



IMO
INTERNATIONAL MARITIME LAW INSTITUTE
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**AN ACT TO INCORPORATE
THE CODE OF INTERNATIONAL STANDARDS
AND RECOMMENDED PRACTICES
FOR A SAFETY INVESTIGATION INTO A
MARINE CASUALTY OR MARINE INCIDENT
(CASUALTY INVESTIGATION CODE)
INTO THE LAWS OF THE PHILIPPINES**

**A Legislation Drafting Project submitted in partial fulfillment of the
requirements for the award of the Degree of Master of Laws (LL.M.) in
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EXPLANATORY NOTE

1. Code of International Standards and Recommended Practices For a Safety Investigation Into a Marine Casualty or Marine Incident (Casualty Investigation Code)

Maritime transportation is the most commonly used modes of transportation for carrying goods and people across the countries. This is why the shipping industry is an indispensable business, which States seek to protect. Every shipping operation involves risks and occupational hazards. It is said that seafaring is the most dangerous occupation. Eventually, marine accident is an unavoidable phenomenon despite stringent efforts to prevent the same. And when there is marine casualty or marine incident, International Conventions and National Legislations require that a marine safety investigation should be conducted and the findings thereof are assessed and analyzed in order to come up with improved maritime safety policies, legislations and regulations. This continuous cycle is sometimes referred to as ‘casualty analysis’.¹

In relation to marine safety investigation, the International Maritime Organization (IMO) have adopted several resolutions with the end view of encouraging co-operation and recognition of mutual interest among maritime nations. The first of those resolutions was Resolution A.173 (ES.IV) (Participation in Official Inquiries into Maritime Casualties) adopted in November 1968. Other resolutions followed including: Resolution A.322 (IX) (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 1989.²

¹ “Casualty Analysis Procedure”, <<http://www.imo.org/OurWork/Safety/Implementation/Casualties/Documents/CASUALTY%20ANALYSIS%20PROCEDURE.pdf>> 06 January 2013.

² “Casualties”, <<http://www.imo.org/OurWork/Safety/Implementation/Casualties/Pages/Default.aspx>> 30 December 2012.

²⁴Resolution A.255 (84) 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), 16 May 2008; entry into force 01 January

These series of resolutions were amalgamated and expanded by the Organization with the adoption of the Code for the Investigation of Marine Casualties and Incidents (Resolution A.849 (20) adopted on 27 November 1997. 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.³

Resolution MSC.255 (84) otherwise known as The Code of International Standards and Recommended Practices For a Safety Investigation Into a Marine Casualty or Marine Incident (herein referred to as the Casualty Investigation Code) is the latest resolution of the IMO pertaining to marine casualty investigation. The aforementioned Resolution was adopted on 16 May 2008 by the Maritime Safety Committee and entered into force on 01 January 2010.⁴

The Casualty Investigation Code is an IMO instrument that was created pursuant to the following International Conventions: International Convention for the Safety of Life at Sea 1974 (SOLAS) as amended⁵, International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978(MARPOL)⁶ and International Convention on Load Lines 1966 (LL)⁷.

SOLAS regulation I/21 and MARPOL (1973) Article 12 require that, each Administration undertakes to conduct an investigation into any casualty occurring to ships under its flag when it judges that such an investigation may assist in determining what changes in the

2010”, <[www.imo.org/blast/blastDataHelper.asp?data_id=22036&filename=255\(84\).pdf](http://www.imo.org/blast/blastDataHelper.asp?data_id=22036&filename=255(84).pdf)> 15 November 2012.

³ “Casualties”, <<http://www.imo.org/OurWork/Safety/Implementation/Casualties/Pages/Default.aspx>> 30 December 2012.

⁴“Resolution A.255 (84) 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), 16 May 2008; entry into force 01 January 2010”, <[www.imo.org/blast/blastDataHelper.asp?data_id=22036&filename=255\(84\).pdf](http://www.imo.org/blast/blastDataHelper.asp?data_id=22036&filename=255(84).pdf)> 15 November 2012.

⁵ International Convention for the Safety of Life at Sea 1974 (SOLAS) as amended, London, 1 November 1974. In force 25 May 1980; 162 Ratifications; UN Treaties and International Agreements Registered, No. 18961, Vol. 1184, 1980, p. 278.

⁶ International Convention for the Prevention of Pollution from Ships, (MARPOL), London, 2 November 1973; as amended by Protocol, London, 17 February 1978. In force 2 October 1983; UN Treaties and International Agreements Registered, No. I-22484, Vol. 1340, 1983, p. 61.

⁷ International Convention on Load Lines 1966 (LL), London, 5 April 1966. In force 21 July 1968; <<http://www.underwater.pg.gda.pl/didactics/ILLC.pdf>>, 14 January 2013.

present regulations might be desirable and to supply the Organization with pertinent information concerning the findings of such investigations. MARPOL (1973) Article 8 requires reporting of incidents without delay and for State Parties to make necessary arrangements regarding the officer or agency who shall receive and process aforementioned reports. Article 23 of the Load Lines Convention also requires the investigation of casualties.⁸

Moreover, pursuant to Article 94 of the 1982 United Nation Convention on the Law of the Sea (UNCLOS)⁹, it is the duty of the State to cause an inquiry into every marine casualty or incident of navigation on the high seas involving a ship flying its flag. This duty arises whenever such incident causes loss of life or serious injury to nationals of another State or serious damage to ships or installations thereof of another State or causes marine pollution. Cooperation of flag States is generally required in the conduct of inquiry into any such marine casualty or incident of navigation.

The Casualty Investigation Code expanded SOLAS Regulation I/21 in the sense that it does not only require the Administration to conduct a marine safety investigation "when it judges that such an investigation may assist in determining what changes in the present regulations might be desirable". It is now mandatory that a marine safety investigation is conducted into every "very serious marine casualty" as defined in the aforementioned Code. And more importantly, the objective of said investigation shall be the prevention of future accidents through the ascertainment of the causes and circumstances of marine accidents. Relevant amendments to SOLAS Chapter XI-1 were also adopted, to make parts I and II of the Code mandatory. Part III of the Code contains related guidance and explanatory material.¹⁰

The Casualty Investigation Code consists of twenty-six chapters divided into three Parts namely: Part I pertains to the General Provisions, Part II pertains to the Mandatory Standards and Part III pertains to the Recommended Practices. The Parts and Chapters of the Casualty Investigation Code would be briefly described as follows:

⁸ "Casualties", <<http://www.imo.org/OurWork/Safety/Implementation/Casualties/Pages/Applicable-IMO-instruments-on-casualty-matters.aspx>>15 November 2012.

⁹ United Nation Convention on the Law of the Sea (UNCLOS), Montego Bay, 10 December 1982. In force 16 November 1994; 164 Ratifications; UN Treaties and International Agreements Registered, No. 31363, Vol. 1833, 1994, p. 397.

¹⁰ "Casualties", <<http://www.imo.org/OurWork/Safety/Implementation/Casualties/Pages/Default.aspx>>15 November 2012.

Part I – sets out the General Provisions which include Chapter 1 (Purpose), Chapter 2 (Definitions) and Chapter 3 (Application of Chapters in Parts II and III)

Chapter 1 – describes the objective of the Code, which is to provide a common approach for States to adopt in the conduct of marine safety investigations into marine casualties and marine incidents. It also describes the nature of the marine safety investigation which is safety focused and does not seek to apportion blame or liability but with the end view of preventing occurrences of marine casualties and incidents in the future.

Chapter 2 – pertains to definition of important terms such as causal factor, marine casualty, marine incident, marine safety investigation, marine safety investigation report, marine safety record, very serious marine casualty and substantially interested State, among others.

Chapter 3 – briefly states that Part II of the Casualty Investigation Code contains mandatory standards for marine safety investigations and Part III thereof apply only to certain marine casualties and are recommendatory only for marine investigations into other marine casualties or marine incidents.

Part II – contains the mandatory standards from Chapter 4 to Chapter 14 herein described as follows:

Chapter 4 – requires the Government of each State to provide the Organization detailed contact information of the marine safety investigation Authority carrying out the marine safety investigation.

Chapter 5 – generally pertains to the requirement of notification to the substantially interested State when a marine casualty occurs on the high seas, exclusive economic zone or territorial sea and the format and content of such notification is also provided in this Chapter.

Chapter 6 – contains provisions on the mandatory requirement to conduct investigation into every very serious marine casualty of the Flag State of a ship involved in the incident.

Chapter 7 – refers to the requirement for States to reach an agreement and appoint among themselves the marine safety investigating State(s) where a marine casualty occurs within the territorial sea, on high seas or in the exclusive economic zone otherwise the Flag State is mandated to conduct their own investigation.

