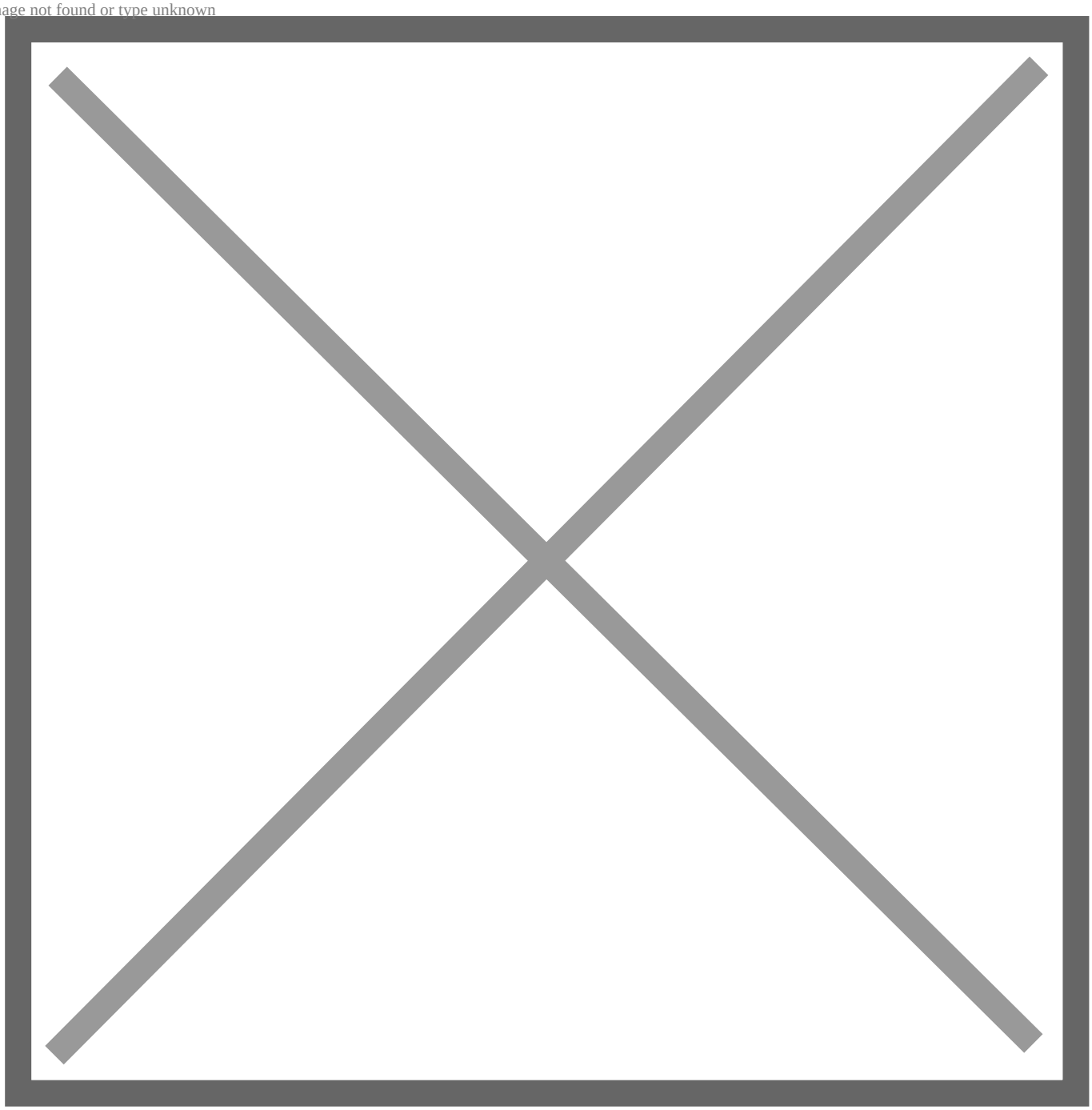
Healthy, Happy People: China’s New Food Safety Law's Impacts on Health and Special Food Exporters

TAGS Food & Beverage

ARTICLES | 27 March 2017

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Food is an important social activity in China, and a cornerstone of its culture. Chinese people are increasingly curious about trying foreign food products, and with the advent of cross-border E-commerce (CBEC) many of the products they seek are now just a mouse-click away. China's new Food Safety Law (NFSL), is ensuring that foreign exporters of foodstuffs remain compliant and ensure consumer safety. Dr Martina Gerst, Standards and Conformity Assessment Advisor at the EU SME Centre, looks at how the law relates particularly to SME producers of 'health' or 'special' foods.

