

Shipping Consultative Committee

Minutes of the 37th Meeting held at 3:00 p.m. on 8 June 2011 in the Marine Department Conference Room A

Present:

Mr. P.C. So	Marine Department (Chairman)
Capt. Vikrant Malhotra	Anglo-Eastern Ship Management Ltd.
Mr. Sanjay Chandra	Fleet Management Ltd.
Mr. Y.H. Shum	Goldbeam International Ltd.
Mr. Arthur Bowring	The Hong Kong Shipowners Association Ltd.
Capt. C.W. Li	Hong Kong Seamen's Union
Mr. Harry L.H. Chan	Mayer Brown JSM
Capt. C.M. Yu	The Merchant Navy Officers' Guild – Hong Kong
Capt. J.J. Lu	Ocean Longevity Shipping & Mgt. Co. Ltd.
Capt. L.C. Chan	Orient Overseas Container Line Ltd.
Capt. Jay K. Pillai	Pacific Basin Shipping (HK) Ltd.
Mr. Renato Miu	SINOTRANS Shipping Ltd.
Miss Ivy Ho	Marine Department (Secretary)

In attendance:

Mr. Y.M. Cheng	Marine Department
Mr. C.H. Tso	Marine Department
Mr. Jimmy W.H. Leung	Marine Department
Mr. M.Y. Chan	Marine Department
Mr. C.C. Choi	Marine Department

Absent with apology:

Capt. David Leonard Watkins
Capt. Deepak S. Honawar
Capt. Gautam Kashyap
Capt. Ning Pao Kun
Capt. Pradeep Chawla
Dr. Ranjan Varghese
Capt. Ronald H.H. Wong
Mr. Tian Zhong Shan

1. The Chairman welcomed all present appointed members and new participants; Mr. Renato Mui of SINOTRANS Shipping Ltd., Mr. Sanjay Chandra of Fleet Management Ltd. (for Capt. Gautam Kashyap), Miss Ivy Ho of MD (Secretary) and Mr. C.C. Choi of MD.

Agenda Item 1 – Confirmation of the Minutes of the 36th Meeting held on 5 October 2010

2. The minutes of the 36th meeting held on 5 October 2010 were confirmed with no amendment.

3. Mr. Bowring raised the issue of registration certificates as a matter arising from the last meeting. The Chairman proposed it would be more appropriate for the issue to be discussed in the Customer Relations Group (CRG). Mr. Harry Chan understood that this might not be the appropriate forum to go through a long discussion, but he would like to give a brief comment. He mentioned that there was a problem with the interpretation given by DoJ regarding Section 21 of the Merchant Shipping (Registration) Ordinance, saying that builder's certificate was not a title document, which has led to an increasing abuse of the ship registration system. He suggested that MD set up a meeting with DoJ to further discuss the issue. In conjunction with having a separate meeting with DoJ, Mr. Bowring agreed that the matter should be raised in the next CRG meeting.

4. In response to Mr. Y.H. Shum's request regarding the shipowners' need, the Chairman promised MD would try the best to find a way to handle the issue that was user-friendly, but also legal.

5. Capt. L.C. Chan mentioned the inconvenience that they were facing in handling port clearance. Mr. Harry Chan reminded Capt. L.C. Chan that MD actually had provided solution regarding port clearance for new buildings in the mainland according to the HK Merchant Shipping Information Note (MSIN) No. 7/2011. He appreciated that it was a major step ahead taken by MD and believed MD would keep working in the same manner with the other countries.

6. The Chairman mentioned another matter arising under Agenda Item 3 in the last meeting - the Way Forward of SCC. Regarding how to collect SCC members' views or comments on the IMO papers of various meetings for the Marine Advisor or

the MPD officers to reflect their views in the IMO meetings, the Chairman proposed the following arrangements:

- (a) Mr. Harlan Li, Senior Surveyor/Technical Policy, was appointed to be the liaison officer and the single point contact of MD for the arrangement;
- (b) the updated IMO programme of meetings would be circulated to members from time to time;
- (c) members would be informed of the date of the forthcoming IMO meeting on a particular subject matter together with its agenda items, one month in advance of the meeting date;
- (d) the relevant IMO papers on the subject matter would only be dispatched to members by e-mail upon request;
- (e) members were requested to return their views and comments (if any) on the papers to Mr. Harlan Li, at least one week before the meeting;
- (f) the views and comments collected from SCC members will be considered by MPD officers and reflected in the IMO meetings as deemed appropriate; and
- (g) for paper submissions by the industry to IMO through MD, the proposed papers should be submitted to MD about three to four months in advance of the relevant IMO meeting.

