

## **LEGISLATIVE COUNCIL BRIEF**

Import and Export Ordinance  
(Chapter 60)

### **IMPORT AND EXPORT (GENERAL) (AMENDMENT) (NO. 2) REGULATION 2003**

#### **INTRODUCTION**

A At the meeting of the Executive Council on 25 March 2003, the Council ADVISED and the Chief Executive ORDERED that the Import and Export (General) (Amendment) (No. 2) Regulation 2003 at Annex A should be made to provide a legal basis for submitting Textiles Trader Registration Scheme ("TTRS") notifications electronically through a specified body.

#### **JUSTIFICATIONS**

##### **Present arrangements**

2. At present, a textiles trader registered under the TTRS is required to deliver an import, export or transshipment notification, as appropriate, in paper form to a carrier at the time of import or before export of textiles exempted from licensing requirements under the TTRS. The carrier is prohibited from releasing the imported textiles, or accepting for export the textiles, until the registered textiles trader has produced to him the notification. The carrier is also required to deliver the notification to the Director-General of Trade and Industry ("the Director") together with the relevant cargo manifest within 14 days after the date of import or export. Where transshipment is concerned, the carrier is required to deliver in addition a through bill of lading or air waybill to prove that the textiles are for transshipment.

##### **Proposed new arrangements**

3. We propose to introduce new arrangements to enable registered textiles traders to submit TTRS notifications electronically for improving efficiency.

4. Under the proposed new arrangements, the procedure for processing TTRS notifications is as follows -

- (a) a registered textiles trader will submit an import, export or transshipment notification, as appropriate, in electronic form through a specified body to the Director before textiles are imported or exported;
- (b) the Director will, through the specified body, notify the trader electronically the reference number assigned to the notification;
- (c) notification information delivered to the Director will be made available to the Customs and Excise Department online;
- (d) the trader must send to the carrier, in paper or electronic form, the notification reference number assigned by the Director before the textiles are imported or exported, together with an indication to the carrier that it is the reference number so assigned by the Director. In addition, he must send to the carrier, in paper or electronic form, all the particulars contained in the notification that he has delivered to the Director before he takes possession of the textiles imported or before the textiles are exported, together with an indication to the carrier that they are the particulars so delivered to the Director. We do not propose to mandate the use of electronic communication between the trader and the carrier because this is a matter between two private parties<sup>1</sup>;
- (e) a carrier cannot release imported textiles or export textiles unless he has received from the trader concerned relevant notification information in respect of the textiles, including the notification reference number assigned by the Director;
- (f) in the case of textiles being imported, the carrier must submit electronically to the Director a cargo manifest<sup>2</sup> together with the relevant notification reference number within 14 days after the day of import or the day on which the notification reference number is received, whichever is the later;

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<sup>1</sup> In practice, if both the trader and the carrier use electronic services to deliver textiles notifications and cargo manifest information to the Director, they are likely to communicate with each other electronically.

<sup>2</sup> We plan to launch in April 2003 an electronic service for submission of cargo manifests by carriers (except for the road mode of transport). The necessary legislative amendments for this purpose were tabled at the Legislative Council sitting on 19 February 2003 for Members' scrutiny.

- (g) in the case of textiles being exported, the carrier has to submit electronically to the Director a cargo manifest together with the relevant notification reference number within 14 days after the day of export; and
- (h) in the case of transshipment of textiles, the carrier will no longer be required to deliver to the Director a through bill of lading or air waybill, as electronic submission will facilitate verification of the through bill.

5. With minor exceptions, the penalties under the proposed electronic scenario are the same as those under the existing paper scenario. At present, a trader who imports or exports textiles under the TTRS without submitting a paper notification to the carrier is liable to a fine of \$500,000 and imprisonment for two years. Under the electronic scenario, we propose to set the same level of penalty for the trader's failure to provide notification information to the Director. If the trader fails to deliver the notification information or reference number to the carrier, we propose to set the penalty at a lower level - a fine at level 2 (\$5,000 at present).

6. For traders who do not have the capability to deliver notifications electronically on their own, they may make use of an Electronic Trading Access Service ("ETAS") for converting paper notifications into electronic form and submitting them to the Director. The Import and Export Ordinance already provides for the operation of the ETAS.

7. We intend to mandate the electronic submission of TTRS notifications in due course. To ensure a smooth migration, there will be an open-ended transitional period during which traders may choose to submit notifications in paper form or by electronic means. The end date of the transitional period will be determined by the Commissioner of Customs and Excise ("the Commissioner") having regard to the take-up rate of users and the smooth operation of the computer systems supporting the electronic service for the TTRS. Different end dates may be set for different classes of persons or textiles. We will need to make subsidiary legislation to specify any end date, which is subject to negative vetting by the Legislative Council.

8. After full migration, should there be a computer system breakdown for an extended period, the Commissioner is empowered under the Import and Export Ordinance to revert to the paper mode as either an option or the only form of submission. However, after

reversion to the paper mode of operation under such circumstances, we will continue to adopt the new business flow described in paragraph 4 above. It would cause confusion if we were to switch back to the old arrangement set out in paragraph 2 above.

9. The charge<sup>3</sup> to users of the electronic service for the TTRS will be \$0.5 per notification (covering electronic communications among the textiles trader, the Director and the carrier). This is the same as the current cost of purchasing a paper notification form.

## THE REGULATION

10. **Section 2** of the Regulation adds new definitions to provide for the operation of the electronic service for the TTRS. **Section 3** is a textual improvement.

11. **Section 4** repeals regulations 6A, 6B, 6C and 6D of the Import and Export (General) Regulations as amended by the Import and Export (General) (Amendment) Regulation 2003 and substitutes regulations 6A, 6B, 6BA to 6BF, 6C and 6D –

- (a) regulations 6A(1) and 6BC(1) prohibit a registered textiles trader from importing textiles under the TTRS, unless he has delivered to the Director an import or transshipment notification using services provided by a specified body, received from the Director a reference number assigned to that notification, and delivered to the carrier, in paper or electronic form, the said reference number. Regulations 6A(3) and 6BC(3) further prohibit the trader from taking possession or causing to be taken possession of the textiles imported without delivering to the carrier, in paper or electronic form, all the particulars contained in the notification delivered to the Director [ref. paragraphs 4(a) and (d) above];
- (b) regulations 6BA(1) and 6BE(1) make similar prohibitions for exports, in that the trader must not export textiles under the TTRS without having delivered to the carrier all the particulars contained in the notification delivered to the Director together with the reference number of the notification [ref. paragraphs 4(a) and (d) above];
- (c) regulations 6B(2), 6BB(2), 6BD(2) and 6BF(2) prohibit the

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<sup>3</sup> The charge will be paid to the service provider appointed by the Government for the electronic service for the TTRS. See paragraph 19 below.

carrier from releasing imported textiles or exporting textiles, until he has received from the trader, in paper or electronic form, the required information [ref. paragraph 4(e) above];

- (d) regulations 6B(3), 6BB(3), 6BD(3) and 6BF(3) require the carrier to deliver manifest information (including the notification reference number) to the Director using services provided by a specified body within specified time limits [ref. paragraphs 4(f) and (g) above]. Regulation 6C further provides that this requirement shall be deemed to have been complied with if a manifest has been lodged with the Commissioner under regulation 11 or 12 of the Import and Export (Registration) Regulations, together with the reference number of the notification, using the same means;
- (e) regulations 6A(4) and (5), 6B(4) and (5), 6BA(3), 6BB(4) and (5), 6BC(4) and (5), 6BD(4) and (5), 6BE(3), 6BF(4) and (5) provide for penalties for contravening the relevant requirements and prohibitions [ref. paragraph 5 above]; and
- (f) regulation 6D provides that the Commissioner, authorised officers, and members of the Customs and Excise Service of or above the rank of Inspector may access information contained in a notification delivered to the Director [ref. paragraph 4(c) above].

12. **Section 5** is a technical amendment consequential to the renumbering of some regulations.

13. **Section 6** replaces regulation 6H with a new one and **section 7** adds a new Eighth Schedule to provide for the operation of the TTRS during the transitional period [ref. paragraph 7 above].

B 14. The existing provisions being amended are at Annex B.

#### **LEGISLATIVE TIMETABLE**

15. The proposed Regulation will be gazetted on 4 April 2003, tabled at the Legislative Council on 9 April 2003, and take effect on 30 May 2003.

