NB 731

# ASEAN MEMORANDUM OF UNDERSTANDING ON COOPERATION RELATING TO MARINE CASUALTY AND MARINE INCIDENT SAFETY INVESTIGATIONS

The authorities responsible for the safety investigation of marine casualties and marine incidents of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam, Member States of the Association of Southeast Asian Nations (ASEAN) (hereinafter referred to collectively as "the Participating Parties" or individually as "each Participating Party" or "the Participating Party"),

**RECOGNIZING** the importance of the safety of life at sea and in ports and the growing urgency of protecting the marine environment and its resources;

**RECALLING** the importance of the requirements set out in the relevant international maritime conventions for ensuring maritime safety and marine environment protection;

**HAVING** noted the importance of conducting appropriate safety investigations into marine casualties and marine incidents that can lead to greater awareness of casualty causation and result in remedial measures, including better training, for the purpose of enhancing safety of life at sea and protection of the marine environment;

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**DESIRING** a common interest to share expertise and experience and to establish a lasting framework for cooperation in the area of marine casualty and marine incident safety investigations;

**COMMITTED** to enhancing the capabilities and professionalism of their respective marine investigators; and

**MINDFUL** that the intended scope of cooperation in this Memorandum of Understanding needs to be harmonised with the International Maritime Organization (IMO) Code of the International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (Casualty Investigation Code), as adopted through IMO Resolution MSC 255(84), which shall become mandatory by January 2010.

**HAVE REACHED THE FOLLOWING UNDERSTANDING:**

## ARTICLE 1
## OBJECTIVES

The Participating Parties, subject to the terms of this Memorandum of Understanding and the extent permitted by the applicable national laws, rules, regulations and national policies from time to time in force in each Participating Party, aim to cooperate in the conduct of marine casualty or marine incident safety investigations in the ASEAN region.

## ARTICLE 2
## AREAS OF COOPERATION

To the extent permitted by its applicable national laws, regulations and policies:

1. Each Participating Party may offer assistance and the use of its marine safety investigation manpower, facilities and



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equipment to other Participating Parties as it deems appropriate and as resources permit to the extent practicable.

2. Each Participating Party may invite the other Participating Parties' marine safety investigators to participate or assist in its marine safety investigation processes.

3. The Participating Party may undertake appropriate steps, subject to the availability of resources, to positively consider all requests for assistance from another Participating Party.

4. Each Participating Party may invite the other Participating Parties' marine safety investigators to attend general and specialist marine safety investigation courses and undergo training courses which it conducts, where it deems appropriate and if suitable.

5. Each Participating Party may facilitate the attachment of the other Participating Parties' marine safety investigators as observers to its investigations of marine casualties and marine incidents, with a view to enhancing the other Participating Parties' understanding of its marine safety investigation requirements and procedures.

6. The Participating Parties may maintain regular contact with each other. Each Participating Party may organise visits to or meetings with another Participating Party or other Participating Parties with the aim of exchanging experiences, skills and technical knowledge, and of identifying in advance areas of possible assistance or cooperation, in particular the availability of specialised equipment, facilities and trained personnel in marine safety investigations.



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7. Each Participating Party may endeavour to share with the other Participating Parties relevant information about a marine safety investigation which it has conducted and in which the other Participating Parties have expressed an interest, where it is necessary or desirable to do so for transport safety purposes.

8. A Participating Party may also request from another Participating Party technical assistance for capacity building in the organisation of a marine safety investigation, drafting of a marine safety investigation report, crisis management and communications.

9. The Participating Parties may, where possible and by mutual agreement, develop additional areas of cooperation in marine safety investigations.

10. Where there are important lessons to be learned in the conduct of marine safety investigations into marine casualties and marine incidents, and it is necessary or desirable to share the same for transport safety purposes, full marine safety investigation reports may be provided by the relevant Participating Party to other Participating Parties who have expressed an interest.

