

## Minutes of the 43<sup>rd</sup> POC Meeting

**Date:** 25 September 2003 (Thursday)

**Time:** 1430 hours

**Venue:** Conference Room A, 24th Floor, Harbour Building, Marine Department

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<b>Present</b>	Mr. S Y Tsui	<b>Chairman</b>
	Mr. K M Lee	Member
	Mr. Raymond <b>Chung</b>	(on behalf of Mr Raymond <b>Fan</b> )
	Mr. Sunny <b>Ho</b>	(on behalf of Mr Jeffrey <b>Lam</b> )
	Mr. Terence <b>Tse</b>	Member
	Mr. Chris <b>Pooley</b> & Mr. Richard <b>Kendall</b>	Member
	Mr. Terence <b>Sit</b>	Member
	Mr. Y S <b>Young</b>	Member
	Mr. K L <b>Choi</b>	Member
	Mr. Neil <b>Russell</b>	Member
	Mr. David <b>Ho</b>	Member
	Mr. T C <b>Ho</b>	(on behalf of Mr Eddy <b>Ma</b> )
	Capt C K <b>Lau</b>	(on behalf of Capt K W <b>Pang</b> )
	Mr. Peter K Y <b>Wong</b>	Secretary
<b>In attendance</b>	Mr. Roger <b>Tupper</b>	MD
	Mr. W H <b>Wong</b>	MD
	Mr. H M <b>Tung</b>	MD

Mr. L Y Butt MD

Apologies Mr. Reuben Chung Member

Mr. Anthony Loo Member

## 1. Open of Meeting

1.1 **The Chairman** welcomed all to the meeting and passed his condolences over the recent death of **Mr. Lee Ching Chiu**. He then introduced the following persons:

- (i) **Mr. Choi Kim Lui** who would replace **Mr. Lee Ching Chiu**.
- (ii) **Mr. Richard Kendall** who would replace **Mr. Chris Pooley** who had recently retired.
- (iii) **Mr. Ho Tung Chuen** on behalf of **Mr. Eddy Ma**.
- (iv) **Mr. K C Lau** on behalf of **Mr. Pang Kim-wing**.

## 2. Confirmation of Minutes of the Last Meeting

2.1 The draft minutes of the 42 POC Meeting were endorsed, subject to the amendment to the last sentence of paragraph 3.2.11 set out as follows:

*“In addition, he requested that the local shipping agents be updated to the progress of implementing the ISPS Code in view of their role in coordinating the ships’ activities in port.”*

## 3. New Items

### 3.1 POC Paper No. 4/03 Implementation of ISPS Code in Hong Kong

3.1.1 **The Chairman** said that the Director of Marine (DM) had been appointed as the Designated Authority (DA) on maritime and port security for the HKSAR Government.

He said that the Marine Department (MD) along with other relevant law enforcement departments had been working very hard to implement the Code in Hong Kong. So far, MD had held a number of meetings with the maritime and shipping communities, and had provided proper guidance on how to conduct a security assessment and draw up a security plan.

- 3.1.2 **Mr. Jacky Wong** gave members an update on the implementation of the Code in Hong Kong. **The Chairman** highlighted that the tentative deadlines for the submission of security assessments and the security plans were October 2003 and January 2004 respectively. He explained that such a tight timeframe was needed because sufficient time should be allowed for the approval and testing of the port facility security plans.
- 3.1.3 As far as Government-run port facilities were concerned, **Mr. Roger Tupper** said that the Government was working under the same security framework and timeframe applicable to private operators. A security assessment would be undertaken and a security plan drawn up for each Government-run facility for DA's approval. Thereafter, the Government would endeavor to as early as possible submit to the IMO a list of approved port facilities (both public and private) that were in compliance with the Code. This was necessary because shipowners themselves would like to know which port facilities were compliant with the Code before the international enforcement deadline 1 July 2004.
- 3.1.4 **Mr. Pooley** asked and **Mr. Roger Tupper** responded that there were altogether 27 designated facilities (both government and private facilities) that had to comply with the Code in Hong Kong.
- 3.1.5 **Mr. Pooley** asked and **the Chairman** said that the Aberdeen Marina was not required to comply with the Code as the main focus of the Code was on those port facilities that served vessels engaged on international voyages. Nevertheless, **Mr. Roger Tupper** said that the Code did provide Contracting Governments a measure of discretion in determining what facilities were required to comply with the Code.

