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Panel on Economic Development
meeting on 27 May 2013

Background brief on
Follow-up actions arising from the Report of the Commission of
Inquiry into the Collision of Vessels near Lamma Island on 1
October 2012

Purpose

This paper provides background information on the inquiry into the collision of vessels near Lamma Island on 1 October 2012 and a summary of the views and concerns expressed by Members on issues relating to the inquiry at meetings of the Council and the House Committee.

Background

The collision incident

2. At about 2020 hours on 1 October 2012 off Shek Kok Tsui, northwest of Lamma Island, a Hong Kong & Kowloon Ferry Ltd¹ (HKKF) passenger ferry, "Sea Smooth" (海泰) carrying 4 crew and 95 passengers enrouting from Central to Yung Shue Wan, Lamma Island collided with a Hong Kong Electric Company Limited launch, "Lamma IV" (南丫四號). The latter vessel carrying 127 persons including 3 crew members was leaving Lamma Island for Central. After the collision, the ferry "Sea Smooth" remained afloat, while the launch "Lamma IV" sank quickly and rested almost vertically with its bow protruding above the water. The majority of persons on board "Lamma IV" fell into the sea and some were trapped inside the vessel.

¹ Licensed operator providing ferry service between Central and Yung Shue Wan

3. The emergency call was made at around 2022 hours. The first Police launch arrived at the scene at around 2034 hours and the first fireboat at around 2041 hours. The Marine Emergency and Maritime Rescue Co-ordination Centre of Marine Department co-ordinated a search and rescue operation with Marine Police as the On-scene Commander. The Police, Fire Services Department, Marine Department, Auxiliary Medical Services, Government Flying Service and St John Ambulance joined the search and rescue operation. As a result of the collision, 39 passengers on board of "Lamma IV" deceased and 92 were injured.

Commission of Inquiry

4. On 22 October 2012, a Commission of Inquiry (COI) was appointed by order of the Chief Executive in Council to inquire into the vessel collision incident, pursuant to section 2 of the Commissions of Inquiry Ordinance (Cap. 86) ("the Ordinance"). The terms of reference of the Commission are in **Appendix 1**. Pursuant to section 3 of the Ordinance, the Chief Executive in Council directed, among other things, that "the determination of the criminal and civil liability of any person shall be outside the terms of reference of the Commission."

Review and reform of the Marine Department

5. The report of the COI was issued on 30 April 2013. On the same day, the Secretary for Transport and Housing announced at a press conference on the report that he would chair a Steering Committee on the Systemic Reform of the Marine Department², to oversee a comprehensive and fundamental review and reform of the Department. A Task Force, headed by a Deputy Director, would be set up to assist the Director of Marine to take forward the reform.

Police investigation of the incident

6. On 11 April 2013, the Police laid charges against the coxswains of "Sea Smooth" and "Lamma IV" in connection with the incident with 39 counts of manslaughter separately. The other five crew members of the two vessels continued to answer bail.

² In addition to the Secretary for Transport and Housing, the Steering Committee comprises Ms Alice TAI, the former Ombudsman, and Mr Irving KOO Yee-yin, the Fellow and Member of the Executive Committee of the Hong Kong Management Association.

Discussions at meetings of the Council and the House Committee

7. The Administration briefed the House Committee on the collision incident on 12 October 2012. The Council held an adjournment debate on the follow-up work relating to the collision incident at its meeting on 18 October 2012. Members' views and concerns expressed at the meetings are summarized below –

(a) Review of laws and regulations on marine safety

Given the increasing number of vessel collisions in recent years, some Members called for a comprehensive review of the existing legislations and regulations on marine safety with a view to preventing vessel collisions in future;

(b) Enforcement of guidelines

Based on the Marine Department's guidelines on "Marine Traffic Control Measures for the 2012 National Day Fireworks Display" (**Appendix II**), the masters/coxswains of vessels should keep a passenger list containing the names of passengers and crew on board for emergency purposes, make aware to all persons on board of the location of all lifesaving appliances, instruct them the proper way to don a life-jacket, and require all children on board to don a life-jacket at all times. The guidelines, however, do not specify any sanctions to be imposed if the masters/coxswains of the vessels fail to comply with the guidelines. Some Members were concerned whether the Marine Department had taken adequate steps to widely publicize the guidelines and enforce them. Given that members of the public would hire commercial vessels to watch firework displays at sea during festive occasions, some Members were of the view that legislation should be introduced to ensure that vessel masters/coxswains would comply with the marine traffic control measures. Sanctions should be imposed on the masters/coxswains for failing to take the marine traffic control measures;

(c) Insurance coverage for vessel passengers

In view of the large number of casualties in the collision incident, there were concerns about the adequacy of insurance coverage for victims of vessel collision incidents. Some

