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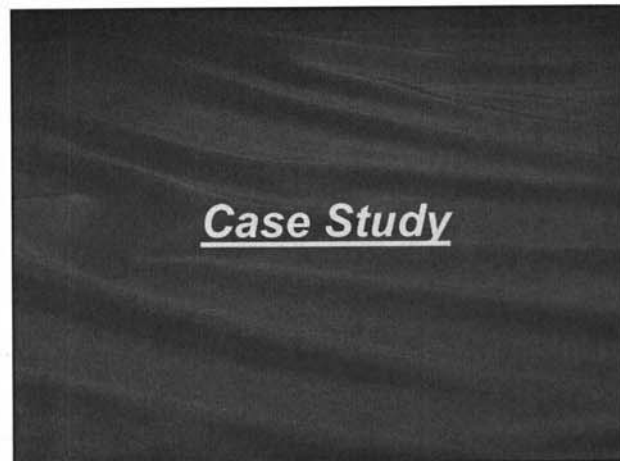
MAIFA



**The Experts Meeting on Promoting of the
Marine Casualty Investigation in Asia**

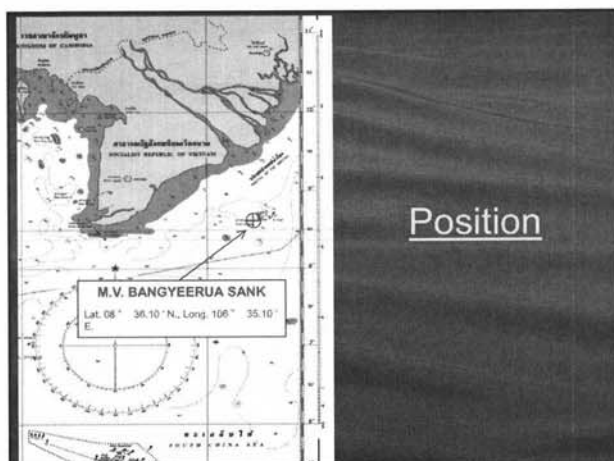
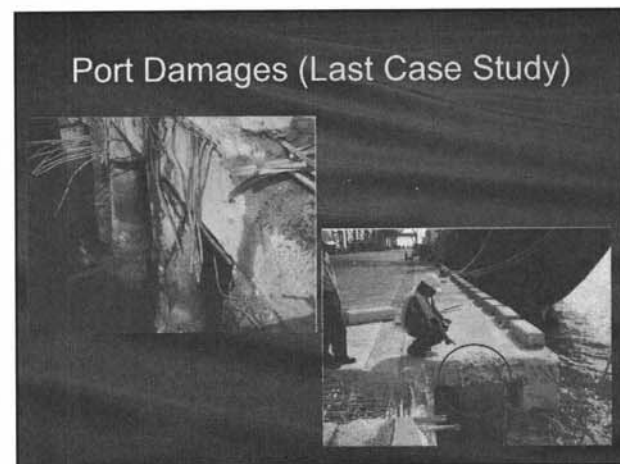
25-26 June 2008
Tokyo, Japan

By Mr. Rijjapoj Saisa-ard
Maritime Safety & Environment Bureau
Marine Department, Thailand
Email: hm@md.go.th



INTRODUCTION

- Refer to the last case study in MAIFA 10th.
- The Accident happened on 06 December 2007 and Same ship-owner but different vessel.
- The Vessel sank in Vietnam territorial water @ position :
 - Lat. 08 ° 36.10 ' N.
 - Long. 106 ° 35.10 ' E.



INTRODUCTION

- On 30 November 2007.M.V. Bangyeerua, Thai flag, General Cargo with 24 crews, 4,815 GRT., LOA : 115.65 meters.
- Vessel departure from Penang to Vungtau.
- On 03 December 2007.Weather not good condition, Rough sea and Strong wind, Vessel Rolling & Pitching heavily.

M.V. BANGYEERUA

- On 05 December 2007, At 0545 a.m. C/O order O/S to check bilge & ballast tanks.
- Bilge No.4 (Prt. & Stb.) tanks were found with water 2 meters high. And C/O ordered ENG. Room to pump the water out.
- At 0700 a.m. O/S rechecked Bilge No.4 and found water 2.20 meters high.
- C/O order crews to use 3 submerge pumps to facilitate the Main pump at the Cargo Hold No.2

M.V. BANGYEERUA

- Around 0830 a.m., They checked water in Bilge No.4 and the water level remain unchanged.
- At 0930 a.m. Master reported to ship owner for situation of water in Cargo Hold.
- At 1430 p.m., 1 submerge pump broke down and Water in Cargo Hold No. 2 increasing 20 c.m. / hour.

M.V. BANGYEERUA

- Around 1700 p.m., M.V. Bangyeerua alternate her course to Conson Island for repair the ship hull.
- At 1930 p.m., Another one submerge pump broke down and Water in Cargo Hold No. 2 increasing 40 c.m. / hour
- At 2245 p.m., AIS on M.V. Bangyeerua shown M.V. Jutha Dhamaraksa(Thai Flag) on displays, range 20 N.M.

M.V. BANGYEERUA

- M.V. Jutha D. alternate her course to M.V. Bangyeerua and escort to Conson Island.
- On 06 December 2007, At 0100 a.m. half of Cargo Hold No.2 was filled with water. Master decided to stop engine, ring boat situation alarm and inform M.V. Jutha D about the situation

M.V. BANGYEERUA

- At 0420 a.m., Master sent Distress Signal & Order crews to abandon ship.
- 2 Vietnamese Fishing Boats rescue the crews and sent to M.V. Jutha D.
- At 0710 a.m., M.V. Jutha D. sailing to Sriracha Port Areas and All crews of M.V. Bangyeerua go to ashore.

M.V. BANGYEERUA

- Damage Report
 - All 24 Crews : Safe
 - Ship : Total lost
- The ship owner is under the process of claiming the compensation from their insurance company

Investigation Report

Investigation Report form with Thai text and a signature at the bottom.

Ship's Registry

Ship's Registry form with Thai text, tables, and official stamps.

Certificate of Survey

Certificate of Survey form with Thai text and a signature at the bottom.

M.V. Jutha D. Report

M.V. Jutha D. Report form with Thai text and a signature at the bottom.

M.V. Bangyeerua Report

M.V. Bangyeerua Report form with Thai text and a signature at the bottom.

CAUSE

- Old vessel (33 years)
- Poor lashing of cargo
- Lack of Maintenance

conclusion

- Master of M.V. Bangyeerua did not inform coastal state (Vietnam) of the incident:
 - Inadequate knowledge of procedures to deal with emergency case, especially in other territorial water

The Casualty Investigation Policy

- On 15 – 22 October 2007, There was an IMO audit of the Marine administration of the Kingdom of Thailand regarding the conduct of maritime accident investigation

Findings:

- Required written procedures for conducting an investigation as well as analysis of accident investigation submitted to IMO

The Casualty Investigation Policy

Proposed Corrective Action Plan:

- Amend Navigation Act relating to maritime casualty investigation (24months)
- Establish Maritime Investigation Unit which will integrate Marine safety & Environment Bureau and Ship Standard Bureau (30months)
- Manual of conduct of maritime accident investigation (30months)
- Arrange the Maritime Accident and Incident Investigation and Analysis course for investigators throughout the country (36months)

MAIFA



Thank you
for your attention

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OVERVIEW OF MARINE ACCIDENT INVESTIGATION IN THE UNITED STATES



Jack Spencer



Doug Rabe

NTSB

- Created in 1967 by the Independent Safety Board Act
- Investigates:
 - › All aviation accidents
 - › Major marine accidents
 - › Serious rail, pipeline and hazardous material accidents
 - › Highway and bridge accidents

USCG

- In 1838, began investigating marine accidents as the "Steamboat Inspection Service"
- Investigates:
 - › Any accident involving commercial vessels, including major marine accidents

Major marine accidents

- Six or more lives lost
- Total loss of a self-propelled vessel of 100 gross tons
- More than \$500,000 in property damage
- Serious threat from the release of hazardous materials
- Generally, 30 to 50 per year occur

NTSB

- NTSB reports directly to Congress
- 5 NTSB Board members are appointed by the President
- NTSB Office of Marine Safety currently has 17 staff members based in Washington, D.C.
- Conducts about 12 marine safety investigations per year

USCG

- USCG reports to Department of Homeland Security
- Commandant is appointed by the President
- 35 USCG Sectors throughout the U.S. have a total of about 200 investigators
- Conducts about 5,000 marine casualty investigations per year

NTSB

- The independent investigation body
- Conducts only safety investigations
- Concentrates on serious accidents
- Determines probable cause
- Issues safety recommendations
- Does not maintain trend statistics for all marine casualties

USCG

- The regulator – responsible for inspections, vessel and port safety, etc.
- Conducts safety, personnel action, and civil penalty investigations
- Determines cause and issues safety recommendations
- Maintains trend statistics for all marine casualties


NTSB and USCG

- Cooperate to ensure the best outcome in every case
- Investigate accidents together whenever possible
- Maintain a Memorandum of Understanding regarding marine accident investigation to facilitate day to day operations

NTSB and USCG

- Support the MAIF motto “Maritime Safety through Investigation and Cooperation”
- Hope to see you at MAIF 17 in Malta !
- Wish you a safe journey home.

(14) ベトナム



VIETNAM'S MARITIME ACCIDENT INVESTIGATION

THE EXPERTS MEETING ON PROMOTING CO-OPERATION
OF THE MARINE CASUALTY INVESTIGATION IN ASIA


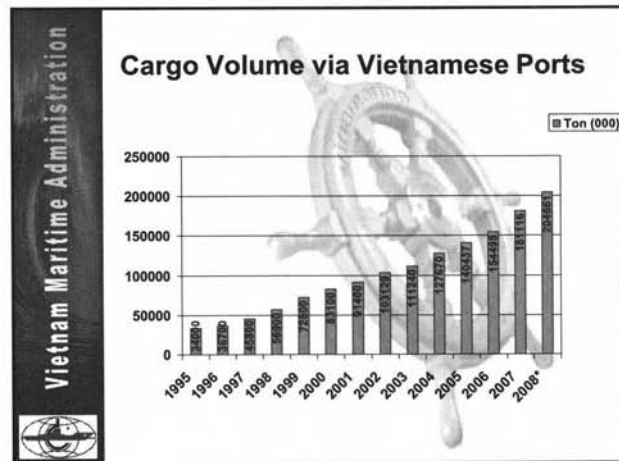
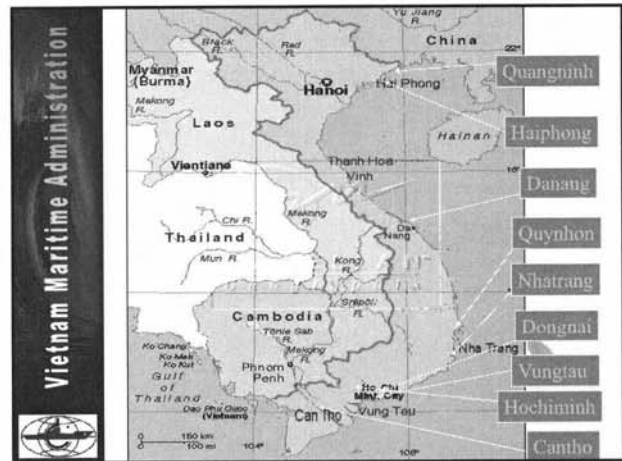
Tokyo, Japan 25 - 26 June 2008



