

立法會
Legislative Council

LC Paper No. CB(4)1122/14-15
(These minutes have been
seen by the Administration)

Ref : CB4/SS/11/14

**Subcommittee on Merchant Shipping (Prevention of Pollution by
Garbage) Regulation and Merchant Shipping (Prevention of Pollution
by Garbage) Regulation (Repeal) Regulation**

**Minutes of the first meeting held on
Monday, 27 April 2015, at 4:30 pm
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon Cyd HO Sau-lan, JP (Chairman)
Hon Albert CHAN Wai-yip
Hon Steven HO Chun-yin
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Dr Hon Kenneth CHAN Ka-lok

Members absent : Hon SIN Chung-kai, SBS, JP
Hon TANG Ka-piu, JP

Public Officers attending : Agenda item II

Ms Jenny CHAN
Principal Assistant Secretary for Transport and
Housing (Transport)10

Miss Joyce CHAN
Assistant Secretary for Transport and Housing
(Transport)10C

Mr LAI Ying-keung
Chief, Maritime Policy
Marine Department

Mr FONG Chung-yee
Senior Surveyor of Ships/Maritime Policy
Marine Department

Ms Francoise LAM
Senior Assistant Law Draftsman (Marine Legislation)
Department of Justice

Mr Alan CHONG
Senior Government Counsel
Department of Justice

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

Staff in attendance : Miss Evelyn LEE
Assistant Legal Adviser 10

Ms Shirley TAM
Senior Council Secretary (4)5

Ms Zoe TONG
Legislative Assistant (4)5

Action

I. Election of Chairman

Election of Chairman

Ms Cyd HO, the member with the highest precedence among those present at the meeting, presided over the election of the Chairman of the Subcommittee. She invited nominations for the chairmanship of the Subcommittee.

2. Ms Cyd HO was nominated by Dr Kenneth CHAN and the nomination was seconded by Mr Frankie YICK. Ms Cyd HO accepted the nomination. There being no other nomination, Ms HO was elected Chairman of the Subcommittee.

3. Members agreed that there was no need to elect a Deputy Chairman.

Action

II. Meeting with the Administration

- (L.N. 74 of 2015 — Merchant Shipping (Prevention of Pollution by Garbage) Regulation
- L.N. 75 of 2015 — Merchant Shipping (Prevention of Pollution by Garbage) Regulation (Repeal) Regulation
- File Ref: THB(1)PML 8/10/90/8 — Legislative Council Brief issued by the Transport and Housing Bureau
- LC Paper No. LS58/14-15 — Legal Service Division Report on Subsidiary Legislation Gazetted on 10 April 2015
- LC Paper No. CB(4)848/14-15(01) — Letter from the Assistant Legal Adviser to the Administration dated 14 April 2015
- LC Paper No. CB(4)848/14-15(02) — Letter dated 22 April 2015 from the Administration in response to the Assistant Legal Adviser's letter at (01)
- LC Paper No. CB(4)848/14-15(03) — Further letter from the Assistant Legal Adviser to the Administration dated 16 April 2015
- LC Paper No. CB(4)848/14-15(04) — Letter dated 23 April 2015 from the Administration in response to the Assistant Legal Adviser's letter at (03)
- LC Paper No. CB(4)848/14-15(05) — Background brief prepared by the Legislative Council Secretariat)

4. The Subcommittee deliberated (index of proceedings attached at the **Annex**).

Action

Follow-up actions to be taken by the Administration

- Admin 5. To facilitate further discussion, the Administration was requested to provide a written response on whether there were any cases following the implementation of the trawl ban that the coral areas in Hong Kong were left with trawl nets affecting coral growth.

(Post-meeting note: The Administration's written response was issued to members vide LC Paper No. CB(4)955/14-15(02) on 11 May 2015.)

6. The Subcommittee completed examination of the two pieces of subsidiary legislation. Members agreed that if necessary, a second meeting might be convened to meet with the Administration.

(Post-meeting note: As requested by Hon Albert CHAN and with the concurrence of the Chairman, two meetings were subsequently held on 12 and 26 May 2015 respectively to discuss the matter of discharge of garbage from ships.)

Legislative timetable and extension of scrutiny period

7. Members noted that it was necessary to extend the scrutiny period of the two items of subsidiary legislation to the Council meeting of 3 June 2015, and the Chairman would move the relevant resolution at the Council meeting of 13 May 2015. If the scrutiny period was extended, the Subcommittee would report its deliberations to the House Committee on 22 May 2015.

(Post-meeting note: The 28-day scrutiny period for the Regulations expired at the Council meeting of 13 May 2015 as the meeting was unable to deal with the motion to extend the scrutiny period.)

