

**For discussion on
27 May 2019**

**Legislative Council Panel on Economic Development
Enhancement of the Services of the Hong Kong Shipping Registry**

PURPOSE

This paper briefs Members on proposed improvement measures to further enhance the quality and competitiveness of services provided by the Hong Kong Shipping Registry (“HKSR”). They include -

- (i) delegation of power in issuing exemptions currently vested with Director of Marine (“DM”) to other officers of the Marine Department (“MD”);
- (ii) establishment of the HKSR Regional Desks; and
- (iii) facilitating the use of electronic certificates (“e-certs”).

BACKGROUND

Ship registration

2. Ship registration is part and parcel of the shipping industry because all merchant ships are required to register under a flag state / flag administration in order to navigate across ports and engage in international trading and sea-transportation businesses. Registration grants the ship physical and legal protection of that flag state / flag administration in areas vital to navigation, such as safety of ship structures and crew on board the ship. The flag administration has the authority and responsibility to enforce regulations over vessels registered under its flag, including those relating to inspection, certification, and issuance of safety and pollution prevention documents. At present, over a hundred shipping registries are set up by different flag states worldwide.

3. Shipowners usually take into account a basket of factors when considering under which shipping registry they would register their vessels. These include the reputation, fleet size, fees and services of a shipping registry, as well as the jurisdictions and institutional strengths of a flag administration. A reputable shipping registry is crucial to the continued development of a maritime centre. It helps attract shipowners and/or companies to establish foothold in the country/city for their shipping business, thereby creating demand for various maritime services, such as ship agency and management, ship

broking, ship finance, marine insurance, and maritime legal and arbitration services, and foster the development of a vibrant maritime cluster.

Hong Kong Shipping Registry

4. The HKSR was established in 1990 under the administration of the MD pursuant to the Merchant Shipping (Registration) Ordinance (Cap. 415) and its continued operation is stipulated under Article 125 of the Basic Law¹. Maintaining its own shipping register is important for Hong Kong to entrench its status as an international maritime centre. Major services provided by the HKSR include ship registration, crew registration and protection, examinations and certification of competency of seafarers, provision of technical support for Hong Kong registered ships, conducting investigations into marine accidents relating to Hong Kong registered ships, etc.

5. Currently, the HKSR is the fourth largest shipping registry in the world in terms of total registered gross tonnage. The number of ships registered under HKSR has grown from 2 342 in April 2014 to 2 627 in end-April 2019, representing an increase of over 12%. During the same period, total gross tonnage of ships registered under HKSR has risen over 30% from 87.8 million to 127.1 million. Hong Kong registered ships are also among the best performers in the world, with port state control detention rate standing at only 0.82% in 2018, which is significantly lower than the global average of 2.68% for the year.

ENHANCEMENT OF SERVICES OF HKSR

6. Over the years, the objective of the Government is to ensure that the HKSR maintains a good reputation of fleet quality, is competitive enough to attract new tonnage, and ships registered under HKSR operate in compliance with all relevant international conventions. To keep up with evolving global maritime industry trends and render better support for shipowners and ship operators of Hong Kong registered ships, MD has been collecting feedback from shipping stakeholders for reviewing and enhancing the work of the HKSR.

7. Throughout the years, MD has introduced a number of improvement measures to enhance the HKSR. These include introduction of the round-the-clock ship registration services and technical advice services on a need basis, enhanced arrangement in disseminating the latest HKSR's requirements on international conventions, facilitating the collection of ships' Certificates of Registry ("COR") by ship owners/operators through selected

¹ Hong Kong shall be authorised by the Central People's Government to continue to maintain a shipping register and issue related certificates under its legislation under the name "Hong Kong, China".

overseas and Mainland Economic and Trade Offices (“ETOs”) and Liaison Units, as well as the provision of an online authentication system to enable shipowners or foreign port authorities to verify the authenticity of the COR issued by MD. On the whole, services and regulation of the HKSR are considered very efficient and user-friendly.

8. To further enhance the HKSR’s services in order to better meet the needs of the industry, the Government is planning to implement three improvement measures, the details of which are set out in the ensuing paragraphs.

I. Delegation of Power in Issuing Ship Exemptions

Background

9. Ships registered under a flag administration are required to obtain certificates of different kinds covering matters of safety, environmental protection, seafarers’ working and living conditions on board, etc. from the flag administration concerned as a proof of conformity with the requirements of various international conventions. As a common international practice, in case a ship cannot comply with certain statutory requirements for a short period of time due to unforeseen technical reasons, the ship owner/operator concerned is required to apply for exemption(s) from its flag administration before the ship can further set sail.

