

**For meeting on
19 July 2002**

Legislative Council Panel on Financial Affairs

Amendments to the Dutiable Commodities Regulations

PURPOSE

This paper seeks Members' views on the Administration's proposals:

- (a) to remove the prescriptions on the standards of quality for Chinese-type spirits from the Dutiable Commodities Regulations (Cap. 109 sub. leg.); and
- (b) to introduce a labeling requirement for liquors under the Dutiable Commodities Ordinance (Cap. 109).

BACKGROUND AND ARGUMENT

Existing provisions

2. Liquors consumed locally are subject to the payment of a duty under the Dutiable Commodities Ordinance (the Ordinance). Section 6(1)(b) of the Ordinance provides that the Chief Executive in Council may by regulation prescribe or provide for standards of quality for dutiable commodities. Section 17(5) provides that it is an offence to sell, advertise, supply or possess for these purposes any dutiable goods which do not conform with the standards prescribed in the Regulations as goods meeting those standards. Regulation 66(b) of the Dutiable Commodities Regulations (the Regulations) prescribes the standards of quality for liquors, the purpose of which is to facilitate enforcement of duty collection.

3. Regulation 66(b) prescribes the standards for western spirits and fortified wine (i.e. excluding beer and most wine) and certain categories of commonly traded Chinese-type spirits, namely rice spirit (米酒), millet spirit (小米酒), and molasses spirit (糖漿酒) or sugar spirit (糖酒), or spirit made from an admixture of molasses and sugar. The prescriptions cover the name, alcoholic strength, ingredients, production method, etc. of various liquors, and the standards on name and alcoholic strength are summarised in the table at the *Annex*.

4. As shown in the *Annex*, the prescriptions concerning western spirits and fortified wine (*Table I*) are comprehensive. However, the prescriptions concerning Chinese-type spirits (*Table II*) are far from exhaustive and do not cover each and every Chinese-type spirit which is or has a potential to be sold in Hong Kong.

Problems with the existing provisions

5. As the Ordinance forbids, among other things, the selling and supplying of dutiable goods not conforming with the standards prescribed in the Regulations as goods meeting those standards, a liquor which bears a name that is covered by the Regulations must meet other standards correlating to that name. For example, as the range of alcoholic strength prescribed for Mow Toi, a type of millet spirits, is 50% - 70%, a Mow Toi which has alcoholic strength of 38% may not be supplied and sold in Hong Kong. Such spirit may be supplied and sold if it bears another name which is not covered by the prescriptions.

6. The above prescription provisions are effective if they are kept up-to-date. In the case of western spirits and fortified wine, there are prevailing and well-established alcoholic standards prescribed by our major trading partners, e.g. the European Community. Compliance with those standards and prescriptions has never been a problem for them. However, in the case of Chinese-type spirits, new methods and types are constantly evolving and prescribing standards in the Regulations is problematic.

7. For instance, one recent development is that certain Chinese-type spirits covered by the Regulations are now manufactured in alcoholic

strengths lower than the levels prescribed in the Regulations. In the Mainland, Mow Toi is now commonly produced at alcoholic strengths of 28%, 38% and 43% while its prescribed alcoholic strength in the Regulations is 50% - 70%. Also, there are no commonly accepted standards for most of the Chinese-type spirits.

PROPOSED LEGISLATIVE AMENDMENTS

Removing prescribed standards for Chinese-type spirits

8. Because of the problem as set out in paragraph 7 above, we propose that the prescriptions concerning Chinese-type spirits (i.e. the prescriptions shown in *Table II* of the *Annex*) should be deleted from the Regulations. As the prescriptions concerning western spirits and fortified wine are working well, our intention is to retain those prescriptions to facilitate enforcement. The effect of this proposal is that all types of Chinese-type spirits may be supplied and sold in Hong Kong. This helps to eliminate unnecessary restrictions on the trade.

