

LEGISLATIVE COUNCIL BRIEF

Import and Export Ordinance
(Chapter 60)

Import and Export (General) Regulations (Amendment of Fourth and Fifth Schedules) Order 2009

INTRODUCTION

Under regulation 7 of the Import and Export (General) Regulations (Cap. 60 sub. leg. A) (the principal Regulations), the Director-General of Trade and Industry (DGTI) has made the Import and Export (General) Regulations (Amendment of Fourth and Fifth Schedules) Order 2009 at **Annex A** to implement a set of simplified control arrangements for Hong Kong's textiles exports to the European Union (EU).

A

BACKGROUND AND JUSTIFICATIONS

Current Textiles Control System

2. The Legislative Council Panel on Commerce and Industry (the Panel) was consulted in July 2004 on the modified textiles control system to cater for the post-2004 era after the global elimination of quantitative restrictions on textiles products under the World Trade Organization (WTO) Agreement on Textiles and Clothing. Following the approval of the Legislative Council of the Import and Export (General) (Amendment) Regulation 2004 (L.N. 155 of 2004) and the Import and Export (Fees) (Amendment) Regulation 2004 (L.N. 156 of 2004) in October 2004, the post-2004 system came into effect on 1 January 2005.

3. A major feature of the post-2004 system is the distinction made between “sensitive” and “non-sensitive” markets. Tighter licensing requirements are applied to commercial shipments of textiles imports from and/or exports to “sensitive” markets to guard against possible illegal transshipment activities and to preserve Hong Kong’s legitimate trade interests.

4. “Sensitive” markets include the Mainland and two textiles markets, the United States (US) and the EU, which have invoked safeguard measures or have the potential of imposing restrictive measures on a broad range of textiles products of the Mainland. The US has been a “sensitive” market since the post-2004 system came into force. The EU was added to the list of “sensitive” markets through amendments to the Fourth and Fifth Schedules to the principal Regulations (L.N. 4 of 2006), introduced on 15 March 2006 consequent to its imposition of quantitative restrictions on ten major categories of textiles exports from the Mainland in June 2005. All textiles exports to and imports from the Mainland, as well as exports to the US and the EU, are required to be covered by either consignment-specific import/export licences or textiles notifications completed by traders registered under the Textiles Trader Registration Scheme (TTRS)¹. In addition, all cut-and-sewn garments destined for the US and the EU are subject to the Production Notification (PN) requirement².

5. Textiles imports and exports involving “non-sensitive” markets are covered by either consignment-specific import/export licences or

¹ Under regulation 6(3A) of the principal Regulations, DGTI may exempt registered textiles traders from licensing requirement for the import or export of certain textiles articles in accordance with the Fourth Schedule to the principal Regulations. The TTRS is operated to this effect under which registered textiles traders may lodge textile notifications in lieu of applying for licences to cover textiles shipments that fall within the scope of the Fourth Schedule to the principal Regulations.

² Under section 6AB(1) of the Import and Export Ordinance (Cap. 60) and the Fifth Schedule to the principal Regulations, no person shall commence production of cut-and-sewn garments destined for the US or the EU unless he/she lodges a PN with DGTI no earlier than three working days before the day on which production commences. The PN requirement serves to ensure that the origin-conferring process for the manufacture of cut-and-sewn garments has taken place in Hong Kong.

comprehensive import/export licences that are valid for one year to cover multiple shipments.

Proposed Simplification for Textiles Exports to the EU

6. The EU's quantitative restrictions on ten categories of Mainland textiles exports expired on 31 December 2007. The EU/Mainland joint surveillance system, introduced to monitor eight categories of Mainland textiles exports to the EU after expiry of the quantitative restrictions, ended on 31 December 2008. So far the EU has not put in place any other restrictive measures against a broad range of Mainland textiles exports.

7. To facilitate Hong Kong textiles traders in conducting businesses and to maintain control measures only to the extent necessary, it is proposed that the licensing requirements for Hong Kong's textiles exports to the EU be relaxed by reclassifying the EU as a "non-sensitive" market. In other words, all textiles exports to the EU will only need to be covered by either consignment-specific export licences or comprehensive export licences. Traders exporting textiles products only to the EU will no longer need to register under the TTRS for submitting textiles notifications for their exports to the EU. Further, all cut-and-sewn garments destined for the EU will no longer be subject to the PN requirement.

8. It is not envisaged that the proposed simplified control arrangements will compromise the effectiveness and the credibility of Hong Kong's overall textiles control system, considering the latest development in the global textiles trade scene.

OTHER OPTIONS

9. The alternative is to maintain the status quo, viz. retaining the EU as a "sensitive" market. However, given the gradual liberalisation of the EU market, maintaining existing licensing requirements for textiles exports to the EU will impose unnecessary administrative and financial burdens on the local textiles trade. As for the other "sensitive" markets (i.e. the US and the Mainland), given the fluid Sino-US textiles trade relations at the

moment, it is prudent for Hong Kong to continue to maintain the existing control arrangements for the US market until at least end 2009. The Government will review the textiles control system in the third quarter of 2009 to identify any scope for further modification or relaxation, taking into account the circumstances prevailing at that time.

THE ORDER

10. The Import and Export (General) Regulations (Amendment of Fourth and Fifth Schedules) Order 2009 amends:

- (a) the Fourth Schedule to the principal Regulations so that textiles exports to the EU will no longer require textiles notifications under the TTRS; and
- (b) Part I of the Fifth Schedule to the principal Regulations so that all cut-and-sewn garments destined for the EU will not be subject to the PN requirement.

B 11. Extracts of relevant parts of the existing schedules being amended are at **Annex B**.