## ARTICLE 3
## DESIGNATED AUTHORITY

1. The designated authority responsible for the implementation of this Memorandum of Understanding for each Participating Party is the competent marine safety investigation authority responsible for the safety investigation of marine casualties and marine incidents or the maritime authority of the respective Participating Parties listed in the attached ANNEX A, whichever the case may be.



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2. Each Participating Party undertakes to provide information on any change or addition to their designated authority in charge of marine safety investigations.

## ARTICLE 4
## CONFIDENTIALITY

1. Each Participating Party shall undertake to observe the confidentiality and secrecy of documents, information and other data received or supplied to the other Participating Party or Participating Parties during the period of the implementation of this Memorandum of Understanding or any other arrangements made pursuant to this Memorandum of Understanding.

2. The Participating Parties decide that the provisions of this Article shall continue to be binding between the Participating Parties, notwithstanding the termination of this Memorandum of Understanding.

## ARTICLE 5
## NON LIABILITY

1. Each Participating Party shall ensure that it will not, under any circumstances, make any demands of, or any claims against, the other Participating Party or Participating Parties for any matter or matters arising or resulting from any assistance which the latter Participating Party or Participating Parties has or have rendered to it under this Memorandum of Understanding.

2. The former Participating Party shall also ensure that no liability shall be borne by the latter Participating Party or Participating Parties, in the circumstances described in paragraph 1 above, for damages or consequential losses, direct or indirect, arising from any third-party claims against it.



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## ARTICLE 6
## FINANCE

Unless otherwise decided, each Participating Party shall bear its own cost for the implementation of the matters set out in this Memorandum of Understanding.

## ARTICLE 7
## CONSULTATIONS

In the ASEAN spirit of solidarity and cooperation, Participating Parties may consult each other from time to time to ensure the implementation of this Memorandum of Understanding.

## ARTICLE 8
## TRAINING

Participating Parties may, on their own or through the technical or financial assistance of the international and regional organisations, such as but not limited to, the International Maritime Organization, the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), and United Nations Conference on Trade and Development (UNCTAD), conduct regional training programmes or seminars to enhance the technical capabilities and knowledge of their respective marine investigators who will be involved in marine casualty and marine incident safety investigations.

## ARTICLE 9
## SUSPENSION

Each Participating Party reserves the right, for reasons of national security, national interest, public order or public health, to suspend temporarily, either in whole or in part, the



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implementation of this Memorandum of Understanding. The suspension shall take effect immediately after notification has been given to the other Participating Parties through diplomatic channels.

## ARTICLE 10
## REVISION, MODIFICATION AND AMENDMENT

1. Any Participating Party may request in writing a revision, modification or amendment of all or any part of this Memorandum of Understanding.

2. Any revision, modification or amendment agreed to by the Participating Parties shall be reduced into writing and shall form part of this Memorandum of Understanding.

3. Such revision, modification or amendment shall come into effect on such date as may be determined by the Participating Parties.

4. Any revision, modification or amendment shall not prejudice the rights and obligations arising from or based on this Memorandum of Understanding before or up to the date of such revision, modification or amendment.

## ARTICLE 11
## SETTLEMENT OF DISPUTES

Any difference or dispute between the Participating Parties concerning the interpretation, implementation, and/or application of any of the provisions of this Memorandum of Understanding shall be settled amicably, through mutual consultation or negotiations between the Participating Parties through diplomatic channels, without reference to any third party or international tribunal.



