

立法會
Legislative Council

LC Paper No. CB(1) 761/01-02
(These minutes have been seen
by the Administration)

Ref : CB1/SS/1/01/1

**Subcommittee on
Dutiable Commodities (Amendment) Regulation 2001 and
two related Commencement Notices**

**Minutes of second meeting held on
Thursday, 20 December 2001 at 3:00 pm
in Conference Room B of the Legislative Council Building**

Members present : Hon Kenneth TING Woo-shou, JP (Chairman)
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Dr Hon David CHU Yu-lin, JP
Hon Cyd HO Sau-lan
Hon CHAN Kam-lam
Hon SIN Chung-kai

Public officers attending : Mr Philip CHAN
Principal Assistant Secretary for Commerce and Industry

Miss Helen CHUNG
Assistant Secretary for Commerce and Industry

Mr J L ABBOTT
Senior Assistant Law Draftsman
Department of Justice

Ms Frances HUI
Senior Government Counsel
Department of Justice

Mr Simon WONG
Assistant Commissioner (Administration and Excise)
Customs and Excise Department

Mr CHENG Shing
Assistant Staff Officer (Electronic Data Interchange)
Customs and Excise Department

Clerk in attendance : Miss Salumi CHAN
Chief Assistant Secretary (1)5

Staff in attendance : Ms Bernice WONG
Assistant Legal Adviser 1

Mr Anthony WONG
Senior Assistant Secretary (1)8

I. Confirmation of minutes of meeting
(LC Paper No. CB(1) 617/01-02)

The minutes of the first Subcommittee meeting held on 8 December 2001 were confirmed.

II. Meeting with the Administration

- (LC Paper No. CB(1)616/01-02(01) — Paper provided by the Administration
LC Paper No. CB(1)521/01-02(02) — Letter dated 26 November 2001 from the Assistant Legal Adviser to the Administration
LC Paper No. CB(1)521/01-02(03) — Reply dated 6 December 2001 from the Administration to the Assistant Legal Adviser
LC Paper No. CB(1)520/01-02 — Marked-up copy of the Regulation
LC Paper No. CB(1)521/01-02(01) — Dutiable Commodities (Amendment) Regulation 2001
LC Paper No. CB(1)521/01-02(05) — Dutiable Commodities (Amendment) Ordinance 2001 (19 of 2001) (Commencement) Notice 2001

- LC Paper No. CB(1)521/01-02(06) — Dutiable Commodities (Amendment) Regulation 2001 (L.N. 248 of 2001) (Commencement) Notice 2001
— Legislative Council Brief issued by the Commerce and Industry Bureau)

2. The Subcommittee deliberated (Index of proceedings attached at **Appendix**).

Matters arising from the first meeting

Commencement date of the Amendment Regulation

3. On the Administration's proposal of appointing 10 January 2002 (Thursday) as the day on which the Dutiable Commodities (Amendment) Regulation 2001 (the Amendment Regulation) should come into operation, Assistant Legal Adviser 1 drew members' attention that in accordance with section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1), if a resolution was passed by the Legislative Council (LegCo) on 9 January 2002 (the expiry date of the extended scrutiny period) to amend the Amendment Regulation, the Amendment Regulation should be deemed to be amended from the date of publication in the Gazette of such resolution, which normally was the following Friday, i.e. 11 January 2002. In response to members' concern about the possible one-day time gap between the commencement date of the Amendment Regulation and the effective date of the amendment resolution, Principal Assistant Secretary for Commerce and Industry confirmed that arrangement had been made for the amendment resolution to be published in the Gazette Extraordinary on 10 January 2002 (Thursday).

Regulation 22 and new Regulation 106

4. Referring to the marked-up copy of Regulation 22 and the new Regulation 106 of the Dutiable Commodities Regulations (Cap. 109 sub. leg.) tabled by the Assistant Legal Adviser at the meeting, members suggested and the Administration agreed that the following amendments be incorporated into the resolution to be moved by the Secretary for Commerce and Industry at the Council meeting on 9 January 2002 to amend the Amendment Regulation:

Regulation 22

- (a) Subregulations (6) and (7) should be combined, and the drafting should be amended to reflect the Administration's policy intent that the Commissioner of Customs and Excise (the Commissioner) would only exercise his power to offer an additional option for traders to submit applications for dutiable commodity permits (DCPs) in paper form under very exceptional circumstances where it was not practicable for an

application to be submitted solely in electronic form, e.g. in case of system failure, or there was a need to allow the Administration to declare a new type of dutiable commodity without having to enhance the computer system in advance, thus maintaining confidentiality for the purpose of revenue protection.

