

For information  
On 21 November 2006

**LEGISLATIVE COUNCIL PANEL  
ON COMMERCE AND INDUSTRY**

**Proposed amendments to  
the Import and Export (Registration) Regulations  
(Cap. 60 sub. leg. E)**

**Introduction**

This paper seeks to brief Members on a legislative proposal to amend the Import and Export (Registration) Regulations (the Regulations) (Cap. 60 sub. leg. E) to exempt the trade declaration charge on imports, exports and re-exports of gold bars.

**The Proposal**

2. The Financial Secretary announced in his Budget Speech in February 2006 that the Administration would consider providing a concession in trade declaration charges for gold with a view to supporting the development of Hong Kong as a logistics hub and gold trading centre, alongside with the Hong Kong Airport Authority's proposal to establish a gold depository at the Hong Kong International Airport.

3. In this connection, it is proposed that an exemption be given to the declaration charge on imports, exports and re-exports of gold bars.

**Justifications**

4. The proposed exemption would enhance Hong Kong's competitiveness in the international gold market by reducing the relevant transaction costs, thereby putting us on a par with other major gold trading centres such as the UK. It would also be conducive to the establishment of the proposed gold depository at the Airport and the further development of Hong Kong as a leading gold trading centre and

logistics hub in the region.

5. Currently, the internationally acceptable standard of gold bars is 995.0 fineness or above. We do not, however, propose to stipulate rigidly in the Regulations the definition or specifications of gold bars in order to cater for possible changes in gold fineness standard in future<sup>1</sup>. We shall set out in the Hong Kong Imports and Exports Classification List (Harmonised System)<sup>2</sup> (the Classification List) that only “gold bars of 995.0 fineness or above” will be eligible for the proposed exemption.

6. It is estimated that the proposed exemption in trade declaration charges for gold will have a revenue implication of about \$5.1 million annually to the Government, based on the declaration charge on the imports, exports and re-exports of relevant gold items received in 2005. Nevertheless, this cost should be considered as an investment in market development as significant benefits are likely to arise from Hong Kong’s further development as a leading gold trading centre.

### **The Amendment Regulation**

7. It is proposed that an Amendment Regulation be made under section 31(1) of the Ordinance (a copy at *Annex A*) to amend regulation 8 of the Regulations to exempt any person who lodges an import or export declaration relating to gold bars within the meaning of the Classification List from payment of the charges under regulation 8. As regards the requirement to lodge import/export declarations, since we would need to continue to collect relevant trade statistics, gold bars will not be made an exempted article<sup>3</sup> under the Regulations.

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<sup>1</sup> Currently, there are different standards for gold bars traded in different markets. For example, gold bars for international trading have a minimum fineness of 995.0 or above while most of the gold traded in Asia is in the form of bars of 999.9 fineness. There may also be different standard sizes/weights for gold bars.

<sup>2</sup> The Hong Kong Imports and Exports Classification List (Harmonised System) is an adoption of the Harmonised Commodity Description and Coding System (HS) developed by the World Customs Organisation. The classification list is used for import and export declaration purpose and is issued by the Commissioner of Customs and Excise and amended from time to time by notification published in the Gazette.

<sup>3</sup> Under regulation 3, there are articles exempted from the requirement of lodging import/export declarations with the Commissioner of Customs and Excise and thereby exempted from the declaration charges under regulation 8 of the Regulations.

8. Subject to the necessary approvals, we aim to bring the proposed amendments into effect from early February 2007.

### **Public Consultation**

9. The Administration has discussed the proposal with the industry, including the Chinese Gold and Silver Exchange and the Airport Authority. The proposal has their general support.

### **Background**

10. The Import and Export Ordinance (the Ordinance) (Cap. 60) and its subsidiary legislation provide a legislative framework for, inter alia, the regulation and control of the import of articles into Hong Kong and the export of articles from Hong Kong. Under regulations 4 and 5 of the Regulations (a copy at *Annex B*), a person who imports or exports any article other than an exempted article is required to lodge with the Commissioner of Customs and Excise an import/export declaration relating to such article. Regarding re-exports, the same legal requirement applies.

