

立法會
Legislative Council

LC Paper No. CB(2)1590/12-13
(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 Saturday, 6 April 2013, at 9:00 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon WONG Ting-kwong, SBS, JP (Chairman)
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
Dr Hon LEUNG Ka-lau
Hon Paul TSE Wai-chun, JP
Hon Steven HO Chun-yin
Hon CHAN Chi-chuen
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Alice MAK Mei-kuen, JP
Hon Dennis KWOK
Hon SIN Chung-kai, SBS, JP
Hon TANG Ka-piu
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

Members absent : Hon James TO Kun-sun
Hon Emily LAU Wai-hing, JP
Hon CHAN Hak-kan, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon Michael TIEN Puk-sun, BBS, JP
Hon Gary FAN Kwok-wai
Dr Hon Helena WONG Pik-wan
Hon CHUNG Kwok-pan

Public Officers : Item I
attending

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

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

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

Dr HO Yuk-yin, JP
Consultant (Community Medicine)
(Risk Assessment and Communication)
Centre for Food Safety
Food and Environmental Hygiene Department

Mr Thomas LIN
Head of Land Boundary Command
Customs and Excise Department

Mr Gilbert MO
Deputy Law Draftsman
(Bilingual Drafting and Administration)
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 : Mr Arthur CHEUNG
attendance Senior Assistant Legal Adviser 2

Mr Raymond LAM
Senior Council Secretary (2) 7

Miss Lulu YEUNG
Clerical Assistant (2) 1

Action

I. Meeting with the Administration

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

Admin

2. Members requested the Administration to -
 - (a) provide examples on the use of "any other relevant circumstances" in other local legislation and explain whether it was found in definitions;
 - (b) advise on the date on which the Administration's proposed further amended definition of "powdered formula" would take effect; and
 - (c) explain the effect of the proposed further amended definition of "powdered formula".

II. Date of next meeting

3. Members agreed that the next meeting would be held on 9 April 2013 at 10:45 am to continue discussion with the Administration.
4. There being no other business, the meeting ended at 12:10 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 Saturday, 6 April 2013, at 9:00 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action Required
000000 - 000403	Chairman	Relevant papers for the meeting	
000404 - 000851	Admin	Briefing by the Administration on its response to issues raised by members at the Subcommittee meeting on 28 March 2013 [LC Paper No. CB(2)903/12-13(01)].	
000852 - 001444	Chairman Admin	Scrutiny of the detailed provisions of the Import and Export (General) (Amendment) Regulation 2013 ("the Amendment Regulation").	
001445 - 001700	Chairman Admin	Chairman's question and the Administration's response on the interpretation of the proposed new regulation 6(1D)(b)(iii) of the Import and Export (General) Regulations (Cap. 60, sub. leg. A) ("IE Regulations").	
001701 - 002559	Ir Dr LO Wai-kwok Admin Chairman	Ir Dr LO Wai-kwok's concern and the Administration's response regarding whether the requirement of not having left Hong Kong in the last 24 hours before being eligible for carrying powdered formula of 1.8 kg in total net weight out of Hong Kong was necessary and reasonable.	
002600 - 003210	Chairman SALA2 Admin	SALA2's questions and the Administration's response on whether there was any difference between "All places outside Hong Kong" and "All countries" in Part 1 of the proposed Schedule 2 to IE Regulations.	
003211 - 004037	Mr Dennis KWOK Admin Chairman	Mr Dennis KWOK's concern and the Administration's response on the policy intent and interpretation of the proposed new regulation 6(1D)(b)(iii) of IE Regulations.	
004038 - 004551	Mr Paul TSE Admin	Mr Paul TSE's concern and the Administration's response regarding - (a) whether the scope of the proposed further amended definition of "powdered formula" was too broad;	