LEGISLATIVE TIMETABLE

12. The legislative timetable will be –

Publication in the Gazette	24 April 2009
Tabling at the Legislative Council	29 April 2009
Commencement	29 June 2009

IMPLICATIONS

13. On economic implications, the proposal will streamline the licensing requirements while maintaining the credibility of our textiles control system. It should relieve Hong Kong's textiles traders from unnecessary administrative and cost burdens and enable them to realise the benefits derived from the liberalised trading environment of the EU market.

14. On civil service implications, depending on the extent of decline in PN and textiles notifications as a result of the removal of PN and TTRS requirements for the EU market, there will be manpower savings in the Trade and Industry Department (TID) and the Customs and Excise Department. The exact number and rank of posts involved will be worked out and the establishment level of the departments will be subject to review.

15. Regarding the financial implications on fees and charges, it is estimated that the proposal will result in reduction of an annual revenue of about \$1.75 million, of which \$1.6 million arises from processing paper textiles notifications for export to the EU which is no longer required under the proposed arrangement, and \$150,000 due to the removal of the PN requirement for export of cut-and-sewn garments destined for the EU.

16. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It is also consistent with Hong Kong's international rights and obligations under the WTO Agreement and will not affect the binding effect of the principal Regulations.

17. The proposal has no productivity, environmental or sustainability implications.

PUBLIC CONSULTATION

18. The Textiles Advisory Board was consulted in December 2008 on the proposed relaxation for the EU market and the way forward for textiles control system after 2008. The Board was supportive of the

proposal. TID issued a notice to the local trade in December 2008 to advise them of the possible changes in the post-2008 textiles control system. There has been no adverse feedback from the textiles trade.

PUBLICITY

19. A press release will be issued when the Order is published in the Gazette on 24 April 2009. TID will announce the simplified control arrangements through trade circulars and its web portal on the day of gazettal. TID will liaise with the trade on implementation of the arrangements as appropriate. A spokesman will be available for answering any media enquiries.

ENQUIRY

20. Any enquiries on the brief should be addressed to Ms Louise Leung, Assistant Director-General of Trade and Industry (Systems), on 2398 5138.

Trade and Industry Department
April 2009

**IMPORT AND EXPORT (GENERAL) REGULATIONS
(AMENDMENT OF FOURTH AND FIFTH SCHEDULES)
ORDER 2009**

(Made by the Director-General of Trade and Industry under regulation 7 of the Import and Export (General) Regulations (Cap. 60 sub. leg. A))

1. Commencement

This Order comes into operation on 29 June 2009.

2. Fourth Schedule amended

The Fourth Schedule to the Import and Export (General) Regulations (Cap. 60 sub. leg. A) is amended –

- (a) in paragraph (b)(i), by adding “or” at the end;
- (b) by repealing paragraph (b)(iii).

3. Fifth Schedule amended

The Fifth Schedule is amended, in Part I, by repealing item 2.

Director-General of Trade and Industry

2009

Explanatory Note

This Order –

- (a) amends the Fourth Schedule to the Import and Export (General) Regulations (Cap. 60 sub. leg. A) (“the principal Regulations”) so that –

- (i) the textiles trader registration provided for under regulation 5A of the principal Regulations will no longer cover persons carrying on business of exporting textiles to the Member States of the European Union; and
 - (ii) exemption to registered textiles traders provided for under regulation 6(3A) of the principal Regulations will no longer apply in respect of the export of textiles to the Member States of the European Union; and
- (b) amends Part I of the Fifth Schedule to the principal Regulations so that cut-and-sewn garments produced for export to the Member States of the European Union will no longer be subject to the production notification requirement under Part IIA of the Import and Export Ordinance (Cap. 60).

Annex B

Chapter: 60A	Title: IMPORT AND EXPORT (GENERAL) REGULATIONS	Gazette Number:	L.N. 4 of 2006
Schedule: 4	Heading:	Version Date:	15/03/2006

[regulations 5A, 6 & 7]
(*L.N. 118 of 2001*)

Textiles traders carrying on business of-

(a) importing textiles from the Mainland;

(b) exporting textiles to-

(i) the Mainland; (*L.N. 4 of 2006*)

(ii) the United States of America; or

(iii) the Member States of the European Union; or (*L.N. 4 of 2006*)

(c) handling transshipment cargo of textiles from any country or place and to any country or place.

(d)-(e) (*Repealed L.N. 155 of 2004*)

(*L.N. 111 of 1993; L.N. 155 of 2004*)

Chapter: 60A	Title: IMPORT AND EXPORT (GENERAL) REGULATIONS	Gazette Number: L.N. 4 of 2006
Schedule: 5	Heading:	Version Date: 15/03/2006

[regulations 2A, 2B & 7]

PART I

"SPECIFIED TEXTILES" AND "PRODUCTION" FOR PURPOSES OF SECTION 6AA(1) AND COUNTRIES OR PLACES FOR PURPOSES OF SECTION 6AA(2) OF THE ORDINANCE

Item	Countries or Places	Textiles	Process <i>(L.N. 155 of 2004)</i>
1.	United States of America	Cut-and-sewn garments, which mean garments that are cut and sewn, or otherwise assembled, from fabrics.	Such assembling operations of such parts of the garments as the Director may determine for entitling the garments to a certificate of Hong Kong origin under the certification of origin system administered by the Director. <i>(L.N. 155 of 2004)</i>
2.	Member States of the European Union	Cut-and-sewn garments, which mean garments that are cut and sewn, or otherwise assembled, from fabrics.	Such assembling operations of such parts of the garments as the Director may determine for entitling the garments to a certificate of Hong Kong origin under the certification of origin system administered by the Director. <i>(L.N. 4 of 2006)</i>

(Extract of Part I only)