

ASIA PACIFIC MARITIME PILOTS FORUM 2017, BALI, INDONESIA
28th-30th August 2017.

MARITIME PILOTS PERSONAL & INDUSTRY LIABILITY – awareness and resolution

Prepared and presented by

Capt. Martin Lim CM, President & Chairman, Maritime Pilot Malaysia (MPM), MALAYSIA.

A member of Malaysian Delegation to APMPF 2017.

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Greetings

Excellences, Ladies and Gentlemen!

It is good to be here, at the Asia Pacific Maritime Pilots Forum 2017.

On behalf of Malaysian's Delegation, I would like to extend a congratulatory note to **Capt. Pasoroan Herman, President of INAMPA** and its organising committees' accomplishment and success in hosting the inaugural Asia Pacific Maritime Pilots Forum 2017, Bali, Indonesia. TERIMA KASIH! For all the great work!

A warm welcome to **Capt. Simon Pelletier, President of International Maritime Pilots Association (IMPA)** who flew all the way from Canada to join and support this remarkable forum.

Not forgetting **Capt. Na Jong Pal, the Vice President of International Maritime Pilots Association (IMPA)**, who also holds the portfolio as **President of Korean Maritime Pilots Association (KMPA)**, who has put up great desirous effort, vision and dedication in materialising the Asia Pacific Maritime Pilots Forum since IMPA Congress in Seoul, South Korea last year.

Malaysia, as part of the Asia Pacific countries, certainly are looking forward to future events, where we can continue to discuss and deliberate issues related to the best interest of maritime pilotage regionally and internationally, exclusively in *supporting the global shipping industry*.

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Introduction

Since post World War 2 back in 1945, maritime pilots in some Asia Pacific countries were deployed to guide ship to steer clear of mines planted in the harbour waterways or uncharted waterways. Size of ships was relatively smaller and so was the density of traffic in the harbour or ports.

The shipping industry continued to developed and revolutionised as it was one of the core industry that support social- economic development of countries globally.

The elapse of 72 years and today, the shipping industry has gone through a breakthrough revolution both in the size of ships, expansion of harbours and density of traffic increases proportionally while navigable waterways remained almost unchanged.

Undoubtedly, the professional demand of maritime pilots' in the shipping industry surges especially to pilot and handle the gigantic ship in the world like OOCL Hong Kong with a carrying capacity of 21,413 TEUS, 400m in LOA 59m wide.

The shipping industry experiences the highest competitive edges ever, where profit margin reduces while fix operating cost remained and global market demand unchanged.

Many iconic shipping companies formed into alliances to remain sustainable. We heard about over capacity in the market, low charter rate and some ships may have off-hired for a long period of time. We witnessed how HANJIN shipping filed for receivership in August 2016.

Both charterers and ship owners begun to execute cost cutting plan, and operate in a narrow margin of compliances to the international regulatory framework of IMO and flag state requirements.

The current shipping environment is poised to expose maritime pilots to extended liabilities and will somehow weighting pilotage industry liability.

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I have categorised the liabilities to personal and industry liability.

Maritime Pilots' Personal Liability

- i. Strenuous stress level, fatigue
- ii. Bodily Injury / Accidental Death
- iii. Associated health issues and danger attributed to sleep deficiency
- iv. Accountability – Board of Pilot Commissioners, Port Authority and Ministry
- v. Civil & Criminal Prosecution leading to imprisonment

Maritime Pilots Industry Liability

- i. Qualified & Experience Maritime Pilots
- ii. Interruption of port activities

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Maritime Pilots Personal Liability

Strenuous Stress Level, Fatigue

Maritime pilots subject to high stress level due to the nature of the profession.

Physical, mental and emotion strength are required in a maritime pilot. Majority of us here, are well experienced pilot who possess exuberant physical strength with multi-tasking capabilities that includes mitigation planning, communication, weather forecast, constant assessment of navigational safety and risk of collision and ship handling, damage control and relationship management.

Coupled with both day or night pilotage task and multiples assignment within a period of time, maritime pilots continue to be subjected to high stress level and eventually suffer state of fatigue.

