

立法會
Legislative Council

LC Paper No. LS40/07-08

**Paper for the House Committee Meeting
on 15 February 2008**

**Legal Service Division Report on
Proposed Resolution under section 31(4) of the
Import and Export Ordinance (Cap. 60)**

The Secretary for Commerce and Economic Development (“the Secretary”) has given notice to move a motion at the Council meeting of 20 February 2008. The motion seeks the Legislative Council’s approval of the Import and Export (Registration) (Amendment) Regulation 2008 (“the Amendment Regulation”) made by the Chief Executive in Council under section 31 of the Import and Export Ordinance (Cap. 60).

2. According to the draft speech of the Secretary, the motion seeks to introduce a technical amendment to regulation 8 of the Import and Export (Registration) Regulations (Cap. 60 sub. leg. E) (“the Regulations”) to better reflect the Administration’s policy to exempt the following declaration charges -

- (a) all the import/export declaration charges in respect of aircraft parts and accessories used in the repair or maintenance of aircraft owned or chartered by local-based airlines; and
- (b) the import declaration charges in respect of articles used in the repair and maintenance of freight containers operated by local-based sea or air freight transport undertakings.

3. According to the Administration, the existing policy is that the relevant companies are not required to pay declaration charges in respect of the aforementioned two categories of articles. However, it has come to the Administration’s attention that the scope of exemption under regulation 8(3) of the Regulations is ambiguous and the public may be uncertain as to whether the relevant declaration charges of the articles above are exempted. Under the existing regulation 8(3), no charge shall be payable under regulation 8(1)(c) by an air transport undertaking operating air services (in respect of the import or export of articles used for repair and maintenance) and a transport undertaking operating sea or air freight transport services (in respect of the import of articles used for repair and maintenance) if the relevant conditions are met. However, it has been noted that only export declaration is mentioned under regulation

8(1)(c). The Administration therefore considers that amendments to the Regulations are necessary.

4. Members may refer to the Legislative Council Brief (File Ref: CIB 43/63/10 II) issued by the Commerce and Economic Development Bureau dated 23 January 2008 for background information. According to paragraph 8 of the Brief, it is the Administration's intention to publish the Amendment Regulation in the Gazette on 22 February 2008 so that it may come into operation on the same date, should the Amendment Regulation be approved by the Council on 20 February 2008.

5. The Panel on Commerce and Industry has been consulted on the Amendment Regulation at its meeting on 20 November 2007. The Panel was, in principle, supportive of the Amendment Regulation which was technical in nature.

6. The Amendment Regulation is in order from the legal point of view.

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