

REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES

Notification under Article 7.3 of the Agreement on
Import Licensing Procedures¹

HONG KONG, CHINA

The following communication², dated 29 September 2011, is being circulated at the request of the delegation of Hong Kong, China.

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¹ See document G/LIC/3, Annex, for the Questionnaire.

² This notification replaces the notification circulated in document G/LIC/N/3/HKG/13 dated 18 September 2009. Annexes I-XXIX referred to in the notification are available for consultation in the Secretariat (Market Access Division) in English only. Most of the Annexes can also be viewed/downloaded from the webpages specified.

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I. TRADE AND INDUSTRY DEPARTMENT

A. IMPORT LICENSING SYSTEM FOR TEXTILES

Outline of Systems

1. The Hong Kong Special Administrative Region (HKSAR) maintains an import licensing system for textiles imports from the Mainland of China (the Mainland). It functions as a surveillance system to back up HKSAR's textiles export control system. The import licensing system is administered by the Trade and Industry Department. Importers are required to cover each consignment with textiles import licences issued by the Director-General of Trade and Industry prior to the actual arrival of the goods from the Mainland, unless they have lodged textiles import notifications in lieu of import licences if the textiles traders concerned have been registered under the Textiles Trader Registration Scheme and so exempted from the import licensing requirements.

Purposes and Coverage of Licensing

2. The licensing system applies only to the importation of textiles products from the Mainland, with the exception of:

- (a) Textiles transshipments;
- (b) Woven or knitted fabric swatches and sample yarn imported by air and not exceeding 0.8 m² in size in respect of fabric swatches and 1.2 kg in weight in respect of each type of yarn;
- (c) Textiles articles imported by an individual for his personal use or as bona fide gifts to another individual; and
- (d) Textiles articles imported as part of the provisions required for consumption or use by the crew or passengers of the vessel, aircraft or vehicle on which the articles are carried.

For (c) and (d), textiles products imported are exempted from licensing requirement provided that they are in a quantity which is reasonable having regard to the purpose for which they are imported.

3. The system applies only to textiles coming from the Mainland.

4. The textiles import licensing system is not intended to restrict the quantity or value of imports, but to function as a surveillance system to back up HKSAR's textiles export control system. Traders are, however, provided with a convenient alternative of registering under the Textiles Trader Registration Scheme, under which registered textiles traders need only to lodge import notifications completed by themselves, in lieu of licences issued by the Trade and Industry Department, to cover their textiles shipments imported from the Mainland.

5. The textiles import licensing system is a statutory requirement maintained under the Import and Export Ordinance, Chapter 60 of the Laws of Hong Kong which also provides for registered textiles traders to be exempted from certain licensing requirements. The law does not provide for administrative discretion to designate particular type of textiles imports to be subject to licensing requirement. Any alterations to the textiles import licensing system require legislative approval.

Procedures

6. Not applicable.

7.(a) A textiles importer may obtain a consignment-specific textiles import licence prior to, but not more than, 28 days before the arrival of goods as the textiles import licence is valid for 28 days. Under normal circumstances, a consignment-specific textiles import licence application is approved two clear working days after application. Post-import applications i.e. after the goods in question have arrived, may be approved retrospectively only under exceptional circumstances.

For textiles traders registered under the Textiles Trader Registration Scheme, they also have the option to lodge an import notification, to be completed by themselves in paper form or electronic form before importation, where applicable. Electronic service for the submission of textiles notifications is available round-the-clock.

(b) Expeditious issue of a licence may be granted in justified cases.

(c) Import licence applications may be made all year around.

(d) The Trade and Industry Department is the sole administrative organ responsible for the processing and approval of textiles import licences.

8. An application for an import licence is normally approved if the requisite details concerning the import shipment are provided. In the event of refusal to issue a licence, the reasons will be given. The applicant has a right to appeal to the Chief Executive of the HKSAR.

Eligibility of Importers to Apply for Licence

9. All individuals and businesses registered in the HKSAR are eligible to apply for consignment-specific textiles import licences. All importers, exporters, manufacturers, carriers and freight forwarders actively engaged in the textiles trade may apply for registration under the Textiles Trader Registration Scheme. The registration fee is currently HK\$718 per annum.

There are no published lists of authorized importers.

Documentational and Other Requirements for Application for Licence

10. For the application of textiles import licence, the importer has to provide information on particulars of the importer, foreign exporter and details of the consignment.

Samples of Import Licence (Textiles) Form 7 and Import Notification (Textiles) are at Annexes I and II³. No supporting documents are required for applications of Import Licence (Textiles) Form 7 lodged before the arrival of goods.

11. A valid Import Licence (Textiles) Form 7 or a duly completed Import Notification (Textiles) is required upon actual importation.

12. The fee for an application for Import Licence (Textiles) Form 7 is HK\$45. A fee of HK\$4.3 is currently charged for each textiles notification lodged in paper form whereas HK\$0.7 is payable for each electronic lodgement of a fresh textiles notification.

13. No deposit or advance payment is required for Import Licence (Textiles) Form 7.

Conditions of Licensing

14. A consignment-specific textiles import licence is valid for 28 days from the date of issue. The validity of a licence cannot be extended. Under normal circumstances, the licence applicant should request cancellation of the expired licence and apply for a new licence.

15. A textiles import licence not utilised within the validity period must be returned to the Trade and Industry Department for cancellation. Similarly, a textiles import licence should be returned for amendment if necessary. The Trade and Industry Department may take legal and/or administrative action against import of textiles not under and in accordance with a licence.

16. Licence is not transferable.

17. No other conditions attached to the issue of a licence.

Other Procedural Requirements

18. No other administrative/procedural requirements prior to importation.

19. No foreign exchange control.

B. IMPORTATION OF STRATEGIC COMMODITIES

Outline of Systems

1. The licensing control system on the import of strategic commodities is administered by the Trade and Industry Department. However, certain strategic commodities such as arms and ammunition, explosives and radio transmitting equipment are also subject to the controls administered by other government departments.

³ Samples of Import Licence (Textiles) Form 7 and Import Notification (Textiles) can be viewed from: http://www.tid.gov.hk/english/aboutus/form/sampleform/forms_maincontent.html (English version).

Purposes and Coverage of Licensing

2. Import licences are required for strategic commodities. Examples of strategic commodities include certain arms and ammunition, explosives, nuclear materials, facilities and equipment, body armours, carbon fibres and preregs, high-speed digital computers, microprocessors made from compound semiconductors, sophisticated communication systems, encryption equipment for information security, night vision image intensifier systems, chemical weapon precursors and manufacturing facilities, certain biological agents, plant pathogens and related manufacturing equipment, and facilities and articles for a use relating to nuclear, chemical or biological weapons.
3. The licensing system applies to goods originating in and coming from any places.
4. The import licensing system on strategic commodities is not intended to restrict the quantity or value of imports. Instead, it is to prevent HKSAR from being used as a conduit for proliferation of weapons of mass destruction and to ensure HKSAR's continuous access to technology and high-tech products.
5. The import licensing system is a statutory requirement maintained under respective Ordinances and their subsidiary legislation under the Laws of Hong Kong (see below). Legislation does not leave designation of products to be subject to licensing to administrative discretion. Any changes such as subjecting a new product to import licensing or removal of an existing product therefore require legislative approval.

Strategic commodities are subject to the control of the Import and Export (Strategic Commodities) Regulations made under the Import and Export Ordinance, Cap. 60, Laws of Hong Kong. Certain strategic commodities are also subject to the controls of other Ordinances:

<u>Products</u>	<u>Relevant Ordinances</u>
(a) Radio transmitting equipment	Sections 8 and 9 of the Telecommunications Ordinance, Cap. 106.
(b) Arms, ammunition and explosives	Arms and ammunition are controlled under Firearms and Ammunition Ordinance, Cap. 238 and explosives are controlled under Dangerous Goods Ordinance, Cap. 295.

Procedures

6. Not applicable.
- 7.(a) Licence applications should be lodged in advance of importation taking into account the processing time required by the Trade and Industry Department, which is normally two and a half clear working days for import licence applications covering strategic commodities, and the processing time of other departments:
 - (i) Hong Kong Police Force (for arms and ammunition): normally two working days (by hand) or nine working days (by post) for a Limited Licence for Possession; 24 working days for an Exemption or a Licence for Possession; and six to twelve months for the Arms Dealer's Licence, provided that full details are given by the applicant.

- (ii) Office of the Telecommunications Authority (for radio transmitting equipment): within four working days for Radio Dealers Licence and one clear working day for Import Permit.
 - (iii) Marine Department (for direct transshipment of explosives in vessels): 48 hours before arrival of the goods.
 - (iv) Civil Engineering and Development Department (for endorsement on import licence application of explosives): instantly.
- (b) Requests for expeditious processing of import licence application will be entertained when there are sufficient justifications. For strategic commodities imported without a licence owing to unforeseen circumstances, based on the merit of individual cases, consideration will be given to issuing an import licence retrospectively on an exceptional basis.
- (c) There is no limitation as to the period of the year during which applications for licence and/or importation may be made.
- (d) Trade and Industry Department is responsible for the processing and approval of strategic commodities licences. For applications concerning arms, ammunition, explosives and radio transmitting equipment, the importer has to separately approach the relevant government departments in paragraph I.B.7(a) above for endorsement on import or legitimate possession of the subject products.

