

立法會
Legislative Council

LC Paper No. CB(1)275/07-08
(These minutes have been seen
by the Administration)

Ref: CB1/SS/6/06

**Subcommittee on Merchant Shipping
(Prevention of Air Pollution) Regulation**

**Minutes of the second meeting on
Saturday, 27 October 2007, at 8:30 am
in Conference Room B of the Legislative Council Building**

Members present : Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon SIN Chung-kai, SBS, JP
Hon WONG Yung-kan, SBS, JP
Hon CHOY So-yuk, JP

Public officers attending : Mr Roger TUPPER, JP
Director of Marine

Miss Winky SO
Acting Deputy Secretary for Transport and Housing
(Transport)

Mr Y M CHENG
Chief, Maritime Policy
Marine Department

Mr P C SO
General Manager/Local Vessel Safety
Marine Department

Ms Lonnie NG
Senior Government Counsel
Department of Justice

Mr Daniel FONG
Assistant Secretary for Transport and Housing
(Transport)

Clerk in attendance : Ms Connie SZETO
Chief Council Secretary (1)6

Staff in attendance : Miss Kitty CHENG
Assistant Legal Adviser 5

Ms Debbie YAU
Senior Council Secretary (1)1

Action

I Meeting with the Administration

(LC Paper No. CB(1)128/07-08(01) — The Administration's responses to members' concerns raised at the meeting on 16 October 2007

LC Paper No. CB(1)128/07-08(02) — List of follow-up actions arising from the discussion on 16 October 2007 prepared by the Legislative Council Secretariat

Ref: MA 90/6/1 — Legislative Council Brief issued by the Transport and Housing Bureau

LC Paper No. LS121/06-07 — Legal Service Division Report on Subsidiary Legislation tabled in the Legislative Council on 11 July 2007

LC Paper No. CB(1)57/07-08(01) — Background brief prepared by the Legislative Council Secretariat

LC Paper No. CB(1)57/07-08(02) — A submission dated 24 August 2007 from Hong Kong Fishery Alliance (HKFA) on major conversion of diesel engines (Chinese version only)

LC Paper No. CB(1)57/07-08(03) — The Administration's response to HKFA dated 17 September 2007 (Chinese version only)

LC Paper No. CB(1)57/07-08(04) — A summary of views expressed by HKFA at the meeting with Duty Roster Members on 25 September 2007 (Chinese version only)

LC Paper No. CB(1)69/07-08(01) — Administration's information paper on replacement of old engines with green engines

LC Paper No. CB(1)71/07-08(01) — Annex VI to the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 relating thereto, and as further amended by the Protocol of 1997 (MARPOL) (English version only)
(tabled at the meeting and issued on 16 October 2007)

The Subcommittee deliberated (Index of proceedings attached at **Appendix**).

2. The Subcommittee completed scrutiny of the Merchant Shipping (Prevention of Air Pollution) Regulation 2006 and members agreed that the Chairman would report the Subcommittee's deliberations to the House Committee at the latter's meeting on 2 November 2007.

3. Some members indicated that they would address the Council on the Regulation at its meeting on 7 November 2007.

(Post-meeting note: Members were invited to note the relevant provisions and procedures in this regard under Rule 21(5), 21(6) and Rule 36(5) of the Rules of Procedure, as well as Rule 2 of the House Rules vide LC Paper No. CB(1)162/07-08 issued on 31 October 2007.)

