

For discussion
On 24 February 2003

Legislative Council Panel on Economic Services

**Merchant Shipping (Liability and Compensation for Oil Pollution)
(Amendment) Bill 2003**

INTRODUCTION

This paper briefs Members on the Merchant Shipping (Liability and Compensation for Oil Pollution) (Amendment) Bill 2003 (“the Bill”).

BACKGROUND

2. The liability and compensation for oil pollution damage caused by oil spills from oil tankers are governed by two international conventions, namely the International Convention on Civil Liability for Oil Pollution Damage, 1992 (“1992 CLC”) and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (“1992 Fund”). The 1992 CLC holds shipowners liable for damage caused by oil spills from their tankers up to a limit and requires them to insure this liability. The 1992 Fund sets up the International Oil Pollution Compensation Fund 1992 for compensating victims who do not obtain full compensation under the terms of 1992 CLC, provided that the damage occurs in a Contracting Party to the 1992 Fund. The Fund is financed by contributions levied on any person who has received more than 150,000 tonnes of oil in a Contracting Party to the 1992 Fund in a calendar year.

3. Both the 1992 CLC and 1992 Fund are applicable to the Hong Kong Special Administrative region (HKSAR). They are implemented in Hong Kong by the Merchant Shipping (Liability and Compensation for Oil Pollution) Ordinance (Cap. 414) (“the Ordinance”).

4. The Legal Committee of the International Maritime Organisation (IMO) adopted two Resolutions on 18 October 2000 to increase the limits of shipowners' liability under the 1992 CLC and the maximum amounts of compensation payable under the 1992 Fund. The two Resolutions will enter into force on 1 November 2003 and be binding on all Contracting Parties to the 1992 CLC and the 1992 Fund.

PROPOSALS

5. We propose to introduce the Bill to give effect to the changes arising from the two IMO Resolutions. We would also take this opportunity to include technical amendments to the Merchant Shipping (Liability and Compensation for Oil Pollution) (Compulsory Insurance) Regulations, Cap. 414A ("the Regulations") to ensure its consistency with the Ordinance. The proposed changes are set out at **Annex**.

6. We plan to introduce the Bill into the Legislative Council in May 2003.

CONSULTATION

7. We consulted the Shipping Consultative Committee in February 2003 on the proposed amendments to the Ordinance. Members of the Committee supported our proposals.

ADVICE SOUGHT

8. Members are invited to give their views and support the above proposals.

Economic Development and Labour Bureau
17 February 2003

A. Proposed amendments to the Merchant Shipping (Liability and Compensation for Oil Pollution) Ordinance

1. According to Resolution LEG. 1(82) passed by the Legal Committee of the International Maritime Organisation (IMO), the limitation amounts in the 1992 CLC will be changed as follows-

	1992 CLC Limitation Amount	New Limitation Amount
Ship not exceeding 5,000 tons	3 million units of account ¹	4.51 million units of account
Ship exceeding 5,000 tons	3 million units of account plus 420 units of account per ton in excess of 5,000 tons	4.51 million units of account plus 631 units of account per ton in excess of 5,000 tons
Aggregate amount not to exceed	59.7 million units of account	89.77 million units of account

2. According to Resolution LEG. 2(82) passed by the Legal Committee of the IMO, the limits of compensation in the 1992 Fund will be changed as follows-

		1992 Fund Limits of Compensation	New Limits of Compensation
(a)	Maximum aggregate amount of compensation payable by the Fund and the amount of compensation actually paid under the 1992 CLC in respect of any one incident	135 million units of account	203 million units of account
(b)	Maximum aggregate amount of compensation payable by the Fund for pollution damage resulting from a	135 million units of account	203 million units of account

¹ The "unit of account" is the Special Drawing Right ("SDR") as defined by the International Monetary Fund. One SDR is about HKD 10.7.

	natural phenomenon of an exceptional, inevitable and irresistible character		
(c)	Maximum amount of compensation referred to in (a) and (b) above with respect to any incident occurred during any period when there are three Contracting Parties in respect of which their combined quantity of contributing oil was equal to or greater than 600 million tons in the preceding year.	200 million units of account	300.74 million units of account

B. Proposed technical amendments to the Merchant Shipping (Liability and Compensation for Oil Pollution) (Compulsory Insurance) Regulations

1. The definition of “persistent oil” will be deleted from regulation 3 because “oil” has already been defined in the Ordinance.
2. Section 15(4) of the Ordinance stipulates that certificates issued by a Contracting Party shall be accepted by other Contracting Parties. Regulation 4 of the Regulation provides that certificates issued by certain designated countries would be recognised by Hong Kong. Regulation 4 is redundant and should be deleted.
3. Regulation 2 (Interpretation) should be deleted as a result of the deletion of Regulations 3 and 4.