

MARITIME SAFETY COMMITTEE
109th session
Agenda item 19

MSC 109/19/4
30 August 2024
Original: ENGLISH
Pre-session public release:

WORK PROGRAMME

Proposal for a review of the Casualty Investigation Code

Submitted by Australia, Bahamas, Bangladesh, Canada, Indonesia, Malaysia, Morocco, New Zealand, Norway, Philippines, Republic of Korea, Saudi Arabia, Singapore, United Arab Emirates, ICS, IUMI, BIMCO, OCIMF, INTERCARGO, IMarEST and InterManager

SUMMARY

Executive summary: III 9 invited interested Member States and international organizations to submit proposals for a new output for a comprehensive and holistic review of the Casualty Investigation Code to the Maritime Safety Committee. This followed strong support for such a review as proposed in document III 9/4/8 (Australia et al.) which outlined historical issues related to the implementation of the Code and previous proposals to amend it to improve the quality and timeliness of marine safety investigation reports. This document invites the Committee to approve a new output to review the Code and associated guidelines.

Strategic direction, 7 if applicable:

Output: Not applicable

Action to be taken: Paragraph 41

Related documents: Resolution MSC.255(84) and resolution A.1075(28); Circular Letter No.3682; III 4/15 (paragraph 4.22); III 7/4/5 (paragraph 8), III 7/4/3 (paragraphs 5 and 6), III 7/INF.42 (paragraphs 7, 9 and 14); III 8/19 (paragraphs 4.36 to 4.38); III 9/4/5 (paragraph 14), III 9/4/8 (paragraphs 17 to 19), III 9/19 (paragraph 4.10); HTW 8/INF.3; MSC 104/15/16; MSC 105/20 (paragraphs 18.36 to 18.38); MSC 106/19 (paragraph 14.8); MSC 107/20 (paragraphs 17.68 and 17.69) and MSC 108/20 (paragraph 18.3)

Background

1 The Sub-Committee on Implementation of IMO Instruments, at its ninth session (III 9), having considered documents III 9/4/5 (INTERCARGO et al.) and III 9/4/8 (Australia et al.), invited interested Member States and international organizations to submit proposals for a new output for a comprehensive and holistic review of the Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (Casualty Investigation Code or simply the Code) to the Maritime Safety Committee for its consideration (III 9/19, paragraph 4.10).

2 The Code was adopted by resolution MSC.255(84) and took effect on 1 January 2010 as a mandatory Code under the SOLAS Convention. It is supplemented by the *Guidelines to assist investigators in the implementation of the Casualty Investigation Code* (resolution A.1075(28)).

3 Chapter 1 of the Code details its objectives, which include providing "a common approach" for conducting a marine safety investigation that does "not seek to apportion blame or determine liability". The key objective of a marine safety investigation is to prevent future casualties by "applying a consistent methodology and approach to enable a broad ranging investigation" that uncovers "causal factors and safety risks" and provide reports to the Organization to enable the industry to address safety issues.

4 Since the Code became mandatory, a large and increasing number of Member State casualty investigation agencies (that is, marine safety investigation authorities as defined in the Code) have applied it to conduct marine safety investigations and submit investigation reports to the Organization. Achieving the Code's key objective noted in paragraph 3 relies on the quality of investigations and the timely submission of reports. However, both the quality and timeliness of investigations and reports have been the subject of issues raised with the Organization and among Member States for several years.

IMO's objectives

5 When adopting the Code in 2008, MSC noted with concern that, despite the best endeavours of the Organization, serious casualties resulting in loss of life, loss of ships and marine pollution continued to occur, and "the safety of seafarers and passengers and the protection of the marine environment can be enhanced by timely and accurate reports identifying the circumstances and causes of marine casualties and incidents." In 2013, when the Assembly adopted the Guidelines to supplement the Code, it echoed the concern about continuing casualties and the role of timely and accurate investigation reports in enhancing safety, which highlights the role of marine safety investigations and their reporting in achieving IMO's broad maritime safety and environment protection objectives.

