

For discussion
on 27 May 2015

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 of the follow-up actions taken by the Government after the release of the Report of the Commission of Inquiry into the Collision of Vessels near Lamma Island on 1 October 2012 (“CoI”).

BACKGROUND

2. The Government briefed this Panel at its meetings on 27 May, 22 July and 25 November 2013, and 24 March 2014, on the major follow-up actions taken by the Government since the release of the CoI Report on 30 April 2013, including the various measures being taken forward by the Marine Department (“MD”) on enhancing marine safety, and the reviews undertaken by the Steering Committee on Systemic Reform of the MD (“Steering Committee”).

3. As regards the internal investigation on possible problems with MD officers in carrying out their duties in the past in relation to *Lamma IV*, the Government informed this Panel at its meeting on 28 April 2014 of the result of the internal investigation conducted by the Transport and Housing Bureau.

LATEST PROGRESS

(I) The Steering Committee on Systemic Reform of the Marine Department

4. The Steering Committee was set up in May 2013 to steer and supervise MD in undertaking a comprehensive systemic review and reform. It is chaired by the Secretary for Transport and Housing (“STH”) who appointed Ms Alice TAI Yuen-ying and Mr Irving KOO Yee-yin as members for two years. In order to continue to oversee the related work, and follow up the findings by the overseas expert consultant (see paragraph 28 below), STH has re-appointed Ms TAI and Mr KOO for one more year till May 2016.

5. In the past two years, the Steering Committee has held 15 meetings, and has been focusing its work on three areas, namely reviewing and improving the business processes and operational procedures of MD, the manpower strategy and training matters of the Department, and enhancing marine safety by means of improvement measures. A Task Force on Reform (“Task Force”) has also been formed in MD to support the work of the Steering Committee and to co-ordinate implementation of the various improvement measures.

(i) Review on Business Processes and Operational Procedures of MD

6. With the assistance of the Efficiency Unit, the Task Force conducted a two-phased organisational review on the business processes and operational procedures of MD. The first phase of the review, which primarily examined the licensing, certification and regulatory work for local vessels, was completed in end February 2014. Review findings revealed that there is room for MD to improve its operational efficiency and effectiveness, internal communication and collaboration, information transparency and external communication and records management, and improvement measures were recommended. The Steering Committee discussed the findings and supported the review recommendations, and MD has since March 2014 been implementing the recommended measures, which focused on strengthening communication between frontline staff and the management; facilitating different divisions to establish mechanisms to delineate their roles and responsibilities; developing systems and procedures to enhance reporting and documentation; rationalising work arrangement to improve operational efficiency; and making use of information technology to improve storage and shared use of information.

7. The second phase of the review, which was also completed in early 2015, was mainly focused on work related to ship safety and navigational safety and had put forward improvement proposals. With the Steering Committee’s support, action is being taken by MD in drawing up detailed implementation plans for the proposals, covering such areas as automation of workflow with regard to plan approval and survey of vessels, formulation of related guidelines and implementation of an “Enterprise Information Management System”.

(ii) Manpower Strategy and Training Matters of MD

8. MD has been facing prolonged recruitment difficulties and manpower shortage regarding two major professional grades of MD’s establishment, namely Marine Officer and Surveyor of Ships. Having examined the maritime manpower supply situation and drawn reference to the practice of maritime authorities in other jurisdictions, MD has recently, on a trial basis, adjusted the appointment requirements of the two grades. The entry requirement regarding applicants’ post-qualification working experience as well as language proficiency has been revised with a view to widening the pool of eligible candidates without compromising the professional service standards of MD. MD will keep in view the result of the recruitment exercises and draw up a long-term recruitment strategy. At the same time, an enhanced training programme is being devised for the two professional grades to cope with the revised entry requirements.

(iii) Follow-up Actions on Enhancing Marine Safety

9. For the purpose of enhancing marine safety, MD has introduced various improvement measures in the past two years, and has been in close consultation with the stakeholders to actively follow up work in this area.

First-phase Improvement Measures

10. On 29 November 2013, MD introduced the first phase of improvement measures by amending the relevant code of practice, including enhancing look-out by crew, requiring the provision of a muster list, reviewing the minimum safe manning scale, improving the signage and directives relating to lifejackets, and requiring fitting watertight-door alarms in wheelhouse. These measures have been fully implemented in 2014.

