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Required Report - public distribution

Date: 12/6/2011

GAIN Report Number: HK1145

Hong Kong

Food and Agricultural Import Regulations and Standards - Narrative

FAIRS Country Report

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Report Highlights:

With the commencement of the Genetically Modified Organisms (Control of Release) Ordinance and the Genetically Modified Organisms (Documentation for Import and Export) Regulation in March 2011, there are documentation requirements for shipments containing living modified organisms. The Food Safety Ordinance, a new food law, which introduces a food tracing mechanism by requiring traders to register and keep trade records commenced in August 2011 with a six-month grace period. New legislative initiatives for 2012 include mandatory certification requirements for egg imports and the introduction of Hong Kong's new pesticide regulation. Updates on Hong Kong's proposed pesticide framework are provided in Section V. The Hong Kong government is working on a seafood import protocol with various individual governments with a view to introducing mandatory certification requirements for seafood products. Duties on cigarettes and cigars were increased in 2011.

Section I. Food Laws:

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

Public Health and Municipal Services Ordinance, Cap.132

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. The list of subsidiary legislation follows:

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

Food Safety Ordinance

A new food law, the Food Safety Ordinance (Cap.612) was enacted in 2011. It provides new food safety control measures, including a registration program for food importers and distributors and a requirement for traders to maintain business records so as to enhance food traceability. There is a six-month grace period for these two requirements until January 31, 2012.

The new Food Safety Ordinance will require the U.S. government to issue health certificates for meats, poultry eggs and seafood exports to Hong Kong through its two Subsidiary regulations. (These two regulations have not yet been introduced.) For U.S. exports, the new Ordinance will primarily impact U.S. seafood exports because previous agreements already satisfy certification requirements for meats

and eggs. A protocol for certification requirements for U.S. seafood exports to Hong Kong is yet to be discussed. The latest development on seafood certification requirements are contained in reports HK0015 and HK1141 dated September 2010 and November 2011 respectively. The Hong Kong government (HKG) is still working on the import protocol with various seafood supplying countries. There is no indication when the regulation will be introduced.

The HKG initially planned to introduce the egg regulation requiring mandatory certification for eggs in late 2011 or early 2012. But a specific time frame is not yet announced. As such, U.S. egg shipments to Hong Kong are not yet required to provide health certificates, although they are very often provided on a voluntary basis.

The new food ordinance also empowers the authorities to make regulations for tightening import controls on specific food types and to make orders to prohibit the import and supply of problem food and order the recall of such food.

Hong Kong food laws can be obtained from the following website:

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

Competent Authority

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

Hong Kong and China Relationship

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

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

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

Section II. Labeling Requirements:

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

General Requirements



1. Name of the Food

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

2. List of Ingredients

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

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

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

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

The words “use by” and “best before” in English lettering and Chinese characters followed by the date up to which specific properties of the food can be retained, to indicate the shelf life of the food. The “use by” or “best before” date should be shown either in Arabic or in both the English and Chinese languages. The day, month and year can appear in any order but the exact sequence has to be clearly declared in both Chinese and English. For specific details refer to the Regulation.

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

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

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

5. Name and Address of Manufacturer or Packer

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

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

6. Count, Weight or Volume

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

7. Appropriate Language

The marking or labeling of prepackaged food can be in either the English or the Chinese language or in both languages. If both the English and Chinese languages are used in the labeling or marking of prepackaged food, the name of the food, nutritional labeling and the list of ingredients shall appear in both languages.

8. Exempt from Labeling Regulations

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

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

The HKG released a Code of Practice regarding the Labeling of Alcoholic Drinks. This labeling guideline is provided to the trade for them to follow on a voluntary basis. (Under the Dutiable Commodities Regulation, every container containing liquor for local consumption is required to be labeled with the alcoholic strength.) Details refer to GAIN Report #HK5021.

For detailed import regulation guidelines on wine, please refer to GAIN Report #HK0033.

