IMCC 2011

COLLISION SCENARIO WORKSHOP

IMCC
INTERNATIONAL MARINE CLAIMS CONFERENCE

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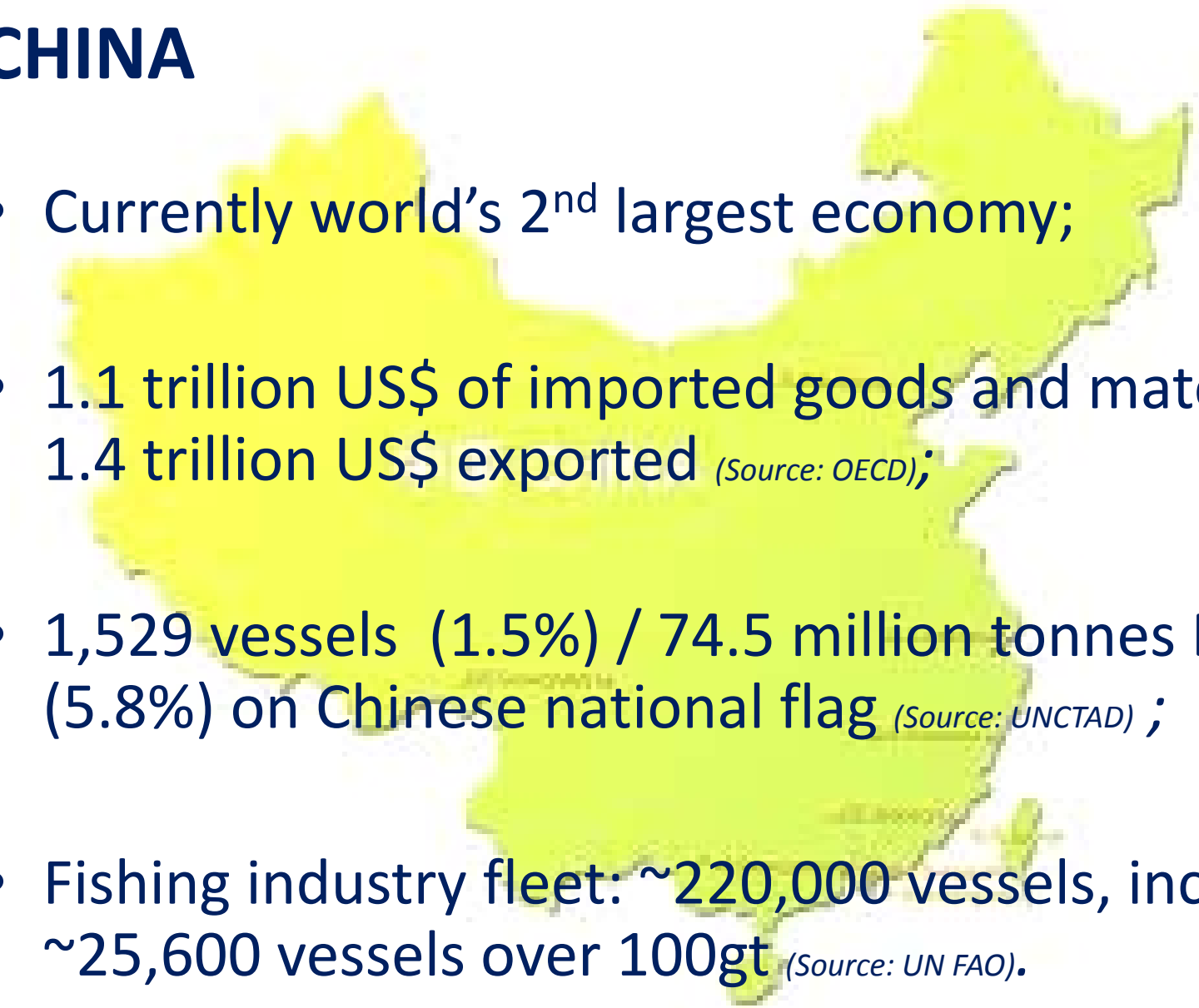
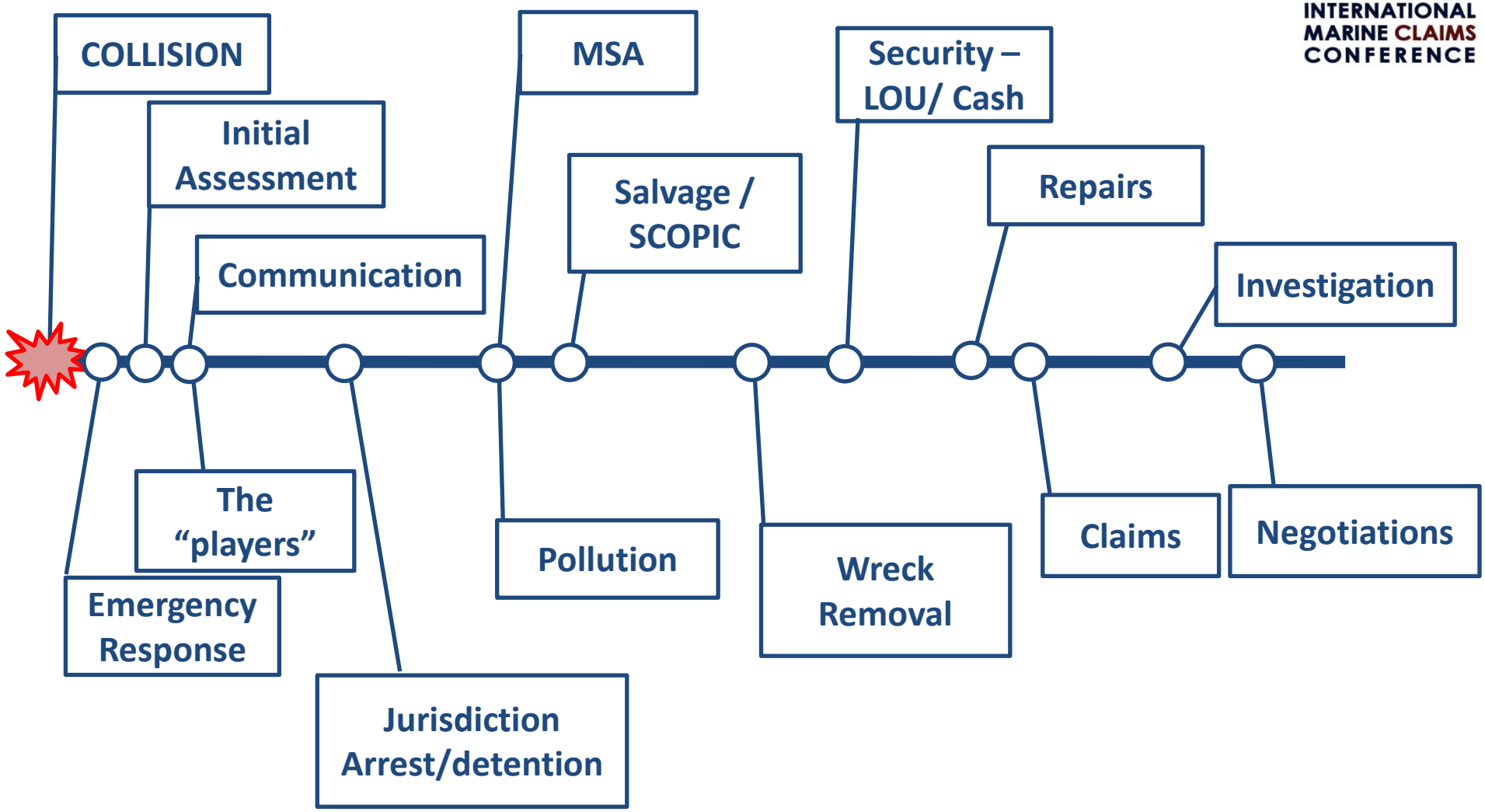
CHINA



- Currently world's 2nd largest economy;
- 1.1 trillion US$ of imported goods and materials / 1.4 trillion US$ exported *(Source: OECD)*;
- 1,529 vessels (1.5%) / 74.5 million tonnes DWT (5.8%) on Chinese national flag *(Source: UNCTAD)* ;
- Fishing industry fleet: ~220,000 vessels, incl. ~25,600 vessels over 100gt *(Source: UN FAO)*.

TIMELINE


COLLISION
Initial Assessment
Communication
MSA
Salvage / SCOPIC
Security – LOU/ Cash
Repairs
Investigation
The "players"
Emergency Response
Jurisdiction Arrest/detention
Pollution
Wreck Removal
Claims
Negotiations

TIMELINE

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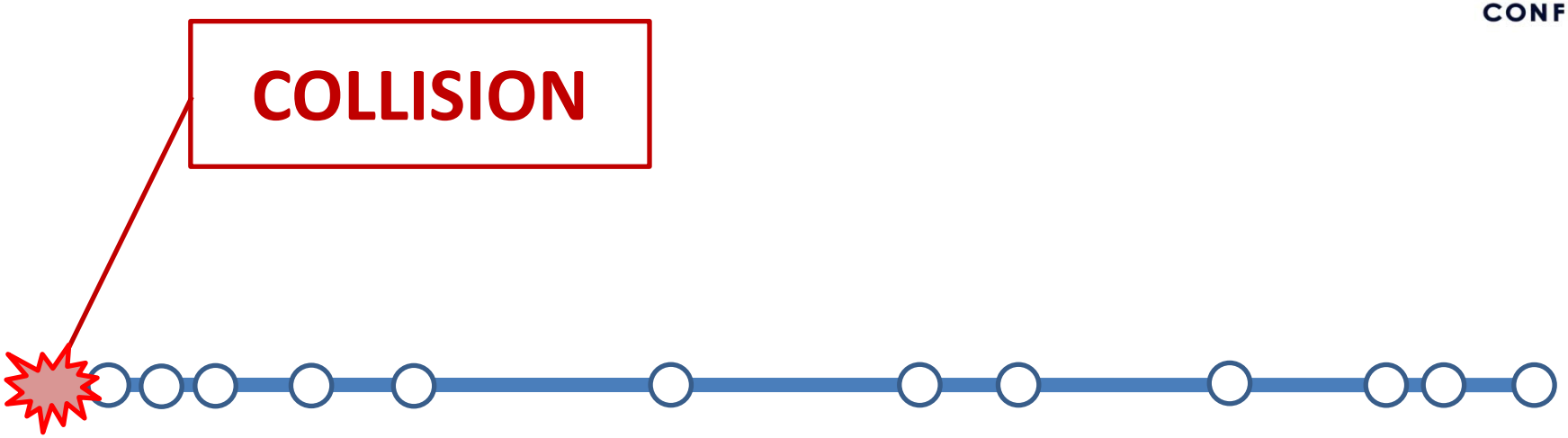
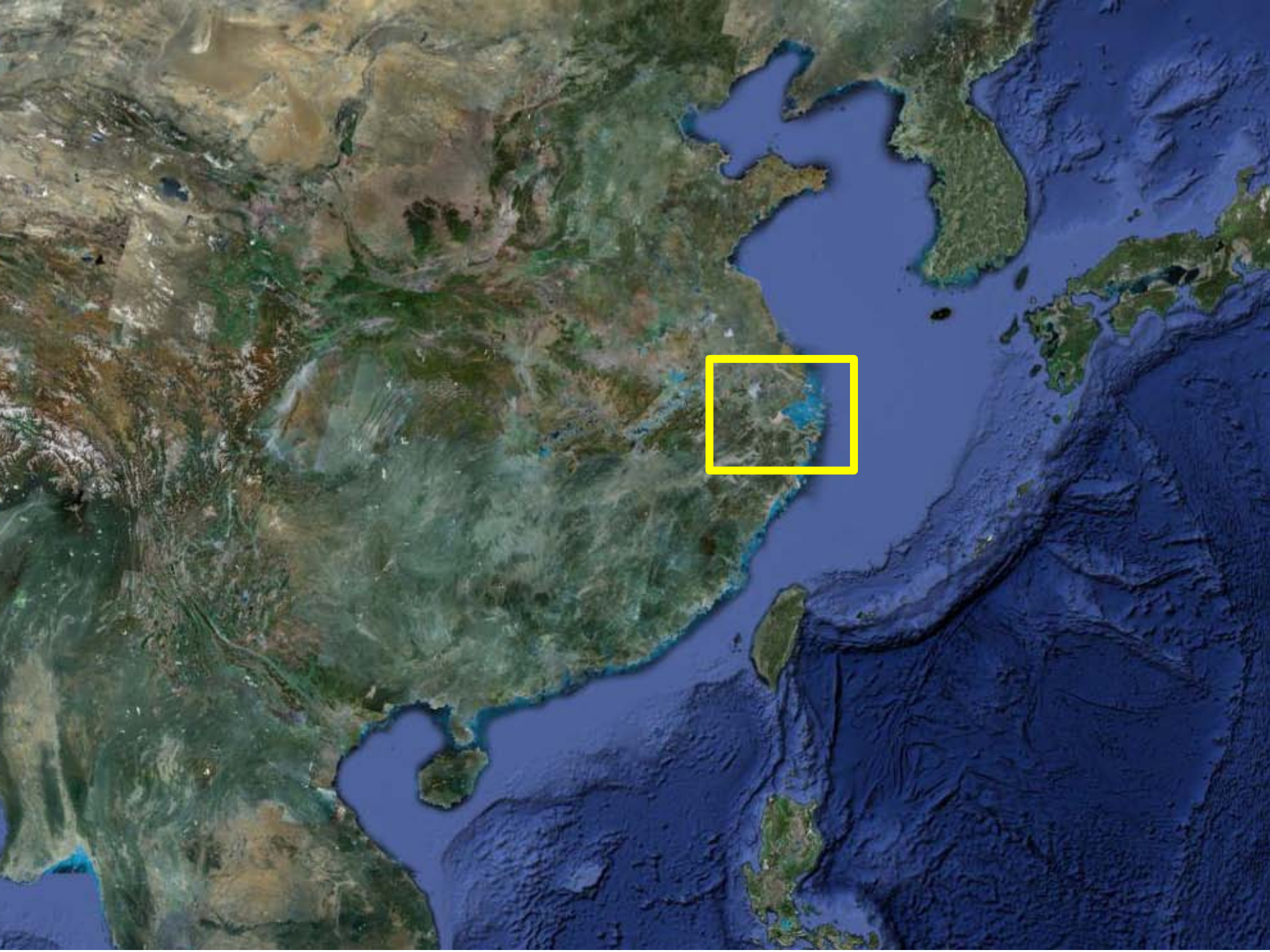
CONFERENCE




THE SCENARIO

The Scenario

- Ultra Large Container Ship "**MV Dublin"** departing Yangshan Deepwater Port (Shanghai), bound for South Korea.

