

LEGISLATIVE COUNCIL BRIEF

Trade Descriptions Ordinance
(Chapter 362)

**Trade Descriptions (Country of Manufacture) (Piece-knitted
Garments) Order,
Trade Descriptions (Place of Manufacture) (Repeal) Notice 2004 and
Trade Descriptions (Place of Manufacture) (Piece-knitted Garments)
(Amendment) Notice 2004**

INTRODUCTION

A

The Commissioner of Customs and Excise (CCE) has made the Trade Descriptions (Country of Manufacture) (Piece-knitted Garments) Order (the Order) at Annex A under section 2(2)(b)(ii) of the Trade Descriptions Ordinance (Cap. 362) (the Ordinance) to specify the latest origin description for piece-knitted garments for the purposes of the Ordinance after the elimination of quantitative restrictions on textiles and clothing (T&C) products by 1 January 2005.

B

2. The Director-General of Trade and Industry (DGTI) has made the Trade Descriptions (Place of Manufacture) (Repeal) Notice 2004 (the Repeal Notice) at Annex B to repeal the Trade Descriptions (Place of Manufacture) Notice (Cap. 362 sub. leg. E) (the Notice) and the Trade Descriptions (Place of Manufacture) (Piece-knitted Garments) (Amendment) Notice 2004 (the Amendment Notice) at Annex C to preserve the origin deeming effect of Trade Descriptions (Place of Manufacture) (Piece-knitted Garments) Notice (Cap. 362 sub. leg. G) (the CEPA¹ Notice) respectively under section 2(2A) of the Ordinance.

C

¹ CEPA denotes the Mainland and Hong Kong Closer Economic Partnership Arrangement.

BACKGROUND AND JUSTIFICATIONS

Origin Marking Requirements under the Ordinance

3. Section 2(2)(a)(i) of the Ordinance stipulates that goods are deemed to have been manufactured in the country in which they last underwent a treatment or process which changed permanently and substantially the shape, nature, form or utility of the basic materials used in their manufacture. This is commonly known as the “last substantial transformation” principle.

4. Section 2(2)(b)(ii) of the Ordinance provides that CCE may by order specify in relation to any description of goods different parts of which were manufactured or produced in different countries, or of goods assembled in a country different from that in which their parts were manufactured or produced, in which of those countries the goods are to be regarded for the purposes of the Ordinance as having been manufactured or produced.

Current Origin Rules and Origin Marking Arrangements for Piece-knitted Garments

5. At present, Hong Kong’s origin rules for piece-knitted garments are different from those of the United States (US). Under the “last substantial transformation” principle of Hong Kong, the place where the assembling (linking/looping and/or stitching) of knit-to-shape panels takes place will be regarded as the place of manufacture of the piece-knitted garments. However, the US requires that piece-knitted garments exported from Hong Kong to the US under Hong Kong’s textiles quotas must have the knit-to-shape panels knitted in Hong Kong.

6. To facilitate the export of piece-knitted garments from Hong Kong to the US market, Trade and Industry Department (TID) has been operating a Special Export and Import Licensing (Textiles) Scheme (the

Scheme) under the Import and Export Ordinance (Cap. 60) since August 1991. Under the Scheme, most piece-knitted garments for export and re-export to the US may be labeled, insofar as country of origin is concerned, in accordance with where the knitting of such piece-knitted garments takes place. Apart from this, the Scheme also covers other licensing arrangements to cater for the export of textiles products to the US market under the textiles quota system.

7. For the implementation of the Scheme, DGTI made the Notice under section 2(2A) of the Ordinance² in 1991 specifying that for exports to the US under the Scheme, the place of knitting of the knit-to-shape panels of the finished and semi-finished piece-knitted garments is to be regarded as the place where the piece-knitted garments have been manufactured for the purpose of the Ordinance. Similar garments not destined for the US shall follow the “last substantial transformation” principle for origin marking purpose.

8. As the major purpose of the Scheme is for implementation of the quota control system of the HK/US textile trade, the Scheme will be discontinued after the elimination of all textile quotas on 1 January 2005. The Notice, which makes reference to the Scheme, would accordingly become obsolete and should be repealed. Having regard to the trade’s overall interest, TID has decided to adopt a revised rule specifying either “knitting of knit-to-shape panels” or “assembling of knit-to-shape panels into piece-knitted garments” as the origin conferring process with effect from 1 January 2005 for all non-preferential trade purposes including origin marking.

9. The revised marking rule for piece-knitted garments will be implemented through the Order made by CCE under section 2(2)(b)(ii) of

² Section 2(2A) of the Ordinance provides under that “The Director-General of Trade and Industry may by notice in the Gazette specify in relation to any description of goods (being goods that are subject to a scheme of import or export control specified in the notice) the place in which the goods are to be regarded for the purposes of this Ordinance as having been manufactured or produced, and any such goods shall, for the purposes of this Ordinance, be deemed to have been manufactured or produced in such place.”

the Ordinance.

