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**Paper for the House Committee meeting
on 29 June 2001**

**Second Report of the Bills Committee
on Dutiable Commodities (Amendment) Bill 2001**

Purpose

This paper reports on the further deliberations and recommendation of the Bills Committee on Dutiable Commodities (Amendment) Bill 2001 (the Bill).

Background

2. The first report of the Bills Committee was considered by the House Committee on 22 June 2001. Since there were still uncertainties over the concerns expressed by the industry on the use of electronic data interchange (EDI) in processing dutiable commodities permit (DCP) applications via the service of Tradelink, the Bills Committee was of the view that it should consider the views of the industry, taking into account the outcome of the discussions of the Panel on Commerce and Industry (the Panel) on the proposed commencement of the Dutiable Commodities (Amendment) Regulation 2001, before concluding its deliberations.

3. Subsequent to the Panel meeting held on 26 June 2001 for the said purpose, the Bills Committee held another meeting to examine the views of the deputations.

Deliberations of the Bills Committee

4. The Bills Committee notes that the deputations received by the Panel had expressed concerns over three major issues:

- (a) the high fees for using EDI service relating to the processing of DCPs,

bearing in mind the processing of DCPs in paper mode is at present not subject to any charge;

- (b) the technical problems encountered by the industry relating to the launching of EDI service for processing DCPs and the inadequate technical support provided by Tradelink; and
- (c) the monitoring mechanism for ensuring the reliability of the EDI service, including the formulation of contingency plans to cope with system failures.

A summary of the discussions by the Panel on the above issues is in **Annex A**.

5. The Bills Committee is in support of the intent to promote the greater use of EDI service in processing trade-related documents to enhance Hong Kong's competitiveness. The Bills Committee therefore supports, in principle, the present Bill which seeks to introduce a legal framework for the use of EDI in processing DCP applications via the service of Tradelink. Implementation details of EDI for DCP are not part of the Bill. Even upon the passage of the Bill, traders will not be forced to use EDI for DCP immediately, and they will have a choice to use the paper mode until a certain date to be determined by the Administration and approved by the Legislative Council by means of subsidiary legislation.

6. Against this background, the Bills Committee supports the Administration's proposal to resume Second Reading debate on the Bill on 4 July 2001. However, it urges the Administration to maintain regular dialogue with the industry and take positive actions to address the concerns expressed by the industry before making the EDI service for DCP mandatory.

Dutiable Commodities (Amendment) Regulation 2001

7. The Bills Committee notes that the Administration intends to bring the Dutiable Commodities (Amendment) Regulation 2001 (the Regulation) into effect on 20 July 2001 after the passage of the Bill. The Regulation seeks to amend the Dutiable Commodities Regulations (Cap. 109 sub. leg.) to make provision regarding the use of a particular electronic service in connection with application for permits under the Dutiable Commodities Ordinance (Cap. 109), and for dealings in relation to permits generally. The effect of the proposal is that Members will not be able to exercise their power of intervention under Section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) before the Regulation comes into operation. Any motion from Members to amend the Regulation will have to be deferred to the next legislative session. This is contrary to the long-standing agreement with the Administration that subsidiary legislation should, as far as possible, be made effective at least 35 days after it

has been tabled. Moreover, it may not be desirable to bring the Regulation into operation prior to the expiry of the scrutiny period by the Legislative Council as this would mean that the implementation of EDI for DCP would then be subject to future changes that may be affected by amendments by the Legislative Council in the next legislative session.

8. The Administration holds the view that the proposed early commencement will not prejudice Legislative Council's right to examine the Regulation after the summer recess. In the event that Legislative Council considers it necessary to amend the Regulation after the summer recess, it could be effected from a current date. On the other hand, to defer the effective date to the next legislative session would mean that traders would not be able to make use of the new system when it is operationally ready for such a service.