#### **IMPLICATIONS OF THE PROPOSAL**

C 16. The proposal has economic, financial and civil service implications as set out at Annex C. The proposal is in conformity with

the Basic Law, including the provisions concerning human rights. It will not affect the current binding effect of the Import and Export Ordinance. It has no major sustainability implications.

## **PUBLIC CONSULTATION**

17. We have consulted the Textiles Advisory Board, registrants under the TTRS, carrier associations and the Legislative Council Panel on Commerce and Industry. There is broad in-principle support for the proposal.

## **PUBLICITY**

18. We plan to organize a series of publicity activities to inform the industry of the impending changes. These include displaying messages at websites and sending letters to the industry and relevant business associations. These measures proved to be effective when we launched electronic services for other trade documents in the past. A spokesman will be available to handle media enquiries.

## **BACKGROUND**

19. In 1992, the Government granted Tradelink Electronic Commerce Limited ("Tradelink") an exclusive franchise to provide electronic services for six official trade-related documents. Since 1997, electronic services for restrained textiles export licence, trade declaration, certificate of origin, production notification and dutiable commodities permit have been rolled out in phases. Electronic service for cargo manifests ("EMAN") will be launched in April 2003. Given the close link between EMAN and the electronic service for the TTRS, we will appoint Tradelink as the service provider for the latter service. We plan to roll out this service in late May 2003.

20. TTRS is a trade facilitation scheme. A trader registered under the scheme is exempted from licensing requirements for the import, export, and transshipment of certain textile products. In 2002, the Director received around 6 million textile notifications under the TTRS. The number of registrants under the TTRS is about 20 000.

21. To ensure the integrity of the TTRS, we check textile notifications against cargo manifests on a random sampling basis for identifying any inconsistencies. Investigation action is taken when discrepancies are detected.

**ENQUIRIES**

22. Enquiries on this brief should be referred to Mr. Gordon Leung, Principal Assistant Secretary for Commerce, Industry and Technology (Commerce and Industry), on telephone number 2918 7575.

**Commerce and Industry Branch  
Commerce, Industry and Technology Bureau  
2 April 2003**

**IMPORT AND EXPORT (GENERAL)(AMENDMENT)(NO. 2)  
REGULATION 2003**

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**IMPORT AND EXPORT (GENERAL) (AMENDMENT) (NO. 2)  
REGULATION 2003**

(Made by the Chief Executive in Council under section 31  
of the Import and Export Ordinance (Cap. 60))

**1. Commencement**

This Regulation shall come into operation on 30 May 2003.

**2. Interpretation**

Regulation 2 of the Import and Export (General) Regulations (Cap. 60 sub. leg.), as amended by the Import and Export (General) (Amendment) Regulation 2003 (L.N. 32 of 2003), is amended by adding –

““export carrier” (出口承運人) means the owner of any exporting vessel,  
aircraft or vehicle;

“exporting vessel, aircraft or vehicle” (出口船隻、飛機或車輛), in relation to  
goods that are, are to be or have been exported, means any vessel,  
aircraft or vehicle in or on which they are, are to be or have been  
exported (as the case may be);

“import carrier” (進口承運人) means the owner of any importing vessel,  
aircraft or vehicle;

“importing vessel, aircraft or vehicle” (進口船隻、飛機或車輛), in relation to  
goods that are, are to be or have been imported, means any vessel,  
aircraft or vehicle in or on which they are, are to be or have been  
imported (as the case may be);

“in electronic form” (以電子形式) means in the form of an electronic record,  
whether or not it is sent using services provided by a specified body;

“reference number” (編號), in relation to an import notification, export  
notification or transshipment notification, means the reference number  
assigned to it under regulation 6A(2)(a), 6BA(2)(a), 6BC(2)(a) or  
6BE(2)(a) (as the case may be);”.

**3. Application and exemption**

Regulation 6(2) and (3A) is amended by repealing “發出” and substituting “取得”.

**4. Regulations substituted**

Regulations 6A, 6B, 6C and 6D are repealed and the following substituted –

“PART VA  
IMPORT OR EXPORT OF TEXTILES (AS TRANSHIPMENT  
CARGO OR OTHERWISE) IN RELIANCE  
ON EXEMPTION

**Import of textiles otherwise than as transshipment cargo**

**6A. Obligations of registered textiles trader**

(1) A registered textiles trader shall ensure that no textiles are imported otherwise than as transshipment cargo, in or on any vessel, aircraft or vehicle, in reliance on an exemption issued to him under regulation 6(3A) until he has –

- (a) delivered to the Director, using services provided by a specified body, an import notification in respect of the textiles;
- (b) received the reference number assigned to that import notification and sent by the Director under paragraph (2);  
and
- (c) delivered to the import carrier, in electronic form or in paper form, the reference number of that import notification and indicated to the import carrier that it is such reference number.

(2) The Director, on receiving from a registered textiles trader an import notification under paragraph (1)(a) in respect of any textiles –

- (a) is to assign a reference number to the notification for the purpose of identifying the notification; and
- (b) is to send to the registered textiles trader, using services provided by a specified body, the reference number of the notification.

(3) A registered textiles trader who has delivered an import notification to the Director, and has complied with other requirements in paragraph (1), in respect of any textiles shall not take, or cause to be taken, possession of the textiles imported without having delivered to the import carrier, in electronic form or in paper form, all the particulars contained in that import notification and having indicated to the import carrier that they are such particulars.

(4) Any person who contravenes paragraph (1) commits an offence and is liable on conviction –

- (a) where the offence involves a breach of paragraph (1)(c) only, to a fine at level 2; or
- (b) in any other case, to a fine of \$500,000 and to imprisonment for 2 years.

(5) Any person who contravenes paragraph (3) commits an offence and is liable on conviction to a fine at level 2.

## **6B. Obligations of carrier**

(1) This regulation applies where textiles are imported otherwise than as transshipment cargo in or on any vessel, aircraft or vehicle under an exemption issued to a registered textiles trader under regulation 6(3A).

(2) The import carrier shall not release possession of the textiles imported until he has received from the registered textiles trader information, in electronic form or in paper form, that –

- (a) includes all the items of particulars required to be contained in an import notification;
  - (b) appears on its face to be information in respect of the textiles; and
  - (c) is indicated by the registered textiles trader to be –
    - (i) all the particulars contained in an import notification that the registered textiles trader has delivered to the Director in respect of the textiles as required in regulation 6A(1)(a); and
    - (ii) the reference number assigned by the Director to that notification (“reference number as informed”).
- (3) The import carrier shall –
- (a) within 14 days after the day on which he receives the reference number as informed or on which the textiles are imported (whichever is the later); and
  - (b) using services provided by a specified body,
- deliver to the Director a copy or extract of the manifest of the importing vessel, aircraft or vehicle, which copy or extract shall contain, in addition to the particulars required to be contained in a manifest under paragraph 2 of the Import and Export Manifests Notice (Cap. 60 sub. leg.), that reference number.
- (4) Any person who contravenes paragraph (2) commits an offence and is liable on conviction to a fine of \$500,000 and to imprisonment for 1 year.
- (5) Subject to regulation 6C, any person who contravenes paragraph (3) commits an offence and is liable on conviction to a fine at level 2.

### **Export of textiles otherwise than as transshipment cargo**

#### **6BA. Obligations of registered textiles trader**

- (1) A registered textiles trader shall ensure that no textiles are exported otherwise than as transshipment cargo, in or on any vessel, aircraft or

vehicle, in reliance on an exemption issued to him under regulation 6(3A) until he has –

- (a) delivered to the Director, using services provided by a specified body, an export notification in respect of the textiles;
- (b) received the reference number assigned to that export notification and sent by the Director under paragraph (2); and
- (c) delivered to the export carrier, in electronic form or in paper form, all the particulars contained in, and the reference number of, that export notification and indicated to the export carrier that they are such particulars and reference number.

(2) The Director, on receiving from a registered textiles trader an export notification under paragraph (1)(a) in respect of any textiles –

- (a) is to assign a reference number to the notification for the purpose of identifying the notification; and
- (b) is to send to the registered textiles trader, using services provided by a specified body, the reference number of the notification.

(3) Any person who contravenes paragraph (1) commits an offence and is liable on conviction –

- (a) where the offence involves a breach of paragraph (1)(c) only, to a fine at level 2; or
- (b) in any other case, to a fine of \$500,000 and to imprisonment for 2 years.

