



**Land Information  
New Zealand**  
*Toitū te whenua*

Decision required under the Overseas Investment Act 2005: Yashili New Zealand  
Dairy Co., Limited

<b>Date</b>	28 March 2013
<b>Security Level</b>	Commercial: In Confidence
<b>Priority</b>	High
<b>Case Number</b>	201220086
<b>Contractual Date</b>	Not applicable.

**Contact for Telephone Discussion**

<b>Name</b>	<b>Position</b>	<b>Telephone (work)</b>	<b>Cellphone</b>	<b>First Contact</b>
David Viviers	Team Manager	460 2795	0274 426 810	✓
Andrew Morris	Senior Solicitor	460 2798		

## MEMORANDUM

### Annexure:

1. Report of the Overseas Investment Office on the proposed overseas investment (Report).
2. Application for consent with supporting material (Application).

### Instructions:

3. The regulator is required to grant consent in respect of this application if it is satisfied that all the criteria in section 18 of the Overseas Investment Act 2005 ("the Act") are met. It must decline consent if it is not satisfied that all of the criteria in section 18 are met. The regulator must not take into account any criteria other than those identified in section 18.
4. For completeness, it is noted that the Applicant is seeking consent to acquire significant business assets and not sensitive land. Therefore, the Applicant is not required to demonstrate the investment will, or is likely to, benefit New Zealand or that that benefit will be, or is likely to be, substantial and identifiable (a requirement of section 16(1)(e)(ii)-(iii) of the Act). Accordingly, the decision in *Tiroa E and Te Hape B Trusts v Chief Executive of Land Information* [2012] NZHC 147, insofar as it found that benefits must be assessed using a with or without approach rather than a before and after approach, is not relevant to the Application.
5. In the attached report the Overseas Investment Office addresses the criteria that the regulator is required to consider in this case.

### Conditions

6. Conditions may be imposed on any consent that is granted under section 25. The attached report recommends some conditions that the regulator may wish to consider imposing in this case.


### Decision

7. The decision that you are required to make should be based on information available to you that you consider is sufficiently reliable for that purpose. The information that the Overseas Investment Office has taken into account in making its recommendation is summarised in the attached report.

### Decision:

8. Having determined that
  - (a) the relevant overseas person (collectively) is Yashili New Zealand Dairy Co., Limited, Yashili International Holdings Limited, Zhang Likun, Zhang Lidian, Zhang Liming and Zhang Libo;
  - (b) the individuals with control of the relevant overseas person are Zhang Likun, Zhang Lidian, Zhang Liming, Zhang Libo, Zhang Yanpeng, Chang Herman Hsiu-Guo, Zhang Chi, Yu Shimao, Chen Yanguan, Samuel King On Wong and Liu Jinting;
  - (c) the decision is delegated because it does not contain sensitive land;
  - (d) the individuals with control of the relevant overseas person collectively have business experience and acumen relevant to the overseas investment; and
  - (e) the relevant overseas person has demonstrated financial commitment to the overseas investment; and
  - (f) all the individuals with control of the relevant overseas person are of good character; and
  - (g) each individual with control of the relevant overseas person is not an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009; and

9. I am satisfied that the criteria for consent in section 18 have been met; and
10. consent is granted to the Investment subject to the conditions in appendix 2 of the Report.



David Viviers  
Team Manager - OIO

Date 28 - 03 - 2013

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# Report of the Overseas Investment Office on the application for consent by Yashili New Zealand Dairy Co., Limited

Case 201220086

## Summary

### 1. Summary of key information:

<b>Applicant</b>	<b>Yashili New Zealand Dairy Co., Limited</b> (China, People's Republic of 51.85%, Cayman Islands 24.23%, Various 23.92%)
<b>Vendor</b>	<b>Not applicable</b>
<b>Consideration</b>	<b>\$212,000,000</b> (including initial working capital)
<b>Recommendation</b>	<b>Grant Consent</b>

## Application

### 2. For consent for the Applicant to give effect to:

- a. An overseas investment in significant business assets, being the establishment of a business in New Zealand by the Applicant where the total expenditure required before commencing business exceeds \$100m.