Therefore, it is important for maritime pilots to mitigate and manage stress level according to situation and environment, paying due regards that stress compromises navigational, pilotage, berthing and un-berthing safety.

Multi-tasking in a multitude ships by maritime pilots are an exemplary capabilities.

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Maritime Pilots Personal Liability

Bodily injury and accidental death

High risk occupational rating of most insurance companies at international level has mostly declined any personal accident protection and coverage for maritime pilots. That's the benchmark of how dangerous the nature of a maritime pilots profession.

On **10th Febuary 2017**, **Capt. Nizam Yusuff**, a Malaysian maritime pilot at Port Klang, fell and suffered serious bodily injury during disembarkation from MV Kea Trader. He suffered broken ribs bones and fracture on both legs. It was discovered that the ship's pilot transfer arrangement failed to comply with the IMO requirements.

On **6th October 2016**, **Capt. Gordon Coates** killed while boarding **MV Sunmi** at River Thames, Gravesend Reach. MV Sunmi, with a Bahamas flag is a 4,100 DWT general cargo ship.

In the interest of international maritime safety, any ship that causes injury or death to maritime pilots during the process of embarkation or disembarkation; or along the process of pilotage to be detained by the authority discreetly to facilitate investigation. The subject ship should only be released for sailing upon giving letter of undertakings or bond in kind.

While hospitalisation group insurance policy may have been a great initiative by the management, it is now a high time for all maritime pilots to be insured with in-depth protection from bodily injury and accidental death while at work.

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Maritime Pilots Personal Liability

Associated health issues attributed to sleep deficiency

As maritime pilotage is a 24 hours year round service to support the shipping and logistic industry, maritime pilots like ourselves have to work both in day and night shift or in-between day and night period.

It was indeed a challenging cyclical rotation of work and adaption may have negative impact to health due to sleep disorder.

Sleep deficiency affecting maritime pilots is a serious factor to be considered and mitigated upon as it both result to associated health issues and compromises navigational and pilotage safety.

According to studies conducted by the US Department of Health and Services, *sufficient quality sleep at the right time plays a vital role in good health and well-being throughout our life. It protects mental health, physical health, quality of life and safety.*

During sleep, our body works to support healthy brain function and maintain our physical health.

While we do appreciate the differences between sleep and rest, *sleep deficiency raise chronic health problems like heart disease, kidney disease, hypertension, diabetes, stroke, obesity and even compromising our immunization level.*

Studies also proved that if we don't sleep enough, we may have trouble making decision, solving problems, controlling our emotion and behaviour, much more affecting how we think to mitigate collision risk, react to sudden change of wind direction and ship lateral speed during berthing and how about the communication and relationship with the master and bridge team.

Please do re-assess, discuss your routine and schedule with management before sleep disorder affect your health, and compromising both safety of navigation and pilotage and literally, your profession as a maritime pilot.

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Maritime Pilots Personal Liability

Accountability – Terminal, Board of Pilot Commissioners, Port Authority and Ministry

When minor and major incident involving negligence conduct of maritime pilots occurred, the subject pilot is liable to be investigated by terminal, board of pilot commissioners, port authority and ministry.

If prudent at fault, subject pilot is punishable by downgrading of license; shows cause letter, re-examination and readjustment of salary.

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Maritime Pilots Personal Liability

Civil and criminal prosecution leading to fine and/or imprisonment

Under the common law or statutory law of respective countries, there are provisions to prosecute individual, based on gross negligence that resulted casualties involving environmental damage and deaths.

Maritime pilots are not exempted from such possibilities should the conduct impaired with element of gross negligence and resulted casualties.

As majority of accident during pilotage involved loss or damages to cargoes, damages to ships and properties; insurance protection ie. hull policy or public & indemnity set in to resolve losses and the subject maritime pilot be referred to the board of pilot commissioners and the port authority for disciplinary action.

It is high time for us, the maritime pilots to perceive such vulnerabilities and observe strict safe conduct during pilotage, prevent or minimize negligence and human error from occurring at any point of time.

