

THE PROPOSED NEW FRAMEWORK FOR THE PRIVATE MARITIME SECURITY COMPANY OF MALAYSIA

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Abstract. The cases of sea robberies involving commercial vessels in the waters of Malaysia is not serious and the number is dropping. However, shipowners can engage the service of security guards on board their vessels as the last security net. Ministry of Home Affairs Malaysia has developed the current framework of Private Maritime Security Company of Malaysia. The framework was developed mainly based on the requirement of local regulations. However, the existing framework may not be compatible with the coastal and flag state requirements, therefore an improved framework is needed. To improve the existing framework, literature related to the private maritime security company is reviewed. The relevant guidelines from International Maritime Organization and International Standardization Organization were then incorporated into the existing framework.

Keywords: Maritime, security, private

1. Background

Private maritime security company (PMSC) is a type of company that provides security service and consultancy to private vessels, commercial ships, and offshore terminals and structures whether at sea or marine ports. PMSC is set up because of the security issue about a terrorist attack at the US in 2001 and an increase in 2003 during the aftermath of the Gulf War. PMSC was introduced by the International Maritime Organization. The examples of PMSC are Solace Global Limited of the UK, Sea Guard Security of the US and Sea Guardian of Greece. Among the services provided by those companies are armed vessel security in high risk areas, vessel's security audits and crew training. The PMSC services are deemed necessary as an

additional security layer to the existing maritime security forces and serves as the last security net to ship owners from the attack from pirates, robbers and terrorist. The PMSC service has proven in failing many pirate attempt to hijack commercial ships at the waters of Somalia [1]. The Straits of Malacca had been listed as a war risk zone by the Lloyd's Joint War Committee in June 2005 due to considerable number of sea robberies cases [2]. However, it was removed from the list about a year later due to significant improvement on the security in the area and the significant reduction of robbery cases [3]. The sea robbery cases in Malaysian waters, Straits of Malacca and Straits of Singapore in 2014 are shown in Table 1. There are a total 15 cases of sea robberies occurred in 2014, which comprise of 5 cases without loss of properties and injuries, 1 case with loss of properties, 1 case with one death and loss of properties, and 8 cases of petroleum products siphoned that resulted 115,634 metric tons cargo loss together with additional loss of other properties. The sea robbery cases in the same areas in 2015 are shown in Table 2. There are a total 31 cases of sea robberies occurred in 2015. The 31 cases comprise of 10 cases without loss of properties and injuries, 12 cases with loss of properties, and 7 cases of petroleum products siphoned with about 16,798 metric tons loss of cargo (not included MT Phubai Pattra 1) with ship's and crew's properties stole.

Table 1: Sea Robbery in the Malaysian waters, Straits of Malacca and Straits of Singapore in 2014 (Source: [4]–[19])

No.	Date	Vessel Name/ Type	Flag	Cargo/ Belonging Lost
1	6 Mar 2014 at 0515 hrs	Sea Voyager / Oil tanker	Marshall Islands	No loss of property
2	6 Mar 2014 at 0540 hrs	Orpheas / Tanker	Liberia	Some engine spares were stolen
3	10 Mar 2014 at 0150 hrs	Cape Veni / Bulk carrier	Cyprus	No loss of property
4	On 17 Apr 14 at or about 2010 hrs	MT Sri Phangnga/ Tanker		About 450,000 litres (400 MT) of MGO was siphoned; crew's personal belongings were stolen, communication equipment destroyed, ship's name and company logo painted over.
5	22 Apr 2014 at 0100 hrs	MT Naniwa Maru No. 1 / Oil tanker	Saint Kitts and Nevis	2,500 metric tons of Marine Diesel Oil was siphoned. Three crews abducted by the robbers, together with their personal belongings and travel documents.
6	28 May 2014 at 0625 hrs	Ore Vitoria / Bulk carrier	Liberia	No loss of property
7	28 May 2014 at 1042 hrs	Kien San 8 / Barge	Malaysia	No loss of property
8	29 May 2014 at 0353 hrs	Eastern Star / Bulk carrier	Vietnam	No loss of property
9	0200 hrs (local time) on 28 May	Orapin 4 / Product tanker	Thailand	Ship's communication equipment was damaged. 3,700 metric tons of ADF was siphoned. Ship's