(the Investment)

## Applicant

3. The applicant is Yashili New Zealand Dairy Co., Limited ("Applicant"). The Applicant is ultimately owned by Yashili International Holdings Limited ("Parent") (together with the Applicant and other subsidiaries, "Yashili"). The Parent has been listed on the Stock Exchange of Hong Kong since 2010, with a market capitalisation of approximately US\$918 million (as at 22 November 2012). The Parent is the third largest domestic paediatric milk formula producer in China. The Parent manufactures, markets and sells its family of products in China under two widely recognised brands targeting different consumer groups, Yashili and Scient.
4. The Parent operates as a subsidiary of Zhang International Investment Limited, which directly holds approximately 51.85% of the issued share capital of the Parent. Zhang International is owned by various members of the Zhang family who founded the Parent. Carlyle Asia Partners III L.P. ("Carlyle") is the Parent's second largest shareholder holding approximately 24.23% of the issued share capital of the Parent. Carlyle is managed by the Carlyle Group, which is a global alternative asset manager with more than US\$107.6 billion under management. No other single person holds more than 5% of the issued share capital of the Parent.

## Background to the Investment

5. On 16 September 2008, the General Administration of Quality Supervision, Inspection and Quarantine of China ("AQSIQ") made an announcement that the products of 22 paediatric milk formula producers in China, including Yashili, were contaminated by melamine. The contamination was caused by raw milk dealers who deliberately added melamine to raw milk in order to artificially inflate the apparent protein level of the milk (the melamine incident is

discussed in more detail in Appendix 1 as part of the good character assessment). Subsequent to the melamine incident, the Parent implemented a transition from sourcing domestically produced dairy materials to importing premium high quality raw milk powder. Since June 2010, 100% of the raw milk powder used in the Parent's paediatric milk powder products has been sourced from New Zealand or Australia.

6. Due to the increase in demand for imported dairy products in China, the Parent believes that acquiring and operating its own manufacturing facility in New Zealand will allow the Parent to exercise better control over the source and quality of dairy products, which will create a steady supply chain and prevent over reliance by the Parent on a single supplier.
7. The Applicant made an application under the Act to purchase the assets of New Zealand Dairies Limited (in receivership) in 2011 ("NZ Dairies") (refer case 201110093). That application was withdrawn by the Applicant on 20 October 2011.
8. The Applicant has now entered into an agreement to acquire approximately 6.7114 hectares of urban land in the Waikato town of Pokeno (not sensitive land for the purposes of the Act). The Applicant has acquired the land with the intention of constructing and operating a greenfields milk processing facility. The Applicant estimates consent as the expenditure expected to be incurred before commencing this business exceeds \$100 million.

### Outline of the Investment

9. The Applicant expects that the total expenditure in establishing the milk processing facility will be approximately \$177 million and take 18-24 months to complete. The Applicant advises that it is currently in the final stages of preparing an application for the resource consents required to establish the facility and has engaged Babbage Consultants ("Babbage") as its project management company. The Applicant also notes that it is in discussions with the following potential suppliers:
  - (a)
  - (b)
  - (c)

### Rationale for the Investment

10. Due to the increase in demand for imported dairy products in China, Yashili believes that acquiring and operating its own manufacturing facility in New Zealand will allow it to exercise better control over the source and quality of dairy products, which will create a steady supply chain and prevent over reliance on a single supplier. As Yashili already sources its raw milk powder from New Zealand, the establishment of the processing facility in New Zealand will shorten the time required for the production process. The Investment will also enable Yashili to diversify its product range by having its own imported finalised goods to be distributed in China.
11. Yashili also cites the stable financial environment, quality of available assets, capability of employees, and efficiency of management and information systems of dairy companies in New Zealand as factors that have led it to identify New Zealand as an optimal location for the establishment of the milk processing facility.