For instance, a compulsory licensed pilot was charged with violations of criminal laws in connection with 2007 allision of *MV COCSO BUSAN* with *Oakland-San Francisco Bay Bridge* and resulted oil spill. The maritime pilot entered into a plea agreement with the federal prosecutors and was ultimately sentenced to *10 months* in jail. Under the term of agreement, he pleaded guilty to two misdemeanour oil spill charges brought under two different statutes. Neither charge involved or alleged intentional wrongdoing.

Paying due regards to such vulnerabilities, IMO resolution and recommendation related to the safety of navigation and pilotage ie. Solas Chapter V, Bridge Resources Management resolution by IMO must be fully complied with and observed by the maritime pilots, master and the bridge team.

Master who intend to take over the conduct of a vessel under pilotage, under any circumstances that may arises, or who intend to interfere with the safe conduct of maritime pilot at any point of time, must be advised the repercussion of such action, for which any accident arising from such conduct does imply *burden of liability* NOT to himself alone but affecting subject maritime pilot too.

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Maritime Pilots Industry Liability

Qualified and experienced maritime pilots

As countries in Asia Pacific including most countries in the world, begun regulating safe movement of ship within its port limits, compulsory pilotage adopted and enforced under its statutory law, reinstated requirement for ships over certain length over all or tonnage to employ a licensed maritime pilot for movement within port limit.

The mandatory requirement has asserted port regulator and the port authority to ensure the number of qualified and experienced maritime pilots is always sufficient to meet the industry demand.

Since the training framework of an ex-mariner to become a licensed pilot takes multiple stages at wide span of time, and may require additional years for a licensed pilot to master his experiences, concise perpetual planning by the port authority is crucial.

Otherwise, it is most likely to affect the performance of port and jeopardising shipping industry.

Maritime pilots who are not only qualified and licensed but rich with years of experiences, who are experts in navigation, piloting and ship handling are indeed an important asset to the port and harbour.

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Maritime Pilots Industry Liability

Interruption of port activities

The important role of maritime pilots on board a ship has been long recognised and appreciated for its contribution to the safety of navigation and ship handling.

However, the rapid scalable development of port in tandem to the growth in shipping industry globally, witness a dramatic increases in the population of ships and size in the harbour as well as in Straits of Malacca, the Panama Canal, and Sues Canal.

This phenomenon draws extensive complication and new challenges to maritime pilots to observe safe conduct at all times but however, the calamity of an accident like collision or grounding that may be attributed by either human error, mechanical or engine failure and adverse weather condition, has proven to be detrimental to the operation of port and harbour.

As in the case of **MV CSCL Jupiter**, an Ultra Large Container Ships, operated by COSCO Shipping Lines Co, that has a carrying capacity of 14,074 TEUS, ran aground near Bath, The Netherlands on the 14th August 2017, while en-route from Antwerp to Hamburg.

Initial investigation; reveal that the grounding of the ship could be attributed by steering failure. Human error remained unlikely.

The grounding incident forced the authority to close all shipping traffic for large commercial vessels at the Westerschelde for safety reasons, while small commercial vessels were allowed to pass through the Schaar van de Noord.

In the event when a situational incident develops during pilotage, due to either human error or mechanical failure onboard ship; or the association of both, it is primarily important for maritime pilot to execute damage control effectively, paying due regards that the effect of such unavoidable accident does not affect the safe operation of port or harbour at large, to the extent that port does not necessarily warrant temporary closure..

All mitigation effort to arrest the situation must be exhausted to minimize damage to property, environment, loss of lives and limbs.

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Closing Note

Excellences, Ladies and Gentlemen!

The in-depth appraisal of maritime pilots towards the *impending liabilities*, will indirectly inspired improvised safety standards of pilotage and port safety. Mitigation action to arrest any situation affecting safety of ship under pilotage and any other ships in the vicinity, port / harbour, properties and lives will be a priority to all maritime pilots.

The maritime pilots personal and industry liability must be well appreciated by every master as the terminology of maritime pilot within the context of maritime industry as an “**advisor**” obviously, does not limit maritime pilots from liabilities.

