

LN093-E

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Regulations 6A, 6B, 6C and 6D are repealed and the following substituted---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 Transshipment
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. 93 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 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---

(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
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Provision in respect of which notification	Relevant provisions applicable where a
--	--

a determination under	is delivered by using services provided
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paragraph (1) is made 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."."

CHENG Mei-sze, Maisie

Clerk to the Executive Council

Council Chamber

25 March 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.