- (b) To avoid delay and minimize the disruption to be caused to users under the very exceptional circumstances mentioned in item (a) above, Regulation 22 should be amended to enable the specification made by the Commissioner to take effect before the notice of such specification was published in the Gazette, e.g. to provide that the notice be published in the Gazette within 14 days from the date of specification.

New Regulation 106

- (c) To provide certainty to all relevant parties, the end date of the proposed six-month transitional period should be specified in the new Regulation 106. To provide flexibility to the Administration, it would be provided in the new Regulation 106 that the Commissioner might amend the end date by notice published in the Gazette before the end date. As the Amendment Regulation was expected to come into operation on 10 January 2002, the end date of the six-month transitional period should be 10 July 2002, the day on which the last LegCo meeting for the 2001-2002 session was scheduled to commence. In the light of previous experience that the last LegCo meeting might last for a few days, the end date might be specified as 19 July 2002 (Friday) to allow time for gazettal of any resolution passed at the meeting to amend the subsidiary legislation.

(Post-meeting note: The marked-up copy of Regulation 22 and the new Regulation 106 of the Dutiable Commodities Regulations (Cap. 109 sub. leg.) tabled at the meeting was issued to members vide LC Paper No. CB(1)669/01-02 on 21 December 2001.)

Clause-by-clause examination of the three items of subsidiary legislation

5. The Subcommittee examined the Amendment Regulation clause by clause. Members proposed no other amendments except those mentioned in paragraph 4 above.

6. The Subcommittee examined the Dutiable Commodities (Amendment) Ordinance 2001 (19 of 2001) (Commencement) Notice 2001 and the Dutiable Commodities (Amendment) Regulation 2001 (L.N. 248 of 2001) (Commencement) Notice 2001. Members proposed no amendments.

Next step

7. The Subcommittee and the Administration agreed to proceed according to the following timetable:

<u>Date</u>	<u>Action</u>
By 12:00 noon, 27 December 2001 (Thursday)	The Administration to forward to the Clerk to Subcommittee the Chinese and English versions of the draft resolution to be moved by the Secretary for the Commerce and Industry to amend the Amendment Regulation at the LegCo meeting on 9 January 2002. Upon the Assistant Legal Adviser's confirmation that the proposed amendments contained in the draft resolution were legally in order, the Clerk to Subcommittee to forward the draft resolution to members for consideration.
By 12:00 noon, 31 December 2001 (Monday)	Deadline for members to comment on the proposed amendments.
By 2 January 2002 (Wednesday)	Deadline for the Secretary for Commerce and Industry to give notice of motion to amend the Amendment Regulation at the LegCo meeting on 9 January 2002.
2 January 2002 (Wednesday)	The Subcommittee to submit a written report to the House Committee for its meeting on 4 January 2002 (Friday).

*(Post-meeting note: The draft resolution to be moved by the Secretary for the Commerce and Industry was circulated to members on 27 December 2001 vide LC Paper No. CB(1) 676/01-02. The Administration agreed to the Assistant Legal Adviser's suggestion that the end date specified in Regulation 106(2)(a) and (3) was **20 July 2002 (Saturday)** to provide for the possibility of a resolution of LegCo published in the Gazette on 19 July 2002 (Friday) to amend the notice.)*

III. Any other business

8. There being no other business, the meeting ended at 4:20 pm.

Legislative Council Secretariat
9 January 2002

Appendix

**Proceedings of the second meeting of the
Dutiable Commodities (Amendment) Regulation 2001 and
two related Commencement Notices
on Thursday, 20 December 2001 at 3:00 pm
in Conference Room B of the Legislative Council Building**