### Sensitive Land

12. The application does not involve sensitive land.

## Assessment Process

13. We have sought sufficient information from the applicant for us to be assured about the accuracy of the information supplied and have sought sufficient evidence from the applicant for us to be able to judge whether the criteria and factors that apply to the relevant category of overseas investment are likely to eventuate.
14. The OIO has consulted with  
about the Application as outlined in Appendix 1.
15. We have determined that the relevant overseas person in relation to this overseas investment comprise, collectively:
  - (a) Yashili New Zealand Dairy Co., Limited;
  - (b) Yashili International Holdings Limited;
  - (c) Zhang Likun;
  - (d) Zhang Lidian;
  - (e) Zhang Liming; and
  - (f) Zhang Libo.
16. We have determined that the individuals with control of the relevant overseas person are:
  - (a) Zhang Likun;
  - (b) Zhang Lidian;
  - (c) Zhang Liming;
  - (d) Zhang Libo;
  - (e) Zhang Yanpeng;
  - (f) Chang Herman Hsiu-Guo;
  - (g) Zhang Chi;
  - (h) Yu Shimao;
  - (i) Chen Yongquan;
  - (j) Samuel King On Wong; and
  - (k) Liu Jintong.

## Criteria set out in section 18 of the Overseas Investment Act 2005

17. s18(1)(a) Overseas Investment Act 2005

Does the relevant overseas person, or (if that person is not an individual) do the individuals with control of the relevant overseas person collectively have business experience and acumen relevant to that overseas investment?	✓
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### Applicant's Claims:

Together, Messrs Zhang Likun, Zhang Lidian, Zhang Liming and Zhang Libo are cofounders of the Yashili group, and each has over 18 years of experience in the food and dairy industry. All have undertaken different roles within the Yashili group, such as strategic planning and business development, finance and taxation, and administration and procurement, thereby diversifying their experience across the many sectors required for the establishment of the processing facility. In addition, the other individuals in control of the Applicant, Messrs Zhang Yanpeng, Chang Herman Hsiu-Guo, Zhang Chi, Yu Shimao, Chen Yongquan and Samuel King On Wong also have extensive experience in accounting and finance, marketing, direct investment, food sciences and research.

OIO Assessment:

The Applicant has provided background information for each of the individuals with control of the relevant overseas person (including for Liu Jinting who is not specifically mentioned above). These individuals, collectively, have extensive experience and acumen in the food and dairy industry and other relevant areas such as accounting / finance, marketing, direct investment, food sciences and research.

Yashili has appointed Babbage to manage the project and is in discussions with potential suppliers

Having regard to the above, the OIO is satisfied that the individuals with control of the relevant overseas person have business experience and acumen relevant to that Investment.

## 18. s18(1)(b) Overseas Investment Act 2005

Has the relevant overseas person demonstrated financial commitment to the overseas investment?	✓
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Applicant's Claims:

The Applicant has already incurred approximately \$50,000 plus GST with third party consultants in undertaking due diligence on potential sites for establishing the processing facility. The Applicant has also incurred substantial costs of over \$200,000 internally, in planning for the establishment and the future development and management of the processing facility.

The expenditure in establishing and operating the facility will be funded by the existing cash reserves of the immediate holding company of the Applicant. Yashili has significant cash and investment assets available to it and does not require third party assistance in order to finance the establishment and development of the facility.

OIO Assessment:

Yashili has entered into an agreement to acquire the land required for the processing facility, engaged various consultants and invested a considerable amount of time and money in the project. This criterion is met.

## 19. s18(1)(c) Overseas Investment Act 2005

Is the relevant overseas person, or if that person is not an individual) are all the individuals with control of the relevant overseas person, of good character?	✓
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Applicant's Claims:

Statutory declarations have been provided to the OIO that cover the requirement to demonstrate that the individuals with control of the Applicant are of good character and that those individuals are not of a kind referred to in sections 15 or 16 of the Immigration Act 2009, as required by section 18(1)(c) and (d) of the Act.

