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**Subcommittee on Four Regulations under the Merchant Shipping (Safety)
Ordinance (Cap. 369) Gazetted on 6 May 2016**

Background brief

Purpose

This paper provides information on the background of the four regulations made under the Merchant Shipping (Safety) Ordinance (Cap. 369) ("the Ordinance") and gazetted on 6 May 2016 (L.N. 53 to L.N. 56). It also summarizes the views and concerns expressed by members of the Panel on Economic Development ("the Panel") on related issues.

The Four Regulations gazetted on 6 May 2016

2. L.N. 53 to L.N. 56 are made by the Secretary for Transport and Housing under the Ordinance to implement the latest requirements of the Convention on the International Regulations for Preventing Collisions at Sea ("COLREGs")¹ and the International Convention for the Safety of Life at Sea ("SOLAS")² adopted by the International Maritime Organization ("IMO").

3. Major provisions of L.N. 53 to L.N. 56 are summarized as follows:

- (a) L.N. 53 amends the Merchant Shipping (Safety) (Signals of Distress and Prevention of Collisions) Regulations (Cap. 369N) to give effect to the amendments to COLREGs. The amendments include extending the application of Cap. 369N to

¹ COLREGs, which impose steering, sailing and signaling requirements on vessels to prevent ship collisions, were adopted in 1972 and entered into force in 1977. They are implemented in Hong Kong through the Merchant Shipping (Safety) (Signals of Distress and Prevention of Collisions) Regulations (Cap. 369N).

² SOLAS, which governs the standards for the construction, equipment and operation of ships to ensure maritime safety, was adopted and entered into force in 1980. SOLAS is implemented in Hong Kong through the Ordinance and its subsidiary legislation. Different aspects of maritime safety are covered under different chapters of SOLAS, and the requirements therein are incorporated into local legislation as necessary.

Wing-In-Ground crafts and providing for matters relating to navigational lights, sound signals and distress signals;

- (b) L.N. 54 amends the Merchant Shipping (Safety) (Carriage of Cargoes) Regulation (Cap. 369AV) to give effect to the amendments to SOLAS. It renames Cap. 369AV as the Merchant Shipping (Safety) (Carriage of Cargoes and Oil Fuel) Regulation and extends its application to a ship carrying oil fuel. It also updates the provisions relating to the loading, stowage, carriage and unloading of cargoes (including solid bulk cargoes and grain). In addition, L.N. 54 implements the new requirement that the gross mass of cargoes and containers must be verified by (i) weighing the packed container as a whole, or (ii) adding the tare mass of the container and the mass of all the cargoes and packages to be packed into the container;
- (c) L.N. 55 is a new regulation which implements the requirements under SOLAS and gives effect to the relevant provisions of the International Maritime Solid Bulk Cargoes Code ("IMSBC Code") relating to the loading, stowage, carriage and unloading of certain types of solid bulk cargoes (other than grain), including dangerous goods in solid form in bulk; and
- (d) L.N. 56 amends the Merchant Shipping (Safety) (High Speed Craft) Regulation (Cap. 369AW) to provide for the requirements concerning the construction, operation, equipment maintenance and safety measures in respect of high speed crafts. The amendments are made to reflect the latest requirements relating to the International Code of Safety for High Speed Craft adopted by the Maritime Safety Committee of IMO.

4. L.N. 53, L.N. 54 and L.N. 56 will come into operation on 1 July 2016. As for L.N. 55, save for sections 6(1) and 7(2)(b) and (7) which will come into operation on 1 January 2017, the other provisions will come into operation on 1 July 2016.

Previous discussions

5. The Panel was consulted on the Administration's proposals to incorporate the relevant requirements under COLREGs and SOLAS into local legislation on 27 July 2015 and 19 April 2016 respectively. Members' main views and concerns are summarized in the ensuing paragraphs.

Requirement on verifying the gross mass of cargoes

6. At the Panel meeting on 19 April 2016, members noted that to prevent collapse of container stacks during voyage, shippers would be required to verify the gross mass of cargoes ("VGM") before loading the packed containers on board with effect from 1 July 2016. This could be done by physically weighing the packed container as a whole, or adding up the weight of the constituent packages, cargoes and loads. A member relayed the concern of the industry about the practical implementation arrangements for VGM requirement, in particular, the enforcement actions to be taken on packed containers transshipped from the Mainland and the logistics problems brought about if the weight of constituent packages, cargoes and load of the transshipment containers were required to be re-verified in Hong Kong.

7. The Administration advised that the Marine Department ("MD") had started to discuss with the industry about the VGM requirement since 2013. To facilitate the industry to meet the new VGM requirement, MD would brief stakeholders (including shippers, freight forwarders, carriers, terminal operators, authorized weigh-scale operators, etc.) on the practical arrangements and procedures through townhall meetings in April and May 2016. A trial run on workflow and documentation involving MD, shippers and terminal operators would be conducted in late May 2016. The procedures would be fine-tuned in light of feedback to ensure smooth implementation of the VGM requirement. Noting that the industry did not prefer the option of weighing the whole packed container, the Administration would give more guidance to the industry on the option of adding up the weight of the constituent packages, cargoes and loads.

8. The Administration further advised that transshipment containers from the Mainland which already had their weight verified at their ports of origin would not require re-verification in Hong Kong and VGM documentation obtained in accordance with the guidelines published by the Mainland authorities would be accepted by MD. It was estimated that the new requirement would apply to about 4 600 twenty-foot equivalent units daily. Shippers of these affected containers could register with MD for verifying the gross weight of their containers by adding up the weight of the constituent packages, cargoes and loads, and MD would accept the VGM documentation provided by the registered shippers using such method. MD would conduct random checks on the compliance of 150 registered shippers annually and conduct spot checks at the container terminals by weighing the packed containers.

Delay in incorporating the latest international requirements

9. At the Panel meeting on 27 July 2015, some members were concerned about the implication of late implementation of the latest requirements of

COLREGs and SOLAS in relevant local legislation. The Administration explained that Hong Kong being an associate member of IMO needed to keep the local legislation aligned with the latest standards of IMO's COLREGs and SOLAS to maintain its status as an international maritime centre. In this regard, as soon as the latest requirements were adopted for the two conventions, MD had informed the shipping sector (including ocean-going vessels ("OGVs") and local vessels) of the changes and promulgated guidelines to its compliance. With the exception of the VGM requirement which would come into operation globally on 1 July 2016, the latest COLREGs and SOLAS requirements had already been adopted by OGVs and there was no compliance issue.

10. In respect of the reason why it took the Administration such a long time to complete the legislative exercises, the Administration advised that despite their technical nature, when the international requirements were translated into domestic legislation under the current framework, each amendment exercise could entail substantial changes to the existing law in order to accurately reflect the new requirements in a sufficiently specific and detailed manner for ensuring compliance. To speed up the exercises, the Administration would consider adopting direct reference approach ("DRA") whenever appropriate. Under DRA, direct reference would be made to provisions under international agreements in local legislation so as to apply those provisions locally. DRA enabled timely implementation of international requirements that were technical in nature.

Latest position

11. At the meeting of the House Committee on 13 May 2016, Members agreed to form a subcommittee to study L.N. 53 to L.N. 56.

Council Business Division 4
Legislative Council Secretariat
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List of relevant papers

Issued by	Meeting date/ Issue date	Paper
Panel on Economic Development	27 July 2015	Administration's paper Minutes
	19 April 2016	Administration's paper
Transport and Housing Bureau	May 2016	Legislative Council brief
Legislative Council Secretariat	16 April 2015	Legal Service Division Report