

立法會
Legislative Council

LC Paper No. CB(4)483/15-16(07)

Ref. : CB4/PL/EDEV

Panel on Economic Development
Meeting on 26 January 2016

**Background brief on staffing proposal on taking forward
marine-related legislative amendments and systemic reform
of Marine Department to enhance maritime safety**

Purpose

This paper provides background information on the proposed extension of four supernumerary directorate posts in the Marine Department ("MD") and the Department of Justice ("DoJ") for continuing to take forward the recommendations arising from the Report of the Commission of Inquiry ("CoI") into the Collision of Vessels near Lamma Island on 1 October 2012 and marine-related legislative amendments. It also summarizes views expressed by members of the Panel on Economic Development ("the Panel") and the Establishment Subcommittee ("ESC") on relevant matters.

Background

Task Force on Reform in MD

2. The collision of two vessels near Lamma Island on 1 October 2012 resulted in the death of 39 passengers and injuries to 92 passengers. The Chief Executive appointed CoI on 22 October 2012 to ascertain the causes of the incident; consider and evaluate the adequacy or otherwise of the present system of control on maritime safety concerning passenger vessels; and make recommendations on measures to prevent recurrence of similar incidents in future. The redacted version of the CoI report, which was published on 30 April 2013, has identified inadequacies in the existing regulatory regime governing maritime safety matters, and deficiencies in MD's law enforcement, work procedures and record documentation. It also called for improvements in MD's internal management and discharge of regulatory duties.

3. To take forward CoI's views and recommendations on MD, the Secretary for Transport and Housing ("STH") set up and chaired a Steering Committee on Systemic Reform of MD ("Steering Committee") in May 2013. To support the work of the Steering Committee and to assist the Director of Marine to take forward the recommendations of the Steering Committee, the Administration considered it necessary to create dedicated posts for setting up a dedicated Task Force on Reform in MD ("Task Force").

Legal Team

4. The development of international standards for shipping is largely entrusted to two specialized agencies under the United Nations, namely the International Maritime Organization ("IMO") and the International Labour Organization ("ILO"). IMO and ILO, through a series of international conventions, set standards governing a range of marine-related matters including safety and security of shipping. In Hong Kong, six principal ordinances and over 85 subsidiary regulations have been enacted to implement international conventions promulgated by the two organizations that are applicable to Hong Kong. These conventions are under constant review by the two organizations in the light of the latest international developments and needs. Hong Kong is obliged to reflect the latest changes to these conventions in local legislations as and when these conventions are amended.

5. Considering that the legislative amendments for translating these international conventions into domestic legislation under the current framework were technical, frequent and voluminous, the Administration adopted a phased approach in such exercises. However, the phased approach within the confines of existing resources could not catch up with the pace of amendments. In order to take forward outstanding legislative exercises for the relevant international conventions, the Administration proposed to create a dedicated legal team in DoJ to support the Transport and Housing Bureau ("THB") and MD in related legislative work. The team would comprise counsel from relevant disciplines (including law drafting, civil law and international law) to work on the outstanding legislative exercises with the target of introducing all legislative amendments into LegCo by early 2016.

Approval of four supernumerary directorate posts

6. Having regards to the needs in paragraphs 3 and 5 above, the Administration consulted the Panel at its meeting on 25 November 2013 its proposal to create three supernumerary directorate posts in MD and one supernumerary directorate post in DoJ for 28 months from February 2014 to 31 May 2016. Details of the four posts are as follows –

- (a) one Administrative Officer Staff Grade B (D3) to head the Task Force, one Senior Principal Executive Officer (D2) to support the areas of organizational reform, manpower strategy and training programme and one Assistant Director of Marine (D2) in MD to assist in reviewing legislations, operational manuals and standards pursuant to the CoI's recommendations, drawing up and implementing improvement proposals with a view to enhancing maritime safety and strengthening the internal governance of MD; and
- (b) one Deputy Principal Government Counsel (DL2) post in the Law Drafting Division of DoJ to head a legal team for giving support to THB and MD in taking forward the enactment/amendment/repeal of 38 sets of subsidiary legislation under the Merchant Shipping (Safety) Ordinance (Cap. 369) to implement two marine-related international conventions.

7. ESC agreed at its meeting on 8 January 2014 to recommend the proposal to the Finance Committee ("FC") for consideration, and approval was given by FC at its meeting on 7 February 2014 for the creation of the said posts. Please refer to Enclosures 3 - 5 and 8 to EC(2013-14)13 for the detailed main duties and responsibilities of the respective posts.

