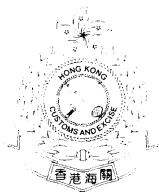


香港海關
香港中環統一碼頭道38號
海港政府大樓



HONG KONG
CUSTOMS AND EXCISE DEPARTMENT
Harbour Building
38 Pier Road, Central
Hong Kong

本署檔號 Our Ref.: (18) in HMR/OP/AD/1/127
來函檔號 Your Ref.: (7) in HDC/AD/36 III
本署電話 Our Tel.: 2852 3345
圖文傳真 Our Fax.: 2854 1959

25 January 2003

Clerk, Public Accounts Committee
(Attn: Miss Sandy Chu)
Legislative Council
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Miss Chu,

**The Director of Audit's Report on the
results of value for money audits (Report No. 39)**

**Chapter 2: The Customs and Excise Department's efforts
to protect government revenue from dutiable commodities**

I refer to the Director of Immigration's reply letter to the Public Accounts Committee (PAC) of 14 December 2002 and your letter of 9 January 2003 concerning the proposed mechanism for verification of the departure time of travellers.

To enable the Customs and Excise Department (C&ED) to effectively enforce the 24-hour rule in relation to the duty-free concession for incoming passengers, we are now putting in place an on-line communication arrangement between the C&ED and the Immigration

Department (ImmD). Under the arrangement, three computer workstations dedicated for limited on-line enquiry function are installed at the C&ED's offices at the Lowu Control Point, Lok Ma Chau Control Point and Hong Kong-Macau Ferry Terminal to enable the C&ED to make verification with the ImmD in suspicious cases (e.g. couriers seen crossing the Lowu Terminal several times a day). The C&ED will not conduct such verification on every incoming passenger.

Upon an on-line enquiry through one of the workstations, an authorized C&ED officer of the rank of Inspector or Senior Inspector will see on the screen of the workstation a "Yes" or "No" which indicates whether an incoming passenger travelling on a Hong Kong identity card has spent more than 24 hours or less outside Hong Kong. Apart from this information, the workstations will not allow any enquiry to be made on personal data of any kind and there will be no release of personal data either. Details of the verification mechanism are attached at Annex I.

The C&ED and the ImmD have consulted the Office of the Privacy Commissioner for Personal Data (PCO), the Independent Commission Against Corruption (ICAC) and the Department of Justice when formulating the operating procedures for the new arrangement. All measures on protection of personal data and prevention of abuse on the use of the facility, including those suggested by the PCO and the ICAC, have been incorporated into the finalized procedures.

The following documents relating to the arrangement are attached for reference :

- Annex I - Mechanism for Verification of Departure Time of Travellers;
- Annex II - The C&ED's measures on protection of personal data collected and prevention of abuse on the use of the facility;
- Annex III - Summary of comments from the ICAC; and
- Annex IV - Summary of comments from the PCO.

Installation work of the workstations at the three control points has been completed. We intend to implement the verification mechanism by the end of February 2003.

Our operating procedures have contained sufficient safeguards for protecting the personal data collected under this new arrangement and preventing abuse on the use of the facility. Notices will be put up at all control points to inform passengers of their rights under the Personal Data (Privacy) Ordinance. We will also widely publicize the arrangement through the mass media before we commence using the verification mechanism.

I hope the supplementary information contained in this letter has addressed Members' concern over the issue of protection of personal data. If, however, Members still consider there is a need for further discussion at the relevant Legislative Council Panel, we would be happy to oblige.

Yours sincerely,



(K Chow)

for Commissioner of Customs and Excise

Encls.

c.c. Secretary for Financial Services and the Treasury
Director of Immigration
Director of Audit

Mechanism for Verification of Departure Time of Travellers

Introduction

The following paragraphs outline the proposed mechanism for facilitating the Customs and Excise Department (C&ED) to verify a traveller's duration of absence from Hong Kong for the purpose of assessing his eligibility for duty-free concessions under the Dutiable Commodities (Exempted Quantities) Notice made under the Dutiable Commodities Ordinance, Chapter 109.

