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Secretary for Financial Services and the Treasury  
(Attention : Miss Erica Ng, Prin AS(Tsy)(R))  
Financial Services and the Treasury Bureau  
5/F, 5/F, East Wing  
Central Government Offices  
Hong Kong

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**BY FAX**

Fax No: 2234 9757  
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Dear Miss Ng,

**Dutiable Commodities (Amendment) Regulation 2003  
(L.N. 136 of 2003)**

I am scrutinizing the above Amendment Regulation and should be grateful if you would clarify the following matters:

- (a) Is it intended that the new offence relating to the labelling requirement provided in the new regulation 67A(6) is a strict liability offence? Despite the provision of a statutory defence in the new section 67A(7), does the Administration intend that the prosecution should bear the burden of proving knowledge on the part of the offender relating to the label?
- (b) Is it intended that the labelling requirement will apply to home-brewed liquor manufactured in accordance with section 64A of the Dutiable Commodities Ordinance (Cap. 109)? If not, should provisions be included in the Amendment Regulation to reflect this intention?
- (c) To make it clear that the labelling requirement and the related offence provision will not apply to containers of liquor imported into or manufactured in Hong Kong for local consumption, on or before, or within 12 months after, the date of commencement of the Amendment Regulation, would it be appropriate to replace "Subregulation (1)" in the new regulation 67A(4) by "This regulation"?

- (d) If the Commissioner for Customs and Excise is prepared to exercise his discretion under the new regulation 67A(5) to waive the labelling requirement, how and at what rate will duty be assessed in respect of the liquor concerned? How can consumers know the alcoholic strength of the liquor concerned in such circumstances?
- (e) It would appear from paragraphs 5, 6 and 22 of the LegCo Brief that the main reason for introducing the labelling requirement is to fill the gap left by the removal of the prescribed standards of quality for the Chinese-type spirits set out in regulation 66(b)(v) of the Dutiable Commodities Regulations. As such, would it be more appropriate for the provisions on the removal of prescribed standards for Chinese-type spirits and the labelling requirement to come into operation on the same date? As you are aware, the present proposal to make the labelling requirement take effect 12 months later would create a time gap during which there will be no other way apart from laboratory analysis to ensure that importers do not falsely declare the alcoholic strength of liquors.

I would appreciate it if you could let us have a reply, in both languages, on or before *13 June 2003* so that your reply can be circulated to Members before the Subcommittee meeting scheduled for 17 June 2003.

Yours sincerely,

(Connie Fung)  
Assistant Legal Adviser

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