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14 November 2003

Dear Sirs,

Notice to Exporters: Series 3
(Countries other than USA & EU) No. 57/2003

Export of Textiles to Canada

Principles of Quota Allocation and Control Arrangements for 2004

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(I) INTRODUCTION

As from 1 January 2005, textiles and clothing exports from Hong Kong and other World Trade Organisation (WTO) members will become quota free pursuant to the provisions in the WTO Agreement on Textiles and Clothing (ATC). In anticipation of the upcoming abolition of textiles quotas, the Department will introduce necessary modifications to the quota and control arrangements for 2004, which are detailed in Notice to Exporters: Series 3 (Countries other than USA & EU) No. 51/2003 issued on 8 October 2003, to provide greater facilitation to the trade in the run-up to the quota-free trading regime. This Notice sets out the modified principles of quota allocation and control arrangements for 2004 textile year (which will commence on 1 January 2004 and last until 31 December 2004) in respect of exports of textiles and clothing products from Hong Kong to Canada. Relevant modifications to the quota and control arrangements are also highlighted in paragraphs 12, 18-19 and 34 of this Notice. Licensing and other specific scheme-related control arrangements apart, companies/registered businesses are required to take note of, and comply with, the general control arrangements and requirements pertaining to consignment check, production check and factory audit check as detailed in Notice to Exporters: Series 3 (Countries other than USA & EU) No. 56/2003 cum Certification of Origin Circular No. 22/2003 dated 14 November 2003.

Coverage

2. Exports from Hong Kong of restrained textiles and clothing products to Canada are governed by administrative arrangements under the WTO ATC which has entered into force as from 1 January 1995. The categorisation, coverage, restraint limits, units of control and conversion factors of textiles and clothing products subject to quota restriction in 2004 in respect of the Canada market are set out in Appendix I.

3. The ATC embodies an Integration Programme to phase out quantitative restriction on textiles and clothing products gradually in four stages over a ten-year period. Stages 1, 2 and 3 of the Integration Programme took effect in 1995, 1998 and 2002 respectively. List of items integrated under Stage 3 is at Appendix II. From 1 January 2005, textiles and clothing exports from Hong Kong will become quota free.

Classification

4. The administrative arrangements agreed between Hong Kong and Canada under the WTO ATC provides for a system to license and classify textile products into different items for export to Canada. Companies/registered businesses are required to ensure proper licensing of a restrained textile product in the correct item when it is exported. Otherwise, the textile product may be denied entry into Canada. Classification guidelines of textile products for the Canada market are set out in Notice to Exporters: Series 3 (Countries other than USA & EU) No. 43/01 dated 15 December 2001.

(II) PRINCIPLES OF QUOTA ALLOCATION

General Principles of Quota Allocation

5. The general principles of quota allocation to be applied in respect of the allocation of 2004 quotas are detailed below:

(a) **Allocation Arising from Performance against 2003 Quota Holdings**

- (i) a quota holder which used less than 98% of its 2003 quota holdings in an item will be offered an allocation in 2004 equal to the amount it utilised in 2003 in the item concerned; and

- (ii) a quota holder which used 98% or more of its 2003 quota holdings in an item will be offered an allocation in 2004 equal to 100% of its 2003 quota holdings in the item concerned.

Quota holders are reminded that they will not be allocated with any additional amount derived from the application of growth factors on the item concerned.

(b) Bonus Allocation to Temporary Transferees

Companies/registered businesses which have net transferred in (including swing-transfers), on a temporary basis, during 2003 quantities representing more than 35% of their holdings in a particular item are eligible for a bonus allocation in 2004 not exceeding their net utilised temporary transfers-in in the item concerned. Allocation to eligible temporary transferees are derived from quotas recovered through the application of the allocation rule regarding temporary transferors and quota balances available for allocation. The rule regarding allocation to temporary transferees is set out in paragraph 22 of Notice to Exporters: Series 3 (Countries other than USA & EU) No. 44/02 dated 14 December 2002.

(c) Allocation to Temporary Transferors

A quota holder which gross transferred out (including swing-transfers) in 2003, on a temporary basis, 50% or more of its quota holdings in a transfer group is liable to have its 2004 quota allocation in that group reduced up to a maximum of 40% of its total temporary transfers-out in that group. The rule regarding allocation to temporary transferors and the grouping of items for the purpose of applying such rule are set out in paragraph 21 and Appendix III of Notice to Exporters: Series 3 (Countries other than USA & EU) No. 44/02 dated 14 December 2002 respectively.

(III) SCHEDULE FOR QUOTA ALLOCATION

Arrangements for Quota Allocation

6. It is expected that the 2004 preliminary quota allocation will be issued on 13 December 2003. Quota holders will be offered preliminary quota allocation up to the shipment performance against their 2003 quota holdings as verified by 22 November 2003.

7. Final allocation of 2004 quotas will be calculated and issued as soon as shipments against 2003 quota holdings are verified. The 2004 final allocation is scheduled for issue together with bonus allocation to eligible temporary transferees in mid-March 2004.

8. Quotas anticipated in 2003 will be considered as part of the 2004 allocation. Shipment and transfers made in 2003 against anticipated 2004 quotas will be debited from the 2004 quota allocation. On the condition that the amount of quota anticipated in 2003 does not exceed the qualified allocation in 2004, all anticipated quotas remaining unutilised in 2003 will be credited back to relevant quota holders for re-use in 2004. Likewise, unutilised balance of anticipated quota which has been swung or transferred on a swing-transfer basis will be reverted to the original source item and in the case of swing-transfer, to the original source item of the transferor concerned.

9. The Department will discount, for the purpose of quota allocation, the performance of those quotas which have not been used in compliance with the provisions of the Textiles Export Control System. Discounting of shipment performance as mentioned above is a corrective action and will be taken even if the quota supplier or transferor of temporary quota is not involved in or aware of the textiles malpractice.

Acceptance of Allocation

10. Quota holders are required to confirm either in writing or electronically, but not by both modes, the acceptance of the quota allocated on the terms and conditions set out in the Quota Allocation Letter issued by the Department. In any case, a quota holder shall be deemed to have agreed to abide by all the terms and conditions which the Director-General of Trade and Industry has attached to the quota allocation once the quota holder makes use of any of the quota in its quota holdings.

Requests for Additional Preliminary Quota Allocation

11. Requests for additional preliminary quotas will be considered on the merits of individual cases. Such requests should be supported by evidence from airline or shipping companies confirming that shipments had been effected in 2003 against relevant export licences which have not been verified by 22 November 2003. Please contact the Customer Service Centre (Textiles Controls Branch) at 2398 5288 for details.

(IV) CONTROL ARRANGEMENTS FOR ITEMS SUBJECT TO QUOTA RESTRAINT IN 2004

Discontinuation of Quota Allocation for Shipments against 2004 Quotas

12. With cessation of textiles quotas starting 1 January 2005, the Department will not offer preliminary and final quota allocations to companies/registered businesses in 2005 for shipments effected in 2004 or those shipped against anticipated quotas in 2003. Similarly, traders who have net transferred-in (including swing-transfers) on a temporary basis in any item more than 35% of their quota holding in the same item during 2004 will not receive any bonus allocation in 2005.