9. Note

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

10. Labeling on Biotech Food

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

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

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

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

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

- GMO free,
- Free from GM ingredients, etc

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

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

For more details on the voluntary labeling guidelines and biotechnology in Hong Kong, please refer to GAIN Reports #HK6026 & #HK1124 respectively.

11. Requirements Specific to Nutritional Labeling

Hong Kong’s Legislative Council on May 28, 2008 passed a nutrition labeling regulation which took effect July 1, 2010. Hong Kong’s nutrition labeling regulation requires all prepackaged food sold in Hong Kong to label energy plus seven nutrients namely: protein, carbohydrate, fat, saturated fat, trans fat, sodium and sugars. Products selling less than 30,000 units a year can apply for small volume exemption provided that the products do not carry any nutritional claims. Traders applying for exemption have to pay HK\$345 (US\$44) per product variety for the first year and HK\$335 (US\$43) for annual renewal.

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

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

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

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

3) U.S. and Hong Kong have set a different definition of zero for various nutrients. For example, Hong Kong’s zero definition of transfat is 0.3 gm/100 gms, while the U.S. is 0.5 gms/serving. Therefore, a “0

transfat” on the nutrition panel of a U.S. product may violate Hong Kong’s nutrition regulation if it is to be sold in Hong Kong.

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

- The nutrient function claim is based on scientific substantiation and scientific consensus;
- The nutrient function claim must contain information on the physiological role of the claimed nutrient; and
- The content of the claimed nutrients must meet the relevant condition of nutrient content claim for “source”, if applicable.

For more information on the impact of Hong Kong’s nutrition labeling regulation, please see GAIN Reports #HK7011, #HK8017 & #HK0011. Details of the regulation are contained in the Technical Guidance Notes on Nutrition Labeling and Nutrition Claims, which are available at [http://www.cfs.gov.hk/english/food leg/food leg nl guidance.html](http://www.cfs.gov.hk/english/food_leg/food_leg_nl_guidance.html). Further supplementary information are provided in the form of FAQ on the Hong Kong government’s Center for Food Safety website - <http://www.cfs.gov.hk/eindex.html>.

GAIN Reports HK1110, 1116, 1130 and 1135 provided implementation updates on the nutrition labeling regulation.

Section III. Packaging and Container Regulations:

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

Section IV. Food Additives Regulations:

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

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

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

- Preservatives in Food Regulations

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

Listings of permitted chemicals are available at corresponding regulations or could be referred to GAIN Reports #HK8022, #HK8033, #HK0006, #HK1123.

Hong Kong amended its Preservatives Regulation, which became effective July 1, 2008. Compared to the original regulation, there is one preservative (propyl para-hydroxybenzoate) no longer allowed for use, and eleven additional preservatives permitted in the new standard, as listed below:

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

Another change brought about by the regulation amendment is the adoption of a food category system based on Codex's GSFA (Codex General Standard for Food Additives) and the incorporation of those preservatives and antioxidants, as well as their permitted levels of use, in GSFA. To help trade better understand the amended regulation, the HKG issued a "User Guideline", which provides the definition of each food category of the newly adopted food category system. Also, the Guidelines include some questions and answers pertaining to the amended regulations. The full Guidelines are available at the following website:

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

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

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

More information on the amended Preservatives Regulation, please see GAIN Reports #HK7018 and #HK8021.

Section V. Pesticides and Other Contaminants:

Pesticide Residues in Food

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

However, the FEHD has announced it will be introducing a new subsidiary legislation to govern pesticide residues in food in Hong Kong in 2012. The **key points of the regulatory framework are as follows:**

- Adopting Codex's definition of "pesticide" and other related terms;
- Adopting Codex's classification of foods;
- Adopting a list of MRLs/ EMRLs for certain pesticide –food pairs based on Codex and supplemented by standards of China, U.S. and Thailand.
- Adopting a "modified positive list approach", i.e. in cases where pesticide residues are found outside the list, it will be prohibited unless the food safety authority is satisfied that the level of residue will not be dangerous to health. The authority will conduct risk assessments to draw a final decision;
- Providing a list of exempted substances to allow the trade to use pesticides that are natural and for which the residues are identical to or indistinguishable from natural food components;
- Providing regular updates on the lists of MRLs/EMRLs and exempted substances;
- Allowing application for revising/adding MRLs and exempted substances; and