Existing arrangements

10. Exemption applications usually involve various issues, most of which are technical in nature. Common exemption requests include—

- (i) temporary malfunctioning of specific system and equipment;
- (ii) temporary difficulty in complying with maintenance, survey or certification requirements;
- (iii) damage or operation which may affect a vessel’s structure, stability and buoyancy for a short duration; and
- (iv) alteration to ship’s design and/or construction.

11. Following international practice, MD has put in place a mechanism to handle applications for exemptions by shipowners with ships registered under HKSR. As stipulated in existing Hong Kong legislation, DM’s personal approval is required for almost each and every exemption case. Upon receipt of

an application, professional staff of MD will assess the merits of the case, with due regard to the risk and complexity involved in the proposed exemption item, the ad-hoc arrangements to be put in place by the ship owner/operator to ensure safe navigation of the ship, and the general condition of the ship concerned. Recommendations will be submitted to DM for his/her consideration, and for approval should the case so warrant. The key is to ensure that navigation safety is not compromised whilst providing the necessary operational flexibility to the ship owners/operators.

Proposed Streamlining of Approval Process

12. With the significant growth in number and tonnage of ships registered under HKSR in recent years, the number of exemption requests which require DM's personal approval has increased by 38.5% from around 1 300 cases in 2016 to around 1 800 in 2018. Such demand is expected to continue to rise having regard to the steady growth of the Hong Kong fleet.

13. Number of cases aside, prompt processing of exemption applications by MD is also important to shipowners and operators to minimise delays in ship schedules and/or unwanted port state control detention of ships. Given the global nature of the shipping industry the operation of which spans across many time zones, exemption applications may be raised during or outside office hours and they require MD's immediate attention and swift action.

14. After reviewing the existing arrangements, we reckon that there is room to enhance the efficiency and timelines in handling the exemption applications by streamlining the approval mechanism. We propose to amend the Schedule to the Specification of Public Offices Notice (Cap. 1C) to include the relevant provisions stipulated in Merchant Shipping (Safety) Ordinance (Cap. 369); Merchant Shipping (Prevention and Control of Oil Pollution) Ordinance (Cap. 413); Merchant Shipping (Seafarers) (Working and Living Conditions) Regulation (Cap. 478AF); and Merchant Shipping (Security of Ships and Port Facilities) Ordinance (Cap. 582), such that DM's power to approve ship exemptions in person can be delegated to professional Surveyors of Ships of MD who possess the necessary expertise and qualifications.

15. To ensure the vessel's seaworthiness and the safety of the crew on board, MD would set out the approval authority for different types of ship exemptions having regard to their nature and implications. For instance, power may be delegated to senior professionals in MD to approve cases concerning more straight-forward matters with minor or temporary malfunctioning of system and equipment, such as temporary exemption to pollution control equipment. On the other hand, approval by directorate officers in MD (e.g. General Managers (D1) and Assistant Directors (D2)) would be required for approving more complicated

technical cases, such as items relating to vessel construction, stability and/or hull damage.

II. Establishment of HKSR Regional Desks

Background

16. Hong Kong registered ships operate internationally, depending on their trading needs. Given their widespread geographical distribution, the industry may be in need of services of the HKSR while they are at ports outside Hong Kong. Currently, HKSR operates with a single office at the MD Headquarters in Hong Kong. To widen its service network thereby further enhancing the competitiveness of the HKSR, we will set up Regional Desks of HKSR in selected overseas and Mainland ETOs and Liaison Units by phases.

Potential benefits of Regional Desks

17. Through the establishment of the Regional Desks, MD would be able to provide more direct and prompt support for the Hong Kong fleet at ports outside Hong Kong. At present, whenever there are cases of port state detention, marine-related incidents and/or quality control inspection involving Hong Kong registered ships, MD would need to send surveyors from Hong Kong to the ports/places where the detention, incidents or inspection take place. Given the long travelling time, manpower deployment needs and geographical constraints, ship owners/operators may not receive immediate support.

18. The Regional Desks, which will be located in areas frequented by the Hong Kong fleet, will support the MD Headquarters in offering round-the-clock technical support for ship owners/operators in overseas and the Mainland. Locally-based staff will be deployed to the Regional Desks, saving the need for Hong Kong-based staff to travel a long distance to reach the ships and/or ship owners/operators at a certain port. The Regional Desks can render advice to and/or carry out necessary regulatory duties for ship owners/operators on the spot on issues including ship registration, inspections and other emergency matters in a swift manner.

