



Foreign Agricultural Service

GAIN Report

Global Agriculture Information Network

Required Report - public distribution

Date: 7/19/2002

GAIN Report #HK2031

Hong Kong

Food and Agricultural Import Regulations and

Standards

Country Report

2002

Approved by:

George D. Ferris

U.S. Consulate General, Hong Kong

Prepared by:

Caroline Yuen

Report Highlights: Updates

- 1 Addition of Section VI (3) Endangered Species
- 2 Enactment of Public Health (Animal and Birds) (Chemical Residues)
Regulation - Section VI (4)
- 3 Increase of Wine Duties to 80% - Section VI (5)
- 4 Permits required for the importation of chilled meat products - Section VII (1)

Includes PSD changes: No
Includes Trade Matrix: No
Annual Report
Hong Kong [HK1], HK

Section I. Food Laws	1
Section II. Labeling Requirements	3
1 Name of the Food	3
2 List of Ingredients	3
3 Indication of “best before” or “use by” date	4
4 Statement of Special Conditions for Storage or Instruction for Use	4
5 Name and Address of Manufacturer or Packer	4
6 Count, Weight or Volume	5
7 Appropriate Language	5
8 Exempt from labeling regulations	5
9 Note	5
10 Proposed Amendments	5
11 Labeling of Genetically Modified (GM) Foods	7
Section III. Packaging and Container Requirements	7
Section IV. Food Additive Regulations	7
Section V. Pesticide and other Contaminants	8
Section VI. Other Regulations and Requirements	8
1 Reserved Commodities	8
2 Exotic Meats	9
3 Endangered Species	9
4 Public Health (Animal and Birds) (Chemical Residues) Regulation	9
5 Import Duties	10
Section VII. Other Specific Standards	10
1 Game, Meat and Poultry	11
2 Milk	11
3 Frozen Confections	11
4 Marine Products	12
5 Plants	12
6 Animal Quarantine	13
7 Health Foods	16
8 Proposed Amendments to Animal Ordinance to Enhance the Prevention and Control of Veterinary Diseases	17
Section VIII. Copyright/Trademark Laws	17
Section IX. Import Procedure	17
Appendix I - Government Regulatory Agency Contacts	18
Appendix II - Other Import Specialist Contacts	20

"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."

Section I. Food Laws

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:

- 1 Coloring Matter in Food Regulations
- 2 Dried Milk Regulations
- 3 Food Adulteration (Artificial Sweeteners) Regulations
- 4 Food Adulteration (Metallic Contamination) Regulations
- 5 Food and Drugs (Composition and Labeling) Regulations
- 6 Food Business Regulation
- 7 Frozen Confections Regulation
- 8 Harmful Substances in Food Regulations
- 9 Imported Game, Meat and Poultry Regulations
- 10 Milk Regulation
- 11 Mineral Oil in Food Regulations
- 12 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:

Publication (Sales) Office
28/F., Siu On Center
188 Lockhart Road
Wanchai
Hong Kong
Tel : 852-2598-8185
Fax : 852-2598-7482

Hong Kong Ordinance can be obtained from the website: <http://www.info.gov.hk/justice>.

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 the FEHD to take food samples at point of entry to Hong Kong for various kinds of tests, including bacteriological examination and chemical analyses. The 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. 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.

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.

1 Name of the Food

- a) Prepackaged food shall be legibly marked or labeled with its name or designation.
- b) 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

- a) 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.
- b) If an additive constitutes one of the ingredients of a food, it should be listed by its specific name or by the appropriate category (e.g. Preservative, artificial sweetener, etc.) Or by both name and category. (Please see Proposed Amendments below.)

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) a “best before” (in Chinese characters as well) date; and
- b) 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 numerals in the order of day, month and year (or month and year in certain circumstances) (please see Proposed Amendment below) or in both the English and Chinese languages. For specific details refer to the Regulation.