Online sales of food and beverages, especially packaged food, have grown steadily in recent years. In a poll taken in 2015, McKinsey discovered that online purchases of packaged food and fresh food were more frequent than those of apparel (34 and 24 times a year, compared to 22 times a year), even though the latter still remains the most purchased item online.

China is already the world's largest consumer market for food and beverages and projections are for it to continue growing in the years to come on account of rising incomes, improving living conditions and increasing demand for higher nutritional value and better food quality from local consumers. This is already reflected in a steadily growing domestic market for organic food. The same trend is expected for 'health food' over the next few years.

This is, in part, due to consumers becoming more health-conscious and focussed on taking care of their bodies as a result of national fitness programmes and a younger generation that is increasingly interested in being healthy and staying in good shape. These trends, combined with a burgeoning CBEC market, is causing more European companies to consider exporting their 'health food' products to China, including dietary supplements, functional food and drinks, and sports nutrition.

With the NFSL that entered into force on 1st October, 2015, the Chinese Government has restructured its mechanisms to supervise food production and distribution, not only to ensure the safety of food in general, but also to strengthen 'health' or 'special' foods in particular.

What does the NFSL mean for EU SME producers of 'health food'?

There are a variety of products classified as 'health food', claiming to improve people's health – and they are classified under a variety of labels. Checking the shelves of supermarkets or pharmacies, you can find:

- Dietary or food supplements, e.g. products containing minerals and/or vitamins in similar pharmaceutical forms;
- Dietary foodstuffs, e.g. infant formula, sports nutrition or food to reduce weight;
- Functional food, e.g. products with additional special ingredients that purport to enhance bodily functions, such as probiotic yoghurt; and
- Food for Special Medical Purposes (FSMP), for individuals suffering from certain disorders or medical conditions, e.g. high-calorie foodstuff.

For those EU SMEs planning to export these types of food to China, we would highly recommend that particular attention be paid to to Section 4 of the NFSL, where the regulatory requirements for 'special foodstuffs' are defined.

For example, Articles 74 to 79 refer to regulatory administration of health food in great detail:

- Article 74 “defines” the respective “special foodstuffs” where the State shall implement stringent supervision and administration: ‘health food’, special formula foodstuffs for special medical purposes and infant formula.
- Article 75 “requires” that health functions asserted by a certain type of ‘health food’ should be backed by scientific proof, and of course should not harm human health.

In practice, this means that the relevant government authorities involved, such as the China Food and Drug Administration (CFDA), jointly with the State Administration of Traditional Chinese Medicine, will issue and constantly revise a list of health food ingredients and permitted health function assertions made by ‘health food’.

Furthermore, this list of ‘health food’ ingredients should include a description and dosage of ingredients and the corresponding efficacy. The ingredients included in the list of health food ingredients are only be permitted for use in the manufacturing of health food, and must not be used for manufacturing of other foodstuffs. Subsequent articles are aimed at registration, filing and requirements related to the country of origin.

- Article 76 further defines that health food using ingredients other than those included in the list of health food ingredients and first-time imported ‘health food’ should be registered with the CFDA.

However, where a first-time imported health food is defined as vitamins, minerals and other nutrients, a record should be filed as well.

Other health food must be filed with the CFDA of the People’s Governments of provinces, autonomous regions and centrally administered municipalities.

- Article 77 follows up on the registration requirements, and lists examples of the kinds of documents that are expected, including, but not limited to, the research and development report, product formula, manufacturing process documentation, the health and safety function assessment, labelling and instructions.

