

立法會
Legislative Council

LC Paper No. CB(4)1034/14-15(05)

Ref.: CB4/PL/EDEV

Panel on Economic Development
Meeting on 27 May 2015

Background brief 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 provides background information on the follow-up actions arising from the Report of the Commission of Inquiry into the Collision of Vessels near Lamma Island on 1 October 2012 ("the CoI Report") and a summary of the views and concerns expressed by members of the Panel on Economic Development ("the Panel") on relevant matters.

Background

The collision incident

2. At about 2020 hours on 1 October 2012 off Shek Kok Tsui, northwest of Lamma Island, a passenger ferry, the Sea Smooth (海泰號), collided with a Hong Kong Electric Company Limited launch, the Lamma IV (南丫 4 號). After the collision, the Lamma IV sank quickly and the majority of persons on board the Lamma IV fell into the sea and some were trapped inside the vessel. As a result of the collision, 39 passengers on board of the Lamma IV deceased, almost all from drowning.

Commission of Inquiry

3. On 22 October 2012, a CoI was appointed by order of the Chief Executive in Council to inquire into the vessel collision incident, pursuant to section 2 of the Commissions of Inquiry Ordinance (Cap. 86). The CoI Report was issued on 30 April 2013, which apart from recommending various measures

on marine safety, the CoI identified a number of problems with the Marine Department ("MD") in regulating local passenger vessels and called for a systemic change in MD.

4. On 27 May 2013, the Panel received a briefing by the Administration regarding the follow-up actions arising from the CoI Report. These actions included the setting up of the Steering Committee on Systemic Reform of the Marine Department ("the Steering Committee") by the Transport and Housing Bureau ("THB") to undertake a comprehensive systemic review and reform of MD, and a task force, headed by a Deputy Director, to assist in taking forward the reform.

5. At the same occasion, the Secretary for Transport and Housing ("STH") and the Director of Marine ("D of Marine") offered their apologies to the families of the deceased, the injured and the public regarding the collision incident. Notwithstanding, the Panel passed a motion expressing its great disappointment and regret towards the belated apologies from STH and D of Marine, and urging the Administration to conduct its investigation and system reforms independently and professionally. The motion also urged that public officers who had contravened any regulations should be held fully accountable and that the Administration should make compensation to the families of the victims of the Lamma ferry disaster.

Measures for enhancing marine safety

6. Actions taken by MD immediately after the collision incident included a comprehensive re-inspection of the provision of lifejackets on all ferries, launches and kaitos as well as the structures of all ferries and launches; strengthening of work on ship inspections, plan approvals and routine patrol of local vessels by MD; and engaging a classification society and a maritime consultancy firm respectively to carry out an independent audit review and a benchmark survey.

7. On 29 November 2013, MD introduced the first phase of improvement measures by amending the Code of Practice for implementation by phases in March, May and November 2014, viz. (a) provision of a muster list; (b) improving signage and directives relating to lifejackets; (c) the requirement of fitting watertight-door alarms in wheelhouse; (d) enhancing look-out by crew; and (e) review of minimum safe manning scale. Under (d), all crew keeping a look-out would be required to meet the prescribed eyesight standards as attested by an eyesight test at an interval not exceeding five years. Vessel operators would be reimbursed with the cost for the eyesight tests arranged for their crew¹.

¹ The reimbursement was capped at \$350 per eyesight test and five crew members per vessel. Only the costs of the eyesight tests carried out by 30 June 2014 and passed by the crew member could be reimbursed. It was estimated that the reimbursement scheme involved about \$245,000 and the costs would be absorbed by MD's existing available resources.

On (e), it was estimated that some 20+ vessels would need to engage more crew members, but 30+ vessels would be on the contrary need less number of crew.

8. The second phase improvement measures include (f) proposed installation of navigation equipment and (g) enhanced provision of lifejackets on passenger vessels. As regard (f), MD adopts a phased implementation approach by requiring the proposed installation of Automatic Identification System ("AIS") and radar first on local passenger vessels² permitted to carry more than 100 passengers, and then on local cargo vessels carrying dangerous goods of 300 gross tonnage and above at the second stage. MD launched an incentive scheme in November 2014 to fully subsidize installation of AIS at local passenger vessels. The Government plans to consult the Panel on the relevant legislation amendments. On (g), MD has noted the trade's reservation about its proposal of providing a child lifejacket to every child on board of all classes of vessels. It is exploring the feasibility of developing a lifejacket which is suitable for use by both adult and child.

