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Notes of Meeting of the 39th Shipping Consultative Committee

Date : 27 April 2012 (Friday)
Time : 10:30 a.m. – 1:10 p.m.
Venue : Conference Room A, Marine Department Headquarters, 24/F,
Harbour Building

Present

Chairman	Mr. K. F. CHICK	Assistant Director / Multi-lateral Policy
Members	Mr. Arthur BOWRING	The Hong Kong Shipowners Association Ltd
	Capt. Pradeep CHAWLA	Anglo-Eastern Ship Management Ltd
	Capt. Umesh LULLA	Bernhard Schulte Shipmanagement (HK) Ltd Partnership
	Mr. DONG Qing-ru	COSCO (HK) Shipping Co. Ltd
	Mr. Dilip K NAIR	Fleet Management Ltd
	Mr. SHUM Yee-hong	Goldbeam International Ltd
	Capt. LI Chi-wai	Hong Kong Seamen's Union
	Ms Joanne YIU	Mayer Brown JSM
	Capt. YU Chi-ming	Merchant Navy Officers' Guild – Hong Kong
	Capt. LU Jian-jian	Ocean Longevity Shipping & Management Co Ltd
	Capt. ZHOU Wei	Orient Overseas Container Line Ltd
	Capt. Jay K PILLAI	Pacific Basin Shipping (HK) Ltd
	Capt. Lothair LAM	Parakou Shipping Ltd
	Mr. Renato MIU	SINOTRANS Shipping Ltd
	Mr. Pradeep RANJAN	UNIVAN Ship Management Ltd
	Capt. Peter YUK	Wah Kwong Ship Management (HK) Ltd
	Mr. W. H. LEUNG	Chief / Maritime Policy
	Mr. Y. M. CHENG	Chief / Marine Accident Investigation and Shipping Security Policy
	Mr. C. H. TSO	Chief / Technical Policy
	Dr. Stephen Y. K. LI	General Manager / Ship Safety Branch (Acting)
Secretary	Miss Venus CHANG	Executive Officer / Shipping & Multi-lateral Policy Divisions (1)

Absent with apologies

Ms Maggie CHEUNG Mayer Brown JSM

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Dr. Ranjan VARGHESE	UNIVAN Ship Management Ltd.
Mr. TIAN Zhong-shan	SINOTRANS Shipping Ltd

Opening remarks

Chairman welcomed all members to the meeting. Chairman introduced four stand-in members, who were **Mr. DONG Qing-ru** for Capt. NING Pao-kun of COSCO (H. K.) Co. Ltd, who had been retired; **Ms Joanne YIU** for Ms Maggie CHEUNG of Mayer Brown JSM; **Mr. Renato MIU** for Mr. TIAN Zhong-shan of SINOTRANS Shipping Limited and **Mr. Pradeep RANJAN** for Dr. Ranjan VARGHESE of UNIVAN Ship Management Ltd.

Agenda item 1 – Confirmation of the Minutes of the 38th Meeting held on 11 November 2011

2. The minutes of the 38th SCC meeting was confirmed without amendment.

Agenda item 2 – New SOLAS Amendments

3. **Mr. C. H. TSO** of MD tabled **Appendix C** listing the latest amendments to SOLAS, FSS Code and FTP Code that would come into force on 1 July 2012. **Mr. TSO** advised the Committee that the relevant MSIN had been issued by MD in December 2011 and the appendix only served as a reminder.

4. In response to the question raised by **Capt. LU Jian-jian** of Ocean Longevity Shipping & Management Co. Ltd. about the requirement of the testing of the Automatic Identification System (AIS) of SOLAS Reg. V/18, **Mr. TSO** clarified that a record should be kept onboard properly after the annual test was conducted.

5. **Mr. Arthur BOWRING** of Hong Kong Shipowners' Association (HKSOA) wanted to know if the Hong Kong legislation could keep in pace with the amendment of the international conventions. **Chairman** advised that in principle, the Direct Reference Approach (DRA) had been adopted to bring our legislation in line with new international requirements in the conventions quickly. The legislative amendments to implement the DRA approach would likely to be completed by the end of this year.

