

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

**Summary of Administration's responses to the queries/comments raised by Legal Service Division (LSD)
together with CSAs proposed on relevant provisions following discussion by the Bills Committee**

Sections of Schedule(s) and brief explanation of provisions	LSD's Queries/Comments	Administration's Responses	Committee Stage amendments (CSA) proposed on relevant provisions following the discussion by the Bills Committee
<p><u>ss. 4, 5 & 6 of Schedule 1</u> (amending current ss. 8, 9 & 11 of the Import and Export Ordinance) - requiring a carrier to deliver import/export licence in person in paper form to Director and a manifest by electronic form (EDI) via Tradelink to Director</p>	<ol style="list-style-type: none"> 1. How many carriers would be affected by this amendment? 2. Have the carriers been consulted? 3. Any fee charged by Tradelink? 	<ol style="list-style-type: none"> 1. Trade and Industry Department does not keep such statistics. 2. Arrangement acceptable to carriers. 3. Tradelink is negotiating with carriers on fees to be charged. 	<p>Due to the deletion of section 9 of Schedule 1 (i.e. new section 19A), the Administration is proposing CSAs on new ss. 8(2A), 9(2A) & 11(2A).</p>
<p><u>s. 7 of Schedule 1</u> (amending s. 15 of the Ordinance) - carriers to provide manifest to a member of the Customs on spot in paper form, or in EDI if the member of the Customs permits</p>	<ol style="list-style-type: none"> 1. Any conflict with the Electronic Transactions (Exclusion) Order? 2. On the proposed CSAs, if a carrier has sent manifests to Customs on spot in electronic form, is he still required to submit manifests within 14 days when his aircraft, vessel or vehicle enters or leaves Hong Kong? 	<ol style="list-style-type: none"> 1. Will arrange with ITBB to synchronize the repeal of relevant exemptions in that Order. 2. Will revert. 	<p>New section 15(1B) of the Ordinance is amended so that manifest furnished to Customs may be in :</p> <ol style="list-style-type: none"> (1) paper form; (2) general electronic form; or (3) via Tradelink.

<p><u>s.9 of Schedule 1</u> (adding a new s.19A to the Ordinance) - creating a new offence if carriers do not furnish manifests to Director via Tradelink</p> <p><u>s.12 of Schedule 1</u> (adding a new section 32A to the Ordinance) - the Commissioner may require information from any person or from any class of persons in whatever form by notice and such notice is not subsidiary legislation</p>	<ol style="list-style-type: none"> 1. On new s. 19A, why are vehicle owners included contrary to policy intent? 2. Should power of exemption be conferred to the Director and not the Commissioner? 3. Why are notices of exemption under new section 32A not subsidiary legislation? 4. Any time frame for implementing EDI submission of road mode manifests? 5. How many manifests were received each year? 6. Have all tests on EMAN been found satisfactory? 	<ol style="list-style-type: none"> 1. Exemption will be granted to vehicle owners under new section 32A. 2. Both Director and Commissioner will require submission of manifests by EDI. Decision on exemption and transitional arrangements will be made by the Commissioner in consultation with the Director. 3. No objection to making these notices subsidiary legislation. 4. Will consult trade before implementation. 5. 5,569,000 during April 2000 to March 2001. 6. Technical issues need to be resolved. 	<p>New s.19A of the Ordinance is to be deleted and new ss. 11A, 32A and 32B added so that manifests are to be sent to the Commissioner by EDI. The Director will have access to the manifests.</p> <p>If the Commissioner considers that it is not practicable for information to be given by EDI, he may determine that information shall be given either in paper or EDI form. Notice of determination shall be published in the gazette within 14 days of the determination.</p>
<p><u>s.13 of Schedule 1</u> (adding new s. 42) - transitional clause - manifests can be submitted either in paper or EDI form. The end date of the transitional period to be specified by the Commissioner</p>			<p>CSA proposed on technical aspects.</p>

<u>s. 6 of Schedule 2</u>			CSA will be proposed along the line of new s.32A as in Schedule 1.
<u>s. 2 of Schedule 3 - Chinese version</u>	In the proposed section 30A(1)(b) and 2(b), should the term be "聲明" or "申報書"?	Would add "申報或" before "聲明".	Will propose CSA.
<u>General observation -</u>	<p>Why are different legislative requirements prescribed for the six trade-related documents?</p> <p>For lodging of Production Notification (PN) to the Director, the law prescribes that it can be lodged either in paper form or EDI. But the Trade Dept. has issued an administrative circular stating that all PN on paper will no longer be accepted as from end Feb. 2000.</p>	<p>The reason is to cater for specific requirements of handling each document.</p> <p>Trade Dept. is looking into the matter of PN and legislative amendments would be proposed if considered necessary.</p> <p>As for the Trade Declaration (TD), the law provides that it can only be lodged using EDI and does not allow paper TD even if the computer system breaks down. Will consider making amendments in a separate exercise.</p>	