

## **For discussion**

### **Legislative Council Panel on Economic Services Meeting on 16 January 2001**

#### **Legislative Proposals to Promote International Maritime Safety**

## **INTRODUCTION**

This paper consult Members on the following legislative proposals to promote international maritime safety –

- (a) Amendments to subsidiary legislation under the Merchant Shipping (Safety) Ordinance, Cap. 369;
- (b) A new subsidiary legislation and amendments to the existing subsidiary legislation under the Merchant Shipping (Seafarers) Ordinance, Cap 478; and
- (c) A new subsidiary legislation, namely Merchant Shipping (Port State Control) Regulation, to be made under the Merchant Shipping (Safety) Ordinance, Cap 369; Merchant Shipping (Seafarers) Ordinance, Cap 478 and Merchant Shipping (Prevention and Control of Pollution) Ordinance, Cap 413.

#### **(A) Amendments to subsidiary legislation under the Merchant Shipping Safety Ordinance, Cap 369**

2. The International Maritime Organisation (IMO) is the specialised agency under the United Nations responsible for improving maritime safety and preventing pollution from ships. It was first established in 1948 as the Inter-Governmental Maritime Consultative Organisation, with the adoption of its present name in 1982 when the above Convention was amended. The Central People's Government of the People's Republic of China is among the 158 Member States of the IMO while Hong Kong, China is an Associate Member.

3. Safety standards prescribed by the IMO are set out in international conventions. The International Convention for the Safety of Life at Sea ("SOLAS") is generally regarded as the most important of all international treaties concerning the safety of merchant ships. Its major objective is to specify minimum safety standards for the construction, equipment and operation of ships. Flag states are responsible for ensuring that ships under their flag comply with these requirements. A number of certificates are prescribed in SOLAS as proof that this has been done. Contracting governments are empowered under control provisions in SOLAS to inspect ships of other Contracting States if there are clear grounds for believing that the ship and its equipment do not substantially comply with the SOLAS requirements.

4. The provisions in SOLAS are implemented through the Merchant Shipping (Safety) Ordinance, Cap 369 in Hong Kong. The legislative proposals we seek to introduce are to implement the 1994 amendments to Chapter V of SOLAS concerning safety of navigation, 1995 and 1996 amendments to Chapter III concerning life-saving appliances and arrangements, and 1996 amendments to Chapter II concerning construction safety. Although the IMO adopted the 1994 amendment, the IMO had to wait for at least 50% of its member countries to endorse the amendment. During such time, there were other suggested amendments. It was not until late 1998 that member countries endorsed all the amendment proposal. These amendments are technical in nature.

**(B) Subsidiary legislation under the Merchant Shipping (Seafarers) Ordinance, Cap 478**

5. Another convention promulgated by the IMO is the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers adopted by the IMO in 1978 ("STCW") which establishes the basic requirements on training, certification and watchkeeping for seafarers at the international level. STCW is implemented in Hong Kong through the Merchant Shipping (Seafarers) Ordinance, Cap 478 and its subsidiary legislation.

6. In June 1997, the IMO adopted amendments to Chapter V of STCW concerning training and qualification requirements for personnel on tankers, ro-ro passenger ships and passenger ships other than ro-ro passenger ships. We seek to implement these amendments through

domestic legislation by means of a new **Merchant Shipping (Seafarers) (Passenger Ships other than Ro-Ro Passenger Ships Training) Regulation** and amendments to the **Merchant Shipping (Seafarers) (Ro-Ro Passenger Ships Training) Regulation** as proposed.

**(C) Merchant Shipping (Port State Control) Regulation**

7. Some requirements on port state control inspection are promulgated by IMO Conventions including SOLAS, the International Convention on Load Line (“LL”), STCW, and the International Convention for the Prevention of Pollution from Ships (“MARPOL”). The first two conventions are implemented domestically through the Merchant Shipping (Safety) Ordinance, Cap. 369; and STCW and MARPOL are implemented through the Merchant Shipping (Seafarers) Ordinance, Cap. 478 and Merchant Shipping (Prevention of Oil Pollution) Ordinance, Cap. 413 respectively. In 1994, SOLAS and MARPOL were amended to introduce new port state control requirements relating to ship safety and pollution prevention respectively. The amendments have not yet been reflected in the laws of Hong Kong.