The HKG released a preliminary list of maximum residue limits (MRLs) and extraneous maximum residue limits (EMRLs) in April 2011 for public's early review. It is available at http://www.cfs.gov.hk/english/whatsnew/whatsnew_fstr/files/Draft_MRL_for_technical_meeting_28032011.pdf

The HKG is planning to introduce the regulation to the Legislative Council for vetting in 2012 and to provide a two-year grace period for the trade to cope with the changes after the passage of the new pesticide legislation. The earliest implementation date would be 2014.

For more details, please see GAIN Reports #HK1106, 1112, 1127 and 1129 which were prepared in 2011.

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

For more information on Hong Kong's current regulation on MRLs, please refer to GAIN Report #HK4015.

Cadmium

In the past years, the HKG has occasionally found U.S. produce samples collected in its regular food surveillance containing cadmium at levels exceeding Hong Kong's standard. U.S. exporters are reminded that the maximum permitted level of cadmium in vegetables is 0.1 ppm. While the U.S. has no specific regulation regarding cadmium residues in lettuce or other vegetables, the Codex standard is 0.2 ppm.

Section VI. Other Regulations and Requirements:

Exotic Meats

Hong Kong's Center for Food Safety expects U.S. exporters to produce a health certificate issued by the Food Safety and Inspection Service for all U.S. exotic meat exports 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 U.S. exporter is required to obtain a certificate from the Fish and Wildlife Service certifying the animals' scientific name and its domesticated origin. This certificate is necessary for the importation of all exotic meats into Hong Kong. U.S. exporters, however, are strongly advised to enquire about the documentation requirements from the Hong Kong Food and Environmental Hygiene Department on a case-by-case basis.

Endangered Species

The Protection of Endangered Species of Animals and Plants Ordinance, Cap. 586, is the local legislation which gives effect to CITES in Hong Kong. The control regime follows closely the requirements under CITES.

CITES imposes different export and import controls according to the Appendices in which a species is listed. In general, species listed in Appendix I require an export license and an import permit, while an export license is adequate for species listed in Appendix II. No import permit is required for species listed in Appendix II. The licensing system covered by the ordinance is based on consignment or keeping premises rather than on individual species.

The salient points of the Protection of Endangered Species Animals and Plants Ordinance are as follows:

Appendix I species

- 1) The importation of an Appendix I species requires a license issued in advance by AFCD. Each license is valid for one shipment at one time. Commercial trade in an Appendix I species of wild origin is not allowed and AFCD will not issue a license. Appendix I animals bred in captivity for commercial purposes from CITES registered farms and Appendix I plants artificially propagated for commercial purposes are treated as Appendix II specimens and therefore subject to the same control as Appendix II specimens.

Appendix II species

- 2) The 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 commercial importation of both wild and cultivated ginseng requires an export license issued by the exporting countries. Hong Kong traders do not need to apply for any import licenses. However, individuals bringing in ginseng for personal use, regardless of wild or cultivated, do not need to produce an export license issued by the exporting country or import licenses issued by AFCD.

Appendix III listed species

- 5) For Appendix III listed species, the importation to Hong Kong requires to have export licenses issued by exporting countries. The importation of an Appendix III species is required to have a valid CITES export permit or a certificate of origin issued by the exporting country. Traders do not need to apply for any import licenses from the Hong Kong government.

