

May 7, 2021

Laurie Lo
Permanent Representative
Hong Kong Economic Trade Office
Allée David-Morse 5
1211 Genève

Dear Mr. Lo,

I am writing in connection with the dispute settlement proceedings conducted pursuant to the WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* (“DSU”) concerning *United States – Origin Marking Requirement (DS597)*, to which Hong Kong, China, is a party.

On instructions from my authorities, I would like to inquire whether Hong Kong, China, agrees to make its statements in this dispute open to observation by other WTO Members and the public. DSU Article 18.2 provides that every WTO Member has the right to make public statements of its own position. The United States will make its statements publicly available and will request each WTO adjudicator to make arrangements so the public may observe U.S. statements during any substantive meeting in this dispute. The opening of meetings to public observation would serve to enhance WTO Members’ and the public’s understanding of the dispute settlement system.

I would note that Hong Kong, China, has agreed to participate in a number of dispute settlement mechanisms that provide for open panel hearings, such as under the Australia-HKC FTA¹ and the EFTA-HKC FTA.² We do not see any reason why Hong Kong, China, would consider the WTO dispute settlement system should be less transparent than these other systems in which Hong Kong, China, participates.

I also would inquire whether Hong Kong, China, plans to make its submissions to the panel in this dispute available to the public. If Hong Kong, China, intends to make its submissions available to the public, please so advise at your earliest convenience. If any submission is not to be made public, then pursuant to Article 18.2 of the DSU, please provide us a non-confidential summary of the submission promptly upon filing the submission. As you will

¹ Free Trade Agreement between Hong Kong, China, and Australia, Article 18.10.11 (“Hearings before the panel shall be open to the public, unless the Parties otherwise agree or the submissions and arguments of the Parties contain confidential information.”) (“Australia-HKC FTA”).

² Free Trade Agreement between the European Free Trade Association States and Hong Kong, China, Article 10.6.3 (“The hearings of the arbitration panel shall be open to the public, unless the Parties to the dispute agree otherwise.”) (“EFTA-HKC FTA”).

recall, Article 18.2 of the DSU provides that “[a] party to a dispute shall also, upon request of a Member, provide a non-confidential summary of the information contained in its written submissions that could be disclosed to the public.” Please consider this request to be applicable to all submissions in this dispute.

I look forward to receiving your response to these inquiries and request.

Sincerely,

David F. Bisbee
Chargé d’Affaires, a.i.

cc: Ms. Beatriz Leycegui Gardoqui, Chairperson of the Panel