

For Discussion  
on 25 November 2013

**Legislative Council Panel on Economic Development**  
**Update 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 updates Members on the latest position in respect of actions taken by the Government in following up the Report of the Commission of Inquiry into the Collision of Vessels near Lamma Island on 1 October 2012 (“the CoI Report”). The Administration last reported to this Panel on 22 July 2013.

**BACKGROUND**

2. The CoI Report, which was released on 30 April 2013, gave an account of the causes of the incident, pointed out inadequacies in the Marine Department (“MD”) in regulating local passenger vessels and recommended a series of improvement measures. Subsequently, the Transport and Housing Bureau (“THB”) and MD briefed the Panel at its meeting on 27 May this year on the actions taken in following up on the recommendations in the Report including for example, the setting up of the Steering Committee on Systemic Reform of the MD (“Steering Committee”) by THB to undertake a comprehensive systemic review and reform of the Department, as well as an Investigation Team led by the Permanent Secretary for Transport and Housing (Transport) to conduct an investigation into possible problems with MD officers in carrying out their duties in the past. The Panel was also updated on re-inspection and improvement measures taken immediately after the incident on enhancing marine safety, and the various short-, medium- and long-term improvement measures being considered. On 22 July this year, the Administration reported further to the Panel on progress made by MD in implementing various marine safety improvement measures. At the Panel special meeting on 17 September, we also heard views and suggestions of deputations from the maritime industry on the proposed measures.

## **LATEST PROGRESS**

### **(I) The Steering Committee**

3. As at mid-November 2013, the Steering Committee, chaired by the STH, has held six meetings since its setting up in May. The Steering Committee has agreed that a comprehensive review should be conducted along two fronts :

- (a) improvements to the operational procedures and safety standards of the Department; and
- (b) systemic and structural issues of MD, including its manpower and training aspects.

4. As for the long-term development of the Department, the Committee is particularly concerned about the manpower shortage of its two professional grades (i.e. Marine Officer and Surveyor of Ships). Hong Kong maritime sector has been faced with acute shortage of professionals with seafaring experience in past years because few young people are willing to join the seafaring career. Given seafarers (including surveyor of ships) have to possess practical experience before attaining professional qualification(s), coupled with the fact that additional working experience is required for MD posts, and the highly competitive remuneration offered by the private sector, MD has faced difficulties in recruiting qualified local seafarers. In this connection, the Steering Committee considers that MD should work towards revising the entry requirements currently applied to the two professional grades so as to recruit young candidates who have just attained the necessary academic qualifications to join the Department earlier. MD will review and enhance its existing training programmes for new recruits with a view to equipping them with the necessary professional skills and experience. MD will further develop the proposal after consultation with relevant professional bodies.

5. Regarding the review on the business processes and operational procedures of MD, the Steering Committee has invited the Efficiency Unit (“EU”) to carry out an organisation review of the Department. The first phase of the review, which focuses on the licensing, certification and regulatory work for local vessels in MD, has commenced. Preliminary findings suggest that there is room for improvements in terms of operational efficiency and

effectiveness, internal communication and collaboration, information transparency and external communication and records management. The EU is now consolidating the findings of the first phase review and will draw up improvement proposals by the end of 2013. The Steering Committee will study and consider the proposals and recommendations carefully. Upon completion of the first phase review, the EU will launch its next phase review which will cover regulatory work of MD on other aspects.

6. At the same time, the Steering Committee also discussed in detail the follow-up actions by MD to enhance marine safety, including the improvement measures to be implemented in the first and second phases . These improvement measures are detailed in section II below.

## (II) Marine Department's Follow-up Actions

7. Since our last report in July, MD and the trade have held ten meetings through the Local Vessels Advisory Committee and its Subcommittees as well as other occasions to discuss the implementation plan of various short-, medium- and long-term improvement measures to enhance marine safety, including their technical feasibility and related arrangements, etc. MD reiterates its determination to implement improvement measures so as to enhance marine safety, and it will continue discussions with the trade with a view to resolving together the problems faced by the trade. Considering the trade's capacity in adapting to the introduction of a series of improvement measures, MD proposes to adopt a phased approach in implementation of such measures.

### Improvement Measures in First Phase

8. After numerous rounds of discussion, the Local Vessels Advisory Committee endorsed at its meeting on 23 October the implementation of the following five specific measures in the first phase so as to enhance marine safety :

- (a) all vessels carrying more than 100 passengers, under certain circumstances, should have a crew member to assist look-out in addition to the coxswain;

- (b) all passenger vessels carrying more than 100 passengers should have a muster list;
- (c) reviewing the minimum safe number of crew for ferries and launches;
- (d) improving signages and directives relating to lifejackets on-board; and
- (e) requiring watertight doors below main deck be fitted with alarms to the wheelhouse, so as to indicate whether they are open or closed, and to send alerts when watertight doors are open.

