

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1586/12-13  
(These minutes have been seen  
by the Administration)

Ref : CB2/SS/4/12

**Subcommittee on  
Import and Export (General) (Amendment) Regulation 2013**

**Minutes of meeting  
held on Thursday, 14 March 2013, at 2:30 pm  
in Conference Room 3 of the Legislative Council Complex**

- Members present** :
- Hon WONG Ting-kwong, SBS, JP (Chairman)
  - Hon James TO Kun-sun
  - Hon Abraham SHEK Lai-him, SBS, JP
  - Hon Tommy CHEUNG Yu-yan, SBS, JP
  - Hon Vincent FANG Kang, SBS, JP
  - Hon WONG Kwok-hing, MH
  - Hon CHAN Hak-kan, JP
  - Dr Hon LEUNG Ka-lau
  - Hon Mrs Regina IP LAU Suk-ye, GBS, JP
  - Hon Paul TSE Wai-chun, JP
  - Hon Alan LEONG Kah-kit, SC
  - Hon Steven HO Chun-yin
  - Hon Gary FAN Kwok-wai
  - Hon CHAN Chi-chuen
  - Hon Dennis KWOK
  - Hon SIN Chung-kai, SBS, JP
  - Hon TANG Ka-piu
  - Ir Dr Hon LO Wai-kwok, BBS, MH, JP
  - Hon CHUNG Kwok-pan
  - Hon Christopher CHUNG Shu-kun, BBS, MH, JP
- Members absent** :
- Hon Emily LAU Wai-hing, JP
  - Hon Michael TIEN Puk-sun, BBS, JP
  - Hon LEUNG Che-cheung, BBS, MH, JP
  - Hon Alice MAK Mei-kuen, JP
  - Dr Hon Helena WONG Pik-wan
  - Dr Hon CHIANG Lai-wan, JP

**Public Officers** : Item I  
**attending**

Mrs Marion LAI CHAN Chi-kuen, JP  
Permanent Secretary for Food & Health (Food)

Mr Philip CHAN Kwan-yee, JP  
Deputy Secretary for Food & Health (Food)

Mr Brian LO, JP  
Deputy Director-General of Trade and Industry  
(Commercial Relations, Controls and Support)

Mr YU Koon-hing, C.D.S.M., C.M.S.M  
Assistant Commissioner for Customs and  
Excise (Boundary and Ports)

Mr Llewellyn MUI  
Senior Assistant Solicitor General  
Department of Justice

Ms Leonora IP  
Senior Assistant Law Draftsman  
Department of Justice

Mr Peter SZE  
Senior Government Counsel  
Department of Justice

**Clerk in** : Miss Betty MA  
**attendance** Chief Council Secretary (2) 1

**Staff in** : Ms Wendy KAN  
**attendance** Assistant Legal Adviser 6

Mr Raymond LAM  
Senior Council Secretary (2) 7

Miss Lulu YEUNG  
Clerical Assistant (2) 1

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Action

**I. Meeting with the Administration**

The Subcommittee deliberated (index of proceedings attached at **Annex**).

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2. Members requested the Administration to -
- (a) explain the legal basis, quoting the empowering provisions in existing legislation, for the Director-General of Trade and Industry to impose conditions on the issuance of an export licence for powdered formula and issue export licences only to importers registered under the Food Safety Ordinance (Cap. 612) or exempted under section 4(3)(a) of the Food Safety Ordinance;
  - (b) provide, in relation to the consistency of the Import and Export (General) (Amendment) Regulation 2013 ("the Amendment Regulation") with Article 115 of the Basic Law, legal opinion on the importance and significance of a sunset provision to the proportionality test;
  - (c) provide information on the estimated monthly and annual consumption of powdered formula by all local infants and young children under 36 months in Hong Kong;
  - (d) provide statistics on the import and re-export of powdered formula broken down by brands and consider requiring powdered formula exporters to report the brand of powdered formula in the documents for customs clearance;
  - (e) provide expert opinion on whether powdered formula was a major source of food for babies aged over 12 months;
  - (f) review the definition of "powdered formula", having regard to the views expressed by members;

Action

- (g) provide information and evidence indicating a recent shortage of powdered formula in Hong Kong, including the surveys conducted by the Administration, the number of visits to retail outlets, the number of telephone calls made by the Administration, the findings and relevant statistics; and
- (h) provide a full list of the basket of indicators for discontinuation of the Amendment Regulation.