Deep-frozen food and any food with a shelf life of more than 18 months used to be exempt from the “Best before” date labeling requirement. The Food and Drugs (Composition and Labeling) (Amendment) Regulation enacted in February 1996 provided that “Best before” date labeling would be required for these products upon further notice by the Hong Kong government. On February 26, 1999, the Hong Kong government, by notice in the Gazette, announced that pre-packaged deep-frozen food and pre-packaged food which can reasonably be expected to retain its specific properties for more than 18 months will have to bear the “Best before” date effective June 1, 1999.

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:

- a) 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.

- b) 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

Individually wrapped confectionery products and preserved fruits intended for sale as a single item; Prepackaged foods for sale to catering establishment for immediate consumption and those containing more than 1.2 percent alcohol by volume. (Please see Proposed Amendment below.)

9 Note

- a) Hong Kong government accepts stick-on labels as long as they meet local requirements.
- b) Hong Kong legislation does not require nutritional labeling.
- c) 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 Proposed Amendments

The Hong Kong government has proposed to make amendments to the Food and Drugs (Composition and Labeling) Regulations. The proposal if passed will have a grace period of at least 18 months. The legislative proposal is still under review and the effective date is to be determined.

The proposed amendments are as follows:

a) Labeling of Allergenic Substances

To better inform consumers who suffer from allergies, the presence of 8 categories of substances should be declared on the list of ingredients of the food labels. The 8 categories are :

- cereals containing gluten, i.e. wheat, rye, barley, oats, spelt or their hybridized strains and products of these;
- crustacean and crustacean products;
- eggs and egg products;
- fish and fish products;
- peanuts, soybeans and their products;
- milk and milk products (lactose included);
- tree nuts and nut products; and
- sulphite in a quantity of 10 parts per million or more.

b) Labeling of Details of Food Additives Used

The existing Regulations require food labels to declare either the exact name of additives used, or just the general categories to which the additives belong, such as preservative and color. According to the proposed amendments both the category and the exact name of the additives should be declared on food labels. For example, instead of stating "preservative" (which already fulfils the requirement of the existing legislation), detailed information such as " preservative (sodium nitrate)" should be declared. Given that there may be practical difficulties for food manufacturers to list the full names of all the food additives used because of limited food label space, identification number of additives under the International Numbering System for Food Additives adopted by the Codex can be used as alternatives to full names. For the previous example, "preservative 251 " will also be accepted. The Hong Kong government will provide information on the International Numbering System for Food Additives for the public via booklets and internet.

c) More Flexible Date Marking Format

The existing Regulations require the "best before" or the "use by" date of food products to be marked in both English and Chinese language, or in Arabic numerals in the strict order of the date followed by the month and then the year. The amendment will lift the restriction on the order in which the day, the month and the year appear when Arabic numerals are used to show the durability period; but the exact sequence must be clearly declared in both Chinese and English words.

d) Labeling of Alcoholic Drinks be Strengthened

The existing Food and Drugs (Composition and Labeling) Regulations exempt alcoholic drinks (described as prepackaged foods with alcoholic strength by volume of more than 1.2%) from all marking and labeling requirements. The amendment will require alcoholic drinks to fulfil the statutory labeling requirement, except the labeling of ingredients requirement. The exemption of labeling of ingredients requirement is based on the lack of international guideline on how ingredients of alcoholic drinks should be labeled. In the case of alcoholic drinks, input ingredients can differ significantly from output ones and composition of the final product might also change over time due to continued fermentation.

According to the proposed amendments, alcoholic drinks with alcoholic strength by volume of more than 10%, wines and fruit wines are exempted from the statutory labeling requirement on durability. The reason is that these drinks are by nature much less vulnerable to quality deterioration due to aging.

11 Labeling of Genetically Modified (GM) Foods

Towards the end of 1999, the Hong Kong public, particularly the green groups and consumer organizations, started to demand the Hong Kong government to have a labeling policy on GM foods mainly on the grounds of consumers' right to know. The Legislative Council also moved a motion to urge the government to look into the issue. In face of the mounting pressure, the government conducted a long run consultation and education exercise, which included two public forums discussing the safety and labeling of GM foods respectively. In February 2001, the Environment and Food Bureau issued a "GM Food Labeling" consultation paper and solicited views from the public. Three options for implementation were proposed: voluntary labeling, mandatory labeling, and voluntary labeling to be followed by mandatory labeling at a later date. The consultation period ended in the end of May. For results of the consultation exercise, please refer to GAIN Report#HK1072.