Second-phase Improvement Measures

11. The second-phase improvement measures mainly relate to the requirement of installing navigational and communication equipment on passenger vessels and enhancing the provision of lifejackets on board.

Proposed Installation of Navigational and Communication Equipment

12. The CoI Report recommended that local passenger vessels permitted to carry more than 100 passengers should be required to install Automatic Identification System (“AIS”) and radar, and those permitted to carry more than 12 passengers should be required to carry Very High Frequency (“VHF”) radiotelephone. MD concurs that these proposed requirements will be conducive to enhancing the overall marine safety and the safety of passengers on board. On installation of AIS, in addition to local passenger vessels, MD proposes to also extend the requirement to local cargo vessels carrying dangerous goods or of 300 gross tonnage or above on account of their large size and the dangerous nature of goods they carried, which pose greater potential hazard to marine safety. The proposed requirement was agreed by the trade at a meeting of the Local Vessels Advisory Committee (“LVAC”) held in April 2014.

13. The Government is currently working on the proposed legislative amendments. In addition to requiring local vessels to install AIS, radar and VHF radiotelephone, their related operational requirements will also be covered. Details of the proposals are set out at the Annex. Subject to this Panel’s views, we will prepare to amend the legislation with a view to introducing them into the Legislative Council (“LegCo”) in the 2015-16 legislative year.

14. In the meantime, with a view to encouraging early installation of AIS on vessels, MD launched a scheme in November 2014 to fully subsidise the trade to install AIS on local passenger vessels, subject to a ceiling of \$26,700 for each eligible vessel. MD will also provide half subsidy to cover the cost of installation of radar, and the scheme will be introduced in a later time of the 2015-16 financial year.

Proposed Measures Relating to Lifejackets

15. Under the prevailing law, local vessels are generally required to carry child lifejackets for 5% of the total number of persons on board. The CoI Report recommended that sufficient child lifejackets should be carried for every child on board all classes of vessels.

16. During MD's consultation with the trade, the latter has expressed strong reservation about providing a large number of child lifejackets on board. While the trade recognises the community's concern about marine safety, it is pointed out that the provision of a child lifejacket for every child passenger would not only cause extra financial burden, but also practical difficulties in implementation. Such include difficulties in forecasting and ascertaining the number of child passengers on board before each journey, insufficient space on vessels to store more child lifejackets, and the risk of an adult mistakenly putting on a child lifejacket and vice versa in the chaos of an emergency situation. MD understands the trade's concerns, and has commissioned a consultancy to explore the feasibility of developing a type of lifejacket that is suitable for use by both adult and child. The feasibility study is expected to be completed within this year. Subject to its outcome and subsequent consultation with the trade, we will further report to this Panel.

Third-phase Improvement Measures

17. The third-phase improvement measures focus on those proposals relating to the professional training/assessment and medical examination of coxswains, rest arrangements of crew, a standard for the attachment of seats to the deck, and safety measures for major events at sea.

18. After consultation with the trade, MD has drawn up a number of measures to enhance the professional training/assessment of coxswains. With the trade's endorsement, MD amended the applicable examination rules for Coxswain Grade 3 Certificate so that, with effect from 2 January 2015, candidates are required to complete a recognised maritime course and the required in-service training. The trade also endorsed the proposal that all coxswains of local passenger vessels should be required to attend a one-day refresher course once every three years. Legislative amendments will be made for implementation of such proposed requirement, and prior to that, coxswains could attend the refresher course on a voluntary basis. In addition, MD is consulting the trade on a proposal that candidates of Coxswain Grade 1 Certificate and Pleasure Vessel Operator Grade 1 Certificate should pass a practical operation assessment, which simulates real-life navigational scenarios, as a condition for granting relevant certificates of competency to operate large-size local passenger vessel or pleasure vessel which is let for hire. Furthermore, MD has commissioned a consultancy to conduct risk assessment on local passenger vessels plying at faster speed and to recommend appropriate safety and control measures for such vessels, including professional training required of their coxswains. MD will study the consultancy recommendations after its completion, which is expected in mid-2015, and will further consult the trade.

19. In respect of medical fitness of coxswains and rest arrangements of crew, MD is consulting the trade on proposals to require coxswains of local passenger vessels carrying more than 100 passengers to undergo periodic medical examinations and to devise a guideline on rest arrangements for crew on local passenger vessels.