**II. Date of next meeting**

3. Members agreed that the next meeting would be held on 19 March 2013 at 10:45 am to continue discussion with the Administration.
4. There being no other business, the meeting ended at 4:47 pm.

Council Business Division 2  
Legislative Council Secretariat  
10 July 2013

**Proceedings of meeting of the Subcommittee on  
Import and Export (General) (Amendment) Regulation 2013  
held on Thursday, 14 March 2013, at 2:30 pm  
in Conference Room 3 of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action Required</b>
000000 - 000343	Chairman	Opening remarks	
000344 - 001011	Admin	Briefing by the Administration on its response to issues raised by members at the meeting on 8 March 2013 (LC Paper No. CB(2)785/12-13(01)) and in the letter from Mr Vincent FANG (LC Paper No. CB(2)785/12-13(02)).	
001012 - 001109	Chairman	The Administration's response to issues raised by members at the meeting on 13 March 2013, which was tabled at the meeting.	
001110 - 001711	Chairman Mr Vincent FANG Admin	Mr Vincent FANG's concern and the Administration's response regarding -  (a) whether persons arrested for contravention of the relevant provision of the Import and Export Ordinance (Cap. 60) in respect of the Import and Export (General) (Amendment) Regulation 2013 ("the Amendment Regulation") should be detained pending trial by the court;  (b) whether there was a need for continuation of the Amendment Regulation, if suppliers could guarantee sufficient powdered formula supply for local infants and young children under 36 months; and  (c) whether there had been a serious shortage of powdered formula in Hong Kong before the Chinese New Year.	
001712 - 002238	Mr SIN Chung-kai Admin Chairman Mr James TO Mr Vincent FANG Mr CHUNG Kwok-pan	Concerns of Mr SIN Chung-kai, Mr James TO, Mr Vincent FANG and Mr CHUNG Kwok-pan, and the Administration's response regarding whether statistics on the import and re-export of powdered formula broken down by brands were available.	

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action Required</b>
002239 - 002948	Ir Dr LO Wai-kwok Admin Chairman	Ir Dr LO Wai-kwok's concern and the Administration's response regarding -  (a) whether the Amendment Regulation had any impact on lawful re-export of powdered formula; and  (b) the criteria for discontinuation of the Amendment Regulation.	
002949 - 003551	Mr James TO Admin ALA6 Chairman	Mr James TO's concern and the Administration's response regarding the power of the Director-General of Trade and Industry ("DGTI") to impose conditions on the issuance of an export licence for powdered formula.  The Administration was requested to provide a paper explaining the legal basis for DGTI to impose conditions on the issuance of an export licence for powdered formula and issue export licences only to importers registered under the Food Safety Ordinance (Cap. 612) or importers exempted under section 4(3)(a) of the Food Safety Ordinance.	<b>Admin</b>
003552 - 004058	Mr Abraham SHEK Chairman Admin	Mr Abraham SHEK's concern and the Administration's response regarding the consistency of the Amendment Regulation with Article 115 of the Basic Law ("BL115") and whether there was a shortage of powdered formula before the Chinese New Year.	
004059 - 004624	Mrs Regina IP Admin	Mrs Regina IP's questions and the Administration's response regarding -  (a) whether export control could be imposed in a free market;  (b) destinations of powdered formula re-exported from Hong Kong; and  (c) whether the Amendment Regulation had any impact on lawful re-export of powdered formula.	

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action Required</b>
004625 - 005536	Mr Dennis KWOK Admin Chairman	Mr Dennis KWOK's concern and the Administration's response regarding consistency of the Amendment Regulation with BL115.  The Administration was requested to provide, in relation to the consistency of the Amendment Regulation with BL115, legal opinion on the importance and significance of a sunset provision to the proportionality test.	<b>Admin</b>
005537 - 010041	Dr LEUNG Ka-lau Admin	Dr LEUNG Ka-lau's concern and the Administration's response regarding -  (a) whether the Administration had educated the general public that the compositions of different powdered formula were very similar; and  (b) whether the Amendment Regulation should be confined to powdered formula for infants up to 12 months of age.	
010042 - 010451	Mr CHUNG Kwok-pan Admin	Mr CHUNG Kwok-pan's concern and the Administration's response regarding -  (a) whether there was a general support in the community for the Amendment Regulation; and  (b) demand of local infants and young children under 36 months for powdered formula in Hong Kong.	
010452 - 011058	Mr Tommy CHEUNG Admin Chairman	Mr Tommy CHEUNG's view and the Administration's response regarding whether there was a shortage of powdered formula before the Chinese New Year.	
011059 - 011625	Mr Paul TSE Admin	Mr Paul TSE's concern and the Administration's response about -  (a) the impact of the Amendment Regulation on the manpower of the Customs and Excise Department ("C&ED"); and  (b) whether different standards could be applied in the interpretation of different chapters of the Basic Law.	

