

MARITIME SAFETY COMMITTEE
92nd session
Agenda item 12

MSC 92/12/4
8 April 2013
Original: ENGLISH

FLAG STATE IMPLEMENTATION

Failure to submit maritime casualty reports

Submitted by the International Chamber of Shipping (ICS) and
the International Transport Workers' Federation (ITF)

SUMMARY

Executive summary: This document comments on the apparent failure of some flag States to submit maritime casualty reports to the Organization as required by IMO Conventions. It is suggested that further consideration might be given to this issue in the Committee's future work, including the adequacy of the current definition of what constitutes "a very serious casualty", and the extent to which flag States should have latitude to interpret this definition. Finally, it is suggested that lessons might be learned from the approach adopted by the aviation industry and ICAO.

Strategic direction: 12.3

High-level action: 12.3.1

Planned output: 12.3.1.3

Action to be taken: Paragraph 12

Related documents: Resolutions A.203(VII), A.322(IX), A.442(XI), A.646(16), A.849(20), A.884(21), A.987(24) and A.1029(26), resolutions MSC.255(84) and MSC.257(84); MSC/Circ.539/Add.2; MSC-MEPC.3/Circ.3, MSC-MEPC.6/Circ.6, MSC-MEPC.7/Circ.7 and FSI 21/18

Introduction

1 This document is submitted in accordance with the provisions of paragraph 6.12.5 of the *Guidelines on the organization and method of work of the Maritime Safety Committee and the Marine Environmental Protection Committee and their subsidiary bodies* (MSC-MEPC.1/Circ.4/Rev.2) and provides comments on document FSI 21/18, paragraph 5.14.

2 ICS and ITF noted the statement by the IMO Secretary-General, at FP 56, to the effect that he wishes the Organization to adopt the goal of cutting the number of lives lost at sea by half by 2015. This submission is made in order to help support such an objective.

3 ICS and ITF note that, in accordance with SOLAS regulation I/21, MARPOL Articles 8 and 12 and Loadlines, Article 23, each Administration undertakes to conduct an investigation into any casualty occurring to ships under its flag, subject to those Conventions, and to supply the Organization with pertinent information concerning the findings of such investigations.

Discussion

4 It is a long-standing requirement, underpinned by article 94, paragraph 7, of the United Nations Convention on the Law of the Sea (UNCLOS), 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."

5 Furthermore, MSC 84 adopted a new *Code of International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (Casualty Investigation Code)* in May 2008. The new SOLAS regulation XI-1/6 entered into force on 1 January 2010 and expands on SOLAS regulation I/21, which requires Administrations to undertake to conduct an investigation of any casualty occurring to any of its ships "when it judges that such an investigation may assist in determining what changes in the present regulations might be desirable".

6 Requirements for the reporting to IMO of marine safety investigations and marine casualties and incidents are based on the following IMO instruments:

- .1 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)), paragraph 14.1, chapter 14 of the mandatory Part II;
- .2 safety of fishermen at sea, resolution A.646(16), paragraph 3;
- .3 reports on casualty statistics concerning fishing vessels and fishermen at sea, MSC/Circ.539/Add.2, paragraph 2;
- .4 report on fishing vessels and fishermen statistics, MSC/Circ.753, paragraph 3;
- .5 provision of preliminary information on serious and very serious casualties by rescue coordination centres, MSC/Circ.802 and MEPC/Circ.332, paragraph 3;
- .6 the Guidance on near-miss reporting, MSC-MEPC.7/Circ.7, paragraph 4; and
- .7 casualty-related matters, reports on marine casualties and incidents, MSC-MEPC.3/Circ.3, paragraphs 6 and 8.

7 The above information summarizes the clear and unambiguous obligations upon Administrations to investigate and report to IMO regarding accidents and casualties, including those defined as being of a "very serious marine casualty", involving the total loss of the ship or a death or severe damage to the environment.

Comment

8 It currently seems that many investigations of marine casualties, including some defined as being a "very serious marine casualty", are not reported to IMO by the flag State as required by IMO Conventions, and particularly by MSC-MEPC.3/Circ.3.

9 The lack of investigation and accident reports hinders the development of appropriate measures by IMO to address the cause of such incidents as well as efforts by shipowners and operators to learn from the reports and to amend or develop new procedures and/or implement other measures, as appropriate, to prevent or mitigate similar future incidents or casualties.

10 ICS and ITF respectfully suggest that further consideration might be given by the Organization to what constitutes "a very serious marine casualty" and the extent to which flag States should retain the latitude which they currently enjoy when determining whether the results of any investigation should be submitted to IMO.

11 As a first step, it is suggested that, in consultation with the International Civil Aviation Organization (ICAO), the Organization considers whether any lessons might be learnt from the approach taken towards the submission and dissemination of accident reports within the aviation industry.

Action requested of the Committee

12 The Committee is invited to note this information and decide what further action might be appropriate.