III. Any other business

8. There being no other business, the meeting ended at 5:56 pm.

**Proceedings of the first meeting of the Subcommittee on
Merchant Shipping (Prevention of Pollution by Garbage) Regulation and
Merchant Shipping (Prevention of Pollution by Garbage) Regulation (Repeal) Regulation
on Monday, 27 April 2015, at 4:30 pm
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda item I – Election of Chairman			
000904 – 001020	Ms Cyd HO Dr Kenneth CHAN Mr Frankie YICK	Election of Chairman	
Agenda item II – Meeting with the Administration			
001021 – 001549	Chairman Administration	Legislative timetable Briefing by the Administration on the Merchant Shipping (Prevention of Pollution by Garbage) Regulation ("the new Garbage Regulation") and the Merchant Shipping (Prevention of Pollution by Garbage) Regulation (Repeal) Regulation ("the Repeal Regulation")	
001550 – 002534	Chairman Mr Steven HO Administration	<p>Mr HO and the Chairman enquired about the differences between the new Garbage Regulation and existing Merchant Shipping (Prevention of Pollution by Garbage) Regulation (Cap. 413J) ("the existing Garbage Regulation"), and the impact of the new Garbage Regulation on the relevant trades and vessel operators.</p> <p>The Administration explained that there would not have significant impact because –</p> <p>(a) Hong Kong ship operators should have no problem in complying with the new Garbage Regulation in respect of discharge of garbage because the cleaning agents and additives (contained in cargo hold wash water, deck wash water or external surfaces wash water) for ships available in the market should have already specified whether they contained substances classified as Harmful to the Marine Environment ("HME") under Annex V of the International Convention for the Prevention of Pollution from Ships ("MARPOL Annex V");</p> <p>(b) the Marine Department ("MD") had prepared some standard templates of placard for the usage of some 5 800 Hong Kong ships of 12 metres or more in length overall which would be required to display a placard to notify the crew and passengers of the applicable disposal requirements;</p> <p>(c) MD had prepared different kinds of Garbage Management Plan ("GMP") samples for the reference of some 4 400 Hong Kong ships of 100 gross tonnage ("GT") or above and ships certified to carry 15 or more persons which would be required to carry a GMP; and</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(d) on the requirement of keeping a Garbage Record Book ("GRB") imposed on ships of 400 GT or above and ships certified to carry 15 or more persons engaged in international voyage for more than one hour, MD would issue guidelines and arrange seminars (if needed) to help masters and crew members of over 700 ships (including river trade vessels and local fishing vessels) who would be responsible for keeping the GRB; and</p> <p>For the trade's compliance with the requirements, the Administration advised that –</p> <p>(a) IMO had issued guidelines to provide direction on complying with the requirements for a ship's GMP, including the procedures for garbage collection, processing and transportation from the source of generation to the reception facility; and</p> <p>(b) in relation to GRB, entry for each discharge of garbage into the sea or to a reception facility and each completed incineration should include the date and time of the discharge/incineration, position of the ship, category of the garbage and the estimated amount of garbage discharged/incinerated.</p>	
002535 – 003557	Chairman Mr Albert CHAN Administration	<p>Mr Albert CHAN expressed grave concern about illegal dumping of garbage into the waters of Hong Kong as a lot of garbage, including many used syringes, had been found at beaches in Southern Lantau.</p> <p>The Administration advised that MD had outsourced the marine cleansing services, including marine refuse scavenging and collection of domestic refuse from local vessels and ocean going vessels ("OGVs"). The contractor operated 70 vessels, including three sea cleaner class scavenging vessels chartered by the Government. Under the cleansing services, about 15 000 tonnes of refuse were collected each year, with some 11 000 tonnes of floating refuse, over 2 000 tones of refuse from local vessels and over 1 000 tonnes of refuse from OGVs in 2014.</p> <p>Mr CHAN said he observed that the contractor on wooden boats was using a net scooper to collect floating refuse, and urged MD to source contractor services using modern equipment. He cautioned MD that illegal discharge of garbage from the Mainland ships, particularly at nights, was serious but it was not properly addressed by the current enforcement actions which should be stepped up to tackle the problem.</p> <p>The Administration advised that the new Garbage Regulation was to govern the discharge of garbage from ships during their normal operation, whereas section 4D of the Summary Offences Ordinance (Cap. 228) ("SOO") stipulated that, among other things, it was an offence for any person who without lawful authority or excuse</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>deposited or caused or permitted to be deposited any litter into the waters of Hong Kong or in any place (not being a place in respect of which management or control was vested in a public officer or public body). Further, according to the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap. 570) ("FP(PCO)O"), marine littering under section 4D(1) of SOO was one of the scheduled offences for which a fixed penalty was to be payable by the person who was given a notice under section 3(1) of FP(PCO)O. While it was difficult to enforce against illegal discharge of garbage at nights, MD would enhance patrol inspections after receiving a report of an alleged offence. It advised that there were 10 cases of fixed penalty and one summons action for unlawful deposit of marine litter made under SOO in 2014.</p> <p>Mr CHAN suggested that the Administration could install the closed circuit television ("CCTV") or other advanced surveillance equipment at some black spots to curb such illegal activities.</p>	
003558 – 003858	Chairman Mr Frankie YICK Administration	<p>Mr YICK requested MD to provide early assistance to the affected ship operators to enable them to comply with the new requirements under the new Garbage Regulation which was to commence operation on 1 July 2015.</p> <p>He echoed Mr Albert CHAN's concern about the large volume of floating refuse in Hong Kong waters, over 10 000 tonnes of them were collected in 2014. He considered that the Administration could, apart from educating the public, gauge information from the trade to identify black spots of illegal discharge of garbage and make use of advanced surveillance cameras at those spots to collect evidences of any offences to deter such kind of illegal activities.</p> <p>The Administration undertook to review the ways to step up relevant enforcement actions.</p>	
003859 – 005001	Chairman Dr Kenneth CHAN Administration	<p>Dr CHAN considered that MD was responsible for monitoring the contractors in carrying out marine refuse cleansing services, especially for refuse found near the seashore of Hong Kong. While understanding the difficulties in enforcing marine-related laws in the Hong Kong waters, he enquired about the current enforcement actions under the existing Garbage Regulation and the new enforcement actions to be taken under the new Garbage Regulation.</p> <p>The Administration advised that since practically the discharge of all garbage from ships into Hong Kong waters was prohibited under the existing Garbage Regulation, enforcement actions were and would continue to be taken against any of such offences. MD would enforce the new requirements under the new Garbage Regulation, e.g. the carriage of GMP and keeping of GRB, through random inspections of non-Hong Kong ships and annual surveys of local vessels.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration added that Hong Kong had the responsibility to implement port state control requirements under the Memorandum of Understanding on Port State Control in the Asia Pacific Region ("Tokyo MOU"), under which MD had to conduct random inspections of 5% of all non-local ships calling Hong Kong on, inter alia, the requirements of the new Garbage Regulation. It was expected that OGVs would not have difficulties in complying with these new requirements under the new Garbage Regulation as they were already in place at international ports.</p> <p>In reply to the Chairman on MD's resources in enforcing the requirements of the new Garbage Regulation and against marine littering, the Administration explained that the Government surveyors were/would be responsible for enforcing the existing and new Garbage Regulations in respect of ships, whereas Marine Officers and Marine Inspectors, who outnumbered Government surveyors, were responsible for enforcing SOO and FP(PCO)O against persons committing offences on marine littering.</p>	
005002 – 011010	Chairman Administration	<p><u>Examination of the provisions</u></p> <p><u>The Repeal Regulation</u></p> <p><u>The new Garbage Regulation</u></p> <p><u>Part 1</u></p> <p><u>Section 2</u></p> <p>In response to the Chairman, the Administration advised that fixed or floating platform was not found in Hong Kong, and animal carcasses did not include seafood.</p> <p><u>Section 3</u></p> <p>The Chairman drew the Administration's attention to a similar concern in respect of application to ships raised during the scrutiny of the Merchant Shipping (Control of Harmful Anti-Fouling Systems on Ships) Regulation ("the AFS Regulation") (LC Paper No. CB(4)951/14-15). The concern was, among others, types of ship exempted under the AFS Regulation and the definitions of "warship" and "naval auxiliary".</p> <p><u>Section 5</u></p> <p>In response to the Chairman's enquiry, the Administration advised that cleaning agents and additives complying with the MARPOL Annex V's requirements were available in the market with proper certificates and descriptions, it would liaise with the manufacturers to</p>	The Admin to follow up as per para. 5 of the minutes