Chapter 8 – stipulates States to provide in their national laws the power of the investigator carrying out a marine safety investigation to board ship, interview the master and crew and acquire evidential material.

Chapter 9 - pertains to parallel investigations of a marine safety investigating State(s) and substantially interested State, where both States shall coordinate the timing of their investigations as much as possible.

Chapter 10 – refers to the cooperation between the marine safety investigating State(s) and substantially interested State, to the extent practicable.

Chapter 11 – describes the manner of carrying out the marine safety investigation which should be impartial and objective. It also describes the manner of reporting which should be free from interference from any persons or organizations who may be affected by its outcome.

Chapter 12 – pertains to rules regarding obtaining evidence from a seafarer with utmost dispatch, protecting their human rights and allowing them to access legal advice.

Chapter 13 – refers to the mandatory provision of submitting a draft report by the marine safety investigating State(s) to a substantially interested State and to consider the comment of the latter before preparing the final report.

Chapter 14 – refers to the requirement of submitting the marine safety investigation reports to the IMO and the publication of the same.

Part III – Recommended Practices from Chapters 15 to Chapter 26 outlined as follows:

Chapter 15 – refers to the State responsibility to provide sufficient material and financial resources and suitably qualified personnel to undertake marine safety investigations.

Chapter 16 – enumerates some principles of marine safety investigation such as independence, safety focused, cooperation and co-equal with other types of investigations.

Chapter 17 – refers to the recommended practice to investigate marine incidents (other than very serious marine casualties) if the same will provide information that can be used to prevent marine casualties and marine incidents in the future.

Chapter 18 – pertains to factors to consider in seeking an agreement under Chapter 7.

Chapter 19 – refers to the recommended practice to report offences committed under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988 (SUA) to the maritime security Authorities of the State(s) by the marine safety investigation Authority.

Chapter 20 – pertains to the notification to the master, the owner and agent of a ship during commencement of marine safety investigation and duty of the marine safety investigating State(s) to conduct the investigation as soon as reasonably practicable without unnecessarily delaying the ship involved in a marine casualty or incident.

Chapter 21 – provides for the requirement of marine safety investigating State(s) to ensure that there is an appropriate framework within the State for cooperation with a substantially interested State.

Chapter 22 – enumerates some guidelines on how to collect evidence in a marine safety investigation.

Chapter 23 – pertains to guidelines on disclosure of information from a marine safety record to ensure the same is not disclosed in criminal, civil, disciplinary or administrative proceedings unless otherwise provided in the circumstances mentioned under this chapter.

Chapter 24 – refers to the protection of the witnesses and involved parties in a marine safety investigation including access to legal advice and non-admission of their testimonies in civil or criminal proceedings.

Chapter 25 – pertains to general guidelines with regards to marine safety investigation reports.

Chapter 26 – refers to the re-opening of an investigation, which was completed, when the new evidence presented materially alters the analysis and conclusions reached.

2. Philippine Coast Guard Law of 2009 (Republic Act No. 9993)

The existing law pertaining to the marine casualty investigation in the Philippines is found in Republic Act No. 9993 (herein referred to as RA No. 9993 for brevity) otherwise known as the “*Philippines Coast Guard Law of 2009*”, Section 3 (j) thereof provides that the Philippine Coast Guard (PCG) shall have the power and function to investigate and inquire into the causes of all maritime accidents involving death, casualties and damage to properties.

It is important to note that under the Casualty Investigation Code [Resolution MSC.255 (84)] the term ‘*marine casualty*’ is use to describe an event or sequence of events involving death or serious injury to a person, material damage to a ship and parts thereof and severe damage to the environment. The Casualty Investigation Code also used the term ‘*marine incidents*’ to describe an event, or sequence of events, other than a marine casualty that endangered, or, if not corrected, would endanger the safety of the ship, its occupants or any other person or the environment. On the other hand, the term ‘*maritime accidents*’ is use in RA No. 9993 which includes death, casualties and damage to properties. For the purpose of the proposed legislation, the term ‘*marine accidents*’ will be used interchangeably with marine casualty or marine incidents as described above.

Section 21 of RA No. 9993 provides:

Section 21. Rules and Regulations. - The Secretary of the DOTC (Department of Transportation and Communications) shall issue rules and regulations, determine, fix, and/or prescribe charges, rates, penalties pertinent, as may be necessary to implement the provisions of this Act, as well as the provision of acts, decrees and orders related to the implementation of the PCG functions.

Pursuant to the aforementioned provision, the Implementing Rules and Regulations (IRR) were promulgated and contains the following provisions on marine accident investigations:

Rule 3 (j). To investigate and inquire into the causes of all maritime accidents

involving death, casualties and damage to properties.

Rule 3 (j) 1. *The PCG, through the Board of Marine Inquiry (BMI) and other offices with associated functions that may hereinafter be created by the PCG, shall be the country's maritime casualty investigating authority responsible for conducting investigations on maritime incidents involving death, casualties, and damage to properties occurring within waters subject to the jurisdiction of the Philippines and those involving vessels of Philippine registry. In the performance of this function, the PCG shall promulgate the necessary rules and regulations, subject to the approval of the DOTC Secretary.*

Rule 3 (j) 2. *The conduct of maritime casualty investigation shall conform to international standards as recommended by the "Code of the International Standards and Recommended Practices for Safety Investigations into a Marine Casualty or Marine Incident" of the International Maritime Organization (IMO).*

Rule 3 (j) 3. *To enhance cooperation with other international and national maritime safety agencies, the results of the investigation conducted shall be published in the proper forum and shall be submitted to the IMO or any substantially interested state.*

Rule 3 (j) 4. *The conduct of maritime casualty investigation by the PCG is separate and distinct from any other form of investigation involving civil, criminal and administrative proceedings. The primary purpose of such investigation shall be to: (i) identify the circumstances surrounding the marine incident, (ii) determine the causes and contributing factors, and (iii) make appropriate recommendations and/or adopt measures to prevent the occurrence of similar incidents.*

Rule 3 (j) 5. *All maritime casualty investigation records in the possession of the PCG may be disclosed in criminal, civil, disciplinary proceedings upon orders of competent courts or upon written request duly approved by competent authority in accordance with existing rules and regulations.*

Rule 3 (j) 6. *The PCG shall conduct an investigation for every maritime casualty incident involving, but not limited to the following:*

- a. The death of, or serious injury to, a person;*
- b. The loss of a person from a ship;*
- c. The loss, presumed loss or abandonment of a ship;*
- d. Material damage to a ship;*
- e. The stranding or disabling of a ship, or involvement of a ship in a collision;*
- f. Material damage to marine infrastructure external to a ship that could seriously endanger the safety of a ship, another ship or an individual; or*
- g. Severe damage to or the potential for severe damage to the environment.*

Rule 3 (j) 7. *The submission of marine protest shall be mandatory from any person/entity responsible for the vessel, watercrafts and other water conveyances, within twenty four (24) hours upon the occurrence of any maritime accidents, grounding, founding criminalities on board, and other unusual incidents or accidents involving risk on the safety and security of life and property at sea.*

Rule 3 (j) 8. *In the performance of the aforementioned function, PCG investigators are authorized to board a ship, interview the Master and crew and any other person involved, and if necessary, hold or suspend departure of the vessel to acquire evidentiary materials for use in the maritime casualty investigation.*

Rule 3 (j) 9. *In cases of hazardous incidents or when an accident nearly occurs in connection with the operation of a vessel (“near miss” incidents), the PCG shall formulate the necessary guidelines for the disposition of such cases.*

Rule 3 (j) 10. *The PCG shall, within ninety (90) days upon the approval of this IRR, promulgate and publish the appropriate guidelines and procedures covering maritime casualty investigation.*

3. The Need to Legislate a New Accident Reporting and Marine Safety Investigation Act in the Philippines by Incorporating the Casualty Investigation Code

The Philippines is an archipelagic nation where maritime transportation has been the main mode of transportation to facilitate movement of people, goods and services from one island to another. The Philippines experiences an average of 20 to 25 typhoons per year which affects the country's maritime trade due to the common occurrences of maritime accidents. Therefore, the need for an appropriate legislation which covers the aforementioned subject matter is inevitable.

In May 2008, SOLAS was amended particularly to add to Chapter XI-1 (Special measures to enhance maritime safety) a new Regulation 6 (Additional requirements for the investigation of marine casualties and incidents) which provides that the provisions of parts I and II of the Casualty Investigation Code shall be fully complied with and 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.¹¹ This amendment entered into force on 01 January 2010.¹²

The Philippines, having acceded to the SOLAS, MARPOL and Load Lines Convention and not entering its objections to the aforementioned SOLAS amendment¹³ is bound to implement into its own domestic law the provisions of the Casualty Investigation Code, which was created pursuant to the aforementioned International Conventions.