11. Regulation 8(1) of the Regulations (a copy at *Annex C*) stipulates that a person who lodges an import/export declaration is required to pay an import/export declaration charge. Currently, for non-food items including gold, the declaration charge for the imports and exports is 50 cents for the first \$46,000 of the value of goods declared and 25 cents for each additional \$1,000 or part thereof and rounded up to the nearest \$0.1. The revenue generated by these declaration charges under regulation 8 is used to cover the cost of collection of the trade declarations and other trade-related activities.

Commerce, Industry and Technology Bureau  
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Chapter: 60	Title:	IMPORT AND EXPORT ORDINANCE	Gazette Number:	L.N. 40 of 2003
Section: 31	Heading:	<b>Power to make regulations</b>	Version Date:	11/04/2003

PART VII

REGULATIONS

(1) The Chief Executive in Council may make regulations for all or any of the following purposes- (Amended 66 of 2000 s. 3)

- (a) prohibiting the import and export of any article;
- (b) prohibiting the import and export of any article except under and in accordance with the terms and conditions of a licence;
- (c) providing for the issue of licences to import or export any article;
- (ca) empowering the Director to exempt any person from any requirement to obtain a licence to import or export any prohibited article; (Added 50 of 1984 s. 2)
- (cb) prescribing any article or a class or description of an article the import or export of which except under and in accordance with a licence is prohibited under this Ordinance; (Added 62 of 1993 s. 13)
- (d) prescribing conditions to be observed by any person before or after the issue of an import licence or an export licence;
- (e) imposing upon owners of ships, aircraft and vehicles, masters of ships, commanders of aircraft and persons in charge of vehicles such obligations in respect of manifests, bills of lading, air waybills, air consignment notes and such other similar matters as may be necessary for carrying into effect the provisions of this Ordinance;
- (f) imposing other conditions or restrictions on the import or export of any article;
- (g) imposing conditions or restrictions on any cargo placed in or on any vessel, aircraft or vehicle for the purpose of import or

export;

(h) controlling the examination and storage of articles imported or exported or about to be imported or exported;

(i) requiring any person importing or exporting any article to give any specified information in respect of the article before or after it has been imported or exported;

(ia) empowering the Commissioner or the Director to specify any form or requirement for giving information required to be given to the Commissioner or the Director respectively in respect of any imported or exported article; (Added 30 of 1995 s. 11. Amended 24 of 2002 s. 2)

(j) regulating the movement within Hong Kong of any article which has been or is intended to be imported or exported or otherwise dealt with under the provisions of this Ordinance;

(ja) providing for the imposition of conditions in the discretion of the Commissioner on the carriage of articles prescribed by the regulations or by the Director in accordance with the requirements of this Ordinance on or by vessels in the waters of Hong Kong including activities incidental to the transportation on land of the articles to the vessels and loading of such articles on to such vessels and for the issue of licences by the Commissioner to regulate all such activities; (Added 22 of 1991 s. 11. Amended 1 of 1994 s. 16)

(k) providing for the issue of certificates in respect of the importing, exporting, producing, processing, manufacturing and composition of any article and for conditions which may be attached to such certificate;

(l) providing for the issue of certificates in respect of preferential customs tariffs and for conditions which may be attached to such certificate;

(m) providing for the registration of any person applying for the issue of any licence or validated production notification, or any person required to lodge a production notification or any other document under this Ordinance, or any combination thereof, and for conditions which may be attached to such registration; (Amended 37 of 1999 s. 6)

(n) providing for the registration of any person importing, exporting, manufacturing, processing, storing, distributing,

selling or dealing with any article in respect of which any licence or validated production notification may be issued, or in respect of which any production notification or other document is required to be lodged under this Ordinance, or any combination thereof, and for the conditions which may be attached to the registration of any such person; (Amended 37 of 1999 s. 6)

(o) providing for the registration of any premises-

(i) in respect of which any licence or validated production notification may be issued, or in respect of which any production notification or other document is required to be lodged under this Ordinance, or any combination thereof; or

