

立法會
Legislative Council

LC Paper No. CB(1) 1834/01-02
(These minutes have been seen
by the Administration)

Ref : CB1/BC/1/01/2

**Bills Committee on
Import and Export (Electronic Transactions) Bill 2001**

**Minutes of fourth meeting held on
Thursday, 9 May 2002, at 8:30 am
in Conference Room B of the Legislative Council Building**

Members present : Hon Kenneth TING Woo-shou, JP (Chairman)
Hon HUI Cheung-ching, JP
Hon CHAN Kam-lam
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon SIN Chung-kai
Hon Miriam LAU Kin-yee, JP

Public officers attending : Commerce and Industry Bureau

Mr Philip CHAN
Principal Assistant Secretary

Miss Helen CHUNG
Assistant Secretary

Department of Justice

Mr J L ABBOTT
Senior Assistant Law Draftsman

Ms Frances HUI
Senior Government Counsel

Customs and Excise Department

Mr LEUNG Koon-wah
Senior Staff Officer (Information Technology)

Census and Statistics Department

Ms Josephine TSE
Senior Statistician (Trade)

Trade and Industry Department

Miss Winnie TO
Principal Trade Officer

Clerk in attendance : Miss Becky YU
Chief Assistant Secretary (1)1

Staff in attendance : Miss Anita HO
Assistant Legal Adviser 2

Mrs Mary TANG
Senior Assistant Secretary (1)2

I Confirmation of minutes of previous meeting

(LC Paper No. CB(1) 1512/01-02 — Minutes of the meeting held on
22 March 2002)

The minutes of the meeting held on 22 March 2002 were confirmed.

II Meeting with the Administration and deputations

(LC Paper No. CB(1)1607/01-02(01) — List of follow-up actions arising from
the discussion on 22 March 2002

LC Paper No. CB(1)1607/01-02(02) — Administration's response to
CB(1) 1607/01-02(01)

LC Paper No. CB(1)1680/01-02(01) — Correspondences between the
Administration and the Legal Service
Division)

2. The Committee deliberated (Index of proceedings attached at **Annex A**).

3. The Administration was requested to -
 - (a) advise the latest progress of negotiation between Tradelink and the industry on the levy for electronic submission of cargo manifests (EMAN);
 - (b) brief members on Tradelink's back-up procedures for system failure and similar requirements in the tender document for future service providers;
 - (c) re-consider allowing the industry to develop its own EMAN system if no additional service providers are available; and
 - (d) make use of all available channels, including the impending visit of the Hong Kong Logistic Development Council, to discuss with the decision-making bodies in the Mainland about the interface between Hong Kong and the Pearl River Delta region in respect of electronic collection, submission and distribution of data related to cargo handling.

4. There being no other business, the meeting ended at 10:30 am.

Legislative Council Secretariat
28 May 2002

**Proceedings of the meeting of the
Bills Committee on Import and Export (Electronic Transactions) Bill 2001
on Thursday, 9 May 2002, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
000000 - 000831	Chairman	Confirmation of minutes of meeting held on 22 March 2002	
000831 - 002036	Administration	Brief explanation of Administration's response at LC Paper No. CB(1) 1607/01-02	
002036 - 002139	Mr HUI Cheung-ching	Progress of negotiation with Tradelink on the levy for electronic submission of cargo manifest (EMAN). EMAN charges upon expiry of Tradelink's franchise in 2003	
002139 - 002142	Chairman	Ditto	
002142 - 002356	Administration	Negotiation between Tradelink and carriers on EMAN charges ongoing with differences being narrowed. Charges would expect to be lowered with the introduction of competition from 2004	
002356 - 002407	Chairman	Ditto	
002407 - 002512	Administration	Carriers to decide on duration of contract with Tradelink	
002512 - 002518	Chairman	Ditto	
002518 - 002530	Administration	Ditto	
002530 - 002533	Chairman	Ditto	

