



Trade and Industry Department  
The Government of the Hong Kong Special Administrative Region  
香港特別行政區政府 工業貿易署

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16 May 2013

Ms Annette Lam  
Clerk of Panel on Commerce and Industry  
Legislative Council Complex  
1 Legislative Council Road  
Central  
Hong Kong

Dear Ms Lam,

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

Thank you for your letter dated 14 May. With regard to the enquiry made by Hon Felix CHUNG Kwok-pan, our reply is as follows.

According to the General Agreement on Tariffs and Trade (GATT) of the World Trade Organization (WTO), Members shall not institute or maintain any prohibitions or restrictions, other than duties, taxes or other charges, on the export of any products. However, the GATT also allows Members to apply temporary measures (including export prohibitions or restrictions) with a view to preventing or relieving critical shortages of foodstuffs or other products. In other words, if the measures under the Import and Export (General) (Amendment) Regulation 2013 (the Amendment Regulation) fulfill the above criteria, they are consistent with the WTO requirements.

As to whether there has been a critical shortage of powdered formula in Hong Kong, the Food and Health Bureau has provided detailed information<sup>1</sup> in the documents submitted to the Subcommittee on Import and Export (General) (Amendment) Regulation 2013. In addition, in determining whether such

<sup>1</sup> Including the LC Paper Nos. CB(2)785/12-13(02) issued on 13 March, CB(2)818/12-13(01) issued on 18 March and CB(2)881/12-13(02) issued on 28 March.

measures are of a temporary nature, all relevant facts must be taken into account. The WTO does not mandate Members to specify that the relevant measures are temporary in the related legal provisions.

In fact, the Government considers that the critical shortage of powdered formula in early 2013 is closely related to the supply chain failure in relation to the product. The Government therefore opines that powdered formula suppliers must substantially improve the effectiveness of the supply chain so as to ensure that Hong Kong citizens can have a sufficient and stable supply of powdered formula.

The Government has committed to reviewing, examining and assessing the effectiveness of the enhancement measures of the supply chain in October 2013. Provided that the enhancement measures are proven to be effective and sustainable, the Government will consider repealing the amendments made by the "Amendment Regulation".

Therefore, the fact that we have not specified in the "Amendment Regulation" that the measures are of a temporary nature will not affect our invoking the abovementioned exemption. The Administration has submitted a notification on the measures to the Secretariat of the WTO in late April in fulfillment of the notification requirements under the WTO.

As a member of the WTO, Hong Kong, China has strictly adhered to the various relevant requirements in the WTO Agreement. Members are invited to note the content of this letter.

Yours sincerely,



( Brian S H Lo )  
for Director-General of Trade and Industry