(ii) connected with the importing, exporting, manufacture, processing, storage, distribution, sale or other dealing with any article in respect of which any licence or validated production notification may be issued, or in respect of which any production notification or other document is required to be lodged under this Ordinance, or any combination thereof, and prescribing any condition upon the registration of such premises; (Amended 37 of 1999 s. 6)

(p) providing for the cancellation, revocation or suspension for any period of the registration of any person where the Director is satisfied that the person so registered has contravened any condition of any licence, validated production notification or other document issued under this Ordinance; (Amended 37 of 1999 s. 6)

(q) providing for the imposition and administration of quota controls in respect of the import or export of any article;

(r) providing for the sale or transfer of any quota and for the conditions under which any quota may be sold or transferred;

(s) providing for the registration of any person involved in any dealing with an article on which any quota control is imposed and the transfer of any such registration from one person to another;

(t) requiring importers, exporters, carriers, owners and manufacturers to furnish to the Director or any other specified

public officer information for the purpose of compiling statistics of trade with any person or body of persons, corporate or unincorporate, carrying on business or other activities outside Hong Kong; (Amended 23 of 1998 s. 2)

(u) prohibiting or controlling the publication or disclosure of information or particulars furnished to the Commissioner or the Director, an authorized officer, an appointed officer or a member of the Customs and Excise Service under this Ordinance;

(ua) controlling the use of a security device issued by a specified body for authenticating information to be sent for the purposes of this Ordinance using services provided by a specified body; (Added 30 of 1995 s. 11)

(ub) prohibiting the unauthorized sending of information for the purposes of this Ordinance by a specified agent on behalf of a person using services provided by a specified body; (Added 30 of 1995 s. 11)

(v) providing for the verification of any particulars or information required to be furnished by any person under this Ordinance;

(w) providing that any person who fails to submit any document or furnish any information to the Commissioner or the Director or other specified public officer within a prescribed period of time shall be liable to pay a prescribed sum of money, which sum shall be a civil debt due to and recoverable by the Government; (Amended 66 of 2000 s. 3)

(x) prescribing fees to be collected by the Commissioner or the Director in respect of any matter arising under this Ordinance and generally to prescribe the mode and time of payment of such fees;

(y) empowering the Director to determine the form of any licence and any undertaking required under this Ordinance;

(z) providing that the Director-General of Trade and Industry may, by notice published in the Gazette, amend the Schedule to any regulation made under this Ordinance, other than a Schedule or a part of a Schedule referred to in section 6B(1) or 6F; (Amended L.N. 292 of 1989; 1 of 1994 s. 16; L.N. 173 of 2000)

(za) requiring any person to whom a licence has been issued to keep such records or documents as may be prescribed or as the Director may determine; (Added 3 of 1973 s. 3)

(zb) providing for any matter required or permitted by Part IIA to be prescribed by or provided for in the regulations; (Added 37 of 1999 s. 6)

(zc) without prejudice to the generality of paragraph (z), specifying any matter referred to in paragraph (zb) in a Schedule to any regulation made under this Ordinance, and providing that the Director-General of Trade and Industry may, by order published in the Gazette, amend that Schedule; (Added 37 of 1999 s. 6. Amended L.N. 173 of 2000)

(zd) empowering the Director to determine a process to be the process of manufacturing any specified textiles for the purposes of the definition of "production" in section 6AA(1); (Added 37 of 1999 s. 6)

(ze) empowering the Director to specify a particular as material for the purposes of the definition of "material particular" in section 6AA(1); (Added 37 of 1999 s. 6)

\*(aa) levying, with or without exception or exemption, a charge on persons or any category of persons who furnish particulars pursuant to any regulation made under this section, and prescribing the amount or method of ascertaining the amount of such charge and the mode and time of payment thereof; (Amended 30 of 1995 s. 11; 24 of 2002 s. 2)

(ab) imposing or providing for the imposition of a pecuniary penalty, recoverable civilly, on any person who, being required under any regulation made under this Ordinance to lodge a declaration with the Commissioner in connexion with the import or export of any article, fails to lodge such a declaration or fails to lodge such a declaration within a prescribed period of time;

(ac) empowering the Commissioner to waive the payment of any pecuniary penalty imposed under regulations made under paragraph (ab) and to refund any such pecuniary penalty which has been paid;