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action Required</b>
011626 - 012130	Mr Alan LEONG Admin	Mr Alan LEONG's concern and the Administration's response regarding -  (a) measures to be adopted by the Administration to ensure steady supply of powdered formula to local infants and young children in Hong Kong; and  (b) criteria for discontinuation of the Amendment Regulation.	
012131 - 012344	Chairman Mr Paul TSE Mr Tommy CHEUNG Mr SIN Chung-kai	Time limit for members who raised follow-up questions.	
012345 - 012927	Mr Gary FAN Chairman	Mr Gary FAN's views regarding -  (a) the support of the Consumer Council and other organizations for the Amendment Regulation;  (b) whether there had been a serious shortage of powdered formula in Hong Kong before the Chinese New Year; and  (c) the need to ensure a steady supply of powdered formula for all local infants and young children under 36 months in Hong Kong.	
012928 - 013021	Chairman Mrs Regina IP Mr Paul TSE	Time limit for members who raised follow-up questions.	
013022 - 013525	Mr Vincent FANG Admin	Mr Vincent FANG's question and the Administration's response regarding the estimated consumption of powdered formula by all local infants and young children in Hong Kong.  The Administration was requested to provide information on the estimated monthly and annual consumption of powdered formula by all infants and young children in Hong Kong.	<b>Admin</b>

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action Required</b>
013526 - 013931	Mr SIN Chung-kai Admin Chairman	Mr SIN Chung-kai's questions and the Administration's response regarding -  (a) the criteria for discontinuation of the Amendment Regulation; and  (b) whether exporters could be required to report the brand of the powdered formula in their documents submitted to C&ED.  The Administration was requested to provide statistics on the import and re-export of powdered formula broken down by brands and consider requiring powdered formula exporters to report the brand of powdered formula in the documents for customs clearance.	<b>Admin</b>
013932 - 014438	Ir Dr LO Wai-kwok Admin Chairman	Ir Dr LO Wai-kwok's question and the Administration's response regarding the number of enquiries and successful applications for a licence to export powdered formula from Hong Kong.	
014439 - 014952	Mr James TO Admin	Mr James TO's concern and the Administration's response regarding the power of DGTI to impose conditions on the issuance of an export licence for powdered formula.	
014953 - 015501	Dr LEUNG Ka-lau Admin Chairman	Dr LEUNG Ka-lau's concern and the Administration's response regarding -  (a) whether powdered formula was a major source of food for babies aged over 12 months; and  (b) interpretation of the definition of "powdered formula".  The Administration was requested to provide expert opinion on whether powdered formula was a major source of food for babies aged over 12 months and review the definition of "powdered formula".	<b>Admin</b>
015502 - 020006	Mr Tommy CHEUNG Admin Chairman	Mr Tommy CHEUNG's question and the Administration's response regarding evidence indicating a recent shortage of powdered formula in Hong Kong.	

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action Required</b>
		The Administration was requested to provide information and evidence indicating a recent shortage of powdered formula in Hong Kong, including the surveys conducted by the Administration, the number of visits to retail outlets, the number of telephone calls made by the Administration, the findings and relevant statistics.	<b>Admin</b>
020007 - 020511	Mr Paul TSE Admin	Mr Paul TSE's concern and the Administration's response regarding the interpretation of Chapters III and V of the Basic Law.  Extension of meeting by 15 minutes.	
020512 - 021030	Mr CHUNG Kwok-pan Admin Chairman	Mr CHUNG Kwok-pan's question and the Administration's response regarding the criteria for discontinuation of the Amendment Regulation.  The Administration was requested to provide a full list of the basket of indicators for discontinuation of the Amendment Regulation.	<b>Admin</b>
021031 - 021410	Mr Gary FAN	Mr Gary FAN's view on parallel trading and shortage of powdered formula in Hong Kong and smuggling of powdered formula in the Mainland.	
021411 - 021730	Chairman Mr James TO Mr Paul TSE	Date of next meeting.  Provision of the Administration's response to issues raised by members.	