

PROVISIONAL LOCAL VESSEL ADVISORY COMMITTEE

Minutes of the 33rd Committee Meeting

Date : 5 January 2004 (Monday)
Place : Conference Room 1615, 16/F, Harbour Building
Time : 2:30 p.m.

Present

Chairman:	Mr. Roger TUPPER	Deputy Director of Marine, Marine Department
Member:	Mr. David CHENG	Representing Cargo Vessels Operators
	<i>(on behalf of Mr. SHUEN Wai)</i>	
	Mr. HO Chi-shing	Representing Ferry Vessels' Operators
	Mr. KEUNG Yin-man, MBE	Representing Fishing Industry
	Mr. KWOK Kam-tung	Representing Launch & Excursion Vessels' Operators
	<i>(on behalf of Mr. CHOI Kim-lui, JP)</i>	
	Ms. Una CHAN	Representing Marine Insurance Industry
	Dr. CHENG Jui-shan, MBE	Representing Naval Architects
	Dr. Alan LAU Kwok-lam	Representing Pleasure Boating Operators
	Mr. HE Wei-ping	Representing River Trade Cargo Operators
	Mr. Tony YEUNG Pui-keung	Representing Seafarers Training Institutes
	Mr. Vitus SZETO Kin	Representing Ship Building & Repairing Industry
	Mr. Martin CHU	Representing Ship Survey Industry
	Mr. LING Wai-po	Hong Kong Police Force
	Mr. NG Kin-man	GM/Ops, Marine Department
	Mr. Michael LEE	GM/LVS, Marine Department
Secretary:	Ms. Shirley HO	ADS/C&G, Marine Department

In Attendance

Mr. PANG Wah-kan	HK Fishermen's Association
Mr. CHEUNG Yau-kwong	Marine Excursion Association Ltd

Absent with Apologies

Mr. HUNG Bing	Representing Seafarer's Associations
---------------	--------------------------------------

Presentation of Papers

No. 1/2004	Mr. CHAN Yau-ning	SMO/LP, Marine Department
No. 2/2004	Mr. F L CHEUK	SMO/LPF, Marine Department
No. 3/2004	Mr. WONG Wing-hung	SMO/P&D(3), Marine Department
	Mr. W Y TANG	Chief Engineer, Civil Engineering Department
	Mr. K S LI	Senior Engineer, Civil Engineering Department
	Mr. Edmond K H YAU	Engineer, Civil Engineering Department
	Mr. K M YEUNG	Director, Mott Connell Ltd.
	Mr. Terry CHUNG	Mott Connell Ltd.
No. 4/2004	Mr. CHAN Ming-kwong	SMO/P&D(1), Marine Department
	Dr. T L YIP	BMT Asia Pacific Ltd.
No. 5/2004	Mr. K P LEE	SS/LVS, Marine Department
No. 6/2004	Mr. Michael K F LEE	GM/LVS, Marine Department

I. Opening Remarks

1. The Chairman welcomed all to the meeting and Mr. Martin CHU was particularly welcomed because it was the first PLVAC meeting he attended in the capacity of an official representative replacing Mr. Robin Pickup to represent the Ship Survey Industry.

II. Confirmation of Minutes of Last Meeting

2. The Chairman told the meeting that a number of proposed amendments to the minutes of last meeting were received from members, summarized and re-circulated. Members raised no further comments at the meeting and the minutes of the 32nd meeting were confirmed.

III. Matters Arising From Minutes of Last Meeting

Development of Legislation for Coastal Trade Vessels (para. 6, minutes of the 32nd meeting)

3. Mr. Michael LEE reported that the detailed Code of Practice (CoP) in bilingual versions, including the “Minimum Safe Manning“ and “Simplified Safety Management” requirements of CTV had been completed. It would be sent to the Technical Sub-Committee and the Beijing MSA for views.

Safe Sheltering within the Hei Ling Chau Typhoon Shelter (para. 30, minutes of the 32nd meeting)

4. In response to Mr. CHOI Kim-lui's concern over safe sheltering within the Hei Ling Chau Typhoon Shelter (HLC T/S), the Chairman said that the Harbour Patrol Section (HPS) of MD had deployed task force to carry out a thorough investigation of the mooring situation of the laid-up vessels inside the HLC T/S in July 2003 after the passage of typhoon "Imbudo". The patrol officers found that there were 8 groups of vessels for which mooring arrangements required improvements such as dropping additional anchors or adding/replacing the mooring ropes properly. The owners of those laid-up vessels concerned followed the HPS' advice and no laid-up vessels were found drifting within the HLC T/S during the passage of typhoon "Krovanh" in August 2003. The Chairman emphasized that HPS would continue to take follow-up action and keep a close eye on the situation.