7. Mr. Bowring opined that 4 weeks before the IMO meeting was not enough to ask members to come back with detailed comments with only a simple agenda to refer to, and he suggested that a sub-committee should be formed to discuss and work on particular issue. In response to Mr. Bowring's comment and suggestion, Mr. Y.M. Cheng said that the purpose of the arrangement was to attract the attention of the shipowners to come back with comments on the issues that they considered to be important. It would be the job of MD to study the papers, look through reference materials and collect the views from the industry. He also supplemented with a precedent case that MD had submitted an IMO paper at the request of shipowners. The Chairman said that the arrangement was just part of the measures to enhance the collaboration of the industry. MD staff was also encouraged to collect views through participating in more discussions in other occasions. For the time being, the aforesaid arrangement would be adopted. The Chairman also supplemented that he would consider seeking funds for industry representatives to attend IMO meetings.

Agenda Item 2 – Maritime Security

Long Range Identification and Tracking Systems (LRIT)

8. Mr. C.H. Tso reported on the latest development on the implementation of LRIT system. As at 25 May 2011, 1,532 Hong Kong registered ships had satisfactorily completed the LRIT conformance test, representing 91% of the total number of ships over 300 gross tonnage in HK Shipping Registry.

9. Regarding the China National Data Centre, Mr. C.H. Tso reported that it had been operating smoothly since July 2009 and MD had not experienced any serious or major problems for HK registered ships in meeting the requirement of SOLAS V/19-1. Further training had also been provided for MD staff to familiarize themselves with the new and revised interface of the LRIT system in March 2011. Although the operation of the LRIT system on board HK registered ships had been smooth, MD was closely monitoring the daily transmission of the LRIT data by HK registered ships to the data centre in Beijing and would follow up any non-compliance with the shipowners or management companies accordingly.

10. Mr. C.H. Tso also supplemented his report with the below latest information from the IMO:

- (a) as of May 2011, 64 data centres were in operation and serving 93 SOLAS contracting governments, 10 non-metropolitan territories and 2 special administrative regions (including HK);
- (b) 10 data centres were still under development;
- (c) the operation of the International Data Exchange (IDE) had been transferred from the United States to European Maritime Safety Agency (EMSA) in Lisbon, Portugal on 2 March 2011; and
- (d) FSI 19 had established a guideline related to LRIT for Port State Control officers and had incorporated it as an appendix to the Procedure for Port State Control, 2011.

11. Regarding the guideline, Mr. C.H. Tso raised 2 important items regarding detention related to LRIT. First of all, the LRIT conformance test report, which should be issued by 1 of the 3 recognised Application Service Providers, must be kept on board. Also, the master or the responsible officer should be familiar with the essential shipboard operational procedures relating to LRIT.

12. Members discussed what the operational procedures of the LRIT system exactly were, as no information was given in the guideline. It appeared to the members that no special manual operation was required for the LRIT system, except for how to switch it on.

13. Capt. Jay K. Pillai expressed that as shipowners, they relied on HKMD or the LRIT data centre to advise if the data transmission was working properly. Mr. C.H. Tso replied that in case of any transmission failure, MD would inform the corresponding shipowner. Mr. C.H. Tso also mentioned a report that had been compiled by EU during the working group of the last MSC, which gave all the problems that had been experienced with ships that failed to transmit data. The Chairman requested Mr. C.H. Tso to send the report to the members after the meeting. Mr. C.H. Tso advised the members that officers on board should give the PSC officers confidence in their familiarization with the LRIT system.

