

立法會
Legislative Council

LC Paper No. CB(1) 2267/01-02
(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 sixth meeting held on
Tuesday, 4 June 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 Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon SIN Chung-kai
Hon Miriam LAU Kin-ye, 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 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

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 Meeting with the Administration

(LC Paper No. CB(1)1905/01-02(01) — List of follow-up actions arising from the discussion on 30 May 2002

LC Paper No. CB(1)1905/01-02(02) — Administration's response to CB(1) 1905/01-02(01)

Appendix IV of LC Paper No. — Marked-up copy of the Bill
CB(1) 859/01-02

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

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

3. The Administration was requested to -
 - (a) update members on the progress of negotiation between Tradelink and the trade on the fee to be charged for electronic submission of cargo manifests;
 - (b) amend proposed section 2A(3) of Cap. 296 so that a notice published by the Secretary for Commerce and Industry specifying the provider and agent of a recognized electronic service would be a subsidiary legislation; and
 - (c) inform the Legislature the outcome of the review to be taken to ascertain when the transitional period under proposed section 42 of Cap. 60 should expire.
4. There being no other business, the meeting ended at 9:55 am.

Legislative Council Secretariat
12 July 2002

Annex A

**Proceedings of the meeting of the
Bills Committee on Import and Export (Electronic Transactions) Bill 2001
on Tuesday, 4 June 2002 at 8:30 am.
in Conference Room A of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
000000 - 000227	Chairman	Request for explanation on Administration's response to the concerns raised at the meeting on 30 May 2002 (LC Paper No CB(1) 1905/01-02(02))	
000227 - 000750	Administration	Explanation on the trial scheme on electronic submission of manifest (EMAN) under the Guangdong Customs Sub-Administration and sections 15(1B) and (1C)	
000750 - 000833	ALA2	Amendments to Regulation 12A of Cap 60E set out at Annex A to LC Paper No CB(1)1905/01-02(02) could be examined at a later stage	
000833 - 000915	Administration	Bills Committee's views sought on the need to amend sections 8, 9 and 11 of Cap 60 following the amendment to Regulation 12A of Cap 60E	
000915 - 000928	ALA2	Ditto	
000928 - 001036	Administration	Double deeming arrangement under the proposed Regulation 12A of Cap. 60E and the proposed Committee Stage amendments (CSAs) to sections 8, 9 and 11 of Cap 60. As a matter of law, it was not necessary to make further amendment to the proposed CSAs to sections 8, 9 and 11 of Cap. 60	

001036 - 001046	Chairman	Double deeming arrangement under the proposed Regulation 12A of Cap. 60E and the proposed Committee Stage amendments (CSAs) to sections 8, 9 and 11 of Cap 60. As a matter of law, it was not necessary to make further amendment to the proposed CSAs to sections 8, 9 and 11 of Cap. 60	
001046 - 001153	Administration	Ditto	
001153 - 001204	ALA2	Ditto	
001204 - 001235	Administration	Ditto	
001235 - 001251	ALA2	Ditto	
001251 - 001312	Administration	Ditto	
001312 - 001314	ALA2	Ditto	
001314 - 001342	Administration	Ditto	
001342 - 001411	Chairman	Ditto	
001411 - 001418	Ms Miriam LAU	Ditto	
001418 - 001518	Chairman	Ditto	
001518 - 001603	Ms Miriam LAU	Ditto	

001603 - 001607	Administration	Double deeming arrangement under the proposed Regulation 12A of Cap. 60E and the proposed Committee Stage amendments (CSAs) to sections 8, 9 and 11 of Cap 60. As a matter of law, it was not necessary to make further amendment to the proposed CSAs to sections 8, 9 and 11 of Cap. 60	
001607 - 001631	Chairman	Ditto	
001631 - 001645	Ms Miriam LAU	Agreed that there would be no need to further amend sections 8, 9 and 11 of Cap 60	
001645 - 001653	Chairman	Ditto	
001653 - 001850	Administration	It was not possible to state in section 15(1C) particulars that were not required in a manifest under that section because the exercise of the discretionary power under section 15(1C) depended on the circumstances of the particular cases	
001850 - 001900	Chairman	Ditto	
001900 - 001910	Administration	Internal guidelines to be drawn up by the Customs and Excise Department to ensure consistency in exercising the discretionary power under section 15(1C)	
001910 - 001915	Chairman	Ditto	
001915 - 001922	Administration	Ditto	
001922 - 001925	Chairman	Ditto	

