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Hong Kong

Food and Agricultural Import Regulations and Standards

Country Report

2004

Approved by:

David Wolf

U.S. Consulate General, Hong Kong

Prepared by:

Caroline Yuen

Report Highlights:

Major Updates

1. Section II (10) Enactment of the Food and Drugs (Composition and Labeling) (Amendment) Regulation 2004
 2. Section VI (4) Public Health (Animal and Birds) (Chemical Residues) Regulation in full implementation
 3. Section VI (6) Proposed Application of the Convention on Biological Diversity and the Cartagena Protocol on Biosafety
 4. Section VII (1) U.S. beef entry to Hong Kong suspended
 5. Section VII (1) U.S. chicken feet to Hong Kong required to meet new certification requirement effective April 30, 2005
 6. Section VII (7) Proposed Bill of Regulating Health Claims for Orally Consumed Products
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Includes PSD Changes: No
Includes Trade Matrix: No
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"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.

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:

Publications Sales Section
Information Services Department
Room 402, 4/F
Murray Building
Garden Road
Hong Kong
Tel: 852 - 2842-8844
Fax: 852 - 2598-7482
email : puborder@isd.gov.hk

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.

In recent years, there has been strong support in both government and commercial sectors for further economic integration between Hong Kong and the Pearl River Delta in the southern part of China. Closer economic cooperation between Hong Kong and the PRC is expected to facilitate growth and lead to further restructuring of the Hong Kong economy. Against such a background, the Hong Kong and Mainland Chinese governments signed the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA) on June 29, 2003, formulating co-operations in three broad areas, namely trade in goods, trade in services, and trade and investment facilitation.

Under CEPA, made-in-Hong Kong products can be exported to China tariff free and certain commercial sectors can have additional market access to the Mainland China market. CEPA provides a channel for Hong Kong and China to strengthen cooperation in the areas of trade and investment facilitation. For example under the Customs Clearance Facilitation provision, both governments will study the feasibility of data interchange and development of electronic customs clearance system at control points. Both sides also agree to strengthen cooperation in the areas of inspection and quarantine of animals and plants and food safety “so as to enable both sides to enforce their respective regulations more effectively.” (For details, please refer to Gain Report#3026.) While Hong Kong's food import regulations remain separate from those of China, the two governments are strengthening their communications and cooperation.

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 Amendment Regulation 2004 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 Amendment Regulation 2004 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 at catering establishment for immediate consumption and those containing more than 1.2 percent alcohol by volume. (Please see Amendment Regulation 2004 below.)

9. Note

- a) Hong Kong government accepts stick-on labels as long as they meet local requirements.
- b) 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. Amendment Regulation 2004

The Food and Drugs (Composition and Labeling) (Amendment) Regulation 2004 was passed on July 9, 2004. The essence of the amendments made to the Regulation is listed below.

- a) Food labels should declare in the list of ingredients the presence of eight types of substances, if any, which are known to cause allergy in some individuals. 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) Food labels should specifically indicate the name or code of the food additive used;

- c) The restriction on the marking sequence in which the year, the month and the day appear when Arabic numerals are used to show the “best before” or the “use by” date would be lifted but the exact sequence has to be clearly declared in both Chinese and English.
- d) Wines, fruit wines and other drinks with an alcoholic strength by volume of 10 percent or more to be exempted from all labeling requirements, as they currently are. As regards other 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.
- e) Restrictions on the inclusion of additives in condensed or evaporated milk and butter have been relaxed.

Grace period:

Except for the relaxation of additives in condensed or evaporated milk and butter, which took effect on July 9, a grace period of 36 months is allowed for all other amendments in the Amendment Regulation. The grace period will end on July 9, 2007.

Meanwhile, the Hong Kong government in consultation with the trade will prepare a voluntary code of practice for labeling drinks with an alcoholic strength by volume of 1.2 percent or more.

11. Labeling on Biotech Food

At present, there is no labeling requirement for biotech foods. The Hong Kong government is considering adopting voluntary labeling and pre-market safety assessment for biotech foods but has set no timetable for implementation.

12 Nutrition Labeling

The Hong Kong government also intends to implement a mandatory nutrition labeling system, which will start to run on a voluntary basis for a period of five to ten years. According to the proposal, all prepackaged foods will eventually be subject to nutrition labeling. Details refer to Gain Report #3040. Drafting of the regulation by the Hong Kong government has not yet started.

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.

- Preservatives in Food Regulations
- Coloring Matter in Food Regulations
- Food Adulteration (Artificial Sweeteners) Regulations;
- Food Adulteration (Metallic Contamination) Regulations and
- Harmful Substances in Food 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 available from the AFCD website (http://www.afcd.gov.hk/quarantine/animals_e.htm).

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.

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

Section VI. Other Regulations and Requirements

1. Reserved Commodities

Under the Reserved Commodities Regulations, imports and exports of rice are required to be in accordance with valid import or export licenses issued by the Director-General of Trade and Industry. Licenses for rice imports for local consumption will be issued to traders registered with the Trade and Industry Department as a stockholder of rice.

