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Panel on Food Safety and Environmental Hygiene

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 12 January 2016**

Supply chain of powdered formula

Purpose

This paper provides background information on issues relating to the supply chain of powdered formula and highlights the major views and concerns of members of the Panel on Food Safety and Environmental Hygiene ("the Panel") on the subject.

Background

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

2. When the Panel discussed measures to stabilize the supply of powdered formula for infants and young children at its special meeting on 4 February 2013, members were advised that the Administration planned to regulate the export of powdered formula from Hong Kong with a view to combating parallel trading activities. The Import and Export (General) (Amendment) Regulation 2013 ("the Amendment Regulation") was gazetted on 22 February 2013 to amend the Import and Export (General) Regulations (Cap. 60A) to prohibit the export of powdered formula to all places outside Hong Kong, except under an export licence or an exemption. The Amendment Regulation came into operation on 1 March 2013, and the House Committee agreed at its meeting held on the same day to form a subcommittee to study the Amendment Regulation.

3. During the deliberations of the Subcommittee on Import and Export

(General) (Amendment) Regulation 2013 ("the former Subcommittee")¹, members had called on the Administration to set a timeline to review the effectiveness and necessity to continue with the export control and exemption arrangements under the Amendment Regulation. Most members took the view that periodic review of the need for the Amendment Regulation should be conducted after its implementation. To address members' concerns, the Administration undertook to review the implementation of the Amendment Regulation in about one year's time and to report the implementation of the Amendment Regulation to the Panel at regular intervals.

Measures to improve and monitor the supply chain of powdered formula

4. When the Panel was briefed by the Administration on the implementation of the Amendment Regulation at its meeting on 28 May 2013, members were advised that the Administration had urged suppliers of powdered formula to ensure a sufficient and stable supply of powdered formula for Hong Kong people. Members noted that the seven major suppliers of powdered formula² and the Hong Kong General Chamber of Pharmacy had jointly proposed a series of measures to improve the supply chain of powdered formula, including the introduction of the Coupon Scheme³. The Panel was further advised by the Administration in September 2013 vide an information paper that the Administration had appointed in July 2013 the Committee on Supply Chain of Powdered Formula⁴ ("the Powdered Formula Committee") to study and recommend improvement measures on the supply chain management of powdered formula.

¹ The period for amending the Amendment Regulation had been extended from 27 March 2013 to 17 April 2013 by a resolution of the Legislative Council ("LegCo") passed on 20 March 2013. To address the concerns of members of the former Subcommittee, the Administration had given notice to amend the definition of powdered formula in the Amendment Regulation at the Council meeting of 17 April 2013. However, the proposed amendments could not be dealt with owing to an early adjournment of the Council meeting of 17 April 2013. Upon expiry of the period for amending the Amendment Regulation on 17 April 2013, the provisions introduced by the Amendment Regulation have continued to be in force in their original version. The deliberations of the former Subcommittee were set out in its Report (LC Paper No. CB(2)942/12-13).

² The seven major brands include Abbott, Cow & Gate, Friso, Mead Johnson, Nestle, Snow Brand and Wyeth.

³ The Coupon Scheme is a "pre-order system" set up at designated pharmacies as a "safety net" to ensure sufficient local supply. Parents of local infants and young children may call the powdered formula suppliers for registration and be given "coupons". With these coupons, parents may purchase the powdered formula they need at designated pharmacies, with the maximum amount of six cans per month. In cases where parents are unable to acquire the powdered formula they need from the designated pharmacies readily, the trade has pledged that the powdered formula would be available within three working days (excluding Saturdays, Sundays and public holidays).

⁴ The Committee comprises 14 non-official members, including major powdered formula suppliers, retailers, parents, representatives from the logistics sector, relevant academia and those representing consumer interests.

5. When discussing the review on the trade's measures to improve the supply chain of powdered formula at the Panel meeting on 10 December 2013, members noted the Administration's view that it was premature to repeal the provisions introduced by the Amendment Regulation, having regard to the results of the stress test⁵ conducted during the period of the National Day Golden Week. Instead of conducting more stress tests, the Administration had engaged a consultant to conduct regular surveys on the demand and supply of major brands of powdered formula across the territory, as well as whether there was any unusual fluctuation in prices.

6. At the Panel meetings on 10 June and 9 December 2014, the Administration updated members on its monitoring work over the supply of powdered formula. Members were informed that while the Administration had not set any specific timeframe for repealing the provisions introduced by the Amendment Regulation, it would continue to (a) monitor suppliers' work in improving the supply chain through the Powdered Formula Committee; and (b) commission consultancy firms to conduct surveys on the supply and price levels of powdered formula at local retail level as well as the experience of parents of local infants and young children in purchasing powdered formula and their attitude towards using various pre-order services.

Members' concerns

7. Members' major views and concerns over the subject expressed at previous Panel meetings are summarized in the ensuing paragraphs.

Need for the Amendment Regulation

8. While some members held the view that the Amendment Regulation should only be adopted as a short-term measure to modulate the demand for powdered formula in Hong Kong, some other members considered that the Amendment Regulation should continue to be adopted as medium- and long-term measures to combat parallel trading activities of powdered formula. There was another view that it was not necessary to prohibit the export of all powdered formula to all places outside Hong Kong, as the supply chain failure in relation to powdered formula was related to the shortage of two brands of powdered formula (i.e. Friso and Mead Johnson) at certain retail outlets.

9. Members were also concerned about the circumstances under which the

⁵ The Administration engaged a consultancy firm to assist in examining the improvement measures proposed by the trade, including conducting stress tests to evaluate whether the improvement measures could still work effectively under stress by employing certain model scenarios in the real life environment.