- 3.1.6 In response to **Mr. David Ho** and **Mr. Richard Kendall's** questions, **Mr. Roger Tupper** responded that port facility operators were not required to conduct their assessments on an annual basis. Instead, they would be required to maintain a rolling audit for the purpose of reviewing and updating their security plans on an ongoing basis, taking into account changing threats and/or changes to the layout of their facilities. If major changes to the port facilities took place, port facility security assessments should be reviewed, and that a clear guideline would be issued to define what constituted a substantial change in port facilities. In addition, he said that effective audit and review procedures would be established in each security plan for the compliance on the part of port facility operators.
- 3.1.7 As far as ships were concerned, **Mr. Roger Tupper** said that a Ship Security Certificate would be issued for a period of five years; however, verifications would be carried out on an annual basis. The security audits would be performed by various Classification Societies duly authorized by the MD to carry out such works.
- 3.1.8 **Mr. Choi** asked and **the Chairman** responded that issues related to the interface between local/river-trade craft and ocean-going ships would need to be duly addressed while formulating security plans for harbour facilities (i.e. anchorages and buoyed areas) to be undertaken by the MD. In respect of Mainland vessels, **the Chairman** said that they were not regarded as vessels engaged in international trade as agreed between Hong Kong and Mainland authorities.
- 3.1.9 As for port facilities covered by the ISPS Code, **the Chairman** said that if they had to interface with Mainland and/or domestic vessels, they would need to address security issues related to such interface in their security assessments and plans.
- 3.1.10 **Mr. Roger Tupper** said that the aim of the Code was to enable the shipping and port industries to develop individual security plans that were relevant to their particular circumstances and nature of operations. These plans enabled operators to react to changing security levels as set out in the Code and to put in place adequate and

proportionate security measures. He emphasized that the Code was not intended to inhibit the efficient movement of cargo but to provide a framework enabling operators to take preventive measures against security threats affecting their facilities.

- 3.1.11 **Mr. Tse** asked and **the Chairman** responded that a port facility security officer (PFSO) would need to be appointed to cover each port facility as required under the Code. In terms of certification, **Mr. K M Fung** said that PFSO (as opposed to ship security officers) were not required to be certified but the duties, responsibilities and training requirements of PFSO were defined in part A of the Code. In order to provide necessary training to security officers of port facilities, **Mr. Roger Tupper** said that three 3-day port facility security officer courses were organized by the Marine Department in early September 2003.
- 3.1.12 **Mr. Raymond Chung** asked and **the Chairman** responded that the courses organized by the Marine Department were mainly focused on the training of PFSO, and they were well received and strongly attended by local operators. **Mr. Roger Tupper** supplemented that, although such courses were not approved by the MD, they had been specifically designed to meet the training requirements for PFSO as articulated in the Code. With respect to maritime security training, **the Chairman** said that a range of security courses was on offer by a number of organizations such as Classification Societies. **Mr. Roger Tupper** said that the International Maritime Organization was in the process of formulating the model courses for the training of security personnel (e.g. port facility security officers, ship security officers and company security officers etc.). In the meantime, broad guidelines on the training of security personnel could be found in the Code.
- 3.1.13 **Mr. Ho** asked and **the Chairman** said that at this time the Marine Department had no intention to set standards for the certification of port facility security officers. However, **Mr. Roger Tupper** said that the responsibility for appointing and training of PFSO resided with the facility operators who should ensure that their PFSO had the necessary knowledge and expertise as required under the Code. On the maritime

side, the Marine Department had delegated certain security duties relating to ships to Classification Societies including conduct of ship security assessment, development and review of ship security plan, issue and endorsement of the International Ship Security Certificates (ISSC).

3.1.14 In closing, **the Chairman** urged operators to comply with the deadlines for the submission of port facility security assessments and security plans.

