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Secretary for Commerce and Industry
(Attention: Mr. Philip CHAN,
Prin. Assistant Secretary (5))
Commerce and Industry Bureau
Level 29 One Pacific Place
88 Queensway, Hong Kong

By Fax No. 2869 4420

23 May 2001

Dear Mr. Chan,

Dutiable Commodities (Amendment) Bill 2001

I refer to your letter to Mrs. Florence Lam, the Clerk to the Bills Committee dated 18 May 2001 copied to me with enclosures of Committee Stage amendments for my comments. Please find the following comments for your consideration.

Clause 2

2. In the English version of Clause 2(a)(i), it is not clear whether it is amending just the Chinese version or the Chinese words within the bracket in the English version. In (ii), it seems quite clear that only the Chinese version is to be amended. Could the amendment be identified more clearly?

Clause 3

3. In the Chinese version of the proposed new section 3B(1)(b) and (2), I note that the word "declaration" in the English version is now rendered as "聲明" but it is rendered as "申報" in Clause 11. It is further noted that the word has been rendered sometimes as "聲明" and sometimes as "申報" in this

Ordinance. Could consistency be achieved, say, at least within this Bill?

Clause 4

4. The wordings in this Clause, in particular, "the Commissioner to specify any requirement for giving information required to be given.....", appear to be quite verbose. I realize that this is only a matter of style but could this be improved?

Clause 9

5. In my last letter, I have asked whether the requirements of furnishing statements at the office of the Commissioner and signature of the parties when furnishing the statement should be expressly excluded in the new section 22(7) and you stated in your reply that it was not necessary.

6. Section 22(5) states that "if any statement is not furnished in accordance with, or is furnished in breach of, *the provisions of this section*, the owners, charterers and agents of the ship, aircraft or vehicle, the master of the ship, the person in charge of the aircraft and the driver of the vehicle, in respect of which the statement is, or should have been, furnished, shall each and all be guilty of an offence." There are six subsections in this existing section providing for different requirements.

7. The new section 22(7) only mentions that the requirement under subsection (1) shall be regarded as having been complied with if a manifest is lodged using services provided by a specified body. Under the existing subsection (2), one has to lodge a statement at the office of the Commissioner and under subsection (3), the party has to sign on the statement. If a person furnishes a manifest by electronic means, should all other requirements under subsections (2) and (3) also be regarded as having been complied with to put beyond doubt that he would not be held criminally liable for breaching the provisions of this section ?

8. . With regard to the new proposed section 22(8)(a), I note that the requirement for furnishing the statement will only be within 14 days after the service of the notice and will not be "within such longer period as the Commissioner may specify" as provided in subsection (1). Is that the legislative intent?

9. In the new proposed section 22(9), personally I find the CSA quite verbose but again this is a matter of style for your consideration.

10. I would appreciate it if you would let me have your reply in both English and Chinese as soon as possible so that I could submit our correspondences to the members of the Bills Committee.

Yours sincerely,

(Anita Ho)
Assistant Legal Adviser

c.c. Department of Justice (Attn: Mr. Jonothan ABBOTT, SALD
and Miss Frances HUI, SGC)

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