Time marker	Speaker(s)	Subject(s)	Action Required
		<p>(b) the policy intent of the Amendment Regulation; and</p> <p>(c) whether there should be a time limit for implementation of the Amendment Regulation.</p>	
004552 - 005038	Dr CHIANG Lai-wan Admin	<p>Dr CHIANG Lai-wan's questions and the Administration's response on -</p> <p>(a) how a member of the public could know whether a product of powdered formula was subject to regulation under the Amendment Regulation; and</p> <p>(b) whether labels could be issued by the Administration to facilitate members of the public to distinguish products of milk powder which were subject to regulation under the Amendment Regulation.</p>	
005039 - 010017	Dr LEUNG Ka-lau Chairman Admin	Dr LEUNG Ka-lau's concern and the Administration's response regarding whether adult milk powder was also suitable for persons aged between 12 months and 36 months.	
010018 - 010545	Mr Vincent FANG Admin	<p>Mr Vincent FANG's concern and the Administration's response regarding -</p> <p>(a) whether there was any international standard on the classification of products of powdered formula by age groups; and</p> <p>(b) statistics on products of adult milk powder which were also suitable for persons aged below 36 months.</p>	
010546 - 011101	Mr SIN Chung-kai Chairman Admin	Mr SIN Chung-kai's concern and the Administration's response regarding whether there were any differences in the composition and nutritional contents of different products of milk powder for persons aged over 12 months.	
011102 - 011153	Ir Dr LO Wai-kwok Chairman Admin	Ir Dr LO Wai-kwok's question and the Administration's response regarding the progress of provision of receptacles for disposal of powdered formula in excess of 1.8 kg in total net weight at boundary control points.	

Time marker	Speaker(s)	Subject(s)	Action Required
011154 - 011919	Dr LEUNG Ka-lau Chairman Admin	Dr LEUNG Ka-lau's concern and the Administration's response regarding whether the scope of "any other relevant circumstances" in the proposed further amended definition of "powdered formula" was too broad.	
011920 - 012441	Mr Vincent FANG Chairman Admin	Mr Vincent FANG's concern and the Administration's response regarding - (a) whether the applicability of the Amendment Regulation should be narrowed to powdered formula for persons aged up to 12 months; (b) whether suppliers should be required to maintain inventory of certain product of powdered formula above a certain level instead of imposing restriction on powdered formula that could be brought out of Hong Kong; and (c) whether the implementation of the Amendment Regulation had any impact on the re-export of powdered formula to other places.	
012442 - 013104	Mr Dennis KWOK Admin Chairman	Mr Dennis KWOK's concern and the Administration's response regarding the basket of factors considered in determining whether a product of milk powder fell within the definition of "powdered formula".	
013105 - 013618	Mr Paul TSE Admin	Mr Paul TSE's concern and the Administration's response regarding whether there was any difference between "intended for" and "suitable for".	
013619 - 014109	Dr CHIANG Lai-wan Chairman Admin	Dr CHIANG Lai-wan's concern and the Administration's response regarding - (a) whether soya-based formula powder not specified for any age group fell within the definition of "powdered formula"; and (b) whether labels could be issued by the Administration to facilitate members of the public to distinguish products of milk powder which were subject to regulation under the Amendment Regulation.	

Time marker	Speaker(s)	Subject(s)	Action Required
014110 - 014632	Ir Dr LO Wai-kwok Admin Chairman	Ir Dr LO Wai-kwok's concern and the Administration's response regarding - (a) whether "and any other relevant circumstances" in the proposed further amended definition of "powdered formula" should be deleted; (b) updated statistics relating to breach of the Amendment Regulation; and (c) updated statistics on the re-export of powdered formula to other places.	
014633 - 015156	Mr Vincent FANG Chairman Admin	Mr Vincent FANG's question and the Administration's response regarding whether the applicability of the Amendment Regulation should be narrowed to powdered formula for persons aged up to 12 months.	
015157 - 015709	Mr Paul TSE Admin	Mr Paul TSE's concern and the Administration's response regarding examples of "any other relevant circumstances" and whether the phrase could be found in other local legislation.	
015710 - 020402	Dr CHIANG Lai-wan Admin Chairman	Dr CHIANG Lai-wan's question and the Administration's response regarding - (a) nature of contravention for which persons were arrested for breach of the Amendment Regulation since 1 March 2013; (b) whether restrictions on export of powdered formula could be implemented through administrative measures only; and (c) publicity on the implementation of the Amendment Regulation.	
020403 - 020724	Dr LEUNG Ka-lau Admin	Dr LEUNG Ka-lau's question and the Administration's response on whether the incorporation of "and any other circumstances" in the proposed further amended definition would result in all products of milk powder being subject to regulation under the Amendment Regulation. Dr LEUNG's request for putting on record his view that according to the special hotline set up by the Government on 1 February 2013, the	