Vietnam Maritime Administration

Seaport System


- Coastline length: 3,260 km from the North to the South
- About 90 seaports
- Major Ports: Quangninh, Haiphong, Danang, Quynhon, Nhatrang, Vungtau, Dongnai, Cantho and Hochiminh City
- Total length of terminal: 23 km.
- In 2004: 74,527 ship calls
- In 2005: 75,235 ship calls
- In 2006: 62,291 ship calls
- In 2007: 88,619 ship calls>>

Vietnam Maritime Administration

Vietnam National Merchant Fleet


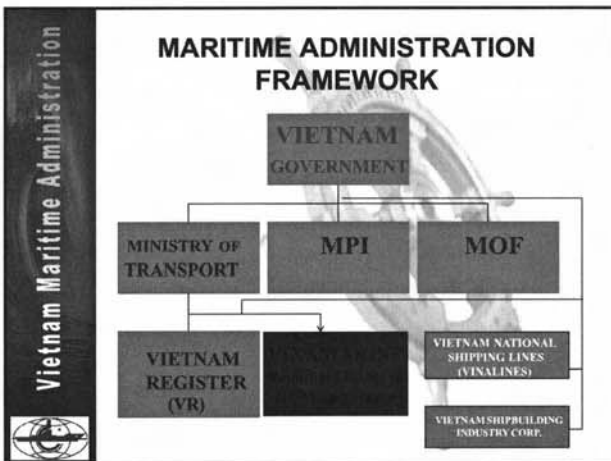
- Number of vessel: 1,199
- Total Gross Tonnage: 2,937,327 GT
- Total Deadweight: 4,384,880 DWT>>



Vietnam Maritime Administration

Number of Vietnamese Seafarers


MANAGEMENT LEVEL			
Deck		Engine	
>3000 GT	683	>3000 Kw	692
500 – 3000	551	750 – 3000	169
100 – 500	985	150 – 750	842
<100 GT	700	< 150 Kw	518
OPERATIONAL LEVEL			
Deck		Engine	
> 500 GT	1169	> 750 Kw	1053
< 500 GT	93	< 750 Kw	153
ASSISTANT LEVEL			
Bosun	872	AB	6209
Donkeyman	426	Greaser	3995
Elec. Officer	194	Electrician	126






Vietnam Maritime Administration

Ministry of Transport

- The Ministry of Transport is a government agency in charge of state management of land transport (highways, railways), inland waterway transport and maritime transport nation-wide. >>



- Vietnam Maritime Administration
- ### MOT – The organization structure
- Organization with advisory functions
 - Specialized management Agencies
 - Vietnam Road Administration
 - Vietnam Inland Waterway Administration
 - Vietnam Railway Administration
 - Vietnam Civil Airway Administration
 - Vietnam Maritime Administration
 - Vietnam Register
 - Transport Construction Quality Control and Management Bureau >>
- 
- 

- Vietnam Maritime Administration
- ### MOT – The organization structure
- Administrative Agencies
 - Research Institute for Transport Science and Technology (RITST)
 - Transport Development and Strategy Institute (TDSI)
 - Viet Nam Maritime University (VINAMARU)
 - School for Training Cards and Civil Servants of the Transport Sector
 - Transport College
 ->>
- 

Vietnam Maritime Administration

MOT – The organization structure

- Enterprises:
 - Vietnam National Lines (VINALINES)
 - Vietnam Shipbuilding Industry Corp. (VINASHIN)
 - Seaports
 - Thang Long Construction Corporation
 - Civil Engineering Construction Corporation
 - Transport Industry Corporation (TRANSINCO)
 ->>




Vietnam Maritime Administration

VINAMARINE



Chairman

Vice-chairman Vice-chairman Vice-chairman Vice-chairman

Headquarter Regional Offices Under bodies Regional Maritime Administration


Maritime Safety Dept. HAI PHONG VSRPFL Quang Ninh

Int'l Coop. Dept. HOCHIMINH VMRCC Hai Phong

Legal Dept. VISAL Da Nang

Seaport Inf. Dept. VSP Sai Gon

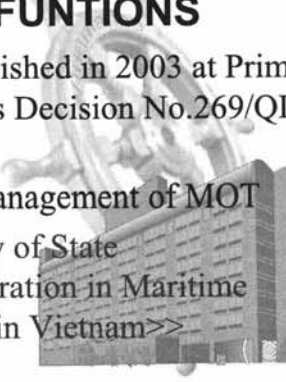
Others Others Others




Vietnam Maritime Administration

VINAMARINE'S FUNCTIONS

- Re-established in 2003 at Prime Minister's Decision No.269/QD-TTg
- Under management of MOT
- Authority of State Administration in Maritime Industry in Vietnam>>







Vietnam Maritime Administration

VINAMARINE'S DUTIES AND POWERS

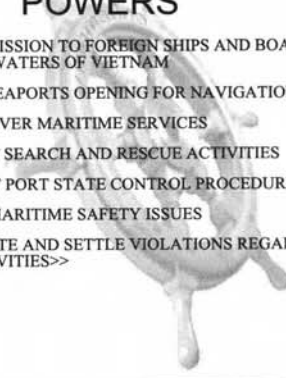
- TO WORK OUT :
 - MARITIME DEVELOPMENT STRATEGIES
 - MARITIME MASTER-PLANS
 - SHIPPING POLICIES/ REGULATIONS
 - RULES OF MANAGEMENT/ LEGAL NORMS
- TO MANAGE MARITIME INFRASTRUCTURE PROJECTS ON MARINE FUNDED BY OVERSEAS OR DOMESTICS
- TO SIGN BILATERAL MARITIME AGREEMENT
- TO PROPOSE TO RACTIFY INTERNATIONAL CONVENTIONS ON MARINE>>

Vietnam Maritime Administration

VINAMARINE'S DUTIES AND POWERS

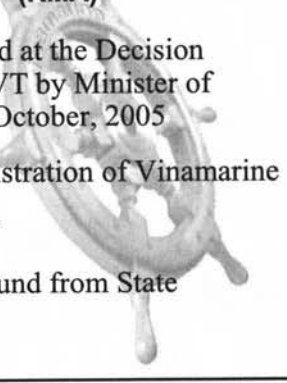

- TO ISSUE PERMISSION TO FOREIGN SHIPS AND BOATS TO TERRITORIAL WATERS OF VIETNAM
- TO DECLARE SEAPORTS OPENING FOR NAVIGATION
- TO CONTROL OVER MARITIME SERVICES
- TO CARRY OUT SEARCH AND RESCUE ACTIVITIES
- TO IMPLEMENT PORT STATE CONTROL PROCEDURES
- TO CONTROL MARITIME SAFETY ISSUES
- TO INVESTIGATE AND SETTLE VIOLATIONS REGARDING SHIPPING ACTIVITIES>>




Vietnam Maritime Administration

regional Maritime Administration (RMA)

- Re-established at the Decision 57/QD-BGTVT by Minister of Transport in October, 2005
- Under administration of Vinamarine
- A legal entity
- Operational fund from State Budget>>

RMA's Major Functions & powers

- To plan seaport development within its responsible area
- To coordinate with relevant authorities in securing port operation appropriately
- To control and supervise the law enforcement on safety-related issues
- To conduct the port State control inspection
- To carry our SAR operation toward people and ships in distress, oil spill, etc.>>



RMA's Major Functions & powers

- To investigate maritime accidents and incidents
- To issue permit to ships entering and leaving ports
- To collect fees & charges as delegated and contribute to State Budget
- To impose fines upon acts against maritime safety, environment prevention >>



MARINE ACCIDENT INVESTIGATION LEGAL FRAMEWORK



Relevant Instruments

- Vietnam Maritime Code 2005
- Decision No. 48/2005/QD-BGTVT dated 30/9/2005 of Minister of Transport on marine accident reporting and investigation.
- IMO Resolution A.849 (20) – Code For The Investigation of Marine Casualties and Incidents.
- IMO Resolution A.884 (21) – Guidelines for the Investigation of Human Factors in Marine Casualties and Incidents.
- Other relevant guidelines or references to other case studies



Decision No. 48/2005/QD-BGTVT dated 30/9/2005

- **Article 1.** Regulation scope
 - ↳ This Decision provides for marine accident reporting and investigation.
- **Article 2.** Application subjects
 - ↳ This Decision applies to agencies, organizations and individuals involved in marine accident reporting and investigation in the following cases:
 - Marine accidents related to Vietnamese seagoing ships;
 - Marine accidents related to foreign seagoing ships operating in Vietnamese port waters and waters;
 - Marine accidents occurring to ship on official duty, fishing ships, inland waterway means of transport or hydroplanes operating in port waters of Vietnam.



Decision No. 48/2005/QD-BGTVT dated 30/9/2005

- **Article 3.** Classification of marine accidents
 - ↳ Extremely serious marine accidents
 - ↳ Serious marine accidents.
 - ↳ Less serious marine accidents




Vietnam Maritime Administration

Decision No. 48/2005/QD-BGTVT dated 30/9/2005

CHAPTER II- REPORTING ON MARINE ACCIDENTS

- **Article 4.** Marine accident reports
 - ↳ Marine accident reports include urgent reports specified in Appendix, detailed reports specified in Appendix 2 and periodical reports specified in Appendix 3 (not printed herein). Marine accident reports must be truthful, accurate and timely.
- **Article 5.** Urgent reports
- **Article 6.** Detailed reports
- **Article 7.** Periodical reports




Vietnam Maritime Administration

Decision No. 48/2005/QD-BGTVT dated 30/9/2005

CHAPTER III - INVESTIGATION OF MARINE ACCIDENTS


- **Article 8.** Requirements for investigation of marine accident
 - ↳ Investigation of marine accidents means the identification of conditions, circumstances, causes or possible causes of marine accidents in order to work out effective measures to prevent and restrict such accidents.
 - ↳ Marine accidents must be investigated in strict compliance with regulations, in a timely, comprehensive and objective manner.



Vietnam Maritime Administration

Decision No. 48/2005/QD-BGTVT dated 30/9/2005


- **Article 9.** Responsibilities for investigation of marine accidents
 - ↳ Directors of port authorities shall have to organize investigation of marine accidents occurring in the areas under their management and other maritime accidents under assignment by the Vietnam Maritime Administration or competent authority.
 - ↳ Depending on the complexity of marine accidents, the directors of port authorities shall decide on the number of marine accident investigators, which, however, must be at least two with adequate professional qualifications
 - ↳ In case of necessity, the director of the Vietnam Maritime Administration or the Minister of Transport shall decide to set up marine accident investigation teams.



Vietnam Maritime Administration

Decision No. 48/2005/QD-BGTVT dated 30/9/2005



- **Article 10.** Marine accident investigators
 - ↳ Marine accident investigators are port authority officers with adequate professional qualifications and capabilities as well as necessary law knowledge, to be nominated by directors of port authorities; in special cases, investigators shall be decided by competent agencies.
 - ↳ Marine accidents investigators shall have the following tasks:
 - To work out marine accident investigation plans;
 - To report in writing on the marine accident investigation process to directors of port authorities or heads of agencies which have assigned them the marine accident investigation task.



Vietnam Maritime Administration

Decision No. 48/2005/QD-BGTVT dated 30/9/2005


- **Article 10.** Marine accident investigators
 - ↳ Marine accident investigators shall have the powers
 - To request parties involved in marine accidents to take measures to keep the accident scene intact;
 - To request shipmasters to supply copies of maritime log books, course – recording diagrams, sea charts of areas where the ships meet with accidents and other data on the ships and equipment on board.
 - To request the ships' decentralized technical monitoring agencies, ship owners, ships' agents, coastal communication radio stations, maritime search and rescue centers, Vessel Traffic Services (VTS), maritime assurance companies, maritime pilots and other relevant agencies and organizations to provide necessary information for investigation of marine accidents.

