



IMO

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**An Act of Amendment to the Regulations of China on
the Investigation and Handling of Maritime Accidents**

**A Legislation Drafting Project submitted in partial fulfillment of the
requirements for the award of the Degree of Master of Laws (LL.M.)
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Submitted By: Wang Wei (China)

Supervisor: Mr. Ruben Y. Maceda

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Part A Explanatory Notes

1. The Requirements of International Conventions and Resolutions Relevant to Accident Investigation

Within the international context, there are many Conventions and Resolutions that refer to accident investigation. In this section, United Nations Convention on the Law of the Sea 1982 (UNCLOS), relevant International Maritime Organization (IMO) Conventions and Resolutions will be reviewed briefly. Although some International Labor Organization (ILO) Conventions are concerned with accidents investigation, it should be stress that China did not ratify these Conventions hence they are not included in the scope of this Proposed Act.

1.1 UNCLOS

UNCLOS was ratified by the Chinese government in 1996 and it entered into force in the same year. The rights and obligations of Coastal and Flag States to carry out marine casualty and incident investigation were provided in the provisions of Article 2 and 94 of the UNCLOS.

Article 2 (1) states that “The sovereignty of a coastal State extends, beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea”.

It means that if there is a casualty or incident that occurs within the territorial sea or internal waters of a State, that State has the right as well as the obligation to investigate the said accident.

Article 58(2), (3) and 94 (7) provides the duty of States to investigate marine casualties and incidents that happened out of their territorial seas.

Article 58(2), (3) states that “Articles 88 to 115 and other pertinent rules of international law apply to the exclusive economic zone in so far as they are not incompatible with this Part. In exercising their rights and performing their duties under this Convention in the exclusive economic zone, States shall have due regard to the rights and duties of the coastal State and shall comply with the laws and regulations adopted by the coastal State in accordance with the provisions of this Convention and other rules of international law in so far as they are not incompatible with this Part”.

Article 94 (7) states that “Each State shall cause an inquiry to be held by or before a suitably qualified person or persons into every marine casualty or incident of navigation on the high seas involving a ship flying its flag and causing loss of life or serious injury to nationals of another State or serious damage to ships or installations of another State or to the marine environment. The flag State and the other State shall cooperate in the conduct of any inquiry held by that other State into any such marine casualty or incident of navigation”.

1.2 IMO Conventions

The following IMO conventions specifically require contracting States to undertake and conduct an investigation of any marine casualty or incident.

One of the most important IMO conventions is *the International Convention for the Safety of Life at Sea (1974) (SOLAS)*. The responsibilities of Flag States to conduct investigation were stipulated under the provisions of Chapter I/ Regulation 21. It states:

(a) Each administration undertakes to conduct an investigation of any casualty occurring to any of its ships subject to the provisions of the present Convention when it judges that such an investigation may assist in determining what changes in the present regulations may be desirable.

(b) Each Contracting Government undertakes to supply the organization with pertinent information concerning the findings of such investigations. No reports or recommendations of the Organization based upon such information shall disclose the identity or nationality of the ships concerned or in any manner fix or imply responsibility upon any ship or person.

A similar article can be found in Article 23 of *the International Convention on Load Lines (1966)*.

Article 12 of *the International Convention for the Prevention of Pollution from Ships (1973)*, as modified by the Protocol of 1978 (MARPOL 73/78) provides:

(1) Each Administration undertakes to conduct an investigation of any casualty occurring to any of its ships subject to the provisions of the Regulations if such casualty has produced a major deleterious effect upon the marine environment.

(2) Each Party to the Convention undertakes to supply the Organization with information concerning the findings of such investigation, when it judges that such information may assist in determining what changes in the present convention might be desirable.

It requires each Contracting Government to conduct an investigation of any casualty occurring to any of its ships subject to the provisions of the regulations if such casualty has produced a major deleterious effect upon the marine environment and to supply the Organization with relevant findings.

According to above-mentioned conventions, it is the responsibilities of Flag States and Coastal States to conduct investigations and to supply the Organization with relevant findings.

1.3 IMO Resolutions

With an aim to improve investigation and enhance the cooperation between States, IMO developed several instruments to guide how to effectively conduct investigation and unify the reporting procedure. *The Code for the Investigation of Marine Casualties and Incidents (the Code*

for Investigation) with its amendment (Resolution A. 849(20) as amended by A. 884(21)), provides guidance on the principles for investigation to find the fundamental causes and for the co-operation between interested States. Although these instruments are voluntary for each State to implement, it is strongly suggested by IMO that States should endeavor to implement these soft international laws so as to enhance the marine casualty and incident investigation.

2. New Development in International Legislations

2.1 IMO's Maritime Safety Committee (MSC) Is Considering to Make the Code for the Investigation of Marine Casualties and Incidents Mandatory

The Code for Investigation was adopted by a number of countries as the basis for domestic legislation and in 2002 the European Union mandated that the Code should be adopted by all member States. The Maritime Safety Committee (MSC) at its 80th session in May 2005, noting that the Sub-Committee on Flag State Implementation (FSI) had expressed overwhelming support for the idea of making *the Code for Investigation* mandatory, in full or in part, instructed the FSI Sub-Committee to develop a draft revised Code; to determine whether the revised Code itself or parts

thereof should be made mandatory; and to provide recommendations as to how such a revised code should be made mandatory, in full or in part.¹

2.2 FSI Agrees To Make the Code for Investigation Mandatory

A draft Code of International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (a draft revised Code for Investigation), along with amendments to SOLAS to make it mandatory, were agreed by the Sub-Committee on Flag State Implementation (FSI) when it met for its 15th session.

The new draft code, to replace the existing *Code for Investigation* (Resolution A.849(20), as amended by A.884(21)), and the SOLAS amendments will be submitted to the Maritime Safety Committee (MSC) at its 84th session, in mid-2008, for adoption. The Code requires a marine safety investigation to be conducted into every “very serious marine casualty”. It defined “very serious marine casualty” as a marine casualty involving the total loss of the ship or a death or severe damage to the environment. The Code also recommends an investigation into marine casualties (other than very serious marine casualties) and marine incidents, by the flag State of a ship involved, if it is considered likely that a marine

¹ <http://www.imo.org/>

safety investigation will provide information that can be used to prevent marine casualties and marine incidents in the future. The proposed SOLAS amendments would include a new Regulation 6 in SOLAS Chapter XI-1 (Special Measures to Enhance Maritime Safety), on Additional requirements for the investigation of marine casualties and incidents. Parts I and II of the Code would be made mandatory by the regulation, while related guidance and explanatory material contained in part III would be recommendatory. A draft MSC-MEPC circular containing the draft Code was agreed, for submission to MSC 84 and to the Marine Environment Protection Committee (MEPC) at its 57th session in April 2008, for approval, with the aim of allowing the Code to be implemented voluntarily, until it becomes mandatory under the proposed SOLAS amendments. ²