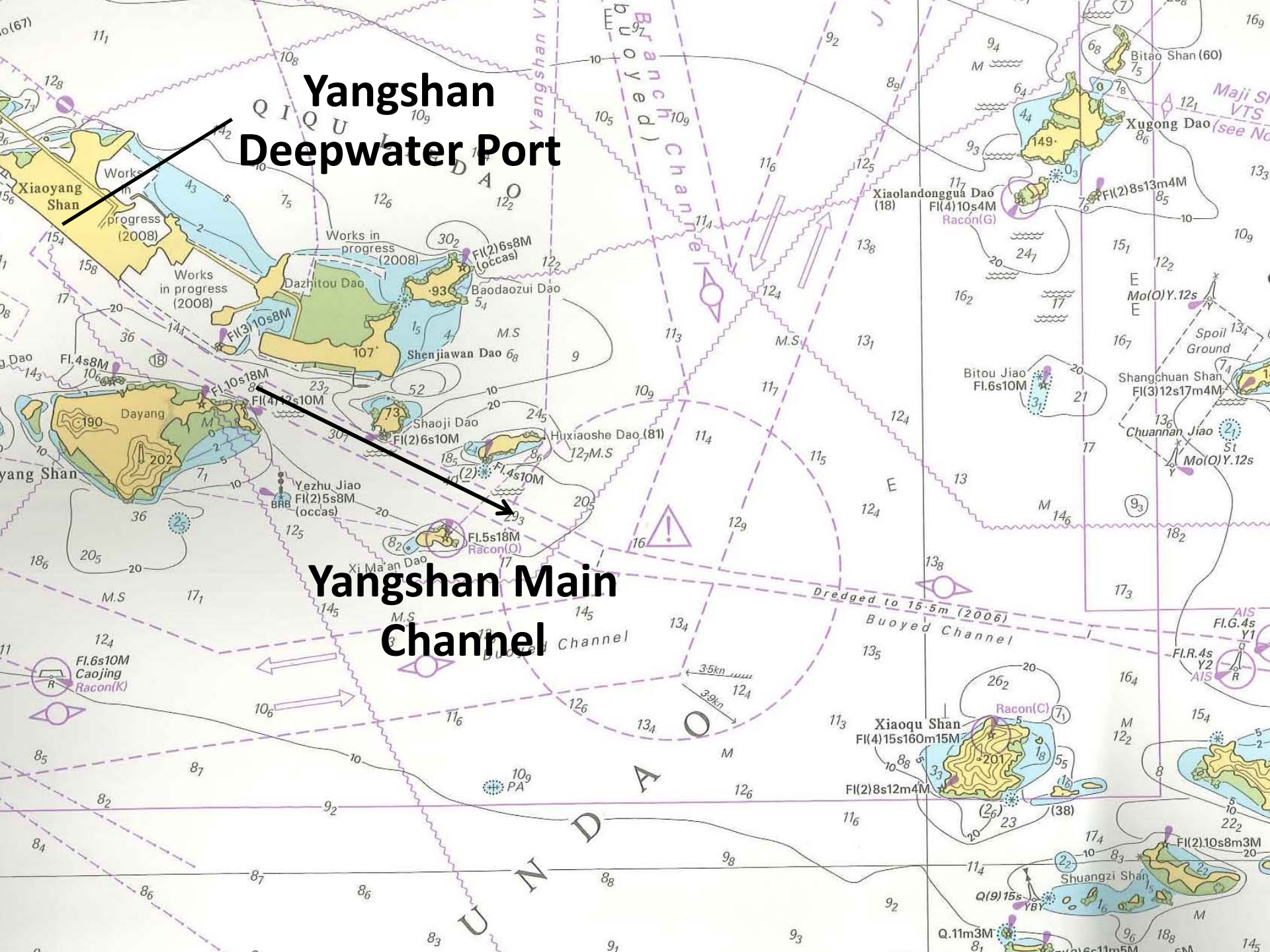



Shanghai


Yangshan
Deepwater Port

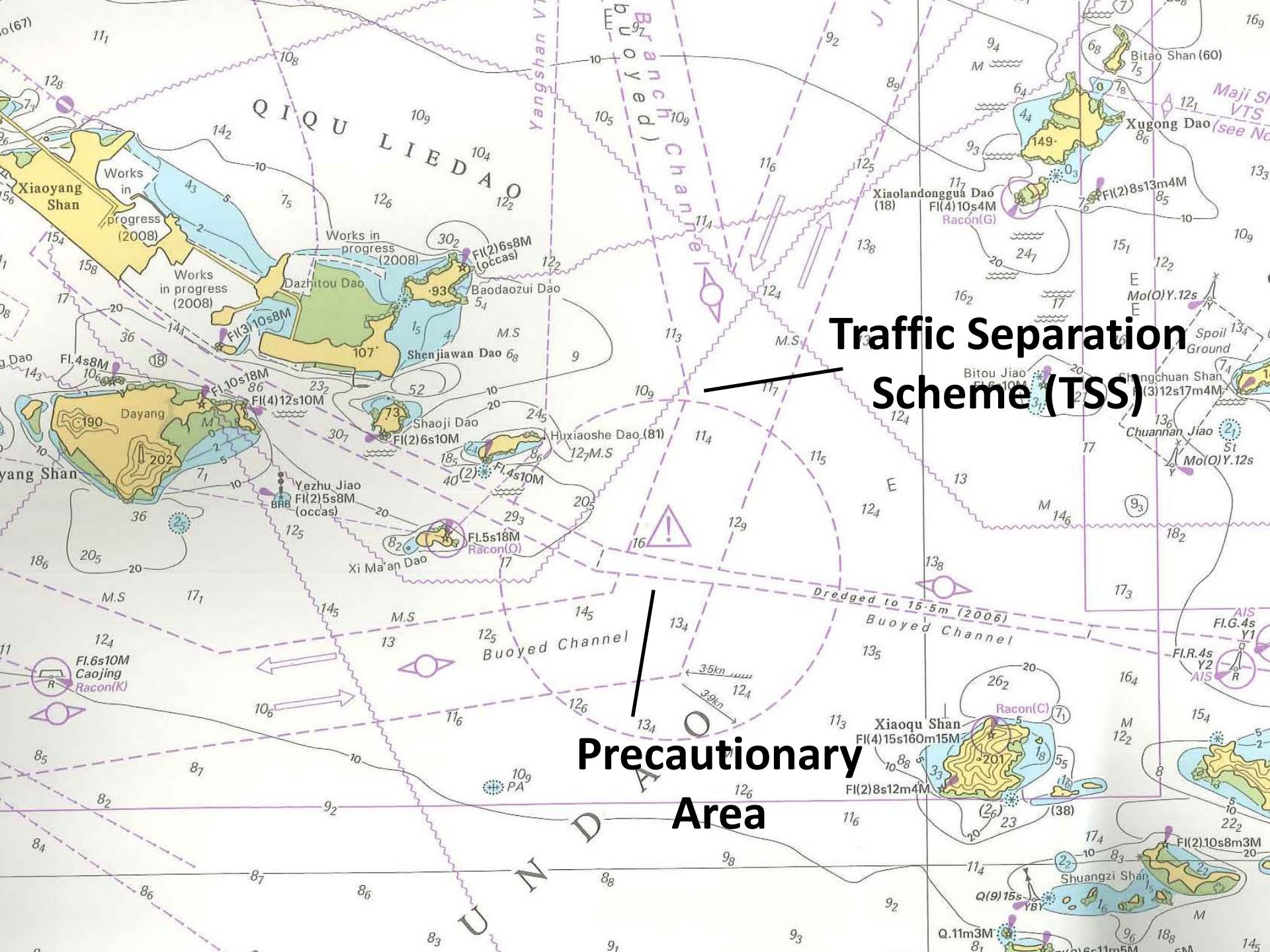
The Scenario

- In outbound channel with port pilot on-board and in command. Weather calm, reduced visibility, strong current. Left berth early hours of morning
- Due to berth / schedule pressure, Master-Pilot eXchange is rushed and with language difficulties. Manoeuvres conducted by pilot in Chinese.


Yangshan Deepwater Port
Yangshan Main Channel
Xiaoyang Shan
Works in progress (2008)
Dazhitou Dao
Baodaozui Dao
Shenjiawan Dao
Fl(3)10s8M
Fl(2)6s8M (occas)
Fl.4s8M
Fl.10s18M
Fl(4)12s10M
Dayang
Shaoji Dao
Fl(2)6s10M
Huxiaoshe Dao (81)
Fl.4s10M
Yezhu Jiao
Fl(2)5s8M (occas)
Fl.5s18M
Racon(O)
Xi Ma'an Dao
Fl.6s10M
Caojing
Racon(K)
Dredged to 15·5m (2006)
Buoyed Channel
3·5kn
3·9kn
Xiaoqu Shan
Fl(4)15s160m15M
Racon(C)
Fl(2)8s12m4M
Xiaolandonggua Dao (18)
Fl(4)10s4M
Racon(G)
Fl(2)8s13m4M
Xugong Dao
Bitao Shan (60)
Maji Shan VTS
Mo(O)Y.12s
Spoil Ground
Bitou Jiao
Fl.6s10M
Shangchuan Shan
Fl(3)12s17m4M
Chuannan Jiao
Fl(2)10s8m3M
Shuangzi Shan
Q(9)15s
Q.11m3M
AIS
Fl.G.4s
Fl.R.4s
QIQU DAO
DAO
PA
M.S

The Scenario

- Transiting Yangshan Gang Main Channel, approaching traffic intersection near Xima'an Do (Precautionary Area);
- Channel is 500m wide, heading ESE towards Traffic Separation Scheme (TSS);
- Variety of vessel traffic crossing channel including Chinese registered coastal tanker travelling North


Traffic Separation Scheme (TSS)
Precautionary Area
QIQU LIEDAO
UNDAO
Buoyed Channel
Dredged to 15·5m (2006)
Buoyed Channel
Xiaoyang Shan
Works in progress (2008)
Works in progress (2008)
Works in progress (2008)
Dazhitou Dao
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Fl.10s18M
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Fl.G.4s
Y1
Fl.R.4s
Y2
AIS
Xiaoqu Shan
Fl(4)15s16m15M
Racon(C)
Fl(2)8s12m4M
Fl(2)10s8m3M
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YBY
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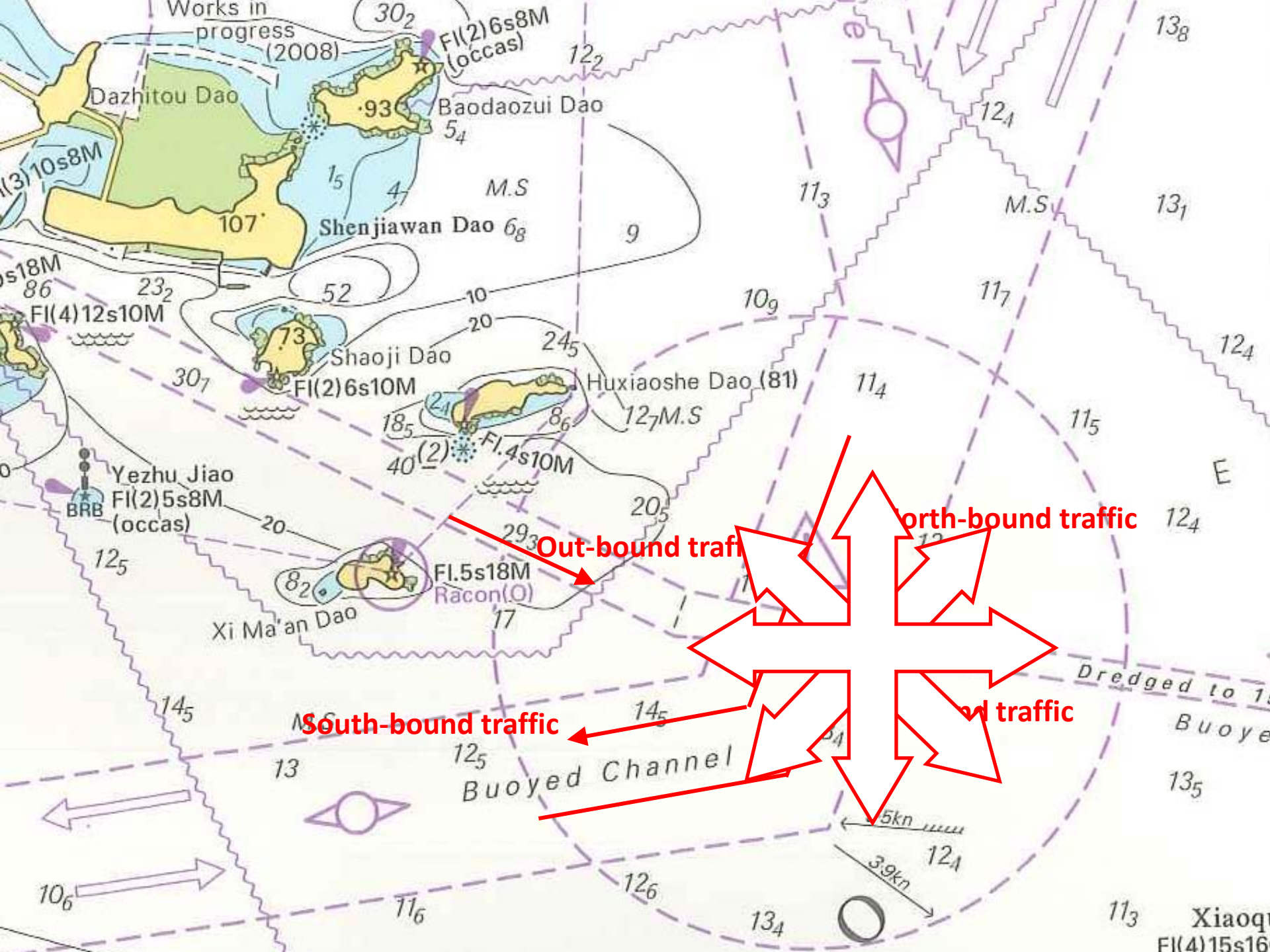
Works in progress (2008)
Dazhitou Dao
Fl(2)6s8M (occas)
Baodaozui Dao
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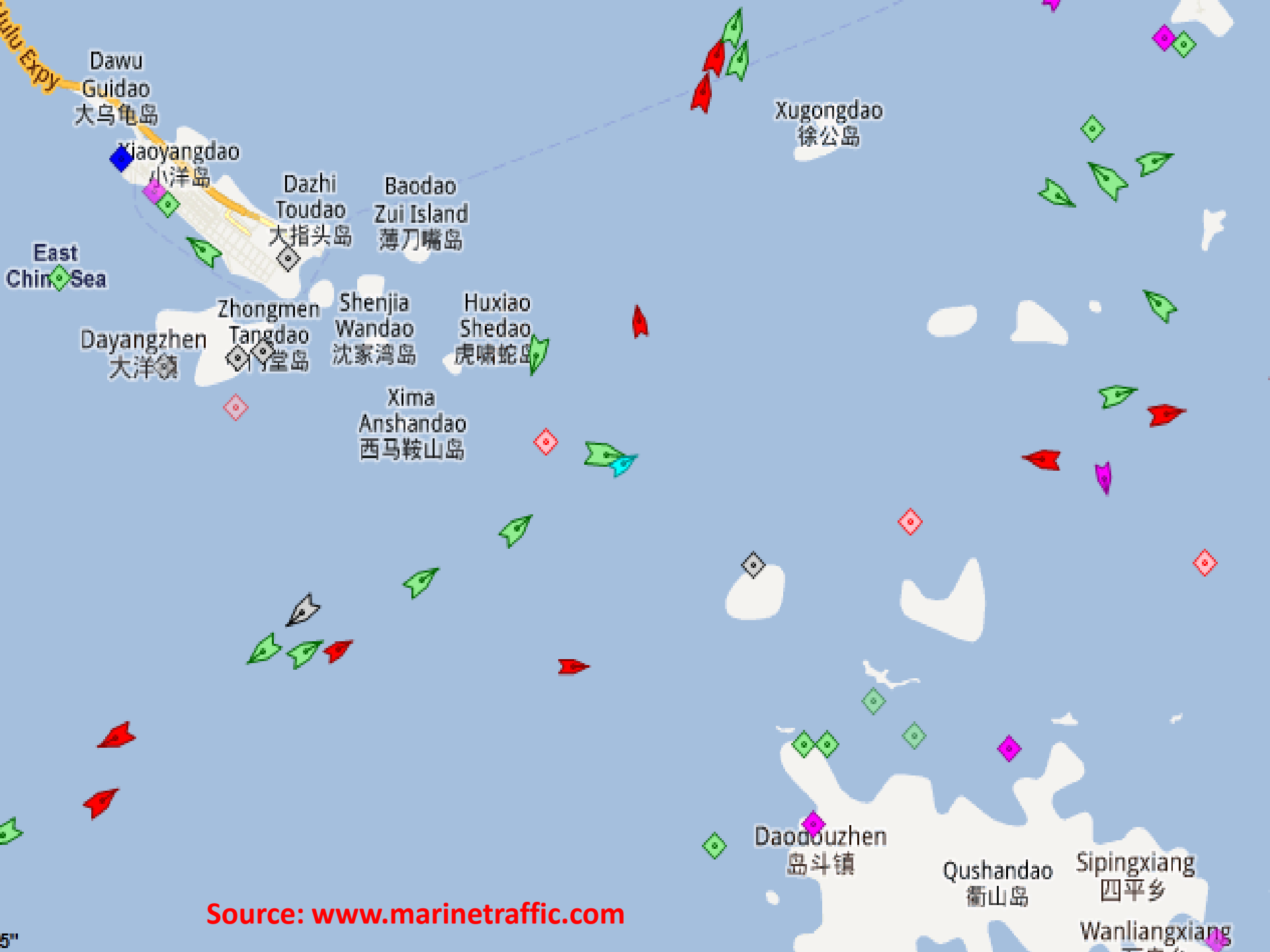
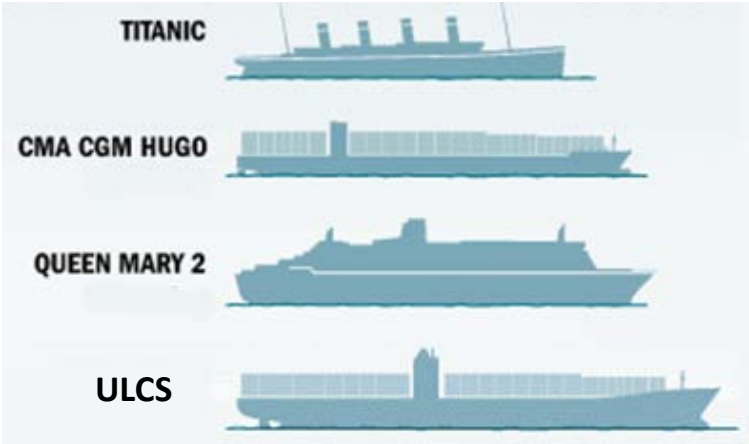
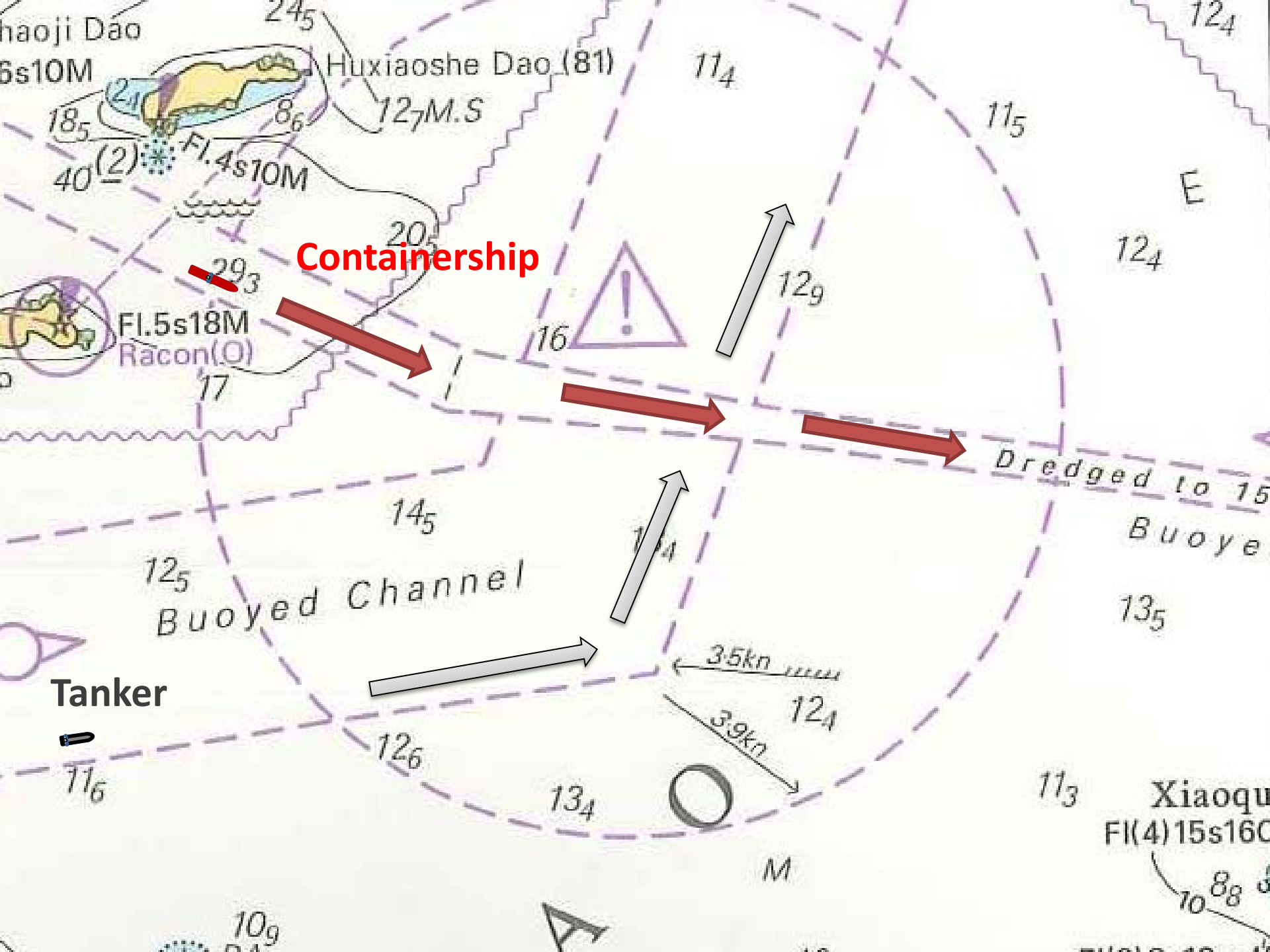
Shenjiawan Dao
Fl(4)12s10M
Shaoji Dao
Fl(2)6s10M
Huxiaoshe Dao (81)
Fl.4s10M
Yezhu Jiao
Fl(2)5s8M (occas)
BRB
Fl.5s18M
Racon(O)
Xi Ma'an Dao
Out-bound traffic
orth-bound traffic
South-bound traffic
traffic
Buoyed Channel
Dredged to
Buoye
5kn
3.9kn
Xiaoq
Fl(4)15s16


