2581-0218
Web site: <http://www.info.gov.hk/customs>
[Email : customsenquiry@cutsoms.gov.hk](mailto:customsenquiry@cutsoms.gov.hk)

Department for Trade Mark Registration

Intellectual Property Department
Trade Marks Registry
24th and 25th Floors, Wu Chung House
213 Queen's Road East
Wan Chai
Hong Kong
Tel : 852-2803-5860
Fax : 852-2838-6082
Web site : <http://www.info.gov.hk/ipd/eng/index.htm>

World Trade Organization (WTO) Enquiry Point

Trade & Industry Department
Regional Cooperation Division
18/F., Trade Department Tower
700 Nathan Road
Kowloon, Hong Kong
Tel: 852-2392-2922
Fax: 852-2398-3747
Web site: <http://www.info.gov.hk/tid>
E-mail: enquiry@tid.gov.hk

Appendix II. Other Import Specialist Contacts:

Agricultural Trade Office
American Consulate General
18th Floor, St. John's Building

33 Garden Road, Hong Kong

Tel: (852) 2841-2350

Fax: (852) 2845-0943

E-Mail: ATOHongKong@usda.gov

Internet Homepage : <http://www.usconsulate.org.hk>

<http://www.usfoods-hongkong.net>