8. Applications for import of strategic commodities for legitimate use would normally be approved, unless there is doubt on the end-use of the goods or there is suspicion that the items imported may be re-exported illegally. Import licence applications may also be refused in cases where an international trade sanction on the exporting country/ place is in force. In the case of refusal to issue a licence, the reasons will be given. The applicant has a right to appeal to the Chief Executive of the HKSAR by writing to the Chief Secretary for Administration. The right to appeal to the Chief Executive is statutorily provided.

Eligibility of Importers to Apply for Licence

9. All firms, institutions and individuals in Hong Kong are eligible to apply for import licences except under special circumstances where licensing facilities to them are denied owing to malpractice of the firm/institution/individual or some other special reasons.

For the purpose of maintaining interference control, any person who imports or exports radio transmitting equipment (except equipment which is article in transit or transshipment cargo⁴) is required to obtain a permit from the Telecommunications Authority unless he is a holder of a "Radio Dealers Licence (Unrestricted)" issued by the Telecommunications Authority to deal in the course of trade or business in radio transmitting apparatus.

For arms and ammunition, all firms, institutions and individuals must obtain an Exemption, an Arms Dealer's Licence or a Licence for Possession from the Hong Kong Police Force before applying for a Limited Licence for Possession and an import licence from the Hong Kong Police Force and the Trade and Industry Department respectively. The prescribed fee for a Limited Licence for Possession is HK\$72; Licence for Possession is HK\$1,790; an Exemption is HK\$470; and an Arms Dealer's Licence is from HK\$4,470 to HK\$10,650.

⁴ Radio transmitting equipment in transit is exempted from the licensing requirement. In addition, radio transmitting equipment which is transshipment cargo is subject to a pre-notification system for trade facilitation purpose.

Documentational and Other Requirements for Application for Licence

10. A sample form is at Annex III⁵. Catalogues/technical specifications of the products under application have to be lodged with the application for technical assessment purpose. As the case warrants, additional supporting documents/information may be required to substantiate the case.

For arms and ammunition, samples of application forms for a Licence for Possession, a Limited Licence for Possession, an Exemption and an Arms Dealer's Licence mentioned in paragraph I.B.7(a)(i) are at Annexes IV, V, VI and VII⁶ respectively.

For radio transmitting equipment, samples of application forms for Radio Dealers Licence and Import Permit mentioned in paragraph I.B.7(a)(ii) are at Annexes VIII and IX⁷ respectively.

11. A valid import licence is required upon actual importation.
12. No licensing fee is charged for the Import Licence for Strategic Commodities.
13. No deposit or advance payment is required.

Conditions of Licensing

14. An import licence covering strategic commodities is valid for six months from the date of issue. The validity cannot be extended under normal circumstances.

15. No penalty for non-utilization. Importers should however return an unused licence to the Trade and Industry Department for cancellation.

16. Not transferable.

17. An import licence concerning strategic commodities is usually issued with the following conditions: "Re-export must be covered by an export licence issued by the Director-General of Trade and Industry" and "The goods covered by this licence are not to be used in relation to nuclear, biological or chemical weapons or missile capable of delivering these weapons".

Other Procedural Requirements

18. No other administrative/procedural requirements prior to importation.
 19. No foreign exchange control.
- C. IMPORT LICENSING SYSTEM ON RICE, ROUGH DIAMONDS, PESTICIDES (METHYL BROMIDE), AND OZONE-DEPLETING SUBSTANCES

Outline of Systems

1. Licences/certificates are required for import of rice (unless for purposes specifically exempted under the relevant legislation), rough diamonds, pesticides (methyl bromide), and ozone-depleting

⁵ Sample of the form can be viewed from:
http://www.stc.tid.gov.hk/english/download/files/il_paper_form.pdf (English version).

⁶ The application forms can be downloaded from: <http://www.police.gov.hk> (English version).

⁷ The application forms can be downloaded from: <http://www.ofta.gov.hk/en/howto/form-list.html> (English version).

substances. These import measures are applied for health, environmental protection reasons, to maintain a stable supply of rice and a reserve stock for emergencies, or for fulfilment of HKSAR's international obligations. The licensing system for the above products is primarily operated by the Trade and Industry Department. Ozone-depleting substances import licences are issued by the Trade and Industry Department under delegation from the Environmental Protection Department. Import licences for pesticides containing methyl bromide, an ozone-depleting substance, are issued by the Trade and Industry Department.

Purposes and Coverage of Licensing

2. Import licensing is intended for the following purposes:

<u>Products</u>	<u>Purposes</u>
(a) Rice	Maintaining a stable supply and a reserve stock for emergencies.
(b) Rough diamonds	International obligation.
(c) Pesticides	Public health.
(d) Ozone-depleting substances	Environmental protection.

3. The system applies to products coming from all places except items (b) and (d) of paragraph I.C.2 above. For item (b), all imports of rough diamonds from non-participants of the Kimberley Process⁸ have been banned since 2 January 2003. For item (d), the imports of ozone-depleting substances are banned unless such imports are allowed under the Montreal Protocol on Substances that Deplete the Ozone Layer.

4. The principal objective of the import licensing/certification system is not to restrict the quantity or value of imports, but for purposes set out in paragraph I.C.2 above. A quantitative limit is imposed for imports of some ozone-depleting substances to ensure that the amount of ozone-depleting substances retained for local consumption does not exceed levels agreed under the Montreal Protocol.

5. The import licensing/certification system is a statutory requirement maintained under respective Ordinances under the Laws of Hong Kong (see below). Legislation does not leave designation of product to be subjected to licensing/certification to administrative discretion. Any changes such as subjecting a new product to import licensing/certification or removal of an existing product therefrom require legislative approval.

<u>Products</u>	<u>Relevant Ordinances</u>
(a) Rice	Reserved Commodities Ordinance, Cap. 296.
(b) Rough diamonds	Import and Export (General) Regulations, Import and Export Ordinance, Cap. 60.
(c) Pesticides	Pesticides Ordinance, Cap. 133. Import and Export (General) Regulations, Import and Export Ordinance, Cap. 60.
(d) Ozone depleting substances	Ozone Layer Protection Ordinance, Cap. 403.

⁸ The Kimberley Process is a negotiating forum originated from discussions in the United Nations General Assembly regarding rebel activities in some parts of Africa. The forum aims at stopping trade in "conflict diamonds" from fuelling armed conflicts, activities of rebel movements and illicit proliferation of armament.

Procedures

6. Having all other ozone-depleting substances (except for essential or critical uses) fully banned, only the importation of hydrochlorofluorocarbons (HCFCs) for local consumption is subject to quantitative restriction:

- I. Under the current quota allocation system, annual quotas are allocated automatically to the existing registered importers, based on their twelve-month performance in the previous control year as normal quotas. If there are any unallocated normal quotas and/or any quantities of HCFCs that are exported from Hong Kong to other places in the control period, the amount will be allocated to the free quotas which are open to all applicants on a first-come-first-served basis. Before the end of the control period, letters are sent to existing registered importers informing them the normal quotas allocation for the subsequent control year. Within the control period, all registered importers could also apply for free quotas. However, for the registered importers who have been allocated normal quotas, they cannot apply for free quota until their normal quotas have been exhausted. A common ceiling of a certain amount of quota is assigned to each individual importer applying for free quotas. The ceiling is subject to change and review in accordance with market situations. Information concerning the quota allocation and licensing systems is available to the general public through a website: <http://www.epd.gov.hk/epd/english/olp>. Information on the total amount of quota under the quota allocation system is also available upon request.
- II. The size of quotas, which is calculated on yearly basis, is determined according to the requirements of the Montreal Protocol. Licences are issued to registered companies on individual consignment basis.
- III. The Government will closely monitor the utilization of quotas and licences. Importers are required to notify the Trade and Industry Department of details of the import within 14 days after importation. Unused allocations will not be carried forward to the quotas for the succeeding control period because the maximum level for each control period i.e. per calendar year is fixed in accordance with the requirements of the Montreal Protocol. A list of quota holders is available upon request.
- IV. Submission of applications for licences may be made at any time. However, applications for imports of HCFCs for local consumption will only be considered if the applicants have enough valid quotas or sufficient quotas could be allocated to the applicants for the relevant control period. Methyl bromide could be imported with a valid licence provided that importers have obtained a valid Pesticides Permit from the Agriculture, Fisheries and Conservation Department and the import of methyl bromide is restricted to quarantine and pre-shipment applications.
- V. Import licences are normally issued in two clear working days.
- VI. The current control period for ozone-depleting substances is from 1 January to 31 December 2011. To facilitate imports at the beginning of the succeeding control period, the Trade and Industry Department will provide licensing service about one week prior to the expiry of the current control period.
- VII. Importers only need to approach the Trade and Industry Department for registration and application and issue of licences.
- VIII. Normal quotas are allocated to registered importers with regard to their performance in the previous control period. Free quotas for HCFCs, if available, are allocated throughout the

control period to all eligible applicants (see paragraph I.C.9(c) below), including new importers, on a first-come-first-served basis. A common ceiling of a certain amount of quota is assigned to each individual importer applying for free quota. The ceiling is subject to change and review in accordance with market situations. Registered importers can also acquire the quotas through quota transfer from the existing normal quota holders.

