

Annex 4 to EP150/NV/24

**Subcommittee on Air Pollution Control (Marine Light Diesel)
Regulation**

The Administration's responses

The following information was requested by Members at the Subcommittee meeting held on 5 February 2014.

- (a) Whether section 4(1) of the Air Pollution Control (Marine Light Diesel) Regulation ("the Regulation") will cover a person who supplies, with or without consideration, any marine light diesel (MLD) that does not comply with Schedule 1 to the Regulation if that person does not fall within the definition of MLD importer or MLD supplier referred to in section 2 of the Regulation.**

The reply is affirmative. Section 4(1) of the Regulation provides that "a person commits an offence if the person supplies, or causes to be supplied, any MLD that does not comply with Schedule 1". Whether the person is an MLD importer/supplier is irrelevant in the consideration. The definitions of MLD importer/supplier are vital in relation to the requirements to keep records under sections 5 and 7 of the Regulation.

We have made section 4(1) of the Regulation catch any persons supplying or causing to be supplied any MLD that does not comply with Schedule 1 to avoid creating an enforcement loophole. If section 4(1) of the Regulation targets only MLD importers/suppliers, a person caught under this section might try to argue that he is only providing MLD for his friend, which does not amount to a business of supplying MLD and hence he should not be held liable to the offence under section 4(1) of the Regulation. This loophole will undermine the effectiveness of the Regulation.

- (b) What do the definitions of "warship" and "any other vessel on military service" refer to in section 4(2) of the Regulation?**

In the Regulation, "warship" and "any other vessel on military service"

refer collectively to military vessels. In the legislation relating to maritime activities, military vessels are also mentioned but without definition. No enforcement problem has been encountered. The Government will be notified when these vessels call Hong Kong. When enforcing the Regulation, for local vessels that merely provide services like transportation, bunkers and stores for military vessels while the latter are in Hong Kong, we will not treat these local vessels as "warships" or "any other vessels on military service".

Environmental Protection Department
February 2014