

**立法會**  
**Legislative Council**

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**Panel on Economic Development**  
**Meeting on 27 July 2015**

**Background brief on**  
**incorporating in local legislation the latest standards of**  
**the International Maritime Organization**

**Purpose**

This paper summarizes the views and concerns expressed by Members on issues relating to incorporating the latest standards of the International Maritime Organization ("IMO") under the Merchant Shipping (Safety) Ordinance (Cap. 369)("the Ordinance").

**Background**

2. IMO is the specialised agency under the United Nations responsible for improving maritime safety and preventing pollution from ships. It was first established in 1948 as the Inter-Governmental Maritime Consultative Organization, with the adoption of its present name in 1982. China is among the 171 member states of IMO while Hong Kong, China is an associate member.

3. Safety standards prescribed by IMO are set out in international conventions. As the IMO convention requirements are amended from time to time, it is the obligation for flag states to update local legislation to give effect to the latest IMO requirements.

International Convention for the Safety of Life at Sea 1974

4. The International Convention for the Safety of Life at Sea 1974 ("SOLAS"), adopted by IMO on 1 November 1974 and modified by its 1978 Protocol and its 1988 Protocol, is generally regarded as the most important international treaty concerning the safety of merchant ships. Its major objective is to specify minimum safety standards for the construction, equipment

and operation of ships. Flag states are responsible for ensuring that their ships should comply with the relevant requirements, as proved by a number of certificates prescribed in SOLAS. Contracting governments are empowered under control provisions in SOLAS to inspect ships of other flag states if there are clear grounds for believing that the ship and its equipment do not substantially comply with SOLAS requirements.

5. Entered into force on 25 May 1980, SOLAS contains a number of articles setting out general obligations and amendment procedure etc, and an Annex divided into 12 Chapters. The provisions in SOLAS have been implemented in Hong Kong by way of subsidiary legislation enacted under the Ordinance.

### *SOLAS Chapter III – Life-saving appliances and arrangements*

6. SOLAS Chapter III includes requirements for life-saving appliances and arrangements, including requirements for life boats, rescue boats and life jackets according to the type of ship. The International Life-Saving Appliance ("LSA") Code gives specific technical requirements for LSAs and is mandatory under Regulation 34, which states that all life-saving appliances and arrangements shall comply with the applicable requirements of the LSA Code adopted by the Maritime Safety Committee of IMO.

7. Merchant Shipping (Safety) (Life-Saving Appliances) Regulation (Cap. 369AY) and the Merchant Shipping (Safety) (Musters and Training) Regulations (Cap. 369AI) give effect to the provisions of Chapter III in Hong Kong.

### *SOLAS Chapter IV – Radiocommunications*

8. SOLAS Chapter IV provides for the Global Maritime Distress and Safety System under which all passenger ships and all cargo ships of 300 gross tonnage and upwards on international voyages are required to carry equipment designed to improve the chances of rescue following an accident, including satellite emergency position indicating radio beacons and search and rescue transponders for the location of the ship or survival craft.

9. Regulations in Chapter IV cover undertakings by contracting governments to provide radiocommunication services as well as ship requirements for carriage of radiocommunications equipment. The provisions of Chapter IV are implemented in Hong Kong through the Merchant Shipping (Safety) (GMDSS Radio Installations) Regulation (Cap. 369AR) made under the Ordinance.

### *SOLAS Chapter V – Safety of navigation*

10. SOLAS Chapter V identifies certain navigation safety services which should be provided by contracting governments and sets forth provisions of an operational nature applicable in general to all ships on all voyages. The provisions cover the maintenance of meteorological services for ships, the ice patrol service, routing of ships, and the maintenance of search and rescue services.

11. Chapter V also sets out an obligation for all vessel masters to offer assistance to those ships in distress and for contracting governments to ensure that all ships shall be sufficiently and efficiently manned from a safety point of view, and makes mandatory the carriage of voyage data recorders and automatic ship identification systems. The provisions of Chapter V are implemented in Hong Kong through several subsidiary legislation under the Ordinance.

### Convention on the International Regulations for Preventing Collisions at Sea 1972

12. The Convention on the International Regulations for Preventing Collisions at Sea 1972 ("COLREGs"), adopted by IMO on 20 October 1972, prescribes rules to be followed by ships and other vessels at sea in order to prevent collisions between two or more vessels. Entering into force on 15 July 1977, COLREGs contain 38 rules and four annexes setting out general provisions, steering and sailing, lights and shapes, sound and light signals, and exemptions.