Latest progress of Steering Committee's work on systemic reform of MD

8. At the Panel meeting on 27 May 2015, the Administration briefed members on the latest progress of the Steering Committee's work on systemic reform of MD. Details of the progress as at 27 May 2015 (LC Paper No. CB(4)1034/14-15(04)) are summarized in the table below –

	Task	Status (with details, if any)	
		Completed	In progress
(i)	Review on business processes and operational procedures of MD		
•	Organizational review on the licensing, certification and regulatory work for local vessels	Completed in February 2014	--
•	Organizational review on work related to ship safety and navigational safety	Completed in early 2015	--
(ii)	Manpower strategy and training matters of MD		
•	Adjustment of appointment requirements of Marine Officer and Surveyor of Ships of MD's establishment	Completed around May 2015	--

	Task	Status (with details, if any)	
		Completed	In progress
•	Drawing up a long-term recruitment strategy	--	✓
•	Devising an enhanced training programme for the two professional grades	--	✓
(iii) Follow-up actions on enhancing marine safety			
(a) First-phase improvement measures			
•	Amending 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	Fully implemented in 2014	--
(b) Second-phase improvement measures			
•	Legislative amendments regarding installation of Automatic Identification System ("AIS") and radar, or Very High Frequency radiotelephone by local vessels	--	To be introduced into LegCo in 2015-2016 legislative year
•	Full subsidy for installation of AIS	November 2014	--
•	Half subsidy for installation of radar	--	To be introduced in 2015-2016 financial year
•	Feasibility study on lifejackets	--	To be completed in 2015
(c) Third-phase improvement measures			
•	Amending the applicable examination rules for Coxswain Grade 3 Certificate	Effective from 2 January 2015	--
•	Legislative amendments regarding training of coxwains	--	✓
•	Consultation related to a practical operation assessment of coxwains/ operators	--	✓

	Task	Status (with details, if any)	
		Completed	In progress
•	Consultancy study on risk assessment on local passenger vessels plying at faster speed	--	To be completed in mid-2015
•	Consultation regarding medical fitness of coxwains and rest arrangements of crew	--	✓
•	Amending relevant code of practice regarding the specification of a standard for the attachment of seats to the deck	Effective from March 2015	--
•	Legislative amendments regarding safety measures for major events at sea	--	To submit proposals to the Panel later
•	Studying the feasibility of mandating the installation of closed circuit television in the wheelhouse of local passenger vessels	--	✓
(d) Other medium- and long-term measures			
•	Legislative amendments regarding third party risks insurance coverage	--	To be introduced into LegCo in 2015-2016 legislative year
•	Introduction of a Marine Traffic Accident Victims Assistance Scheme	Not recommended	--
•	Proposed legislation against drink and drug boating	--	To consult the trade within 2015
(iv) Engaging international maritime experts			
•	Consultancy study by engaging international maritime experts	--	Final report to be submitted to MD in mid-2015

Concerns expressed by Panel and ESC members in previous discussions

9. The Administration briefed Panel members on the proposed creation of the four supernumerary posts at the Panel meeting held on 25 November 2013. ESC members also deliberated on the staffing proposal at the ESC meeting on 8 January 2014.

Reform of MD

10. Some Panel members considered that the staffing proposal reasonable and worth supporting because it could help improve the operation of MD, a complete overhaul of which could not be achieved by the existing already heavily overloaded directorate, and that MD would need to carry out many follow-up tasks arising from the CoI report and additional resources should be provided to improve its efficiency. However, a Panel member objected to the proposal opining that it was unreasonable to reward MD's debacle over the vessel collision incident with the proposed new posts, and if any additional staffing resources were required to enhance maritime safety in Hong Kong waters, more frontline posts should instead be created. Another Panel member also expressed his party's reservation on the staffing proposal concerned.

11. A Panel member requested the Administration to provide interim progress reports on the implementation of the reform measures. The Administration advised that STH had earlier undertaken to report regularly to members on the implementation of reform and other improvements measures.

12. Concern about how the marine industry could comply with the proposed reform measures was raised at the ESC meeting. Noting that the Lamma incident could partly be attributed to operational problems in MD, an ESC member enquired about the interim measures to be taken by the Administration to ensure marine safety before MD's reform was materialized.