13. In addition, no quota allocation will be made on the basis of shipment performance gained under the Quota Window Arrangement for Cold Categories and free quota schemes including the Free Quota Export Authorisation Schemes, the Combined Free Quota/Swing Scheme and the Year-end Special Shipment Scheme.

Quota Supply Condition

14. Companies/registered businesses are requested to note that in supplying quotas for the export of a textiles consignment, the quota supplier, irrespective of whether it is an exporter (including the buying agent of the overseas buyer, whether or not registered with the Department, if the agent is acting as the exporter on the textiles export licence application) or a manufacturer, must satisfy the following condition before it is qualified to supply and/or utilise the quotas for the export of the consignment:

- either (a): perform at least four of the following functions:
- (i) receive order from the overseas buyer for the goods,
 - (ii) receive payment from the overseas buyer for the goods,
 - (iii) purchase or supply the raw materials for the manufacture of the goods,
 - (iv) contract in writing with the manufacturer for the manufacture of the goods,
 - (v) make payment to the manufacturer for the manufacture of the goods,
 - (vi) arrange the export of the goods;

- or (b): perform the principal processes in the manufacture of the consignment in question.

Detailed requirements of the above quota supply condition are set out in Notice to Exporters: Series 3 (Countries other than USA & EU) No. 38/02 dated 19 November 2002. These particular requirements must also be complied with in order to satisfy the quota supply condition.

15. All quota holders are advised that they must themselves perform the functions in paragraph 14 (a) or (b) in order to be qualified to supply quotas for the export of restrained textiles to Canada. Performance of any of the above functions by another business entity in whatever capacity on behalf of the quota supplier (e.g. by an agent, the parent/holding company/registered business, a subsidiary, an associate company/registered business or a trustee etc.) will not be accepted as fulfilment of the quota supply condition by the quota supplier itself. Moreover, it should be noted that a manufacturer will not be deemed to have performed the principal process of manufacture of a consignment as required under paragraph 14 (b), notwithstanding that separate approval has been given by the Department for the manufacturer to subcontract part of or the whole principal process of manufacture under the Local Subcontracting Arrangement.

16. Any company/registered business which is not able to satisfy the applicable quota supply condition cannot supply and/or utilise quotas for the export of restrained textiles to Canada. Otherwise, it may render the company/registered business liable to prosecution as well as administrative actions taken by the Department. A company/registered business which purports to have satisfied the quota supply condition must, on request, produce documentary evidence in support of its claim. It should be noted that the quota supply condition is solely for the purpose of determining whether a company/registered business in question is qualified to supply quota and does not otherwise affect the status of the parties to the licence.

Transfer of Quotas

(A) Arrangements for Temporary Transfers

17. Applications for temporary transfer of 2004 quotas (including reversion of temporary transfer) will be accepted immediately once qualified companies/registered businesses have accepted their 2004 preliminary quota allocation and be allowed until mid-November 2004, the exact date to be announced in due course. All transfers of 2004 quotas processed in 2003 will be deemed to be effected in 2004. Companies/registered businesses are requested to make their applications for temporary transfer of 2004 quotas on Form TIC 396 (for application for Type A Transfer of quota) or Form TIC 398 (for application for Swing Transfer of quota) as appropriate.

18. With no quota allocation in 2005, the existing rule governing excessive temporary quota transfers that may lead to quota reduction will cease to apply in 2004. Specifically, quota holders who have gross transferred out on a temporary basis 50% or more of its quota holdings in 2004 (including those processed in December 2003 after acceptance of the preliminary quota allocation) will not be subject to any reduction of quota allocation.

(B) Discontinuation of Permanent Transfers

19. The Department will **not** accept transfer applications for 2004 quotas on a permanent basis, including applications made after the acceptance of the preliminary quota allocation in December 2003. The existing rule that debars any company/registered business from permanently transferring out any quotas for two consecutive years, if it has permanently transferred in quotas in the same item, will cease to apply in 2004.

2004 Swing Scheme

20. It is anticipated that the 2004 Swing Scheme will be operated in three phases as follows:

- (a) **Phase I** - commencing shortly after preliminary quota allocation has been made, under which:
 - (i) quota holders in specific Sub-item 5a are allowed to exercise unlimited downswing into Sub-item 5b at 1:1 ratio;
 - (ii) quota holders in specific Sub-item 7/8b are allowed to exercise unlimited downswing into Sub-item 7/8c at 1:1 ratio; and
 - (iii) quota holders in specific Sub-item 11a are allowed to exercise unlimited downswing into Sub-item 11b at 1:1 ratio.
- (b) **Phase II** - commencing shortly after final allocation has been made, under which:
 - (i) quota holders are permitted to swing increase their holdings up to a specified percentage provided that an equivalent amount of quota in another item or other items is surrendered to the Department. Swing from textiles items in Group II to garment items in Group I is limited to 1% of the total of the restraint limits in Group I; and
 - (ii) quota holders may continue to make use of the unlimited downswing provisions available under Phase I.
- (c) **Phase III** - commencing about six weeks from the operation of Phase II. Under this Phase, all uncommitted balances of swing margin (in absolute quantity) remaining after Phase II will be made available for application. All companies/registered businesses, whether or not they are quota holders in the swing-in items, may participate, provided that they surrender to the Department an equivalent amount of quota in another item or other items. Phase III of the Swing Scheme will be operated in two stages:
 - (i) Stage I - applications received in Stage I are considered together and approved, if necessary, on a proportionate basis; and
 - (ii) Stage II - all balances remaining after the operation of Stage I are made available for application. Under this stage, applications received on the same day are considered together and approved on a proportionate basis, if necessary.

A Combined Free Quota/Swing Scheme may be operated after Swing Scheme Phase III Stage I and Free Quota Export Authorisation Scheme II Phase I. All remaining free quotas and swing margins will be pooled together to form a combined pool and be made available for application on a day-by-day basis by any company/registered business as swing margin (which will subject the company/registered business to the swing conditions and to surrender of quota for the swing) or as free quota (subject to the usual free quota conditions). Applications received on the same day will be considered together and approved on a proportionate basis, if necessary.

In addition, under this Phase, quota holders may continue to make use of the unlimited downswing provision available under Phase I.

21. Unless otherwise specified, for the purpose of calculating the equivalent amount of quotas to be surrendered to the Department under the Swing Scheme, the conversion factors set out in Appendix I are to apply. Quotas swung-in during any one restraint period may not subsequently be swung out or transferred out again even if the swing is back to the original source item.

22. Applications for swing under Phase I will be accepted by the Department from 17 December 2003. Detailed arrangements for Phase II and Phase III of the Swing Scheme will be announced later in separate Notices to Exporters.