3. China's Domestic Legislation and Current Practices of the Investigation and Handling of Maritime Accidents

3.1 Domestic Legal Framework

² IMO NEWS magazine, 2007, issue 3, page16

Each State has its own investigation model on the basis of its national legislation and particular situation. Chinese national legislation consists of five types, namely the laws promulgated by the National People's Congress, the laws enacted by the local People's Congress, the regulations promulgated by the State Council, the regulations promulgated by ministries but adopted by the State Council, and the codes promulgated by ministries of the State Council. The priorities among national legislation are the same in the above-presented order. The major national legislation includes *Maritime Traffic Safety Law of the People's Republic of China (1983)*, *Marine Environmental Protection Law of the People's Republic of China (1999)*, *Regulations of the People's Republic of China on the Investigation and handling of Maritime Traffic Accidents (1990)*, *Regulation of the People's Republic of China on the Prevention of Vessel-induced Sea Pollution (1983)* and *Temporary Code for the Investigation Procedures of Very Serious Accidents (1989)*.

3.1.1 *Maritime Traffic Safety Law*

The Maritime Traffic Safety Law is the most important and fundamental law regulating navigation safety, which aims to strengthen the control of maritime traffic; to ensure the safety of vessels, installations, human life and property; and to safeguard the rights and interests of the

State. The relevant provisions concerning marine casualty and incident investigation are presented in Article 42 and 43. Article 42 states that “the parties involved have the responsibility of submitting a written accident report and relative materials, accepting investigation and handling of the accident and giving a trustful account of circumstances to the competent authorities”. Article 43 stipulates the objectives of accident investigation, which states:

In the event of a traffic accident that involves a vessel or installation, the competent authorities shall ascertain the cause of the accident and determine the responsibility for it.

3.1.2 Marine Environmental Protection Law

The Article 5 of *the Marine Environmental Protection Law* stipulates that any accident producing a deleterious effect upon the marine environment should be investigated by relevant competent authorities.

3.1.3 Regulations on the Investigation and Handling of Maritime Traffic Accidents (the Regulations on Investigation and Handling)

These Regulations are formulated according to the relevant provisions of the Maritime Traffic Safety Law in order to strengthen the control of maritime traffic safety and promptly investigate and settle maritime traffic accidents. The regulation stipulates the requirements for vessels and installations to report accident to the authority, the procedures of investigation, the mediation and the penalty for violations. Since it's the main objective of this paper, a copy is attached as an annex in this paper.

3.1.4 The Regulation on the Prevention of Vessel-induced Sea Pollution

The Regulation is formulated with a view to implement the Marine Environmental Protection Law of the People's Republic of China, preventing sea pollution from ships and maintaining the marine ecological environment. Article 6 concerns with marine pollution accident investigation. It states:

When accidents of pollution occur in the sea areas caused by oil, oil-based mixtures and other toxic substance from vessels, measures shall be immediately adopted to control and eliminate the pollution and a written report shall be made to a nearby Maritime Safety Administration as quickly as possible for investigation and treatment.

3.1.5 The Temporary Code for Investigation Procedures of Very Serious Casualties

The code is to deal with issues relating to very serious casualty investigation. According to the document developed by the former Ministry of Labor of the People's Republic of China, the definition of very serious casualty means the accident which results in loss of 50 lives or above or direct economic damage for ten million RMB³ or above.

Article 16 stipulates the jurisdiction of the competent authorities to investigate very serious casualty. It states that after the occurrence of a very serious casualty, the responsible provinces, autonomous regions or ministries of the State Council will set up an accident investigation team to investigate such casualty.

Article 17 stipulates that the State Council or its delegation department will set up an accident investigation team if the State Council determines that such accident should be investigated by her.

3.2 Current Practices

³ RMB is the currency of PRC

Statistics show that in China more than five hundred maritime traffic accidents occurred annually from 1998 to 2006⁴.

According to relevant provisions of the national legislation above mentioned and administration organization system, China's Maritime Safety Administration (MSA) is in charge of investigating the maritime traffic and pollution accidents caused by vessels or installations in the coastal waters and maritime traffic accidents happening to vessels flying Chinese flag outside the coastal waters, excluding the following:

- (1) Maritime traffic accidents happening in the fishing port waters; or
- (2) Maritime traffic accidents happening between fishing vessels in the coastal waters; or
- (3) Maritime traffic accidents happening involving military vessels in the coastal waters; or
- (4) Very serious marine casualties investigated by the State Council.

It must be noted that the term "maritime traffic accidents" here do not include the accidents to crew members or others who may be involved in the operation of a ship. Historically, such kinds of accidents are classified

⁴ Annual Book of China Maritime Safety Administration, 2006, page 36

as occupational accidents and are investigated by other organizations in China.

For the above listed reasons, *the Regulations on Investigation and Handling* didn't use the term "marine Casualties and Incidents" as used in the international legal instruments but instead it used the term "maritime traffic accidents".

Although some specific maritime accidents are excluded from the scope of the *Regulations on Investigation and Handling*, majority of the marine casualties and incidents have been investigated by China MSA and its subordinate bodies. Under special circumstances, China MSA also invites relevant authorities or other parties to participate in the investigation. It is roughly estimated that more than 80 percent of the total number of marine casualties and incidents are investigated by China MSA.

4. Challenges to Current Investigation Regime and the Necessity of Incorporating the International Legislation by Amending the Existing *Regulations of China on the Investigation and Handling of Maritime Accidents (the Regulations on Investigation and Handling)*

It can be noticed that the majority of the laws and regulations of China (mentioned in section 3) were promulgated before international conventions and *the Code for Investigation* (mentioned in section 1 and 2) were ratified by China, so the work of incorporating the relevant contents of the conventions and the Code is in keen need. There are many limitations in the existing legal regime which hinder competent authorities from achieving the objective of the investigation and adversely affecting the Administration's full and effective implementation of relevant international legislations. An example of this is the multi-functions of the investigation authorities. This has caused conflicts of interests, and some clauses in the national regulations remain too general and not accurate enough. The *Regulations on Investigation and Handling* were promulgated in 1990 and some conventions entered into force after its promulgation. In order to incorporate conventions, the amendment of the *Regulations on Investigation and Handling* has already been taken into consideration several years ago and China MSA is preparing for the Voluntary IMO Member State Audit in 2008. "Marine traffic accidents investigation and handling in China need more strict requirements under this new situation."⁵

⁵ Liu Gongcheng, Executive Director-general of China MSA, A speech on a national conference in 2003.

