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18 March 2014

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Assistant Secretary for Transport & Housing (Transport)10B
Transport Housing Bureau
Transport Branch, Division 5
Logistics Development Section
21/F, East Wing, Central Government Offices
2 Tim Mei Avenue, Tamar
Hong Kong

Dear Mr CHIU,

**Shipping Legislation (Control of Smoke
Emission) (Amendment) Bill 2014**

I am scrutinizing the Bill with a view to advising Members on its legal and drafting aspects and would like to seek your clarification on the following matters –

Long title

According to the long title, the Bill seeks to amend the Shipping and Port Control Ordinance (Cap. 313) and the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) "to enhance the control of emission of dark smoke" from vessels in the waters of Hong Kong. However, the bill proposes to repeal the requirement that a vessel may not emit smoke in such quantity as to be a nuisance and substitute it with a requirement that a vessel may not emit smoke that is as dark as or darker than shade 2 of the Ringelmann Chart.

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Given that it is the nuisance caused rather than the colour of the smoke that is expressly regulated under the existing provision and the control has shifted from nuisance to colour-based, it may not be entirely correct or objective to describe the amendments as "to enhance the control of emission of dark smoke".

Maximum fines

Further, at present, the same maximum fines are imposed in relation to local and non-local vessels. However, under the Bill, heavier maximum fines will be imposed in relation to a non-local vessel. Please confirm whether the proposal is compatible with any non-discriminatory principle.

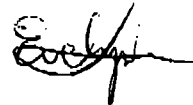
Proposed section 51A(1)

The proposed section 51A(1) provides that, among other things, an authorised officer may direct the owner or coxswain of a local vessel to "deliver" it to the Director of Marine for ascertaining whether dark smoke emits from the vessel. Please clarify—

- (a) the meaning of "deliver"; and
- (b) the absence of need for such a provision as regard a non-local vessel.

As the House Committee will consider the Bill at its meeting on 21 March 2014, I look forward to receiving your clarification in both Chinese and English languages by **20 March 2014**, if practicable.

Yours sincerely,



(Miss Evelyn LEE)
Assistant Legal Adviser

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