IX-X. Not applicable.

XI. In the case of import for re-export where quotas are not required, combined "import and export licence" or separate licences where applicable, will be issued on condition that the goods will have to be exported within the validity period of the licences.

7.(a) Application for import licences/certificates should be lodged in advance of importation taking into account the processing time. The processing time is one clear working day for rice and two clear working days for ozone-depleting substances and methyl bromide. As regards the import certificates for rough diamonds, instant service is provided.

(b) In exceptional cases, a licence can be granted immediately on request.

(c) There are no limitations as to the period of the year during which application for licence/certificate and/or importation may be made.

(d) The Trade and Industry Department is the sole administrative organ for the processing and approval of import licences/certificates.

8. Under normal circumstances, an application for an import licence/certificate is usually granted if it meets the ordinary criteria. In the event of refusal, the reasons will be given. Applicants for items 2(a), (b) and (c) above may appeal to the Chief Executive of the HKSAR in the event of refusal to issue an import licence/certificates. The Chief Executive may confirm, vary or reverse the decision of the Director-General of Trade and Industry. The right to appeal to the Chief Executive is provided in relevant statutes. For item 2(d), applicants may appeal to the Administrative Appeals Board against decision of refusal to grant a licence by the Director of Environmental Protection.

Eligibility of Importers to Apply for Licence

9.(a) For rice, only stockholders registered with the Trade and Industry Department may import rice into Hong Kong for local consumption. Registration is free of charge and open to any person/entity carrying on a business registered in Hong Kong.

(b) For rough diamonds, a person carrying on a business of importing rough diamonds must be registered with the Trade and Industry Department first before it can apply for an import certificate. Registration is open to all persons on payment of a fee of HK\$645 (valid for 2 years). An up-to-date list of registered rough diamond traders is available upon request.

(c) For ozone-depleting substances, a company is required to register with the Trade and Industry Department before it can apply for an import licence. Registration is open to all companies on payment of a fee of HK\$2,430 (valid for 2 calendar years). A list of registered importers is available upon request.

(d) For pesticides (methyl bromide), a company is required to hold a pesticides permit issued by the Agriculture, Fisheries and Conservation Department before it can apply for an import licence except where the pesticide is being imported on a valid through bill of lading. If imported on such a bill of lading, no pesticides permit is required. Application for a

pesticides permit is open to all business enterprises wishing to deal in pesticides. A fee is charged for the permit, which may range from HK\$855 to HK\$1,435 depending on the type of permit. There is no published list of permitted importers.

Documentational and Other Requirements for Application for Licence/Certificate

10. In general, information to be supplied includes particulars of the importer, of the importation and of the products to be imported. Certain documents are also required to support licence/certificate applications of the following products:

<u>Products</u>	<u>Documents</u>
(a) Rough diamonds	A copy of the Kimberley Process Certificate issued by the relevant exporting country/place.
(b) Pesticides (methyl bromide)	A pesticides permit issued by the Agriculture, Fisheries and Conservation Department authorizing the importer to trade in pesticides or a valid through bill of lading.

11. The import licence is the only document required on actual importation.

12. Apart from applications covering ozone-depleting substances and rough diamonds, no licensing fee is required for import licence applications. For ozone-depleting substances licences, a fee of HK\$815 and HK\$1,210 is charged on the issue of an import licence and a combined "import and export licence" respectively. The price of ozone-depleting substances import licence forms and combined "import and export licence" forms are HK\$28 per pad (containing 5 sets) and HK\$34 per pad (containing 5 sets) respectively. The price of non-textiles import licence forms is HK\$26 per pad (containing 20 sets)/HK\$3 per set. For rough diamonds import certificate, a fee of HK\$175 is charged on the issue of a certificate and the price of import certificate forms is HK\$21 per pad (containing 20 sets)/HK\$6 per set.

13. No deposit or advance payment is required.

Conditions of Licensing

14. Unless otherwise stated, an import licence/certificate is valid for 28 days for rough diamonds, six weeks for rice, sixty days for ozone-depleting substances and pesticides (methyl bromide). The period of validity can be extended by the Director-General of Trade and Industry depending on the merits of individual requests.

15. No penalty for non-utilization. Importers should however cancel or amend the licences/certificates.

16. Not transferable.

17. Apart from the licensing/certification conditions printed on the front or back of the import licence/certificate (samples of the Import Licence Form 3 applicable to items (a) and (c) in paragraph I.C.2, Import Certificate for item (b) in paragraph I.C.2, Import Licence Form and Combined "Import and Export Licence" Form for item (d) in paragraph I.C.2 are respectively at

Annexes X, XI, XII and XIII⁹), additional conditions set out in Annex XIV are applicable to rice imported for local consumption and for re-export respectively.

Other Procedural Requirements

18. No other administrative/procedural requirements prior to importation.
19. No foreign exchange control.

II. DEPARTMENT OF HEALTH

- A. IMPORT LICENSING SYSTEM ON PHARMACEUTICAL PRODUCTS AND MEDICINES, PROPRIETARY CHINESE MEDICINES AND 36 CHINESE HERBAL MEDICINES, AND RADIOACTIVE SUBSTANCES AND IRRADIATING APPARATUS

Outline of Systems

1. Licences are required for import of pharmaceutical products and medicines, proprietary Chinese medicines and 36 Chinese herbal medicines, and radioactive substances and irradiating apparatus. These import measures are applied for safety, health, security, or for fulfilment of HKSAR's international obligations. Import licences for these products are issued by the Department of Health under delegation from the Trade and Industry Department.

Purposes and Coverage of Licensing

2. Import licensing is intended for the following purposes:

<u>Products</u>	<u>Purposes</u>
(a) Pharmaceutical products and medicines	Public health.
(b) Proprietary Chinese medicines and 36 Chinese herbal medicines	Public health.
(c) Radioactive substances and irradiating apparatus	International obligation, public safety, security and health.

3. The system applies to products coming from all places.

4. The principal objective of the import licensing system is not to restrict the quantity or value of imports, but for purposes set out in paragraph II.A.2 above.

5. The import licensing system is a statutory requirement maintained under respective Ordinances under the Laws of Hong Kong (see below). Legislation does not leave designation of product to be subjected to licensing to administrative discretion. Any changes such as subjecting a new product to import licensing or removal of an existing product therefrom require legislative approval.

⁹ Samples of these forms can be viewed from: http://www.tid.gov.hk/english/aboutus/form/sampleform/forms_maincontent.html (English version).

<u>Products</u>	<u>Relevant Ordinances</u>
(a) Pharmaceutical products and medicines	Pharmacy and Poisons Ordinance, Cap. 138. Import and Export (General) Regulations, Import and Export Ordinance, Cap. 60.
(b) Proprietary Chinese medicines and 36 Chinese herbal medicines	Chinese Medicine Ordinance, Cap. 549. Import and Export (General) Regulations, Import and Export Ordinance, Cap. 60.
(c) Radioactive substances and irradiating apparatus	Radiation Ordinance, Cap. 303. Import (Radiation) (Prohibition) Regulations, Import and Export Ordinance, Cap. 60.

Procedures

6. Not applicable.
- 7.(a) Application for import licences should be lodged in advance of importation taking into account the processing time. The processing time is one clear working day for radioactive substances and irradiating apparatus; and two working days for pharmaceutical products and medicines; and proprietary Chinese medicines and 36 Chinese herbal medicines.
- (b) In exceptional cases, a licence can be granted immediately on request.
- (c) There are no limitations as to the period of the year during which application for licence and/or importation may be made.
- (d) Department of Health is the sole administrative organ for the processing and approval of import licences.
8. Under normal circumstances, an application for an import licence is usually granted if it meets the ordinary criteria. In the event of refusal, the reasons will be given. Applicants may appeal to the Chief Executive of the HKSAR in the event of refusal to issue an import licence. The Chief Executive may confirm, vary or reverse the decision of the Director-General of Trade and Industry. The right to appeal to the Chief Executive is provided in relevant statutes.

Eligibility of Importers to Apply for Licence

- 9.(a) For import of radioactive substances or irradiating apparatus, a separate Radioactive Substances Licence or Irradiating Apparatus Licence, as appropriate, issued by the Radiation Board is required.

Radioactive Substances Licence: the applicant is required, *inter alia*, to appoint a person to supervise the activities under the licence. The supervisor should have undergone the necessary training on radiation protection recognised by the Radiation Board. Licence fee is HK\$3,190.

Irradiating Apparatus Licence: for sale of irradiating apparatus in Hong Kong, the applicant is required to provide the specifications of the irradiating apparatus, and test reports showing conformance with international standards, for assessment by the Radiation Board. Licence fee is HK\$570.

