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***Legislative Council***

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**Report of the Bills Committee on Import and Export  
(Amendment) Bill 2023**

**Purpose**

This paper reports on the deliberations of the Bills Committee on Import and Export (Amendment) Bill 2023 (“the Bills Committee”).

**Object of the Bill**

2. The date of First Reading of the Bill is 29 March 2023. The Bill seeks to amend the Import and Export Ordinance (Cap. 60) to:

- (a) provide for the prohibition on importing alternative smoking products (“ASPs”) and the exemptions from it; and
- (b) make related amendments to certain other enactments.

**Provisions of the Bill**

3. The main provisions of the Bill are as follows:

- (a) clause 3 adds a new Part IIIA (new sections 13A to 13Q) to Cap. 60, which comprises the following –
  - (i) the new section 13B prohibits the import of ASPs (which is defined by the new section 13A);
  - (ii) the new section 13C provides for the liability of officers of bodies corporate for an offence under the new section 13B;

- (iii) the new sections 13D to 13I provide for exemptions from the prohibition on importing ASPs in the case of “articles in transit”, “air transshipment cargoes” and “specified intermodal transshipment cargoes”. For ASPs that are specified intermodal transshipment cargoes, the exemption applies only to such products imported by a registered operator. A person who intends to import such products as a registered operator must make an application to the Commissioner of Customs and Excise (“CCE”). In determining the application, CCE may have regard to whether the person has contravened any guidelines issued by CCE;
  - (iv) the new section 13J exempts ASPs that are registered pharmaceutical products from the new section 13B;
  - (v) the new sections 13K and 13L provide for exemptions from the prohibition on importing ASPs in the case of persons in transit and the performance of relevant functions by Government Chemists; and
  - (vi) the new sections 13M to 13Q provide for the enforcement powers of members of the Customs and Excise Service and the inspectors appointed under section 15F of the Smoking (Public Health) Ordinance (Cap. 371)<sup>1</sup> in relation to the offence of illegally importing ASPs; and
- (b) the prohibition on importing ASPs, and the exemptions from it, are currently provided for under Cap. 371. Clauses 5 to 9 introduce consequential amendments to the relevant provisions in Cap. 371.

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<sup>1</sup> According to section 15F of the Smoking (Public Health) Ordinance (Cap. 371), the Secretary for Health may appoint in writing any public officer to be an inspector to exercise a power and perform a duty.

## **Commencement**

4. The Bill, if passed, would come into operation on the day on which it is published in the Gazette as an Ordinance.

## **The Bills Committee**

5. At the House Committee meeting on 31 March 2023, Members agreed to form a Bills Committee to scrutinize the Bill. The membership list of the Bills Committee is in **Appendix 1**.

6. Under the Chairmanship of Mr Frankie YICK, the Bills Committee has held three meetings with the Administration, including two meetings to receive views from 66 deputations. The Bills Committee has also received 157 written submissions. A list of the deputations and individuals that have met the Bills Committee or have given written submissions to it is in **Appendix 2**. The Administration has provided a consolidated response to the deputations' views and written submissions, details of which are set out in LC Paper No. CB(4)534/2023(01).

## **Deliberations of the Bills Committee**

7. Noting the logistics trade's support to the Bill and appeal for its early passage, some members are in favour of the Bill. Some other members, however, do not support the Bill and indicate that a number of organizations in the medical and education sectors take such stance. The major deliberations of the Bills Committee are set out in the ensuing paragraphs.

### Impact of the ban on intermodal ASP transhipment

8. According to the Administration, the ban on intermodal ASP transhipment came into effect in April 2022 and the air cargo volume of the Hong Kong International Airport ("HKIA") dropped by 20% on average from May to December 2022. The significant drop was partly due to the loss of intermodal ASP transhipment from the Mainland.

9. Some members point out that some documents in the Mainland describe Hong Kong's ban on intermodal ASP transhipment as an action of

“self-weakening”. As the annual air cargo throughput accounts for 48% of the total value of Hong Kong’s external merchandise trade, some members are concerned that the significant drop in air cargo volume caused by the above ban will drag down the economy of Hong Kong. They also consider that if Hong Kong cannot sustain its status as an international aviation hub, the Central Government will be disappointed.

10. These members also convey the industry’s concern that ASP manufacturers have already transported ASPs from the Mainland to Macau or Korea first, and then arrange for a freight from Hong Kong to Macau or Korea to load those ASPs. The freight then flies back to Hong Kong to load other goods and depart for their destinations. The demand for intermodal ASP transshipment still exists yet it is handled in ways with much higher costs. Hong Kong has its comparative advantage for ASP transshipment as airports in the Mainland cannot handle products containing lithium battery. However, if airports in the Mainland are motivated to learn and handle lithium battery products, such as ASPs, Hong Kong will lose its advantage.

11. The Administration explains that such circuitous and costly routes taken by ASP manufacturers are probably makeshift arrangements as those manufacturers expect Hong Kong to take prompt action to tackle the problem. If the problem persists, the manufacturers may start exploring other more direct routes and stop using HKIA for the transshipment. If airports in the Mainland improve their logistics systems to handle products containing lithium battery, the competitiveness of HKIA will be irreversibly damaged.

12. Some other members point out that HKIA handled 5 million tonnes of total cargo throughput in 2021 and it was reported that transshipment of ASPs and related products accounted for 330 000 tonnes (i.e. 6.6%). While the Administration attributes the 20% decline in air cargo volume of HKIA in 2022 to the ban on intermodal ASP transshipment, individual members question how the loss in intermodal ASP transshipment (i.e. 6.6%) could cause a 20% decline in the total air cargo volume. In this connection, they seek information/advice from the Administration on the following:

- (a) as the ban on transshipment of ASPs which are heavy cargo has a knock-on effect on transshipment of other less heavy goods, the Administration is requested to provide a list of heavy cargo handled by HKIA in the past five years, with a breakdown by quantity and weight; and

- (b) given that there was a decrease of 710 000 tonnes in air cargo volume of HKIA from May to December 2022 and ASP transshipment and related products accounted for around 330 000 tonnes in 2021, whether the decrease in air cargo volume caused by other goods (presumably less heavy goods) was larger than the decrease in air cargo volume in respect of ASP transshipment and the reason(s) thereof.

13. The Administration correspondingly advises that:

- (a) The air cargo volume (excluding airmails) of HKIA over the past five years is set out in the following table:

	Cargo volume handled by HKIA (thousand tonnes)	Year-on- year change
2018	5 018	1.6%
2019	4 704	-6.3%
2020	4 420	-6.0%
2021	4 986	12.8%
2022	4 169	-16.4%

- (b) according to the trade, generally speaking, there were at least about 330 000 tonnes of ASPs and related products transhipped to overseas markets through Hong Kong every year. ASPs are high-value air cargo and heavy cargo, which are vital for air freight consolidation. The trade also indicates that ASPs are three times heavier than regular commodities of the same volume. Due to the high-density nature of ASPs, it is difficult to replace them with other cargo with the similar density for air freight consolidation. As regards the operation of air palletization, air freight consolidation may refer to the bundling of heavy cargo and less heavy cargo on the same pallet, or the bundling of pallet(s) of heavy cargo and pallet(s) of less heavy cargo. Different modes of air freight consolidation will be adopted depending on the actual operational needs. The ban on ASP transshipment through Hong Kong not only causes the loss of these high-value products, but also affects operations of air freight consolidation and results in a knock-on effect on many other less heavy cargo. In 2018,

HKIA handled more than 5 million tonnes of cargo. Despite the adjustment caused by the global economy and the COVID-19 pandemic in 2019 and 2020, the air cargo volume rebounded to a level close to 2018 (nearly 5 million tonnes). However, the cargo volume fell sharply by more than 16% to just over 4.1 million tonnes in 2022. In addition to the global economic situation and the pandemic, the ban on ASP transshipment was also a major reason causing the reduction in cargo volume. The drop of cargo volume, which is mentioned in paragraph 12(b) above, included the loss of ASPs and other products resulting from the disruption to air freight consolidation. Although the cross-boundary land transport has been improved since the beginning of 2023, the air cargo volume in the first quarter still dropped by about 15%, or about 165 000 tonnes, compared with the same period of 2021. If the situation continues, the overall air cargo in 2023 may drop by at least 15%, or about 740 000 tonnes, compared with 2021. The cargo volume of HKIA and Hong Kong's position as an international aviation hub would be seriously undermined.

