

立法會
Legislative Council

LC Paper No. CB(1) 1300/01-02
(These minutes have been seen
by the Administration)

Ref : CB1/BC/1/01

**Bills Committee on
Import and Export (Electronic Transactions) Bill 2001**

**Minutes of second meeting held on
Thursday, 21 February 2002, at 2:30 pm
in Conference Room A of the Legislative Council Building**

Members present : Hon Kenneth TING Woo-shou, JP (Chairman)
Hon HUI Cheung-ching, JP
Hon SIN Chung-kai
Hon Miriam LAU Kin-yee, JP

Members absent : Hon CHAN Kam-lam
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP

**Public officers
attending** : Commerce and Industry Bureau

Mr Philip CHAN
Principal Assistant Secretary

Miss Helen CHUNG
Assistant Secretary

Department of Justice

Mr J L ABBOTT
Senior Assistant Law Draftsman

Ms Frances HUI
Senior Government Counsel

Customs and Excise Department

Mr LEUNG Koon-wah
Senior Staff Officer (Information Technology)

Clerk in attendance : Miss Becky YU
Chief Assistant Secretary (1)1

Staff in attendance : Miss Anita HO
Assistant Legal Adviser 2

Mrs Mary TANG
Senior Assistant Secretary (1)2

I Confirmation of minutes of previous meeting

(LC Paper No. CB(1) 1028/01-02 — Minutes of the meeting held on
22 January 2002)

The minutes of meeting on 22 January 2002 were confirmed.

II Meeting with the Administration

The Bill

The Legislative Council Brief issued by the Commerce and Industry Bureau on
30 May 2001 (Ref: CIB 89/14/5)

LC Paper No. LS 119/00-01 -- Legal Service Division Report dated
15 June 2001

LC Paper No. LS 4/01-02 -- Legal Service Division Report dated
8 October 2001

Appendix IV of LC Paper No. CB(1) 859/01-02 -- Marked-up copy of the Bill
LC Paper No. CB(1) 1076/01-02(01) -- List of follow-up actions arising from
the discussion on 22 January 2002

LC Paper No. CB(1) 1076/01-02(02) -- Administration's response to
CB(1) 1076/01-02(01)

LC Paper No. CB(1) 1095/01-02(01) -- Submission from the Carrier Liaison
Group

2. The Committee deliberated (Index of proceedings attached at **Annex A**).

3. The Administration was requested to -
 - (a) set out in a table views of consultees on the proposed fees for electronic submission of cargo manifests (EMAN);
 - (b) advise the EMAN fees in Singapore and Taiwan;
 - (c) consider amending proposed section 15(1B)(b) to avoid any misunderstanding;
 - (d) advise whether a person who, without reasonable excuse, failed to furnish the Director-General of Trade and Industry (the Director) with a manifest committed an offence under sections 8 and proposed section 19A of the Import and Export Ordinance (Cap. 60) and was liable to penalty under these sections;
 - (e) review the propriety of imposing a sanction under proposed section 19A which aimed to codify the current practice whereby carriers delivered a copy of every cargo manifest to the Director for trade control purpose and failure to do so would not attract penalty; and
 - (f) provide the drafting of the separate provision governing the submission of manifests in respect of road mode carriers.
4. There being no other business, the meeting ended at 16:10 pm.

Legislative Council Secretariat
18 March 2002

**Proceedings of the meeting of the
Bills Committee on Import and Export (Electronic Transactions) Bill 2001
on Thursday, 21 February 2002, at 2:30 pm
in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
00:00 - 02:02	Mr Kenneth TING	Confirmation of minutes of meeting	
02:03 - 06:37	Admin	Explanation of Administration's response at CB(1)1076/01-02	
06:38 - 06:41	Mr Kenneth TING	-ditto-	
06:42 - 12:48	Admin	-ditto-	
12:49 - 12:51	Mr Kenneth TING	-ditto-	
12:52 - 13:19	Mr HUI Cheung-ching	Overseas practices in the electronic data interchange (EDI) for processing submission of cargo manifests (EMAN)	
13:20 - 13:55	Admin	-ditto-	
13:56 - 14:25	Mr Kenneth TING	-ditto-	
14:26 - 15:11	Mr HUI Cheung-ching	-ditto-	
15:12 - 15:22	Admin	-ditto-	
15:23 - 15:25	Mr Kenneth TING	-ditto-	
15:26 - 15:56	Admin	-ditto-	
15:57 - 16:03	Mr Kenneth TING	-ditto-	
16:04 - 20:53	Ms Miriam LAU	Concerns about high EMAN charges by Tradelink. Need for consultation with affected carriers. The use of Customs' Air Cargo Clearance systems (ACCS) by the Carrier Liaison Group. Measures to facilitate the trades in the use of EMAN. The establishment of a common EDI platform to facilitate the logistics trade	
20:54 - 20:54	Mr Kenneth TING	-ditto-	