The Hong Kong government basically does not question the safety of GM foods. It relayed the findings of the World Health Organization (WHO) and the Food and Agriculture Organization (FAO) that "the use of modern biotechnology does not result in food becoming inherently less safe than that produced by conventional means." No implementation timetable for GM labeling has been set. Currently, the government is conducting a study on the economic impact of a mandatory labeling policy but has not indicated the target date of completion. Taking a wait and see attitude, the Hong Kong government explicitly reiterated that it is closely following the development of Codex's discussion on GM labeling and will draw reference from international consensus.

Section III. Packaging and Container Requirements

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

Section IV. Food Additive 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. But certain permitted preservatives can only be used in specified foods in specified amounts. Details can be found in the following Regulations.

- 1 Preservatives in Food Regulations
- 2 Coloring Matter in Food Regulations
- 3 Food Adulteration (Artificial Sweeteners) Regulations; and
- 4 Food and Drugs (Composition and Labeling) Regulations

Section V. Pesticide and other Contaminants

The Pesticides Ordinance, Cap. 133 administered by the Agriculture, Fisheries & Conservation Department (AFCD) provides for the registration and control of pesticides. The Ordinance includes a list of registered pesticides approved for use in Hong Kong. The list is also available from the AFCD.

Pesticide Residues in Food

The FEHD is responsible for the overall safety of food on sale in Hong Kong. To accommodate the practical need for pesticide, the Department allows the presence of pesticide residues in food up to a certain level called MRL (Maximum Residue Level). 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.

Meanwhile, the Hong Kong Food & Environmental Hygiene Department is working on a project to create Hong Kong's own set of MRLs. They will likely be established with reference to Codex standards. For typical Chinese products which are not covered by Codex, Hong Kong will make reference from China's standards. This project is still in its early stage and is unlikely to be completed in the near future.

Section VI. Other Regulations and Requirements

1 Reserved Commodities

Under the Reserved Commodities Ordinance, the import and export of "reserved commodities" are subject to licensing control. Reserved commodities include rice. Only local companies which have been registered with the Hong Kong Trade and Industry Department are eligible to apply for import licenses for reserved commodities.

Rice is a staple food for Hong Kong and there is no local production. To guarantee there are sufficient rice supplies, the Hong Kong Government has imposed an import quota system for rice since 1955. Importers have to import an amount according to the allocated quota, with very slight deviations allowed. In essence, the rice quota system has been designed to make sure Hong Kong has adequate supplies to meet local demand. The purpose is not to curb imports and protect local production. Importers are free to import products from any country or source. U.S. rice exports to Hong Kong are not jeopardized by the quota system.

In the past, Hong Kong importers were required to maintain a reserve stock of 49,000 tons, which was sufficient for 45 days' consumption by the local population. The Hong Kong government conducted a review of the Rice Control Scheme in 1999 to map out a long term plan and timetable to fully liberalize the rice trade.

In view of the reduced reliance of the local population on rice as a staple diet, the Hong Kong government has decided to gradually reduce the required reserve stock level. The reserve stock was first lowered in January 2000 to 40,000 tons. Currently, the reserve stock stands at 13,500 tons, sufficient to provide 15 days consumption for the local population.

The objective of the government is to liberalize rice trade by 2003. To this end, the government has already taken steps by lifting the restriction on cross-ownership of importers and wholesalers and allowing them to engage in both importing and wholesaling of rice if they so wish. This restriction was lifted in January 2001. As a result, the number of importers increased from 40 to 55. Also, the government will remove entry barriers to the rice importing business by eliminating the residency, financial and capital requirements for registration as rice importers. In this connection, the government will invite all interested parties to register as rice importers in July 2002. The government is committed to fully liberalize rice trade by 2003 and details will be announced in 2002.

