

立法會
Legislative Council

LC Paper No. CB(1)443/03-04
(These minutes have been seen
by the Administration)

Ref: CB1/SS/1/03

**Subcommittee on Trade Descriptions (Country of Origin) (Watches)
(Amendment) Order 2003 and Trade Descriptions
(Place of Manufacture) (Piece-Knitted Garments) Notice**

**Minutes of meeting
held on Thursday, 6 November 2003, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Hon HUI Cheung-ching, JP (Chairman)
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP
Hon CHAN Yuen-han, JP
Hon SIN Chung-kai
Hon Miriam LAU Kin-yee, JP

**Public officers
attending** : Mr Gordon LEUNG
Principal Assistant Secretary for Commerce,
Industry and Technology (Commerce and Industry)

Mr Francis HO
Assistant Secretary for Commerce, Industry and
Technology (Commerce and Industry)

Mr Andrew WONG
Head of Trade Controls,
Customs and Excise Department

Mr S Y CHEUNG
Head of Consumer Protection and Prosecution
Bureau, Customs and Excise Department

Mrs Mabel YU
Principal Trade Officer,
Trade and Industry Department

Mr Vidy CHEUNG
Senior Government Counsel,
Department of Justice

Clerk in attendance : Miss Polly YEUNG
Chief Assistant Secretary (1)3

Staff in attendance : Miss Monna LAI
Assistant Legal Adviser 7

Mr S C TSANG
Senior Assistant Secretary (1)7

Action

I. Election of Chairman

Mrs Selina CHOW, the member who had the highest precedence in the Council amongst those who were present at the election, presided over the election of the Chairman for the Subcommittee.

2. Mrs Selina CHOW invited nominations for the chairmanship of the Subcommittee. Mr HUI Cheung-ching was nominated by Ms Miriam LAU and the nomination was seconded by Mr SIN Chung-kai. Mr HUI accepted the nomination. There being no other nomination, Mr HUI Cheung-ching was elected Chairman of the Subcommittee.

II. Meeting with the Administration

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|-------------------------|--|
| LN 233 of 2003 | -- Trade Descriptions (Country of Origin) (Watches) (Amendment) Order 2003 |
| LN 234 of 2003 | -- Trade Descriptions (Place of Manufacture) (Piece-Knitted Garments) Notice |
| LC Paper No. LS10/03-04 | -- Legal Service Division Report on subsidiary legislation gazetted on 24 October 2003 (including correspondence between the Assistant Legal Adviser and the Administration) |

- LC Paper No. CB(1)2524/02-03(01) -- Information paper provided by
(*issued on 29.9.2003*) the Administration on the
6 Annexes to the main text of the
Mainland and Hong Kong Closer
Economic Partnership
Arrangement (CEPA)
- LC Paper No. CB(1)178/03-04(01) -- Information note provided by the
(*issued on 27.10.2003*) Administration on proposal for
original marking of watches and
piece-knitted garments for export
under CEPA
- LC Paper No. CB(1)259/03-04(01) -- Members' Brief for the first
(*issued on 5.11.2003*) Subcommittee meeting on
6 November 2003
- LC Paper No. CB(1)272/03-04(01) -- Administration's response to the
(*English version issued on*
5.11.2003) Assistant Legal Adviser's
concerns raised in her letter dated
28 October 2003

3. The Subcommittee deliberated on the Trade Descriptions (Country of Origin) (Watches) (Amendment) Order 2003 (the Amendment Order) and the Trade Descriptions (Place of Manufacture) (Piece-Knitted Garments) Notice (the Notice) (Index of proceedings attached at **Appendix**).

The Amendment Order

4. Despite the Administration's explanation that the Amendment Order would provide the necessary legal basis for the implementation of the CEPA origin rules in respect of watches starting from 1 January 2004, members deliberated and expressed concern on the appropriateness of making the Amendment Order to amend the Trade Descriptions (Country of Origin) (Watches) Order made in 1990 (the 1990 Order) to disapply the 1990 Order to watches which were exported, or were intended to be exported from Hong Kong to the Mainland under the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA). Responding to members' concern about enforcement, the Administration advised that the enforcement departments did not envisage any special enforcement difficulty arising from the implementation of the CEPA origin rules under the Trade Descriptions Ordinance (TDO).

5. Members requested the Administration to review the relevant provisions in TDO and the related subsidiary legislation in the light of the development of CEPA with a view to devising a more appropriate legislative approach to deal with changes arising from CEPA origin rules. The Administration agreed to take on

board members' view and examine the subject in due course. On the undertaking of the Administration to examine members' views including the legislative approach in due course, members indicated that they would raise no objection to the Amendment Order and the Notice in order that watches and piece-knitted garments which were qualified for zero tariff under CEPA and were for export from Hong Kong to the Mainland under CEPA could bear the "Made in Hong Kong" marking from 1 January 2004.

(Post-meeting note: Members' views and the Administration's undertaking had been referred to the Panel on Commerce and Industry which would keep in view and follow up the matter where appropriate.)

The Notice

6. Members had not raised any query on the Notice.

The way forward

7. The Subcommittee had deliberated on the Amendment Order and the Notice. Members had not proposed to hold a further meeting. If no further discussion was required, the Chairman would make a report to the House Committee on 14 November 2003.

(Post-meeting note: A circular was issued vide LC Paper No. CB(1)285/03-04 on 7 November 2003 to see whether members would have any objection to the above arrangement.)