	2014			name repainted to RAPI.
10	14 Jun 2014 at about 2030 hrs	Ai Maru / Product tanker	Honduras	Ship's communication equipment was damaged; 620 metric tonne of the MGO was siphoned; crew personal belongings were stolen.
11	4 Jul 2014 at or about 1938 hrs	Moresby 9/Tanker	Honduras	2118 metric tons of MGO was siphoned. Ship's navigation equipment, communication equipment, steering system and anchor windless damaged. Crew's personal belongings stolen.
12	7 Jun 2014 2345 hrs	MT Budi Mesra Dua/ Tanker	Malaysia	100,000 metric tons of diesel was siphoned, crew valuables were robbed and communication equipment damaged.
13	28 Aug 2014 at or about 2040 hrs	V.L.14 / Oil product tanker	Thailand	1,296 tons of lube oil was siphoned, and crew's personal belongings were stolen.
14	Last known location (off Pulau Anambas) on 3 Oct 2014	Sunrise 689/ Oil product tanker	Vietnam	The 5,000 tons gas oil was siphoned. The communication equipment was damaged and two crews were slightly injured.
15	On 7 Dec 2014 at or about 0530 hrs (local time)	VP Asphalt 2 / Tanker	Vietnam	Crew personal belongings was stolen and one crew killed.

Table 2: Sea Robbery and Piracy in the Malaysian waters, Straits of Malacca and Straits of Singapore from January to November 2015 (Source: [20]–[40])

No.	Date	Vessel Name/Type	Flag	Cargo/Belonging Lost
1	13 Feb 2015 1955 hrs	MT Lapin	Thailand	Siphoned 5 tons of diesel oil and 2000 tons of bunker oil.
2	20 Feb 2015 2130 hrs	MT Phubai Pattra 1	Thailand	Part of gasoline cargo of unknown quantity was siphoned. Crew's and ship's valuable were stolen.
3	21 March 2015 at 0100 hrs	Capetan Giorgis/bulk carrier	Marshall Island	Nothing was missing onboard and the crew was safe.
4	21 March 2015 at 0545 hrs	MSC Vancouver/ container ship	Luxembourg	The perpetrators had robbed the 2nd engineer's gold chain and watch.
5	2 May 2015 at 2130 hrs (local time)	Ocean Energy/ Product tanker	Singapore	2023 MT of gas oil was discharged to a barge. Ship's Iridium phone, crew's cash and mobile phones were stolen.
6	15 May 2015 at 0600 hrs	Oriental Glory/ Product tanker	Malaysia	Siphoned off 2,500 MT of ship fuel/oil
7	04 June 2015 0015 hrs	Orkim Victory/Tanker	Malaysia	770 MT of Automotive Diesel Oil was siphoned, personal belonging stolen, communication equipment destroyed.
8	11 Jun 2015	Orkim Harmony / Product tanker	Malaysia	Vessel with 6,000 metric tonnes of ULG 95 (petrol) recovered.
9	17 Jun 2015 at 0221 hrs	Densa Shark / bulk carrier	Brazil	Nothing was missing.
10	17 Jun 2015 at 0503 hrs	Clipper Posh / LNG tanker	Norway	Nothing was missing.
11	17 Jun 2015 at 0525 hrs	Pro Triumph / tanker	Panama	Chief Engineer and 1st Engineer were tied, and some generator spares parts were stolen.
12	25 July 2015 at 0200 hrs	Rutland/Bulk Carrier	Singapore	Ship's parts and crew belonging were stolen.
13	26 July 2015 at 0540 hrs	Setagawa/ Tanker	Panama	No loss of property.
14	27 Jul 2015 0110 hrs	Matrah/ Tanker	Panama	Petty Theft.
15	30 Jul 2015	Ludolf Oldendorff/	Portugal	Petty Theft.