20. As regards the specification of a standard for the attachment of seats to the deck, with the trade's endorsement, in November 2014, MD amended the relevant code of practice and gazetted the specified empirical standard for seat attachment. The relevant standard took effect in March 2015.

21. Regarding safety measures for major events at sea, MD proposes to legislate two requirements in respect of spectator vessels during major events at sea, viz. (a) child passengers on board to wear lifejackets at all times; and (b) a list of passenger and crew list to be kept on board. By administrative means, MD has been reminding the trade to adopt these two measures for major events at sea. MD considered that in order for the trade to fully comply with the requirements and for safety protection, further legislation for the two measures is necessary. The trade endorsed the legislative proposal at an LVAC meeting held in September 2014. We are preparing the legislative amendment proposals and will later consult this Panel.

22. MD has studied the feasibility of mandating the installation of closed circuit television ("CCTV") in the wheelhouse of local passenger vessels so as to monitor the navigational performance of coxswains. However, the trade has expressed strong opposition to this proposition, and has grave concern over its privacy implications. MD is seeking views from the overseas expert consultant (see paragraph 28 below) on this matter and on possible alternative measures. MD will give consideration to the way forward by taking into account the consultant's advice and will consult the trade as necessary.

Other Medium- and Longer-Term Measures

Proposed Increase in Third Party Risks Insurance Coverage

23. To offer better protection to passengers, MD has explored with the trade and the insurance industry the feasibility and various options to increase the third party risks insurance coverage for local vessels. Having reviewed and considered the circumstances (including the number of vessels operating in Hong Kong waters, claims statistics, the liability level that the insurance industry can take on, the availability of insurance coverage, the trade's affordability, etc.), MD proposes to increase the third party risks insurance cover as follows –

Types of local vessels	Current minimum liability cover	Proposed minimum liability cover
(a) Local vessels permitted to carry more than 12 passengers, except – (i) Class I primitive vessels; and (ii) Class IV vessels not let for hire or reward	\$5 million	\$10 million
(b) Local vessels permitted to carry 12 or less than 12 passengers (c) Class I primitive vessels (d) Class IV vessels not let for hire or reward	\$1 million	\$5 million

For reason of risk management, the insurance industry has indicated that they only have the capacity to underwrite at most the above proposed liability level or otherwise the insurance policy premium will need to be substantially increased to an unacceptable level to the local vessel trade. The LVAC on 5 May 2015 discussed and endorsed the above proposed increase in liability cover. Subject to this Panel’s views, we will proceed to amend the legislation with a view to introducing them into the LegCo in the 2015-16 legislative year.

Feasibility of Introducing a Marine Traffic Accident Victims Assistance (“M-TAVA”) Scheme

24. MD has commissioned a consultancy to study the feasibility of introducing an M-TAVA Scheme modelling on the Traffic Accident Victims Assistance Scheme for road traffic. Considering the number of vessels in Hong Kong is far smaller than that of vehicles in road traffic, and that marine traffic accidents are by nature low in frequency but highly uncertain in severity, the consultant is of the view that it will be difficult to establish a constant and cost efficient financial arrangement for a scheme that is dedicated to marine traffic accident. An M-TAVA Scheme will therefore have unpredictable financial implications for the trade as well as the Government. The consultant does not therefore find it viable in such circumstances. Besides, given the relatively small number of vessels in Hong Kong, high levy will have to be charged if such a scheme is to be set up, which will raise grave concerns from the trade.

25. We are of the view that, while there is yet to be a financial assistance scheme dedicated for victims of marine traffic accidents, there are nonetheless a number of other effective schemes of emergency financial assistance which as well provide relief for victims of marine traffic accidents. Various Government-administered charitable trust funds and private charitable trusts/funds, such as The Hong Kong Jockey Club Charities Trust, General Chinese Charities Fund, Tung Wah Group of Hospitals Emergency Relief Fund etc., may provide assistance to people in need in emergency situations to cope with hardship arising from unexpected incidents. In the light of the consultant's findings, after careful consideration, we do not recommend the introduction of an M-TAVA Scheme at this stage.