The Proposal

2. The C&ED proposes to install three computer workstations at their offices at Lowu, Lok Ma Chau and the Hong Kong-Macau Ferry Terminal. The workstations will enable the C&ED to seek confirmation from the Immigration Department (ImmD) through electronic means on the duration of absence of a particular traveller.

The Arrangement

Physical Security

3. The computer workstations will be installed inside the office of the C&ED's Duty Inspector. The Duty Inspector shall be responsible for the operation of, and the control of physical access to, the computer workstations during his tour of duty.

Access Control

4. The ImmD operates an information system called the Immigration Control Automation System (ICAS) to support the operations of the control points. Enquiry to confirm a traveller's duration of absence from Hong Kong by C&ED officers can be made by access to the ICAS database. There will be two layers of access control:

(a) ***Location Control***

To start up the system, an authorized officer of the C&ED of the rank of Inspector or above (hereafter referred to as an authorized officer) will have to input a Location Identifier (Loc ID) and a Location Password unique to each of the three control points as assigned by the ICAS Control Section of the ImmD.

(b) ***Enquiry Control***

An authorized officer will have to input his personal identifier (User ID) and User Password before conducting any enquiry. All officers concerned will be reminded to change their User Password periodically.

Functionality of the System

5. (a) The computer workstations shall have no linkage to the ICAS database other than for the verification purpose mentioned in paragraph 1 above.
- (b) The system will not allow any enquiry to be made on personal data of any kind and there shall be no release of personal data either.
- (c) Before making an enquiry on the computer workstation, an authorized officer will be prompted by a warning message as follows:

“

WARNING

You are requesting for confirmation of a person's duration of absence from Hong Kong. To confirm that your request is made for the enforcement of duty free concession and in compliance with the exemption of the Personal Data (Privacy) Ordinance, Cap. 486, Laws of Hong Kong, please enter your Password to proceed.”

The authorized officer will then be required to acknowledge the warning message by entering his User Password before he can proceed to enter the identity card number of the traveller.

- (d) After checking the traveller's departure time, the system will display "Yes" or "No" on the screen of the computer workstation to indicate whether or not the traveller has left Hong Kong for over 24 hours.
- (e) Audit trail reports recording the enquiries performed at the workstations of the three control points during the day will be produced by the system in the early morning of the following day for reconciliation purpose. The audit trail report will show the User ID of the officer who has made an enquiry; the workstation number; the identity card number of the traveller checked; and the date, time and result of the enquiry.

Monitoring and Auditing Control

C&ED

6. An authorized officer shall enter each and every enquiry conducted into a Record Check Register which records the officer's particulars and the identity card number of the traveller being checked.

7. The Assistant Superintendent of the C&ED at the respective control point shall conduct a daily check on the Record Check Register against the audit trail report (paragraph 5(e)) to ensure that all enquiries are performed by authorized officers and no malpractices are involved (e.g. no arrival record cases). Any irregularities shall immediately be brought to the notice of his immediate supervisor and the ICAS Control Section of the ImmD for appropriate investigation action.

8. The officer-in-charge of the relevant control point (i.e. an Assistant Superintendent of the C&ED) shall have the overall responsibility for the operation, security and safekeeping of the computer workstations. He will be responsible for authorizing officers to conduct the enquiries and notifying the ICAS Control Section of the ImmD of such authorization made or cessation of such authorization, 7 days in advance. He shall conduct checks on the Record Check Register & send a certified true copy of the entries for the preceding seven days to the ICAS Control Section weekly for vetting purpose, including the verification of signatures of authorized officers and reconciliation of enquiries recorded on audit trail report against the Record Check Register.