	0300 hrs	Tanker		
16	31 Jul 2015 0150 hrs	Gallia Graeca/ Bulk carrier	Cyprus	Petty Theft.
17	15 Aug 2015 at 2000 hrs	MT Joaquim/Tanker	Singapore	3500 tonnes of marine gas oil cargo siphoned; communication equipment damaged; and two crews injured.
18	21 Aug 2015 at 0230 hrs	Advantage Summer / Tanker	Marshall Island	No loss of property.
19	21 Aug 2015 at 0340 hrs	Navig8 Stealth SV / Tanker	Marshall Island	No loss of property.
20	21 Aug 2015 at 0430 hrs	Maersk Lebu / Container ship	Hong Kong	No loss of property.
21	21 Aug 2015 at 2329 hrs	Peace Bright /Bulk carrier	Panama	No loss of property.
22	22 Aug 2015 at 0525 hrs	Atout /Container ship	Liberia	No loss of property.
23	22 Aug 2015 at 0535 hrs	Elbtank Denmark / Tanker	Liberia	Crew's personal belonging were stolen.
24	9 Oct 2015 0526 hrs	Arabella/ Bulk carrier	Malta	Ship's parts were stolen.
25	15 Oct 2015 0350 hrs	Lucina Providence/ LPG tanker	Panama	Ship's parts were stolen.
26	15 Oct 2015 0541 hrs	Almi Spirit/ Tanker	Liberia	Ship's parts were stolen.
27	16 Oct 2015 0300 hrs	Diamond Star/ General cargo ship	Panama	Ship's parts were stolen.
28	16 Oct 2015 0500 hrs	Al Khaznah/ LNG tanker	Liberia	Ship's parts were stolen.
29	22 Oct 2015 0326 hrs	Alameda/ Bulk carrier	Malta	No loss of property.
30	22 Oct 2015 0555 hrs	Merlin/ Bulk carrier	Marshall Island	Ship's parts were stolen.
31	20 Nov 2015 1113 hrs	Salvigilant & Poe Giant 1/ Tug boat & barge	Singapore	No loss of property.

Based on the statistic shown in Table 1 and Table 2, there is a good reason for the shipping companies of Malaysia and the foreign flag ship sailing in Malaysian waters to engage the PMSC service as an additional security net. Until December 2015, Ministry of Home Affairs Malaysia (MOHA) had given license to two companies as the PMSC service provider in Malaysia. However, the standard used by MOHA for the operation of PMSC in Malaysia waters may not be compatible with the international shipping practice or even the local shipping practice. Therefore, the objective of this study is to identify the existing framework for PMSC of Malaysia and to propose the improved framework based on international guidelines and standards.

2. Methodology

The first step of the methodology is to determine the existing framework of PMSC of Malaysia. The first step is executed by interviewing the officer-in-charge in the MOHA. The second step is to determine the existing international guideline and standard. The second step is conducted by reviewing the relevant literature. The third step is to propose the new framework by incorporating and adapting the international guidelines and standard into the existing framework.

3. Result and Discussion

3.1 The Existing Framework for PMSC of Malaysia

The existing framework for PMSC in Malaysia is shown in Figure 1.