2004 Special Swing Scheme

23. The Department will operate a Special Swing Scheme around April and May 2004 for the Canada Market. Under this Scheme, qualified companies/registered businesses can apply for swing of quotas from certain designated source items to other designated recipient items.

24. The designated source items and recipient items and the basis for swing are set out below:

- (a) swing into Item 7/8b from Item 3/4a with reference to conversion factors; and
- (b) swing into Items 11a or 11b from Item 7/8c on a one-to-one basis without reference to conversion factors.

Details of the operation of the Scheme will be announced in a separate Notice to Exporters.

2004 Free Quota Schemes

25. It is anticipated that the following free quota schemes will be operated in 2004:

- (a) Free Quota Export Authorisation Scheme I to be operated in early January 2004 for items with balances available after meeting all the allocation commitments of the year and not covered by the Quota Window Arrangement for Cold Categories (see paragraphs 32 and 33 below);
- (b) Free Quota Export Authorisation Scheme II to be operated after the 2004 final and bonus quota allocations to dispose of unallocated balances;
- (c) Combined Free Quota/Swing Scheme to be operated around June/July 2004 by pooling the balances of free quotas after the Free Quota Export Authorisation Scheme II Phase I and the balances of swing margins after Swing Scheme Phase III Stage I. Applications under this scheme are considered together on a day-by-day basis and approved on a proportionate basis, if necessary;
- (d) Free Quota Export Authorisation Scheme III to be operated around July 2004 to dispose of quotas carried over from 2003; and
- (e) Year-end Special Shipment Scheme to be operated in December 2004 to dispose of any quotas not utilised by the Final Licensing Date, i.e. 1 December 2004.

The dates mentioned above are for indication purposes. The Department will endeavour to make free quotas available to the trade by advancing the operation of the free quota schemes as far as possible.

26. In respect of paragraphs 25 (a) - (d) above, free quotas are allocated in the form of free quota export authorisations (FQEAs) valid for three months from the date of issue or up to 1 December 2004, whichever is the earlier. In respect of paragraph 25 (e) above, free quotas are allocated in the form of export licences valid up to 31 December 2004.

27. Except for the Combined Free Quota/Swing Scheme and the Year-end Special Shipment Scheme, the free quota schemes may be operated in two phases as follows:

- (a) Phase I - all applications received during a specified period are considered together and approved, if necessary, on a proportionate basis; and
- (b) Phase II - any balances after Phase I are made available for application on a day-by-day basis, i.e. all applications received on the same day are considered together and approved on a proportionate basis, if necessary.

The Department will decide whether Phase II of individual free quota schemes should be operated depending on the circumstances. Companies/registered businesses will be informed of the detailed arrangements through relevant Notices to Exporters.

28. For the purpose of applications in garment items under free quota schemes, manufacturers are required to provide their Production Capacity (PC) data in the Factory Information Sheet during renewal of Factory Registration. Newly-registered manufacturers who have not yet sent in the Factory Information Sheets to the Department should send them by post to the Factory Registration Section, Certification Branch, 3/F, Trade and Industry Department Tower, 700 Nathan Road, Kowloon or by hand to the Customer Service Centre of the Certification Branch at the same address at least 7 working days before the close of the considered-together stage (i.e. Phase I) of the scheme that they intend to participate. For details, please refer to Notice to Exporters: Series 3 (Countries other than USA & EU) No. 30/2003 dated 30 May 2003.

29. In respect of applications for free quotas in garment items, the following additional conditions will apply:

- (a) companies/registered businesses applying as manufacturers should not make applications under the considered-together stage of each scheme exceeding a maximum quantity calculated on the basis of PC data in the Factory Information Sheet (Note¹). In brief, the maximum quantity a manufacturer can apply for will be the summation of quantities of all product lines in garment group produced by workers within own premises of the manufacturer and those produced by outworkers as declared in the Factory Information Sheet divided by 12 months (Note²);
- (b) where the total quantity applied for by a manufacturer under each scheme exceeds the maximum quantity calculated on the basis of the manufacturer's PC data as mentioned in paragraph 29 (a) above, the Department will reject all applications involving the manufacturer. It is therefore in the interests of the exporter to be aware of his manufacturer's overall participation in each scheme; and
- (c) free quotas issued under free quota schemes cannot be used to cover export of garment parts or semi-manufactured garments.

Note¹ This should cover the PC data declared in Group A (Garment) of the Factory Information Sheet only.

Note² For factories registered with the Department for less than a year, the PC data should cover the period from the date of factory registration to the latest date as supported by books and records.

30. A quota holder which has net transferred out, on a temporary basis, 10% or more of its holding in an item will not be allowed to apply subsequently for free quota in the same item during the considered-together stage (i.e. Phase I) of the free quota schemes (except in the Year-end Special Shipment Scheme).

31. The conditions and procedures for participation in individual free quota schemes will be announced in separate Notices to Exporters in due course.

2004 Quota Window Arrangement for Cold Categories

32. The Department will operate a Quota Window Arrangement for Cold Categories from January 2004 to distribute quota with low utilisation rate in recent years. Under this Arrangement, companies/registered businesses can apply for restrained textiles export licences for their textile shipments against uncommitted departmental quota in the items concerned on a first-come-first-served basis.

33. Items put under the Quota Window Arrangement for Cold Categories are selected on the basis of their utilisation rates in recent years. Companies/registered businesses should note that existing quota holders in these items will continue to receive allocations according to the Department's quota allocation principles. The quotas so allocated will continue to be subject to the conditions set out in the quota allocation letters and relevant Notices to Exporters. Only uncommitted quotas will be put under this Arrangement. Items with quota released under the Arrangement will not be open for application for free quota under the Free Quota Export Authorisation Schemes, the Combined Free Quota/Swing Scheme and the Year-end Special Shipment Scheme. Applications for export licences under this Arrangement must be made through the Electronic Data Interchange (EDI) service provided by the Tradelink Electronic Commerce Limited (Tradelink) either by sending electronic messages directly to the Department or via one of the Tradelink Service Centres. Full details of the conditions for participation and licensing arrangements pertaining to the Arrangement will be announced in a separate Notice to Exporters.

Discontinuation of Anticipation Scheme in 2004

34. The Department will **not** operate any Anticipation Scheme in 2004. Quota holders are however reminded that the existing conditions governing anticipation of 2004 quota allocation will remain unchanged. Shipments and temporary transfers made in 2003 against anticipated 2004 quotas will be deducted from their 2004 quota allocation.

(V) LICENSING ARRANGEMENTS FOR EXPORT OF RESTRAINED TEXTILES

General Arrangements

35. All exports of textile products to Canada, unless otherwise exempted by the Director-General of Trade and Industry, must be covered by valid export licences issued by the Department. Otherwise, legal and/or administrative actions may be taken against the parties concerned. Details of the exemption of textile articles from licensing requirements are set out in Notice to Exporters: Series 3 (Countries other than USA & EU) No. 34/2003 dated 3 June 2003. In this connection, while the Director-General of Trade and Industry may issue export licences retrospectively under exceptional circumstances to provide assistance to facilitate customs clearance of a particular consignment at the importing country, the granting of such retrospective licence shall not constitute a defence in any prosecutions under the Import and Export Ordinance (Cap. 60) or preclude any administrative actions which may be taken by the Director-General of Trade and Industry.