Piracy Attacks of Merchant Ships

14. On the subject of piracy attacks of Hong Kong registered ships, Mr. C.H. Tso reported that the United Nations Security Council had adopted 3 resolutions with respect to the situation in Somalia:

- (a) Resolution 1964 (2010), which was adopted on 22 December 2010, extended the mandate of the African Union military mission in Somalia (AMISOM);
- (b) Resolution 1972 (2011), which was adopted on 17 March 2011, inter alia, reaffirmed the arms embargo on Somalia and stressed the need for non-politicized humanitarian aid to Somalia; and
- (c) Resolution 1976 (2011), which was adopted on 11 April 2011, addressed a number of issues related to the issue of piracy within the context of the need for good governance, the rule of law and sustainable economic development in Somalia. It stressed the need for prosecution of pirates, called for funding for the Djibouti Code of Conduct and other counter-piracy trust funds; and recognized the value of the Best Management Practices.

15. According to MSC 89, which was held from 11-20 May 2011, Mr. C.H. Tso reported the following items that IMO had approved:

- (a) an IMO User Guide to SOLAS Chapter XI-2 and the ISPS Code;
- (b) a draft circular on guidelines for flag States and other authorities to assist in the investigation of the crimes of piracy and armed robbery against ships;
- (c) a draft circular on interim guidance to shipowners, ship operators and shipmasters on the use of privately contracted armed security personnel on board ships in the High Risk Area;
- (d) a draft circular on interim recommendations for flag States regarding the use of privately contracted armed security personnel on board ships in the High Risk Area; and
- (e) a draft MSC Resolution on implementation of Best Management Practice Guidance.

16. Mr. C.H. Tso further reported that there had been 17 attempted piracy attacks of HK registered ships in 2010. And up to May 2011, there had been 10 attempted attacks, mainly in the High Risk Area of the Gulf of Aden and the Arabian Sea. No injury had been reported.

17. Members discussed the use of private armed guards. Mr. Bowring pointed out it was significant that MSC had recognised that shipowners were using private armed guards, and had issued the interim guidance MSC.1-Circ.1405 and 1406. Mr. C.H. Tso concluded that the interim guidance was just guidelines, not a resolution. In case shipowners considered the use of private armed guards, they should follow the guidance given, and exercise full due diligence.

18. Mr. Bowring informed the members that a report had been received from the Maritime Security Centre – Horn of Africa (MSCHOA), stated that 60% - 70% of HK registered ships in the High Risk Area did not register and report to MSCHOA. Mr. Bowring alerted members to the importance of registering and reporting because, according to the “Best Management Practices to Deter Piracy in the Gulf of Aden and off the Coast of Somalia and in the Arabian Sea Area” (BMP 3), any ships that transit the High Risk Area should register and report to MSCHOA. Mr. M.Y. Chan reported on the actions that had been taken by MD regarding the mentioned issue. Emails, containing a list of ships in the High Risk Area that had not reported, had been sent to the relevant shipowners for their action. MD would follow up with individual shipowners so as to closely monitor the situation. He also said that a circular letter had been issued at the end of May to remind the master of vessel to follow the measure as advised in BMP3 when navigating in the High Risk Area. To be more

formal and effective, the Chairman suggested issuing a MSIN instead. In response to Capt. L.C. Chan's concern of too much reporting, the Chairman requested Mr. C.H. Tso to bring up Capt. L.C. Chan's concern to the IMO working group.

Agenda Item 3 – New SOLAS Amendments

19. Mr. Jimmy Leung reported that on 21 May 2010, the 87th session of Maritime Safety Committee of the International Maritime Organization adopted resolutions MSC 290(87) and MSC 291(87) on the following SOLAS amendments, which will enter into force on 1 January 2012:

- (a) SOLAS Reg. II-1/3-10 – Goal-based ship construction standards for bulk carriers and oil tankers – New bulk carriers of 150 m in length and above, constructed with single deck, top-side tanks and hopper side tanks in cargo spaces, (excluding ore carriers and combination carriers) and oil tankers of 150m in length and above to be designed and built to classification rules which had been verified by the IMO to meet the new GBS. New oil tankers and bulk carriers are those ships:
 - the building contract is placed on or after 1 July 2016;
 - in the absence of a building contract, the keels of which are laid or which are at a similar stage of construction on or after 1 July 2017; or
 - regardless of the contract or keel laying date, the delivery of which is on or after 1 July 2020.