6 As a mandatory IMO instrument, the Code and its proposed review fall within the scope of IMO's mission. In addition, the Code's key objective of preventing casualties by learning from casualty investigations is directly linked to achieving IMO's objectives for maritime safety and environment protection under the SOLAS and other conventions.

7 The proposed review of the Code can contribute to the implementation of strategic directions (SD) 1, 6 and 7. This review will aim to assess whether the Code contains current best practice and investigation standards to address the human element, improve implementation of the Code, and ensure regulatory effectiveness.

Need

8 The issues raised with respect to the quality and timeliness of investigations and reports noted in paragraph 4 have been recurrent themes in various proposals submitted to the Organization to amend the Code. Paragraphs 12 to 21 outline those proposals and the issues that they were intended to address.

9 The recurrent issues raised by industry indicate its concerns about achieving the Code's objectives. These issues have also been the subject of discussions among Member State casualty investigation agencies and between them through international forums and it has been recognized that the issues should be addressed. A comprehensive and holistic review of the Code will provide an opportunity to adequately address these issues in a holistic manner in addition to identifying potential improvements for the use and implementation of the Code.

10 Therefore, the co-sponsors believe that there is an increasingly compelling need to conduct the proposed review as soon as practicable to address the recurrent issues being raised and to contribute to achieving IMO's objectives noted in paragraphs 5 to 7.

Analysis of the issue

11 The central issue is that the industry generally considers that the Code's provisions have not ensured the expected quality and timeliness of investigations and reports. While Member State casualty investigation agencies and investigators recognize that this issue should be resolved by addressing the various proposals and concerns, which are outlined in the following paragraphs. They also recognize that the principles of the Code, including its objectives, are sound and enduring and must be retained.

12 In 2016, the Secretariat circulated Circular Letter No.3682 on *Countries Survey Questionnaire* aimed at identifying "potential problem areas" when carrying out, and reporting on, investigations into very serious marine casualties but this did not result in identifying any reasons for underreporting (III 4/15, paragraph 4.22).

13 In document III 7/4/5 (BIMCO et al.), the co-sponsors noted that of 39 total losses of bulk carriers between 2010 and 2019, only 24 have had investigation reports made available in GISIS by January 2020, and also noted that there was no effective time limit in the Code for a marine safety investigation report to be made available. The co-sponsors suggested that the Code be amended to implement such a limit (III 7/4/5, paragraph 8).

14 Similarly, document III 7/4/3 (Secretariat) proposed amending the Code to introduce the notion of time to improve the reporting rate of marine safety investigations by drawing on existing standards and practices in the Convention on International Civil Aviation and provided an analysis to highlight the need for a notion of time (III 7/4/3, paragraphs 5 and 6; III 7/INF.42, paragraphs 7, 9 and 14).

15 Significant amendments to the Code were proposed in document MSC 104/15/16 (Vanuatu et al.) to mandate a root cause investigation to improve the quality of investigations. This proposal received in principle support from a majority of delegations at MSC 105, resulting in the Committee instructing the III Sub-Committee to assess the proposal (MSC 105/20, paragraphs 18.36 to 18.38).

16 III 8 assessed the proposal to mandate a root cause investigation and recommended that it not be approved for various reasons, including that amendments to the Code should be holistic (III 8/19 paragraphs 4.36 to 4.38). Consequently, the MSC 106 endorsed the III Sub-Committee's recommendation not to support the proposal (MSC 106/19, paragraph 14.8).

17 Document HTW 8/INF.3 (IMLA) suggested refinement of human factor classification and follow-up consideration of intervention on human factors attributed to accidents for the successful implementation of the Code and associated guidelines (III 9/4/8, paragraph 13). The term "human factor" in that document refers to the human element.

18 As noted in paragraphs 8 and 10, the recurrent proposals have been formally discussed among casualty investigation agencies for several years. These discussions have drawn on practical investigation experience to identify provisions of the Code where amendments could help address the issues raised, improve the Code from the user's perspective and support more effective implementation.