4.1 Obligations Provided in International Legal Instruments Should Be Fulfilled Accurately

Article 3 of the existing *Regulations on Investigation and Handling* provides that “These Regulations shall apply to the maritime traffic accidents happening to the vessels and installations in the coastal waters of the People's Republic of China”.

Historically, the requirements of international legal instruments (international conventions and IMO resolutions), as well as customary practices, positively affect Chinese marine casualty and incident investigation. They provide rights and duties of coastal states and flag states to investigate certain accidents as above mentioned. According to Article 2(1), 58(2)(3) and 94(7) of the UNCLOS, interested States have different rights and duties in different water areas. Regulation 21 of the SOLAS Convention also provides the obligation of flag States to conduct an investigation of any casualty occurring to any of their ships. In order to fulfill the obligations provided in the conventions, the articles in the UNCLOS and SOLAS should be incorporated in the existing *Regulations on Investigation and Handling* to make the application of the Regulations cover all the areas and issues that the Conventions provided.

4.2 Development of New Technology

The widespread application of new technologies in shipping industry, in particular in the field of information and communication technology (ICT), multifunctional and embedded systems, causes maritime accidents to get more complex. The complexity of accidents also needs that investigators should use advanced investigation methods. For example, according to the newly adopted amendment to SOLAS, certain vessels should be fitted with Voyage Data Recorders (VDRs), a device that collects bridge communication information. The performance standards require that the VDR continuously maintain sequential recorders of preselected data items relating to equipment status and output of the ship's command and control. VDRs provide crucial factual information for accident investigation and play a key role in identifying and addressing causal factors. Apart from extracting data from VDRs, it is important for investigators to use data from VDRs. All these usage of new technology require investigators to have professional background and qualification, and they also should be trained to master this new technology. UNCLOS Article 94 (7) describes investigators as "a suitably qualified person or persons" and 4.7 of the *Code for the Investigation* provides that "Marine casualty investigator means a person or persons qualified and appointed to investigate a casualty, or incident, under procedures laid down in its national legislation

for the furtherance of marine safety and protection of the marine environment". From 2005 all investigators in China MSA should have a particular certificate as evidence of their qualifications and record their trainings programs attended each year. In the amendment of the *Regulations on Investigation and Handling* the author suggests to incorporate the requirement described by the *Code for the Investigation* by adding paragraphs for the qualification, certification, and continuous training of investigators in Article 12.

4.3 International Cooperation

Maritime trade, by their nature, is international. As a particularly interested country, China and its Administration has to actively take part in investigating accidents which involved ships flying its flag but happened in other countries. IMO urges Member Governments to establish an international framework of consultation and co-operation, in particular by concluding bilateral or multilateral agreements with other substantially interested States aiming at facilitating the parties involved in marine casualty investigations. Recently, many Memorandums of Understanding have been signed between neighboring States, in Asia, such as Japan and Korea, in order to facilitate marine casualty and incident investigation. In addition the responsibilities of flag States under the provisions of the

SOLAS (regulation I/21), the Load Lines Convention (article 23) and the MARPOL (article 12) to supply IMO with relevant findings after the investigation. A special article about international cooperation should be inserted in chapter VI of the *Regulations on Investigation and Handling*.

4.4 Changing Investigation Philosophy from Blame-Finding to Cause-Finding

Whilst it would be foolish to suggest that accidents and mistakes can be completely eliminated, it is reasonable to argue on the basis of practical experience that it is possible to reduce significantly the incidence of accidents and mistakes. In order to do this it is necessary to look at accidents and mistakes analytically in some details, as well as stepping back and take a much wider view. A good starting place is the cause of accidents.⁶

Once an accident occurred, many interested parties are involved, including the ship owner, cargo owner, classification society, P&I club and insurance company, etc. These interested parties have their own interests and will carry out investigations from their own perspective. Apart from these private investigations, the legal investigation authorities may react to a marine accident in several ways, namely administrative investigations and

⁶ Jim Bannister, *How To Manage Risk*, Second edition, LLP, London, U.K., 1997, Page 87

judicial/criminal investigations. Administrative investigations are normally conducted in cases where the casualty is accidental, and not as a result of a deliberate or willfully negligent act. Judicial/criminal investigations are most notably for those resulting in extensive pollution or other environmental damage, where the persons allegedly responsible are subject to criminal charges. In China, the nature of investigation by MSA is administrative management. However, it consists of both administrative investigation and technical investigation.

Since 1997 when the IMO Resolution A. 849(20) was adopted States have realized the importance of relying on the principles found in the *Code for the Investigation* of 'independence' and 'no-blame' in marine investigations to gather information and draw conclusions which will help the international maritime community to avoid similar casualties and incidents in the future.

In China it has been gradually accepted by the public that accident investigation is indispensable as a learning tool for safety enhancement. Moreover, dealing with risk has become an aspect in strategic decision-making and prevention of accidents. Investigative philosophy should be changed from blame-finding to cause-finding in order to establish the truth. The organizational structure should ensure that no

outside interests can influence the organization's work. Even other safety interests emerge in particular investigations. MSA can carry out investigation parallel with other organizations, such as the police, and the court etc. The *Regulations on Investigation and Handling* should make provision for a formal separation between the questions who is to blame and what caused the accident? It is important to make this distinction in order to establish the truth. If there is no separation, witnesses appearing before MSA might not be willing to speak out information about the true causes since they may be prevented by self interests and blames. The author suggests amending some articles in chapter IV of the *Regulations on Investigation and Handling* to make the sole aim of the investigator to find the cause of accidents and prevent similar accidents in the future, and other things like determining the responsibilities and meting out penalties should be done by other administrative officials.

4.5 Relationship among Various Forms of Accident Investigations

It is also necessary to clarify the relationship between the investigation conducted by MSA and other bodies on various forms of accident investigation as there is bound to be overlapping of various investigations and procedures. In principle, the investigation by MSA should be an independent one. Article 1.4 of *the Code for the Investigation* provides that:

It is not the purpose of the Code to preclude any other form of investigation, whether for civil, criminal, administrative, or any other form of action, but to create a marine casualty investigation process the aim of which is to establish the circumstances relevant to the casualty, to establish the causal factors, to publicize the causes of the casualty and to make appropriate safety recommendations. Ideally, marine casualty investigation should be separate from, and independent of, any other form of investigation.

Other forms of accident investigation (like criminal and civil investigations) were mixed with the investigation of MSA in article 14 of the *Regulations on Investigation and Handling*, the author prefers that while criminal and civil investigations are legitimate and important processes, such processes do not necessarily serve the cause of safety and should be separate and independent of investigations by MSA. Since there are other form of investigation by court, arbitration etc. to settle the civil disputes and considering the purpose of MSA's investigation is only to find the cause and prevent similar accidents in future, the Chapter V providing mediation of civil dispute over tort liability arising from accidents should be cancelled and Article 14 should be amended according

to the 'independence' and 'no-blame' principle established by the *Code for the Investigation*.