13. The Administration advised that the Task Force would be established to service and support the work of the Steering Committee to take forward the recommendations of CoI. While a number of immediate remedial actions had been implemented, including re-inspection of all ferries, launches and kaitos, ensuring adequate provision of lifejackets on board as required by law, strengthening publicity on marine safety and dissemination of safety information to passengers, etc, short- and long-term measures in enhancing marine safety had also been formulated. Consensus with the marine industry on the implementation of specific measures in the first phase had also been reached.

14. Another ESC member sought details on the measures for tackling the problems in MD identified by the Steering Committee and the Task Force. He also enquired whether the Administration would engage any external experts to evaluate the reform in MD. The Administration advised that the work of the Steering Committee and the Task Force was three-fold with a view to enhancing safety standards, MD's operational workflow and MD's manpower strategy and training. The Administration would engage external experts including those from international marine regulatory bodies to advise MD on the measures to be adopted. Appointment of external experts was being planned.

Marine-related legislative amendment exercises

15. Noting that some of the proposed posts would be responsible for formulating legislation to give effect to relevant international conventions in Hong Kong, a Panel member asked whether those related to maritime safety would also be included. He enquired if the vessel collision incident near Lamma Island could have been avoided had those legislation been introduced.

16. The Administration advised that concerned international maritime conventions were mainly applicable to ocean-going vessels, and the operation of locally licensed vessels was governed by other legislation. The Deputy Law Draftsman attending the meeting said that he was confident that the required legislation work could be completed by June 2016 if the staffing proposal in respect of DoJ was approved.

17. In reply to an ESC member's concern about the tight timetable in completing the scrutiny of the legislative amendments concerned before the end of the current term in mid-2016, the Administration clarified that due to the voluminous nature of work involved in updating local legislation according to international conventions and manpower constraint, DoJ had been adopting a phased approach and a supernumerary DPGC post was proposed to be created to take forward the task. On the timetable for introducing into LegCo legislative proposals to enhance local marine safety, the Administration advised that the first phase improvement measures had been gazetted by way of amendment to the Code of Practice, and the relevant legislation would be introduced in the second phase by batches into LegCo subject to consultation with the trade. It was anticipated that this task would take one to two years to complete.

Capability of office-bearers of the new posts

18. An ESC member was concerned about the proposed duration for the supernumerary posts and why the Administration recruited officers who did not have maritime background, knowledge or experience for the new posts, noting the complex and technical nature of tasks involved in the MD reform and the wide scope of the review. In response, the Administration advised that the posts to be created in MD would be responsible for undertaking high-level administrative duties. The reform in MD would involve highly professional and management issues, and the review also focused on improving the existing systems and organizational structure of MD and long-term manpower planning. Therefore, it would be more appropriate for both general grade and professional grade staff to take charge of the tasks. While the Steering Committee would end in May 2015 and the relevant follow-up actions would be largely completed by the Task Force by May 2016, actual implementation of the various reform measures would be taken up by MD after that.

Manpower problem in Hong Kong and MD

19. Some ESC members expressed concern about the shortage in the supply of marine professionals and technical manpower for the development of marine industry in Hong Kong. The Administration advised that the creation of the three proposed directorate posts in MD would not be an immediate solution to the problem, but assured members that the Task Force would work with the trade to formulate measures to enhance manpower training and address the succession problem in the marine sector.

20. An ESC member noted the decrease in the establishment of MD from 2011 to 2013 and asked if it was due to recruitment difficulty or a lack of resources in MD. In response, the Administration advised that the reduction in establishment of MD was caused by the deletion of six posts which were vacant and had no operational need due to the closure of two public cargo handling areas in 2011 and 2012 respectively. Nevertheless, the Steering Committee was reviewing the long term manpower situation in MD and the Task Force would undertake a systemic review and work out measures to address the succession and recruitment problems in MD.

Latest development

21. The Administration will consult the Panel on the proposed extension of the four supernumerary directorate posts in DoJ and MD on a time-limited basis at its meeting on 26 January 2016.

Relevant papers

22. A list of the relevant papers, including those available on the LegCo Website (<http://www.legco.gov.hk>), is in the **Appendix**.

Appendix

List of relevant papers or information

Issued by	Meeting Date/ Issue Date	Paper
Panel on Economic Development	25 November 2013	Agenda Information paper Minutes
	27 May 2015	Information paper
Finance Committee	7 February 2014	Minutes
Establishment Subcommittee of Finance Committee	8 January 2014	Information paper Minutes