

**立法會**  
**Legislative Council**

LC Paper No. CB(4)894/18-19  
(These minutes have been seen  
by the Administration)

Ref : CB4/SS/6/18

**Subcommittee on Subsidiary Legislation to  
Implement the Latest Requirements under  
Conventions of the International Maritime Organization**

**Minutes of first meeting  
held on Monday, 29 April 2019, at 8:30 am  
in Conference Room 1 of the Legislative Council Complex**

- Members present** : Hon Frankie YICK Chi-ming, SBS, JP (Chairman)  
Hon WONG Kwok-kin, SBS, JP  
Hon Steven HO Chun-yin, BBS  
Dr Hon KWOK Ka-ki  
Hon Dennis KWOK Wing-hang  
Dr Hon Elizabeth QUAT, BBS, JP  
Hon Martin LIAO Cheung-kong, SBS, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
- Members absent** : Hon Alvin YEUNG  
Hon Jeremy TAM Man-ho
- Public Officers attending** : Agenda item II  
Transport and Housing Bureau  
  
Ms Louisa YAN Mei-ling  
Principal Assistant Secretary for Transport and  
Housing (Transport)10  
  
Marine Department  
  
Mr CHOI Chi-chuen  
Assistant Director of Marine/Multi-lateral Policy

Mr Barry LIU Chiu-fai  
Chief, Technical Policy

Mr Stanley LUI Kam-leung  
Chief, Maritime Policy

Department of Justice

Miss Emma WONG  
Senior Assistant Law Draftsman (Acting)

Ms Lonnie NG Wah-chi  
Senior Government Counsel

Miss Celia HO Wai-kwan  
Government Counsel

Miss Wendy HO Yuen-ting  
Government Counsel

Miss Annet LAI Chau-mei  
Government Counsel

**Clerk in attendance** : Mr Ambrose LEUNG  
Senior Council Secretary (4)3

**Staff in attendance** : Ms Clara TAM  
Assistant Legal Adviser 9

Ms Peggy CHUNG  
Council Secretary (4)3

Ms Cynthia TAM  
Legislative Assistant (4)3

Ms Denise LAU  
Clerical Assistant (4)3

## **I. Election of Chairman**

Mr WONG Kwok-kin, the member who had the highest precedence among those present at the meeting, presided over the election of the Chairman of the Subcommittee. He invited nominations for the chairmanship of the Subcommittee.

2. Dr LO Wai-kwok nominated Mr Frankie YICK, and the nomination was seconded by Mr Martin LIAO. Mr YICK accepted the nomination. There being no other nominations, Mr YICK was elected as Chairman of the Subcommittee.

## **II. Meeting with the Administration**

- |                 |   |
|-----------------|---|
| L.N. 44 of 2019 | - Merchant Shipping (Safety) (Ships Operating in Polar Waters) Regulation                                   |
| L.N. 45 of 2019 | - Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulation 2019                               |
| L.N. 46 of 2019 | - Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) (Amendment) Regulation 2019 |
| L.N. 47 of 2019 | - Merchant Shipping (Prevention of Pollution by Sewage) (Amendment) Regulation 2019                         |
| L.N. 48 of 2019 | - Merchant Shipping (Prevention of Pollution by Garbage) (Amendment) Regulation 2019                        |

File Ref: THB(T)PML CR  
8/10/130/45

- Legislative Council Brief on Merchant Shipping (Safety) Ordinance (Cap. 369) and Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413) - Implementation of the Latest Requirements under Conventions of the International Maritime Organization issued by Transport and Housing Bureau in March 2019

LC Paper No. LS64/18-19

- Legal Service Division Report on Subsidiary Legislation Gazetted on 29 March 2019

LC Paper No. CB(4)801/18-19(01)

- Marked-up copy of Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulation 2019 prepared by the Legal Service Division (Restricted to members)

LC Paper No. CB(4)801/18-19(02)

- Marked-up copy of Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) (Amendment) Regulation 2019 prepared by the Legal Service Division (Restricted to members)

LC Paper No. CB(4)801/18-19(03)

- Marked-up copy of Merchant Shipping (Prevention of Pollution by Sewage) (Amendment) Regulation 2019 prepared by the Legal Service Division (Restricted to members)

- LC Paper No. CB(4)801/18-19(04) - Marked-up copy of Merchant Shipping (Prevention of Pollution by Garbage) (Amendment) Regulation 2019 prepared by the Legal Service Division (Restricted to members)
- LC Paper No. CB(4)801/18-19(05) - Background brief on subsidiary legislation to implement the latest requirements under Conventions of the International Maritime Organization prepared by the Legislative Council Secretariat

3. The Subcommittee deliberated (index of proceedings in the **Annex**).

4. The Subcommittee requested the Administration to provide information on the sampling rate adopted by port authorities in other jurisdictions to survey the ships.