2 Exotic Meats

For the import of exotic meats to Hong Kong, 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 importation of all exotic meats to Hong Kong.

3 Endangered Species

The import, export or possession of endangered species of animals and plants is strictly regulated in Hong Kong in accordance with the Animals and Plants (Protection of Endangered Species) Ordinance. The Ordinance gives effect to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The Ordinance applies to all parties, including traders and individuals. Examples of controlled animals (including their parts or derivatives) /wild plants/controlled medicines are as follows: worked ivory; rhinoceros horn; tiger bone or other parts; bear gall bladders, bile and bile powder; American ginseng; orchids; medicine containing or claiming to contain rhinoceros or tigers ingredients; and manufactured products of certain species. The purpose is to protect animals and plants of endangered species. A full list of protected species is contained in the Ordinance's Schedule, which is available from the website: <http://www.info.gov.hk/justice>.

In November 2000, the Hong Kong Agriculture, Fisheries and Conservation Department (AFCD) amended the Animals and Plants (Protection of Endangered Species) Ordinance to include cultivated ginseng as a regulated product. The importation of cultivated ginseng (including small quantities carried by travelers) has to be accompanied by a CITES certificate issued by the exporting country. The regulation of wild ginseng has long been under control even before November 2000. The importation of wild ginseng requires not only a CITES certificate from the exporting country but also an import permit issued by AFCD.

4 Public Health (Animal and Birds) (Chemical Residues) Regulation

In late 2001, the Hong Kong Government enacted a new regulation under the Public Health (Animal and Birds) Ordinance, Cap. 139 to control the feeding of drugs and chemicals to food animals, and to control chemical residues in livestock and livestock products. The new Regulation prohibits the presence of seven chemicals, which could cause immediate harm to humans, in local and imported food animals in Hong Kong. These are the beta-agonists of clenbuterol and salbutamol; the synthetic oestrogenic hormones of hexoestrol, diethylstilboestrol, and dienestrol, and the antibiotics of chloramphenicol and avoparcin. It also establishes "Maximum Residue Limits" (MRLS) in line with international standards for 37 restricted chemicals in tissues and milk of local and imported food animals. Please refer to GAIN report #HK2001 for details of the Regulation.

5 Import Duties

Hong Kong is a free port without imposing any duties on products with the exception of four dutiable products: liquor, tobacco, hydrocarbon oils and methyl alcohol. Actually, these 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 : 40%
Liquor with more than 30% alcohol : 100%
All wines: 80%

Note : Duties on wine were increased effective March 6, 2002. The old duty was 60%.

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 --

- 1) game, meat and poultry;
- 2) milk and milk beverages;
- 3) frozen confections;
- 4) marine products;.
- 5) plants;
- 6) live animals; and

- 7) health food.

1 Game, Meat and Poultry

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

The Imported Game, Meat and Poultry Regulations requires 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 US 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 #2012.)

2 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 (Hygiene) of FEHD exercises the authority on behalf of the Director to make the approval. Before importing these food products into Hong Kong, importers need to apply to the Assistant Director (Hygiene) in writing and provide the following information:

- 1) the full name and address of the milk or milk beverage processing plant;
- 2) the law of the country of origin governing the production of milk or milk beverages;
- 3) empty containers of the milk or milk beverage with labels;
- 4) information on the heat treatment method of the milk or milk beverage and facilities, including production equipment and water supply, in the processing plant;
- 5) a certificate from an appropriate authority in the country of origin for the purpose of --
 - * 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
 - * showing the chemical and bacteriological quality of the products; and
- 6) 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 (Hygiene) of FEHD, 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 FEHD. Upon the FEHD's satisfaction, a "release" letter will be issued to the local importer.

