

LEGISLATIVE COUNCIL BRIEF

Import and Export Ordinance
(Chapter 60)

Import and Export (General) Regulations (Amendment of Fourth and Fifth Schedules) Order 2006

INTRODUCTION

Under Regulation 7 of the Import and Export (General) Regulations (Cap. 60 sub. leg. A) (the Regulations), the Director-General of Trade and Industry (DGTI) has made the Import and Export (General) Regulations (Amendment of Fourth and Fifth Schedules) Order 2006 at Annex A to implement a set of modified control arrangements for Hong Kong's textiles exports to the European Union (EU).

A

BACKGROUND AND JUSTIFICATIONS

Current Textiles Control Arrangements

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 and clothing (T&C) products under the World Trade Organisation (WTO) Agreement on Textiles and Clothing. With the support of the Panel, we submitted the Import and Export (General) (Amendment) Regulation 2004 and the Import and Export (Fees) (Amendment) Regulation 2004 for implementation of the post-2004 system to the Legislative Council in October 2004.

Following the approval of the Legislative Council of the relevant items of subsidiary legislation, the post-2004 system came into effect on 1 January 2005.

3. Under the post-2004 system, licensing requirements for commercial shipments of textiles imports and exports are maintained to ensure that Hong Kong T&C products are not adversely affected by the application of Mainland-specific safeguard measures by the major importing economies. Different licensing requirements apply for “sensitive” and “non-sensitive” markets. “Sensitive” markets include the Mainland and major economies that have invoked safeguard measures on T&C products of the Mainland. All other economies are regarded as “non-sensitive” markets.

4. At present, the Mainland and the United States (US) (the only economy which had invoked safeguard measures on T&C products of the Mainland prior to 2005) are classified as “sensitive” markets. All textiles exports to and imports from the Mainland, and exports to the US have to be covered by either consignment-specific export or import licences issued by DGTI, or export or import notifications completed by a trader registered under the Textiles Trader Registration Scheme (TTRS)¹. In addition, all cut-and-sewn garments destined for the US are subject to the Production Notification (PN) requirement².

5. Textiles imports and exports involving “non-sensitive” markets are covered by a corresponding comprehensive import or export licence. A comprehensive licence can cover multiple shipments

¹ Under Regulation 6(3A) of the 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 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 Regulations.

² Under section 6AB(1) of the Import and Export Ordinance (Cap. 60) and the Fifth Schedule to the Regulations, no person shall commence production of cut-and-sewn garments destined for the US 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.

for the whole year. As the EU had not imposed any safeguard measures on T&C products of the Mainland prior to 2005, the EU has been classified as a “non-sensitive” market when the current system took effect since 1 January 2005.

Proposed Modified Control Arrangements for Textiles Exports to the EU

6. Upon the request of the domestic industries, the EU considered the invocation of safeguard measures on certain Mainland’s T&C products in the second quarter of 2005. Following intensive bilateral consultations, the EU and the Mainland signed a Memorandum of Understanding on 11 June 2005 setting quantitative limits for ten categories of Chinese T&C exports to the EU until end 2007. In view of the imposition of quantitative restrictions on the Mainland’s T&C shipments to the EU, we consider it necessary to strengthen our control on textiles exports to the EU against possible illegal transshipment activities and to preserve Hong Kong’s legitimate trade interests.

7. To this end, we propose to extend the licensing and control arrangements for “sensitive” markets to textiles exports to the EU market by classifying the EU as a “sensitive” market. In other words, all T&C exports (including re-exports) to the EU will require either a consignment-specific export licence or a textiles notification under TTRS to cover each consignment for export to the EU. All cut-and-sewn garments destined for the EU market will also be subject to the PN requirement.

OTHER OPTIONS

8. The alternative option is to maintain status quo, under which the EU will continue to be classified as a “non-sensitive” market and textiles imports from and exports to the EU will continue to be covered by comprehensive import or export licence. However, as a comprehensive licence contains only general information of textiles imports and exports with no specific consignment details, we consider

that it will not be sufficient to meet the enhanced need for monitoring of textiles exports to the EU. The modified control arrangements for textiles exports to the EU as proposed in paragraph 7 are essential for maintaining the effectiveness and credibility of our textiles control system.

THE ORDER

9. The Import and Export (General) Regulations (Amendment of Fourth and Fifth Schedules) Order 2006 amends the Fourth and the Fifth Schedules to the Regulations so that with effect from 15 March 2006, all textiles exports to Member States of the EU will have to be covered by export notifications completed by traders registered under the TTRS if they are not covered by consignment-specific export licences, and all cut-and-sewn garments destined for the EU will be subject to the PN requirement.

B 10. The existing schedules being amended are at Annex B.

LEGISLATIVE TIMETABLE

11. The legislative timetable will be –

Publication in the Gazette	6 January 2006
Tabling at the Legislative Council	11 January 2006
Commencement	15 March 2006

IMPLICATIONS OF THE PROPOSAL

12. On economic implication, the proposal will enhance the effectiveness and preserve the credibility of our textiles control system. This should enable Hong Kong's T&C industry to realise the benefits

that could be derived from the new international trading arrangement for T&C products (whereby Hong Kong T&C exports are now quota free, whereas such exports from the Mainland to the EU will remain subject to quota restrictions until the end of 2007). However, the overall impact on the Hong Kong economy is unlikely to be substantial, given that the contribution of the T&C industry to Hong Kong's GDP and employment are not significant.