*(Post-meeting note: The Administration's written response had been issued to members vide LC Paper No. CB(4)840/18-19(01) on 6 May 2019.)*

5. The Chairman concluded that the Subcommittee had completed scrutiny of and generally supported the following subsidiary legislation:

- (i) Merchant Shipping (Safety) (Ships Operating in Polar Waters) Regulation (L.N. 44 of 2019);
- (ii) Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulation 2019 (L.N. 45 of 2019);
- (iii) Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) (Amendment) Regulation 2019 (L.N. 46 of 2019);
- (iv) Merchant Shipping (Prevention of Pollution by Sewage) (Amendment) Regulation 2019 (L.N. 47 of 2019); and
- (v) Merchant Shipping (Prevention of Pollution by Garbage) (Amendment) Regulation 2019 (L.N. 48 of 2019).

Legislative timetable

6. The Chairman said that since the motion moved by the Chairman of the House Committee at the Council meeting of 17 April 2019 to extend the scrutiny period of the five items of subsidiary legislation could not be dealt with before the adjournment of the said Council meeting, the period for amending the subsidiary legislation expired at the Council meeting of 17 April 2019. A report of the Subcommittee on its deliberations would be submitted to the House Committee in due course. These five items of subsidiary legislation would come into operation on 31 May 2019.

**III. Any other business**

7. There being no other business, the meeting ended at 9:27 am.

Council Business Division 4  
Legislative Council Secretariat  
23 May 2019

**Proceedings of first meeting of the  
Subcommittee on Subsidiary Legislation to  
Implement the Latest Requirements under  
Conventions of the International Maritime Organization  
on Monday, 29 April 2019, at 8:30 am  
in Conference Room 1 of the Legislative Council Complex**

| Time marker  | Speaker  | Subject(s)  | Action required |
|--|--|---|-----------------|
| <b>Agenda I — Election of Chairman</b>             |  |   |                 |
| 000351 –<br>000524                                 | Mr WONG Kwok-kin<br>Dr LO Wai-kwok<br>Mr Martin LIAO<br>Cheung-kong<br>Mr Frankie YICK<br>Chi-ming | Election of Chairman<br><br>Mr Frankie YICK was elected as Chairman of the Subcommittee.  |                 |
| <b>Agenda II — Meeting with the Administration</b> |  |   |                 |
| 000524 –<br>001158                                 | Chairman<br>Administration   | Briefing by the Administration  |                 |
| 001158 –<br>001824                                 | Chairman<br>Dr KWOK Ka-ki<br>Administration  | <p>Dr KWOK enquired about the reasons for the delay in incorporating requirements of the Polar Code in local legislation, after its coming into force in 2017 upon approval by the International Maritime Organization ("IMO") in November 2014.</p> <p>The Administration explained that it regularly monitored and examined the incorporation of the IMO's requirements into local legislation, upon the passage of the many new IMO resolutions each year. The Administration had endeavored to expedite the legislative process by setting up a task force to examine the incorporation of the IMO's latest requirements into local legislation and had adopted a direct reference approach where appropriate to keep local legislation up-to-date with the latest requirements of international maritime conventions as far as practicable. The legislative work of two sets of primary legislation and two sets of subsidiary legislation related to requirements of IMO conventions which had come into force before 2018 were being processed.</p> <p>Dr KWOK and the Chairman made enquires on the possibility for Hong Kong-registered ship to re-register under other jurisdictions to avoid</p> |                 |

| Time marker     | Speaker                                     | Subject(s)  | Action required |
|-----------------|---|---|-----------------|
|                 |   | <p>being caught by the latest requirements under the International Convention for the Safety of Life at Sea ("SOLAS") and the International Convention for the Prevention of Pollution from Ships of the IMO.</p> <p>The Administration responded that the Hong Kong Shipping Register was the fourth largest shipping register in the world. Hong Kong registered ships were among the best performers worldwide, with Port State Control detention rate of only around 0.8%, which was below the world's average of about 2.9%. In order to inform relevant stakeholders the latest IMO requirements, Merchant Shipping Information Notes would be issued to all Hong Kong-registered ships before the subsidiary legislation implementing such requirements came into operation. The operators were well-informed of any new requirements, and the Administration was not aware of any case of re-registering of Hong Kong ship elsewhere due to the alignment of Hong Kong's local legislation with IMO requirements.</p> <p>In response to Dr KWOK's enquiry, the Administration said that there were five Hong Kong-registered ships operating in Polar waters.</p> |                 |
| 001824 – 002031 | Chairman<br>Dr LO Wai-kwok                  | Dr LO made a point of order regarding the procedure of the legislative scrutiny by the Subcommittee. The Chairman said that it was the practice of subcommittees on subsidiary legislation to conduct clause-by-clause examination on the subsidiary legislation concerned, despite the expiry of the period for amending these items of subsidiary legislation.  |                 |
| 002031 – 002400 | Chairman<br>Dr KWOK Ka-ki<br>Administration | <p>Dr KWOK enquired about the details of the legislation related to IMO requirements being processed.</p> <p>The Administration advised that the two sets of primary legislation being drafted concerned the safety of freight containers and updated limits of liability under the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002; and the other two sets of subsidiary legislation being processed were respectively related to enhanced technical requirements of oil</p>   |                 |



