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Report Highlights: The following sections are updated.

Section II (2) (b), (c) & (d) There are labeling changes on additives and allergens.

Section II (3) The indication of durability in Arabic numerals is no longer required to be expressed in the strict order of a day, a month and a year.

Section II (8) 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.

Section II (10) The HKG released voluntary biotech labeling guidelines while industry sources indicated that HKG is moving towards mandatory labeling.

Section II (11) HK is at the edge of introducing nutrition labeling, leading to U.S. changing labels for prepackaged food exports to Hong Kong

Section IV HK is amending its Preservatives Regulation.

Section V The Pesticide Ordinance is being amended, but that will not affect MRL in foods.

Section VI (2) The Protection of Endangered Species of Animals and Plants Ordinance was enacted in December 2006

Section VI (3) Wine and beer duty was lowered to 40% and 20% respectively.

Section VII (2) U.S. ultra pasteurized milk was registered as pasteurized milk in H.K.

Section VII (8) HKG proposed legislation amendment to regulate import of poultry eggs.

Includes PSD Changes: No
Includes Trade Matrix: No
Annual Report
Hong Kong [HK1]
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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 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:

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 also be obtained from the website: <http://www.info.gov.hk/justice>.

Hong Kong's Center for Food Safety, which operates under the Hong Kong Food and Environmental Hygiene Department (FEHD) is responsible for implementing territory-wide food safety control policies and enforcing food related legislation. It encourages Hong Kong food importers to obtain health certificates issued by health authorities of countries of origin, which should accompany imports certifying the food product concerned is fit for human consumption. The legislation empowers FEHD to take food samples at point of entry to Hong

Kong for various kinds of tests, including bacteriological examination and chemical analyses. FEHD, upon request, will pay market prices of any food samples taken.

Hong Kong and China Relationship

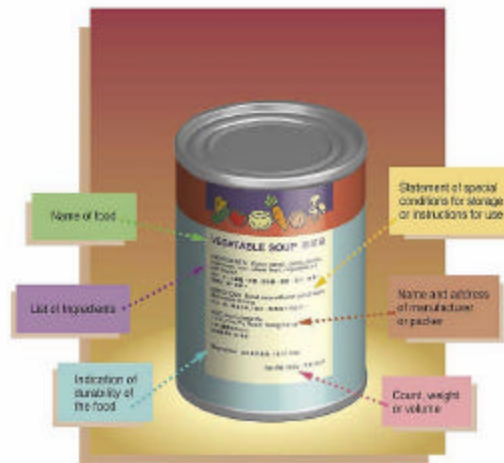
Hong Kong became the Special Administrative Region of the People's Republic of China on July 1, 1997. The Basic Law (mini-constitution) provides a constitutional framework for the Hong Kong Special Administrative Region. It institutionalizes the concept of "one country, two systems". The Basic Law clearly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

The Sino-British Joint Declaration and the Basic Law define Hong Kong as a separate customs territory and allows, using the name "Hong Kong, China", independent participation in international organizations and international trade agreements. While being a separate member of World Trade Organization (WTO) and Asia-Pacific Economic Cooperation (APEC), Hong Kong participates in Codex as a member of China's delegation and serves as an observer of the World Organization for Animal Health (OIE). Hong Kong claims that it draws reference from Codex and OIE in the context of food safety standards and animal health standards.

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

SECTION II. LABELING REQUIREMENTS

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



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 a food consists of or contains any of the following substances, the name of the substance shall be specified in the list of ingredients.
 - cereals containing gluten, (namely wheat, rye, barley, oats, spelt or their hybridized strains and their products);
 - crustacean and crustacean products;
 - eggs and egg products;
 - fish and fish products;
 - peanuts, soybeans and their products;
 - milk and milk products (including lactose);
 - tree nuts and nut products;
- c) An additive constituting one of the ingredients of a prepackaged food shall be listed by both its functional class and its specific name or its identification number under the International Numbering System (INS) for Food Additives. The trade is also at liberty to use the prefix "E" or "e" with the INS number as adopted by the European Union under the E-numbering system.
- d) If a food consists of or contains sulphite in a concentration of 10 parts per million or more, the functional class of the sulphite and its name shall be specified in the list of ingredients.