Piece-knitted Garments under CEPA

10. Piece-knitted garments are included in the list of products which enjoy zero import tariff under CEPA from 1 January 2004. In order to enjoy zero import tariff, the concerned piece-knitted garments should have either of the following two processes done in Hong Kong -

- (a) knitting of knit-to-shape panels; or
- (b) assembling of knit-to-shape panels into garments.

11. Piece knitted garments with knit-to-shape panels knitted outside Hong Kong but assembled into garments in Hong Kong are deemed to be manufactured in Hong Kong under the Ordinance, in accordance with section 2(2)(a)(i) of the Ordinance, irrespective of whether such garments are for export to the Mainland under CEPA. However, piece-knitted garments which only have knit-to-shape panels knitted in Hong Kong but the knit-to-shape panels are assembled outside Hong Kong, will not meet the “last substantial transformation” principle under section 2(2)(a)(i) of the Ordinance. To enable such garments which are for export under CEPA to the Mainland to bear a Hong Kong origin marking, DGTI made the CEPA Notice under section 2(2A) of the Ordinance in October 2003.

12. With the making of the Order specifying the revised Hong Kong origin marking rules as per paragraph 9 above, section 2(2)(a)(i) of the Ordinance will cease to apply to all piece-knitted garments. In other words, piece-knitted garments with panels knitted outside Hong Kong (for example, Vietnam) but assembled into garments in Hong Kong may bear an origin marking indicating the country where the knitting process (i.e. Vietnam in our example) has taken place as the country of manufacture even if such garments are claiming zero import tariff under CEPA for export to the Mainland. This would go against the spirit of CEPA, which is, namely, granting of zero tariff for export of Hong Kong-origin goods according to rules of origin agreed between the

Mainland and Hong Kong. Therefore, to ensure that piece-knitted garments which are to be exported to the Mainland and are eligible to enjoy zero tariff under CEPA should be regarded as manufactured in Hong Kong for the purposes of the Ordinance, the CEPA Notice should be amended to cover all such piece-knitted garments, and the Order should not apply to them.

D & E

13. The Notice and the relevant provision of the CEPA Notice are attached at Annexes D and E respectively.

THE ORDER, THE REPEAL NOTICE AND THE AMENDMENT NOTICE

14. The Order specifies that the country in which piece-knitted garments, other than piece-knitted garments to which the CEPA Notice applies, are to be regarded, for the purposes of the Ordinance, as having been manufactured or produced is the country in which the knit-to-shape panels were knitted or the knit-to-shape panels were assembled into piece-knitted garments with effect from 1 January 2005.

15. The Repeal Notice repeals the Notice with effect from 1 January 2005.

16. The Amendment Notice amends section 2(1)(c) of the CEPA Notice so that with effect from 1 January 2005, all piece-knitted garments eligible to enjoy zero import tariff, and are exported or intended to be exported to the Mainland under CEPA will be regarded as having been manufactured in Hong Kong for the purposes of the Ordinance, irrespective of whether they are knitted or assembled in Hong Kong.

LEGISLATIVE TIMETABLE

17. The Order, the Repeal Notice and the Amendment Notice will be published in the Gazette on 15 October 2004 and tabled in the

Legislative Council on 20 October 2004 with a view to commencing operation on 1 January 2005.

IMPLICATIONS OF THE PROPOSAL

F 18. The proposal has economic implications as set out at Annex F. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no financial, civil service, productivity, environmental or sustainability implications. The Order, the Repeal Notice and the Amendment Notice do not affect the binding effect of the Ordinance.

PUBLIC CONSULTATION

19. The Textiles Advisory Board and the Legislative Council Panel on Commerce and Industry have been informed of the proposed change to the origin rules for piece-knitted garments after the elimination of textiles quota by 1 January 2005 during the consultation of the proposed post-2004 textiles control system. No adverse comments have been received.

PUBLICITY

20. The revised origin marking rule for piece-knitted garments and the discontinuation of the Scheme by 1 January 2005 will be covered in the press release announcing the post-2004 textiles control system to be issued on 15 October 2004. TID will inform the trade of the arrangements through trade circular and through TID web site. A spokesman will be made available to answer media and public enquiries.

ENQUIRIES

21. Any enquiry on this brief can be addressed to Mr Raymond Wong, Head of Trade Controls, Customs and Excise Department (tel : 2852-3392) or Miss Charmaine Lee, Assistant Director-General of Trade and Industry (tel : 2398-5138).