20:55 - 25:46	Admin	Explanation on that the cargo operators, on behalf of air carriers, could make use of their database for submission of cargo data to ACCS for customs clearance, and for submission of a manifests through EMAN. However the required information of manifest was more than just the cargo data submitted to ACCS. Also, the cargo data submitted to ACCS e.g. the exact quantity of cargo had to be updated subsequently to prepare the manifest. Fee packages of EMAN still under negotiation with Tradelink	
25:47 - 25:53	Ms Miriam LAU	Whether EMAN services provided by Tradelink would replace ACCS	
25:54 - 26:29	Admin	The involvement of Tradelink in ACCS would delay the cargo clearance process	
26:30 - 26:38	Ms Miriam LAU	Cost-effectiveness of EMAN services using Tradelink	
26:39 - 26:29	Mr Kenneth TING	-ditto-	
26:40 - 26:59	Ms Miriam LAU	-ditto-	
27:00 - 28:05	Admin	Explanation on existing procedure on cargo clearance using ACCS	
28:06 - 28:12	Ms Miriam LAU	Need for justification of extra expenditure using EMAN services by Tradelink	
28:13 - 28:51	Admin	-ditto-	
28:52 - 29:08	Ms Miriam LAU	Trade associations should be consulted on the proposals under the Bill	
29:09 - 29:49	Mr Kenneth TING	Trade associations to be invited to give views at the next meeting of the Bills Committee	
29:50 - 29:57	Ms Miriam LAU	Trades should be advised of EMAN procedures	

29:58 - 30:10	Mr Kenneth TING	-ditto-	
30:11 - 30:23	Admin	-ditto-	
30:24 - 30:26	Mr Kenneth TING	-ditto-	
30:27 - 30:32	Admin	Suggested that Tradelink should also be invited to attend the meeting to exchange views	
30:33 - 31:54	Ms Miriam LAU	The purpose of EMAN was to facilitate the trade in cargo clearance	
31:55 - 35:50	Admin	Cargo operators were well aware of the benefits of electronic submission of cargo data to ACCS. Tradelink would be providing necessary assistance to the trades in complying with the provisions of the Bill	
35:51 - 37:26	Mr Kenneth TING	Request for clarification on the penalties relating to the failure of owners of vessels, aircraft or vehicles to furnish cargo manifest under existing and proposed provisions	
37:27 - 39:42	ALA2	Reference made to section 7(2) of schedule 1 on proposed section 15(1B) regarding the submission of manifest in paper form. Request for clarification on the penalty provisions under - (i) section 8 of Import and Export Ordinance (IEO), Cap.60 for failure to submit manifest to Director-General of Trade and Industry (the Director) which carried a fine of \$5,000; (ii) regulation 11(5) of Import and Export (Registration) Regulations for failure to submit manifest to Commissioner of Customs and Excise (the Commissioner) which carried a fine of \$10,000; and	

		(iii) proposed section 19A(4) of IEO for failure to submit manifest to the Director which carried a fine of \$10,000	
39:43 - 42:23	Admin	Explanation of clause 7 which amended section 15(1). The new section 15(1B)(a) was to allow for the submission of manifest in paper form as there was an operational need to do so when the Customs and Excise staff might not have the necessary equipment to receive the electronic manifest on board a vessel. Under new section 15(1B)(b), the manifest could be furnished in electronic form if the Customs and Excise staff so permitted, taking into account the situation e.g. when they had the necessary equipment to receive such manifest	
42:24 - 42:29	Mr Kenneth TING	-ditto-	
42:30 - 42:49	ALA2	-ditto-	
42:50 - 42:53	Mr Kenneth TING	-ditto-	
42:54 - 43:58	Admin	-ditto-	
43:59 - 44:53	Ms Miriam LAU	Need to review drafting of new section 15(1B)(b) such that a choice between submission of manifest in paper or electronic form could be given	
44:54 - 45:09	Admin	-ditto-	
45:10 - 45:16	Mr Kenneth TING	-ditto-	
45:17 - 45:31	Admin	Explanation that a choice could not be given for practical reasons and that the Customs and Excise staff should be given the discretion to decide upon the mode of submission	
45:32 - 45:36	Ms Miriam LAU	-ditto-	
45:37 - 45:43	Admin	Explanation of practical difficulty of receiving manifest in electronic form on board a vessel	

