

LEGISLATIVE COUNCIL BRIEF

Import and Export Ordinance
(Chapter 60)

IMPORT AND EXPORT ORDINANCE (SPECIFICATION OF ENDING DATE UNDER SECTION 42) NOTICE 2004

IMPORT AND EXPORT (REGISTRATION) REGULATIONS (SPECIFICATION OF ENDING DATE UNDER REGULATION 15) NOTICE 2004

PURPOSE

A This brief explains the Import and Export Ordinance (Specification of Ending Date under Section 42) Notice 2004 at Annex A and the Import and Export (Registration) Regulations (Specification of Ending Date under Regulation 15) Notice 2004 at Annex B.

BACKGROUND

2. To promote electronic commerce, improve efficiency and reduce the use of paper, the Government has since 1997 introduced electronic services for the submission of a number of trade documents. The services for electronic submission of cargo manifests in the air, rail, river and ocean modes of transport (EMAN services) were launched by Tradelink Electronic Commerce Ltd (Tradelink) on 11 April 2003, upon the commencement of the Import and Export (Electronic Transactions) Ordinance 2002 (the Ordinance).

3. To allow time for the affected parties to get ready for electronic submission, we have included provisions in the Ordinance and the various amendment Regulations¹ to provide for a transitional period during which the concerned cargo manifests may be submitted in either paper or electronic form. The transitional period began on

¹ Import and Export (General) (Amendment) Regulation 2003, Import and Export (Registration) (Amendment) Regulation 2003, Import and Export (Removal of Articles) (Amendment) Regulation 2003, and Reserved Commodities (Control of Imports, Exports and Reserve Stocks) (Amendment) Regulation 2003

11 April 2003 and will end at midnight on a day to be specified by the Commissioner of Customs and Excise (the Commissioner) by notices in the Gazette. We expect this transitional period to end after a smooth run-in of the EMAN services and a reasonable take-up rate has been achieved. Recognizing the fact that carriers in different modes of transport may adjust to using EMAN services at different paces because of distinct operational practices, the Commissioner could specify different end dates for the transitional period for different modes of transport. The notices to be published by the Commissioner constitute subsidiary legislation and are subject to negative vetting by the Legislative Council.

PROPOSED END OF TRANSITIONAL PERIOD

IN AIR AND RAIL MODES

4. All the air carriers operating in Hong Kong have already registered with Tradelink for using EMAN services. In the first quarter of 2004, we received a total of 49 178 air cargo manifests, of which 79% were submitted in electronic form. The Carrier Liaison Group, which represents all the airlines operating in Hong Kong, supports the full migration to electronic submission of air cargo manifests and has noted the Government's intention of ending the transitional period in early July 2004.

5. There are altogether three rail cargo operators which submit rail cargo manifests, two are larger ones accounting for 96% of the rail cargo manifests submitted last year. All three operators have registered with Tradelink for using EMAN services. In the first quarter of 2004, we received a total of 873 rail cargo manifests, of which 42% were submitted electronically. According to Tradelink, one of the two larger operators has been submitting most of its manifests in electronic form. This operator strongly supports the full migration to EMAN services any time. The other bigger operator has been using EMAN services sparingly for financial reason, although it appreciates that electronic submission of cargo manifests will help facilitate its operation and improve efficiency. We understand Tradelink is marketing its discount packages² to this operator. The third operator, which submits only 4% of all rail cargo manifests received last year, has been deferring a decision to switch from paper to electronic submission. Tradelink has been explaining the potential efficiency gains arising from electronic operation to this operator. We understand from Tradelink that this operator has started using EMAN services since late April.

² The standard service charge for one EMAN submission for the rail mode is \$28.60. Tradelink offers discounts to customers which sign up for 3, 5 or 7 years, offering discounts of 15%, 25% and 35% per transaction respectively throughout the contract period. According to Tradelink, the rail industry did not raise any objection to the standard EMAN charges and the discount packages when they were proposed by Tradelink back in 2002.

6. On 23 April 2004, we proposed to the Legislative Council Panel on Commerce and Industry to end the transitional period for air and rail cargo manifests around early July at the earliest, for the following reasons :

- (a) there is no outstanding technical issue with regard to full migration to EMAN services for these two classes of manifests;
- (b) the take-up rate of EMAN services by air carriers and rail cargo operators has been increasing steadily (the electronic submission rate for air cargo manifests has increased from 46% in the fourth quarter of 2003 to 79% in the first quarter of 2004 and that for rail cargo manifests from 29% in the fourth quarter of 2003 to 42% in the first quarter of 2004);
- (c) all the air carriers and rail cargo operators are aware of the proposed ending of the transitional period in a few months' time and have not raised objection; and
- (d) in line with the arrangements for other trade documents (e.g. trade declarations and dutiable commodities permits) which have to be submitted electronically, carriers and operators will have the option of using the electronic trading access service provided by Tradelink to convert paper submissions into electronic ones if they do not wish to do so with their own in-house resources.

7. We also proposed that the transitional period for the electronic submission of ocean and river cargo manifests should not be brought to an end for the time being because of the low take-up rate (less than 1% and 4% respectively) of electronic submission in these modes and because there are still some technical issues. We will continue to address the outstanding issues and monitor the service take-up rate. We will put forward recommendations on the timing of full migration to electronic submission for these two classes of cargo manifests when we judge the conditions are ready.

8. The Legislative Council Panel on Commerce and Industry endorsed our proposal in paragraphs 6 and 7 above on 23 April 2004.