Commerce, Industry and Technology Bureau
October 2004

**Trade Descriptions (Country of Manufacture) (Piece-knitted
Garments) Order,
Trade Descriptions (Place of Manufacture) (Repeal) Notice 2004
and
Trade Descriptions (Place of Manufacture) (Piece-knitted Garments)
(Amendment) Notice 2004**

ANNEXES

- Annex A - The Trade Descriptions (Country of Manufacture) (Piece-knitted Garments) Order
- Annex B - The Trade Descriptions (Place of Manufacture) (Repeal) Notice 2004
- Annex C - The Trade Descriptions (Place of Manufacture) (Piece-knitted Garments) (Amendment) Notice 2004
- Annex D - The Trade Descriptions (Place of Manufacture) Notice (Cap. 362 sub. leg. E)
- Annex E - Extracts of the relevant provisions of the Trade Descriptions (Place of Manufacture) (Piece-knitted Garments) Notice (Cap. 362 sub. leg. G)
- Annex F - Economic Implications

**TRADE DESCRIPTIONS (COUNTRY OF MANUFACTURE)
(PIECE-KNITTED GARMENTS) ORDER**

(Made under section 2(2)(b)(ii) of the Trade Descriptions Ordinance
(Cap. 362))

1. Commencement

This Order shall come into operation on 1 January 2005.

2. Country of manufacture

The country in which piece-knitted garments are to be regarded, for the purposes of the Ordinance, as having been manufactured or produced is the country in which –

- (a) the knit-to-shape panels from which such garments are made were knitted; or
- (b) the knit-to-shape panels from which such garments are made were assembled into piece-knitted garments.

3. Non-application of Order

This Order does not apply to any piece-knitted garments to which the Trade Descriptions (Place of Manufacture) (Piece-Knitted Garments) Notice (Cap. 362 sub. leg. G) applies.

Commissioner of Customs
and Excise

2004

Explanatory Note

This Order specifies the country in which piece-knitted garments, other than piece-knitted garments to which the Trade Descriptions (Place of Manufacture) (Piece-Knitted Garments) Notice (Cap. 362 sub. leg. G) applies, are to be regarded, for the purposes of the Trade Descriptions Ordinance (Cap. 362), as having been manufactured.

**TRADE DESCRIPTIONS (PLACE OF MANUFACTURE)
(REPEAL) NOTICE 2004**

(Made under section 2(2A) of the Trade Descriptions Ordinance
(Cap. 362))

4. Commencement

This Notice shall come into operation on 1 January 2005.

5. Repeal

The Trade Descriptions (Place of Manufacture) Notice (Cap. 362 sub. leg. E) is repealed.

Director-General of Trade
and Industry

2004

Explanatory Note

This Notice repeals the Trade Descriptions (Place of Manufacture) Notice (Cap. 362 sub. leg. E) (“the Notice”) with effect from 1 January 2005. The Notice specifies the place of manufacture of certain textile goods that are subject to import control or export control so as to facilitate the implementation of the textiles quota system. Under the Agreement on Textiles and Clothing of the World Trade Organization, all quantitative restrictions on textiles and clothing products will be lifted as from 1 January 2005. As the system will be discontinued, the Notice should be repealed.

**TRADE DESCRIPTIONS (PLACE OF MANUFACTURE)
(PIECE-KNITTED GARMENTS) (AMENDMENT)
NOTICE 2004**

(Made under section 2(2A) of the Trade Descriptions Ordinance
(Cap. 362))

6. Commencement

This Notice shall come into operation on 1 January 2005.

7. Application

Section 2(1) of the Trade Descriptions (Place of Manufacture)
(Piece-Knitted Garments) Notice (Cap. 362 sub. leg. G) is amended –

- (a) in paragraph (b), by adding “and” at the end;
- (b) by repealing paragraph (c).

Director-General of Trade
and Industry

2004

Explanatory Note

This Notice repeals paragraph (c) of section 2(1) of the Trade Descriptions (Place of Manufacture) (Piece-Knitted Garments) Notice (Cap. 362 sub. leg. G) so that the piece-knitted garments that fall within the description of that section 2(1) as amended by this Notice are to be regarded as having been manufactured in Hong Kong.

Chapter:	362E	Title:	TRADE DESCRIPTIONS (PLACE OF MANUFACTURE) NOTICE	Gazette Number:	
		Heading:	Empowering section	Version Date:	30/06/1997

(Cap 362 section 2(2A))

[1 August 1991]

(L.N. 306 of 1991)

Chapter:	362E	Title:	TRADE DESCRIPTIONS (PLACE OF MANUFACTURE) NOTICE	Gazette Number:	
Paragraph:	1	Heading:	Citation	Version Date:	30/06/1997

(1) This notice may be cited as the Trade Descriptions (Place of Manufacture) Notice.

