

Bills Committee on Trade Descriptions (Amendment) Bill 2004

Purpose

At the House Committee meeting held on 26 November 2004, Members agreed that a Bills Committee should be formed to study the Trade Descriptions (Amendment) Bill 2004 (the Bill). We understand that the main purpose of setting up the Bills Committee is to look at the drafting aspect of the Bill. This paper sets out the considerations in drafting the Bill for Members' information.

Purpose of the Bill

2. The purpose of the Bill is to improve the flexibility in the application of section 2(2) of the Trade Descriptions Ordinance (TDO) and make consequential amendments. Section 2(2) of the TDO provides for a deeming provision regarding the origin of goods. Details are set out in the Legislative Council Brief for the Bill [file ref.: CIB CR S/F TO CR 62/42/1/5 (03)].

Drafting aspect of the Bill

3. We consider that replacing references to "country" or "countries" by references to "place" or "places" in section 2(2) of the TDO will achieve the intended effect of improving the flexibility in the application of that section because the ordinary meaning of "place" is wider than and includes "country".

Relationship between the timetable of enacting the Bill and that for LN 186 of 2004

4. On 19 November 2004, the Trade Descriptions (Country of Manufacture) (Textile Made-up Articles) Order (LN 186 of 2004) and the Trade Descriptions (Place of Manufacture) (Textile Made-up Articles) Notice (LN 187 of 2004) were gazetted. These two instruments aim at aligning the origin marking requirements for textile made-up articles under the TDO with the revised Hong Kong rules of origin and the CEPA rules of origin for such articles, and will commence operation on 1 January 2005.

5. The proposed LN 186 and 187 of 2004 are supported by the Legislative Council's Panel on Commerce and Industry (at its meeting held on 16 November 2004) as providing flexibility to the manufacturers and traders of textile made-up articles, to seize the opportunities of manufacturing and trading such articles from 1 January 2005, when quotas on textiles will be abolished and CEPA II will be implemented. We understand that at the House Committee meeting held on 26 November 2004, Members considered that no Sub-Committee needed to be formed to study these two instruments.

6. At the same House Committee meeting, it was decided that a Bills Committee for the Bill should be set up. We understand that some Members are concerned whether, if the Bill is to be enacted after 1 January 2005, there will be implications on the commencement of LN 186 and 187 of 2004. In this connection, we take the view that the timing for effecting the amendments to change the references from "country" or "countries" to "place" or "places" in the TDO will not affect the commencement of LN 186 and 187 of 2004 because –

- (a) LN 187 of 2004 is made under section (2)(2A) of the TDO which is not to be amended by the Bill; and
- (b) LN 186 of 2004 is made under the current section 2(2)(b)(ii) of the TDO. Should the Bill not be passed before 1 January 2005, there will be no impediment to LN 186 of 2004 commencing effect on 1 January 2005 because the existing section 2(2)(b)(ii) will still subsist. As explained in our letter of 23 November 2004, we intend to ensure consistency of the amended section 2(2)(b)(ii) with the subsidiary legislation made under that section by way of Committee Stage Amendments.

Commerce, Industry and Technology Bureau
29 November 2004