4.6 The Reform of the Competent Authority to Implement the Regulation

Before 1998, the competent authority to implement the Investigation Regulations was called “Harbour Superintendency Administration”. In 1998 there was a reform and a new government department was named “Maritime Safety Administration”. The headquarter of Maritime Safety Administration of China is in Beijing, and it has branches in every port of China. Presently it is the Maritime Safety Administrations who is implementing the *Regulations on Investigation and Handling*. So all the word of “Harbour Superintendency Administration” in the text shall be deleted and replaced by “Maritime Safety Administration”.

Part B

Proposed Act to Amend the Regulations of China on the Investigation and Handling of Traffic Maritime Accidents

ARTICLE 1

All the word of “Harbour Superintendency Administration” in the Regulations shall be deleted and replaced by “Maritime Safety Administration”.

ARTICLE 2

Article 3 Paragraph 1 of the Regulations shall be deleted and replaced by the following text:

These Regulations shall apply to:

- (1) maritime traffic accidents happening to the vessels and installations in the ports along the coast, the internal waters and the territorial sea of the People’s Republic of China and all other water areas under its jurisdiction, and ;
- (2) maritime traffic accidents involving vessels and installations flying Chinese flags.

ARTICLE 3

The following text should be added in Article 12 after Paragraph 1 of the Regulation:

Investigation should be conducted by a person or persons qualified and appointed to investigate an accident under procedures laid down in national legislation for the furtherance of marine safety and protection of the marine environment.

Investigators should be continuously trained and certificated by Maritime Safety Administration of the People's Republic of China.

In conducting investigations, the investigators of Maritime Safety Administration shall display their identifications to the persons being investigated.

ARTICLE 4

Article 13 of the Regulation shall be deleted and replaced by the following text:

If the investigation of a maritime traffic accident so requires, the Maritime Safety Administration may order the vessel(s) involved to sail to the spot for investigation.

A vessel should not be delayed more than is absolutely necessary; the investigation should be started as soon as practicable, without delaying the vessel unreasonably.

Except when it's (their) own safety is in danger, the vessel(s) involved must not leave the said spot without the permission of the Maritime Safety Administration.

ARTICLE 5

Article 14 of the Regulation shall be deleted and replaced by the following text:

If a maritime traffic accident involving vessels or installations gives rise to a civil dispute over tort liability, the parties may bring a suit in a maritime court or apply to a maritime arbitration organ for arbitration.

While judicial investigations are legitimate and important processes, such processes do not necessarily serve the cause of safety and should be separate and independent of investigations provided in these Regulations.

ARTICLE 6

Article 15 of the Regulation shall be deleted and replaced by the following text:

The investigators of the Maritime Safety Administration shall, according to the investigations of maritime traffic accidents, submit a Report on Findings Concerning Maritime Traffic Accidents, in which causes of the accidents shall be ascertained.

The administrative officials other than the investigators shall determine the responsibility of the persons concerned in maritime traffic accidents for violation of administrative rules.

ARTICLE 7

Article 16(5) of the Regulation shall be deleted.

ARTICLE 8

Chapter V Mediation (from Article 20 to Article 28) shall be deleted

ARTICLE 9

The word “the coastal waters” in Article 32 should be deleted and replaced by “the territorial sea”.

ARTICLE 10

The following text is added after Article 33 of the Regulation:

Maritime Safety Administrations shall co-operate with other States with a substantial interest during conducting maritime accident investigations.

The Maritime Safety Administration of the People’s Republic of China should supply the International Maritime Organization with information concerning the findings of investigations according to the requirement of the Organization.

ARTICLE 11

The numbers of the articles of the Regulation shall be adjusted anew and a consolidated text of the Regulations shall be prepared after incorporating relevant amendments.

ARTICLE 12

This Act of Amendment shall be approved by the State Council of the P.R.C. and promulgated by Decree of the Ministry of Communications of the P.R.C. After this process the 1990 Regulations shall be void and the consolidated text of the Regulations shall come into force.

Part C

Consolidated Text of the Regulations after Incorporating Relevant Amendments

REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA ON THE INVESTIGATION AND HANDLING OF MARITIME TRAFFIC ACCIDENTS

(Approved by the State Council of the P.R.C. on _____,

promulgated by

Decree No. _____ Of the Ministry of Communications of the P.R.C. on

)

Chapter I General Provisions

ARTICLE 1

These Regulations are formulated according to the relevant provisions of the Maritime Traffic Safety Law of the People's Republic of China in order to strengthen the management of maritime traffic safety and promptly investigate and settle maritime traffic accidents.

ARTICLE 2

The Maritime Safety Administrations of the People's Republic of China shall be responsible for implementing these Regulations.

ARTICLE 3

These Regulations shall apply to:

- (1) maritime traffic accidents involving vessels and installations in the ports along the coast, the internal waters and the territorial sea of the People's Republic of China and all other water areas under its jurisdiction, and;
- (2) maritime traffic accidents happening to the vessels and installations flying Chinese flags.

If there exist special provisions in state laws and administrative regulations for the investigation and handling of the maritime traffic accidents happening in the fishing port waters or of the maritime traffic accidents happening between fishing vessels or involving military vessels in the territorial seas and internal waters, these special provisions shall prevail.

ARTICLE 4

The maritime traffic accidents referred to in these Regulations mean the following accidents involving vessels and installations:

- (1) Collision, strike or damage by waves;

- (2) Hitting hidden rocks or running aground;
- (3) Fire or explosion;
- (4) Sinking;
- (5) Damage or loss of machinery parts or important tools during a voyage which affects the vessel's seaworthiness;
- (6) Other maritime traffic accidents which cause losses in property and human lives.

Chapter II Report

ARTICLE 5

The person in charge of the vessel and installation which are involved in maritime traffic accidents must report immediately to the Maritime Safety Administration at the nearest harbor by a VHF radio-telephone, radio telegram or other effective means. The content of the reports shall include: name of the vessel or installation, call sign, nationality, port of departure and port of arrival, owners or managers of the vessel or installation, when and where the accident happened and the attending circumstances of the sea, the extent of damage of the vessel or installation, request for salvage, etc.

ARTICLE 6

The person in charge of the vessel and installation which are involved in maritime traffic accidents must, in addition to making brief reports immediately in accordance with the provisions in Article 5, submit the Report Concerning Maritime Traffic Accidents and other necessary documents and materials according to the following stipulations to the Maritime Safety Administration:

(1) If maritime traffic accidents happen to vessels or installations within the waters of the harbour areas, it is necessary to submit a report and other relevant materials to the local Maritime Safety Administration within 24 hours after the accidents.

