

立法會

Legislative Council

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Paper for the House Committee meeting on 1 December 2017

Report of the Subcommittee on Legislative Amendments to Improve Vessel Traffic Services and Regulate Marine Safety

Purpose

This paper reports on the deliberations of the Subcommittee on Legislative Amendments to Improve Vessel Traffic Services and Regulate Marine Safety ("the Subcommittee").

Background

L.N. 171 and L.N. 178

2. The Vessel Traffic Centre ("VTC") of the Marine Department ("MD") coordinates vessel movements and provides navigational assistance as necessary through its vessel traffic services system. Currently, ocean-going vessels, river trade vessels exceeding 300 gross tonnage, as well as specified local vessels such as dangerous goods carriers are required under the Shipping and Port Control Regulations (Cap. 313A) and the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548F) to report their movements to VTC through designated very high frequency ("VHF") channels when they sail through calling-in points or from one VHF sector to another.

3. In view of increasing marine traffic in Hong Kong, MD commissioned a study on Hong Kong Vessel Traffic Services in 2013. The study found that the existing three VHF sectors¹ are almost saturated, especially during peak hours and typhoon periods when communications between VTC and vessels are most frequent. The Administration considers it necessary to increase the VHF sectors to enable vessels to communicate with VTC more promptly and efficiently. Furthermore, with the advancement of navigational technology, repeated reporting of vessels' whereabouts is no longer necessary. The Administration

¹ Currently, there are three VHF sectors, namely, the Eastern Approaches VHF Sector, Western Approaches VHF Sector and Harbour VHF Sector.

hence proposes streamlining the communication process between VTC and vessels.

4. L.N. 171 is made by the Chief Executive in Council under section 80 of the Shipping and Port Control Ordinance (Cap. 313) to amend Cap. 313A mainly to:

- (a) increase the number of VHF sectors from three to five by adding Lantau South VHF Sector and Harbour East VHF sector;
- (b) adjust the number of calling-in points situated in waters of Hong Kong from 28 to 15 as a result of the abovementioned re-alignment of VHF sectors; and
- (c) streamline the procedure of reporting to VTC by repealing certain existing reporting requirements (e.g. requirements of making pre-departure report and departure underway report).

5. L.N. 178 is made by the Secretary for Transport and Housing ("STH") under section 89 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) to amend Cap. 548F to introduce for local vessels reporting procedures similar to those provided in L.N. 171.

6. L.N. 171 and L.N. 178 will come into operation on 1 March 2018.

L.N. 179 and L.N. 180

7. To enhance navigation safety, MD establishes principal fairways in busy waters to regulate vessel movements. Vessels navigating within the principal fairways are required to comply with rules mandated by the International Maritime Organization ("IMO") to avoid collision², including navigating as close to the right side of the fairway as practicable and following specific procedures when overtaking other vessels. Given the busy marine traffic, fishing activities are prohibited in all principal fairways. At present, there are 10 principal fairways in Hong Kong waters. The boundaries of principal fairways are set out in Cap. 313A, and are amended from time to time having regard to the latest marine traffic pattern and volume.

8. Due to the development of neighbouring ports in the Pearl River Delta ("PRD"), marine traffic around North Lantau is getting heavier. The Administration considers it necessary to regulate vessel movements by establishing principal fairways along the waters.

² The set of navigation rules specific to principal fairways is adopted from the International Regulations for Preventing Collisions at Sea 1972.

9. L.N. 179 and L.N. 180 are respectively made by STH under section 89 of Cap. 548 and the Director of Marine under regulation 72(1) of Cap. 313A. These two items of subsidiary legislation relate to the alignment of principal fairways within Hong Kong waters.

10. L.N. 180 amends Cap. 313A to:

- (a) provide for the boundaries of three new principal fairways on the north side of Lantau Island (namely the Urmston Road Fairway, the Castle Peak Fairway and the Ha Pang Fairway);
- (b) re-align the boundaries of four existing principal fairways in the western part of Victoria Harbour (namely the Southern Fairway, the North Green Island Fairway, the Northern Fairway and the Central Fairway); and
- (c) provide for the boundaries of a new prohibited fishing area the Ma Wan Fairway, the Kap Shui Mun Fairway and the Ha Pang Fairway join.