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002533 - 002958	Mr CHAN Kam-lam	Concern about high EMAN charges. Need to reconsider allowing the industry to develop its own EMAN system. Contingency arrangements in the event of computer breakdown of the industry's system, EMAN's front-end system and back-end system. Compatibility of software used by service providers	
002958 - 003837	Administration	<p>(a) <u>Outsourcing of front-end services</u></p> <p>As service provider, Tradelink would provide customer interface and service support. Outsourcing of front-end services would be more cost-effective and would not incur substantial additional capital cost on the part of the Government</p> <p>(b) <u>Contingency arrangements in the event of computer breakdown</u></p> <p>The industry could use Tradelink's Electronic Trading Access Service centres for submission of manifest in the event of breakdown of their computers. Revert to use of paper submission in case of failure of front-end computer system. Back-end computer failure would not affect front-end operation of EMAN</p> <p>(c) <u>Compatibility of software used by service providers</u></p> <p>Tender documents for new service providers would specify the use of Internet-based open standard to ensure compatibility with users and other service providers</p>	

003837 - 003937	Mr CHAN Kam-lam	Need to work out contingency arrangements in the event of computer breakdown of one of the service providers	
003937 - 004009	Administration	In the event of computer breakdown of one of the service providers, carriers could make use of services provided by remaining providers	
004009 - 004315	Ms Miriam LAU	Concern about lack of bargaining power resulting from Tradelink's exclusive franchise. Whether the statutory period of 14 days for submission of manifest could be extended. Need for assurance that EMAN would not be made mandatory until manifests were submitted electronically in the Mainland	
004315 - 004725	Administration	No provision allowed for extension of the statutory period for submission of manifests. Commissioner of Customs and Excise may determine the submission of manifest in both paper and electronic form in case of partial computer failure. Clarification with Mainland on their progress on electronic submission of manifests ongoing. Sufficient lead time would be allowed for industry to make suitable adjustments on the use of EMAN	
004725 - 004738	Chairman	Lack of bargaining power in the absence of competition. No change in EMAN charges after negotiation with Tradelink since last meeting	
004738 - 004801	Administration	Negotiation with Tradelink ongoing	

004801 - 004915	Ms Miriam LAU	Concern about double handling by carriers who had to handle both paper and electronic submissions. Need for extended transitional period	
004915 - 004921	Administration	Ditto	
004921 - 004940	Ms Miriam LAU	Ditto	
004940 - 005017	Administration	Transitional period to take account of take-up rate by EMAN users and smooth operation of the system	
005017 - 005303	Mr SIN Chung-kai	Need for members to be briefed on Tradelink's back-up procedures for system failure and similar requirements in the tender document for future service providers	
005303 - 005324	Administration	Ditto	
005324 - 005348	Mr SIN Chung-kai	Ditto	The Administration was requested to brief members on Tradelink's back-up procedures for system failure and similar requirements in the tender document for future service providers
005348 - 005502	Administration	Ditto	
005502 - 005546	Chairman	Need to make use of all available channels of communication in working out interfacing arrangements with the Mainland	
005546 - 005618	Administration	Customs and Excise Department had been establishing contacts with the	

		Mainland	
005618 - 005728	Mr HUI Cheung-ching	Need for good interfacing arrangements	
005728 - 005906	Mr SIN Chung-kai	Need for an uniform system to be applicable to both Hong Kong and the Mainland	
005906 - 010011	Administration	Apart from Customs and Excise Department, the Hong Kong Guangdong Cooperation Coordination Unit could also assist in negotiating with the Mainland	
010011 - 010026	Chairman	Progress of negotiation with the Mainland	
010026 - 010136	Administration	Different cargo clearance systems between Hong Kong and Mainland and within the Mainland. Liaison with the Mainland to gather more information	
010136 - 010507	Ms Miriam LAU	Apart from Customs and Excise Department and the Hong Kong Guangdong Cooperation Coordination Unit, the Administration could make use of all available channels to discuss with decision-making bodies in the Mainland about interface arrangements. Whether the Legislative Council would be consulted on the termination of the transitional period	
010507 - 010938	Administration	Notice on termination of transitional period would be in form of subsidiary legislation	
010938 - 011044	Ms Miriam LAU	Basis of deciding when to end the transitional period	
011044 - 011058	Chairman	Ditto	

