

SBCR 1/1336/86 Pt. 38
LS/B/7/00-01

By Fax : 2877 5029

Our Tel: 2810 3435
Our Fax: 2868 9159 (Open)/ 2877 0636 (Conf.)

28 January 2002

Legislative Council Secretariat
Legal Service Division
Legislative Council Building
8 Jackson Road
Hong Kong
(Attn : Mr Stephen Lam)

Dear Mr Lam,

Dangerous Goods (Amendment) Bill 2000

Thank you for your letter of 24 January. I would like to set out our clarifications in the following paragraphs.

Section 12(2)(e) of the Dangerous Goods Ordinance ("DGO")

We have no objections to adding "aircraft" at appropriate places in section 12(2)(e) of the Dangerous Goods Ordinance as well and will update the list of Committee Stage Amendments to be proposed by the Administration.

Merchant Shipping (Safety) Ordinance (Cap 369)

We would like to clarify that following the passage of the Dangerous Goods (Amendment) Bill 2000, we will need to implement our detailed proposals to improve control over dangerous goods by amending all the relevant subsidiary legislation. Among other things, we will amend the definition of "dangerous goods" in the Merchant Shipping (Safety) (Dangerous Goods and Marine Pollutants) Regulation to align it with the new definition of "dangerous goods" in

the Merchant Shipping (Safety) Ordinance as proposed in the Dangerous Goods (Amendment) Bill 2000. As we have explained in our previous responses (cf. LC Paper No. CB(1)411/00-01(02)), the Dangerous Goods (Amendment) Bill 2000 when passed will only come into effect later together with the future amendment to the subsidiary legislation as one package.

We consider that innocent parties are also adequately protected in respect of the Merchant Shipping (Safety) Ordinance. The administrative arrangements described in para. 9 – 10 of the Administration's response to the issues raised at the Bills Committee meeting held on 12 December 2001 ensures that there will be a window of about two months from the first notice of the intended declaration of dangerous goods to the shipping communities to the effective date of the declaration. As a normal ship journey to Hong Kong will hardly take that long to complete, it is highly unlikely that someone sending a substance to Hong Kong by sea will not be able to take the necessary precautionary measures when the goods are shipped because he has no knowledge of the intended declaration. In any case, before initiating any prosecution (in Part VIII of the Merchant Shipping (Safety) Ordinance, only section 87 provides for offences), the authority must be satisfied that there is sufficiency of evidence and it is in the public interest to do so taking into account all the circumstances of the case. The fact that a substance is only declared to be dangerous goods when the ship conveying it is already en route to Hong Kong can be relevant to the consideration.

Yours sincerely,

(David Wong)
for Secretary for Security