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Agenda item 3 – Implementation of MARPOL Annexes

6. **Mr. W. H. LEUNG** of MD presented **Appendix B** which was about the MARPOL amendments adopted by MEPC 63. The IMO Resolutions MEPC.216(63) and MEPC.217(63) related to the new amendments of Annexes of MARPOL would enter into force on 1 August 2013. No comment was received from members.

Agenda item 4 – Maritime Labour Convention, 2006

7. **Mr. Y. M. CHENG** of MD briefed members about the SCC Consultation Paper SCC/153, titled *Implementation of Regulation 1.4 of the Maritime Labour Convention, 2006 in HKSAR*. The meeting was informed that the paper in fact dealt with two issues; recruitment and placement in HKSAR, and social security protection for seafarers of non-party States serving on board Hong Kong registered ships. The Committee was informed that the Convention would likely come into force globally in 2013. The law draftsmen had commenced drafting of the concerned legislation. It was expected that the draft legislation would be processed in the Legislative Council by the end of this year or early next year.

8. Members noted that draft guidelines for the compliance with the Convention had been prepared by MD and requested those to be issued to members for comment as soon as possible. **Mr. CHENG** agreed to the request.

9. Regarding the point of recruitment and placement agencies mentioned in the paper, **Mr. CHENG** elaborated that there was no private Recruitment and Placement Service (RPS) in Hong Kong as defined by the Convention. At present, there were less than 40 Permitted Companies in Hong Kong and they were all shipowners or ship management companies. After discussion on the roles of the MMO and the 'permitted companies' in recruiting seafarers, it was agreed that MD would study as to whether such a system is still needed.

10. With respect to Recruitment and Placement agencies located in non-party States, the Convention requires the Flag Administration to require shipowners to ensure, as far as possible, that the services provided meet the requirements of the Convention. According to SCC/153, the audit is to be done by the Classification Society or MD, however **Mr. BOWRING** stated that it was agreed in the Tripartite discussions that the shipowner would be able to satisfy this obligation by way of a report from a third party auditor. Probably a further discussion is required to better define the

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responsibilities. Mr. CHENG pointed out that one of the Convention requirements was the provision of a system of protection, A1.4.5(c)(vi), and more study would be carried out to develop understanding of this issue.

11. In response to the matters about the third party audit, **Mr. CHENG** explained the reason of selecting Classification Societies was that they were monitored and recognized by MD. **MD** was not inclined to include “any other bodies accepted by the administration” as a third party to audit the RPS agencies in non-party States due to the limited control of the standard of those bodies.

12. With regard to the provision of social security protection, one of the items listed in the crew agreement was connected with A2.1.4(h) in MLC 2006. Mr. CHENG stated that under this requirement, Shipowners had the responsibility to ensure that seafarers employed by them were protected by paying their part if the social protection was of contributory nature.

13. **Mr. BOWRING** stated that Regulation 4.5 of the Convention, Social Security, contained State obligations. This regulation was written in a very loose way, in order to achieve agreement, and it was clearly not the shipowner or the ship manager’s obligation to provide social protection for seafarers who came from non-party States if bilateral agreements or other measures were not in place.

14. The HKSOA believed that the only requirement is for shipowners to provide short term measures in accordance with 4.2 whilst the long term protection under 4.5 should be offered by the State, in other words the Government’s responsibility. Any long-term protection provided by shipowners was on complimentary basis. If, however, the Government had set up a contributory social protection scheme to provide long term protection, then shipowners or seafarers or both could be involved and might have to make contributions. Further to the above points, **Mr. BOWRING** also pointed out that under Regulation 4.5 the International Labour Organization requires member States to progressively focus on the improvement towards the provision of social benefits to their seafarers.