OIO Assessment:

The Application notes that in 2008 Yashili products, along with 21 other paediatric milk formula producers in China, were contaminated by melamine. Internet background checks completed by the OIO have also identified several articles containing allegations about the company (mostly related to the melamine incident and following period). These matters are potentially relevant to the good character criterion under 18(1)(c) of the Act as many of the individuals with control of the relevant overseas person held their ownership and control interests when the melamine incident and allegations occurred. The OIO has therefore made enquiries about the matters and sought and received comment from the Applicant. After assessing this information in accordance with the requirements of the Act, the OIO is satisfied that the individuals with control of the relevant overseas person are of good character.

A summary of the melamine incident, the allegations mentioned above, the Applicant's comments on these matters and legal advice regarding the interpretation and assessment of the good character criterion as it applies to the Application is set out in Appendix 1.

## 20. s18(1)(d) Overseas Investment Act 2005

Is the relevant overseas person, or (if that person is not an individual) is each individual with control of the relevant overseas person, not an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009?	✓
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Applicant's Claims:

Statutory declarations have been provided to the OIO that cover the requirement to demonstrate that the individuals with control of the Applicant are of good character and that those individuals are not of a kind referred to in sections 15 or 16 of the Immigration Act 2009, as required by section 18(1)(c) and (d) of the Act.

OIO Assessment:

The OIO is satisfied that the above statement can be relied on as it is contained in statutory declarations which comply with the requirements of the Oaths and Declarations Act 1957.

An internet search of the relevant individuals did not show any material which would suggest that they are individuals of the kind referred to in section 15 or 16 of the Immigration Act 2009.

Third Party Submissions

21. No third party submissions were received.

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## Appendix 1 – Good character criterion (section 18(1)(c) of the Overseas Investment Act 2005)

### Introduction

1. The Application notes that in 2008 Yashili products, along with 21 other paediatric milk formula producers in China, were contaminated by melamine. Internet background checks completed by the OIO have also identified several articles containing allegations about the company (mostly related to the melamine incident and following period). These matters are potentially relevant to the good character criterion under 18(1)(c) of the Act as many of the individuals with control of the relevant overseas person held their ownership and control interests when the melamine incident and allegations occurred. The OIO has therefore made enquiries about the matters and sought and received comment from the Applicant.
2. The purpose of this document is to provide a summary of the melamine incident, the allegations mentioned above, the Applicant's comments on these matters and to provide legal advice regarding the interpretation and assessment of the good character criterion as it applies to the Application.

### Melamine incident and allegations

3. On 16 September 2008, the General Administration of Quality Supervision, Inspection and Quarantine of China ("AQSIQ") made an announcement that the products of 22 paediatric milk formula producers in China, including Yashili, were contaminated by melamine (melamine is an industrially synthesized chemical used for a wide variety of applications, such as laminates, coatings and plastics). The contamination was caused by raw milk dealers who deliberately added melamine to raw milk in order to artificially inflate the apparent protein level of the milk.

4. Yashili states in its Application:

Neither the Parent nor any of its subsidiaries was responsible for the contamination of milk products with melamine. The contamination was caused by a small number of raw milk dealers who deliberately added melamine to raw milk in order to artificially inflate the apparent protein level of the milk. These raw milk dealers acted as intermediaries between individual dairy farmers and milk formula producers, and had no relationship with the Parent other than as supplier and customer of raw milk.

Immediately following the AQSIQ announcement, the Parent conducted a compulsory recall of all contaminated lots of its products, and subsequently also conducted a large scale voluntary recall of all products manufactured prior to 14 September 2008. All recalled products were destroyed under the supervision and verification of local government authorities. The Parent also suspended production temporarily, cooperated with requests of relevant government agencies for inspection and examination of products and production facilities, and contributed approximately RMB61.2 million (approximately NZ\$11.67 million at the exchange rate on the date of this application) to a fund established for compensation of the affected infants and their families.