Dawu
Guidao
大乌龟岛
Xiaoyangdao
小洋岛
Dazhi
Toudao
大指头岛
Baodao
Zui Island
薄刀嘴岛
East
Chin Sea
Zhongmen
Tangdao
Shenjia
Wandao
沈家湾岛
Huxiao
Shedao
虎啸蛇岛
Dayangzhen
大洋镇
Xima
Anshandao
西马鞍山岛
Xugongdao
徐公岛
Daodouzhen
岛斗镇
Qushandao
衢山岛
Sipingxiang
四平乡
Wanliangxiang
Source: www.marinetraffic.com

The Ships

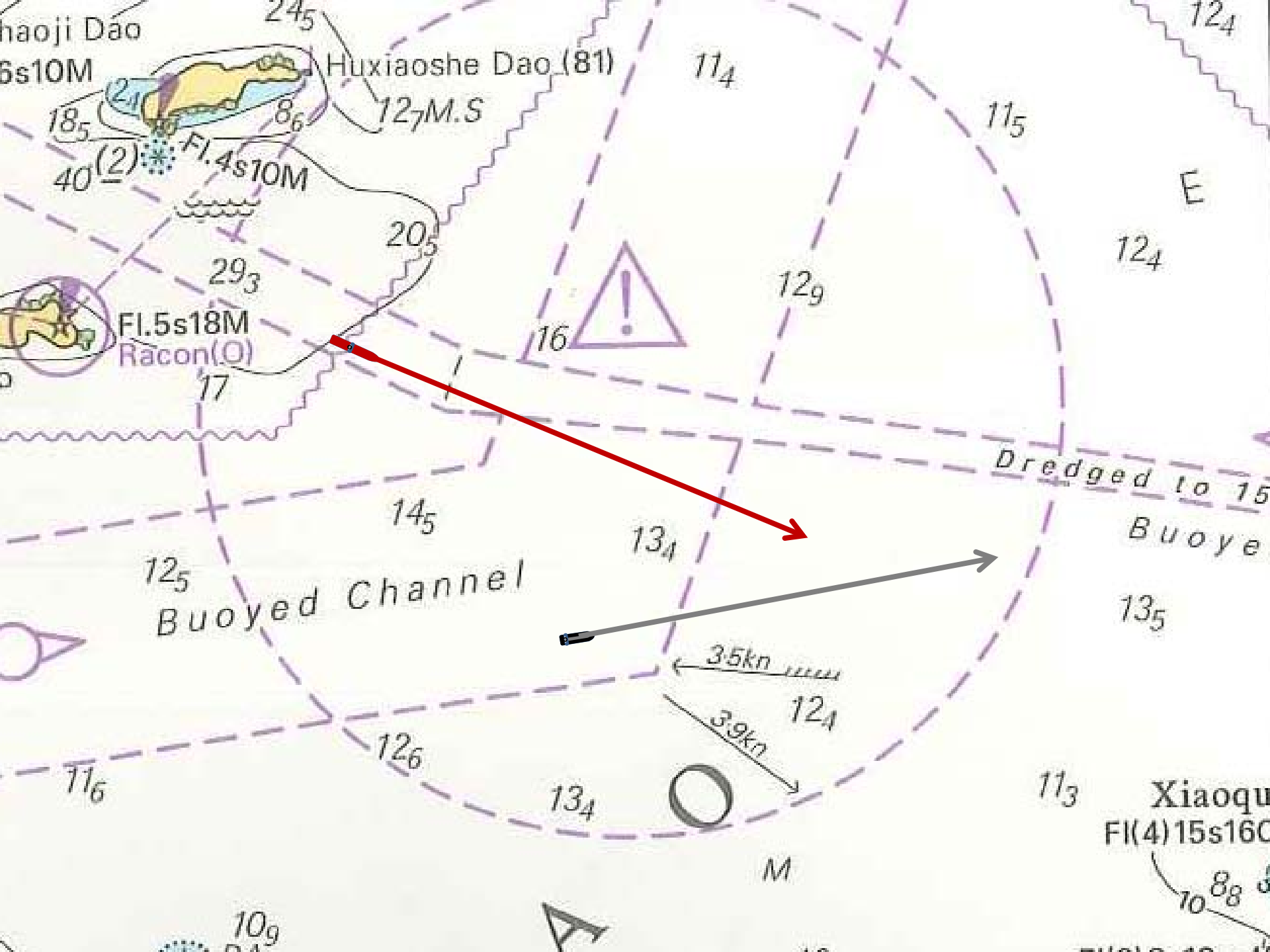
- **Containership:**
  - Length: ~400m
  - Beam: ~55m
  - Draught: ~ 15.5m
  - Displacement: 208,000 tonnes
  - Gross Tonnage: 170,000 GT
- **Tanker:**
  - Length: ~105 m
  - Beam: ~ 15.0 m
  - Draught: ~7.0 m
  - Displacement: ~7,000 tonnes
  - Gross Tonnage: 3,000 GT

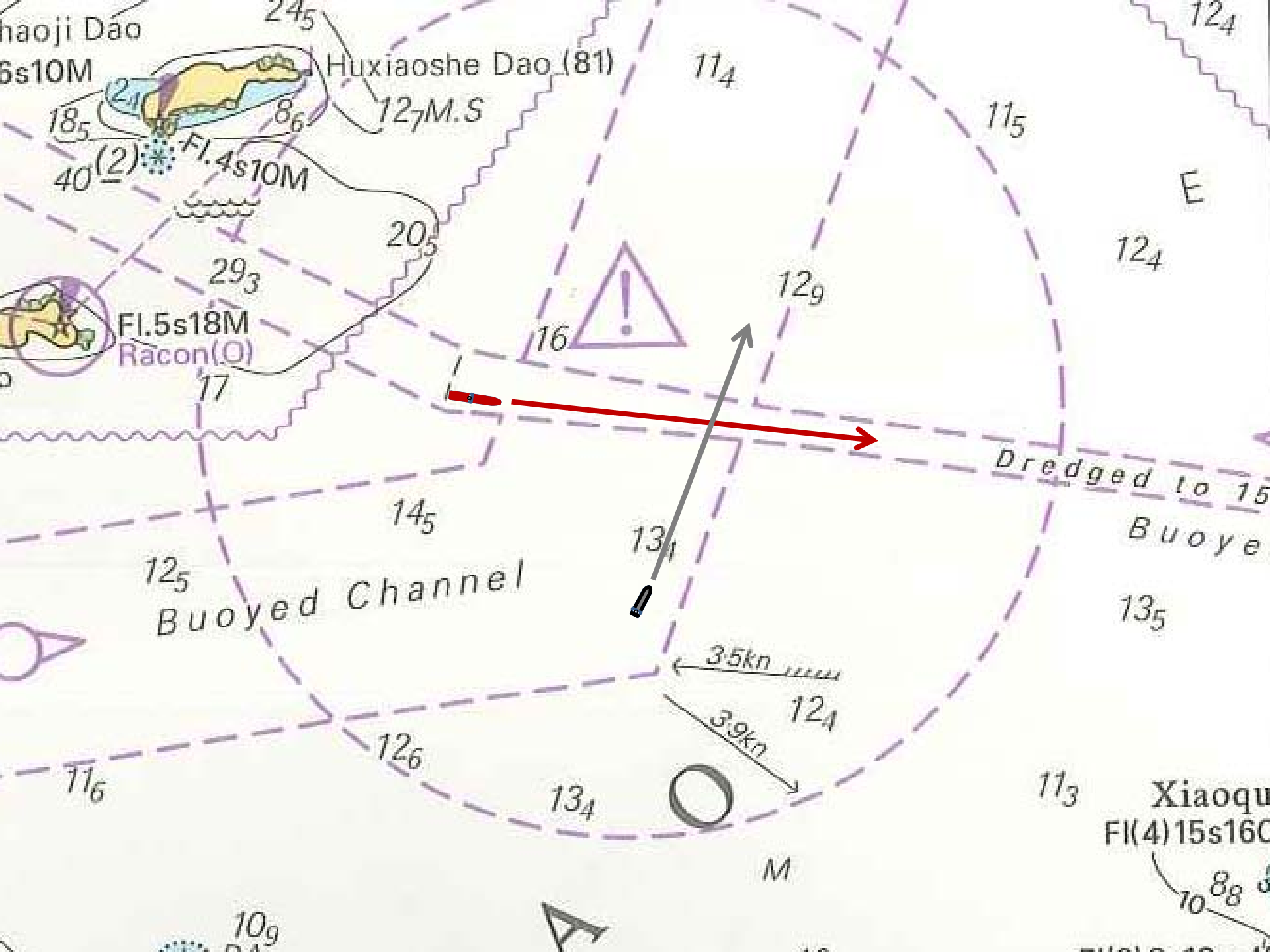



Containership
Tanker
Huxiaoshe Dao (81)
Fl.4s10M
Fl.5s18M
Racon(O)
Buoyed Channel
Dredged to 15
Buoye
3·5kn
3·9kn
Xiaoqu
Fl(4)15s16C

The Scenario

- Containership is constrained by her draught.
- Tanker continues Northbound at 10 knots;
- Containership travelling at 12 knots;
- Both ships maintain speed.


haoji Dao
6s10M
Huxiaoshe Dao (81)
12 7M.S
Fl.4s10M
Fl.5s18M
Racon(O)
Buoyed Channel
Dredged to 15
Buoye
3.5kn
3.9kn
Xiaoqu
Fl(4)15s16
E
M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Huxiaoshe Dao (81)
Fl.4s10M
Fl.5s18M
Racon(O)
Dredged to 15
Buoye
Buoyed Channel
3·5kn
3·9kn
Xiaoqu
Fl(4)15s16
M