Vietnam Maritime Administration

Decision No. 48/2005/QD-BGTVT dated 30/9/2005

- **Article 10.** Marine accident investigators
 - ↳ Marine accident investigators shall have the powers
 - To request parties involved in marine accidents to take measures to keep the accident scene intact;
 - To visit places of accidents and get onboard ships to inspect the scene, examine working positions and take samples necessary for investigation. All these jobs must be done to the witness of, and with certification by, competent person on board the ships and must not affect safe operations of the ships;
 - To check, duplicate administrative registration, registry, insurance and technical dossiers and papers of ships and relevant technical equipment; professional diplomas and certificates of crew members in service of technical evaluation of related equipment and the ships' sailing capacity before voyage and at the time of occurrence of accidents;
 - To use sound-recorders, cameras and video cameras in the course of investigation, if necessary.



Decision No. 48/2005/QD-BGTVT dated 30/9/2005

● Article 11. Time limits for investigation of marine accidents

- ↪ For marine accidents occurring in port waters, the investigation time limit shall not exceed 30 days, counting from the date of occurrence of an accident.
- ↪ For marine accidents occurring beyond port water but within Vietnamese waters, the investigation time limit shall not exceed 30 days, counting from the date the relevant ship arrives at the first Vietnamese port after the accident occurs.
- ↪ For marine accidents occurring beyond the Vietnamese waters, the investigation time limit shall be decided by the director of the Vietnam Maritime Administration



Decision No. 48/2005/QD-BGTVT dated 30/9/2005

● Article 11. Time limits for investigation of marine accidents

- ↪ In complicated cases, if the investigation of marine accidents cannot be completed within the time limit provided for in Clause 1 or 2 of this Article, directors of port authorities shall have to promptly report such in writing to the director of the Vietnam Maritime Administration for consideration and decision of the investigation time limit extension.
- ↪ For marine accidents for which competent agencies defined in Clause 3, Article 9 of this Decision decide to set up investigation teams, the heads of investigation decision – issuing agencies shall decide on and extend the investigation time limit.



Decision No. 48/2005/QD-BGTVT dated 30/9/2005

● Article 12. Conducting marine accident investigations

- ↪ Rights after receiving an urgent report specified in Article 5 of this Decision or any information on a marine accident occurring in the area under his/her management, the director of relevant port authority shall have to verify such information for organization of investigation of the marine accident.
- ↪ The marine accident investigation shall be conducted in the following order:
 - Nominating an officer in charge of investigation, investigators and investigation collaborators;
 - Gathering initial information on the marine accident;
 - Approving the investigation plan suggested by the in-charge officer



Decision No. 48/2005/QD-BGTVT dated 30/9/2005

● Article 12. Conducting marine accident investigations

- ↪ The marine accident investigation shall be conducted in the following order:
 - Coming to the place of accident, getting onboard the ship for on-the-spot inspection of damage and traces left after the accident in order to identify and gather necessary evidence;
 - Questioning people related to the marine accident and witnesses;
 - Synthesizing the collected information. If deeming necessary, conducting additional inspection and questioning to clarify questionable issues;
 - Based on the current provisions of law on maritime safety, analyzing the collected information, including expertise conclusions on sample items and traces related to the marine accident.



Decision No. 48/2005/QD-BGTVT dated 30/9/2005

● Article 12. Conducting marine accident investigations

- ↪ For marine accidents investigated by other agencies according to their respective functions, directors of port authorities must also conduct investigation in accordance with the provisions of this Decision.
- ↪ In case of necessity, directors of port authorities may enter into contracts with maritime experts or expertise agencies or laboratories in order to be advised on specialized domains, expertise and analysis of sample items and objects related to maritime accidents.



Decision No. 48/2005/QD-BGTVT dated 30/9/2005

● Article 13. Marine accident investigation conclusions

- ↪ Contents of marine accident investigation conclusions shall cover the following:
 - Conclusions on accident conditions and circumstances; violations, elements or possibilities which may have caused accidents. Such conclusions must be based on law and plausible evidence.
 - Measures or proposals for prevention and restriction of such accidents;
 - Administrative handling measures falling under the competence of directors of port authorities or proposals on handling measures to the competent authority for consideration and decision with regard to acts of violation falling beyond the handling competence of directors of port authorities.
- Accident investigation conclusions must be sent to concerned parties and the Vietnam Maritime Administration, each with one copy, by the investigation deadline at the latest. For extremely serious marine accidents, written conclusion on investigation must be sent to the Minister of Transport.



Decision No. 48/2005/QD-BGTVT dated 30/9/2005

● Article 14. Complaints and settlement of complaints (Tier-1)

→ In cases where companies managing or operating Vietnamese seagoing ships; ship owners; shipmasters, crew members and relevant pilots or managers of works or equipment damaged by marine accidents disagree with conclusions on marine accident investigation (hereinafter referred collectively to as complainants), they must, within 30 days after receiving such conclusions (according to the postage stamps), lodge complaints to directors of port authorities which have conducted the investigation and announced the marine accident investigation conclusion.



Decision No. 48/2005/QD-BGTVT dated 30/9/2005

● Article 14. Complaints and settlement of complaints (Tier-1)

→ Within 10 days after receiving complaints, directors of port authorities must process such complaints and notify the complainants thereof in writing; if rejecting the complaints, they must give the reasons therefore. The time limit for complaint settlement by directors of port authorities shall not exceed 30 days after the receipt of complaints, for complicated cases, this time limit may be prolonged but must not exceed 45 days after the receipt of the complaints.

→ The director of the Vietnam Maritime Administration shall have to direct, inspect and urge the settlement of complaints by directors of port authorities.



Decision No. 48/2005/QD-BGTVT dated 30/9/2005

● Article 14. Complaints and settlement of complaints (Tier-2)

→ Within 30 days after receiving complaint settling decision from directors of port authorities, if the complainants disagree therewith, they may further complain with the director of the Vietnam Maritime Administration. In this case, the complainants must send their complaints together with copies of settling decisions of directors of port authorities and documents related to the complaints.



Decision No. 48/2005/QD-BGTVT dated 30/9/2005

● Article 14. Complaints and settlement of complaints (Tier-2)

→ Within 30 days after receiving complaint settling decision from directors of port authorities, if the complainants disagree therewith, they may further complain with the director of the Vietnam Maritime Administration. In this case, the complainants must send their complaints together with copies of settling decisions of directors of port authorities and documents related to the complaints.



Decision No. 48/2005/QD-BGTVT dated 30/9/2005

● Article 14. Complaints and settlement of complaints (Tier-2)

→ Within 10 days after receiving the complaints, the director of the Vietnam Maritime Administration must process them and notify the complainants as well as directors of relevant port authorities thereof in writing; if rejecting the complaints, he/she must give the reasons therefore. The time limit for complaint settlement by the director of the Vietnam Maritime Administration shall not exceed 45 days after the receipt of the complaints; for complicated cases, this time limit may be prolonged but must not exceed 60 days.



Decision No. 48/2005/QD-BGTVT dated 30/9/2005

● Article 14. Complaints and settlement of complaints (Tier-3)

→ Within 30 days after receiving the complaint settling decisions from the director of the Vietnam Maritime Administration, if the complainants disagree therewith, they may further lodge their complaints to the Minister of Transport. In this case, the complainants must enclose their complaints with copies of complaint-settling decisions of the director of the Vietnam Maritime Administration.



Decision No. 48/2005/QD-BGTVT dated 30/9/2005

- **Article 14. Complaints and settlement of complaints (Tier-3)**
 - The procedures and time limit for the Transport Minister to process and settle such complaints shall comply with the provisions of Clause 2 of this Article. The Transport Minister's complaint- settling decisions shall be the final ones, except for cases otherwise provided for by law.



Decision No. 48/2005/QD-BGTVT dated 30/9/2005

- **Article 15. Implementation effect**
 - This decision takes effect as from January 1, 2006, and replaces the Transport Minister's Decision No. 2756/2002/QD-BGTVT of August 29, 2002, promulgating the regulations on marine accident reporting and investigation.



Statistic Data

Statistic Data

Year	Number of accidents					Dead	Injured
	Total	Percentage on 1000 ship calls	Very Serious	Serious	Less Serious		
2003	84	1,27	13	30	41	11	10
2004	70	0,94	07	20	43	23	13
2005	68	1,19	11	28	29	17	00
2006	59	0,95	06	29	22	38	15
2007	47	0,54	06	15	26	16	16



Statistic Data

- Although the number of accidents in last 5 years have been decreased, however, the consequences of the accidents have been increased, especially, the number of fisherman was dead and injured are very "huge": 55 dead (51.4%) and 26 injured (65%)
- From 2002 to 2006:
 - 79 collisions between cargo vessels and fishing vessels, represented 39.9% of 201 collisions;
 - 40 cases: after collisions, there cargo vessels ran away.



Statistic Data

- 3 months of 2008:
 - 14 marine accidents – reduce 01 case compared with 3 months of 2007:
 - Collision: 09 cases, in which 02 very serious cases
 - 14 Vietnamese means: 01 vessel more than 1000 GT, 06 vessels less than 1000 GT, 07 fishing vessels
 - 01 foreign vessel: more than 1000 GT
 - Contact: 01 case
 - 01 Vietnamese vessel contacted with electric wire



Statistic Data

- 3 months of 2008:
 - ↳ 14 marine accidents – reduce 01 case compared with 3 months of 2007:
 - Grounding: 01 case
 - ↳ 01 Vietnamese vessels: 01 vessel less than 1000 GT
 - Sinking: 02 cases
 - ↳ 01 Vietnamese vessel more than 1000 GT
 - ↳ 01 foreign vessel more than 1000 GT
 - Fire: 01 case:
 - ↳ 01 Vietnamese vessel



Statistic Data

- 3 months of 2008:
 - ↳ Consequences of accidents:
 - 15 dead, increased 08 persons compared with 3 months of 2007
 - 12 injured, decreased 12 persons compared with 3 months of 2007
 - 11 missing, increased 11 persons compared with 3 months of 2007
 - 07 transport means sunk, damaged, decreased 01 means compared with 3 months of 2007



Statistic Data

- Year 2007:
 - ↳ Investigated all the reported cases and produced 30 final reports.
- 1st Quarter of 2008:
 - ↳ 05 reports on results of investigation was released.



Statistic Data

- Contribution factors:
 - ↳ Human factors: >80%
 - ↳ Other factors: <20%



CONTACT PERSON

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 - ↳ Vice Director of Maritime Safety Department
 - ↳ Vietnam Maritime Administration
 - ↳ No. 8 Pham Hung Road, Cau Giay District, Hanoi, VIETNAM
 - ↳ Tel: + 84 – 4 – 7683194
 - ↳ Fax: + 84 – 4 – 7683058/7683048
 - ↳ Email: haphn@vinamarine.gov.vn
 - ↳ Website: <http://www.vinamarine.gov.vn>



**Thank you
For
Your kind attention**



Case Study on Joint Investigation of Sinking of M/V Sea Bee

The Experts Meeting on Promoting Co-operation of the Maritime Casualty Investigation in Asia
25-26 June 2008 Tokyo, Japan

A Table of Contents

- Summary of the Accident.
- Vessel Data
- Weather conditions
- The voyage
- Investigation
- Investigation results

Summary of Accident

- At 2135 on 01/5/2005, M.V "Sea Bee", which was belong to the "EASTERN DRAGON SHIPPING CO,LTD" in Vietnam and whose nationality was Mongolia, was damaged and then sunk in the east China Sea on the voyage from Qinghuangdao to Philippine.
- The sinking approximate position was $32^{\circ} 53.867'N/122^{\circ} 56.873'E$.
- 3 crew died and 20 crew were missing.