19 In 2023, document III 9/4/5 (INTERCARGO et al.) proposed amending the Code to mandate the provision of investigation status in GISIS within a defined period and the status to then be updated regularly to provide clarity on the progress of investigations (III 9/4/5, paragraph 14).

20 At the same time, document III 9/4/8 (Australia et al.) proposed a comprehensive and holistic review of the Code and associated guidelines to address the increasingly recurrent proposals about the quality and timeliness of investigations and reports (III 9/4/8, paragraphs 17 to 19).

21 III 9 considered both documents III 9/4/5 and III 9/4/8 during the same discussion. In the ensuing discussion, there was strong support for a comprehensive and holistic review of the Code, acknowledged the concerns some delegations expressed for flexibility with respect to the time frames for submission of reports, and the Sub-Committee invited interested Member States and international organizations to submit proposals to MSC for a new output for a comprehensive and holistic review of the Code (III 9/19, paragraphs 4.10).

22 The co-sponsors of this document welcome the III Sub-Committee's invitation to submit a proposal to MSC for a new output for a review of the Code and, accordingly, submit this proposal to address the central issue noted in paragraph 11 among other things.

Analysis of implications

23 The objectives of the Code and underlying principles are sound and enduring and will be the overriding consideration for the proposed review. Therefore, the review's findings and recommendations will be consistent with the Code's objectives and principles.

24 The proposed review of the Code should not result in any material legislative change for Member States that have ratified the SOLAS Convention. The review will aim to retain the Code as a high-level document to avoid any legislative burden.

25 When the Code became mandatory, the potential administrative burden and the cost to Member States in implementing it was implied and expected. The proposed review does not aim to change those expectations rather it will assess if the provisions of the Code and associated guidelines best ensure that it can be effectively implemented to achieve its objectives.

26 Notwithstanding paragraph 25, the proposed review will only be meaningful if past proposals to amend the Code are considered and addressed holistically.

Benefits

27 The proposed review of the Code is aimed at best ensuring that its key objective of preventing future casualties can be achieved. This objective is consistent with IMO's objectives for maritime safety and environmental protection. Further, the review will assess if the Code contains current best practice and investigation standards to address the human element, improve implementation and ensure regulatory effectiveness so it is aligned to the implementation of SD 1, SD 6 and SD 7.

28 As the proposed review will address the recurrent industry concerns about the quality and timeliness of investigations and reports, it will contribute to improving confidence in the Code, Member State casualty investigations and the Organization.

29 In addition, the proposed review will provide an opportunity to identify potential improvements to the use and implementation of the Code by Member States, some of which will also address the issues raised by industry holistically and consistent with the Code's objectives and principles.

30 The proposed review can provide significant benefits for improving maritime safety and environment protection, so the time and effort to conduct it will be adequately justified.

Industry standards

31 Chapter 1 of the Code states that its objective is to provide a common approach for States to adopt in the conduct of marine safety investigations. Therefore, the Code and associated guidelines comprise the maritime industry's existing casualty investigation standards. Since it became mandatory in 2010, there have been several proposals to amend the Code but there have been no amendments to it.

32 Similar standards exist in other industries and transport modes, including aviation. This is because those industries have adopted the same key safety investigation objectives and principles as are enshrined in the Code, that is, to prevent future casualties through broad-ranging investigations that do not seek to apportion blame or determine liability.

33 The proposed new output for a comprehensive and holistic review of the Code and associated guidelines is the first such proposal. Essentially, the review will assess if the Code is fit for purpose to best achieve its objectives.

Output

34 The proposed new work output is "Review of the Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (resolution MSC.255(84)) – the Casualty Investigation Code, and the associated *Guidelines to assist investigators in the implementation of the Casualty Investigation Code* (resolution A.1075(28))".

35 It is proposed that a comprehensive and holistic review of the Casualty Investigation Code and associated guidelines, consistent with the overriding consideration noted in paragraph 23, be conducted. This broad scope is intended to ensure a proper assessment of whether the provisions and guidance in these instruments are current, appropriate and adequate for the effective implementation of the Code and to achieve its objectives.