- (b) For pharmaceutical products and medicines, only those products which have been registered with the Pharmacy and Poisons Board are allowed to be imported for the purpose of local sale or distribution. A company is required to hold an appropriate dealer's licence issued by the Pharmacy and Poisons Board before it can apply for an import licence. Application for the dealer's licence is open to all business enterprises dealing in pharmaceutical products and medicines. A fee is charged for the licence, which may range from HK\$625 to HK\$2,680 depending on the type of licence. There is a published list of licensed importers and exporters of pharmaceutical products and a published list of wholesalers of poisons in the Pharmaceutical Service website: <http://www.psdh.gov.hk>.
- (c) For proprietary Chinese medicines, only those products which have been registered with the Chinese Medicine Board are allowed to be imported for the purpose of local sale or distribution. Application for import licence is also required for import of proprietary Chinese medicines for re-export purpose. For Chinese herbal medicines, applications are required only for import of 36 Chinese herbal medicines (31 Chinese herbal medicines in Schedule 1 and 5 Chinese herbal medicines in Schedule 2). A company is required to hold an appropriate trader's licence issued by the Chinese Medicine Board before it can apply for an import licence. Application for the trader's licence is open to all business enterprises conducting business in proprietary Chinese medicines and Chinese herbal medicines. A fee is charged for the licence, which may range from HK\$1,210 to HK\$3,180 depending on the type of licence. There is a published list of licensed Chinese medicines traders in the Chinese Medicine Council of Hong Kong website: <http://www.cmchk.org.hk>.

Documentational and Other Requirements for Application for Licence

10. In general, information to be supplied includes particulars of the importer, of the importation and of the products to be imported. Certain documents are also required to support licence applications of the following products:

<u>Products</u>	<u>Documents</u>
(a) Radioactive substances and irradiating apparatus	A copy of the Radioactive Substances Licence or Irradiating Apparatus Licence as appropriate issued by the Radiation Board.
(b) Proprietary Chinese medicines and 36 Chinese herbal medicines	A copy of valid trader's licence issued by the Chinese Medicines Board.

11. The import licence is the only document required on actual importation.

12. No licensing fee is required for import licence applications.

13. No deposit or advance payment is required.

Conditions of Licensing

14. Unless otherwise stated, an import licence is valid for six months. The period of validity can be extended by the Director-General of Trade and Industry depending on the merits of individual requests.

15. No penalty for non-utilization. Importers should however cancel or amend the licences.

16. Not transferable.

17. The licensing conditions are printed on the front or back of the import licence (sample of the Import Licence Form 3 is at Annex X¹⁰).

Other Procedural Requirements

18. A removal permit which is issued free of charge by the Radiation Board on behalf of the Commissioner for Labour, is required for moving radioactive substance on vehicles or vessels within the HKSAR. Each conveyance of radioactive substance should be under the supervision of the owner, consignor of the substances or his representative authorised in that behalf, who are holding recognised qualifications on radiological protection.

19. No foreign exchange control.

III. CUSTOMS AND EXCISE DEPARTMENT

A. IMPORT LICENSING SYSTEM FOR DUTIABLE COMMODITIES

Outline of Systems

1. The import of dutiable commodities (tobacco, liquors, methyl alcohol and hydrocarbon oil) is controlled through (i) licensing of importers and (ii) issuing of removal permits. An importer has to be licensed with the Customs and Excise Department before he can apply for removal permit for import and removal of dutiable commodities. With effect from 6 June 2008, duty on wine or liquor with an alcoholic strength of not more than 30 per cent by volume measured at temperature of 20°C has been removed, and licence or permit requirements are also removed for these goods.

Purposes and Coverage of Licensing

2. Removal permit is issued to licensed importers by Customs and Excise Department to control the import and movement of dutiable commodities.

3. The system applies to dutiable commodities coming from all places outside HKSAR.

4. The import licensing system is neither intended to restrict the quantity nor the value of import, but to protect and collect the excise duty imposed on the dutiable commodities. The existing licensing system is deemed satisfactory and no alternative method has been considered.

5. The licence and permit requirement is statutory under the Dutiable Commodities Ordinance, Cap. 109. Legislation does not leave designation of products to be subjected to licensing to administrative discretion. Legislative approval is required should there be any changes in the existing system.

Procedures

6. Not applicable.

7.(a) Application for removal permit from a licensed importer should be lodged in advance of importation taking account of the processing time. For an importer to be licensed, the normal application processing time is not more than 12 working days, provided that full details are given by the applicants. Since the introduction of the electronic EDI-DCP system on

¹⁰ Sample of the form can be viewed from: http://www.tid.gov.hk/english/aboutus/form/sampleform/forms_maincontent.html (English version).

21 July 2002, all permit applications were submitted via recognized electronic service providers. Normally, the issue of a removal permit to a licensed importer requires half a working day, provided that full details are given by the applicants.

- (b) A licence cannot be granted immediately on request because of the time required to process the application.
- (c) There is no limitation of time during the year on the application for licence and/or importation.
- (d) The import licences and removal permits are issued by the Customs and Excise Department only. It is not necessary for the applications to be passed on to other departments or organs for visa, note or approval. The importer is only required to apply for the import licence and removal permit from the Customs and Excise Department. For the removal permit application, applicants have to lodge the application using a recognized electronic service provided by either Tradelink Electronic Commerce Limited, Brio Electronic Commerce Limited or Global e-Trading Services Limited, the electronic service provider specified under the Dutiable Commodities Ordinance.

8. Application for an importer to be licensed will normally be approved provided that the ordinary criteria are met. In case an application is refused, the reason for the refusal will be given to the applicant. An applicant has the right to appeal to the Administrative Appeals Board against the decision of refusal to grant an import licence or a removal permit by the Commissioner of Customs and Excise.

Eligibility of Importers to Apply for Licence

9. All persons, firms and institutions are eligible to apply to be licensed by the Customs and Excise Department.

Documentational and Other Requirements for Application for Licence

10. For an importer to be licensed, information including particulars of the applicant and the premises related to the application has to be provided. For the application of a removal permit, commercial documents relating to the dutiable commodities may be required. Samples of licence application form and licence are respectively at Annexes XV¹¹ and XVI.

11. A removal permit is required upon actual importation of the dutiable commodities. In relation to import of liquors, a certificate of age may be required.

12. The administrative charge for an import licence is HK\$1,090 for each year. The issue of the removal permit is free of charge by Customs and Excise Department and a service charge of permit application by the specified electronic service provider is required.

13. No deposit or advance payment is required.

Conditions of Licensing

14. The import licence for dutiable commodities is valid for one year which can be renewed upon application on a yearly basis.

¹¹ The application form can be downloaded from: http://www.customs.gov.hk/en/trade_facilitation/public_forms/index.html (English version).

15. No penalty for non-utilization.
16. Not transferable.
17. The Commissioner of Customs and Excise may impose special conditions or restrictions in particular cases as he thinks fit.

Other Procedural Requirements

18. No other administrative/procedural requirements prior to importation.
19. No foreign exchange control.
- B. IMPORT LICENSING SYSTEM FOR CONTROLLED CHEMICALS (FOR SUBSTANCES LISTED IN SCHEDULES 1 AND 2 OF THE CONTROL OF CHEMICALS ORDINANCE, CHAPTER 145 ONLY)

Outline of Systems

1. The import of controlled chemicals is controlled through (i) licensing of importers and (ii) issuing of import authorization. An importer has to be licensed with the Customs and Excise Department before he can apply for an import authorization to import the controlled chemicals for each consignment.

Purposes and Coverage of Licensing

2. Import authorization is issued to licensed importers by the Customs and Excise Department to regulate the import of controlled chemicals.
3. The system applies to controlled chemicals coming from any places outside the HKSAR.
4. The import licensing system is not intended to restrict the quantity nor the value of import, but to prevent diversion of controlled chemicals into illicit manufacture of narcotic drugs and psychotropic substances. It is deemed satisfactory and no alternative method has been considered.
5. The licence requirement is statutory under the Control of Chemicals Ordinance, Cap. 145. Legislation does not leave designation of products to be subjected to licensing to administrative discretion. Legislative approval is required should there be any changes in the existing system.

Procedures

6. Not applicable.
- 7.(a) Application for licences and import authorization should be lodged in advance of importation taking into account the processing time. For an importer to be licensed, the normal processing time would be 14 days. The licensed importer has to lodge an Import Authorization Application and supporting documents at least 4 working days before the actual importation of controlled chemicals.
- (b) A licence cannot be granted immediately on request because of the time required to process the application.
- (c) There is no limitation of time during the year on the application for licence and/or importation.

(d) The Customs and Excise Department is the sole administrative authority responsible for the processing and approval of licence and import authorization applications.

8. Licences will normally be granted to established companies, hospitals and educational or scientific organizations on application. In case an application is refused, the reason for the refusal will be given to the applicant. An applicant has right to appeal to the Administrative Appeals Board against the decision of refusal to grant a licence by the Commissioner of Customs and Excise.

Eligibility of Importers to Apply for Licence

9. All importers may apply for an import licence under the Control of Chemicals Ordinance, Cap. 145.

Documentational and Other Requirements for Application for Licence

10. An applicant for a licence is required to provide the Customs and Excise Department with information about his personal and company particulars, business address and storage place for controlled chemicals, etc. in his application. For the application of an import authorization, commercial documents relating to the import of controlled chemicals have to be provided. Samples of application forms for licence and import authorization are at Annexes XVII and XVIII¹² respectively. Application through electronic means is also available and acceptable.

11. The import authorization is the only document required under the Control of Chemicals Ordinance, Cap. 145 upon actual importation. For the import of ephedrine, pseudoephedrine, ergometrine, ergotamine and norephedrine, import licences issued by the Department of Health under the Import and Export Ordinance, Cap.60 are also required (see section I.C above).

