

Panel on Security of the Legislative Council

**Measures on Protection of Personal Data under the
Mechanism for Verification of Departure Time of Travellers**
(for enforcement of the 24-hour rule in relation to the duty-free concessions)

INTRODUCTION

This paper informs Members of the measures proposed to be undertaken to protect personal data under the new mechanism to be put in place by the Customs and Excise Department (C&ED) to verify a traveller's eligibility for duty-free concessions under the Dutiable Commodities (Exempted Quantities) Notice.

BACKGROUND

2. According to the Dutiable Commodities (Exempted Quantities) Notice made under the Dutiable Commodities Ordinance, Chapter 109, an incoming passenger, who travels on a Hong Kong Identity Card and has spent 24 hours or more outside Hong Kong (the 24-hour rule), is eligible for duty-free concessions on alcoholic liquor and tobacco.

3. The Director of Audit, in his recent value-for-money study on the C&ED's efforts to protect government revenue from dutiable commodities, observed that the C&ED had encountered practical difficulties in ascertaining whether an incoming passenger had spent more than 24 hours or less outside Hong Kong. He recommended in his Report No.39 that the C&ED should take action in conjunction with the Immigration Department (ImmD) to implement measures to effectively enforce the 24-hour rule as soon as possible.

THE/.....

THE NEW VERIFICATION MECHANISM

Operation

4. An on-line communication arrangement is being put in place between the C&ED and the ImmD for verifying whether a passenger travelling on a Hong Kong Identity Card has spent more than 24 hours or less outside the territory. Under the arrangement, three computer workstations having limited on-line enquiry function are installed at the C&ED's offices at the Lowu Control Point, Lok Ma Chau Control Point and Hong Kong-Macau Ferry Terminal to enable the C&ED to seek verification with the ImmD in suspicious cases (e.g. passengers seen crossing the Lowu Terminal several times a day). The C&ED will not conduct such verification on every incoming passenger.

5. Upon an on-line enquiry through one of the computer workstations, an authorized C&ED officer of the rank of Inspector or Senior Inspector (the Duty Inspector) will receive a "Yes" or "No" message which indicates whether an incoming passenger travelling on a Hong Kong Identity Card has spent more than 24 hours or less outside Hong Kong. Apart from this information, the workstation will not allow any enquiry to be made on personal data of any kind and there will be no release of personal data either. Details of the verification mechanism are attached at Annex I.

Security measures

6 The C&ED has consulted the Office of the Privacy Commissioner for Personal Data (PCO), the Independent Commission Against Corruption (ICAC) and the Department of Justice, and incorporated all their recommendations into the operating procedures for the proposed verification mechanism.

7. Sufficient safeguards on protection of personal data and prevention of abuse on the use of the facility have been built into the operating procedures through the application of stringent operational guidelines, documentary control and auditing of records, details of which are outlined at Annex II.

8. Notices will also be displayed prominently at the C&ED offices at all control points, informing passengers of the purpose of collecting their personal data and their rights under the Personal Data (Privacy) Ordinance, Chapter 486.

IMPLEMENTATION

9. Installation of the computer workstations and other necessary arrangements have been completed. The verification mechanism is tentatively scheduled to commence operation by the end of February 2003.

10. The C&ED will widely publicize the new arrangement through the mass media before it commences operation.

REVIEW OF THE MECHANISM

11. The C&ED and the ImmD will closely monitor the operation of the verification mechanism and conduct regular reviews to ensure that the mechanism is operated in an effective, efficient and accountable manner.

Mechanism for Verification of Departure Time of Travellers

Introduction

The following paragraphs outline the proposed mechanism for facilitating the Customs and Excise Department (C&ED) to verify a traveller's duration of absence from Hong Kong for the purpose of assessing his eligibility for duty-free concessions under the Dutiable Commodities (Exempted Quantities) Notice made under the Dutiable Commodities Ordinance, Chapter 109.

The Proposal

2. The C&ED proposes to install three computer workstations at their offices at Lowu, Lok Ma Chau and the Hong Kong-Macau Ferry Terminal. The workstations will enable the C&ED to seek confirmation from the Immigration Department (ImmD) through electronic means on the duration of absence of a particular traveller.

