

**Minutes of the 5<sup>th</sup> Port Area Security Advisory Committee**  
**Meeting held at 1000 hours on 24 September 2004**

**Present:**

Mr. Roger Tupper	Chairman
Mr. H P Liu	Vice Chairman
Mr. Eddy Ma	Container Terminal Operators
Mr. Gilbert Leung	River Trade Terminal
Mr. Ian Tang	Oil Industry – Non OIRC members
Mr. Michael Yuk (on behalf of Mr. C M Ku)	Oil Industry – OIRC members
Mr. David Yip	Passenger Terminal – Ocean Terminal
Mr. Phileas Fong	Hongkong United Dockyards
Mr. K T Ip	Yiu Lian Dockyards
Mr. Edmund Lau	Bulk Industry – CLP Power
Mr. Jeremy Jose (on behalf of Mr. Neil Russell)	HKLSA
Ms. Jessie Chung (on behalf of Mr. Henry Lee)	HKCTOA
Mr. T C Poon	Hong Kong Police
Mr. Percy Fung	Hong Kong Police
Mr. T C Sin	Marine Department
Mr. Raymond Chung	Marine Department
Mr. W F Leung (on behalf of Mr. K L Lee)	Marine Department
Mr. W H Wong	Marine Department
Mr. K K Lau	Secretary

**1. Open of Meeting**

- 1.1 The Chairman welcomed all participants to the fifth meeting of the Port Area Security Advisory Committee, and introduced Mr. Jeremy Jose and Mr. Michael Yuk who attended the meeting for the first time.

## **2 Amendment to PASAC Membership List**

- 2.1 The Chairman informed members that Mr. Ian Tang of Towngas replaced Mr. Anthony Tam to represent Non OIRC (Oil Industry Representative Committee) group. The revised Membership List was attached for members' information.

## **3 Confirmation of the Minutes of Last Meeting**

- 3.1 No amendments to the minutes of last meeting had been received. The minutes were confirmed.

## **4 Items Discussed**

### **4.1 PASAC Paper No. 4/04**

4.1.1 Mr. W H Wong stated that the purpose of the paper was to seek members' endorsement on the proposed audit framework to be applied on the designated port facilities. The objective of security audits was to ensure the effective implementation of the approved Port Facility Security Plans (PFSPs). Two types of security audits were proposed, namely partial audit and full audit. Partial audit would be conducted annually on selected areas whilst a full audit would cover all aspects of the PFSP. Each port facility would be subject to an annual partial audit and a full audit at five-year interval, which would tie in with the validity of the Statement of Compliance (SoC) issued.

4.1.2 In response to Mr. W F. Leung's enquiry on the independence of the auditors, the Chairman explained that Government would conduct the two categories of audits on designated port facilities. These were different from internal audits to be conducted by the port facility operators. Mr. Raymond Chung supplemented that members of the Port Facility Security Working Group (PFSWG) would form the audit team.

- 4.1.3 Mr. K T Ip enquired on how the audits would be conducted. Mr. W H Wong replied that the audit team would develop the audit criteria based on the Port Facility Security Assessment (PFSA), the PFSP and the ISPS Code and discuss with the operator involved. Mr. Raymond Chung supplemented that when the details of an audit were worked out, it would be discussed with the relevant facility operator before conducting the audit. Mr. H P Liu pointed out to members that they could refer to Annex II of the paper, which contained the proposed audit procedures.
- 4.1.4 Mr. Michael Yuk sought clarification on the meaning of ship-port interfacing activities. Mr. W H Wong said that ship-port interface referred to the activities taking place when a ship was lying alongside a terminal and the measures taken to ensure the security of the ship and the terminal. Mr. Wong quoted the access control at the gangway, the signing of DoS and the procedures of handling non-ISPS vessels by the terminal as examples.
- 4.1.5 Mr. W H Wong confirmed to Ms. Jessie Chung that the audit team would focus on specified areas during yearly partial audit but would cover all aspects of the PFSP in a full audit. Upon successful completion of a full audit, a new SoC would be issued.
- 4.1.6 Mr. Edmund Lau asked what would be the consequences if a port facility failed an audit. The Chairman said as long as the operator could rectify all non-compliance (NC) items within an agreed period the security plan would still be considered as valid. However, if the 'NC' items persisted, the DA would void the validity of the SoC and report to IMO that the facility was no longer ISPS compliant.
- 4.1.7 In response to Mr. Phileas Fong's enquiry on the audit fee, the Chairman replied that MD did not intend to charge for the annual security audits however there would be a charge for the issue of a new SoC.
- 4.1.8 The paper was endorsed by the meeting. The Chairman advised members that the PFSWG would approach facility operators in due course for the audit arrangements.

