

Pilotage Advisory Committee

Additional Requirement Imposed by the Pilots

Purpose

The purpose of this paper is to inform members the result of an investigation by the Office of the Ombudsman (the Ombudsman) into a complaint lodged by a shipping agent concerning, inter alia, additional requirements imposed by the Hong Kong Pilots Association Limited (HKPAL).

Background

2. The agent first complained to the Marine Department (MD) to the effect the additional requirements, i.e. a pilot boat fitted with GPS/echo sounder and extra tug, had exceeded the requirements as stipulated in the Berthing Guidelines (BGL). MD then looked into the complaints and reverted to the agent. The agent was not satisfied and he complained to the Ombudsman in November 2009.

3. The above complaints had been discussed in the Pilotage Advisory Committee Working Group (PACWG) meeting held on 20 January 2010 vide PACWG Paper No. 3/2010 (see Annex). The meeting concluded that it would be logical to require resources under abnormal conditions. The flexibility provided in the existing BGL was necessary and the guidelines were in order. Members also concluded that both incidents might have been caused by communication problems and suggested HKPAL to provide supporting grounds and detailed information to ship owners or agents in advance to avoid similar disputes in future. The results of the PACWG discussion on this matter were reported to the Pilotage Advisory Committee (PAC) meeting held on 4 February 2010. Members of the PAC endorsed the conclusions of the PACWG.

Results of the Investigation

4. In May 2010, the Ombudsman completed his investigation into the complaint. The investigation concluded that on the overall handling of the above complaints, MD have followed up the complaints diligently and have given the

complainant appropriate and timely responses. The investigation also concluded:-

- i. MD should refer such incidents to PACWG as soon as possible. In the meantime, keep the complainant updated periodically on the investigation process by MD;
 - ii. The conclusions made by the PACWG on 20 January 2010, i.e. written communications between the concerned parties should be improved on additional requirements with detailed information on the supporting grounds, is both a practical and effective solution to prevent similar dispute in future;
 - iii. Since PACWG or PAC meetings are not held regularly, it is suggested that MD should prepare information on the latest disputes as soon as possible and circulate them, possibly electronically, for members' attention, discussion and conclusion in a timely manner; and
 - iv. Under the existing Pilotage Ordinance (Cap. 84) MD has no direct role in providing immediate advice to enquiries as to whether the pilots' discretionary power has been exercised appropriately in any particular case then under dispute.
5. MD will consider the Ombudsman's comments and suggestions on the areas where improvements are required.

Marine Department
June 2010

Working Group of Pilotage Advisory Committee

Additional Requirement Imposed by the Pilots

Purpose

The purpose of this paper is to seek members' advice on two incidents concerning the additional requirements imposed by the Hong Kong Pilots Association Limited (HKPAL) which exceed the requirements as stipulated in the Berthing Guidelines (BGL).

Background

2. Pilots are guided by a set of "Berthing Guidelines" for mooring and unmooring operations under normal circumstances. The Guidelines stipulate requirements about number of pilots and tugs to be employed on different types of ships at different berths. It also provides tidal windows for vessels transiting Ma Wan. Amendments to the Guidelines are discussed and endorsed by the PAC.

Incident 1

3. On 22 March 2008, a collision occurred between an eastbound supply boat and a westbound bulk carrier in the deepwater area off CP1 buoy near Siu Mo To, north of Lantau Island. The supply boat with crew and containers onboard was sunk subsequently. Salvage operation was conducted forthwith.

4. Fully loaded large bulk carriers due to draft constraint are required to use the deepwater area off CP1 buoy to convey coal to Castle Peak Power Station (CLP) or to go to Shekou. The shipper supplying coal to CLP intended to take a fully loaded large bulk carrier with 16.8m draft to the CLP berth. Owing to the salvage operation being conducted at the deepwater area, a meeting had been held between HKPAL, CLP, the shipper, shipping agent and the master of the said bulk carrier to discuss the facilitation of safe passage of the vessel. The meeting concluded that a pilot boat fitted with GPS and echo sounder would be deployed to facilitate the transit. MD was verbally informed of the conclusion of the meeting

by HKPAL later. The said bulk carrier transited the concerned area smoothly on 29 March 2008 with the additional pilot boat deployed. It was known subsequently that three more fully loaded large bulk carriers passed the concerned area with the same additional arrangement.

