

立法會
Legislative Council

LC Paper No. LS 207/98-99

**Paper for the House Committee Meeting
of the Legislative Council
on 25 June 1999**

**Legal Service Division Report on
Import and Export (Amendment) Bill 1999
and
Protection of Non-government
Certificates of Origin (Amendment) Bill 1999**

Objects of the Bill

- (a) To amend the Import and Export Ordinance (Cap. 60) to make statutory provisions for the Production Notification (PN) arrangement, which aims at strengthening the enforcement and preserving the integrity of the export control system for textiles; and
- (b) To amend the Protection of Non-Government Certificates of Origin Ordinance (Cap. 324) to enable the Government Approved Certification Organizations to handle applications for Certificates of Origin (CO) using information technology such as Electronic Data Interchange.

LegCo Brief Reference

- 2. TIB CR 14/46/3/1 issued by the Trade and Industry Bureau in June 1999.

Date of First Reading

- 3. 16 June 1999.

Comments

Import and Export (Amendment) Bill 1999

4. The Trade Department and five Government Approved Certification Organizations i.e. The Hong Kong General Chamber of Commerce; The Indian Chamber of Commerce, Hong Kong; The Chinese Manufacturers' Association of Hong Kong; The Federation of Hong Kong Industries and The Chinese General Chamber of Commerce, are responsible for the issue of Hong Kong Certificates of Origin. In 1996, countries such as the United States of America, the European Union and Canada required Hong Kong to conduct real-time checks on the manufacturing process of the cut and sewn garments to ascertain the Hong Kong origin status of the final products. The PN arrangement was introduced under the general powers of the Director-General of Trade.

5. To strengthen the legal basis of the PN arrangement in order to facilitate enforcement, the Administration proposes to amend the Import and Export Ordinance (Cap. 60) and its subsidiary legislation, the Import and Export (General) Regulation.

6. Clause 3 proposes to add a new Part IIA to the Ordinance. Manufacturers of cut and sewn garments for export to the countries mentioned above are required to notify the Trade Department, on paper or through electronic data interchange, (i.e. the Tradelink Electronic Commerce Limited) of the production details through the lodging of PN within 3 working days prior to the commencement of the production. The Director shall validate a PN by assigning a reference number to the PN and may impose such conditions as he may see fit.

7. The Customs and Excise Department officers and other authorized officers can then conduct real-time checks on the manufacturing process to ensure compliance with the Hong Kong origin rules (Clauses 4 and 5 of the Bill).

8. Clause 7 amends section 36 to create new offences in respect of PN, including the giving of false or misleading information, the failure to lodge a PN or to comply with the conditions for the issue of validated PNs. A person who commits these offences is liable to a fine of \$500,000 and to imprisonment for 2 years.

Protection of Non-Government Certificates of Origin (Amendment) Bill 1999

9. This Bill amends the Protection of Non-government Certificates of Origin Ordinance (Cap. 324) to enable the five Government Approved Certification Organizations to handle applications for CO using information technology such as electronic data interchange. This Bill allows traders a choice in submitting their applications for COs either through EDI or in paper form.

10. Proposed section 6B under clause 6 sets out the offences relating to the use or keeping of a security device. Clauses 7 and 8 amend sections 7 and 8 to cater for offences involving documents issued or information furnished using information technology services.

Draft Import and Export (General) (Amendment) Regulation 1999

11. This Regulation amends the Import and Export (General) Regulations (Cap. 60 sub. leg.) in consequence of the proposed Import and Export (Amendment) Bill. The PN requirement including the types of textiles, the manufacturing processes, material particulars and destination countries are prescribed in the new Fifth Schedule.

12. Section 3 adds a new Part IIIA which enables the Director to maintain a register containing the particulars of persons eligible to be issued with or required to lodge with the Director, documents such as licences and PNs, in respect of textiles under the Import and Export Ordinance.

13. Section 4 adds regulations 6F and 6G to create offences for making or giving false statement or information and for failing to keep the required records in connection with the new registration requirements. Offences committed by directors, partners, principals, etc., are also specified.