45:44 - 45:48	Ms Miriam LAU	In view of practical difficulty, suggested that paper form should be used for inspection purposes on board aircraft, vessel or vehicle	
45:49 - 46:08	Admin	Proposed section 15(1B)(a) needed to allow for submission of manifest in paper form. Reiterated the need for discretion on the part of Customs and Excise staff to decide on the acceptance of paper or electronic manifest when on board	
46:09 - 47:07	Ms Miriam LAU	-ditto-	
47:08 - 47:24	Admin	-ditto-	
47:25 - 47:35	Mr Kenneth TING	-ditto-	
47:36 - 49:00	Admin	-ditto-	
49:01 - 49:20	Mr Kenneth TING	-ditto-	
49:21 - 49:39	Admin	-ditto-	The Administration agreed to consider the drafting of proposed section 15(1B)(b) to avoid any misunderstanding
39:40 - 49:42	Mr Kenneth TING	-ditto-	
49:43 - 51:14	Admin	-ditto-	
51:15 - 54:01	ALA2	Penalty provisions under existing section 8 and new section 19A(4) and (5) of IEO and regulation 11(5) and (6) of Import and Export (Registration) Regulation and whether failure to submit manifest would be liable to penalty under the different provisions under IEO and its regulations	
54:02 - 54:04	Admin	-ditto-	
54:05 - 54:09	ALA2	-ditto-	
54:10 - 54:15	Admin	-ditto-	
54:16 - 54:27	ALA2	-ditto-	

54:28 - 56:07	Admin	Explanation that requirements under section 8 of IEO related to the import of prohibited articles which required import licences by the Director. Regulations 11(5) and (6) provided for the penalties for failure to give all the particulars required in a manifest and the failure to submit manifest to the Commissioner respectively. Likewise, new section 19A(4) and (5) was introduced to provide similar penalties for failure to give all the particulars required in a manifest and the failure to submit manifest to the Director	
56:08 - 56:15	Mr Kenneth TING	-ditto-	
56:16 - 57:11	Admin	-ditto-	
57:12 - 57:18	Mr Kenneth TING	Failure on the part of Tradelink to submit manifest to the Director or the Commissioner	
57:19 - 01:00:13	Admin	Failure on the part of Tradelink to submit manifest would be a defence for the carriers	
01:00:14 - 01:00:26	Mr Kenneth TING	-ditto-	
01:00:27 - 01:02:01	Admin	Obligation under section 8 of IEO was related to the submission of an extract of manifest to the Director within seven days of the receipt of the import licence. New section 19A was an obligation to provide a complete manifest to the Director	
01:02:02 - 01:02:15	Mr Kenneth TING	Whether carrier would be penalized in both cases	
01:02:16 - 01:02:39	Admin	Failure on the part of the carrier to submit an extract and the full particulars of a manifest to the Director would involve the commission of offences in both sections 8 and 19A, although he might not be penalized in both cases	

01:02:40 - 01:02:46	Mr Kenneth TING	-ditto-	
01:02:47 - 01:03:20	Admin	-ditto-	
01:03:21 - 01:03:44	Mr Kenneth TING	-ditto-	
01:03:45 - 01:04:38	Admin	-ditto-	
01:04:39 - 01:04:48	Mr Kenneth TING	Failure on the part of Tradelink to furnish manifest to the Director and Commissioner	
01:04:49 - 01:05:29	Admin	Issue to be dealt with separately	
01:05:30 - 01:05:35	Mr Kenneth TING	Obligation under new section 19A	
01:05:36 - 01:05:37	Admin	-ditto-	
01:05:38 - 01:05:48	Mr Kenneth TING	-ditto-	
01:05:49 - 01:05:55	Admin	-ditto-	
01:05:56 - 01:05:59	Mr Kenneth TING	-ditto-	
01:06:00 - 01:06:28	Admin	-ditto-	
01:06:29 - 01:06:38	Mr Kenneth TING	Concern that the requirement of electronic submission of manifest would be complicating the process rather than streamlining it	
01:06:39 - 01:06:54	Admin	-ditto-	
01:06:55 - 01:07:25	Mr Kenneth TING	-ditto-	
01:07:26 - 01:07:33	Admin	-ditto-	
01:07:34 - 01:07:44	Mr Kenneth TING	-ditto-	
01:07:45 - 01:07:50	Admin	-ditto-	
01:07:51 - 01:08:04	Mr Kenneth TING	-ditto-	
01:08:05 - 01:08:43	Admin	EMAN could be operated through push of button and allowed for information to be sent concurrently	
01:08:44 - 01:09:08	Mr Kenneth TING	Non-compatibility of EMAN and ACCS	
01:09:09 - 01:09:51	Admin	Manifest could be submitted within 14 days	