#### Details of ASP transshipment control scheme

##### *Registration scheme*

14. According to the Administration, a new registration scheme to be supervised and enforced by the Customs and Excise Department ("C&ED") will be created under the new Part IIIA of Cap. 60. Any person seeking exemption for intermodal transshipment of ASPs via Hong Kong would need to register with CCE in advance. The Administration's response is sought on the following:

- (a) the basic criteria for applying to be a registered operator, the validity period of the registration and whether regular reviews (e.g. once every two years) will be conducted on registered operators. There is also a view that the absence of a review mechanism for such registration is problematic; and
- (b) the length of suspension of registration if there is a violation of the practice guidelines. Once a registration is suspended, whether the operator is allowed to reapply for registration.

15. The Administration correspondingly explains that:
- (a) an operator has to fulfill all the requirements imposed by the practice guidelines in order to apply for the registration and the registration will not expire. Since the operator is required to notify C&ED of each and every ASP transshipment and C&ED will monitor the entire transshipment process, it can be ensured that the operator fulfills all requirements. C&ED will proactively conduct regular checks and spot checks to ensure that security measures are functioning properly, especially for those operators who have been idle for a long period of time. C&ED will consider including in the practice guidelines the minimum frequency of review of the registration (e.g. once every two years); and
  - (b) a letter will be issued to the operator concerned specifying the reason for and the length of the suspension as well as the requirements that the operator has to fulfill for resumption of the registration. For a cancellation of registration due to a violation of the relevant legislation, C&ED will prosecute the operator and prohibit it from ASP transshipment permanently.

*Transshipment process*

16. Concerns are raised on the following:
- (a) whether incoming vehicles and vessels can carry products other than ASPs and, if so, whether it is allowed to unload those products outside HKIA;
  - (b) given that C&ED will conduct a thorough check of the quantity of ASPs if the closed-circuit television monitoring system for the cargo container or cargo hold malfunctions, whether C&ED will check and record the quantity of ASPs when they are loaded for crosschecking; and
  - (c) if there is a serious traffic accident, whether there are chances that the container is damaged and ASPs are fallen out. If a person picks up those ASPs, how such a case will be handled.

17. The following responses are made correspondingly:

- (a) the Chairman points out that the vehicles and vessels are allowed to carry other products. However, as the containers and compartments are locked and sealed, those products together with ASPs are only allowed to be unloaded in specified areas;
- (b) the Administration explains that as the containers and compartments are securely sealed with e-lock, C&ED will be instantly informed if the e-lock is broken and staff will be sent to the spot concerned for checking. Spot checks will also be conducted upon cargo loading and arrival at HKIA based on risk assessment; and
- (c) the probability of such a case is low according to the Administration's assessment. As explained in paragraph 17(b) above, instant notification and spot check will take place arising from damage of seal. C&ED will take up all investigation and prosecution actions against offences according to the intermodal transshipment arrangements.

*Timetable for implementation for land-to-air transshipment*

18. Regarding the progress of preparation for exemption for land-to-air ASP transshipment and the implementation timetable, the Administration advises that the trade may need time to meet the requirements for land-to-air ASP transshipment under the control scheme; on the other hand, taking the advantage of the operation of the Dongguan-Hong Kong International Airport Logistics Park ("the Logistics Park"), a stringent monitoring mechanism is in place for sea-to-air transshipment to resume first. Once ready, operators of the trade may apply to C&ED for a registration and the application will be processed as soon as practicable.

*Practice guidelines*

19. A question is raised on the progress of preparing the practice guidelines and whether the guidelines will include details such as designated transportation routes. The Administration's advice is also requested on



whether views of Legislative Council (“LegCo”) Members will be sought if there are substantial changes in the practice guidelines.

20. The Administration explains that while major components of the control scheme have been set out under the Bill, detailed requirements including the designated transportation routes will be set out in a set of practice guidelines in order to allow for timely updating. The preparation of the guidelines by C&ED is in full swing. The Administration undertakes to bring the issue to relevant Panel(s) for discussion if there are substantial changes that will affect the policy intent of the Bill.

### *Penalty level*

21. Given that the penalties for importing ASPs stipulated in the proposed new section 13B of Cap. 60 are much heavier than those for other offences in relation to ASPs listed in Cap. 371, questions are raised on which offence(s) a person who has purchased ASPs outside Hong Kong and brought them in will commit and whether such differences in the penalty levels are reasonable.

22. The Administration advises that if the Bill is passed, unless otherwise exempted by the Bill, any person who brings ASPs into Hong Kong will commit an offence related to importing ASPs (“ASP import offence”) under the new section 13B of the Bill, and will be liable on summary conviction to a fine of \$500,000 and to imprisonment for 2 years, or on conviction on indictment to a fine of \$2,000,000 and to imprisonment for 7 years. The proposed legislative amendment adds a new transshipment scheme monitored and administered by C&ED in the new Part under Cap. 60, to allow the whole transshipment process be monitored by C&ED. To ensure strict compliance with the new transshipment scheme and minimize any risk of ASP leakage into the local market, it is necessary to increase the penalty level and bring it on par with the level consistent with other offences under Cap. 60. The new scheme will not affect the regulation on promotion, manufacture, sale or possession for commercial purposes of ASPs under Cap. 371, as well as the enforcement duty by the Department of Health (“DH”). The Health Bureau does not see the need to make any adjustment to the penalty level for such offences under Cap. 371 for the time being, and will put the matter under review if necessary.

## Enforcement

### *Respective duties of C&ED and TACO*

23. A question is raised about details of the cooperation between C&ED and DH's Tobacco and Alcohol Control Office ("TACO") in the enforcement of legislation in relation to ASPs, including the objectives of the cooperation and communication between the two parties.

24. The Administration explains that C&ED and TACO have been working closely and all along striven to combat illegal activities relating to ASPs, and prohibiting them from entering the local market. The Smoking (Public Health) (Amendment) Ordinance 2021 ("SPHAO"), which came into effect on 30 April 2022, prohibits the import, promotion, manufacture, sale and possession for commercial purposes of ASPs. TACO is the principal enforcement agency for the above ban on ASPs, including inspection, enforcement, prosecution, complaints handling, supervision, training and handling the verification of ASPs. C&ED intercepts ASPs at the import level, including at the entry/exit control points. If C&ED officers seize an article suspected to be ASP, they may detain the article and the person(s) involved in the case until TACO officers arrive and confirm that the article is ASP, and then hand over such person and article to TACO officers for follow up with the relatively simple and straight-forward prosecution arrangement. Such enforcement arrangements between TACO and C&ED in relation to the importation offences of ASPs have been endorsed by LegCo in 2021 when scrutinizing the Smoking (Public Health) (Amendment) Bill 2019 (which, after passage with the Administration's amendments, became SPHAO). In fact, the above enforcement arrangements are similar to those between C&ED and other principal enforcement agencies such as the Food and Environmental Hygiene Department and Agriculture, Fisheries and Conservation Department in detecting illegal import of other controlled articles. The relevant investigation and prosecution responsibilities are also taken up by the staff of relevant departments which are not disciplinary officers.

