

政府總部  
運輸及房屋局  
運輸科  
香港添馬添美道 2 號  
政府總部東翼



Transport and  
Housing Bureau  
Government Secretariat

Transport Branch  
East Wing, Central Government Offices,  
2 Tim Mei Avenue,  
Tamar, Hong Kong

本局檔號 Our Ref.: THB(T) PML CR 8/10/70/3  
來函檔號 Your Ref.: LS/S/25/14-15

電話 Tel: (852) 3509 8162  
傳真 Fax: (852) 2523 0030

31 March 2015

Miss Winnie Lo  
Legal Service Division  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Miss Lo,

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

Thank you for your letter dated 27 March 2015 on the captioned subject. Our replies to the various matters raised in your letter are set out below.

**Chinese translation of “unwanted organisms”**

2. We note that “unwanted organisms” is referred to as “不利生物” in the Chinese text of the “International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001” (“the Convention”). From the law drafting perspective, the term “不利生物” may not be entirely clear when used to explain the meaning of “防污底系統” in the “Interpretation” section of the Chinese text of the Merchant Shipping (Control of Harmful Anti-Fouling Systems on Ships) Regulation (“the AFS Regulation”). We have therefore adopted the phrase “不利航行的生物” to clarify the meaning of “不利” in the context of anti-fouling systems on ships.

**FAXED**  
DATE: 31.3.2015

### Cancellation of International Anti-Fouling System Certificates

3. Under section 9 of the AFS Regulation, the Director may cancel an International Anti-Fouling System Certificate of a Hong Kong ship only if he has reasonable grounds to believe that the Certificate was issued or endorsed on the basis of false or erroneous information. To satisfy the “condition” for cancellation, the Director must conduct investigation for fact-finding purpose to establish, with evidence, that the information provided by the ship-owner in his application for the issue or endorsement of the Certificate is false or erroneous. Besides, section 9 obliges the Director to give reasons for cancelling the Certificate in his notice issued to the owner or master of the ship. Since the Director may only cancel the Certificate based on the facts of the case which involve no value judgment and the shipowner, if not satisfied, may dispute the grounds for cancellation through available legal or administrative means (such as judicial review or a complaint against the department’s administration or decision), we do not think that it is necessary to provide for a separate appeal / review mechanism in the statute.

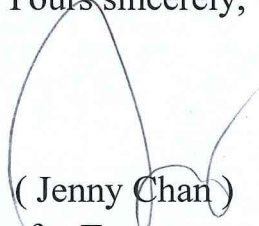
### Endorsement of International Anti-Fouling System Certificates

4. Section 16 and 17 seek to implement Regulation 3 of Annex 4 of the Convention. Section 16 provides that the Director may, at the request any Convention country, survey a non-Hong Kong ship that is within the waters of Hong Kong and issue an IAFS Certificate or endorse on an International Anti-Fouling System Certificate in respect of a non-Hong Kong ship.

5. Section 17 allows the Director to request any Convention country to survey a Hong Kong ship, and issue an International Anti-Fouling System Certificate or endorse on an International Anti-Fouling System Certificate in respect of a Hong Kong ship.

6. Should you have any enquiries, please feel free to contact me at 3509 8162. Thank you.

Yours sincerely,



( Jenny Chan )

for Secretary for Transport and Housing

c.c.

DoJ (Attn.: Ms. Carmen CHU) Fax: 2845 2215

(Attn.: Mr. Jonathan LUK) Fax: 2869 1302

MD (Attn: Mr. Ying-keung LAI) Fax: 2545 1535