19. Moreover, the setting up of the Regional Desks would enhance the promotion of HKSR to overseas shipping community. By attaching the HKSR Regional Desks in offices of selected Mainland and overseas ETOs and Liaison Units, better synergy could be achieved in promotional efforts, such as through tapping the established connections of ETOs with the local maritime and port industry players, participating in maritime exhibitions, and/or organising promotional activities in collaboration with the Investment Promotion Units in the

ETOs. This would be conducive in raising Hong Kong's profile as an international maritime centre and attracting registrations under HKSR.

Preparatory Progress

20. For the purpose of establishing the Regional Desks, an annual recurrent funding of \$41.2 million has been earmarked for MD to create seven civil service positions (including five senior Surveyors of Ships, one senior Marine Officer and one Surveyor of Ships) by phases and recruit local consultants and staff. Preparation for setting up the first batch of Regional Desks is in full swing and it is expected that three HKSR regional offices will be set up in London, Shanghai and Singapore in early 2020. Establishment of the Regional Desks in other cities/regions, such as San Francisco, Sydney, Tokyo and Toronto, will take place in future phases.

III. Facilitating the Use of E-Certs

21. Under existing regulatory regime, ships under HKSR are issued with certificates in paper form upon completion of statutory procedures (e.g. surveys and inspections to verify the conditions of the ship). With the advent of digital encryption and other cybersecurity technology, e-certs, which are more convenient to shipowners and ship operators and could offer a sufficient level of security against forgery, are increasingly popular with flag administrations and their Recognised Organizations ("ROs")² around the world. Such use is guided by the relevant guidelines issued by the International Maritime Organisation ("IMO"), which seeks to set a global standard on the functions and security requirements of e-certs.

22. We are working towards facilitating the use of e-certs for Hong Kong registered ships. To this end, MD will upgrade its existing HKSR information system to accommodate the authentication of MD's e-certs by stakeholders including foreign flag administrations, ROs and shipping companies. The system upgrade is expected to complete by end-2019.

² ROs are international bodies specialised in the technical areas of ships, such as ship construction, equipment, operation and surveys, etc. At present, MD entrusts ROs through contractual agreements to carry out certain services including ships' survey and certification.

23. Meanwhile, we are also working with the Department of Justice to ensure the use of e-certs is in conformity with our existing shipping ordinances³ and their subsidiary legislation. Generally speaking, insofar as the existing law permits certain actions regarding certificates to be done electronically, no legislative amendments are necessary. That said, when the shipping ordinances and their subsidiary legislation were first enacted, they did not fully envisage the possibility of transacting shipping business by electronic means.

24. Our legal advice has suggested that certain legal requirements under the existing legislation either require or imply that an action can only be done using paper certificates. These actions mainly concern the requirement for a shipowner to deliver up a certificate to DM upon request for a variety of reasons. For example, a number of subsidiary legislation empowers DM to withdraw a certificate when a deficiency found in a ship is not rectified within a specified period of time, and the shipowner must deliver up the certificate in question to DM; the latter is required to return the certificate once the shipowner has rectified the problem. Some provisions also require shipowners to deliver up the provisional certificates to DM once the official ones are issued. We are stock-taking the relevant provisions and will introduce legislative amendments to the Legislative Council as soon as practicable.

CONSULTATION

25. On the enhancement measure regarding the delegation of DM's power in issuing exemptions, MD consulted the stakeholders concerned through the Hong Kong Fleet Operation Advisory Committee on 26 April 2019. Parties concerned supported the proposal. Subject to Members' views, we aim at introducing the relevant legislative amendments into the Legislative Council for negative vetting within 2019. The other two measures on HKSR Regional Desks and e-certs are proposed to positively respond to stakeholders' recommendations made during various occasions, including the meetings of the Maritime and Port Development Committee of Hong Kong Maritime and Port Board. We will gauge the industry's views as appropriate when more details are available.

³ Such Ordinances include (but are not limited to) —

- (a) Merchant Shipping Ordinance (Cap. 281);
- (b) Merchant Shipping (Safety) Ordinance (Cap. 369);
- (c) Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413);
- (d) Merchant Shipping (Registration) Ordinance (Cap. 415); and
- (e) Merchant Shipping (Seafarers) Ordinance (Cap. 478).

ADVICE SOUGHT

26. Members are invited to comment on the proposals set out in this paper.

Transport and Housing Bureau
Marine Department
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