

立法會
Legislative Council

LC Paper No. LS49/01-02

**Paper for the House Committee Meeting
of the Legislative Council
on 1 February 2002**

**Legal Service Division Report on
Dutiable Commodities (Amendment) Bill 2002**

Object of the Bill

To amend the Dutiable Commodities Ordinance (Cap. 109) (the Ordinance) and its regulations so as to implement an open bond system in all bonded warehouses in Hong Kong and to make some other miscellaneous amendments.

LegCo Brief Reference

2. FIN No. 104/5/27 issued by the Finance Bureau in January 2002.

Date of First Reading

3. 30 January 2002.

Comments

4. At present, dutiable commodities (i.e. liquor, tobacco, hydrocarbon oil and methyl alcohol) are stored in 60 bonded warehouses. Duties are paid when these commodities are moved out of the warehouses. Members of the Customs and Excise Department (C&ED) are stationed in 51 warehouses to exercise physical control over the movement of the commodities. For 9 oil companies and breweries, permission has been given by the Commissioner of C&ED to operate under an open bond system (OBS), i.e. no members of the C&ED are stationed in their warehouses. The Administration exercises its control over these 9 warehouses by relying on self-compliance by the licensees and on periodic inspections.

5. In the first half year of 2001, the Administration carried a pilot scheme to test the implementation of the OBS on 5 liquor and tobacco bonded warehouses. According to the Administration, the operation was quite successful. From the revenue protection aspect, no anomaly in the duty collected from the participating warehouses was observed.

6. The Administration now proposes to fully implement this OBS. From the legislative point of view, a tighter control on the licensing, record keeping and auditing

requirements for warehouse owners has to be imposed. In this Bill, it is proposed that a licensee is required to keep every relevant document relating to the movement of goods into and out of the warehouse for 2 years (Clause 20). If the licensee fails to comply with such requirement, he shall be liable on summary conviction to a fine of \$500,000 and to imprisonment for 12 months. Goods are to be produced promptly for inspection (Clause 14). If a licensee fails to have an appropriate system of inventory control, record keeping and security, he may not have his licence renewed (Clause 3).

7. There may be unintended mistakes in stock account. Clause 6 empowers the Commissioner to compound such mistakes by imposing a fine at level 1 (i.e. \$2000) if there is a deviation of stock account for less than \$10,000 in terms of the duty value of the goods involved.

8. Should any licensee opt to operate under the OBS before his existing licence had expired, Clauses 24 to 26 provide for transitional arrangements. He can surrender his existing licence and can get a pro-rata refund of the licence fee paid for the unexpired period of validity of the existing licence.

Public Consultation

9. According to the Administration, it has fully consulted bonded warehouse owners who expressed strong support for the implementation of the OBS. If such system is implemented, they are then no longer required to meet government charges in respect of the members of C&ED who are stationed in their warehouses. This would result in a reduction of their operating costs.

Consultation with the LegCo Panel

10. The Administration briefed the LegCo Panel on Commerce and Industry on 14 January 2002 (Paper Ref.: LC Paper No. CB(1)764/01-02(04)). The Chairman summarised that the Panel was generally in support of the Administration's proposal.

Conclusion

11. We are seeking clarifications from the Administration on some legal and drafting aspects of the Bill. Members may defer the decision on whether to form a Bills Committee to scrutinize this Bill pending our further report.

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