The Scenario

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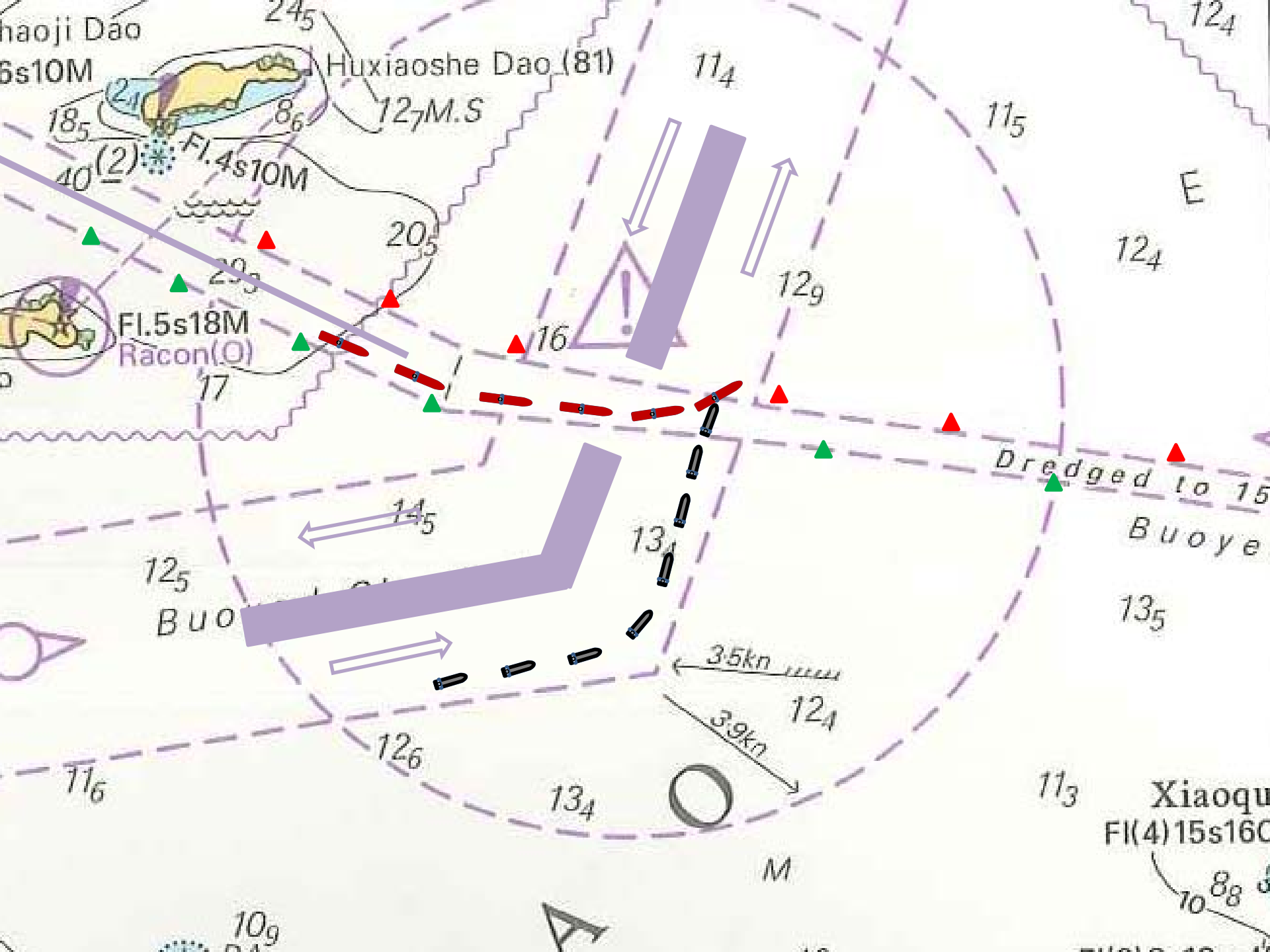
- Containership calls Tanker - No answer.
- Containership turns to port to minimise impact and tanker collides with containership in way of Heavy Fuel Oil (HFO) tanks and in ballast tanks below water line. Tanker holed in way of Forepeak tank and # 1 cargo tank.
- Tanker starts to sink rapidly;
- Containership ballast tanks flood rapidly causing significant list to develop and vessel eventually grounds, weather worsens, causing loss of containers.
- HFO from containership and cargo from tanker causes significant pollution;
- Many local fishing grounds.


haoji Dao
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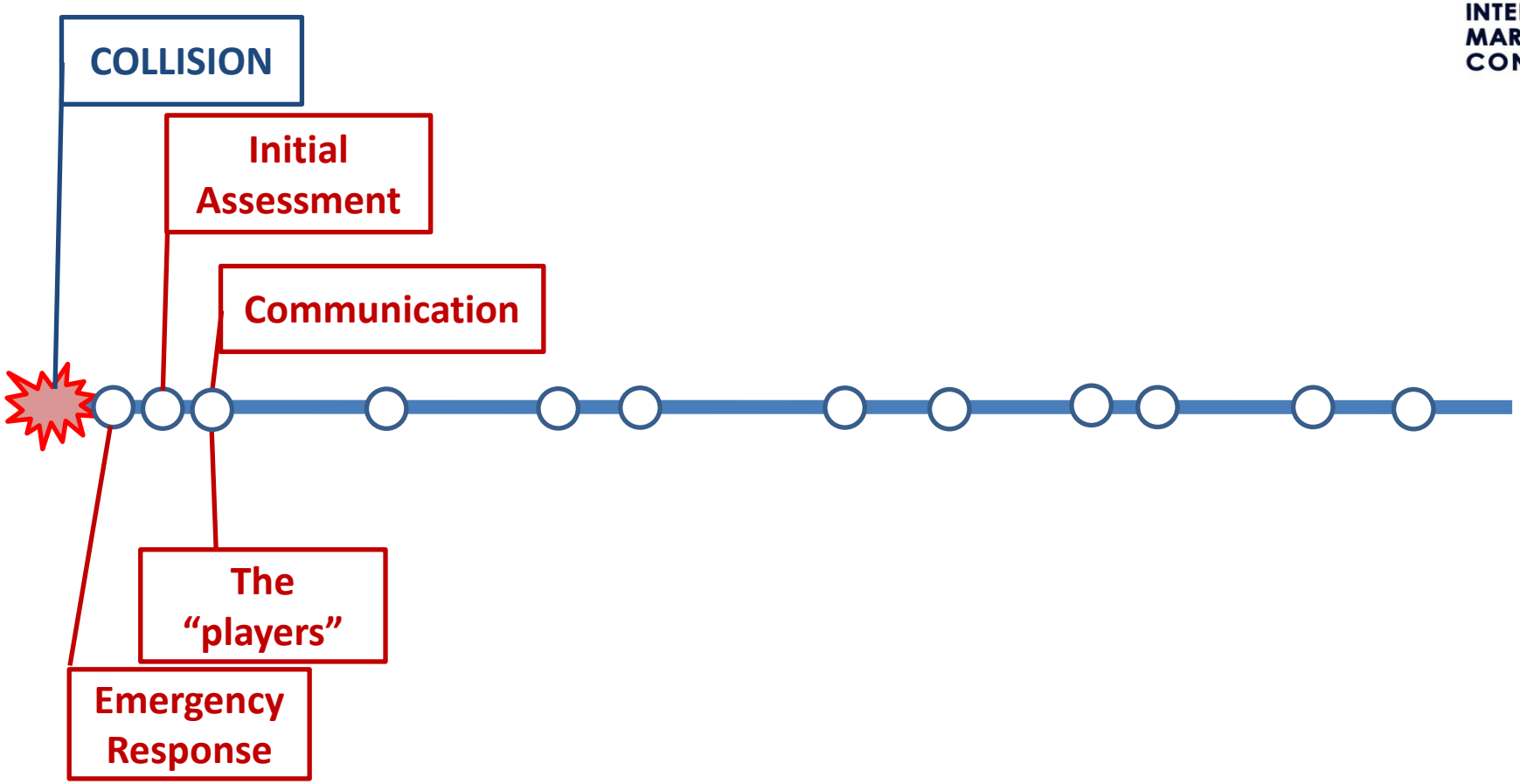
Fl.4s10M
Fl.5s18M
Racon(O)
Dredged to 15
Buoye
3·5kn
3·9kn
Xiaoqu
Fl(4)15s16C

16
129
138

IMMEDIATE ISSUES

TIMELINE



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Initial Assessment

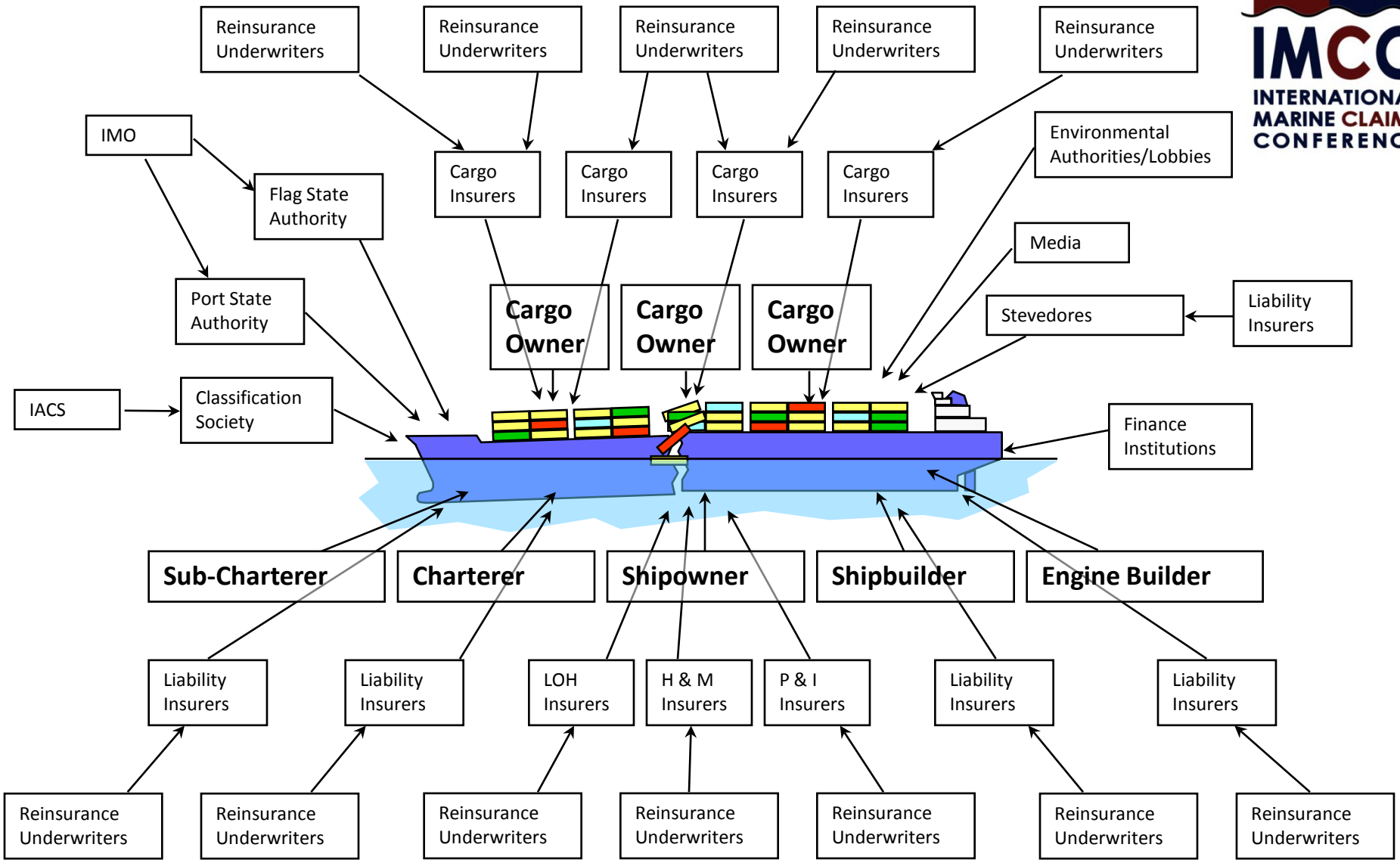
- Assess the gravity of the situation:
- Extent of damage to both vessels;
- Damage to cargo on both vessels;
- Loss of Life;
- Personal Injury;
- Fire;
- Oil pollution;
- Salvage;
- Wreck removal.

Multitude of decisions to be made in an effort to expedite the mobilisation of the necessary experts /assets.

Initial Notification

- Variety of reporting lines:
  Owners;
  Correspondents;
  Casualty lawyers;
  Media.
- Insurers' Concern:
  1/4th RDC / 4/4ths RDC?

Pollution, crew injury, 3rd party injury, cargo (on other vessel), wreck removal and other excess liabilities not covered under the Hull Clauses.



The Various Interests When a Ship has a Casualty

Communication

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- The 3 “Cs” - **communication, co-ordination and co-operation.**
- Vessel Owners, Managers, Manning agents, charterers / Brokers;
- H+M Underwriters / Brokers;
- Correspondents and local agents;
- Casualty lawyers;
- Marine Surveyors / Consultants/ Fire Expert/ ITOPF (pollution);
- Opponent P+I Club / H+M;
- Salvage brokers / Salvors;
- Cargo interests.

Primary Loss Issues for each vessel

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Containership	Tanker
Collision liability	Collision Liability
Physical Damage	Physical Damage
Injury / Loss of Life?	Injury Loss of Life
Cargo Loss / Damage	Cargo Loss
Pollution (HFO)	Pollution (Cargo / Bunkers)
Salvage	Abandonment / total loss
SCOPIC invoked?	Wreck Removal
GA declared?	
RDC items	
Indemnity claims	Indemnity claims

Deployment

- Casualty response team deployment:

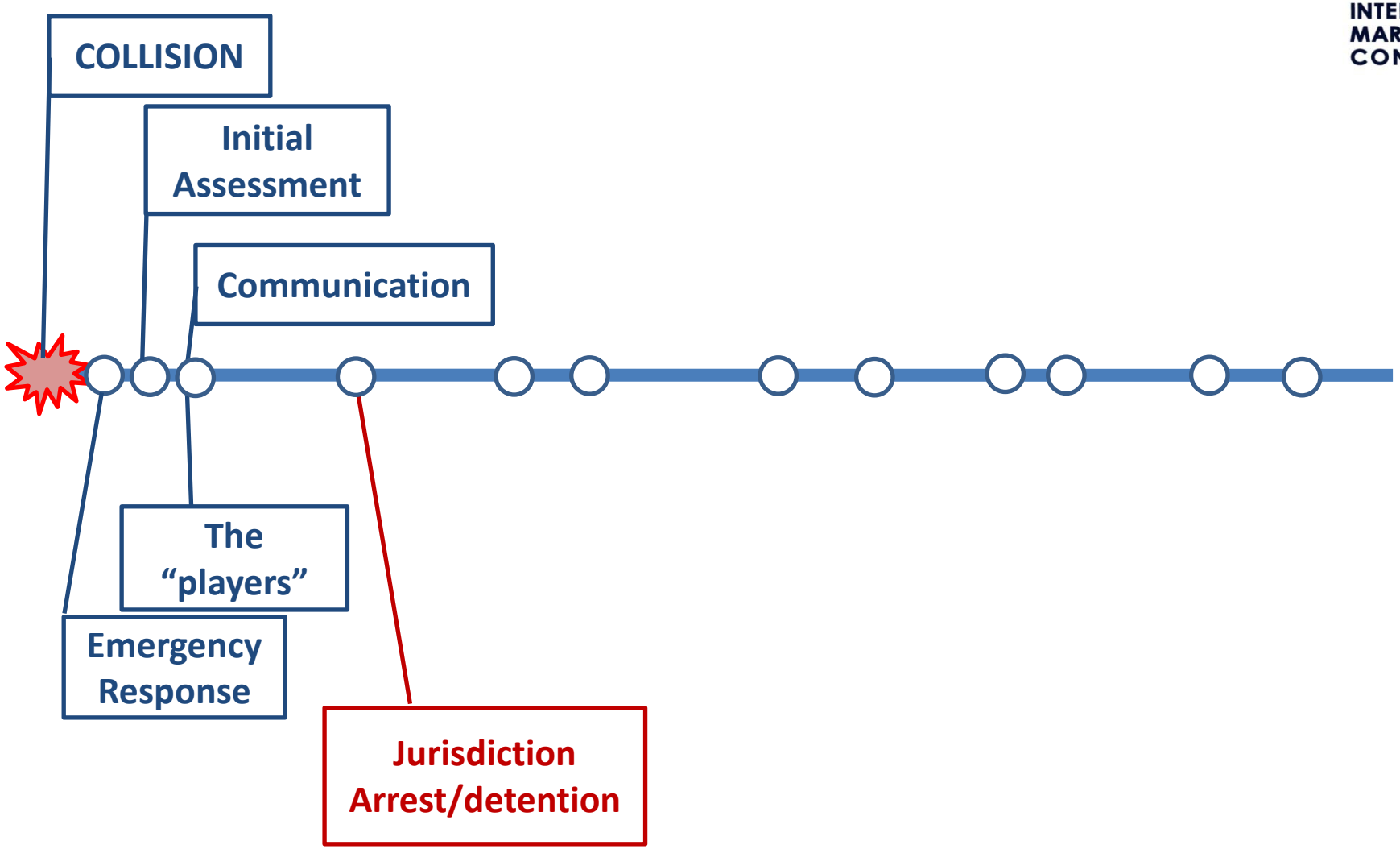
i. Investigate the circumstances of the incident,

ii. Preserve evidence and stabilise the casualty, not necessarily in any particular order.