¹¹ "Applicable IMO instruments on casualty matters" <<http://www.imo.org/OurWork/Safety/Implementation/Casualties/Pages/Applicable-IMO-instruments-on-casualty-matters.aspx>> 6 March 2013.

¹² "SOLAS 1974: Brief History - List of amendments to date and where to find them" <<http://www.imo.org/KnowledgeCentre/ReferencesAndArchives/HistoryofSOLAS/Documents/SOLAS%201974%20-%20Brief%20History%20-%20List%20of%20amendments%20to%20date%20and%20how%20to%20find%20them.html#2008may>> 6 March 2013.

¹³ "Status of multilateral Conventions and instruments in respect of which the International Maritime Organization or its Secretary-General performs depositary or other functions as of 31 January 2013" <<http://www.imo.org/About/Conventions/StatusOfConventions/Documents/Status%20-%202013.pdf>> 6 March 2013.

In addition, the Philippines policy of harmonizing its domestic laws with the provisions of the 1982 UNCLOS is a realization in the near future with the enactment of the Philippine Baselines Law¹⁴ in 2009 as the starting point, the passage of Senate Bill No. 2737 (Philippine Maritime Zones Act) and Senate Bill No. 2738 (The Philippine Archipelagic Sea Lanes Act) as the foundation and the proposed Accident Reporting and Marine Safety Investigation Act of 2013 as the logical consequence of the passage of the aforementioned Senate Bills.

The Philippines must ensure to provide the necessary resources to achieve compliance with the provisions of the 1982 UNCLOS including establishing the proper institutional and legal framework to incorporate the Casualty Investigation Code, because this is an obligation which the Philippines undertook when it ratified 1982 UNCLOS together with the above-mentioned multilateral conventions.

On 10 December 2009, the 19th ASEAN Maritime Transport Working Group Meeting was held in which the Philippines was a signatory in the Memorandum of Understanding (MOU) on Cooperation Relating to Marine Casualty and Marine Incident Investigation represented by the Undersecretary for Maritime Transport, Department of Transportation and Communications. In the absence of a legally recognized marine safety investigating Authority in the Philippines, the designated Authority responsible for the implementation of the aforementioned MOU was the Maritime Industry Authority (MARINA). MARINA is the regulatory agency in the Philippines tasked to promulgate safety regulations and has the primary function of ship registration.

The aforementioned MOU provides for the areas of cooperation between Participating Parties subject to the terms of the said MOU and the extent permitted by the applicable national laws, rules, regulations and national policies. The areas of cooperation includes assistance and use of marine safety investigation manpower, facilities and equipment, general and specialist marine safety investigation courses and training, sharing of relevant information where it is necessary or desirable to do so for transport safety purposes and sharing of full marine safety investigation reports where there are important lessons to be learned in the conduct of marine safety investigations into marine casualties and marine incidents.

¹⁴ Republic Act No. 9522.

On 12 February 2010, RA No. 9993 was signed into law. Through Section 3 para j, the PCG has retained the function of investigating maritime accidents. The Implementing Rules and Regulations of RA No. 9993 was promulgated on 19 April 2011.

First and foremost it must be noted that PCG has other functions other than casualty investigation and that RA No. 9993 must be read as a whole. Section 3, RA No. 9993 provides for the following PCG enforcement functions:

(a) To enforce regulations in accordance with all relevant maritime international conventions, treaties or instruments and national laws for the promotion of safety of life and property at sea within the maritime jurisdiction of the Philippines

(l) To assist in the enforcement of laws on fisheries, immigration, tariff and customs, forestry, firearms and explosives, human trafficking, dangerous drugs and controlled chemicals, transnational crimes and other applicable laws within the maritime jurisdiction of the Philippines;

(n) To enforce laws and promulgate and administer rules and regulations for the protection of marine environment and resources from offshore sources of pollution within the maritime jurisdiction of the Philippines

PCG's law enforcement function entails the discovery of violations of the laws, rules, regulations and imposition of appropriate penalties, an undertaking which the PCG is task to enforce. Indeed as a matter of discovering violations of laws, investigation and initial filing of complaint before courts of law are part of PCG's law enforcement function.

On the other hand, a closer reading of Rule 3(j) 1 of the IRR of RA No. 9993 provides that the Philippine Coast Guard (PCG) through the Office of the Board of Marine Inquiry (BMI) is the marine casualty investigating authority of the Philippines. Rule 3(j) 2 further provides that the conduct of marine casualty investigation shall conform to the international standards as recommended by the Casualty Investigation Code (CSC) of the International Maritime Organization (IMO). It can be gleaned from the aforementioned provisions of the IRR of RA No. 9993 that the intention was to establish a marine safety investigation authority within the

Philippine Coast Guard. However, it must be noted that from its inception that the investigation conducted by the PCG through the BMI is an administrative one.

Chapter 1 of the Casualty Investigation Code provides the following provisions:

*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.*

*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.*

Therefore, reconciling the casualty investigation function of the PCG with its enforcement function under RA No. 9993 is a complicated matter for adhering to the Casualty Investigation Code cannot be done without infringing the enforcement function of the PCG because enforcement always entails discovering violation of laws and imposition of penalties. Furthermore, imposing marine safety investigation function on either the PCG, as the law enforcement agency or MARINA, as the regulatory agency would be inconsistent with the principles embodied in the Casualty Investigation Code and existing domestic practice.

This is the reason why the existing Philippine legislation and its corresponding regulation pertaining to casualty investigation reveals that it only partially complied with the mandatory standards as set out in the Casualty Investigation Code. Partial compliance of the Code defeats its very objective of setting out a common approach for States to adopt in the conduct of marine safety investigations into marine casualties and marine incidents.

Presently, RA No. 9993, specifically Section 3 (j) which empowers the Philippine Coast Guard to conduct a marine casualty investigation is the only existing primary legislation pertaining to the subject matter. It is of the author's view that this is not sufficient to establish the proper institutional and legal framework of marine safety investigation in the Philippines. There should be an independent and separate marine safety investigation Authority separate from transport regulators, service providers, and policy makers to conduct a systematic safety investigation focusing on safety issues and identifying the unsafe conditions that contributed to the accident. In addition, the corresponding Implementing Rules and Regulations of RA No. 9993 does not cover the following mandatory standards:

a. Accident Reporting

Rule 3 (j) 7 of the IRR of RA 9993 which requires submission of Marine Protest within 24 hours upon the occurrence of any marine accident is inadequate provision for the requirement of accident reporting under the Casualty Investigation Code because it does not prescribe the format and content of the report. It is the author's view that this should be included in the domestic legislation to achieve the purpose of uniformity of approach in the marine safety investigation.

b. Notification to Substantially interested State(s)

IRR of RA 9993 does not prescribe sending of notices to the substantially interested State(s) during the commencement of the marine safety investigation as intended in Chapter 5 of the Casualty Investigation Code. Aforementioned regulation only provides for publication, submission of the final report to the IMO and the substantially interested State(s) when the investigation process is already terminated. The author is of the view that this impairs the possibility of parallel investigation and cooperation between the marine safety investigating State and substantially interested State(s) provided under Chapter 9 and 10 of the Casualty Investigation Code.

c. Marine safety investigation Authority and its Responsibilities

In the Philippines, Rule 3 (j) 1 of the IRR of RA 9993 establishes the Philippine Coast Guard, to be the country's maritime casualty investigating Authority. However, the same legislation

does not prescribe the responsibilities of the Philippine Coast Guard as a marine safety investigation Authority.

d. Nature of Investigation

Aforementioned IRR states in general terms that the conduct of maritime casualty investigation shall conform to the Casualty Investigation Code however it did not categorically state the nature of the marine safety investigation as envisioned in Chapter 1 of said Code that marine safety investigation do not seek to apportion blame or determine liability but is conducted with the objective of preventing marine casualties and marine incidents in the future.

e. Legal Framework for Parallel Investigation and Cooperation

The existing domestic law does not provide a legal framework for parallel investigation and cooperation between marine safety investigating State and substantially interested State(s) in accordance with Chapter 9 and Chapter 10 of the Casualty Investigation Code.

f. Obtaining Evidence From Seafarers

It is also noteworthy to mention that Resolution A.987 (24) regarding the Guidelines on fair treatment of seafarers in the event of a maritime accident was adopted by both the International Maritime Organization (IMO) and the International Labour Organization (ILO) pursuant to and in anticipation of the Maritime Labour Convention (MLC) coming into force on 20 August 2013.¹⁵ In relation to this the Casualty Investigation Code was crafted in a way to comply with the aforementioned Resolution. The Philippines, as a seafaring nation is among those who ratified the Maritime Labour Convention on 20 August 2012. The existing law does not provide provisions regarding the treatment of seafarers in the event of a maritime accident. Thus, there is a need to include these provisions of the Casualty Investigation Code in the proposed Accident Reporting and Marine Safety Investigation Act as part of the Philippines' compliance with the Maritime Labour Convention (MLC).