36. Restrained textiles must be exported under Export Licence (Textiles) Form 5. The Department will accept applications for export licences covering shipments of restrained textiles in

2004 to Canada from 22 December 2003. Any such export licences approved in 2003 will be endorsed to the effect that they will not be valid for shipment until 1 January 2004. Export licences are normally valid for 28 days.

37. The Department will only accept applications for restrained textiles export licence (RTEL) sent in by using the EDI Service provided by Tradelink. No paper applications will be accepted. Companies/registered business which are not registered with Tradelink for EDI Service should make their applications at and collect the approved licence copies from the Tradelink Service Centres which provide services of data input and message generation. For enquiries relating to EDI RTEL service, please contact the Department's EDI RTEL Hotline at 2398 5643 or Tradelink's Customer Service Hotline at 2917 8888. For registration with Tradelink in respect of EDI RTEL service, please contact Tradelink's Registration Hotline at 2599 1700.

38. Following the approval of a licence application, exporters should send an Electronic Carrier Notification (CN) Advice message before shipment to notify Tradelink of the carrier or the freight forwarder as appropriate, which has been appointed to handle the shipment covered by the licence concerned (except for licences covering goods exported by parcel post through the Post Offices where the carrier copy of the licence will be issued). For operational details of the CN service, please refer to Notice to Exporters: Series 3 (Countries other than USA & EU) No. 41/98 dated 7 July 1998.

Conditions for Application for Restrained Textiles Licences

39. All applications for restrained textiles export licence must be supported by direct firm orders. Such firm orders must be issued direct to the declared exporter or the declared manufacturer by the overseas buyer or its registered local agent, provided that the local agent is registered with the Trade and Industry Department in accordance with the conditions and procedures set out in Notice to Exporters: Series 3 (Countries other than USA & EU) No. 37/02 dated 19 November 2002 on Textiles Export Control System: Local Appointed Agents. In this connection, the declared exporter or the declared manufacturer on an export licence application must, on request, produce for inspection the relevant documentary evidence of direct firm order covering the goods as declared on the licence application. The documentary evidence must take one of the following forms:

- (a) a contract in writing signed by both the overseas buyer and the declared exporter or the declared manufacturer; or
- (b) a purchase order in writing from the overseas buyer; or
- (c) a sales confirmation order in writing from the declared exporter or the declared manufacturer, supplemented by the overseas buyer's endorsement/confirmation in writing; or
- (d) a letter of credit issued on the application of the overseas buyer and with the declared exporter or the declared manufacturer named as beneficiary.

The Department reserves the right to ask for additional information and further documentary proof to substantiate the claim of firm order. Failure to produce satisfactory documentary evidence will result in the rejection of the licence application; or in the event that a licence has already been issued, the Director-General of Trade and Industry may cancel, suspend and/or revoke the relevant licence. In addition, legal and/or administrative actions may be taken.

40. All complete or finished articles in respect of which an application is made for an export licence against quota must be of merchantable quality, i.e. can be put up for retail sale, and are fit for the purpose for which such goods are sold, and of such standard of appearance and finish as it is reasonable to expect having regard to the description applied to them. For incomplete, unfinished or unassembled articles in respect of which an application is made for an export licence against quota,

they must possess the essential character of the complete or finished articles. Whether any particular textile product is of merchantable quality shall be subject to the determination of the Director-General of Trade and Industry.

41. In addition to the **firm order** requirement stipulated in paragraph 39 above and the **consignment check** requirement elaborated in paragraphs 68 and 69 below, licence applicants are required to comply with the **Factory Registration** requirement (see paragraph 42 below), the **Local Subcontracting Arrangement** (see paragraph 43 below), the requirement for information on **Outward Processing Arrangement** (see paragraphs 44 and 45 below), and the **Production Notification** requirement for cut-and-sewn garments (see paragraph 46 below) where applicable.

Factory Registration Requirement

42. Factory Registration (FR) is a licensing condition for restrained textile products. All manufacturers engaged in the production of restrained textile products and appearing on export licences are required to possess a valid FR. The FR numbers of manufacturers must be provided on the licence application. Licence applications made by manufacturers who do not possess a valid FR or fail to provide their FR numbers will be deferred/rejected.

Local Subcontracting Arrangement

43. Manufacturers employing local contractors to carry out principal process of manufacture or entire production of goods for export to restrained markets must obtain prior approval from the Trade and Industry Department by registering under the Local Subcontracting Arrangement (LSA). Otherwise, the licence application would be deferred and the parties concerned may be subject to legal and/or administrative actions. Manufacturers are also reminded that approval to subcontract given under the LSA will not derogate from any term or condition governing the participation in any quota control scheme, i.e. a manufacturer's obligation not to subcontract will not be absolved by the approval to subcontract under the LSA. Details of the LSA are set out in Certificate of Origin Circular No. 7/98 of 9 July 1998.

Information on Outward Processing Arrangement

44. Manufacturers must also state on export licence applications whether any of the subsidiary or minor finishing processes of the goods covered by the licence application has been subcontracted outside Hong Kong under the Outward Processing Arrangement (OPA) operated by the Department. They must make, as appropriate, either one of the following two special statements by sending in the relevant codes:

- (Code 032) "I declare that the goods that I, the manufacturer, manufacture and are covered by this licence are not under the Outward Processing Arrangement."
- (Code 033) "I declare that the goods that I, the manufacturer, manufacture and are covered by this licence are under the Outward Processing Arrangement. I further declare that the audit number(s) of the relevant combined Outward Processing Arrangement form(s) is(are) provided in the special statement in free text, where available, that I make in this licence."

In case OPA is involved (i.e. the Special Statement Code 033 is made), the OPA Audit Number printed on the OPA Combined Form must be quoted in the special statement in free text (Code A01). The numbers must be entered right at the start of each line in the free text box in the following manner:

OPA NO: xxxxxxxx, xxxxxxxx, xxxxxxxx (up to a total of 70 characters in each line)

OPA NO: xxxxxxxx, xxxxxxxx, xxxxxxxx

45. Where amendment of OPA declaration is required, such amendment should be made before actual shipment of the goods. Correct declaration may be made on a standard OPA declaration amendment form which is available at the Customer Service Centre of the Textiles Controls Branch on 2/F, Trade and Industry Department Tower. Alternatively, traders may send EDI messages to cancel the original licence and make a new licence application containing the correct declaration.

