

立法會
Legislative Council

LC Paper No. CB(1) 2238/01-02
(These minutes have been seen
by the Administration)

Ref : CB1/BC/1/01/2

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

**Minutes of fifth meeting held on
Thursday, 30 May 2002, at 8:30 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Kenneth TING Woo-shou, JP (Chairman)
Hon HUI Cheung-ching, JP
Hon CHAN Kam-lam
Hon Miriam LAU Kin-ye, JP
- Members absent** : Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon SIN Chung-kai
- 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 HO Ka-ying
Senior Staff Officer (Information Technology)

Census and Statistics Department

Ms Josephine TSE
Senior Statistician (Trade)

Trade and Industry Department

Miss Winnie TO
Principal Trade Officer

- Attendance by invitation** : Tradelink Electronic Commerce Limited
Miss Emily CHUNG
Chief Operations Officer
Mr Alfred YUEN
Vice-President-Applications Development
- 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
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I Confirmation of minutes of previous meeting

(LC Paper No. CB(1) 1834/01-02 — Minutes of the meeting held on 9 May 2002)

The minutes of the meeting held on 9 May 2002 were confirmed.

II Meeting with the Administration and deputations

(LC Paper No. CB(1) 1736/01-02 — Submission from the Guangdong and Hong Kong Feeder Association Limited (GHKFA) on the need for proper interfacing arrangements with the Mainland on the electronic submission of cargo manifest

LC Paper No. CB(1) 1835/01-02(01)— A letter from the Chief Executive Officer of Tradelink responding to the concerns raised by GHKFA at CB(1) 1736/01-02

LC Paper No. CB(1) 1870/01-02(01)— Administration's response to the concerns raised by GHKFA at CB(1) 1736/01-02

LC Paper No. CB(1) 1835/01-02(02)— List of follow-up actions arising from the discussion on 9 May 2002

LC Paper No. CB(1) 1835/01-02(03)— Administration's response to CB(1) 1835/01-02(02)

LC Paper No. CB(1) 1835/01-02(04)— Mark-up copy of the Bill incorporating the draft Committee Stage amendments (CSAs)

LC Paper No. LS94/01-02 (Revised)— Summary of Administration's responses to the queries/comments raised by Legal Service Division together with CSAs proposed on relevant provisions following discussion by the Bills Committee)

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

3. The Administration was requested to -
- (a) confirm whether it was the policy objective of the Guangdong Customs Sub-Administration to mandate the submission of manifests in electronic form and whether Nan Fang was the sole provider of electronic service for manifest submission in all ports within the Pearl River Delta Region;
 - (b) advise the number and locations of ports included under the trial scheme for electronic submission of manifests conducted by the Guangzhou Customs;
 - (c) refine the drafting of proposed sections 15(1B) and (1C) of the Import and Export Ordinance (the Ordinance) to reflect the intention of avoiding duplication in the submission of manifests; and
 - (d) refine the drafting of proposed section 19(1) of the Ordinance to make it an option for the owner of any vessel to provide in paper form or in the form of an electronic record (the manner and format in which the information was given must comply with any requirement specified under Section 11(2) of the Electronic Transactions Ordinance in relation to Cap. 60) a list showing every port or place at which the vessel had called during the period of three months immediately preceding the date of its arrival in Hong Kong.
4. There being no other business, the meeting ended at 10:30 am.

**Proceedings of the meeting of the
Bills Committee on Import and Export (Electronic Transactions) Bill 2001
on Thursday, 30 May 2002 at 8:30 am.
in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
000000 - 000202	Chairman	Confirmation of minutes of meeting on 9 May 2002 (LC Paper No. CB(1) 1834/01-02)	
000202 - 000805	Administration	Report on progress of discussion with Tradelink, Nan Fang and the Guangdong Hong Kong Feeder Association on the electronic submission of cargo manifest (EMAN)	
000805 - 000815	Chairman	Ditto	
000815 - 000847	Mr HUI Cheung-ching	Enquiry on outcome of discussion with Nan Fang	
000847 - 000921	Administration	Nan Fang agreed on the need for providing value-added service so that carriers would not need to enter manifest data twice for satisfying the requirement in Hong Kong and the Pearl River Delta Region	
000921 - 000938	Mr HUI Cheung-ching	Whether Nan Fang was the sole provider of electronic service for manifest submission in all ports within the Pearl River Delta Region	
000938 - 001035	Administration	Nan Fang was approved by Guangzhou Customs as a service provider. It played a role similar to Tradelink in Hong Kong	