¹⁵ "Maritime Labour Convention", <<http://www.ilo.org/global/standards/maritime-labour-convention/lang--en/index.htm>>, 15 November 2012.

g. Marine Safety Investigation Reports

The existing legislation does not provide provision on the submission of draft report to the substantially interested State(s) pursuant to Chapter 13 of the Casualty Investigation Code.

Lastly, accident investigation is equally important as setting maritime safety standards. As previously mentioned, they go hand in hand with each other. Safety recommendations are the significant instruments in addressing deficiencies in the safety policies and as above-mentioned marine safety investigation Authority should have functional independence from the regulatory agency to achieve more or less accurate findings of safety investigation.

The proposed legislation will strengthen and provide the institutional and legal framework for marine casualty investigation in the Philippines. It will also address the deficiencies in the existing domestic legislation regarding Accident Reporting and Marine Safety Investigation in the Philippines. Through the aforementioned proposed legislation, the Philippines will be able to comply with its obligations to cause an inquiry into every marine casualty or incident of navigation whether on the high seas, exclusive economic zone or territorial sea.

4. The Process of Drafting and Enacting the New Philippine Accident Reporting and Marine Safety Investigation Act Incorporating the Casualty Investigation Code

The Philippines is a dualist State as it requires enactment of an enabling law to bind the domestic courts and the citizens. Article VII, Sec. 21 of the Philippine constitution provides:

Section 21. No treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the Members of the Senate.

Section 7 of Executive Order No. 459 series of 1997 mandates that after the treaty has been signed by the Philippine representative, the same shall be transmitted to the Department of Foreign Affairs. The Department of Foreign Affairs shall then prepare the ratification papers and forward the signed copy of the treaty to the President for ratification. After the President has ratified the treaty, the Department of Foreign Affairs shall submit the same to the Senate for concurrence. Upon receipt of the concurrence of the Senate, the Department of Foreign Affairs shall comply with the provisions of the treaty to render it effective.

Furthermore, Philippine laws require that international convention (or treaty) should first be published before the same could be effective. The New Civil Code of the Philippines provides:

Art. 2. Laws shall take effect after fifteen days following the completion of their publication in the Official Gazette, unless it is otherwise provided. This Code shall take effect one year after such publication.

The process of incorporating the Casualty Investigation Code would be through enactment of a new legislation. This mode of drafting was chosen by the author to achieve a more coherent style in writing and design appropriate to incorporate the mandatory standards of the Casualty Investigation Code.

Article VI, Section 1 of the 1987 Philippine Constitution provides that the legislative powers shall be vested in the Congress of the Philippines which shall consist of a Senate and a House of Representatives, except to the extent reserved to the people by the provision on initiative and referendum. The legislative process in the Philippines commences with the preparation of

the bill which may be introduced in the House of Representatives or the Senate. Before a bill becomes a law, the bill shall undergo three separate readings on separate days.¹⁶ On the First Reading, only the title and number of the bill is read, and then, it is referred to the appropriate committee. The committee studies the bill and conducts hearings on it. On Second Reading, the committee report on the bill is subject to debate and amendment before being placed in the Third Reading Calendar for final passage. Finally, on the Third Reading, the engrossed bill is put to a vote whether to approve it or not, at this stage no amendment on the bill is allowed. After its passage by one house, the bill goes through the same process in the other house. If amendments are made in one house, the other house must concur. When the bill is passed by both houses, it is signed by their respective leaders and sent to the President for approval. The President may sign the bill into a law, or veto all or part of it. The bill becomes a law if, within thirty (30) days after receiving it, the President fails to sign. The bill, even if vetoed by the President, also becomes a law when Congress overrides the veto by a two-thirds vote of all its Members.¹⁷

¹⁶ Article VI, Section 26 paragraph 2, 1987 Philippine Constitution.

¹⁷ Article VI, Section 27, 1987 Philippine Constitution.

5. Explanation of the Draft Law

The proposed Accident Reporting and Marine Safety Investigation Act of 2013 will provide a clear institutional and legal framework which reflects the Philippines full compliance to the mandatory standards and adopting most of the recommended practices as far as practicable of the Casualty Investigation Code. The creation of the Maritime Transportation Safety Office (MTSO) is an innovation in this proposed legislation, which will once and for all address issues regarding the marine safety investigation Authority in the Philippines, which should be independent and different from the regulating agency. However, since the same Office is concerned about the safety of transportation, the author is of the view that the MTSO should be an agency attached to the Department of Transportation and Communications for reason of administrative expediency. The Maritime Transportation Safety Office will serve as the check and balance of the effectiveness of the safety regulations issued by MARINA and the enforcement measures of the PCG and as coordinating agency with the DOTC for issuance of marine transportation safety policies. The establishment of the Maritime Transportation Safety Office will follow the trend of the major maritime states and this will keep the Philippines in tune with the typical regime of which the rest of the maritime nations have followed. This shall be specifically dealt with under Chapter II of the proposed Act.

It is emphasized that the aforementioned legislation is enacted to serve as the main legislation on the matter without however repealing RA No.9993. The power of the Philippine Coast Guard to conduct a marine casualty investigation is neither diminished nor impaired by the enactment of the new law and this would be expressly provided in Section 29 of the proposed legislation. The Philippine Coast Guard shall continue to exercise its function of marine casualty investigation first by conducting a preliminary investigation in any case of marine casualties pursuant to Section 25 of the proposed legislation and secondly, at the request of the Maritime Transportation Safety Office (MTSO) or if the same office does not conduct an investigation, the Philippine Coast Guard has the existing mandate to conduct the same pursuant to Section 30 of the proposed legislation. In any event, duplication of report should be avoided thru appropriate coordination and cooperation of the Philippine Coast Guard and Maritime Transportation Safety Office (MTSO). The Maritime Transportation Safety Office (MTSO) shall be regarded as the Marine Safety Investigation Authority as defined in the Casualty Investigation Code and for this purpose Rule 3 (j) 1 of the IRR of RA No. 9993 should be amended accordingly while the rest of the provisions of the RA No. 9993 and its

IRR will supplement the proposed legislation. This shall be expressly provided in Section 16 read together with Section 30 of the proposed Act.

Having discussed the main features of the proposed legislation as mentioned above, the chapters of the proposed Act are briefly described as follows:

Chapter I pertains to the general provisions including the definition of terms and scope of application of the proposed Act. Chapter I of the proposed legislation incorporates Chapter 2 (Definitions) of the Casualty Investigation Code.

Chapter II pertains to establishment of the Maritime Transportation Safety Office (MTSO) as discussed above and other administrative matters. In this Chapter, the MTSO is established as the country's marine safety investigation Authority. The establishment of MTSO is in compliance with Chapter 11 of the Casualty Investigation Code.

Chapter III discusses the powers, functions and responsibilities of the Maritime Transportation Safety Board.

Chapter IV incorporates the following substantive provisions of the Casualty Investigation Code into the domestic laws of the Philippines:

- Chapter 1 (Purpose) paragraphs 1.1 and 1.2 is incorporated in Section 20 of the proposed Act;
- Chapter 16 (Principles of Investigation) paragraph 16.4 is incorporated in Section 21 of the proposed Act;
- Chapter 5 (Notification) paragraph 5.4 is incorporated in Section 23 through Annex to the proposed Act;
- Chapter 8 (Power of an Investigation) paragraph 8.1 and Chapter 22 (Collection of Evidence) paragraph 22.1 are incorporated in Section 26 of the proposed Act and
- Chapter 22 (Collection of Evidence) paragraph 22.2 is incorporated in Section 27 of the proposed Act.

Chapter V also incorporates the following provisions of the Casualty Investigation Code into the domestic laws of the Philippines:

- Chapter 6 (Requirement to Investigate Very Serious Marine Casualties) paragraph 6.1 and Chapter 17 (Investigation of Marine Casualties [other than very serious marine casualties] and Marine Incidents) paragraph 17.1 are incorporated in Section 28 of the proposed Act;
- Chapter 20 (Notification to Parties Involved and Commencement of an Investigation) paragraph 20.3 and Chapter 22 (Collection of Evidence) paragraph 22.1 are incorporated in Section 31 of the proposed Act;
- Chapter 12 (Obtaining Evidence from Seafarers) are reproduced in *toto* in Section 34 of the proposed Act;
- Chapter 7 (Flag State's Agreement with Another Substantially Interested State to Conduct a Marine Safety Investigation), Chapter 9 (Parallel Investigations) and Chapter 10 (Co-operation) are incorporated in Section 35 of the proposed Act;
- Chapter 23 (Confidentiality of Information) is incorporated in Section 37 of the proposed Act;
- Chapter 13 (Draft Marine Safety Investigation Reports) and Chapter 14 (Marine Safety Investigation Reports) are incorporated in Section 38 of the proposed Act;
- Chapter 25 (Draft and Final Report) paragraph 25.5 is incorporated in Section 39 of the proposed Act and
- Chapter 26 (Re-opening an Investigation) is incorporated in Section 40 of the proposed Act.