### **3.2 POC Paper 5/03**

#### **Proposed Amendments to the Merchant Shipping (Limitation of Shipowners Liability) Ordinance, Cap. 434 (The Ordinance)**

3.2.1 **Mr. H M Tung** briefed members on the gist of the paper and sought members' views on:

- (i) whether the carriages between Hong Kong/Macau and Hong Kong/Mainland ports should be subjected to the same liability limits as stipulated in the Athens Convention;
- (ii) whether the 1996 Protocol to LLMC 76 should be extended to HKSAR as proposed; and
- (iii) whether sub-section 17(1) of the ordinance, which permits a lower limit of liability for maritime claims for ships of less than 300 gross ton, should be deleted.

#### **The Athens Convention**

3.2.2 **The Chairman** said that prior to 1997 the Athens Convention was applicable to carriages between Hong Kong/Macau and Hong Kong/mainland ports which were then regarded as international carriages. After the unification of Hong Kong and Macau with China in 1997 and 1999 respectively, the Convention ceased to apply to the aforesaid carriages. In order to reinstate the previous situation, it was proposed that the coverage of the Convention be expanded to cover the carriages in question.

### **The 1996 Protocol**

- 3.2.3 In response to **Mr. David Ho**'s question, **the Chairman** replied that a total of eight states had so far ratified the 1996 Protocol. The 1996 Protocol would come into force internationally when a threshold of 10 ratifying states was reached. However, the entry into force of the 1996 Protocol internationally did not mean that all other countries had to follow suit; the new requirements would only be applicable to the ten ratifying states. At present, the 1996 Protocol was expected to come into force in the second quarter of 2004.
- 3.2.4 **The Chairman** said that the Ordinance, which gave effect to the Convention on Limitation of Liability for Maritime Claims, was also applicable to local vessels. At present, the Ordinance prescribed a lower liability limit for ships of less than 300 GRT. Noting that ships of less than 300 GRT could cause considerable damage to other ships and facilities, **the Chairman** said that Ordinance should be brought in line with the 1996 Protocol.
- 3.2.5 Although motor launches and tugs were well covered under their P&I Club insurance, **Mr. K L Choi** said that care should be taken of those local vessels that had no P&I cover, in particular local lighters. He was of the view that the proposed increase in the limits of liability for smaller vessels under 300 GRT was too great and suggested a lower liability limit be set for smaller vessels. **Mr. Raymond Chung** asked whether the proposed increase in the liability limit would entail an increase in the amount of damages paid to victims. In response, **the Chairman** said that the setting of the liability limit was different from that of determining how much liability protection that shipowners should afford to their vessels. As such, he did not envisage that the new liability limits under the 1996 Protocol would bring about any increase in premium. As a matter of fact, the premium paid by a vessel was determined according to the claim record of it in the previous years. Given that the court would decide the actual amount of compensation for maritime claims, the setting of the liability limit was not strictly linked to the premium of insurance. **Mr. H M Tung** added that the proposed amendment was meant to strike a balance the interests between shipowners and victims.

3.2.6 After some discussion, the Committee endorsed the proposal.

### **3.3 POC Paper 6/03**

#### **Establishment of Zhujiang Estuary Traffic Separation System**

3.3.1 **Mr. L Y Butt** briefed members on the proposal to establish a traffic separation system (TSS) in the Zhujiang area. He said that the objective of the TSS was to enhance navigation safety in the area.

3.3.2 Considering the continuous growth of marine traffic in the Zhujiang Delta triggered by rapid economic developments thereat, **Mr. K M Lee** said that there was an imminent need to establish the TSS in order to reduce the potential marine traffic risks/conflicts and to improve the current situation. He said that an agreement on the technical arrangements for the TSS was proposed to be signed with the Guangdong MSA in November 2003 subject to the outcome of consultations with the industry.

