

立法會
Legislative Council

LC Paper No. CB(1)899/13-14(08)

Ref. : CB1/PL/EDEV

**Panel on Economic Development
Meeting on 24 February 2014**

**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.

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4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 report of the CoI was issued on 30 April 2013. In the report, apart from recommending various measures on marine safety, the CoI identified a number of problems with the Marine Department ("MD") in regulating local passenger vessels and called for a systemic change in MD.

Review and reform of the Marine Department

4. On 27 May 2013, the Panel on Economic Development ("the Panel") received a briefing by the Administration regarding the follow-up actions arising from the CoI report. These actions included the setting up of the Steering Committee on Systemic Reform of the MD by the Transport and Housing Bureau ("THB") to undertake a comprehensive systemic review and reform of the Department, and a task force, headed by a Deputy Director, to assist in taking forward the reform.

Measures for enhancing marine safety

5. Actions taken by MD immediately after the collision incident included a comprehensive re-inspection of the provision of lifejackets on all ferries, launches and kaitos as well as the structures of all ferries and launches; strengthening of work on ship inspections, plan approvals and routine patrol of local vessels by MD; and engaging a classification society and a maritime consultancy firm respectively to carry out an independent audit review and a benchmark survey.

6. In addition, MD had drawn up a package of measures to enhance the safety of local passenger vessels. Measures in the first phase which did not require legislative amendments and would be implemented by administrative actions and amendments to the Code of Practice ("CoP") included the improvement of vessel look-out, the need to maintain a muster list on the duties of crew members during emergencies; the requirement for the minimum safe number of crew; the signages for lifejackets; and the need for installation of watertight door alarm. According to the Administration's briefing to the Panel on 25 November 2013, the requirement for lifejacket signages would take effect three months after the planned gazettal of CoP in the end of November 2013, while those for muster list and watertight door alarm would take effect six months afterwards. For those measures that involved employment of additional crew and training, i.e. vessel look-out and the minimum safe number of crew, all operators would be required to comply with the amended CoP one year after gazettal.

7. The Administration had also been discussing with the trade on the medium and longer term measures which included the installation of

Automatic Identification System ("AIS"), collision avoidance radar and Very High Frequency radio; practical operation assessment for coxswains; and rest arrangements for crew members.

Internal investigation

8. Regarding the problems with MD officers as pointed out in the CoI report, the Secretary for Transport and Housing ("STH") had instructed the Permanent Secretary for Transport and Housing (Transport) to lead an internal investigation to identify responsibilities for any possible maladministration or dereliction of duty within MD. According to the Administration, the findings of the CoI would be taken as the starting point for the internal investigation and MD officers involved in the investigation included serving as well as retired officers in both directorate and non directorate.

Concerns expressed by Panel Members in previous discussions

9. The Panel discussed the Administration's follow-up actions arising from the CoI report on 27 May, 22 July and 25 November 2013, and received deputations' views on measures proposed by the Administration for enhancing marine safety and the safety of passenger vessels on 17 September 2013.

Systemic reform

10. Members expressed support for the Administration's proposal in November 2013 to create four supernumerary directorate posts in the MD and in the Department of Justice to facilitate taking forward of systemic reform of MD and the marine-related legislative amendments. Members considered that the staffing proposal was necessary to make improvement to the systems, administration and management of MD. Some members pointed out that MD had been facing chronic manpower shortage, and it was reasonable to strengthen the directorate establishment of the Department to coordinate and implement the relevant reform measures. A member was opposed to the proposal, and expressed dissatisfaction on MD's performance in handling the collision incident. The member opined that it was ridiculous to "reward" MD with additional resources instead of taking disciplinary actions against the staff concerned. The Finance Committee approved the staff proposal on 7 February 2014.

Internal investigation

11. Members were gravely concerned about the errors committed by MD 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 MD. Members considered that an in-depth and impartial investigation into the deficiencies of the work of MD officials should be conducted to ascertain their responsibilities in the collision incident.

12. Some members considered that the impartiality of THB's internal investigation of MD was questionable as it would still 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.

13. At the Panel meeting on 27 May 2013, STH and the Director of Marine ("D of Marine") offered their apologies to the families of the deceased, the injured and the public regarding the collision incident. Notwithstanding, the Panel passed a motion expressing its great disappointment and regret towards the belated apologies from STH and D 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.

14. Some members expressed concern about the lack of progress in THB's internal investigation of MD staff and asked whether any suspected criminal cases had been identified and referred to the law enforcement agency for actions. The Administration held the view that it was not appropriate to reveal whether any cases involving MD staff which arose from the internal investigation had been referred to the Police for criminal investigation in order not to affect the latter's possible work. The Administration stressed that if, during the internal investigation, suspected criminal element was identified, the internal investigation team would refer the relevant matter to the law enforcement agency immediately for action. THB would not wait until the entire internal investigation had completed to make such referral.

Concerns about implementing vessel safety measures

15. Members pointed out the importance of the safety of passengers on board and urged the Government to take expeditious actions to implement the safety enhancement improvement measures. A member expressed disappointment at MD's inability to enforce the requirement of providing child lifejackets for all children on board passenger-carrying vessels after more than one year from the vessel collision incident in 2012.