III. Any other business

8. There being no other business, the meeting ended at 6:15 pm.

Council Business Division 1
Legislative Council Secretariat
26 November 2003

**Proceedings of the meeting of the
Subcommittee on Trade Descriptions (Country of Origin) (Watches)
(Amendment) Order 2003 and Trade Descriptions
(Place of Manufacture) (Piece-Knitted Garments) Notice
on Thursday, 6 November 2003, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker	Subject(s)	Action required
000000 – 000255	Mrs Selina CHOW Ms Miriam LAU Mr HUI Cheung-ching	Election of Chairman	
000256 – 000655	Chairman Administration	Briefing on the Trade Descriptions (Country of Origin) (Watches) (Amendment) Order 2003 (the Amendment Order) and the Trade Descriptions (Place of Manufacture) (Piece-Knitted Garments) Notice (the Notice)	
000656 – 001641	Ms Miriam LAU Administration	Concern about whether watches which complied with the origin rules of the Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA) would satisfy the requirements for country of origin under section 2(2)(a)(i) of the Trade Descriptions Ordinance (TDO) given that Hong Kong was a place and not a country	
001642 – 001800	Administration	Definition of “trade description” and “false trade description” under section 2 of TDO Clarification that section 2(2)(a)(i) of TDO was a deeming provision to prevent false trade description of goods. As long as a marking was not a false trade description, no offence would be committed under section 7 of TDO.	
001801 – 002038	ALA7	At present, there was no decided court case which might shed light on the Administration's interpretation of the sections in question.	
002039 – 002413	Ms Miriam LAU Mrs Selina CHOW	Possible confusion and uncertainty arising from different origin marking requirements for watches under TDO and under CEPA and the effect of the Amendment Order	

Time Marker	Speaker	Subject(s)	Action required
002414 – 003101	Ms Miriam LAU Administration	Confirmation that watches which complied with the CEPA origin rules by having the key manufacturing process conducted in Hong Kong satisfied the requirements for country of origin stipulated under section 2(2)(a)(i) of TDO and could be marked as being of Hong Kong origin	
003102 – 003501	Mrs Selina CHOW Miss CHAN Yuen-han Ms Miriam LAU Administration	Enforcement difficulty and loopholes, if any, arising from the Amendment Order and existing section 7 of TDO The Administration did not envisage any special enforcement problems arising from the CEPA origin rules for watches.	
003502 – 004211	Miss CHAN Yuen-han Administration	Past prosecution against traders for garment exports to the United States each year which did not comply with the existing origin rules requirement for such exports	
004212 – 005504	Ms Miriam LAU ALA7 Administration	Clarification that the Amendment Order was intended to make the necessary adjustment to align with the CEPA origin rules for watches	
005505 – 005646	Miss CHAN Yuen-han Administration	Clarification on the 30% value-added requirement under the CEPA origin rules which applied to 40 out of 273 types of Hong Kong products enjoying zero tariff with effect from 1 January 2004	
005647 – 010039	Chairman Administration	Flexibility available to traders in deciding the marking of the place of manufacture for watches based on the destination of the exports	
010040 – 010747	Miss CHAN Yuen-han Administration	Differentiating watches exported to the Mainland under CEPA and other countries Procedures for Hong Kong products to claim zero tariff under CEPA	
010748 – 010842	Miss CHAN Yuen-han	Suggestion that to prevent abuse, the enforcement departments should verify the employment status of the employees of manufacturers applying to the Trade and Industry Department for factory	

Time Marker	Speaker	Subject(s)	Action required
		registration and certificate of origin for export products with reference to membership of the Mandatory Provident Fund Scheme	
010843 – 011116	Mrs Selina CHOW Ms Miriam LAU ALA7 Chairman Administration	Whether there was a need to specify clearly in the Amendment Order the circumstances under which section 2 of the 1990 Order would, and would not apply	
011117 – 012011	Mrs Selina CHOW Ms Miriam LAU Administration	Feasibility of amending TDO and/or related subsidiary legislation to incorporate the CEPA origin rules The Administration did not envisage any difficulty for implementing the CEPA origin rules under TDO. Members urged the Administration to conduct an overall review of TDO and relevant provisions in related subsidiary legislation to see if there was a more appropriate legislative approach to deal with changes in origin rules arising from CEPA.	
012012 – 012650	ALA7 Administration	Implications of future changes, if any, to the CEPA origin rules Measures to notify traders on the CEPA requirements, particularly the origin rules for Hong Kong products	
012651 – 012818	Chairman ALA7 Administration	Rationale for including “a watch that has been exported” in the Amendment Order	
012819 – 013121	Miss CHAN Yuen-han Administration	According to the Administration, out of the 273 products, legislative amendments were only required for the marking of the place of manufacture for watches and piece-knitted garments.	
013122 – 013415	Miss CHAN Yuen-han ALA7	Need for ongoing consultation with different sectors for the implementation of CEPA Rules of origin for trade in goods under Annex 2 to the main text of CEPA (LC Paper No. CB(1)2524/02-03(01))	

Time Marker	Speaker	Subject(s)	Action required
013416 – 013646	Chairman	Amendments to origin marking requirements for piece-knitted garments under TDO for compliance with the CEPA origin rules	
013647 – 014003	Mrs Selina CHOW Ms Miriam LAU Chairman	<p>The Administration took on board members' views and undertook to review relevant provisions in TDO and related subsidiary legislation in due course in the light of the development of CEPA.</p> <p>Members agreed that they would not object to the Amendment Order and the Notice in order that the implementation of zero tariff under CEPA for the eligible goods could take effect from 1 January 2004.</p>	Admin

Council Business Division 1
Legislative Council Secretariat
26 November 2003