36 The proposed review is expected to be completed within a biennium because some preliminary work has been done. A working group comprising casualty investigators from several Member States and led by Australia reviewed the Code in 2022, which should assist with early completion of the proposed review. In addition, Member States and international organizations, between them, should have the capability, diversity and resources to conduct the review.

Human element

37 The completed *Checklist for considering and addressing the human element* (MSC-MEPC.1/Circ.5/Rev.5) is included in annex 1.

Urgency

38 Following the III Sub-Committee's invitation to submit a proposal for a new output for a review of the Code noted in paragraphs 21 and 22, the co-sponsors deferred submission of this proposal to MSC 108 in consideration of the Committee's decision to restrict submission of proposals for new work outputs to manage the workload (MSC 107/20, paragraphs 17.68 and 17.69). However, the co-sponsors believe that there is an increasingly urgent need to address the recurrent issues about the quality and timeliness of investigations and reports being raised by industry. The proposed review can address these issues holistically in addition to determining if the Code remains fit for intended purpose while contributing to achieving IMO's objectives described in paragraphs 5 to 7.

39 At MSC 108, the Committee agreed to extend the restriction on submission of proposals for new work outputs noted above (MSC 108/20, paragraph 18.3). Noting that III 11 is scheduled shortly after MSC 110 next year, if this proposal is not able to be considered at this session, even if it is able to be considered and agreed at MSC 110, there will probably not be sufficient time for the work output to be provided to III 11. Further, if the proposal cannot be considered at MSC 110, similar timing of the respective meetings could mean that a new work output, even if considered and agreed at MSC 111, may only be provided to III 13 in 2027. Noting the urgent need in paragraph 38 for the work to commence, the co-sponsors request that this proposal be considered at this session, as agreed by the Committee at its last session, for urgent proposals (MSC 108/20, paragraph 18.3).

40 The new work output is requested to be for the 2024-2025 biennium for two sessions with a target completion date of 2026.

Action requested of the Committee

41 The Committee is invited to approve the proposed new output for a comprehensive and holistic review of the Code and associated guidelines identified in paragraph 34, with the scope outlined in paragraphs 35 and 36.

ANNEX

CHECKLIST FOR CONSIDERING AND ADDRESSING THE HUMAN ELEMENT

	1 Question	2 Yes/ No	3 IMO references	4 Considerations	5 Instructions
	Workload		<i>Other relevant references may be added</i> <i>Strikeout references that are not relevant</i>	<i>If answer to question is "yes" identify considerations. If answer is "no" make proper justification</i>	<i>Identify how human element considerations should be addressed in the output</i>
1	Does the "output" affect workload?				
1.1	On board, especially in the already intensive phases of the voyage and port operations to:	No		This proposal is for a new output for a review of the Casualty Investigation Code, not for a change to the Code or any other IMO instrument. As noted in paragraph 25 of the proposal, when the Code became mandatory in 2010, its impact on various areas, <i>including</i> the potential administrative burden and costs in its implementation, was implied and expected. This proposed new output does not aim to change those expectations. While the proposed review will assess if the Code contains current best practice and standards to address the human element, improve implementation and ensure regulatory effectiveness as noted in paragraph 27 of the proposal, any improvements and related potential changes to the Code identified are not known at this time so their potential impact cannot be assessed.	Not applicable (see Consideration in column 4).
1.1.1	Operations including navigation, cargo and engineering	No		As above.	As above.