(2) If maritime traffic accidents happen to vessels or installations in the coastal waters beyond the waters of harbour areas, it is necessary to submit a report and other materials within 48 hours after the vessels arrive at the first harbour in the People's Republic of China to the Maritime Safety Administration; in the case of installations, it is necessary to report by telegram, the content of which shall cover all the items required in the Report Concerning Maritime Traffic Accidents to the Maritime Safety Administration at the nearest harbour within 48 hours after the accidents.

(3) If a maritime traffic accident happens in the course of pilotage, the pilot shall submit the Report Concerning Maritime Traffic Accidents to

the local Maritime Safety Administration within 24 hours after his return to the harbour.

If, because of special circumstances, the Report Concerning Maritime Traffic Accidents cannot be submitted within the time limit set in paragraphs (1) and (2) of this Article, the time limit may be appropriately extended after permission is obtained from the Maritime Safety Administration.

ARTICLE 7

The following information shall be provided in the Report Concerning Maritime Traffic Accidents:

- (1) Basic conditions of the vessel or installation and the data concerning its main functions;
- (2) Name and address of the owner or manager of the vessel or installation;
- (3) When and where the accident happened;
- (4) The climatic and sea conditions when the accident happened;
- (5) A detailed description of the course of the accident (the diagram of relative motion shall be attached if collision);
- (6) Degree of the damage (A sketch showing the damaged parts of the vessel or installation shall be attached. If it is difficult to make a thorough

investigation within the set time limit, a report shall be submitted at a later date after the examination.) ;

(7) Estimated location of sinking in case where the vessel or installation sank;

(8) Other information related to the accident.

ARTICLE 8

A report concerning maritime traffic accidents must be truthful and there must not be any concealment or falsification.

ARTICLE 9

If a vessel or an installation is damaged due to a maritime traffic accident, the captain of the vessel or the person in charge of the installation shall apply to China's local inspection department or the inspection department at the vessel's first port of arrival in China for inspection or appraisal and send a copy of the inspection report to the Maritime Safety Administration for the record.

The Maritime Safety Administration may entrust the inspection and appraisal mentioned in the preceding paragraph to relevant units or departments and the expenses shall be borne by the owner or manager of the vessel or installation.

Chapter III Investigation

ARTICLE 10

The Maritime Safety Administration shall be responsible for the investigation of the maritime traffic accidents which happen in the waters of their respective harbour areas.

The maritime traffic accidents which happen outside the waters of harbour areas shall be investigated by the Maritime Safety Administration of the nearest harbor or that of the vessel's first port of arrival in the People's Republic of China. The Maritime Safety Administration of the People's Republic of China may designate a Maritime Safety Administration to carry out the investigation, if it deems necessary.

When the Maritime Safety Administration concerned deems it necessary, he may request relevant departments and social organizations to take part in the investigation of the accidents.

ARTICLE 11

Upon receiving accident reports, the Maritime Safety Administration shall promptly carry out investigation. Investigation shall be carried out in an objective and all-round manner and must not be restricted by the information provided by the parties involved in the accidents. If the investigation warrants it, Maritime Safety Administration has the right to:

- (1) Question the persons concerned;
- (2) Demand written material and testimonial form from the persons under investigation;
- (3) Demand from the parties involved to provide logbooks, engine logs, wheel-bell records, radio operation logs, course records, charts, data of the vessel, functions of the navigation equipment and instruments and other necessary original papers and materials;
- (4) Examine certificates of the vessel, installation and the relevant equipment and certificates of the personnel and verify seaworthiness of the vessels and technical conditions of the installations before the accident;
- (5) Examine the damage to the vessels, installations and goods and ascertain casualties of personnel;
- (6) Survey the scene of the accident and collect relevant material evidence.

During the investigation, the Maritime Safety Administration may use recording, photographing and video equipment and may resort to other means of investigation permitted by law.

ARTICLE 12

The persons being investigated must cooperate with the investigators, honestly state the relevant circumstances of the accident and provide authentic papers and materials.

Investigation should be conducted by a person or persons qualified and appointed to investigate an accident under procedures laid down in national legislation for the furtherance of marine safety and protection of the marine environment.

Investigators should be continuously trained and certificated by Maritime Safety Administration of the People's Republic of China.

In conducting investigations, the investigators of Maritime Safety Administration shall display their identifications to the persons being investigated.

ARTICLE 13

If the investigation of a maritime traffic accident so requires, the Maritime Safety Administration may order the vessel(s) involved to sail to the spot for investigation.

A vessel should not be delayed more than is absolutely necessary; the investigation should be started as soon as practicable, without delaying the vessel unreasonably.

Except when it's (their) own safety is in danger, the vessel(s) involved must not leave the said spot without the permission of the Maritime Safety Administration.

ARTICLE 14

If a maritime traffic accident involving vessel or installation gives rise to a civil dispute over tort liability, the parties may bring a suit in a maritime court or apply to a maritime arbitration organ for arbitration.

While judicial investigations are legitimate and important processes, such processes do not necessarily serve the cause of safety and should be separate and independent of investigations provided in these Regulations.

Chapter IV Handling of Accidents

ARTICLE 15

The investigators of the Maritime Safety Administration shall, according to the investigations of maritime traffic accidents, submit a Report on Findings Concerning Maritime Traffic Accidents, in which causes of the accidents shall be ascertained.

The administrative officials other than the investigators shall determine the responsibility of the persons concerned in maritime traffic accidents for violation of administrative rules.

ARTICLE 16

The Report on Findings Concerning the Maritime Traffic Accident shall include the following items:

- (1) Basic conditions of the vessels or installations and the main data;
- (2) Names and addresses of the owners or managers of the vessels or installations;
- (3) When and where the accident happened, the course of the accident, weather and sea conditions at the time, seriousness of the damage;
- (4) Causes of the accident and evidence thereof;
- (5) Other relevant information.

ARTICLE 17

The Maritime Safety Administration may, according to the nature and seriousness of their liabilities, mete out the following penalties according to the law of the persons who are held responsible for the maritime traffic accidents:

- (1) Warnings, fines, suspension or revocation of their job certificates may be resorted to when the crew, pilots or personnel working on the installations are of Chinese nationality;

(2) Warnings and fines may be imposed on the crew or the personnel working on the installations who are of foreign nationalities or their faults may be reported to the competent authorities of their respective countries.

ARTICLE 18

With respect to persons whose action constitutes a crime, the judicial authorities shall, in accordance with the law, investigate their criminal responsibility.