15. After deliberation, the **Committee** noted that it was allowable under the Convention to employ seafarers from non-party States. **Mr. CHENG** emphasised that MD was obligated to ensure, to the extent consistent with local law and practice, the Hong Kong fleet complied with the local laws and regulations that brought the MLC, 2006 into effect and that the necessary social protections for those seafarers from the non-party States serving onboard Hong Kong registered ships were not inferior to those offered by Hong Kong to Hong Kong residents.

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16. To sum up after the discussion of this agenda item, MD had taken the points mentioned in the meeting, including MD would look into the issues of insurance coverage for recruitment and placement service; the audit of recruitment agencies at the non-party States by the Classification Societies and “any other bodies accepted by the administration” and the details of para.8(a) and (b) of SCC/153. MD would come back to the Committee later.

Agenda item 5 – The STCW Convention 2010 – Manila Amendments

17. **Mr. TSO** presented the SCC Consultation Paper SCC/152, regarding *Implementation of the Amendments to the STW Convention and the STW Code in HKSAR*. Before the discussion, the **Chairman** explained that the STW Convention had not clearly specified that every ship of 750kW propulsion power or more shall employ certificated ETO and ETR as standard complements in its manning scale. It also permitted qualified persons to continue to work on vessels to perform part of the duties of an ETO and ETR but without clearly specified the certification of these seafarers. The IMO Secretariat was requested to clarify the discussions in relation to these issues and she clarified that a seafarer was required to be certificated as an ETO only if he/she performs all the functions of an ETO as identified in A.III/6 of STW. A person performing certain functions of an ETO was not required to be certificated. The above interpretation to the requirements on the provision of ETO/ETR and the recognition of qualified persons to continue to carry out part of the duties of an ETO/ETR without certification would be specified in the Hong Kong regulations. Another controversy topic was about alcohol abuse. **Chairman** explained that in the process of drafting the legislation, it would be very difficult to prove that a seafarer has exceeded the alcohol limit as specified in A.VIII/1.10 of STW without using measuring equipment. Subsequent disciplinary actions and disputes on alcohol abuse would be difficult to conclude. MD proposed a mandatory requirement for the carriage of such measuring equipment onboard Hong Kong registered ships.

18. **Members** were in support of the provision and certification requirements of ETO/ETR and the mandatory requirement for the carriage of measuring equipment to measure alcohol level in blood or breathe of seafarers as proposed by MD. They were also concerned about alcohol abuse of seafarers onboard. **Capt. Pradeep CHAWLA** of Anglo-Eastern Ship Management Ltd suggested that a backing in law to discourage seafarers from drinking excessively was desirable. **Chairman** explained that disciplinary actions would be introduced in the regulations to address alcohol abuse of seafarers and advised that whenever alcohol abuse case occurred, MD should be informed and the seafarer’s license might be

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reviewed when considering the renewal of his/her licence.

19. To answer the question raised by the Chairman on whether HKSOA would inform members about certain seafarers, **Mr. BOWRING** replied that on request of members, confidential letters are sent to shipowners offering a reference from a previous employer. He emphasized that HKSOA did not maintain a blacklist of seafarers.

20. Regarding ETO/ETR, **Mr. BOWRING** said that the role of ETO was very different from engineers. For ships with massive technical electrical equipment, engineers were not able to cover all of the duties of an ETO. He asked whether the Administration would consider a person without assessment to conduct some of the ETO duties onboard.

21. **Capt. CHAWLA** reckoned that there should be a competent person complying with the new STW requirements onboard a ship to deal with electrical equipment

22. **Mr. Y. H. SHUM** of Goldbeam International Ltd. was concerned that even a certified ETO were not capable to maintain all electrical equipment onboard and shore support was still be required. Hence the mandatory placement of a properly certificated seafarer on a ship was not very meaningful and necessary. **Chairman** shared this view and added that this issue might be discussed in Paris and Tokyo MOU. Members would be informed of the developments in this issue. MD intended to provide some flexibility to shipowners on whether to place ETO/ETR onboard. The legislation would be amended accordingly if there were no further views on the subject. **Mr. TSO** advised members that they were welcome to approach MD for details of licenses of ETO/ETR, which had already been incorporated in CAP478J.