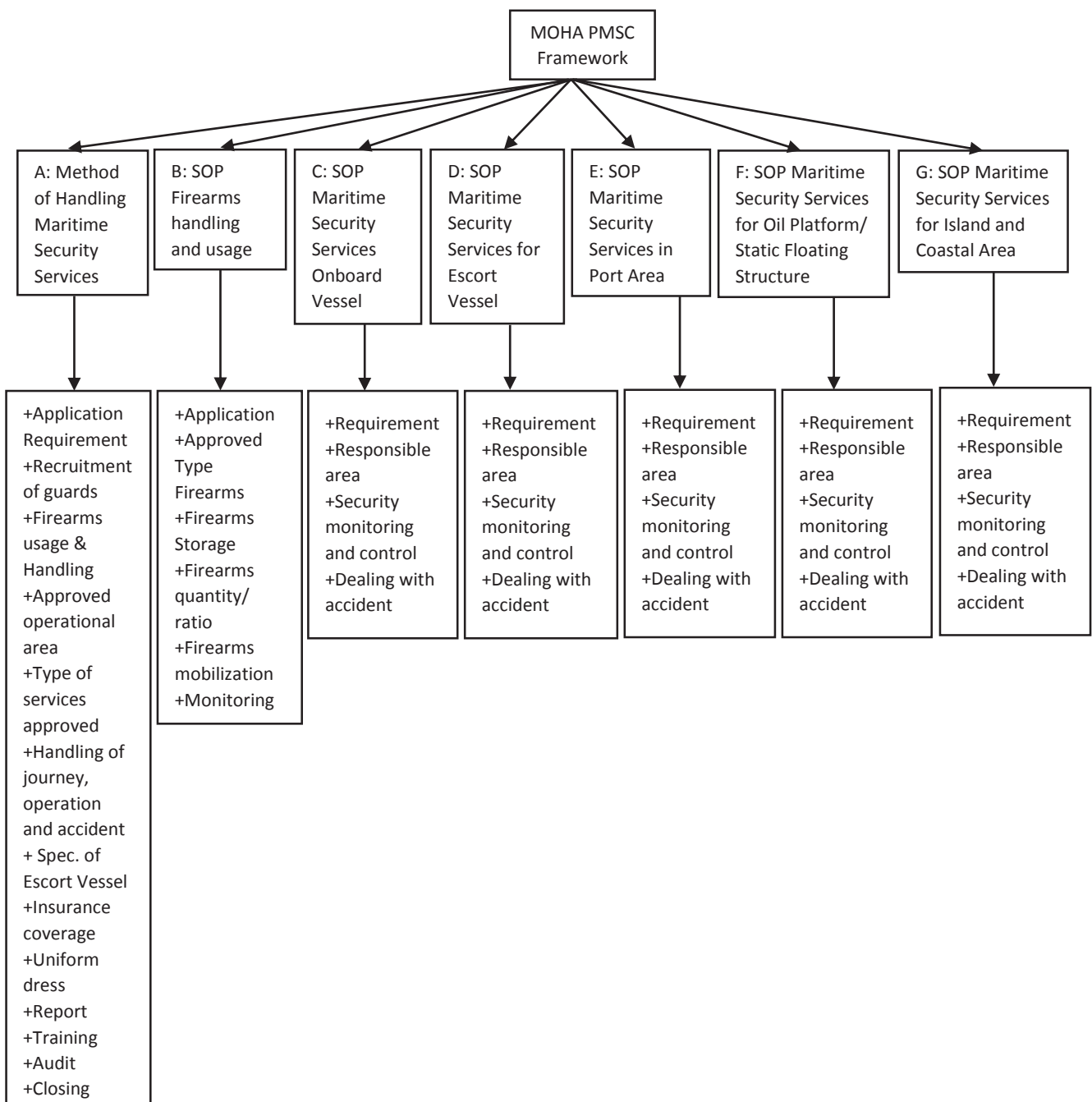


Figure 1: The existing MOHA PMSC framework of Malaysia

The framework in Figure 1 is developed based on the document given by MOHA. The PMSC are required to comply with seven standard operational procedures (SOP) that covers the requirement to setup the PMSC and all relevant operations.

3.2 International Guideline and Standard related to PMSC

Table 1 shows that relevant guidelines for PMSC that can be incorporated into the existing MOHA framework. The sources of the guidelines are, IMO, International Standardization Organization (ISO), Switzerland Federal Department of Foreign Affairs (FDFA), and Geneva Academy of International Humanitarian Law and Human Rights (GAIHLHR). There are four direct references for PMSC by IMO, which address different parties, namely the port and coastal state, the flag state and the service provider. However, these literatures serve as guidelines for the relevant party to follow.