Aforementioned chapters will fill in the gap of the existing legislations as mentioned above. Said chapters will provide provisions on accident reporting, nature of investigations, legal framework for parallel investigation and cooperation, obtaining evidence from seafarers and marine safety investigation reports.

Chapter VI deals with the final provisions of the proposed Act including repealing clause and commencement date of effectivity.

For the purpose of clarity or ease of reference Annex 1 is appended to Section 23 of the draft law while Annex 2 is appended to Section 38 of said law.

The design of the proposed Act is the conventional practice of legislative drafting in the Philippines, outlined as follows:

Long Title: An Act to Incorporate The Code of International Standards and Recommended Practices for a Safety Investigation Into a Marine Casualty or Marine Incident (Casualty Investigation Code) into the Laws of the Philippines

Chapter I - General Provisions

Section 1. Title

Section 2. Declaration of Policy

Section 3. Definition of Terms

Section 4. Scope of Application

Chapter II - Organization of Authority

Section 5. Creation of the Authority

d. Establishment of the Authority of Director General as Head

e. Responsibility of the Director-General

f. Qualifications of the Director-General

Section 6. Composition

Section 7. Ranks and Emoluments

Section 8. Board Meetings

Section 9. Per Diems

Section 10. Quorum and Decision –making

Section 11. Board Secretariat

Section 12. Removal from Office

Section 13. Prohibition from Holding Other Government Offices

Section 14. Funding

Section 15. Schedule of fees and charges

Chapter III - Powers, Functions and Responsibilities of the Maritime Transportation Safety Board

Section 16. Powers, Functions and Responsibilities of the Maritime Transportation Safety Board

Section 17. Issuance of rules and regulations

Section 18. Setting of Charges and Fees

Section 19. Limitation of Powers

Chapter IV - Accident Reporting

Section 20. Objective and Nature of Investigation

Section 21. Priority of Investigation

Section 22. Duty to Report Accidents

Section 23. Format and Content (Schedule)

Section 24. Report of Accident Involving Foreign Ships

Section 25. Preliminary Investigation by the Coast Guard

Section 26. Duty to Preserve Evidence

Section 27. Access to Ship pending Investigation

Chapter V- Marine Safety Investigation

Section 28. Investigation of Accidents

Section 29. Relation to Coast Guard Marine Investigation regulation and procedures

Section 30. Coast Guard Marine Casualty Investigation for the Maritime Transportation Safety Office

Section 31. Ordering of Safety Investigation

Section 32. Scope of Investigation
Section 33. Conduct of Investigation
Section 34. Obtaining Evidence from Seafarers
Section 35. Cooperation with other States
Section 36. Service of Documents
Section 37. Confidentiality and Disclosure of Information
Section 38. Reports of Safety Investigations
Section 39. Recommendations to Prevent Future Accidents
Section 40. Subsequent or Re-opened Investigation
Section 41. Finality of Findings
Section 42. Publications
Section 43. Penalties

Chapter VI - Final Provisions

Section 44. Implementing Rules and Regulations
Section 45. Separability Clause
Section 46. Repealing Clause
Section 47. Effectivity

THE DRAFT LAW

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
Second Regular Session

House Bill No. _____

Introduced by:

AN ACT TO INCORPORATE THE CODE OF INTERNATIONAL STANDARDS AND RECOMMENDED PRACTICES FOR A SAFETY INVESTIGATION INTO A MARINE CASUALTY OR MARINE INCIDENT (CASUALTY INVESTIGATION CODE) INTO THE LAWS OF THE PHILIPPINES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER I

GENERAL PROVISIONS

Section 1. *Title.* – This Act shall be known as “Accident Reporting and Marine Safety Investigation Act of 2013.”

Section 2. *Declaration of Policy.*- It is hereby declared the policy of the State to provide safe and efficient maritime transportation in the Philippines by providing for the creation of Maritime Transportation Safety Office with jurisdiction over safety investigation of maritime accidents which shall be carried out promptly and effectively, with a view to preventing as far as possible a recurrence of such accidents, and institution of measures that provide for mechanisms, rules and procedures for the investigation of maritime accidents.

The State recognizes its duty to cooperate with international maritime safety agencies and shall adhere to its undertakings with the International Maritime Organization and other substantially interested States.

Section 3. *Definition of Terms.*- For the purposes of this Act, the following definition of terms shall apply:

- (a) “access” – refers to the process of embarking on or disembarking from a ship by whatever means employed;
- (b) “accidents” – refers to marine casualty or marine incidents;
- (c) “Authority” – means Maritime Transportation Safety Office;
- (d) “Board” – means Maritime Transportation Safety Board;
- (e) “coastal State” – means a State in whose territory, including its territorial sea, a marine casualty or marine incident occurs;
- (f) “disabled”- refers to a condition in which the ship is not under command for a period of more than twelve (12) hours, or for any lesser period if, as a result, the vessel needs assistance to reach port;
- (g) “DOTC” – means Department of Transportation and Communications;
- (h) “exclusive economic zone” - means the exclusive economic zone as defined by article 55 of the 1982 United Nations Convention on the Law of the Sea;
- (i) “flag State” - means a State whose flag a ship is entitled to fly;
- (j) “hazardous incident” - any event, other than an accident, associated with the operation of a ship which involves circumstances indicating that an accident nearly occurred;
- (k) “high seas” - means the high seas as defined in article 86 of the 1982 United Nations Convention on the Law of the Sea;
- (l) “IMO Code” – refers to the Code of International Standards and Recommended Practices For a Safety Investigation Into a Marine Casualty or Marine Incident (Casualty Investigation Code) Resolution MSC.255 (84) adopted on 16 May 2008;
- (m) “IMO” refers to the International Maritime Organization;
- (n) “incapacity” – refers to the inability to undertake the full range of activities normally undertaken;
- (o) “interested party” - refers to an organization or individual who, as determined by the investigator has significant interests, rights, or legitimate expectations with respect to the outcome of an informal investigation carried out by the investigator;

- (p) “investigators” – refer to persons appointed by the Maritime Transportation Safety Office duly qualified to conduct an investigation of a marine accident;
- (q) “major injury” – refers to any fracture, other than to a finger, thumb or toe; any loss of a limb or part of a limb; dislocation of the shoulder, hip, knee or spine; loss of sight, whether temporary or permanent; penetrating injury to the eye; or any other injury leading to hypothermia or to unconsciousness, requiring resuscitation, or requiring admittance to a hospital or other medical facility as an in-patient for more than twenty four (24) hours;
- (r) “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;
- (s) “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;
- (t) “marine safety investigation” – refers to an investigation or inquiry into a marine casualty or marine incident, conducted with the objective of preventing marine casualties and marine incidents in the future; such investigation includes the collection and analysis of evidence, the identification of causal factors, and the making of safety recommendations as necessary;
- (u) “marine safety investigation Authority” – refers to Maritime Transportation Safety Office as established under this Act;

- (v) “marine safety investigation report” - means a report that contains:^[L]_[SEP]
- (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;
 - (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;
- (w) “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;
- (x) “owner” – refers to the person registered as the owner of the ship; or who assumes the operation of the ship; or, in the absence of registration, the person or persons owning the ship; or the bareboat charterer of the ship; and, in the case of a ship owned by a State and operated by a company which in that State is registered as the ship’s operator, “owner” shall mean such company;
- (y) “Philippine ship” – refers to a ship registered under laws of the Philippines and entitled to fly its flag wherever the ship may be found; or any coastal or sea-going ship for which a certificate of Philippine registry or a certificate of public convenience has been issued; or a ship that is not registered under the law of any State but is eligible for registration in the Philippines under this Act;

- (z) “Philippine waters” – refers to any part of the sea falling under the sovereignty or jurisdiction of the Philippines, including its port areas, internal waters, archipelagic waters, and territorial waters, as defined by national and international law; the term may, in certain cases, also include the exclusive economic zone;
- (aa) “pleasure vessel” – refers to a ship that is used, or intended to be used, wholly for recreational or sporting activities, whether or not the ship is chartered, or intended to be chartered, for hire;
- (bb) “preliminary investigation” - means a preparatory evaluation by the investigator(s) which is intended to establish the likely causes and circumstances of an accident with a view to deciding whether or not a formal investigation should be undertaken;
- (cc) “seafarers” – refer to any person who is employed, or engaged, or works in any capacity on board a ship;
- (dd) “senior surviving officer” - refers to the senior surviving officer in the deck department and if there is no surviving officer in the deck department, the senior surviving engineer officer;
- (ee) “serious casualty” – refers to a casualty which does not qualify as a very serious casualty and which usually involves:
 - (1) A fire, explosion, grounding, contact, heavy weather damage, ice damage, hull cracking or suspected hull defect, or similar damage;
 - (2) Structural damage rendering this ship unseaworthy, such as penetration of the hull underwater, immobilization of the main engines, or extensive accommodation damage;
 - (3) Pollution, regardless of quantity, or
 - (4) A breakdown necessitating towage or shore assistance;
- (ff) “serious injury” - refers to any injury, other than a major injury, to a person employed or carried in a ship which occurs on board or during access which results in incapacity for more than three (3) consecutive days excluding the day of the accident, or as a result of which the person concerned is put ashore and the ship sails without that person, unless the incapacity is known or advised to be of three (3) consecutive days or less, excluding the day of the accident;
- (gg) “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.