ARTICLE 19

The Maritime Safety Administration may, in the light of the causes of the maritime traffic accidents, order the owners and managers of the vessels involved or installations involved to strengthen safety management over their vessels or installations within a time limit. In case of refusal to strengthen safety administration or failure to meet the safety requirements within the said time limit, the Maritime Safety Administration has the right to order the vessels or installations to suspend navigation, change courses or suspend operation and may adopt other necessary compulsory measures.

Chapter V Penalties

ARTICLE 20

The Maritime Safety Administration may, depending on the circumstances, warn or impose a fine of not more than 200RMB on the persons concerned (natural person), or impose a warning or a fine of not more than 5,000 RMB on the owners or managers of the vessels, if they violate these Regulations in one of the following manners:

- (1) Failure to report accident to Maritime Safety Administration or submit the Report Concerning Maritime Traffic Accident or duplicate copies of the documents of court verdict, arbitration award or mediation document as stipulated in Article 23 of these Regulations within the time limit;
- (2) Failure to sail to the spot designated by the Maritime Safety Administration or leaving the designated spot without the permission of the Maritime Safety Administration when nothing is endangering the vessel(s);
- (3) Affecting the progress of the investigations or causing losses to the departments concerned because the content of the accident report or the Report Concerning Maritime Traffic Accident does not meet the stipulated requirements or it is not truthful;
- (4) Affecting the investigation of the accident by violating the provisions of Article 9;

- (5) Refusing to be investigated or unjustifiably obstructing and interfering with the investigation by the Maritime Safety Administration;
- (6) Intentionally concealing facts or providing false testimony during investigation.

With respect to persons whose acts have constituted a crime as specified in paragraphs (5) and (6) of this Article, the courts shall investigate their criminal responsibility according to law.

ARTICLE 21

Administrative sanctions shall be given by administrative supervision organs or relevant units to staff of Maritime Safety Administrations who violate the provisions of these Regulations, neglect their duties, abuse their powers, engage in malpractices for selfish ends and ask for and/or accept bribes. If their acts constitute crimes, their criminal responsibilities shall be investigated by courts according to law.

ARTICLE 22

If the parties concerned do not agree with the penalties imposed on them by the Maritime Safety Administrations according to the provisions of these Regulations, they may bring a suit in a people's court according to law.

Chapter VI Special Provisions

ARTICLE 23

If maritime traffic accidents happen to vessels flying Chinese flag outside the territorial sea of the People's Republic of China, their owners or managers shall report to the Maritime Safety Administration where the vessels are registered and shall submit the Report Concerning Maritime Traffic Accident within 60 days after the accidents happened. If lawsuits, arbitrations or mediations concerning the accidents take place abroad, the owners or managers shall submit copies or photocopies of the court verdicts, awards or mediation documents to the Maritime Safety Administration of the harbor where the vessels are registered for the record within 60 days after the termination of the lawsuits, arbitration or mediation.

ARTICLE 24

If crew members of Chinese nationality holding qualification certificates of the People's Republic of China are held responsible for maritime traffic accidents while they are working on board foreign vessels sailing outside the territorial sea of the People's Republic of China, their respective units in China shall submit the Report Concerning Maritime Traffic Accidents to the Maritime

Safety Administration issuing the qualification certificates within 60 days after the accidents happened.

ARTICLE 25

The maritime traffic accidents mentioned in Article 23 and 24 shall be investigated and settled in accordance with the relevant provisions of these Regulations.

ARTICLE 26

Maritime Safety Administrations shall co-operate with other States with a substantial interest during the conduction of maritime accident investigations.

The Maritime Safety Administration of the People's Republic of China should supply the International Maritime Organization with information concerning the findings of investigations according to the requirement of the Organization.

Chapter VII Supplementary Provisions

ARTICLE 27

With respect to those operations which have violated the regulations concerning maritime traffic safety and have constituted latent threats of potential major accidents, although direct traffic accidents have not been caused, Maritime Safety Administrations may carry out investigation and mete out penalties according to the provisions of these Regulations.

ARTICLE 28

The maritime traffic accidents which have caused marine environmental pollution shall be dealt with in accordance with the relevant laws and regulations of China concerning marine environmental protection.

ARTICLE 29

These Regulations shall be interpreted by the Ministry of Communications.

ARTICLE 30

These Regulations comes into force on the date of promulgation.

ANNEX

Existing Original Text of the Regulations

REGULATIONS OF THE PEOPLE'S REPUBLIC OF CHINA ON THE INVESTIGATION AND HANDLING OF MARITIME TRAFFIC ACCIDENTS

(Approved by the State Council of the P.R.C. on January 11, 1990 ,
promulgated by Decree No. 14 of the Ministry of Communications
of the P.R.C. on March 3, 1990)

Chapter I General Provisions

ARTICLE 1

These Regulations are formulated according to the relevant provisions of the Maritime Traffic Safety Law of the People's Republic of China in order to strengthen the management of maritime traffic safety and promptly investigate and settle maritime traffic accidents.

ARTICLE 2

The Harbour Superintendency Administration of the People's Republic of China shall be responsible for implementing these Regulations.

ARTICLE 3

These Regulations shall apply to maritime traffic accidents involving vessel and installation in the coastal waters of the People's Republic of China. If there exist special provisions in state laws and administrative regulations for the investigation and handling of the maritime traffic accidents happening in the fishing port waters or of the maritime traffic accidents happening between fishing vessels or involving military vessels in the coastal waters, these special provisions shall prevail.

ARTICLE 4

The maritime traffic accidents referred to in these Regulations mean the following accidents involving vessels and installations:

- (1) collision, strike or damage by waves;
- (2) hitting hidden rocks or running aground;
- (3) fire or explosion;
- (4) sinking;
- (5) damage or loss of machinery parts or important tools during a voyage which affects the vessel's seaworthiness;
- (6) other maritime traffic accidents which cause losses in property and human lives.

Chapter II Report

ARTICLE 5

The person in charge of the vessel and installation which are involved in maritime traffic accidents must report immediately to the Harbour Superintendency Administration at the nearest harbour by a VHF radio-telephone, radio-telegram or other effective means. The content of the reports shall include: name of the vessel or installation, call sign, nationality, port of departure and port of arrival, owners or managers of the vessel or installation, when and where the accident happened and sea conditions, the extent of damage of the vessel or installation, request for salvage, etc.

ARTICLE 6

The person in charge of the vessel and installation which are involved in maritime traffic accidents must, in addition to making brief reports immediately in accordance with the provisions in Article 5, submit the Report Concerning Maritime Traffic Accidents and other necessary documents and materials according to the following stipulations to the Harbour Superintendency Administration:

(1) If maritime traffic accidents happen to vessels or installations within the waters of the harbour areas, it is necessary to submit a report and other relevant materials to the local Harbour Superintendency Administration within 24 hours after the accidents.