Vessel Data

- Type of ship: general cargo ship
- GT: 3978
- NT: 2365
- L.O.A: 243.00m
- Breath: 16.40m
- Depth: 8.15m
- Speed: 11.50KT
- Builder: K.K. TAIHEI KOGYA, AKISU, JAPAN
- IMO No: 8005824
- Call sign: JVRZ2
- Port of register: Ulaanbaatar
- Year built: 1981
- Hull material: Steel
- Holds and hatches: 2×2
- Type of main engine/Power: Internal-combustion engine /2834KW

Weather conditions

- Weather: overcast
- Direction of wind: North
- Wind force: 6 to 7 Neel gale occasionally gale 8
- Direction of wave: North
- Height of wave: 4.0~6.0m

The voyage

- MV "Sea Bee" arrived at Qinghuangdao for loading coils. There were 998 pcs/2003.61 tons of coils were loaded in NO.1 hold; 1516 pcs/3003.65 tons of coils were loaded in NO.2 hold. (2514pcs/5007.26 tons of coils loaded in total). There were 292.31T of fuel oil, 51.93T diesel oil and 292T fresh water refueled.
- About 0510 hours on Apr. 29th, the ship sailed from Qinghuangdao. The draft of fore and aft were 6.25 metres and 6.65 metres.



The voyage

- About 1200 hours on Apr. 29th, the ship position was in 39° 20'N/120° 09'48"E and the speed was 9.8kt.
- About 1200 hours on Apr. 29th, the ship position was in 36° 31'N/122° 49'E and the speed was 9.3kt.
- About 0706 on May. 1st, the ship transmitted the last messages by radiotelegraphy to company that the ETA to Manila would be the afternoon on may 6th, but it had not information of the ship position.



The loading in No.2 hold



Investigation

- Due to this was a very serious case with loss of all crewmembers on board ship – 23 Vietnamese, so our Minister of Transport dispatched a delegation to China.
- Our delegation had meetings with China MSA on 24/8/2005, with Shanghai MSA on 26/8/2005 and with China MSA again on 29/8/2005.
- We also met the Shanghai Salvage Company conducted the survey the wreck.



Investigation

- On 29/08/2005, we signed agreement between Vinamarine and China MSA, in which we agreed to establish the Joint Investigation Team consist of China MSA, Vinamarine and Mongolian Ship Registry in September 2005.
- Ministry of Transport also assigned a Vietnamese Team to joint the Team with other parties.
- However, due to many reasons, the first joint investigation between Vinamarine and other countries was unable to carry out.



Investigation results

- China MSA conducted the investigation and found the possibilities causes of sinking as followed:
 - As a result of insufficient hull intensity, there was much possibilities of causing hull ruptured and flooded and sank, while Ship navigated in stormy conditions. *cause No1.doc*
 - It could not be precluded that the possibility of ship sinking was caused by hull damage, which was due to the cargo moving. And it was possible that the heavy stormy condition, the improper stowage and lashing resulted in the cargo moving. *cause No2.doc*






***Thank you
For
Your kind attention***



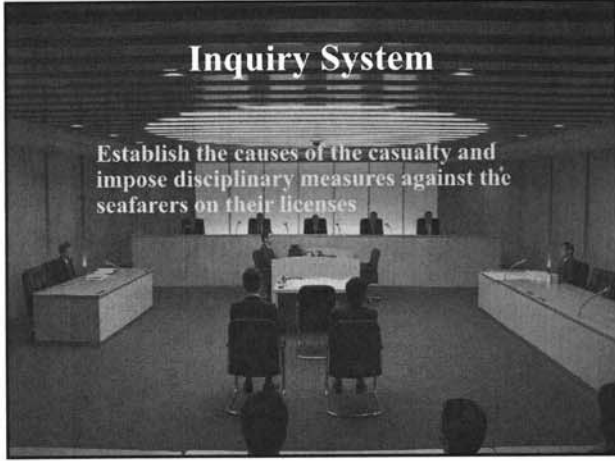
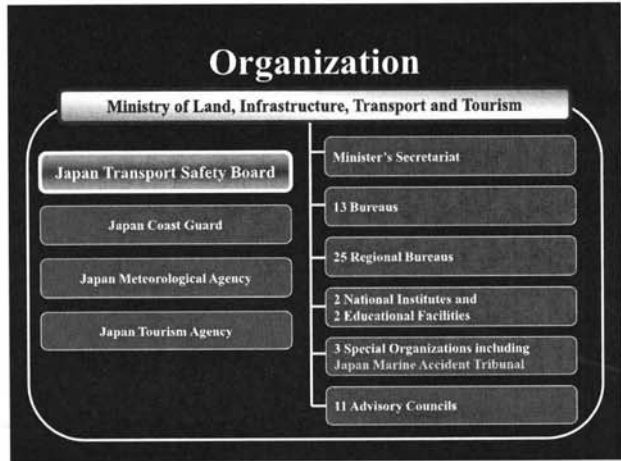
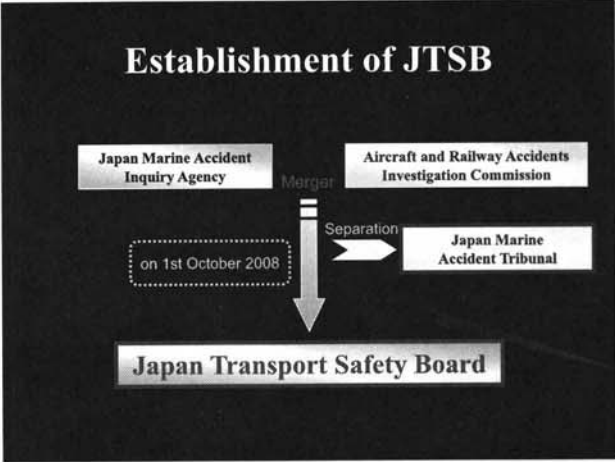
(15) 日 本

Establishment of Japan Transport Safety Board

Hideo Osuga
Deputy Commissioner
Japan Marine Accident Inquiry Agency



*Experts Meeting on Promoting Co-operation of Marine Casualty Investigation
in Asia on 25-26 June 2008, Tokyo, Japan*



Casualty Investigation Code

The objective of this code is to provide a common approach for States to adopt in the conduct of Marine Safety Investigation into Marine Casualties and Marine incidents.

Marine Safety investigations do not seek to apportion blame or determine liability. Marine Safety investigation, as defined in this Code, is an investigation conducted with the objective of preventing Marine Casualties and Marine incidents in the future.

- ### Reasons for change
- ↓ The inquiry system aims at apportioning of blame and determining liability.
 - ↓ The exchange of information with marine safety investigation states is becoming difficult.
 - ↓ The emphasis tends to be on the determining of liability (disciplinary measures) rather than on the establishment of root causes or human factor analysis.
 - ↓ Low quality of recommendations for the prevention of future casualties tends to be the case.
 - ↓ Other several disconformities with provisions in the recommended part of the Code

What we aim at

- ↓ More conformity with the New Marine Casualty Investigation Code
- ↓ More thorough analysis on root causes and human factors
- ↓ More effective recommendations for prevention of future casualties
- ↓ More facility in terms of international cooperation

JTSB

Multi-modal transport accident investigation board

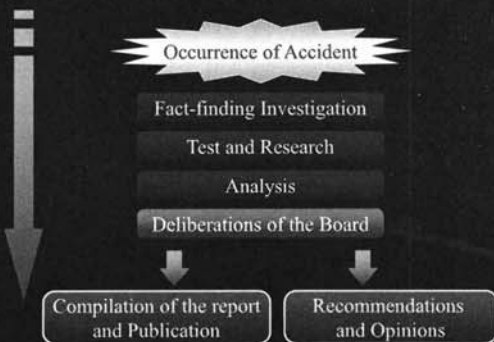
Headquarters in Tokyo

8 regional offices dealing with marine casualty throughout the country

181 staff including 105 investigators (68 maritime)

○ Headquarters Office
■ Regional Offices

Investigation Procedure



Bilateral Arrangements with

- ↓ Korean Maritime Safety Tribunal (signed on 27 February, 2002)
- ↓ China Maritime Safety Administration (signed on 26 February, 2008)
- ↓ Panama Maritime Authority (under discussion)
- ↓ Australian Transport Safety Bureau (under discussion)

Japan Transport Safety Board

For Safe Sea

Thank you for your attention

III Summary の採択

III Summary の採択

2日間にわたる専門家会議において、各国のプレゼンテーション及び意見交換を行った結果、今後のアジア地域における海難調査協力推進のため、参加者の総意により、以下の合意に達した。

The Experts Meeting on Promoting Co-operation of the Marine Casualty Investigation in Asia

Summary

The new IMO Marine Casualty Investigation Code has been adopted by the IMO Maritime Safety Committee at its Eighty-Fourth Session and will take effect on 1 January 2010.

We, the marine casualty investigators gathered here in Tokyo, Japan on 25-26 June 2008 for the experts meeting on promoting cooperation of the marine casualty investigation in Asia, unanimously recognize and agree on the importance of international cooperation in marine casualty investigations and in sharing information on marine casualties and lessons learned in order to prevent the recurrence of marine casualties in the future and to maintain maritime safety and a clean environment at sea.

In promoting international cooperation, we find the activities of MAIFA, MAIIF, and bilateral or multilateral arrangements, to be valuable.

26 June 2008, Tokyo

Participated by the investigators of the following States / Region

Australia, China, Hong Kong China, India, Indonesia, Japan, Malaysia, Mongolia, Myanmar, Philippines, Korea, Russia, Singapore, Thailand, U.S.A. and Vietnam.

Agreed by MAIIF and MAIFA Chairmen

Participants

Tetsuo Yokoyama(Commissioner of JMAIA), Hideo Osuga(Coordinator), Walter Douglas Rabe(MAIIF Chairman), San Tai Harlan Li(Hong Kong China: MAIFA11 Chairman), Peter Thomas Foley(Australia), Dao jiu Ma, Guang Lu Zhi, Guo Xin Ye(China), Derrick Frank Vaz(India), Hermanu Karmoyono(Indonesia), Tetsuya Yamamoto, Yoshiaki Nagahama, Satoshi Shibata, Tatsuya Kojo(Japan), Muhammad Shuhaimi Abd.Rahman(Malaysia), Galsandondog Damdin(Mongolia), Htay Lwin Oo(Myanmar), Alfredo Eglesia Bautista(Philippines), Byeong Yong Jo, Byung Joon Lim(Korea), Grigoriy Mitrofanovich Sadovoy(Russia), Mohamed Harun Ja'afar(Singapore), Rijjapoj Saisa-ard(Thailand), John Sherman Spencer(U.S.A.), Mark Eyler(U.S.A.), Ha Nguyen Hai Phan(Vietnam)

【合意内容】

新しいIMOの事故調査コードは、IMOの第84回海上安全委員会で採択され、2010年1月1日に発効する。

我々、海難調査官は、2008年6月25、26日、東京で開催した「アジア地域における海難調査協力推進のための専門家会議」に出席し、将来における海上事故の再発防止及び海上の安全と海洋の環境維持のために、海上事故調査及び海上事故情報とそこから得られた教訓の共有化における国際協力の重要性を認識し、意見が一致した。