Subsequent to the melamine incident, the Parent has taken a number of steps to ensure that all products produced are consistently of a high standard of safety and quality. In particular, the Parent has:

- established a Food Quality and Safety Advisory Committee consisting of experts from diverse scientific, professional and geographical backgrounds to implement industry leading quality control practices with the intention of maintaining the safety and quality of the Parent's products;

- implemented a transition from sourcing domestically produced dairy materials to importing premium high quality raw milk powder. Since June 2010, 100% of the raw milk powder used in the Parent's paediatric milk powder products has been sourced from New Zealand or Australia;

- implemented a comprehensive series of procedures to ensure the quality of raw milk, for example by sourcing raw milk directly from the point of collection, providing professional trained personnel to each milk collection station to manage milk collection and to conduct quality checks, and performing multiple checks on each batch of raw milk for quality compliance; and

- strengthened the quality testing of raw materials, semi-finished products, and finished products, for example by importing advanced testing equipment to measure and detect over 60 chemical compounds and micro organisms.

Neither the Parent nor any of its subsidiaries has been involved in any safety or quality incident since 2008.

5. Yashili has also provided a copy of the prospectus it issued on 20 October 2010 prior to its listing on the Hong Kong Stock Exchange (the "Prospectus"). The Prospectus contains more extensive information regarding the melamine incident and its impact on Yashili. The Prospectus states (page 12):

An administrative sanction had been levied against Scient (Guangzhou) by Guangzhou Administration of Industry and Commerce on 14 April 2009 for failure to comply with national regulations on production and quality inspection as a result of the 2008 nationwide melamine incident. After Scient (Guangzhou) complied with the corrective measure ordered by the agency, namely the timely recall of contaminated products from the market through distributors, the agency rendered a mitigated administrative sanction in view of our proactive measures.

6. As part of its assessment process the OIO has conducted internet background checks on Yashili. These checks identified several articles containing allegations about Yashili (set out below). It is important to note that these articles originate from sources unfamiliar to the OIO.

*'China's foremost dairy company accused of "recycling" melamine-tainted milk' - AsiaNews.it article dated 9 February 2010*

7. This article alleges that Yashili changed the packaging on some contaminated milk products and resold them rather than destroying them. The article states that Yashili "issued a statement calling the report fictional", adding that it brought the matter to the attention of the police, and that it would seek legal redress against anyone who defamed it."

*'More issues for melamine milk' - Global Times article dated 10 June 2009*

8. This article alleges that Yashili used milk sourced from China in its infant formula products despite advertising that it used 100% imported milk powder from countries such as New Zealand. The article suggests that that this statement was made by a director of the Dairy Association of China, and confirmed by a Yashili employee who worked in its advertising and planning department.

*'Misleading production dates on milk boxes' - ChinaDaily.com.cn article dated 11 June 2009*

9. This article alleges that in 2009 (after the recall of contaminated products) a Beijing consumer bought several cans of infant formula that were later found by the China National Food and Safety Supervision and Inspection Center to contain a high level of melamine (182.9 mg/kg when the allowable limit was 1mg/kg). The consumer in question, Mr Guo, reportedly demanded 500,000 yuan as compensation from Yashili. The article states that the product was manufactured before 14 September 2008 (when the melamine scandal broke out) and that AQSIQ confirmed that Scient's products manufactured after that date abide by all government standards.

*'China's Dairy Industry: A Contaminated Melamine' - TheDairySite.com article dated December 2009*

10. This article contains the same allegation as the Global Times article above but also alleges that:
- some Yashili products were found to contain melamine 130 times above the permitted level in 2009 (after the recall of contaminated products); and
  - Yashili portrayed a subsidiary company as an overseas investor (the purpose of this alleged misrepresentation is somewhat unclear).

#### OIO enquiries

11. On 6 March 2013 the OIO

12. On 13 March 2013

13.

14. On 15 March 2013 the QIO wrote to the Applicant seeking their comment on the articles and administrative sanction. Yashili responded on 22 March 2013 and 25 March 2013. Yashili's responses are set out below.