(2) If maritime traffic accidents happen to vessels or installations in the coastal waters beyond the waters of harbour areas, it is necessary to submit a report and other materials within 48 hours after the vessels arrive at the first harbour in the People's Republic of China to the Harbour Superintendency Administration; in the case of installations, it is necessary to report by telegram, the content of which shall cover all the items required in the Report Concerning Maritime Traffic Accidents to the Harbour Superintendency at the nearest harbour within 48 hours after the accidents.

(3) If a maritime traffic accident happens in the course of pilotage, the pilot shall submit the Report Concerning Maritime Traffic Accidents to the local Harbour Superintendency Administration within 24 hours after his return to the harbour.

If, because of special circumstances, the Report Concerning Maritime Traffic Accidents cannot be submitted within the time limit set in paragraphs (1) and (2) of this Article, the time limit may be appropriately extended after permission is obtained from the Harbour Superintendency Administration.

ARTICLE 7

The following information shall be provided in the Report Concerning Maritime Traffic Accidents:

- (1) basic conditions of the vessel or installation and the data concerning its main functions;
- (2) name and address of the owner or manager of the vessel or installation;
- (3) when and where the accident happened;
- (4) the climatic and sea conditions when the accident happened;
- (5) a detailed description of the course of the accident (for a collision, a sketch map illustrating the relative motion shall be attached);
- (6) extent of the damage (A sketch showing the damaged parts of the vessel or installation shall be attached. If it is difficult to make a thorough investigation within the set time limit, a report shall be submitted at a later date after the examination.) ;
- (7) estimated location of sinking in case where the vessel or installation sank;
- (8) other information related to the accident.

ARTICLE 8

A Report Concerning Maritime Traffic Accidents must be truthful and there must not be any concealment or falsification.

ARTICLE 9

If a vessel or an installation is damaged due to a maritime traffic accident, the captain of the vessel or the person in charge of the installation shall apply to China's local inspection department or

the inspection department at the vessel's first port of arrival in China for inspection or appraisal and send a copy of the inspection report to the Harbour Superintendency Administration for the record.

The Harbour Superintendency Administration may entrust the inspection and appraisal mentioned in the preceding paragraph to relevant units or departments and the expenses shall be borne by the owner or manager of the vessel or installation.

If the accident happening to a vessel or installation involved fire or explosion, the captain or the person in charge of the installation must apply to a fire fighting brigade in the public security organ for an appraisal and send a copy of the appraisal report to the Harbour Superintendency Administration for the record.

Chapter III Investigation

ARTICLE 10

Harbour Superintendency Administrations shall be responsible for the investigation of the maritime traffic accidents which happen in the waters of their respective harbour areas.

The maritime traffic accidents which happen outside the waters of harbour areas shall be investigated by the Harbour Superintendency Administration of the nearest harbour or that of the vessel's first port of

arrival in the People's Republic of China. The Harbour Superintendency Administration Bureau of the People's Republic of China may appoint a Harbour Superintendency Administration to carry out the investigation, if the it deems necessary.

When the Harbour Superintendency Administration concerned deems it necessary, he may request relevant departments and social organizations to take part in the investigation of the accidents.

ARTICLE 11

Upon receiving accident reports, the Harbour Superintendency Administration shall promptly carry out investigation. Investigation shall be carried out in an objective and all-round manner and must not be restricted by the information provided by the parties involved in the accidents. If the investigation warrants it, the Harbour Superintendency Administration has the right to:

- (1) question the persons concerned;
- (2) demand written material and testimonial form from the persons under investigation;
- (3) demand from the parties involved to provide logbooks, engine logs, wheel-bell records, radio operation logs, course records, charts, data of the vessel, functions of the navigation equipment and instruments and other necessary original papers and materials;

- (4) examine certificates of the vessel, installation and the relevant equipment and certificates of the personnel and verify seaworthiness of the vessels and technical conditions of the installations before the accident;
- (5) check the damage to the vessels or installations and it's cargoes, and losses and injuries of life;
- (6) survey the scene of the accident and collect relevant material evidence.

During the investigation, the Harbour Superintendency Administration may use recording, photographing and video equipments and may resort to other means of investigation permitted by law.

ARTICLE 12

The persons being investigated must cooperate with investigators, honestly state the relevant circumstances of the accident and provide authentic papers and materials.

In conducting investigations, the staff of Harbour Superintendency Administration shall display their identifications to the persons being investigated.

ARTICLE 13

If the investigation of a maritime traffic accident so requires, the Harbour Superintendency Administration may order the vessel(s) involved to sail

to the spot for investigation. Except when it's (their) own safety is in danger, the vessel(s) involved must not leave the said spot without the permission of the Harbour Superintendency Administration.

ARTICLE 14

The organs respectively in charge of public security, state security, supervision, prosecution, and courts, as well as maritime arbitration committees and other organs and personnel designated under the law may consult, make extracts of or duplicate the findings concerning maritime traffic accidents prepared by the Harbour Superintendency Administration for the purpose of handling cases. Courts may borrow these findings if they are needed in the trials.

Chapter IV Handling of Accidents

ARTICLE 15

The Harbour Superintendency Administration shall, according to the investigations of maritime traffic accidents, submit a Report on Findings Concerning Maritime Traffic Accidents, in which causes of the accidents shall be ascertained and the responsibility of the persons concerned be determined. A serious accident shall be reported to the local procuratorial organ.

ARTICLE 16

The Report on Findings Concerning the Maritime Traffic Accident shall include the following items:

- (1) basic conditions of the vessels or installations and the main data;
- (2) names and addresses of the owners or managers of the vessels or installations;
- (3) when and where the accident happened, the course of the accident, weather and sea conditions at the time, seriousness of the damage;
- (4) causes of the accident and evidence thereof;
- (5) liabilities of the parties involved and evidence thereof;
- (6) other relevant information.

ARTICLE 17

The Harbour Superintendency Administrations may, according to the nature and seriousness of their liabilities, mete out the following penalties according to the law of the persons who are liable for the maritime traffic accidents:

- (1) warnings, fines, suspension or revocation of their certificates may be resorted to when the crew, pilots or personnel working on the installations are of Chinese nationality;
- (2) warnings and fines may be imposed on the crew or the personnel working on the installations who are of foreign nationalities or their faults may be reported to the competent authorities of their respective countries.

ARTICLE 18

If it is necessary to pursue the administrative responsibility of the persons involved, owners or managers of the vessels or installations who are liable for the maritime traffic accidents, Harbour Superintendency Administration shall submit the cases to their competent organs or the organs in charge of administrative supervision. With respect to persons whose action constitutes a crime, the courts shall, in accordance with the law, investigate their criminal responsibility.

