

香港特別行政區政府
工商及科技局
工商科

香港金鐘道八十八號
太古廣場第一期二十九樓



CB(1)272/03-04(01)
COMMERCE AND INDUSTRY BRANCH
COMMERCE, INDUSTRY AND
TECHNOLOGY BUREAU
GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION

LEVEL 29, ONE PACIFIC PLACE
88 QUEENSWAY
HONG KONG

Tel No. : 2918 7575

Fax No.: 2537 7566

E-mail: gordon_leung@citb.gov.hk

Your Ref: LS/S/4/03-04
Our Ref: S/F to CIB CR 62/47/1/5

5 November 2003

Ms Monna Lai
Assistant Legal Adviser
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road, Central
Hong Kong

By Fax: 2877 5029

Dear Ms Lai,

Trade Descriptions (Country of Origin) (Watches) (Amendment) Order 2003
("the Amendment Order") (L.N. 233 of 2003)

Thank you for your letter of 28 October.

The purpose of the Trade Description Ordinance (Cap. 362) is to prohibit "false trade description" to be applied to goods. "False trade description" is defined in Section 2 of the Ordinance to include a trade description which is false to a material degree. "Trade description" is defined in Section 2 to mean an indication, direct or indirect, and by whatever means given, of any of the matters specified in that definition, including "place or date of manufacture, production, processing or re-conditioning" (see paragraph (h) of the definition), with respect to any goods or parts of goods. As long as a marking is not a "false trade description", no offence has been committed under the Ordinance.

For watches, there are currently two major camps of views that support different key processes for determining where a watch is manufactured: (i) where assembling and testing were carried out; and (ii) where the movement of the watch was manufactured or produced. The Trade Descriptions (Country of Origin) (Watches) Order made in 1990 ("the 1990 Order") specifies that the country in which the movement of a watch was manufactured or produced is to be regarded as the country in which the watch has been manufactured or produced.

/ In order to qualify to

In order to qualify to enjoy zero tariff under CEPA, a watch must satisfy (a) the requirement that the assembling, testing, time adjustment and quality control of the watch must be conducted in Hong Kong, and (b) the 30% value-added requirement. Watches which satisfy these requirements are eligible to enjoy zero tariff if they are exported from Hong Kong to the Mainland under CEPA. As the origin rule described in (a) above are different from that in the 1990 Order, we propose that the Amendment Order be made, in order to disapply the 1990 Order to watches which are exported from Hong Kong to the Mainland under CEPA and are qualified for a zero tariff under the Arrangement. As explained above, as long as the markings on such watches do not constitute "false trade descriptions", no offence will be committed. Specifically, since the assembly, testing, time adjustment and quality control of such watches are conducted in Hong Kong and the 1990 Order does not apply to such watches, if these watches are marked "manufactured or produced in Hong Kong", no offence will be committed.

Thank you for pointing out the error in the spelling of the word "produced" in the 1990 Order. The error was a printing error in the Loose-leaf edition. It will be rectified editorially by the Loose-leaf editors and this will be reflected in the next replacement issue in March 2004.

I understand that a Sub-Committee has been set up to study the Amendment Order and the first meeting has been scheduled for 6 November 2003. I should be grateful if you could let me have in advance a list of issues which may be raised, with a view to enabling the Administration to study it to facilitate discussions at the Sub-Committee meeting.

Yours sincerely,



(Gordon Leung)
for Secretary for Commerce, Industry and Technology

c.c. LegCo Secretariat (Attn: Miss Polly Yeung)
DoJ (Attn: Mr Vidy Cheung and Ms Daphne Siu)
C, C&E (Attn: Mr K K Fan)
DGTI (Attn: Ms Charmaine Lee)