Increasing Numbers of Tourists on board at Sai Kung Pier (para. 31, minutes of the 32nd meeting)

5. In reply to Mr. CHEUNG Yau-kwong's enquiry, the Chairman stated that Sai Kung District Council (SKDC) had been actively discussing the subject. Representatives from MD had been attending the SKDC meetings to follow up the issue.

IV. Presentation of Papers

PLVAC Paper No. 1/2004 - "Merchant Shipping (Local Vessels) (Certification and Licensing) Regulation" and "Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation"

6. Mr. CHAN Yau-ning presented the paper, which introduced the two new Regulations made under the Merchant Shipping (Local Vessels) Ordinance, Cap. 548 to improve the safety, control and regulation of local vessels. These two Regulations would be tabled into the Legislative Council (LegCo) shortly. There were five remaining Regulations and a consequential Bill made under the same Ordinance, they were being drafted and expected to be completed in 2004/05 legislative year.
7. Upon enquiry from Mr. Vitus Szeto, Mr. KEUNG Yin-man and Dr. Alan LAU, the Chairman and Mr. CHAN Yau-ning made the following explanation -

- (a) The two Regulations would be tabled at the LegCo in February 2004 for negative vetting. If the LegCo members raised no objection to these Regulations within the normal 28 days' or extended 49 days' vetting period, the Regulations would be enacted automatically.
- (b) If a pleasure vessel was hired, there should be a charter party made and signed by the hirer and the owner. The charter party should be kept onboard the vessel and produced for inspection on request by an authorized officer. The new provision would require the owner and hirer of a vessel to observe that they had the responsibility to follow the regulation and ensure that the pleasure vessels were used by the owner or hirer exclusively for pleasure purposes and their private use.
- (c) For vessels having a length exceeding the restricted length of the typhoon shelter, they could always apply to the Director of Marine for permission if they needed to enter individual typhoon shelter for special circumstances. The Director would consider each application separately and exercise discretionary power to give such permission if it was appropriate. The Director had delegated the power to designated MD officers, therefore any applications could be made to MD Marine Offices.
- (d) In view that the typhoon shelters should be used by different vessels safely and effectively at all times, it was not practical to demarcate areas in typhoon shelters specifically for vessels having a length exceeding the restricted length.
- (e) It was specified in a new provision of the Merchant Shipping (Local Vessels) Ordinance clearly that the owner of a local vessel should be an individual or a limited company, so a company would no longer be required to nominate a person as a licensed owner.

PLVAC Paper No. 2/2004 - "New Numbering System under the Merchant Shipping (Local Vessels) Ordinance"

- 8. Mr. F L CHEUK introduced the new numbering system to be used for the certification and licensing of local vessels under the Merchant Shipping (Local Vessels) Ordinance.
- 9. Dr. Alan LAU opined that, for pleasure boats which were much different from vessels of other categories, the required size of the number for boats over 24m long were considered too large and unacceptable since the appearance of boats would be adversely affected if painted with such large numbers. He strongly requested a relaxation of the size requirements for the new numbering system exclusively for pleasure boats so long as the

number was clear enough to identify and it would not have much adverse impacts on the execution of law and order. Mr. F L CHEUK agreed to further look into the request and reply later.

10. Mr. LING Wai-po expressed concerns over the confusion or inconsistency that might be caused when the Marine Police was to execute the law and order or to give proof for law cases during the transition period. As it also involved the record system and sensitive information of the Marine Police, he would write to MD for further discussion and arrangement. The Chairman welcomed Mr. LING's approach and reassured him that MD would keep a full record of the old numbering system to ensure a smooth transition and to minimize any possible confusion.
11. In reply to Mr. Vitus SZETO, Mr. F L CHEUK explained that the existing 11 classes of local vessels would be streamlined to four so as to simplify the categorization system. Under each class of local vessel, it would be sub-categorized into different types so that different kinds of vessel's operation could be identified.
12. Members made and Mr. F L CHEUK replied the following enquiries-
 - (a) A tugboat which was qualified to carry more than 12 passengers would be classified as Class 1 vessel.
 - (b) A working boat, though it was not carrying cargo, would be classified as Class 2 vessel.
 - (c) The legislation required that the numbers should be painted at where it could best be seen on each side of the deck housing or the hull of a vessel. MD would publicize the new numbering system when the new legislation came in force.

