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Report Highlights:

On July 11, 2024, China notified draft Food Labeling Supervision and Management Measures to the World Trade Organization (WTO) under G/TBT/N/CHN/1401/Add.2. China's TBT Enquiry Point at tbt@customs.gov.cn will accept comments until September 9, 2024. This report provides an unofficial translation of the draft standard. Stakeholders should conduct their own review of the standard to determine how and whether the draft measures may influence trade and regulatory requirements.

THIS REPORT CONTAINS ASSESSMENTS OF COMMODITY AND TRADE ISSUES MADE BY USDA STAFF AND NOT NECESSARILY STATEMENTS OF OFFICIAL U.S. GOVERNMENT POLICY

Report Summary:

On July 11, 2024, China notified draft Food Labeling Supervision and Management Measures to the World Trade Organization (WTO) under <u>G/TBT/N/CHN/1401/Add.2</u>. China's TBT Enquiry Point at <u>tbt@customs.gov.cn</u> will accept comments until September 9, 2024.

The draft Measures will replace the existing Food Labeling Management Measures published by the former General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China (AQSIQ) under <u>No. 102 Announcement</u> (link in Chinese) in August 2007.

The revised draft Measures either provide novel requirements or revise existing requirements. These include the following:

- Clarify rules for labeling of food names to avoid consumer confusion regarding original ingredients;
- Specify content that is prohibited from being labeled to deliver better food descriptions;
- Regulate the markings for production dates and shelf-life expiration dates and stipulate the font size, color, and location of characters, digits, and images on labels;
- Specify special requirements for health foods, infant formula, and foods for special medical purposes; and,
- State that the labels of edible agricultural products should follow the Measures for Supervision and Administration of Quality and Safety of Edible Agricultural Products in Markets, please refer to FAS GAIN Report <u>CH2023-0119</u> for more detailed information.

The draft regulation stipulates requirements for labels of prepackaged foods and foods in bulk being sold in China, and how market regulation departments supervise and monitor the food labels in the market. At the same time, a separate revised national food safety standard for General Principles for the Labeling of Prepackaged Foods was also notified to WTO under <u>G/SPS/N/CHN/1295/Add.1</u>, which emphasizes safety aspects and principles related to markings on prepackaged food labels. A separate GAIN report is published for this WTO notification.

This report provides an unofficial translation of the draft notified standard. Stakeholders should conduct their own review of the standard to assess how and whether the draft measures may influence their operating practices.

BEGIN TRANSLATION

Food Labeling Supervision and Management Measures (Draft for Comments)

Chapter I General Provisions

Article 1 The Measures are formulated in accordance with the Food Safety Law of the People's Republic of China, its implementing regulations, and other laws and regulations to regulate the labeling behavior of food producers and operators, strengthen the supervision and management of food labeling, and ensure that consumers can clearly identify their legitimate rights in food labeling.

Article 2 The Measures shall apply to the labeling, supervision and management of labels of the foods and food additives (hereinafter referred to as food) that are produced and/or sold within the territory of the People's Republic of China.

Article 3 The "food label" used in this Measures refers to the texts, symbols, numbers, patterns, and other descriptions displayed on the packaging and instructions of pre-packaged food, or on the containers and outer packaging of food in bulk, to show consumers the basic information of the food and its producers and operators.

Article 4 Food producers and operators shall be responsible for the authenticity, accuracy, and legality of the content of the food labels they provide.

Article 5 Food labels shall be clear, eye-catching, durable, easy to identify and read, and not easily erased or peeled off. The labels of pre-packaged food shall not be separated from the food packaging, and the contents of bulk food labels shall not be separated from the containers and outer packaging.

Article 6 The food labels involving hygiene, nutrition, and other food safety matters shall comply with the provisions of relevant national food safety standards.

Article 7 The following contents shall not be marked on the food labels:

- 1) Expressing, implying, or involving disease prevention and treatment functions;
- 2) Non-health foods that explicitly or implicitly claim to have health functions (efficacy);
- 3) Describing or introducing foods in deceptive, false, exaggerated, or misleading manners;
- 4) Contents labeled as "specially for", "exclusively for", or "internally for" Party and government agencies, as well as the military, and similar entities;
- 5) Descriptions that use feudal superstition, violate scientific common sense, and violate public orders and good customs;
- 6) Contents prohibited from being labeled in other laws, regulations, rules, and food safety standards

Article 8 The following illegal acts of food labeling are prohibited:

- 1) Marking false production dates and shelf life;
- 2) Forging or falsely using the name or address of the producer, or forging, falsely using, or altering the production license number;
- 3) Forging, falsely using, or altering the registration or filing number of special foods;
- 4) Other behaviors prohibited by laws, regulations, rules, and food safety standards.

