

立法會
Legislative Council

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Paper for the House Committee meeting on 12 November 2004

**Report of the Subcommittee on the proposed resolution under section 4(2) of
the Dutiable Commodities Ordinance (Cap. 109)**

Purpose

This paper reports on the deliberations of the Subcommittee on the proposed resolution under section 4(2) of the Dutiable Commodities Ordinance (Cap. 109) (DCO).

Background

2. In the past six years or so, the Administration has granted a concessionary duty rate on regular motor diesel and ultra low sulphur diesel (ULSD). In June 1998, the Administration reduced the duty rate for regular motor diesel from \$2.89 to \$2 per litre as a temporary measure in the light of the economic climate at that time. In July 2000, ULSD was introduced at a concessionary rate of \$1.11 per litre to provide a fiscal incentive for the use of this environmentally cleaner fuel. The concessionary duty rate was scheduled to be adjusted to \$2 per litre on 1 January 2001 and was to revert to \$2.89 per litre on 1 January 2002. By 2001, regular motor diesel was completely replaced by ULSD at petrol filling stations in the territory. Notwithstanding that the environmental objective had been met, the Administration postponed the reversion of the ULSD duty rate to \$2.89 per litre on five occasions in December 2000, June 2001, March 2002, March 2003 and March 2004. The Administration has explained that the purpose of extending the concessionary rate of duty at \$1.11 per litre on these occasions was to relieve the operating pressure on the transport industry amidst the unfavourable economic conditions.

3. All past extensions of the concessionary duty rate for ULSD have been approved by the Legislative Council by way of resolution under section 4(2) of DCO. According to the resolution passed by the Council in March 2004, the existing concessionary duty rate for ULSD at \$1.11 per litre will expire on 31

December 2004 and the duty rate is scheduled to revert to \$2.89 per litre with effect from 1 January 2005.

The proposed resolution

4. The Secretary for Financial Services and the Treasury (SFST) has given notice to move a motion under section 4(2) of DCO at the Council meeting on 10 November 2004. The purpose of the motion is to seek the Council's approval to amend paragraph 1A of Part III under Schedule 1 to the Ordinance to extend the existing concessionary rate of duty on ULSD at \$1.11 per litre to 31 December 2005. Subject to further amendment, if any, the duty rate on ULSD will revert to \$2.89 per litre as from 1 January 2006.

5. According to the Administration, the proposed extension of duty concession for ULSD, if approved, will result in foregone revenue of about \$1.1 billion for the Government in 2005.

The Subcommittee

6. At the meeting of the House Committee on 29 October 2004, members agreed that a Subcommittee should be formed to study the proposed resolution. At the House Committee's request, SFST withdrew his notice previously given to move the motion at the Council meeting on 10 November 2004 in order to allow time for the Subcommittee to study the proposed resolution.

7. Under the chairmanship of Hon CHAN Kam-lam, the Subcommittee has held one meeting with the Administration. The membership list of the Subcommittee is at **Appendix I**.

Deliberations of the Subcommittee

8. Members of the Subcommittee are aware that if not extended by resolution of the Council, the rate of duty on ULSD (now at \$1.11 per litre) will revert to \$2.89 per litre on 1 January 2005. They have therefore indicated that they will not object to the proposed resolution. Nevertheless, members have taken the opportunity to express serious concern about the current arrangements for handling the rate of duty on ULSD and the impact of high fuel prices which deals a heavy blow to the transport industry.

Rate of duty on ULSD

9. The Subcommittee notes that as a result of successive extensions approved by resolution of the Council, the duty rate for ULSD has remained at \$1.11 per litre during the past few years. Members have pointed out that under the prevailing economic and social circumstances, there are practical difficulties

in reverting the duty rate to \$2.89 per litre. They hold the view that the Administration should critically review the current level of duty on ULSD with a view to stipulating a realistic, acceptable and affordable rate of duty in the Ordinance, instead of relying on the current practice of moving a motion every now and then to seek the Council's approval to extend the so-called concessionary duty rate. Members consider the current arrangements undesirable and urge the Administration to devise a better approach.