25. The Administration further explains that in addition, to enhance enforcement efficiency, C&ED has reached a further agreement with TACO that, if cases involving the importation of ASPs also involves smuggling offences (i.e. importing unmanifested cargo in contravention of section 18 of Cap. 60), such cases will not be handed over to TACO but will be investigated

and prosecuted by C&ED for both offences of smuggling and importation of ASPs.<sup>2</sup>

26. According to the Administration, to effectively manage the growing responsibilities in tobacco control, TACO has been actively recruiting in recent years for handling, investigating, and prosecuting offences related to ASPs. Since the implementation of SPHAO, TACO and C&ED have maintained close co-operation and communication for the enforcement of offenses related to ASPs. Since the prevailing enforcement arrangement is effective and operating smoothly, the Bill will continue with the existing arrangement between TACO and C&ED. C&ED has accorded priority to the prevention and detection of illegal import of ASPs, and also proactively conducted researches to develop specific risk indicators connected to illegal ASP import to enhance the passenger and cargo profiling. Special operations have also been mounted with fruitful enforcement results. As of March 2023, C&ED detected a total of 951 ASP import offence cases with seizure of around 5.9 million units of ASPs valued over \$54 million. Among them, DH received 934 referrals from C&ED about suspected import of ASPs.<sup>3</sup> As the rest of other cases are more complicated and concurrently involve offences principally enforced by C&ED, they are followed up by C&ED.

27. The Administration points out that the Bill aims to amend the exemption for ASP transshipment to cover the import of ASPs under the specified intermodal transshipment. The purpose of the Bill is not to amend the existing offences relating to ASPs (including the ban on importing ASPs), or the corresponding enforcement arrangements under Cap. 371. In addition,

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<sup>2</sup> The following are some of the scenarios involving smuggling and ASP import offence that would be completely handled by C&ED: (a) smuggling of ASPs into Hong Kong by high-powered speedboat; (b) unmanifested ASPs smuggled and concealed in a false compartment in a lorry or container; and (c) unmanifested ASPs concealed in a tractor or trailer, or camouflaged by mixing with general cargo.

<sup>3</sup> The 934 referrals include: (a) 546 passenger cases, and 128 summonses were issued to offenders; the remaining cases are being processed; (b) 329 cases related to parcels, and two summonses were issued to offenders; information or evidence (including information from C&ED) was insufficient for further action in the majority of the cases (215); the remaining cases are being processed; and (c) 59 cases related to cargos (including 49 air cargo cases), and one summons was issued to an offender in a land cargo case. Among the remaining cases, there was insufficient information or evidence for follow up actions in 29 cases, and evidence was considered insufficient for prosecution after seeking legal advice from the Department of Justice in 10 cases. The remaining 19 cases are being processed.

in view of the effective enforcement actions set out above, the Bill will continue to follow the existing enforcement responsibilities of C&ED and TACO. Therefore, sections 13P and 13Q of the Bill provide the same enforcement powers for tobacco and alcohol control inspectors such that they can continue to handle ASP import offences under Cap. 60. Modelling on the existing section 15DH(4) of Cap. 371, section 13O(2) of the Bill sets out that ASPs intercepted by C&ED shall be transferred to TACO for its enforcement of import ban under section 13B of the Bill.

28. The Administration adds that for the specified intermodal ASP transshipment, C&ED pledges to take up all investigation and prosecution actions against offences arising from the transshipment arrangements. Section 13O(3) of the Bill also indicates that “if the article is, or a member of the Customs and Excise Service reasonably suspects that it is, a specified intermodal transshipment cargo”, the ASPs concerned will not be transferred to a tobacco and alcohol control inspector. Notwithstanding the fact that the risk of ASPs being sneaked out during the intermodal transshipment process closely monitored by C&ED is extremely low, section 13N of the Bill specifically provides C&ED with the power to enforce all cases relating to specified intermodal ASP transshipment, including seizing ASPs being removed during the specified intermodal transshipment process and prosecution of the related offenders.

29. According to the Administration, under the above-mentioned arrangements, the relevant government departments will continue to perform their duties, and actively work together to crack down on the ASP-related illegal activities. Regarding the newly-added specified intermodal ASP transshipment, C&ED will also take charge of the investigation and prosecution of all illegal activities arising from the intermodal transshipment arrangements. As such, enforcement arrangements proposed by the Government in the Bill will assist the relevant departments in continuing to jointly combat ASP offences and prevent ASPs from entering the local market. The legal provisions relating to the enforcement arrangements have been incorporated into the Bill with internal agreement within the Government.

*Legal basis for C&ED to enforce the ban on importing ASPs*

30. Given that the proposed new section 13B of Cap. 60 does not specify different treatments for manifested and unmanifested ASPs, and the proposed new section 13P thereof indicates that the proposed new section 13B will be

enforced by inspectors from TACO, a question is raised on the legal basis for C&ED to enforce the ban on importing ASPs.

31. The Administration points out that if a person imports unmanifested ASPs, apart from the offence of importing ASPs, he/she also commits an offence of smuggling. In such case, C&ED will take up all investigation and prosecution actions against both offences and will not hand the case over to TACO. Those cases handed over to TACO are relatively simple, for instance, a passenger carrying a small amount of ASPs entering Hong Kong.

*Whether C&ED should take over TACO's new enforcement duties under the Bill*

32. Some members consider that the scenarios described under the proposed new section 13E(2)(a)-(c) of Cap. 60 (enforced by TACO) are similar to that of the proposed new section 13E(2)(d) of Cap. 60 (enforced by C&ED). They therefore ask whether the former should also be enforced by C&ED instead of TACO.

33. The Administration explains that the exemptions provided under the proposed new section 13E(2)(a)-(c) of Cap. 60 are current practice which are originally stipulated under Cap. 371. If the cargo is properly manifested, the handling of a breach of the provisions should not be complicated (for example taking a statement with the operator and issue a summons). However, if the case involves smuggling, C&ED will take up all investigation and prosecution actions.

*Practice guidelines to state clearly about C&ED's scope of duties*

34. It is suggested that the Administration should indicate in the practice guidelines that C&ED will handle all investigation and prosecution actions against offences arising from the intermodal transshipment arrangements. The Administration undertakes to do so.

*C&ED's manpower to implement the control scheme*

35. A concern is raised on whether C&ED has enough manpower to implement the control scheme proposed in the Bill. The Administration advises that additional manpower and resources are needed for C&ED to implement the control scheme. C&ED has been stepping up recruitment and

will apply for extra resources in accordance with established procedures after the Bill is passed.