Article 9 The State Administration for Market Regulation (SAMR) is responsible for supervising and guiding the supervision and management of food labeling nationwide.

The local market supervision and management departments at or above the county levels are responsible for the supervision and management of food labeling within their administrative regions.

Chapter II General Requirements for the Labeling of Pre-packaged Foods

Article 10 The contents of the labels for pre-packaged foods shall comply with the provisions of Article 67 of the Food Safety Law of the People's Republic of China.

Article 11 The label contents of pre-packaged foods shall be marked on the smallest sales unit.

If the minimum sales unit contains multiple individually packaged foods, and the label contents of different varieties of individually packaged foods can be clearly read through the packaging of the minimum sales unit, the label contents may not be marked repeatedly.

If the outer packaging of the minimum sales unit is easy to open and identify, the label contents may not be marked repeatedly on the outer packaging.

Article 12 The colors of texts, symbols, numbers, and patterns on the labels of pre-packaged foods should be clearly contrasted with the background color of the labels to ensure clear readability.

Article 13 The contents of pre-packaged food labels shall use standardized Chinese characters as the basic language, and may also use traditional characters, Chinese phonetic alphabets, minority languages, or foreign languages that correspond to the contents of the labels, but the height of the corresponding Chinese phonetic alphabets, traditional characters, or foreign languages used shall not be taller than the height of the corresponding standardized Chinese characters.

Article 14 The label contents as stipulated in Article 67 of the Food Safety Law of the People's Republic of China shall be marked using texts and numbers with a height of not less than 1.8 millimeters, and the ratio of the height to the width of the texts shall not exceed 3.

When the maximum surface area of the packaging of pre-packaged foods is greater than 150 square centimeters, the heights of the texts and numbers should not be less than 2 millimeters; when the maximum surface area of the packaging or packaging containers is greater than 400 square centimeters, the heights of the texts and numbers other than the nutrition facts should not be less than 2.5 millimeters.

The font size of the production date and shelf-life expiration date should also comply with the requirements of Article 17 of the Measures.

Article 15 The label of pre-packaged food shall indicate the name that reflects the true attributes of the food and meet the following requirements:

- 1) For food products made from two or more main ingredients and having a uniform appearance that is difficult to distinguish, the name of the food must not reflect only one ingredient;
- 2) For food products made from plant-derived food ingredients simulating animal-derived food, the words "imitation", "vegetarian", or "plant" should be prefixed to the name of the food, and the true nature of the food should be indicated in the name;
- 3) For food that uses only food essences and spices to create the flavor of a certain ingredient, the name of the food must not be misled that the certain ingredient has been used.

Article 16 Without provisions from laws, regulations, rules, national food safety standards, and industry standards, the pre-packaged food label shall not use words or patterns to indicate explicitly or implicitly or emphasize that the product is suitable for minors.

Article 17 The production date and the shelf-life expiration date on the pre-packaged food labels shall comply with the following requirements:

- 1) The dates should be prominently marked on the main display of the minimum sales unit of pre-packaged foods. If there are multiple packaging layers of minimum sales unit, the dates shall be placed on the outermost packaging.
- 2) Set up an independent area on the label to clearly mark the dates with obvious background color contrast for example black texts in white background.
- 3) For pre-packaged food packages with a maximum surface area exceeding 20 square centimeters, the height of texts and numbers should not be less than 3 millimeters, while for other pre-packaged food packages, the height of texts and numbers should not be less than 2 millimeters.
- 4) Dates are marked in the order of year, month, and day. The year number uses 4 digits, spaces, slashes, hyphens, and other symbols can be used to separate year, month, and day. If there is no separator between year, month, and day, and month and day are less than 2 digits, "0" should be added before the digits.
- 5) If the dates are marked with "see the certain part of the packaging", the specific part should be clear and obvious, accurately described, and easy to find.

