INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1))

DUTIABLE COMMODITIES (AMENDMENT) REGULATION 2001

RESOLVED that the Dutiable Commodities (Amendment) Regulation 2001, published in the Gazette as Legal Notice No. 248 of 2001 and laid on the table of the Legislative Council on 28 November 2001, be amended –

- (a) in section 3 -
 - (i) by renumbering new regulation 22(8) as new regulation 22(9);
 - (ii) by repealing new regulation 22(6) and (7) and substituting
 - "(6) Where the Commissioner considers that it is not practicable for any one or more applications for a permit to be submitted using a recognized electronic

service he may determine -

- (a) that an application for a permit may either be submitted in paper form or be in the form of an electronic record that is submitted using a recognized electronic service; or
- (b) that the application or applications shall be submitted in paper form and shall not be in the form of an electronic record that is submitted using a recognized electronic service,

and subregulation (3) shall have effect subject to the determination.

- (7) Notice of any determination made under subregulation (6) shall be published in the Gazette within 14 days of the determination having been made.
 - (8) For the purposes of an

application for a permit that is submitted in paper form pursuant to the determination made under subregulation (6), subregulations (4) and (5) apply subject to the determination.";

(b) by repealing section 6 and substituting –

"6. Part added

The following is added –

"PART XI

MISCELLANEOUS

106. Transitional

(1) During the period specified in subregulation (2), an application for a permit may be made in the manner provided for by regulation 22 as it applied immediately before the commencement of section 3 of the Dutiable Commodities (Amendment) Regulation 2001 (L.N. 248 of 2001) and, for the purposes of any such application, regulation 22 as it so applied shall continue to

have effect despite the repeal taking effect on that commencement.

- (2) The period specified for the purposes of subregulation (1) is the period beginning with the commencement of section 3 of the Dutiable Commodities (Amendment) Regulation 2001 (L.N. 248 of 2001) and ending at midnight on
 - (a) 20 July 2002; or
 - (b) such later date as maybe specified by theCommissioner by noticepublished in theGazette.
 - (3) A notice published under subregulation (2)(b) has effect only if published before 20 July 2002.
- (4) A notice published under subregulation (2)(b) is subsidiary legislation.".".

《2001年應課稅品(修訂)規例》 根據《釋義及通則條例》動議的決議案 工商局局長動議修訂規例第3條和第6條 致辭全文

主席女士:

我動議通過根據《釋義及通則條例》提出的議案,議案內容已印載於議程內,該議案對《2001年應課稅品(修訂)規例》的第3條和第6條作出修訂。

- 2. 立法會成立的小組委員會對該規例作出了仔細研究和深入討論,並提出了寶貴的意見,我在此向委員會主席丁午壽議員及各委員致謝。我們在考慮議員的意見後,建議對該規例的第 3 條和第 6 條作出修訂。
- 3. 我們的政策目標,是所有應課稅品許可證的

申請最終均須採用認可電子服務呈交。但在某些情況下,例如電腦系統較長時期失靈,或在公布新的應課稅品類別前,為把資料保密而未能事先加強電腦系統的功能時,海關關長便可根據第3條的新規例第 22(6)條,決定採用紙張形式作為呈交申請的另一方法。

- 4. 我們接受了議員的建議,在第 22(6)條加入了「如關長認為利用認可電子服務呈交任何一項或多於一項申領許可證的申請,並非切實可行」的條件,以確保海關關長只會在有需要時,才行使新規例第 22(6)條賦予他的權力。
- 5. 在此前題下,我們亦對第 22(6)條作出適當修訂,列明海關關長可決定採用紙張作為呈交申請的另一或唯一方法。
- 6. 經修訂後的第 22(6)(a)條, 賦權予海關關長決定應課稅品許可證的申請,可採用紙張或認可

電子服務呈交。這樣,在特殊的情況下,例如電腦系統出現較長時間局部失靈的情況,政府便可作出應變。

- 7. 經修訂後的第 22(6)(b)條,賦權予海關關長決定採用紙張形式,作為呈交某項或某等應課稅品許可證申請的唯一方法。這樣,在特殊的情況下,例如電腦系統出現較長時間全面失靈的情況,政府便可作出應變。此舉亦可使政府在公布新的應課稅品類別時,無須事先加強電腦系統的功能,因而得以把資料保密。
- 8. 為避免延誤服務,議員建議海關關長根據新規例第 22(6)條作出的決定,即採用紙張形式作為呈交申請另一或唯一方法的決定,可以在憲報刊登有關公告之前實施。我們接受了議員的建議,因此經修訂的新規例第 22(7)條,便規定根據新規例第 22(6)條作出的決定的公告,須在作出該決定後 14 天內於憲報刊登。由於公告只屬

行政性質,故此無需指出此不是附屬法例;我們因此刪除了原有的第 22(7)條。

- 9. 規例的第 6 條為過渡性條文。我們的政策目標,是在一段合理的過渡期後,所有應課稅品許可證的申請最終均須採用認可電子服務呈交。但在過渡期內,則採用紙張或認可電子服務呈交的申請均獲接受。
- 10.我們計劃中的過渡期為六個月。議員建議在規例清楚訂明過渡期的終止日期,讓業界有更清晰的目標,從而有計劃地作好準備。鑑於業界已主動要求在 2002 年 1 月 10 日服務推出後六個月,全面採用認可電子服務呈交應課稅品許可證的申請,而且議員建議經修訂後的新規例第 106條仍可提供足夠彈性,讓海關關長在視乎貿易商確實的使用率以及系統是否能暢順運作後,指明一個較後的日期為過渡期的終止日期,因此,我們接受了議員的建議,在規例中訂明過渡期的終

止日期。

11.經修訂後的新規例第 106(2)(a)條指明過渡期 於 2002 年 7 月 20 日當日午夜終止。經修訂後的 新規例第 106(2)(b)條賦權予海關關長在 2002 年 7 月 20 日前,藉刊登憲報公告,指明過渡期於 2002 年 7 月 20 日的較後日期當日午夜終止。

12. 主席女士,我謹此提出議案。