Proposed legislation against drink and drug boating

26. Currently, the law does not make drink or drug boating a specific offence. Nor does the law empower law enforcement authorities to conduct compulsory tests for alcohol or drug after a marine traffic accident. On this, one of the CoI expert witnesses recommended that consideration should be given to legislating for the conduct of random tests to combat drink and drug boating.

27. To tackle the matter, MD has formed a working group, which comprises representatives of relevant Government departments, to study various issues relating to boating under the influence of alcohol and drugs. Its preliminary view is that specific legislation should be enacted to regulate against drink and drug boating and that reference could be made to relevant provisions for drug or drink-driving under the Road Traffic Ordinance (Cap 374) when drawing up the regulatory details. MD plans to consult the trade on the working group's proposals within 2015.

(iv) Engaging International Maritime Experts

28. To more effectively take forward its systemic review and reform, a team of maritime experts based in the United Kingdom ("UK") was commissioned by MD to provide expert advice on the various review and reform areas with reference to the practices of other major comparable ports. The consulting team members have profound working experience in maritime authorities in UK and other jurisdictions, and the consultancy has commenced in September 2014. It covers port control, vessel survey and inspection, vessel equipment and installations, entry qualification requirements and training for MD's marine officers and surveyors, and means to enhance collaboration with the maritime industry with a view to facilitating MD's regulatory work. It is expected that a final report will be submitted to MD by the consulting team in mid-2015.

(II) Manpower Training for the Local Vessel Trade

29. The Government will continue to enhance local manpower development of the maritime and aviation sectors through the Maritime and Aviation Training Fund¹ (“MATF”). More young people or in-service practitioners will be supported to undertake relevant skills training and pursue professional studies, and be encouraged to join the maritime and aviation industries, thereby enhancing the overall competency and professionalism of the sectors.

30. The Local Vessel Trade Training Incentive Scheme² (“LVTTIS”) and the Professional Training and Examination Refund Scheme³ (“ProTERS”) under the MATF were launched in April 2014 to provide subsidies to attract more people to join the local vessel trade and to facilitate in-service practitioners to raise their professionalism and competency. As at end April 2015, 29 courses/examinations related to the local vessel trade have been approved under ProTERS. Having regard to the needs of the industry, the Tripartite Taskforce on Manpower Training, comprising representatives of the Government, industry stakeholders and education institutions, formed under the Hong Kong Maritime Industry Council (“MIC”) and its working group on local vessel trade⁴ will from time to time review and include more relevant courses under ProTERS. At the same time, to alleviate the acute manpower situation in the local vessel trade, MD has initiated a series of improvement to the examination-related aspects⁵ which were fully implemented in January 2015. Separately, MIC has been proactively assisting in the promotion of the local vessel trade, which includes promotion in the Education and Careers Expo, with a view to attracting new blood to the trade.

(III) Internal Investigation

31. The Government briefed this Panel on the result of the internal investigation at its meeting on 28 April 2014. As regards the motion passed at the Panel meeting urging the Government to submit the internal investigation report to the LegCo for perusal by Members under a confidentiality agreement, having consulted legal advice, the Transport and Housing Bureau (“THB”) has written to the Panel Secretariat on 16 May 2014 and proposed some broad arrangements under which all LegCo Members

¹ With a commitment of \$100 million over a period of five years from 2014-15 to 2018-19, the MATF aims to support manpower training for the maritime and aviation sectors.

² LVTTIS provides financial incentives for deck/engine room ratings that have completed relevant course(s) and newly employed by the local vessel trade for up to \$30,000 per person. To date, a total of 12 applications were received under the scheme, of which nine were approved.

³ Under ProTERS, in-service practitioners (including local vessel seafarers) will be reimbursed 80% of the fees upon the completion of approved course(s) or passing relevant professional examination(s) (at a ceiling of \$18,000 per person). To date, more than 100 refund applications related to local vessel trade were received, with 63 completed, 8 being processed and the remaining require additional information for follow up.

⁴ Members of the working group comprise representatives from THB, MD, trade organisations, vessel operators and the Vocational Training Council.

⁵ The improvement proposals include shortening the required shipboard service time for candidates who have successfully completed certain professional courses, allowing candidates to submit their applications for examination three months in advance of their eligibility for examination so as to shorten the waiting time, etc.

may peruse the internal investigation report. For the sake of fairness, THB's intention is that LegCo Members will be arranged to peruse the investigation report in accordance with the terms of the confidentiality undertaking at about the same time when the family members of the deceased passengers and injured passengers are given access to the internal investigation report. THB would keep in view developments regarding the families' communication with the Department of Justice ("DoJ") on access to the investigation report through legal proceedings and confirm with the LegCo Secretariat at an appropriate timing the text of the confidentiality undertaking and other details.