- H+M / Owners - salvage services?
- Preserve contemporaneous vessel documentation, VDR data other 3rd party evidence – AIS records etc.
- SCR in any LOF SCOPIC capacity.
- ITOPF


PROCEDURAL
ISSUES

TIMELINE


COLLISION
Initial Assessment
Communication
The "players"
Emergency Response
Jurisdiction Arrest/detention

Procedural Pitfall 1

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Time Limits

Chinese law does not recognize voluntary extensions of the prescription period.

Procedural Pitfall 2

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Limits of liability

- China has implemented a limitation regime similar to the 1976 Limitation Convention into its Maritime Code (1993).

- Note the reduced limit of liability for Chinese flagged vessels engaged in coastal transport services and other coastal operations.

Procedural Pitfall 3

- Evidence preservation order
- Ensure that the list of documents which you require is comprehensive and focused
- Ensure that it is only the examining judge who attends on board

Procedural Pitfall 4

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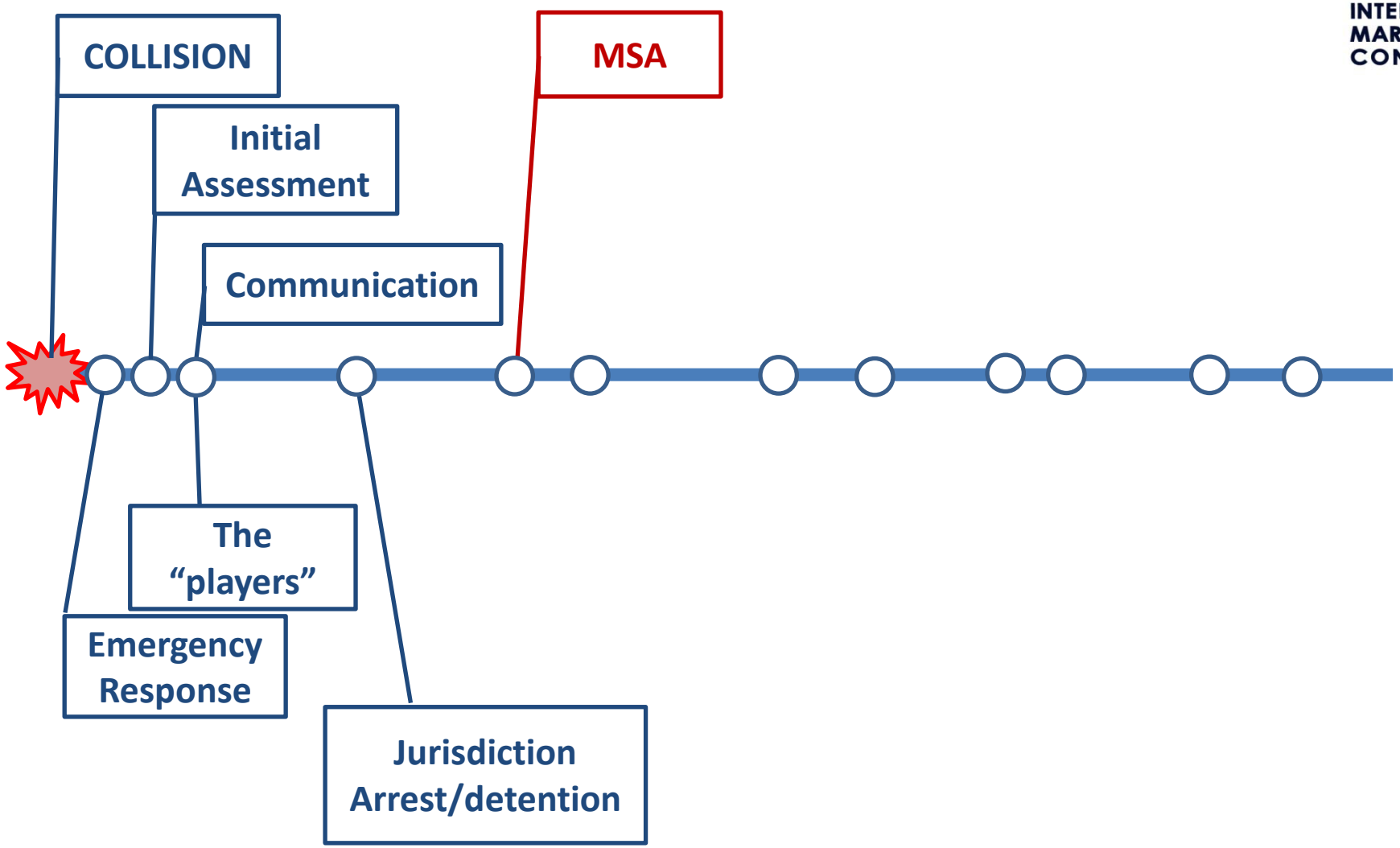
Jurisdiction and immunity for suit

- In the case of *Intraline Resources SDN BHD v The Owners of "Hua Tian Long" HCAJ 59/2008*, Guangzhou Salvage Bureau, an entity of the Central People's Government was held to be entitled to claim immunity from suit in Hong Kong courts.

TIMELINE



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China Maritime Safety Authority (MSA)

Maritime Safety Administration of the PRC ("MSA")

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Who are they?

- part of the Ministry of Communications
- control all maritime matters in PRC
- very powerful and bureaucratic

China MSA is a national authority responsible for:

- maritime law enforcement
- administration of shipping safety
- prevention of pollution from ships nationwide
- organization, coordination and conduct of search and rescue operations
- investigation of marine accidents and the approval of vessels involved in international trade for entry into and departure from Chinese ports

China MSA

Where are they?

The overall responsibility rests with Beijing MSA, with regional MSAs having local authority – 14 regional bureaus and 97 local branches along the coast line and Yangtze River, Pearl River and Heilingjiang River.

Subordinate Bureaus:

- Hebei MSA
- Liaoning MSA
- Guangdong MSA
- Tianjin MSA
- Changjiang MSA
- Jiangsu MSA
- Shanghai MSA
- Zhejiang MSA
- Fujian MSA
- Guangxi MSA
- Heilongjiang MSA
- Shenzhen MSA
- Hainan MSA
- Shandong MSA

China MSA - Marine Accident Investigation

What are their powers?

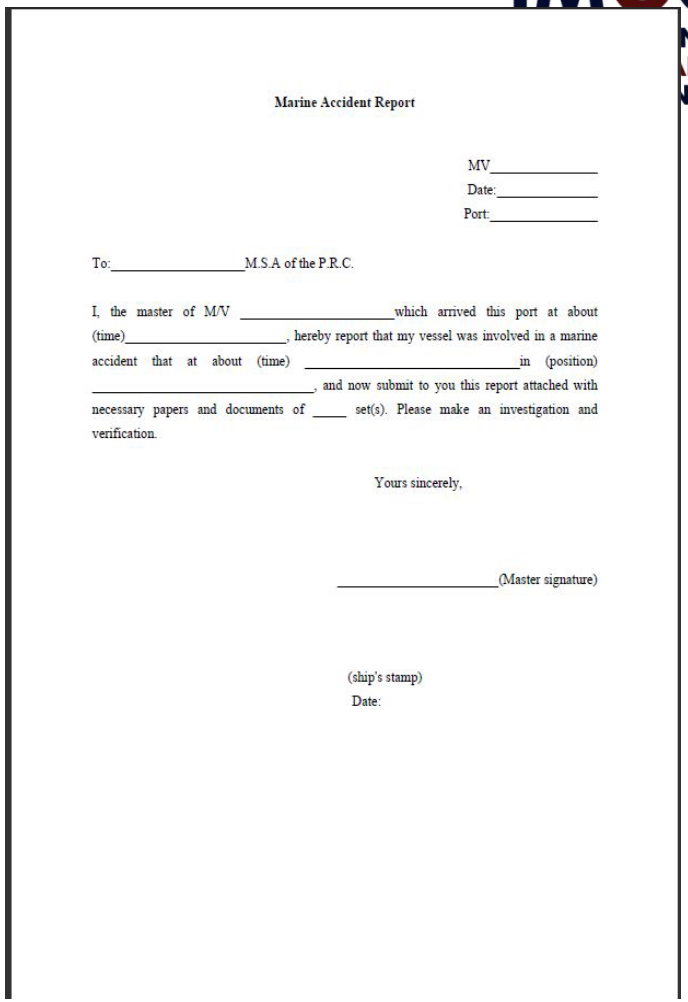
China MSA is responsible for: (i) investigating and analyzing traffic accidents in Chinese waters; (ii) identifying the causes of the accidents; (iii) determining the liabilities of the parties concerned; and (iv) preparing the reports accordingly.

- conduct on board investigations
- impose fines and arrest personnel
- seize documents
- collect VDR
- issue report on the accident
- determine liabilities of the parties concerned (Chinese courts rely on MSA findings on liability)

Failure to cooperate

Marine Accident Report

- Be prepared
- Specific answers required similar to those in a Preliminary Act
- Need for accuracy
- Sketch required
- Possibility for the questionnaire to be left on board for completion and returned to MSA through local agent



Marine Accident Report

MV_____
Date:_____
Port:_____

To:_____M.S.A of the P.R.C.

I, the master of M/V _____which arrived this port at about (time)_____, hereby report that my vessel was involved in a marine accident that at about (time) _____in (position) _____, and now submit to you this report attached with necessary papers and documents of ____ set(s). Please make an investigation and verification.

Yours sincerely,

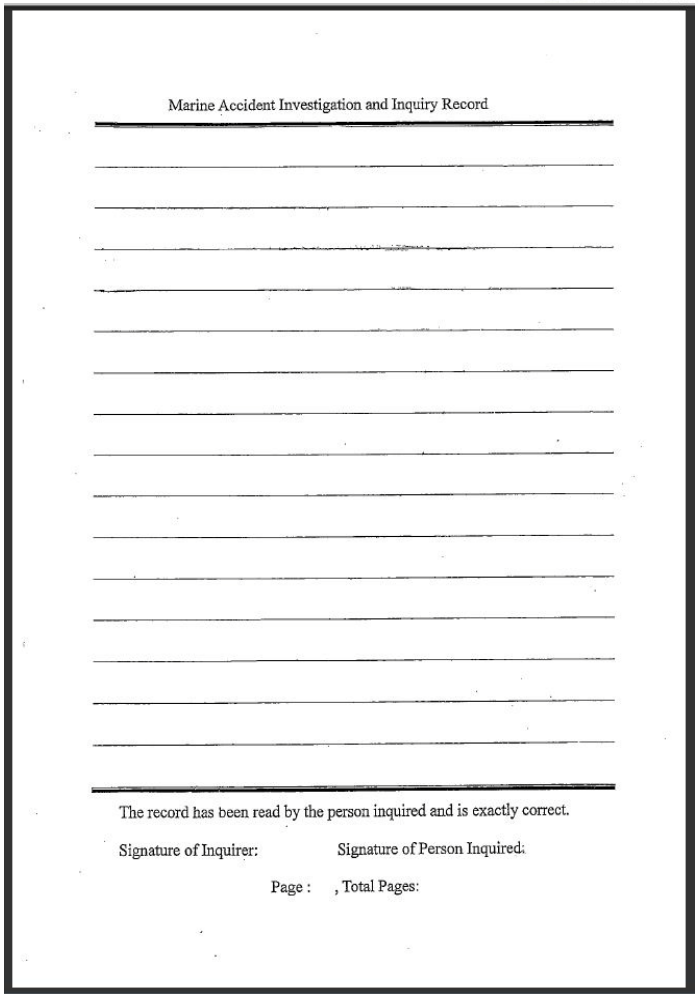
_____(Master signature)

(ship's stamp)
Date:

China MSA - Marine Accident Investigation

Marine accident investigation

- who attends on board?
- where and when do they attend?
- pre-planning
- interview of relevant crew
- translation and signature
- documents and VDR
- can lawyers be present during the interview?



Marine Accident Investigation and Inquiry Record

The record has been read by the person inquired and is exactly correct.

Signature of Inquirer: Signature of Person Inquired:

Page : , Total Pages:

China MSA - Marine Accident Investigation

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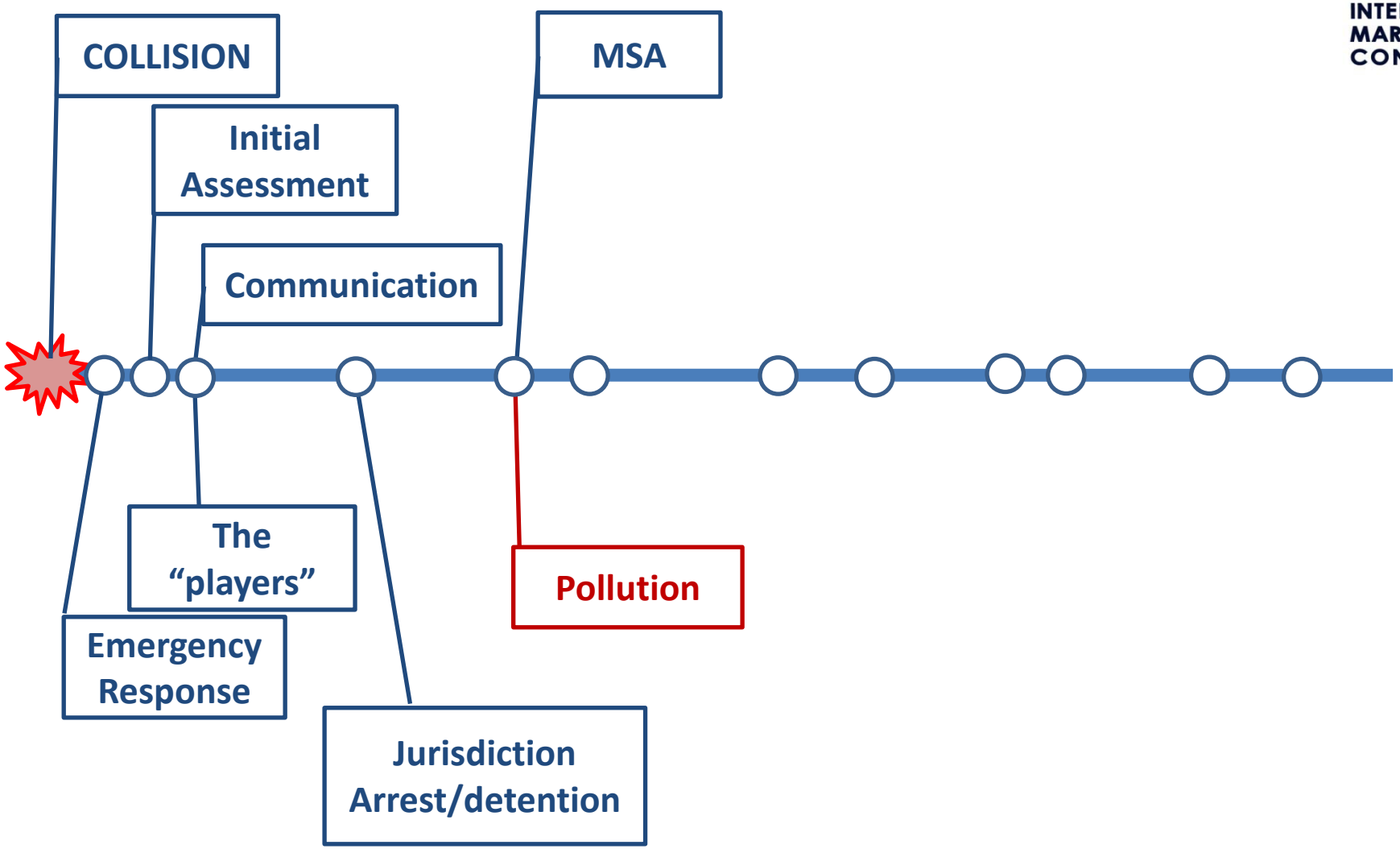
Lessons:

- Prepare for the inevitable investigation
- Do not volunteer anything
- Co-operate with investigating officer
- Keep record of questions and answers given
- Do not sign interview notes unless translated
- Ideally get MSA to leave questionnaire on board to be returned later

TIMELINE


COLLISION
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The "players"
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Jurisdiction Arrest/detention
Pollution


POLLUTION

The Regulations of the People's Republic of China (PRC) on the Prevention and Control of Marine Pollution from Ships – "The Regulations"

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- Establish comprehensive rules governing oil pollution prevention, response and clean up within PRC waters.
- Cover any ship-sourced pollution and any ship-related operation that causes or may cause pollution damage in the internal waters, territorial waters and the contiguous zones, exclusive economic zone and continental shelf of the PRC and all other sea areas under the jurisdiction of the PRC.
- **Key Provisions:**
  - **Requirement to maintain insurance or other financial security to cover liabilities arising from oil pollution damage.**
  - **Requirement to contract with MSA approved pollution response companies;**

Regulations

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- Require shipowners, operators or managers to maintain emergency response plans for the prevention and control of marine pollution.
- Understood that a MARPOL Shipboard Oil Pollution Emergency Plan (SOPEP) will be sufficient to meet this requirement.
- The PRC is a State party to the 1992 CLC and the 2001 Bunkers Convention.
- Regulations largely mirror those contained in those Conventions, which provide for strict liability of the owner for pollution damage arising from the carriage of persistent oil by sea (1992 CLC) and strict liability of the shipowner for pollution damage caused by spills of bunker oil (2001 Bunkers Convention).

