

LEGISLATIVE COUNCIL BRIEF

Dutiable Commodities Ordinance
(Chapter 109)

DUTIABLE COMMODITIES (AMENDMENT) REGULATION 2001

INTRODUCTION

Annex At the meeting of the Executive Council on 13 November 2001, the Council ADVISED and the Chief Executive ORDERED that the Dutiable Commodities (Amendment) Regulation 2001 (at Annex) should be made.

BACKGROUND

2. At the meeting of the Executive Council on 13 February 2001, the Council ADVISED and the Chief Executive ORDERED that the Dutiable Commodities (Amendment) Bill 2001 should be introduced into the Legislative Council; and the Dutiable Commodities (Amendment) Regulation 2001 should be approved in principle and be made after the Bill has passed into law, to provide the legal basis for using a particular type of electronic service to process applications for dutiable commodities permits (DCPs).

3. The Dutiable Commodities (Amendment) Bill 2001 was passed by the Legislative Council on 4 July 2001 with amendments. The amendments are technical in nature and have not changed the substance of the Bill. The Bill was signed by the Chief Executive on 5 July 2001 and promulgated on 6 July 2001.

THE REGULATION

4. **Section 3** amends regulation 22 of the Dutiable Commodities Regulations to provide that an application for a DCP shall be in electronic form. The proposed new regulation 22(6) empowers the Commissioner of Customs and Excise (the Commissioner) to revert to paper mode if necessary. This will cater for the situation where the computer system for processing DCP breaks down for an extended period. It will also allow the Government to declare a new type of dutiable commodity (DC) without having to enhance the computer system in advance, thus maintaining confidentiality for the purpose of revenue protection.
5. **Section 4** amends regulation 25 to provide for the surrender of permits issued in electronic form.
6. **Section 5** amends regulation 98(1) to stipulate that a DC warehouse operator must immediately send to the Commissioner via a recognized electronic service information regarding any movement of DCs in and out of the warehouse. This will enable the Customs and Excise Department to strengthen control of the DC stock in the warehouse.
7. **Section 6** adds a new regulation to provide for a transitional period during which applications for DCPs may be made in either the paper or electronic mode.

PUBLIC CONSULTATION

8. At the meeting of the Legislative Council Panel on Commerce and Industry on 26 June 2001, the Dutiable Commodities Customer Liaison Group (DCCLG) expressed concerns on the introduction of the electronic data interchange (EDI) service to process DCPs. Their concerns were the level of fees for using the service, the technical support provided by Tradelink Electronic Commerce Ltd. (Tradelink) and the need for a mechanism to monitor the performance of the system.
9. We had since then continued our dialogue with the DCCLG. At its meeting on 8 August 2001, the DCCLG indicated it was content with the technical support provided. In addition, two members of the DCCLG were invited to join a Task Force to monitor the performance of the system.

10. At its meeting on 8 November 2001, the DCCLG indicated that it was content with the revised fee package offered by Tradelink. The DCCLG further agreed that the service be launched on 10 January 2002.

BASIC LAW IMPLICATIONS

11. The Department of Justice advises that the proposed Regulation does not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

12. The Department of Justice advises that the proposed Regulation is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE LEGISLATION

13. The proposed Regulation will not affect the current binding effect of the Ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

14. To support electronic processing of DCP applications, we have provided \$32 million to upgrade the existing Government EDI computer system and a total staff cost of \$5.8 million for eight time-limited posts to support system development. The upgraded system will require an additional recurrent operating cost of \$3.3 million a year. It is expected that the implementation of the EDI system for processing DCPs (EDI-DCP) will result in a net deletion of 26 posts with annual staff cost of \$9.9 million. The proposed legislative amendments do not have other financial or staffing implications for Government.

ECONOMIC IMPLICATIONS

15. The proposed Regulation will facilitate the launching of EDI-DCP, which will reduce significantly the time and resources spent by traders on applying for DCPs. It will also promote the wider use of EDI, thereby maintaining Hong Kong's position as a leading international trading centre.

LEGISLATIVE TIMETABLE

16. The Regulation will be gazetted on 23 November 2001 and tabled at the Legislative Council sitting on 28 November 2001. We propose to commence the Dutiable Commodities (Amendment) Ordinance 2001 and the Dutiable Commodities (Amendment) Regulation 2001 on 10 January 2002. The commencement notices will be tabled at the Legislative Council sitting on 5 December 2001.

PUBLICITY

17. The Government and Tradelink will organize publicity measures to alert the industry to the impending changes. These measures include sending letters to the DC traders and warehouse operators, posting information on the websites of Tradelink and C&ED, putting up posters and banners at counters currently processing DCP applications, distributing leaflets and guidebooks, and conducting seminars for DC traders. These measures proved effective when we launched the EDI services for other documents in the past.

ENQUIRIES

18. Enquiries on this brief should be referred to Mr Philip Chan of the Commerce and Industry Bureau at telephone number 2918 7480.

Commerce and Industry Bureau
21 November 2001