ImmD

9. The ICAS Control Section of the ImmD is responsible for the operation and overall security of the Immigration Control Automation System and will ensure that it is operated strictly within the confines of the law and data privacy protection principles.

10. The ICAS Control Section of the ImmD, apart from verification of authorized signatures on request for creation or cessation of user identifiers and reconciliation of enquiries recorded on audit trail report against the Record Check Register, will also conduct on-site checks to ensure that the computer workstations at the control points are kept in good working order and that no unauthorized software or connections, that could affect the smooth operation of the workstations or pose a threat to the security of the system, are installed.

Prepared by Immigration Department
& Customs and Excise Department

**C&ED's measures on protection of personal data collected
and prevention of abuse on the use of the
Immigration Control Automation System (ICAS)**

Notice to passengers

- A notice will be displayed prominently at the C&ED's offices at each control point to inform passengers of the purposes of collecting their personal data and their right of access to and correction of the data (See Appendix).

Authorized officers to conduct Record Checks¹

- Only Inspectors and Senior Inspectors (a total of 34 officers at present) at the 3 control points (i.e. Lowu, Lok Ma Chau and the HK-Macau Ferry Terminal) will be authorized by their respective Divisional Commanders (Assistant Superintendents) to conduct Record Checks;
- Individual access password created by the ImmD will be allocated to each C&ED authorized officer; the password will have to be changed quarterly;
- Authorized officers will carefully examine each case referred by front-line officers processing passengers at the examination counters before conducting Record Checks; and
- When an authorized officer is no longer required to access the ICAS (on vacation leave or posting out), the Divisional Commander concerned will inform the ImmD in writing to disable the access password of the officer.

Documentary Control

- Particulars of each Record Check will be recorded on a Record Check Register, including the passenger checked, the referral officer, the authorized officer conducting the check and the result of the check;
- All the related records of the Record Check, i.e. Record Check Register, Record Check Request Forms and Audit Trail Reports, will be kept in secure places; and

¹ Record Checks denote the checking through a designated computer workstation on whether a passenger has spent more than 24 hours or less outside Hong Kong.

- All these records will be destroyed either after the lapse of the normal retention period of one year or after the conclusion of a related investigation (e.g. investigation of complaints from members of the public), whichever is the later.

Auditing Control

- Normally, Record Checks will be conducted by Inspectors. A Unit Commander (Senior Inspector) at the end of each tour of duty will verify the number of checks made and endorse the Record Check Register;
- A Divisional Commander is required to check the Record Check Register against the Audit Trail Report prepared daily by the ImmD to ensure no discrepancies and to detect malpractices; and
- A Divisional Commander is also required to send a copy of the records in the Record Check Register covering the preceding 7 days to the ImmD for spot checks weekly.

Appendix of Annex II

[To be displayed at C&ED's offices at each control point]



Notice to Passengers on Collection of Personal Data

1. Purposes of Collection

- (a) To enforce the Dutiable Commodities Ordinance (Chapter 109), including verification of entitlement to duty free concessions, collection of duty, compounding or prosecuting offences under the Ordinance;
- (b) To facilitate future communication with the data subject in connection with any action under the Dutiable Commodities Ordinance; or
- (c) To maintain a record relating to any actions taken by the Customs and Excise Department under the Dutiable Commodities Ordinance.

2. Transfer of Personal Data

The personal data provided by the data subject for the purposes mentioned in paragraph 1 above may be disclosed to the Immigration Department, or where such disclosure is authorized or required by law.

3. Access to Personal Data

Under the Personal Data (Privacy) Ordinance (Chapter 486), the data subject has a right of access to and correction of the personal data collected by the Customs and Excise Department. The right of access includes the right to obtain a copy of the personal data provided by the data subject, subject to payment of a fee.