Members commented that the \$5 million third-party marine liability insurance required of a Hong Kong registered vessel might be too low and a review of the amount should be made, as civil claims for the collision incident might amount to hundreds of millions dollars in view of the heavy casualties. Members noted that based on HKKF's information, it had bought insurance with \$4 billion (US\$500 million) coverage for one incident. Some Members opined that consideration should be given to extending the scope of the Traffic Accident Victims Assistance Fund to cover vessel passengers who lost their lives or were injured in accidents at sea. As an alternative, a separate fund should be set up for the purpose;

(d) Safety announcements and provision of life-jackets and safety equipment

Some Members pointed out that victims of the collision incident had difficulties in locating and retrieving the life-jackets on the vessels during the incident. Some Members were of the view that vessel masters/coxswains should be required to ensure that safety announcements, including details of the location of life-jackets and the steps to be taken by the passengers during an emergency, should be made before a passenger vessel left the pier;

(e) Deployment and training of crew members on vessels

Some Members expressed concern about the statutory requirements of the number of crew members on a local vessel, the rest time, qualifications and training of crew members, and the long work hours of crew members as some of them had to work continuously for 24 hours. Members called for a review of the statutory requirements of crew members on local vessels and enhancement of safety training for crew members;

(f) Action to be taken by vessel captains after a collision

There was concern that the captain of "Sea Smooth" had steered the vessel to the ferry pier of Lamma Island after the collision, instead of following the international practice of remaining at the scene to assist in rescuing the passengers of "Lamma IV"; and

(g) Regulation of maritime traffic during firework display

Given that there would be a large number of vessels on the sea during a firework display and after the display these vessels would compete for quays for disembarkation, consideration should be given to limiting the number of vessels on the sea and providing more quays for disembarkation.

8. A Member also raised a question at the Council meeting on 14 November 2012 regarding the offering of financial assistance to the victims and families of the collision incident.

Latest development

9. The Administration will brief the Panel on Economic Development at the meeting on 27 May 2013 regarding the follow-up actions to be taken on the report of COI.

References

10. The relevant papers are available at the following links:

Legislative Council Brief on Appointment of a Commission of Inquiry into the collision of vessels near Lamma Island on 1 October 2012 dated 22 October 2012

(File Ref. CSO/ADM/CR 6/581/12)

http://www.legco.gov.hk/yr12-13/english/panels/edev/papers/edev0527-csoadmcr658112_20121022-e.pdf

The Administration's paper on the Collision of vessels near Lamma Island on 1 October 2012 dated 12 October 2012 (LC Paper No. CB(2)8/12-13(01))

<http://www.legco.gov.hk/yr12-13/english/hc/papers/hc1012cb2-8-1-e.pdf>

Fact-sheet of "A summary of press reports on the vessel collision incident near Lamma Island" prepared by the Research Division of the Legislative Council Secretariat (LC Paper FS02/12-13) (Chinese version only)

<http://www.legco.gov.hk/yr12-13/chinese/sec/library/1213fs02-c.pdf>

Verbatim transcript of special House Committee meeting on 12 October 2012

<http://www.legco.gov.hk/yr12-13/chinese/hc/minutes/hc20121012a.pdf>

Hansard record of Legislative Council meeting on 18 October 2012
(English version)

<http://www.legco.gov.hk/yr12-13/english/counmtg/hansard/cm1018-translate-e.pdf>

The Government's press release dated 14 November 2012 on reply to a Legislative Council question regarding rendering financial assistance to victims and families of the vessel collision incident near Lamma Island

<http://www.info.gov.hk/gia/general/201211/14/P201211140343.htm>

The Government's press release dated 11 April 2013 regarding the charge of the coxswains of "Sea Smooth" and "Lamma IV" for manslaughter

<http://www.info.gov.hk/gia/general/201304/11/P201304110300.htm>

The Government's press releases dated 30 April 2013 for the press conference on the Report of the Commission of Inquiry into the Collision of Vessels near Lamma Island on 1 October 2012

<http://www.info.gov.hk/gia/general/201304/30/P201304300644.htm>

<http://www.info.gov.hk/gia/general/201304/30/P201304300708.htm>

The Government's press release dated 3 May 2013 on appointment of members to the Steering Committee on Systemic Reform of the Marine Department

<http://www.info.gov.hk/gia/general/201305/03/P201305030444.htm>

Council Business Division 1
Legislative Council Secretariat
23 May 2013

**Terms of Reference and Other Key Terms of Appointment of
the Commission of Inquiry into the Collision of Vessels Near Lamma
Island on 1 October 2012**

Terms of Reference

Inquire into the facts and circumstances leading to and surrounding the collision of the two vessels that took place near Lamma Island, Hong Kong on 1 October 2012:

- (a) ascertain the causes of the incident and make appropriate findings thereof;
- (b) consider and evaluate the general conditions of maritime safety concerning passenger vessels in Hong Kong and the adequacy or otherwise of the present system of control; and
- (c) make recommendations on measures, if any, required for the prevention of the recurrence of similar incidents in future.