- (hh) “ship’s boat” – includes a life-raft, a painting punt and any boat normally carried by a ship;
- (ii) “substantially interested State” - means a State that conforms to at least one of the following conditions:
 - (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);
- (jj) “territorial sea” - means territorial sea as defined by Section 2 of Part II of the 1982 United Nations Convention on the Law of the Sea;
- (kk) “very serious marine casualty” - means a marine casualty involving the total loss of the ship or a death or severe damage to the environment;
- (ll) “voyage data recorder” – refers to the electronic or mechanical equipment which may be installed on a ship to record key navigational and control information.

Section 4. *Scope of Application.* – This Act shall apply to accidents that:

- (a) involve or occur on board any ship registered in the Philippines or
- (b) any other ship within Philippine waters at the time of the accident; or
- (c) involve other substantial interests of the Republic of the Philippines in relation to the conditions referred to in sub-paragraph (ii) of the preceding Section.

Accidents involving solely Philippine Navy ships and other maritime and water vessels of the Armed Forces of the Philippines, the Philippine Coast Guard, and the Philippine National Police and other State owned ships used for non-commercial service shall be excluded from the provisions of this Act; *Provided*, that if the accident shall involve a non-military or non-police vessel, the provisions of this Act shall apply.

CHAPTER II

ORGANIZATION OF AUTHORITY

Section 5. *Creation of the Authority.* - There is hereby created an independent sectoral office charged with investigating every marine accidents in the Philippines to be known as the Maritime Transportation Safety Office (MTSO), hereinafter referred to as the "Authority" attached to the Department of Transportation and Communications (DOTC) for the purpose of policy coordination. The MTSO shall be the country's marine safety investigation Authority.

Notwithstanding the foregoing, nothing in this Act shall diminish the powers and functions of the Philippine Coast Guard (PCG) as provided for under Republic Act. No. 9993, also known as "*Philippines Coast Guard Law of 2009*".

(a) Establishment of Authority Headed by a Director General - The Authority shall be headed by a Director General, referred to in this Act as the "Director General," who shall be appointed by the President of the Philippines and shall be responsible for the administration of this Act. The Director General shall be appointed based on the qualifications herein provided and shall have a tenure of office for a period of four (4) years. His appointment may be extended for another non-extendible term of four (4) years and shall only be removed for cause in accordance with the rules and regulations prescribed by the Civil Service Commission.

(b) Responsibility of the Director General - The Director General shall be responsible for the exercise of all powers and the discharge of all duties of the Authority and shall have control over all personnel and activities of the Authority.

(c) Qualifications of the Director General. - No person shall be appointed or designated as the Director General unless he is a Filipino citizen, at least thirty-five (35) years of age, of good moral character, unquestionable integrity, recognized competence and a degree holder with at least five (5) years supervisory or management experience in the field of maritime transportation.

Section 6. *Composition of the Board Members.* – The powers and functions of the Authority shall be vested in a Board, which is composed of seven (7) members:

- (a) The Secretary of the Department of Transportation and Communications who shall act as chairman *ex officio*;
- (b) The Director General of Maritime Transportation Safety Office who shall act as the vice chairman of the Board;
- (c) Two (2) duly licensed Master Mariners of the Philippine Merchant Marine;
- (d) One (1) duly licensed Chief Marine Engineer of the Philippine Merchant Marine;
- (e) One (1) member of the Philippine Bar;
- (f) One (1) duly licensed Naval Architect;
- (g) One (1) expert in marine safety investigations.

The members listed under subsection (c) to (g) shall be appointed by the Secretary of the Department of Transportation and Communications upon the recommendation of the Director General for a fixed term of six (6) years. The Director General shall automatically act as the Chairman of the Board in the absence of the Secretary of the Department of Transportation and Communications. For this purpose, the Secretary of the Department of Transportation and Communications shall designate a Vice-Chairman. The Chairman shall be the chief executive officer of the Board, who shall exercise the executive and administrative functions thereof, including the power to appoint, promote, and discipline the personnel of the Secretariat. The Vice-Chairman shall act as Chairman in the event of absence or incapacity of the Chairman.

Section 7. *Rank and Emoluments.* - The Chairman shall have the rank, emoluments and privileges of an Undersecretary of a Department. The remaining Members shall have the rank, emoluments and privileges of an Assistant Secretary.

Section 8. *Board Meetings.* - The Board shall meet regularly once a month and may hold special meetings to consider urgent matters upon call of the Chairman or upon the initiative of four (4) members. Internal rules of procedure in the conduct of Board meetings shall be as prescribed by the Board.

Section 9. *Per Diems.* - The members of the Board shall receive a *per diem* for each meeting actually attended. The *per diems* of the members of the Board shall be subject to compliance of the guidelines duly existing and applicable by the Commission on Audit.

Section 10. *Quorum and Decision-Making.* - Four (4) members of the Board shall constitute a quorum for the taking of any action or making of any decision. Decisions shall be taken by a vote of a simple majority of the members present and participating in the meeting for the purpose.

Section 11. *Board Secretariat.* - The Board shall have a Secretariat to be headed by an Executive Director who shall be appointed by the Secretary of the Department of Transportation and Communications upon the recommendation of the Chairman. The Executive Director shall have the following functions and responsibilities:

- (a) Provide technical and administrative support;
- (b) Execute and administer the policies and decisions of the Board;
- (c) Manage the day-to-day operations thereof.

Section 12. *Removal from Office.* - A Member of the Board may be removed by the President for inefficiency, neglect of duty, malfeasance in office, or any other legal cause under existing laws.

Section 13. *Prohibition from Holding Other Government Offices.* - No member of the Board shall hold concurrently any other government office or position, or be employed in any government-owned or controlled corporation, or any private business enterprise whose interest may be in conflict with the Board's functions and duties.

Section 14. *Funding.* – The Secretary of the DOTC shall immediately prepare the necessary guidelines to cover the establishment of the Maritime Transportation Safety Office as a sectoral office attached to the DOTC. Funding for the initial organization and operation of the Board and the Secretariat shall be initially sourced from the Office of the President. Thereafter, the budget for its continued operations shall be included in the General Appropriations Act.

Section 15. *Schedule of Fees and Charges.* - The Authority shall adopt and publish its schedule of fees and charges. The Authority shall hold such public hearings or consultative meetings with stakeholders in the industry before adapting its schedule of fees and charges. The Authority shall not revise its schedule of fees and fines more often than once every three (3) years.

CHAPTER III

POWERS, FUNCTIONS AND RESPONSIBILITIES OF THE MARITIME TRANSPORTATION SAFETY BOARD

Section 16. *Powers, Functions and Responsibilities of the Board.* - The Board shall have the following powers, functions and responsibilities:

- (a) Establish procedures on marine accident reporting, marine safety investigation and analysis;
- (b) Conduct investigations of marine casualty and marine incidents;
- (c) Analyze and recommend proper actions on critical safety issues and concerns;
- (d) Publish results of its investigation in the interest of maritime transport safety;
- (e) Recommend the establishment of new maritime safety legislation, rules and regulations and maritime transportation system procedure based on accident investigations, special studies and actual incidents;
- (f) Exercise such other powers, functions, and responsibilities as may be mandated in this Act.

Section 17. *Issuance of Rules and Regulations.* - The Board, in consultation with the Director General, shall issue and provide for the enforcement of such orders, rules and regulations as

may be necessary to give effect to the provisions of this Act. All rules and regulations issued in accordance with the provisions of this Act shall be formally promulgated and periodically reviewed and updated in accordance with the requirements of the Administrative Code of the Philippines or any amendment or successor thereto and the Code of International Standards and Recommended Practices For a Safety Investigation Into a Marine Casualty or Marine Incident (Resolution MSC.255 (84)).

