



MALTA MARITIME AUTHORITY

Merchant Shipping Directorate

NATIONAL APPROACH TO MARINE ACCIDENT INVESTIGATION

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Casualty Investigation
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MINISTRY FOR COMPETITIVENESS AND COMMUNICATIONS

MALTA MARITIME AUTHORITY

(Set up by Act XVII of 1991)

Board of Members

**currently consisting of Chairman, Deputy Chairman and
6 members including 3 Executive Directors**

(total number of Chairman, Deputy Chairman and Members may vary from 7 to 11)
(total number of Executive Directors who ex officio are Members shall be not more than 4,
but there must always be an Executive Director responsible for Merchant Shipping,
another one for Ports and another one for Yachting Centres)

**Corporate
Office**

**Merchant Shipping
Directorate**

**Ports
Directorate**

**Yachting Centres
Directorate**



Merchant Shipping Directorate

Functions and duties

- *to regulate, control and administer all matters related to merchant shipping provided for in the Merchant Shipping Act and other related legislation*
- *to register vessels under the Malta flag and to promote the Maltese register with the international shipping community*
- *to promote safety of shipping and prevention of marine pollution among Maltese ships, and all ships leaving Malta on international voyages*
- *to regulate the employment of seafarers and to promote and advance the skills of seafarers and of persons employed in the maritime industry*
- *to foster Malta's relations in international shipping fora and to administer the implementation of maritime and other related international conventions and agreements*



**Executive Director
Merchant Shipping**

***Personal
Assistant***

**Finance &
Programme Support**

**Policy & Legislative
Development**

**Ship Registry & Seafarer
Documentation**

Technical Department

Accounts

***International
Organisations***

Ship Registry

Flag State Control

***Archives &
Communications***

***Legal, Enforcement
& Bilateral***

***Seafarer Certification
& Identification***

***Overseas
FSI Network***

Cash Point

***Legislative &
Contractual***

***Maritime
Radiocommunications
Services***

Ship Manning

Services

Research & Support

FMS Project

Port State Control

***Database Management
& Office Automation***

Special Assignments

Casualty Investigation

Clerical Support

Preliminary inquiries and formal investigations

- **Vested authority in the Minister**
- **Appoints an inquiring officer**
- **Report to the Minister**
- **Formal investigation through the Court of Magistrates**
- **Report of the formal investigation may be used in a Court of Law**

Formal investigations

- **Considerable degree of concern**
- **Considerable loss of life**
- **Causes cannot be determined**
- **Cancellation or suspension of a certificate of competence**

Investigations by the Merchant Shipping Directorate

- Held in the majority of the cases reported
- Application of the IMO Guidelines and the IMO Code...

...but to what extent?

Practical issues limiting the application of the IMO Code

- **IMO Code is a soft law**
- **Political issues**
- **Criminal proceedings *vs.* safety investigations**
- **Ship owners' approach**
- **Limited interaction**
- **STCW Convention Regulation I/5**
- **Apportioning of blame**
- **Presence of lawyers**
- **No explicit requirement by international conventions**
- **Potential of the IMO Code**
- **Publishing of reports**

Frustrating the spirit of the IMO Code

- **Failure to achieve co-operation**
- **Failure to share available evidence**
- **Prohibiting access to key witnesses**
- **Blunt reactive and spontaneous measures**
- **Delays to report back**

A mandatory IMO Code

...When a State enters into obligation of an international character, it is not allowed to adduce any inadequacy or incompatibility in its own legal system, or any of its legislative or executive acts, as an excuse for the non-performance of the international obligation...

Lord A. D. McNair, *The Law of Treaties*, 1961 at p.761

EC Policy approach – systematic compliance with the IMO Code

- 1. Adequate legal status**
- 2. Separate technical investigations**
- 3. Competent and well trained investigators**
- 4. A permanent and impartial body**
- 5. Permanent cooperation framework**
- 6. Produce suitable reports in a reasonable period of time**

EC Policy approach – what is being envisaged

“A permanent, impartial national body with adequate legal status, well trained investigators and operative set-up, to solely conduct technical/safety investigations, and produce suitable and timely reports with findings, conclusions and where appropriate safety recommendations, with the sole objective of promoting maritime safety transport and environmental protection...”

EC Policy approach – considerations on the perceived impacts

- **Creating and maintaining this set-up**
- **Maritime activity and the national economic motor**
- **Expenses and financial burdens – best approach?**
- **Setting a benchmark to measure level of safety**
- **How expensive is expensive?**
- **Quantification of costs and benefits of this set-up**
- **Financial considerations within a national economy**
- **Alternative set-ups**
- **External verifications**

EC Policy approach – considerations on the perceived impacts

- **Sharing of resources**
- **Cooperation framework *vis-à-vis* the challenge of gathering raw evidence**

Conclusions

- **Self-inflicting limitations of the IMO Code**
- **Unification and harmonisation of domestic laws**
- **Financial burden - a major issue for deliberation**

Conclusions

Practical Options – a possible lesson from the aviation industry

- Insurance coverage
- Sharing of costs
- Creation and administration of a fund

D C Jennifer, *Aircraft Accident Investigation*, 1993 at pp.106-123



THANK YOU

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