13. On civil service implication, depending on the volume of PN and textiles notifications arising from the extended scope of the PN and TTRS arrangements, some extra clerical staff in Trade and Industry Department (TID) might be needed to cope with the increase in workload. We will closely monitor the situation and arrange for internal redeployment to meet any staff shortfall if necessary.

14. On financial implication, it is estimated that an annual revenue of \$1 million will be generated from the expansion of the PN scope for export of cut-and-sewn garments destined for the EU. As many of the affected textiles traders are already registered under TTRS, the additional revenue generated from new TTRS registration as a result of expansion of the scope of TTRS is expected to be minimal.

15. 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 Regulations.

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

PUBLIC CONSULTATION

17. The Textiles Advisory Board has been consulted on the principles and framework of the post-2004 system. With the Board's endorsement, the post-2004 system and the corresponding legislative amendments were subsequently endorsed by the Panel and the

Legislative Council in 2004. The Board has been notified of the proposed modified control arrangements for textiles exports to the EU which are in line with the above framework. There has been no adverse feedback from the Board.

PUBLICITY

18. A press release will be issued when the Order is published in the Gazette on 6 January 2006. TID will announce the modified control arrangements through trade circulars and its web portal on the day of gazettal. TID will liaise with the trade on the modified control arrangements as appropriate. A spokesman will be available for answering media enquiries.

ENQUIRY

19. Any enquiries on the brief should be addressed to Miss Amy Chan, Assistant Secretary for Commerce, Industry and Technology (Commerce and Industry)1A, on 2918-7452.

Commerce, Industry and Technology Bureau
January 2006

**IMPORT AND EXPORT (GENERAL)
REGULATIONS (AMENDMENT OF FOURTH AND
FIFTH SCHEDULES) ORDER 2006**

(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 shall come into operation on 15 March 2006.

2. Fourth Schedule amended

(1) The Fourth Schedule to the Import and Export (General) Regulations (Cap. 60 sub. leg. A) is amended, in paragraph (b)(i), by repealing “or”.

(2) The Fourth Schedule is amended, in paragraph (b), by adding –
“(iii) the Member States of the European Union; or”.

3. Fifth Schedule amended

The Fifth Schedule is amended, in Part I, by adding –

“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
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system administered by
the Director.”.

Director-General of Trade and
Industry

2006

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 a person carrying on the business of exporting textiles to the Member States of the European Union may be registered as a textiles trader under Part IV of the principal Regulations; 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 be subject to the production notification requirement under Part IIA of the Import and Export Ordinance (Cap. 60).

Chapter:	60A	Title:	IMPORT AND EXPORT (GENERAL) REGULATIONS	Gazette Number:	L.N. 155 of 2004
Schedule:	4	Heading:		Version Date:	01/01/2005

[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; or

(ii) the United States of America; or;

(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. 155 of 2004
Schedule:	5	Heading:		Version Date:	01/01/2005

[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

(L.N. 155 of 2004)

Item	Countries or Places	Textiles	Process
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.

(L.N. 155 of 2004)

PART II

(Repealed L.N. 155 of 2004)

PART III

"PERMITTED PERIOD" FOR PURPOSES OF SECTION 6AA(1) OF THE ORDINANCE

On or before the day on which production of the specified textiles commences, but not earlier than 3 working days before that day.

(1) In this Part, "working day" (工作天) means any day other than a general holiday,

a gale warning day or a black rainstorm warning day.

(2) In subparagraph (1), "gale warning day" (烈風警告日) and "black rainstorm warning day" (黑色暴雨警告日) have the same meanings as in section 71(2) of the Interpretation and General Clauses Ordinance (Cap 1).

PART IV

"MATERIAL PARTICULAR" FOR PURPOSES OF SECTION 6AA(1) OF THE ORDINANCE

1. Name, address and registration number of the manufacturer.
2. Name, address and registration number of the subcontractor.
3. Product descriptions.
4. Quantity of products.
5. Category number of products.
6. Country or place of destination.
7. Descriptions and sources of component parts.
8. Production order number.
9. Buyer's order number or reference number or mark specifically assigned to identify the purchasing transaction in respect of the particular consignment in question.
10. Local subcontracting arrangement.
11. Commencement and completion dates of production.
12. Place of production.
13. Other particulars from time to time specified by the Director for the purpose of enabling him to determine whether or not a production notification should be validated.

For the purposes of items 1 and 2, "registration number" (登記編號) means the number by which the manufacturer or subcontractor is registered under Part IIIA of these regulations or regulation 7 of the Export (Certificates of Origin) Regulations (Cap 60 sub. leg. H)

PART V

SPECIFIED TEXTILES EXEMPTED FROM PART IIA OF THE ORDINANCE

1. Consignment of specified textiles consisting solely of samples that-
 - (a) are of the same style; and
 - (b) do not exceed 60 pieces in quantity.

2. Consignment of specified textiles consisting solely of samples that-

(a) are of the same style; and

(b) are intended to be distributed free of charge for the purpose of advertising those garments; and

(c) do not exceed 120 pieces in quantity.

3. Specified textiles that are-

(a) exported by an individual and are either for his personal use or a bona fide gift to another individual; or (L.N. 155 of 2004)

(b) exported as part of the provisions required for consumption or use by the crew or passengers of the vessel, aircraft or vehicle on which the textiles are carried,

and are in each case in a quantity that is reasonable having regard to the purpose for which they are exported.

(Fifth Schedule added L.N. 193 of 1999)