- (b) SOLAS Reg. II-1/3-11 – Corrosion protection of cargo oil tanks of crude oil tankers – The under deck and the bottom of cargo oil tanks on new crude oil tankers of 5000T deadweight and above to be protected against corrosion in accordance with IMO Performance Standard. New crude oil tankers are those ships:
 - the building contract is placed on or after 1 January 2013;
 - in the absence of a building contract, the keels of which are laid or which are at a similar stage of construction on or after 1 July 2013; or
 - regardless of the contract or keel laying date, the delivery of which is on or after 1 January 2016.

- (c) SOLAS Reg. II-2/4 – Gas Measurement and detection – Currently, SOLAS requires oil tankers to be equipped with at least one portable instrument for measuring flammable vapour concentrations onboard.

Starting from 1 January 2012, such instruments fitted on oil tankers (new and existing) should also be capable of measuring oxygen. Additionally, oil tankers of 20,000 tons deadweight and above, constructed on or after 1 January 2012 are to be provided with a fixed hydrocarbon gas detection system.

20. Mr. Jimmy Leung continued his report on resolution MSC 308(88), which had been adopted in the 88th session of Maritime Safety Committee of the International Maritime Organization held on 3 December 2010, and which is related to new SOLAS amendments that will enter into force on 1 July 2012. The summary of the major amendments is shown below:

- (a) SOLAS Reg. II-2/3 – Fire Test Procedures Code (FTP Code) – The new International Code for Application of Fire Test Procedures, 2010 (2010 FTP Code) will enter into force on 1 July 2012. This is a comprehensive revision of the existing FTP Code. The new code introduces more robust test procedures and type approval/certification schemes for on board fire resistance/proof materials.
- (b) SOLAS Reg.V/18 – Automatic Identification System (AIS) – Starting from 1 July 2012, AIS shall be subjected to an annual test conducted by an approved surveyor.
- (c) SOLAS Reg.V/23 – Pilot Transfer Arrangement – Mechanical hoist is banned on both new and existing ships. There are also a number of changes made to the requirements to enhance the safety of pilot transfers.

Agenda Item 4 - Implementation of MARPOL Annexes

21. Regarding the implementation in Hong Kong of the revised MARPOL Annexes, Mr. Y.M. Cheng reported that only Annex I was moving ahead while the other Annexes were all pending. For revised MARPOL Annex I (regulations for the prevention of pollution by oil), the drafting of the amendment for “Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413A)” had commenced. The latest draft general interpretation was issued by the Law Draftsman in March 2011 and no further progress afterward.

22. Mr. Y.M. Cheng continued to report about the revised MARPOL Annex II. Regarding the collection of waste of Class 1, Category 5, with flash point below 23 degree C, the Environmental Protection Department (EPD) had informed MD that the provision of such a barge to collect the waste would only be completed by the end 2011 because there was a delay in the construction of the barge at the shipyard in Mainland.

23. Mr. Y.M. Cheng also mentioned about the next amendment exercise for the revised MARPOL Annex V, which was expected to enter into force by 1 December 2012. In response to Capt. Vikrant Malhotra enquiry about the details, Mr. Y.M. Cheng replied that the relevant circulars would be sent to members after the meeting.

[Post meeting note: According to IMO Resolution MEPC. 201(62) adopted on 15.7.2011, the revised MARPOL Annex V is expected to come into force on 1.1.2013.]

Agenda Item 5 - Maritime Labour Convention, 2006 (MLC 2006)

24. Mr. Y.M. Cheng mentioned that with the ratification of "St. Vincent & The Grenadines" and "Switzerland" since the last ILO meeting, the total number of flag States that had ratified the Convention was 12 by February 2011, giving an accumulated gross tonnage of about 48% of the world gross tonnage. Tonnage condition for the Convention to enter into force was met but global entry into force of the Convention required the further ratification of an additional 18 countries.

25. Regarding the preparation of the local legislation for the implementation of the Convention, Mr. Y.M. Cheng reported that MD was working closely with THB and DoJ. In principle, MD's requirements for HK ships for the 14 items pertinent to the issue of the MLC Certificate were to be stipulated in a Schedule to the local MLC subsidiary regulation, whereby the Director of Marine was empowered by the regulation to amend the Schedule as deemed necessary. Such requirements had indeed been released as a consultation paper (SCC/145) for shipowners' comments in August last year and no adverse comment had been received.