3 Frozen Confections

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 (Hygiene) of FEHD exercises the authority on behalf of the two Councils to make the approval. Before importing these food products into Hong Kong, importers need to apply to the Assistant Director (Hygiene) in writing and provide the following information:

- 1) the full name and address of the frozen confection processing plant;
- 2) the law of the country of origin governing the production of frozen confections;
- 3) empty containers or wrappers of the frozen confection with labels;
- 4) information on the heat treatment method of the frozen confection and facilities, including production equipment and water supply, in the processing plant;
- 5) a certificate from an appropriate authority in the country of origin for the purpose of --
 - * 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
 - * showing the chemical and bacteriological quality of the products; and
- 6) 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 (Hygiene) of FEHD, 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 FEHD. Upon the satisfaction of the Department, a “release” letter will be issued to the importer.

4 Marine Products

Marine products, being more liable to bacteriological or chemical contamination in the harvesting zone or handling process, are considered as high-risk food items, Hong Kong FEHD strongly encourages importers to obtain health certificates issued by health authorities of countries of origin to accompany their imports certifying that the marine products concerned are fit for human consumption. When a consignment of marine 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 FEHD will take consignment samples for examination before release.

5 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 Licence 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 Licence from the Hong Kong Agriculture, Fisheries & Conservation Department prior to shipment of plants. If application is found to be in order, a Plant Import Licence will normally be issued after two working days from receipt of the application. The application for a Plant Import Licence entails no fees.

6 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
- 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.

Animal welfare, crate design, etc

Animals and birds must be transported, managed, handled and cared-for humanely at all times. Measures must be taken to prevent animals suffering from heat stress and infectious diseases at anytime. The crate should be strongly built so as to prevent escape of animals. The crate should be of good design, for example, it should not have any sharp points or objects. It should be designed in such a way that the head or feet of the animals will not be trapped somewhere inside. The handling and delivery process is subject to the Prevention of Cruelty to Animals Ordinance Cap. 169.

Permit Terms and Veterinary Health Certification

Animals and birds imported to Hong Kong must be accompanied by a valid veterinary health certificate issued by the competent veterinary authority of the exporting country. Also, all the terms and conditions of the permit must be fully observed so that the animals and birds can successfully be imported into Hong Kong.

Importation of breeding pigs

The animals on arrival at the airport must be accompanied by a certificate signed by a government veterinary officer in the exporting country, completed in English or Chinese and dated not more than 14 days before departure with particulars i.e. breed, age, sex, body weight and identification marks duly provided for each animal certifying the following:

- a) the animals have been examined and found to be in good health and to show no evidence of infectious or contagious diseases;
- b) the animals showed no clinical sign of Atrophic Rhinitis and were kept since birth or for the six months prior to shipment, in an establishment of the exporting country where no cases of Atrophic Rhinitis was officially reported during the past year;
- c) the animals showed no clinical sign of Porcine Brucellosis; were kept in a herd free from Porcine Brucellosis and were subjected to a diagnostic test for Porcine Brucellosis with negative results during the 30 days prior to shipment.
- d) the animals originate from a herd which has been free from Swine Fever, Rabies, and Foot-and-Mouth disease during the preceding twelve months; and the region of origin has been free from these diseases for the preceding twelve months;
- e) Either I) the pigs were vaccinated against Aujeszky's disease or
II) they come from a herd in which no clinical sign of Aujeszky's disease was officially reported during the 12 months prior to shipment and
 - * were isolated in the establishment of origin for 30 days before entry into a quarantine station, were subjected to diagnostic tests for AD with negative results for the whole batch and were clinically healthy and
 - * were kept in a quarantine station for the 30 days prior to shipment and, not less than 21 days following the test mentioned above, were subjected to diagnostic tests for AD with negative results for the whole batch of pigs.

[Note : Term e) may be waived provided that the government veterinary officer certifies that the animals come from a country which is free of Aujeszky's disease.]