THE NOTICES

9. The Import and Export Ordinance (Specification of Ending Date under Section 42) Notice 2004 (at Annex A) and Import and Export (Registration) Regulations (Specification of Ending Date under Regulation 15) Notice 2004 (at Annex B) (the notices) have been made by the Commissioner under section 42 of the Import and Export

Ordinance and regulation 15 of the Import and Export (Registration) Regulations (Cap. 60E) respectively to end the transitional period for the electronic submission of air and rail cargo manifests required under the respective Ordinance/Regulation at midnight on 16 July 2004.

10. The Commissioner has not published notices under regulations 6H and 6DAH of the Import and Export (General) Regulations (Cap. 60A), and regulation 26 of the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations (Cap. 296A) to end the transitional period for electronic submission of manifests to the Director-General of Trade and Industry (the Director) required under these regulations. This is because the Director, instead of the Commissioner, is currently empowered by the main Ordinances (i.e. Import and Export Ordinance (Cap. 60) and Reserved Commodities Ordinance (Cap. 296)) to publish the concerned notices. We will amend the relevant provisions in Cap. 60A and Cap. 296A by subsidiary legislation in a separate exercise as soon as possible so that the Director may publish notices to end the transitional period for electronic submission of manifests required under these regulations. This, however, will not compromise our objective to require electronic submission of all air and rail cargo manifests starting from 17 July 2004 because -

- (a) by publishing the Import and Export (Registration) Regulations (Specification of Ending Date under Regulation 15) Notice 2004 under Cap. 60E, we can mandate electronic submission of manifests to the Commissioner in respect of all cargoes imported and exported in the air and rail modes with effect from 17 July 2004;
- (b) despite the fact that notices will not be published under Cap. 60A and 296A to end the transitional period in respect of the manifests to be delivered to the Director under these regulations until amendments to these two pieces of subsidiary legislation are made, we do not envisage any difficulty in compliance on the part of the carriers or other operational problem. This is because the provisions under Cap. 60A and 296A have provided that the requirements for manifest to be delivered to the Director under these regulations will be deemed to have been complied with when the manifest required under Cap. 60E is submitted to the Commissioner electronically and when certain conditions are satisfied³. Besides, in practice, when a

³ For the relevant provisions under 296A, the requirement for manifests to be delivered to the Director will be deemed to have been complied with if a manifest has been submitted to the Commissioner under Cap. 60E electronically at the time when the licence of the cargoes concerned is delivered to the Director. For the provisions under Cap. 60A, the requirement for manifests to be delivered to the Director will be deemed to have been complied with if a manifest has been submitted to the Commissioner under Cap. 60E electronically and such manifest contains the notification reference number of the cargoes concerned.

carrier makes use of EMAN services to submit manifests to the Commissioner electronically (with a view to discharging his obligation under regulation 11 or 12 of Cap. 60E), the manifests submitted are sent by the EMAN system automatically to all concerned departments including Customs and Excise Department, Census and Statistics Department, and Trade and Industry Department. Hence the obligations of the carrier to deliver manifests to the Director under 60A and 296A will also be discharged.

LEGISLATIVE TIMETABLE

11. The notices will be gazetted on 14 May 2004, tabled at the Legislative Council on 19 May 2004, and subject to the negative vetting procedures, the matters to which the notices relate (i.e. ending of transitional period for electronic submission of air and rail cargo manifests) will take effect on 16 July 2004.

IMPLICATIONS OF THE PROPOSAL

12. The use of electronic service for submission of air and rail cargo manifests reduces the time and resources spent by the industry in submitting manifests to Government and improves efficiency. It will promote the wider use of e-commerce generally, thereby maintaining Hong Kong's position as a leading international trading centre.

13. The proposal to end the transitional period for electronic submission of air and rail cargo manifests has no financial, civil service or sustainability implications. The notices are in conformity with the Basic Law, including the provisions concerning human rights. They will not affect the current binding effect of the Import and Export Ordinance.

PUBLIC CONSULTATION

14. We have consulted the Carrier Liaison Group which represents all airlines operating in Hong Kong and got their support on the full migration to electronic submission of air cargo manifests. We have also consulted all three rail cargo operators which submit rail cargo manifests and have not received any objection to the proposed full migration. On 23 April 2004, the Legislative Council Panel on Commerce and Industry supported our proposal to end the transitional period for the electronic submission of air and rail cargo manifests.

PUBLICITY

15. A press release will be issued on 14 May 2004. We will

separately inform the air and rail industry of the date of full migration. A spokesman will be available to handle media enquiries.

ENQUIRIES

16. 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
13 May 2004**

**IMPORT AND EXPORT ORDINANCE (SPECIFICATION OF
ENDING DATE UNDER SECTION 42) NOTICE 2004**

(Made under section 42 of the Import and Export
Ordinance (Cap. 60))

For the purposes of section 42(2) of the Import and Export Ordinance (Cap. 60), I specify 16 July 2004 as the date on which the period specified for the purposes of section 42(1) (in so far as it relates to any provision of section 8, 9 or 11 of the Ordinance requiring the delivery of a copy or extract of the manifest of an aircraft or a train) of the Ordinance shall end.



Commissioner of Customs and Excise

4 May 2004

**IMPORT AND EXPORT (REGISTRATION) REGULATIONS
(SPECIFICATION OF ENDING DATE UNDER
REGULATION 15) NOTICE 2004**

(Made under regulation 15 of the Import and Export (Registration)
Regulations (Cap. 60 sub. leg. E))

For the purposes of regulation 15(2) of the Import and Export (Registration) Regulations (Cap. 60 sub. leg. E), I specify 16 July 2004 as the date on which the period specified for the purposes of regulation 15(1) (in so far as it relates to any provision of regulation 11 or 12 of the Regulations requiring the lodgement of the manifest of cargo imported or exported in an aircraft or a train) of the Regulations shall end.



Commissioner of Customs and Excise

4 May 2004