| <b>Time marker</b> | <b>Speaker</b>                              | <b>Subject(s)</b>  | <b>Action required</b> |
|--------------------|---|--|------------------------|
|                    |   | sludge (residue) tanks on ships and records on discharge of garbage from ships.  |                        |
| 002400-002435      | Chairman<br>Dr KWOK Ka-ki<br>Administration | Dr KWOK enquired about the numbers of ships currently under construction for operation in polar waters following the implementation of the latest requirements of SOLAS. The Administration replied that five Hong Kong-registered ships were constructed or under construction in compliance with the Polar Code for operation in polar waters. All construction had taken place outside Hong Kong.   |                        |
| 002435-003045      | Chairman<br>Dr KWOK Ka-ki<br>Administration | <p>On Dr KWOK's enquiry about the compliance for the latest IMO's requirements, the Administration explained that ships had to be inspected by recognized organizations before they were put into service to ensure that the ships and the equipment onboard complied with the relevant regulations as well as requirements under relevant international conventions. MD would conduct sample checks to ensure the standards of construction, equipment and operation of the ships. Ships were also subject to the inspections at the overseas ports.</p> <p>Dr KWOK enquired about the training of seafarers on board ships navigating in polar areas. The Administration replied that training records of seafarers were kept and managed by the shipping companies. MD would conduct annual audit on the records.</p> |                        |

| <b>Time marker</b> | <b>Speaker</b>  | <b>Subject(s)</b>  | <b>Action required</b>                                   |
|--------------------|---|--|--|
| 003045 – 004310    | Chairman<br>Dr KWOK Ka-ki<br>Administration           | <p>Dr KWOK made a further enquiry on the survey to local ships.</p> <p>The Administration explained that MD would identify ships with high-risk of non-compliance with relevant regulations and carry out proactive inspections for those ships which had been detained overseas. It also prioritised the inspection of high-risk ships such as oil tankers. As per international agreement, MD would conduct random inspections for about 15% of non-Hong Kong registered ships in Hong Kong waters and around 5% of Hong Kong registered ships.</p> <p>The Subcommittee requested the Administration to provide information on the sampling rate adopted by port authorities in other jurisdictions to survey the ships.</p> | The Administration (paragraph 4 of the minutes referred) |
| 004310 – 005003    | Chairman<br>Assistant Legal Adviser<br>Administration | <p><u>Clause-by-clause examination</u></p> <p>Members examined the Merchant Shipping (Safety) (Ships Operating in Polar Waters) Regulation (L.N. 44 of 2019) in detail.</p> <p>Regarding the provisions of L.N. 44 of 2019, Assistant Legal Adviser noted that for the issue and alteration of the Polar Ship Certificates, the applicant has to pay a prescribed fee and she enquired on the level of the prescribed fees.</p> <p>The Administration explained that the charging principles of Merchant Shipping (Fees) Regulations (Cap. 281F) would be applied to the subsidiary legislation.</p>   |  |
| 005003 – 010033    | Chairman<br>Administration                            | <p><u>Clause-by-clause examination</u></p> <p>Members examined the provisions of the following four items of subsidiary legislation in detail:</p> <p>(a) Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulation 2019 (L.N. 45 of 2019);</p> <p>(b) Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) (Amendment) Regulation 2019 (L.N. 46 of</p>  |  |

| <b>Time marker</b>                     | <b>Speaker</b>             | <b>Subject(s)</b>  | <b>Action required</b> |
|--|----------------------------|--|------------------------|
|  |                            | 2019);<br><br>(c) Merchant Shipping (Prevention of Pollution by Sewage) (Amendment) Regulation 2019 (L.N. 47 of 2019); and<br><br>(d) Merchant Shipping (Prevention of Pollution by Garbage) (Amendment) Regulation 2019 (L.N. 48 of 2019) |                        |
| <b>Agenda III — Any other business</b> |                            |  |                        |
| 010033 –<br>010141                     | Chairman<br>Administration | Concluding remarks   |                        |

Council Business Division 4  
Legislative Council Secretariat  
23 May 2019