Production Notification Requirement for Cut-and-sewn Garments

46. Under the Import and Export Ordinance (Cap. 60), manufacturers and subcontractors (if any) producing cut-and-sewn garments to Canada are required to lodge a Production Notification (PN) to the Department on the day of or within 3 working days before the commencement of the major assembly work of the garments in Hong Kong. The Trade and Industry Department and the Customs and Excise Department may request the manufacturer and/or the subcontractor to produce for inspection relevant PN(s) to substantiate the origin of goods if circumstances so warrant. For details regarding the PN arrangement, please refer to the following circulars:

<u>Certificate of Origin Circular</u>	<u>Date of Issue</u>
No. 3/96	17 May 1996
No. 8/98	9 July 1998
No. 10/99	23 July 1999
No. 1/00	16 February 2000
No. 1/02	19 January 2002

Information to be Declared in Export Licence Applications

47. In making applications for export licences, applicants are requested to note the following for shipments to Canada:

- (a) exporters and manufacturers who have registered with the Department for textiles controls purposes should state the Textiles Controls Registration (TCR) number on all textiles export licence applications. Exporters and manufacturers who do not have a TCR number should leave blank the relevant "TCR No." field. Exporters and manufacturers are required to enter their Business Registration (BR) number. Manufacturers should also provide their Factory Registration (FR) Number in the "FR No." field. Companies/registered businesses which fail to comply with this requirement or furnish incorrect information in relation to the TCR/BR/FR number shall be deemed to have made a false declaration on the export licence application and are liable to legal and/or administrative actions by the Department;
- (b) in respect of RTEL applications, a person acting and signing for and on behalf of an exporter or a manufacturer should be an authorised signatory under the TCR. For an exporter who is not registered for TCR, the person acting and signing for and on behalf of the exporter should be the proprietor, a partner or a director as the case may be or other duly authorised representative of the exporter. For a manufacturer not registered for TCR, the person acting and signing for and on behalf of the manufacturer should be an authorised signatory under FR. Where specimen signatures of authorised signatories under FR have not yet been provided to the Department, the person acting and signing for and on behalf of the manufacturer should be the proprietor, a partner or a director as the case may be or other duly authorised representative of the manufacturer. The details of the relevant requirements are set out in Notice to

Exporters: Series 3 (Countries other than USA & EU) No. 32/2003 dated 2 June 2003. Please note that any application for RTEL that fails in complying with the above requirements or bears a signature or a company chop different from that kept in the Department's TCR or FR records as appropriate may be deferred;

- (c) each licence application may cover a consignment of up to three product descriptions and classifiable in three items. However, separate licence applications should be made for garment items in Group I and textiles items in Group II;
- (d) applicants must state on the licence application the quantity of the goods covered in the designated unit of measure as set out in Appendix I. For products controlled in square metres, quantities should be expressed up to one decimal place;
- (e) applicants must state on the export licence application covering apparel items the construction (i.e. knitted, crocheted, woven, as appropriate) and the gender (i.e. men's, boys', ladies', girls', as appropriate) of the garments covered by the application. For export of children's apparels, the quantity should be broken down into various sizes as appropriate (e.g. size 3X - 100 pc, 5X - 500 pc, etc.). Shipments of children's garments should be applied under separate licence applications;
- (f) one piece of garment for children (sizes 2-6X) under Items 1a, 1b, 2, 3/4a, 4b, 5b, 7/8b, 7/8c, 9 and 11b is considered to be equivalent to 3/5 (or 0.6) of a control unit for the items concerned. That is to say, companies/registered businesses will be debited 3 units of quota for the export of every 5 pieces of children's garment;
- (g) applicants should complete the "Quota Reference" field in the electronic message as follows:
 - (i) if the quotas supplied are from the applicant's own quota holding, to fill in the Textiles Controls Registration (TCR) Number of the quota supplier with the prefix "XX"; or
 - (ii) if the quotas supplied are not from the applicant's own quota holding, to fill in the free quota export authorisation, temporary transfer, swing or swing-transfer reference number, etc as appropriate; and
- (h) the item number entered on visa copy, which is printed on the original copy of the export licence, for Item 5b, Item 7/8c and Item 11b is Item 5, Item 7/8 and Item 11 respectively.

48. Applicants for export licences covering apparel items are required to declare the following additional information in the applications:

Fibre Content of Textile Products

- (a) Under the Harmonised System (H.S.) based categorisation system, textile products made up in more than one fibres are normally classified with reference to the fibre which predominates by weight of the component fibres of the outer shell with the exception of winter outerwear under Item 2 [see paragraph 48 (b) below]. Applicants for export licences are required to state in the applications the weight in percentage of the constituent fibres of the outer-shell of the product. Details of the weight broken down by respective component textile fibres and non-textile materials such as plastic, rubber, metal, leather, etc., should also be given. The following are examples:
 - (i) Ladies' 70% wool 30% acrylic woven topcoat, length up to the knee;

- (ii) Girls' 65% cotton 35% linen knitted dress.
- (b) For winter outerwear of Item 2, the weight of all textile components, including the lining, has to be taken into account in determining the classification. Declaration for Item 2 should also include the type of lining, i.e. whether it is quilted or brushed, and the weight of the brushed lining. Examples to illustrate the declaration are as below:
 - (i) Men's 75% nylon 25% cotton woven ski jacket with 100% polyester quilted lining
Overall by weight: 65% nylon, 20% cotton, 15% polyester
 - (ii) Boys' 90% polyester 10% leather woven ski pants with 100% cotton fleeced lining of a weight of 160 gram/m²
Overall by weight: 55% cotton, 40% polyester, 5% leather

Jackets (Item 1b)

- (c) Applicants should specify the type of jackets covered by their licence applications, i.e. whether the garment is a wind-cheater, wind-jacket, anorak or other types of jacket. Details on whether the garment has collar, opening, sleeves and tightening means at cuffs and bottom and the length of the garment (e.g. up to hip or up to mid-thigh) are required to be declared on the licence applications.

Suits (Item 3b)

- (d) Applicants must make the following declarations on their licence applications covering suits:
 - (i) "The components of the suits are of the same fabric construction, style, colour, composition and of compatible size. The panels of the suits are sewn together lengthwise. The goods are packed and shipped as a set." (Special Statement Code 015); or

"The components (except the back panel of the waistcoat) of the suits are of the same fabric construction, style, colour, composition and of compatible size. The panels of the suits are sewn together lengthwise. The goods are packed and shipped as a set." (Special Statement Code 021); and
 - (ii) the breakdown of the number of panels in the front and at the back of the suit.

However, the declaration mentioned in paragraph (i) above is not required if the suit is a morning dress, evening dress (tail coat) or dinner jacket suit.

Ensembles (Item 3/4a)

- (e) For licence applications for all kinds of ensembles, applicants have to declare in their licence applications that "the components of the ensembles are of the same fabric construction, style, colour, composition and of compatible size. The goods are packed and shipped as a set." (Special Statement Code 016). Applicants should also provide details on their licence applications the components of the ensembles.