Enquiries and application for access to and correction of personal data collected should be addressed to:-

Departmental Secretary
Office of Departmental Administration
Customs and Excise Department
8/F, Harbour Building, 38 Pier Road, Central, Hong Kong.
Tel. No.: 2852 3359
Fax No.: 2581 2138

Customs and Excise Department

Summary of Comments from
the Independent Commission Against Corruption (ICAC)

Item No.	Comments from ICAC on the Operation Manual ¹	C&ED's Response
1.	Para. 2 of Chapter 3 To specify the rank of officers who are authorized to gain access to ICAS ² .	<i>Accepted.</i> Operation Manual has been amended. C&ED's officers of the ranks of Inspector or Senior Inspector may be authorized to gain access to ICAS.
2.	Para. 8 of Chapter 4 To specify the period of time of informing Immigration Department (ImmD) to disable the access password of an authorized officer who is no longer required to gain access to ICAS.	<i>Accepted.</i> Operation Manual has been amended. C&ED will notify ImmD seven days in advance in writing to disable the access password of an authorized officer who is no longer required to gain access to ICAS.

¹ Operation Manual denotes the Operation Manual for C&ED Officers for Gaining Access to the Immigration Control Automation System (ICAS)

² ICAS denotes the Immigration Control Automation System.

Item No.	Comments from ICAC on the Operation Manual ¹	C&ED's Response
3.	<p><u>Para. 5 of Chapter 8</u> To enhance checks and balances, C&ED should, in addition to the checking officer, include the particulars (name, rank and signature) of the referral officer in the Record Check Register.</p>	<p><i>Accepted.</i> Operation Manual has been amended. A new column in the Record Check Register is added to include the particulars (name, rank and signature) of the referral officer.</p>
4.	<p><u>Scanning of Identity Card</u> For preventing officers from making unauthorized enquiries to ICAS (e.g. checking the record of a person who is not an incoming passenger), it is suggested to use a scanner to scan in the Hong Kong Identity Card numbers instead of manual input so that the physical existence of a Hong Kong Identity Card can be ensured for any Record Check³.</p>	<p>C&ED in consultation with ImmD will explore the feasibility of installing scanner or other viable options with a view to addressing the concern of ICAC.</p> <p>To prevent abuse of the Record Checks, C&ED will put in place the following safeguards:-</p> <p>(a) at least two officers should be present in conducting a Record Check (one is the referral officer and the other is the checking officer);</p>

³ Record Check denotes the checking through ICAS on whether a passenger has spent more than 24 hours or less outside Hong Kong.

Item No.	Comments from ICAC on the Operation Manual ¹	C&ED's Response
4. (Con't)		<p>(b) both officers are required to sign on a Record Check Register [When the referral officer is working in a different control point where there is no ICAS terminal, he will need to sign a Record Check Request Form and fax it to the Checking Officer in one of the 3 control points where there is an ICAS terminal.];</p> <p>(c) the Record Check Register will be endorsed by a Senior Inspector at the end of each tour of duty;</p> <p>(d) the Divisional Commander (Assistant Superintendent) will counter-check the Record Check Register with the Audit Trail Report provided by ImmD on a daily basis; and</p> <p>(e) the Divisional Commander will make a copy of the records in the Record Check Register covering the preceding seven days and send it to ImmD for spot checks weekly.</p> <p>[ICAC has been informed of the above and has agreed to review the need for using scanner 3 months after implementation.]</p>

Summary of Comments from the Office of the Privacy Commissioner for Personal Data (PCO)

Part A - General Principles

Item No.	Comments from PCO – General Principles	C&ED's Response
1.	<p><u>Notice to passengers</u></p> <p>In conducting a Record Check¹, the personal data on the Hong Kong Identity Card of the passenger concerned will be collected. C&ED should inform the passenger concerned of the purpose of collecting the data.</p> <p><u>Notice to officers of C&ED</u></p> <p>In applying for a password from the ImmD for accessing ICAS², the personal data of the officer concerned will be collected. C&ED should inform the officer concerned of the purpose of collecting the data.</p>	<p><i>Accepted.</i> C&ED will arrange a notice, namely Notice to Passengers on Collection of Personal Data (see <u>Appendix of Annex II</u>), to be displayed prominently at C&ED's offices at each control point to inform passengers of the purpose of collecting their personal data and their right of access to the data.</p> <p><i>Accepted.</i> In C&ED's application form for the creation of identifier and password in ICAS (see <u>Appendix</u>), there is a notice informing C&ED officers of the purpose of collecting the personal data and their right of access to the data.</p>

