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INTELLECTUAL
PROPERTY



‘Main legal issues for the food industry in China’

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**Food.be EXPORTBOOST CHINA
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Privileged and confidential

Legal frame: tight and quickly growing

• Food safety law

• Detailed regulations

- (i) agriculture
- (ii) food additives
- (iii) food operating licenses
- (iv) health food
- (v) GB standards (vertical and horizontal)

• Consumer protection

- (i) unfair competition law;
- (ii) consumer protection law;
- (iii) product quality law;
- (iv) advertising law

Authority

CFDA: main authority since 2013

AQSIQ: in charge for

- production;
- Import food products
- Packaging/labeling

NHFPC: replaces former Ministry of Health

safety standards unification and risk assessment

AIC: competition and consumer protection

Custom

Ministry of Agriculture

- Agriculture products safety
- Fertilizers/agrochem

Food products can be imported into China depending on the kind of product and country of origin



beef, fresh agricultural products

dairy products, pears, pork

others
(chocolate, bakery, beverages..)

IMPORT PROCEDURE

Importer's key-role

1) On-line registration

2) Required documents:

- Contracts/invoices;
- Packing list/bill of landing;
- Certificate of origin;
- Sanitary certificate
- Fitosanitary certificate
- Chinese label
- Inspection certificate
- others

3) Custom duties + VAT + consumption tax

4) Quality inspection

Label shall be in Chinese

Mandatory requirement:

- Product name, ingredients, weight production date, shelf life;
- Importer's name, address, contacts;

Strict requirements:

- additives indication
- graphic requirements (fonts size, position)
- Ingredient indication

ATTENTION: Labeling requirements in China can be VERY different from HK and MACAU

Eco-friendly certifications:



Nutritional label mandatory except for:

- Fresh product
- Alcohol
- Unpacked food sold on production site
- Packaging largest surface <100 sq. cm
- Daily intake <10ml/mg

Fixed format (6 options)

Minimum content “1+4”:

- Energy
- Nutrients (proteins, fats, carbohydrates, sodium)
- NRV%

Optional content:

- Other nutrients (out of list of 32)
- Claims (nutritional; comparative; functional)

Stringent requirements:

- Graphics
- “0”, rounding



ADDITIVES

Positive lists (GB 2760-2011;
GB 14880-2011)

New additives to be pre-
approved by NHFPC

23 functional categories

Standards identify maximum
level of use, residue, carry-
over

Specific license for their
production

HEALTH FOOD

-Claims (27+1)

-Registration procedure :

- Tests (toxicology, hygiene, stability, functionality, composition, anti-doping, etc..)
- Shall be sold overseas since >1 yr
- Risk assessment
- CFDA approval

NOVEL FOOD

Includes:

- New ingredients;
- New additives;
- Not used in China in the last 30 years

Registration procedure by
CFDA



Professional consumers exploit and profit from product non-compliance:

- Rewarded by authorities for whistleblowing
- Punitive damages up to 1000% for non-compliance (mislabeling)
- Blackmail food companies and retailers
- Growing business (up to 90% of consumer litigation in Shanghai in 2012)

Most common issues are:

- Mislabeling (typos, wrong translation/definition, etc..)
- Misleading advertisement





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