Submission of Report

The Commission shall report to the Chief Executive within six months from the date of appointment or such time as the Chief Executive in Council may allow. The Commission may submit such interim reports on any aspects of the inquiry as it may see fit.

Directions to the Commission

- (a) the Commission may appoint experts to provide reports or other form of assistance on any matters covered by the Inquiry;
- (b) the Commission shall have and exercise the powers conferred by section 9 of the Commissions of Inquiry Ordinance to punish all or any of the contempts specified in section 8; and

- (c) the determination of any criminal or civil liability of any person shall be outside the terms of reference of the Commission.

Secretariat Support

Mr LO Chi-hong will be appointed as Secretary to the Commission to provide the necessary administrative support for the inquiry. The Commission will also be provided with other support staff.

(source: Legislative Council Brief on Appointment of a Commission of Inquiry into the Collision of Vessels near Lamma Island on 1 October 2012 dated 22 October 2012)

**Marine Department Notice No. 131 of 2012
Marine Traffic Control Measures
for the 2012 National Day Fireworks Display**

Ferry Services

From about 2030 hours to about 2200 hours on Monday, 1 October 2012 (“the event day”), **ALL SCHEDULED FERRY SERVICES IN THE CENTRAL HARBOUR WILL BE SUSPENDED.**

2. ALL ferry vessels permitted to continue services between 2000 hours and 2030 hours on the event day must maintain a minimum safe passing distance of 250 metres from the firing barges. They should also be either secured to their berths or leave the Restricted Area before 2030 hours.
3. The Transport Department will detail the re-scheduling of ferry services in a separate notice.

Viewing Area

4. Excursion ferries and spectator vessels gathering on both sides of the Restricted Area are advised to keep clear of ferry piers and the Hong Kong and Macau Ferry Terminal. All vessels are advised to stem the tide during the fireworks display to avoid intruding into the Restricted Area.

Safety Measures by All Vessels

5. All vessels approaching the Restricted Area before or during the fireworks display and vessels leaving their viewing positions after the display must proceed at a safe speed, which should not generally exceed 5 knots. Every vessel must at all times maintain a proper lookout, and take measures to avoid obscuring the view of the lookout, including switching off the cabin lights. Searchlights must not be used because they will interfere with the keeping of a proper lookout on or with the safe operation of other vessels.

6. Masters, coxswains, owners and operators of all vessels are advised to take the following steps before the start of the voyage:

- (a) all persons on board are made aware of the location of all lifesaving appliances and instructed on the proper way to don a lifejacket;
- (b) all children on board are required to don a lifejackets at all times;

- (c) a passenger list containing the names of passengers and crew on board is kept by the master/coxswain for emergency purposes; and
- (d) the carrying capacity specified in the operating licence of the vessel is adhered to.

7. In the unfortunate event that a vessel requires immediate assistance, the master/coxswain of the vessel may:

- (a) signal for assistance using the distress signals set out in the Annex to the International Regulations for Preventing Collisions at Sea;
- (b) call the Vessel Traffic Centre, Marine Department (call-sign “MARDEP, HONG KONG”) on channel 14;
- (c) call the Marine Regional Command & Control Centre, Hong Kong Police Force (RCCC MAR) on telephone 2803 6240 or 2803 6241; or
- (d) call the emergency number 999.

8. Masters, coxswains, owners and operators of small vessels, especially those without a deck or those of less than 5 meters in length, are advised **NOT** to enter or remain in the Central Harbour area during the event. Such vessels are vulnerable in areas of high traffic density to the wash of larger vessels and are not easily detected by larger vessels, which have higher freeboard.

9. Launches of the Marine Department, Marine Police and Fire Services Department will be stationed in or patrolling the Central Harbour. They will exhibit either a flashing red or a flashing blue light. Masters and coxswains should follow any instructions given by these launches.

Closure of Public Piers and Landing Steps

10. For landside crowd control, all public piers and landing steps within the Restricted Area will be closed from 2000 hours to about 2200 hours on the event day.

11. Owing to high demand of landing facilities within the Restricted Area immediately after their reopening, some delay to the disembarkation of passengers is inevitable. For safety, masters or coxswains of vessels are advised not to leave their viewing positions hurriedly after the event; and consider using landing facilities outside the Central Harbour for disembarkation.

Buffer Zone

12. For safety of navigational and disembarkation of passengers, three Buffer Zones, one at Kowloon Public Pier (KPP), one at Kwun Tong Public Pier (KTPP) and the other at Central Pier 9 (CP 9) and 10 (CP 10), will be established immediately after the event until the traffic returns to normal. The Buffer Zones extend about 90 meters from the piers and are marked and regulated by Marine Department launches. Vessels intending to use KPP, KTPP, CP 9 or CP 10 are required to wait at the designated gathering area prior to getting alongside and follow the direction of Marine Department or Marine Police officers. Vessels using KPP or KTPP will only be permitted to enter the Buffer Zone from the east and leave from the west. To expedite disembarkation, masters and coxswains are advised to remind passengers to check their personal belongings early.