Agenda item 6 – Voluntary IMO Member State Audit Scheme

23. **Mr. TSO** updated the latest progress of this agenda item. The audit on MD had been completed in March 2010 and the final reported had been concluded in December 2010. MD was found with 1 Observation and 1 Non-conformity (NC), of which the Observation had been properly dealt with. Concerning the NC on the backlog of legislation for the amendments of SOLAS, Loadlines, MARPOL and STCW, MD had reached an agreement with Department of Justice (DoJ) to deploy a Senior Government Counsel to clear the backlog. The recruitment process had nearly completed and MD was checking with DoJ for the time of deployment of the Counsel.

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Agenda item 7 – Security and Quality Advisory No.23 – Establishment of Quality Assurance Scheme in the Ship Management Company

24. **Mr. BOWRING** referred to the letters sent by MD earlier on the subject, wherein all ship management companies were asked to set up a quality assurance system by October 2012 which would be one of the audit items in the ISM Audit. He commented that this quality assurance would incur enormous workload for small ship management companies to collect large quantity of statistics for comparison. As most of the companies had already been doing the similar work in their Key Performance Indicators management, he doubted whether this new measure was necessary.

25. **Dr. Stephen Y. K. LI** of MD noted the views of the ship management companies. He explained that the purpose of setting up this system was to require ship management companies to compare their ship performance with the average performance of all Hong Kong ships and work out whether an improvement was necessary. All 3 indicators required for comparison were available on the MD website and examples were also given on how to use these indicators. These indicators were updated regularly. The MD website also provided other information such as ship detention deficiencies for the reference of shipowners and ship management companies.

26. **Capt. CHAWLA** and **Mr. BOWRING** were in favour of using information technology in MD to improve the communication with shipowners and ship management companies e.g. to send an alert to shipowners and masters for the latest update at regular interval and to revamp MD's webpage to make it more user-friendly. Both of them proposed to set up a Working Group to look into this issue. **Chairman** supported this initiative. **Mr. TSO** agreed to organize the Working Group meeting. As he was also a member of MD's IT Steering Committee, he would bring up this issue of revamping MD's webpage to the Committee for further discussion. **Mr. CHENG's** suggestion of placing icons in the webpage to provide direct links to the indicators was also noted.

Agenda item 8 – Any Other Business

27. **Mr. CHENG** presented a table of casualty statistics for Hong Kong registered sea-going ships. He thanked the effort of the shipowners and shipmanagers for maintaining the number of casualties at a relatively low level

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even though the number of ships flying Hong Kong flag had increased quite drastically in the past few years. **Capt. CHAWLA** suggested to include the total number of ships in the table to facilitate the comparison. **Mr. CHENG** agreed to the proposal and would revise the table accordingly.

[Post meeting note: The revised tables with the addition of the total number of HK OGVs for each year were attached]

28. Despite the steady performance of Hong Kong ships, **Mr. CHENG** drew the attention of the Committee to the nature of the frequent accidents occurred onboard Hong Kong ships shown in the statistics. The accidents were grounding and collision for ships, falling from height and burnt / scalded by moving objects for seafarers. To tackle the root causes, **Capt. CHAWLA** pointed out that it was important to educate the seafarers and marine industry players on safety issues.

29. A concern on ECDIS training was raised by **Mr. BOWRING**, he wondered whether MD had approved any industry-based ECDIS training. He also wanted to know whether MD would help shipowners to organize equipment specific training. **Committee** noted that this issue would be discussed further in the coming meeting in IMO. **Chairman committed to** follow-up this issue after the IMO meeting.

30. There being no further issues, the meeting adjourned at 1:10 p.m. The date of the next meeting would be announced in due course.

Secretariat
Multi-lateral Policy Division
Marine Department
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