12. The administrative charge for a licence is HK\$1,530 for each year and an import authorization is free of charge.

13. No deposit or advance payment is required.

Conditions of Licensing

14. The licence is valid for one year which can be renewed upon application on yearly basis.

15. No penalty for non-utilization. Licensee should however surrender his licence and/or import authorization for amendment or cancellation where appropriate.

16. Not transferable.

17. No other conditions attached to the issue of a licence.

Other Procedural Requirements

18. No other administrative/procedural requirements prior to importation.

19. No foreign exchange control.

¹² The application forms can be downloaded from: http://www.customs.gov.hk/en/trade_facilitation/chemicals/licence/index.html (English version).

C. IMPORT LICENSING SYSTEM FOR OPTICAL DISC MASTERING AND REPLICATION EQUIPMENT

Outline of Systems

1. The HKSAR maintains a licensing system for the import control of Optical Disc Mastering and Replication Equipment from all countries.

Purpose and Coverage of Licensing

2. The system applies to the import of optical disc mastering and replication equipment.
3. The system applies to optical disc mastering and replication equipment coming from any places outside HKSAR.
4. The import licensing system is not intended to restrict the quantity or the value of import, but to enforce a robust intellectual property rights regime in HKSAR and to prevent the use of optical disc mastering and replication equipment for copyright infringing activities.
5. The licence requirement is statutory under the Import and Export Ordinance, Cap. 60. It is not possible for the government to abolish the system without legislative approval.

Procedures

6. Not applicable.
- 7.(a) Application for a licence shall be lodged in advance of importation. The issue of an import licence normally takes two working days.
- (b) A licence cannot be granted immediately upon request.
- (c) There is no limitation of time during the year where application for licence and/or importation can be made.
- (d) The Customs and Excise Department is the sole administrative organ responsible for the consideration of licence application.
8. Application for a licence will be approved provided the ordinary criteria are met. In the case an application is refused, the reasons for the refusal will be given to the applicant. The applicant may appeal to the Chief Executive of the HKSAR against the refusal.

Eligibility of Importers to Apply for Licence

9. All persons, firms and institutions are eligible to apply for the licence.

Documentational and Other Requirements for Application for Licence

10. An applicant for a licence is required to provide the Customs and Excise Department with particulars of the applicant or his company and the arrival details, etc. in the application. Related supporting documents have to be provided. Sample of the application form is at Annex X¹³.

¹³ The sample form can be viewed from: <http://www.tid.gov.hk/english/aboutus/form/sampleform/files/tra187.pdf> (English version).

11. The import licence is the only document required upon actual importation.
12. There is no licensing fee or administrative charge.
13. No deposit or advance payment is required.

Conditions of Licensing

14. The licence is valid only for six months from the date of issue. It may cover partial shipments within the six-month period. Extension of validity may also be granted on application.
15. No penalty for non-utilization.
16. Not transferable.
17. No other conditions attached to the issue of a licence.

Other Procedural Requirements

18. No other administrative/procedural requirements prior to importation.
19. No foreign exchange control.

IV. CIVIL ENGINEERING AND DEVELOPMENT DEPARTMENT

A. IMPORT CONTROL SYSTEM FOR SAND

Outline of Systems

1. A permit to transport sand in HKSAR is required under the Sand Ordinance. The permit system enables the protection of beaches and seabed in HKSAR. Permits are issued by the Civil Engineering and Development Department (CEDD).

Purposes and Coverage of Licensing

2. Permits issued by CEDD are required for the importation of sand in excess of 100 kg.
3. The system applies to natural sand imported from all places. Processed sand and washed sand are not covered by the Ordinance.
4. The permit system is not intended to restrict the quantity or value of imports but to provide a mechanism to enable the protection of beaches and seabed in HKSAR.
5. The permit system is statutorily required under Section 3 of the Sand Ordinance, Cap. 147. Any changes to the permit system will require legislative approval.

Procedures

6. Not applicable.
- 7.(a) Permits to import sand are issued upon written application. Permit application should be lodged in advance of importation taking into account the processing time which takes not more than two working days.

- (b) In exceptional cases, a permit can be granted immediately upon written request.
 - (c) There are no limitations as to the period of the year during which permit applications may be made.
 - (d) CEDD is the sole administrative organ regarding the processing and approval of application for importation of sand.
8. Applications for a permit will not be refused if the ordinary criteria are met. Reasons for refusal will be given to the applicant in case of unsuccessful application.

Eligibility of Importers to Apply for Licence

9. Only sand buyers and import companies are eligible to apply for sand permits. There is no registration fee. There is no published list of authorized importers.

Documentational and Other Requirements for Application for Licence

10. Information required relates to source, quantity and destination, contract documents between importer and exporter, export licence issued by the exporting countries. Sample of the application form for a Sand Removal Permit (for Removal and Transportation of Sand in Hong Kong) and a sample of the Permit are at Annexes XIX¹⁴ and XX.
11. Proof of valid vehicular or vessel licence.
12. No fees are charged for sand permits.
13. No deposit or advance payment is required.

Conditions of Licensing

14. The validity of Permit is determined by the validity date of the export licence issued by the exporting country for a maximum of 30 days. This period can be extended upon application. A new permit will be issued.
15. No penalty for non-utilization.
16. Permits are not transferable.
17. The condition of Permit is at Annex XXI.

Other Procedural Requirements

18. The Mainland river trade cargo vessels engaging in importation of sand from the Mainland are required to be registered through a local shipping agent with Harbour Control Section of the Immigration Department and to obtain a Notice of Direction (Sand Barge Route) from Marine Department prior to importation.
19. No foreign exchange control.

¹⁴ The application form can be downloaded from: <http://www.cedd.gov.hk/eng/forms/index.htm> (English version).

V. AGRICULTURE, FISHERIES AND CONSERVATION DEPARTMENT

A. IMPORT CONTROL ON PLANTS, PLANT PESTS AND SOIL

Outline of Systems

1. Import licences, supported by phytosanitary certificates, are required for import of plants. Prior authorizations are required for import of plant pest or soil.

Plant quarantine requirements are framed under the Plant (Importation and Pest Control) Ordinance, Cap. 207 administered by the Agriculture, Fisheries and Conservation Department. All principles and procedures are based on the Plant Protection Agreement for the Asia and Pacific Region and the International Plant Protection Convention (IPPC).

Purposes and Coverage of Licensing

2. For import of plants, a Plant Import Licence (PIL) issued by the Agriculture, Fisheries and Conservation Department is required. "Plant" includes timber, trees, shrubs, leaves, roots, flowers, fruits, tubers, bulbs, corms, stocks, cuttings, layers, slips, suckers, seeds, and any part of a plant whether or not intended for growing, planting or propagation or from which further plants may be grown, planted or propagated.

For import of plant pests or soil, an authorization in writing (AIW) issued by the Director of Agriculture, Fisheries and Conservation is required. "Plant pest" means any bacterium, fungus, virus, mycoplasma, alga or other plant or any invertebrate animal which is capable of being injurious or destructive to plants. "Soil" includes earth, sand, clay and peat.

3. PIL and AIW apply to plants originating in and coming from all places outside HKSAR. The only exception is the exemption for plants and soil imported from China.

4. Neither PIL nor AIW is intended to restrict the quantity or value of imports. The sole purpose is to establish an effective means for plant quarantine to prevent the spread of plant pest in compliance with the recommendations of the Plant Protection Agreement for the Asia and Pacific Region and the IPPC.

5. PIL and AIW are statutory instruments under the Plant (Importation and Pest Control) Ordinance, Cap. 207. Legislation does not leave designation of plant to be subjected to licensing to administrative discretion. It is not possible for the Government of HKSAR to abolish the system without legislative approval.

Procedures

6. Not applicable.

7.(a) Application for PIL or AIW should be lodged in advance of importation. It should be taken into account that processing of applications takes two clear working days.

(b) PIL, but not AIW, can be granted immediately on request when there is a genuine need under exceptional cases.

(c) There are no limitations as to the period of the year during which application for importation can be made.

(d) Both PIL and AIW are administered by the Agriculture, Fisheries and Conservation Department. No other administrative body is involved.

8. Application of PIL and AIW will not be refused if the ordinary criteria are met. The reasons for any refusal are always given to the applicant who has the right to appeal to the Chief Executive of the HKSAR by notice in writing within 14 days from the date when he was informed of the decision.

Eligibility of Importers to Apply for Licence

9. All persons, firms and institutions are eligible to apply for PIL and AIW without any pre-conditional requirement.

Documentational and Other Requirements for Application for Licence

10. The required information is outlined in the sample application form for PIL at Annex XXII¹⁵. An additional requirement for AIW is a written justification for the importation.

11. Upon actual importation, all First Schedule (Part I) plants and *Gossypium* spp. must be accompanied by a PIL, a valid phytosanitary certificate (PSC) and certificate of fumigation/disinfection (CF/D) issued by the exporting country or else the consignment will be seized for destruction. For all other plants, only PIL and PSC are required.

Actual importation of a plant pest or soil requires AIW and other documents, usually PSC and CF/D stated on the AIW as special conditions for the authorization.