001925 - 001931	Ms Miriam LAU	Internal guidelines to be drawn up by the Customs and Excise Department to ensure consistency in exercising the discretionary power under section 15(1C)	
001931 - 002019	Administration	Section19(1) - Agreed that the owner of a vessel might furnish a list showing ports of call either in paper form or in the form of an electronic record	
002019 - 002023	Chairman	Ditto	
002023 - 002157	Administration	Ditto	
002157 - 002212	Mr SIN Chung-kai	Whether there had been consultation with the Hong Kong Logistic Development Council (HKLDC) on the amendments proposed	
002212 - 002242	Administration	HKLDC aware of EMAN progress. Commissioner of Customs and Excise (the Commissioner) was also a member of HKLDC	
002242 - 002248	Chairman	Ditto	
002248 - 002259	Ms Miriam LAU	Enquiry on progress of negotiation on EMAN charges by Tradelink	
002259 - 002332	Administration	Pending formal agreement between air freight trade and Tradelink.	
002332 - 002337	Chairman	Enquiry on date of agreement	
002337 - 002350	Administration	Agreement expected to be reached within one to two weeks	
002350 - 002424	Ms Miriam LAU	Enquiry on charges for EMAN on water-borne transport	

002424 - 002539	Administration	Some suggestions given to river carriers and the river carriers' meeting would be convened on 11 June 2002. Rail and ocean carriers had not objected to Tradelink charges	
002539 - 002552	Chairman	Ditto	The Administration was requested to update members on the progress of negotiation between the Tradelink and the trade on the fee to be charged for electronic submission of cargo manifests
002552 - 002610	Administration	Ditto	
002610 - 002615	Chairman	Ditto	
002615 - 002623	Administration	Ditto	
002623 - 002628	Ms Miriam LAU	Request for information on Nan Fang	
002628 - 002725	Administration	Nan Fang was solely responsible for the provision of electronic service under the trial scheme conducted by Guangzhou Customs	
002725 - 002728	Ms Miriam LAU	Enquiry on whether there was dialogue between Tradelink and Nan Fang	
002728 - 002748	Administration	Delegation from Tradelink would meet with Nan Fang in Guangzhou	
002748 - 002756	Chairman	Ditto	
002756 - 002828	Ms Miriam LAU	Enquiry on trial runs and longer-term planning for EMAN in Guangdong	

002828 - 002953	Administration	Trial runs of the scheme conducted in seven ports in the Pearl River Delta Region	
002953 - 002958	Chairman	Ditto	
002958 - 003006	Mr HUI Cheung-ching	Ditto	
003006 - 003025	Administration	Ditto	
003025 - 003106	Chairman	Continuation of clause-by-clause examination of the Bill	
003106 - 003316	Administration	Section 32A - Provision of information where use of service provided by specified body is not practicable Section 32B - Provision of manifest information relating to cargo carried in a road vehicle	
003316 - 003348	Chairman	Ditto	
003348 - 003731	Administration	Section 42 - Transitional	
003731 - 003733	Chairman	Ditto	
003733 - 003754	Ms Miriam LAU	Enquiry on whether the Commissioner would consult LegCo on the outcome of the review to ascertain when the transitional period under proposed section 42 should expire	
003754 - 003834	Administration	End date of transitional period would depend on pick-up rate of users and smooth operation of the system	
003834 - 003914	Ms Miriam LAU	Enquiry on timing of the review and whether LegCo would be consulted	

003914 - 004104	Administration	No fixed time frame on expiry of transitional period at the moment. No problem with informing LegCo the outcome of the review	
004104 - 004123	Chairman	Ditto	The Administration was requested to inform the Legislature the outcome of the review to be taken to ascertain when the transitional period under proposed section 42 of Cap. 60 should expire
004123 - 004205	Ms Miriam LAU	Ditto	
004205 - 004242	Administration	Ditto	
004242 - 004300	Ms Miriam LAU	Ditto	
004300 - 004336	Administration	Ditto	
004336 - 004351	Ms Miriam LAU	Pick-up rate would be high if the scheme was a cost-effective one	
004351 - 004401	Chairman	Enquiry on whether the Government had ceased to accept manifest in paper form as of 1 April 2002	
004401 - 004423	Administration	The Government had not ceased to accept manifest in paper form as of 1 April 2002. There was no legal basis for accepting electronic manifests	
004423 - 004446	Chairman	Ditto	

004446 - 004508	Administration	Consequential amendments- Import and Export (Amendment) Ordinance 1995 under section 14 of Schedule 1 to the Bill	
004508 - 004535	Chairman	Ditto	
004535 - 004759	Administration	Schedule 2 Section 1 - Inclusion of definition for manifest	
004759 - 004853	Chairman	Section 2A - Specified electronic service providers and electronic services agents	
004853 - 005030	Administration	Ditto	
005030 - 005032	Chairman	Ditto	
005032 - 005151	Administration	Ditto	
005151 - 005205	ALA2	Queried why notices under sections 2A(1) and (2) were not subsidiary legislation	
005205 - 005320	Administration	Ditto	
005320 - 005322	Chairman	Ditto	The Administration was requested to amend proposed section 2A(3) of Cap. 296 so that a notice published by the Secretary for Commerce and Industry specifying the provider and agent of a recognized electronic service would be a subsidiary legislation