9. On the third phase of work, MD will take forward the following improvement measures in 2015: (h) enhancing the training of coxswains; (i) requiring coxswains to undergo regular medical examination; (j) devising guidelines on rest arrangements of crew; (k) installing recording equipment to facilitate monitoring of the wheelhouse of vessels; (l) specifying a standard for the attachment of seats to the deck; and (m) legislating the requirement for child passengers wearing lifejackets at all times while on board and keeping a passenger and crew list on board for major events at sea.

10. As at mid-February 2014, the Steering Committee, chaired by STH, had held eight meetings since its inception. The Steering Committee had been focusing its work on three areas -

- (a) enhancing marine safety by means of improvement measures listed above;
- (b) reviewing and improving the business process and operational procedures of MD; and
- (c) formulating manpower strategy and enhancing training matters of MD.

11. An organizational review has been carried out to this end, and the first and second phases of review had been completed. MD is following up on the review recommendations to improve its regulatory functions and business procedures, e.g. making necessary changes in systems and procedures, as well as

² Local passenger vessels permitted to carry more than 12 passengers should be required to carry Very High Frequency radio.

work arrangements and responsibilities of staff, etc. In addition, MD has reviewed the recruitment difficulties and manpower shortage problem of its professional staff, and appropriate measures are being taken to improve the situation, e.g. relaxing the entry requirements on post-qualification working experience, enhancing in-house training for junior officers, etc.

Manpower training for the local vessel trade

12. According to the trade, the crew members serving on board were aging and there was a lack of new blood, and they faced great difficulties in recruiting coxswains, engine operators and deck/engine ratings. As such, new initiatives would be implemented by THB under the newly established Maritime and Aviation Training Fund³ to, inter alia, incentivize more people to join the local vessel trade, and to facilitate in-service practitioners to raise their professionalism and competency. The Vocational Training Council had also taken active measures to help broaden the pool of expertise in the maritime sector. These measures were expected to take effect in the third quarter of 2014.

Internal investigation by the Transport and Housing Bureau

13. Regarding the problems with MD officers as pointed out in the CoI Report, STH had instructed the Permanent Secretary for Transport and Housing (Transport) to lead an internal investigation team ("the Team") in late June 2013 to identify responsibilities for any possible maladministration or negligence of duty within MD. The Team had completed the internal investigation and submitted the Investigation Report ("the Report")⁴ to STH on 31 March 2014. Since disciplinary action against certain MD officers was recommended, the Report was forwarded to the Civil Service Bureau in early April 2014 for consideration and initiation of action.

14. The Administration considered that redaction of the Report for public disclosure purpose was not practicable since the bulk of the Report containing the identifiable personal data of the officers under investigation, details of the specific acts of the officers and incidents related to the handling of the Lamma IV would have to be redacted in order not to risk prejudicing the ongoing criminal investigation and any potential criminal proceedings. The excision of those materials would leave behind a Report which made very little

³ With a commitment of \$100 million over a period of five years from 2014-15 to 2018-19, the Maritime and Aviation Training Fund aimed to sustain the existing training schemes and scholarships, introduce enhancement measures, and launch new initiatives for the maritime and the aviation sectors.

⁴ The Report ran to some 430 pages, comprising seven chapters, respectively on (1) introduction, (2) an account of facts about the Lamma IV from 1994 to 2012; (3) findings and analyses of the respective roles and responsibilities of individual MD officers in the handling of the Lamma IV; (4) recommendations on disciplinary actions to be taken against MD officers; (5) other matters revealed in the course of investigation; (6) problems and deficiencies in the prevailing system and practices of MD; and (7) conclusions. There were a total of 399 appendices.

coherent sense. As such, the Administration released a summary of the Report providing the gist of the facts and the Team's overall findings and recommendations.