The Arrangement

Physical Security

3. The computer workstations will be installed inside the office of the C&ED's Duty Inspector. The Duty Inspector shall be responsible for the operation of, and the control of physical access to, the computer workstations during his tour of duty.

Access Control

4. The ImmD operates an information system called the Immigration Control Automation System (ICAS) to support the operations of the control points. Enquiry to confirm a traveller's duration of absence from Hong Kong by C&ED officers can be made by access to the ICAS database. There will be two layers of access control:

The authorized officer will then be required to acknowledge the warning message by entering his User Password before he can proceed to enter the identity card number of the traveller.

- (d) After checking the traveller's departure time, the system will display "Yes" or "No" on the screen of the computer workstation to indicate whether or not the traveller has left Hong Kong for over 24 hours.
- (e) Audit trail reports recording the enquiries performed at the workstations of the three control points during the day will be produced by the system in the early morning of the following day for reconciliation purpose. The audit trail report will show the User ID of the officer who has made an enquiry; the workstation number; the identity card number of the traveller checked; and the date, time and result of the enquiry.

Monitoring and Auditing Control

C&ED

6. An authorized officer shall enter each and every enquiry conducted into a Record Check Register which records the officer's particulars and the identity card number of the traveller being checked.

7. The Assistant Superintendent of the C&ED at the respective control point shall conduct a daily check on the Record Check Register against the audit trail report (paragraph 5(e)) to ensure that all enquiries are performed by authorized officers and no malpractices are involved (e.g. no arrival record cases). Any irregularities shall immediately be brought to the notice of his immediate supervisor and the ICAS Control Section of the ImmD for appropriate investigation action.

8. The officer-in-charge of the relevant control point (i.e. an Assistant Superintendent of the C&ED) shall have the overall responsibility for the operation, security and safekeeping of the computer workstation. He will be responsible for authorizing officers to conduct the enquiries and notifying the ICAS Control Section of the ImmD of such authorization made or cessation of such authorization, 7 days in advance. He shall conduct checks on the Record Check Register and send a certified true copy of the entries for the preceding seven days to the ICAS Control Section weekly for vetting purpose, including the verification of signatures of authorized officers and reconciliation of enquiries recorded on audit trail report against the Record Check Register.

ImmD

9. The ICAS Control Section of the ImmD is responsible for the operation and overall security of the Immigration Control Automation System and will ensure that it is operated strictly within the confines of the law and data privacy protection principles.

10. The ICAS Control Section of the ImmD, apart from verification of authorized signatures on request for creation or cessation of user identifiers and reconciliation of enquiries recorded on audit trail report against the Record Check Register, will also conduct on-site checks to ensure that the computer workstations at the control points are kept in good working order and that no unauthorized software or connections, that could affect the smooth operation of the workstations or pose a threat to the security of the system, are installed.

Prepared by Immigration Department
and Customs and Excise Department

Measures on Protection of Personal Data

The following measures on protection of personal data collected and prevention of abuse on the use of ICAS have incorporated comments from the Office of the Privacy Commissioner for Personal Data, the Independent Commission Against Corruption and the Department of Justice :

I) *Notice to passengers*

A notice will be displayed prominently at the C&ED offices at each control point to inform passengers of the purposes of collecting their personal data and their right of access to and correction of the data (See Appendix).

II) *Operational guidelines*

- (i) The C&ED Divisional Commander (DVC), Assistant Superintendent in rank, of the Lowu Control Point, Lok Ma Chau Control Point and HK-Macau Ferry Terminal will nominate only Inspectors or Senior Inspectors working under their respective command to conduct such verification;
- (ii) The ImmD will be responsible for issuing a location password (specific to Lowu, Lok Ma Chau or the HK-Macau Ferry Terminal) and a personal password to each authorized officer for gaining access to the computer workstation installed at the control point where the officer works. An authorized officer working at a particular control point will not be able to conduct such verification at the two other control points;
- (iii) An authorized officer will be required to change his personal password at least once quarterly to strengthen the security measure;