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

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

- a) 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 or in both the English and Chinese languages.

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

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

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

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

5. Name and Address of Manufacturer or Packer

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

- 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.

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.

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

9. Note

- 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. Labeling on Biotech Food

Hong Kong government does not have any specific biotechnology regulations with regard to the labeling of biotech food products. The Hong Kong government makes no distinction between conventional and biotech foods. All are subject to the same food safety regulation. Government sources revealed that the HKG will review its policy on the labeling of biotech pre-packaged foods and drinks.

However, Hong Kong appears on the brink of establishing mandatory labeling for biotech foods. The Hong Kong government released a set of guidelines on voluntary labeling for biotech foods in 2006 and will be conducting a survey to evaluate the effectiveness of voluntary labeling. The trade said that there is virtually no positive labeling of biotech foods, given the voluntary nature of the guidelines. While the government has not announced its decision to implement a mandatory labeling scheme, industry sources have said they are certain the HKG is moving in this direction and will use the survey result to support their initiative.

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

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

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

- GMO free,
- Free from GM ingredients, etc

For products with such definite negative labeling, the government may take the initiative to test the products against GM ingredients and zero tolerance will be adopted for testing purposes. If products are found to have misleading labeling, a retailer may be subject to prosecution under Section 61 – False Labeling and Advertisement of Food or Drugs of Chapter 132 Public Health and Municipal Services Ordinance.

(Available at <http://www.legislation.gov.hk/eng/home.htm>)

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

For more details, please refer to Gain Report HK#6026.

The government also announced in March 2003 its intention to introduce a mandatory pre-market safety assessment. However, the government has not announced any time frame as to when this will be implemented. The HKG has not reported on any progress on the development of introducing this pre-market safety assessment. Instead, government representative revealed that they would review this proposal along with labeling.

According to the proposal on mandatory pre-market safety assessment delivered to the Legislative Council in 2003, importers or manufacturers of food containing biotech ingredients would be required to submit documents and certificates to the Food and Environmental Hygiene Department (FEHD) prior to importing the food to Hong Kong, detailing the safety assessments that have been conducted by the developer of the biotech ingredients. The results of evaluations conducted on the ingredients by overseas regulatory authorities would also be submitted for the pre-market safety assessment. FEHD would assess risks associated with toxins, allergies, nutrition, etc., based upon guidelines developed by Codex. Foods containing biotech ingredients that pass the safety assessment could then be sold in Hong Kong.

FEHD would develop a list of approved biotech ingredients based on the applications made by importers and manufacturers. The list would be publicized and updated regularly for public reference. Importers and manufacturers would bear the responsibility of determining whether their products contain only approved biotech ingredients and, if so, whether the

foods may be imported without any further safety assessment. For foods containing biotech ingredients not on the approved list, an application to FEHD for pre-market safety assessment would be required.

Regarding products already in the market, FEHD would require importers or manufacturers to provide risk assessment reports if products contain biotech ingredients. Such biotech products could be sold in Hong Kong within a grace period pending document review and approval.

11 Nutrition Labeling

The Hong Kong government also intends to implement a mandatory nutrition labeling system. The administration aims to introduce the legislative amendments to the Legislative Council in late 2007. With the provision of grace period, 2011 will be the earliest that nutrition labeling will take full effect.

Post had a detailed report on the severe impact of Hong Kong's impending nutrition labeling on U.S. exports to Hong Kong. Please see gain report HK#7011.

According to the latest proposal, the implementation of the nutrition labeling will be implemented in two phases. Phase I of the proposal begins with a 2-year grace period after actual enactment of the legislation. U.S. products carrying nutrient-related claims will need to provide Hong Kong nutrition labeling on prepackaged food products. Phase II will start two years after the implementation of Phase I and will require that all prepackaged food products meet mandatory labeling on prescribed nutrients.

The proposed nutrition labeling requires the listing of energy plus nine nutrients, namely protein, carbohydrate, total fat, saturated fat, sodium, cholesterol, sugars, dietary fiber, and calcium. It also requires nutrient amount to be expressed in absolute amount in kilocalories/metric unit per 100 gram (or per 100 ml) of food. This nutrient amount expression is different from the U.S. nutrition labeling. As such, U.S. products will need to modify labeling information in order to meet Hong Kong's new requirements.