II Any other business

4. There being no other business, the meeting ended at 10:20 am.

Council Business Division 1
Legislative Council Secretariat
27 November 2007

**Proceedings of the second meeting of
the Subcommittee on Merchant Shipping
(Prevention of Air Pollution) Regulation
on Saturday, 27 October 2007, at 8:30 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000112 – 001020	Chairman Administration	<p><u>Briefing by the Administration on its response to members' concerns raised at the meeting on 16 October 2007</u> (LC Paper No. CB(1)128/07-08(01))</p> <p>The Administration's advice that the sulphur content of fuel oil provided by oil suppliers in the Pearl River Delta (PRD) region was about 2.7% m/m</p>	
001021 – 001511	Chairman Mr SIN Chung-kai Administration	<p>(a) Mr SIN Chung-kai's concern about setting the sulphur content cap of fuel oil at a high level of 4.5% m/m and his enquiries as follows:</p> <p>(i) The number of ships which came to Hong Kong that used fuel oil with sulphur content exceeding 4.5% m/m; and</p> <p>(ii) The feasibility of imposing different standards by requiring vessels travelling within the PRD region to use fuel oil with a lower sulphur content, say, 3% m/m</p> <p>(b) The Administration's response as follows:</p> <p>(i) The sulphur content cap of 4.5% m/m was set by the International Maritime Organization (IMO) in 1997. Since then, major oil refineries in the world had adapted to meet the requirement. However, fuel oil with sulphur content exceeding 4.5% m/m was still available in the market. The Merchant Shipping (Prevention of Air Pollution) Regulation (the Regulation) was made to implement MARPOL Annex VI in Hong Kong. The Regulation would enable the Government to check whether the sulphur content of fuel oil used by vessels in Hong Kong waters had exceeded the 4.5% m/m cap; and</p> <p>(ii) Hong Kong had the obligation to apply the IMO standards on vessels flying its flag and vessels in the waters under its jurisdiction. If Hong Kong adopted a more stringent sulphur content requirement than that stipulated under MARPOL Annex</p>	

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		<p>VI, international vessels might be diverted to nearby ports</p> <p>(c) The Chairman's remark that Hong Kong might consider joining neighboring ports to apply for IMO's approval to set up a sulphur oxide emission control area (SECA) for PRD region, within which a more stringent sulphur content requirement of not exceeding 1.5% m/m for fuel oil would be imposed on ships</p>	
001512 – 002741	Chairman Ms CHOY So-yuk Administration	<p>(a) Ms CHOY So-yuk's enquiries as follows:</p> <p>(i) Whether the sulphur content of fuel oil provided in neighbouring places had exceeded 4.5% m/m and whether these places had signed up to implement MARPOL Annex VI; and</p> <p>(ii) Whether any place had adopted a more stringent sulphur content requirement than MARPOL Annex VI standard</p> <p>(b) The Administration's responses as follows:</p> <p>(i) According to a worldwide survey on the sulphur content of fuel oil used on board ships conducted by IMO in 2006, about 0.03% of samples had exceeded 4.5% m/m;</p> <p>(ii) Based on the information available to the Marine Department (MD), the sulphur content of fuel oil supplied in PRD region ranged from 2.5% m/m to 0.5% m/m, as compared with that of 1.5% m/m to 0.5% m/m in Hong Kong. However, fuel oil with sulphur content exceeding 4.5% m/m might still be available in PRD region;</p> <p>(iii) IMO was reviewing MARPOL Annex VI to tighten the emission standard on sulphur oxide;</p> <p>(iv) 43 out of some 160 members of IMO had signed up to MARPOL Annex VI and most of the remaining members were expected to sign up in the next year. Taiwan was not a member of IMO; and</p> <p>(v) The United States' Federal Court was at the moment handling a California government's case to enact legislation with requirements more stringent than MARPOL Annex VI</p> <p>(c) Discussion on the Baltic Sea's experience in</p>	

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		<p>setting up a SECA and the Administration's advice that Hong Kong would examine with the Guangdong authorities on the feasibility of making similar arrangement in PRD region</p>	
002742 – 004734	Chairman Mr WONG Yung-kan Administration	<p>(a) Mr WONG Yung-kan's reflection of the fishing industry's concerns that due to the huge amount involved, shipowners usually would not pay up for the spare engines for their vessels but make down payment only. They were worried that despite registering the spare engines with MD, the manufacturers could subsequently sell the engines to other parties. Referring to the incentive scheme to encourage the replacement of pre-Euro and Euro I diesel commercial vehicles related to the Air Pollution Control (Vehicle Design Standards) (Emissions) Regulations (Cap. 311J), the fishing industry requested the Government to provide special assistance for shipowners too</p> <p>(b) The Administration's response as follows:</p> <p>(i) MD would arrange registration for identifiable engines, including spare engines acquired with down payment only, as long as the serial numbers and other supporting documents (e.g. engine certificate, receipts/invoices etc) of the engines had been submitted; and</p> <p>(ii) There was a fundamental difference between the nature and objective of the aforesaid incentive scheme and that of the Regulation. The incentive scheme was independent of the relevant statutory emission requirement under Cap. 311J. By offering a time-limited one-off grant, the scheme aimed to encourage vehicle owners to replace early their existing pre-Euro and Euro I diesel commercial vehicles with new ones compliant with the prevalent statutory emission requirements in Cap. 311J</p>	
004735 – 005342	Chairman Mr SIN Chung-kai Administration	<p>(a) Mr SIN Chung-kai's re-iteration of his views to impose more stringent emission standards for commercial vessels, such as cross-boundary ferries, which solely engaged in voyages within coastal waters, and to regulate them through licensing</p> <p>(b) The Administration's responses as follows:</p> <p>(i) The objective of the Regulation was to fulfil Hong Kong's international convention obligation to bring the vessels emission standards in Hong Kong on par with the</p>	