Jackets and Blazers (Item 3/4a, Item 3b)

- (f) Applicants for export licences covering jackets and blazers under Items 3/4a and 3b must declare in the licence applications that the garment is cut lengthwise, and the breakdown of the number of panels in the front and the back of the garment.

Athletic Wear (Item 7/8b)

- (g) Applicants for export licences covering athletic wear need to declare in the applications the type of athletic wear covered. In case the application covers athletic wear in sets, such as track suits or judo sets, the declaration that “the goods are packed and shipped as a set” (Special Statement Code 018) is required.

49. Applicants for export licences are advised to keep the actual samples of the shipments in question for the Department’s examination and verification.

50. It is important to ensure that the information provided in the export licence applications is true and correct. It is an offence under the Import and Export Ordinance to provide false or misleading information in an export licence application. Failure to provide complete information may result in delay in the processing or rejection of the application.

Visa Arrangement

51. The Government of Canada will admit imports of textiles and textile products described in Appendix I provided such imports are covered by a copy of a Hong Kong export licence (the visa copy) endorsed and issued by the Trade and Industry Department to the effect that the imports covered by the licence have been debited to the applicable quantitative limit. The visa copy is a signed copy (original copy) of a Hong Kong export licence with a stamp on the front reading “The shipment made under this licence, covering the quantity(ies) and item(s) specified below, has been approved for export to Canada. This copy is for presentation to the competent authorities in Canada.” The information/data within the visa stamp including quantity, item number and unit of control is printed by computer.

52. Exporters should forward the original copy of the approved export licence (i.e. the visa copy) to their importers for customs clearance purpose. Exporters are also requested to note that goods not accompanied by a valid visa showing correct details of the shipments concerned will be denied entry by the Canadian authorities. In practice, this means that if the goods shipped to Canada belong to an item different from that covered by the visa and/or the quantity shipped exceeds that covered by the visa, the goods will be denied entry by the Canadian authorities. However, the Canadian authorities will not deny entry in cases where the quantity in the actual shipment is smaller than that shown on the visa (please also refer to paragraph 53 below). Exporters should therefore, in their own interest, ensure that the quantities and classification of the goods to be shipped are correct before effecting a shipment against an approved licence.

53. Where the particulars on an export licence need to be amended or in the case of cancellation of an export licence, the visa copy must be returned to the Department. Requests for cancellation or amendment of the shipment quantity without the visa copy will result in non-credit back of the short-shipped/licensed quantity, as appropriate, for subsequent re-use. It is therefore in the interest of the quota suppliers to ensure that requests for amendment/cancellation are accompanied by the visa copy.

54. Traders are requested to note that in the event that the goods covered by textiles export licences are refused entry by Canada for reasons such as the application of differing origin or classification criteria, the Department may consider taking the matter up with the Canadian authorities, where appropriate, with a view to seeking a satisfactory resolution of the classification difference

wherever possible. Nevertheless, whilst the Department will make every endeavour to assist the parties concerned, no liability will be accepted by the Department for the hold-up of consignments by Canada in such cases. For details, please refer to Notice to Exporters: Series 3 (Countries other than USA & EU) No. 48/2003 dated 28 August 2003 on hold-up of textile consignments by importing country authorities.

Amendment and Cancellation of Licences

55. Parties concerned, particularly quota suppliers and transferors of temporary quotas, should ensure that licensed quantities are wholly shipped or, if that does not occur, the short-shipments or cancellations of export licences are reported to the Department promptly in accordance with the conditions set out in paragraphs 56 and 57 below together with relevant shipping documents (e.g. bills of lading) as appropriate.

56. Short-shipments in respect of each export licence against quota or free quota export authorisation must be reported to the Department within 14 working days after the day on which the goods are exported. Failure to do so represents exports not in accordance with a licence, in respect of which the Department may take prosecution and/or administrative actions against the exporter and/or the manufacturer concerned. Such administrative actions may include:

- (a) non-credit back of the short-shipped quantity for subsequent re-use even if the exporter concerned can return the visa copy of the export licence for amendment; and
- (b) other administrative actions including permanent surrender of quotas and debarment of the parties concerned from participation in textiles export control schemes.

57. If an export licence, whether taken out against quota or free quota export authorisation, is not utilised for shipment within its validity period, the licence should be cancelled within 14 working days after the expiry date. Parties which fail to do so may be subject to:

- (a) non-credit back of the licensed quantity for subsequent re-use even if the exporter concerned can return the visa copy of the export licence for cancellation; and
- (b) other administrative actions including permanent surrender of quotas and debarment of the parties concerned from participation in textiles export control schemes.

58. Exporters and manufacturers, and in particular, quota suppliers and transferors of temporary quota, are requested to note that the administrative actions mentioned in paragraphs 56 and 57 above, if applied, will have the implication that the non-credit back quantity will not be made available to the parties concerned for any licensing or related transactions (including reversion of temporary transfers to the transferor).

59. Irrespective of whether any of the administrative actions has been taken by the Department, the calculation of utilisation for the purpose of debarment from free quota schemes will normally be based on the shipped quantities against the original quantities approved in the free quota schemes concerned. Exporters and manufacturers are also reminded that requests for other amendments to approved textiles export licences should similarly be made before shipment of the goods or within 14 working days after the date on which the goods are exported. The types of amendments which are normally allowed and those which are normally disallowed are set out in Notice to Exporters: Series 3 (Countries other than USA & EU) No. 43/02 dated 13 December 2002. It should be emphasised that the approval of requests for amendments is subject to the discretion of the Department and is not automatic.

Final Licensing and Shipment Dates

60. The final licensing date for export licence applications against 2004 quotas and valid free quota export authorisations is 1 December 2004 (except for applications under the 2004 Quota Window Arrangement for Cold Categories, the final licensing date of which will be announced in relevant Notice to Exporters). Any unutilised quota holdings will be withdrawn by the Department after the final licensing date of 1 December 2004 and released to the trade as free quotas under the 2004 Year-end Special Shipment Scheme. In other words, quota holders have no right to utilise their unutilised quotas including quotas credited back on amendment or cancellation of licences for any purposes including licensing, transfer to other parties or to effect permanent surrender of quota to the Department after the final licensing date. It should be noted that shipments against approved export licences must be made on or before 31 December 2004. The final licensing date stated above may be subject to change. Full details will be announced in a separate Notice to Exporters to be issued around end October 2004.

(VI) LICENSING ARRANGEMENTS FOR NON-RESTRAINED TEXTILE PRODUCTS

61. All exports of textiles and clothing not subject to quota restraint to Canada must be covered by valid export licences issued by the Department. Applications for export licences should be made in triplicate on Export Licence (Textiles) Form 4 (TIC 353) to Counter No. 2 of Textiles Controls Branch on 2/F, Trade and Industry Department Tower, 700 Nathan Road, Kowloon. If the products are to be exported as samples, the corresponding licensing requirements as set out in paragraphs 62 and 63 below have to be complied with.