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**ANNEX "A"**

# LIST OF DESIGNATED AUTHORITIES

(a) Ministry of Communications
Marine Department
Serasa, Muara BT 1728
Brunei Darussalam
Tel: 673 2 771347; 771349
Fax: 673 2 771357
Email: bklaut1@brunet.bn

(b) Ministry of Public Works and Transport
General Department of Transport
Merchant Marine Department
St. 598, Chrang Chamres II, Russeykeo,
Phnom Penh
Kingdom of Cambodia
Tel: 85523 864110
Fax: 85523864110
Email: mmd@online.com.kh

(c) Ministry of Transportation
Directorate General of Sea Transportation
Jl. Medan Merdeka Barat no. 8
Gedung Karsa, Lantai 4
Jakarta Pusat 10110
Republic of Indonesia
Tel: +62 21 3447017/ 3813269
Fax: +62 21 38111786
Email: sprihubla@yahoo.co.id

(d) Ministry of Public Work and Transport
Department of Waterways
Lane Xang Avenue
Vientiane Capital
Lao People's Democratic Republic
Tel: +856 21 412850
Fax: +856 21 416430
Email: vanthongsorn@hotmail.com

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(e) Marine Department of Peninsular Malaysia
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42007 Port Klang
Malaysia
Tel: 603-3168 5389
Fax: 603- 33467600
Email: kpgr@marine.gov.my

(f ) Department of Marine Administration
Dawbon Dockyard Road
Ya Mon Nar 2nd Qr
Dawbon Township
Yangon
Myanmar P.O. Box 194
Union of Myanmar
Tel: 951- 202125
Fax: 951-397641
Email: myanmarine@mptmail.net.mm

(g) Maritime Industry Authority (MARINA)
984 Parkview Plaza
Corner, Kalawstand Tafft Ave.
Manila
Republic of the Philippines
Tel: (0632) 523 9078
Fax: (0632) 524 2895
Email: oadm@marina.gov.ph

(h) Shipping Division
Maritime and Port Authority of Singapore (MPA)
#21 PSA Building
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Tel: +65 63756214
Fax: +65 63756231
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(e) Marine Department Peninsular Malaysia
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42007 Port Klang
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Tel: 603-3168 5389
Fax: 603- 33467600
Email: kpgr@marine.gov.my

(f ) Department of Marine Administration
Dawbon Dockyard Road
Ya Mon Nar 2nd Qr
Dawbon Township
Yangon
Myanmar P.O. Box 194
Union of Myanmar
Tel: 951- 202125
Fax: 951-397641
Email: myanmarine@mptmail.net.mm

(g) Maritime Industry Authority (MARINA)
984 Parkview Plaza
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Republic of the Philippines
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Fax: (0632) 524 2895
Email: oadm@marina.gov.ph

(h) Shipping Division
Maritime and Port Authority of Singapore (MPA)
#21 PSA Building
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Republic of Singapore
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Fax: +65 63756231
Email: shipping@mpa.gov.sg



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(i ) Marine Safety and Environment Bureau
Marine Department
1278 Yotha Road Sampanthawong
Bangkok 10100
Kingdom of Thailand
Tel: 662 234 1070
Fax: 662 2382309
Email: hm@md.go.th

(j ) Vietnam Maritime Administration (VINAMARINE)
No. 8 Pham Hung, Cau Giay
Ha Noi, Viet Nam
Socialist Republic of Viet Nam
Tel: +84 437683194
Fax: +84 437683058/ 37683643
Email: interdept@vinamarine.gov.vn



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## ARTICLE 12
## COMMENCEMENT, DURATION AND WITHDRAWAL

1. This Memorandum of Understanding shall come into effect upon signature by all Participating Parties.

2. A Participating Party shall notify its intention to withdraw from this Memorandum of Understanding by giving three months' notice in writing to the ASEAN Secretariat. In the event of a withdrawal by a Participating Party, the Participating Parties will provide for the continuance of any arrangement entered into under this Memorandum of Understanding but not fully performed prior to the withdrawal of that Participating Party.

**IN WITNESS WHEREOF,** the undersigned, being duly authorised by the Participating Parties, have signed this Memorandum of Understanding.

**DONE** at **Ha Noi, Viet Nam** this **10th** Day of **December** in the Year **Two Thousand and Nine**, in a single original copy in the English Language.

For the Authority Responsible for the Safety Investigation of Marine Casualties and Marine Incidents of Brunei Darussalam:

.....