11. L.N. 180 also makes corresponding adjustments to the boundaries of the areas of the waters in which a vessel may only proceed within speed limits ("speed limit zones") and to the boundaries of anchorages adjacent to the re-aligned principal fairways.

12. L.N. 179 amends Cap. 548F mainly to adjust the boundaries of different speed limit zones for local vessels to align with the boundaries of principal fairways as re-aligned under L.N. 180.

13. L.N. 179 and L.N. 180 will come into operation on 1 February 2018.

The Subcommittee

14. At the House Committee meeting held on 27 October 2017, Members agreed to form a subcommittee to study the four pieces of subsidiary legislation. The membership list of the Subcommittee is in the **Appendix**.

15. Under the chairmanship of Hon Frankie YICK, the Subcommittee held one meeting on 7 November 2017 with the Administration to examine the subsidiary legislation. To allow sufficient time for the Administration to provide supplementary information pursuant to members' requests made at the meeting and for the Subcommittee to compile a report to the House Committee, the Chairman has given a notice to move a resolution at the Council meeting of 22 November 2017 to extend the scrutiny period to 13 December 2017. As the proposed resolution was not dealt with at the Council meeting of

22 November 2017, the scrutiny period of the subsidiary legislation expired after the said Council meeting.

16. The Subcommittee has received a joint submission from two members of the public expressing concerns over the proposed establishment of the new principal fairways. The Administration's response to the submission was circulated to members via LC Paper No. CB(4)279/17-18(01) on 23 November 2017.

Deliberations of the Subcommittee

17. Members in general support the four pieces of subsidiary legislation to improve vessel traffic services and enhance marine safety. A member, however, is particularly concerned about the impact of the proposed establishment of the new principal fairways and the new prohibited fishing area under L.N. 180 on the livelihood of fishermen owing to the loss of fishing grounds. The major deliberations of the Subcommittee are set out in the ensuing paragraphs.

Impact on the fishing industry

18. Hon Steven HO holds a strong view against the establishment of the new principal fairways and the new prohibited fishing area under L.N. 180. He points out that the fishing grounds in the Hong Kong waters have been diminishing gradually due to various local development projects, and that the present proposal will further aggravate the situation. To enhance the sustainability of the local fishing industry, Hon HO holds the view that the Administration should explore alternative options to maintain navigation safety. To facilitate members' understanding of the overall impact of the proposal on the fishing industry, the Administration has been requested to provide a map showing the remaining water areas available for fishing activities in Hong Kong. The requested information was circulated to the Subcommittee via LC Paper No. CB(4)259/17-18(01) on 22 November 2017.

19. The Administration has explained that taking into account the geographical constraints of Hong Kong and busy marine traffic in the North Lantau, it is necessary to establish the proposed principal fairways and prohibit fishing activities in that junction to better regulate marine traffic and enhance safety in that area. The Administration points out that fishing activities can still be carried out outside the prohibited area. MD has thoroughly considered the proposed options put forward by the fishing industry including (i) establishing the new principal fairways in South Lantau instead of North Lantau; (ii) imposing speed limit on vessels using the proposed principal fairways; (iii) allowing large vessels to use the proposed principal fairways only at designated time; and (iv) establishing a traffic separation scheme to allow fishing vessels to operate in the separation zone between two one-way traffic lanes for bigger vessels.

However, the Administration considers these options not feasible for the following reasons –

- (a) the waters in South Lantau are not deep enough for large vessels to pass through, leaving North Lantau the only waterway in the western part of Hong Kong to accommodate container vessels travelling to and from PRD;
- (b) the imposition of speed limit on vessels using the proposed principal fairways will affect marine traffic movements and pose safety risks to large vessels which need to maintain a minimal navigation speed to manoeuvre and take appropriate action in response to potential accidents;
- (c) the imposition of time restriction on large vessels using the principal fairways will seriously affect the operation of the Hong Kong port which operates round the clock throughout the year. Given the economic importance of the port, such measure will also lead to adverse implications on Hong Kong's economic development; and
- (d) the strip of water north of Lantau is not wide enough to allow two large deep-draught vessels to navigate in opposite directions while leaving a separation zone in between.

