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Panel on Economic Development
Meeting on 22 July 2013

Updated 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 follow-up actions arising from the Report of the Commission of 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 relevant matters at meetings of the Council, the House Committee and the Panel on Economic Development ("the Panel").

Background

The collision incident

2. At about 2020 hours on 1 October 2012 off Shek Kok Tsui, northwest of Lamma Island, a passenger ferry, the Sea Smooth (海泰號), collided with a Hong Kong Electric Company Limited launch, the Lamma IV (南丫四號). After the collision, the Lamma IV sank quickly and the majority of persons on board the Lamma IV fell into the sea and some were trapped inside the vessel. As a result of the collision, 39 passengers on board of the Lamma IV deceased, almost all from drowning.

Commission of Inquiry

3. 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").

Review and reform of the Marine Department

4. 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 Department¹, 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

5. On 11 April 2013, the Police laid charges against the coxswains of the Sea Smooth and the 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.

Discussions at meetings of the Council and the House Committee

6. 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",

¹ 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.

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. 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 the 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 the 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 and after a firework 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.

7. 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.

Deliberation at the Panel

8. On 27 May 2013, the Panel received a briefing by the Administration regarding the follow-up actions arising from the report of CoI appointed to inquire into the vessel collision incident. The Secretary for Transport and Housing and the Director of Marine offered their apologies to the families of the deceased, the injured and the public regarding the collision incident. Some members were of the view that the apologies were belated, insincere and involuntary. Members were gravely concerned about the errors committed by the Marine Department as identified in the CoI's report and considered that the collision incident had damaged Hong Kong's status as an international shipping centre. Some members commented that the public had

already lost confidence in the Marine Department. They pointed out that the families of the victims of the collision incident had issued an open letter criticizing the Government, and the Marine Department in particular, for failing to shoulder their responsibilities in the collision incident.

9. Members noted that the Administration would conduct an internal investigation into the collision incident and the investigation would be undertaken by the Transport and Housing Bureau instead of the Marine Department as originally proposed. The findings of the CoI would be taken as the starting point for the internal investigation, which would take a few months to complete. Some members considered that the impartiality of the internal investigation was questionable as it would be conducted by Government officials. They opined that an independent investigation should be conducted to find out the responsibilities of individual Government officers involved and recommend measures to prevent the recurrence of similar collision incidents. Some members commented that the Administration should ensure that the internal investigation procedures were transparent so as to ensure that justice was seen to be done. The Administration assured members that if any breaches of Civil Service Regulations were found, disciplinary proceedings would be pursued against the officer(s) involved, irrespective of the ranking of the officer(s) concerned. In the event that criminal offences were identified in the internal investigation, the case(s) would be referred to the relevant enforcement agencies for action.

10. Some members pointed out that despite the Administration's claim that nearly all passenger vessels inspected by the Marine Department after the collision incident were found to have complied with the structural plans of the vessels and the statutory safety requirements for lifejackets, many members of the public commented that they were not aware of the life-saving equipment on board and the safety procedures to be followed in case of a sea accident. A member was also concerned about the difficulty in locating and retrieving lifejackets on vessels during emergencies. Some members expressed concern that the Government was still conducting consultation on some improvement measures promulgated by the Transport and Housing Bureau regarding the safety arrangements on vessels. They urged the Government to take expeditious actions to implement the improvement measures.

11. At the meeting, the Panel passed a motion expressing its great disappointment and regret towards the belated apologies from the Secretary for Transport and Housing, and the Director of Marine, and urging the Administration to conduct its investigation and system reforms independently and professionally. The motion also urged that public officers who had contravened any regulations should be held fully accountable and that the

Administration should make compensation to the families of the victims of the Lamma ferry disaster.

Latest development

12. The Administration will update the Panel at the meeting on 22 July 2013 regarding the latest development on the follow-up actions taken in respect of the CoI report.

References

13. 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/e/dev/papers/e/dev0527-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>

Report of the Panel on Economic Development for 2012-2013

<http://www.legco.gov.hk/yr12-13/english/panels/edev/reports/edev0710cb1-1418-e.pdf>

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