Table 1: Relevant International Guideline for PMSC (Source: [41]–[48])

Source & Year	Literature
IMO 2005	Convention on Facilitation of International Maritime Traffic (FAL), 1965 incorporated 2005 amendment.
FDFA 2009	The Montreux Document on Pertinent International Legal Obligations and Good Practices for States Related to Operations of Private Military and Security Companies During Armed Conflict.
IMO 2011	MSC-FAL.1/Circ.2. Questionnaire on information on port and coastal state requirements related to privately contracted armed security personnel on board ships.
IMO 2012	MSC.1/Circ.1405/Rev.2 Revised 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 (25 May 2012).
IMO 2012	MSC.1/Circ.1406/Rev.3 Revised Interim Recommendations for Flag States regarding the use of Privately Contracted Armed Security Personnel on board ships in the High Risk Area (25 May 2012).
IMO 2012	MSC.1/Circ.1443 Interim Guidance to Private Maritime Security Companies Providing Privately Contracted Armed Security Personnel on Board Ships in the High Risk Area (25 May 2012).
IMO 2012	MSC.1/Circ.1408/Rev.1 Revised Interim Recommendations for Port and Coastal States Regarding The Use of Privately Contracted Armed Security Personnel On Board Ships in the High Risk Area
GAIHLHR	The International Code of Conduct for Private Security Service Providers.

2013	
IMO 2015	MSC.1Circ./1406-Rev.3 Revised Interim Recommendations for Flag States regarding the use of Privately Contracted Armed Security Personnel on board ships in the High Risk Area.
ISO 2015	ISO 28007-1:2015 Guidelines for Private Maritime Security Companies (PMSC) providing privately contracted armed security personnel (PCASP) on board ships.

3.3 The Propose Improvement of Framework of PMSC of Malaysia

The propose new framework of PMSC of Malaysia is shown in Figure 2.

In order to improve the existing MOHA PMSC framework, the requirement of the existing international guidance should be incorporated into the existing framework. By doing this, the detail SOP for each operation would develop according to the relevant guidance. This would improve the existing MOHA SOP by internationalising the existing SOP and filling the areas that previously not covered. Therefore, the guidance from IMO, namely Revised Interim Recommendations for Port and Coastal States Regarding the Use of Privately Contracted Armed Security Personnel on Board Ships (PCASP) in the High Risk Area, Revised Interim Recommendations for Flag States regarding the use of Privately Contracted Armed Security Personnel on board ships in the High Risk Area, and Interim Guidance to Private Maritime Security Companies Providing Privately Contracted Armed Security Personnel on Board Ships in the High Risk Area are incorporated to the existing MOHA framework, namely the Method of Handling Maritime Security Services, SOP Firearms handling and usage, SOP Maritime Security Services Onboard Vessel, and SOP Maritime Security Services for Escort Vessel. In addition, the ISO Guideline for PMSC providing PCASP on board ships is incorporated to Method of Handling Maritime Security Services, SOP Firearms handling and usage, SOP Maritime Security Services Onboard Vessel, and SOP Maritime Security Services in Port Area.

The guideline developed by ISO can be used as the guideline to develop the Standard Operational Procedure for the PMSC operation in Malaysia and also serves as the standard to be audited by authority such as MOHA. The Montreux Document on Pertinent International Legal Obligations and Good Practices for States Related to Operations of Private Military and Security Companies During Armed Conflict and The International Code of Conduct for Private Security Service Providers are currently not suitable to be incorporated into the existing MOHA PMSC framework because the documents are tailored for services provided

in the armed conflict area, which there is no such conflict happening in the waters of Malaysia currently and the near future.

