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Food Safety and International Trade:
International Legal Issues and Challenges
Facing Chinese Food Exports

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I, ----CHEN YI----, hereby declare that, I am the author of the above thesis and it is my original research work.

This work has not been submitted anywhere else, either in part or whole, for a degree or other academic credits.

I undertake the sole responsibility for any inaccuracy in this declaration.

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PREFACE AND ACKNOWLEDGEMENTS

This project is completed as a graduation thesis for the Master Degree in International law at University of Macau. The style of footnotes and bibliography of the thesis mainly refers to McGill Uniform Legal Citation.

For me, it is really a huge challenge to write this thesis and complete this Master Program in European Union Law, International Law and Comparative Law at University of Macau. I still clearly remember a girl working full-time administration job in the days and having courses at the nights as if it happened yesterday. This was me several years ago. At that time, I was full of energy but without seriously thinking what I really want to do. One day, I decided to quit my job for focusing on the thesis. It proves to be a right decision and worthwhile. I have learned a lot from writing thesis not only acquiring knowledge, but also the philosophy of life which will influence me in my rest of life. Firstly, I am more confident than before and I have realized that how important it is when doing a tough job. Secondly, I have learned perseverance which can lead to success. Lastly, I have learned how to critically think. The way of critical thinking helps me to view problems more objective and sensible, which leads to effective and efficient solutions.

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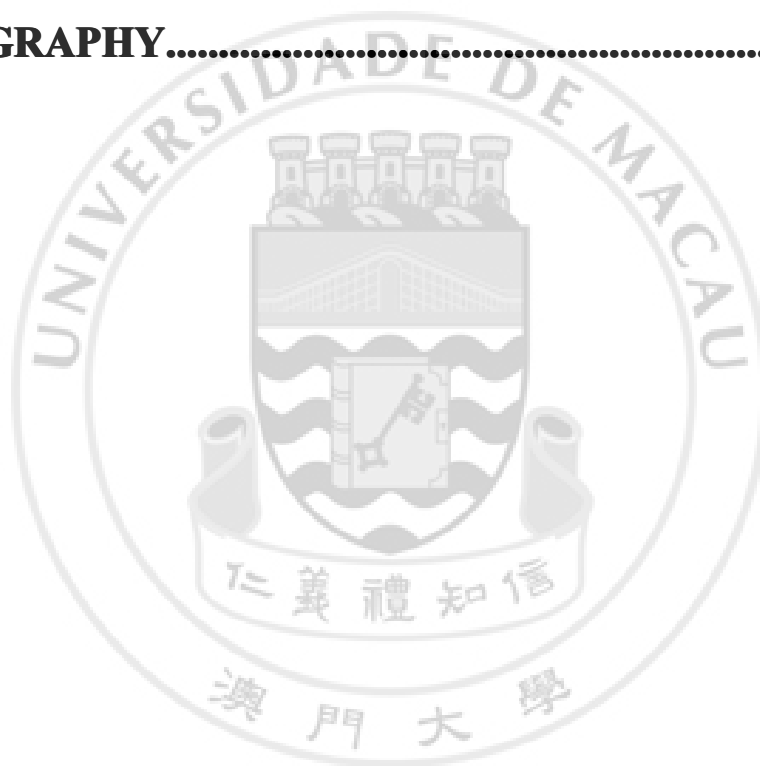
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LIST OF ABBREVIATIONS

GATT	The General Agreement on Tariffs and Trade
WTO	World Trade Organization
SPS	The Agreement on the Application of Sanitary and Phytosanitary Measures
TBT	The Agreement on Technical Barriers to Trade
DSB	Dispute Settlement Body
FDA	The United States Food and Drug Administration
EU	The European Union
WHO	World Health Organization
HACCP	The Hazard Analysis and Critical Control Point
US	The United States of America
CAC	The Codex Alimentarius Commission
FAO	Food and Agriculture Organization of the United Nations
UN	The United Nations
ISO	International Organization for Standardization
OIE	World Organization for Animal Health
IPPC	International Plant Protection Convention
NAFTA	North American Free Trade Agreement
EC	The European Community
FSIS	United States Department of Agriculture Food Safety and Inspection Service
AQSIQ	General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China
SFDA	State Food and Drug Administration of the People's Republic of China
BSE	Bovine Spongiform Encephalopathy
GMOs	Genetically Modified Organisms
MLs	Maximum Levels
H5N1	Influenza A Virus Subtype H5N1

H1N1	Influenza A Virus Subtype H1N1
TDI	Tolerable Daily Intake
QS	Quality Safety
TEDs	Turtle Excluder Devices
DHS	Department of Homeland Security of the United States
EPA	Environmental Protection Agency of the United States
CDC	Center for Disease Control and Prevention of the United States
CAHFS	California Animal Health and Food Safety of the United States
CCCF	Codex Committee on Contaminants in Foods
QRs	Quantitative Restrictions
VERs	Voluntary Export Restrictions
ISPMs	International Standards for Phytosanitary Measures
GMP	Good Manufacturing Practice
USDA	United States Department of Agriculture
POPs	The Stockholm Convention on Persistent Organic Pollutants
AoA	The Uruguay Round Agreement on Agriculture
SDT	Special and Differential Treatment
LDCs	Least-Developed Countries
NFIDCs	Net-Food-Importing Developing Countries

ABSTRACT

With the rapid development of international food trade, food safety is not merely a domestic issue, but transnational issue. Once food safety crisis breaks out in a country, the neighboring countries, even the countries worldwide could become involved. In recent years, food safety in China has been a focus at home as well as in the international community due to several food safety incidents. These food safety incidents have played great adverse impacts on Chinese food exports and caused huge losses. Taking this opportunity, the thesis examines relevant international norms relating to food safety and international trade, dominantly under the WTO framework and explores the challenges Chinese food exports are facing.

In the beginning, by means of examining Article XX (b) GATT 1994 and the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement) which are the most principal international norms regarding food safety, the thesis finds scientific evidence is the core concerning food safety and international trade. Through investigation of international system for food safety standards and the main elements of risk analysis, it is found that the spirit of scientific evidence is reflected by the encouragement of the adoption of international food safety standards which are established by the Codex Alimentarius Commission (The CAC) and the requirements of implementation of risk assessment. In addition, it finds when determining the adoption of a sanitary and phytosanitary measure, non-scientific factors such as trade liberalization, consumer concerns and precautionary principle should be taken into consideration by a member state in the risk management which is based on scientific risk assessment.

In this context, after examining three cases of Chinese food exports which are pet food incident, milk melamine scandal and WTO *US-Poultry (China)* case, and investigating on the result of China in improving food safety, the thesis finds limitations and challenges in Chinese national food safety legal system and provides

some proposed solutions and suggestions.

Based on these findings, the thesis concludes that poor and unsound domestic food safety circumstance is the radical reason for the impediment of Chinese food exports and provides recommendations on China's response to foreign obstacles to Chinese food exports.

Key Words: Food Safety; International Food Trade; the SPS Agreement; International Food Safety Standards; Risk Assessment; Risk Management; Chinese Food Exports; Food Safety Standards in China; Risk Assessment in China; Chinese Food Safety Supervision and Management System