*Dr David LAM's proposed amendment to the Bill*

36. Dr David LAM is concerned that ASP import offence, same as smuggling and buying or selling illicit cigarettes, is a serious offence. While combating the latter two activities is enforced by C&ED, combating ASP import offence-related activities is enforced by “inspectors” (i.e. officers from TACO). The proposed section 13O of Cap. 60 provides that although enforcement powers are conferred on C&ED, ASPs seized have to be transferred to an inspector for handling. Ensuing enforcement actions, including investigation and prosecution are handled by “inspector”, unless the article is, or a member of C&ED reasonably suspects that it is a specified intermodal transshipment cargo under the proposed section 13O(3) of Cap. 60.

37. Dr David LAM adds that “inspectors” have never enforced legislation other than Cap. 371 or possessed skills in respect of criminal investigation on complicated cases. Different from C&ED, the Bill does not confer power on “inspectors” to arrest or use forces. The rank of officers from TACO is foreman. Their seniors are executive officers and the seniors thereof are doctors. In view of the above, Dr LAM does not consider “inspectors” from TACO to be suitable for enforcing the provision about ASP import offence. He considers that such enforcement work should be carried out by C&ED, which is a professional disciplined force, instead of foreman. He therefore proposes to move an amendment to the Bill by deleting the enforcement provisions under the proposed Division 4 (which includes sections 13M to 13Q) therefrom.

38. The Administration explains that the scope of the Bill is to refine the existing control and regulatory regime for ASPs transshipment by introducing the exemption of intermodal transshipment from the import ban for ASPs. The Bill has never aimed at re-defining the enforcement operation arrangements of import offences among government departments. The Administration's proposed enforcement arrangements in respect of the Bill should be the most effective and appropriate in prohibiting the importation of ASPs and preventing their leakage into the local market in the course of intermodal transshipment. Dr LAM's proposed amendment, if passed, would seriously undermine the Government's enforcement efforts in banning the importation of ASPs.

39. The Administration explains that the proposed amendment is not consistent with the original intent of the Bill which is not to make changes to the existing ASP offences (including the prohibition of importation of ASPs) and the related enforcement arrangements under the existing Smoking (Public Health) Ordinance. There has been effective enforcement by relevant departments as explained in paragraphs 24 to 29 above. Since the implementation of import ban of ASPs, C&ED had handed more than 900 cases to TACO for follow up with the relatively straight-forward prosecution arrangement. The case referrals showed a smooth cooperation between the two departments.

40. The proposed amendment will affect the law enforcement actions after the Bill comes into effect as the proposed amendment will not only prevent TACO inspectors from continuing their law enforcement responsibilities against offences relating to ASPs, but also affect C&ED's handling of all non-compliance cases relating to specified intermodal ASP transshipment. Furthermore, the proposed amendment will impose burden on the manpower and resources of C&ED as it will need to redeploy the existing manpower and resources to handle the relatively simple and straight-forward prosecution work. This will seriously undermine C&ED's frontline law enforcement capacity, which is primarily engaged in intercepting prohibited/controlled items such as narcotics, arms and ammunition, infringing goods, illicit cigarettes, regulated food, endangered species of animals and plants. This will have a profound impact on C&ED's daily enforcement work. Any changes to the enforcement responsibilities of C&ED and TACO in relation to the ban on the importation of ASPs would have a negative impact on C&ED's well-established agency duties arrangements. The proposed amendment is to challenge against government internal administration in assignment of duties and allocation of resources among different government departments and the effect is not temporary and carries a read-across and far-reaching impact to the operation of the Government. This will seriously disrupt and upset the existing administration and operation of the Government. In view of the above considerations, the Government will not adopt the proposed amendment.

41. Regarding Dr LAM's proposed amendment, some members agree with the division of labour between C&ED and TACO proposed in the Bill since similar enforcement arrangements are also made between C&ED and other principal enforcement agencies in detecting illegal import of other

controlled articles. They also consider that the provisions in the Bill are clearly written and Dr LAM's proposed amendment may weaken the completeness of the Bill, creating loopholes that may cause ASP leakage into the local market.

42. Responding to the Chairman's request for advice, the Legal Adviser to the Bills Committee points out that whether Dr LAM's proposed amendment to the Bill could be moved at the relevant Council meeting is to be determined by the President in accordance with Rule 57 of the Rules of Procedure which governs amendments to bills. In response to the Chairman's request for views on whether the Bills Committee should take over Dr LAM's proposed amendment to the Bill, the majority of members have indicated not to do so. The Bills Committee therefore will not do so.

#### *Effectiveness of enforcement*

43. The Administration's response is sought on the following:

- (a) whether it will be easy for a person to avoid conviction given that it is a defence under the proposed new section 13F of Cap. 60 that the person takes all reasonable steps and exercises reasonable diligence. The leniently-written defence renders the heavy penalty level under the proposed new section 13B of Cap. 60 useless. For instance, if an owner of a freight forwarder, as a registered operator, has provided guidelines and instructed his/her staff to follow the legislation, but for whatever reasons a staff member removes ASPs from the incoming vehicle or vessel outside the cargo transshipment area or specified area. Under such circumstances, whether the owner and/or the staff member will be charged under the proposed new section 13B of Cap. 60; and
- (b) the reasons for some of the 951 ASP import offence cases to have insufficient information or evidence for follow up actions (mentioned in Footnote 3 above). Whether there will be occurrence of such situation after the Bill is passed.



44. The Administration correspondingly explains that:

- (a) while the proposed new section 13B of Cap. 60 provides that a person who imports ASPs commits an offence, the proposed new section 13E(1) of Cap. 60 sets out some exemptions for such offence, including an ASP which is an article in transit, an air transshipment cargo or a specified intermodal transshipment cargo imported by a registered operator. However, in order to prevent abuse of the exemptions, the proposed new section 13E(2) of Cap. 60 sets out situations when the above exemptions do not apply. Modelling on Cap. 371, the proposed new section 13F of Cap. 60 provides a defence for such offence. The defence provided in the proposed new section 13F of Cap. 60 is written in a structure commonly found in legislation related to import and export. Instead of providing a widely applicable defence, the proposed new section 13F of Cap. 60 only concerns defence applicable under rare situations in relation to articles in transit and transshipment cargoes. C&ED will investigate each case and whether a person will be charged depends on the actual circumstances and the evidence collected. With security measures put in place in cargo handling areas in HKIA, a person will not be acquitted easily by raising such defence; and
- (b) the figures concerned are related to illegal import of ASPs under the current Cap. 371, which is different from the exemptions proposed under the Bill for ASP transshipment. Among the 951 cases detected by C&ED, 934 were referred to TACO for follow up actions and prosecutions were initiated for some cases. Whether prosecution can be initiated depends on the circumstances and evidence of individual cases.

Risk of ASP leakage into the local market

45. Some members are concerned that, no matter how complicated the control scheme is, there will be attempts to exploit loopholes therein in unforeseeable ways and it is impossible to guarantee that no ASPs will leak into the local market. Some other members, however, point out that although ASP transshipment by air is currently allowed in Hong Kong, ASP leakage into

the local market has never been heard. They consider that, given the security measures put in place under the control scheme, the risk of leaking ASPs into the local market is extremely low. Those who intend to smuggle will rather adopt other channels as trying to circumvent the control scheme is too risky.

46. The Administration reiterates its stance to prohibit ASPs from entering into the local market. The objective of the control scheme is to minimize such risk to zero. C&ED and TACO will spare no effort in combating any illegal activities relating to ASPs.