5. In early May 2008, an agent of a fully loaded large bulk carrier (draft 15.6m), which intended to pass the concerned area approached HKPAL to book for pilotage service. He was advised by HKPAL about the requirement of an additional pilot boat. Upon confirming no change in BGL with MD, the agent placed the pilot order and the vessel passed the concerned area later.

6. A week later, the agent received a bill from the pilot boat service provider Po Kee Marine Services Co., Ltd. (Po Kee), demanding the payment for hiring of one boat with echo sounder to assist the subject vessel passing north of CP1.

7. The agent considered that the charge was unwarranted as there was no such additional requirement in the BGL. Besides, under Section 14 of the Pilotage Ordinance, Cap. 84, which stipulated that no person shall demand or receive any fee or other payment for any pilotage service other than the prescribed pilotage dues.

8. On the other hand, HKPAL reckoned that from safety or technical point of view, the additional deployment of a boat with echo sounder to mark the shallow patches for deep draft vessels is justifiable in the exceptional circumstances of the case.

Incident 2

9. In mid September 2009, a fully loaded large bulk carrier with LOA 268m and draft 16.7m transited Ma Wan to Urmston Road Anchorage (URMA) for cargo lightening. Two tugs were deployed for the vessel to transit Ma Wan as per BGL requirements (Annex I)

10. Owing to the approach of typhoon, the vessel was required to seek shelter and shift from URMA to South East Lamma Anchorage (SELA). Since her draft had been reduced to 13.5m after lightening, one tug was deployed for Ma Wan transit as per BGL requirements (Annex I).

11. After all typhoon signals were cancelled, vessel's agent approached

HKPAL for pilot booking to shift the vessel back to URMA on the following day. HKPAL informed the agent in writing with copy to MD stating that the vessel was under power with poor maneuverability due to its slow speed in her two previous Ma Wan transits as reported by the pilots, an extra tug was therefore required for this voyage.

12. Although the vessel's agent disagreed with the comment made by HKPAL, HKPAL maintained the extra tug requirement and vessel transited Ma Wan subsequently. A week later, the agent lodged an enquiry on the additional requirement.

The Issue

13. There are provisions in the BGL (Annex II) to enable the pilot may at his discretion to amend any requirements when the normal working conditions are changed. However, the provisions may seem to be loosely worded and could undermine the objectiveness of the BGL and create difficulties to the shipping agents to follow and explain to their principals on the additional requirements.

Advice Sought

14. Members are requested to take note of the above incidents and give their comments on any possible improvements in the procedures under the BGL for working conditions beyond normal in demanding additional requirements in order to avoid similar disputes in future.

Presentation

15. Mr. L. H. Ng of Marine Department will present this paper.

Berthing Guidelines

PAC endorsed on 16 February 2009

Location : URMPS/URMA

**Transit Mawan – Bulker & Tanker
(All vessels other than passenger & container ship)**

LOA ≤ 230m : Restricted transit period @ Mawan = Current Against >2.5 knots / With >1.5 knots
LOA >230m ≤ 255m : Restricted transit period @ Mawan = Current Against >2.0 knots / With >1.0 knot
LOA >255m : Restricted transit period @ Mawan = Current Against >1.5 knots / With >0.5 knots
(per current info. supplied by HYDRO office)
Transit @ Mawan : Day = (Sunrise – 30mins.) To (Sunset + 30mins.)

040 **N. bound** LOA: Max 255m
Draft: Max. 15m (min 15% UKC)
Time: Day light only
 Subject to current condition @ Mawan
Tugs: 1 escort @ Mawan for Mawan Transit; from GI if Draft >10m.
 To URMA: 1 escort @ Mawan for Mawan Transit +1 @ URMA; 1 escort from GI through to URMA if Draft >10m.
Remarks: 2 pilots.

041 **S. bound** LOA: Max 255m
Draft: Max. 15m (min 15% UKC)
Time: Day light only
 Subject to current condition @ Mawan
Tugs: 1 escort @ Mawan for Mawan Transit.
 From URMA: 1 escort @ Mawan for Mawan Transit; from URMA if Draft >10m.
Remarks: 2 pilots.