(IV) Progress on Other Matters

32. As for the criminal investigation, the Police is continuing with the conduct of a full investigation into the vessels collision incident from all front, and has been in close cooperation with the DoJ. As far as MD officers are concerned, one serving and one retired officer are pending trial for the offences of misconduct in public office and perjury respectively before the District Court.

33. Furthermore, in relation to the vessel collision incident, the Secretary for Justice and other parties have been named in various personal injuries actions commenced by the injured passengers or family members of the deceased passengers for seeking damages. The first directions hearing of these actions before the Court of First Instance took place on 13 April 2015 in which the Judge made certain directions in respect of the further conduct of the actions. The second directions hearing will be held on 29 May 2015.

ADVICE SOUGHT

34. Members are invited to note the above follow-up actions undertaken by the Government and provide views and comments. We also seek this Panel's support for the legislative amendment proposals in paragraphs 13 and 23. Subject to this Panel's support, we will later introduce the proposals into the LegCo.

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May 2015*

Legislative Amendments for Implementing the Proposed Installation of Navigational and Communication Equipment on Local Vessels

Requirement on Installation of Navigational and Communication Equipment

Currently, some local vessels are required to be fitted with Automatic Identification System (AIS), radar and Very High Frequency (VHF) radiotelephone. High-speed ferries granted with Miscellaneous Permits, commonly known as Speed Restriction Exemption Permits, and oil carriers over 50 metres in length licensed after June 2010, are required to install AIS. Ferry vessels or launches that operate a franchised service or a licensed service that ply outside the Victoria port are statutorily required to be fitted with radar¹. 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 ferry vessels that ply outside the Victoria port are required to carry VHF radiotelephone.²

2. The Government will amend the relevant legislations to require vessels mentioned hereunder to be fitted with three types of navigational and communication equipment³. The details are as follows –

- (a) all Class I vessels (i.e. local passenger vessels) permitted to carry more than 100 passengers should be provided on board with an AIS and a radar.
- (b) all Class I vessels permitted to carry more than 12 passengers should be provided on board with a VHF radiotelephone.
- (c) two types of local cargo vessels should be provided on board with an AIS : (i) Class II vessels fitted with any propulsion engine and of 300 gross tonnage or above; (ii) Class II vessels of any gross tonnage used for carrying dangerous goods (whether fitted with or without any propulsion engine).

¹ Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Cap 548G), section 80.

² Merchant Shipping (Local Vessels) (General) Regulation (Cap 548F), sections 56-58; Cap 548G, Schedule 3, Part 2, Tables 1 and 4.

³ Floating restaurants, stationary vessels and Class I vessels restricted by conditions under any licence or permit to ply within typhoon shelters only would be excluded from the proposed requirement. As regards radar, we propose to exclude from the installation requirement for Class I vessels which operate a franchised or licensed ferry service and ply only within the Victoria port without any permission granted to proceed at a speed exceeding the statutorily permitted speed.

Related Operational Requirements

3. The vessel should comply with the following operational requirements when it is within the waters of Hong Kong –

- (a) the AIS fitted on board a vessel should be maintained in operation, except where the coxswain of the vessel believes that the continual operation of AIS might compromise the safety or security of the vessel or where security incidents are imminent⁴.
- (b) the radar fitted on board a vessel should be maintained in effective working condition for use, and should be used and operated only by a coxswain on board the vessel with a local certificate of competency.
- (c) the VHF radiotelephone carried on board a vessel should be maintained in effective working condition. There should be at least one member of the crew on board the vessel who is permitted to use the VHF radiotelephone under the Telecommunications Ordinance (Cap 106). Also, coxswains are required to keep continuous listening watch on an appropriate VHF channel and comply with the applicable regulations when communicating over the VHF radiotelephone.

4. The Government will also prepare other miscellaneous amendment proposals and technical amendments with a view to improving the presentation of certain provisions.

⁴ Class II vessels used for carrying dangerous goods which are without any propulsion engine are excluded from this operational requirement when they are not carrying any dangerous goods.