12. No fee is charged for PIL and AIW.

13. No deposit or advance payment required.

Conditions of Licensing

14. The validity for both PIL and AIW is two months.

15. No penalty for non-utilization of PIL or AIW.

16. Neither PIL nor AIW is transferable.

17. There may be special quarantine requirements attached to the PIL and AIW. The conditions are based on the principles and procedures recommended by the Asia and Pacific Plant Protection Commission and the IPPC.

Other Procedural Requirements

18. No other administrative/procedural requirements prior to importation.

19. No foreign exchange control.

¹⁵ The application form can be downloaded from: http://www.afcd.gov.hk/english/quarantine/qua_plants/qua_plants_pq/qua_plants_pq_imp/files/pprd_11003b.pdf (English version).

B. IMPORT LICENSING SYSTEM FOR ENDANGERED SPECIES OF ANIMALS AND PLANTS

Outline of Systems

1. Import licences are required for the import of (a) endangered species listed in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), whether alive, dead, parts or derivatives, and (b) live endangered species of wild origin in CITES Appendix II.

Purposes and Coverage of Licensing

2. Import licences issued by the Agriculture, Fisheries and Conservation Department are required for the import of animals and plants listed in CITES Appendix I (including their parts and derivatives, and things claimed to contain ingredients made from these endangered species), and live endangered species of wild origin in CITES Appendix II. Import licences are not required for the import of CITES Appendix II species other than live specimens of wild origin and CITES Appendix III species, subject to the production of a valid CITES export permit or certificate of origin.

3. The import licensing requirement applies to traders as well as individuals importing these items from all territories.

4. The import licensing system is not used to restrict the quantity or value of imports, but to protect endangered species and to prevent them from over-exploitation in accordance with CITES.

5. The import licensing system is a statutory requirement maintained under Chapter 586 of the Laws of Hong Kong which gives effect to CITES. Under the Ordinance, the Secretary for the Environment may, by order published in the Gazette, amend the list of endangered species to be subjected to licensing requirement. Any other changes require legislative approval.

Procedures

6. Not applicable.

7.(a) Application for import licences should be lodged in advance of importation (at least two working days or more depending on complexity). However, the issue of a licence is not automatic and shipments should not be effected unless and until the licence has been issued.

(b) Normally an import licence cannot be granted immediately upon request.

(c) There are no limitations as to the period of the year during which application for licence and/or importation may be made.

(d) Agriculture, Fisheries and Conservation Department is the sole authority in considering endangered species aspects but all applications for import licences have to be supported by CITES export permits issued by the exporting economies.

Moreover, the CITES Secretariat or CITES authority of exporting economies may have to be consulted in certain applications.

8. Licensing policy follows closely the provisions and spirit of CITES. Any applicant aggrieved by a decision of the Director of Agriculture, Fisheries and Conservation relating to the issue, refusal or cancellation of a licence or any condition specified in a licence may appeal to the Administrative Appeals Board.

Eligibility of Importers to Apply for Licence

9. Any person can lodge an application.

Documentational and Other Requirements for Application for Licence

10. The required information is summarized in the sample application form attached at Annex XXIII¹⁶. With respect to live specimens, controls of and requirements for import of live animals and plants also apply.

11. Import licence issued by the Agriculture, Fisheries and Conservation Department together with original of the CITES Export Permit issued by the exporting economy are required upon actual importation.

12. The licence fees are as follows:

- | | | |
|-----|--|---------|
| (a) | Import Licence for live animals (one or more species) | HK\$460 |
| (b) | Import Licence other than live animals (one or more species) | HK\$170 |

13. No deposit or advance payment is required.

Conditions of Licensing

14. Import licences are normally valid for six months or less. The validity of a licence can be extended provided that the licensee lodges an application and gives satisfactory justification to the Director of Agriculture, Fisheries and Conservation before its expiry.

15. No penalty for non-utilization.

16. Not transferable.

17. Standard conditions, covering the requirement of presenting the shipment together with the required licence to authorized officers for inspection, are applicable.

Other Procedural Requirements

18. No other administrative/procedural requirements prior to importation.

19. No foreign exchange control.

C. IMPORT CONTROL ON LIVE ANIMALS

Outline of Systems

1. A special permit is required for all live animals and birds imported into HKSAR. The permit must be obtained in advance from the Agriculture, Fisheries and Conservation Department before animals/birds are sent to HKSAR. The terms and conditions of the permit must be fully complied with. Such animals or birds must be sent into HKSAR as manifest cargo.

¹⁶ The application form can be downloaded from:
http://afcd.gov.hk/english/conservation/con_end/con_end_lc/con_end_lc_app/files/AF243e06.pdf (English version).

Purposes and Coverage of Licensing

2. A special permit issued by the Agriculture, Fisheries and Conservation Department is required for the import of animals or birds.
3. The system generally applies to any person bringing any animal or bird into HKSAR from all countries. For non-CITES animals or birds imported directly from the Mainland, other rules may apply.
4. The special permit is not used to restrict the quantity or value of imports, but to protect public and animal health; to provide for public safety and animal welfare; and to prevent cruelty to animals.
5. The special permit system is a statutory requirement under Chapter 139 and/or Chapter 421 with linkage to Chapter 169 of the Laws of Hong Kong. Legislation does not leave designation of the items to be subjected to licensing to administrative discretion. Any changes require legislative approval.

Procedures

6. Not applicable.
 - 7.(a) Application for a special permit should be lodged well in advance of importation (at least five working days). However, the granting of a special permit is not automatic and importation must not be arranged unless a permit is obtained in advance. The applicant may, after receiving a permit, need some time to comply with the terms and conditions of the permit, and should allow for this.
 - (b) Depending on circumstances a special permit may be granted, subject to the payment of the prescribed fee.
 - (c) There are no limitations as to the period of the year during which application for licence and/or importation may be made.
 - (d) The Agriculture, Fisheries and Conservation Department has the sole authority to grant special permits, and the permits are subject to full compliance with requirements.
8. Applications may be rejected or refused if requirements cannot be met. The applicant may appeal to the Administrative Appeals Board.

Eligibility of Importers to Apply for Licence

9. Any person may lodge an application.

Documentational and Other Requirements for Application for Licence

10. The required information is summarized in the sample application form at Annex XXIV¹⁷.
11. The special permit and other documents specified by terms/conditions of the permit, and documents required under any other legislation are required upon actual importation.

¹⁷ The application form can be downloaded from: http://www.afcd.gov.hk/english/quarantine/qua_ie/qua_ie_ipab/qua_ie_ipab_idc/files/af240_july10e.pdf (English version).

12. The current fee schedule for special permits is at Annex XXV¹⁸.
13. Application fees must be paid upon the submission of the application. The fees are not refundable once the permit has been approved.

Conditions of Licensing

14. Permits are valid for six months. The validity of import permits may be extended for a month upon application at a fee of HK\$155.
15. No penalty for non-utilization.
16. Permits can be transferable between importers upon application and the payment of amendment fee of HK\$155.
17. Yes, varying according to the type of animal and country of origin.

Other Procedural Requirements

18. No other administrative/procedural requirements prior to importation.
 19. No foreign exchange control.
- D. IMPORT CONTROL ON PESTICIDES

Outline of Systems

1. Licences are required for import of pesticides. Import licences for pesticides (other than methyl bromide) are issued by the Agriculture, Fisheries and Conservation Department under delegation from the Trade and Industry Department. Import licences for pesticides containing methyl bromide, an ozone-depleting substance, are issued by the Trade and Industry Department (see Section I.C. above).

Purposes and Coverage of Licensing

2. Import licensing of pesticides is intended for the protection of public health. Pesticides means any insecticide, fungicide, herbicide, acaricide or any substance (whether organic or inorganic) or mixture of substances used or intended to be used for preventing, destroying, repelling, attracting, inhibiting or controlling any insect, rodent, bird, nematode, bacterium, fungus, weed or other form of plant or animal life or any virus, which is a pest; or any substance or mixture of substances used or intended to be used as a plant growth regulator, defoliant or desiccant, but does not include any purely mechanical device for trapping or catching insects, rodents or other animals; any purely electromagnetic or ultrasonic device for the control of mosquitoes, rodents or other pests; any antiseptic, disinfecting solution or preparation in clinical or sanitary applications; and any pharmaceutical product.

3. The system applies to products (other than methyl bromide) coming from any places. For methyl bromide which is an ozone-depleting substance, import from non-parties to the Montreal Protocol are banned. Only imports from Montreal Protocol signatories of methyl bromide are allowed

¹⁸ The fee schedule can be viewed from: http://www.afcd.gov.hk/english/quarantine/qua_ie/qua_ie_ipab/files/common/spfee.pdf (English version).

for local consumption starting from 1 January 1995. The import of methyl bromide is restricted to quarantine and pre-shipment applications.

4. The principal objective of the import licensing system is not to restrict the quantity or value of imports but for purposes of protecting public health.

5. The import control is a statutory requirement maintained under the Pesticides Ordinance, Cap. 133 and the Import and Export (General) Regulations, Import and Export Ordinance, Cap. 60 under the Laws of Hong Kong. Legislation does not leave designation of product to be subjected to licensing to administrative discretion. Any changes such as subjecting a new product to import licensing or removal of an existing product therefrom require legislative approval.

Procedures

6. Not applicable.

7.(a) Application for import licences should be lodged in advance of importation taking into account the processing time. The processing time is within one working day for pesticides other than methyl bromide under normal circumstances and two clear working days for methyl bromide.