Applicant's response to allegations

Administrative sanction on April 2009

15. In relation to the sanction Yashili states:

- (a) the sanction was imposed as a consequence of 162 batches of Scient's products produced between 1 January 2008 and 14 September 2008 being found to contain melamine. The sanction required measures to be taken to seize sales, recall and destroy those contaminated products;
- (b) the sanction imposed on Scient by Guangzhou Administration of Industry and Commerce ("GZAIC") was very lenient, with GZAIC acknowledging Scient's lack of intention and knowledge in respect of the contamination; and
- (c) in its view the sanction does not amount to a breach or contravention of law.

16. Yashili has also provided a translated copy of the sanction in support of its statements.

'China's foremost dairy company accused of "recycling" melamine-tainted milk' - AsiaNews.it article dated 9 February 2010

17. Yashili states that the content of this article is not true and Yashili has not recycled the melamine-tainted milk. The allegations made in this article, as to the recycling of tainted melamine milk powder and relabeling of tainted products, have been confirmed as false following published police investigations into the allegations. Yashili has provided a translated copy of the police investigation supporting its statements.

'More issues for melamine milk' - Global Times article dated 10 June 2009

18. In relation to this article Yashili states:

- (a) the allegations in the Global Times article dated 10 June 2009 are not true;
- (b) certain of Scient's products were produced with local milk (from Heilongjiang and Shanxi) and others with 100% imported milk sources. However, Scient never intentionally hid from the public that there was certain milk sourced from Heilongjiang and Shanxi at that time and Scient never advertised that its source of milk in relation to those products was from New Zealand; and
- (c) the Yashili employee referred to in the article is still working for Yashili and has adamantly denied that he had ever confirmed such an untrue statement.

'Misleading production dates on milk boxes' - ChinaDaily.com.cn dated 11 June 2009

19. In relation to this article Yashili states:

that it denies the allegations made by Mr Guo in this article, who claimed that Yashili's 'Scient' branded products he purchased were found to be contaminated with melamine and that Yashili was fraudulently marketing these products;

- (b) Mr Guo alleged that that the paediatric milk formula products he purchased under the Scient brand were found to be contaminated with melamine. These claims were never substantiated and Mr Guo was subsequently sentenced to 5 years' imprisonment for blackmail.

*'China's Dairy Industry: A Contaminated Goldmine' - TheDairySite.com article dated December 2009*

20. In relation to this article Yashili states:

- (a) that it assumes that this article is related to the China Daily.com.cn dated 11 June 2009. After the melamine issue in 2008, extremely strict requirements have been imposed by the state and have been applied by the company on the production and examination of infant milk formula of Scient. Therefore, it is impossible for the products in 2009 to contain melamine. The allegation is not true; and
- (b) Scient (Guangzhou) was established on 29 March 2002 75% held by Yashili Nutrition and 25% held by Scient Infantfood (USA). Scient (USA) was incorporated on 7 May 2007 by Frank Lin, who is the owner of Yawee International and Scient Infantfood (USA). On 20 May 2008, Frank Lin and Yashili (Guangdong) entered into an equity transfer agreement, pursuant to which Frank Lin transferred 100% equity interest in Scient (USA) to Yashili (Guangdong) at a consideration of USD\$0.7 million. The consideration was determined by arm's length negotiation with reference to the value of the assets held by Scient (USA), including a property situated in the U.S., and was paid on 31 December 2008. Frank Lin remains as a director of Scient (USA) subsequent to the transfer. Other than his directorship and past ownership in Scient (USA), Frank Lin has no relationship with Yashili, its shareholders, directors, senior management or any of their respective associates.

Interpretation of the good character criterion

21.

22.

(a)

(b)

23.

24.

25.

26.

27.

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29.

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31.

32.