Regulations

- **Issues relating to casualty scenario:**

- discharge and reception of oil pollutants;
- oil pollution response planning;
- oil spill clean-up arrangements,
- reporting and emergency handling of pollution incidents;
- investigation and compensation of pollution incidents;
- supervision of the loading, lightening and discharging of the polluting hazardous cargoes;

Image: Mavi Denis

Insurance / Financial Security

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- Introduce compulsory insurance regime for all ships (except <1,000 gt and not carrying oil cargoes)
- Should satisfy the requirements of the Chinese Maritime Code or the 1992 CLC and Bunkers Convention where applicable.
- Gives effect to insurance provisions of:

I. International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (2001 Bunkers Convention)

II. 1992 International Convention on Civil Liability for Oil Pollution Damage (1992 CLC)

III. A domestic Ship Oil Pollution Compensation Fund - funded by contributions from receivers of persistent oil cargoes transported by sea to a Chinese port. PRC is not a State party to the 1992 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (1992 IOPC Fund).

Pollution Response Contractor

- The Regulations require:
- Operators of any ship carrying polluting and hazardous cargoes in bulk or of any other vessel above 10,000 gt to conclude a pollution clean up contract with an MSA approved pollution response company before entering a PRC port.
- Contractors responsible for conducting clean-up operations in the event of an incident, **under the MSA's supervision,** and with the intervention of the MSA if the capabilities of the contractor are exceeded.

Image: Hang Peng

Pollution Response Contractor

- Class 1 – National;
- Class 2 – Coastal;
- Class 3 – Port;
- Class 4 – Terminal.

Certified contractors yet to b
published:

http://www.msa.gov.cn

http://www.osp.cn

- MSA will issue lists of all approved contractors in October 2011.
- 1 January 2012 – enforced

Image: Sea Clean

Maritime Safety Agency (MSA)

- Designated authority for enforcing the Regulations;
- Responsible for specific supervision and administration of prevention and control of marine pollution by ships and relevant ship operation activities;
- Overall responsibility rests with Beijing MSA, with regional MSAs having local authority – 14 regional bureaus and 97 local branches along the coast and the Yangtze River;
- Responsible for co-ordination of response to HNS at sea.

Image: Hang Peng

Maritime Safety Agency (MSA)

- Currently approving contractors in the various Chinese ports;
- Designate four levels of contractor who will have the capability to respond to a spill depending on the size and extent;
- Priority likely to be given to the costs of response organised by the Government.
- MSA will recover its costs and demand a relevant financial guarantee - local PRC insurer/PRC bank guarantee).

Image: Hang Peng

Issues to consider in response

- Deployment of assets by MSA: "*emergent action*"
  - i. Vessels;
  - ii. Equipment;
  - iii. Personnel;
- Proportionate?

Article 36 :

MSA may take action such as marine traffic control, pollution removal, salvage, towage , pilotage, convoy, lightering, oil pumping or other necessary methods. (carte blanche ?)

Ship to pay for such costs or provide a financial guarantee – **domestic** bank or insurance company only.

- Cash deposit – no entitlement now

Issues to consider in response

[redacted]救助、清污、应急处置费用汇总

单位/船舶	技术资料	人员情况	作业时间	费用
VTS 系统使用	共五个指挥台，总造价 1.5 亿人民币，系统运行维护费为 1200 万元/年	地面救助指挥人员 5 人；地面救助协调/策划官员及工程师 30 人	7 月 8 日至 14 日（7 天）	人民币 1349770 元（折合 198495.6 美元）
海巡 1517	主机功率 339kwX2 台	救助船长 1 人；救助工程师 4 人；船员 3 人	7 月 8 日至 14 日（7 天）	人民币 451664.5 元（折合 66421.25 美元）
海巡 1516	主机功率 339kwX2 台	救助船长 1 人；救助工程师 4 人；船员 3 人	7 月 9 日（1 天）	人民币 64523.5 元（折合 9488.75 美元）
穗港环保 2 号	主机功率 294kw，配备消防及防污染设备	清污指挥 1 人；清污人员 5 人	7 月 8 日至 10 日（3 天）	人民币 258442.5 元（折合 38006.25 美元）
穗港环保 3 号	主机功率 368kwX2 台，配备消防及防污染设备	清污指挥 1 人；清污人员 5 人	7 月 9 日至 14 日（6 天）	人民币 616335 元（折合 90637.5 美元）
南海救 101	主机功率 18850 马力	救助指挥 1 人；调度员 4 人	7 月 8 日至 9 日（2 天）	人民币 544382.50 元（折合 80056.25 美元）
海特 1504	主机功率 3400 马力	救助指挥 1 人；救助工程师 5 人	7 月 9 日至 14 日（6 天）	人民币 975885（折合 143512.5 美元）
车辆使用	中巴及以上等级车辆	30 车次	7 月 9 日至 14 日（6 天）	人民币 45000 元（折合 6617.6 美元）
后勤食宿	后勤服务、餐厨人员	30 人次	7 月 9 日至 14 日（6 天）	人民币 30000 元（折合 4411.8 美元）
合计	人民币 4336003 元（折合 637647.5 美元）			
备注	1、以上费用（除 VTS 系统、车辆使用、后勤食宿费用以折旧及成本核算外）按照 SCOPIC2007 及其附件标准计算；2. 人民币兑换美元按照 6.8 元人民币兑换 1 美元计算；3.上述统计金额可作为协商解决 FPMC23 救助、清污、应急处置费用基础，但上述费用不是最终统计结果，我局保留补充权利。			

Cost summarize for [redacted] salvage, cleanup and emergent actions

Vessel/ facility	Technical data	Labors	Attending time	Claim amount
VTS system	Total 5 platform with the value RMB150 million and annual maintenance RMB12 million	Commander 5 person; 30 coordinators and engineers	July 8-14（7days）	RMB1,349,770（USD198,495.60）
Hai Xun 1517	Main engine 339kwX2	1 salvage master and 4engineers; 3 sailors	July 8-14（7days）	RMB451664.5（USD66421.25）
Hai Xun 1516	Main engine 339kwX2	1 salvage master and 4engineers; 3 sailors	July 9 (1 day)	RMB64523.5（USD9488.75）
Sui Gang Huan Bao 2	Main engine 294kw with fire and pollution facilities	1 commander and 5 cleaners	July 8 -10 (3days)	RMB258442.5（USD38006.25）
Sui Gang Huan Bao 2	Main engine 368kwX2 with fire and pollution facilities	1 commander and 5 cleaners	July 9 -14（6 days）	USD616335（USD90637.5）
Nan Hai Jiu 101	Main engine 18,850hp	1 salvage commander and 4 formen	July 8-9（2 days）	RMB544382.50（USD80056.25）
Hai Te 1504	Main engine 3400 hp	1 salvage commander and 5 engineers	July 9-14（6 days）	RMB975885（USD143512.5）
Vehicle	Minibus or above	30 drives	July 9-14（6 days）	RMB45000（USD6617.6）
Logistic and food	Logistic and cooks	30drvies	July 9-14（6 days）	RMB30000（USD4411.8）
Total	RMB4336003（USD637647.5）			
Remark	1、The above cost is calculated as SCOPIC2007 besides VTS, vehicles, logistics, discounter and cost checking 2、The exchange rate 6.8/ 1 USD 3、The above calculation is not final and Guangzhou MSA reserves the right for revising.			

Issues to consider in response

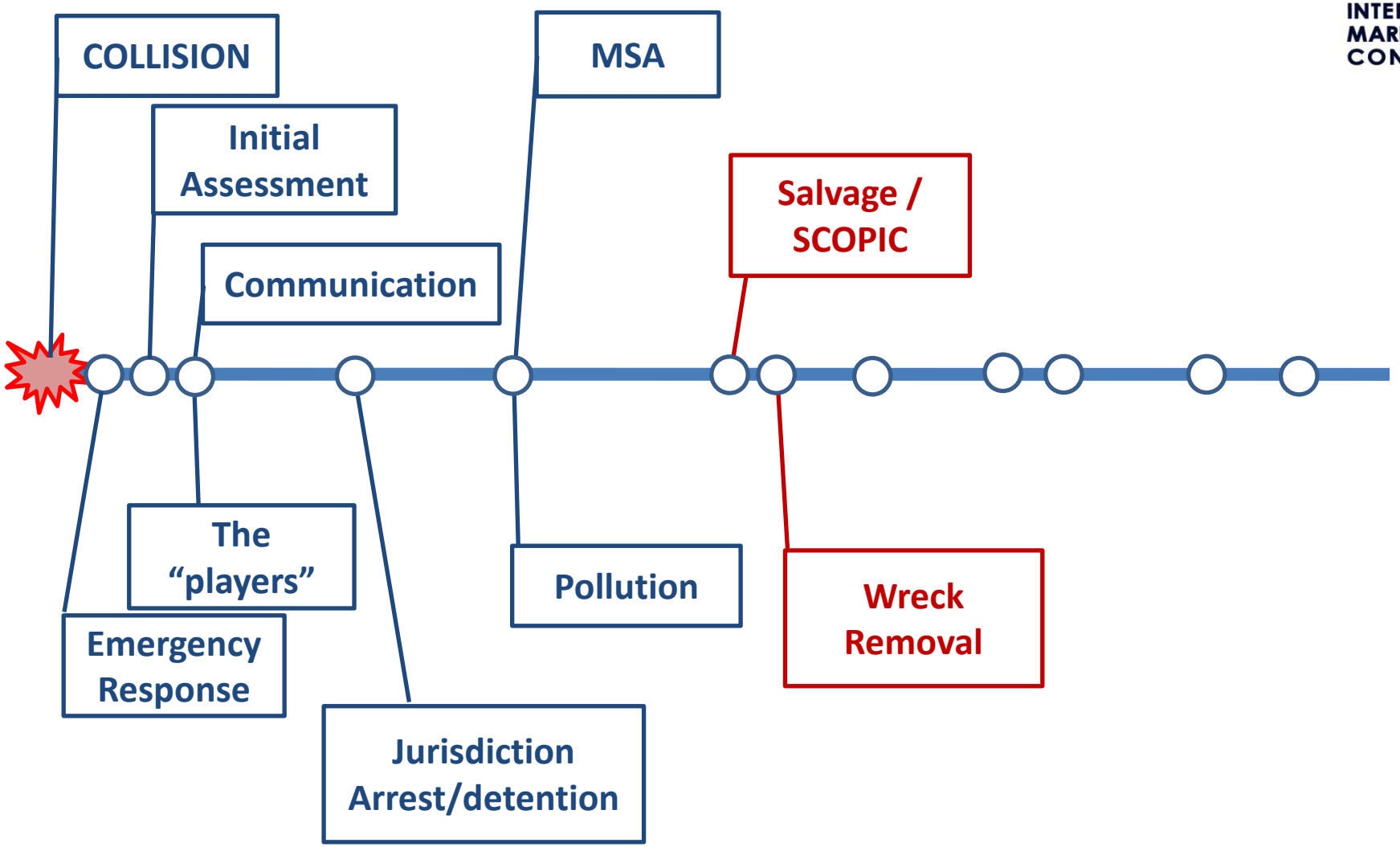
- Requirement to deploy experts to monitor all MSA activities.

ITOPF notes:

- Specialist equipment limited outside China National Offshore Oil Corp. (CNOOC);
- Strict regulations on use of dispersants;
- Major ports resourced with skimmers, booms, pumps, dispersants and absorbents
- Largest cache of oil spill containment held by CNOOC;
- PRC government establishing large equipment stockpiles

Image: Sea Clean

TIMELINE



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STEAMSHIP MUTUAL

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SALVAGE IN CHINESE WATERS

Who can salve in Chinese waters?

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- China Rescue and Salvage Bureau of the Ministry of Communication (CRS) is China's only national maritime rescue and salvage force.
- Three divisions – assessed geographically
  1. Guangzhou Salvage (Nan Hai)
  2. Shanghai Salvage (Dong Hai)
  3. Yantai Salvage (Bei Hai)

- Its primary responsibilities are the response to marine accidents in Chinese waters, including life-saving, salvage of vessels and property, wreck removal, fire-fighting, spill clean-up, etc.

Who can salve in Chinese waters?

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Can foreign salvage companies salve in PRC waters?

- Require permit from MSA
- For vessel over 5000GT – only Salvage Bureau
- For vessel under 5000GT – foreign salvor may apply to MSA for licence
  - not readily granted
- However, Salvage Bureau and MSA will take advice from foreign based salvage master if on board casualty.

