

Voluntary Report – Voluntary - Public Distribution

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Report Name: HKG's Written Submission to WTO Panel on US'
Requirement on Origin Marking

Country: Hong Kong

Post: Hong Kong

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Prepared By: Caroline Yuen

Approved By: Alicia Hernandez

Report Highlights:

Following the Hong Kong government's filing a complaint to the World Trade Organization (WTO) against the United States' new requirement to mark Hong Kong-originated products as "made in China" and the WTO's subsequent establishing a dispute resolution panel, the Hong Kong government filed its first written submission to the WTO on May 28, 2021.

On May 28, 2021, the Hong Kong government (HKG) issued a press release announcing that it has already filed its first submission to the Dispute Settlement Body of the World Trade Organization (WTO) in connection with its complaint on the United States' requirement to mark Hong Kong-originated products as "made in China".

The United States introduced this new origin marking requirement in response to the implementation of the National Security Law in Hong Kong on June 30, 2020. With this new marking requirement which took effect on November 10, 2020, all Hong Kong products exported to the United States have to be labelled as "Made in China".

Hong Kong first filed a complaint with the WTO on October 30, 2020. Not being able to resolve the matter with the United States, the HKG officially requested for the establishment of a dispute resolution panel to rule on the United States' initiative on January 25, 2021. Although the United States blocked the request, the HKG filed the second request in February, which was accepted automatically according to the established mechanism. Subsequently, the WTO Dispute Settlement Body established a panel to rule on the United States' new origin marking requirement for Hong Kong products.

Hong Kong is a separate and founding member of the World Trade Organization from mainland China.

Hong Kong exported a total of US\$167 million worth of agricultural and food products to the United States in 2020. Hong Kong has a limited food manufacturing industry. Major food items exported from Hong Kong include mooncakes, noodles, and sauces. Hong Kong-made products generally are regarded as more premium than China-made products.

Below is the HKG's press release on the announcement on its submission to the WTO.

HKSAR Government files first written submission to WTO panel in respect of US' requirement on origin marking

The Hong Kong Special Administrative Region Government today (May 28) filed its first written submission to the panel established under the World Trade Organization (WTO) Dispute Settlement Body (DSB) to consider the dispute raised by Hong Kong with respect to the violation of WTO rules by the requirement of the United States (US) on origin marking for Hong Kong products.

The submission explains in detail Hong Kong's position that the US' requirement, amongst others, unlawfully discriminates against goods of Hong Kong origin, and is inconsistent with multiple WTO covered agreements, including the Agreement on Rules of Origin, the Agreement on Technical Barriers to Trade, and the General Agreement on Tariffs and Trade 1994.

"Hong Kong is a founding member of the WTO by virtue of the Marrakesh Agreement Establishing the World Trade Organization. Under the Basic Law, Hong Kong is a separate customs territory, and may, using the name 'Hong Kong, China' (HKC), participate in relevant international organisations and international trade agreements. The special status of Hong Kong has been widely recognised and respected by the international community, and Hong Kong's economic and trade status is on par with that of other WTO members," the Secretary for Commerce and Economic Development, Mr Edward Yau, said.

"The US has imposed such a discriminatory and unjust requirement for political reasons unrelated to a proper determination of the place of origin of the goods as required under the various WTO covered agreements. This approach improperly interjects political considerations into a purely technical exercise to determine a product's origin under WTO rules. This approach, if accepted, would undermine the critical role that accurate origin determination plays within the rules-based multilateral trading system," Mr Yau said.

At the same time, the requirement to mark goods originating in Hong Kong as originating in another WTO member has increased the cost and complexity of exportation for Hong Kong enterprises by forcing them to segregate their products based on different markets of destination, putting them at a competitive disadvantage vis-à-vis other WTO members, he said.

The WTO DSB acceded at its meeting on February 22 to Hong Kong's request to establish a panel to consider HKC's dispute. The Director-General of the WTO subsequently appointed a three-member panel to examine the dispute on April 29. The panel is proceeding in accordance with procedures as set out in the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes, including to consider written submissions by HKC and the US as well as 13 other WTO members who have reserved their rights to join as third parties to the dispute.

Ends/Friday, May 28, 2021

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Attachments:

No Attachments.