#### **6BB. Obligations of carrier**

(1) This regulation applies where textiles are or are to be exported otherwise than as transshipment cargo in or on any vessel, aircraft or vehicle

under an exemption issued to a registered textiles trader under regulation 6(3A).

(2) The export carrier shall not export the textiles until he has received from the registered textiles trader information, in electronic form or in paper form, that –

- (a) includes all the items of particulars required to be contained in an export notification;
- (b) appears on its face to be information in respect of the textiles; and
- (c) is indicated by the registered textiles trader to be –
  - (i) all the particulars contained in an export notification that the registered textiles trader has delivered to the Director in respect of the textiles as required in regulation 6BA(1)(a); and
  - (ii) the reference number assigned by the Director to that notification (“reference number as informed”).

(3) The export carrier shall, within 14 days after the day on which the textiles are exported and using services provided by a specified body, deliver to the Director a copy or extract of the manifest of the exporting vessel, aircraft or vehicle, which copy or extract shall contain, in addition to the particulars required to be contained in a manifest under paragraph 3 of the Import and Export Manifests Notice (Cap. 60 sub. leg.), the reference number as informed.

(4) Any person who contravenes paragraph (2) commits an offence and is liable on conviction to a fine of \$500,000 and to imprisonment for 1 year.

(5) Subject to regulation 6C, any person who contravenes paragraph (3) commits an offence and is liable on conviction to a fine at level 2.

## **Import of textiles as transshipment cargo**

### **6BC. Obligations of registered textiles trader**

(1) A registered textiles trader shall ensure that no textiles are imported as transshipment cargo, in or on any vessel, aircraft or vehicle, in reliance on an exemption issued to him under regulation 6(3A) until he has –

- (a) delivered to the Director, using services provided by a specified body, a transshipment notification in respect of the textiles;
- (b) received the reference number assigned to that transshipment notification and sent by the Director under paragraph (2); and
- (c) delivered to the import carrier, in electronic form or in paper form, the reference number of that transshipment notification and indicated to the import carrier that it is such reference number.

(2) The Director, on receiving from a registered textiles trader a transshipment notification under paragraph (1)(a) in respect of any textiles –

- (a) is to assign a reference number to the notification for the purpose of identifying the notification; and
- (b) is to send to the registered textiles trader, using services provided by a specified body, the reference number of the notification.

(3) A registered textiles trader who has delivered a transshipment notification to the Director, and has complied with other requirements in paragraph (1), in respect of any textiles shall not take, or cause to be taken, possession of the textiles imported without having delivered to the import carrier, in electronic form or in paper form, all the particulars contained in that transshipment notification and having indicated to the import carrier that they are such particulars.



(4) Any person who contravenes paragraph (1) commits an offence and is liable on conviction –

- (a) where the offence involves a breach of paragraph (1)(c) only, to a fine at level 2; or
- (b) in any other case, to a fine of \$500,000 and to imprisonment for 2 years.

(5) Any person who contravenes paragraph (3) commits an offence and is liable on conviction to a fine at level 2.

**6BD. Obligations of carrier**

(1) This regulation applies where textiles are imported as transshipment cargo in or on any vessel, aircraft or vehicle under an exemption issued to a registered textiles trader under regulation 6(3A).

(2) The import carrier shall not release possession of the textiles imported until he has received from the registered textiles trader information, in electronic form or in paper form, that –

- (a) includes all the items of particulars required to be contained in a transshipment notification;
- (b) appears on its face to be information in respect of the textiles; and
- (c) is indicated by the registered textiles trader to be –
  - (i) all the particulars contained in a transshipment notification that the registered textiles trader has delivered to the Director in respect of the textiles as required in regulation 6BC(1)(a); and
  - (ii) the reference number assigned by the Director to that notification (“reference number as informed”).

(3) The import carrier shall –

- (a) within 14 days after the day on which he receives the reference number as informed or on which the textiles are imported (whichever is the later); and

(b) using services provided by a specified body, deliver to the Director a copy or extract of the manifest of the importing vessel, aircraft or vehicle, which copy or extract shall contain, in addition to the particulars required to be contained in a manifest under paragraph 2 of the Import and Export Manifests Notice (Cap. 60 sub. leg.), that reference number.

(4) Any person who contravenes paragraph (2) commits an offence and is liable on conviction to a fine of \$500,000 and to imprisonment for 1 year.

(5) Subject to regulation 6C, any person who contravenes paragraph (3) commits an offence and is liable on conviction to a fine at level 2.

### **Export of textiles as transshipment cargo**

#### **6BE. Obligations of registered textiles trader**

(1) A registered textiles trader shall ensure that no textiles are exported as transshipment cargo, in or on any vessel, aircraft or vehicle, in reliance on an exemption issued to him under regulation 6(3A) until he has –

- (a) delivered to the Director, using services provided by a specified body, a transshipment notification in respect of the textiles;
- (b) received the reference number assigned to that transshipment notification and sent by the Director under paragraph (2); and
- (c) delivered to the export carrier, in electronic form or in paper form, all the particulars contained in, and the reference number of, that transshipment notification and indicated to the export carrier that they are such particulars and reference number.

(2) The Director, on receiving from a registered textiles trader a transshipment notification under paragraph (1)(a) in respect of any textiles –

- (a) is to assign a reference number to the notification for the purpose of identifying the notification; and
  - (b) is to send to the registered textiles trader, using services provided by a specified body, the reference number of the notification.
- (3) Any person who contravenes paragraph (1) commits an offence and is liable on conviction –
- (a) where the offence involves a breach of paragraph (1)(c) only, to a fine at level 2; or
  - (b) in any other case, to a fine of \$500,000 and to imprisonment for 2 years.

**6BF. Obligations of carrier**

(1) This regulation applies where textiles are or are to be exported as transshipment cargo in or on any vessel, aircraft or vehicle under an exemption issued to a registered textiles trader under regulation 6(3A).

(2) The export carrier shall not export the textiles until he has received from the registered textiles trader information, in electronic form or in paper form, that –

- (a) includes all the items of particulars required to be contained in a transshipment notification;
- (b) appears on its face to be information in respect of the textiles; and
- (c) is indicated by the registered textiles trader to be –
  - (i) all the particulars contained in a transshipment notification that the registered textiles trader has delivered to the Director in respect of the textiles as required in regulation 6BE(1)(a); and
  - (ii) the reference number assigned by the Director to that notification (“reference number as informed”).

(3) The export carrier shall, within 14 days after the day on which the textiles are exported and using services provided by a specified body, deliver to the Director a copy or extract of the manifest of the exporting vessel, aircraft or vehicle, which copy or extract shall contain, in addition to the particulars required to be contained in a manifest under paragraph 3 of the Import and Export Manifests Notice (Cap. 60 sub. leg.), the reference number as informed.

(4) Any person who contravenes paragraph (2) commits an offence and is liable on conviction to a fine of \$500,000 and to imprisonment for 1 year.

(5) Subject to regulation 6C, any person who contravenes paragraph (3) commits an offence and is liable on conviction to a fine at level 2.

### **Miscellaneous provisions**

#### **6C. Certain requirements deemed complied with if manifest lodged with Commissioner using services provided by a specified body**

The requirements under regulation 6B(3), 6BB(3), 6BD(3) or 6BF(3) are deemed to have been complied with if –

- (a) regulation 11 or 12 (as the case may be) of the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) has been complied with in relation to the importing vessel, aircraft or vehicle or exporting vessel, aircraft or vehicle (as the case may be) by the manifest having been lodged with the Commissioner, or with an officer appointed by the Commissioner, using services provided by a specified body; and
- (b) the manifest contains the reference number as informed within the meaning of regulation 6B(2)(c)(ii), 6BB(2)(c)(ii), 6BD(2)(c)(ii) or 6BF(2)(c)(ii) (as the case may be).

**6D. Commissioner etc. to have access to notifications delivered to Director**

The Commissioner, an authorized officer or a member of the Customs and Excise Service of or above the rank of Inspector shall have access to any information contained in an import, export or transshipment notification that has been delivered under these regulations to the Director.”.

**5. Defence of reasonable diligence**

Regulation 6E(1) is amended by repealing “6A(4), 6A(5), 6B(3), 6C(2) or 6D(5)” and substituting “6A(4), 6B(4), 6BA(3), 6BB(4), 6BC(4), 6BD(4), 6BE(3) or 6BF(4)”.

**6. Regulation substituted**

Regulation 6H is repealed and the following substituted –

**“6H. Transitional provisions apply in respect of specified period**

(1) In respect of the period specified in paragraph (2), the Eighth Schedule has effect.