15. However, there had been strong public expectation for the Report to be published. Subsequent to the Panel meeting on 28 April 2014, THB advised that it would study the feasibility of allowing the Legislative Council ("LegCo") Members and the bereaved families to read the Report subject to the readers signing a confidentiality undertaking. In the circumstances and in the interest of fairness, the Administration's intention was that LegCo Members would have access to the Report at about the same time when the representatives of the members of the bereaved families were given access to the Report. THB will discuss with the LegCo Secretariat in due course on the draft confidentiality undertaking and other details.

Criminal investigation

16. The Hong Kong Police Force ("the Police") arrested the coxswains of the collided vessels and conducted a full criminal investigation into the incident from all fronts. The Police had requested THB to provide them with the Report for the purpose of their criminal investigation.

17. According to press reports, on 16 February 2015, the coxswain of Sea Smooth, who was convicted of 39 counts of manslaughter and one of endangering the safety of others at sea, was sentenced to eight years' imprisonment; while the coxswain of the Lamma IV was sentenced to nine months for endangering the safety of others. On 16 March 2015, a serving and a retired MD officer were arrested and charged for misconduct in public office or perjury.

Concerns expressed by Panel members in previous discussions

18. At the panel meeting on 27 May 2013, members were gravely concerned about the errors committed by MD as identified in the CoI Report and considered that the collision incident had damaged Hong Kong's status as an international shipping centre. Some members commented that the public had already lost confidence in MD. They noted that the bereaved families had issued an open letter criticizing the Government, and MD in particular, for failing to shoulder their responsibilities in the collision incident. Some members considered that the impartiality of the internal investigation was questionable as it would be conducted by Government officials. Some other members commented that the Administration should ensure justice and transparency of the internal investigation procedures.

19. At the panel meeting on 22 July 2013, members relayed the concerns of the trade, among others, the practical effectiveness of AIS, the difficulty for coxswains to ensure all children wearing lifejackets at all times when they were on board, and the supply of trained manpower for implementing the relevant measures. At the special meeting scheduled for 17 September 2013 to receive views of deputations, some members urged the Administration to exercise due care in taking forward the measures in view of the acute shortage of manpower resources in the industry. They also considered it important to develop a mechanism for handling non-conformities to ensure the standard of ship inspection.

20. At the panel meetings on 25 November 2013 and 24 March 2014, the Administration briefed the Panel on the update of the follow-up actions from the CoI Report. Members called on the Administration to continue to work out with the trade the implementation details of the various measures for enhancing marine safety and urged the Administration to continue its discussion with the trade on the working conditions of crew on board including meal break, rest period after a long duration of work, etc.

21. When the Administration briefed members on the result of THB's internal investigation on 28 April 2014, some members expressed grave concern that the Administration did not fully disclose the Report. The Panel passed a motion urging the Administration to submit the Report to LegCo for perusal by Members under a confidentiality agreement. In response to the motion, the Administration advised Members on 16 May 2014 that it was considering making arrangements for all Members to read the Report.

Latest development

22. The Administration will update the Panel on the Government's latest progress on the implementation of short-term, medium-term and long-term measures in following up on the recommendations of the CoI Report.

References

23. A list of the relevant papers is set out in the **Appendix**.

List of relevant papers

Issued by	Meeting date/ Issue date	Paper
Panel on Economic Development	27 May 2013	<u>Agenda</u> <u>Background brief</u> <u>Minutes</u> <u>Information paper issued by the Administration</u> <u>Legislative Council brief</u> <u>Report of the Commission of Inquiry into the Collision of Vessels near Lamma Island on 1 October 2012</u>
	22 July 2013	<u>Agenda</u> <u>Background brief</u> <u>Minutes</u> <u>Information paper issued by the Administration</u>
	17 September 2013	<u>Agenda</u> <u>Minutes</u>
	25 November 2013	<u>Agenda</u> <u>Background brief</u> <u>Minutes</u> <u>Information paper issued by the Administration</u>
	24 March 2014	<u>Agenda</u> <u>Background brief</u> <u>Minutes</u> <u>Information paper issued by the Administration</u>
	28 April 2014	<u>Agenda</u> <u>Background brief</u> <u>Minutes</u> <u>Information paper issued by the Administration</u>