13. COLREGs and its amendments are implemented in Hong Kong through the Merchant Shipping (Safety) (Signals of Distress and Prevention of Collisions) Regulations (Cap. 369N) made under the Ordinance. COLREGs are also applicable to local vessels by virtue of section 27 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548).

14. The present Cap. 369N, last amended in 1995, includes the 1993 and earlier amendments to COLREGs. Since then, further amendments have been adopted by IMO in 2001, 2007 and 2013. The amendments in 2013 will come into force on 1 January 2016.

### Legislative exercises to implement SOLAS and COLREGs

15. According to the Administration's paper provided for the meeting of the Establishment Subcommittee on 8 January 2014 (EC(2013-14)13), it planned to enact/amend/ repeal 37 sets of subsidiary legislation under the Ordinance to implement the latest amendments to SOLAS and amend one set of subsidiary legislation for COLREGs. Details of these proposed amendments are at **Appendix I**.

## **Previous discussions**

16. Members of the Panel on Economic Development ("the Panel") were not briefed on SOLAS and COLREGs during the previous and current legislative sessions. Nevertheless, the Panel discussed on 30 March 2009 about the legislative proposal to amend the Ordinance to, among others, enable the use of "Direct Reference Approach" in making subsidiary legislation under the Ordinance to achieve timely implementation of marine safety-related conventions adopted by IMO.

17. Members noted the support relayed by the maritime industry that it took Hong Kong a long time to implement the marine safety-related conventions in local legislation due to the copious legislative amendment process. The Administration understood the industry's request for speedy implementation of the technical amendments in Hong Kong because Hong Kong registered vessels engaged in international voyages had to comply with the international conventions in their daily operations. The Marine Department had, albeit the time gap in making corresponding amendments to local legislation, advised the ship owners to act according to the requirements in international conventions to ensure marine safety.

## **Latest position**

18. At the Panel meeting on 27 July 2015, the Administration will brief Panel members on legislative proposals to make/amend/repeal a number of regulations under the Ordinance to implement amendments to SOLAS Chapters III, IV and V and COLREGs.

## **References**

19. A list of the relevant papers which are available on the LegCo Website (<http://www.legco.gov.hk>) is in **Appendix II**.

Extract of Enclosure 6 to EC(2013-14)13

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Lists of Relevant International Conventions and Legislative Exercises

International Convention	Implementing Local Legislation	Proposed Amendments to Subsidiary Legislation
<p>1. International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended</p>	<ul style="list-style-type: none"> <li>• Merchant Shipping (Safety) Ordinance (Cap.369)               <ul style="list-style-type: none"> <li>- to consolidate and amend the law relating to the safety of merchant shipping and for purposes connected therewith</li> </ul> </li> <li>• 37 sets of subsidiary legislation</li> </ul>	<p><u>To enact:</u></p> <ul style="list-style-type: none"> <li>- Five pieces of new subsidiary legislation</li> </ul> <p><u>To amend:</u></p> <ul style="list-style-type: none"> <li>- Merchant Shipping (Safety) (Carriage of Cargoes) Regulation (Cap.369AV)</li> <li>- Merchant Shipping (Safety) (High Speed Craft) Regulation (Cap.369AW)</li> <li>- Merchant Shipping (Safety) (Life-saving Appliances) Regulation (Cap.369AY)</li> </ul> <p><u>To repeal:</u></p> <ul style="list-style-type: none"> <li>- Merchant Shipping (Instructions to Surveyors)(Passenger Ships) Regulations (Cap.369C)</li> <li>- Merchant Shipping (Minimum Passenger Space) Regulations (Cap.369E)</li> <li>- Examination of Hull, Ship-side Fittings and Boilers (Exemption) (Consolidation) Notice (Cap.369I)</li> <li>- Corridor Bulkheads Serving Accommodation Spaces and Control Stations (Cap.369J)</li> </ul>