我々は、国際協力推進のためには、MAIFA、MAIIFの活動及び二国間、多国間における取決めが有効であることを確認した。

IV 海上技術安全研究所の視察

IV 海上技術安全研究所の視察

平成20年6月26日(木)午後、各国の専門家会議出席者は、全員バスで東京都三鷹市に移動し、独立行政法人海上技術安全研究所の視察を行った。

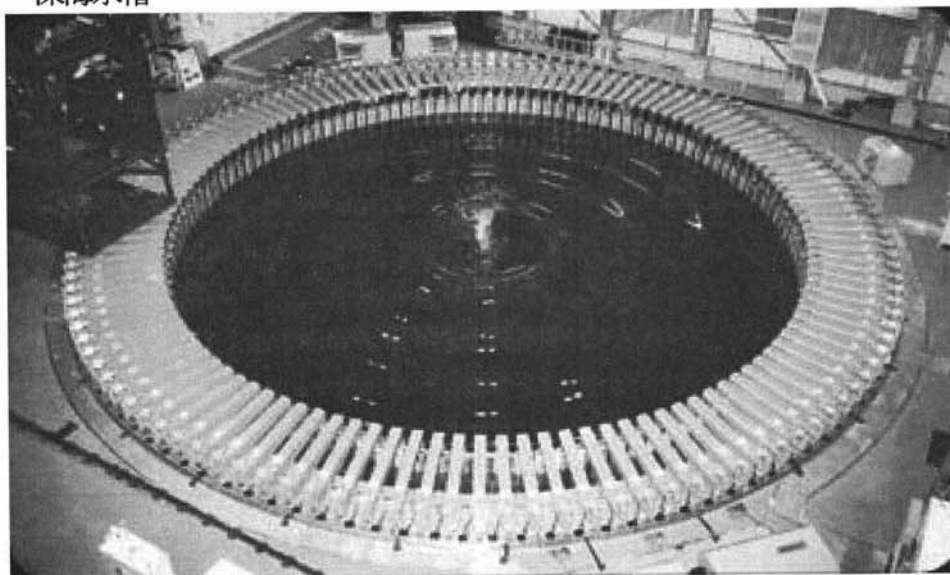
同研究所では、最初に研究所紹介ビデオによる概要説明を受けた後、3班に別れて、研究所担当者の説明を受けながら、次のとおり5施設を順次視察した。

1 操船リスクシミュレーター

半径6.5m、240°の円形スクリーンと長さ4m×幅4m×高さ2.2mの模擬船橋からなり、海難・リスクの解析、船内作業支援装置、航海機器・装置の開発や新船型船舶の評価等を専門に行う施設である。船員教育を使用目的としない世界で唯一のリスクに特化した操船シミュレーターである。操船性能をよりリアルに再現するための船橋動揺装置、離着岸作業をシミュレートできる下方視界スクリーン及び操船者の行動分析システム・生理データ収集システムを備えている。この施設が、海難調査においては最も関係が深いことから、操船時のヒューマンファクターの評価方法等、専門的な見地からの質問が多くでていた。



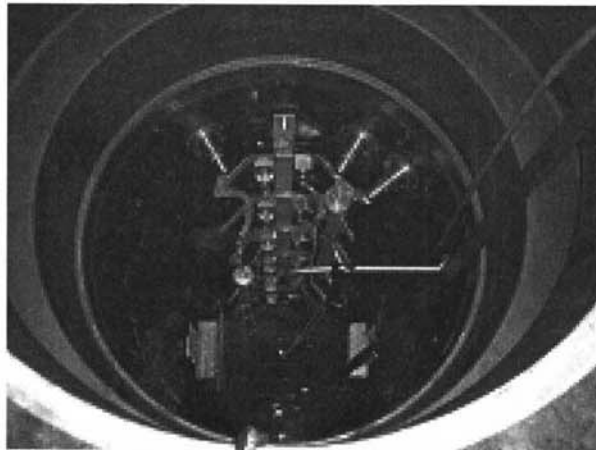
2 深海水槽



直径 16m、深さ 5m の円形水槽の中心に直径 6m、深さ 30m の深海ピットがあり、最大深度 35m の世界第 2 位の深さを持つ水槽である。円形水槽全周を 128 台の造波装置が取り囲んでおり、実海域を模擬した多様な波を再現することが可能である。残念ながら工事のため水が入っていなかったが、集中波やメッシュ状の波等、各種の造波の様相を撮影したビデオが興味を引いたようである。海洋掘削関連の質問も多数であった。

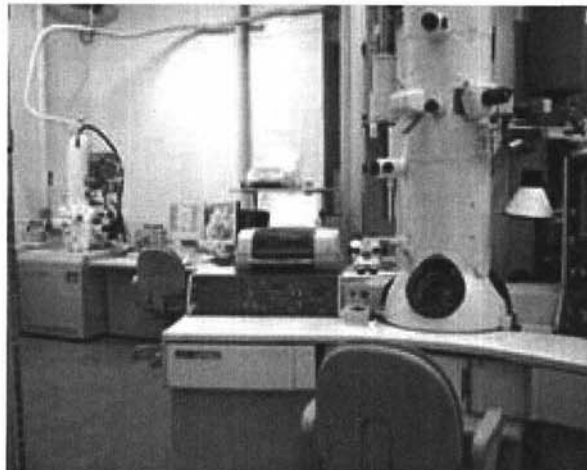
3 高圧タンク

内径 1.1m、内部の深さ 3m で、60MPa (水深約 6000m の水圧に相当) の最大使用圧力を持つ高圧タンクである。圧力だけでなく内部の温度を制御することもでき、6組の水中カメラ及び水中ライトにより、圧力をかけた状態で内部を観察することが可能である。この装置を使って実験した二酸化炭素の深海貯留について、興味を持った方が多かった。



4 材料分析装置

材料研究のための蛍光 X 線分析装置 (XRD)、X 線回折装置 (XRF) 各種クロマトグラフ質量分析装置 (GC/MS, LC/MS, ICP/MS)、原子吸光装置 (AA)、フーリエ変換赤外分光装置 (FT-IR) など、各種の分析装置を見学し、説明を受けた。船底塗料に有機スズが含まれるかどうかの現場での分析方法について説明があったが、事故時の原因究明のための化学分析についての質問が多かった。



5 実海域再現水槽

この施設はまだ建設中で、完成は平成 22 年の予定である。長さ 80m×幅 40m×深さ 4.5m で、現在は巨大なプールといった状態だが、この後、大型の台車と深海水槽と同様の全周分割吸収造波装置が設置される予定である。現在より、精密な海難事故等の模型船による再現も可能となるとの説明を受けた。

資 料

ANNEX 1

**RESOLUTION MSC.255(84)
(adopted on 16 May 2008)**

**ADOPTION OF THE CODE OF THE INTERNATIONAL STANDARDS AND
RECOMMENDED PRACTICES FOR A SAFETY INVESTIGATION
INTO A MARINE CASUALTY OR MARINE INCIDENT
(CASUALTY INVESTIGATION CODE)**

THE MARITIME SAFETY COMMITTEE,

RECALLING Article 28(b) of the Convention on the International Maritime Organization concerning the function of the Committee,

NOTING with concern that, despite the best endeavours of the Organization, casualties and incidents resulting in loss of life, loss of ships and pollution of the marine environment continue to occur,

NOTING ALSO that the safety of seafarers and passengers and the protection of the marine environment can be enhanced by timely and accurate reports identifying the circumstances and causes of marine casualties and incidents,

NOTING FURTHER the importance of the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982, and of the customary international law of the sea,

NOTING IN ADDITION the responsibilities of flag States under the provisions of the International Convention for the Safety of Life at Sea, 1974 (regulation I/21) (hereinafter referred to as "the Convention"), the International Convention on Load Lines, 1966 (article 23) and the International Convention for the Prevention of Pollution from Ships, 1973 (article 12), to conduct casualty investigations and to supply the Organization with relevant findings,

CONSIDERING the need to ensure that all very serious marine casualties are investigated,

CONSIDERING ALSO the Guidelines on fair treatment of seafarers in the event of a maritime accident (resolution A.987(24)),

ACKNOWLEDGING that the investigation and proper analysis of marine casualties and incidents can lead to greater awareness of casualty causation and result in remedial measures, including better training, for the purpose of enhancing safety of life at sea and protection of the marine environment,

RECOGNIZING the need for a code to provide, as far as national laws allow, a standard approach to marine casualty and incident investigation with the objective of preventing marine casualties and incidents in the future,

RECOGNIZING ALSO the international nature of shipping and the need for co-operation between Governments having a substantial interest in a marine casualty or incident for the purpose of determining the circumstances and causes thereof,

NOTING resolution MSC.257(84) by which it adopted amendments to chapter XI-1 of the Convention to make parts I and II of the Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident mandatory under the Convention,

HAVING CONSIDERED, at its eighty-fourth session, the text of the proposed Casualty Investigation Code,

1. ADOPTS the Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (Casualty Investigation Code), set out in the Annex to the present resolution;
2. INVITES Contracting Governments to the Convention to note that the Code will take effect on 1 January 2010 upon entry into force of the amendments to regulation XI-1/6 of the Convention;
3. REQUESTS the Secretary-General of the Organization to transmit certified copies of the present resolution and the text of the Code contained in the Annex to all Contracting Governments to the Convention;
4. FURTHER REQUESTS the Secretary-General of the Organization to transmit copies of the present resolution and the text of the Code contained in the Annex to all Members of the Organization which are not Contracting Governments to the Convention.

ANNEX

**CODE OF THE INTERNATIONAL STANDARDS AND RECOMMENDED
PRACTICES FOR A SAFETY INVESTIGATION INTO A MARINE CASUALTY
OR MARINE INCIDENT (CASUALTY INVESTIGATION CODE)**

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Foreword

1 This Code incorporates and builds on the best practices in marine casualty and marine incident investigation that were established by the Code for the Investigation of Marine Casualties and Incidents, adopted in November 1997 by the International Maritime Organization (the Organization), by resolution A.849(20). The Code for the Investigation of Marine Casualties and Incidents sought to promote co-operation and a common approach to marine casualty and marine incident investigations between States.

Background

2 The Organization has encouraged co-operation and recognition of mutual interest through a number of resolutions. The first was resolution A.173(ES.IV) (Participation in Official Inquiries into Maritime Casualties) adopted in November 1968. Other resolutions followed including: resolution A.322 (The Conduct of Investigations into Casualties) adopted in November 1975; resolution A.440(XI) (Exchange of Information for Investigations into Marine Casualties) and resolution A.442(XI) (Personnel and Material Resource Needs of Administrations for the Investigation of Casualties and the Contravention of Conventions), both adopted in November 1979; resolution A.637(16) (Co-operation in Maritime Casualty Investigations) adopted in 1989.

3 These individual resolutions were amalgamated and expanded by the Organization with the adoption of the Code for the Investigation of Marine Casualties and Incidents. Resolution A.884(21) (Amendments to the Code for the Investigation of Marine Casualties and Incidents resolution A.849(20)), adopted in November 1999, enhanced the Code by providing guidelines for the investigation of human factors.

4 The International Convention for the Safety of Life at Sea (SOLAS), 1948, included a provision requiring flag State Administrations to conduct investigations into any casualty suffered by a ship of its flag if an investigation may assist in identifying regulatory issues as a contributing factor. This provision was retained in the 1960 and 1974 SOLAS Conventions. It was also included in the International Convention on Load Lines, 1966. Further, flag States are required to inquire into certain marine casualties and marine incidents occurring on the high seas*.

5 The sovereignty of a coastal State extends beyond its land and inland waters to the extent of its territorial sea**. This jurisdiction gives the coastal State an inherent right to investigate marine casualties and marine incidents connected with its territory. Most national Administrations have legal provisions to cover the investigation of a shipping incident within its inland waters and territorial sea, regardless of the flag.

* Reference is made to the United Nations Convention on the Law of the Sea (UNCLOS), article 94(7) or requirements of international and customary laws.

** Reference is made to the United Nations Convention on the Law of the Sea (UNCLOS), article 2 or requirements of international and customary laws.

