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## Hong Kong

### Food and Agricultural Import Regulations and Standards

### Hong Kong Proposed Regulatory Framework for Pesticide Residues in Food

## 2008

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**Report Highlights:**

Hong Kong is inviting comments on its proposed regulation for pesticide residues in food before January 31, 2008. The proposal has some favorable signs, as it includes all U.S. allowed pesticides, plans to develop a "default value" for pesticide residues without specified maximum residue limits (MRLs), and to draw reference from pesticide regulations of key produce supplying countries such as the U.S. to develop a list of "exempted substances". However, the published proposal has not yet provided any details on the actual proposed MRLs and EMRLs, default values and the definition of residues. How U.S. produce exports to Hong Kong will be affected depends very much on these details. Currently, Hong Kong does not have any specific regulation for pesticide residues in foods. The Hong Kong government is considering to submit the regulation to the Legislative Council for approval in late 2008 or early 2009 and has proposed a grace period of two years before the full implementation of the new regulation.

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

The Hong Kong Food and Environmental Hygiene Department (FEHD) has proposed a new subsidiary legislation to govern pesticide residues in food in Hong Kong. The proposed regulatory framework will take a positive list approach by primarily adopting the maximum residue limits (MRLs) and extraneous maximum residue limits (EMRLs) of pesticides recommended by Codex. In the consultation document, FEHD indicated that Hong Kong's future standard will be supplemented by related standards of China, Thailand and the United States since these are major produce supplying countries for Hong Kong. An estimated total of some 400 pesticides will be covered.

The Hong Kong Government (HKG) plans to submit the proposal to the Legislative Council Food Panel for discussion in late 2008/early 2009. It plans to provide a two-year grace period for the trade to cope with the changes after the passage of the new pesticide legislation.

Hong Kong is a significant market for U.S. fresh produce. It is the 5<sup>th</sup> largest export market for U.S. fruits. Post estimates that Hong Kong imported \$216 million of fresh fruits and \$14 million of fresh vegetables from the U.S in 2007. Given the significance of the Hong Kong market, U.S. exporters are encouraged to review Hong Kong's proposal on pesticide regulation and submit comments to the HKG before the deadline of the consultation period, January 31, 2008. Comments can be submitted directly to the HKG at [pesticide\\_consultation@fehd.gov.hk](mailto:pesticide_consultation@fehd.gov.hk) and copied to our office at [AtoHongKong@usda.gov](mailto:AtoHongKong@usda.gov).

The HKG has notified the WTO of the proposed regulation on pesticide residues in food (SPS/N/HKG/26).

## Background

Currently, Hong Kong does not have a specific food regulation governing pesticide residues in food. Food is subject to a general food ordinance that all food on sale must be wholesome, unadulterated and fit for human consumption. Given the lack of legal provision, the FEHD does not have legislative power to take legal action against the food trade if the pesticide residue level in a particular food sample is found to exceed standards recommended by Codex. The HKG therefore sees a need to set regulatory standards for a list of pesticides of local relevance to meet regulatory control needs.

## Overview of the Proposed Regulatory Framework on Pesticide Residues in Food

### I. To adopt a "positive list" approach

The HKG has proposed to adopt a "positive list" approach. It means that MRLs of pesticides that are allowed to be found in food are specified in the legislation whereas any other pesticide residues without specified MRLs are not allowed. The HKG believes that a "positive list" approach will facilitate effective enforcement measures. The future regulation will also incorporate a mechanism to regularly update the "positive list".

### II. To adopt MRLs developed by Codex

Hong Kong plans to adopt the MRLs and EMRLs of individual pesticides recommended by Codex. The future standards will also be supplemented by related standards of China, Thailand and the U.S. on the grounds that these countries are major produce supplying countries for Hong Kong. The consultation document has provided a proposed list of pesticides to be covered by the future pesticide regulation. The proposed list has included pesticides which are adopted by the U.S. in addition to others which are adopted by Codex, China or Thailand.

The HKG estimated that Hong Kong's future positive list will cover some 400 pesticides. In addition, the HKG said in its consultation document that they will conduct risk assessment studies by means of internationally accepted methods to assess whether the proposed MRLs and EMRLs are adequate to protect public health in the local setting.

### III. To develop a "default value" for pesticide residues without specified MRLs

For pesticide residues for which no MRLs or EMRLs have been specified in the future pesticide regulation, the HKG plans to set a "default value", i.e. the detection of any such pesticide residue is considered unacceptable when the residual level exceeds a "default value".

Apparently, this "default value" approach is better than the "zero tolerance" approach. Nonetheless, the HKG has not published the exact value for this "default value".

### IV. To develop a list of "exempted substances"

The HKG plans to draw reference from the U.S. when developing a list of "exempted substances". The purpose of developing an exemption list is to facilitate the trade to use pesticides that are natural. The principles of developing such a list are a) the substances used fall under the definition of pesticides; b) MRLs are considered not necessary by other regulatory authorities; and c) the substances will not pose any public health risk.

### V. To adopt Codex's classification of foods

The HKG plans to adopt Codex's classification of foods for the purpose of establishing group MRLs for food commodities of similar characteristics and residue potential.

## Time Frame

Public consultation on the proposed pesticide regulation will end on January 31, 2008. The HKG is considering to submit the regulation to the Legislative Council for approval in late 2008/early 2009. To allow sufficient time for laboratories to develop testing methods for pesticides and the trade in complying with the new regulatory requirement, the HKG has proposed a grace period of two years before the full implementation of the new regulation.

## Comments

The new pesticide regulation is the HKG's another attempt to strengthen its food safety control, following the regulation on the labeling of allergens and additives (HK7017), nutrition labeling (HK7011), and preservatives (HK7018). The proposal so far seems to be pragmatic by considering the pesticide regulations of major produce exporting countries in addition to Codex's. Actually, Hong Kong's proposed positive list of pesticides includes all U.S. permitted pesticides. Also, the adoption of default value, instead of zero tolerance of pesticides with no specified MRLs, will facilitate trade. Another merit of the proposal is the suggested provision of exemption list, which will be making reference to major exporting countries. However, the released proposal does not have any details, which have yet to be worked out.

The impact of the future pesticide regulation on U.S. exports to Hong Kong depends very much on the details. For example, default values of pesticides without specified MRLs have yet to be decided. If the default values are set too low, the purpose of providing default values cannot be fulfilled.

Hong Kong's pesticide MRLs have yet to be determined too. Although U.S. permitted pesticides are allowed in Hong Kong, the HKG may not adopt U.S. MRLs in cases of discrepancies with Codex or other major supplying countries. In some cases, Codex's definition of residues in different foods are different from individual countries depending on the pesticides. Post will continue to encourage the HKG to take a pragmatic approach in setting the MRLs and definition of its permitted pesticides by taking into account the standards of its major produce trading partners.

For a copy of the full consultation paper - "Proposed Regulatory Framework for Pesticide Residues in Food in Hong Kong", please see

<http://www.cfs.gov.hk/>.