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		<p>standards of IMO;</p> <p>(ii) Separately, pursuant to the Chief Executive's Policy Address 2007-08, the Administration was studying the feasibility of requiring all vessels plying the harbour to use high-quality fuel; and</p> <p>(iii) Following the implementation of the Regulation, Hong Kong might consider introducing higher emission standards progressively, e.g. by setting up a SECA, when cleaner fuel and greener engines were available. These matters could be further followed up by the Panel on Environmental Affairs</p>	
005343 – 010030	Ms CHOY So-yuk Chairman Administration	<p>(a) Ms CHOY So-yuk's disagreement to adopt different emission standards for local and international vessels and her enquiries as follows:</p> <p>(i) Whether all parties of a SECA had to be members of IMO;</p> <p>(ii) Request for information on enforcement of the Regulation, such as whether more frequent inspection would be made on ships from a certain area, or all ships would be inspected randomly or checked upon receipt of complaints about high emissions; and</p> <p>(iii) The expected time for completing the feasibility study of requiring all vessels plying the harbour to use high-quality fuel</p> <p>(b) The Administration's responses as follows:</p> <p>(i) Each party of a SECA had to be an IMO member. They should have already signed up to MARPOL Annex VI;</p> <p>(ii) As a member to the Tokyo Memorandum of Understanding on Port State Control in the Asia-Pacific Region (Tokyo MOU), Hong Kong had the obligation to conduct random inspection for non-Hong Kong registered vessels in the waters under its jurisdiction. Upon the commencement of the Regulation, the inspection would cover the bunker delivery notes which contained information of the fuel oil used on board;</p> <p>(iii) The Administration had kept a target list of vessels, in terms of vessel types and countries registered, that should require</p>	

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		<p>more attention. A similar list of vessels using unqualified bunker would be worked out after implementation of the Regulation; and</p> <p>(iv) To enable the Administration to obtain more relevant information, such as the names of the vessels and their oil suppliers, MD was discussing with the marine authorities of Guangdong and Shenzhen in working out a list of registered vessels engaged in voyages solely within PRD region. Discussion on similar arrangement with the marine authorities in Hainan, Fujian and Guangxi would be held by the end of 2007</p>	
010031 – 011020	Chairman Mr WONG Yung-kan Administration Ms CHOY So-yuk	<p>(a) Mr WONG Yung-kan's reflection of the fishing industry's concern that shipowners were still unclear about the details of the Regulation after the meeting between MD and the Joint Conference of Hong Kong Marine Sectors (the Joint Conference), and his request to exempt fishing vessels from the Regulation given that they only stayed in Hong Kong waters for a short period of time during the fishing moratorium period</p> <p>(b) Chairman's enquiry whether Mainland fishermen had raised similar concern</p> <p>(c) The Administration's responses as follows:</p> <p>(i) MD would meet with the Joint Conference on a regular basis to facilitate more effective communication for smooth implementation of the Regulation;</p> <p>(ii) As some local vessels engaged mainly in voyages within PRD region also stayed in Hong Kong waters for short periods, it would be impracticable to provide exemption for only one type of vessels; and</p> <p>(iii) Both Mainland and Hong Kong had adopted a progressive approach in implementing MARPOL Annex VI for local vessels despite there were differences in the implementation details</p> <p>(d) Chairman's urge for the Administration to implement the registration system with flexibility in meeting the industry's practices and operation as far as possible</p>	

