

立法會
Legislative Council

LC Paper No. CB(4)998/13-14
(These minutes have been seen
by the Administration)

Ref: CB4/BC/1/13

Bills Committee on Shipping Legislation (Control of Smoke Emission)
(Amendment) Bill 2014

Minutes of the second meeting held on
Tuesday, 3 June 2014, at 5:30 pm
in Conference Room 2 of the Legislative Council Complex

Members present : Dr Hon Kenneth CHAN Ka-lok (Chairman)
Hon Cyd Ho Sau-lan
Hon Steven HO Chun-yin
Hon SIN Chung-kai, SBS, JP

Members absent : Hon Frankie YICK Chi-ming
Hon Kenneth LEUNG

Public Officers : **Agenda item I**
attending

Transport and Housing Bureau

Ms Jenny CHAN
Principal Assistant Secretary (Transport) 10

Mr CHIU Hon-chim
Assistant Secretary (Transport) 10B

Marine Department

Mr CHUNG Siu-man
Assistant Director (Planning and Services)

Department of Justice

Ms Francoise LAM
Senior Assistant Law Draftsman (Marine Legislation)

Miss Cindy CHEUK
Government Counsel

Attendance : Designing Hong Kong
by invitation

Mr Paul ZIMMERMAN
Chief Executive Officer

Hong Kong & Kowloon Floating Fisherman Welfare
Promotion Association

Mr KEUNG Siu-fai
Secretary

Clean Air Network

Mr Charles TSANG
Community Relations Manager

Clerk in attendance : Ms Debbie YAU
Chief Council Secretary (4)5

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Ms Shirley TAM
Council Secretary (4)5

Ms Linda MA
Legislative Assistant (4)5

Action

I. Meeting with deputations and the Administration

(LC Paper No. CB (4)696/13-14(01) -- Letter from the Chairman to
the Administration on

penalties and enforcement
related issues

- LC Paper No. CB (4)696/13-14(02) -- Administration's response to the letter from the Chairman
- LC Paper No. CB (4)712/13-14(01) -- List of follow-up actions arising from the discussion at the meeting on 29 April 2014
- LC Paper No. CB(4)712/13-14(02) -- Administration's response to issues raised at the meeting on 29 April 2014
- LC Paper No. CB(4)712/13-14(03) -- Administration's response to the written submissions)

Submissions from deputations attending the meeting

- (LC Paper No. CB(4)748/13-14(01) -- Designing Hong Kong
- LC Paper No. CB(4)712/13-14(04) -- Civic Party
- LC Paper No. CB(4)712/13-14(05) -- Clean Air Network)

Submissions from deputations not attending the meeting

- (LC Paper No. CB(4)712/13-14(06) -- China Classification Society Hong Kong Branch
- LC Paper No. CB(4)712/13-14(07) -- Friends of the Earth
- LC Paper No. CB(4)712/13-14(08) -- Guangdong and Hong Kong Feeder Association Limited)

Other relevant papers

- (LC Paper No. CB(3)443/13-14 -- The Bill
- LC Paper No. THB(T)PMLCR 8/10/60/4 -- Legislative Council Brief issued by the Transport and

Housing Bureau

- LC Paper No. LS33/13-14 -- Legal Service Division Report
- LC Paper No. CB(4)611/13-14(01) -- Marked-up copy of the Bill prepared by the Legislative Service Division (Restricted to members only)
- LC Paper No. CB(4)611/13-14(02) -- Letter from the Assistant Legal Adviser to the Administration dated 18 March 2014
- LC Paper No. CB(4)611/13-14(03) -- Administration's response to the Assistant Legal Adviser's letter dated 21 March 2014
- LC Paper No. CB(4)611/13-14(04) -- Paper on Shipping Legislation (Control of Smoke Emission) (Amendment) Bill 2014 prepared by the Legislative Council Secretariat (background brief)

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Bills Committee received oral representations from representatives of three deputations on the Bill.

Follow-up actions to be taken by the Administration

Admin

- 3. The Administration was requested to provide the following information –
 - (a) as the Administration had indicated that the Ringelmann Chart would not be distributed to the public at large, alternative means which might facilitate the general public to identify, for the purpose of making a report to the relevant enforcement unit, whether any dark smoke emitted by a vessel had passed the proposed threshold level of intensity with reference to the chart;

Action

- (b) the number of dark-smoke visual surveys of vessels conducted by the Marine Department from 2007 to 2013 annually;
- (c) the responses from the Environmental Protection Department about the regulation and control of emission of sulphur dioxide and nitrogen oxides from vessels and information on the enforcement of the relevant legislations in Hong Kong; and
- (d) information regarding any latest technologies/methodologies/ tools which had been adopted/used by major overseas ports to measure the emission of sulphur dioxide and nitrogen oxides from vessels.