14. This Regulation will be made upon the enactment of the Import and Export (Amendment) Bill 1999 and it is provided that it shall come into operation on the commencement of the Amendment Ordinance.

Draft Export (Certificates of Origin) (Amendment) Regulation 1999

15. This Regulation amends the Export (Certificates of Origin) Regulations (Cap. 60 sub. leg.) to enable the Director-General of Trade to issue CO using information technology such as electronic data interchange. The offence for giving false statement is also amended to cater for cases where information is given by electronic means.

16. This Regulation will be made upon the enactment of the Protection of Non-Government Certificates of Origin (Amendment) Bill 1999 and it is provided that it shall come into operation on the commencement of the Amendment Ordinance.

Draft Import and Export (Fees) (Amendment) Regulation 1999

17. This Regulation provides for the fees payable on the lodging of PNs on paper or using information technology services. Section 3 of the Regulation proposes that the aggregate fee chargeable for the submission of a PN and a CO in paper form should not be higher than the present rate of \$159 for making a paper application for CO. As for electronic submission of PNs and COs, they are not to be higher than the paper submission of \$159. This Regulation shall come into operation on a day to be appointed by the Secretary for Trade and Industry by notice in the Gazette.

Public Consultation

18. According to paragraph 22 of the LegCo brief, the Textiles Advisory Board has been consulted and it has no objection to the proposed legislation.

Consultation with the LegCo Panel

19. An information Paper has been submitted to the Trade and Industry Panel in June 1999 but no discussion on the Paper was held.

20. By a letter dated 24 June 1999 (see Annex A attached), the Administration explained that it planned to implement the EDI for PN and CO by around late July and August 1999. In accordance with section 34(1) of the Interpretation and General Clauses Ordinance (Cap. 1), the tabling of these three Regulations will take place in the first sitting of the Legislative Council in October 1999 followed by the usual scrutiny by the Council.

Conclusion

21. The PN arrangement has been put into effect by administrative measures since 1996. The Administration has confirmed that the proposed statutory PN arrangement is substantially the same as the current administrative arrangement. What the Administration proposes is to make this administrative arrangement a statutory one to facilitate enforcement. As for the using of EDI to submit PNs and application for COs, it only provides one more choice apart from making a paper application. The legal and drafting aspects of the two Bills are in order.

Prepared by

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Legislative Council Secretariat
24 June 1999

香港特別行政區政府工商局的信頭
Letterhead of TRADE AND INDUSTRY BUREAU GOVERNMENT OF THE HONG
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24 June 1999

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Dear Miss Ho,

Import and Export (Amendment) Bill 1999
Protection of Non-Government Certificates of Origin
(Amendment) Bill 1999

We (Ho/ Leung) spoke. I write to provide you with the following information concerning the desirability of enacting the captioned bills within the current legislative session. The objectives of the bills are to provide a concrete legislative framework for the Production Notification (PN) arrangement and to enable the electronic submission of PN and Certificates of Origin (CO) via Electronic Data Interchange (EDI).

In order to improve the efficiency and competitiveness of our business community, the Government is committed to introducing EDI services for the submission of PN and CO. In this connection, the Government and the Tradelink Electronic Commerce Limited (Tradelink) have been making the necessary preparatory arrangements. We plan to conduct the pilot run of implementing EDI for PN and CO by around late July and August. This is to allow sufficient time for Tradelink to test the

running of the system by providing the services to a selective group of customers before it starts full implementation for PN and CO in late August and September respectively. If the bills cannot be enacted within this legislative session, there would be no enabling legislation for the EDI submission of PN and CO, thus rendering it impossible for us to proceed with our implementation plan as scheduled. This will inevitably delay the availability to the business community of a more convenient means of submitting trade documents. Moreover, we need a strong legal backing for implementing the PN system which the Import and Export (Amendment) Bill 1999 is seeking to provide so as to enhance Hong Kong Customs' enforcement power in ensuring the true origin of textiles and clothing products exporting from Hong Kong.

We hope the above information can facilitate your understanding of the background to the captioned bills. Please let me know if you require further information.

Yours sincerely,

(Miss Linda Leung)
for Secretary for Trade and Industry