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## Illicit drugs on ships entering Hong Kong

G. L. MORTIMER

*Commissioner for Narcotics, Hong Kong*

### ABSTRACT

From 1974 to 1982 government authorities in Hong Kong seized 672 kilograms of illicit drugs in 721 seizures on board 254 vessels. As those vessels exceeded 250 gross tons, they were not subject to forfeiture under the Dangerous Drugs Ordinance (1935). Thus, an amendment to that Ordinance was adopted and came into force on 15 January 1983. It provides for the imposition of a maximum fine of \$HK 5 million on the owners of ships exceeding 250 gross tons if such ships are found to have carried excessive quantities of illicit drugs on two occasions within a period of 18 months. The excessive quantity is defined as 3,000 grams of opium or cannabis and 500 grams of any other dangerous drug. Such ships may be forfeited to the Crown if the financial penalty is not paid.

### Introduction

Before 1974, the principal method of smuggling drugs into Hong Kong was by fishing trawlers. This bulk illicit traffic came to a halt in late 1974, when the major drug syndicates were put out of action as a result of the arrest of those concerned and their subsequent conviction and imprisonment. Thereafter, traffickers turned to the use of individual couriers to smuggle drugs into Hong Kong, one of the favourite methods involving the use of ocean-going vessels. Between 1974 and the end of 1982, 721 seizures of 672 kilograms of illicit drugs were made on board 254 vessels, resulting in 107 arrests. Of these seizures, 44 involved substantial quantities of drugs, principally opium and heroin, 14 of which were made on 4 vessels belonging to one company; 8 of these 14 seizures were made on one ship, 5 of them in a period of less than 6 months. Ships of three other companies were also repeatedly involved in smuggling drugs: five times in 12 months, twice in 4 months and twice in 30 months, respectively.

Ingenious hiding places were used for smuggling drugs on these vessels. In many cases, despite protracted inquiries, no arrests were made because the drugs were discovered in areas of the ship to which all members of the crew had access. Hence, despite the efforts of the Customs and Excise Service, the seizures were having little real deterrent effect; the vessels continued their shuttle runs between Hong Kong and South East Asian ports with no

positive action being taken against them. As all such vessels exceeded 250 gross tons, they were not subject to forfeiture to the Crown under the Dangerous Drugs Ordinance even though they had been used for the commission of, or in connection with, a drug offence.

### Amendment to the Dangerous Drugs Ordinance

After a number of alternatives had been considered, it was concluded that the most effective way of dealing with this situation was to amend the Dangerous Drugs Ordinance (1935) to impose heavy financial penalties on the owners of ships exceeding 250 gross tons and frequently found to be carrying excessive quantities of illicit drugs into Hong Kong.

The amending ordinance was brought into force on 15 January 1983. It provides for the imposition on the owner of a ship exceeding 250 gross tons a maximum fine of \$HK 5 million if the ship is found to have carried excessive quantities of illicit drugs on two occasions within a period of 18 months; if the financial penalty imposed by the Court is not paid, the ship may be forfeited to the Crown. The excessive quantity is defined as 3,000 grams of opium or cannabis or 500 grams of any other dangerous drug. The criterion of two occasions in 18 months was adopted as past records indicated that such a provision could have dealt with all the ships, with the exception of one, that had been repeatedly found to have smuggled drugs into Hong Kong since 1971.

The new legislation provides that:

(a) The Commissioner of the Customs and Excise Service, with the written consent of the Attorney General, may seize and detain for 48 hours any ship reasonably suspected to have carried excessive quantities of illicit drugs on two occasions within 18 months;

(b) A magistrate, on application by the Commissioner of the Customs and Excise Service, may continue the detention of a ship already seized and detained or order the arrest and detention of a ship. The magistrate will then order that the proceedings be transferred to the High Court;

(c) The Registrar of the Supreme Court will give notice of the time and place at which the High Court will hear an application by the Commissioner of the Customs and Excise Service for the imposition of a financial penalty on the owner not exceeding \$HK 5 million. However, the owner or the master can apply to a judge to admit the ship to bail or bond in an amount of not less than \$HK 5 million;

(d) Where the High Court is satisfied beyond reasonable doubt that a ship has carried an excessive quantity of dangerous drugs in the circumstance described, it may order the owner to pay a maximum fine of \$HK 5 million. This penalty may be recovered from any bail or bond paid or given, but the ship may be forfeited to the Crown if no satisfactory arrangements for the payment of the penalty are made.

No financial penalty is imposed if the owner and the master prove that, in respect of the second occasion on which drugs were carried, they had taken all reasonable practical steps to prevent the carriage.

Details of the legislation have been widely circulated among shipowners. The rummaging of ships entering Hong Kong is continuing, and time will tell of the impact that the new legislation has on drug smuggling by ship.