(ad) empowering the Director to require an applicant for a licence to deposit with him, before the issue of a licence, such sum of money as the Director may specify;

(ae) providing for the forfeiture to the Government by a magistrate of all or any of the sum of money deposited under regulations made under paragraph (ad); (Amended 66 of 2000 s. 3)

(af) prescribing any thing which is to be or may be prescribed under this Ordinance; and

(ag) generally for the better carrying out of the provisions and purposes of this Ordinance. (Amended L.N. 294 of 1982)

## Annex B

Chapter: 60E	Title:	IMPORT AND EXPORT (REGISTRATION) REGULATIONS	Gazette Number:	L.N. 33 of 2003
Regulation:4	Heading:	<b>Import declarations</b>	Version Date:	11/04/2003

(1) Every person who imports any article other than an exempted article shall lodge with the Commissioner an accurate and complete import declaration relating to such article using services provided by a specified body, in accordance with the requirements that the Commissioner may specify. (L.N. 322 of 1999)

(2) Every declaration required to be lodged under paragraph (1) shall be lodged within 14 days after the importation of the article to which it relates.

(3) Only one declaration is required in respect of imported articles that-

(a) were imported under one bill of lading or air waybill; or

(b) (i) have item code numbers with identical first 4 digits;

(ii) were imported in the same ship, vehicle, train or aircraft; and

(iii) were consigned from the same country. (L.N. 384 of 1987)

(3A) Notwithstanding paragraph (2), where articles-

(a) are imported on a frequent and regular basis;

(b) have a value not exceeding \$1000 for each consignment; (L.N. 46 of 1984)

(c) have an identical code number; and

(d) are consigned from the same country,

a monthly declaration may, with the prior approval of the Commissioner, be lodged not later than the 7th day of each month, setting out particulars of every such article imported during the previous month.

(3AA) Notwithstanding paragraph (3), a separate declaration shall be lodged in respect of food items specified in Appendix I of the Imports and Exports Classification List. (L.N. 384 of 1987)

(3B) Subject to paragraphs (3) and (3A), a separate declaration shall be lodged under paragraph (1) in respect of each article imported.

(4) (Repealed L.N. 322 of 1999)

(5) Any person who, in contravention of the provisions of paragraph (1), knowingly

or recklessly lodges any declaration with the Commissioner that is inaccurate in any material particular shall be guilty of an offence and shall be liable on summary conviction to a fine of \$10000. (L.N. 260 of 1983)

(6) Every person who, being required to lodge a declaration under paragraph (1), fails or neglects, without reasonable excuse, to do so using services provided by a specified body within the period specified in paragraph (2), or, where he has such excuse, fails or neglects to lodge such declaration in such manner as soon as is practicable after the cessation of such excuse, shall be guilty of an offence and shall be liable on summary conviction to a fine of \$1000, and, commencing on the day following the date of conviction, to a fine of \$100 in respect of every day during which his failure or neglect to lodge the declaration in that manner continues. (L.N. 33 of 2003)

(7) The Commissioner may, on the lodgement of any import declaration that is incomplete in any respect, refuse to accept the declaration until it is completed in every respect and upon such refusal the declaration shall be deemed not to have been lodged with the Commissioner. (L.N. 322 of 1999)

Chapter:	60E	Title:	IMPORT AND EXPORT (REGISTRATION) REGULATIONS	Gazette Number:	L.N. 33 of 2003
Regulation:	5	Heading:	<b>Export declarations</b>	Version Date:	11/04/2003

(1) Every person who exports or re-exports any article other than an exempted article shall lodge with the Commissioner an accurate and complete export declaration relating to such article using services provided by a specified body, in accordance with the requirements that the Commissioner may specify. (L.N. 322 of 1999)

(2) Every declaration required to be lodged under paragraph (1) shall be lodged within 14 days after the exportation of the article to which it relates.