(b) In exceptional cases, a licence can be granted immediately on request.

(c) There are no limitations as to the period of the year during which licence applications may be made.

(d) The Agriculture, Fisheries and Conservation Department is the sole administrative organ for the processing and approval of pesticides import licences (other than methyl bromide) whereas an importer has to approach the Trade and Industry Department for the processing and approval of import licences for methyl bromide.

8. Under normal circumstances, an application for a pesticides import licence is usually approved if it meets the ordinary criteria. In the event of refusal, the reasons will be given. Applicants may appeal to the Chief Executive of the HKSAR in the event of refusal to issue an import licence. The Chief Executive may confirm, vary or reverse the decision of the Director-General of Trade and Industry. The right to appeal to the Chief Executive is statutorily provided. For methyl bromide, applicants may appeal to the Administrative Appeals Board against decision of refusal to grant a licence relating to ozone depleting substances by the Director of Environmental Protection.

Eligibility of Importers to Apply for Licence

9. A company is required to hold an appropriate pesticide licence/permit issued by the Agriculture, Fisheries and Conservation Department before it can apply for an import licence except where the pesticide is being imported on a valid through bill of lading. If imported on such a bill of lading, no pesticide licence/permit is required. Application for a pesticide licence/permit is open to all business enterprises wishing to deal in pesticides. A fee is charged for the licence/permit, which may range from HK\$520 to HK\$1,435 depending on the type of licence/permit. There is no published list of licensed/permitted importers. For methyl bromide which is also an ozone depleting substance, a company is further required to register with the Trade and Industry Department before it can apply for an import licence. Registration is open to all companies on payment of a fee of HK\$2,430 (valid for 2 calendar years). A list of registered importers is available upon request.

Documentational and Other Requirements for Application for Licence

10. Information to be supplied includes particulars of the importer, of the importation, of the products to be imported and a pesticides licence or pesticides permit issued by the Agriculture, Fisheries and Conservation Department authorizing the importer to trade in pesticides or a valid through bill of lading. Sample of Import Licence Form 3 is at Annex X¹⁹.

11. The import licence is the only document required on actual importation.

12. Apart from applications for importing methyl bromide, no licensing fee is required for import licence applications. The price of non-textiles import licence forms is HK\$26 per pad (containing 20 sets). For methyl bromide, a fee of HK\$815 is charged on the issue of an ozone-depleting substances import licence. The price of ozone-depleting substances import licence forms is HK\$28 per pad (containing five sets).

13. No deposit or advance payment is required.

Conditions of Licensing

14. A pesticides import licence is valid for six months. For methyl bromide, an ozone-depleting substances import licence is, unless otherwise stated, valid for sixty days.

15. No penalty for non-utilization. Importers should however cancel or amend the licences.

16. Not transferable.

17. The licensing conditions are printed on the front or back of the import licences (samples of the Import Licence Form 3 applicable to pesticides and Import Licence Form for ozone-depleting substances are respectively at Annexes X and XII²⁰).

Other Procedural Requirements

18. No other administrative/procedural requirements prior to importation.

19. No foreign exchange control.

VI. ENVIRONMENTAL PROTECTION DEPARTMENT

A. IMPORT CONTROL ON WASTE

Outline of Systems

1. The import of waste into HKSAR is controlled under a permit system administered by the Environmental Protection Department. Its requirements are tied in with those of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

¹⁹ Samples of these forms can be viewed from: http://www.tid.gov.hk/english/aboutus/form/sampleform/forms_maincontent.html (English version).

²⁰ Samples of these forms can be viewed from: http://www.tid.gov.hk/english/aboutus/form/sampleform/forms_maincontent.html (English version).

Purposes and Coverage of Licensing

2. A permit is required for import of any waste, unless the waste is specified in Schedule 6 of the Waste Disposal Ordinance, and it is uncontaminated and is intended for recycling or reuse purposes.
3. The permit system applies to wastes originating in and coming from any places outside HKSAR.
4. Other than those requirements of the Basel Convention, the system is not intended to restrict the quantity or value of imports. It serves to ensure that prior consents among the export, import and transit competent authorities concerned are obtained before commencement of any waste shipment. It facilitates the continuation of legitimate waste trade and to stop any illegal shipment. The system enables HKSAR to fulfil its international obligations under the Basel Convention and serves to ensure environmentally sound management of waste in the HKSAR.
5. The waste import permit system is a statutory requirement maintained under the Waste Disposal Ordinance, Cap. 354 of the Laws of Hong Kong. The legislation does not leave designation of waste to be subjected to control to administrative discretion. Legislative approval is required should there be any change in the existing system.

Procedures

6. Not applicable.
- 7.(a) Permit applications should be lodged in advance of the importation. The processing time for an application varies from case to case, depending primarily on the time taken by the competent authorities of the exporting economies concerned to provide feedback for the application, and on whether the application form is duly completed and lodged with all the required supporting documents. To allow for sufficient time for the competent authorities to make responses, it is advisable for the applicants to lodge their applications at least 90 days before the commencement of the proposed shipment of waste.
- (b) A permit cannot be granted immediately. Under the Basel Convention, consents from all export and transit economies concerned are required prior to any waste shipment. We are unable to issue any permit without obtaining the views from the export and transit economies concerned.
- (c) There are no limitations as to the period of the year during which permit application may be made.
- (d) The Environmental Protection Department is the sole administrative organ responsible for the processing and approval of waste import permit.
8. A waste import permit will normally be granted with or without conditions to the applicant if the ordinary criteria as stipulated in the Waste Disposal Ordinance are met (e.g. the proposed waste shipment is in line with the spirit and requirements of the Basel Convention). In the event of refusal to issue a permit, the reasons will be given, and the applicant may appeal to the Appeal Board established under the Waste Disposal Ordinance. In any case, it should be noted that to tie in with the latest requirements of the Basel Convention, import of hazardous waste from developed economies including Liechtenstein and member states of the Organisation for Economic Cooperation and Development (OECD) and the European Union (EU) into the HKSAR has been banned since 28 December 1998.

Eligibility of Importers to Apply for Licence

9. All firms and institutions are eligible to apply for a waste import permit. Nevertheless, the applicant should normally be the disposer or the importer of the waste. There is no published list of authorized importers.

Documentational and Other Requirements for Application for Licence

10. The required information is outlined in the sample permit application at Annex XXVI²¹.

11. On actual importation, the waste should be accompanied by the permit, a waste movement document recording the details of the waste shipment, and a liability insurance covering any claims arising out of damage to human health, property and the environment which may result from the waste import operation.

12. An application fee of HK\$11,595 or HK\$18,430 will be charged for the application of a single shipment or a multiple-shipment permit respectively. A multiple-shipment permit can have a validity period of up to one year for repeated shipments of the same type of waste from the same source and to the same disposer or recycler.

13. The applicant is required to deposit a bond or financial guarantee payable to the Government of the HKSAR. The amount of the bond or financial guarantee required will be determined on a case-by-case basis. It enables the waste disposal authority to recover cost of any seizure or disposal or alternative environmentally sound management of waste in case the intended waste shipment could not be completed as originally intended. The bond or guarantee will be returned to the applicant upon fulfilment and completion of all conditions of the shipment, including the final disposal/recycling of the waste.

Conditions of Licensing

14. There are two types of permit, namely single-shipment permit and multiple-shipment permit. The former type is valid for one shipment only, and whereas the latter type can have a validity period of up to one year for repeated shipments of the same type of waste from the same source and to the same disposer or recycler. The validity of a permit cannot be extended. A new application has to be lodged if the importing activity is to be continued after the validity period of the permit.

15. No penalty for non-utilization.

16. Not transferable.

17. The conditions are varied according to the type of wastes and country of origin. One essential condition is the taking back of the imported wastes if the wastes were found other than the permitted ones (i.e. specified in the permit) or if the wastes cannot be treated/recycled as intended and stranded in Hong Kong for whatever reasons, the wastes shall be returned to the place of origin.

Other Procedural Requirements

18. No other administrative/procedural requirements prior to importation.

19. No foreign exchange control.

²¹ The application form can be downloaded from: http://www.epd.gov.hk/epd/english/environmentinhk/waste/guide_ref/files/import_appn_form.pdf (English version).

B. IMPORT CONTROL ON NON-PESTICIDE HAZARDOUS CHEMICALS

Outline of Systems

1. Both an import permit and a licence are required for the import of non-pesticide hazardous chemicals that have potentially harmful or adverse effects on human health or the environment, including such chemicals that are subject to regulation of the Stockholm Convention on Persistent Organic Pollutants, or the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

Purposes and Coverage of Licensing

2. The import permitting and import licensing requirements are stipulated in the Hazardous Chemicals Control Ordinance (HCCO), Cap. 595, and the Import and Export Ordinance (IEO), Cap. 60, of the Laws of Hong Kong respectively. Under the HCCO, anyone wishing to import any hazardous chemicals subject to control (scheduled chemicals) needs to apply for an import permit, which is normally valid for 1 year. In addition, for every shipment of scheduled chemicals entering Hong Kong, an import licence is also required under the IEO. Both permits and licences are issued by the Environmental Protection Department.