ARTICLE 19

The Harbour Superintendency Administration may, in the light of the causes of the maritime traffic accidents, order the owners and managers of the vessels involved or installations involved strengthening safety management over their vessels or installations within a time limit. In case of refusal to strengthen safety management or failure to meet the safety requirements within the said time limit, the Harbour Superintendency Administration has the right to order the vessels or installations to suspend navigation, change courses or suspend operation and may adopt other necessary compulsory measures.

ARTICLE 20

If a maritime traffic accident happening to vessels or installations gives rise to a civil dispute over tort liability, the parties may apply to the Harbour Superintendency Administration for mediation. Mediations must be carried out on the principles of voluntariness and impartiality and no coercion shall be allowed.

ARTICLE 21

If a suit has been brought before a maritime court or an application sent to a maritime arbitration organ, the parties to the civil disputes mentioned in the preceding article shall not apply to the Harbour Superintendency Administration for mediation.

ARTICLE 22

Written applications for mediations shall be submitted, by the parties within 30 days after the accident happened, to the Harbour Superintendency Administration responsible for the investigation of the accident. If guarantees are demanded by the Harbour Superintendency Administration the parties shall provide documents of economic compensation guarantee.

ARTICLE 23

If an agreement is reached after mediation, the Harbour Superintendency Administration shall prepare a mediation document. The mediation

document shall include the following items: names and addresses of the parties, names and positions of the legal representatives, main points of the disputes, liabilities of the parties, content of the agreement, payment of the mediation fees and the time limit for the execution of the mediation agreement. The parties concerned shall jointly sign the mediation document and the Harbour Superintendency Administration shall confirm it by affixing its seal thereon. One copy of the mediation document shall be held by each party concerned and one copy kept by the Harbour Superintendency Administration.

ARTICLE 24

All the parties concerned shall execute the agreement of mediation of their own accord. If the parties renege or fail to execute the agreements within the time limit after the agreement is reached, the mediation shall be regarded as failing.

ARTICLE 25

If a party to a civil dispute who has applied to Harbour Superintendency Administration for mediation wants to withdraw from it, the party shall send a written application to the Harbour Superintendency Administration for mediation cancellation and notify the other party to the dispute at the same time.

ARTICLE 26

If the Harbour Superintendency Administration fails to make the parties reach an agreement of mediation within 3 months from the date of receipt of the application for mediation, the mediation may be announced as failing.

ARTICLE 27

If the parties do not want mediation or the mediation has failed, they may bring a suit in a maritime court or apply to a maritime arbitration organ for arbitration.

ARTICLE 28

Anyone who has applied to the Harbour Superintendency Administration for mediation shall pay mediation fees. Standards for mediation charges shall be worked out by the Ministry of Communications in conjunction with the State Administration for Commodity Prices and the Ministry of Finance. If an agreement is reached through mediation, the mediation charge shall be shared according to the seriousness of the parties' faults or the agreed proportions. If mediation has failed, the expenses shall be shared equally among the parties.

Chapter VI Penalties

ARTICLE 29

The Harbour Superintendency Administration may, depending on the circumstances, warn or impose a fine of not more than 200 Yuan

on the persons concerned , or impose a warning or a fine of not more than 5,000 Yuan on the owners or managers of the vessels, if they violate these Regulations in one of the following activities:

- (1) failure to report accident to the Harbour Superintendency Administration or submit the Report Concerning Maritime Traffic Accident or duplicate copies of the documents of court verdict, arbitration award or mediation document as stipulated in Article 32 of these Regulations within the time limit;
- (2) failure to sail to the spot designated by the Harbour Superintendency Administration or leaving the designated spot without the permission of the Harbour Superintendency Administration when nothing is endangering the vessel(s);
- (3) affecting the progress of the investigations or causing losses to the departments concerned because the content of the accident report or the Report Concerning Maritime Traffic Accident does not meet the stipulated requirements or it is not truthful;
- (4) affecting the investigation of the accident by violating the provisions of Article 9;
- (5) refusing to be investigated or unjustifiably obstructing and interfering with the investigation by the Harbour Superintendency Administration;
- (6) intentionally concealing facts or providing false testimony during investigation.

With respect to persons whose acts have constituted a crime as specified in paragraphs (5) and (6) of this Article, the courts shall investigate their criminal responsibility according to law.

ARTICLE 30

Administrative sanctions shall be given by administrative supervision organs or relevant units to staff of Harbour Superintendency Administration who violate the provisions of these Regulations, neglect their duties, abuse their powers, engage in malpractices for selfish ends and ask for and/or accept bribes. If their acts constitute crimes, their criminal responsibilities shall be investigated by courts according to law.

ARTICLE 31

If the parties concerned do not agree with the penalties imposed on them by the Harbour Superintendency Administration according to the provisions of these Regulations, they may bring a suit in a court according to law.

Chapter VII Special Provisions

ARTICLE 32

If maritime traffic accidents happen to vessels of Chinese nationality outside the coastal waters of the People's Republic of China, their owners or managers shall report to the Harbour Superintendency Administration where the vessels are registered and shall submit the Report Concerning

Maritime Traffic Accident within 60 days after the accidents happened.

If suits, arbitrations or mediations concerning the accidents take place abroad, the owners or managers shall submit copies or photocopies of the court verdicts, awards or mediation documents to the Harbour Superintendency Administration where the vessels are registered for the record within 60 days after the termination of the suits, arbitration or mediation.

ARTICLE 33

If crews of Chinese nationality holding qualification certificates of the People's Republic of China are liable for maritime traffic accidents while they are working on board foreign vessels, their appointing companies in China shall submit the Report Concerning Maritime Traffic Accidents to the Harbour Superintendency Administration issuing the qualification certificates within 60 days after the accidents happened.

The maritime traffic accidents mentioned in the first paragraph of this Article and in Article 32 shall be investigated and settled in accordance with the relevant provisions of these Regulations.

Chapter VIII Supplementary Provisions

ARTICLE 34

With respect to those operations which have violated the regulations concerning maritime traffic safety and have constituted potential threats

of accidents, although direct traffic accidents have not been caused, the Harbour Superintendency Administration may carry out investigation and mete out penalties according to the provisions of these Regulations.

ARTICLE 35

The maritime traffic accidents which have caused marine environmental pollution shall be dealt with in accordance with the relevant laws and regulations of China concerning marine environmental protection.

ARTICLE 36

These Regulations shall be interpreted by the Ministry of Communications.

ARTICLE 37

These Regulations comes into force on the date of promulgation.