001035 - 001051	Mr HUI Cheung-ching	Enquiry on whether there were any documents to indicate that Nan Fang was the sole service provider	
001051 - 001118	Chairman	Ditto	
001118 - 001230	Administration	Agreed to confirm whether Nan Fang was the sole service provider	
001230 - 001352	Ms Miriam LAU	Enquiry on whether Nan Fang was a Government owned company or a private enterprise, whether its services were used by carriers in all ports within Pearl River Delta Region, and whether communication was established between Tradelink and Nan Fang	
001352 - 001515	Administration	Communication channel set up between Tradelink and Nan Fang. Would find out more about the operation of Nan Fang	The Administration was requested to confirm whether Nan Fang was the sole provider of electronic service for manifest submission in all ports within the Pearl River Delta Region
001515 - 001547	Ms Miriam LAU	Need to ensure uniformity of EMAN system, at least in Guangdong	
001547 - 001854	Tradelink	Tradelink had been actively communicating with Nan Fang on the possible technical solution to be offered to river carriers. Technical assistance provided to the trade in interfacing with Tradelink	
001854 - 001918	Chairman	Target date of the implementation of the technical solution by Tradelink and Nan Fang	

001918 - 002002	Administration	Pending progress of discussion between Tradelink and Nan Fang	
002002 - 002346	Mr CHAN Kam-lam	Need to escalate level of communication. Instead of relying on communication between Tradelink and Nan Fang, the SAR Government should communicate direct with Guangzhou Customs. Assistance should be sought from the Hong Kong Guangdong Cooperation Coordination Unit (HKGCCU) where necessary. More pro-active approach needed	
002346 - 002423	Chairman	Ditto	
002423 - 003127	Administration	Agreed on need for pro-active approach and more effective communication. Would verify status of Nan Fang. Would decide on need for assistance from HKGCCU. The trial scheme whereby carriers were required to submit manifest electronically well in advance had just been conducted by Guangzhou Customs recently	
003127 - 003243	Mr CHAN Kam-lam	Supported a more proactive approach	
003243 - 003256	Chairman	Ditto	
003256 - 003407	Administration	Ditto	
003407 - 003514	Ms Miriam LAU	Enquiry on number and locations of ports included under the trial scheme and whether it was the policy objective of Guangzhou Customs Sub-Administration to mandate the submission of manifest in electronic form	

003514 - 003610	Administration	Enquiry on number and locations of ports included under the trial scheme and whether it was the policy objective of Guangzhou Customs Sub-Administration to mandate the submission of manifest in electronic form	The Administration was requested to advise the number and locations of ports included under the trial scheme for electronic submission of manifests conducted by Guangzhou Customs and to confirm whether it was the policy objective of the Guangdong Customs Sub-Administration to mandate the submission of manifests in electronic form
003610 - 003649	Chairman	Ditto	
003649 - 003656	Administration	Ditto	
003656 - 003712	Ms Miriam LAU	EMAN charges	
003712 - 004229	Tradelink	Discussion ongoing with airport terminal operators. EMAN charges for air carriers under negotiation. Technical assistance to be given to river carriers in interfacing with Tradelink. Tradelink had offered the provision of free Tradelink service for the first three months of EMAN implementation to “subsidize” the upfront costs incurred by river carriers in interfacing with Tradelink	
004229 - 004242	Chairman	Ditto	
004242 - 004319	Administration	Ditto	
004319 - 004344	Ms Miriam LAU	Ditto	
004344 - 004414	Administration	Ditto	

004414 - 004452	Ms Miriam LAU	EMAN charges for rail carriers	
004452 - 004508	Tradelink	Rail carriers had raised no objection to the proposed EMAN charges	
004508 - 004519	Ms Miriam LAU	Ditto	
004519 - 004535	Administration	Ditto	
004535 - 004610	Ms Miriam LAU	Basis for setting EMAN charges should be the same irrespective of mode of transport	
004610 - 004614	Chairman	Ditto	
004614 - 004638	Tradelink	Volume discount offered to carriers	
004638 - 004652	Chairman	EMAN charges for ocean liners	
004652 - 004711	Tradelink	Ocean liners had raised no objection to proposed EMAN charges	
004711 - 004918	Chairman	Continuation of clause-by-clause examination of the Bill	
004918 - 005411	Administration	<p><u>Section 15 - Duty to provide particulars of all cargo</u></p> <p>Agreed that once a full and complete manifest had been provided under section 15(1B)(c) using services provided by a specified body, there should not be a need to re-submit a manifest under section 11 or 12 of the Import and Export (Registration) Regulations, Cap 60E. An option allowed for carriers to simultaneously furnish manifest by electronic means to comply with both section 15 of Cap 60 and</p>	

