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15 May 2000

Ms Leung Siu-kum
Clerk to Bills Committee
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central, Hong Kong
[fax: 2869 6794]

Dear Ms Leung,

Dutiable Commodities (Amendment) Bill 1999

During our earlier discussion with LegCo Legal Service Division, we undertook to introduce a Committee Stage Amendment (CSA) to amend section 17(4) of the Dutiable Commodities Ordinance (the Ordinance). The purpose is to clarify that home-manufacturing of spirit not involving distillation process is exempted from licensing controls and duty. A copy of the draft CSA is attached for members' reference.

The CSA seeks to resolve a potential conflict between -

- (a) section 17(4) of the Ordinance which requires a licence for the manufacture of spirit; and
- (b) the new section 64A proposed under the Dutiable Commodities (Amendment) Bill 1999 (the amendment bill) that dispenses with the licensing requirement in the case of home-brewing (if it does not involve distillation).

Specifically, the need for the CSA stems from the absence of explicit exemption for home-made ‘spirit’ under the amendment bill from the licensing requirement under section 17(4) of the Ordinance. It was so drafted because home brewing by distillation is not allowed under the proposed amendment bill for fire safety reason, and that it was our understanding at that time that the making of spirit usually involves distillation. It therefore followed that home-manufacturing of spirit should not be allowed.

However, arising from our discussion with LegCo Legal Service Division and upon our further research, we have found that the making of certain types of wine (for example fortified wine) may involve the mixing of wine with spirit and such manufacturing process, though involving processing of spirit, does not necessarily involve distillation. Moreover, the manufacture of certain types of spirit also may not involve distillation. It has also been our intention to exempt manufacturing of home-made liquor (including the above-mentioned type of home-made spirit), which does not involve distillation, from the licence requirements and duty. To make this legislative intent clear, we will therefore move a CSA the effect of which is that home-made spirit which does not involve distillation is exempt from section 17(4) of the Ordinance.

I should be grateful if you could table the draft CSA and this letter at the Bills Committee meeting tomorrow.

Yours sincerely,

(Ms Esther Leung)
for Secretary for the Treasury

c.c.

C of C&E	(Attn: Mr Simon Wong)
D of J	(Attn: Miss Betty Cheung)
LegCo Legal Service Division	(Attn: Ms Anita Ho)

1st working draft: 12.5.00

2nd working draft: 15.5.00

DUTIABLE COMMODITIES (AMENDMENT) BILL 1999

COMMITTEE STAGE

Amendments to be moved by the Secretary for Treasury

Clause

Amendment Proposed

New

By adding -

**“3A. Restrictions on dealing with and
possession of certain goods**

Section 17(4) is amended by repealing “No” and substituting
“Subject to section 64A, no”.”.