

立法會
Legislative Council

LC Paper No. LS10/04-05

**Paper for the House Committee Meeting
on 12 November 2004**

**Legal Service Division Report on
Trade Descriptions (Amendment) Bill 2004**

I. SUMMARY

- 1. Object of the Bill** To amend the Trade Descriptions Ordinance (Cap. 362) (“the Ordinance”) so that the origin of goods is expressed by reference to a “place”, instead of to a “country”.
- 2. Comments**

 - (a) In a Subcommittee to study two pieces of subsidiary legislation made under the Ordinance last year, members raised doubt whether Hong Kong could be deemed under section 2(2)(a) of the Ordinance as a “country” of manufacture of goods.
 - (b) The Administration agreed to introduce this Bill to amend the reference to “country” to “place” in the Ordinance.
- 3. Public Consultation** The Textiles Advisory Board and the Trade and Industry Advisory Board have been consulted and agreed to the proposal.
- 4. Consultation with LegCo Panel** Noting that the proposed amendments sought to facilitate the implementation of the Mainland and Hong Kong Closer Economic Partnership Arrangement, the Commerce and Industry Panel in the meeting of 10 May 2004 expressed support for the Administration to introduce the Bill in principle.
- 5. Conclusion** We are seeking clarification with the Administration on some technical aspects and are awaiting its reply. Members may defer decision on the setting up of a Bills Committee pending our further report.

II. REPORT

Object of the Bill

To amend the Trade Descriptions Ordinance (Cap. 362) (“the Ordinance”) and its subsidiary legislation so that the origin of goods is expressed by reference to a “place”, instead of to a “country”.

LegCo Brief Reference

2. File Ref. CIB CR S/F TO CR 62/42/1/5 (03) issued by the Commerce, Industry and Technology Bureau dated 27 October 2004.

Date of First Reading

3. 10 November 2004.

Comments

4. Under section 2(2)(a) of the Ordinance, goods shall be deemed to have been manufactured in the “country” in which they last underwent substantial transformation. The Commissioner for Customs and Excise (“the Commissioner”) and the Director-General for Trade and Industry (“the Director-General”) are empowered to specify special manufacture-marking requirements by orders and notices respectively.

5. In October 2003, the Commissioner made the Trade Descriptions (Country of Origin) (Watches) (Amendment) Order 2003 (L.N. 233 of 2003) and the Director-General made the Trade Descriptions (Place of Manufacture) (Piece-Knitted Garments) Notice (L.N. 234 of 2003).

6. A Sub-committee was formed to study the two pieces of subsidiary legislation. On examining the Trade Descriptions (Country of Origin) (Watches) (Amendment) Order 2003, members raised doubt whether Hong Kong could be deemed under section 2(2)(a) of the Ordinance as a “country” of manufacture for the concerned goods under the Mainland and Hong Kong Closer Economic Partnership Arrangement (“CEPA”) and hence whether the goods could be marked as “Made in Hong Kong”. The Administration agreed to review the relevant provisions in the Ordinance.

7. This Bill seeks to replace the reference to “country” with “place” in section 2 of the Ordinance and in the Trade Descriptions (Country of Origin) (Watches) Order (Cap. 362 sub. leg. D) to address the above issue.

8. The Administration has also taken the opportunity to review other provisions of the Ordinance. To improve consistency, the reference to “or country” in relation to the manufacture of the goods in section 24A of the Ordinance will also be repealed.

9. We have noted that the reference to “country” of origin or manufacture still appears in another piece of subsidiary legislation of the Ordinance and many other Ordinances. Further, the Commissioner has also made another Order, i.e. the Trade Descriptions (Country of Manufacture) (Piece-Knitted Garments) Order on 15 October 2004 (L.N. 157 of 2004). We are seeking clarification with the Administration on whether these references should also be amended and are awaiting its reply.

10. This Bill, if enacted, will come into operation on the date of gazettal.

Public Consultation

11. The Textiles Advisory Board and the Trade and Industry Advisory Board have been consulted. They agreed to the proposal.

Consultation with LegCo Panel

12. At the meeting of the Commerce and Industry Panel on 10 May 2004, the Administration informed the Panel that an amendment Bill will be introduced to effect the changes of the reference to “country” in relation to manufacture of goods to the Ordinance. Noting that the proposed amendments sought to facilitate the implementation of CEPA, the Panel expressed support for the Administration to introduce the Bill in principle.

Conclusion

13. This Bill is technical in nature, the purpose of which is to remove any doubt caused by the term “country” in the Ordinance in relation to manufacture of goods in Hong Kong. We are seeking clarification with the Administration on some technical aspects and are awaiting its reply. Members may defer decision on the setting up of a Bills Committee pending our further report.

Prepared by

HO Ying-chu, Anita
Assistant Legal Adviser
Legislative Council Secretariat
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