

LEGISLATIVE COUNCIL BRIEF

AIR CARGO TRANSHIPMENT (FACILITATION) BILL 2000

INTRODUCTION

A At the meeting of the Executive Council on 7 March 2000, the Council ADVISED and the Chief Executive ORDERED that the Air Cargo Transhipment (Facilitation) Bill 2000, at Annex A, should be introduced into the Legislative Council, to provide for the relaxation of import and export control on a number of categories of articles brought into and taken out of Hong Kong as air transhipment cargo.

BACKGROUND AND ARGUMENT

2. The Chief Executive announced in his 1999 Policy Address our determination to further develop Hong Kong into an international and regional air cargo hub. We need to provide the conditions to facilitate this development. In the process, we have listened closely to the plans being developed by the air cargo industry for a substantial expansion of their air cargo transhipment business in Hong Kong. In particular, there are express cargo operators looking into the setting up of their regional express cargo hubs in Hong Kong. We consider that a suitable environment for the hub operation, which is characterized by a smooth flow of massive volumes of air transhipment cargo within a short period of time, should be created.

3. Specifically, the concept of a hub involves de-consolidating different consignments of air transhipment cargo destined for different countries arriving on board incoming flights, sorting and re-consolidating them at the airport, and then placing them on board connecting flights according to their respective end destinations within a very tight time frame. In so doing, the airlines can pool their resources and maximize the

use of their airlift capacity. For express cargo operators with a number of dedicated flights under their deployment, they use the hub operation to complete the whole process of de-consolidation, sorting and re-consolidation within about a 3-hour time span during the night for service delivery the following day.

4. At present, air transshipment cargo going through Hong Kong are treated as both “import” and “export”; those which require licences for "import" and/or "export" are accordingly subject to licensing control during air transshipment.

5. Government is committed to maintaining stringent controls against illegal diversion or smuggling of air transshipment cargo into Hong Kong. The restricted areas of the Airport and its cargo terminals, where the operations of air cargo transshipment are held, are kept under tight security control and placed under close surveillance by the Customs and Excise Department. All cargo manifests have to be submitted to the Department before or at the arrival of the flights and no cargo is released for import or re-export without Customs clearance. We therefore believe that the risk of illegal diversion of the cargo in air transshipment is low and there is a case for reviewing the licensing requirements for the articles concerned without compromising the integrity of our trade controls.

6. Accordingly, we have conducted a thorough examination of the present arrangements and concluded that -

- (a) There is a need to maintain licensing requirements for certain categories of air transshipment cargo for trade, public health, safety and internal security reasons. Examples are hazardous wastes, narcotic drugs, infectious materials such as germs and human remains, explosives and sensitive strategic commodities. Licensing control is often necessary to track the movement of such cargo worldwide for prevention of proliferation and where relevant our controlling measures are drawn up in line with international obligations that Hong Kong has signed up to.
- (b) Relaxing the import/export control over certain

miscellaneous categories of non-sensitive air transshipment cargo would not pose threats to our controls. These include-

- dutiable commodities such as alcoholic liquor and tobacco
- radiocommunication transmitting apparatus
- pharmaceutical products and medicines
- optical disc mastering and replication equipment
- rice
- left hand drive vehicles
- outboard engines
- pesticides
- food materials such as colouring matter and preservatives
- meat and animal products
- marine fish
- smokeless tobacco products
- ozone depleting substances

In relaxing the import/export control for the air transshipment of such cargo, we will institute adequate safeguard measures to guard against their unauthorized movement. If any such air transshipment cargo is removed from the Airport and brought to anywhere else in Hong Kong, it would be deemed that the relevant import control provisions had been breached and the importer would be held liable to the respective penalty provisions under the existing laws. Details of the Customs control at the Airport together with our risk assessment and additional safeguards to be implemented are set out at Annex B.

- (c) Hong Kong is determined to maintain the integrity and effectiveness of our controls to deter the illegal diversion of strategic commodities. Having regard to this strong policy commitment, we propose to implement a Transshipment Cargo Exemption Scheme to give due facilitation to air transshipment of less sensitive strategic commodities. Under this Scheme, legitimate air carriers and their agents could seek exemption of individual licensing requirements under the close monitoring of the Director-General of Trade. Details of the Scheme are set out at Annex C.

C

THE BILL

7. The Bill is in the form of an omnibus bill and seeks to give effect to the proposed changes set out in paragraphs 6(b) and (c) above. It contains no substantive provisions of its own and carries legislative amendments to four ordinances and 15 regulations as set out in Schedules 1 to 9 to the Bill.