6) If there are multiple individual pre-packaged foods in the minimum sales unit, the shelflife expiration date should be marked on the outer packaging based on earliest expiration date of the single piece of pre-packaged food, or shelf-life expiration dates should be marked for each individual pre-packaged food separately on the outer packaging.

The labels and instructions of health foods should also comply with the provisions of Articles 33 and Article 34 of the Measures.

Article 18 The production date of pre-packaged food shall be determined according to the completion of the production process. If the minimum sales unit is a single-layer package, the date of completion of the packaging process shall be used as the production date; if the minimum sales unit has multiple layers of packaging, the date of completion of the packaging process that comes into direct contact with the food shall be used as the production date; if sterilization, fermentation, and other processes are still required after packaging, the date of completion of the relevant processes shall be used as the production date.

The determination of the shelf life of pre-packaged food should be carried out in accordance with relevant national food safety standards. For pre-packaged food produced by sub-packaging, the shelf-life expiration date should be marked by sub-packaging of the pre-packaged food.

Article 19 The label of pre-packaged food shall indicate the name, address, and contact information of the producer. The name and address of the producer shall be the name and address of a legally registered producer that can take responsibility for food quality and safety, and the contact information shall be authentic and valid.

For pre-packaged food produced by branches or production facilities that cannot independently take legal responsibility according to the law, the labels should separately indicate the name, address, and contact information of the company and its branches or production facilities that can independently take legal responsibility according to the law.

If there are multiple producers listed on the label of pre-packaged food, the actual producer information should be clearly identified.

Pre-packaged food produced under commission should label the names, addresses, and contact information of both the entrusting party and the entrusted party.

Article 20 The ingredient list indicated on the label of pre-packaged food should be guided by the word "ingredients" or "ingredient list". When the ingredients used in the processing process have been changed to other components, the words "raw materials" or "raw material list" can be used instead.

The ingredient list of the sub-packaged food should indicate the ingredients of the original food. The sub-packaged food should be labeled with the word "sub-packaged."

Article 21 The net content of quantitatively packed food shall be indicated on the label in accordance with the provisions of the Measures for the Supervision and Administration of

Quantitatively Packed Commodity Measurement, and the specifications shall be indicated in accordance with relevant regulations.

For liquid, semi-solid, or viscous food, volume or mass units should be used for labeling; for solid foods, mass units should be used for labeling; for food that are not suitable for labeling with mass or volume, length can be used for labeling. For food containing both solid and liquid substances, when the solid substance is the main food ingredient, in addition to labeling the net content, the content of drained matter (solids) should also be labeled in terms of mass or mass fraction.

Pre-packaged food sold by measurement should be labeled with "measured weight" and "measurement method: bulk weighing" instead of net content.

Article 22 If the same pre-packaged food contains multiple pieces of quantitatively packed food, the specifications shall be marked on the outermost packaging. The specifications shall be consisted of the net content and number of pieces of quantitatively packed food, or only the number of pieces shall be marked, without the word "specification."

If the same pre-packaged food contains multiple pieces of the same type of quantitatively packed food, the net content and total number of pieces of each quantitatively packed food should be indicated. If the same pre-packaged food contains multiple pieces of different types of quantitatively packed food, the net content of each piece of each different type of quantitatively packed food should be indicated.

Article 23 The product standard number of the pre-packaged food marked on the label includes the national food safety standards, local standards, enterprise standards, as well as the codes, sequence numbers, and release years of the national standards, industry standards, local standards, or group standards formulated and issued by relevant departments. The code and sequence number of the product standard can be marked only, they should comply with the latest version of the corresponding standards.

Article 24 Where the storage conditions of pre-packaged food have temperature requirements, they shall be marked as storage at room temperature, refrigerated, or frozen. Where refrigerated storage or frozen storage is indicated, the specific temperature range for refrigeration or freezing shall also be indicated. Where there are other requirements for humidity, light, etc., they shall be indicated.

Article 25 The pre-packaged food label shall indicate the food production license number.

Article 26 The warning signs, warning words, or precautions marked on the labels of prepackaged food shall comply with laws, regulations, rules, food safety standards, and provisions of relevant departments of the State Council.