It was due to the term “advisor” and ignorance of masters towards maritime pilots’ liabilities, in any situation when a Master took over the conduct of a subject vessel, perpetual communication and cooperation badly affected and gravely affects the safety of subject ship under pilotage, other vessels in the vicinity, properties and lives. It’s high time to **REDEFINE** the implication of maritime pilot as an advisor to the master.

To our honourable representatives of Asia Pacific Countries and participants of APMPF 2017, let’s synergise and empower the professionalism of maritime pilots in tandem to support growth in the global shipping industry.

As much as we are passionate towards this noble profession to pilot ships with utmost safe conduct, we must ensure that the welfare and safety of maritime pilots are always protected and improved from time to time.

Maritime pilotage is an essential supporting service to shipping and port activities where pilots play a vital role of shipping’s human element. If insurance underwriters perceived pilotage as one of the criteria in ascertaining its policy premium as part of the risk management approaches, a safety benchmark and reliance of the industry upon pilotage remained critically essential and cannot be substituted.

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I am glad to acknowledge **Mr. Kitack Lim's** statement, the Secretary General of International Maritime Organisation (IMO) at the FEDEPILOTI 70th Anniversary.

“The contribution made by pilots to maritime safety is well understood and clearly recognised by IMO and its members. But we also recognise that the safety of pilots themselves is a vital issue.”

Lastly, I would like to take this opportunity to wish all my counterparts from the Asia Pacific countries, **Good Luck and Safe Pilotage At All Times!**

Thank you!

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About myself

Capt. Martin Lim is currently employed by **Northport (Malaysia) Bhd**, a subsidiary of **MMC Port Holdings Sdn Bhd**, in the capacity as a maritime pilot.

Holding an **Unrestricted (FULL) Pilot License** issued by the **Port Klang Authority**, who possesses broad experiences as a foreign-going mariner, earned himself the privileges to master the skills and technicality of ship navigation and ship handling with ease and efficiently.

SAFETY is his ultimate priority while discharging his responsibility as a maritime pilot, for his in-depth appreciation toward the safety of ships, watercraft, lives and protection of properties and environment in Port Klang.

In a different portfolio, Capt. Martin Lim is the President and Chairman of **Maritime Pilots Malaysia** (MPM), a national association that promulgate and promote the professionalism of maritime pilots in Malaysia. Members of Maritime Pilots Malaysia (MPM) hail from most of the major ports in Malaysia.

He continues to work closely with his peers and actively contribute his effort in supporting major port in Malaysia to attain the accreditation as **SAFE PORT** status in the maritime industry.

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Acknowledgement

The Asia Pacific Countries;

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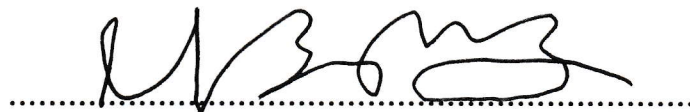
INDONESIA



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SOUTH KOREA



Name: CAPT. NA JONG-PAL

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Position PRESIDENT, IMPA.

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Name: CAPT. CHOI YEONG-SIG

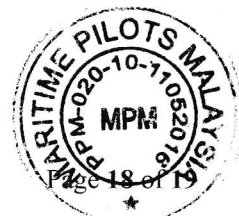
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Name: CAPT. HAENG CHHIN PARK

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VIETNAM

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Position _____

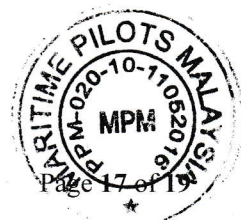
PAPUA NEW GUINEA



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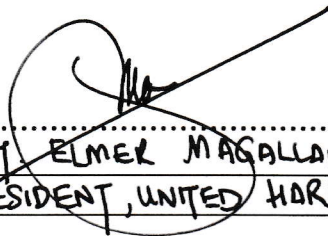
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Position _____

MALAYSIA



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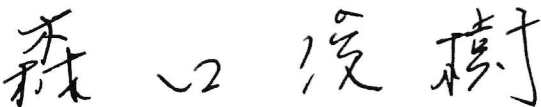
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