The permitting/licensing system, which forms part of the overall control of non-pesticide hazardous chemicals in Hong Kong, covers two types of scheduled chemicals, as follows:

Type 1 Chemicals

- Hexachlorobenzene (HCB);
- Polychlorinated biphenyls (PCB).

Type 2 Chemicals

- Asbestos (actinolite, anthophyllite, amosite, crocidolite and tremolite);
- Polybrominated biphenyl (PBB) (hexabromobiphenyl, octabromobiphenyl and decabromobiphenyl);
- Polychlorinated terphenyls (PCT);
- Tetraethyl lead;
- Tetramethyl lead;
- Tris(2,3-dibromopropyl) phosphate.

The permitting/licensing system does not apply to a scheduled chemical if the chemical is a constituent element of a manufactured product, except when the chemical is PCB and when its concentration as a constituent element of a manufactured product exceeds 0.005 per cent (or 50 ppm) and its volume exceeds 0.05 litre. The permitting/licensing requirement also does not apply to a Type 2 chemical if the chemical is, or is a part of, an article in transit.

3. The system applies to the scheduled chemicals coming from any places. Transshipment and transit of the scheduled chemicals, except for transit of Type 2 chemicals, through Hong Kong are also subject to control. Exemptions of import licensing under certain conditions are available for air transshipment cargoes and transit of Type 1 chemicals.

4. The system is intended to implement effective control on non-pesticide hazardous chemicals to protect human health and the environment in accordance with, inter alia, the principles of the Stockholm Convention and the Rotterdam Convention. There is no restriction on the value of the

imported chemicals but the import quantities are subject to scrutiny to avoid improper use/release of the hazardous chemicals.

5. The system is stipulated in the HCCO and the IEO, both of which do not provide for administrative discretion to designate particular type of chemicals to be subject to permitting/licensing requirement. Any alteration to the import permitting/licensing system requires legislative approval.

Procedures

6. There is no quota restriction for importing the scheduled chemicals and any importer can apply for an import permit/licence. There is also no restriction on the source of the scheduled chemicals. These scheduled chemicals are being phased out or whose use is severely restricted internationally, as required under the Stockholm Convention and the Rotterdam Convention. The HCCO import permit application will be assessed on a case-by-case basis and a permit will be granted only if there is justification for the need to import the proposed quantity of a scheduled chemical, and the importer can demonstrate that the import activities can comply with other local legislation. The quantities allowed for each IEO licence are limited by the annual import quantity permitted in the HCCO import permits. Guidelines and application forms are available on the website of the Environmental Protection Department.

7.(a) Processing time for permit/licence applications varies from case to case, depending on the complexity of the application, the response time of overseas government agencies and the availability of supporting information from the importers. The target processing time of a permit application is within 15 working days upon receipt of all necessary information, payment of application fee, and completion of site visit, if required, to verify the information provided by the applicant. For an IEO import licence application, the target processing time is within 2 clear working days upon receipt of all relevant information. In line with the prior informed consent procedure of the Rotterdam Convention, an IEO licence application will only be considered if the applicant can produce evidence of explicit consent of the exporting and importing countries agreeing to the export and import, unless otherwise exempted by the Environmental Protection Department. A HCCO import permit and an IEO import licence must be obtained prior to the arrival of the shipment.

(b) Since detailed assessment is required for processing the HCCO permit or IEO licence applications, these permits/licences cannot be granted immediately upon request.

(c) The HCCO import permits and the IEO import licences can be applied for at any time during the year.

(d) The Environmental Protection Department is the sole administrative organ to issue the HCCO permit and IEO licence applications.

8. Under normal circumstances, application for a HCCO import permit or an IEO import licence is granted if the application meets the legal requirements stipulated in the laws as well as the requirements of the Stockholm Convention and the Rotterdam Convention. In the event of refusal to issue a HCCO import permit, the reasons will be given. The applicant may appeal to the Administrative Appeals Board against the refusal. In case of an IEO import licence application, the applicant has a right to appeal to the Chief Executive of the HKSAR.

Eligibility of Importers to Apply for Licence

9. All persons, firms and institutions are eligible to apply for the HCCO import permits. All HCCO import permit holders are eligible to apply for the IEO import licences. There is no published list of authorized importers.

Documentational and Other Requirements for Application for Licence

10. The information required for a HCCO import permit and an IEO Import Licence Form 3 application is outlined in the sample application forms at Annex XXVII²² and Annex X²³ respectively.

11. A HCCO import permit and an IEO import licence are required at the time of actual importation.

12. A non-refundable application fee of HK\$1,280 or HK\$1,710 is required at the time of submission of an application for a HCCO import permit for local use or for transshipment/transit respectively. Renewal application fee is HK\$710 for local use and HK\$920 for transshipment/transit. No application/licensing fee is required for an IEO Import Licence Form 3 application. But import licence application forms (Form No.: TRA187) have to be purchased at HK\$26 per pad (containing 20 sets).

13. No deposit or advance payment is required.

Conditions of Licensing

14. A HCCO import permit is valid for not more than 12 months. The validity of a permit cannot be extended but the permit can be renewed on yearly basis. An IEO import licence is valid for 6 months from the date of issue. Extension of validity may be granted on application.

15. No penalty for non-utilization.

16. Not transferable.

17. Standard conditions, covering environmental requirements, safety, packaging, labelling, storage, transportation, disposal, emergency arrangements, return shipments and reporting, are included in the HCCO import permits. No other conditions are attached to the issue of the IEO licences.

Other Procedural Requirements

18. Requirements under the Stockholm Convention and the Rotterdam Convention need to be observed.

19. No foreign exchange control.

²²The application forms for HCCO import permits can be downloaded from:
http://www.epd.gov.hk/epd/english/application_for_licences/applic_forms/files/hcc1.pdf (English version) and
http://www.epd.gov.hk/epd/english/application_for_licences/applic_forms/files/hcc3.pdf (English version).

²³ Sample of an IEO Import Licence Form 3 can be viewed at: <http://www.tid.gov.hk/english/aboutus/form/sampleform/files/tra187.pdf> (English version).

VII. FOOD AND ENVIRONMENTAL HYGIENE DEPARTMENT

A. IMPORT CONTROL ON FROZEN OR CHILLED MEAT AND POULTRY

Outline of Systems

1. Licences are required for import of frozen or chilled meat and poultry. Import licences are issued by the Food and Environmental Hygiene Department under delegation from the Trade and Industry Department.

Purposes and Coverage of Licensing

2. The licensing system covers the importation of frozen or chilled meat and poultry. The meat includes beef, mutton, pork, veal or lamb, and the offal of any animal from which such meat is derived. The poultry includes the carcass of a domestic fowl, duck, goose or turkey or any part of such a carcass, and any part of a bird mentioned above which is edible or used in the preparation of food.

3. The system applies to products coming from any places.

4. The principal objective of the import licensing system is not to restrict the quantity or value of imports, but for public health and food safety.

5. The import licensing system is a statutory requirement maintained under the Import and Export (General) Regulations, Import and Export Ordinance, Cap. 60. The legislation does not leave designation of product to be subjected to licensing to administrative discretion. Any changes such as subjecting a new product to import licensing or removal of an existing product therefrom require legislative approval.

Procedures

6. Not applicable.

7.(a) Application for import licences should be lodged in advance of importation taking into account the processing time. The issue of an import licence under normal circumstances requires one working day (excluding Saturdays, Sundays, public holidays, dates of submission and issuing).

(b) In exceptional cases, a licence can be granted immediately on request.

(c) There are no limitations as to the period of the year during which licence applications may be made.

(d) The Food and Environmental Hygiene Department is the sole administrative organ responsible for the processing and approval of meat and poultry import licences.

8. Application for a licence will be approved provided the ordinary criteria are met. In case an application is refused, the reason for the refusal will be given to the applicant. Applicants may appeal to the Chief Executive of the HKSAR against a decision of refusal for issuing a licence.

Eligibility of Importers to Apply for Licence

9. A company is required to be registered with the Food and Environmental Hygiene Department first before it can apply for an import licence. Registration is open to all business enterprises. At present no fee is charged for the registration.

Documentational and Other Requirements for Application for Licence

10. Information to be supplied includes particulars of the importer, of the importation and of the products to be imported. Health certificate issued by the recognized authority of the exporting economy concerned or specific approval from the Director of Food and Environmental Hygiene is required to support licence applications. Sample of Import Licence Form 3 is at Annex X²⁴.

11. The import licence is the only document required on actual importation.

12. No licensing fee is required for import licence applications. The price of non-textiles import licence forms is HK\$26 per pad (containing 20 sets).

13. No deposit or advance payment is required.

Conditions of Licensing

14. An import licence is valid for six weeks. The period of validity cannot be extended. The licence applicant should request cancellation of the expired licence and may apply for a new licence.

15. No penalty for non-utilization. Importers should however cancel or amend the licences.

16. Not transferable.

17. Apart from the licensing conditions printed on the import licence at Annex X the conditions set out at Annex XXVIII are applicable to frozen or chilled meat and poultry which are not subject to quantitative restriction.

Other Procedural Requirements

18. No other administrative/procedural requirements prior to importation.

19. No foreign exchange control.

²⁴ Sample of an Import Licence Form 3 can be viewed at: <http://www.tid.gov.hk/english/aboutus/form/sampleform/files/tra187.pdf> (English version).