	1 Question	2 Yes/ No	3 IMO references	4 Considerations	5 Instructions
1.1.2	Maintenance of the ships structure and its equipment	No		As above.	As above.
1.1.3	Onboard administration in support of the ships' management systems	No		As above.	As above.
1.1.4	Onboard administration related to regulation involving flag States, classification societies, port State and other bodies such as charterers and port authorities	No		As above.	As above.
1.1.5	Increased workload or time pressure on personnel if involved in implementation of changes prior to the implementation date	No		As above.	As above.
1.2	Ashore, in a manner that would affect the ships operation to:	No		<p>This proposal is for a new output for a review of the Casualty Investigation Code, not for a change to the Code or any other IMO instrument.</p> <p>As noted in paragraph 25 of the proposal, when the Code became mandatory in 2010, its impact on various areas, including the potential administrative burden and costs in its implementation, was implied and expected. This proposed new output does not aim to change those expectations. While the proposed review will assess if the Code contains current best practice and standards to address the human element, improve implementation and ensure regulatory effectiveness as noted in paragraph 27 of the proposal, any improvements and related potential changes to the Code identified are not known at this time so their potential impact cannot be assessed.</p>	Not applicable (see Consideration in column 4).

	1 Question	2 Yes/ No	3 IMO references	4 Considerations	5 Instructions
1.2.1	Companies' administration	No		As above.	As above.
1.2.2	Flag State, port State and classification societies administration such that certification and other processes are compromised or delayed	No		As above.	As above.

	1 Question	2 Yes/ No	3 IMO references	4 Considerations	5 Instructions
	Decision-making		<p><i>Other relevant references may be added</i></p> <p><i>Strikeout references that are not relevant</i></p>	<i>If answer to question is "yes" identify considerations. If answer is "no" make proper justification</i>	<i>Identify how human element considerations should be addressed in the output</i>
2	Does the "output" impact decision-making on board the ship?				
2.1	By confusion with existing requirements and regulations	No		<p>This proposal is for a new output for a review of the Casualty Investigation Code, not for a change to the Code or any other IMO instrument.</p> <p>As noted in paragraph 25 of the proposal, when the Code became mandatory in 2010, its impact on various areas, including the potential administrative burden and costs in its implementation, was implied and expected. This proposed new output does not aim to change those expectations. While the proposed review will assess if the Code contains current best practice and standards to address the human element, improve implementation and ensure regulatory effectiveness as noted in paragraph 27 of the proposal, any improvements and related potential changes to the Code identified are not known at this time so their potential impact cannot be assessed.</p>	Not applicable (see Consideration in column 4).
2.2	By changing responsibilities as laid out in the ISM Code	No		As above.	As above.
2.3	By creating complexity in its implementation and/or in the safety management systems	No		As above.	As above.

	1 Question	2 Yes/ No	3 IMO references	4 Considerations	5 Instructions
2.4	By requiring increased mental effort, such as the need to find, transform and analyse data or result in the need to make judgements based on incomplete information	No		As above.	As above.
2.5	By limiting the time available to establish situational awareness, decide, communicate (possibly across time zones) or check	No		As above.	As above.
2.6	By increasing reliance on judgement and administrative controls to manage major risks such as oil spills and collisions	No		As above.	As above.

	1 Question	2 Yes/ No	3 IMO references	4 Considerations	5 Instructions
	Living and Working Environment		<i>Other relevant references may be added</i> <i>Strikeout references that are not relevant</i>	<i>If answer to question is "yes" identify considerations. If answer is "no" make proper justification</i>	<i>Identify how human element considerations should be addressed in the output</i>
3	Does the "output" affect the living and working environment?				
3.1	By interfering with existing arrangements for abandonment, fire-fighting and other emergency plans or procedures	No		This proposal is for a new output for a review of the Casualty Investigation Code, not for a change to the Code or any other IMO instrument. As noted in paragraph 25 of the proposal, when the Code became mandatory in 2010, its impact on various areas, including the potential administrative burden and costs in its implementation, was implied and expected. This proposed new output does not aim to change those expectations. While the proposed review will assess if the Code contains current best practice and standards to address the human element, improve implementation and ensure regulatory effectiveness as noted in paragraph 27 of the proposal, any improvements and related potential changes to the Code identified are not known at this time so their potential impact cannot be assessed.	Not applicable (see Consideration in column 4).
3.2	By introducing new materials that could create an explosion, fire, environmental or occupational health risk	No		As above.	As above.