#### Moral issues related to ASP transshipment

47. A concern is raised that once the Bill is passed, there may be views that Hong Kong is making money from transshipment of prohibited articles. Some people may even consider that Hong Kong gains its position as an international logistics hub by making transshipment of prohibited articles. A question is therefore asked on how the Administration can explain to youngsters that Hong Kong is making money from ASPs which they are not allowed to consume.

48. The Administration reiterated the Government's strong commitment in tobacco control and that the Administration has been making tremendous effort in tobacco control and the prohibition on ASPs. Even after the passage of the Bill, the Government's position on tobacco control will not be compromised. In fact, under the enactment of SPHAO, ASP transshipment is not completely banned, e.g. air transshipment of ASPs is exempted. The Bill seeks to extend the current exemption scope to also cover intermodal transshipment of ASPs, and to propose a new control scheme to better regulate the intermodal transshipment of ASPs.

49. Some members take the view that allowing transshipment of prohibited articles conveys a message to the public that the bottom line of the law can be lowered. It is also considered that the money earned by ASP transshipment is ill-gotten gains. Some other members, however, consider that if both the manufacture of ASPs at the place of their departure and the consumption of ASPs at the destination are permitted under the laws of the respective places, there is no reason for Hong Kong to stop such products from entering that place of destination. They also criticize some members for standing on a moral high ground and moral blackmailing, which are insulting the logistics trade as people in the trade are just doing their job and struggling to maintain

the position of Hong Kong as a logistics hub. Noting the anti-smoking views of some deputations, some members remark that nobody is denying the harmful impact of smoking on one's health but the issue being discussed is only a transportation issue. They stress that both the economy of Hong Kong and the health of Hong Kong people are important and a balance should be struck between the two.

#### Further relaxation for intermodal ASP transshipment

50. The Chairman relays the logistics trade's concern over the possible loss of business and job opportunities due to the relocation of cargo consolidation from within Hong Kong to the Logistics Park in Dongguan. The trade appeals for more areas specified for cargo handling, on the premise that the requirements imposed by CCE are satisfied with the aid of technology in the long run. The Administration is also requested to exempt sea-to-sea ASP transshipment.

51. The Administration notes the views from the trade and appreciates their understanding. Regarding the request for further exemption, the Administration points out that 98% of ASP transshipment are transported out of Hong Kong by air. The Administration aims to implement the current control scheme as the first step, and then further review and enhance the scheme at a later stage.

#### Stance towards ASPs of current Government vis-a-vis former Government

52. Pointing out that the former Government did not support a Member's amendment to the Smoking (Public Health) (Amendment) Bill 2019 (which, after passage with the Administration's amendments, became SPHAO) for giving exemption for intermodal ASP transshipment, some members enquire whether the stance towards ASPs of the current Government is different from the former Government.

53. The Administration advises that a forward-looking approach should be adopted and the views of LegCo Members have been taken into consideration in preparing the Bill. The Administration adds that the successful operation of the Logistics Park in Dongguan, which commenced operation after the passage of SPHAO, provides a useful reference on how to handle intermodal transshipment in a secured manner. Coupled with the new stringent control scheme to be implemented by C&ED, it should be effective

to reduce the risk of ASP leakage to the local market during the transshipment process in Hong Kong.

#### Consultation with labour sector

54. The Administration is requested to, apart from industry representatives, also consult the labour sector as the proposed permission of intermodal ASP transshipment concerns workers such as container truck drivers and sea crew. The Administration assures members that C&ED will meet the needs of workers when formulating the practice guidelines.

#### Enforcement against online sale of ASPs

55. Regarding enhancement of enforcement against online sale of ASPs, the Administration explains that regulation on sale of ASPs is one of the tobacco control measures under Cap. 371. The Health Bureau and the Council on Smoking and Health will launch a public consultation on the next phase of tobacco control measures in the second half of 2023.

#### Risk of judicial review

56. A question is raised on whether there will be a risk of judicial review as the policy intent of Cap. 371 in respect of ASPs, i.e. banning their importation, seems to be inconsistent with that on the Bill which allows intermodal transshipment of ASPs.

57. The Administration explains that although the importation of ASPs is prohibited under Cap. 371, exemption is currently provided for air transshipment cargoes. The Bill aims to extend the exemption scope to intermodal transshipment of ASPs via both sea-to-air mode and land-to-air mode under a new control scheme. The proposed new provisions are placed under Cap. 60 instead of Cap. 371, as the former concerns import and export control of a number of prohibited articles while the latter concerns smoking control.

#### Drafting issues

58. Questions are raised on the drafting of the Bill as follows:

- (a) whether the long title of Cap. 60 should be amended to include transshipment;
- (b) whether the order of the English terms and the order of the Chinese terms in the proposed new section 13D of Cap. 60, which appeared to be different, are fine; and
- (c) whether the phrase “the import of any articles” should be amended to “the import and transshipment of any articles” in the proposed new section 13H(1)(d) of Cap. 60.

59. The Administration correspondingly advises that:

- (a) having regard to the relevant requirement in the Rules of Procedure of LegCo and the approach in handling long titles in Cap. 371, it is not necessary, and is inappropriate, to amend the long title of Cap. 60 by the Bill to expressly refer to the transshipment of ASPs in that long title. Details of the rationale are set out in **Appendix 3**;
- (b) it is a usual practice in law drafting that English terms are listed in alphabetical order and Chinese terms are listed by order of Chinese character strokes; and
- (c) since what the amended Cap. 60 prohibits is the import of ASPs, the exemption concerned is to permit a person, who otherwise would not be permitted to import the articles, to (if certain conditions are met) import them. In other words, strictly speaking, it is sufficient to construe the exemption as a permission for **import**, but not necessary to construe it as a permission for **transshipment**. Therefore, in the proposed new section 13G(1), a reference is made to “[a] person who intends to **import any articles in reliance on an exemption...**” (instead of “a person who intends to **tranship any articles in reliance on an exemption...**”) (emphasis added). The proposed new section 13H(1)(d) also uses the same expression. The power conferred on CCE under section 13H(1) to issue guidelines is so conferred only for implementing the exemption concerned. The guidelines need not cover any matters about the transshipment of ASPs other than matters relevant to the

giving of the permission of import. Therefore, it is not necessary to amend the phrase “the import of any articles” to “the import and transshipment of any articles” in the proposed new section 13H(1)(d) of Cap. 60.

### **Proposed amendment to the Bill**

60. Dr David LAM has indicated his intention to propose an amendment to the Bill as mentioned in paragraphs 36 and 37 above.

61. Neither the Administration nor the Bills Committee will propose any amendment to the Bill.

### **Resumption of Second Reading debate**

62. The Bills Committee has completed scrutiny of the Bill. The Administration has indicated its intention to give notice to resume the Second Reading debate on the Bill at the Council meeting of 21 June 2023, to which the Bills Committee has no objection.

