

File Ref: CIB 89/62/8

**LEGISLATIVE COUNCIL PANEL ON  
COMMERCE AND INDUSTRY**

**Subsidiary Legislation relating to  
Government Electronic Trading Services**

**Purpose**

This paper informs Members of the Administration's plan to amend the relevant provisions in the Import and Export (General) Regulations (Cap. 60A) and the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations (Cap. 296A) by substituting the Director-General of Trade and Industry (the Director) for the Commissioner of Customs & Excise (the Commissioner), as the authority to publish notices to specify dates to end the transitional period for electronic transmission of cargo manifests (EMAN) required under these regulations.

**Background**

2. To promote electronic commerce, improve efficiency and reduce the use of paper, the Government has since 1997 introduced Government Electronic Trading Services (GETS)<sup>1</sup> (formerly known as Electronic Data Interchange (EDI) services) for the trading community to submit by electronic means a number of official trade-related documents. EMAN

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<sup>1</sup> GETS refers to the front-end services of collecting data from traders and carriers, validating such data and transmitting them to the Government.

services were launched in April 2003 with 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 the electronic mode of submitting cargo manifests, the Ordinance includes provisions for a transitional period during which cargo manifests may be submitted in either paper or electronic form (the transitional period). The transitional period began on 11 April 2003 and will end at midnight on a day to be specified by the Commissioner by publishing notices in the Gazette. The Commissioner is empowered to specify different end dates for the transitional period for different modes of transport. These notices constitute subsidiary legislation and are subject to negative vetting by the Legislative Council (LegCo).

4. In the context of preparing the notices to end the transitional period for the submission in either paper or electronic form of air and rail cargo manifests in July 2004, it came to our notice that amendments should be made to certain empowering provisions in Cap. 60A and Cap. 296A to substitute the Director for the Commissioner, before notices may be published under these regulations. This is because the manifests under these regulations<sup>2</sup> are delivered to the Director (not the Commissioner) and, pursuant to the respective Ordinances (i.e. Cap. 60 and Cap 296), the power to specify the end dates for the transitional

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<sup>2</sup> Manifests required under the relevant provisions of Cap. 60A and Cap. 296A are those relating to textiles under the Textiles Trader Registration Scheme and specified articles (i.e. optical disc mastering and replication equipment )and reserved commodities (i.e. rice).

period should vest with the Director.

5. The above notwithstanding, our original plan to mandate the electronic submission of all air and rail cargo manifests starting from 17 July 2004 was not compromised because the Commissioner published a notice to that effect under the Import and Export (Registration) Regulations (Cap. 60E)<sup>3</sup>. We however undertook to amend the relevant empowering provisions in Cap. 60A and Cap. 296A as soon as possible. We have so informed LegCo on 13 May 2004 vide the LegCo Brief on the Import and Export Ordinance (Specification of Ending Date Under Section 42) Notice 2004 and the Import and Export (Registration) Regulations (Specification of Ending Date Under Regulation 15) Notice 2004.

### **Legislative Proposal**

6. At present, regulations 6DAH(3) and 6H(2) of Cap. 60A and regulation 26(3) of Cap. 296A empower the Commissioner to specify a date on which the transitional period, as described in paragraph 3 above, shall end. We shall amend these regulations by subsidiary legislation, so that the power to specify that date will be given to the Director. The proposed legislative amendments only involve the transfer of power from one public officer to another one and will have no impact on the trading

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<sup>3</sup> The notice is the Import and Export (Registration) Regulations (Specification of Ending Date under Regulation 15) Notice 2004 made under Cap. 60E. The Commissioner specified in the notice 16 July 2004 as the end date of the transitional period in respect of all cargoes imported and exported in the air and rail modes. The provisions under Cap. 60A and Cap. 296A provide that the requirements for the 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. In practice, when a carrier discharges his obligation under the relevant regulations of Cap. 60E by submitting EMAN to the Commissioner, the manifests so submitted are sent by the EMAN system automatically to all concerned departments.

community. We intend to make the relevant pieces of subsidiary legislation and table them at LegCo for negative vetting before the end of this year.

Commerce and Industry Branch  
Commerce, Industry and Technology Bureau  
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