Import Duties

Hong Kong is a free port, imposing no duties on products with the exception of four dutiable products: liquor, tobacco, hydrocarbon oils and methyl alcohol. In reality, these products are taxed equally as locally manufactured goods which are subject to a domestic tax of the same 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 HKG increased the duty on cigarettes and cigars in 2011. The current duties are as follows:

Cigarettes per 1000 sticks US\$219 (HK\$1706)

Cigars per kg US\$282 (HK\$2197)

Beer & liquor with less than 30 percent alcohol : 0%

Liquor with more than 30 percent alcohol : 100%

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

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

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

Certificate of Origin

The importation of brandy and whisky to Hong Kong which are intended to be sold in Hong Kong is required to provide a Certificate of Origin, certifying the type, nature, quality and age of the liquor. If the brandy or whisky is to be re-exported and is not intended to be consumed in Hong Kong, the Hong Kong government does not require any Certificate of Origin for its importation.

Brandy: the spirit obtained by the distillation of wine of grapes in the manufacture of which no additional sugar has been added, or a mixture of such spirits, that has been aged in an oak receptacle for at least one year or in an oak cask with a capacity of less than 1000 L for at least 6 months and contains an alcoholic strength of not less than 36 percent by volume at 20 degree Celsius; cognac: brandy made in the Cognac region of France from grapes grown therein.

Whisky: the spirit obtained by distillation from a mash of cereal grains saccharified by the diastase of malt or other natural enzyme and fermented by the action of yeast, with or without the addition of flavoring or caramel, that has been aged in wood for at least 3 years and contains an alcoholic strength of not less than 40 percent by volume at 20 degree Celsius.

Products Containing Living Modified Organisms

Hong Kong passed a Genetically Modified Organisms (Control of Release) Ordinance and the Genetically Modified Organisms (Documentation for Import and Export) Regulation in March 2010 and November 2010 respectively. With the commencement of the Ordinance and the Regulation in March 2011, there are documentation requirements for shipments containing genetically modified organisms (GMOs). GMOs in the Ordinance are referred to as LMOs or living modified organisms. Shipments containing GMOs for food or feed or for processing will need to be accompanied by documentation containing the following information:

- If the identity of the GMO is known, the shipment contains such a GMO; if the identity of the GMO is not known, the shipment may contain such a GMO;
- The GMO is not intended for release into the environment;
- The common name, scientific name and, where available, commercial name of the GMO;
- The Internet address of the biosafety Clearing House;
- The transformation event code of the GMO or, where available, its unique identifier code; and,
- The details of the importer or exporter (such as name, address and contact information) for further information.

There is no specific requirement regarding the form of documentation accompanying GMO shipments. The use of a commercial invoice or other documents required by existing documentation systems would be sufficient.

The HKG provides document samples listing required information for traders' reference at the AFCD's website: http://www.afcd.gov.hk/english/conservation/con_gmo/con_gmo.html

Products containing GMO ingredients for release into the environment or for contained use are required to provide different attestations on documents. Also, importers are required to seek prior approval from AFCD before the importation of products containing GMOs, which are intended to be released to the environment.

There are no labeling requirements for GMOs under this new ordinance and regulation. For more details, please refer to GAIN Report #HK1124.

Section VII. Other Specific Standards:

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

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

For samples of health certificates, exporters may read GAIN Report #1146.

Game, Meat and Poultry

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

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

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

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

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

Milk

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

- the full name and address of the milk or milk beverage processing plant;
- the law of the country of origin governing the production of milk or milk beverages;

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

After obtaining the approval and satisfying other conditions which may be imposed by the Assistant Director of the Center for Food Safety, importers may import the milk or milk (beverages) products into Hong Kong. Initially, an import permit is valid for six months, after four renewals, an import permit valid for one year may be issued. When a milk or milk beverage consignment arrives before its release, products will be inspected and if necessary, sampled by the Center for Food Safety. Upon the Center's satisfaction, a "release" letter will be issued to the local importer. Each milk shipment has to be accompanied by health certificates.

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

Frozen Confection

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

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

After obtaining the approval and satisfying other conditions, which may be imposed by the Assistant Director of the Center for Food Safety, importers may import the frozen confections into Hong Kong.