	1 Question	2 Yes/ No	3 IMO references	4 Considerations	5 Instructions
3.3	By introducing new high energy sources such as high-voltage, high pressure fluids	No		As above.	As above.
3.4	By affecting access or egress and causing lack of ventilation in working spaces	No		As above.	As above.
3.5	By affecting the habitability of accommodation spaces due to noise, vibration, temperatures, dust and other contaminants	No		As above.	As above.

	1 Question	2 Yes/ No	3 IMO references	4 Considerations	5 Instructions
Operation and maintenance			<p><i>Other relevant references may be added</i></p> <p><i>Strikeout references that are not relevant</i></p>	<p><i>If answer to question is "yes" identify considerations. If answer is "no" make proper justification</i></p>	<p><i>Identify how human element considerations should be addressed in the output</i></p>
4	Does the "output" affect the operation and maintenance of the ship, its structure or systems and equipment?				
4.1	By introducing equipment that the user may find difficult to operate or maintain or may be unreliable	No		<p>This proposal is for a new output for a review of the Casualty Investigation Code, not for a change to the Code or any other IMO instrument.</p> <p>As noted in paragraph 25 of the proposal, when the Code became mandatory in 2010, its impact on various areas, including the potential administrative burden and costs in its implementation, was implied and expected. This proposed new output does not aim to change those expectations. While the proposed review will assess if the Code contains current best practice and standards to address the human element, improve implementation and ensure regulatory effectiveness as noted in paragraph 27 of the proposal, any improvements and related potential changes to the Code identified are not known at this time so their potential impact cannot be assessed.</p>	Not applicable (see Consideration in column 4).
4.2	By introducing new and/or novel technology, or technology that changes the role of the person	No		As above.	As above.

	1	2	3	4	5
	Question	Yes/ No	IMO references	Considerations	Instructions
4.3	By introducing requirements for new competencies and roles	No		As above.	As above.
4.4	By overloading existing infrastructure such as power generation and ventilation systems	No		As above.	As above.
4.5	By poor integration with existing systems and controls	No		As above.	As above.
4.6	By introducing new and unfamiliar operations/procedures	No		As above.	As above.
4.7	By introducing new and unfamiliar operating interfaces?	No		As above.	As above.
4.8	By introducing risks to the ship during any modifications required prior to the implementation date of the output	No		As above.	As above.

	1 Question	2 Yes/ No	3 IMO references	4 Considerations	5 Instructions
Measures to address the human element			<p><i>Other relevant references may be added</i></p> <p><i>Strike out references that are not relevant</i></p>	<i>If answer to question is "yes" identify considerations. If answer is "no" make proper justification</i>	<i>Identify how human element considerations should be addressed in the output</i>
5	Does the "output" require changes to:				
5.1	Training	No		<p>This proposal is for a new output for a review of the Casualty Investigation Code, not for a change to the Code or any other IMO instrument.</p> <p>As noted in paragraph 25 of the proposal, when the Code became mandatory in 2010, its impact on various areas, including the potential administrative burden and costs in its implementation, was implied and expected. This proposed new output does not aim to change those expectations. While the proposed review will assess if the Code contains current best practice and standards to address the human element, improve implementation and ensure regulatory effectiveness as noted in paragraph 27 of the proposal, any improvements and related potential changes to the Code identified are not known at this time so their potential impact cannot be assessed.</p>	Not applicable (see Consideration in column 4).
5.2	Practical skill development and competences	No		As above.	As above.
5.3	Operating, management and/or maintenance procedures	No		As above.	As above.
5.4	Information/manuals for operation and maintenance	No		As above.	As above.

	1	2	3	4	5
	Question	Yes/ No	IMO references	Considerations	Instructions
5.5	Spares outfit	No		As above.	As above.
5.6	Occupational safety requirements including guarding and PPE	No		As above.	As above.
5.7	Shore support	No		As above.	As above.