

立法會 *Legislative Council*

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Subcommittee on Merchant Shipping (Prevention of Air Pollution) Regulation

Background brief

Purpose

This paper sets out the background of the Merchant Shipping (Prevention of Air Pollution) Regulation (the Regulation), and summarizes the major concerns expressed by Members at meetings of the Panel on Economic Services (ES) and Legislative Council (LegCo) on related issues.

Background

Implementation of the international convention

2. The Regulation is to implement 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). MARPOL is the main international convention adopted by the International Maritime Organisation (IMO) for the prevention of pollution to the marine environment from ships. In September 1997, the International Conference of Parties to MARPOL held in London adopted the Protocol of 1997 to add a new Annex VI, which relates to the prevention of air pollution to the marine environment by the emission of harmful substances from ships. This Annex VI has come into force internationally since 19 May 2005. Subsequent amendments to this Annex VI adopted by IMO Resolution MEPC 132(53) have also entered into force since 22 November 2006.

The Regulation

Details and implementation

3. The Secretary for Transport and Housing has made the Regulation under Section 3(2) of the Merchant Shipping (Prevention and Control of

Pollution) Ordinance (Cap. 413) (the Ordinance) to implement MARPOL Annex VI in the Hong Kong Special Administrative Region (HKSAR). The key elements of the Regulation include:

- (a) imposing restrictions on the emissions of certain harmful substances from specified ships by imposing control on the emissions of ozone depleting substances, nitrogen oxide, volatile organic compounds and sulphur oxide; as well as on shipboard incineration and the quality of fuel oil used on board;
- (b) requiring ships of 400 gross tonnage or above to have on board the International Air Pollution Prevention (IAPP) Certificates or the Hong Kong Air Pollution Prevention Certificates before engaging in international or non-international voyages as appropriate;
- (c) setting out general preventive controls on regulated Hong Kong ships by imposing survey and certification requirements;
- (d) specifying that parties who contravene the relevant requirements under the Regulation will commit an offence and will be liable on conviction upon indictment to a fine at level 6, and on summary conviction to a fine at level 3; and
- (e) providing that in any proceedings for an offence under the Regulation, it is a defence for the person charged to show that he had take all reasonable steps to prevent the commission of the offence.

4. MARPOL Annex VI specifies that an administration may exclude a ship solely engaged in domestic voyages from the nitrogen oxides emission control requirements, provided that the ship is constructed, or the ship's diesel engine has undergone a major conversion before the commencement date of MARPOL Annex VI. In this regard, the Administration has modified the requirement in the Regulation by specifying that the "commencement date" refers to the commencement date of the Regulation instead of MARPOL Annex VI.

5. According to the Administration, the Marine Department will authorize Classification Societies to carry out the relevant survey and certification work.¹ but such services may still be rendered by Government surveyors. The Administration has advised that the fees to be charged by the Government surveyors for the survey and issue of certificates will be provided in a separate

¹ According to the Administration, authorizing Classification Societies to carry out the survey and certification is consistent with the existing practices of Marine Department whereby recognized organizations are authorized to do most surveys and functions in relation to ship safety and ship and port facility security, while Marine Department would focus on regulation and law enforcement function.

amendment to the relevant subsidiary legislation, i.e. the Merchant Shipping (Prevention and Control of Pollution) (Fees) Regulation (Cap 413L) (Fees Amendment Regulation). Upon the enactment of both the Regulation and the Fees Amendment Regulation, the Government will request the Central People's Government to notify IMO of the application of MARPOL Annex VI to HKSAR subject to the modification of the "commencement date" referred to in paragraph 4.

Consultation

6. The Administration has consulted the Technical Sub-Committee of the Hong Kong Shipowners Association, the Shipping Consultative committee, the Technical Sub-Committee of the Provisional Local Vessel Advisory Committee and the High Speed Craft Consultative Committee on the Regulation. According to the Administration, the industry has no objection to the Regulation.

Major views and concern expressed by Members

7. The Administration consulted ES Panel on the proposals in the Regulation at the meeting on 27 February 2006. The Panel was generally in support of the proposals but had raised concerns over the fees for carrying out the relevant survey and certification work. There were concerns that ship owners, in particular owners of small local vessels, would incur high costs in relation to various surveys. Small local ship owners because of their small scale of business could unlikely be able to enter into good terms with classification societies which rendered survey and certification services. As a result, they had to rely on the expensive services provided by Government surveyors. In this connection, the Administration was urged to consider lowering the fees for providing survey services to ships.

8. Separately, Members have also raised a number of questions relating to emissions from vessels at LegCo meetings. The details are hyperlinked in **Appendix**.

References

9. A list of relevant papers is set out in **Appendix**.

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List of references

Council/Panel	Date of meeting	Paper
Panel on Economic Services	27 February 2006	Administration's paper on subsidiary legislation to implement international maritime convention (LC Paper No. CB(1)934/05-06(04)) (http://www.legco.gov.hk/yr05-06/english/panels/es/papers/es0227cb1-934-4e.pdf) Minutes of meeting (LC Paper No. CB(1)1117/05-06) (http://www.legco.gov.hk/yr05-06/english/panels/es/minutes/es060227.pdf)
Council Meeting	13 December 2006	LegCo question: Regulating pollutant emission from vessels (Hansard P.70) (http://www.legco.gov.hk/yr06-07/english/counmtg/hansard/cm1213-translate-e.pdf)
Council Meeting	2 May 2007	LegCo question: Regulating pollutant emissions from vessels (Hansard (Floor version) P.22) (http://www.legco.gov.hk/yr06-07/chinese/counmtg/floor/cm0502-confirm-ec.pdf)
Council Meeting	6 June 2007	LegCo question: Air pollution caused by vessel smoke (Hansard (Floor version) P.59) (http://www.legco.gov.hk/yr06-07/chinese/counmtg/floor/cm0606-confirm-ec.pdf)
Press release	4 July 2007	"Regulation on prevention of air pollution from ships to be tabled" (http://www.info.gov.hk/gia/general/200707/04/P200707040169.htm)