

# **立法會**

## ***Legislative Council***

LC Paper No. CB(1)1898/03-04

Ref. : CB1/BC/6/03

### **Bills Committee on Merchant Shipping (Security of Ships and Port Facilities) Bill**

#### **Background brief**

#### **Purpose**

This paper sets out the background of the Merchant Shipping (Security of Ships and Port Facilities) Bill (the Bill) and summarizes the views expressed by members when the Panel on Economic Services (ES Panel) was consulted on the major proposals in the Bill on 16 December 2003.

#### **Background**

2. At present, the legislation relating to merchant shipping and port control focuses on maritime safety and pollution prevention only. It does not deal with security issues, nor covers any port facilities that are located on land. Following the terrorist attacks on 11 September 2001, new provisions of the International Convention for the Safety of Life at Sea, 1974 (SOLAS) and the International Ship and Port Facility Security (ISPS) Code have been adopted by the International Maritime Organization (IMO) to enhance maritime security. The new requirements will come into force on 1 July 2004. Copies of the newly adopted provisions of the SOLAS Convention and the ISPS Code have been issued to members on 27 May 2004 vide LC Paper No. CB(1)1945/03-04(01) and (02).

3. Hong Kong is an associate member of IMO and is obliged to give effect to the SOLAS and the ISPS Code through domestic legislation. The enactment of the Bill and its subsidiary regulation will provide the legal instrument for the Director of Marine to implement the security requirements on Hong Kong registered ships and port facilities in Hong Kong, and to impose security control measures on foreign ships visiting the port of Hong Kong.

## **The Bill**

4. The Bill empowers the Secretary for Economic Development and Labour to make Regulation to enhance security of ships and port facilities and for that purpose, to implement the December 2002 amendments to the SOLAS and ISPS Code; and to provide for incidental or related matters. It also empowers the Director of Marine to :

- (a) declare port facilities;
- (b) recognize security organizations;
- (c) authorize officers to perform any function that is provided for in the Ordinance, the SOLAS and the ISPS Code;
- (d) inspect and control ships and port facilities; and
- (e) grant exemption from any provision of the Ordinance.

## **Consultation**

### Consultation with the ES Panel

5. When being briefed on the legislative proposal at the meeting on 16 December 2003, members expressed their support in principle. They have nevertheless raised the following concerns :

- (a) whether proposed measures such as the requirement to conduct security assessments for developing security plans and to act upon the different security levels set by the Director of Marine are too stringent for the industry;
- (b) whether consultation with the marine sector, notably port operators, has been carried out; and
- (c) Hong Kong's role and status in IMO and its obligation to implement conventions adopted by IMO.

6. The extract of the minutes of the aforesaid Panel meeting is at **Appendix**.

Industry consultation

7. According to the Administration, its legislative proposal has the support of the Shipping Consultative Committee, the Port Operations Committee and the Port Area Security Advisory Committee, which comprise all major stakeholders of the local shipping and port industries

Council Business Division 1  
Legislative Council Secretariat  
27 May 2004

**立法會**  
***Legislative Council***

LC Paper No. CB(1)741/03-04  
(These minutes have been  
seen by the Administration)

Ref: CB1/PL/ES/1

**Panel on Economic Services**

**Minutes of meeting held on  
Tuesday, 16 December 2003, at 2:30 pm  
in the Chamber of the Legislative Council Building**

**Members present** : Hon James TIEN Pei-chun, GBS, JP (Chairman)  
Hon Kenneth TING Woo-shou, JP  
Dr Hon Eric LI Ka-cheung, GBS, JP  
Dr Hon David LI Kwok-po, GBS, JP  
Hon Fred LI Wah-ming, JP  
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP  
Hon CHEUNG Man-kwong  
Hon HUI Cheung-ching, JP  
Hon CHAN Kam-lam, JP  
Hon SIN Chung-kai  
Hon Miriam LAU Kin-yee, JP  
Hon CHOY So-yuk  
Hon Abraham SHEK Lai-him, JP  
Hon LI Fung-ying, JP  
Hon Henry WU King-cheong, BBS, JP  
Hon LEUNG Fu-wah, MH, JP

**Non-Panel Member attending** : Ir Dr Hon Raymond HO Chung-tai, JP

**Members absent** : Dr Hon LUI Ming-wah, JP (Deputy Chairman)  
Dr Hon Philip WONG Yu-hong, GBS  
Hon Howard YOUNG, SBS, JP  
Hon LAU Chin-shek, JP

**Public Officers attending : Agenda Item IV**

Economic Development and Labour Bureau

Ms Eva CHENG  
Commissioner for Tourism

Mrs Winifred CHUNG  
Assistant Commissioner for Tourism

Architectural Services Department

Mr LEE Yuk-shing  
Chief Project Manager

Mr Jonathan YUNG  
Senior Project Manager

Mr Raymond FUNG  
Senior Architect

**Agenda Item V**

Economic Development and Labour Bureau

Mr Wilson FUNG  
Deputy Secretary for Economic Development and Labour (Economic Development)

