



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

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By Fax (2523 0030)

27 March 2015

Miss Joyce CHAN
AS for Transport & Housing(Transport)10C
21/F, East Wing
Central Government Offices
2 Tim Mei Avenue
Tamar
Hong Kong

Dear Miss CHAN

**Merchant Shipping (Control of Harmful
Anti-Fouling Systems on Ships) Regulation (L.N. 54 of 2015)**

I am scrutinizing the legal and drafting aspects of the subject Regulation.

Under section 2 of the Regulation, "anti-fouling system" is defined to mean "a coating, paint, surface or device that is used on a ship to control or prevent attachment of unwanted organisms". In the Chinese text, "unwanted organisms" is "不利航行的生物". However, it is noted in footnote 1 of the LegCo Brief on the Regulation that the Chinese text of "unwanted organisms" is "不利的生物". Further, in paragraph 2 of a Chinese document (由海事處航運政策科於2007年11月13日(會議文件第5/2007號)發給本地船隻諮詢委員會關於本地船隻實施《國際控制船舶有害防污底系統公約》), "unwanted organisms" is referred to as "不利生物". A Chinese version of the Convention (i.e. 2001年《國際控制船舶有害防污底系統公約》) is attached to this Chinese document, in which Article 2(2) refers "unwanted organisms" as "不利生物". Please explain the differences in the Chinese meaning of "unwanted organisms".

Section 9 provides for the Director of Marine's power to cancel certain certificates in respect of Hong Kong ships. Would it be justified to provide for a mechanism for the certificate holder to apply to review the Director's decision?

Section 16 seems to provide for the Director of Marine's power to survey non-Hong Kong ships and issue certificates at the request of other Convention countries. It is noted that section 16(a) and (b) refer to "a non-Hong Kong ship". However, section 16(c) makes no reference to a ship, whether Hong Kong ship or non-Hong Kong ship in respect of which the Director may endorse a certificate. Please clarify.

Section 17 seems to provide for the Director of Marine's power to request Convention countries to survey Hong Kong ships and issue certificates. Similarly, it is noted that section 17(a) and (b) refer to "a Hong Kong ship". However, section 17(c) makes no reference to a ship, whether Hong Kong ship or non-Hong Kong ship in respect of which the Convention countries may endorse a certificate at the request of the Director. Please clarify.

To enable the House Committee to decide how to proceed with the Regulation at the meeting on 10 April 2015, I would appreciate if you could let me have the said information (in both Chinese and English with soft copy to Ms Charlie HO at cwsho@legco.gov.hk) by 31 March 2015.

Yours sincerely,



(Winnie LO)
Assistant Legal Adviser

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