050 **N. bound** LOA: Max 290m
Draft: Max. 16.8m (min 15% UKC)
Time: Day light only
 Subject to current condition @ Mawan
Tugs: 1 escort from GI for Mawan Transit; +1 @ Mawan if Draft >14m.
 To URMA: 1 escort from GI to URMA; +1 from Mawan to URMA if Draft >14m.
Remarks: 2 pilots.

051 **S. bound** LOA: Max 290m
Draft: Max. 16.8m (min 15% UKC)
Time: Day light only
 Subject to current condition @ Mawan
Tugs: 1 escort @ Mawan for Mawan Transit; 2 if Draft >14m.
 From URMA: 1 escort from URMA for Mawan Transit; +1 @ Mawan if Draft >14m.
Remarks: 2 pilots.

General Remarks:

- Thrusters not considered for transit.
- Tidal window current reference point: 22-21.599N 114-04.125E
- **PILOT BOARDING TIME FOR MA WAN TRANSIT:**
 @URMPS, URMA, NC & WITHIN HARBOUR:
 - Draft exceeds 14m or harbour speed less than 11 knots – Mawan transit time minus 1.5 hours;
 - Other ships – Mawan transit time minus 1 hour.
- Bulker or Tanker of LOA >280m are normally not permitted to lighten or anchor at URMA due to limited space of the anchorage.
- In case of special circumstances and conditions, where a vessel is required to anchor at URMA, she shall obtain prior approval from VTC.

Berthing Guidelines*PAC endorsed on 16 February 2009*

Chapter: 2

GENERAL REMARKS

- (1) These guidelines should be construed as the operations to be performed are conducted under normal conditions with due regards to weather, ship maneuverability, sea and swell etc.
- (2) The conditions hereto as regards to the number of tugs deployed and the working parameter require are based on the experience gained by pilot members in normal weather, sea and swell, and ship's manoeuvring conditions; and are deemed to be the minimum requirements as such. Should the condition and circumstances be changed which may affect any working parameter; the pilot may at his discretion to amend any requirements therein. Any additional tug in excess of the said requirement as required by the Master and/or ship's operators to enhance the safety be concurred and encouraged by all pilots. When two or more Grade II tugs are stipulated in the Berthing Guidelines, they should not be replaced by one Grade I tug.
- (3) Transverse thruster or thrusters in good working condition at one end may be accepted to substitute for one tug. Transverse thruster with under-power will not be considered as equivalence to one tug.
- (4) An under-keel clearance of 10% of the vessel's deepest draught is required in maneuvering basins, sheltered fairways and approaches to berths. 15% under-keel clearance for any exposed waterways including East Lamma Channel, West Lamma Channel, Western Fairway, Ma Wan Fairway, Urmston Road and Tathong Channel. To ensure safe navigation, the required UKC must be maintained throughout the entire Berthing/Unberthing operation or transit all tidal conditions. Ample margin must be allowed for the following when calculating the effective UKC:
 - (i) Listing due to e.g. inadequate GM (Vessel Tender),
 - (ii) Delay of berthing/unberthing due to delayed schedule, traffic congestion, weather etc. particularly on a falling tide.

Warning:
Owners or masters of vessels may be liable to lighten their vessels to avoid touching of bottom due to insufficient UKC.
- (5) The depths of the berths provided in these guidelines are as declared by the berth operators. Close liaison among the ships agent, berth operators and pilots should be maintained at all times to ensure sufficient depth for berthing and unberthing of the vessels. Good liaison should be maintained among all concerned parties for vessels required to 'wedge-in' and 'wedge-out' to ensure ample and safe **fore-and-aft** clearances are achieved.
- (6) For vessel moving to and/or from a buoy, the working pilot may take a passage at the time he considers to the best and safest route for such vessel.
- (7) In any special circumstance of the case arises, e.g. adverse weather, No.3 or above typhoon signal is hoisted up, boisterous sea and swell, different pilot embarking and disembarking areas, hampered vessels or vessels with special construction or characteristics, etc., special requirements for tugs, working condition, servicing time, etc. need to be further consulted.
- (8) All entries in these Guidelines are subject to change without notice.
- (9) All Guidelines should be exercised with flexibility subject to circumstances arising.