- f) I) showed no clinical sign of Leptospirosis
II) were kept in an establishment in which no clinical sign of Leptospirosis was officially reported during the 90 days prior to shipment;
III) were injected twice with 25 mg dihydrostreptomycin or streptomycin per kg of live body weight, the first injection being given 14 days prior to shipment and the second on the last working day before the day of shipment.
[Note : for pigs imported from USA the following term may be used as an alternative to f(iii):
C the pigs were injected twice with oxytetracycline (25 mg/kg), the first injection being given 14 days prior to shipment and the second on the last working day before the day of shipment.]

The animals on arrival must be taken under escort by an officer of the Agriculture, Fisheries & Conservation Department, to the approved premises where they must be kept in quarantine for at least 28 consecutive days. They will be subjected to inspections by an officer of that Department.

Importation of horses

Each individual horse must be accompanied by an import permit, a veterinary health certificate and an identification silhouette as prescribed by the Agriculture, Fisheries & Conservation Department. All horses into Hong Kong must undergo a post arrival isolation period under approved veterinary supervision for a minimum of 14 days during which appropriate testing vaccination against equine influenza will be initiated.

Importation of poultry and birds

Post-arrival quarantine are not required for poultry and birds. To prevent avian influenza, all bird and poultry imports must be accompanied by a veterinary health certificate and a diagnostic test laboratory report attesting that the birds are free from H5 avian influenza infection. The certificate should state that the birds have not been kept at premises where there is serological or virological evidence of H5 avian influenza virus infection having occurred within the 180 days immediately preceding the day on which the health certificate was issued. Also, it has to certify that the birds have been segregated from other birds for 5 days immediately preceding the day on which the health certificate was issued.

Importation of Dogs and Cats

Dogs and cats exported from the U.S. to Hong Kong may be exempt from quarantine if all the permit terms are fully complied with. Major import requirements are highlighted as follows:

- The area where the animal(s) has/have been continuously residing during the preceding six months or since birth is free of any reported cases of rabies.
- The animal(s) under 2 months of age cannot be imported. The animal(s) must be over 5 months of age. If the animal(s) is/are under 5 months of age, the animal(s) will have to be kept under quarantine until that age. If the animal is a female, she is either not pregnant or less than 4 weeks pregnant.
- The animal(s) must travel as manifest cargo (covered by an Airway Bill) by the most direct route without stopping over in any other countries.

- The animal(s) has/have been vaccinated against rabies not less than 30 days and not more than one year before coming to Hong Kong.
- The animal(s) has/have been fully vaccinated against the following canine/feline infectious diseases not less than 14 days and not more than 1 year before coming to Hong Kong:

Dog - Canine Distemper, Infectious Canine Hepatitis and Canine Parvovirus

Cat - Feline Panleucopaenia (Infectious Enteritis) and Feline Respiratory Disease Complex (Cat Flu).

7 Health Foods

In Hong Kong, health food products are subject to regulation under either of the following ordinances:

a Pharmacy and Poisons Ordinance

Products which contain medicines such as vitamin capsules are regulated under the Pharmacy and Poison Ordinance. These products have to be registered with the Department of Health by a Hong Kong importer to ensure their safety, quality and efficacy. Products are required to be labeled with such particulars as ingredients and dosage. Inspectors conduct random checks on pharmacies and medicine shops making sure that pharmaceutical products are marketed in the approved descriptions.

b Public Health and Municipal Services Ordinance

Other so-called “health food products” are regarded as food and subject to the Public Health and Municipal Services Ordinance. The objective is to ensure their safety and their labels do not carry false descriptions or descriptions calculated to mislead in respect of the nature, composition or quality of the product. Health food products should also meet the labeling requirements for prepackaged food set out in the subsidiary legislation made under the Ordinance, including details about the ingredients and instructions for use. The Food and Environmental Hygiene Department is responsible for monitoring the safety of various types of food and checking for non-compliance. If illegal or harmful substances are detected in any food product or false descriptions are found in their labels, prosecution may be instituted.