(2) The period specified for the purpose of paragraph (1) is the period beginning with the commencement of the Import and Export (General) (Amendment) (No. 2) Regulation 2003 (L.N. of 2003) and ending at midnight on a date to be specified by the Commissioner for the purposes of this paragraph by notice published in the Gazette.

(3) A notice published under paragraph (2) may specify different dates in relation to different classes of persons or textiles.

(4) A notice published under paragraph (2) is subsidiary legislation.”.

**7. Eighth Schedule added**

The following is added –

**“EIGHTH SCHEDULE**

[reg. 6H]

**TRANSITIONAL ARRANGEMENTS ARISING FROM IMPORT  
AND EXPORT (GENERAL) (AMENDMENT)  
(NO. 2) REGULATION 2003**

In respect of the period specified in regulation 6H(2), the Import and Export (General) Regulations (Cap. 60 sub. leg.) shall have effect as if the following provisions were substituted for regulations 6A, 6B, 6BA, 6BB, 6BC, 6BD, 6BE, 6BF and 6C –

**“Import of textiles otherwise than as transhipment cargo****6A. Obligations of registered textiles trader**

(1) A registered textiles trader shall ensure that no textiles are imported otherwise than as transhipment cargo, in or on any vessel, aircraft or vehicle, in reliance on an exemption issued to him under regulation 6(3A) until –

- (a) he has –
  - (i) delivered to the Director, using services provided by a specified body, an import notification in respect of the textiles;
  - (ii) received the reference number assigned to that import notification and sent by the Director under paragraph (2); and
  - (iii) delivered to the import carrier, in electronic form or in paper form, the reference number of that import notification and indicated to the import carrier that it is such reference

number; or

- (b) he has delivered to the import carrier an import notification in paper form in respect of the textiles.

(2) The Director, on receiving from a registered textiles trader an import notification under paragraph (1)(a)(i) in respect of any textiles –

- (a) is to assign a reference number to the notification for the purpose of identifying the notification; and
- (b) is to send to the registered textiles trader, using services provided by a specified body, the reference number of the notification.

(3) A registered textiles trader who has delivered an import notification to the Director using services provided by a specified body, and has complied with other requirements in paragraph (1)(a), in respect of any textiles shall not take, or cause to be taken, possession of the textiles imported without having delivered to the import carrier, in electronic form or in paper form, all the particulars contained in that import notification and having indicated to the import carrier that they are such particulars.

(4) Any person who contravenes paragraph (1) commits an offence and is liable on conviction –

- (a) where the person has complied with paragraph (1)(a)(i) and (ii) but fails to comply with paragraph (1)(a)(iii), to a fine at level 2; or
- (b) in any other case, to a fine of \$500,000 and to imprisonment for 2 years.

(5) Any person who contravenes paragraph (3) commits an offence and is liable on conviction to a fine at level 2.

**6B. Obligations of carrier**

(1) This regulation applies where textiles are imported otherwise than as transshipment cargo in or on any vessel, aircraft or vehicle under an exemption issued to a registered textiles trader under regulation 6(3A).

(2) The import carrier shall not release possession of the textiles imported until he has received from the registered textiles trader –

- (a) information, in electronic form or in paper form, that –
    - (i) includes all the items of particulars required to be contained in an import notification;
    - (ii) appears on its face to be information in respect of the textiles; and
    - (iii) is indicated by the registered textiles trader to be –
      - (A) all the particulars contained in an import notification that the registered textiles trader has delivered to the Director in respect of the textiles as required in regulation 6A(1)(a)(i); and
      - (B) the reference number assigned by the Director to that notification (“reference number as informed”); or
  - (b) an import notification in paper form that the registered textiles trader delivers to him under regulation 6A(1)(b) in respect of the textiles.
- (3) The import carrier shall –
- (a) (where he has received the reference number as informed) within 14 days after the day of that



receipt or the day on which the textiles are imported (whichever is the later) –

- (i) deliver to the Director in paper form a certified copy or certified extract of the manifest of the importing vessel, aircraft or vehicle; or
- (ii) deliver to the Director using services provided by a specified body a copy or extract of the manifest of the importing vessel, aircraft or vehicle,

which certified copy or certified extract, or copy or extract, shall contain, in addition to the particulars required to be contained in a manifest under paragraph 2 of the Import and Export Manifests Notice (Cap. 60 sub. leg.), that reference number; or

- (b) (where he has received an import notification in paper form as stated in paragraph (2)(b)) within 14 days after the day of that receipt or the day on which the textiles are imported (whichever is the later) –

- (i) deliver to the Director the import notification in paper form; and
- (ii) deliver to the Director –
  - (A) in paper form a certified copy or certified extract of the manifest of the importing vessel, aircraft or vehicle; or
  - (B) using services provided by a specified body a copy or extract of the manifest

of the importing vessel, aircraft or vehicle.

(4) Any person who contravenes paragraph (2) commits an offence and is liable on conviction to a fine of \$500,000 and to imprisonment for 1 year.

(5) Subject to regulation 6C, any person who contravenes paragraph (3) commits an offence and is liable on conviction to a fine at level 2.

### **Export of textiles otherwise than as transshipment cargo**

#### **6BA. Obligations of registered textiles trader**

(1) A registered textiles trader shall ensure that no textiles are exported otherwise than as transshipment cargo, in or on any vessel, aircraft or vehicle, in reliance on an exemption issued to him under regulation 6(3A) until –

- (a) he has –
  - (i) delivered to the Director, using services provided by a specified body, an export notification in respect of the textiles;
  - (ii) received the reference number assigned to that export notification and sent by the Director under paragraph (2); and
  - (iii) delivered to the export carrier, in electronic form or in paper form, all the particulars contained in, and the reference number of, that export notification and indicated to the export carrier that they are such particulars and reference number; or
- (b) he has delivered to the export carrier an export notification in paper form in respect of the textiles.

(2) The Director, on receiving from a registered textiles trader an export notification under paragraph (1)(a)(i) in respect of any textiles –

- (a) is to assign a reference number to the notification for the purpose of identifying the notification; and
- (b) is to send to the registered textiles trader, using services provided by a specified body, the reference number of the notification.

(3) Any person who contravenes paragraph (1) commits an offence and is liable on conviction –

- (a) where the person has complied with paragraph (1)(a)(i) and (ii) but fails to comply with paragraph (1)(a)(iii), to a fine at level 2; or
- (b) in any other case, to a fine of \$500,000 and to imprisonment for 2 years.

#### **6BB. Obligations of carrier**

(1) This regulation applies where textiles are or are to be exported otherwise than as transshipment cargo in or on any vessel, aircraft or vehicle under an exemption issued to a registered textiles trader under regulation 6(3A).

(2) The export carrier shall not export the textiles until he has received from the registered textiles trader –

- (a) information, in electronic form or in paper form, that –
  - (i) includes all the items of particulars required to be contained in an export notification;
  - (ii) appears on its face to be information in respect of the textiles; and
  - (iii) is indicated by the registered textiles trader to be –

- (A) all the particulars contained in an export notification that the registered textiles trader has delivered to the Director in respect of the textiles as required in regulation 6BA(1)(a)(i); and
  - (B) the reference number assigned by the Director to that notification (“reference number as informed”); or
- (b) an export notification in paper form that the registered textiles trader delivers to him under regulation 6BA(1)(b) in respect of the textiles.
- (3) The export carrier shall, within 14 days after the day on which the textiles are exported –
- (a) where he has received the reference number as informed –
    - (i) deliver to the Director in paper form a certified copy or certified extract of the manifest of the exporting vessel, aircraft or vehicle; or
    - (ii) deliver to the Director using services provided by a specified body a copy or extract of the manifest of the exporting vessel, aircraft or vehicle,which certified copy or certified extract, or copy or extract, shall contain, in addition to the particulars required to be contained in a manifest under paragraph 3 of the Import and Export Manifests Notice (Cap. 60 sub. leg.), that reference number; or

- (b) where he has received an export notification in paper form as stated in paragraph (2)(b) –
  - (i) deliver to the Director the export notification in paper form; and
  - (ii) deliver to the Director –
    - (A) in paper form a certified copy or certified extract of the manifest of the exporting vessel, aircraft or vehicle; or
    - (B) using services provided by a specified body a copy or extract of the manifest of the exporting vessel, aircraft or vehicle.

