



OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR-2021-0001; Dispute Number DS597]

WTO Dispute Settlement Proceeding Regarding United States – Origin Marking Requirement (Hong Kong, China)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice with request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that Hong Kong, China has requested the establishment of a dispute settlement panel under the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement). You can find that request at www.wto.org in a document designated as WT/DS597/5. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments during the course of the dispute settlement proceedings, you should submit your comment on or before [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER] to be assured of timely consideration by USTR.

ADDRESSES: USTR strongly prefers electronic submissions made the Federal eRulemaking Portal: <http://www.regulations.gov> (Regs.gov). Follow the instructions for submitting comments in Section III below. The docket number is USTR-2021-0001. For alternatives to submission through Regs.gov, please contact Sandy McKinzy at (202) 395-9483.

FOR FURTHER INFORMATION CONTACT: Assistant General Counsel Heng Loke at (202) 395-9655 or YueHeng.Loke@ustr.eop.gov, or Senior Associate General Counsel Leigh Bacon at (202) 395-5859 or Leigh_Bacon@ustr.eop.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 127(b)(1) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires notice and opportunity for comment after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Pursuant to this provision, USTR is providing notice that Hong Kong, China, has requested the establishment of a dispute settlement panel pursuant to the WTO Understanding on Rules Procedures Governing the Settlement of Disputes (DSU). In normal circumstances, once the WTO establishes a dispute settlement panel, the panel typically holds its meetings in Geneva, Switzerland.

II. Major Issues Raised by Hong Kong, China

On October 30, 2020, Hong Kong, China, requested consultations with the United States concerning certain measures affecting marks of origin with respect to imported goods produced in Hong Kong, China. You can find the consultation request at www.wto.org in a document designated as WT/DS597/1. The United States and Hong Kong, China, held consultations on November 24, 2020. On January 14, 2021, Hong Kong, China, made its request to the WTO to establish a WTO dispute settlement panel. On February 22, 2021, the WTO established a dispute settlement panel to examine Hong Kong, China's complaint.

Hong Kong, China's panel request appears to concern measures that goods produced in Hong Kong, China, be marked to indicate that their origin is in "China" rather than "Hong Kong". These measures include Executive Order 13936 on Hong Kong Normalization, which suspends the application of Section 201(a) of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5721(a)) to Section 304 of the Tariff Act of 1930 (19 U.S.C. 1304), among other statutes; Section 304 of the Tariff Act of 1930; Part 134, Customs Regulations (19 C.F.R. 134); Section 201(a) of the United States-Hong Kong Policy Act of 1992; and Country of Origin Marking of Products of Hong Kong, 85

Fed. Reg. 48551 (August 11, 2020). Hong Kong, China alleges that these measures are inconsistent with Articles I:1, IX:1, X:3(a) of the WTO General Agreement on Tariffs and Trade 1994; Articles 2(c), (d), and (e) of the WTO Agreement on Rules of Origin; and Article 2.1 of the WTO Agreement on Technical Barriers to Trade.

III. Public Comments: Requirements for Submissions

USTR invites written comments concerning the issues raised in this dispute. All submissions must be in English and sent electronically via Regs.gov. To submit comments via Regs.gov, enter docket number USTR-2021-0001 on the home page and click ‘search.’ The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ‘notice’ under ‘document type’ on the left side of the search-results page, and click on the link entitled ‘comment now!’ For further information on using Regs.gov, please consult the resources provided on the website by clicking on “‘How to Use Regulations.gov’ on the bottom of the home page.

Regs.gov allows users to provide comments by filling in a ‘type comment’ field, or by attaching a document using an ‘upload file’ field. USTR prefers that you provide comments in an attached document. If a document is attached, it is sufficient to type ‘see attached’ in the ‘type comment’ field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the ‘type comment’ field. If you need assistance uploading your comment(s), please call the Regs.gov helpdesk at 1-877-378-5457, Option 2.

For any comments submitted electronically that contain business confidential information (BCI), the file name of the business confidential version should begin with the characters ‘BCI’. Any page containing BCI must be clearly marked ‘BUSINESS CONFIDENTIAL’ on the top and bottom of that page and the submission should clearly

indicate, via brackets, highlighting, or other means, the specific material that is BCI. If you request business confidential treatment, you must certify in writing that disclosure of the information would endanger trade secrets or profitability, and that the information would not customarily be released to the public.

Filers of submissions containing BCI also must submit a public version of their comments. The file name of the public version should begin with the character ‘P’. The “BCI” and ‘P’ should be followed by the name of the person or entity submitting the comments or rebuttal comments. If these procedures are not sufficient to protect BCI or otherwise protect business interests, please contact Sandy McKinzy at (202) 395-9483 to discuss whether alternative arrangements are possible.

USTR may determine that information or advice contained in a comment, other than BCI, is confidential in accordance with Section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If a submitter believes that information or advice is confidential, they must clearly designate the information or advice as confidential and mark it as ‘SUBMITTED IN CONFIDENCE’ at the top and bottom of the cover page and each succeeding page, and provide a non-confidential summary of the information or advice.

Pursuant to Section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a docket on this dispute settlement proceeding, docket number USTR-2021-0001, accessible to the public at www.regulations.gov. The public file will include non-confidential public comments USTR receives regarding the dispute. If a dispute settlement panel is convened, or in the event of an appeal from a panel, USTR will make the following documents publicly available at www.ustr.gov: the U.S. submissions and any non-confidential summaries of submissions received from other participants in the dispute. If a dispute settlement panel is convened, or in the event of an appeal from a panel, the report of the panel, and, if applicable, the report of the Appellate Body, will also be available on the website of the World Trade Organization, at www.wto.org.

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