		Regulation 11 or 12 of Cap 60E. Proposed addition of new section 15(1C) to reflect that the Customs and Excise Department (C&ED) would accept a manifest as long as the particulars contained were sufficient for the purpose of cargo clearance	
005411 - 005422	Chairman	Manifest submitted in paper form under section 15(1B)	
005422 - 005434	Administration	If a manifest was submitted in paper form under section 15(1B) the carrier would have to re-submit a manifest using services provided by a specified body under Regulation 11 or 12 of Cap 60E	
005434 - 005451	ALA2	Enquiry on how avoidance in duplication was reflected in law	
005451 - 005507	Administration	Ditto	
005507 - 005601	Ms Miriam LAU	If the purpose was to avoid duplication, the provisions should be in the form of deeming provisions such that when a manifest was submitted under section 15 of Cap 60 through a service provider, it would be deemed to be submitted under Regulation 11 and 12 of Cap 60E	
005601 - 005646	Administration	Submission under section 15 of Cap 60 might not be complete and should not therefore be deemed to be a complete manifest	
005646 - 005657	Chairman	Ditto	

005657 - 005902	Administration	Manifest furnished to C&ED officers under section 15 of Cap 60 might not be full and complete but might be accepted for the purpose of cargo clearance. Meanwhile a full and complete manifest containing particulars such as permit and licence numbers were required under Regulation 11 and 12 of Cap 60E	
005902 - 005944	ALA2	Reference made to new section 15(1C) on definition of manifest. Enquiry on what particulars should be contained in a manifest in order that it would be regarded by C&ED officers as sufficient for the purpose	
005944 - 010201	Administration	Particulars required were set out in manifest notice under Cap 60C	
010201 - 010210	Chairman	Consideration should be given to setting out the kind of particulars that were required in the manifest rather than relying on the discretion of C&ED officers	
010210 - 010240	ALA2	Ditto	
010240 - 010409	Administration	The particulars required in a manifest were prescribed under section 17 of Cap. 60 and set out in the manifest notice under Cap. 60. The discretion by C&ED officers would not exceed what was laid down in the law	
010409 - 010423	ALA2	Concerned about discretionary power by C&E officers	

010423 - 010651	Administration	Difficulties in providing a list of particulars which would apply to all modes of transport	
010651 - 010727	Ms Miriam LAU	Ditto	
010727 - 010745	ALA2	Reference made to manifest notice in Cap 60C	
010745 - 010756	Ms Miriam LAU	Where certain particulars were not applicable, they need not be supplied	
010756 - 010838	Administration	Consideration be given to including in new section 15(1C) the particulars required in a manifest furnished under that section	
010838 - 010908	Ms Miriam LAU	Might need to consider deeming provisions to avoid duplication	
010908 - 011111	Administration	Deeming provisions could only apply to manifest submitted using services by specified service provider. The technical option to be provided by Tradelink enabled carrier to indicate whether he wished to make a submission under section 15 of Cap 60 only or a submission under both section 15 of Cap 60 and Regulation 11 or 12 of Cap 60E in one go	
011111 - 011123	Chairman	Ditto	
011123 - 011141	Ms Miriam LAU	Ditto	
011141 - 011318	Administration	A deeming provision was possible from a drafting point of view but the problem was how the provision could be put to practice	

011318 - 011410	Ms Miriam LAU	Deeming provision necessary as it would ensure that a carrier who submitted a full and complete manifest would not have to submit it again	
011410 - 011449	ALA2	A deeming provision could be added to the regulations under Cap 60E rather than the Ordinance	
011449 - 011545	Administration	Agreed that it would be more appropriate to place the deeming provision in the regulations under Cap 60E and agreed to consider specifying the particulars that might not be required in the manifest under new section 15(1C). C&ED would need to give some thoughts to how the amendments would affect their operation	The Administration was requested to refine the drafting of proposed sections 15(1B) and (1C) of the Import and Export Ordinance (the Ordinance) to reflect the intention of avoiding duplication in the submission of manifests
011545 - 011556	Ms Miriam LAU	Amendments should provide for simplification and streamlining of procedure	
011556 - 011602	Chairman	Ditto	
011602 - 011611	Administration	Ditto	
011611 - 011634	Chairman	Ditto	
011634 - 011745	Administration	Ditto	
011745 - 011936	ALA2	<u>Section 19(1) - List showing ports of call to be furnished to the Commissioner</u> List showing ports of call amended from “a written list” to “in paper form”. The purpose of this amendment is to indicate that such list could only be made in paper form and not in electronic form	
011936 - 011947	Chairman	<u>Section 19(1) - List showing ports of call to be furnished to the</u>	