Time marker	Speaker	Subject(s)	Action required
011021 – 012814	Chairman Ms CHOY So-yuk Mr SIN Chung-kai Mr WONG Yung-kan Administration	<p><u>Clause-by-clause examination of the Regulation</u> (File Ref.: MA90/6/1)</p> <p>(a) The Subcommittee agreed to go through the Chinese version of the Regulation clause by clause. Assistant Legal Adviser 5 was requested to draw members' attention to drafting issues in the English version, if any</p> <p><u>Part 1 – Preliminary</u></p> <p>(b) The Administration's briefing as follows:</p> <p>(i) The Regulation could commence soonest by mid 2008;</p> <p>(ii) The Mainland was the Convention country whereas Hong Kong was an associate member of IMO;</p> <p>(iii) A diesel engine with a power output of more than 130 kW was just a little smaller than a bus engine;</p> <p>(iv) Cruise-to-nowhere were considered ships engaged in non-international voyages;</p> <p>(v) It was an international undertaking not to subject warships, naval auxiliaries as well as ships owned or operated by other governments and used only on government non-commercial service to inspection or emissions control under MARPOL Annex VI. In 2001, all Government ships had already switched to use ultra-low sulphur (i.e. 0.005% m/m) fuel oil; and</p> <p>(vi) Registered Professional Engineers (RPE) were not recognized organizations under MARPOL Annex VI</p>	
012815 – 013549	Chairman Administration Mr SIN Chung-kai Mr WONG Yung-kan	<p><u>Part 2 – Prohibitions affecting regulated ships</u></p> <p>(a) The Administration's advice that if the Regulation did not commence by 19 May 2008, the Government did not have the power to inspect the international ships despite they should have already been using qualified fuel oil</p> <p><u>Part 3 – General preventive controls affecting regulated Hong Kong ships</u></p> <p>(b) Members raised no query</p>	

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013550 – 014259	Chairman Administration Mr SIN Chung-kai Mr WONG Yung-kan	<p><u>Part 4 – Control of air pollution from specified ships</u></p> <p>The Administration's advice as follows:</p> <p>(a) If in respect of a specified ship there was a contravention of proposed section 25(1) which stipulated that a specified ship was not to be engaged in deliberate emissions of ozone depleting substances, the company and the master of the ships concerned each committed an offence and was liable to a fine at level 6, i.e. \$100,000 on conviction upon indictment, or to a fine at level 3, i.e. \$10,000 on summary conviction;</p> <p>(b) According to Tokyo MOU, Hong Kong was obliged to conduct inspection for at least 15% of all ships in its waters. Vessels coming to Hong Kong were required to send certain certificates and relevant information to the Director of Marine 24 hours prior to entry. If a vessel was in breach of any relevant provisions in the law, the vessel, in severest case, would be detained until the situation was rectified; and</p> <p>(c) The trained person responsible for the operation of the incinerator onboard a ship would be tested by the Government's surveyor to ensure he was qualified to perform the function</p>	
014300 – 014427	Chairman Administration Mr SIN Chung-kai Mr WONG Yung-kan	<p><u>Part 5 – Other measures to implement Annex VI</u></p> <p>Members raised no enquiry</p> <p><u>Part 6 – Offences and penalties</u></p> <p>Members raised no enquiry</p> <p><u>Part 7 – Miscellaneous</u></p> <p>(a) Chairman's urge for MD to enhance the transparency in granting exemption for ships from the requirements of the Regulation, and her enquiry whether the Director of Marine would recognize RPE to survey regulated Hong Kong ships under the Regulation</p> <p>(b) The Administration's advice as follows:</p> <p>(i) The Administration would make known the reasons for granting any exemption and the relevant conditions to be attached, for the information of the industry; and</p> <p>(ii) RPE were not recognized organizations under MARPOL Annex VI</p>	

Time marker	Speaker	Subject(s)	Action required
014428 – 014544	Mr SIN Chung-kai Chairman Administration	The Administration's confirmation that all provisions in MARPOL Annex VI, wherever appropriate, had been incorporated under the Regulation	
014545 – 014930	Chairman Mr SIN Chung-kai	The Subcommittee completed scrutiny of the Regulation and members' agreement to report the Subcommittee's deliberations to the House Committee at the latter's meeting on 2 November 2007	Members to note as per paragraph 3 of the minutes

Council Business Division 1
Legislative Council Secretariat
27 November 2007