Mr Darryl CHAN  
Principal Assistant Secretary for Economic Development and Labour (Economic Development)

**Agenda Item VI**

Economic Development and Labour Bureau

Mr Raymond FAN  
Deputy Secretary for Economic Development and Labour (Economic Development)

Marine Department

Mr TSUI Shung-yiu  
Director of Marine

Mr Roger TUPPER  
Deputy Director of Marine

**Agenda Item VII**

Economic Development and Labour Bureau

Mr Stephen IP  
Secretary for Economic Development and Labour

Ms Miranda CHIU  
Acting Permanent Secretary for Economic Development  
and Labour (Economic Development)

Mr James WONG  
Principal Assistant Secretary for Economic  
Development and Labour (Economic Development)  
(Financial Monitoring)

**Attendance by  
invitation : Agenda Item VII**

The Hongkong Electric Co., Ltd.

Mr George C MAGNUS  
Chairman

Mr K S TSO  
Group Managing Director

Mr Francis L Y LEE  
Director & General Manager (Engineering)

Mr Andrew J HUNTER  
Group Finance Director

Mr Steve NG  
Deputy Chief Accountant

CLP Power

Mrs Betty YUEN  
Managing Director

Mr S H CHAN  
Planning Director

Ms Jane LAU  
Public Affairs Director

**Clerk in attendance :** Mr Andy LAU  
Chief Assistant Secretary (1)2

**Staff in attendance :** Miss Anita HO  
Assistant Legal Adviser 2

Ms Debbie YAU  
Senior Assistant Secretary (1)1

Miss Winnie CHENG  
Legislative Assistant 5

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Action

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**VI Merchant Shipping (Security of Ships and Port Facilities) Bill**

(LC Paper No. CB(1)549/03-04(05) - Information paper provided by the Administration)

22. At the invitation of the Chairman, the Director of Marine (D of M) briefed members on the proposed Merchant Shipping (Security of Ships and Port Facilities) Bill 2004 (the Bill). Members noted that the Administration planned to introduce the Bill into the Legislative Council in March 2004.

23. The Chairman enquired about the implications of the proposed Bill on the industry such as whether the proposed measures would be too stringent for the industries to properly comply and whether consultation had been carried out. Ms Miriam LAU also enquired whether port operators had been consulted as the new provisions might affect their operation.

24. D of M explained that the Administration had consulted the marine sector, including all the key associations in the shipping and port industries when the proposal was formulated. The Administration would brief the industries again and issue guidelines to facilitate their compliance.

25. Regarding the justifications for the proposal, D of M said that there was a need to enhance the level of security on Hong Kong ships and port facilities in Hong Kong to an agreed international standard. D of M further said that ships engaged in international voyage and port facilities serving such ships were required to conduct security assessments for developing security plans and procedures to react to different security levels. The security assessment and security plan of a

ship would need to be approved by the ship's flag administration or its authorized Recognized Security Organization. An International Ship Security Certificate would be issued to the ship upon verifying its compliance. Ships failing to comply with the requirements might be subject to refusal of entry into a port, detention or expulsion from a port.

26. On behalf of the Democratic Party, Mr SIN Chung-kai expressed support for the Bill. He however enquired about the role and status of Hong Kong in the IMO, and whether Hong Kong needed to implement legislation accepted by the Mainland which was a member state of the IMO.

27. D of M advised that being an associate member of the IMO, Hong Kong could express freely at meetings of the IMO but Hong Kong did not have any voting right for adoption of International Conventions. In the present case, Hong Kong was required to notify the IMO, through the Mainland, on the appointment of the "Designated Authority". On the implementation of legislation adopted by the IMO, Hong Kong should enact its own legislation to give effect to an international convention adopted by the IMO. Given the unique situation of different ports, D of M confirmed that there might be some variations as to the extent of the security control measures on foreign ships entering a port. However, a Certificate issued by a "Designated Authority" of the IMO would be universally accepted by all other Member states.

28. Members noted that the Security Bureau and the Hong Kong Police Force (HKPF) would be responsible for setting the security levels. Approval of security assessments and security plans for port facilities would be given by the D of M as the Designated Authority following advice from the HKPF and other security departments. D of M would assume the responsibility of "Designated Authority" for ensuring the implementation of those provisions pertaining to port facility security and the ship/port interface and to exercise control on foreign ships entering its territorial waters or port areas.

29. Summing up, the Chairman remarked that the Panel was in support of the Bill.

30. Members agreed to adjourn the meeting at 3:25 pm. The meeting resumed at 4:00 pm.

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