Salvage – General Provisions

- Salvage operation under control of local MSA
- If minor casualty - local MSA will orchestrate response and impose assistance on salved interests and claim compensation
- If major casualty – Salvage Bureau will respond depending on location of casualty
- Differing levels of expertise

Deployment Diagram of National Professional Rescue and Salvage Forces

Salvage - Lessons

- Salvage contract and jurisdictio
- The issue of excessive response
- Crown immunity – *Intraline Resources SDN BHD v The Owner of MV Hua Tian Long HCAJ 59/2008*

Post Salvage - Pre departure casualty site

Post Salvage - Pre departure casualty site

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- Class and Flag State - Is the vessel structurally sound and meet statutory regulations
- Owners – Will want to protect their property/reputation
- P&I – Is the vessel a risk
- H&M – Is the vessel a risk
- Salvors – Is the LOF signed off / salvors accompanying vessel
- Cargo interests – How much cargo will be delivered
- General Average – Interested in sacrifice damage
- Towage – LOF or Towcon


Temporary Repairs

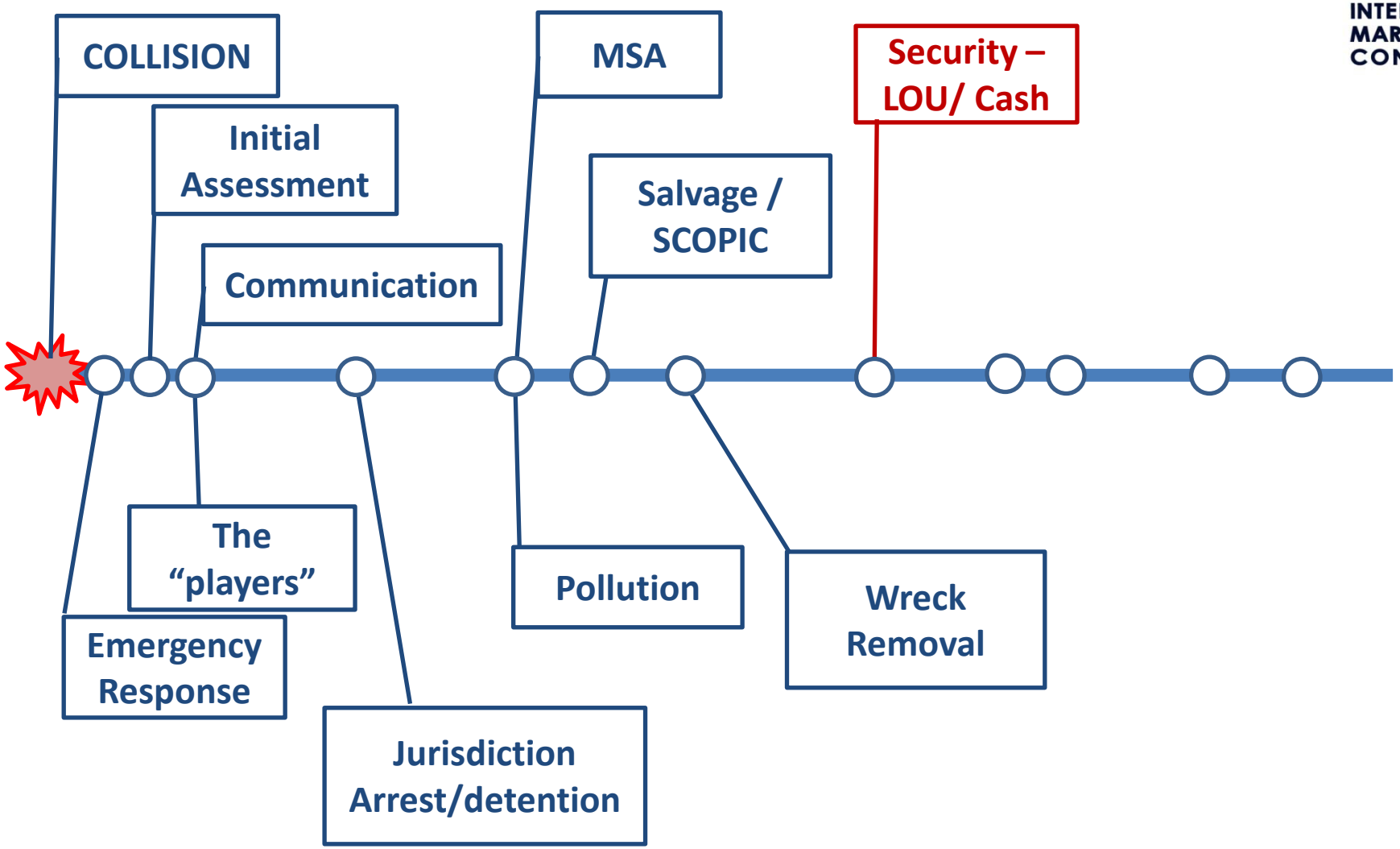

Temporary Repairs

Temporary Repairs

Towage Contract


SECURITY

TIMELINE



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Security

Most common form – Club LOU:

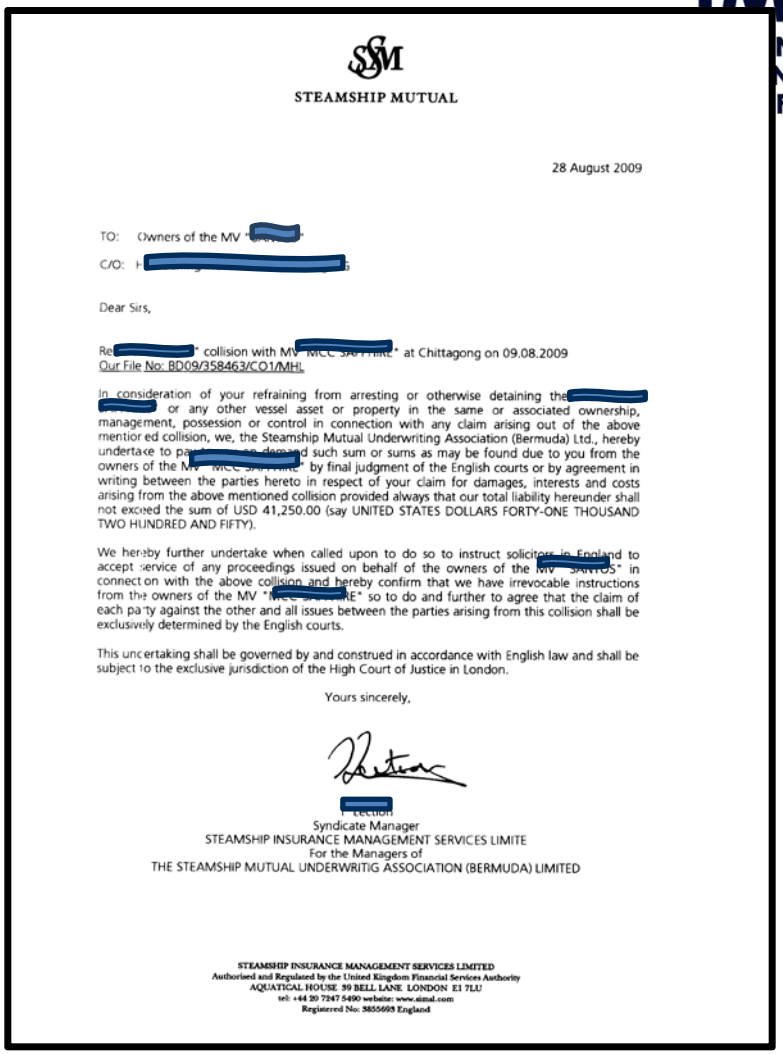
- Club standard wording;
- ASG wordings.

Counter security

- One Fourth cover
  - Subject Rules 43 & 31
  - Hull underwriter, three fourths proportion, cash, bank guarantee or equivalent;

Also, - Bank Guarantees

- Security by proxy:
  - i. correspondents;
  - ii. PRC Insurance entity



STEAMSHIP MUTUAL

28 August 2009

TO: Owners of the MV "[redacted]"

C/O: [redacted]

Dear Sirs,

Re [redacted]" collision with MV "[redacted]" at Chittagong on 09.08.2009
Our File No: BD09/358463/CO1/MHL

In consideration of your refraining from arresting or otherwise detaining the [redacted] or any other vessel asset or property in the same or associated ownership, management, possession or control in connection with any claim arising out of the above mentioned collision, we, the Steamship Mutual Underwriting Association (Bermuda) Ltd., hereby undertake to pay on demand such sum or sums as may be found due to you from the owners of the MV "[redacted]" by final judgment of the English courts or by agreement in writing between the parties hereto in respect of your claim for damages, interests and costs arising from the above mentioned collision provided always that our total liability hereunder shall not exceed the sum of USD 41,250.00 (say UNITED STATES DOLLARS FORTY-ONE THOUSAND TWO HUNDRED AND FIFTY).

We hereby further undertake when called upon to do so to instruct solicitors in England to accept service of any proceedings issued on behalf of the owners of the MV "[redacted]" in connection with the above collision and hereby confirm that we have irrevocable instructions from the owners of the MV "[redacted]" so to do and further to agree that the claim of each party against the other and all issues between the parties arising from this collision shall be exclusively determined by the English courts.

This undertaking shall be governed by and construed in accordance with English law and shall be subject to the exclusive jurisdiction of the High Court of Justice in London.

Yours sincerely,

[redacted]
Syndicate Manager
STEAMSHIP INSURANCE MANAGEMENT SERVICES LIMITE
For the Managers of
THE STEAMSHIP MUTUAL UNDERWRITIG ASSOCIATION (BERMUDA) LIMITED

STEAMSHIP INSURANCE MANAGEMENT SERVICES LIMITED
Authorised and Regulated by the United Kingdom Financial Services Authority
AQUATICAL HOUSE 39 BELL LANE LONDON E1 7LU
tel: +44 20 7247 5490 website: www.simal.com
Registered No: 5855695 England

Security

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Successive security demands from various interests as a casualty scenario evolves.

These could include:

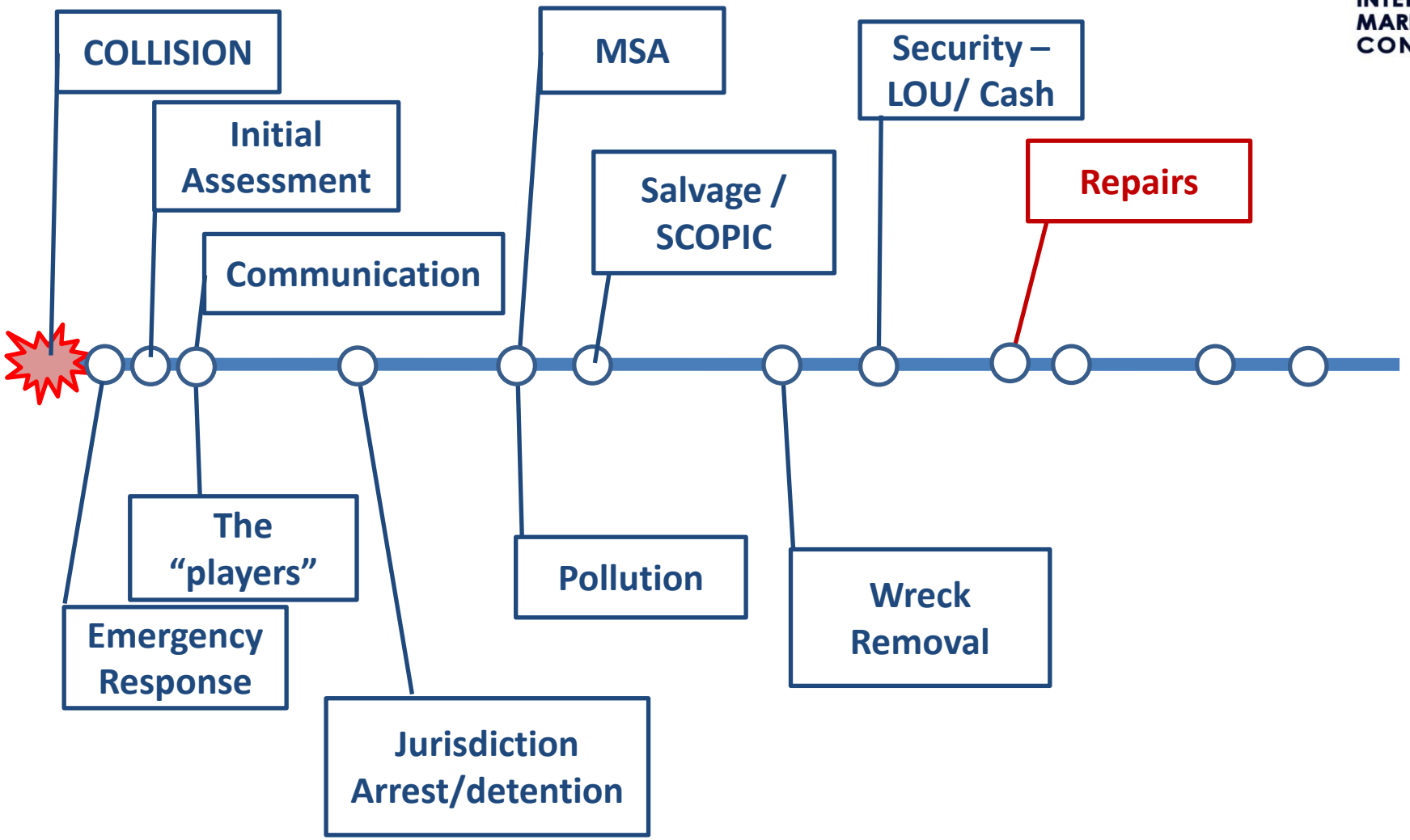
- **Inter- ship**: securing claims for damage between each vessel. Normally Club letters are exchanged, though bank guarantees / cash deposits may be a requisite. Counter security from H+M has to be in place, where Club is only 1/4th RDC;

- **Cargo security.** Cargo owners / insurers on opposing vessel will generally seek security for loss of / damage to cargo. Where GA is declared, then there may be a request for the Club to provide security for cargo's indemnity proportion of general average. Where salvage features, then an additional requirement for security in respect of a salvage indemnity claim from cargo.

Security

- Where GA features, Owners will look to secure cargo's proportion of GA through their GA Adjuster. Average Bonds and Guarantee;
- Local authorities will usually demand security from Owners for pollution claims and / or clean up costs - MSA
- Salvors will seek security from Owners and cargo in respect of their respective proportions of the potential salvage award / settlement.
- Salvors will seek security from Owner's P+I for SCOPIC (where invoked).

TIMELINE



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REPAIRS IN CHINA

China as a Repair Destination

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- China remains the busiest repair location in the World
- Business up until 2008 was very good
- Shipyard space was at a premium
- Owners return time after time as it is cheap - a sign of success
- Based on low labour costs and government subsidy
- Broad range of repair facility quality
- China now diversifying from repair to building

Arrival Discharge Port

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- Authorities may arrest the vessel if they regard the damage as significant
- There may be a perceived pollution risk – superintendents or Master can be arrested
- An disproportionate anti pollution response operation can be put in place
- Floating dock or graving dock – Differing pollution risks
- Ship preparation – on site surveyors/superintendents

Graving Dock


Floating Dry dock

Post Salvage – Pre arrival shipyard

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Considering a yard:

- Space availability
- Yard Quality or Reputation
- Previous experience
- Private understandings
- Where will MSA allow?