Article 27 Food additives shall have labels, instructions and packaging. The labels and instructions of food additives shall indicate the name, specifications, net content, production

date, components or ingredients list, name, address, and contact information of the producer, shelf life, product standard code and serial number, storage conditions, production license number, as well as the scope of use, dosage, and usage method of food additives. The words "food additive" shall be clearly marked at a prominent position on the main display of the label.

If the label of food additives can display the complete contents, instructions may not be attached.

Article 28 The production and operation of genetically modified food shall be marked prominently in accordance with relevant regulations.

Chapter III Labeling Requirements for Special Foods

Article 29 The labels and instructions of special foods such as infant formula food, health food, and formula food for special medical purposes shall comply with relevant laws, regulations, rules, national food safety standards, and regulations of product registration and filing management. If the content of the registration certificate or filing certificate is involved, it shall be consistent with the labels and instructions of special foods published by the food safety supervision and management departments at or above the provincial level. The contents of the instructions and labels of special foods shall be consistent, and if the labels have covered all the contents of the instructions, the instructions may not be attached separately.

Article 30 The main display page of the label for infant formula milk powder should indicate the product name, net content (specification), and registration number. It can also include graphics that meet the requirements of national food safety standards and do not mislead consumers. Additionally, the registered trademark can be displayed on the corners of the main display page and no other content is allowed.

The product name consists of a commodity name and a common name, and each product can only have one product name. Infant formula milk powder of the same series but apply to different months of age, the commodity name should be the same or similar. In terms of the area of a single character, the total area of the fonts of the commodity name should not be greater than one-half of the total area of the fonts used for common name, and the font size of the commodity name should be smaller than that of the common name. The common name should be eyecatching and prominent, and the common name should not be marked separately.

The area (rectangular method) of a registered trademark other than the commodity name shall not be larger than one-fourth of the area of the font used for the common name and shall be smaller than the area of the commodity name. It shall not be used in conjunction with the product name.

Article 31 Infant formula milk powder for infants aged 0-6 months shall not make contents and functions claims. Infant formula milk powder for infants over 6 months of age shall not make contents and functions claims for its essential ingredients, and its optional components can be marked with contents and functions claims in text forms on non-main display page in compliance with national food safety standards.

Article 32 The composite ingredients in the ingredient list of infant formula milk powder labels shall be marked strictly in accordance with the requirements of national food safety standards. If an ingredient is a composite ingredient consisting of two or more other ingredients (excluding composite food additives), the name of the composite ingredient shall be indicated in the ingredient list, followed by the original ingredients of the composite ingredient in brackets in descending order of their added amount.

Article 33 The label of health food shall include the product name, raw and auxiliary materials, functional ingredients or symbolic ingredients and their contents, suitable and unsuitable groups, health functions, consumption amount and method, specifications and net content, storage methods, production date and shelf life, precautions, code of the enterprise's implementation standard for health food, name, address, and contact information of the producer, food production license number, health food logo, health food registration number or filing number, warning language area, and warning language. The above labeling requirements shall not be exempted by using digital labels.

Article 34 The health food label shall comply with the general requirements for the label of prepackaged food, and shall also comply with the following special provisions:

- 1) Health food should also be labeled with health food signs, registered product names, registration numbers or filing numbers, health functions, warnings, etc. on the main display panel of the smallest sales unit; nutrient supplement products should be labeled with the words "nutrient supplement" on the main display panel;
- 2) The product name should be labeled in accordance with the registered or filed product name (including brand name, common name, and attribute name), and the style, color, and size of font should be consistent and not be labeled separately;
- 3) The raw and auxiliary materials should be listed in accordance with the content and sequence of registration or filing;
- 4) The functional or characteristic ingredient and its content, indicated in terms of 100g, 100mL, or the smallest dosage unit;
- 5) The product specification is the mass or volume of the smallest preparation unit, and the net content is the mass, volume, or number of the smallest preparation unit contained in the sales package;
- 6) Precautions include but are not limited to the statement that "this product is not a substitute for medicine";
- 7) If a trademark other than the brand name in the product name is used, it should be a registered trademark and should not be marked on the main display page. It should be marked on the corner of the packaging, and its area (matrix method) should not be larger than the area of the single word used in the product name, and it should not be used in conjunction with the product name;