¹ Record Check denotes the checking through ICAS on whether a passenger has spent more than 24 hours or less outside Hong Kong.
² ICAS denotes the Immigration Control Automation System

Item No.	Comments from PCO – General Principles	C&ED's Response
2.	<p><u>Retention of Data</u></p> <p>C&ED should specify the retention period of the personal data collected.</p>	<p><i>Accepted.</i> This procedure will be laid down in C&ED's internal instruction (a General Order).</p> <p>C&ED considers that the data collected should be retained for a reasonable period to facilitate further enforcement actions under the Dutiable Commodities Ordinance, investigation of complaints from members of the public or internal investigation of suspected abuses on the use of ICAS.</p> <p>The Divisional Commander (Assistant Superintendent) shall ensure that all the related records, i.e. Record Check Registers, Record Check Request Forms and Audit Trail Reports, should be kept in a secure place when not in use and they will be destroyed either after the lapse of the normal retention period of one year or after the conclusion of a related investigation, whichever is the later.</p>

Part B - Minor Amendments to Operation Manual³

Item No.	Comments from PCO – Operation Manual	C&ED's Response
1.	<u>Chapter 5 (page 8)</u> C&ED should inform the officer concerned of the purpose of collecting the data.	[Same as Item 1 of Part A]
2.	<u>Chapter 5 (page 9)</u> C&ED should, for security measure, remind the officers concerned to change their passwords regularly.	<i>Accepted.</i> C&ED will issue an internal instruction (a General Order) to require the authorized officers to change their passwords at least once every three months.

³ Operation Manual denotes the Operating Procedures on C&ED Officers Gaining Access to the Immigration Control Automation System (ICAS), which will form part of ImmD's Operation Manual on ICAS.

Item No.	Comments from PCO – Operation Manual	C&ED's Response
3.	<p><u>Chapter 6 (page 11)</u></p> <p>The Hong Kong Identity Card Number of the authorized officers of C&ED should not be displayed in the screen of ICAS workstation while the officers concerned are changing their passwords.</p>	<p>According to the existing system design, the display of Hong Kong Identity Card Number on the screen of the ICAS workstation serves as a unique identification as different users may have similar User ID and name. The display of user's Hong Kong Identity Card Number is especially essential when the user account is firstly allotted to a user who should verify that the account so allotted belongs to him.</p> <p>To address PCO's concern, ImmD is studying the feasibility of only displaying the Hong Kong Identity Card Number partially, i.e. with the last 3 digits masked, e.g. A1234XX(X).</p> <p>Before the ICAS is so modified, C&ED will remind the officers concerned to take precaution while changing their passwords in the ICAS, i.e. to change passwords when no officer is present.</p>
4.	<p><u>Chapter 7 (page 14)</u></p> <p>(a) The purpose of Record Check should be specified clearly in the screen of the ICAS workstation while the authorized officers are conducting the verification.</p>	<p><i>Accepted.</i> The purpose of Record Check "for the enforcement of the duty-free concession" will be displayed on screen.</p>