For details of Hong Kong's requirements, please refer to Gain Report# HK5020.

SECTION III. PACKAGING AND CONTAINER REGULATIONS

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 (relevant report HK#7015)
- Harmful Substances in Food Regulations
- Food and Drugs (Composition and Labeling) Regulations – Additives in Certain Milk Products

Listings of permitted chemicals are available at corresponding regulations or could be referred to Gain Report #6016.

Hong Kong is in the process of changing its regulations on food preservatives to comply more fully with CODEX. Currently allowed preservatives not listed in CODEX will be “grandfathered” in. U.S. food exporters whose products comply with CODEX standards should not be affected by the amended regulation. According to the Hong Kong government’s preliminary assessment of the impact of the amendment, the permitted levels of preservatives in about 70 specified products will be relaxed under the General Standard on Food Additives (GSFA), compared with the current Regulations. At the same time, approximately 30 specified foods will have their preservative level(s) tightened. For more details, please refer to gain report HK#7003.

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). The Pesticides Ordinance is currently under the amendment exercise because the HKG intends to incorporate the necessary measures in the Pesticides Ordinance to fulfill the Stockholm Convention and the Rotterdam Convention. The Stockholm Convention is an international treaty aiming to protect health and the environment from persistent organic pollutants (POP). Nine pesticides are identified to be POPs of which restrictions are imposed in terms of their import, export, production and use. The Rotterdam Convention is another international treaty aiming to protect human from the potential harm of hazardous chemicals. The Convention covers 28 pesticides that have been banned or severely restricted for health or environmental reasons. The contracting parties are required to obtain the consent of the importing party before exporting pesticide or chemicals under control.

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. Exotic Meats

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

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

If the animal is not an endangered species, the US exporter is required to obtain a certificate from the Fish and Wildlife Service certifying the animals' scientific name and its domesticated origin. This certificate is necessary for 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.

2. Endangered Species

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

The Hong Kong government decided to introduce a new ordinance in order to keep abreast with the changes incorporated by CITES. The salient points of the new ordinance, Protection of Endangered Species Animals and Plants, are as follows:

- 1) The ordinance gives effect to the CITES in Hong Kong.
- 2) Unlike the old ordinance, the new ordinance does not require an import license for the importation of species listed on CITES Appendix II. (Except for live species of wild origin.) Export licenses issued by the exporting country are still required.
- 3) Different from CITES requirements, the importation to Hong Kong of live species of wild origin from CITES Appendix II is required to have an import license in addition to an export license issued by the exporting country.
- 4) The new licensing system covered by the new ordinance will be based on consignment or keeping premises rather than on individual species as in the case of the existing ordinance.

5) According to the old ordinance, the importation of wild and cultivated ginseng, regardless for trade or personal use, requires an export license from the exporting country. The importation of wild ginseng also needs to have an import license as well. After the enactment of the new ordinance in December 2006, individuals bringing wild and cultivated ginseng to Hong Kong for personal use will no longer require to produce an export license issued by the exporting country.

6) Also, the importation of wild ginseng, both for trade and personal use, no import licenses are required. In short, the importation of both wild and cultivated ginseng only requires an export license issued by the exporting countries. Traders will no longer need to apply for any import licenses.

7) For CITES Appendix III listed species, the importation to Hong Kong requires to have export licenses issued by exporting countries. Traders do not need to apply for any import licenses from the Hong Kong government.

3. 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 : 20%
Liquor with more than 30% alcohol : 100%
All wines: 40%

Note : Duties on wine and beer were reduced effective March 6, 2007, the old duty was 80% and 40% respectively.

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

Hong Kong at present is not a party of the Convention on Biological Diversity and the Cartagena Protocol on Biosafety. Hong Kong is a Special Administrative Region of China. The application of international agreements to Hong Kong for agreements to which China is a party will be decided by China in accordance with the circumstances and needs of Hong Kong, after seeking the views of the Hong Kong government. China has been a party to the Convention and the Protocol since 1993 and 2005 respectively. The Hong Kong government has obtained the agreement-in-principle of China to extend the application of both the Convention and the Protocol to Hong Kong when it is adequately prepared. In essence, the Protocol was not extended to Hong Kong simultaneously upon China's ratification of the Protocol in 2005.