011058 - 011154	Administration	While liaison would be maintained with Hong Kong Guangdong Cooperation Coordination Unit, more details had to be worked out before proceeding further discussion. Subsidiary legislation setting out expiry date of transitional period to be subject to negative vetting. The decision to end the transition period would be made having regard to the readiness of carriers instead of an absolute figure of take-up rate only	
011154 - 011207	Ms Miriam LAU	Progress and timetable of discussion with the Mainland	
011207 - 011342	Administration	More details to be worked out before discussing with the Mainland on further cooperation. Representatives of Commerce and Industry Bureau present in the Hong Kong Logistic Development Council	
011342 - 011400	Chairman	Opportunity should be taken to make use of the impending visit of the Hong Kong Logistic Development Council to the Mainland to discuss interfacing arrangements on cargo handling	
011400 - 011430	Ms Miriam LAU	Ditto	The Administration was requested to make use of all available channels, including the impending visit of the Hong Kong Logistic Development Council, to discuss with the decision-making bodies in the Mainland about the interface between Hong Kong and the Pearl River Delta region in respect of electronic

			collection, submission and distribution of data related to cargo handling
011430 - 011446	Administration	Agreed to follow-up	
011446 - 011519	Chairman	Take up rate of EMAN	
011519 - 011624	Administration	Need to ensure smooth operation	
011624 - 011637	Chairman	Trades' concern about charges	The Administration to advise on the latest progress of negotiation between Tradelink and the industry on the levy for EMAN
011637 - 011654	Mr CHAN Kam-lam	Introduction of competition	
011654 - 011835	Administration	Good tender participation expected judging from outcome of expression of interest exercise conducted earlier	
011835 - 011915	Mr CHAN Kam-lam	Need to reconsider allowing the industry to develop its own EMAN system if no additional service providers were available	The Administration to reconsider allowing the industry to develop its own EMAN system if no additional service providers were available
011915 - 011949	Administration	Would decide upon outcome of tender	
011949 - 011957	Mr CHAN Kam-lam	Timetable for invitation of tender	
011957 - 012031	Administration	Applications for tender to expire on 28 June 2002. Legislative amendments for the introduction of additional service providers would be made in a separate exercise	

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012031 - 012049	Chairman	Whether EMAN charges could be cheaper for air carriers since they were already using Air Cargo Clearance System (ACCS)	
012049 - 012124	Administration	Tradelink was still negotiating with carriers on charges	
012124 - 012128	Ms Miriam LAU	Possibility of streamlining air cargo mode clearance	
012128 - 012209	Administration	Ditto	
012209 - 012212	Chairman	Security of information	
012212 - 012254	Administration	Secure devices installed	
012254 - 012518	Chairman	Ditto	
012518 - 012531	Administration	Ditto	
012531 - 012550	Ms Miriam LAU	Ditto	
012550 - 012800	Administration	Use of digital certificates	
012800 - 012803	Ms Miriam LAU	Ditto	
012803 - 012814	Chairman	Clause-by-clause examination	
012814 - 012825	ALA2	Ditto	
012825 - 012830	Administration	Ditto	
012830 - 012839	Ms Miriam LAU	Reference to marked-up copy	

