

**Public Consultation on Amendments to Import and Export
(General) Regulations (Cap. 60, sub. leg. A)
Summary of Opinions**

On 7 February 2013, the Food and Health Bureau published the consultation document on the proposed amendments to the Import and Export (General) Regulations (Cap. 60, sub. leg. A) (the Regulation) and launched a public consultation. The consultation ended on 18 February 2013.

2. The consultation document sets out a number of detailed proposals relating to the amendments to the Regulations. To combat the problem of parallel traders diverting large quantities of powdered milk away from the supply chain in Hong Kong, the Government proposes to amend the Regulation, prohibiting the export of powdered formula for infants and young children under the age of 36 months (powdered formula) from Hong Kong except with a licence issued by the relevant authority. In gist, the proposals set out in Chapter 3 of the consultation document are as follows:

- (a) including powdered formula for infants and young children under the age of 36 months as an item of specified articles listed in the second column of Schedule 2, and stipulating that an export licence must be obtained from the Trade and Industry Department (TID) for any person to export the product concerned to any places outside Hong Kong (unless otherwise provided in the legislation);
- (b) TID will in general only issue export licences to importers of “infant/follow-up/growing-up formula and baby food” registered under the Food Safety Ordinance (Cap. 612) or those exempted under section 4(3)(a) of the Food Safety Ordinance from registration requirement under Part 2 of the Ordinance. On application, applicants are required to submit import documents to prove that the batch of powdered formula concerned is directly imported by the applicants from other places.
- (c) powdered formula for infants and young children under the age of 36 months should be included in the existing Transhipment Cargo Exemption Scheme of TID, under which registered shipping companies, airlines and freight forwarders are, subject to certain conditions, exempted from export licensing requirements in respect of certain types of transhipment cargo; and.

- (d) exemption from the licensing requirement should be allowed whereby each person aged 16 or above can carry out of Hong Kong not more than a total net weight of 1.8 kg of powdered formula for infants and young children under the age of 36 months. Such exemption should only be applicable to a person on his first departure from Hong Kong within a 24-hour period.

3. We held a trade consultation session on 7 February 2013. At the close of the public consultation period, we received a total of 50 submissions with 35 from individuals and 15 from organisations.

Summary of Opinions

4. Submissions received touch on various aspects of the proposed amendments. Major opinions are summarised as below:

Submissions from Individuals

5. About half of the submissions from individuals were supportive of the legislative proposal, citing major reasons for support as follows:

- as powdered formula is a major food source for infants and young children, the Government should ensure that there is sufficient supply of such products;
- the amendments could help ensure that there is sufficient stock of powdered formula in the market for local consumption, thereby protecting the health of infants and young children;
- parallel traders diverted substantive amount of daily necessities, including powdered formula, to Mainland China or places nearby and such activities seriously affected the normal daily life of local families; and
- the amendments could help combat smuggling of powdered formula.

6. A number of the above respondents supported an exemption arrangement as this could address the need of those departing Hong Kong for powdered formula for personal use. Some of them considered that the exemption arrangements were too lenient. To prevent parallel traders from abusing the exemption arrangements, they proposed:

- the maximum net weight of powdered formula that may be carried on departure from Hong Kong should be reduced to 0.9 kg (one can);

- the 24-hour period restriction should be extended to 48 hours to one week;
- the minimum age of those who may enjoy the exemption arrangements should be raised;
- the exemption should only be granted to adults who have a birth certificate of infants in hand or are with an infant or young child when he/she departs Hong Kong;
- the powdered formula to be carried away from Hong Kong must be unsealed.

7. Some individuals as well as parents with children living in the Mainland objected to the proposal. They considered the exemption arrangement to be too strict for the following reasons:

- the exemption arrangement could not address the need of parents who have more than one child living outside Hong Kong;
- the exemption arrangement could not address the need of those who have to leave Hong Kong for over one month.

8. To mitigate inconvenience to infants and young children living outside Hong Kong, they proposed to lift the maximum net weight of powdered formula allowed to be carried upon departure from Hong Kong. Alternatively, they proposed to allow people with personal need (e.g. those with a child or children living outside Hong Kong) to apply for an export licence on their personal capacity.

Submissions from Organisations

9. As regards submissions from organisations, major opinions are summarised as below:

Retailers

10. The Hong Kong Retail Management Association and some retailers opined that the proposal is not consistent with the free trade policy of Hong Kong and would have negative impact on brands with sufficient stock and on smaller suppliers. The Hong Kong General Chamber of Pharmacy Limited proposed to postpone the enactment of the Amendment Regulation, and to extend the consultation period in order to gauge the latest market situation and gather more public opinions.

11. Some retailers expressed worries that the amendments would set a

precedent for imposition of export control on other goods in future when there is shortage of supply.

Importers

12. Two major powdered formula suppliers objected to the proposal while another expressed reservation. They shared similar views with other responding importers that, in general, there is no supply shortage for powdered formula in Hong Kong, and that shortage exists in certain brands only.

13. Some importers were of the view that, as infants and young children between 6 to 36 months of age can consume appropriate complementary food and powdered formula is not a major food source for them, amendments to the Regulations should only target at formula products for infants under 6 months but not others.

14. Some importers suggested that, for the purpose of trade facilitation, export of powdered formula to nearby areas, e.g. Macau and Taiwan, etc., should be exempted from requiring an export licence. They also suggested that the relevant authority streamline the export licence application procedures to shorten the required application time.

Consumer Council

15. The Consumer Council supported the proposal as it could address the needs of mothers of infants and young children and stabilise the supply of powdered formula, thereby resolving the shortage problem in Hong Kong.

Food and Health Bureau
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