(VII) LICENSING ARRANGEMENTS FOR SAMPLE SHIPMENTS

62. The Department provides an instant licensing service for export licence applications in respect of sample shipments, whether or not such goods are subject to quantitative restriction for export to Canada. Exporters who wish to avail themselves of the "instant service" facility should make their export licence applications on Export Licence (Textiles) Form 4 (TIC 353) in triplicate (for samples of non-restrained products) or in quadruplicate (for samples of restrained products) to Counter No. 7 of Textiles Controls Branch on 2/F, Trade and Industry Department Tower, 700 Nathan Road, Kowloon.

63. Applicants should ensure that their export licence applications are completed correctly and that the textile goods involved are samples that meet the conditions specified in Notice to Exporters: Series 3 (Countries other than USA & EU) No. 45/02 of 14 December 2002. In respect of sample shipments for restrained items, exporters are advised to send the fourth copy of the licence which will be endorsed by the Department to their Canadian importers in order that the latter may secure clearance of the goods.

(VIII) LICENSING ARRANGMENTS FOR EXPORT OF PERSONAL EFFECTS AND GIFTS

64. The Department provides an instant licensing service for export licences issued outside quotas in respect of genuine personal effects and gifts. Detailed licensing arrangements are set out in Notice to Exporters: Series 3 (Countries other than USA & EU) No. 50/2003 dated 8 September 2003. Applications for export licences should be made in triplicate on Export Licence (Textiles) Form 4 (TIC 353) to Counter No. 7 of Textiles Controls Branch on 2/F, Trade and Industry Department Tower, 700 Nathan Road, Kowloon.

(IX) LICENSING ARRANGEMENTS FOR EXPORT BY PARCEL POST

65. The licensing arrangements for export by parcel post are set out in Notice to Exporters: Series 3 (Countries other than USA & EU) No. 46/02 dated 14 December 2002.

(X) LICENSING ARRANGEMENTS FOR RE-EXPORT SHIPMENTS

66. The licensing arrangements for re-export shipments are set out in Notices to Exporters: Series 3 (Countries other than USA & EU) No. 20/95 dated 20 April 1995 and No. 37/01 dated 1 December 2001. Application for export licence covering textile re-exports of non-Hong Kong origin to Canada should be made on Export Licence (Textiles) Form 4 (TIC 353) to Textiles Import/Export Licensing Unit, Computers and General Licensing Branch of the Department on 1/F, Trade and Industry Department Tower, 700 Nathan Road, Kowloon.

67. For traders registered under the Textiles Trader Registration Scheme (TTRS), they may, subject to their compliance with a set of conditions, cover the textile re-exports with Export Notification II (Textiles) during the validity period of their registration. For details regarding the TTRS, please refer to Textiles Trader Registration Circulars Nos. 6/98 and 7/98, both dated 21 August 1998. Electronic service for textiles notifications has been available since 30 May 2003. Relevant details of the service are contained in Textiles Trader Registration Circular Nos. 6/2003, 16/2003 and 19/2003 dated 11 April 2003, 28 May 2003 and 9 August 2003 respectively. Exporters are reminded that a re-export licence issued by the Trade and Industry Department or an Export Notification is not a customs clearance document for the purpose of importation of non-Hong Kong origin textile products into Canada. To enable customs clearance of such products, exporters should, in their own interest, ensure that they have the necessary import documents as required by the importing authorities.

(XI) COMPLIANCE WITH CONSIGNMENT CHECK, PRODUCTION CHECK AND FACTORY AUDIT CHECK REQUIREMENTS

68. In order to uphold the integrity of the Textiles Export Control System, the Trade and Industry Department in conjunction with the Customs and Excise Department, currently conducts various forms of checks including consignment check, production check and factory audit check to verify the accuracy of material particulars declared on import/export licences/certificates of origin/production notifications, and to verify the production capacity of a factory against its export performance. Compliance of consignment check, production check and factory audit check requirements is a condition of licence, certificate of origin, production notification, Textiles Controls Registration as well as Factory Registration. Quota holders are also reminded that the utilisation of quota, including any transfer out of quota, may be conditional upon the fulfillment of the factory audit check requirements to the satisfaction of the Director-General of Trade and Industry. For details of consignment check, production check and factory audit check requirements, please refer to the Notice to Exporters: Series 3 (Countries other than USA & EU) No. 56/2003 cum Certificate of Origin Circular No. 22 /2003 dated 14 November 2003.

69. Failure to comply with any of the consignment check, production check or factory audit check requirements or failure to render all necessary assistance and co-operation to officers of the Customs and Excise Department in conducting the checks including the provision of sample(s) of any article for the retention of officers of the Customs and Excise Department for examination and inspection purposes may be liable to legal and/or administrative actions including suspension of all licensing facilities including transfer facilities, and all certification facilities including those relating to production notification. Furthermore, the Textiles Controls Registration, Factory Registration, services provided under the Local Subcontracting Arrangement and Outward Processing Arrangement as well as other facilities provided under the Textiles Export Control System for the parties concerned

will also be suspended. The Director-General of Trade and Industry may reject or refuse to validate the relevant licence application/certificate of origin application/production notification as appropriate; or in the event that a licence/certificate of origin/production notification has already been issued/validated, he may cancel, suspend and/or revoke the relevant licence/certificate of origin/production notification, and may discount the shipment performance of all the export licences taken out by the parties concerned during a specific period including those issued before 2004 for the purpose of quota allocation. In this eventuality, the Department will not accept any responsibility that may arise from the rejection of the application or the revocation of the approval/validated licence/certificate of origin/production notification concerned.

(XII) TEXTILES CONTROLS REGISTRATION

70. Textiles Controls Registration (TCR) is a pre-requisite for any company/registered business wishing to hold quotas or apply for free quota, swing, transfer, and swing transfer of quota. The TCR number must be quoted in the relevant textiles applications whenever they are sent to the Department. For the purpose of textiles export control, companies/registered businesses holding different TCR numbers will be treated as separate and distinct entities irrespective of any relation (including but not limited to such relationship as agent/principal, subsidiary/holding company or registered business, associate companies/registered businesses, etc.) which may exist between registrants. Companies/registered businesses wishing to apply for TCR should approach the Department's Central Registration Office at Room 106, 1/F, Trade and Industry Department Tower (tel. no.: 2398 5512) for details of the registration. For details pertaining to the TCR requirement, please refer to Notice to Exporters: Series 3 (Countries other than USA & EU) No. 49/2003 dated 29 August 2003.

(XIII) IMPORTANT NOTES

71. Any textiles and textile products classifiable as restrained textiles under the arrangements agreed between Hong Kong and Canada pertaining to the implementation of the ATC shall not be shipped to Canada unless covered by a valid export licence issued against valid quota holdings or valid free quota export authorisation held by the party/parties to a licence. In this connection, the term "shipped" generally means that the goods in question are exported from Hong Kong and clear of Hong Kong waters en route to Canada. The Director-General of Trade and Industry at all times reserves the right to determine whether, in any case, the goods have been shipped. In the event the Director-General of Trade and Industry decides that within the context of the Textiles Export Control System the goods have not been properly shipped, he may apply administrative actions against the company/registered business.