(4) Any person who contravenes paragraph (2) commits an offence and is liable on conviction to a fine of \$500,000 and to imprisonment for 1 year.

(5) Subject to regulation 6C, any person who contravenes paragraph (3) commits an offence and is liable on conviction to a fine at level 2.

### **Import of textiles as transshipment cargo**

#### **6BC. Obligations of registered textiles trader**

(1) A registered textiles trader shall ensure that no textiles are imported as transshipment cargo, in or on any vessel, aircraft or vehicle, in reliance on an exemption issued to him under regulation 6(3A) until –

- (a) he has –
  - (i) delivered to the Director, using services provided by a specified body, a transshipment notification in respect of the textiles;
  - (ii) received the reference number assigned to

that transshipment notification and sent by the Director under paragraph (2); and

(iii) delivered to the import carrier, in electronic form or in paper form, the reference number of that transshipment notification and indicated to the import carrier that it is such reference number; or

(b) he has delivered to the import carrier a transshipment notification in paper form in respect of the textiles.

(2) The Director, on receiving from a registered textiles trader a transshipment notification under paragraph (1)(a)(i) in respect of any textiles –

- (a) is to assign a reference number to the notification for the purpose of identifying the notification; and
- (b) is to send to the registered textiles trader, using services provided by a specified body, the reference number of the notification.

(3) A registered textiles trader who has delivered a transshipment notification to the Director using services provided by a specified body, and has complied with other requirements in paragraph (1)(a), in respect of any textiles shall not take, or cause to be taken, possession of the textiles imported without having delivered to the import carrier, in electronic form or in paper form, all the particulars contained in that transshipment notification and having indicated to the import carrier that they are such particulars.

(4) Any person who contravenes paragraph (1) commits an offence and is liable on conviction –

- (a) where the person has complied with paragraph (1)(a)(i) and (ii) but fails to comply with paragraph (1)(a)(iii), to a fine at level 2; or

(b) in any other case, to a fine of \$500,000 and to imprisonment for 2 years.

(5) Any person who contravenes paragraph (3) commits an offence and is liable on conviction to a fine at level 2.

**6BD. Obligations of carrier**

(1) This regulation applies where textiles are imported as transshipment cargo in or on any vessel, aircraft or vehicle under an exemption issued to a registered textiles trader under regulation 6(3A).

(2) The import carrier shall not release possession of the textiles imported until he has received from the registered textiles trader –

(a) information, in electronic form or in paper form, that –

(i) includes all the items of particulars required to be contained in a transshipment notification;

(ii) appears on its face to be information in respect of the textiles; and

(iii) is indicated by the registered textiles trader to be –

(A) all the particulars contained in a transshipment notification that the registered textiles trader has delivered to the Director in respect of the textiles as required in regulation 6BC(1)(a)(i); and

(B) the reference number assigned by the Director to that notification (“reference number as informed”); or

- (b) a transshipment notification in paper form that the registered textiles trader delivers to him under regulation 6BC(1)(b) in respect of the textiles.
- (3) The import carrier shall –
- (a) (where he has received the reference number as informed) within 14 days after the day of that receipt or the day on which the textiles are imported (whichever is the later) –
    - (i) deliver to the Director in paper form a certified copy or certified extract of the manifest of the importing vessel, aircraft or vehicle; or
    - (ii) deliver to the Director using services provided by a specified body a copy or extract of the manifest of the importing vessel, aircraft or vehicle,which certified copy or certified extract, or copy or extract, shall contain, in addition to the particulars required to be contained in a manifest under paragraph 2 of the Import and Export Manifests Notice (Cap. 60 sub. leg.), that reference number; or
  - (b) (where he has received a transshipment notification in paper form as stated in paragraph (2)(b)) within 14 days after the day of that receipt or the day on which the textiles are imported (whichever is the later) –
    - (i) deliver to the Director the transshipment notification in paper form;
    - (ii) deliver to the Director –



- (A) in paper form a certified copy or certified extract of the manifest of the importing vessel, aircraft or vehicle;  
or
  - (B) using services provided by a specified body a copy or extract of the manifest of the importing vessel, aircraft or vehicle; and
- (iii) deliver to the Director a through bill of lading or air waybill under which the textiles have been imported.

(4) Any person who contravenes paragraph (2) commits an offence and is liable on conviction to a fine of \$500,000 and to imprisonment for 1 year.

(5) Subject to regulation 6C, any person who contravenes paragraph (3) commits an offence and is liable on conviction to a fine at level 2.

### **Export of textiles as transshipment cargo**

#### **6BE. Obligations of registered textiles trader**

(1) A registered textiles trader shall ensure that no textiles are exported as transshipment cargo, in or on any vessel, aircraft or vehicle, in reliance on an exemption issued to him under regulation 6(3A) until –

- (a) he has –
  - (i) delivered to the Director, using services provided by a specified body, a transshipment notification in respect of the textiles;
  - (ii) received the reference number assigned to that transshipment notification and sent by the Director under paragraph (2); and

- (iii) delivered to the export carrier, in electronic form or in paper form, all the particulars contained in, and the reference number of, that transshipment notification and indicated to the export carrier that they are such particulars and reference number; or
  - (b) he has delivered to the export carrier a transshipment notification in paper form in respect of the textiles.
- (2) The Director, on receiving from a registered textiles trader a transshipment notification under paragraph (1)(a)(i) in respect of any textiles –
  - (a) is to assign a reference number to the notification for the purpose of identifying the notification; and
  - (b) is to send to the registered textiles trader, using services provided by a specified body, the reference number of the notification.
- (3) Any person who contravenes paragraph (1) commits an offence and is liable on conviction –
  - (a) where the person has complied with paragraph (1)(a)(i) and (ii) but fails to comply with paragraph (1)(a)(iii), to a fine at level 2; or
  - (b) in any other case, to a fine of \$500,000 and to imprisonment for 2 years.

**6BF. Obligations of carrier**

(1) This regulation applies where textiles are or are to be exported as transshipment cargo in or on any vessel, aircraft or vehicle under an exemption issued to a registered textiles trader under regulation 6(3A).

(2) The export carrier shall not export the textiles until he has received from the registered textiles trader –

- (a) information, in electronic form or in paper form, that –
    - (i) includes all the items of particulars required to be contained in a transshipment notification;
    - (ii) appears on its face to be information in respect of the textiles; and
    - (iii) is indicated by the registered textiles trader to be –
      - (A) all the particulars contained in a transshipment notification that the registered textiles trader has delivered to the Director in respect of the textiles as required in regulation 6BE(1)(a)(i); and
      - (B) the reference number assigned by the Director to that notification (“reference number as informed”); or
  - (b) a transshipment notification in paper form that the registered textiles trader delivers to him under regulation 6BE(1)(b) in respect of the textiles.
- (3) The export carrier shall, within 14 days after the day on which the textiles are exported –
- (a) where he has received the reference number as informed –
    - (i) deliver to the Director in paper form a certified copy or certified extract of the manifest of the exporting vessel, aircraft or vehicle; or
    - (ii) deliver to the Director using services provided by a specified body a copy or

extract of the manifest of the exporting vessel, aircraft or vehicle,

which certified copy or certified extract, or copy or extract, shall contain, in addition to the particulars required to be contained in a manifest under paragraph 3 of the Import and Export Manifests Notice (Cap. 60 sub. leg.), that reference number; or

- (b) where he has received a transshipment notification in paper form as stated in paragraph (2)(b) –
  - (i) deliver to the Director the transshipment notification in paper form;
  - (ii) deliver to the Director –
    - (A) in paper form a certified copy or certified extract of the manifest of the exporting vessel, aircraft or vehicle; or
    - (B) using services provided by a specified body a copy or extract of the manifest of the exporting vessel, aircraft or vehicle; and
  - (iii) deliver to the Director a through bill of lading or air waybill under which the textiles have been exported.

(4) Any person who contravenes paragraph (2) commits an offence and is liable on conviction to a fine of \$500,000 and to imprisonment for 1 year.

(5) Subject to regulation 6C, any person who contravenes paragraph (3) commits an offence and is liable on conviction to a fine at level 2.