### **Consultation with the House Committee**

63. The Bills Committee reported its deliberations to the House Committee on 9 June 2023.

Council Business Division 4  
Legislative Council Secretariat  
15 June 2023

**Bills Committee on Import and Export (Amendment) Bill 2023**

**Membership list**

**Chairman** Hon Frankie YICK Chi-ming, SBS, JP

**Members** Hon CHAN Han-pan, BBS, JP  
Hon SHIU Ka-fai, JP  
Hon Doreen KONG Yuk-foon  
Hon CHU Kwok-keung  
Dr Hon David LAM Tzit-yuen  
Hon LAM Chun-sing  
Hon Dennis LEUNG Tsz-wing, MH  
Hon JoePHY CHAN Wing-yan  
Hon Lillian KWOK Ling-lai  
Hon TANG Fei, MH  
Prof Hon LAU Chi-pang, BBS, JP

(Total: 12 members)

**Clerk** Mr Colin CHUI

**Legal Adviser** Miss Dorothy YUNG

**《2023年進出口(修訂)條例草案》委員會  
Bills Committee on Import and Export (Amendment) Bill 2023**

**曾出席法案委員會會議及/或提交意見書<sup>1</sup>的團體/個別人士名單  
List of deputations/individuals that have made oral representations  
and/or written submissions<sup>1</sup> to the Bills Committee**

1. 王中嶽博士  
Dr David WONG Chung-ngok
2. 香港護理專科學院  
The Hong Kong Academy of Nursing
3. 香港空運運輸業協會  
Hong Kong Association of Aircargo Truckers Limited
4. 香港大學李嘉誠醫學院護理學院  
School of Nursing, LKS Faculty of Medicine, The University of Hong Kong
5. 香港吸煙與健康委員會  
Hong Kong Council on Smoking and Health
6. 薺色園  
Sik Sik Yuen
7. 香港貨運物流業協會  
Hong Kong Association of Freight Forwarding and Logistics
8. 香港物流商會  
The Chamber of Hong Kong Logistics Industry
9. 林大慶教授  
Prof LAM Tai-hing
10. 寶利民速遞物流有限公司  
Bollyman Express Company Limited

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<sup>1</sup> 包括一份聯署意見書，相關聯署團體已載列於此名單。  
including one joint submission signatories of which have been included on this list.



11. 寶龍貨運有限公司  
NAF Global Logistics Limited
12. 環美航空貨運(香港)有限公司  
Trans-Am Air Freight (Hong Kong) Limited
13. 泰盛空運有限公司  
CTI Logistics (HK) Co. Limited
14. 龍騰志青
15. 中菲行空運(香港)有限公司  
Dimerco Air Forwarders (HK) Ltd
16. 香港家長會  
Hong Kong Parents Alliance Association
17. 博愛醫院(董事局)  
Pok Oi Hospital (Board)
18. 香港大學女性戒煙計劃  
HKU Women Quit
19. 匯力空運有限公司  
Cohesion Air Freight (HK) Limited
20. 長遠煙草政策關注組  
Long-Term Tobacco Policy Concern Group
21. 金聯環球物流有限公司  
Hentrans Global Logistics Limited
22. 自由黨青年團
23. 威龍貨運  
ACE Protrans Forwarding Limited
24. OA Cargo Limited
25. 博愛醫院中醫服務  
Pok Oi Hospital Chinese Medicine Services
26. 輝域海空運有限公司  
Fairate Express Limited

27. Ethiopian Airlines
28. 林澤輝先生
29. 香港區家長教師會聯會  
Hong Kong Parent Teacher Federation Association
30. 黃大仙區家長教師會聯會有限公司  
Federation of Parent-Teacher Associations Wongtaisin District Limited
31. 威騰聯運有限公司  
Worldtrans Air-Sea Service Limited
32. 香港中華醫學會有限公司  
Hong Kong Chinese Medical Association Ltd
33. 航空公司貨運聯絡小組  
HKIA Air Cargo Carrier Liaison Group
34. 王健耀先生  
Mr Ronny WONG Kin-yiu
35. 華人女企業家協會  
Chinese Women Entrepreneurs Association
36. 亞洲空運中心有限公司  
Asia Airfreight Terminal
37. 香港理工大學護理學院  
School of Nursing, The Hong Kong Polytechnic University
38. 青少年戒煙熱線  
Youth Quitline
39. 香港物流協會  
Hong Kong Logistics Association
40. 國泰航空有限公司  
Cathay Pacific Airways Ltd
41. 九龍樂善堂 - 「愛・無煙」前線企業員工戒煙計劃  
The Lok Sin Tong Benevolent Society, Kowloon - Smoking Cessation Program in Workplace

42. 九龍樂善堂 - 「無煙全關愛聯盟」  
The Lok Sin Tong Benevolent Society, Kowloon - Smoke-Free Alliance
43. 香港貨運航空有限公司  
Hong Kong Air Cargo Carrier Limited
44. 香港付貨人委員會  
The Hong Kong Shippers' Council
45. 國泰航空服務有限公司  
Cathay Pacific Services Limited
46. 何立基先生  
Mr Sunny HO
47. 何世賢博士  
Dr Daniel HO Sai-yin
48. 黃欣琳小姐  
Miss Josie HUANG
49. 香港空運貨站有限公司  
Hong Kong Air Cargo Terminals Limited
50. 香港機場管理局  
Airport Authority Hong Kong
51. 香港中文大學醫學院那打素護理學院  
The Nethersole School of Nursing, Faculty of Medicine, The Chinese University of Hong Kong
52. Mr YEUNG Ho-chuen
53. 香港大學青少年戒煙熱線計劃  
HKU Youth Quitline
54. 香港運輸物流學會  
The Chartered Institute of Logistics and Transport in Hong Kong
55. 香港民用航空事業職工總會  
The Staffs & Workers Union of Hong Kong Civil Airlines

56. 香港空運貨站職工會  
Hong Kong Air Cargo Terminals Employees Union
57. 鄧麗娥小姐  
Miss TANG Lai-ngo
58. 陳錫坤博士  
Dr CHAN Sik-kwan
59. 趙盛之博士  
Dr Lubecca ZHAO Shengzhi
60. 赫万佳博士  
Dr HE Wanjia
61. 香港牙醫學會  
Hong Kong Dental Association
62. 基督教家庭服務中心  
Christian Family Service Centre
63. 朗文物流有限公司  
Forward By Norman Limited
64. 永輝國際物流有限公司  
Vinflair Logistics Limited
65. 喬達國際貨運(香港)有限公司  
Geodis Hong Kong Limited
66. 迅達航空貨運(香港)有限公司  
Jet-Speed Air Cargo Forwarders (HK) Limited
67. 基督教聯合那打素社康服務  
United Christian Nethersole Community Health Service
68. 香港航空貨運及速遞業工會  
Hong Kong Air Freight Transport and Express Transport  
Employees Union
69. 政府中學校長協會  
Association of Principals of Government Secondary Schools

70. 香港私人執業專科醫生協會  
Association of Private Medical Specialists of Hong Kong
71. 美國胸肺學院(港澳分會)  
CHEST Delegation Hong Kong and Macau
72. 香港護理學院  
College of Nursing, Hong Kong
73. 香港藥劑專科深造學院  
College of Pharmacy Practice
74. 社區藥物教育輔導會  
Community Drug Advisory Council
75. 港九各區街坊會協進會  
Council of Hong Kong & Kowloon Kai-Fong Associations
76. 中西區家長教師會聯會  
Federation of Parent-Teacher Associations of the Central and Western District
77. 九龍城區家長教師會聯會  
Federation of Parent-Teacher Association, Kowloon City District
78. 康聯國際企業有限公司  
Healthlink International Enterprise Limited
79. 香港醫學專科學院  
Hong Kong Academy of Medicine
80. 香港麻醉科醫學院  
The Hong Kong College of Anaesthesiologists
81. 香港社會醫學學院  
Hong Kong College of Community Medicine
82. 香港牙科醫學院  
The College of Dental Surgeons of Hong Kong
83. 香港急症科醫學院  
Hong Kong College of Emergency Medicine