In December 2016, the CFDA released the Health Food Registration Application Service Guideline (2016), which helps to facilitate health food registration. In a technical review, the CFDA may grant registration for applications which satisfy the requirements of safety and function assertion. For ‘health foods’ that are required to be filed pursuant to the law, the product formula, manufacturing process documentation, labelling, instructions and materials stating the product’s safety and health function must be submitted at the time of filing. In addition, imported health food should also be permitted to be sold by the authorities of the exporting country.

Other important sections of the law related to labelling and marketing of products include:

- Article 78: specifies that the label and instructions of ‘health food’ should not claim a disease prevention or treatment function. Contents should be true and consistent with the filing’s contents, the specific suitable and unsuitable group(s), and that the effective ingredients or

symbolic ingredients and their contents should be stated. Furthermore, the statement “this product does not serve as a substitute for medicine” must be included.
- Article 79: states that ‘health food’ advertisements should also include the statement that “this product does not serve as a substitute for medicine”. The respective advertisement content of a product will be examined by the CFDA, before health food advertisements are approved and added to a list.

Regarding the safety of food imported via CBEC, a series of new rules were issued aimed at further regulating online shopping for health foods. ‘Operating companies’ should ensure that their imported food for online shopping conforms to the following requirements:

- It is listed through approved online platforms connected with PRC Customs.
- Health products, genetically modified food, food with no national safety standards yet, new food ingredients, and food containing new material food ingredients should obtain registration filing and a safety assessment from relevant departments and authorities.

However, the implementation of these rules has been postponed until May 2017.

Sports Nutrition Food

One good example of ‘health food’ is sports nutrition food, such as energy drinks. Sports nutrition as a market segment has a very promising future in China – in 2015, the market size was estimated at USD 74 million.

In this context, an important aspect for EU SMEs to keep in mind is that according to Article 92 of the NFSL, imported food, food additives and food-related products have to comply with Chinese national food safety standards. In the past, market access for sports nutrition products grew slowly due to the unclear regulatory environment and consumers’ lack of product knowledge. Also, sports nutrition food was guided by recommended standards only.

According to experts, new opportunities in nutrition may arise through the release of two new mandatory standards in 2015, by the National Health and Family Planning Commission:

- The Nutritional Supplement Food for Pregnant Woman, GB 31601-2015; and
- The General Standard for Sports Nutrition Food, GB24154-2015.

The General Standard for Sports Nutrition Food was scheduled to come into force in November 2016. For EU SMEs exporting sports nutrition food, all imported products in that area should be conform to this new mandatory standard.

Advice for SMEs

Overall, the NFSL is meant to clean up China’s entire food supply chain – from banning toxic pesticides, regulating labelling and distribution, and, importantly, increasing punishments for those who violate existing laws.

There is a new burden of responsibility placed on everyone along the entire food chain, including European SMEs exporting their foodstuffs to China – both via traditional channels and via CBEC. The

market for ‘health foods’ seems attractive to European SMEs since the EU SME Centre regularly gets enquiries in that area. However, companies find it challenging to navigate the constantly changing regulatory environment, which is intended by the government to direct companies to ensure consumer health and well-being.

About the Centre

The EU SME Centre in Beijing provides a comprehensive range of hands-on support services to European small and medium-sized enterprises (SMEs), getting them ready to do business in China.

Our team of experts provides advice and support in four areas – business development, law, standards and conformity and human resources. Collaborating with external experts worldwide, the Centre converts valuable knowledge and experience into practical business tools and services easily accessible online. From first-line advice to in-depth technical solutions, we offer services through Knowledge Centre, Advice Centre, Training Centre, SME Advocacy Platform and Hot-Desks.

The Centre is funded by the European Union and implemented by a consortium of six partners – the China-Britain Business Council, the Benelux Chamber of Commerce, the China-Italy Chamber of Commerce, the French Chamber of Commerce in China, the EUROCHAMBRES, and the European Union Chamber of Commerce in China.