9. The Bills Committee has expressed reservation about the Administration's proposal to allow the Regulation to come into force during the scrutiny period, particularly in light of the comments from the trade. The majority of members do not support the Administration's proposal, but one member considers that interested users would benefit from the early implementation of EDI service for DCP. Any teething problems, if identified, could be rectified at an early stage, which could be regarded as a trial period. Another member is of the view that it would be a matter for the Administration to judge whether the Regulation shall come into force during the summer recess, taking into account the implications and risks of the proposal.

10. As the scrutiny of the Regulation is outside the purview of the Bills Committee, members unanimously agree that it would not be appropriate for the Bills Committee to make any specific recommendation in this regard nor to examine the Regulation.

Recommendation

11. The Bills Committee recommends the resumption of the Second Reading debate on the Bill on 4 July 2001.

Advice sought

12. Members are requested to support the recommendation of the Bills Committee at paragraph 11 above and to note paragraphs 7 to 10.

Council Business Division 1
Legislative Council Secretariat
28 June 2001

Summary of views expressed by the industry on the proposed commencement the Dutiable Commodities (Amendment) Regulation 2001 and the Administration's response at the meeting of the Panel on Commerce and Industry held on 26 June 2001

Concerns expressed by the Dutiable Commodities Customer Liaison Group	Administration's response
<ul style="list-style-type: none">• The high fees for using EDI service relating to the processing of DCPs, bearing in mind the processing of DCPs in paper form is at present not subject to any charge.• The proposed fee is much higher than the cost incurred in engaging staff to take up the related tasks.• The basis for arriving at the proposed level of fees.	<ul style="list-style-type: none">• Tradelink's projected internal rate of return over the franchised period is about 9%, some way below the ceiling of 18% set out in the agreement with the Government. Excluding other trade-related documents, the return rate for DCP alone is only 3% or below.• In accordance with the User-Pay principle, a fee shall be collected by Government for processing DCP though it is at present not subject to any charge. According to the present estimate, the unit cost for processing a DCP in paper form is \$120.• The Government investment on the extension of the Government EDI system to receive and process DCPs and related documents has been excluded in the calculation of the service fee for EDI service for DCP by Tradelink. However, there is a need to charge a service fee to recover the investment by Tradelink on the provision of front-end systems for processing DCPs by EDI. Taking into account the views of the industry, Tradelink has reduced and restructured the fees. The present thinking is that Tradelink intends to charge a fee of \$44 per DCP application and \$25 per Ship's Stores Permits application. On this basis, over 80% of the users will pay less than \$4,400 a year. Their average payment is about \$830 a year.• The extension of EDI to DCP will enable traders to file DCP applications in a more efficient manner. The processing time will be shortened from two days to half a day and DCP could be submitted from 7:00 am to 11:00 pm.

<ul style="list-style-type: none">• Technical problems identified during the testing stage have yet to be resolved.• Inadequate technical support given by Tradelink and the industry is not yet ready to submit DCP by EDI.	<ul style="list-style-type: none">• Given the experience of Tradelink in providing EDI service for other trade-related documents, it is not envisaged that major problems will be encountered.• Seminars have been/will be arranged to brief users on the new systems. Communication will be strengthened to enhance understandings. Problems identified in the testing stage have been examined and rectified. Tradelink will discuss further with individual companies to see how interconnection between individual systems and the Tradelink's system could be further improved. Teething problems will be taken up further after actual implementation.• Some 100 companies have indicated that they would be willing to try out the new system.• Traders will use the EDI service for DCP on a voluntary basis, and may still use the paper mode until a certain date to be decided by the Administration and approved by the Legislative Council.
Monitoring mechanism for ensuring the reliability of the proposed system, including the formulation of contingency plans to cope with system failures.	<ul style="list-style-type: none">• Government will monitor the implementation programme in close collaboration with Tradelink and the industry.• Tradelink has formulated a comprehensive contingency plan to cope with emergencies but the plan has never been used as Tradelink's systems have been working well in the past.