012839 - 012852	Administration	Schedule 1 Interpretation “security device”	
012852 - 012858	Ms Miriam LAU	Ditto	
012858 - 012925	Administration	Ditto	
012925 - 012947	ALA2	By the definition of “services provided by a specified body” which referred to “the information technology services for the transmission of information to and from the Commissioner or the Director under this Ordinance, provided by a specified body”, it seemed that such information would not be transmitted to the Commissioner for Census and Statistics (CCS)	
012947 - 013020	Administration	The Commissioner of Customs and Excise (the Commissioner) had, under section 43 of Interpretation and General Clauses Ordinance, Cap. 1, delegated his authority for receiving the manifest information to CCS for compiling the statistics	
013020 - 013116	ALA2	The rationale for specific provisions for the Director-General of Trade and Industry (the Director) to receive such information under new section 11A when the Commissioner could delegate this power to CCS under Cap. 1	
013116 - 013342	Administration	Explanation on the roles of the Director and CCS. The Director exercised trade control functions and this role was clear in the Ordinance. The Administration had taken on board members’ suggestion to replace section 19A by new section 11A to provide that the Director	

		should have access to information contained in a manifest. The CCS received the manifest for compiling statistics and performing matching with trade declaration	
013342 - 013406	ALA2	Ditto	
013406 - 013523	Chairman	Section 2B - Presumption regarding information sent using services provided by specified body	
013523 - 013628	Administration	Drafting of section 2B in line with the provisions in the Dutiable Commodities Ordinance	
013628 - 013726	Mrs Sophie LEUNG	Concern about presumption provisions under section 2B	
013726 - 013737	Administration	Presumptions rebuttable, i.e., in the absence of evidence to the contrary	
013737 - 013818	Mrs Sophie LEUNG	Ditto	
013818 - 013827	Chairman	Section 2C - Safekeeping of security device	
013827 - 013842	Administration	Ditto	
013842 - 013936	Chairman	Section 8 - Delivery of import licence and manifest to the Director	
013936 - 014000	Administration	Ditto	
014000 - 014007	Chairman	2A of section 8	
014007 - 014307	Administration	Consequential amendments made to 2A of section 8 after deletion of section 19A	
014307 - 014323	Chairman	Section 9 - Delivery of declaration and manifest in the case of part	

		shipments	
014323 - 014334	Ms Miriam LAU	Ditto	
014334 - 014429	Administration	Consequential amendments made to 2A of section 9 after deletion of section 19A	
014429 - 014444	Chairman	Section 11 - Delivery of export licence and manifest to the Director	
014444 - 014523	Administration	Consequential amendments made to 2A of section 11 after deletion of section 19A	
014523 - 014703	Chairman	Section 11A - Director's right of access to manifest information provided to the Commissioner	
014703 - 014820	Administration	Purpose of section 11A was to replace section 19A of Schedule 1. Under the new section, the Director shall have access to any information contained in a manifest of cargo that had been lodged with the Commissioner	
014820 - 014825	Chairman	Section 15 - Duty to provide particulars of all cargo	
014825 - 015137	Administration	The Administration had taken on board members' suggestion to revise section 15(1B) so that a manifest to be furnished to a member of the Customs and Excise Department by a carrier on entering or leaving Hong Kong under section 15(1) (a) might be given in paper form, electronic record form or by using services provided by a specified body, at the option of the carrier	
015137 - 015214	ALA2	Whether a carrier who submitted a manifest to a member of the Customs and Excise Department using services provided by a specified body on entering or	

		leaving Hong Kong would be required to re-submit the manifest using services provided by a specified body within 14 days to the Commissioner	
015214 - 015254	Administration	The Administration had been reflecting on the issue and would revert back to the Bills Committee. The principle would be to avoid unnecessary duplication of submission	
015254 - 015304	Ms Miriam LAU	Should ensure no duplication	
015304 - 015450	Administration	No point in requiring duplication. However, the initial submission of manifest on entering or leaving Hong Kong might not be full and complete	
015450 - 015509	Ms Miriam LAU	Agreed that if the manifests was not full and complete, the carrier should re-submit a full and complete one again	
015509 - 015532	Administration	Would try to express in law that if there was a full and complete submission of manifest using services provided by a specified body on entering or leaving Hong Kong, then there should not be a need for re-submission of manifest	
015532 - 015714	Chairman	Next meeting to be held on Thursday, 30 May 2002, at 8:30 am	

Note: The audio records of the above proceedings are kept at the LegCo Library