8. In a similar manner, these legislative amendments first seek to create in the respective ordinances or regulations a definition for “air transshipment cargo” which means transshipment cargo that is both imported and exported in an aircraft and which remains at all time within the cargo transshipment area of the Airport. Depending on the nature of the existing control or the type of article involved, the Bill further seeks to -

- (a) Where import/export of an article requires a licence, permit or certificate (except dutiable commodities and strategic commodities)**

Schedules 1 (all except Sections 3, 9 and 10), **2, 4** (Sections 9 and 10), **5, 6, 7, 8 and 9** to the Bill amend the import/export control provisions in the respective ordinances or regulations to the effect that such provisions will not apply if an article is brought into and subsequently taken out of Hong Kong as air transshipment cargo or air

transit cargo (if not exempted under the existing legislation). If, however, an article is removed from the cargo transshipment area of the Airport, the article is deemed to have been imported at that time and to have been imported by the person who brought the article into Hong Kong as air transshipment cargo, and it becomes subject to the normal licensing requirements on that basis.

(b) Where import of an article is prohibited

Schedule 4 (all except Sections 9 and 10) to the Bill amends the import prohibition provisions in the respective regulations to the effect that such provisions will not apply if an article is brought into and subsequently taken out of Hong Kong as air transshipment cargo. If, however, an article is removed from the cargo transshipment area of the Airport, the article is deemed to have been imported at that time and to have been imported by the person who brought the article into Hong Kong as air transshipment cargo, and it becomes subject to the normal import prohibition on that basis.

(c) For dutiable commodities

Schedule 3 to the Bill amends the permit requirements for the movement of dutiable commodities within the cargo transshipment area to the effect that such requirements will not apply if the dutiable commodities are brought into and subsequently taken out of Hong Kong as air transshipment cargo and allows a person to have in his possession, custody or control dutiable commodities for handling as air transshipment cargo within the cargo transshipment area.

(d) For strategic commodities

Schedule 1 (Sections 3, 9 and 10) to the Bill provides that –

- (i) the Director-General of Trade may exempt a person from licensing requirements with respect to the

transhipment by air of any strategic commodities set out in the First Schedule to the Import and Export (Strategic Commodities) Regulations except the items set out in the Second Schedule to the same Regulations;

- (ii) the Director may impose conditions upon any exemption so made; and
- (iii) any person who is so exempted but fails to comply with any such condition under the exemption commits an offence.

9. The legislative amendments in the Bill also seek to provide in the relevant ordinances or regulations a defence of "reasonable diligence" for a person charged with any import or export offence in relation to air transhipment cargo arising from the fact that such cargo has been removed from the cargo transhipment area.

LEGISLATIVE TIMETABLE

10. The legislative timetable for the Bill will be -

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| Publication in the Gazette | 10 March 2000 |
| First Reading and commencement of Second Reading debate | 15 March 2000 |
| Resumption of Second Reading debate, committee stage and Third Reading | to be notified |

BASIC LAW IMPLICATIONS

11. The Department of Justice advises that the Bill does not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

12. The Department of Justice advises that the Bill is consistent with the human rights provisions of the Basic Law.

FINANCIAL AND STAFFING IMPLICATIONS

13. The removal of the licensing requirement will reduce the workload of a number of departments responsible for the issue of the licences. However, as the number of these licences issued each year is small, any savings arising from the implementation of the proposal should be negligible. The Customs and Excise Department will introduce additional safeguards to guard against any possible abuses and will absorb any additional workload generated from within its existing allocation. There is no requirement for additional resources for the implementation of the Transshipment Cargo Exemption Scheme.

ECONOMIC IMPLICATIONS

14. The introduction of the Bill will be a timely and strong message to the international community reaffirming the Government's intention to further develop Hong Kong into an international and regional air cargo hub. The trade facilitative measures are expected to directly bolster trade in air transshipment cargo and indirectly stimulate investment interests in the development of air cargo hubs and logistics services in Hong Kong.

ENVIRONMENT IMPLICATIONS

15. There is no environmental implication arising from the Bill.

PUBLIC CONSULTATION

16. The key players of the air cargo industry have been consulted on

the outline of the Bill and their responses are favourable. Our major trading partners have been informed of the proposal through their local consulates. The Legislative Council Panel on Trade and Industry was also consulted on 15 February 2000. Their comments have been taken into account in the Bill.

PUBLICITY

17. This Legislative Council brief and a press release will be issued on 9 March 2000. A spokesman will be available to handle enquiries.

ENQUIRIES

18. Any enquiries on this brief should be directed to Mr Y.K. TAM, Assistant Secretary for Trade and Industry, at 2912 8578 or by facsimile at 2541 3191.

Trade and Industry Bureau

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