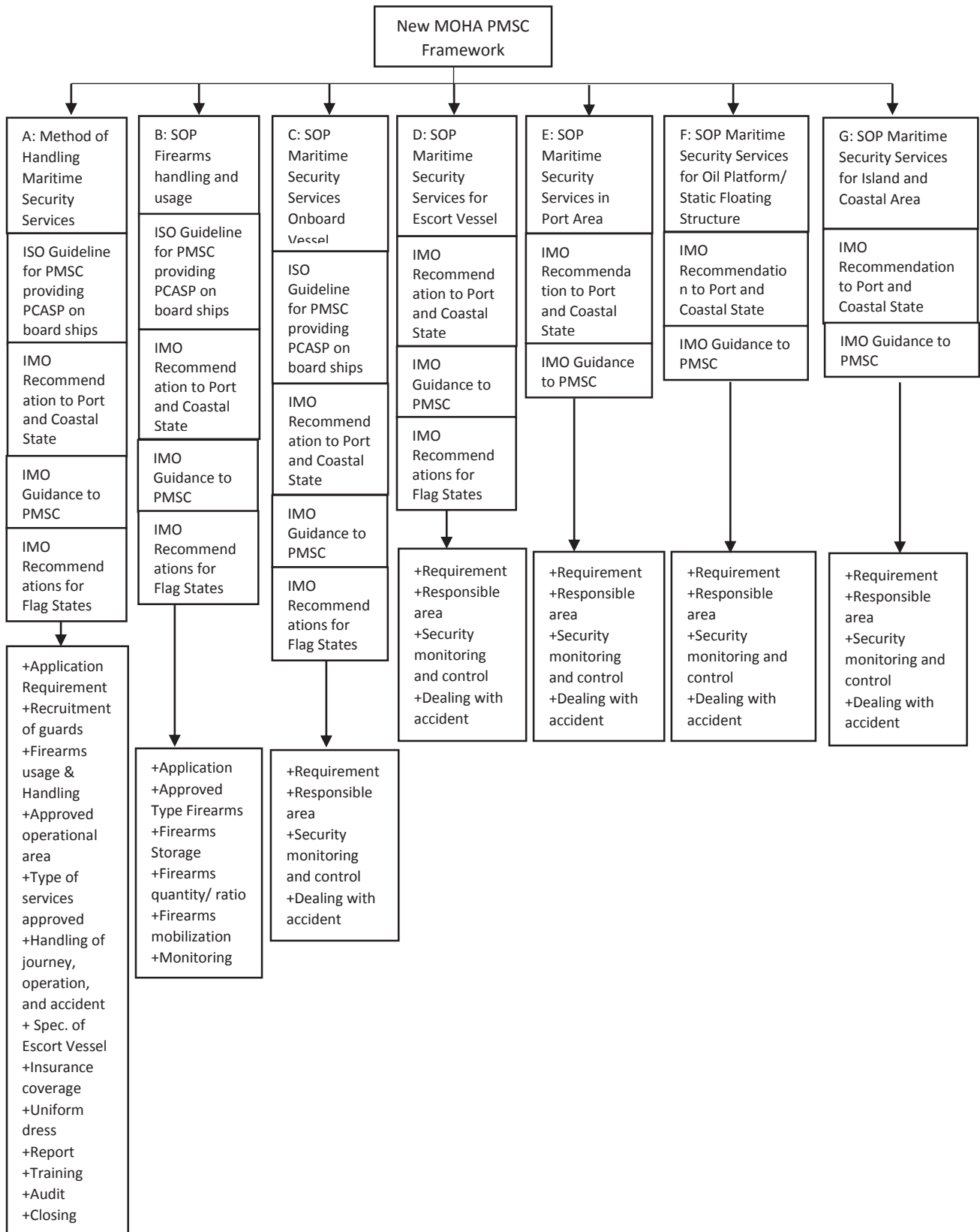


Figure 2: The proposed new MOHA PMSC framework of Malaysia

Therefore, for this time being, the guidance developed by IMO and ISO are more suitable to be applied and incorporated into the existing MOHA framework.

4. Conclusion

The existing MOHA framework of PMSC of Malaysia is developed mainly based on local regulation and therefore may conflict with the flag state of the vessel. Therefore, this issue is addressed by incorporating the guidelines of IMO and ISO, which covered all sides such as the port or coastal state, flag state and the service provider. The incorporation of the international guidelines into the existing MOHA framework, which harmonies the scopes and requirement of stakeholder on PMSC would improve and internationalize the existing MOHA framework.

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