Item No.	Comments from PCO – Operation Manual	C&ED's Response
4. (con't)	(b) In the case of "No IC Arrival Record is found", there may be a case of abuse of Record Check, i.e. checking a person who is not an arrival passenger. C&ED should take preventive measures to prevent such abuse.	<p>To prevent abuse of Record Checks, C&ED will put in place the following safeguards:-</p> <ul style="list-style-type: none"> (a) at least two officers should be present in conducting a Record Check (one is the referral officer and the other is the checking officer); (b) both officers are required to sign on a Record Check Register [When the referral officer is working in a different control point where there is no ICAS terminal, he will need to sign a Record Check Request Form and fax it to the Checking Officer in one of the 3 control points where there is an ICAS terminal.]; (c) the Record Check Register will be endorsed by a Senior Inspector at the end of each tour of duty; (d) the Divisional Commander (Assistant Superintendent) will counter-check the Record Check Register with the Audit Trail Report provided by ImmD on a daily basis; and (e) the Divisional Commander will make a copy of the records in the Record Check Register covering the preceding seven days and send it to ImmD for spot checks weekly.

Item No.	Comments from PCO – Operation Manual	C&ED's Response
4. (con't)		C&ED in consultation with ImmD will explore the feasibility of installing a scanner or other viable options with a view to addressing the concern of ICAC i.e. to scan in the Hong Kong Identity Card Number instead of manual input so that the physical existence of an Identity Card for any Record Check is ensured.
5.	<u>Annex Ib (page 21)</u> The meaning of the wording "FOR OFFICIAL USE" stated in the undertaking ⁴ should be clearly specified.	<i>Accepted.</i> The wording "FOR OFFICIAL USE" has been replaced with "for the enforcement of duty-free concession".

⁴ Undertaking denotes an undertaking signed by officers of C&ED (Inspector and above) for gaining access to the ICAS of Immigration Department. The undertaking will be given to ImmD.

Part C - Minor Amendments to Mechanism⁵

Item No.	Comments from PCO – Mechanism	C&ED's Response
1.	<p><u>Page 2</u></p> <p>(a) The purpose of Record Check in the “Warning Message” should be clearly displayed on the screen when the authorized officer is conducting the verification.</p> <p>(b) C&ED should specify the method of safekeeping and disposal of the personal data collected.</p>	<p>[Same as Item 4(a) of Part B]</p> <p>(The proposed Mechanism has been amended)</p> <p>[Same as Item 2 of Part A]</p>

⁵ Mechanism denotes Mechanism for Verification of the Departure Time of Travellers.

Item No.	Comments from PCO – Mechanism	C&ED’s Response
2.	<p><u>Page 3</u></p> <p>In the case of “No IC Arrival Record is found”, there may be a case of abuse of Record Check, i.e. checking a person who is not an arrival passenger. C&ED should take preventive measures to prevent such abuse.</p>	<p>[Same as Item 4(b) of Part B]</p>
3.	<p><u>Page 4</u></p> <p>C&ED should specify the period of time of informing ImmD to disable the access password of an authorized officer who is no longer required to gain access to ICAS.</p>	<p><i>Accepted.</i> C&ED will notify ImmD seven days in advance in writing to disable the access password of an authorized officer who is no longer required to gain access to ICAS.</p> <p>(The proposed Mechanism has been amended)</p>

Appendix of Annex IV

To: AS()

Re: Application for Creation of User Identifier and Password in ICAS

The following are my personal particulars for the creation of my user identifier and password in ICAS:-

Name of applicant: _____

Rank: _____

HK I/C No.: _____

Signature of applicant: _____

Date: _____

Notice to Officer on Collection of Personal Data

1. Purpose of Collection

The data collected above will be used by the Immigration Department in the creation of your personal identifier and password for accessing ICAS.

2. Transfer of Personal Data

The Customs and Excise Department will only disclose the above personal data to the Immigration Department, or where such disclosure is authorized or required by law.

3. Access to Personal Data

Under the Personal Data (Privacy) Ordinance (Chapter 486), you have a right of access to and correction of the personal data collected by this Department. The right of access includes the right to obtain a copy of the personal data provided by you, subject to payment of a fee. Enquiries concerning the personal data collected, including access to and correction of the personal data, can be made to your Divisional Commander.