Treatment of Seafarers

6 Most recently, the International Labour Organization's Maritime Labour Convention, 2006 (which has not yet come into force), provides a provision for the investigation of some serious marine casualties as well as setting out working conditions for seafarers. Recognizing the need for special protection for seafarers during an investigation, the Organization adopted, in December 2005, the "Guidelines on Fair Treatment of Seafarers in the Event of a Maritime Accident" through resolution A.987(24). The Guidelines were promulgated by the IMO and the ILO on 1 July 2006.

Adoption of the Code

7 Since the adoption of the first SOLAS Convention, there have been extensive changes in the structure of the international maritime industry and changes in international law. These changes have potentially increased the number of States with an interest in the process and outcomes of marine safety investigations, in the event of a marine casualty or marine incident, increasing the potential for jurisdictional and other procedural differences between affected States.

8 This Code, while it specifies some mandatory requirements, recognizes the variations in international and national laws in relation to the investigation of marine casualties and marine incidents. The Code is designed to facilitate objective marine safety investigations for the benefit of flag States, coastal States, the Organization and the shipping industry in general.

PART I

GENERAL PROVISIONS

Chapter 1

PURPOSE

1.1 The objective of this Code is to provide a common approach for States to adopt in the conduct of marine safety investigations into marine casualties and marine incidents. Marine safety investigations do not seek to apportion blame or determine liability. Instead a marine safety investigation, as defined in this Code, is an investigation conducted with the objective of preventing marine casualties and marine incidents in the future. The Code envisages that this aim will be achieved through States:

- .1 applying consistent methodology and approach, to enable and encourage a broad ranging investigation, where necessary, in the interests of uncovering the causal factors and other safety risks; and
- .2 providing reports to the Organization to enable a wide dissemination of information to assist the international marine industry to address safety issues.

1.2 A marine safety investigation should be separate from, and independent of, any other form of investigation. However, it is not the purpose of this Code to preclude any other form of investigation, including investigations for action in civil, criminal and administrative proceedings. Further, it is not the intent of the Code for a State or States conducting a marine safety investigation to refrain from fully reporting on the causal factors of a marine casualty or marine incident because blame or liability, may be inferred from the findings.

1.3 This Code recognizes that under the Organization's instruments, each flag State has a duty to conduct an investigation into any casualty occurring to any of its ships, when it judges that such an investigation may assist in determining what changes in the present regulations may be desirable, or if such a casualty has produced a major deleterious effect upon the environment. The Code also takes into account that a flag State shall* cause an inquiry to be held, by or before a suitably qualified person or persons into certain marine casualties or marine incidents of navigation on the high seas. However, the Code also recognizes that where a marine casualty or marine incident occurs within the territory, including the territorial sea, of a State, that State has a right** to investigate the cause of any such marine casualty or marine incident which might pose a risk to life or to the environment, involve the coastal State's search and rescue authorities, or otherwise affect the coastal State.

* Reference is made to the United Nations Convention on the Law of the Sea (UNCLOS), article 94 or requirements of international and customary laws.

** Reference is made to the United Nations Convention on the Law of the Sea (UNCLOS), article 2 or requirements of international and customary laws.

Chapter 2

DEFINITIONS

When the following terms are used in the mandatory standards and recommended practices for marine safety investigations they have the following meaning.

2.1 An *agent* means any person, natural or legal, engaged on behalf of the owner, charterer or operator of a ship, or the owner of the cargo, in providing shipping services, including managing arrangements for the ship being the subject of a marine safety investigation.

2.2 A *causal factor* means actions, omissions, events or conditions, without which:

- .1 the marine casualty or marine incident would not have occurred; or
- .2 adverse consequences associated with the marine casualty or marine incident would probably not have occurred or have been as serious;
- .3 another action, omission, event or condition, associated with an outcome in .1 or .2, would probably not have occurred.

2.3 A *coastal State* means a State in whose territory, including its territorial sea, a marine casualty or marine incident occurs.

2.4 *Exclusive economic zone* means the exclusive economic zone as defined by article 55 of the United Nations Convention on the Law of the Sea.

2.5 *Flag State* means a State whose flag a ship is entitled to fly.

2.6 *High seas* means the high seas as defined in article 86 of the United Nations Convention on the Law of the Sea.

2.7 *Interested party* means an organization, or individual, who, as determined by the marine safety investigating State(s), has significant interests, rights or legitimate expectations with respect to the outcome of a marine safety investigation.

2.8 *International Safety Management (ISM) Code* means the International Management Code for the Safe Operation of Ships and for Pollution Prevention as adopted by the Organization by resolution A.741(18), as amended.

2.9 A *marine casualty* means an event, or a sequence of events, that has resulted in any of the following which has occurred directly in connection with the operations of a ship:

- .1 the death of, or serious injury to, a person;
- .2 the loss of a person from a ship;
- .3 the loss, presumed loss or abandonment of a ship;
- .4 material damage to a ship;

- .5 the stranding or disabling of a ship, or the involvement of a ship in a collision;
- .6 material damage to marine infrastructure external to a ship, that could seriously endanger the safety of the ship, another ship or an individual; or
- .7 severe damage to the environment, or the potential for severe damage to the environment, brought about by the damage of a ship or ships.

However, a marine casualty does not include a deliberate act or omission, with the intention to cause harm to the safety of a ship, an individual or the environment.

2.10 A *marine incident* means an event, or sequence of events, other than a marine casualty, which has occurred directly in connection with the operations of a ship that endangered, or, if not corrected, would endanger the safety of the ship, its occupants or any other person or the environment.

However, a marine incident does not include a deliberate act or omission, with the intention to cause harm to the safety of a ship, an individual or the environment.

2.11 A *marine safety investigation* means an investigation or inquiry (however referred to by a State), into a marine casualty or marine incident, conducted with the objective of preventing marine casualties and marine incidents in the future. The investigation includes the collection of, and analysis of, evidence, the identification of causal factors and the making of safety recommendations as necessary.

2.12 A *marine safety investigation report* means a report that contains:

- .1 a summary outlining the basic facts of the marine casualty or marine incident and stating whether any deaths, injuries or pollution occurred as a result;
- .2 the identity of the flag State, owners, operators, the company as identified in the safety management certificate, and the classification society (subject to any national laws concerning privacy);
- .3 where relevant the details of the dimensions and engines of any ship involved, together with a description of the crew, work routine and other matters, such as time served on the ship;
- .4 a narrative detailing the circumstances of the marine casualty or marine incident;
- .5 analysis and comment on the causal factors including any mechanical, human and organizational factors;
- .6 a discussion of the marine safety investigation's findings, including the identification of safety issues, and the marine safety investigation's conclusions; and
- .7 where appropriate, recommendations with a view to preventing future marine casualties and marine incidents.

2.13 *Marine safety investigation Authority* means an Authority in a State, responsible for conducting investigations in accordance with this Code.

2.14 *Marine safety investigating State(s)* means the flag State or, where relevant, the State or States that take the responsibility for the conduct of the marine safety investigation as mutually agreed in accordance with this Code.

2.15 A *marine safety record* means the following types of records collected for a marine safety investigation:

- .1 all statements taken for the purpose of a marine safety investigation;
- .2 all communications between persons pertaining to the operation of the ship;
- .3 all medical or private information regarding persons involved in the marine casualty or marine incident;
- .4 all records of the analysis of information or evidential material acquired in the course of a marine safety investigation;
- .5 information from the voyage data recorder.

2.16 A *material damage* in relation to a marine casualty means:

- .1 damage that:
 - .1.1 significantly affects the structural integrity, performance or operational characteristics of marine infrastructure or a ship; and
 - .1.2 requires major repair or replacement of a major component or components;
or
- .2 destruction of the marine infrastructure or ship.

2.17 A *seafarer* means any person who is employed or engaged or works in any capacity on board a ship.

2.18 A *serious injury* means an injury which is sustained by a person, resulting in incapacitation where the person is unable to function normally for more than 72 hours, commencing within seven days from the date when the injury was suffered.

2.19 A *severe damage to the environment* means damage to the environment which, as evaluated by the State(s) affected, or the flag State, as appropriate, produces a major deleterious effect upon the environment.

2.20 *Substantially interested State* means a State:

- .1 which is the flag State of a ship involved in a marine casualty or marine incident;
or
- .2 which is the coastal State involved in a marine casualty or marine incident; or
- .3 whose environment was severely or significantly damaged by a marine casualty (including the environment of its waters and territories recognized under international law); or
- .4 where the consequences of a marine casualty or marine incident caused, or threatened, serious harm to that State or to artificial islands, installations, or structures over which it is entitled to exercise jurisdiction; or
- .5 where, as a result of a marine casualty, nationals of that State lost their lives or received serious injuries; or
- .6 that has important information at its disposal that the marine safety investigating State(s) consider useful to the investigation; or
- .7 that for some other reason establishes an interest that is considered significant by the marine safety investigating State(s).

2.21 *Territorial sea* means territorial sea as defined by Section 2 of Part II of the United Nations Convention on the Law of the Sea.

2.22 A *very serious marine casualty* means a marine casualty involving the total loss of the ship or a death or severe damage to the environment.

Chapter 3

APPLICATION OF CHAPTERS IN PARTS II AND III

3.1 Part II of this Code contains mandatory standards for marine safety investigations. Some clauses apply only in relation to certain categories of marine casualties and are mandatory only for marine safety investigations into those marine casualties.

3.2 Clauses in Part III of this Code may refer to clauses in this part that apply only to certain marine casualties. The clauses in Part III may recommend that such clauses be applied in marine safety investigations into other marine casualties or marine incidents.

PART II

MANDATORY STANDARDS

Chapter 4

MARINE SAFETY INVESTIGATION AUTHORITY

4.1 The Government of each State shall provide the Organization with detailed contact information of the marine safety investigation Authority(ies) carrying out marine safety investigations within their State.

Chapter 5

NOTIFICATION

5.1 When a marine casualty occurs on the high seas or in an exclusive economic zone, the flag State of a ship, or ships, involved, shall notify other substantially interested States as soon as is reasonably practicable.

5.2 When a marine casualty occurs within the territory, including the territorial sea, of a coastal State, the flag State, and the coastal State, shall notify each other and between them notify other substantially interested States as soon as is reasonably practicable.

5.3 Notification shall not be delayed due to the lack of complete information.

5.4 **Format and content:** The notification shall contain as much of the following information as is readily available:

- .1 the name of the ship and its flag State;
- .2 the IMO ship identification number;
- .3 the nature of the marine casualty;
- .4 the location of the marine casualty;
- .5 time and date of the marine casualty;
- .6 the number of any seriously injured or killed persons;
- .7 consequences of the marine casualty to individuals, property and the environment;
and
- .8 the identification of any other ship involved.

Chapter 6

REQUIREMENT TO INVESTIGATE VERY SERIOUS MARINE CASUALTIES

- 6.1 A marine safety investigation shall be conducted into every very serious marine casualty.
- 6.2 Subject to any agreement in accordance with chapter 7, the flag State of a ship involved in a very serious marine casualty is responsible for ensuring that a marine safety investigation is conducted and completed in accordance with this Code.