01:09:52 - 01:10:33	ALA2	Whether a carrier who failed to submit a manifest to the Commissioner and the Director would be guilty of offences under regulation 11 of Import and Export (Registration) Regulation and new section 19A of IEO	
01:10:34 - 01:10:42	Admin	-ditto-	
01:10:43 - 01:11:45	ALA2	Obligation to submit manifest to the Commissioner under regulation 11 was to facilitate the compilation of statistics by the Commissioner for Census and Statistics. Obligation to submit extract of manifest under section 8 of IEO applied only to prohibited articles which required import licence. Obligation under new section 19A of IEO would require the submission of the full particulars of manifest to the Director. Whether the obligation under new section 19A was to facilitate the Director in checking the import/export licence	
01:11:46 - 01:12:40	Admin	-ditto-	
01:12:41 - 01:12:47	ALA2	-ditto-	
01:12:48 - 01:13:34	Admin	The Commissioner for Census and Statistics was authorized by the Commissioner administratively to receive the manifest for checking against the import or export declaration lodged in respect of the cargo	
01:13:35 - 01:14:32	Admin	If the carrier had omitted to submit a manifest to the Commissioner and the Director, he would be committing two offences. Whether the carrier would be charged for both offences would be a matter for the prosecuting authorities to decide	
01:14:33 - 01:14:58	Mr Kenneth TING	-ditto-	

01:14:59 - 01:15:04	ALA2	Whether penalties under new section 19A were already covered by existing section 8	
01:15:05 - 01:15:56	Admin	Through the submission of manifests as required under new section 19A, it was possible for the Director to investigate into the illegal smuggling of unlicensed merchandise.	
01:15:57 - 01:16:05	Mr Kenneth TING	Whether it was possible to repeal section 8	
01:16:06 - 01:16:09	ALA2	Section 8 could not be repealed as it governed the delivery of import licence	
01:16:10 - 01:16:15	Mr Kenneth TING	Incorporation of penalty provisions under section 8 to section 19A	
01:16:16 - 01:16:20	Admin	Sections 8 and 19A were for different purposes	
01:16:21 - 01:16:26	Mr Kenneth TING	Deliberations on sections 8 and 19A	
01:16:27 - 01:16:46	Admin	-ditto-	
01:16:47 - 01:17:01	Mr Kenneth TING	-ditto-	
01:17:02 - 01:17:06	Ms Miriam LAU	-ditto-	
01:17:07 - 01:17:33	Admin	New section 19A codified the current practice of submission of manifests to the Director	
01:17:34 - 01:18:09	Ms Miriam LAU	Current practice did not attract penalty provisions	
01:18:10 - 01:18:11	Mr Kenneth TING	-ditto-	
01:18:12 - 01:18:16	Ms Miriam LAU	Reservations about the proposed arrangements which were not user friendly and would incur more costs	
01:18:17 - 01:18:20	Mr Kenneth TING	-ditto-	
01:18:21 - 01:18:54	Ms Miriam LAU	Suggested that EMAN be used as a permissive mode without providing for penalty	
01:18:55 - 01:18:57	Admin	-ditto-	