Introducing alcoholic strength label

9. Duties are assessed on the basis of the alcoholic strength of liquor. However, there is currently no provision in the Ordinance which requires liquor to bear a label making known its alcoholic strength although in practice, almost all of the liquors traded in Hong Kong do have such labels (many countries have a requirement that their exported liquor must bear labels which stipulate their alcoholic strengths). If we remove the prescriptions in the Regulations for Chinese-type spirits as proposed in paragraph 8 above, the Customs and Excise Department will no longer have any legal reference for determining the alcoholic strength and hence the duty payable for Chinese-type spirits, even though they are commonly traded in Hong Kong. The Department has no other way than to rely on the traders' manifests and carrying out actual checks on the alcoholic strengths of Chinese-type spirits in determining duty payable. The latter monitoring method is ineffective and time consuming.

10. To resolve this monitoring problem, we propose to add a new provision in the Regulations requiring all liquors for supply or sale in Hong Kong to bear labels that set out their alcoholic strengths. Although the labeling requirements will be most needed for regulating Chinese-type spirits, we also propose that all other liquors (including western spirits, wine and beer) be subject to the same requirement to ensure equal treatment and facilitate overall enforcement. We also propose to provide in the legislation that a person importing or selling liquor who fails to label the liquor or provides inaccurate or false information on the label commits an offence and shall be made liable to penalty.

11. With the proposed labeling requirement, the Customs and Excise Department would be able to determine the duty payable based on the alcoholic strength as stated on the labels. This labeling requirement will reduce the time for inspection, duty assessment and hence processing of application for duty payment from traders.

Compliance Cost

12. We understand from the trade that in general the proposed labeling requirement would not increase the compliance cost because the vast majority of the imported liquor already have labels covering alcoholic strength. Where it does, the additional cost will be insignificant.

PUBLIC CONSULTATION

13. The Customs and Excise Department has sounded out the major liquor trade associations, including the Hong Kong & Kowloon Provisions, Wine & Spirit Dealers' Association and the Hong Kong & Kowloon General Association of Liquor Dealers & Distillers which represent the major traders of Chinese-type spirits, as well as the major traders of liquor. They expressed the view that generally, they would have no difficulty in complying with a labeling requirement. They also considered the existing standards concerning Chinese-type spirits as contained in Regulation 66(b) to be out of line with those standards

adopted by the major exporting economies, and that the obsolete standards for Chinese-type spirits had increased the cost of production, as manufacturers needed to open a special production line to produce liquors which were in compliance with the Hong Kong law.

ADVICE SOUGHT

14. Subject to Member's views on the Administration's proposals to remove the prescriptions on the standards of quality for Chinese-type spirits from the Regulations and to introduce a labeling requirement, we will further pursue the proposals with the trade.

Financial Services and the Treasury Bureau
(The Treasury Branch)
July 2002

Annex

Prescribed names and alcoholic strength standards for Liquor in Dutiable Commodities Regulations

Table I : Western Spirits and Fortified Wine

Western spirits	
Brandy	Not less than 36% by volume at 20°C
Whisky	Not less than 40% by volume at 20°C
Rum/Gin/Vodka	Not less than 37.5% by volume at 20°C
Fortified wine	
Port/Sherry	Not less than 15% by volume at 20°C

Table II : Chinese-type Spirits

Rice spirits / Molasses or sugar spirits / spirits made from admixture of molasses and sugar	
Liu Pun (料半) / To Liu Pun (土料半)	22% -58% by volume at 20°C
Sheung Ching (雙蒸) / To Sheung Ching (土雙蒸)	27% -58% by volume at 20°C
Sam Ching (三蒸) / To Sam Ching (土三蒸)	36% -58% by volume at 20°C
Sei Ching (四蒸) / To Sei Ching (土四蒸)	48% -58% by volume at 20°C
Millet spirits	
Mow Toi (茅台), Ko Leung (高櫟), Tai Kook (大麴)	50% -70% by volume at 20°C
Sai Fung (西鳳), Fan Chow (汾酒)	60% -70% by volume at 20°C