20. Hon Steven HO is not convinced of the Administration's explanation. He expresses dissatisfaction at the Administration's lack of comprehensive planning for various development projects that affect the fishing industry. The Subcommittee generally agrees that cross-bureau policies and measures should be formulated to ensure the sustainability of the local fishing industry.

21. The Administration has advised that to promote sustainable fishing and provide support to the fishing industry, the Government has set up the Sustainable Fisheries Development Fund to help the local fishing community move towards sustainable or high value-added operations so that the trade can enhance its overall competitiveness and cope with new challenges. In addition, the Airport Authority Hong Kong has also set up the Fisheries Enhancement Fund to fund activities that will enhance fisheries resources in the vicinity of the airport, in Hong Kong western waters and further afield into the Pearl River Estuary. The fishing community may apply for these funds as they see fit. MD will continue to maintain frequent dialogue with the fishing industry and provide them with necessary assistance.

22. To express his objection to the establishment of new principal fairways and prohibited fishing area, Hon Steven HO has withdrawn from the Subcommittee and walked out from the meeting.

Delineation of boundaries of VHF sectors

23. On the legislative proposal to increase the number of VHF sectors of the Hong Kong waters under L.N. 171, Hon Jeremy TAM has enquired the necessity to stipulate in law the delineation of boundaries of those VHF sectors. He considers that such arrangement is inflexible as each update of the delineation will require legislative process. To provide greater flexibility in making technical amendments, he suggests delineating and declaring the VHF sectors by administrative measures rather than through legislation.

24. The Administration has explained that spelling out the details of VHF sectors in law had been a long practice adopted in Hong Kong. According to the guidelines issued by IMO, port authorities are required to provide a legal basis for the operation of vessel traffic services. IMO's guidelines have not stipulated the means to delineate and declare the VHF sectors. Port authorities have the discretion to decide on the way to delineate the VHF sectors and inform stakeholders and users. At present, port authorities in Japan, Singapore and Canada have delineated and declared the VHF sectors through their respective legal instruments. The Administration will give due consideration to Hon Jeremy TAM's suggestion of delineating and declaring the VHF sectors by administrative measures in future legislative exercise.

25. Regarding the concern on the safety aspect of the newly added VHF sectors, MD has confirmed that the VHF channels specified in the subsidiary legislation have been tested in both day time and night time.

Communication process between VTC and vessels

26. On the legislative proposal to streamline the communication process between VTC and vessels, enquiry has been made as to whether the streamlining arrangement is required by IMO and in line with that adopted by neighbouring port authorities. The Administration has explained that IMO only sets out in the relevant convention the broad requirements on provision of vessel traffic services by port authorities and navigation reports by vessels, whereas detailed procedures are made by individual port authority based on local circumstances. For Hong Kong, in view of increasing marine traffic, MD commissioned a study in 2013 with a view to improving the service, and the current proposal is based on the outcome of the study.

Drafting issue

27. The Subcommittee notes an inconsistency in the English text of L.N. 180 that while the words "straight line" are used in the amended Cap. 313A, the words "straightlines" and "straightline" are still kept in some other provisions of Cap. 313A. The Administration has explained that this will not affect the

meaning and clarity of the provisions and it will take the opportunity to resolve the inconsistency in future amendment exercise.

Recommendation

28. The Subcommittee has completed the scrutiny of L.N. 171 and L.N. 178 to L.N. 180. The Subcommittee in general supports the four pieces of subsidiary legislation.

Advice sought

29. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 4
Legislative Council Secretariat
29 November 2017

**Subcommittee on Legislative Amendments to
Improve Vessel Traffic Services and Regulate Marine Safety**

Membership list*

Chairman Hon Frankie YICK Chi-ming, SBS, JP

Members Hon YIU Si-wing, BBS
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Andrew WAN Siu-kin
Hon LUK Chung-hung
Hon Jeremy TAM Man-ho

(Total : 6 members)

Clerk Ms Shirley CHAN

Legal Adviser Ms Clara TAM

* Changes in membership are set out in **Annex to Appendix**.

**Subcommittee on Legislative Amendments to
Improve Vessel Traffic Services and Regulate Marine Safety**

Changes in membership

Member	Relevant date
Hon Steven HO Chun-yin, BBS	Up to 7 November 2017