10. Responding to members' concern about the existing mechanism of setting the duty rate on ULSD and the provision of duty concession, the Administration has advised that the original intention of introducing the concessionary duty rate of \$1.11 per litre in 2000 was to encourage the switch to ULSD for environmental reasons. If not for changes in the macro economy and the recent surge in oil prices, the concessionary duty rate on ULSD would not have been maintained till present. The Administration has confirmed that for the time being, it does not contemplate making the concessionary rate permanent and its long-term intention is to re-align the duty rate on ULSD to \$2.89 per litre in due course when the economy improves. Nevertheless, it has taken note of members' concerns for further consideration.

11. Referring to the motion moved by Hon Miriam LAU Kin-yea and as amended by Hon Ronny TONG Ka-wah carried at the Council meeting on 3 November 2004 which urged the Government to, inter alia, expeditiously review the current rate of duty on ULSD, members of the Subcommittee ask the Administration to conduct the said review within three months. As the motion has just been passed, the Administration has advised that it will need to study the motion and will revert to Members on its response.

Impact of high fuel prices on the transport trade

12. In the course of deliberation, members have expressed concern on the high pump price of ULSD in Hong Kong and its impact on the operation of the transport trade. In this connection, members are keen to ensure that the oil companies have passed on the benefit of the concessionary duty on ULSD to consumers instead of pocketing the benefit themselves. The Administration has informed members that the Economic Services Bureau (now re-constituted as the Economic Development and Labour Bureau) had already reported to the public in December 2000 that the oil companies had passed on the full benefit of the duty concession to consumers. As ULSD has replaced regular motor diesel in the retail market, the Administration decided in December 2000 to move away from tracking the import price differential between ULSD and regular motor diesel but continue to keep track of the import price trend of ULSD. The Administration has also reported to the Subcommittee that in terms of trend movements and magnitude changes in local pump prices have been broadly in line with the monthly average Singapore FOB prices (the generally accepted regional benchmark for pricing in the Asia Pacific Region). Members nevertheless maintain the view that the problem of high oil prices should be effectively monitored and addressed by the relevant Bureaux.

13. On measures to enhance the competitiveness of Hong Kong's transport industry, the Subcommittee notes that the Administration will pursue with the Guangdong authorities the initiatives of "four up and four down" and "one driver, one truck". While the efficacy of these initiatives is yet to be seen, members consider that the relevant Bureaux should continue exploring measures to assist the industry.

The way forward

14. The Subcommittee has not raised any query on the legal, drafting and implementation aspects of the proposed resolution. On the broader concerns raised by members relating to the mechanism for setting the duty rate for ULSD, the monitoring and pricing of ULSD and its impact on the transport trade, the Administration has agreed that members' concerns and views will be conveyed to the relevant Bureaux (mainly the Financial Services and the Treasury Bureau, the Economic Development and Labour Bureau and the Environmental, Transport and Works Bureau) for consideration. Where necessary, members will follow up specific policy issues at the relevant Panel(s).

Recommendation

15. The Subcommittee supports the proposed resolution and the Administration's giving fresh notice to move the proposed resolution at a future Council meeting. The Administration has subsequently advised that it will give notice to move the proposed resolution at the Council meeting to be held on 1 December 2004.

Advice sought

16. Members are invited to support the Subcommittee's recommendation in the preceding paragraph.

**Subcommittee on the proposed resolution under section 4(2)
of the Dutiable Commodities Ordinance (Cap. 109)**

Membership list

Chairman Hon CHAN Kam-lam, JP

Members Hon LEE Cheuk-yan
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai, JP
Hon Miriam LAU Kin-yee, GBS, JP
Hon WONG Kwok-hing, MH
Hon Albert Jinghan CHENG

(Total : 8 members)

Clerk Miss Polly YEUNG

Legal Adviser Mr Stephen LAM

Date 5 November 2004