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		demand for powdered formula intended for persons under 12 months far exceeded that for persons aged between 12 months and 36 months.	
020725 - 021209	Mr CHAN Chi-chuen Admin Chairman	Mr CHAN Chi-chuen's concern and the Administration's response on whether milk powder not specified for any particular age group were subject to regulation under the Amendment Regulation.	
021210 - 022119	Mr Tommy CHEUNG Admin Chairman	Mr Tommy CHEUNG's concern and the Administration's response regarding whether powdered formula without product descriptions and user instructions were regulated by the Amendment Regulation.	
022120 - 023228	Mr Dennis KWOK Admin Chairman	Mr Dennis KWOK's question and the Administration's response regarding - (a) examples of local legislation in which "any other relevant circumstances" was found; and (b) whether there was a need for "and any other relevant circumstances" in the proposed further amended definition of "powdered formula".	
023229 - 023517	Mr Tommy CHEUNG	Mr Tommy CHEUNG's view on - (a) the need to ensure a steady supply of powdered formula for infants and young children in Hong Kong; (b) whether there had been a serious shortage of powdered formula in Hong Kong; and (c) whether the Amendment Regulation should only apply to powdered formula on which there were product descriptions or user instructions.	
023518 - 024237	Mr SIN Chung-kai Admin	Mr SIN Chung-kai's question and the Administration's response regarding - (a) whether the scope of the proposed further amended definition of "powdered formula" was too broad;	

Time marker	Speaker(s)	Subject(s)	Action Required
		<p>(b) whether powdered formula without product descriptions or user instructions were excluded from the regulation of the Amendment Regulation;</p> <p>(c) whether sunset provisions should be incorporated in the Amendment Regulation; and</p> <p>(d) whether there was a need for "and any other relevant circumstances" in the proposed further amended definition of "powdered formula".</p>	
024238 - 024553	Chairman Ir Dr LO Wai-kwok Admin	<p>Ir Dr LO Wai-kwok's concern and the Administration's response regarding -</p> <p>(a) whether "and any other relevant circumstances" in the proposed further amended definition of "powdered formula" should be deleted; and</p> <p>(b) updated statistics on the re-export of powdered formula.</p>	
024554 - 024953	Mr Vincent FANG Admin	<p>Mr Vincent FANG's concern and the Administration's response regarding -</p> <p>(a) whether a person who had not left Hong Kong in the last 24 hours was required to declare bringing powdered formula less than 1.8 kg in total weight out of Hong Kong; and</p> <p>(b) whether implementation of the Amendment Regulation had any impact on parallel trading activities.</p>	
024954 - 025446	Mr Paul TSE Admin	<p>Mr Paul TSE's concern and the Administration's response regarding the use of "any other relevant circumstances" in other local legislation.</p> <p>Mr Paul TSE's request for the Administration to provide examples on the use of "any other relevant circumstances" in other local legislation and explain whether it was found in definitions.</p>	Admin

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025447 - 030102	Chairman SALA2	<p>SALA2's advice on -</p> <p>(a) the Administration's response regarding whether an offence under section 6D(3) of the Import and Export Ordinance (Cap.60) has any defence;</p> <p>(b) the need to clarify the date on which the proposed further amended definition of "powdered formula" would take effect; and</p> <p>(c) the need for "any other relevant circumstances" in the proposed further amended definition of "powdered formula".</p> <p>Members' request for the Administration to -</p> <p>(a) advise on the date on which the Administration's proposed further amended definition of "powdered formula" would take effect; and</p> <p>(b) explain the effect of the proposed further amended definition of "powdered formula".</p> <p>Extension of meeting by 15 minutes.</p>	Admin
030103 - 031122	Chairman Mr Abraham SHEK Dr CHIANG Lai-wan Mr SIN Chung-kai Mr Vincent FANG Mr Tommy CHEUNG Mr Paul TSE Mr Dennis KWOK Admin	Date of next meeting.	