Chapter 7

FLAG STATE'S AGREEMENT WITH ANOTHER SUBSTANTIALLY INTERESTED STATE TO CONDUCT A MARINE SAFETY INVESTIGATION

- 7.1 Without limiting the rights of States to conduct their own separate marine safety investigation, where a marine casualty occurs within the territory, including territorial sea, of a State, the flag State(s) involved in the marine casualty and the coastal State shall consult to seek agreement on which State or States will be the marine safety investigating State(s) in accordance with a requirement, or a recommendation acted upon, to investigate under this Code.
- 7.2 Without limiting the rights of States to conduct their own separate marine safety investigation, if a marine casualty occurs on the high seas or in the exclusive economic zone of a State, and involves more than one flag State, then the States shall consult to seek agreement on which State or States will be the marine safety investigating State(s) in accordance with a requirement, or a recommendation acted upon, to investigate under this Code.
- 7.3 For a marine casualty referred to in paragraphs 7.1 or 7.2, agreement may be reached by the relevant States with another substantially interested State for that State or States to be the marine safety investigating State(s).
- 7.4 Prior to reaching an agreement, or if an agreement is not reached, in accordance with paragraphs 7.1, 7.2 or 7.3, then the existing obligations and rights of States under this Code, and under other international laws, to conduct a marine safety investigation, remain with the respective parties to conduct their own investigation.
- 7.5 By fully participating in a marine safety investigation conducted by another substantially interested State, the flag State shall be considered to fulfil its obligations under this Code, SOLAS regulation I/21 and article 94, section 7 of the United Nations Convention on the Law of the Sea.

Chapter 8

POWERS OF AN INVESTIGATION

8.1 All States shall ensure that their national laws provide investigator(s) carrying out a marine safety investigation with the ability to board a ship, interview the master and crew and any other person involved, and acquire evidential material for the purposes of a marine safety investigation.

Chapter 9

PARALLEL INVESTIGATIONS

9.1 Where the marine safety investigating State(s) is conducting a marine safety investigation under this Code, nothing prejudices the right of another substantially interested State to conduct its own separate marine safety investigation.

9.2 While recognizing that the marine safety investigating State(s) shall be able to fulfil obligations under this Code, the marine safety investigating State(s) and any other substantially interested State conducting a marine safety investigation shall seek to co-ordinate the timing of their investigations, to avoid conflicting demands upon witnesses and access to evidence, where possible.

Chapter 10

CO-OPERATION

10.1 All substantially interested States shall co-operate with the marine safety investigating State(s) to the extent practicable. The marine safety investigating State(s) shall provide for the participation of the substantially interested States to the extent practicable* .

Chapter 11

INVESTIGATION NOT TO BE SUBJECT TO EXTERNAL DIRECTION

11.1 Marine safety investigating State(s) shall ensure that investigator(s) carrying out a marine safety investigation are impartial and objective. The marine safety investigation shall be able to report on the results of a marine safety investigation without direction or interference from any persons or organizations who may be affected by its outcome.

* The reference to "extent practicable" may be taken to mean, as an example, that co-operation or participation is limited because national laws make it impracticable to fully co-operate or participate.

Chapter 12

OBTAINING EVIDENCE FROM SEAFARERS

12.1 Where a marine safety investigation requires a seafarer to provide evidence to it, the evidence shall be taken at the earliest practical opportunity. The seafarer shall be allowed to return to his/her ship, or be repatriated at the earliest possible opportunity. The seafarers human rights shall, at all times, be upheld.

12.2 All seafarers from whom evidence is sought shall be informed of the nature and basis of the marine safety investigation. Further, a seafarer from whom evidence is sought shall be informed, and allowed access to legal advice, regarding:

- .1 any potential risk that they may incriminate themselves in any proceedings subsequent to the marine safety investigation;
- .2 any right not to self-incriminate or to remain silent;
- .3 any protections afforded to the seafarer to prevent the evidence being used against them if they provide the evidence to the marine safety investigation.

Chapter 13

DRAFT MARINE SAFETY INVESTIGATION REPORTS

13.1 Subject to paragraphs 13.2 and 13.3, where it is requested, the marine safety investigating State(s) shall send a copy of a draft report to a substantially interested State to allow the substantially interested State to make comment on the draft report.

13.2 Marine safety investigating State(s) are only bound to comply with paragraph 13.1 where the substantially interested State receiving the report guarantees not to circulate, nor cause to circulate, publish or give access to the draft report, or any part thereof, without the express consent of the marine safety investigating State(s) or unless such reports or documents have already been published by the marine safety investigating State(s).

13.3 The marine safety investigating State(s) are not bound to comply with paragraph 13.1 if:

- .1 the marine safety investigating State(s) request that the substantially interested State receiving the report to affirm that evidence included in the draft report will not be admitted in civil or criminal proceedings against a person who gave the evidence; and
- .2 the substantially interested State refuses to provide such an affirmation.

13.4 The marine safety investigating State(s) shall invite the substantially interested States to submit their comments on the draft report within 30 days or some other mutually agreed period. The marine safety investigating State(s) shall consider the comments before preparing the final report and where the acceptance or rejection of the comments will have direct impact on the interests of the State that submitted them, the marine safety investigating State(s)

shall notify the substantially interested State of the manner in which the comments were addressed. If the marine safety investigating State(s) receives no comments after the 30 days or the mutually agreed period has expired, then it may proceed to finalize the report.

13.5 The marine safety investigating State(s) shall seek to fully verify the accuracy and completeness of the draft report by the most practical means.

Chapter 14

MARINE SAFETY INVESTIGATION REPORTS

14.1 The marine safety investigating State(s) shall submit the final version of a marine safety investigation report to the Organization for every marine safety investigation conducted into a very serious marine casualty.

14.2 Where a marine safety investigation is conducted into a marine casualty or marine incident, other than a very serious marine casualty, and a marine safety investigation report is produced which contains information which may prevent or lessen the seriousness of marine casualties or marine incidents in the future, the final version shall be submitted to the Organization.

14.3 The marine safety investigation report referred in paragraphs 14.1 and 14.2 shall utilize all the information obtained during a marine safety investigation, taking into account its scope, required to ensure that all the relevant safety issues are included and understood so that safety action can be taken as necessary.

14.4 The final marine safety investigation report shall be made available to the public and the shipping industry by the marine safety investigating State(s), or the marine safety investigating State(s) shall undertake to assist the public and the shipping industry with details, necessary to access the report, where it is published by another State or the Organization.

PART III

RECOMMENDED PRACTICES

Chapter 15

ADMINISTRATIVE RESPONSIBILITIES

15.1 States should ensure that marine safety investigating Authorities have available to them sufficient material and financial resources and suitably qualified personnel to enable them to facilitate the State's obligations to undertake marine safety investigations into marine casualties and marine incidents under this Code.

15.2 Any investigator forming part of a marine safety investigation should be appointed on the basis of the skills outlined in resolution A.996(25) for investigators.

15.3 However, paragraph 15.2 does not preclude the appropriate appointment of investigators with necessary specialist skills to form part of a marine safety investigation on a temporary basis, neither does it preclude the use of consultants to provide expert advice on any aspect of a marine safety investigation.

15.4 Any person who is an investigator, in a marine safety investigation, or assisting a marine safety investigation, should be bound to operate in accordance with this Code.

Chapter 16

PRINCIPLES OF INVESTIGATION

16.1 **Independence:** A marine safety investigation should be unbiased to ensure the free flow of information to it.

16.1.1 In order to achieve the outcome in paragraph 16.1, the investigator(s) carrying out a marine safety investigation should have functional independence from:

- .1 the parties involved in the marine casualty or marine incident;
- .2 anyone who may make a decision to take administrative or disciplinary action against an individual or organization involved in a marine casualty or marine incident; and
- .3 judicial proceedings;

16.1.2 The investigator(s) carrying out a marine safety investigation should be free of interference from the parties in .1, .2 and .3 of paragraph 16.1.1 with respect to:

- .1 the gathering of all available information relevant to the marine casualty or marine incident, including voyage data recordings and vessel traffic services recordings;
- .2 analysis of evidence and the determination of causal factors;
- .3 drawing conclusions relevant to the causal factors;
- .4 distributing a draft report for comment and preparation of the final report; and
- .5 if appropriate, the making of safety recommendations.

16.2 **Safety focused:** It is not the objective of a marine safety investigation to determine liability, or apportion blame. However, the investigator(s) carrying out a marine safety investigation should not refrain from fully reporting on the causal factors because fault or liability may be inferred from the findings.

16.3 Co-operation: Where it is practicable and consistent with the requirements and recommendations of this Code, in particular chapter 10 on Co-operation, the marine safety investigating State(s) should seek to facilitate maximum co-operation between substantially interested States and other persons or organizations conducting an investigation into a marine casualty or marine incident.

16.4 Priority: A marine safety investigation should, as far as possible, be afforded the same priority as any other investigation, including investigations by a State for criminal purposes being conducted into the marine casualty or marine incident.

16.4.1 In accordance with paragraph 16.4 investigator(s) carrying out a marine safety investigation should not be prevented from having access to evidence in circumstances where another person or organization is carrying out a separate investigation into a marine casualty or marine incident.

16.4.2 The evidence for which ready access should be provided should include:

- .1 survey and other records held by the flag State, the owners, and classification societies;
- .2 all recorded data, including voyage data recorders; and
- .3 evidence that may be provided by government surveyors, coastguard officers, vessel traffic service operators, pilots or other marine personnel.

16.5 Scope of a marine safety investigation: Proper identification of causal factors requires timely and methodical investigation, going far beyond the immediate evidence and looking for underlying conditions, which may be remote from the site of the marine casualty or marine incident, and which may cause other future marine casualties and marine incidents. Marine safety investigations should therefore be seen as a means of identifying not only immediate causal factors but also failures that may be present in the whole chain of responsibility.

Chapter 17

INVESTIGATION OF MARINE CASUALTIES (OTHER THAN VERY SERIOUS CASUALTIES) AND MARINE INCIDENTS

17.1 A marine safety investigation should be conducted into marine casualties (other than very serious marine casualties – which are addressed in chapter 6 of this Code) and marine incidents, by the flag State of a ship involved, if it is considered likely that a marine safety investigation will provide information that can be used to prevent marine casualties and marine incidents in the future.

17.2 Chapter 7 contains the mandatory requirements for determining who the marine safety investigating State(s) are for a marine casualty. Where the occurrence being investigated in accordance with this chapter is a marine incident, chapter 7 should be followed as a recommended practice as if it referred to marine incidents.

Chapter 18

FACTORS THAT SHOULD BE TAKEN INTO ACCOUNT WHEN SEEKING AGREEMENT UNDER CHAPTER 7 OF PART II

18.1 When the flag State(s), a coastal State (if involved) or other substantially interested States are seeking to reach agreement, in accordance with chapter 7 of Part II on which State or State(s) will be the marine safety investigating State(s) under this Code, the following factors should be taken into account:

- .1 whether the marine casualty or marine incident occurred in the territory, including territorial sea, of a State;
- .2 whether the ship or ships involved in a marine casualty or marine incident occurring on the high seas, or in the exclusive economic zone, subsequently sail into the territorial sea of a State;
- .3 the resources and commitment required of the flag State and other substantially interested States;
- .4 the potential scope of the marine safety investigation and the ability of the flag State or another substantially interested State to accommodate that scope;
- .5 the need of the investigator(s) carrying out a marine safety investigation to access evidence and consideration of the State or States best placed to facilitate that access to evidence;
- .6 any perceived or actual adverse effects of the marine casualty or marine incident on other States;
- .7 the nationality of the crew, passengers and other persons affected by the marine casualty or marine incident.

Chapter 19

ACTS OF UNLAWFUL INTERFERENCE

19.1 If in the course of a marine safety investigation it becomes known or is suspected that an offence is committed under articles 3, *3bis*, *3ter* or *3quarter* of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988, the marine safety investigation Authority should immediately seek to ensure that the maritime security Authorities of the State(s) concerned are informed.

Chapter 20

NOTIFICATION TO PARTIES INVOLVED AND COMMENCEMENT OF AN INVESTIGATION

20.1 When a marine safety investigation is commenced under this Code, the master, the owner and agent of a ship involved in the marine casualty or marine incident being investigated, should be informed as soon as practicable of:

- .1 the marine casualty or marine incident under investigation;
- .2 the time and place at which the marine safety investigation will commence;
- .3 the name and contact details of the marine safety investigation Authority(ies);
- .4 the relevant details of the legislation under which the marine safety investigation is being conducted;
- .5 the rights and obligations of the parties subject to the marine safety investigation;
and
- .6 the rights and obligations of the State or States conducting the marine safety investigation.