- (iv) The computer workstation is installed inside the Duty Inspector Office to minimize the opportunity for unauthorized use of the facility;
- (v) An authorized officer will be required to examine carefully each case referred by front-line officers prior to conducting a verification;
- (vi) Two officers will be involved in conducting each verification (one is the authorized officer and the other is the referral officer);
- (vii) An authorized officer will be required to acknowledge a warning shown on the screen of the computer workstation before proceeding to conduct each verification. The warning will alert the officer that the verification to be conducted will be solely for the enforcement of the 24-hour rule in connection with the duty-free concessions;
- (viii) The DVC will be required to inform the ImmD in writing seven days in advance whenever an authorized officer working under his command is no longer required to conduct verification so that the ImmD can disable the related password timely; and
- (ix) An authorized officer will see a statement of “No IC Arrival Record is found” on the screen of the computer workstation when the arrival record of an incoming passenger cannot be located. The authorized officer will then be required to notify his supervisor before completing the processing of the case. The supervisor will take necessary steps to ensure no malpractice has occurred in the case and duly endorse on the Record Check Register.

III) Documentary control

- (i) Particulars of the passenger checked, the referral officer, the authorized officer and the result of each check will be recorded properly on a Record Check Register and signed by the referral officer and the authorized officer.

When the referral officer is working at a control point where no such computer workstation is available, he is required to complete a "Record Check Request Form" and fax it to an authorized officer working at Lowu, Lok Ma Chau or the HK-Macau Ferry Terminal for conducting the check.

- (ii) All documents relating to Record Check, i.e. Record Check Register, Record Check Request Form and Audit Trail Report, will be stored in secure places; and
- (iii) The DVC will ensure that all records related to such verifications will be destroyed after the lapse of the 1-year retention period or after the conclusion of a related investigation (e.g. investigation of a complaint from a member of the public), whichever is the later.

IV) Auditing

- (i) A Unit Commander, Senior Inspector in rank, will be required to endorse on the Record Check Register at the end of each shift to ensure the verifications conducted by his Inspectors are proper and in order;
- (ii) The DVC will be required to compare the Audit Trail Report, which will be issued by the ImmD daily, with the Record Check Register to detect irregularities;

- (iii) The DVC will be required to send a certified copy of the Record Check Register covering the verifications made in the preceding seven days to the ImmD for spot check;
- (iv) The ImmD will conduct record checks on those “No IC Arrival Record is found” cases shown on the daily Audit Trail Report and refer cases of irregularities to the C&ED for investigation; and
- (v) The ImmD will conduct on-site inspections at the C&ED’s offices to ensure the computer workstations dedicated for making the limited on-line enquiry are properly maintained and without any unauthorized software and connections.

Customs and Excise Department
February 2003

Appendix of Annex II



Notice to Passengers on Collection of Personal Data

1. Purposes of Collection

- (a) To enforce the Dutiable Commodities Ordinance (Chapter 109), including verification of entitlement to duty free concessions, collection of duty, compounding or prosecuting offences under the Ordinance;
- (b) To facilitate future communication with the data subject in connection with any action under the Dutiable Commodities Ordinance; or
- (c) To maintain a record relating to any actions taken by the Customs and Excise Department under the Dutiable Commodities Ordinance.

2. Transfer of Personal Data

The personal data provided by the data subject for the purposes mentioned in paragraph 1 above may be disclosed to the Immigration Department, or where such disclosure is authorized or required by law.

3. Access to Personal Data

Under the Personal Data (Privacy) Ordinance (Chapter 486), the data subject has a right of access to and correction of the personal data collected by the Customs and Excise Department. The right of access includes the right to obtain a copy of the personal data provided by the data subject, subject to payment of a fee.

Enquiries and application for access to and correction of personal data collected should be addressed to:-

Departmental Secretary
Office of Departmental Administration
Customs and Excise Department
8/F, Harbour Building, 38 Pier Road, Central, Hong Kong.
Tel. No.: 2852 3359
Fax No.: 2581 2138