(Post-meeting note: The Administration's written response was circulated to members on 10 June 2014 vide LC Paper No. CB(4)798/13-14(02). In addition, on paragraph 3(a), the Administration issued a further response which was circulated to members on 27 June 2014 vide LC Paper No. CB(4)877/13-14(01) informing that the copyright in the Ringelmann Chart no longer subsisted and it would distribute the chart to the general public and port users in the publicity campaigns following the passage of the Bill.)

Way forward

4. The Chairman concluded that the Bills Committee had completed scrutiny of the Bill. Both the Bills Committee and the Administration would not propose Committee Stage Amendments to the Bill.

5. Members supported the Administration's proposal to tentatively set the date of resumption of Second Reading debate on the Bill on 2 July 2014, subject to any further questions that members might have with respect to the Administration's written response.

(Post-meeting note: To allow more time for members to consider the Administration's written response and ask further questions, if any, the Chairman has instructed that the Second Reading debate on the Bill would be resumed at the Council meeting of 9 July 2014 if no request for further meeting was received by 16 June 2014. The Bills Committee has reported its deliberations to the House Committee at its meeting on 20 June 2014 and the Bill received its Third Reading at the Council meeting of 9 July 2014.)

Action

6. There being no other business, the meeting ended at 6:52 pm.

(Post-meeting note: A written submission from a Councillor of the Southern District Council was issued to all Members on 8 July 2014 by e-mail vide LC Paper No. CB(4)917/13-14(01).)

Council Business Division 4
Legislative Council Secretariat
20 August 2014

**Proceedings of the second meeting of
the Bills Committee on Shipping Legislation (Control of Smoke Emission) (Amendment) Bill 2014
on Tuesday, 3 June 2014, at 5:30 pm
in Conference Room 2 of the Legislative Council Complex**

| Time marker | Speaker | Subject(s) | Action required |
|---|---|--|-----------------|
| Agenda item I –Meeting with deputations and the Administration | | | |
| 000115 – 000437 | Chairman | Opening remarks | |
| 000438 – 000950 | Designing Hong Kong ("DHK") | Presentation of views (LC Paper No. CB(4)748/13-14(01)) | |
| 000951 001330 | Chairman Hong Kong & Kowloon Floating Fisherman Welfare Promotion Association ("FFWPA") | FFWPA had no objection on the Bill. It – (a) expressed concerns about the law enforcement actions which might affect the operation of fishing trade; and (b) requested the Administration to provide subsidies to the fishing trade to replace their vessel engines with cleaner models. | |
| 001331 – 001800 | Chairman Clean Air Network ("CAN") | Presentation of views (LC Paper No. CB(4)712/13-14(05)) | |
| 001801 – 002441 | Chairman Administration | The Administration replied that- (a) the Bill sought to control the emission of dark smoke from vessels while the concerns on fuel switch at berth by ocean-going vessels ("OGVs") and onshore power supply were separate matters under the purview of the Environmental Protection Department ("EPD"); (b) vessels would not emit dark smoke if their engines were maintained properly. Hence, vessel owners were not required to replace the old model engines and no extra costs would be incurred due to the Bill; (c) the enforcement actions currently in force had made reference to the Ringelmann Chart and such reference would remain unchanged after the Bill has passed; | |

| Time marker | Speaker | Subject(s) | Action required |
|-----------------|---|--|-----------------|
| | | <p>(d) the number of vessels found in visual surveys conducted by the Marine Department ("MD") with visible emission of smoke had dropped from 40.8% in 2007 to 1.4% in 2013. EPD also advised that there was no record of imprisonment under the Air Pollution Control (Smoke) Regulations (Cap. 311C) during the past 10 years. As such, it was not necessary to include imprisonment penalty under the Bill; and</p> <p>(e) upon passage of the Bill, MD would step up enforcement actions against vessels emitting dark smoke for three minutes or more continuously, irrespective whether the emission was done knowingly or otherwise.</p> | |
| 002442 – 003456 | Chairman SIN Chung-kai DHK CAN Chairman Administration | Discussion on publicity and re-launching of the spotter programme, and the actions to be taken by MD after receiving a report of the proposed offence. | |
| 003457 – 004031 | Chairman Administration Mr Steven HO | <p>In reply to Mr HO, MD advised that it would take a survey of the vessel concerned upon receipt of a complaint. However, if it was on the way to leave Hong Kong waters, it would be difficult to carry out enforcement actions in time. Under this situation, MD officers would take a statement from the complainant regarding the intensity and duration of dark smoke emitted from the vessel concerned.</p> <p>Mr HO considered that MD should continue its investigation on the vessel being complained instead of taking any statement from the complainant.</p> <p>He also echoed the concerns of FFWPA on the need for the Administration to provide subsidy to the fishing trade to enable the relevant vessel owners to comply with the statutory requirements.</p> | |