84. 香港家庭醫學學院  
The Hong Kong College of Family Physicians
85. 香港婦產科學院  
The Hong Kong College of Obstetricians and Gynaecologists
86. 香港眼科醫學院  
The College of Ophthalmologists of Hong Kong
87. 香港骨科醫學院  
The Hong Kong College of Orthopaedic Surgeons
88. 香港耳鼻喉科醫學院  
The Hong Kong College of Otorhinolaryngologists
89. 香港兒科醫學院  
Hong Kong College of Paediatricians
90. 香港病理學專科學院  
The Hong Kong College of Pathologists
91. 香港內科醫學院  
Hong Kong College of Physicians
92. 香港精神科醫學院  
The Hong Kong College of Psychiatrists
93. 香港放射科醫學院  
Hong Kong College of Radiologists
94. 香港外科醫學院  
The College of Surgeons of Hong Kong
95. 香港資助小學校長會  
Hong Kong Aided Primary School Heads Association
96. 香港病人組織聯盟  
Hong Kong Alliance of Patients' Organizations Limited
97. 香港天使綜合症基金會  
Hong Kong Angelman Syndrome Foundation

98. 香港家庭醫學及基層健康護士協會  
Hong Kong Association of Family Medicine And Primary Health  
Care Nurses
99. 香港青少年發展聯會  
Hong Kong Association of Youth Development
100. 香港醫務行政學院  
Hong Kong College of Health Service Executives
101. 香港西醫工會  
Hong Kong Doctors Union
102. 香港教育工作者聯會  
Hong Kong Federation of Education Workers
103. 香港島校長聯會  
Hong Kong Island School Heads Association
104. 香港職業治療學會  
Hong Kong Occupational Therapy Association
105. 香港兒科醫學會  
Hong Kong Paediatric Society
106. 香港病人政策連線  
Hong Kong Patients' Voices
107. 香港物理治療學會  
Hong Kong Physiotherapy Association
108. 香港特殊學校議會  
Hong Kong Special Schools Council
109. 香港津貼中學議會  
Hong Kong Subsidized Secondary Schools Council
110. 香港胸肺學會  
Hong Kong Thoracic Society
111. 香港女醫生協會  
Hong Kong Women Doctors Association

112. 國際中醫中藥總會  
International General Chinese Herbalists and Medicine  
Professionals Association
113. 香港衛生界專業團體聯席會議  
Joint Conference of Hong Kong Health Care Professional  
Organizations
114. 九龍地域校長聯會  
Kowloon Region School Heads Association
115. 香港大學李嘉誠醫學院  
LKS Faculty of Medicine, The University of Hong Kong
116. 醫護誠信同行  
Medical Conscience
117. 新界校長會  
New Territories School Heads Association
118. 北區家長教師會聯會  
North District Federation of Parent-Teacher Associations
119. 博愛醫院  
Pok Oi Hospital
120. 香港都會大學護理及健康學院  
School of Nursing and Health Studies, Hong Kong Metropolitan  
University
121. 津貼小學議會  
Subsidized Primary School Council
122. 香港衛生護理專業人員協會  
The Association of Hong Kong Health Care Professionals
123. 香港醫務委員會執照醫生協會  
The Association of Licentiates of Medical Council of Hong Kong
124. 香港大學癌症醫學中心  
The Centre of Cancer Medicine, The University of Hong Kong
125. 香港醫學組織聯會  
The Federation of Medical Societies of Hong Kong



126. 香港心臟護士專科學院  
Hong Kong College of Cardiac Nursing
127. 香港社區及公共健康護理學院  
Hong Kong College of Community and Public Health Nursing
128. 香港危重病護理學院  
Hong Kong College of Critical Care Nursing
129. 香港護理教育及科研學院  
Hong Kong College of Education & Research in Nursing
130. 香港急症科護理學院  
Hong Kong College of Emergency Nursing
131. 香港老年學護理專科學院  
Hong Kong College of Gerontology Nursing
132. 香港內科護理學院  
Hong Kong College of Medical Nursing
133. 香港精神健康護理學院  
Hong Kong College of Mental Health Nursing
134. 香港助產士學院  
Hong Kong College of Midwives
135. 香港護理及衛生管理學院  
Hong Kong College of Nursing & Health Care Management
136. 香港骨科護理學院  
Hong Kong College of Orthopaedic Nursing
137. 香港兒科護理學院  
Hong Kong College of Paediatric Nursing
138. 香港圍手術護理學院  
Hong Kong College of Perioperative Nursing
139. 香港外科護理學院  
Hong Kong College of Surgical Nursing
140. 香港防癌會  
The Hong Kong Anti-Cancer Society

141. 香港中學校長會  
The Hong Kong Association of the Heads of Secondary Schools
142. 香港放射學技師會  
The Hong Kong Radiological Technologists' Association
143. 九龍樂善堂  
The Lok Sin Tong Benevolent Society, Kowloon
144. 香港藥學會  
The Pharmaceutical Society of Hong Kong
145. 香港醫院藥劑師學會  
The Society of Hospital Pharmacists of Hong Kong
146. 荃灣區家長教師會聯會有限公司  
Tsuen Wan District Parent Teacher Association Federation Limited
147. 東華三院戒煙綜合服務中心  
Tung Wah Group of Hospitals Integrated Centre on Smoking Cessation
148. 香港中文大學醫學院賽馬會公共衛生及基層醫療學院  
The Jockey Club School of Public Health and Primary Care, Faculty of Medicine, The Chinese University of Hong Kong
149. 爭氣行動  
Clear The Air
150. 油尖旺家長教師會聯會  
Yau Tsim Mong Federation of Parents Teachers Association
151. 香港南區家長教師會聯會  
Federation of Parent-Teacher Association, Southern District, H.K.
152. 元朗區家長教師會聯會有限公司  
Federation of Parent-Teacher Associations of Yuen Long District Limited
153. 香港幼稚園協會  
Hong Kong Kindergarten Association

154. 觀塘區家長教師會聯會  
Federation of Parent Teacher Associations in Kwun Tong District Ltd
155. 西貢區家長教師會聯會  
Federation of Parent-Teacher Associations of the Sai Kung District
156. 大埔區家長教師會聯會  
Federation of Parent-Teacher Association, Tai Po District
157. 離島區家長教師會聯會  
Federation of Parent Teacher Associations of Islands District
158. 灣仔區家長教師會聯會  
Federation of Parent-Teacher Associations, Wanchai District
159. 葵青區家長教師會聯會  
Federation of Parent-Teacher Associations (Kwai Tsing District) Ltd
160. 香港肝臟移植協康會  
The Hong Kong Liver Transplant Patients' Association
161. 屯門區家長教師會聯會  
Federation of Parent-Teacher Associations, Tuen Mun
162. 生活教育活動計劃  
Life Education Activity Programme
163. 沙田區家長教師會聯會有限公司  
The Joint Council of Parent-Teacher Associations of the Shatin District Ltd
164. 香港東區家長教師會聯會  
Federation of Parent Teacher Associations of Hong Kong Eastern District
165. 亞洲反吸煙諮詢所  
Asian Consultancy on Tobacco Control
166. 深水埗區家長教師會聯會  
Federation of Parent-Teacher Associations Sham Shui Po District Limited