Hong Kong's rice trade was fully liberalized on January 1, 2003, with the elimination of the rice import quota system after 48 years in force. In view of the gradual changes in the demand and supply of rice in Hong Kong, the government reviewed the system and started to take steps to relax trade restrictions since 1997 to enhance market competition. The significant changes over the past few years included: (1) lifting capital and financial requirements, (2) any parties being allowed to register as importers, (3) allowing importers to sell directly to consumers since 2001, (4) eliminating restrictions on import quantity, and (5) reducing the reserve stock level gradually from 45,000 tons before 1998 to 13,500 tons

in 2002. All these changes have had a combined effect of removing entry barriers and reducing operation costs. (Details refer to Gain report#HK3002.)

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. U.S. exporters, however, are strongly advised to enquire about documentation requirements from the Hong Kong Food and Environmental Hygiene Department on individual cases.

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. Under the Ordinance, except with exemptions, the import, export and possession of the controlled species, including their parts and derivatives, are subject to licensing controls. 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. Effective June 1, 2004, more endangered species including certain freshwater turtles, whale shark, basking shark, seahorses and bigleaf mahogany are on the protection list under the Ordinance. The revised protection list is to keep in line with the latest revisions of the list of controlled species of CITES. 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 dienoestrol, 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.

The Hong Kong government implemented the regulation in three phases with the final phase taking effect on December 30, 2003. It would be an offence for farmers or traders to keep food animals which had consumed any of the seven prohibited chemicals, or to supply food animals or milk in which the prescribed MRLs of the 37 other chemicals were exceeded.

For details of the regulation please refer to gain report #HK2001.

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%.

6. Proposed Application of the Convention on Biological Diversity and the Cartagena Protocol on Biosafety

The Hong Kong government intends to extend the application of the Convention on Biological Diversity and its Cartagena Protocol on Biosafety to Hong Kong around the 2005/2006 timeframe. To this end, the Hong Kong government plans to enact a new legislation to provide for the following:

- a) Establishment of a licensing system for the Agriculture, Fisheries and Conservation Department (AFCD) to process applications for first imports of LMOs (Living modified organisms) into Hong Kong for intentional introduction into the environment in accordance with the Advance Informed Agreement (AIA) procedure of the Protocol;
- b) A requirement that an exporter in Hong Kong shall send a notification enclosing the risk assessment report to the competent authority of the importing party and obtain its prior consent for the export of the LMO for first intentional introduction into the environment at the importing end;
- c) A requirement that approval shall be obtained from AFCD prior to the domestic use or export of a locally developed LMO for intentional introduction into the environment or for direct use as food, feed or for processing;
- d) Documentation requirements on trans-boundary movements of LMOs;

- e) Penalties for violation of the import, export or documentation requirements set out in (a) to (d) above;
- f) Other miscellaneous matters including designation of the Director of AFCD as the competent authority to discharge the Protocol's obligations in Hong Kong; and
- g) Implementation of measures to fulfill our obligations under the Protocol following future decisions made by Parties to the Protocol, e.g. setting standards for the identification, handling, packaging and transport of LMO.

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 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 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.)

However, U.S. beef products are currently not allowed entry to Hong Kong due to a BSE case in the United States in December 2003. Only U.S. poultry originating from the State of Texas at the time of report writing is still subject to trade suspension resulting from a highly pathogenic avian influenza outbreak in early 2004 in the State of Texas. Poultry from all other States is allowed provided slaughtered after April 30, 2004.

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 will take effect on April 30, 2005.

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 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 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 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 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 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 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 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. The application for a Plant Import License 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): 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 subject 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 is 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 biological 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

The Hong Kong government has introduced the Undesirable Medical Advertisement (Amendment) Bill to the Legislative Council for deliberations with a view to prohibiting or restricting the advertising of six types of health claims for orally consumed products. The amendments are proposed as follows:

Advertising of claims is prohibited for the following:

- prevention, elimination or treatment of breast lumps;
- regulation of the function of the genitourinary system; and
- regulation of the endocrine system.

Advertising of claims is restrictive for the following:

- regulation of body sugar or glucose and/or alteration of the function of the pancreas,
- regulation of blood pressure; and
- regulation of blood lipid or cholesterol.

Restricted advertising means that advertising for health claims is allowed provided that the product carries a disclaimer saying that the product is not registered in Hong Kong as a western or Chinese medicine.

The Hong Kong government has not set any timetable for the enactment of the Bill. According to the proposal, the “health food” industry would be given a grace period of at least 18 months to enable them to make changes and preparation in order to comply with the new requirements.

Currently, pharmaceutical products are subject to the Pharmacy and Poisons Ordinance (PPO) while Chinese Medicine are subject to the Chinese Medicine Ordinance (CMO). For general food products, the Public Health and Municipal Services Ordinance requires manufacturers and sellers to ensure their products are fit for human consumption. Furthermore, the Undesirable Medical Advertisements Ordinance prohibits advertisements claiming that a product has curative or preventive effects on any of the diseases listed in the

schedule to the Ordinance. The existing regulatory framework, however, does not cover health foods with health claims.

For more details, please refer to gain report #HK4017.

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.

The amendment process is still at a very preliminary stage. The proposal has not yet been introduced to the Legislative Council for deliberations.

Section VIII. Copyright / 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 will simplify the registration procedure of trade marks, increase the range of signs that can be registered as marks to allow sound and smell marks to be registered, simplify the licensing and assignment procedures for trade marks, and provide 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 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.

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: mailbox@afcd.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 : 852-2789-2491
Web site: <http://www.info.gov.hk/tid>
Email : enquiry@tid.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>

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](http://www.info.gov.hk/tid)

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>