Initially, an import permit is valid for six months, after four renewals, an import permit valid for one year may be issued. When a frozen confection consignment arrives and before its release, the products will be inspected and if necessary, sampled by the Center. Upon the satisfaction of the Department, a “release” letter will be issued to the importer. Each frozen confection shipment has to be accompanied by health certificates.

Marine Products

The Hong Kong government will make it mandatory to have health certificates accompanying seafood imports to Hong Kong through a new subsidiary regulation under the Food Safety Ordinance, which was passed in 2011. All U.S. fish and aquatic products are expected to be affected by this new measure once the subsidiary regulation on seafood certification is enacted, but no legislative timeframe has been announced. (For details of the proposed seafood certification, please see GAIN Reports #HK0015 and 1141.)

Presently, it is not a mandatory requirement for all seafood products to be accompanied with a health certificate, but U.S. products to Hong Kong usually provide health certificates in order to facilitate customs clearance. However, the certificates submitted do not have a standard attestation and could be issued by individual state, since the HKG has not officially requested any health certification requirements for U.S. seafood products.

When a consignment of seafood products arrives at entry points in Hong Kong, it may be subject to inspection or sampling. If the importer concerned is not able to present health certificates during inspection, the Center of Food Safety may take consignment samples for examination before release.

With respect to the future subsidiary regulation, we believe that the HKG will require a certificate with standard attestations. In response to the HKG’s proposed certification requirements for seafood products, the National Oceanic and Atmospheric Administration (NOAA) has prepared a draft certificate which ATO has submitted to the HKG for consideration. Discussion on the certification protocol continues. The Hong Kong government has not announced any timeframe for the enactment of the new regulation.

Plants

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

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

- Cut flowers
- Fruit & vegetables for consumption
- Grains, pulses, seeds and spices for human or animal consumption or for industrial use
- Timber and timber products including rattan and bamboo

- Dried tobacco and manufactured articles incorporating dried leaves
- Plants produced in and imported from China

In order to avoid unnecessary delay in customs clearance of plants on arrival, U.S. exporters are advised to ask their Hong Kong importers to obtain a Plant Import License from the Hong Kong Agriculture, Fisheries & Conservation Department prior to shipment of plants. If application is found to be in order, a Plant Import License will normally be issued after two working days from receipt of the application.

Animal Quarantine

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

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

Requirement for a Permit in Advance

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

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

Health and Organic Foods

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

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

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

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

Eggs – Proposed Legislation to Regulate Import of Poultry Eggs

The HKG has plans to introduce a subsidiary regulation under the new Food Safety Ordinance through which poultry egg consignments to Hong Kong must be accompanied by a health certificate. The scope of poultry eggs to be kept under legislative control would include raw eggs, preserved eggs, partly cooked eggs and egg yolk. In 2008, the U.S. government concluded a certificate protocol for egg exports with the HKG. Once the regulation is enacted, U.S. egg exports to Hong Kong will need to be accompanied by a health certificate issued by AMS (Agricultural Marketing Service). The HKG initially planned to introduce the egg regulation requiring mandatory certification for eggs in late 2011 or early 2012. But a specific time frame is not yet announced. Meanwhile, U.S. exporters provide health certificates for egg consignments on a voluntary basis.

Section VIII. Copyright and/or Trademark Laws:

The Intellectual Property Department is the government department established with the responsibility to protect intellectual property in Hong Kong. It provides trade mark, patent, and designs registration. The Trade Marks Ordinance stipulates the registration procedure of trademarks and the range of signs that can be registered as marks. Also the ordinance allows parallel imports except when "the condition of the goods has been changed or impaired after they have been put on the market, and the use of the registered trade mark in relation to those goods is detrimental to the distinctive character or repute of the trade mark".

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

Section IX. Import Procedures:

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

Appendix I. Government Regulatory Agency Contacts:

Department to implement food safety control policy

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

Department to control the importation of plants & live animals

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

Department to register health foods containing medicinal ingredients

Department of Health

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

Department to issue licenses 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>