## 4.2 PASC Paper No. 05/04

- 4.2.1 Mr. W H Wong stated that drills and exercise could help to ensure

facility personnel's proficiency in assigned security duties at different security levels and to identify any security related deficiencies that needed to be addressed. It was proposed that a drill should be conducted every 3 months and an exercise should be carried out once each calendar year with no more than 18 months in between. The records of which could serve as an evidence of compliance with the Code and fulfillment of audit requirements. Facility operators were required to submit yearly plans showing their tentative schedules and types of drills and exercises to the DA who would arrange to observe some of the drills and exercises as necessary. If an operator wished Government Departments to take part in their exercise, they should make advance request to the DA and Government's participation should be limited to desk-top involvement for the present.

4.2.2 The Chairman pointed out that Government could benefit from its participation in exercises in identifying any weakness in the support system, especially the supports from the security forces. However, Government did not intend to conduct large scale exercises for publicity purposes.

4.2.3 Mr. Eddy Ma said that the Police used to hold exercises with container terminals before the implementation of the ISPS Code. He asked whether this type of exercise could be regarded as an ISPS exercise. Mr. W H Wong replied that if the exercise involved port facility security elements then it could be accepted.

4.2.4 In response to Mr. Michael Yuk's enquires on the difference between drills and exercises, Mr. W H Wong elaborated that a drill was to practice procedures that were not normally carried out, such as measures for Level 2 or 3 so that the staff could get familiar with. As such it was part of training. On the other hand, an exercise was a test on the PFSP, including communication, co-ordination, availability and deployment of security resources. It might need to engage external parties and involve testing the effectiveness of PFSP under a particular scenario.

4.2.5 The paper was endorsed by the meeting.

## **5 Items for Members Information**

### **5.1 Trespassing on port facility**

5.1.1 On the trespassing issue, the Chairman advised members that the

following advice was received from the Department of Justice and the Police: -

- a.) a port facility was regarded as private premises.
- b.) trespassing on private premises was a class of tort and was not a criminal act.
- c.) being the owner of the premises, a facility operator had every right to deny entry of any unauthorized person.
- d.) if somebody intruded upon the facility, the operator could apprehend them and seek police assistance.
- e.) if the entry unjustifiably interfered with the operator's right to operate the facility, that would be a prima facie case for taking civil action against the person concerned.
- f.) If there were assaults or physical damage, the operator should report to the Police immediately as this would constitute a criminal offence.

5.1.2 The Chairman enquired whether there was a significant number of trespass cases which might justify consideration to criminalized trespassing. Members said there were very few cases.

## 5.2 U. S. Coast Guard's visit to Hong Kong

5.2.1 Mr. Raymond Chung briefed the meeting on the U.S. Coast Guard's (USCG) visit that was scheduled on 8<sup>th</sup> to 15<sup>th</sup> October 2004. The USCG would visit 6 port facilities to exchange information and experiences in implementing the ISPS Code. He advised members that the USCG was not entitled to see the facility's PFSA and PFSP.

5.2.2 The Chairman supplemented that if a facility operator showed their PFSP to the USCG then the operator was not keeping the confidentiality of the plan. He further stressed that the USCG might focus on the facility operator's understanding of the seriousness of maritime security and that they had taken necessary actions to implement the Code including providing the necessary trainings to their staff.

5.2.3 Mr. T C Poon asked and the Chairman replied that no IMO member would be involved as this visit was purely a U.S. initiative.

## 5.3 Welfares of seafarers

5.3.1 The Chairman informed members that he had received a report from a

seafarers' welfare union claiming that their workers were unable to gain access to ships berthed at some terminals after the implementation of the ISPS Code. The Chairman appealed to the liner shipping association and the port facility operators for their sympathy and consideration on the welfare of the seafarers. He suggested that if the representatives could not be allowed on board for security reasons the crew should be allowed to have shore leave to meet the union representatives as far as practicable.

## **6 Any Other Business**

### **6.1 Gazette of Designated Port Facilities under the Merchant Shipping (Security of Ships and Port Facilities) Ordinance**

6.1.1 Mr. Raymond Chung explained that following the enactment of the Merchant Shipping (Security of Ships and Port Facilities) Ordinance, it would be necessary for the DA to publish the 31 designated port facilities by a gazette notice. In doing so, MD would have to collect and deposit the location plans delineating the port facilities in MD's office for public inspection. As the Government might not possess all the plans, MD might have to seek assistance from the concerned operators.

## **7 Date of Next Meeting**

7.1 Members would be advised of the date of the next meeting.

## **8 Close of Meeting**

8.1 The meeting was adjourned at 1125 hours.