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September 19, 2006

Chairman and Members
Subcommittee on Food Business (Amendment) Regulation 2006
Legislative Council

Dear Sirs,

We appreciate the opportunity to comment on the Food Business (Amendment) Regulation 2006. The U.S. Government has some concerns regarding this regulation and believes it will have the effect of unfairly harming exports of U.S. meats to Hong Kong, while not improving food safety for Hong Kong's consumers. The Hong Kong Government notified the WTO of the new regulation on August 24, 2006 (attachment). In response, the U.S. made the following comments which we respectfully submit to this Subcommittee.

Quote

The United States appreciates the opportunity to review Hong Kong's notification to the WTO (G/TBT/N/HKG/27) on requirements that chilled beef, mutton, or pork be pre-packaged and properly labeled if it is sold in fresh provision shops/market stalls that also sell fresh beef, mutton, or pork. The requirements were notified to the WTO as a TBT measure.

The United States notes that Hong Kong's rationale for the measure appears to be based on food safety risks associated with fresh provision shops/market stalls. As stated by Hong Kong, the intent of the proposed amendment to the regulation is to reduce the risk resulting from disease-causing organisms/contamination if fresh meat and chilled meat are mishandled or mixed at fresh provision shops/market stalls. (Based on the intent of the measure, the United States respectfully requests that Hong Kong re-notify this proposed amendment to its regulations as an SPS measure and allow the United States time to consider the amendment within the context of the obligations of the SPS Agreement.)

It is unclear to the United States how the introduction of additional labeling requirements on pre-packaged chilled beef, mutton, or pork will avoid the problem of deliberate consumer deception – chilled meat sold as “freshly” slaughtered meat. Meat imported into Hong Kong from the United States and other long distance suppliers may be at a significant marketing disadvantage if additional labeling requirements, such as the slaughtering date, are imposed by Hong Kong for pre-packaged chilled meat as this meat

could be perceived by consumers as being less "fresh" or of lesser quality due to shipping times. U.S. processing and cold chain management techniques ensure that U.S. chilled meats maintain their freshness, safety, and quality.

We further request that Hong Kong hold this amendment in abeyance until it is notified as an SPS measure and we can better understand Hong Kong's food safety concerns.

Unquote

Regards,

A handwritten signature in blue ink, appearing to read "P. A. Shull". The signature is stylized and cursive.

Philip A. Shull
Director
Agricultural Trade Office

NOTIFICATION

The following notification is being circulated in accordance with Article 10.6.

1.	Member to Agreement notifying: <u>HONG KONG, CHINA</u> If applicable, name of local government involved (Articles 3.2 and 7.2):
2.	Agency responsible: The Health, Welfare and Food Bureau of the Government of the Hong Kong Special Administrative Region Name and address (including telephone and fax numbers, e-mail and web-site addresses, if available) of agency or authority designated to handle comments regarding the notification shall be indicated if different from above:
3.	Notified under Article 2.9.2 X , 2.10.1 , 5.6.2 , 5.7.1 , other:
4.	Products covered (HS or CCCN where applicable, otherwise national tariff heading, ICS numbers may be provided in addition, where applicable): Chilled beef, mutton or pork
5.	Title, number of pages and language(s) of the notified document: Food Business (Amendment) Regulation 2006 (5 pages, in Chinese and 5 pages, in English)
6.	Description of content: The Amendment Regulation requires chilled beef, mutton or pork to be pre-packaged and properly labelled if it is sold in fresh provision shops/market stalls which also sell fresh beef, mutton or pork. Information required to be shown on the labels is similar to the existing labelling requirement for pre-packaged food in general under the Food and Drugs (Composition and Labelling) Regulations (Cap. 132 sub. leg. W), e.g. name, "use by" date, net weight, etc. In addition to that, the labels are required to indicate the name and address of the slaughtering plant and the slaughtering date. Where pre-packaging and labelling are required under the Amendment Regulation, such procedures may be completed either in the exporting country or in Hong Kong, China. This Amendment Regulation will have no implication on other types of food exported to Hong Kong, China.
7.	Objective and rationale, including the nature of urgent problems where applicable: There have been recent cases where meat traders display or sell imported chilled beef, mutton or pork as fresh beef, mutton or pork in Hong Kong, China. This is not satisfactory from the food hygiene perspective as fresh and chilled meat have different shelf life and should therefore be subject to different storage conditions. There is a contamination risk if fresh meat and chilled meat are mishandled or mixed during the retail stage. The Amendment Regulation will reduce the chances of such malpractice, thereby enhancing food safety and protecting consumers' interest.

8.	Relevant documents: Nil.
9.	Proposed date of adoption: The Amendment Regulation was published in the Government Gazette on 7 July 2006. Proposed date of entry into force: The Amendment Regulation came into effect on 18 August 2006, but the legislative process is still ongoing. A Legislative Council Subcommittee has been formed to scrutinize the Amendment Regulation and it is scheduled to meet on 26 September 2006.
10.	Final date for comments: 19 September 2006
11.	Texts available from: National enquiry point [X] or address, telephone and fax numbers, e-mail and web-site addresses, if available of the other body: Health, Welfare and Food Bureau The Government of the Hong Kong Special Administrative Region 20/F, Murray Building Garden Road Central Hong Kong Tel.: (+852) 2973 8189 Fax: (+852) 2136 3281 Email: sypkwan@hwfb.gov.hk