### Miscellaneous provisions

**6C. Certain requirements deemed complied with if manifest lodged with Commissioner using services provided by a specified body**

- (1) The requirements under regulation 6B(3)(a), 6BB(3)(a), 6BD(3)(a) or 6BF(3)(a) are deemed to have been complied with if –
- (a) regulation 11 or 12 (as the case may be) of the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) has been complied with in relation to the importing vessel, aircraft or vehicle or exporting vessel, aircraft or vehicle (as the case may be) by the manifest having been lodged with the Commissioner, or with an officer appointed by the Commissioner, using services provided by a specified body; and
  - (b) the manifest contains the reference number as informed within the meaning of regulation 6B(2)(a)(iii)(B), 6BB(2)(a)(iii)(B), 6BD(2)(a)(iii)(B) or 6BF(2)(a)(iii)(B) (as the case may be).
- (2) The requirements under regulation 6B(3)(b)(ii), 6BB(3)(b)(ii), 6BD(3)(b)(ii) or 6BF(3)(b)(ii) are deemed to have been complied with if regulation 11 or 12 (as the case may be) of the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) has been complied with in relation to the importing vessel, aircraft or vehicle or exporting vessel, aircraft or vehicle (as the case may be) by the manifest having been lodged with the Commissioner, or with an officer appointed by the Commissioner, using services provided by a specified body.

**6CA. Determination that delivery of notification by using services provided by specified body is not practicable**

(1) Where the Commissioner considers that it is not practicable for an import, export or transshipment notification to be delivered to the Director by using services provided by a specified body as specified in regulation 6A(1)(a)(i), 6BA(1)(a)(i), 6BC(1)(a)(i) or 6BE(1)(a)(i), he may make a determination that, in respect of the period for which the determination is in force –

- (a) regulation 6A(1)(a)(i), 6BA(1)(a)(i), 6BC(1)(a)(i) or 6BE(1)(a)(i) (as the case may be) and the relevant provisions applicable where a notification is delivered by using services provided by a specified body shall have no effect;
- (b) an import, export or transshipment notification (as the case may be) –
  - (i) shall not be delivered by using services provided by a specified body; but
  - (ii) shall be delivered in paper form as specified in regulation 6A(1)(b), 6BA(1)(b), 6BC(1)(b) or 6BE(1)(b); and
- (c) these regulations shall have effect subject to the determination.

(2) Notice of a determination made under paragraph (1) shall be published in the Gazette within 14 days of the determination having been made.

(3) A determination made under paragraph (1) may make different provision in relation to different classes of persons or notifications.

(4) In this regulation, in relation to a determination made under paragraph (1) in respect of any provisions specified in column 1 of the Table below, “relevant provisions applicable where a notification

is delivered by using services provided by a specified body” (在使用指明團體所提供的服務交付通知書情況下適用的有關條文) means the provisions specified opposite to the first-mentioned provisions in column 2 of the Table –

Table	
Column 1	Column 2
Provision in respect of which a determination under paragraph(1) is made	Relevant provisions applicable where a notification is delivered by using services provided by a specified body
regulation 6A(1)(a)(i)	regulations 6A(1)(a), (2), (3), (4)(a) and (5) and 6B(2)(a) and (3)(a)
regulation 6BA(1)(a)(i)	regulations 6BA(1)(a), (2) and (3)(a) and 6BB(2)(a) and (3)(a)
regulation 6BC(1)(a)(i)	regulations 6BC(1)(a), (2), (3), (4)(a) and (5) and 6BD(2)(a) and (3)(a)
regulation 6BE(1)(a)(i)	regulations 6BE(1)(a), (2) and (3)(a) and 6BF(2)(a) and (3)(a).

**6CB. Certain provisions subject to determination or notice under section 32A(2)(a) or 32B(2) of the Ordinance**

Any provisions of regulation 6B(3), 6BB(3), 6BD(3) or 6BF(3) requiring either the delivery of a certified copy or certified extract of a manifest in paper form or the delivery of a copy or extract of a manifest using services provided by a specified body shall have effect subject to any determination made under section 32A(2)(a) of the Ordinance or notice published under section 32B(2) of the Ordinance.”.”.

Clerk to the Executive Council

COUNCIL CHAMBER

2003

**Explanatory Note**

This Regulation amends the Import and Export (General) Regulations (Cap. 60 sub. leg.), as amended by the Import and Export (General)(Amendment) Regulation 2003 (L.N. 32 of 2003), (“the principal Regulations”) to provide for the use of services provided by a specified body in delivering import, export and transshipment notifications to the Director-General of Trade and Industry (“the Director”), in respect of textiles imported or exported under an exemption.

This Regulation should be read in conjunction with section 2 of and Schedule 1 to the Import and Export (Electronic Transactions) Ordinance 2002 (24 of 2002), which makes related amendments to the Import and Export Ordinance (Cap. 60).

2. Section 2 adds new definitions for the purposes of the use of services provided by a specified body and for simplifying the provisions of the regulations.

3. Section 3 makes a technical amendment to the Chinese version of regulation 6 of the principal Regulations.

4. Section 4 repeals regulations 6A, 6B, 6C and 6D of the principal Regulations and substitutes a new Part VA (comprising 10 regulations from regulations 6A, 6B, 6BA, 6BB, 6BC, 6BD, 6BE, 6BF, 6C and 6D). These regulations concern the import or export of textiles, as transshipment cargo or otherwise, in reliance on an exemption issued under regulation 6(3A). The effect of these regulations is summarized in paragraphs 5 to 11 below.

5. In the case of import, a registered textiles trader –

(a) shall ensure that the textiles are not imported until he has –



- (i) delivered directly to the Director an import or transshipment notification (as the case may be), using services provided by a specified body;
- (ii) received from the Director a reference number assigned to the notification; and
- (iii) delivered to the carrier the reference number of the notification

(new regulations 6A(1) and 6BC(1));

- (b) shall not take, or cause to be taken, possession of the textiles imported without having delivered to the carrier all the particulars contained in the notification (new regulations 6A(3) and 6BC(3)).

6. In the case of export, a registered textiles trader shall ensure that the textiles are not exported until he has –

- (a) delivered directly to the Director an export or transshipment notification (as the case may be), using services provided by a specified body;
- (b) received from the Director a reference number assigned to the notification; and
- (c) delivered to the carrier all the particulars contained in the notification together with the reference number of the notification

(new regulations 6BA(1) and 6BE(1)).

7. A carrier shall not release the possession of imported textiles, and shall not export textiles, until he has received from the registered textiles trader information that is indicated to be all the particulars contained in, and the reference number of, the relevant notification (new regulations 6B(2), 6BB(2), 6BD(2) and 6BF(2)).

8. Penalties are provided for contravention with requirements and prohibition referred to in paragraphs 5, 6 and 7 above (new regulations 6A(4) and (5), 6B(4), 6BA(3), 6BB(4), 6BC(4) and (5), 6BD(4), 6BE(3) and 6BF(4)).

9. The carrier's duty in delivering manifest information remains similar to the position brought about by the Import and Export (General) (Amendment) Regulation 2003 (L.N. 32 of 2003). A carrier shall deliver manifest information to the Director using services provided by a specified body (new regulations 6B(3), 6BB(3), 6BD(3) and 6BF(3)). This requirement shall be deemed to have been complied with if a manifest has previously been lodged with the Commissioner of Customs and Excise ("the Commissioner") under regulation 11 or 12 of the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) together with the reference number of the relevant notification, using the same means (new regulation 6C). Penalties are provided for failure to deliver manifest information (new regulations 6B(5), 6BB(5), 6BD(5) and 6BF(5)).

10. The requirement for a carrier of transshipment textiles to deliver a through bill of lading or air waybill is dispensed with.

11. The Commissioner and certain other officers are given access to information contained in an import, export or transshipment notification delivered to the Director (new regulation 6D).

12. Section 5 amends cross-references in the existing regulation 6E to refer to the new provisions for which a defence of reasonable diligence is available.

13. To provide for transitional arrangements, section 6 replaces the existing regulation 6H by a new one and section 7 adds a new Eighth Schedule to the principal Regulations. New regulation 6H empowers the Commissioner to specify the ending date of the period in respect of which the transitional provisions have effect. The new Eighth Schedule provides for modification of requirements on delivery of information in respect of that period.

