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CMI QUESTIONNAIRE – TREATMENT OF SEAFARERS

Question 1:

The Norwegian Coastal Administration is responsible for the governmental preparedness against acute pollution.

Question 2:

The Norwegian Maritime Directorate will be responsible for initiating maritime inquiries and have the investigation power with regard to maritime accidents. The attached "marine casualty flow" chart shows the existing investigation process.

A new investigation authority "the Investigation Commission" will be established in January 2006. It will deal with major accidents. At the same time a new section in the Maritime Code (MC) section II § 472 to 493 will enter into force and regulate maritime investigations. The following answers are based upon the new provisions and procedures, which will come into force from January 2006.

According to § 472 a maritime inquiry can be held in case of a maritime accident and/or marine pollution incident involving Norwegian vessels, or foreign vessels if the incident take place in Norway, or outside Norway if the flagstate accepts this or it is in accordance with international law. The new Investigation Commission or the Maritime Directorate will have the investigation power dependent upon the seriousness of the accident/incident.

Question 3

According to new provisions in our Maritime Code No, the investigation authority shall not

contemplate civil or criminal charges (MC § 473)

Question 4

The police have an independent right to carry out a criminal investigation process.

Question 5

Yes, according to Criminal Procedure Act § 171 any person who with justified cause is suspected of one or more acts punishable by statute with imprisonment for a term exceeding 6 months, may be arrested when e.g.: there is reason to fear that he will evade prosecution or the execution of a sentence or other precautions, there is an immediate risk that he will interfere with any evidence in the case, e.g. by removing clues or influencing witnesses or accomplices, etc.

According to the Criminal Procedure Act § 181, the prosecution authority may forgo an arrest or release a person on condition that he promises to present himself to the police at specified times or promises not to leave a specific place. The same applies when the suspect consents to other conditions such as handing over his passport, etc.

Question 6

Yes, normally.

Question 7

No surety is required.

Question 8

Human rights are part of our Constitutional Law. Norway has also a specific Human Rights Act from 21. May 1999. The aim is to strengthen human rights in Norwegian law. We are also bound by e.g. EU Convention on Human Rights, and UN Conventions on human rights and of course the Regulations in the Law of the Sea.

Question 9

According to MC § 477 anyone has a duty to give the investigation authority information and to present documents of importance for the investigation process to the investigation authority. Persons do have the right to be represented by a lawyer. Both the master and the shipping company should present the ship's books. However, information can not be used as evidence in a later criminal case against the person.

Question 10

According to our environmental law negligent pollution can be punished by criminal sanctions. The answer is therefore No.

Question 11

N/A

Question 12

Reference is made to the answer to question 2. Normally the same procedures will be followed.

Question 13

- a) Ref. answer to question 5.
- b) Ref. answer to question 8.
- c) Yes
- d) Several months
- e) In custody or the person will be asked not to leave the country
- f) Will have right to a lawyer
- g) No, normally only lawyer
- h) Yes

**NORWEGIAN SHIPOWNERS' ASSOCIATION
Karoline L. Böhler**

MARINE CASUALTY FLOW-CHART