167. 香港心臟專科學院  
Hong Kong College of Cardiology
168. 香港大學基層醫療健康教研中心  
HKU Primary Health Care Academy
169. Minjin ZHANG
170. 香港航空業總工會  
Hong Kong Aviation Industry Employees General Union
171. 香港機場地勤服職工會  
Hong Kong Airport Ramp Services Employees Union
172. 國泰航空服務職工會  
Cathay Pacific Services Employees Union
173. 海港運輸業總工會  
Harbour Transportation Workers General Union
174. 仁濟醫院教育界代表
175. 香港運輸物流業工會聯會  
The Federation of Hong Kong Transportation and Logistics Industry Unions
176. 大灣區航空有限公司  
Greater Bay Airlines Company Limited
177. Alison
178. Amber
179. Angle
180. Anna
181. AU Yee-yiu
182. CHAN Chi-lok
183. CHAN Chi-wang
184. CHAN Ka-man

- 185. CHAN Ka-wai
- 186. CHAN Lee-yan
- 187. CHAN Mei-yan
- 188. CHAN Suet-ying
- 189. CHAN Sze-yan
- 190. CHAN Wai-lam
- 191. CHAN Yi-ching
- 192. CHAN Yik-hei
- 193. CHAU Ho-ying
- 194. CHENG Hiu-lam
- 195. CHENG Man-lai
- 196. CHENG Ming-yee
- 197. CHENG Pui-lam
- 198. CHENG Tsz-wing
- 199. Cherrie
- 200. CHEUK Wing-lam
- 201. CHEUNG Hoi-yin
- 202. CHEUNG Sum-yu
- 203. CHEUNG Wing-yin
- 204. CHING Tsz-yan
- 205. CHOI Kit-yee
- 206. Derek
- 207. FOK Ka-yan

- 208. FU Cheuk-yiu
- 209. Ho Ka-ying
- 210. HO Wai-ki
- 211. HON Yui-hin
- 212. Jack
- 213. Jerry
- 214. Jessica
- 215. Jolin
- 216. Kayla
- 217. Khloe
- 218. KWONG Hoi-yee
- 219. LAM Cheuk-wing
- 220. LAM Ho-yi
- 221. LAM Ka-yui
- 222. LAM Yuk-lam
- 223. LAW Yuen-wing
- 224. LEE Yuk-lam
- 225. LIU Tsz-yan
- 226. LUI Hiu-fung
- 227. LUI Tsun-yip
- 228. MANG Yee-man
- 229. Michael
- 230. NG Hoi-tung

- 231. NG Kai-ying
- 232. Patra
- 233. SHUM Mei-ho
- 234. SIN Chuen-shing
- 235. TAM Pui-ching
- 236. TANG Shuk-ping
- 237. TOO Wai-lan
- 238. Winnie
- 239. WONG Cheuk-ki
- 240. WONG Wai-lam
- 241. WONG Wai-yi
- 242. WONG Yau-sze
- 243. YAN Tsz-him
- 244. YEUNG Hok-man
- 245. YEUNG Tsz-ching
- 246. YIM Chun-kit
- 247. Yoyo
- 248. YU Ling-si
- 249. YUE Wai-ting
- 250. YUE Wai-ting
- 251. 香港胸肺基金會  
Hong Kong Lung Foundation
- 252. 香港心肺復蘇委員會  
Resuscitation Council of Hong Kong
- 253. 香港災難醫療學會有限公司  
Hong Kong Disaster Medicine Association Limited

**The Administration’s explanation on the  
absence of reference to the  
transshipment of alternative smoking products  
in the long title of the Import and Export Ordinance (Cap. 60)**

The long title of Cap. 60 reads, “[t]o *provide for the regulation and control of the import of articles into Hong Kong*, the export of articles from Hong Kong, the handling and carriage of articles within Hong Kong which have been imported into Hong Kong or which may be exported from Hong Kong, *and any matter incidental to or connected with the foregoing*” (emphasis added).

2. According to Rule 50(3) of the Rules of Procedure of the Legislative Council (“R50(3) requirement”), a bill “shall be given a long title setting out the purposes of the bill *in general terms*” (emphasis added).<sup>1</sup> The above long title of Cap. 60 sets out the purposes of Cap. 60 in general terms and meets the R50(3) requirement.

3. While the long title describes the purposes of Cap. 60 in such general terms, that does not prevent Cap. 60 from containing any specific provisions concerning:

- (a) only a particular type of articles; or
- (b) only a specific aspect of, or an incidental or connected matter in respect of, the regulation and control of the import or export of articles in general, or of certain particular types of articles

4. To illustrate the point, some examples can be found in Cap. 60. Sections 6C and 6D specify the restrictions on the import or export of certain prohibited articles with details (including exemptions for articles in transit and transshipment cargoes) provided for in the subsidiary legislation

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<sup>1</sup> When a bill is enacted into an Ordinance, such a long title becomes the long title of the Ordinance.



under Cap. 60. Section 2A provides for how Cap. 60 applies to certain articles that are substances that deplete the ozone layer. These existing provisions are contained in Cap. 60 despite the absence of any specific references to those particular types of articles, or to those specific aspects of (or incidental or connected matters in respect of) the regulation and control of the import and export of articles (i.e. the exemptions from restrictions on import and export, the transits or transshipments) in the long title of Cap. 60.

5. The above approach in handling long titles can also be seen in the Smoking (Public Health) Ordinance (Cap. 371), which currently provides for the import ban for alternative smoking products (“ASPs”). In compliance with the R50(3) requirement, in relation to the import ban, the long title merely states that Cap. 371 is “to prohibit the import... of alternative smoking products” and “to provide for incidental and related matters”. The current exemptions from the import ban (i.e. the exemptions for persons in transit, articles in transit, air transshipment cargoes, Government Chemists and registered pharmaceutical products), being a specific aspect of, or incidental or related matters in respect of, the prohibition on the import of ASPs, are provided for in the existing sections 15DC to 15DF of Cap. 371 despite the absence of any express references to the exemptions in the long title of Cap. 371.

6. The Bill adds a new Part IIIA to Cap. 60 to provide for the prohibition on the import of ASPs and the exemptions from the prohibition. Transshipment cargoes (i.e. air transshipment cargoes and specified intermodal transshipment cargoes) fall within one of the many categories of such exemptions (the others being the other existing categories of exemptions under Cap. 371). No doubt, from a policy perspective, the enabling of land-to-air or sea-to-air transshipment of ASPs is an important initiative and a particular registration scheme is required for implementing it. However, from the perspective of Cap. 60, the transshipment is still one of the categories of exemptions from the prohibition on the import of ASPs. The provisions about the registration scheme are just further details relating to that particular exemption. In other words, both the transshipment and the registration scheme are specific aspects of (or incidental or connected matters in respect of) the regulation and control of the import of a specific type of articles into Hong Kong, which are sufficiently covered by the

description “providing for the regulation and control of the import of articles into Hong Kong... and any matter incidental to or connected with the foregoing” in the long title of Cap. 60. If those specific aspects of (or incidental or connected matters in respect of) the regulation and control of the import of such a particular type of articles should be expressly referred to in the long title of Cap. 60, what follows will be that many other comparable aspects (or matters) that are provided for in the existing Cap. 60 (such as those mentioned in paragraph 4 above) should have been so referred to as well. However, as a matter of fact, that has not been done in the existing long title of Cap. 60, in compliance with the R50(3) requirement. To apply the same logic, the Administration is of the view that the transshipment of ASPs should not be treated differently and be expressly referred to in the long title of Cap. 60.