**ALAIHUDDIN TAHA**
Permanent Secretary



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For the Authority Responsible for the Safety Investigation of Marine Casualties and Marine Incidents of the Kingdom of Cambodia:

.....

**LENG THUN YUTHEA**
Undersecretary of State
Ministry of Public Works and Transport

For the Authority Responsible for the Safety Investigation of Marine Casualties and Marine Incidents of the Republic of Indonesia:

.....

**SUNARYO**
Director General for Sea Transportation
Ministry of Transportation

For the Authority Responsible for the Safety Investigation of Marine Casualties and Marine Incidents of the Lao People's Democratic Republic:

.....

**MATH SOUNMALA**
Director General
Department of Planning and Cooperation
Ministry of Public Works and Transport



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For the Authority Responsible for the Safety Investigation of Marine Casualties and Marine Incidents of Malaysia:

.....

**DATO' YAP KIN SIAN**
Deputy Secretary General
Ministry of Transport

For the Authority Responsible for the Safety Investigation of Marine Casualties and Marine Incidents of the Union of Myanmar:

.....

**WINN PE**
Director General
Department of Transport
Ministry of Transport

For the Authority Responsible for the Safety Investigation of Marine Casualties and Marine Incidents of the Republic of the Philippines:

.....

**THOMPSON C. LANTION**
Undersecretary for Maritime Transport
Department of Transportation and Communications



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For the Authority Responsible for the Safety Investigation of Marine Casualties and Marine Incidents of the Republic of Singapore:

.....

**CHOI SHING KWOK**
Permanent Secretary
Ministry of Transport

For the Authority Responsible for the Safety Investigation of Marine Casualties and Marine Incidents of the Kingdom of Thailand:

.....

**SUPHOTH SUBLOM**
Permanent Secretary
Ministry of Transport

For the Authority Responsible for the Safety Investigation of Marine Casualties and Marine Incidents of the Socialist Republic of Viet Nam:

.....

**VUONG DINH LAM**
Director General
Vietnam Maritime Administration
Ministry of Transport



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| BỘ NGOẠI GIAO | CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM |
|---|---|
| | Độc lập - Tự do - Hạnh phúc |
| Số: 04/2010/TB/LPQT | |

*Hà Nội, ngày 28 tháng 4 năm 2010*

# THÔNG BÁO
## Ngày điều ước quốc tế nhiều bên có hiệu lực đối với Việt Nam

Thực hiện quy định của Điều 53, Luật Ký kết, gia nhập và thực hiện điều ước quốc tế năm 2005, Bộ Ngoại giao (Vụ Luật pháp và Điều ước quốc tế) xin trân trọng thông báo:

*Bản ghi nhớ ASEAN về hợp tác liên quan đến thương vong trong lĩnh vực hàng hải và các cuộc điều tra về an toàn trong sự cố hàng hải ("ASEAN Memorandum of Understanding on Cooperation Relating to Marine Casualty and Marine Incident Safety Investigations"), ký tại Hà Nội, ngày 10 tháng 12 năm 2009*; có hiệu lực đối với Việt Nam kể từ ngày 10 tháng 12 năm 2009.

**TL. BỘ TRƯỞNG**
**VỤ TRƯỞNG VỤ LUẬT PHÁP**
**VÀ ĐIỀU ƯỚC QUỐC TẾ**

BỘ NGOẠI GIAO

**Nguyễn Thị Hoàng Anh**

*Nơi nhận :*
- Văn phòng Quốc hội *(để báo cáo);*
- Văn phòng Chủ tịch nước *(để báo cáo);*
- Văn phòng Chính phủ *(để báo cáo);*
- Phòng Công báo Văn phòng Chính phủ *(để đăng Công báo);*
- Bộ Giao thông vận tải;
- Ủy ban Quốc gia tìm kiếm - cứu nạn;
- Phái đoàn đại diện thường trực Việt Nam tại ASEAN;
- Sở Ngoại vụ Thành phố Hồ Chí Minh;
- Vụ ASEAN, Bộ Ngoại giao.