16. However, some members noted the practical difficulties faced by the trade in implementing certain improvement measures such as coxswains' responsibility in ensuring that children wore lifejackets at all times when they were on board, appropriate ways to inform the passengers on board of the various safety measures, and the requirement for maintaining a passenger list for vessels other than spectator vessels. Members urged the Administration to take note of these difficulties and work out feasible implementation arrangements with the trade.

17. Some members expressed concern about the supply of trained manpower for the trade in implementing the safety measures, particularly the requirements for the minimum safe number of crew for a ferry or launch and for a look-out on each vessel carrying more than 100 passengers during the hours of darkness and in reduced visibility. The Administration advised that the work of look-out did not require highly demanding training or certification and that the coxswain of a vessel was already performing the job of a look-out at present. There had already been arrangement on high-speed crafts navigating at night that one of the crew was assigned look-out duties. MD undertook to discuss with the trade to clarify their questions regarding the look-out requirement and would facilitate the provision of sufficient trained personnel for the requirement by the various training institutes.

18. A member pointed out that even if those improvement measures involving the employment of additional crew and training would be implemented one year after the publication of the amended CoP, the trade had concern about meeting the deadline in view of the acute shortage of manpower in the marine industry. The member urged the Administration to exercise due care in taking forward the measures, otherwise operators might have to close down their business as a result. The Administration estimated that for implementing the improvement measures the trade would require about 70 additional seamen who had received basic sailor training. The Administration had taken note of the trade's concern about manpower shortage and had been liaising with the trade, training institutions, such as the Vocational Training Council and the Maritime Services Training Institute as

well as unions in exploring ways to improve the effectiveness of recruitment for the whole industry.

19. As for the proposed installation of equipment and systems on vessels for enhancing marine safety, members noted the doubt raised by the trade about the practical effectiveness of the AIS proposed by the Administration in helping vessels to avoid collision. The Administration advised that vessels equipped with AIS would allow the detection of their navigation status by other vessels (including ocean going vessels) which enabled early collision avoidance actions as necessary.

Need for consultation with the trade

20. Members urged the Administration to pay heed to the difficulties the trade would face in the course of implementing the new measures for enhancing marine safety, such as implications on manpower, increase in operating cost and the training required. They requested the Administration to continue to engage the trade in the discussion of the implementation schedule and work in collaboration with the relevant organizations to provide more training programmes to enhance the provision of manpower, especially technicians, for the trade.

21. A member pointed out the need for striking a balance between enhancing maritime safety within Hong Kong waters and avoiding escalation of operating costs in the trade. The Administration stressed that its priority was to safeguard maritime safety, but full co-operation from the trade would be necessary for any safety improvement measure to be effective. The Administration was aware that some of the proposed measures might have cost implications for vessel operators. The Administration would continue to discuss with the trade and would consider providing appropriate support and assistance where necessary to facilitate compliance with improved maritime safety measures by vessel operators.

Assistance to victims' families

22. Members urged the Government to provide assistance to the families of the victims of the collision incident including assistance in case victims' families intended to initiate civil proceedings against the Government. A member opined that the findings of the CoI report had revealed a clear case of maladministration by MD officials and that the Government should shoulder the responsibility for making compensation to the victims' families. Regarding MD's study on the feasibility of introducing a Marine Accident

Victims Assistance Fund which began in April 2013, members opined that the matter should be taken forward as soon as practicable.

Latest development

23. The Administration will update the Panel on the follow-up actions taken in respect of the CoI report at the meeting on 24 February 2014.

References

24. The Administration's papers providing updates on the follow-up actions arising from the CoI report and minutes of relevant meetings of the Panel are available at the following links –

Date of Panel meeting	Administration's paper	Minutes of meeting
27 May 2013	LC Paper No. CB(1)1073/12-13(03) http://www.legco.gov.hk/yr12-13/english/panels/e/dev/papers/dev0527cb1-1073-3-e.pdf	LC Paper No. CB(1)579/13-14 http://www.legco.gov.hk/yr12-13/english/panels/e/dev/minutes/e/dev20130527.pdf
22 July 2013	LC Paper No. CB(1)1522/12-13(01) http://www.legco.gov.hk/yr12-13/english/panels/e/dev/papers/dev0722cb1-1522-1-e.pdf	LC Paper No. CB(1)476/13-14 http://www.legco.gov.hk/yr12-13/english/panels/e/dev/minutes/e/dev20130722.pdf
17 September 2013	LC Paper No. CB(1)1522/12-13(01) http://www.legco.gov.hk/yr12-13/english/panels/e/dev/papers/dev0722cb1-1522-1-e.pdf	LC Paper No. CB(1)763/13-14 http://www.legco.gov.hk/yr12-13/english/panels/e/dev/minutes/e/dev20130917.pdf

Date of Panel meeting	Administration's paper	Minutes of meeting
25 November 2013	LC Paper No. CB(1)344/13-14(03) http://www.legco.gov.hk/yr13-14/english/panels/e/dev/papers/e-dev1125cb1-344-3-e.pdf	LC Paper No. CB(1)752/13-14 http://www.legco.gov.hk/yr13-14/english/panels/e/dev/minutes/e-dev20131125.pdf

Council Business Division 1
Legislative Council Secretariat
17 February 2014