8. In addition to the IMO Conventions, Hong Kong has the responsibility to implement port state control requirements under the Memorandum of Understanding on Port State Control in the Asia Pacific Region (“Tokyo MOU”), a regional agreement adopted by signatory parties including Hong Kong and Mainland China. We however have not yet implemented the provisions therein in our domestic law.

9. To update the domestic legislations to the latest requirement under the amended SOLAS and MARPOL and to adopt provisions under the Tokyo MOU, we propose to make a new **Merchant Shipping (Port State Control) Regulation** under the Merchant Shipping (Safety) Ordinance, Cap 369; Merchant Shipping (Seafarers) Ordinance, Cap 478 and Merchant Shipping (Prevention and Control of Pollution) Ordinance, Cap 413. The new regulation will supplement these Ordinances for the implementation of port state control requirements under the IMO conventions and the Tokyo MOU.

10. A summary of the above legislative proposals is set out in the table at **Annex**.

## **CONSULTATION**

11. We have consulted the shipping industry through the Shipping Consultative Committee on the legislative proposals. The industry has no objection to the proposals.

## **IMPLEMENTATION**

12. We plan to introduce into the Legislative Council the proposal in paragraph 1(a) above in March 2001, and the proposals in paragraphs 1(b) and 1(c) above in May 2001.

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**Summary of Legislative Proposals to  
Promote International Maritime Safety**

**(A) Amendments to subsidiary legislation under the Merchant Shipping (Safety) Ordinance, Cap 369**

Major purpose : To give effect to the 1994 amendments to Chapter V of SOLAS concerning safety of navigation, 1995 and 1996 amendments to Chapter III on life-saving appliances and arrangements and 1996 amendments to Chapter II concerning construction safety.

Amendments :

- (a) To include details of public address system, and procedures for locating and rescuing passengers trapped in staterooms;
- (b) To include the requirements for audibility of general emergency alarm on passenger ships and for automatic turn-off of entertainment sound systems when the general emergency alarm system is activated;
- (c) To include requirements for drills on passenger ships, for the crew to be familiar with his duties during emergencies before a voyage begins, items to be included in ship abandon and fire drills, and arrangements for launching free-fall lift boat; and
- (d) To include requirements for drills as necessary for the personnel involved in marine evacuation systems.

**(B) Subsidiary legislation under the Merchant Shipping (Seafarers) Ordinance, Cap. 478**

Major purpose : To give effect to the 1997 amendments to Chapter V of STCW concerning training and qualification requirements for personnel on ro-ro passenger ships and other passenger ships.

(a) Provisions under the new Merchant Shipping (Seafarers) (Passenger Ships other than Ro-Ro Passenger Ships Training) Regulation

- (i) Training for seafarers including masters, officers, chief masters, engineer officers and other personnel to be appropriate to their capacities and the duties and responsibilities assigned to them; and
- (ii) Duty of an employer and master to ensure that a seafarer has satisfactorily completed the training and to obtain from provider of the training documentary evidence on the seafarer's completion of the training.

(b) Amendments to the Merchant Shipping (Seafarers) (Ro-Ro Passenger Ships Training) Regulation

To allow seafarers of ro-ro passenger ships to, besides undertaking refresher training, provide evidence that they have achieved the required standard of competence to satisfy the training requirements of seafarers.

**(C) Merchant Shipping (Port State Control) Regulation**

Major purpose : To supplement provisions in the Merchant Shipping (Safety) Ordinance, Cap. 369, Merchant Shipping (Seafarers) Ordinance, Cap. 478 and Merchant Shipping (Prevention and Control of Pollution) Ordinance, Cap. 413 for the implementation of port state control under IMO Conventions and the Tokyo MOU.

Major provisions :

- (a) ships to which the Regulation applies;
- (b) appointment of port state control surveyors by the Director of Marine;
- (c) inspection procedure and circumstances for more detailed inspection to be carried out by surveyors;

- (d) power of the Director of Marine to issue instructions to surveyors;
- (e) circumstances and arrangements for detention of ships, stoppage of operation, suspension of ship inspections and denial of entry of ships to Hong Kong waters; and
- (f) right of appeal and compensation in respect of a detention order.