- 8) For health food packaging with a maximum surface area of less than 20 square centimeters, it should at least indicate the contents consistent with the health food labels and instructions published by the food safety supervision and management departments at or above the provincial level, as well as the health food logo, name of the production enterprise, production license number, production date and shelf life, warnings, etc;
- 9) The packaging of health food that is not sold individually should at least indicate the product name, net content and specifications, production date and shelf life, name of the production enterprise, applicable and not applicable populations, health functions, consumption amount and method, specifications and net content, and precautions;
- 10) Health food and ordinary food or drugs shall not be mixed and sold in the same package; if there are multiple different health foods in the same package, each individual health food must meet the requirements for minimum sales packaging;
- 11) Other special provisions specified in laws, regulations and relevant documents.

Article 35 The warning language area for health food is located on the main display panel of the smallest sales packaging (container), and the area occupied should not be less than 20% of the panel on which it is located. The text used in the warning language area has a significant color contrast from the background of the warning language area. The warning texts should be printed in bold, including the following contents: health food is not medicine and is not substitute of medicine for treating diseases.

When the surface area of the main display panel is greater than or equal to 100 square centimeters, the font height should not be less than 6.0 millimeters. When the surface area of the main display panel is less than 100 square centimeters, the minimum font height should change proportionally according to the above rules but should not be less than 1.8 millimeters.

Article 36 The health food logo shall be the pattern specified by the State Administration for Market Regulation and shall be marked on the upper left of the main display panel in proportion, in a clear and recognizable manner, in accordance with the requirements of the "Guidelines for Standardized Marking of Health Food Logos". The health food registration number or filing number shall be marked below the health food logo and connected to it, in a clear and recognizable manner.

Article 37 The main display panel of the label for formula food for special medical purposes shall indicate the product name, special medical food logo, net content (specification), product category, registration number, applicable population, and "Please use under the guidance of a doctor or clinical nutritionist". The logo used for food for special medical purposes shall be the pattern specified by the State Administration for Market Regulation and shall be marked in the upper left or upper right corner of the main display panel in proportion to the text direction, in a clear and recognizable manner. The specific labeling requirements shall follow the "Guidelines for the Labeling of Formula Food for Special Medical Purposes."

The labels and instructions of formula food for special medical purposes should not declare functional claims for the nutrients in the product.

Chapter IV Requirements for Food Sales Labeling

Article 38 When selling food in bulk, the food name, production date or production batch number, shelf life, as well as the name, address, contact information, etc. of the producer and operator shall be indicated on the container and outer packaging.

Pre-packaged food that is unpacked and sold by weighing shall be managed as food in bulk.

Article 39 The labels of edible agricultural products shall comply with the requirements of the Measures for Supervision and Administration of Quality and Safety of Edible Agricultural Products in Markets.

Article 40 Pre-packaged food sold through the Internet shall inform food label information such as food name, net content, components or ingredient list, shelf life, product standard code, storage conditions, name and address of the producer. The food label information shall be consistent with the actual situation, except for dynamic contents such as production date and shelf-life expiration date.

The third-party platform provider of online food trading shall strengthen the management of food label information published by the online food producers and operators.

Article 41 Those selling special foods such as infant formula food, health food, and formula food for special medical purposes should designate a dedicated area or counter in the business premises, place and sell the products on shelves, and set up warning signs indicating "**** Sales Area (or Counter)". The warning signs should be white characters on a green background and font of characters should be in bold. The font size can be determined based on the size of the special counter or area.

Health food operators shall mark warning information to consumers such as "health food is not medicine and is not substitute of medicine for treating of diseases" in prominent locations at the premises and online platforms where they operate health food.

Chapter V Supervision and Administration

Article 42 The local market supervision and management department at or above the county level shall supervise and inspect the food labeling or marking contents of food producers and operators in accordance with their duties as stipulated by laws and regulations.

Article 43 Where the local market supervision and management department at or above the county level finds that the food label does not comply with this Measures during supervision and inspection, it shall, while investigating and handling the case according to the law, urge the food producer or operator to trace the source and flow of the relevant food, make recall or relevant

remedial measures in a timely manner, and notify the relevant market supervision and management department as needed.