#### Assessment

##### *Melamine incident and administrative sanction*

33. The OIO has given careful consideration to the above matter. In relation to the melamine incident the OIO notes that an administrative sanction was levied against the Applicant in 2008 for violating "section 7(6) of the Rules of Investigation and Handling of Production and Sales of Counterfeit and Substandard Goods in Guangdong Province (Ordinance) ... [s]ection 7(6) refers is noncompliance with operation standard for commodities that are considered to be counterfeit and substandard goods [sic]" (refer translated version of sanction). The OIO considers that the sanction is a matter that must be taken into account when assessing whether or not the individuals with control of the relevant overseas person are of good character under section 19 of the Act.
34. However, the sanction states that Yashili had "no subjective intention to violate the law" and applied a lighter 'punishment' being to "immediately stop producing and selling the unqualified milk powder and continually recall and destroy all the unqualified milk powder, properly handle the aftermath [sic]" (refer translated version of sanction). This is in contrast to the severe sentences handed down by Chinese authorities to those involved in contaminating the milk powder. Relevantly, the Applicant has taken considerable steps (of which the proposed investment is an example) to ensure that no further contamination occurs in the future (neither the Parent nor any of its subsidiaries has been involved in any safety or quality incident since 2008).
35. Having regard to the above, the OIO considers that the melamine incident and sanction is not a matter that disqualifies the individuals with control of the relevant overseas person from being considered of good character.

#### *Articles*

36. As noted earlier, the articles containing allegations originate from sources unfamiliar to the OIO. As such, the OIO is unable to verify their reliability. For completeness, the OIO sought comment from the Yashili which has addressed each allegation and, where practical, provided supporting documentation. Yashili's comments in relation to the allegations are referenced in the true and correct statutory declaration provided in support of the Application.

#### *Conclusion*

37. Having regard to the above, the OIO considers that the good character statutory declarations that have been provided by each individual with control of the relevant overseas person can be relied upon. The OIO notes that the conditions proposed in Appendix 1 include a requirement that the relevant individuals remain of good character and not become individuals of the kind referred to in section 15 or 16 of the Immigration Act 2009. These conditions provide further means to take enforcement action against the applicants and against the consented investment (for example, if they have provided false information or subsequently cease to be persons of good character).

## Appendix 2 – Conditions of Consent

Consent is granted subject to the following conditions:

1. The consent will lapse if the Applicant has not built a milk processing facility (as described in the application dated 13 December 2012, the "Plant") within 36 months of the date of consent.
2. The Applicant must notify the Overseas Investment Office in writing as soon as practicable, and no later than 36 months from the date of consent, whether the Plant has been built. If the Plant has been built, the notice must include:
  - (a) the date the Plant was completed;
  - (b) how much it cost to build the Plant;
  - (c) the number of jobs created as a result of the Investment;
  - (d) the structure by which the Investment was made, and who made the Investment; and
  - (e) any other information that would aid the Overseas Investment Office in its function to monitor conditions of consent.
3. The individuals with control of Yashili New Zealand Dairy Co., Limited and Yashili International Holdings Limited (the "Relevant Individuals"), must:
  - (a) continue to be of good character; and
  - (b) not become an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009.
4. The Applicant must notify the Overseas Investment Office in writing within 20 working days if:
  - (a) any of the Relevant Individuals:
    - (i) cease to be of good character; or
    - (ii) commit an offence or contravene the law (whether convicted or not); or
    - (iii) become aware of any other matter that affects adversely on their fitness to have the Investment; or
    - (iv) become an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009;
  - (b) any person in which the Applicant, or any of the Relevant Individuals have, or had at the time of the offence or contravention, a 25% or more ownership or control interest, commits an offence or contravenes the law (whether convicted or not); or
  - (c) the Applicant:
    - (i) ceases to be an overseas person; or
    - (ii) disposes of the Investment.
5. The Applicant must report in writing to the Overseas Investment Office as to the progress of the Plant (bi-annually by the last day of June and December until the Plant is completed).
6. If requested in writing by the Overseas Investment Office, the Applicant must provide a written report within 20 working days (or such other timeframe as specified) on any matter relating to its compliance with:
  - (a) the representations and plans made or submitted in support of the application and notified by the regulator as having been taken into account when the consent was granted; or
  - (b) the conditions of this consent.