26. In order to ensure the smooth implementation of the MLC on entry into force, 2 senior surveyors from MD had attended ILO's MLC train-the-trainer course in Turin (Italy) last December. Other surveyors from MD had also attended relevant

training courses operated by other organizations. Further to this, MD had also conducted a mock MLC inspection on board a HK ship in April this year for the sake of preparing local legislation as well as gaining experience for the practical enforcement aspect in future. MD intended to conduct more MLC flag State inspections in future as deemed appropriate.

27. Mr. Y.M. Cheng added that if the MLC, 2006 came into force globally before HKSAR had its own local legislation in place and the extension of the Convention from China to Hong Kong, ROs would be authorized to issue MLC and the DMLC in the form of certificates of compliance in the interim period.

28. Mr. Bowring informed the members that another tripartite meeting regarding the setting up of the Special Tripartite Committee would be held in Geneva in December 2011. He suggested that MD attend the meeting, and he agreed to pass on the details after the meeting. Mr. Bowring had also expressed his appreciation of the trial inspection. He stressed that it was important to continue trial inspections as these were the best way to refine and finalise the necessary legislation. The Chairman replied that MD was making an arrangement with China MSA for another trial inspection.

Agenda item 6 – Voluntary IMO Member State Audit Scheme

29. Mr. Jimmy Leung reported on the Voluntary IMO Member State Audit Scheme. The audit for HKSAR had been completed in March 2010 and the final report had been concluded at the end of 2010 showing 1 non-conformity and 1 observation. Through the submission of the final report to Paris MOU, HKSAR had been accepted as meeting the low risk ship criteria. As a result, the port state inspection cycle of HK ships had been extended from the previous 6-months period to the maximum of 36-months period. Besides, a letter had been received recently from US Coast Guard, notifying that HKSAR had resumed the qualification of Qualship 21 Program starting from 1 June 2011 and requesting the submission of the executive summary of the final Audit Scheme report for full qualification.

30. In response to Mr. Bowring's enquiry, Mr. Jimmy Leung reported that the non-conformity was the delay in passing local legislation, and mentioned that MD had proposed corrective action by using the MD's fund to create a government counsel post to handle all outstanding legislation. The committee supported the mentioned proposal.

Agenda Item 7 – Implementation of the International Convention on Liability and Compensation for Bunker Oil Pollution Damage (Bunkers Convention) in the HKSAR

31. Mr. Jimmy Leung reported that the implementation of the Bunkers Convention was completed at the beginning of last year and IMO had issued a related circular informing IMO members that the Bunkers Convention was extended to the HKSAR with effect from 22 January 2010. This agenda item could be removed next time.

Agenda item 8 - Implementation of the International Convention on the Control of Harmful Anti-fouling Systems on Ships (AFS Convention) in the HKSAR

32. Mr. Y.M. Cheng reported that the drafting of a new subsidiary legislation regarding the Convention would commence soon. ROs were authorized to carry out surveys as required by the Convention in accordance with the “Guidelines for Survey and Certification of Anti-fouling systems on ships” and to issue the “Statement of Compliance” in accordance with MSIN No. 39/2007 – “Entry into Force of the International Convention on the Control of Harmful Anti-fouling Systems on Ships” issued on 24 October 2007.

33. Mr. Bowring expressed his disappointment towards the progress of the local legislation as China had already ratified the AFS Convention, but HKSAR had not been ready. The Chairman commented that MD was alert to the situation and would keep all members informed regarding any further development of the issue.

Agenda item 9 – Any Other Business

Recognition of Certificates under STCW

34. Mr. YM Cheng reported that on 18 November 2010, a bilateral undertaking was signed between HKSAR and the Kingdom of Thailand while another bilateral undertaking was established between HKSAR and the Government of Montenegro on 31 December 2010.

35. Mr. Bowring enquired whether the European Maritime Safety Agency (EMSA) question on the standards in the Philippines could affect Hong Kong’s

recognition of certificates from that country. Mr. YM Cheng replied that the recognition between HKSAR and the others was based on a mutual recognition, irrespective of others' recognition. However, MD would take into consideration the reasons why EMSA had made its reservations. As there was not much information to hand, Mr. Bowring agreed to provide MD with more information on the issue.