14. In essence, regulations 6A, 6B, 6BA, 6BB, 6BC, 6BD, 6BE, 6BF, 6C, 6CA and 6CB as set out in the Eighth Schedule are to apply instead of

regulations 6A, 6B, 6BA, 6BB, 6BC, 6BD, 6BE, 6BF and 6C in the main body of the principal Regulations. The substituted provisions provide –

- (a) that registered textiles trader may continue to deliver a notification in paper form to the carrier who in turn delivers it to the Director (as at present) as an alternative to complying with the new requirements referred to in paragraphs 5 and 6 above; but a carrier delivering, for a registered textiles trader, a transshipment notification in paper form to the Director shall also deliver a through bill of lading or air waybill (as at present);
- (b) in relation to a notification delivered in either form, for the information that a carrier shall receive from a registered textiles trader before the carrier may release textiles imported or export textiles;
- (c) that the carrier may continue to deliver manifest information in paper form as an alternative to delivering it using services provided by a specified body;
- (d) similar to paragraph 9 above, that the lodging of a manifest and the reference number of the relevant notification separately with the Commissioner, using services provided by a specified body, is sufficient compliance of the requirement for delivering manifest information to the Director;
- (e) that the Commissioner may, if he considers that it is not practicable for a notification to be delivered by using services provided by a specified body, determine –
  - (i) that the notification shall be delivered in paper form; and
  - (ii) that provisions on the delivering of notification by using services provided by a specified body, as well

as provisions applicable in such a case, shall have no effect.

Annex B

Chapter:	60A	Title:	IMPORT AND EXPORT (GENERAL) REGULATIONS	Gazette Number:	29 of 2000
Regulation:	2	Heading:	<b>Interpretation</b>	Version Date:	26/05/2000

In these regulations, unless the context otherwise requires-

"export notification" (出口通知書) means an export notification in the form approved by the Director and completed by a registered textiles trader in accordance with the conditions imposed under regulation 6(3B); (L.N. 111 of 1993)

"import notification" (進口通知書) means an import notification in the form approved by the Director and completed by a registered textiles trader in accordance with the conditions imposed under regulation 6(3B); (L.N. 111 of 1993)

"licence" (許可證) means a licence issued under section 3 of the Ordinance;

"pesticide" (除害劑) has the meaning assigned to it in section 2 of the Pesticides Ordinance (Cap 133); (79 of 1990 s. 21)

"registered textiles trader" (登記紡織商) means a person registered as a textiles trader under regulation 5A; (L.N. 111 of 1993)

"textiles" (紡織品) includes any natural or artificial fibre products and any combination of natural and artificial fibre products in the form of yarn, fabrics, garments or other manufactured articles;

"transshipment notification" (轉運通知書) means a transshipment notification in the form approved by the Director and completed by a registered textiles trader in accordance with the conditions imposed under regulation 6(3B). (L.N. 111 of 1993)

(L.N. 255 of 1984; 29 of 2000 s. 2)

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Chapter:	60A	Title:	IMPORT AND EXPORT (GENERAL) REGULATIONS	Gazette Number:	L.N. 251 of 2002
Regulation:	6	Heading:	<b>Application and exemption</b>	Version Date:	02/01/2003

PART V

APPLICATION OF, AND EXEMPTION FROM, LICENSING REQUIREMENTS  
(L.N. 179 of 2002)

- (1) Sections 6C(1) and 6D(1) of the Ordinance shall not apply to- (L.N. 136 of 1994)
- (a) any article in transit, unless otherwise provided in regulation 6DF; (L.N. 440 of 1990; L.N. 179 of 2002)
  - (b) transshipment cargo imported or exported by a person to whom an exemption relating to that transshipment cargo has been granted under paragraph (2); (L.N. 440 of 1990)
  - (c) any article specified in-
    - (i) item 1 of the Third Schedule, imported or exported in the accompanied personal

baggage of a person entering or leaving Hong Kong and which is for his personal use;

- (ii) item 2 of the Third Schedule-
  - (A) imported by any person and which is for his personal use or is a gift; or
  - (B) exported in the accompanied personal baggage of a person leaving Hong Kong and which is for his personal use;
- (iii) the Third Schedule, imported or exported as part of the provisions required for consumption or use by the crew or passengers of the vessel, aircraft or vehicle on which the article is carried,

and is in each case in a quantity which is reasonable having regard to the purpose for which it is imported or exported as the case may be; (L.N. 440 of 1990)

- (ca) any article specified in the Sixth Schedule which is-
  - (i) imported in the accompanied personal baggage of a person entering Hong Kong;
  - (ii) for the personal use of that person or is a gift;
  - (iii) in an amount not exceeding 15 kg; and
  - (iv) accompanied by an official certificate as defined in the Imported Game, Meat and Poultry Regulations (Cap 132 sub. leg.); (L.N. 142 of 2000)
- (d) any article in respect of the import or export of which a person has been granted an exemption under paragraph (5). (L.N. 440 of 1990)

(2) If the Director is satisfied that a person is engaged in the business of dealing in transshipment cargo he may exempt in writing, with respect to the transshipment of any of the items set out in the First and Second Schedules and specified in the exemption, that person from the licensing requirements under sections 6C(1) and 6D(1) of the Ordinance. (L.N. 136 of 1994)

(3) The Director may impose such conditions as he thinks fit upon any exemption made under paragraph (2) and any person exempted under paragraph (2) shall comply with any condition imposed under this paragraph.

(3A) If a person is a registered textiles trader, the Director may exempt, in writing, the registered textiles trader from the licensing requirements under sections 6C(1) and 6D(1) of the Ordinance for the import or export of textiles in accordance with the Fourth Schedule by the registered textiles trader. (L.N. 111 of 1993; L.N. 136 of 1994)

(3B) The Director may impose such conditions as he thinks fit upon any exemption made under paragraph (3A) and any person who relies on an exemption issued under paragraph (3A) shall comply with any condition imposed under this paragraph. (L.N. 111 of 1993)

(3C) The Director may vary the conditions as he thinks fit upon any exemption made under paragraph (3A) and any person who relies on an exemption issued under paragraph (3A) shall comply with any condition varied under this paragraph. (L.N. 111 of 1993)

(3D) The Director may approve the form of an export, import or transshipment notification that a registered textiles trader is required to submit under these regulations. (L.N. 111 of 1993)

(4) If a person contravenes or fails to comply with any condition imposed under paragraph (3), (3B) or (3C)- (L.N. 111 of 1993)

- (a) he shall be guilty of an offence and shall be liable on conviction to a fine of \$500000 and to imprisonment for 2 years; and
- (b) the Director may by notice in writing revoke or suspend any exemption granted to that person or may amend any condition. (L.N. 255 of 1984)

(5) Without prejudice to paragraphs (2), (3), (3A), (3B), (3C) and (4), the Director may, on application and in respect of any article specified in the First or Second Schedule, exempt in writing any person from any requirement to obtain a licence under sections 6C(1) and 6D(1) of the Ordinance. (L.N. 440 of 1990; L.N. 111 of 1993; L.N. 136 of 1994)

(L.N. 255 of 1984)

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Chapter:	60A	Title:	IMPORT AND EXPORT (GENERAL) REGULATIONS	Gazette Number:	L.N. 32 of 2003
Regulation:	6A	Heading:	<b>Delivery of import notification and manifest to the Director</b>	Version Date:	11/04/2003

(1) The owner of any vessel, aircraft or vehicle in or on which textiles are imported shall, subject to the terms and conditions of an exemption issued to a registered textiles trader under regulation 6(3A), retain possession of the textiles until the registered textiles trader produces to him an import notification or a transshipment notification.

(2) When a registered textiles trader relies on an exemption issued to him under regulation 6(3A) to import textiles, the registered textiles trader shall deliver an import notification to the owner of the vessel, aircraft or vehicle in or on which textiles are imported at the time when the textiles are imported and, on receipt of the import notification, the owner of the vessel, aircraft or vehicle may release the textiles to the consignee.

(3) The owner of the vessel, aircraft or vehicle in or on which textiles are imported under an exemption issued to a registered textiles trader under regulation 6(3A) and for which an import notification has been issued by the registered textiles trader shall, within 14 days after the day on which the textiles are imported- (L.N. 32 of 2003)

- (a) deliver the import notification to the Director; and
- (b) deliver to the Director, using services provided by a specified body, a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the textiles have been imported. (L.N. 32 of 2003)

(3A)The requirement under paragraph (3)(b) is deemed to have been complied with if at the time of delivering the import notification under paragraph (3)(a) the manifest has been lodged with the Commissioner, or with an officer appointed by the Commissioner, in compliance with regulation 11 of the Import and Export (Registration) Regulations (Cap 60 sub. leg.) and was so lodged using services provided by a specified body. (L.N. 32 of 2003)

(4) Any person who contravenes paragraph (1) commits an offence and is liable on conviction to a fine of \$500000 and to imprisonment for 1 year.