Time marker	Speaker	Subject(s)	Action required
		step up publicity about the said cleaning agents and additives.	
011011 – 011425	Chairman Dr Kenneth CHAN Administration Mr Frankie YICK	<p><u>Section 6</u></p> <p>In reply to Dr CHAN's enquiry on the purpose of section 6 which governed the discharge of garbage from ships within special areas permitted in certain circumstances, the Administration advised that the application of the new Garbage Regulation applied to a Hong Kong ship wherever it might be. If an owner or master of a Hong Kong ship was found committing an offence under MARPOL Annex V outside the Hong Kong jurisdiction, the ship concerned would be subject to regulations imposed by the port authority concerned. Further, the Administration confirmed that it would not take enforcement actions against a ship concerned in respect of an offence which had already been penalized by another port authority.</p> <p>Discussion on the notification system between port authorities of the flag states concerned.</p>	
011426 – 012512	Chairman Administration	<p><u>Part 3</u></p> <p>Discussion on the language requirements for placards and GRB.</p> <p><u>Part 4</u></p> <p>In response to the Chairman, the Administration advised that section 16(3) provided similar ship inspection powers as those set out under section 13(3) of the AFS Regulation.</p>	
Agenda item III – Any other business			
012512 – 012618	Chairman	Closing remarks	