| Time marker | Speaker | Subject(s) | Action required |
|--------------------|---|--|--|
| 004032 – 004321 | Chairman DHK Administration | <p>Discussion on distributing the Ringelmann Chart to residents whose flats were facing the East Lamma Channel, and briefings/publicity to be held for district councils and residential groups concerned.</p> <p>The Administration advised that the public might take photographs or videos to substantiate the proposed offence when making reports.</p> | |
| 004322 – 004601 | Chairman FFWPA | <p>FFWPA pointed out that dark smoke was usually emitted by OGVs and the daily operations of which, such as fuel switch, were detailed in the logbooks and they would serve as a good piece of evidence to substantiate prosecution. It expressed worries that, upon wide publicity of the Bill, the small local vessels might be subject to more frequent reporting by the general public.</p> | |
| 004602 – 005249 | Chairman CAN Administration | <p>CAN expressed view on the need to step up efforts to meet the emission reduction target. It sought information on the number of dark-smoke visual surveys of vessels conducted by MD in each year from 2007 to 2013. It suggested black-listing those OGVs which emitted dark smoke while staying in Hong Kong waters.</p> <p>The Administration advised that, if an OGV emitted dark smoke while leaving Hong Kong waters, MD would notify the relevant authority of the flag state of the vessel and urge the authority to pay attention to the repair, maintenance and operation of the vessels concerned. It would be too stringent to adopt a policy in refusing entry of a vessel to Hong Kong simply because it emitted dark smoke. MD would monitor the concerned vessels more closely.</p> | |
| 005250 – 005949 | Chairman Mr SIN Chung-kai Mr Steven HO Administration DHK | <p>Responding to Mr SIN's enquiry, the Administration indicated that the Ringelmann Chart would not be distributed to the public at large due to copyright concern.</p> <p>Discussion on alternative measures which might facilitate the general public to identify, for the purpose of making a report to the relevant</p> | The Administration to follow up as per paragraph 3(a) of the minutes |

| Time marker | Speaker | Subject(s) | Action required |
|--|--|---|--|
| | | enforcement unit, whether any dark smoke emitted by a vessel had passed the proposed threshold level of intensity with reference to the Ringelmann Chart. Mr HO's view that Ringelmann Chart should be made available for vessel owner and coxswain/master of vessels. | |
| 005950 – 010049 | Chairman CAN Administration | Upon CAN's further enquiry, the Administration agreed to provide the number of dark-smoke visual surveys of vessels conducted from 2007 to 2013 each year after the meeting. | The Administration to follow up as per paragraph 3(b) of the minutes |
| 010050 – 010228 | Chairman Mr SIN Chung-kai | Mr SIN demonstrated, in the meeting, a mobile application which showed a colour code chart with different colour specifications. He suggested that the Administration might consider specifying the shades of gray as appeared on the Ringelmann Chart in a way which was similar to the way as shown in the mobile application to facilitate members of the public to understand the statutory provisions. | The Administration to follow up as per paragraph 3(a) of the minutes |
| Agenda item II – Any other business | | | |
| 010229 – 010716 | Chairman Administration | Briefing by the Administration on its written response to the issues raised at the meeting on 29 April 2014 (LC Paper No. CB(4)712/13-14(02)). | |
| 010717 – 011210 | Chairman Mr SIN Chung-kai Administration | Discussion on overseas and local regulation and control of emission of sulphur dioxide and nitrogen oxides from vessels. | The Administration to follow up as per paragraph 3(c) of the minutes |
| 011211 – 011827 | Chairman Mr Steven HO Mr SIN Chung-kai Administration | Mr HO queried whether Hong Kong should use the Ringelmann Chart to control the emission of dark smoke from vessels. The Administration explained that some ports in the United States and the United Kingdom adopted the Ringelmann Chart as the only tool to measure the intensity of dark smoke emission. | The Administration to follow up as per paragraph 3(d) of the minutes |
| 011828 – 012120 | Chairman Mr SIN Chung-kai Administration | Discussion on the legislative timetable and way forward. | |