005322 - 005457	Administration	Amendments to Reserved Commodities Ordinance Cap 296 mirrored those in Cap 60. Section 2B - Presumption regarding information sent using recognized electronic service	
005457 - 005523	ALA2	Ditto	
005523 - 005622	Administration	Ditto	
005622 - 005629	ALA2	Questioned the change of heading from “Authorization of information” to “Presumption regarding information sent using recognized electronic service”	
005629 - 005815	Administration	“Authorization of information” did not accurately describe the content of the provision	
005815 - 005821	Chairman	Section 2C - Safekeeping of security device Section 2D - Duty of specified electronic services agent	
005821 - 005927	Administration	Ditto	
005927 - 005932	Ms Miriam LAU	Section 2C - Safekeeping of security device Section 2D - Duty of specified electronic services agent	
005932 - 010054	Administration	Ditto	
010054 - 010111	Ms Miriam LAU	Ditto	
010111 - 010126	Administration	Ditto	
010126 - 010132	Ms Miriam LAU	Ditto	

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010132 - 010143	Administration	Section 2C - Safekeeping of security device Section 2D - Duty of specified electronic services agent	
010143 - 010203	Ms Miriam LAU	Ditto	
010203 - 010213	Administration	Inclusion of penalty provisions under sections 2C and 2D instead of inclusion as separate sections	
010213 - 010233	Chairman	Ditto	
010233 - 010255	Administration	Ditto	
010255 - 010300	Chairman	Ditto	
010300 - 010330	Administration	Section 3(1) - Regulations	
010330 - 010333	ALA2	Ditto	
010333 - 010358	Administration	Ditto	
010358 - 010415	ALA2	Ditto	
010415 - 010418	Chairman	Section 6A - Proof of contents of electronic record	
010418 - 010504	Administration	Ditto	
010504 - 010508	Chairman	Ditto	

010508 - 010812	Administration	Section 10A - Powers in relation to information in electronic form Section 14 - Exemption from requirement to use recognized electronic service	
010812 - 010913	Mr SIN Chung-kai	Concerned about over-regulation whereby all scenarios were provided for, leaving no room for flexibility and discretion	
010913 - 011046	Administration	Provisions should cater for situations “where it was not practicable” to use electronic form	
011046 - 011053	Chairman	Schedule 3	
011053 - 011120	Administration	Section 2 - Interpretation	
011120 - 011128	Chairman	Ditto	
011128 - 011452	Administration	Section 30A - Presumption regarding information sent using services provided by specified bodies Section 30B - Safe keeping of security device	
011452 - 011516	Chairman	Ditto	
011516 - 011529	Ms Miriam LAU	Ditto	
011529 - 011545	ALA2	Ditto	
011545 - 011603	Administration	Ditto	
011603 - 011605	ALA2	Ditto	

011605 - 011615	Administration	Section 30A - Presumption regarding information sent using services provided by specified bodies Section 30B - Safe keeping of security device	
011615 - 011621	Chairman	Ditto	
011621 - 011655	Administration	Schedule 4 - Amendment of Protection of Non-Government Certificates of Origin Ordinance	
011655 - 011716	Chairman	Declaration of interest as Deputy Chairman of Federation of Hong Kong Industries	
011716 - 011758	Administration	Sections 2, 2A and 2B mirrored those of Cap 296	
011758 - 011835	Administration	Subject to the passage of the resolution on the accountability system on 19 June 2002, there might be a need to introduce consequential amendments to the Bill to reflect the new nomenclature of principal officials	
011835 - 011837	Mr HUI Cheung-ching	Ditto	
011837 - 011909	Administration	Ditto	
011909 - 011922	Ms Miriam LAU	Ditto	
011922 - 011927	Administration	Legislative timetable	
011927 - 011931	Ms Miriam LAU	Ditto	

011931 - 012005	Administration	Legislative timetable	
012005 - 012008	Mr SIN Chung- kai	Ditto	
012008 - 012021	Administration	Ditto	
012021 - 012026	Ms Miriam LAU	Ditto	
012026 - 012042	Chairman	Ditto	
012042 - 012048	Mr SIN Chung- kai	Preference on resumption of Second Reading debate on the Bill on 3 July 2002	
012048 - 012109	Chairman	Ditto	
012109 - 012126	Administration	Ditto	
012126 - 012135	Chairman	The Administration to liaise with the Secretariat on the date of resumption of Second Reading debate on the Bill	
012135 - 012150	Administration	Ditto	
012150 - 012155	Mr SIN Chung- kai	Ditto	
012155 - 012208	Administration	Ditto	
012208 - 012213	Mr SIN Chung- kai	Ditto	

012213 - 012222	Chairman	The Administration to liaise with the Secretariat on the date of resumption of Second Reading debate on the Bill	
012222 - 012246	Administration	The Administration would provide a full set of Committee Stage amendments for inclusion in House Committee report	
012246 - 012348	ALA2	Ditto	
012348 - 012352	Mr SIN Chung-kai	Ditto	
012352 - 012442	Administration	The Administration would resume Second Reading debate on the Bill on 10 July 2002 if it was unable to finalize arrangements for resumption on 3 July 2002	
012442 - 012512	Chairman	Ditto	

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

Legislative Council Secretariat
12 July 2002