

**立法會**  
**Legislative Council**

LC Paper No. LS74/05-06

**Paper for the House Committee Meeting  
on 26 May 2006**

**Legal Service Division Further Report on  
Freight Containers (Safety) (Amendment) Bill 2006**

Members may recall that the Bill amends the Freight Containers (Safety) Ordinance (Cap. 506) (“the Ordinance”) and its subsidiary legislation to address the outstanding issues in the light of the actual practice of the industry so that the Ordinance and its subsidiary legislation, which implement in Hong Kong the International Convention for Safe Containers, can be brought into operation.

2. The Bill was considered by the House Committee at its meeting on 28 April 2006. At the meeting, Members agreed to defer making a decision on the Bill pending a further report on the Administration’s reply to certain technical issues raised by the Legal Service Division.

3. In response to our enquiry on the reason for changing the present arrangement for determining the fee for approving containers from being prescribed by law to being determined by authorized persons appointed by the Director of Marine (“the Director”), the Administration has explained that since the function of approving containers is proposed to be assigned solely to authorized persons, dealings between the approval applicants and the authorized persons would be commercial transactions. Accordingly, the Administration considers that the fees involved should be subject to market forces and need not be prescribed by law.

4. As for the proposal to change the information and documents required for applications for approval of examination procedures of containers from being prescribed by law to being specified administratively by the Director, the Administration has explained that the tentative information and documents required for such applications include particulars of the applicant of the containers, name of the authority which approved the design of the containers and approval reference, date of manufacture, identification number and type of containers, qualifications, training and relevant experience of the competent person who will carry out the examination, and details of examination procedure, including the checklist and format of the examination report. Given that such information and documents are simple and technical in nature, the Administration considers it more appropriate to specify these requirements by a general notice in the Gazette instead of prescribing them by law.

5. To improve the drafting of the Bill, the Administration has agreed to move Committee Stage amendments (“CSAs”) to the Bill. The draft CSAs are attached in the Annex.

6. The proposed CSAs are legally in order. With these amendments, we consider that the legal and drafting aspects of the Bill present no problem. Subject to Members' views, the Bill is ready for resumption of Second Reading debate.

Encl.

Prepared by

FUNG Sau-kuen, Connie  
Assistant Legal Adviser  
Legislative Council Secretariat  
23 May 2006

FREIGHT CONTAINERS (SAFETY) (AMENDMENT) BILL 2006

**COMMITTEE STAGE**

Amendments to be moved by the Secretary for Economic Development and Labour

<u>Clause</u>	<u>Amendment Proposed</u>
5	<p>By adding –</p> <p>“(5A) Section 4(3) is amended by repealing “(1)(b) to (e) or (2)(i) to (iv)” and substituting “(1)(b), (c), (d) or (e) or (2)(a), (b), (c) or (d)”.</p> <p>(5B) Section 4(3)(a), (b) and (c) is amended, in the Chinese text, by repealing “應” and substituting “須”.”.</p>
6	<p>By adding –</p> <p>“(3A) Section 5 is amended by adding –</p> <p>“(2A) The fee payable to an authorized person in respect of an application under this section shall be –</p> <p>(a) of such amount as may be specified by the authorized person; and</p> <p>(b) payable in such manner, and within such period, as may be specified by the authorized person.”.”.</p>
7	<p>By adding –</p> <p>“(2A) Section 6 is amended by adding –</p> <p>“(2A) The fee payable to an authorized person in respect of an application under this section shall be –</p> <p>(a) of such amount as may be specified by the</p>

authorized person; and

(b) payable in such manner, and within such period, as may be specified by the authorized person.”.”.

11 In the proposed section 10A(3)(a), (b) and (c), in the Chinese text, by deleting “應” and substituting “須”.

15 In the proposed section 17A(2), by deleting “term or”.