01:18:58 - 01:19:14	Ms Miriam LAU	Enquired whether the failure to submit manifest to the Director would attract penalty under current practice	
01:19:15 - 01:20:28	Admin	No penalty for failure to submit manifest to the Director under current practice	
01:20:29 - 01:20:45	Ms Miriam LAU	Criminal sanctions should not be imposed for failure to supply information required for statistical or trade control purposes. Should allow for the concurrent submission of manifest to both Director and Commissioner electronically	The Administration was requested to review the propriety of imposing a sanction under proposed 19A which aimed to codify the current practice whereby carriers delivered a copy of every cargo manifest to the Director for trade control purpose and failure to do so would not attract penalty
01:20:46 - 01:21:06	Admin	Agreed to consider members' suggestions about sharing of information	
01:21:07 - 01:21:16	ALA2	Concern about penalty provisions	
01:21:17 - 01:21:23	Ms Miriam LAU	-ditto-	
01:21:24 - 01:22:04	Admin	-ditto-	
01:22:05 - 01:22:22	Ms Miriam LAU	-ditto-	
01:22:23 - 01:22:43	Mr Kenneth TING	Proposed fees for EMAN	
01:22:44 - 01:22:47	Admin	-ditto-	
01:22:48 - 01:22:59	Mr Kenneth TING	-ditto-	
01:23:00 - 01:24:21	Admin	-ditto-	
01:24:22 - 01:24:48	Mr Kenneth TING	-ditto-	
01:24:49 - 01:25:36	Admin	-ditto-	
01:25:37 - 01:25:48	Mr Kenneth TING	Enquiry on different charges for ocean/ air/ rail and river	

01:25:49 - 01:25:51	Admin	Explanation on charges as set out in paragraph 11 of CB(1)1076/01-02	
01:25:52 - 01:26:22	Mr Kenneth TING	-ditto-	
01:26:23 - 01:26:33	Admin	-ditto-	
01:26:34 - 01:26:35	Mr Kenneth TING	-ditto-	
01:26:36 - 01:26:43	Admin	-ditto-	
01:26:44 - 01:26:48	Mr Kenneth TING	-ditto-	The Administration was requested to set out in a table views of consultees on the proposed fees for EMAN
01:26:49 - 01:26:52	Admin	-ditto-	
01:26:53 - 01:27:22	Mr Kenneth TING	-ditto-	
01:27:23 - 01:28:16	Ms Miriam LAU	-ditto-	
01:28:17 - 01:28:24	Mr Kenneth TING	-ditto-	
01:28:25 - 01:28:52	Ms Miriam LAU	-ditto-	
01:28:53 - 01:29:05	Admin	-ditto-	
01:29:06 - 01:29:21	Mr Kenneth TING	-ditto-	
01:29:22 - 01:29:48	Ms Miriam LAU	-ditto-	
01:29:49 - 01:29:54	Mr Kenneth TING	-ditto-	
01:29:55 - 01:30:32	Ms Miriam LAU	EMAN charges in Singapore and Taiwan	
01:30:33 - 01:30:39	Admin	-ditto-	
01:30:40 - 01:31:00	Mr Kenneth TING	-ditto-	
01:31:01 - 01:31:13	Ms Miriam LAU	-ditto-	The Administration was requested to advise the EMAN charges in Singapore and Taiwan
01:31:14 - 01:31:48	Mr Kenneth TING	Date of next meeting	
01:31:49 - 01:31:50	Ms Miriam LAU	-ditto-	
01:31:51 - 01:31:55	Mr HUI Cheung-ching	-ditto-	
01:31:56 - 01:32:58	Ms Miriam LAU	-ditto-	
01:32:59 - 01:32:05	Mr Kenneth TING	-ditto-	
01:32:06 - 01:32:10	Mr HUI Cheung-	-ditto-	

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01:32:11 - 01:32:20	Ms Miriam LAU	-ditto-	
01:32:21 - 01:32:33	Mr Kenneth TING	-ditto-	
01:32:34 - 01:32:35	Ms Miriam LAU	-ditto-	
01:32:36 - 01:32:49	Mr Kenneth TING	-ditto-	
01:32:50 - 01:33:19	ALA2	Need to provide the drafting of the separate provision governing the submission of manifests in respect of road mode carriers before the next meeting	
01:33:20 - 01:33:26	Admin	-ditto-	The Administration was requested to provide the drafting of the separate provision governing the submission of manifests in respect of road mode carriers
01:33:27 - 01:34:02	ALA2	-ditto-	
01:34:03 - 01:34:06	Mr Kenneth TING	-ditto-	

Note: The audio records of the above proceedings are kept at the LegCo Library

Legislative Council Secretariat
18 March 2002