PLVAC Paper No. 3/2004 - "Use of Hei Ling Chau Typhoon Shelter for Land Formation for Prison Development at Hei Ling Chau"

13. Mr. W Y TANG of the Civil Engineering Department (CED) and Mr. K M YEUNG of Mott Connell Ltd. presented the details of the paper.
14. Members had active discussion on the proposal of using part of the Hei Ling Chau Typhoon Shelter (HLC T/S) for the land formation of the proposed prison complex at Hei Ling Chau. The Chairman summarized the comments given by the members as follows -

- (a) The PLVAC strongly opposed to Options B, C and D considering that spaces of the HLC T/S would be reduced and options for re-provisioning of an alternative location were limited and hardly identified.
- (b) Even for the other options, it was anticipated that the water flow, the marine ecosystem, the water traffic safety as well as the fishing industry would be adversely affected.
- (c) The fixed crossing link, regardless of forms of which, was regarded as not cost effective in view of its restricted use by only one department, i.e. Correctional Services Department (CSD).
- (d) CED was recommended to explore other better locations for the construction of the proposed prison complex.

15. Mr. W Y TANG thanked for the comments and told the meetings that -

- (a) For the location of the prison complex, many locations had been studied, assessed and considered. HLC was a location carefully and finally selected.
- (b) CED had been liaising with MD about the need of re-provisioning a new T/S and its possible location.
- (c) CSD required a fixed crossing link given operational need. Since it was at a feasibility study stage, CSD should have not fixed the scope of users of the link. All members' view would be reflected to CSD for consideration and MD would be consulted on its impact on the water traffic if it would be built in the form of a bridge.
- (d) Environmental Assessment Impact would be conducted to help identify mitigation measures for the surrounding environment.

PLVAC Paper No. 4/2004 - "Study on Marine Traffic Risk Assessment for Hong Kong Waters (Progress Report)"

16. Mr. CHAN Ming-kuong briefed members that the same subject, presented as PLVAC Paper No. 3/2003, was first discussed at the 32nd PLVAC meeting. It was agreed that a progress report would be presented to the PLVAC when MD had obtained sufficient data and analysed information for the Study. Dr. T L YIP of BMT Asia Pacific Ltd. then presented the progress report of the Study.

17. Upon enquiries from members, Mr. CHAN Ming-kwong and Dr. T L YIP clarified that all relevant information about the major developments within the Hong Kong waters and in the neighbourhood areas, that may have an impact on marine traffic activities in the Hong Kong waters, such as the Hong Kong-Zhuhai-Macao Bridge, the Shenzhen Western Corridor, the Stonecutters Bridge, the Sky Pier, the Chai Wan PCWA or the proposed Siu Lam Typhoon Shelter, that were available in hands had been included in the Study, to help analyzing the present and future marine traffic environment and to draw a meaningful conclusion for the risk levels in Hong Kong waters.
18. The Chairman concluded that, for the next stage, options would be developed to mitigate risks identified by the Consultant, all possible mitigation options would be assessed and a strategy would be developed to implement the selected options. Members would be briefed of the progress again at the next meeting.

PLVAC Paper No. 5/2004 - “Proposed Manning Scales for Local Vessels”

19. Mr. K P LEE gave a brief account of the paper and told members that concerned owner/operator associations had preliminary been consulted on the scale and their comments had been incorporated into the paper.
20. Mr. K P LEE confirmed Mr. Vitus SZETO that a local vessel when underway in general situation should have at least one coxswain and one engineer on board which meant the minimum crew for the smallest vessel should include 2 persons.
21. Mr. K P LEE's answers to the questions from Mr. HO Chi-shing were as follows –
 - (a) To safeguard ship navigation, any vessel intended to be operated by a “combined coxswain” should be appropriately equipped for unattended machinery space operation; and in addition there should be one crew member with common engineering knowledge on board to assist the coxswain. The requirements would be incorporated in the CoP. The coxswain should also understand well that he should not leave the ship navigating when he had left the steering position.

- (b) Regarding Annex II of the paper, Mr. K P LEE agreed to check with MD's Seafarers' Certification Section whether a holder of Local Certificate of Competency for operating commercial vessels could be permitted to operate a pleasure vessel without holding a Pleasure Vessel Operator Certificate.

(Post-meeting notes: A separate Pleasure Vessel Operator Certificate is NOT required for the equivalent local certificate of competency holder, under reg. 7 of Cap. 313G and Schedule 1 of Cap. 313R.)

PLVAC Paper No. 6/2004 - "An Outline on the Delegation of Survey of Local Vessels under the New Local Vessel Ordinance"

