

立法會
Legislative Council

LC Paper No. LS80/07-08

**Paper for the House Committee Meeting
on 9 May 2008**

**Legal Service Division Report on
Dutiable Commodities (Amendment) (No. 2) Bill 2008**

I. SUMMARY

1. **Objects of the Bill** To suspend the application of certain provisions in the Dutiable Commodities Ordinance (Cap. 109) (DCO) to two types of liquors and provide for related amendments.

2. **Comments** The Bill adds a new definition of "specified goods" which means—
 - (a) liquor, other than wine, with an alcoholic strength of not more than 30% by volume measured at a temperature of 20°C; or
 - (b) wine.

The Bill disapplies certain provisions of the DCO to zero-rated specified goods for the purpose of duty collection.

To maintain the existing electorate basis of the import and export functional constituency (FC), the Bill adds a related amendment to amend the Legislative Council Ordinance (Cap. 542) to grandfather those who hold valid licences for import or export liquors immediately before the Dutiable Commodities (Amendment) (No. 2) Bill 2008 takes effect, so that their eligibility as electors in the import and export FC will remain unchanged.

3. **Public Consultation** The Financial Secretary conducted consultation sessions with LegCo Members, various business bodies and the general public during the formulation of the Budget. After the Budget announcement, the Administration has met with various stakeholders of the industries, who expressed support for the proposal.

4. **Consultation with LegCo Panel** The policy aspects of the Bill have not been referred to any LegCo Panel for discussion.

5. **Conclusion** No difficulties in relation to the legal and drafting aspects of the Bill have been identified. Subject to Members' views, the Bill is ready for resumption of Second Reading debate.

Should Members decide to form a Bills Committee to consider the policy aspects of the Bill, the Administration has suggested that this Bill and the Dutiable Commodities (Amendment) Bill 2008 be referred to one Bills Committee.

II. REPORT

Objects of the Bill

To suspend the application of certain provisions in the Dutiable Commodities Ordinance (Cap. 109) (DCO) to two types of liquors and provide for related amendments.

LegCo Brief Reference

2. CITB CR 43/62/52/1 issued by the Commerce and Economic Development Bureau on 23 April 2008.

Date of First Reading

3. 7 May 2008.

Comments

4. The Bill adds a new definition of "specified goods" which means—

- (a) liquor, other than wine, with an alcoholic strength of not more than 30% by volume measured at a temperature of 20°C; or
- (b) wine.

5. The Bill disapplies certain provisions of the DCO to zero-rated specified goods for the purpose of duty collection. The main effect is that the licensing or permit requirement for import or export, storage, manufacturing and movement of zero-rated specified goods is suspended.

6. In the DCO, there are other liquor-related controls not related to duty collection, for example provisions on regulating consumption of alcoholic liquors (Dutiable Commodities (Liquor) Regulations (Cap. 109 sub. leg. B) as well as protection of consumer rights and public health (s. 61 of the DCO (records to be kept by distiller)). These provisions continue to apply to the zero-rated specified goods.

7. Obligations imposed by other ordinances on the manufacturers of zero-rated specified goods remain unchanged, for example the obligation to maintain the sanitation and cleanliness of manufacturing premises under the Public Health and Municipal Services Ordinance (Cap. 132).

8. Section 20W of the Legislative Council Ordinance (Cap. 542) (LCO) provides that the import and export functional constituency (FC) is composed of, among others, companies licensed under the DCO for the import or export, or import and export, of dutiable commodities. Upon removal of the relevant licensing requirement, importers and exporters of the zero-rated specified goods will lose their eligibility to vote or to register as electors in this FC when their present annual licences expire. To maintain the existing electorate basis of the import and export FC, the Bill adds a related amendment to amend the LCO to grandfather those who hold valid licences for import or export liquors immediately before the Dutiable Commodities (Amendment) (No. 2) Bill 2008 takes effect, so that their eligibility as electors in the import and export FC will remain unchanged.

9. In relation to the grandfathering provision, we have clarified with the Administration on the following—

- (a) There are 222 companies licensed under the DCO for the import, or import and export, of alcoholic liquors being registered as electors for the import and export FC.
- (b) A total of 55 electors for the import and export FC will have their annual licences for the import, or import and export, of alcoholic liquors expired in the period between 27 June 2008 (assuming the expiry date for the Public Revenue Protection Order 2008 to be the commencement date for the Dutiable Commodities (Amendment) (No. 2) Ordinance 2008) and 7 September 2008 (the date for holding general election to elect Members of LegCo).
- (c) A licence for the import and export, of alcoholic liquors covers the import or export, or import and export, of all types of liquors listed in Part I of Schedule 1 to the DCO, i.e. including wine, beer, spirits and other alcoholic beverages. Therefore, the Administration cannot identify how many of the expiring licences cover only the zero-rated liquors.
- (d) The grandfathering provision should take effect on the same date as the commencement of the Dutiable Commodities (Amendment) (No. 2) Ordinance 2008, which will put in place the delicensing arrangement of the zero-rated liquors.
- (e) Under the grandfathering arrangement, those companies holding valid liquor licences immediately before the commencement of the Dutiable Commodities (Amendment) (No. 2) Ordinance 2008, will continue to be eligible to register as electors or voters or to vote in the LegCo import and export FC and in the import and export subsector. However, it is the Administration's established practice to review the LCO and propose legislative amendments, as appropriate, regarding FCs before every

LegCo general election, taking into account the latest developments in the community and the relevant sectors.

Public Consultation

10. The Financial Secretary conducted consultation sessions with LegCo Members, various business bodies and the general public during the formulation of the Budget. After the Budget announcement, the Administration has met with various stakeholders of the industries, who expressed support for the proposal.

Consultation with LegCo Panel

11. The policy aspects of the Bill have not been referred to any LegCo Panel for discussion

Conclusion

12. No difficulties in relation to the legal and drafting aspects of the Bill have been identified. Subject to Members' views, the Bill is ready for resumption of Second Reading debate.

13. For Members' information, on 2 May 2008, the Administration wrote to the Chairman of the House Committee to suggest that if Members decide to form a Bills Committee to consider the policy aspects of the Bill, it is recommended that this Bill and the Dutiable Commodities (Amendment) Bill 2008 be referred to one Bills Committee.

Prepared by

LAM Ping-man, Stephen
Assistant Legal Adviser
Legislative Council Secretariat
7 May 2008