Time	Speaker	Subject(s)	Action Required
<i>Agenda Item I — Confirmation of minutes of meeting</i>			
0001-0220	Chairman	Confirmation of minutes of meeting held on 8 December 2001	
<i>Agenda Item II — Meeting with the Administration</i>			
0221-0301	Chairman	Welcoming remarks and inviting comments on the commencement date of the Amendment Regulation	
0302-0415	Administration	Comments on the commencement date of the Amendment Regulation	
0416-0706	Assistant Legal Adviser 1	-ditto-	
0707-0715	Ms Audrey EU	-ditto-	
0716-0727	Assistant Legal Adviser 1	-ditto-	
0728-0738	Chairman	-ditto-	
0739-0809	Administration	-ditto-	
0810-0834	Mrs Selina CHOW	Policy intent and drafting of Regulation 22(6)	
0835-1002	Chairman	-ditto-	
1003-1454	Administration	-ditto-	
1455-1652	Assistant Legal Adviser 1	-ditto-	
1653-1749	Ms Audrey EU	-ditto-	
1750-1852	Administration	-ditto-	
1853-1908	Ms Audrey EU	-ditto-	
1909-2116	Administration	-ditto-	
2117-2358	Mrs Selina CHOW	-ditto-	
2359-2509	Administration	-ditto-	
2510-2636	Ms Audrey EU	-ditto-	
2637-2747	Administration	-ditto-	
2748-2831	Chairman	-ditto-	
2832-2915	Mrs Selina CHOW	-ditto-	
2916-3011	Administration	-ditto-	
3012-3031	Mrs Selina CHOW	-ditto-	Admin

Time	Speaker	Subject(s)	Action Required
3032-3130	Administration	-ditto-	
3131-3139	Mrs Selina CHOW	Policy intent and drafting of Regulation 22(6)	
3140-3151	Assistant Legal Adviser 1	-ditto-	
3152-3319	Administration	Commissioner's power to revert to paper form for DCP applications under very exceptional circumstances (Regulation 22(6))	
3320-3409	Mrs Selina CHOW	-ditto-	
3410-3502	Administration	-ditto-	
3503-3529	Mrs Selina CHOW	-ditto-	
3530-3547	Administration	-ditto-	
3548-3555	Chairman	-ditto-	
3556-3614	Mrs Selina CHOW	-ditto-	
3615-3620	Administration	-ditto-	
3621-3629	Chairman	-ditto-	
3630-3639	Mrs Selina CHOW	-ditto-	
3640-3715	Administration	-ditto-	
3716-3724	Mrs Selina CHOW	-ditto-	
3725-3858	Ms Audrey EU	-ditto-	Admin
3859-3950	Chairman	Inviting views and comments on new Regulation 106	
3951-4607	Administration	Comments on new Regulation 106	
4608-4920	Assistant Legal Adviser 1	-ditto-	
4921-5020	Ms Audrey EU	-ditto-	
5021-5218	Administration	-ditto-	
5219-5439	Mrs Selina CHOW	-ditto-	
5440-5538	Chairman	-ditto-	
5539-5604	Administration	-ditto-	
5605-5803	Assistant Legal Adviser 1	-ditto-	
5804-5813	Chairman	-ditto-	
5814-5834	Mrs Selina CHOW	-ditto-	
5835-5851	Chairman	-ditto-	
5852-010023	Administration	-ditto-	
010024-010101	Mrs Selina CHOW	-ditto-	
010102-010111	Chairman	-ditto-	
010112-010123	Mrs Selina CHOW	-ditto-	
010124-010149	Administration	-ditto-	
010150-010346	Chairman	Clause-by-clause examination of the Amendment Regulation	
010347-010434	Administration	-ditto-	
010435-010534	Chairman	-ditto-	

Time	Speaker	Subject(s)	Action Required
010535-010603	Assistant Legal Adviser 1	-ditto-	
010604-010633	Administration	-ditto-	
010634-010656	Mrs Selina CHOW	-ditto-	
010657-010829	Administration	-ditto-	
010830-010913	Chairman	-ditto-	
010914-011010	Administration	-ditto-	
011011-011019	Mrs Selina CHOW	-ditto-	
011020-011104	Chairman	Examination on the two Commencement Notices	
011105-011115	Assistant Legal Adviser 1	-ditto-	
011116-011130	Administration	-ditto-	
011131-011327	Chairman	Next step and concluding remarks	Admin

Note: The audio records of the above proceedings are kept at the Legislative Council Library

Legislative Council Secretariat
9 January 2002