Section 18. *Setting of Charges and Fees.* - The Board, after consultation with the Director General, and after public hearing, shall determine, fix, impose, collect or receive reasonable charges, fees, dues or assessments relevant to the exercise of its various functions. All charges and fees shall be formally promulgated in accordance with the requirements of the Administrative Code of the Philippines or any amendment or successor thereto.

Section 19. *Limitation of Powers.* - The Board shall not exercise any power or function not otherwise expressly granted to it under this Act, neither shall the Board exercise, in the first instance, any power or function that properly falls within the authority, jurisdiction, powers or functions of the Director General.

CHAPTER IV

ACCIDENT REPORTING

Section 20. *Objective and Nature of Investigation.* - The sole objective of the investigation of an accident by the Board under this Act shall be the prevention of future accidents through the ascertainment of its causes and circumstances. It shall not be the purpose of an investigation to determine liability, nor to apportion blame, except so far as is necessary to achieve its objective.

Section 21. *Priority of Investigation.* - The conduct of marine safety investigation by the Board under this Act is separate and distinct from any other form of investigation involving civil, criminal and administrative proceedings. Such investigation shall 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.

Section 22. *Duty to Report Accidents.* - When an accident occurs, the following persons associated with the ship shall send a report to the Authority within twenty-four (24) hours, or as soon as is practicable, following the accident and by the quickest means available:

- (a) the master or, if he or she has not survived, the senior surviving officer;
- (b) the ship's owner or his agent, unless he or she has ascertained to his or her satisfaction that the master or senior surviving officer has not already reported the accident in accordance with the preceding subsection;
- (c) a concerned Philippine government office, agency, local government unit, or organization, if becomes aware of an accident.

Section 23. *Information in Marine Casualty Report.* – A person making a report pursuant to Section 22 of this Act, shall in so far as practicable, include the information as may be prescribed by the Board. (Annex 1)

Section 24. *Report of Accidents Involving Foreign Ships.*- Following an accident in Philippine waters involving a ship which is not a Philippine ship, the persons mentioned in Section 22 of this Act shall comply with the requirements of the preceding Section, if requested to do so by, or on behalf of, the Board.

Section 25. *Preliminary Investigation by the Philippine Coast Guard.* –The Philippine Coast Guard conducts the preliminary investigation of marine casualties or marine accidents. The Philippine Coast Guard determines from the preliminary investigation whether:

- (a) The casualty is a very serious marine casualty; or
- (b) Serious marine casualty; or
- (c) The casualty mentioned in sub-paragraph (a) and (b) involves significant safety issues relating to Philippine Coast Guard safety functions, e.g., search and rescue, aids to navigation, vessel traffic systems, commercial vessel safety, etc.

The Philippine Coast Guard notifies the Board of a casualty described in subparagraph (a),(b) and (c) of this section and that a report shall be provided to the Board within fifteen (15) days, giving the findings of such preliminary investigation and stating any measures taken or proposed to prevent a recurrence.

Section 26. *Duty to Preserve Evidence.*- Following an accident involving a Philippine ship, the master or, if he or she has not survived, the senior surviving officer, and the ship's owner shall so far as is practicable ensure that all charts, log books, electronic and magnetic recording and video tapes, including information from a voyage data recorder or recording system relating to the period preceding, during and after the accident, and all documents or other records which might reasonably be considered pertinent to the accident are kept and that no alteration is made on any recordings or entries in them. This duty shall continue until:

- (a) Notification is received from the Board that no investigation is to take place, or that the investigation has been completed;
- (b) Thirty (30) days have passed since the Board received the report of the initial investigation of the accident, and no notice has been sent by the Board that it has decided to have the accident investigated; or
- (c) The Board or the designated investigator has given written notification that the Board no longer requires the evidence.

The Board shall not require a ship to remain in Philippine waters any longer than is reasonably necessary for the collection or preservation, as the case may be, of the evidence mentioned in this section and shall take all reasonable steps to ensure that such evidence is collected or preserved promptly. Investigators should make copies of documents where practicable.

Section 27. *Access to Ship Pending Investigation.* – An investigator may, pending investigation, prohibit persons from gaining access to, or interfering with, any ship, ship's boat or other equipment involved in an accident.

Following an accident, the Board may require the master or, if he or she has not survived, the senior surviving officer, and the ship's owner, to ensure that a ship is accessible within Philippines waters to any investigator of such accident, if it considers it reasonably necessary for the collection or preservation of evidence in connection with any investigation, including preliminary examination, relating to the accident, until the process of collecting or preserving the evidence has been completed to the investigator's satisfaction.

No such requirement under the preceding paragraph shall be made unless the Board has reasonable grounds for concern that if the ship leaves Philippine waters, access to it, to any member of the crew, or to any evidence on Board relating to the investigation may subsequently be denied to Board or any investigator conducting such investigation.

CHAPTER V

MARINE SAFETY INVESTIGATION

Section 28. *Investigation of Accidents.*- The Board may, in exercise of sound discretion, cause the investigation of any marine accident for purposes of promoting and enhancing marine safety. Provided, that in case of very serious marine casualty the conduct of marine safety investigation shall be mandatory. To this end, it may conduct such investigation directly, or by appointing such competent persons as it may determine to be the appropriate investigators of marine accidents.

Section 29. *Relationship to Philippine Coast Guard's marine safety investigation regulations and procedures.* -The Coast Guard's responsibility to investigate marine casualties is not eliminated nor diminished by the provisions of this Act. In those instances where the Board conducts an investigation in which the Philippine Coast Guard also has responsibility under Section 3 (j) of Republic Act No. 9993, the proceedings are conducted independently, however, avoiding duplication as much as possible.

Section 30. *Philippine Coast Guard marine safety investigation for the Board.* – (a) If the Board does not conduct an investigation pursuant to Section 28 of this Act, the Philippine Coast Guard, at the request of the Board, may conduct an investigation under the Act unless there is an allegation of Government misfeasance or nonfeasance.

(b) The Board will request the Philippine Coast Guard to conduct an investigation under paragraph (a) of this section within 48 hours of receiving notice pursuant to Section 25 of this Act.

(c) The Philippine Coast Guard will advise the Board within 24 hours of receipt of a request under paragraph (b) of this section whether the Philippine Coast Guard will conduct an investigation pursuant to Section 3 (j) of Republic Act No. 9993.

(d) The Philippine Coast Guard shall submit a report to the Board after completion of

investigation within sixty (60) days from the occurrence of the marine casualty or marine incident.

Section 31. *Ordering of Marine Safety Investigation.* – Where a report and/or preliminary investigation has been received by the Board in accordance with Section 25 of this Act, the Board shall decide whether or not a marine safety investigation should be carried out and shall notify the interested parties of its decision within fifteen (15) days following receipt of the report.

Before deciding whether an investigation should be carried out and if so, what form it should take, the Board may cause to be obtained such available information as it considers necessary concerning the marine accident and any remedial action taken as a result. Any person mentioned in Section 22 of this Act, as well as any other person who is in possession of relevant information and has been requested to do so, shall provide such information to the best of his or her ability and knowledge.

Public notice that an investigation is to be commenced may be given in such manner as the Board may deem fit, and it may invite any persons to present relevant evidence to the Board or its duly authorized investigators in such a manner and within such a time as is specified in the notice.

A marine safety investigation shall be commenced as soon as possible, but not later than two months after the relevant marine casualty or incident.

Section 32. *Scope of Investigation* - The Board may investigate any accident or expand the scope of an investigation to include any further consequences of an accident, including salvage and pollution aspects, or the conduct of search and rescue operations. In such circumstances, it may conduct an investigation into the further consequences of an accident, which may be separate and distinct from the preliminary investigation. The Board shall identify not only the immediate causal factors but also failures that may be present in the whole chain of responsibility.

Section 33. *Conduct of Investigation.*- The marine safety investigation shall be conducted as follows:

- (a) The investigation shall be conducted at such times and places, and in such manner as may be most conducive to achieving the objectives set out in Section 20 of this Act.
- (b) An investigation shall, if it is necessary, be extended to cover all events and circumstances preceding the accident together with subsequent events and circumstances which in the opinion of the investigators may have been relevant to its cause or outcome.
- (c) The reasonable expenses of appearance by a person required to appear before the investigators shall be paid by the Board.
- (d) Any document, record or information properly required by the Board or its investigators to be produced for the purposes of an investigation (whether onboard the ship involved or otherwise), may be retained by the Board or copies thereof reproduced until the investigation is completed.
- (e) With respect to any investigation where a preliminary investigation has been conducted under Section 25 of this Act, the Board may decide whether it is appropriate for any further investigation into the marine accident, leading to the publication of a report. The Board may subsequently decide to stop the further investigation at any time and shall make its reasons for doing so publicly available.

