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**Panel on Security**

**Background brief prepared by the Legislative Council Secretariat  
for the special meeting on 8 April 2011**

**Enforcement against smuggling and sale of illicit cigarettes**

**Purpose**

This paper summarizes relevant discussions of the Panel on Security ("the Panel") on the Administration's enforcement against smuggling and sale of illicit cigarettes.

**Background**

2. According to the Customs and Excise Department ("C&ED"), interdiction of cigarette smuggling is a priority task of C&ED. Smuggling of cigarettes across the land boundary with the Mainland remains a major concern. Smuggling syndicates tend to employ mix-loading and false declaration to smuggle illicit cigarettes into Hong Kong in large quantities. Apart from routine checking, intelligence exchange and parallel operations with the Mainland customs authorities at the land boundary control points are measures adopted to suppress smuggling activities. In 2009, a total of 29 million sticks of cigarettes were seized in cigarette smuggling cases. Cigarette smuggling by cross-boundary vehicles from the Mainland still accounts for the majority of detected cases, while smuggling by sea has diminished substantially after rigorous enforcement by C&ED. C&ED has suppressed transnational cigarette smuggling through successful intelligence cultivation and close monitoring of suspicious shipments.

3. According to C&ED, the following multi-pronged enforcement strategies are adopted in respect of illicit cigarettes -

Cigarette smuggling

- (a) enhancing intelligence collection on the activities of cigarette smuggling syndicates;

- (b) stopping the inflow of illicit cigarettes through intelligence exchange and maintaining close cooperation with various enforcement agencies in the Mainland and overseas;
- (c) conducting joint operations against cigarette smuggling with the Mainland customs authorities;
- (d) employing advanced technologies, such as fixed X-ray vehicle inspection systems and mobile X-ray vehicle scanning systems, to reinforce interception at entry/exit checkpoints;
- (e) invoking the provisions of the Organized and Serious Crimes Ordinance ("OSCO") in the prosecution of cigarette smuggling syndicates with a view to imposing heavier sentences on the offenders;

#### Distribution and peddling of illicit cigarettes

- (f) conducting repeated and focused raids on black spots;
- (g) launching territory-wide operations by pooling resources from different enforcement units within the department;
- (h) suppressing illicit cigarette peddling through launching special operations with the Hong Kong Police Force;
- (i) stepping up enforcement actions and prosecution with particular focus on the sellers and buyers of illicit cigarettes and abusers of duty-free concessions; and
- (j) raising public awareness on illicit cigarettes, including both dutiable and contraband cigarettes and conveying the message of criminality of buying illicit cigarettes.

#### **Deliberations of the Panel**

4. The Panel discussed the Administration's enforcement against smuggling and sale of illicit cigarettes at its meetings on 31 March 1999 and 3 May 2001. The deliberations are summarized in the following paragraphs.

### Prosecution against smuggling and sale of illicit cigarettes

5. Members sought information on the invocation of OSCO to bring prosecutions against the sale of illicit cigarettes. According to the Administration, C&ED had instituted prosecution under OSCO in a case in 1997 and the defendant was sentenced to three-year imprisonment. C&ED and the Police had conducted joint enforcement actions against street peddlers. Of the number of cases and arrests in respect of street peddling and distribution handled by C&ED in 1998, about 30% were referred from the Police. C&ED was aware that in order to avoid law enforcement actions, some peddlers advertised their illicit sale by distribution of leaflets in residential areas, soliciting orders which could be placed by phone. Notwithstanding that the Administration needed time to collect evidence to institute prosecutions against such sale of illicit cigarettes, over 20 persons were arrested in 1998 for sale of illicit cigarettes by distribution of leaflets.

6. Members were concerned whether the smuggling and sale of illicit cigarettes were serious offences within the meaning of OSCO. The Administration advised that in some cases, cigarette smuggling was organized by syndicates. They exported cigarettes to neighbouring cities under proper permits and then re-routed them back into the local market. For the retail sector, there was no evidence to show that the illicit sale activities were conducted in an organized manner.

### Seizure of illicit cigarettes

7. Some members were concerned about the decreasing trend in the amount of illicit cigarettes seized at entry/exit level and whether it was due to the capability of the enforcement agencies. The Administration explained that several seizures in 1996 in which extraordinary amount of illicit cigarettes were found had accounted for the relatively significant figure in that year. The amount of illicit cigarettes seized in 1997 and 1998 were on a par. The overall situation should be evaluated by taking into account the seizure of illicit cigarettes from street peddlers and distributors. Notwithstanding the enforcement actions undertaken at various levels, the enforcement agencies could not detect smuggling activities thoroughly. It was difficult to quantify the undetected illicit cigarettes. The established policy was to discourage smoking from the health policy point of view.

### Publicity and education

8. Members considered that apart from stepping up enforcement actions against smuggling and sale of illicit cigarettes, the problem should be addressed through enhancing publicity and education with a view to changing the social norms of consuming illicit cigarettes.

### **Relevant papers**

9. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

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## Appendix

### Relevant papers on enforcement against smuggling and sale of illicit cigarettes

Committee	Date of meeting	Paper
Panel on Security	31.3.1999 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Security	3.5.2001 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Legislative Council	9.1.2002	<a href="#">Official Record of Proceedings</a> <a href="#">Pages 36-42 (Oral Question 4)</a>
Legislative Council	13.6.2007	<a href="#">Official Record of Proceedings</a> <a href="#">Pages 89-93 (Written Question 19)</a>
Legislative Council	4.7.2007	<a href="#">Official Record of Proceedings</a> <a href="#">Pages 83-84 (Written Question 7)</a>
Legislative Council	3.6.2009	<a href="#">Official Record of Proceedings</a> <a href="#">Pages 58-67 (Oral Question 6)</a>
Legislative Council	16.2.2011	<a href="#">Official Record of Proceedings</a> <a href="#">Pages 77-84 (Written Question 8)</a>

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