22. Mr. Michael LEE informed members that there was still questions/comments raised by some members of Technical Sub-Committee (TSC) on the presentation of two Mainland inspection authorities in the submitted paper, therefore, presentation of these two Mainland inspection authorities would be withheld for further clarification/ review and re-submission to PLVAC at a later date. He then presented the remaining details of the paper. There was a lengthy discussion and the views exchanged were highlighted in the following paragraphs.
23. In response to Mr. David CHENG, Mr. Michael LEE said that indemnity to guard against professional negligence performed by authorized surveyors/organizations (AS/AO) was one of the issues awaiting advice from DoJ. The Committee would be informed of the progress or outcome when DoJ had clarified the issue.
24. Dr. CHENG Jui-shan and Mr. Martin CHU urged that MD should issue a detailed guideline, which clearly defined the acceptable standards and criteria for approving plans, for those AO/AS to follow so that disputes or confusions could be avoided and minimized. Mr. Michael LEE replied that essential requirements, standards or guidelines were given in the regulations or in the CoP. He added that there were also views and concerns received from members of the Technical Sub-Committee on that too detailed guidelines or requirements were given at early stage of delegation, but instead it was more supportive for a gradual approach to improve the standards given in the CoP based on the then experience and shared knowledge accumulated. However, Mr. Michael Lee agreed that the suggestion would be further discussed and worked out through the Technical Sub-Committee and then reported back to the PLVAC. Mr. Michael Lee explained that, for any disputes over the approval of plans, either the owners or the surveyors could always approach the Local Vessel Safety Section of MD for advice and conclusion. This aspect would also be discussed/reviewed at the Technical Sub-Committee meeting to see if it was necessary to develop further guidelines or procedures to deal with the situation.

25. Mr. HO Chi-shing expressed that, as far as a ship owner was concerned, any big discrepancies over the need of modifications between the officers of MD and the professional people might involve considerable cost and in fact it was difficult to go back and change some major structural installation when it had come to a final completion stage. The ship owner would be in a dilemma when MD and the AS/AO had different opinions and licensing could not be made in Hong Kong. Mr. Michael Lee said that, in such cases, the AS/AO would need to provide justifications for their recommendations and professional opinion for Director's consideration to resolve the problem objectively.
26. Mr. Martin CHU made and Mr. Michael LEE replied the following enquiries –
- (a) As to whether the plan of a local vessel would be approved in accordance with acceptable standards or any exemption would be considered, it would be described in the detailed guideline for AS/AO or in the CoP.
 - (b) Regarding the suggested 3-month time window applied to random/spotcheck inspection monitoring, if it was necessary to make monitoring inspection for those recently surveyed vessels, the MD would accept the suggestion to conduct such inspection within the said 3 months. If it had to be done thereafter, the MD would just perform general spotcheck monitoring inspection and urge the owner to make rectification if required, unless there was a major omission or non-compliance which obviously required to find out the reason of and made recommendation for appropriate or remedial action.
 - (c) As regards the essential area for audits or quality assurance of monitoring inspections, e.g. items 1(iv) and 4(i) of the appendix, Mr. Martin CHU was of the view that equipment did break down even after a survey was completed, imposing great responsibility on the surveyors might not be fair and practicable. Mr. Michael LEE responded that each case or situation would be carefully considered and the CoP or guidelines would be written or updated as required to ensure clarity as practicable as possible to avoid any unfairness and impracticability.
27. Upon enquiries from Mr. Vitus SZETO, the Chairman and Mr. Michael Lee clarified that-
- (a) The MD would ensure that difference in interpretations on the CoP and guidelines were minimized so that any that arose could be explained or clarified. MD would play its own role and work in partnership with the industry on the issue of delegation of survey.

- (b) Consultation with various operator groups and classification societies was also required because they would be gradually delegated 100% of the survey works for low risk vessels progressively instead of the present situation at around 40 to 50% for some vessels. Moreover, different operators might have different priorities, consultation would give the industry an overall picture of the proposed programme on delegation of survey so that a decision made by the MD and agreed by the industry could be ensured.
- (c) The MD was preparing and planning to have the five subsidiary regulations going through the LegCo for negative vetting some time in the middle of 2004. Whilst the existing legislature was very acquainted with the LVO, at least 12 months would be lost if the new legislature had to be briefed and all necessary processes had to be passed. At the same time, the MD would try to make other supporting system to be ready. The consultation was to obtain constructive feedback for refining the content of the CoP, guidelines and the draft regulations.
- (d) As to the “adjustments in the proposed phases of delegation” mentioned in paragraph 6 of Annex I of the paper, the Chairman elaborated that there might be some adjustments only if there was a general consensus for speeding up the process or for putting something in place first before the next step. Consultation was a briefing and a process for the industry to be aware of what would happen in the future.

(Post-meeting notes [in response to discussion mentioned in above para 25, 26(a) and 27(a)]: In paragraphs 2.3 and 2.4 of PLVAC Paper 6/2004 on the Authorization Document for Authorized Surveyors/Organizations, it has indicated the procedure in dealing with matters relating to the interpretation, equivalents and exemption on requirements of the applicable instruments, including codes of practice etc. This could be further reviewed to see if it is necessary be reflected in CoP.)

VI. Date of Next Meeting

- 28. There being no other business, the meeting ended at 6:30 p.m. The date of next meeting would be announced in due course.