Section 34. *Obtaining Evidence from Seafarers* . 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.

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:

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

Section 35. *Cooperation with other States.*^[L]~~[SEP]~~(a) A marine safety investigation commenced by the Board or any investigators appointed by the Board under Section 28 of this Act shall, where appropriate, be conducted in cooperation with another Substantially Interested State.

(b) A Substantially Interested State shall be allowed to participate in a marine safety investigation led by the Board or any investigators appointed by the Board pursuant to Section 28 of this Act at any stage of that investigation by mutual agreement.

(c) Where a marine safety investigation has been commenced, under Section 28 of this Act, the Board or any investigators appointed by the Board and any other Substantially Interested States involved shall agree in the shortest possible time which of them shall lead the marine safety investigation, and the procedures to be adopted for the purposes of such an investigation.

(d) For the purposes of this Act a Substantially Interested State

- (1) has equal rights and access to witnesses and evidence involved in a safety investigation, and
- (2) any representations that it may make to the Board or any other investigators appointed by the Board must be taken into consideration for the purposes of the marine safety investigation.

(e) For the purposes of this Act, paragraph (d)(1) of this Section shall only apply if the Board or any other investigators appointed by the Board is satisfied that the Substantially Interested State will comply with the provisions of Section 37 of this Act.

(f) Where a Substantially Interested State has been allowed to participate in a marine safety investigation and no agreement in accordance with paragraph (b) of this Section has occurred then the Board or any other investigators appointed by the Board and the Substantially Interested States, or both shall:

- (1) conduct parallel safety investigations, and
- (2) exchange evidence and information with each other for the purposes, as far as

possible, of reaching shared conclusions.

Section 36. *Service of Documents.*- Any notice or other document required for the purposes of a marine safety investigation may be served upon any person by:

- (a) Delivering it to that person directly;
- (b) Leaving it at the person's usual or last-known address or place of business, whether in the Philippines or elsewhere;
- (c) Sending it to the person by post at such address; or
- (d) Sending it to the person's address by telex, facsimile, or other means which produces a document containing a text of the communication, or by electronic mail in which case the document shall be regarded as having been served when it is actually sent.

Section 37. *Confidentiality and Disclosure of Information.* – The Board shall ensure that investigator(s) carrying out a marine safety investigation only disclose information from a marine safety record where:

- (a) 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
- (b) as otherwise permitted by the Board.

The Board shall ensure that any marine safety record in its possession is not disclosed in criminal, civil, disciplinary or administrative proceedings unless:

- (a) upon orders of competent courts determining 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
- (b) the substantially interested State which provided the marine safety record to the Board authorizes its disclosure.

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

The Board 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 Board or any other investigators appointed by the Board.

Section 38. *Report of Investigation.* - The Board shall make a report of an investigation into an accident and shall submit it to the Secretary of DOTC for appropriate action. After confirmation of the report by the Secretary of DOTC, a copy of the report shall be sent to:

- (a) the interested parties;
- (b) the appropriate agencies or entities to whom safety recommendations are addressed;
- (c) the IMO – in accordance with the IMO Circular MSC-MEPC.3/Circ.3 of 18 December 2008, *Reports on Marine Casualties and Incidents*;

A copy thereof may also be sent to a Substantially Interested State only if the latter guarantees to not circulate nor cause to circulate, publish, or give access to the same, or any part thereof, without the express consent of the Board, unless it has been previously published.

In cases where there is a Substantially Interested State other than the Philippines, the Board may, prior to finalization of the report, furnish a copy of the draft thereof to the substantially interested State, subject to the condition that the said draft be not released, circulated, or otherwise revealed to the public prior to its finalization. The Board shall invite the Substantially Interested State to submit their comments on the draft report within thirty (30) days from receipt thereof. The Board shall consider such comments, and notify the Substantially Interested State of the manner in which the comments were addressed, before preparing the final report. If no comment thereon has been received within thirty (30) days, the report shall be finalized.

The report shall be made available to the public in the shortest time possible, provided that the interested parties have been previously furnished with the report. The report shall clearly

set out the findings and conclusions relating to the accident. Where the facts cannot be clearly established, analysis and professional judgment as to the cause of the accident, and recommendations for future safety so as to prevent accidents as far as possible, if any, shall be made.

Section 39. *Recommendations to Prevent Future Accidents.* - The Board may, as a result of one or more investigations, whether completed or not completed, at any time make recommendations to the Secretary of DOTC and other appropriate agencies or entities as to how future accidents may be prevented. The recommendations shall be addressed to those persons or agencies which, in the opinion of the Board, are most competent to implement them. Recommendations shall be publicly disclosed. Any person to whom a recommendation is addressed shall, without delay take that recommendation into consideration and officially inform the Board of the concrete actions it has taken regarding such.

The recipient of the recommendation of the Board shall report to the Board details of the measures the person, office or entity has taken or proposes to take if any, to implement the recommendation. In cases where the Board proposes to implement measures, the recommendation shall include the timetable for such implementation. In case when the recipient decides not to implement the measures, he or she or it shall explain why the recommendation was not implemented.

Section 40. *Subsequent or Reopened Investigation.* - Notwithstanding a decision by the Board not to investigate an accident, it may at any later time undertake a marine safety investigation if it is believed there is good reason to do so for public safety. The Board may re-open an investigation if, following its completion, in the opinion of majority of the members of the Board new and important evidence would be discovered that could have a material effect on any safety recommendations made. Any investigation may be re-opened either in whole or in part. Any re-opened investigation shall be subject to and conducted according to the provisions of this Act.

Section 41. *Finality of Findings.* - No person or entity adversely affected by the findings, report, resolution or decision of the Board shall be permitted to challenge such findings, report, resolution or decision.

Section 42. *Publications other than the Reports of Investigations.* – The Board, in its discretion, may publish collective short reports of accidents to promote lessons learned. These reports must not have been previously published.

Section 43. *Penalties.* – Any person, association or corporation who violate any provision of this Act, or the rules and regulations made thereunder, shall commit an offence if:

- (a) a person mentioned in Section 22 (a) and (b) of this Act, fail without reasonable cause to report an accident as required pursuant to the above-mentioned Section;
- (b) a person referred to in paragraph (a) of this Section, fail without reasonable cause to provide information as required by Section 23 of this Act;
- (c) a person who falsely claims to have any additional information or new evidence pertaining to any accident;
- (d) a person who without reasonable cause discloses or permits to be disclosed any information or makes available any documents or records in contravention of Section 37 of this Act,

shall be held liable to an administrative fine of an amount not less than Ten Thousand Pesos (P10,000) but not exceeding Fifty Thousand Pesos (P50,000) to be imposed by the Board. *Provided,* That, in case the violation is committed by an association or corporation, the penalty herein prescribed shall be imposed on the responsible officers or directors thereof: *Provided, finally,* That, nothing in this Act shall prevent the Board from providing administrative penalties for violation of any regulation that it promulgates.

CHAPTER VI

FINAL PROVISIONS

Section 44. *Implementing Rules and Regulations.* - The Board shall adopt rules and regulations to implement the provisions of this Act within one hundred twenty (120) days from the date of its approval.

Section 45. *Separability Clause.* - If for any reason, any provision of this Act is declared unconstitutional or invalid, such parts not affected thereby shall remain in full force and effect.

Section 46. *Repealing Clause.* - All laws, decrees, executive orders, rules and regulations and other issuance's or parts thereof which are inconsistent with this Act are hereby repealed, amended or modified accordingly.

Section 47. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in any two (2) newspapers of general circulation's.

ANNEX 1

MARINE ACCIDENT NOTIFICATION DATA

A person making a report pursuant to Section 23 of this Act, shall in so far as practicable, include the following information:

- (1) The name of the ship and its IMO or official or fishing vessel number;
- (2) Name and address of the owner;
- (3) Name of the master, skipper or person in charge;
- (4) Date and time of the accident;
- (5) Latitude and longitude or geographical position or location in which the accident occurred;
- (6) Part of the ship where the accident occurred, if onboard;
- (7) The weather conditions;
- (8) The name and port registry of any other ship involved;
- (9) The number of people killed or injured, together with their names, addresses, and gender;
- (10) Brief details of the accident, including where known, the sequence of events leading to the accident, the extent of damage, and whether the accident caused pollution or poses a hazard to navigation;
- (11) If the ship is fitted with a voyage data recorder, the make and model of the recorder.

CASUALTY-RELATED MATTERS*

REPORTS ON MARINE CASUALTIES AND INCIDENTS

MSC-MEPC.3/Circ.3

Revised harmonized reporting procedures ñ Reports required under SOLAS regulation I/21 and MARPOL, articles 8 and 12