20.2 Each State should develop a standard document detailing the information in paragraph 20.1 that can be transmitted electronically to the master, the agent and the owner of the ship.

20.3 Recognizing that any ship involved in a marine casualty or marine incident may continue in service, and that a ship should not be delayed more than is absolutely necessary, the marine safety investigating State(s) conducting the marine safety investigation should start the marine safety investigation as soon as is reasonably practicable, without delaying the ship unnecessarily.

Chapter 21

CO-ORDINATING AN INVESTIGATION

21.1 The recommendations in this chapter should be applied in accordance with the principles in chapters 10 and 11 of this Code.

21.2 The marine safety investigating State(s) should ensure that there is an appropriate framework within the State for:

- .1 the designation of investigators to the marine safety investigation including an investigator to lead the marine safety investigation;
- .2 the provision of a reasonable level of support to members of the marine safety investigation;

- .3 the development of a strategy for the marine safety investigation in liaison with other substantially interested States;
- .4 ensuring the methodology followed during the marine safety investigation is consistent with that recommended in resolution A.884(21), as amended;
- .5 ensuring the marine safety investigation takes into account any recommendations or instruments published by the Organization or International Labour Organization, relevant to conducting a marine safety investigation; and
- .6 ensuring the marine safety investigation takes into account the safety management procedures and the safety policy of the operator of a ship in terms of the ISM Code.

21.3 The marine safety investigating State(s) should allow a substantially interested State to participate in aspects of the marine safety investigation relevant to it, to the extent practicable.

21.3.1 Participation should include allowing representatives of the substantially interested State to:

- .1 interview witnesses;
- .2 view and examine evidence and make copies of documents;
- .3 make submissions in respect of the evidence, comment on and have their views properly reflected in the final report; and
- .4 be provided with the draft and final reports relating to the marine safety investigation*.

21.4 To the extent practical, substantially interested States should assist the marine safety investigating State(s) with access to relevant information for the marine safety investigation. To the extent practical, the investigator(s) carrying out a marine safety investigation should also be afforded access to Government surveyors, coastguard officers, ship traffic service operators, pilots and other marine personnel of a substantially interested State.

21.5 The flag State of a ship involved in a marine casualty or marine incident should help to facilitate the availability of the crew to the investigator(s) carrying out the marine safety investigation.

Chapter 22

COLLECTION OF EVIDENCE

22.1 A marine safety investigating State(s) should not unnecessarily detain a ship for the collection of evidence from it or have original documents or equipment removed unless this is

* The reference to 'extent practical' may be taken to mean, as an example, that co-operation or participation is limited because national laws make it impractical to fully co-operate or participate.

essential for the purposes of the marine safety investigation. Investigators should make copies of documents where practicable.

22.2 Investigator(s) carrying out a marine safety investigation should secure records of interviews and other evidence collected during a marine safety investigation in a manner which prevents access by persons who do not require it for the purpose of the investigation.

22.3 Investigator(s) carrying out the marine safety investigation should make effective use of all recorded data including voyage data recorders if fitted. Voyage data recorders should be made available for downloading by the investigator(s) carrying out a marine safety investigation or an appointed representative.

22.3.1 In the event that the marine safety investigating State(s) do not have adequate facilities to read a voyage data recorder, States with such a capability should offer their services having due regard to the:

- .1 available resources;
- .2 capabilities of the readout facility;
- .3 timeliness of the readout; and
- .4 location of the facility.

Chapter 23

CONFIDENTIALITY OF INFORMATION

23.1 States should ensure that investigator(s) carrying out a marine safety investigation only disclose information from a marine safety record where:

- .1 it is necessary or desirable to do so for transport safety purposes and any impact on the future availability of safety information to a marine safety investigation is taken into account; or
- .2 as otherwise permitted in accordance with this Code*.

23.2 States involved in marine safety investigation under this Code should ensure that any marine safety record in its possession is not disclosed in criminal, civil, disciplinary or administrative proceedings unless:

* States recognize that there are merits in keeping information from a marine safety record confidential where it needs to be shared with people outside the marine safety investigation for the purpose of conducting the marine safety investigation. An example is where information from a marine safety record needs to be provided to an external expert for their analysis or second opinion. Confidentiality would seek to ensure that sensitive information is not inappropriately disclosed for purposes other than the marine safety investigation, at a time when it has not been determined how the information will assist in determining the contributing factors in a marine casualty or marine incident. Inappropriate disclosure may infer blame or liability on the parties involved in the marine casualty or marine incident.

- .1 the appropriate authority for the administration of justice in the State determines that any adverse domestic or international impact that the disclosure of the information might have on any current or future marine safety investigations is outweighed by the public interest in the administration of justice; and*
- .2 where appropriate in the circumstances, the State which provided the marine safety record to the marine safety investigation authorizes its disclosure.

23.3 Marine safety records should be included in the final report, or its appendices, only when pertinent to the analysis of the marine casualty or marine incident. Parts of the record not pertinent, and not included in the final report, should not be disclosed.

23.4 States need only supply information from a marine safety record to a substantially interested State where doing so will not undermine the integrity and credibility of any marine safety investigation being conducted by the State or States providing the information.

23.4.1 The State supplying the information from a marine safety record may require that the State receiving the information undertake to keep it confidential.

Chapter 24

PROTECTION FOR WITNESSES AND INVOLVED PARTIES

24.1 If a person is required by law to provide evidence that may incriminate them, for the purposes of a marine safety investigation, the evidence should, so far as national laws allow, be prevented from admission into evidence in civil or criminal proceedings against the individual.

24.2 A person from whom evidence is sought should be informed about the nature and basis of the investigation. A person from whom evidence is sought should be informed, and allowed access to legal advice, regarding:

- .1 any potential risk that they may incriminate themselves in any proceedings subsequent to the marine safety investigation;
- .2 any right not to self-incriminate or to remain silent;
- .3 any protections afforded to the person to prevent the evidence being used against them if they provide the evidence to the marine safety investigation.

Chapter 25

* Examples of where it may be appropriate to disclose information from a marine safety record in criminal, civil, disciplinary or administrative proceedings may include:

- 1 where a person the subject of the proceedings has engaged in conduct with the intention to cause a destructive result; or
- 2 where a person the subject of the proceedings has been aware of a substantial risk that a destructive result will occur and having regard to the circumstances known to him or her it is unjustifiable to take the risk.

DRAFT AND FINAL REPORT

25.1 Marine safety investigation reports from a marine safety investigation should be completed as quickly as practicable.

25.2 Where it is requested, and where practicable, the marine safety investigating State(s) should send a copy of a draft marine safety investigation report for comment to interested parties. However, this recommendation does not apply where there is no guarantee that the interested party will not circulate, nor cause to circulate, publish or give access to the draft marine safety investigation report, or any part thereof, without the express consent of the marine safety investigating State(s).

25.3 The marine safety investigating State(s) should allow the interested party 30 days or some other mutually agreed time to submit their comments on the marine safety investigation report. The marine safety investigating State(s) should consider the comments before preparing the final marine safety investigation report and where the acceptance or rejection of the comments will have direct impact on the interests of the interested party that submitted them, the marine safety investigating State(s) should notify the interested party of the manner in which the comments were addressed. If the marine safety investigating State(s) receives no comments after the 30 days or the mutually agreed period has expired, then it may proceed to finalize the marine safety investigation report .

25.4 Where it is permitted by the national laws of the State preparing the marine safety investigation report, the draft and final report should be prevented from being admissible in evidence in proceedings related to the marine casualty or marine incident that may lead to disciplinary measures, criminal conviction or the determination of civil liability.

25.5 At any stage during a marine safety investigation interim safety measures may be recommended.

25.6 Where a substantially interested State disagrees with the whole or a part of a final marine safety investigation report, it may submit its own report to the Organization.

Chapter 26

RE-OPENING AN INVESTIGATION

26.1 Marine safety investigating State(s) which have completed a marine safety investigation, should reconsider their findings and consider re-opening the investigation when new evidence is presented which may materially alter the analysis and conclusions reached.

* See chapter 13 where provisions with respect to providing interested parties with reports on request may alternatively be included as a mandatory provision.

26.2 When significant new evidence relating to any marine casualty or marine incident is presented to the marine safety investigating State(s) that have completed a marine safety investigation, the evidence should be fully assessed and referred to other substantially interested States for appropriate input.

ANNEX 3

**RESOLUTION MSC.257(84)
(adopted on 16 May 2008)**

**ADOPTION OF AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR
THE SAFETY OF LIFE AT SEA, 1974, AS AMENDED**

THE MARITIME SAFETY COMMITTEE,

RECALLING Article 28(b) of the Convention on the International Maritime Organization concerning the functions of the Committee,

RECALLING FURTHER article VIII(b) of the International Convention for the Safety of Life at Sea (SOLAS), 1974 (hereinafter referred to as "the Convention"), concerning the amendment procedure applicable to the Annex to the Convention, other than to the provisions of chapter I thereof,

HAVING CONSIDERED, at its eighty-fourth session, amendments to the Convention, proposed and circulated in accordance with article VIII(b)(i) thereof,

1. ADOPTS, in accordance with article VIII(b)(iv) of the Convention, amendments to the Convention, the text of which is set out in the Annex to the present resolution;
2. DETERMINES, in accordance with article VIII(b)(vi)(2)(bb) of the Convention, that the said amendments shall be deemed to have been accepted on 1 July 2009, unless, prior to that date, more than one third of the Contracting Governments to the Convention or Contracting Governments the combined merchant fleets of which constitute not less than 50% of the gross tonnage of the world's merchant fleet, have notified their objections to the amendments;
3. INVITES SOLAS Contracting Governments to note that, in accordance with article VIII(b)(vii)(2) of the Convention, the amendments shall enter into force on 1 January 2010 upon their acceptance in accordance with paragraph 2 above;
4. REQUESTS the Secretary-General, in conformity with article VIII(b)(v) of the Convention, to transmit certified copies of the present resolution and the text of the amendments contained in the annex to all Contracting Governments to the Convention;
5. FURTHER REQUESTS the Secretary-General to transmit copies of this resolution and its Annex to Members of the Organization, which are not Contracting Governments to the Convention.

ANNEX

**AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR THE SAFETY
OF LIFE AT SEA, 1974, AS AMENDED**

**CHAPTER XI-1
SPECIAL MEASURES TO ENHANCE MARITIME SAFETY**

- 1 The following new regulation 6 is added after the existing regulation 5:

“Regulation 6

Additional requirements for the investigation of marine casualties and incidents

Taking into account regulation I/21, each Administration shall conduct investigations of marine casualties and incidents, in accordance with the provisions of the present Convention, as supplemented by the provisions of the Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (Casualty Investigation Code) adopted by resolution MSC.255(84), and:

- .1 the provisions of parts I and II of the Casualty Investigation Code shall be fully complied with;
- .2 the related guidance and explanatory material contained in part III of the Casualty Investigation Code should be taken into account to the greatest possible extent in order to achieve a more uniform implementation of the Casualty Investigation Code;
- .3 amendments to parts I and II of the Casualty Investigation Code shall be adopted, brought into force and take effect in accordance with the provisions of article VIII of the present Convention concerning the amendment procedures applicable to the annex other than chapter I; and
- .4 part III of the Casualty Investigation Code shall be amended by the Maritime Safety Committee in accordance with its rules of procedure.”



本書は競艇の交付金による日本財団の
助成金を受けて刊行したものです。
