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September 25, 2006

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

Dear Sirs,

We submitted to the Subcommittee our comments on the Food Business (Amendment) Regulation 2006 in the context of a TBT measure on September 19, 2006, following Hong Kong government's notifying the WTO of the amended Regulation (G/TBT/N/HKG/27). We understand that the Hong Kong government re-notified the Regulation amendment to WTO as a SPS measure (G/SPS/N/HKG/23). The U.S. Department Agriculture (USDA) has the pleasure to comment on the new measure in the context of a SPS measure. In this connection, we would like to submit our comments to the Subcommittee, which have also been submitted to the WTO.

Quote

The United States appreciates the opportunity to review Hong Kong's notification to the WTO (G/SPS/N/HKG/23) 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, which were notified to the WTO as a TBT measure, were re-notified as an SPS measure, but with an insufficient time period to comment. The United States subsequently requested an extension for comments until September 26, 2006.

The United States notes that no rationale for the measure is provided in the SPS notification. However, based on Hong Kong's TBT notification, we assume the rationale is to address concerns regarding chilled meat being sold as "freshly" slaughtered meat in fresh provision shops/market stalls and the food safety risks this practice may pose.

If risk from contamination related to chilled versus "freshly" slaughtered meat is Hong Kong's primary concern, then the United States is unclear why Hong Kong has chosen to require additional labeling on chilled meat only. We question whether Hong Kong has considered other "less trade restrictive" means to correct deceptive practices at fresh provision shops/market stalls, which misrepresent to consumers chilled meat as "freshly" slaughtered.

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U.S. processing, packaging, and cold chain management techniques ensure that U.S. chilled meat imported into Hong Kong maintains its freshness and safety. As such, the proposed requirement for the labeling of chilled meat with the slaughtering date, use by date, and slaughtering plant name and address has no relevance to the safety of U.S. chilled meat. Ideally, this type of information would be a commercial decision between buyer and seller.

In addition, chilled meat from the United States and other long distance suppliers may be at a significant marketing disadvantage if the additional labeling requirements are imposed by Hong Kong. U.S. chilled meat, if date labeled, could appear to consumers to be less "fresh" and safe than "freshly" slaughtered meat. U.S. chilled meat, if handled properly, is a safe, wholesome, and high-quality product.

The United States respectfully requests that Hong Kong consider other "less trade restrictive" measures to ensure proper handling of meat in fresh provision shops/market stalls. The United States would like to propose further technical discussions on how contamination risks for meat could be better controlled in Hong Kong's fresh provision shops/market stalls without the imposition of additional labeling requirements. We believe these requirements do not properly address the problem.

Thank you for this opportunity to comment. We look forward to your response.

Unquote

Sincerely Yours,



Philip A. Shull
Director
Agricultural Trade Office

Attachment

WORLD TRADE ORGANIZATION

G/SPS/N/HKG/23
13 September 2006

(06-4382)

Committee on Sanitary and Phytosanitary Measures

Original: English

NOTIFICATION

1.	Member to Agreement notifying: <u>HONG KONG, CHINA</u> If applicable, name of local government involved:
2.	Agency responsible: The Health, Welfare and Food Bureau of the Government of the Hong Kong Special Administrative Region
3.	Products covered (provide tariff item number(s) as specified in national schedules deposited with the WTO; ICS numbers should be provided in addition, where applicable): Chilled beef, mutton or pork
4.	Regions or countries likely to be affected, to the extent relevant or practicable: Members that export chilled beef, mutton or pork to Hong Kong, China
5.	Title, language and number of pages 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 labeled 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 labeling requirement for pre-packaged food in general under the Food and Drugs (Composition and Labeling) 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 labeling 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 implications on other types of food exported to Hong Kong, China.
7.	Objective and rationale: <input checked="" type="checkbox"/> food safety, <input type="checkbox"/> animal health, <input type="checkbox"/> plant protection, <input type="checkbox"/> protect humans from animal/plant pest or disease, <input type="checkbox"/> protect territory from other damage from pests
8.	International standard, guideline or recommendation: <input type="checkbox"/> Codex Alimentarius Commission, <input type="checkbox"/> World Organization for Animal Health (OIE), <input type="checkbox"/> International Plant Protection Convention, <input checked="" type="checkbox"/> None If an international standard, guideline or recommendation exists, give the appropriate reference and briefly identify deviations:
9.	Relevant documents and language(s) in which these are available: Nil

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10.	Proposed date of adoption: The Amendment Regulation was published in the Government Gazette on 7 July 2006.
11.	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 scrutinise the Amendment Regulation and it is scheduled to meet on 26 September 2006.
12.	Final date for comments: 19 September 2006 Agency or authority designated to handle comments: <input type="checkbox"/> National notification authority, <input checked="" type="checkbox"/> National enquiry point, or address, fax number and E-mail address (if available) of 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 Telephone: (852) 2973 8189 Facsimile: (852) 2136 3281 E-mail address: sypkwan@hwfb.gov.hk
13.	Texts available from: <input type="checkbox"/> National notification authority, <input checked="" type="checkbox"/> National enquiry point, or address, fax number and E-mail address (if available) of 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 Telephone: (852) 2973 8189 Facsimile: (852) 2136 3281 E-mail address: sypkwan@hwfb.gov.hk