



Legco  
Subcommittee on Dutiable Commodities  
(Exempted Quantities) (Amendment) Notice 2010  
6<sup>th</sup> May 2010

Dear Sir,

We are aware that Legco is receiving submissions at 16.40 hrs this afternoon on the above subject and we are unable to attend at short notice. However we wish the following relevant information to be brought to the attention of the Honourable Subcommittee.

1

The Legco paper relates to most countries having packs of 20 cigarettes. However the recent Australian Government tobacco taxation report Recommendation 75 (weblink below) is highly relevant and needs to be brought to the attention of the Legco members on this important matter:

[http://taxreview.treasury.gov.au/content/FinalReport.aspx?doc=html/Publications/Papers/Final\\_Report\\_Part\\_2/chapter\\_e6.htm](http://taxreview.treasury.gov.au/content/FinalReport.aspx?doc=html/Publications/Papers/Final_Report_Part_2/chapter_e6.htm)

#### **RECOMMENDATION 73:**

The existing regime for tobacco taxation in Australia should be retained, with the rates of tax substantially increased, depending on further evidence on the costs of harm from tobacco smoking.

#### **RECOMMENDATION 74:**

Tobacco excise should be indexed to a broad measure of wages rather than CPI.

#### **RECOMMENDATION 75:**

**“There should be no duty free allowance on tobacco for international travellers entering Australia.”**

**“Duty free tobacco should be abolished**

**The duty free tobacco allowance undermines the objectives of tobacco taxation and involves a significant revenue loss (in the order of A\$200 million per year). There is no reason why international travellers should enjoy a tax concession on cigarettes smoked in Australia.”**

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We point out that Legco is presuming all cigarette packets are 20 sticks whereas people arriving from Australia with legal product will have 24 sticks in the pack if they have removed one.

2

If the arriving passenger is carrying 19 counterfeit cigarettes is that OK ? It is far better to have a zero tolerance as in Singapore (and as proposed in Australia) with prohibits Duty Free tobacco imports. Currently several airlines entering Hong Kong sell cigarettes on board and advertise cigarettes within their inflight magazines which must be curtailed.

3

**60-70% of all contraband tobacco seizures in Hong Kong are genuine product.**

Hong Kong Customs Department shows that genuine tobacco product contraband seizures in Hong Kong are 60- 70% of all seizures ; this is 40% above the world norm for genuine tobacco product contraband seizures (which is generally 30% overall according to the Framework Alliance of WHO and the Tobacco Atlas. The tobacco companies' own documents at the Legacy online site refer to this as 'general cargo' and 'duty not paid trade'). It is therefore obvious that Duty Free tobacco is a major ready source of contraband in this market that requires additional Government resources to police this illegal action. Please see the self explanatory email from the relevant Hong Kong Customs division commander below. The subcommittee should also consider a recommendation to Government to instigate a mandatory fines system as in the EU whereby any seizures of genuine tobacco product which is duty not paid results in a massive fine on the product manufacturer and consideration of charges against the tobacco executives for excise tax evasion and conspiracy to smuggle contraband. This will force the manufacturing companies to control their supply chain.

The Legco paper (link below) confirms same.

[http://www.legco.gov.hk/yr09-10/english/hc/sub\\_leg/sc07/papers/sc070506cb1-18-2-e.pdf](http://www.legco.gov.hk/yr09-10/english/hc/sub_leg/sc07/papers/sc070506cb1-18-2-e.pdf)

**"9. Meanwhile, C&ED's statistics show that duty-free cigarettes constitute a source of illicit cigarettes.** The WHO's Framework Convention on Tobacco Control therefore requires all member states to seek to reduce the source of duty-not-paid cigarettes and combat the illicit trade of tobacco products."

4

Children would not mind buying packs of duty free cigarettes with one stick removed – in fact it lowers the price to them which is contrary to the intention of Government's tobacco taxation policy.

The Government must learn that allowing exemptions results in pandemonium and failed policy and in the interests of public health and prevention of passive smoking they must use all available means to restrict the available supply of tobacco products which includes banning duty free tobacco here.

It is time for Hong Kong to emulate Singapore and abolish duty free tobacco imports.

Yours faithfully,

**8/F Eastwood Centre - 5, A Kung Ngam Village Road - Shaukeiwan, Hong Kong**

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James Middleton

Chairman anti tobacco committee  
[www.cleartheair.org.hk](http://www.cleartheair.org.hk)

---Original Message-----

From: [wm\\_hui@customs.gov.hk](mailto:wm_hui@customs.gov.hk) [mailto:[wm\\_hui@customs.gov.hk](mailto:wm_hui@customs.gov.hk)]  
Sent: Thursday, February 18, 2010 6:01 PM  
To: James Middleton  
Cc: [hc\\_wan@customs.gov.hk](mailto:hc_wan@customs.gov.hk)  
Subject: Re : Cigarette Smuggling

Dear Mr. Middleton,

Thank you for your continuous support to our enforcement against illicit cigarettes and sharing your views with our Senior Inspector Lee Hoi-man in the past. Mr. Lee has been recently posted out and replaced by Mr. Wan Hing-chuen. You may send your precious opinions to him or to me in future.

We are also much grateful for the series of mails on the same subject you sent to this Department during the Lunar New Year Holiday. The relevant materials are very informative and insightful. In response, we would like to let you have our views as follows :

*C&ED's effort against illicit cigarette activities*

*In anticipation of the greater incentive for illicit cigarette activities following the increase in tobacco duty in Feb 2009, we have stepped up enforcement actions by internal redeployment. As a result, there have been increases in number of cases and arrests. However, the total seizure quantity has been dropping. Evidently, our stringent enforcement has cornered the culprits to scale down their operation.*

*Examination of cigarette seizures*

*Our operational objective in fighting illicit cigarettes is to protect revenue. Hence, we don't usually examine cigarette seizures in every case. However, for cases of smuggling and distribution in nature with significant seizure quantity, we would invite the trade mark owners to examine the cigarettes. In general, around 30% to 40% are found to be counterfeit. Since the cigarette seizures are intended for local black market, we believe the percentage can adequately reflect the overall situation.*

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*Control regime on cigarettes*

*We adopt regulatory control and enforcement strategy against any illicit diversion of the imported or locally manufactured cigarettes. The Department would consistently monitor the situation and suggest to the Policy Bureau more effective measures whenever necessary.*

*Project Crocodile*

*“Project Crocodile” (the Project), which started on 1 August 2004, aims to form a united front to combat transnational cigarette smuggling activities. There are now 18 Customs Administrations participating in the project. Over the years, fruitful results have been attained because of the information exchange. The Project is running smooth and is still in force.*

*Should you have any further opinions, please discuss with me or Mr. H C Wan (e-mail address : [hc\\_wan@customs.gov.hk](mailto:hc_wan@customs.gov.hk)) at any time.*

*Best Regards,  
Andy W M Hui  
Divisional Commander (Anti-Illicit Cigarette Investigation)  
Hong Kong Customs and Excise Department*