3.3.3 Noting that Hong Kong's southern boundary was criss-crossed by the proposed traffic separation lanes of the TSS, **Mr. Richard Kendall** asked whether confusion would arise as to who should provide the traffic information and advice for vessels navigating within the TSS. **Mr. K M Lee** said that the Hong Kong's Vessel Traffic Centre would provide the provision of vessel traffic services to vessels within Hong Kong waters. Whereas the Mainland authorities would be responsible for providing traffic services to vessels navigating outside Hong Kong waters. Should there be a breach of TSS rules, the alleged breach would be investigated and handled by the authority in whose waters the incident took place. For example, if a breach of the TSS rules occurred outside Hong Kong waters, the Mainland authorities would be responsible for investigating the violation and taking appropriate action, where appropriate, against the vessel for the alleged breach. Should the incident took place within Hong Kong waters, the Marine Department would be responsible for investigating and handling the case.



- 3.3.4 **Sunny Ho** asked what if a vessel violated the traffic rules in Chinese waters and subsequently entered Hong Kong waters. **The Chairman** said that the onus on the follow-up of the traffic violation would reside with the Mainland authorities. However, Hong Kong would closely communicate with the Mainland authorities and provide assistance where necessary.
- 3.3.5 **Mr. David Ho** asked whether the TSS would be marked with aids to navigation. **K M Lee** said that the Marine Department in cooperation with the Mainland side would review the need for marking the TSS upon the completion of the 1-year trial.
- 3.3.6 After some discussion, the Committee endorsed the proposal.

### **3.4 POC Paper 7/03**

#### **Optimising the Usage of Anchorages and Government Mooring Buoys**

- 3.4.1 **Mr. L Y Butt** briefed members on the proposal to streamline the current buoy allocation system, and to remove 24 existing GMB from the Kellett Bank and convert the vacated area into an anchorage. He said that if members supported the proposal, the removal operations would commence in October 2003 with a view to completion in February 2004.
- 3.4.2 **Mr. Young** asked and **Mr. L Y Butt** replied that B26 and A13 would be retained in situ in order to protect the sewerage outfall laid thereunder from being damage by anchoring vessels.
- 3.4.3 **Terence Sit** asked and **the Chairman** responded that an allocation system would be put in place for assigning space in the new anchorage area.
- 3.4.4 **Mr. Ho** asked and **Mr. L Y Butt** said that at present an application for a harbour mooring buoy could be sent to the Vessel Traffic Centre (VTC) either by facsimile or by telex. Besides, he said that the MD was developing e-business system to expedite the buoy booking process.

3.4.5 **Mr. Terence Sit** asked and **Mr. L Y Butt** replied that an application could not be accepted earlier than 2-day before the estimated time of arrival of a vessel. **Mr. L Y Butt** went on saying that buoy dues would commence when a buoy allocation was formally accepted by the applicant.

3.4.6 After discussion, the Committee endorsed the paper.

#### **4 Any Other Business**

4.1 **K M Lee** reported that following the VTC upgrade, Ma Wan and Kwai Chung local traffic control stations had been linked up with the VTC. In other words, these two local traffic control stations could now be remotely controlled and operated from the VTC. He said that MD was intent on turning them into virtual local traffic control stations. Towards this end, a 3-month trial implementation had commenced on 1 September 2003 to operate the Ma Wan local traffic control station in a semi-virtual mode with only one Marine Inspector II deployed to control the patrol launch at Ma Wan. After the trial, a review would be carried out to examine the arrangements. **Mr. L Y Butt** supplemented that operations had been going smoothly since the trial.

4.2 **Mr. K C Lau** requested the MD to consider providing escort service to ships less than 198 m when transiting the Ma Wan Channel. **Mr. K M Lee** said that this issue would be addressed by the Pilotage Advisory Committee.

4.3 **The Chairman** thanked **Mr. Pooley** for his contributions and valuable advice to the Committee over the years. On behalf of the Committee, he wished him a long and happy retirement.

#### **5. Date of the Next Meeting**

5.1 The date of the next meeting is scheduled to be held on 17 December 2003 onboard the VIP Launch "Tin Hau".

**6. Close of Meeting**

6.1 The meeting was closed at 1430 hours.

Confirmed this                      day of    2003

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**Chairman**

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**Secretary**