(5) Any person who contravenes paragraph (2) commits an offence and is liable on conviction to a fine of \$500000 and to imprisonment for 2 years.

(6) Any person who contravenes paragraph (3) commits an offence and is liable on conviction to a fine of \$5000.

(L.N. 111 of 1993)

Chapter:	60A	Title:	IMPORT AND EXPORT (GENERAL) REGULATIONS	Gazette Number:	L.N. 32 of 2003
Regulation:	<b>6B</b>	Heading:	<b>Delivery of export notification and manifest to the Director</b>	Version Date:	11/04/2003

(1) When a registered textiles trader is to rely on the exemption issued to him under regulation 6(3A) to export textiles, the registered textiles trader shall, before the textiles are exported, deliver an export notification to the owner of the vessel, aircraft or vehicle in or on which he intends to export them.

(2) The owner of the vessel, aircraft or vehicle, in or on which textiles are exported under an exemption issued to a registered textiles trader under regulation 6(3A) and for which an export notification has been issued by the registered textiles trader shall, within 14 days after the day on which the textiles are exported- (L.N. 32 of 2003)

(a) deliver the export notification to the Director; and

(b) deliver to the Director, using services provided by a specified body, a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the textiles have been exported. (L.N. 32 of 2003)

(2A)The requirement under paragraph (2)(b) is deemed to have been complied with if at the time of delivering the export notification under paragraph (2)(a) the manifest has been lodged with the Commissioner, or with an officer appointed by the Commissioner, in compliance with regulation 12 of the Import and Export (Registration) Regulations (Cap 60 sub. leg.), and was so lodged using services provided by a specified body. (L.N. 32 of 2003)

(3) Any person who contravenes paragraph (1) commits an offence and is liable on conviction to a fine of \$500000 and to imprisonment for 2 years.

(4) Any person who contravenes paragraph (2) commits an offence and is liable on conviction to a fine of \$5000.

(L.N. 111 of 1993)

Chapter:	60A	Title:	IMPORT AND EXPORT (GENERAL) REGULATIONS	Gazette Number:	
Regulation:	<b>6C</b>	Heading:	<b>Carriers prohibited from accepting textiles for export without export notification, etc.</b>	Version Date:	30/06/1997

(1) The owner of a vessel, aircraft or vehicle shall not accept for export any textiles that are to be



exported under an exemption issued to a registered textiles trader under regulation 6(3A) on the vessel, aircraft or vehicle until the registered textiles trader has produced to him an export notification or a transshipment notification.

(2) Any person who contravenes paragraph (1) commits an offence and is liable on conviction to a fine of \$500000 and to imprisonment for 1 year.

(L.N. 111 of 1993)

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Chapter:	60A	Title:	IMPORT AND EXPORT (GENERAL) REGULATIONS	Gazette Number:	L.N. 32 of 2003
Regulation:	<b>6D</b>	Heading:	<b>Delivery of transshipment notification, manifest, etc., to the Director</b>	Version Date:	11/04/2003

(1) When a registered textiles trader relies on the exemption issued to him under regulation 6(3A) to import textiles as transshipment cargo, the registered textiles trader shall deliver a transshipment notification to the owner of the vessel, aircraft or vehicle in or on which the textiles are imported at the time the textiles are imported.

(2) The owner of the vessel, aircraft or vehicle in or on which textiles are imported under an exemption issued to a registered textiles trader under regulation 6(3A) and for which a transshipment notification has been issued by a registered textiles trader shall, within 14 days after the day on which the textiles are imported- (L.N. 32 of 2003)

- (a) deliver the transshipment notification to the Director; and
- (b) deliver to the Director, using services provided by a specified body, a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the textiles have been imported. (L.N. 32 of 2003)

(3) When a registered textiles trader is to rely on the exemption issued to him under regulation 6(3A) to export textiles as transshipment cargo, the registered textiles trader shall, before the textiles are exported, deliver a transshipment notification to the owner of the vessel, aircraft or vehicle in or on which he intends to export them.

(4) The owner of the vessel, aircraft or vehicle in or on which textiles are exported under an exemption issued to a registered textiles trader under regulation 6(3A) and for which a transshipment notification has been issued by a registered textiles trader shall, within 14 days after the day on which the textiles are exported- (L.N. 32 of 2003)

- (a) deliver the transshipment notification to the Director; and
- (b) deliver to the Director, using services provided by a specified body, a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the textiles have been exported. (L.N. 32 of 2003)

(4A) The requirement under paragraph (2)(b) or (4)(b) is deemed to have been complied with if at the time of delivering the transshipment notification under paragraph (2)(a) or (4)(a) the manifest has been

lodged with the Commissioner, or with an officer appointed by the Commissioner, in compliance with regulation 11 or 12 of the Import and Export (Registration) Regulations (Cap 60 sub. leg.), and was so lodged using services provided by a specified body. (L.N. 32 of 2003)

(5) Any person who contravenes paragraph (1) or (3) commits an offence and is liable on conviction to a fine of \$500000 and to imprisonment for 2 years.

(6) Any person who contravenes paragraph (2) or (4) commits an offence and is liable on conviction to a fine of \$5000.

(L.N. 111 of 1993)

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Chapter:	60A	Title:	IMPORT AND EXPORT (GENERAL) REGULATIONS	Gazette Number:	L.N. 251 of 2002
Regulation:	6E	Heading:	<b>Defence of reasonable diligence</b>	Version Date:	02/01/2003

## PART VII

### MISCELLANEOUS

(L.N. 179 of 2002)

(1) In any proceedings against a person for an offence under regulation 6A(4), 6A(5), 6B(3), 6C(2) or 6D(5), it shall be a defence for the person to show that he took all reasonable steps and exercised reasonable diligence to avoid committing the offence.

(2) Where in any proceedings the defence provided by paragraph (1) involves an allegation that the commission of the offence was due-

- (a) to the act or default of another person; or
- (b) to reliance on information given by another person,

the defendant shall not, without the leave of the court, be entitled to rely on the defence unless, not less than 10 days before the hearing of the proceedings, he has served a notice in writing on the prosecutor giving all particulars of the person who committed the act or default or gave the information and of the act, default and information of which he is aware at the time he serves notice.

(3) A person shall not be entitled to rely on the defence provided by paragraph (1) by reason of his reliance on information supplied by another person, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular-

- (a) to the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) to whether he had any reason to disbelieve the information.

(L.N. 111 of 1993)

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Chapter:	60A	Title:	IMPORT AND EXPORT (GENERAL) REGULATIONS	Gazette Number:	L.N. 32 of 2003
Regulation:	<b>6H</b>	Heading:	<b>Transitional</b>	Version Date:	11/04/2003

(1) Any provision of regulation 6A, 6B or 6D requiring that information given under those regulations be given by using services provided by a specified body shall, in respect of the period specified in paragraph (2), but subject to any determination made under section 32A(2)(a) of the Ordinance or notice published under section 32B(2) of the Ordinance, be construed as requiring that the information be given either in paper form or by using services provided by a specified body.

(2) The period specified for the purposes of paragraph (1) is the period beginning with the commencement of the Import and Export (General) (Amendment) Regulation 2003 (L.N. 32 of 2003) and ending at midnight on a date to be specified by the Commissioner for the purposes of this paragraph by notice published in the Gazette.

(3) A notice published under paragraph (2) may specify different dates in relation to different classes of persons or information.

(4) A notice published under paragraph (2) is subsidiary legislation.

(L.N. 32 of 2003)

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## Implications of the Proposal

### FINANCIAL AND CIVIL SERVICE IMPLICATIONS

To support electronic processing of textiles notifications, we have provided \$7.8 million to enhance the Government's back-end computer system. It will require an additional recurrent operating cost of \$1.4 million a year. This will be offset by a saving of \$2 million in staff cost as a result of a deletion of 8 posts (which are mainly clerical) due to full migration to electronic services for TTRS (except for road mode). It is practicable to re-deploy them within the civil service. No strong reaction is expected from the staff. The proposed legislative amendments do not have other financial or staffing implications for the Government.

### ECONOMIC IMPLICATIONS

2. The proposed Regulation will facilitate the launching of the electronic service for TTRS, which will reduce significantly the time and resources spent by the industry on delivering textiles notifications to the Government. It will also promote the wider use of electronic means, thereby maintaining Hong Kong's position as a leading international trading centre.

3. According to Tradelink, the charge for the proposed service will be \$0.5 per notification. This is the same as the current cost of a paper notification form.