(3) Only one declaration is required in respect of exported articles that- (L.N. 297 of 1998; L.N. 90 of 1999 and 44 of 1999 s. 3)

(a) were exported under one bill of lading or air waybill; or

(b) (i) have item code numbers with identical first 4 digits;

(ii) were exported in the same ship, vehicle, train or aircraft; and

(iii) were consigned to the same country. (L.N. 384 of 1987)

(3A) Notwithstanding paragraph (2), where articles-

(a) are exported on a frequent and regular basis;

(b) have a value not exceeding \$1000 for each consignment;

(L.N. 46 of 1984)

(c) have an identical item code number; and

(d) were consigned to the same country,

a monthly declaration may, with the prior approval of the Commissioner, be lodged not later than the 7th day of each month, setting out the particulars of every such article exported during the previous month. (L.N. 294 of 1982)

(3AA) Notwithstanding paragraph (3), a separate declaration shall be lodged in respect of clothing items exported. (L.N. 23 of 1976)

(3B) Subject to paragraphs (3) and (3A), a separate declaration shall be lodged under paragraph (1) in respect of each article exported.

(4) (Repealed L.N. 322 of 1999)

(5) Any person who, in contravention of the provisions of paragraph (1), knowingly or recklessly lodges any declaration with the Commissioner that is inaccurate in any material particular shall be guilty of an offence and shall be liable on summary

conviction to a fine of \$10000. (L.N. 294 of 1982; L.N. 260 of 1983)

(6) Every person who, being required to lodge a declaration under paragraph (1), fails or neglects, without reasonable excuse, to do so using services provided by a specified body within the period specified in paragraph (2), or, where he has such excuse, fails or neglects to lodge such declaration in such manner as soon as is practicable after the cessation of such excuse, shall be guilty of an offence and shall be liable on summary conviction to a fine of \$1000 and, commencing on the day following the date of conviction, to a fine of \$100 in respect of every day during which his failure or neglect to lodge the declaration in that manner continues. (5 of 1971 s. 13; L.N. 33 of 2003)

(7) The Commissioner may, on the lodgement of any export declaration that is incomplete in any respect, refuse to accept the declaration until it is completed in every respect and upon such refusal the declaration shall be deemed not to have been lodged with the Commissioner. (L.N. 322 of 1999)

Chapter: 60E	Title:	IMPORT AND EXPORT (REGISTRATION) REGULATIONS	Gazette Number:	L.N. 9 of 2000
Regulation:8	Heading:	<b>Charges payable on lodgement of declarations</b>	Version Date:	01/04/2000

Remarks:

Adaptation amendments retroactively made - see 66 of 2000 s. 3

(1) Every person who lodges an import declaration under regulation 4(1) or an export declaration under regulation 5(1) shall pay-

(a) in respect of an import declaration relating to an article or articles specified in Appendix I of the Imports and Exports Classification List, a charge of 50 cents, irrespective of the value of the article or the aggregate value of the articles specified in the declaration;

(b) in respect of any other import declaration-

(i) where the value of the article or the aggregate value of the articles specified in the declaration does not exceed \$46000, a charge of 50 cents;

(ii) where the value of the article or the aggregate value of the articles specified in the declaration exceeds \$46000, a charge calculated at the rate of 50 cents for the first 46000 dollars' value and 25 cents for each additional 1000 dollars' value or part thereof and rounded up to the nearest 10 cents;

(c) in respect of any export declaration for articles for which the origin country code refers to the Hong Kong Special Administrative Region-

(i) where the value of the article or the aggregate value of the articles specified in the declaration does not exceed \$46000, a charge of 50 cents;

(ii) where the value of the article or the aggregate value of the articles specified in the declaration exceeds

\$46000, a charge calculated at the rate of 50 cents for the first 46000 dollars' value and 25 cents for each additional 1000 dollars' value or part thereof and rounded up to the nearest 10 cents; and

(d) in respect of any export declaration for articles other than those referred to in subparagraph (c)-

(i) where the value of the article or the aggregate value of the articles specified in the declaration does not exceed \$46000, a charge of 50 cents;

(ii) where the value of the article or the aggregate value of the articles specified in the declaration exceeds \$46000, a charge calculated at the rate of 50 cents for the first 46000 dollars' value and 25 cents for each additional 1000 dollars' value or part thereof and rounded up to the nearest 10 cents. (L.N. 322 of 1999)