Post Salvage – Pre arrival shipyard

Competitive tendering:

- H&M surveyors cannot dictate - only advise without prejudice
- The Owner must act as a prudent uninsured
- When costs are submitted to the underwriter they must be fair and reasonable
- Insurers can insist on other yards being considered

Post Salvage – Pre arrival shipyard

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Normalising of quotations is time consuming but worthwhile:

- Allows the quotations to be assessed on a like for like basis
- Quotations can be complex/ lengthy/confusing
- Additional items not agreed beforehand will be charged at a premium
- Is prefabrication an option to save time

Post Salvage – Pre arrival shipyard

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Implications of damaged vessel arriving at Chinese port:

- We assess it is safe, but do the authorities in China - they may have different perspective.
- Pollution or any other risk can be viewed differently

Post Salvage – Pre arrival shipyard

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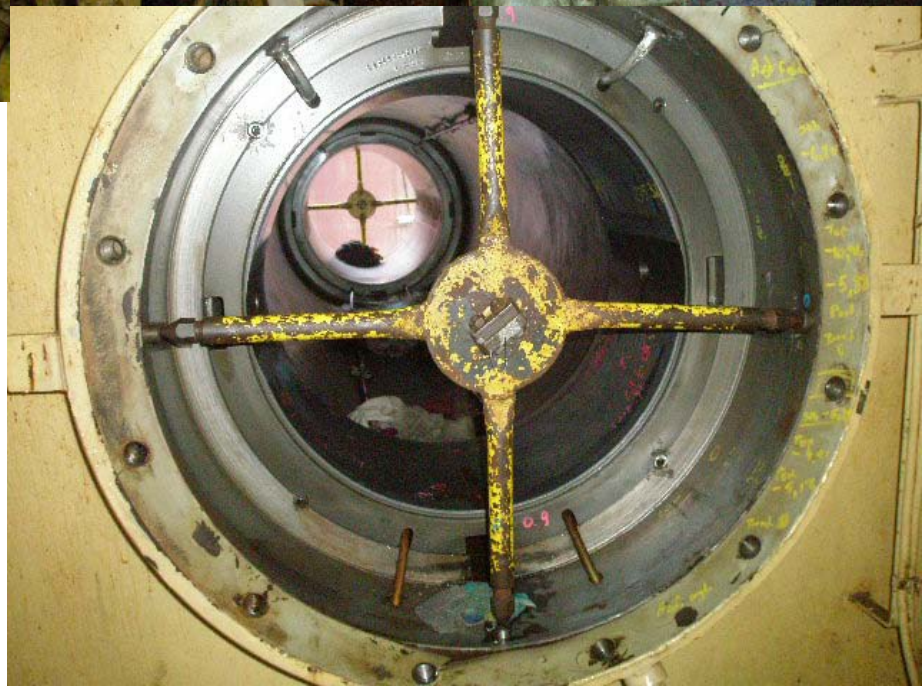
Specialist services required:

- Main engine damaged from salvor's efforts or casualty
- Main engine and shafting alignment checks
- Propeller damage
- Rudder damage
- Problem in China with a low skill base at certain yards
- External expertise may be required


Propeller damage
Rudder Missing


Propeller Repairs


Propeller Repairs



Shafting Alignment

Repair Period

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Supervision:

- Additional ships personnel
- To monitor each repair area
- Work closely with Class
- Requires daily meetings and coordination
- Additional superintendents sometimes needed

Repair Period

Attention to detail essential:

- Examine everything in detail
- Take nothing for granted
- Take the time to discuss this with the yard managers
- Try to pin them down can be elusive
- Morning meetings
- Be present at all testing

Repair Period

Experience essential:

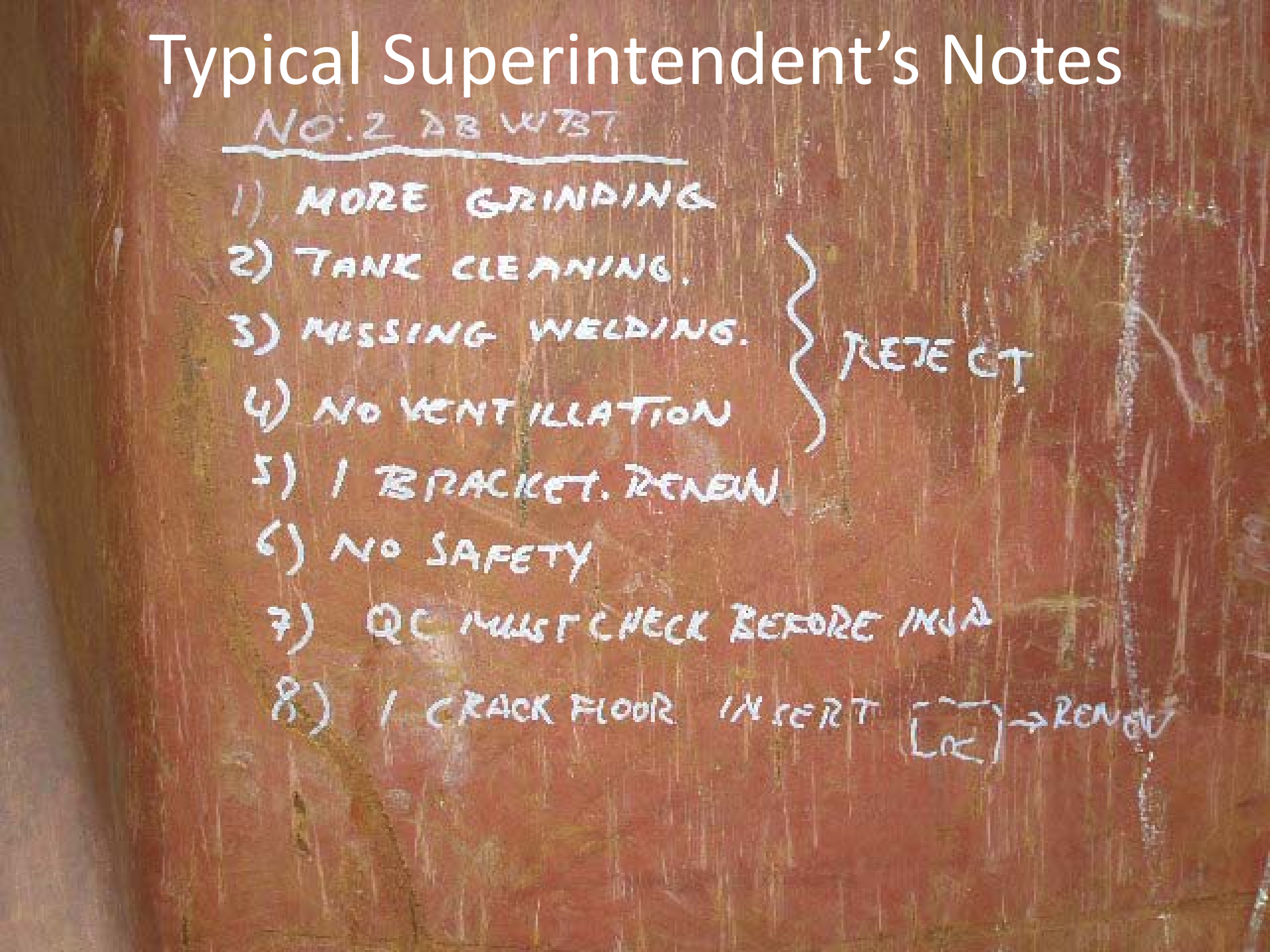
- To understand the working practices
- To understand the culture
- To understand the language
- To protect the Owner's Interests

Repair Period

Quality control:

- Ship yard quality control should be monitored closely don't take their word for it
- Weld quality
- Materials specifications –avoid Chinese equivalent materials
- Painting quality

Typical Superintendent's Notes



Repair Period

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Testing and Commissioning:

- This is the last opportunity to ensure quality
- Pressure testing – attend all tests
- Quality of welding - check every inch of weld


Inspect **every** inch of weld

Vacuum testing

Typical Scenario

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- "MV XYZ" with extensive underwater damage requiring 1000 tonnes of steel replacement.
- Performed at HRDD Chongming Island near Shanghai
- Took 32 days – steel replacement rate 31 tonnes/day
- Where 15-20 is regarded as good

Typical Scenario

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- Quality was satisfactory in the end but required a lot of supervision
- 25% Over budget
- The correct steel was not available 1 to 2mm @10% extra
- Charged top steel rate for using scrap for faring plates
- Additional damage items charged at a premium

Typical Scenario – damaged cargo hold tank tops

Typical Scenario – faring plates charged at a premium

Typical Scenario

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- Superintendent was threatened with arrest because of the pollution threat on arrival
- The anti pollution deployment cost USD 250,000 for three hours work
- Disposal of fuel tank water was not possible by normal means because non eco-friendly dispersant had been used during salvage


Typical Scenario – hull support required for structural support

Typical Scenario

- The job was carried out quickly
- It cost significantly more than budgeted
- But the cost was still relatively cheap
- A lot of stress on the Superintendent

Negotiations and sail off

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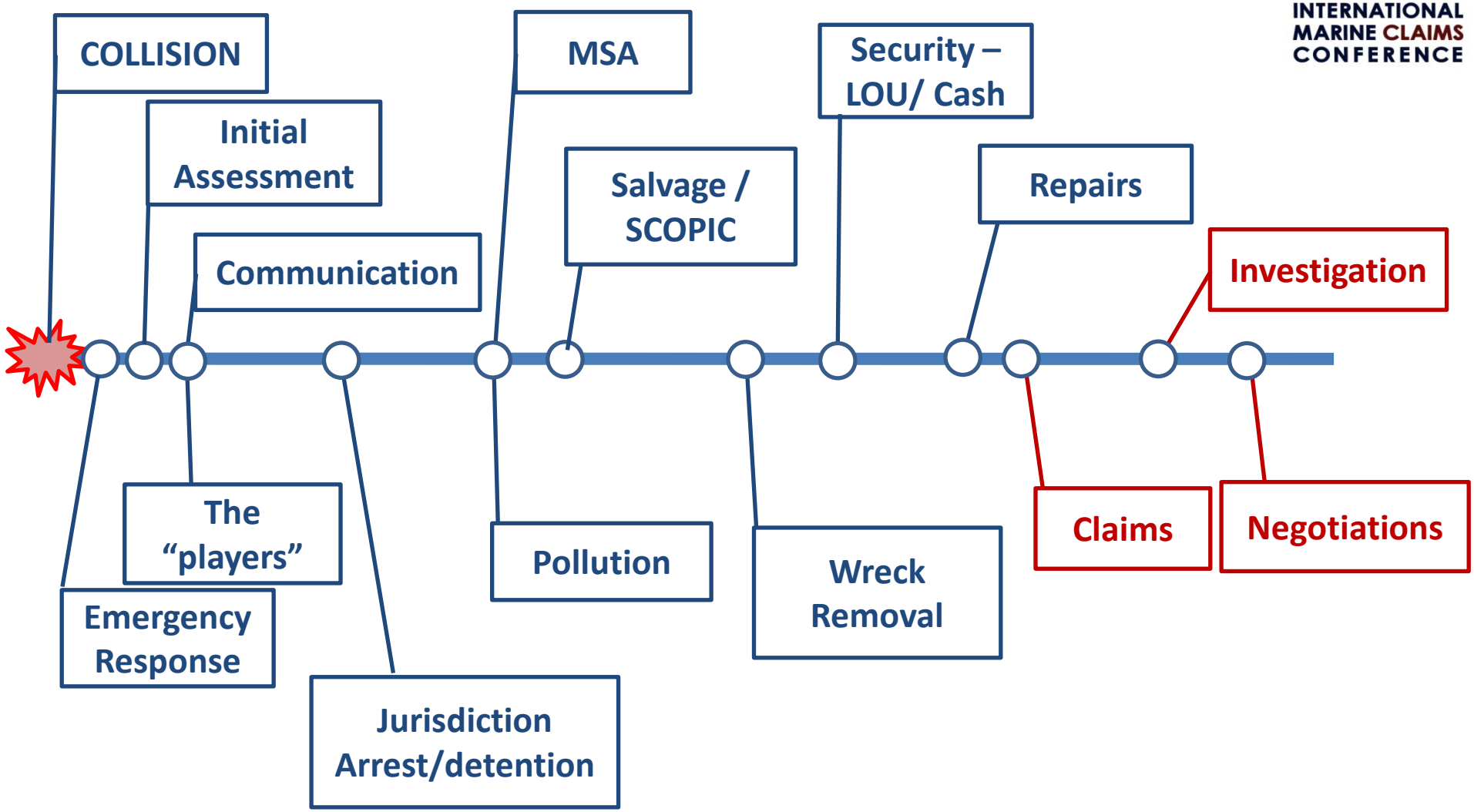
- This is where the diligence in supervision pays off
- This avoids unnecessary surprises
- There is always an element of negotiation
- Often the senior managers are not involved
- If staged payments on account are agreed then timing and communication are essential so that the funds are in place
- A deposit will have at least 50% will have to be paid first before the ship can sail or superintendent depart

Negotiation / Settlement

- Reliance on records of vessel's local surveyors;
- Seek to obtain full supporting materials from MSA;
- Identify rates applied (MSA tariff?) –new contractual rates?
- Scrutinise each item forensically - duration of deployment of individual assets corresponds to actual deployment?
- Robust but amicable posture;
- MSA hierarchy;
- Recovery - according to liability apportionment.

TIMELINE


COLLISION
Initial Assessment
Communication
MSA
Salvage / SCOPIC
Security – LOU/ Cash
Repairs
Investigation
The "players"
Emergency Response
Jurisdiction Arrest/detention
Pollution
Wreck Removal
Claims
Negotiations

Investigation

- MSA will instruct vessels to move to ‘safe’ location;
- Vessels are effectively ‘arrested’;
- MSA have remit to investigate (+ fine / arrest);
- Co-operation with authorities;
- Preserve as much evidence as possible with copies;
- Shore VTS data very hard to access from MSA;
- Essential that vessel VDR data is preserved;

Investigation

- MSA likely to be first on scene;
- P&I, H&M and other surveyors/experts work with MSA;
- Access to evidence may be difficult;
- ‘Without Prejudice’ survey;
- MSA will issue report for the Maritime Courts;
- Access to evidence after the event.....!

Investigation - Challenges

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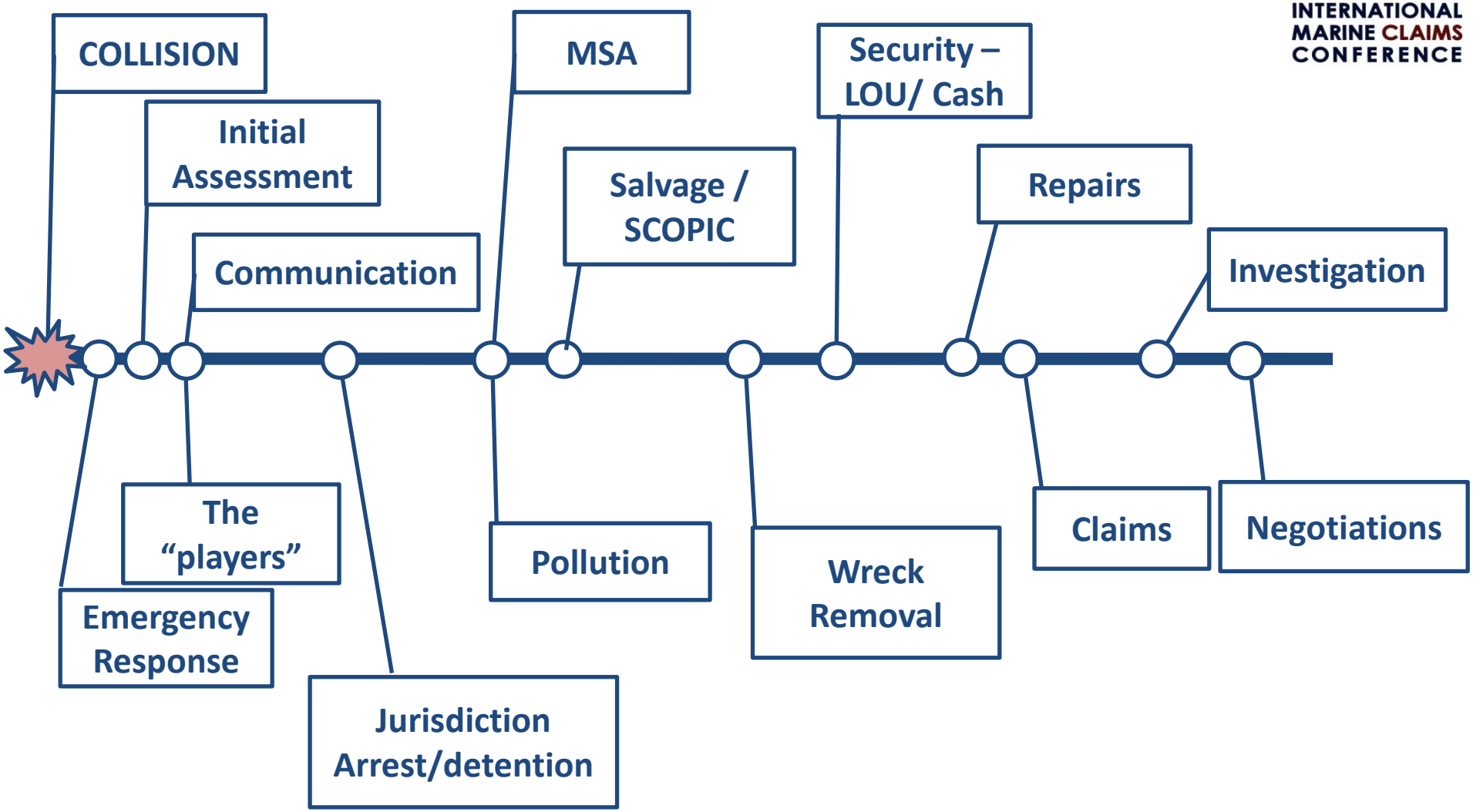
- Provenance & proportions of pollution (HFO / Cargo);
- Salvage of cargo from containership;
- Lack of ship-board evidence from tanker;
- Chinese owner's likely to 'shut up shop';
- Access to ship and crew (both sides);

TIMELINE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