With this background, the Hong Kong government first announced its intention to apply for the extension of the Cartagena Protocol in late 2003. To prepare for the implementation of the regulatory controls over the trans-boundary movement of LMOs stipulated under the Protocol, the Hong Kong government has indicated to have a new legislation but has not

provided any deadline for completion. Government officials revealed that they are planning to take into account the developments of the Protocol when drawing up the detailed regulatory framework for implementing the Protocol in Hong Kong.

The drafting of the legislation has halted because the Hong Kong government is waiting for Protocol's development on implementation details. The Hong Kong Government has sent delegates to attend the Protocol's COP-MOP (Conference of the parties serving as the meeting of the Parties) as part of China's delegation to keep track of the development.

According to published information, the future legislation will encompass the following key provisions.

- 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 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;
- 7) health foods;

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 U.S. requires the importer to obtain a permit in advance. (New requirement for the importation of chilled meats is in place effective April 1, 2002. For details, please refer to Gain report #HK2012.)

Hong Kong suspended beef imports from the U.S. following the BSE case in December 2003. The market opened again for U.S. boneless beef effective December 29, 2005. Products now allowed include boneless beef from cattle less than 30 months of age slaughtered and processed in establishments which have been certified by Agricultural Marketing Service (AMS) that they have complied with USDA Export Verification (EV) Program for Hong Kong. A listing of the Hong Kong EV Program certified plants is available at the following website: <http://www.ams.usda.gov/lsg/arc/bevlisting.htm>. Hong Kong traders importing U.S. beef are required to obtain a permit in advance. This measure is not required for frozen beef prior to the ban.

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

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

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.

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

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 may 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.

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 (soon to be replaced by the Protection of Endangered Animals and Plants Ordinance)
- Public Health and Municipal Services Ordinance and Subsidiary Legislation, Cap.132

Requirement for a Permit in Advance

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

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

7. Health Foods

In Hong Kong health foods are subject to the same piece of food ordinance as conventional foods. Retailers are expected to provide truthful labeling as regulated by Chapter 132 Section 61 – False Labeling and Advertisement of Food or Drugs. It is available at the following website: <http://www.legislation.gov.hk/eng/home.htm>. Furthermore, the Undesirable Medical Advertisements Ordinance (chapter 231) prohibits advertisements claiming that a product has curative or preventive effects on any of the diseases listed in the schedule to the Ordinance.

Health foods should not include medicinal ingredients, or they may be regarded as pharmaceutical products. Pharmaceutical products are subject to registration under the Health Department and are regulated by the Pharmacy and Poisons Ordinance. On the other hand, Chinese medicine, some may be regarded as health food, is subject to the Chinese Medicine Ordinance.

8. Eggs – Proposed Legislation to Regulate Import of Poultry Eggs

The HKG is planning for legislative amendment to include a mandatory requirement that poultry egg consignments to Hong Kong have to be accompanied by a health certificate. The scope of poultry eggs to be kept under legislative control would include raw shell eggs, preserved shell eggs, cooked shell eggs and egg yolk. Currently, negotiation is underway with the HKG as to the certification language on U.S. health certificates. The HKG indicated that they plan to have the legislative amendment completed by the end of 2007.

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

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

Department to control the importation of plants & live animals

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

Department to register health foods containing medicinal ingredients

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

Department to issue licence for imported dutiable commodities

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

Department for Trade Mark Registration

Intellectual Property Department
Trade Marks Registry
24th and 25th Floors, Wu Chung House
213 Queen's Road East
Wan Chai

Hong Kong
Tel : 852-2803-5860
Fax : 852-2838-6082
Web site : <http://www.info.gov.hk/ipd/eng/index.htm>

World Trade Organization (WTO) Enquiry Point

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

Appendix II - Other Import Specialist Contacts

Agricultural Trade Office
American Consulate General
18th Floor, St. John's Building
33 Garden Road, Hong Kong
Tel: (852) 2841-2350
Fax: (852) 2845-0943
E-Mail: ATOHongKong@usda.gov
Internet Homepage : <http://www.usconsulate.org.hk>
<http://www.usfoods-hongkong.net>