		<u>Commissioner</u> List showing ports of call amended from “a written list” to “in paper form”. The purpose of this amendment is to indicate that such list could only be made in paper form and not in electronic form	
011947 - 012014	Ms Miriam LAU	Ditto	
012014 - 012102	Administration	Amendments necessary as a written list could be interpreted as a list in electronic form by virtue of the Electronic Transactions Ordinance	
012102 - 012118	Ms Miriam LAU	Query on the insistence that the list should be made in paper form	
012118 - 012137	Administration	Experience showed that from an operational point of view, the list should best be in paper form	
012137 - 012232	Ms Miriam LAU	Preferable to provide an option to provide the list in electronic form	
012232 - 012733	Administration	Difficulties with receipt of list if submitted in electronic form on board a vessel as computer systems might not be compatible	
012733 - 012903	Ms Miriam LAU	Difficulties could be resolved if the electronic record was sent in a format specified under the Electronic Transactions Ordinance (ETO)	
012903 - 012955	Administration	Ditto	

012955 - 013011	ALA2	Since new section 15(1B) also provided for manifest to be sent in ETO format, likewise the same should apply to section 19(1)	
013011 - 013115	Administration	Agree to amend section 19(1) along the lines of section 15(1B)(a) and (b)	
013115 - 013152	Ms Miriam LAU	Ditto	
013152 - 013203	Chairman	Agree to amend section 19(1) along the lines of section 15(1B)(a) and (b)	The Administration was requested to refine the drafting of proposed section 19(1) of the Ordinance to make it an option for the owner of any vessel to provide in paper form or in the form of an electronic record (the manner and format in which the information was given must comply with any requirement specified under Section 11(2) of the Electronic Transactions Ordinance in relation to Cap. 60) a list showing every port or place at which the vessel had called
013203 - 013302	ALA2	Section 19A deleted	
013302 - 013325	Administration	The deletion had been deliberated and agreed to by the Bills Committee	
013325 - 013422	ALA2	The deletion would have the effect of removing the criminal offence for failure to furnish manifest to the Director-General of Trade and Industry (the Director) via a service provider	
013422 - 013520	Administration	Section 19A was deleted because	

		new section 11A had been proposed allowing the Director to have access to manifests lodged with the Commissioner	
013520 - 013525	ALA2	<u>Section 20B - Requirement that articles may be removed from vessel,etc for examination</u>	
013525 - 013826	Administration	The amendment was to empower the Commissioner of Customs and Excise to serve notice electronically	
013826 - 013840	ALA2	<u>Section 31 - Power to make regulations</u>	
013840 - 013904	Administration	The Director was included in section 31(ia) since he also played a role in receiving manifest under certain circumstances	
013904 - 013941	ALA2	<u>Section 31(1A)</u>	
013941 - 014003	Administration	Section 31(1A) was a technical amendment	
014003 - 014008	Ms Miriam LAU	Whether the user would be consulted on the charges payable in connection with information using services provided by a specified body	
014008 - 014041	Administration	The provision referred to the manner of payment and was meant to facilitate payment which could be in the form of credit card, autopay etc	

014041 - 014057	Ms Miriam LAU	Whether the provision would allow the Government to decide on the users' behalf the manner of payment	
014057 - 014206	Administration	An example of a more flexible manner of payment was that a bank was designated to receive the duty paid by dutiable commodities traders through paying at any branch, through the Corporate Banking System or Internet Banking. The provision would allow a more flexible arrangement on the manner of payment	
014206 - 014217	Chairman	Ditto	
014217 - 014302	Ms Miriam LAU	Whether payment referred to the payment by users	
014302 - 014407	Administration	Payment referred to those set out under section 31(1)(x) and (aa)	
014407 - 014422	Ms Miriam LAU	Ditto	
014422 - 014500	Administration	Payment referred to Government charges	
014500 - 014620	Ms Miriam LAU	The regulations made under section 31(1A) should not specify the manner of payment by the user to the service provider for the electronic services provided	
014620 - 014644	ALA2	Section 32A	
014644 - 014701	Ms Miriam LAU	Discussion to be continued at next meeting	

014701 - 014837	Administration	The Administration would wish to resume Second Reading debate on the Bill within the current LegCo session	
014837 - 014910	Ms Miriam LAU	Date of next meeting	
014910 - 015102	Administration	A number of subsidiary legislation would be submitted to the Council after passage of Bill	
015102 - 015250	Chairman	Next meeting to be held on 4 June 2002 at 8:30 am	
015250 - 015301	ALA2	The Administration had not provided Committee Stage amendments to Schedule 2 of the Bill	

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

Legislative Council Secretariat
9 July 2002