Article 44 The local market supervision and management department at or above the county level shall strengthen the supervision and inspection of the labeling of pre-packaged food sold online, urge the third-party platform to fulfill its management responsibilities, and urge the online food producers and operators to inform food labeling information in accordance with Paragraph 1 of Article 40 of this Measures.

Article 45 The market supervision and management department at all levels may determine label defects by comprehensively considering the relevance between the content of food labels and food safety, the subjective fault of food producers and operators, and understanding and choice for food safety by consumers.

If the market supervision and management department find any defects in the food label during supervision and inspection, it shall order the food producer or operator to make corrections within a specified time limit; if the food producer or operator refuses to make corrections, it shall be subject to administrative punishment.

For foods that have been recalled due to label defects, food producer can correct their labels by adding additional labels or modification to original label, but production date, shelf life, or shelf-life expiration date cannot be modified. Correction measures should be clearly indicated to consumers during sales.

Article 46 Food producer and operator shall review and check the compliance of their food labels.

It is encouraged for food producer and operator to use professional institutions or individuals to evaluate the compliance of their food labels or marking items.

Chapter VI Legal Liabilities

Article 47 Those who violate Item 1 of Article 8 of this Measures by marking false production date and shelf life shall be punished by the market supervision and management department of the local government at or above the county level in accordance with the provisions of Item 5 of Paragraph 1 of Article 124 of the Food Safety Law of the People's Republic of China.

Article 48 Those who violate Item 2 of Article 8 of this Measures by forging or falsely using the name or address of the producer, or forging, falsely using, or altering the production license number, shall be punished by the market supervision and management department at or above the county level in accordance with the provisions of Paragraph 1 of Article 122 of the Food Safety Law of the People's Republic of China.

Article 49 Those who violate Item 3 of Article 8 of this Measures by forging, falsely using, or altering the registration or filing number of special foods shall be punished by the market supervision and management department at or above the county level in accordance with the

provisions of Item 6 of Paragraph 1 of Article 124 of the Food Safety Law of the People's Republic of China.

Article 50 Those who violate Article 5, Article 6, Article 7, Article 15, Article 16, Article 25, Article 27, Article 33, Item 1, Item 2, and Item 3 of Article 34, and Article 38 of this Measures shall be punished by the market supervision and management department at or above the county level in accordance with the provisions of Paragraph 1 of Article 125 of the Food Safety Law of the People's Republic of China.

Article 51 Those who violate Article 29 of this Measures shall be punished by the market supervision and management department at or above the county level in accordance with the provisions of Paragraph 1 of Article 125 of the Food Safety Law of the People's Republic of China and Article 68 of the Implementation Rules of the Food Safety Law of the People's Republic of China.

Article 52 Those who violate Paragraph 1 of Article 17, Paragraph 4 of Article 19, Article 26, and Item 4, Item 5, Item 7, Item 8, and Item 9 of Article 34 of this Measures shall have their illegal income and illegally operated food confiscated by the market supervision and management department at or above the county level and shall be fined between 10,000 yuan and 50,000 yuan.

Article 53 Those who violate Article 11, Paragraph 1 and Paragraph 2 of Article 14, Article 30, Article 31, Article 32, and Article 37 of this Measures shall have their illegal income and illegally operated food confiscated by the market supervision and management department at or above the county level and shall be fined between 5,000 yuan and 30,000 yuan.

Article 54 Those who violate Article 12, Article 13, Article 20, Article 21, Article 22, Article 24, Item 6 and Item 10 of Article 34, Article 35, Article 36, Paragraph 1 of Article 40, and Article 41 of this Measures shall be ordered to make corrections by the market supervision and management department at or above the county level; those who refuse to make corrections shall be fined between 5,000 yuan and 30,000 yuan.

Chapter VII Supplementary Provisions

Article 55 The label of imported food shall also comply with the relevant regulations of the national entry-exit inspection and quarantine department. The food production license number and the product standard number may not need to be indicated on the label of imported pre-packaged food.

Article 56 The Measures shall be interpreted by China's State Administration for Market Regulation.

Article 57 The Measures come into force on the date of ______ (two-year transition period is proposed). The Regulations on the Food Labeling Management Measures issued by the former General Administration of Quality Supervision, Inspection and Quarantine and the

Regulations on the Label of Health Food issued by the former Ministry of Health shall be abolished at the same time.

END OF TRANSALTION

Attachments:

No Attachments.