c Chinese Medicine Ordinance

About 70% of the “health food products” in Hong Kong contains Chinese medicines. Currently, these products are regulated under the Public Health and Municipal Services Ordinance. In future, these products will have to be registered under the Chinese Medicine Ordinance before they can be manufactured or put on sale in Hong Kong. The Ordinance was enacted in 1999 and subsidiary legislation to implement the registration system has not yet been enacted. The Ordinance empowers the Chinese Medicine Council of Hong Kong to regulate proprietary Chinese medicines. In approving applications for registration, the Council will examine the safety, quality and efficacy of the medicines. The majority of health food products available in the market will be subject to tighter regulation after the subsidiary legislation is enacted and comes into force. After the enactment of the subsidiary legislation, a grace period will probably be given to the trade .

d Undesirable Medical Advertisements Ordinance

If the advertisements or labels of any products, including any health food products, claim that the products have curative or preventive effects on the diseases or conditions specified in the Undesirable Medical Advertisements Ordinance, such products will be subject to the control of the Ordinance. The Ordinance is enforced by the FEHD. In enforcing the Trade Descriptions Ordinance, the Customs and Excise Department will take action against counterfeit products, including fake health food products, to safeguard the interests of trade mark proprietors and consumers.

8 Proposed Amendments to Animal Ordinance to Enhance the Prevention and Control of Veterinary Diseases

The existing Public Health (Animals and Birds) Ordinance and Regulations impose import controls on live animals and birds only. The AFCD has proposed to amend the Ordinance and Regulations to exercise import control over fish, fodder (used by animals, birds and fish), carcasses and parts of animals, birds and fish, and other articles used in conjunction with animals, birds and fish that may introduce disease. The proposed amendments to the Ordinance will empower the Director of AFCD to impose Health or Sanitary Certification on imports when a risk to public or veterinary health arises from the import of products covered by the Ordinance; for example, meat and bone meal derived from ruminants with a view to preventing the introduction of BSE. Meat imported from countries where serious veterinary diseases occur, such as foot-and-mouth disease, will also be subject to certification if necessary.

Section VIII. Copyright/Trademark Laws

The Trade Marks Ordinance provides the framework for a system of registration of trade marks for goods. The ordinance sets out the basis and criteria for registration and the rights attached to a registered trade mark. If a trade mark is registered, the registered owner gets an exclusive right to use the trade mark on the goods for which it is registered. The owner can take legal action to prevent anyone using the trade mark on those goods without the owner's consent. A trade mark can only be registered if it distinguishes or is capable of distinguishing the goods or services of the owner from those of another person. For application, the owner of a trade mark or any person authorized on his behalf to do so must complete an application form and file it, together with representations of the mark and the relevant fee, with the Trade Marks Registry.

In 2000, the Hong Kong Government's Legislative Council (LEGCO) enacted the amendments to the Trade Marks Ordinance. One of the amendments is to introduce "international exhaustion" of trade mark rights in an attempt to liberalize the retail market through parallel imports. By "international exhaustion", it means that the rights of the intellectual property rights owners will be exhausted once his goods have been put to the market anywhere in the world with his consent. The amendment provides an exception whereby the trade mark owner can prevent parallel importation where the condition of the parallel-imported goods has changed or been impaired and where the reputation of the trade mark in question will be adversely affected through the circulation of such goods in Hong Kong. However, the commencement date of the amended Ordinance is yet to be announced by the Director of Commerce and Industry Bureau. The amended Ordinance will clarify that parallel imports are allowed in Hong Kong.

Section IX. Import Procedure

The Hong Kong 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.

Traders are required to submit import and export declarations to the Hong Kong Customs and Excise Department. A declaration charge of 0.025% applies for imports and exports.

Appendix I - Government Regulatory Agency Contacts

Department to implement food safety control policy

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: afcdeng@afcd.gen.gov.hk

Department to issue licence for imported reserved commodities

Trade & Industry Department
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: dcsm@tid.gen.gov.hk

Department to register health foods containing medicine 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>
E-mail: dhengq@dh.gcn.gov.hk

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>

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.houston.com.hk/hkgipd>
E-mail : hkgipd@hk.super.net

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: dcsm@tid.gcn.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@fas.usda.gov
Internet Homepage : <http://www.usconsulate.org.hk>