<b>International Convention</b>	<b>Implementing Local Legislation</b>	<b>Proposed Amendments to Subsidiary Legislation</b>
		<ul style="list-style-type: none"> <li>- Merchant Shipping (Safety) (Automatic Pilot and Testing of Steering Gear) Regulations (Cap.369L)</li> <li>- Merchant Shipping (Safety) (Carriage of Nautical Publications) Regulations (Cap.369M)</li> <li>- Merchant Shipping (Safety) Ordinance (Exemption) Notice Cap.369P)</li> <li>- Merchant Shipping (Safety) (Anchors and Chain Cables) Regulations (Cap.369Q)</li> <li>- Merchant Shipping (Safety) (Cargo Ship Construction and Survey) (Ships Built Before 1 September 1984) Regulations (Cap.369R)</li> <li>- Merchant Shipping (Safety) (Cargo Ship Construction and Survey) (Ships Built On or After 1 September 1984) Regulations (Cap.369S)</li> <li>- Merchant Shipping (Safety) (Closing of Openings in Hulls and in Watertight Bulkheads) Regulations (Cap.369U)</li> <li>- Merchant Shipping (Safety) (Fire Protection) (Ships Built Before 25 May 1980) Regulations (Cap.369W)</li> <li>- Merchant Shipping (Safety) (Fire Appliances) (Ships Built On or After 25 May 1980 but Before 1 September 1984) Regulations (Cap.369X)</li> <li>- Merchant Shipping (Safety) (Fire Protection) (Ships Built On or After 1 September 1984) Regulations</li> </ul>

<b>International Convention</b>	<b>Implementing Local Legislation</b>	<b>Proposed Amendments to Subsidiary Legislation</b>
		<p>(Cap.369Y)</p> <ul style="list-style-type: none"> <li>- Merchant Shipping (Safety) (Gas Carriers) Regulations (Cap.369Z)</li> <li>- Merchant Shipping (Safety) (Grain) Regulations (Cap.369AA)</li> <li>- Merchant Shipping (Safety) (Means of Access) Regulations (Cap.369AH)</li> <li>- Merchant Shipping (Safety) (Navigational Equipment) Regulations (Cap.369AJ)</li> <li>- Merchant Shipping (Safety) (Navigational Warnings) Regulations (Cap.369AK)</li> <li>- Merchant Shipping (Safety) (Passenger Ship Construction) (Ships Built Before 1 September 1984) Regulations (Cap.369AL)</li> <li>- Merchant Shipping (Safety) (Passenger Ship Construction and Survey) (Ships Built On or After 1 September 1984) Regulations (Cap.369AM)</li> <li>- Merchant Shipping (Safety) (Protective Clothing and Equipment) Regulations (Cap.369AO)</li> <li>- Merchant Shipping (Safety) (Radio Installations) Regulations (Cap.369AP)</li> <li>- Merchant Shipping (Safety) (GMDSS Radio Installations) Regulation (Cap.369AR)</li> <li>- Merchant Shipping (Safety) (Subdivision and Damage</li> </ul>

International Convention	Implementing Local Legislation	Proposed Amendments to Subsidiary Legislation
		Stability of Cargo Ships ) Regulation (Cap.369AT) - Merchant Shipping (Safety) (Arrangements for Embarkation and Disembarkation of Pilots) Regulation (Cap.369AU)
2. Convention on the International Regulations for Preventing Collisions at Sea (COLREG), 1972	<ul style="list-style-type: none"> <li>• Merchant Shipping (Safety) Ordinance (Cap.369)               <ul style="list-style-type: none"> <li>- to consolidate and amend the law relating to the safety of merchant shipping and for purposes connected therewith</li> </ul> </li> <li>• 1 set of subsidiary legislation</li> </ul>	<u>To amend:</u> - Merchant Shipping (Safety)(Signals of Distress and Prevention of Collisions) Regulations (Cap. 369N)

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## List of relevant papers

Issued by	Meeting date/ Issue date	Paper
Panel on Economic Development	30 March 2009	<a href="#">Agenda</a> <a href="#">Minutes</a> <a href="#">Information paper issued by the Administration</a>
Establishment Subcommittee	8 January 2014	<a href="#">Administration's paper</a>
Marine Department – Local Vessels Advisory Committee	April 2015	<a href="#">Paper on "Implementation of COLREGs Amendments on Local Vessels</a>
International Maritime Organization	--	<a href="#">International Convention for the Safety of Life at Sea, 1974</a> <a href="#">Convention on the International Regulations for Preventing Collisions at Sea, 1972</a>