Administration would consider it appropriate to discontinue the implementation of the Amendment Regulation. While some members considered that the Administration should not repeal the Amendment Regulation as long as parallel trading activities continued to be prevalent, some other members held the view that priority should be given to improving the supply chain of powdered formula instead of combating parallel trading activities of powdered formula.

10. The Administration advised that strengthening the supply chain of powdered formula in Hong Kong was the most important means to prevent the recurrence of serious shortage of powdered formula and allay the stress and anxieties of parents of local infants and young children. While pointing out that the Amendment Regulation was not intended to be a long-term arrangement, the Administration maintained that it would not rush into repealing the provisions introduced by the Amendment Regulation unless stable and sufficient supply of powdered formula for local infants and young children was ensured. In the Administration's view, the Amendment Regulation had, to a certain extent, catered for the needs of parents of local infants and young children for powdered formula while safeguarding free trade and commerce. Since the implementation of the Amendment Regulation, there had been a continued expansion in the volume of import, re-export and retained import of powdered formula and the supply of which at retail outlets had become more sufficient and stable.

Measures to improve the supply chain

11. Members noted that serious shortages of two brands of powdered formula (i.e. Friso and Mead Johnson) were still observed at retail level. Doubt was raised about the effectiveness of the measures undertaken by the trade to improve the supply chain of powdered formula. The Administration was urged to follow up with the suppliers concerned so that they would make better efforts in ensuring the stable supply of these two brands of powdered formula. There was also a view that the Hospital Authority ("HA") should stop purchasing and providing the products of these two brands to new born babies in public hospitals so that the babies would not get used to taking their powdered formula, relieving the demand for these products. Noting that the percentage of parents of local infants and young children who used pre-order services (including the Coupon Scheme and order placement through suppliers' hotline for home delivery or collection from retail stores) was still quite low⁶, a concern was

⁶ According to the Administration, the findings of the two surveys conducted in June and October 2014 indicated that only a very small number of respondents (47 respondents or 6% of the total 826 respondents) usually purchased powdered formula by using pre-order services. While 66% of the respondents (i.e. 548 respondents) were aware of pre-order services, 37% (307 respondents) had never used any pre-order services. About one third (i.e. 34%) of the respondents were not aware of any kind of pre-order services.

raised as to whether these pre-order services had achieved the expected outcome.

12. The Administration advised that there were various reasons why shortages of specific products occurred, e.g. stock replenishment failing to catch up with demand and active parallel trading activities at certain districts etc. The Administration had urged the trade to improve the supply chain of powdered formula to ensure sufficient and stable supply. In the Administration's view, while varying degrees of shortage of some popular products of the two brands were still observed at times, the supply situation of their products was improving. At present, HA purchased different brands of powdered formula through open tender and provided them in turn (i.e. switching to a different brand once every several months) for babies in need in the public hospitals with obstetric services. HA had been monitoring the market supply of powdered formula and if the supply of certain brands was found inadequate for a long period of time, it would stop purchasing the powdered formula concerned.

13. The Administration further advised that the pre-order services provided by the powdered formula suppliers could act as a "dedicated supply chain" and play an effective role in ensuring sufficient supply for local infants and young children, when powdered formula was in shortage at retail level. According to the Administration, the suppliers indicated that they had reserved sufficient stock to cope with orders for powdered formula from various pre-order services. Other supporting measures introduced by the suppliers included more frequent replenishment of stock if needed, and boosting the manpower for manning the hotlines when required so that all calls from customers could be returned within 24 hours. The Administration had kept the trade informed of the findings of the surveys on the experience of parents of local infants and young children in purchasing powdered formula and their attitude towards using various pre-order services. The trade had been advised to make targeted promotional efforts to parents in light of the findings, and to devise a detailed strategy on how to promote their pre-order services.

Monitoring the supply of powdered formula

14. Members were concerned that the demand for powdered formula might surge again if the implementation of the Amendment Regulation was discontinued. There was a view that the Administration should not rely on stress tests for evaluating the supply chain management of powdered formula suppliers, as the genuine demand for powdered formula could only be revealed when the Amendment Regulation was repealed.

15. According to the Administration, it would examine the efforts, manpower and resources that the suppliers had invested into the improvement measures.

The Administration would continue to commission surveys on the supply and price levels of powdered formula at retail level locally, and on the experience of parents of local infants and young children in purchasing powdered formula and their attitude towards using various pre-order services. The Administration would also continue to follow up on and monitor the work of improving the supply chain by suppliers through the Powdered Formula Committee. The Administration would take into account the progress on the improvements of powdered formula supply chain before deciding on the Government's position in respect of the Amendment Regulation.

Latest development

16. The Administration will update the Panel on its efforts in monitoring the supply of powdered formula at the meeting on 12 January 2016.

Relevant papers

17. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
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**Relevant papers on
Supply chain of powdered formula**

Committee	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	4.2.2013 (Item I)	Agenda Minutes
Subcommittee on Import and Export (General) (Amendment) Regulation 2013	--	Report
Panel on Food Safety and Environmental Hygiene	28.5.2013 (Item III)	Agenda Minutes
	25.9.2013*	Administration's paper entitled "Supply Chain of Powdered Formula: Stress Test" (LC Paper No. CB(2)1817/12-13(01))
	10.12.2013 (Item III)	Agenda Minutes
	10.6.2014 (Item IV)	Agenda Minutes
	9.12.2014 (Item IV)	Agenda Minutes

* Issue date