9. Since the above measures do not require legislative amendments, MD will implement them by administrative actions and amendments to the Code of Practice (“CoP”). MD plans to gazette the amended CoP in the end of November. Item (d) will take effect three months after the gazettal, while items (b) and (e) will take effect six months afterwards. For those measures that involve employment of additional crew and training (i.e. items (a) and (c)), all operators will be required to comply with the amended CoP one year after gazettal.

#### Improvement Measures Proposed for Second Phase

10. In addition, the CoI Report also recommended various medium- and long-term improvement measures to enhance marine safety. After consultation with the trade, MD proposes to focus on the following two areas of work in the second phase :

- (a) requiring the installation of three pieces of equipment for safer navigation at certain vessels, i.e. Automatic Identification System (“AIS”), Radar and Very High Frequency (“VHF”) radio; and
- (b) requiring the provision of child lifejackets for every child on board.

*(a) Proposed Installation of AIS, Radar and VHF Radio*

11. Currently, only some of the local vessels<sup>1</sup> are required by MD to be fitted with AIS, radar and VHF radio. To prevent the recurrence of similar vessel collision incidents, the CoI Report recommended that all ferries and launches permitted to carry more than 12 passengers should be required to carry a VHF radio, and those permitted to carry more than 100 passengers should also be equipped with AIS and radar. MD considers installation of the above navigation equipment on vessels will help raise the overall marine safety standard and enhance passenger safety :

- (i) AIS automatically provides data about a vessel to other vessels and the Vessel Traffic Centre. Installation of AIS allows detection of navigation status by other vessels (including ocean-going vessels) which enables early collision avoidance actions as necessary. For vessels equipped with AIS, they could be more easily located in emergency situations which will facilitate more expeditious search and rescue operations. The AIS navigational data could also be used for future traffic management planning and accident investigation;
- (ii) Radar helps detect traffic conditions and predict collision risks. Avoidance actions could then be taken in the earliest opportunity, in turn enhancing navigation safety. It is particularly useful during times of restricted visibility (e.g. heavy fog or rain); and
- (iii) VHF radio enables vessels in emergency to summon assistance from the Vessel Traffic Centre and nearby vessels, as well as communicate with and report to government vessels handling emergency situations (e.g. Marine Police and Fire Services launches).

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<sup>1</sup> High speed ferries granted with speed restriction exemption permits and oil carriers over 50 metres in length licensed after June 2010 are required to install AIS. As for radar, a ferry or launch that operates a franchised service or a licensed service that plies outside the Victoria port is required to be fitted with radar. Vessels of over 300 gross tonnage registered in the Mainland or Macau and trading to or from Hong Kong, local vessels that participate in the vessel traffic service and ferries that ply outside the Victoria port are required to carry VHF radio.

12. There are views amongst operators and coxswains of local vessels that AIS may not bring direct and clear benefits to them. Given the constraints of local vessels, AIS to a greater extent facilitates ocean-going vessels more than local vessels to locate nearby AIS-equipped local vessels for collision avoidance. Nevertheless, AIS is still substantively conducive to enhancing overall marine safety and the safety of passengers on board. As for concerns about the additional cost for equipment installation and skills training, MD will further discuss the implementation details with the trade and provide appropriate assistance where necessary. Meanwhile, MD is liaising with the trade to arrange relevant training courses.

*(b) Proposed Provision of Child Lifejackets for Every Child on Board*

13. Under the current law, local vessels are generally required to carry adult lifejackets for all persons on board and child lifejackets for 5% of persons on board. In other words, under some circumstances, the required number of child lifejackets could be less than the actual number of children on board. The CoI Report recommended that sufficient child lifejackets should be carried for every child on board. Similar requirement is also in place in various overseas jurisdictions for example, Southampton in the UK and Sydney in Australia. In addition, the International Convention for the Safety of Life at Sea (“SOLAS Convention”) requires that the number of child lifejackets shall be “equal to at least 10% of the number of passengers on board...or such greater number as may be required to provide a lifejacket for each child”. Although the SOLAS Convention is applicable to ocean-going vessels only, its requirements can also be taken as reference.

14. The trade has indicated that there would be difficulties in implementing the above proposal. They pointed out that it would be practically difficult for them to forecast and ascertain the actual number of children passengers on board, and were concerned that they would not be able to meet the new requirements in their operations. This is especially the case for ferry operators. MD understands the operational constraints of the trade, and will further discuss with them on feasible arrangements in detail with a view to resolving together the implementation problems.