72. All goods in respect of which an application is made for an export licence against Hong Kong quota must be of Hong Kong origin. Unless otherwise specified, goods claiming Hong Kong origin must have undergone principal process(es) of manufacture in Hong Kong. These are process(es) which change permanently and substantially the shape, nature, form or utility of the basic materials used in manufacture, as laid down by the Director-General of Trade and Industry in relevant Certificate of Origin Circulars. Companies/registered businesses, in particular quota suppliers and transferors of temporary quotas, should ensure that the textile products exported or to be exported under the relevant quotas are of Hong Kong origin.

(XIV) WARNING

73. The Trade and Industry Department works closely with the Customs and Excise Department, through checks and inspections, to ensure compliance with the provisions of the Textiles Export Control System. The Department takes a serious view of traders who breach any of the

provisions of the Textiles Export Control System. A company/registered business which commits an offence under the Import and Export Ordinance is liable upon conviction to a maximum penalty of a fine of HK\$500,000 and two years' imprisonment.

74. Moreover, it is the Department's policy to take administrative actions against exporters/importers/manufacturers/subcontractors and any other parties concerned in cases of malpractice relating to the importation, exportation, re-exportation and/or transshipment of textiles products. Parties infringing the textiles origin rules, and/or in breach of any of the provisions of the Textiles Export Control System may be subject to administrative actions independent and irrespective of any prosecution action which may be instituted against them. The Department also reserves the right to take administrative actions where, in its view, there is evidence which shows a company/registered business' involvement in any form of malpractice including falsifying of particulars affecting any licence or document in support thereof.

75. For the purpose of upholding Hong Kong's international reputation among her trading partners and safeguarding the integrity of the Textiles Export Control System, administrative actions may be taken against cases of transshipment fraud or other textiles related malpractice, irrespective of, among others, the following circumstances:

- (a) whether the companies/registered businesses concerned are engaged in the export of restrained textiles or are parties to the export licence(s), or whether they are the quota suppliers for the shipments concerned;
- (b) whether the shipment has been effected;
- (c) whether Hong Kong quotas have been misused;
- (d) whether free quota has been allocated to, accepted or utilised by the companies/registered businesses; or
- (e) whether import/export/re-export licences/notifications, certificates of origin and/or production notifications have been applied for/lodged, amended, cancelled or withdrawn.

76. These administrative actions may involve, but shall not necessarily be confined to, any or all of the following: suspension or cancellation of the TCR of the company/registered business concerned and/or refusal to register the company/registered business concerned for TCR purpose and retrieval of all the quotas held by the company/registered business concerned; suspension and revocation of any exemption and/or registration granted under the Textiles Trader Registration Scheme; permanent forfeiture or surrender of quota; withdrawal of the balance of quota remaining unlicensed at the time; disqualification from receiving future allocations of quota; discounting of shipment performance gained by the licence(s) for the purpose of quota allocation; debarment from all facilities of the Textiles Export Control System; debarment from all licensing facilities including transfer facilities and all certification facilities including those relating to production notification; debarment from pairing-up for licensing facilities; debarment from participation in textiles export control schemes including free quota schemes and/or Year-end Special Shipment Scheme; rejection of a licence/certificate of origin application or refusal to validate production notification; and cancellation, suspension and/or revocation of a licence/certificate of origin/production notification.

77. With a view to strengthening the effectiveness in combating origin malpractice, the Department may discount, for the purpose of quota allocation, the shipment performance of the consignment involved in the textiles origin infringement cases in respect of textiles export to restrained markets. In addition, the Department may take the following actions:

- (a) permanent surrender of quota involved in the textiles origin infringement(s);

- (b) parties who have been convicted due to infringement of textiles origin rules in respect of textiles export to restrained markets may, for each offence, be debarred from pairing up with the other parties involved in the same case to obtain export licences and free quotas in all restrained markets for a period of 12 months as specified by the Director-General of Trade and Industry; and
- (c) if the party in breach of the textiles origin rules has been so convicted on more than one occasion on or after 4 December 1998 and such infringements occurred within a 12-month period, its applications (if any) for all licensing facilities including transfer facilities and participation in the various control schemes in respect of all restrained markets, and all certification facilities including facilities relating to production notification may be rejected for a period of six months as specified by the Director-General of Trade and Industry.

For details of these measures, please refer to the Notice to Exporters: Series 3 (Countries other than USA & EU) No. 8/99 dated 23 March 1999.

78. Quota suppliers and transferors of temporary quota (including swing transfer of quota) should note that the textiles products exported or to be exported to restrained markets under their Hong Kong quotas must be of Hong Kong origin and such export must be made in accordance with the provisions of the Textiles Export Control System and any other requirements laid down by the Director-General of Trade and Industry governing the export of textiles. Otherwise, the Director-General may decide to discount the shipment performance gained by the licence(s) concerned for the purpose of quota allocation. Under such circumstances, the utilisation percentages of both the quota supplier's and the transferor's quota holdings and their quota allocation may be affected.

79. Quota suppliers and transferors of temporary quota should further note that discounting of shipment performance mentioned in paragraph 78 above could render them liable to a substantial reduction of their quota holding if discounting of performance of the licence(s) concerned results in less than 98% utilisation of their quota holding. Furthermore, even if quota suppliers and transferors of temporary quota are not involved in or aware of the textiles malpractice, the Director-General of Trade and Industry may still discount the shipment performance concerned where he considers appropriate. Quota suppliers and transferors of temporary quota are therefore reminded to bear this in mind when using or transferring quota.

(XV) ENQUIRIES

80. Should you require further information, please contact the Customer Service Centre of the Textiles Controls Branch at 2398 5288 or Miss Jasmine LAM, Assistant Trade Officer, at 2398 5425.

Yours faithfully,

(Thomas CHEUNG)
for Director-General of Trade and Industry

Electronic services for Restrained Textiles Export Licence, Production Notification and Certificate of Origin enable traders to make the relevant applications directly through their office computer faster and easier. Electronic service has now been extended to the submission of Cargo Manifests and Textiles Notifications.
For details and enquiries, please call Tradelink at **2599 1700**.

For online access to selected Trade Information Circulars, please visit Trade and Industry Department's Internet web portal at **<http://www.tid.gov.hk>**.

For enquiries and complaints about factory audit check, factory inspection, production verification and consignment checks, please contact the Customs and Excise Department at the following telephone numbers:

Factory Audit Check Division	2398 5218
Consignment and Factory Inspection Division 1	2398 5240
Consignment and Factory Inspection Division 2	2417 6011
Complaint Hotline	8100 3553

Note : The Chinese text of this Notice to Exporters is for reference only. In case of discrepancies between the English and Chinese texts, the English text shall for all purposes be conclusive.

TC/FWYC/PL/jc