SCC Consultation

36. Mr. Y.M. Cheng reported the followings:

- (a) SCC/147 – 11 Nov 2010 – “Proposal from Fleet Management Limited to amend MARPOL Annex I”

The purpose of the paper was to seek members' views on the proposed amendment to MARPOL Annex I relevant to the integrated bilge water treatment system (IBTS) from Fleet Management Limited. Comment from HKSOA suggested that the issue should be thoroughly discussed within their Technical Sub-Committee. The DE55 sub-committee would submit an amendment to MEPC 1/Circ. 642 to MEPC 62 for approval and the circular was expected to use voluntarily for new and existing ships fitted with IBTS.

- (b) SCC/149 – 15 March 2011 – “Implementation of the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004”

The paper aimed to seek members' support to the drafting of the local legislation in order to give effect to the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004, which was adopted by IMO on 13 February 2004. Members supported MD's proposal.

- (c) SCC/150 – 19 April 2011 “Scope of application under MEPC. 187(59) – Amendment to Regulation 12 of MARPOL Annex I”

The paper aimed to seek members' support to MD to co-sponsor IACS discussion paper to seek IMO's clarification on the scope of application of MEPC. 187(59) for regulation 12.1 of MARPOL Annex I. No adverse comment had been received on the paper. MD had informed IACS of our support for the paper as well as our offer to be the co-sponsor for the paper. MEPC 62/7/3 referred.

PSC Inspection Checklist for HK Registered Ships

37. Mr. M.Y. Chan reported that the Shipping Division had issued a circular letter giving appreciation for the effort that shipowners had been put to maintain the good quality of HK registered ships. In addition to the circular letter, the PSC inspection Checklist had been modified. The Checklist was developed for ships to complete and sign before entering into any US or Australian ports. If the ship encountered any problems or identified any potential risks leading to detention, MD should be informed so that advice could be given to avoid detention. Mr. M.Y. Chan stressed that in order to maintain the qualification for the Qualship 21 Program, it was important to eliminate any further detention in US ports. It was also important to get good records at Australian ports.

High Defect Rate was given by China MSA

38. Capt. Jay K. Pillai noticed that there was a trend that China MSA was identifying many defects on ships that had not received any defects at U.S./Australian ports. Though the long list of defects might be justified, they were all general items. The inspections appeared to be too picky and there was no flexibility. Mr. Bowring opined that young surveyors might just follow the book as they did not have sufficient experience. The Chairman advised that members who experienced the problem should give MD more information, so that MD could have a discussion with China MSA to improve the situation.

Bunker Oil Selling at Ports in China

39. Mr. Renato Miu informed the Committee that there had been cases of ship staff being encouraged to 'sell' good bunker oil and discharge the good oil with waste oil in certain ports in China. The agents chose not to report anything to the authorities as the issue might involve smuggling. The Chairman requested Mr. Miu to provide MD with more information such as the port name, the time period and the company name, so that MD could reflect the problem to China MSA during the regular meeting. Members agreed, however, that releasing such detailed information could well encourage charges of smuggling, and that MD should only speak generally to MSA about the issue.

Manila Amendments to the STCW Convention and Code

40. Mr. C.H. Tso mentioned that MD had prepared the DDIs to amend the sub-legislation under the CAP. 478 Ordinance. THB was working on the amendments and hopefully the sub-legislation would be in place ready for the entry into force of the Manila Amendments to the STCW Convention and Code on 1 January 2012.

41. Mr. C.H. Tso further advised members that during MSC 89, the Committee had approved the following 2 STCW.7 circulars:

- (a) Clarification of transitional provisions relating to the 2010 Manila Amendments to the STCW Convention and Code; and
- (b) Advice for Port State Control officers on transitional arrangements leading up to the full implementation of the requirements of the 2010 Manila Amendments to the STCW Convention and Code on 1 January 2017.

Close of Meeting

42. The Chairman informed the members that the SCC meeting would be held more often in order to enhance communication between MD and the industry. There would be 3 meetings instead of 2 a year. The date of the next meeting was tentatively scheduled on 12 October 2011 (Wednesday). The secretary would further notify all members of the meeting's details by email.

43. As there was no other business, the meeting closed at 5:00 p.m.