## *Consultation*

15. The above proposed improvement measures in the second phase will require legislative amendments. The Administration plans to consult the Local Vessels Advisory Committee on the final details of the measures in December 2013 / January 2014, and subject to the outcome of the consultation, seek the endorsement of the LegCo Panel on Economic Development within Q1 2014, with a view to commencing preparation of legislative proposals within 2014.

## *Other Medium- and Longer- Term Measures*

16. Apart from measures in the first and second phases, MD is actively following up on other medium- and longer- term improvement measures recommended in the CoI Report and by other marine experts. They include the rest arrangements for crew, practical operational assessment for coxswains, setting up of a Marine Traffic Accident Victims Assistance Fund, increasing third party risks insurance coverage and making a number of technical amendments to MD's drawing approval and survey aspects. The Department will continue to consult the trade on the above measures in 2014.

## (III) Internal Investigation

17. With respect to possible problems with MD officers in carrying out their duties in the past as mentioned in the CoI Report, including possible maladministration and negligence of duty, STH has instructed the Permanent Secretary for Transport and Housing (Transport) to lead an internal investigation. An Investigation Team has been set up to identify any possible responsibilities and to ensure the investigation is comprehensive, thorough and fair.

18. Since its establishment in late June, the Investigation Team has been conducting its work in full swing. The current investigation covers a considerable period of time and involves a large number of officers. The Investigation Team has to consult voluminous amount of files and documents in MD that are dated back to as early as 1995 and 1996, and seek legal advice in the process. It has so far completed the general vetting of the files and documents, and asked relevant officers by batches to provide information and attend individual interviews. The number of MD officers involved in the investigation is more than that of the 23 officers who testified before the CoI,

basically covering all of the officers concerned who had handled the “Lamma IV”, including serving as well as retired officers in both directorate and non-directorate ranks.

19. In order to complete the investigation at the earliest opportunity, the Investigation Team is taking forward its investigation work in tandem in various areas, including plan approval, survey of vessels and inspection of life-saving appliances on board, etc. THB has always maintained that if the process of investigation reveals suspected crime, it will be referred to the law enforcement agencies immediately for actions. THB will not defer until the completion of the entire investigation for such referrals. If the outcome of the internal investigation reveals evidence that any staff members, irrespective of their rank, are suspected of dereliction/negligence of duty, misconduct or issues relating to management responsibilities when carrying out duties in the past, the Government will take disciplinary actions against the officers concerned according to established procedures, including making recommendations to the Civil Service Bureau to proceed with disciplinary inquiry in accordance with the Public Service (Administration) Order and the relevant regulations<sup>2</sup>. Estimating on the basis of current progress of work and circumstances, it is expected that the Investigation Team will submit a report to the STH in the first quarter of next year.

#### (IV) Criminal Investigation

20. As for the criminal investigation, the Police is conducting a full investigation into the vessels collision incident from all fronts to ascertain if criminal liability was/might be involved. The Police will continue to keep in close contact with the Department of Justice on the investigation work concerned. The Administration has reiterated that the Department of Justice would take forward the criminal investigation of the incident and further prosecutions (if any) in a fair and impartial manner, irrespective of whether the persons investigated are government officials and irrespective of their positions.

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<sup>2</sup> To initiate disciplinary inquiries against officers alleged to have committed misconduct in accordance with the Public Service (Administration) Order ("Order") and related regulation so as to determine whether the alleged misconduct can be established and to impose punishment for the established misconduct according to the Order.



(V) Communication with the Family Members

21. In the past six months, STH and his Under Secretary have respectively met four times with families of the deceased, with some 30 to 50 members of families attended on each occasion. Both sides communicated on matters of mutual concern, including the progress of internal investigation, the issues of liability and compensation, civil claims and legal aid, the work progress of the Steering Committee and MD's follow-up actions on enhancing the safety of passenger carrying vessels and marine safety, etc. THB has also assisted in specific requests made by individual families. Furthermore, the Social Welfare Department has continued to follow-up on the families in need by providing them with necessary assistance, including psychological counselling and seeing to their welfare needs. Separately, the Secretary for Justice and the Director of Public Prosecutions had also met with the families.

22. The Government learned that some families of victims intend to initiate civil proceedings against the Government. In response to their requests, facilitating arrangement has been made and the Department of Justice has assigned a government counsel to liaise and communicate with the legal representatives of the family members.

**ADVICE SOUGHT**

23. Members are invited to note the above follow-up actions undertaken by the Government and provide views and comments.

Transport and Housing Bureau  
Marine Department  
November 2013