(2) (Omitted as spent)

(Enacted 1991)

Chapter:	362E	Title:	TRADE DESCRIPTIONS (PLACE OF MANUFACTURE) NOTICE	Gazette Number:	
Paragraph:	2	Heading:	Application	Version Date:	30/06/1997

(1) Subject to subparagraph (2), this notice applies to the following goods ("itemized goods"), namely-

- (a) the goods itemized as items 1, 2, 3 and 6 in column 1 of the Schedule and described in column 2 thereof, being goods

subject to a scheme of export control under the Import and Export Ordinance (Cap 60); and

(b) the goods itemized as items 4, 5, and 7 in column 1 of the Schedule and described in column 2 thereof, being goods subject to a scheme of import control under that Ordinance.

(2) Subparagraph (1) shall only apply to itemized goods which are the subject of a licence issued under section 3 of the Import and Export Ordinance (Cap 60) of a kind specified in column 3 of the Schedule and described opposite thereto.

(Enacted 1991)

Chapter:	362E	Title:	TRADE DESCRIPTIONS (PLACE OF MANUFACTURE) NOTICE	Gazette Number:	
Paragraph:	3	Heading:	Place of manufacture	Version Date:	30/06/1997

The place in which the goods to which this notice applies are to be regarded, for the purposes of the Ordinance, as having been manufactured is the place in which the panels constituting the goods, or the panels from which the goods are made, were knitted.

(Enacted 1991)

Chapter:	362E	Title:	TRADE DESCRIPTIONS (PLACE OF MANUFACTURE) NOTICE	Gazette Number:	
Schedule:		Heading:	SCHEDULE	Version Date:	30/06/1997

[paragraph 2]

Item	Goods	Licence
1.	Finished or semi-finished piece-knitted garments made from knit-to-shape panels knitted outside Hong Kong, other than silk blend or non-cotton vegetable fibre sweaters made in Hong Kong from knit-to-shape panels knitted outside Hong Kong as	Export Licence (Textiles) (Form 4)

provided under the textiles agreement between Hong Kong and the United States of America, for export to the United States of America; and finished or semi-finished piece-knitted garments made from knit-to-shape panels knitted in Hong Kong, being goods which are not subject to quantitative restraint under the textiles agreement between Hong Kong and the United States of America or which fall outside the textiles agreement between Hong Kong and the United States of America, for export to the United States of America

- | | | |
|----|---|---|
| 2. | Finished or semi-finished piece-knitted garments made from knit-to-shape panels knitted in Hong Kong, being goods which are subject to quantitative restraint under the textiles agreement between Hong Kong and the United States of America | Export Licence (Textiles) (Form 8) |
| 3. | Knit-to-shape panels knitted in Hong Kong | Special Export Licence (Textiles) (Form 8a) |
| 4. | Finished or semi-finished piece-knitted garments made from knit-to-shape panels exported under Form 8a | Special Import Licence (Textiles) (Form 8b) |
| 5. | Knit-to-shape panels knitted outside Hong Kong | Special Import Licence (Textiles) (Form 8c) |
| 6. | Knit-to-shape panels imported under Form 8c | Special Export Licence (Textiles) (Form 8d) |
| 7. | Finished or semi-finished piece-knitted garments made from knit-to-shape panels exported under Form 8d | Special Import Licence (Textiles) (Form 8e) |
- (Enacted 1991)

Chapter:	362G	Title:	TRADE DESCRIPTIONS (PLACE OF MANUFACTURE) (PIECE-KNITTED GARMENTS) NOTICE	Gazette Number:	L.N. 234 of 2003
Section:	2	Heading:	Application	Version Date:	01/01/2004

(1) This Notice applies to any piece-knitted garments that—

- (a) have been exported, or are intended to be exported, from Hong Kong to the Mainland under the Mainland and Hong Kong Closer Economic Partnership Arrangement;
 - (b) are qualified for a zero tariff under the Arrangement;
 - (c) are made from knit-to-shape panels knitted in Hong Kong;
- and
- (d) are subject to a scheme of export control under the Import and Export Ordinance (Cap 60).

(2) In this section—

"the Mainland" (內地) means any part of China other than Hong Kong, Macau and Taiwan;

"Mainland and Hong Kong Closer Economic Partnership Arrangement" (《內地與香港關於建立更緊密經貿關係的安

排》) means the Mainland and Hong Kong Closer Economic Partnership Arrangement entered into between the Central People's Government and the Government of the Hong Kong Special Administrative Region and signed on 29 June 2003 (including the annexes signed on 29 September 2003), as amended from time to time.

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ECONOMIC IMPLICATIONS

The proposal will generally help facilitate Hong Kong's exports of piece-knitted garments to the world market after 31 December 2004. The revised origin marking rule has taken into consideration the production arrangements of the trades concerned, and is therefore conducive to their further development.