

HKSAR Government requests WTO to establish panel to consider dispute with respect to US' new requirement on origin marking

The Hong Kong Special Administrative Region (HKSAR) Government today (January 14) requested the World Trade Organization (WTO) Dispute Settlement Body (DSB) to establish at its meeting on January 25 a panel in accordance with the WTO Dispute Settlement Mechanism to consider the dispute with respect to the violation of WTO rules by the United States' (US') new requirement on origin marking for Hong Kong products.

The Permanent Representative of the HKSAR to the WTO today filed the relevant document to the WTO Secretariat. The Secretary for Commerce and Economic Development, Mr Edward Yau, also wrote to the United States Trade Representative to inform the US that the HKSAR has taken further action against the US under the WTO mechanism.

Mr Yau said, "The US' unilateral and irresponsible attempt to weaken Hong Kong's status as a separate customs territory, which is conferred by the Basic Law, is highly inappropriate. Such a move also confuses the market and undermines the rules-based multilateral trading system. Hong Kong's special status is a basic principle under 'one country, two systems', and the HKSAR Government will do its utmost to safeguard it. The HKSAR Government requested on October 30, 2020, consultations with the US under the WTO Dispute Settlement Mechanism. However, the US' response is disappointing. It is necessary for us to take further action against the US in accordance with the mechanism to defend Hong Kong's interests."

According to the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes, if the two parties fail to resolve the dispute within 60 days from the launching of consultations, the complaining party may request the DSB to establish a panel to consider the dispute and provide rulings. The 60-day consultation period ended on January 4. However, the US has not made any substantive response to the request of the HKSAR Government, and the new requirement took effect on November 10, 2020. Hong Kong decided to request the DSB to establish a panel to consider the dispute.

According to the WTO Dispute Settlement Mechanism, after the complaining party has made a request, a panel shall be established at the latest at the DSB meeting following the meeting at which the request first appears as an item on the DSB's agenda. In other words, if a panel is not established at the DSB meeting on January 25 at the request of the HKSAR Government, the DSB should establish a panel at its next meeting (tentatively scheduled on February 22) at the latest.

Mr Yau reiterated that under "one country, two systems", Hong Kong is an

inalienable part of the People's Republic of China, and the special status of the HKSAR is conferred by the motherland through the Basic Law. Pursuant to Articles 116, 151 and 152 of the Basic Law, the HKSAR is a separate customs territory and may, using the name "Hong Kong, China", participate in international organisations such as the WTO and Asia-Pacific Economic Cooperation as a separate member, and develop mutually beneficial economic and trade relations with economies around the world. The special status of Hong Kong has been widely recognised and respected by the international community, and Hong Kong's economic and trade status is on par with that of other WTO members. The "Made in Hong Kong" marking on Hong Kong products has been accepted internationally for many years. This not only conforms to Hong Kong's status as a separate customs territory and complies with WTO rules, but also provides consumers with clear and accurate information on product origin.