



REPÚBLICA DE ANGOLA
MINISTÉRIO DOS TRANSPORTES
INSTITUTO NACIONAL DE INVESTIGAÇÃO E PREVENÇÃO DE ACIDENTES DE TRANSPORTES
INIPAT

INSTRUCTIVE N° I004M/INIPAT/25

ON

PROTECTION OF THE MARINE ACCIDENTS

INVESTIGATION RECORDS



INSTI004M/INIPAT/25



REPÚBLICA DE ANGOLA
MINISTÉRIO DOS TRANSPORTES

INST
I004M/INIPAT/25
15 APR. 2025

INSTITUTO NACIONAL DE INVESTIGAÇÃO E PREVENÇÃO DE ACIDENTES DE TRANSPORTES

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FOREWORD

April 15, 2025

This Instruction is a technical document intended to regulate the procedures for protecting accident and incident investigation records in force at the National Institute for Transport Accident Investigation and Prevention (INIPAT). This instruction was produced to assist and provide the information, policies, and procedures necessary for accident and incident investigation record protection activities, both for technical personnel working at INIPAT and for the Angolan maritime industry.

All personnel assigned to perform tasks under this Instruction must comply with the policies and procedures contained therein, aiming to comply with the precepts of Angolan maritime legislation and the standards and practices of the International Maritime Organization (IMO) Accident Investigation Code on this subject. All other relevant working documents related to these specific tasks and responsibilities will also be considered.

If any technical guide conflicts with this instruction, the INIPAT Board of Directors must be notified in writing so that it can make appropriate decisions on the matter. INIPAT's goal is to produce technical documents that empower the technical personnel involved in processing information on the protection of accident and incident investigation records.

This instruction will be treated as a dynamic document subject to revision based on amendments to Angolan maritime legislation and updates to IMO standards and recommended practices on operational safety, with particular emphasis on the IMO Accident Investigation Code (MSC-255(84)). The INIPAT Board of Directors is responsible for its regular updating.

Finally, it is important to emphasize that all recipients and users of this instruction are invited to submit ideas or proposals they consider relevant for adapting and updating this instruction.

Approved by:



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INTRODUCTION

There is a need to establish requirements for the protection of accident and incident investigation records under the responsibility of the Angolan State;

Considering the need to comply with the IMO standards and recommended practices contained in the Accident Investigation Code (IMO Resolution MSC-255(84), which require Contracting States to protect records of investigations of accidents and incidents involving ships or vessels;

Considering that the Angolan Merchant Marine, Ports, and Related Activities Law establishes the mandatory compliance with the standards and recommendations of the International Maritime Organization (IMO), of which the Angolan State is a full member;

Under the provisions of the Merchant Marine, Ports, and Related Activities Law, the National Institute for Transport Accident Investigation and Prevention determines the following:

Article 1
(Purpose)

This instruction aims to establish the requirements of the Republic of Angola regarding the protection of records of investigations into maritime accidents and incidents involving civilian ships or vessels throughout the national territory and abroad with ships or vessels registered in Angola.

Article 2
(Scope)

This instruction is mandatory for all persons acting on behalf of the National Institute for Investigation and Prevention of Transport Accidents (INIPAT) in the investigation of maritime accidents and incidents conducted under the responsibility of the Republic of Angola.

Article 3
(Procedures)

To ensure compliance with the purposes of this Instruction, the following procedures must be observed:



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PART A: GENERAL

4.001 – DISCLOSURE AND USE OF RECORDS OF CASUALTY AND INCIDENT INVESTIGATION

- (a) According to IMO Resolution MSC-255(84), the disclosure or use of maritime casualty investigation records in criminal, civil, administrative, or disciplinary proceedings may have adverse consequences for individuals and/or organizations involved in casualties and incidents, and may make them reluctant to cooperate with the casualty investigation authority in the future.
- (b) The records referred to in paragraph (a) are the following:
 - (1) Records of onboard voice, parametric, and image recorders and any transcripts;
 - (2) Records under the custody or control of INIPAT, such as:
 - (i) All statements taken by INIPAT from individuals during its investigation;
 - (ii) All communication between persons who have been involved in the operation of the ship or vessel;
 - (iii) Medical or private information relating to persons involved in the accident or incident;
 - (iv) Records and transcripts from maritime traffic services units;
 - (v) Analysis and/or opinions on the information, including information from voyage data recorders, made by INIPAT and accredited representatives regarding the accident or incident;
 - (vi) The Final Accident Investigation Report;
 - (vii) Any tests or examinations performed as part of the accident or incident investigation.

4.003 – SPECIFIC OBJECTIVES

- (a) The provisions specified in this instruction are intended to:
 - (1) Assist the State in developing national laws, regulations, and policies for the effective protection of accident and incident investigation records;
 - (2) Assist the competent authority in decision-making, as required by number 2.045 of Instruction I002M/INIPAT/2025.

4.005 – DEFINITIONS

- (a) For the purposes of this Instruction, the terms described below have the following meanings:



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- (1) "Competent Authority." Refers to the entity designated by the State to assess the national or international consequences that may arise from the disclosure or use of accident and incident investigation records in criminal, civil, administrative, or disciplinary proceedings.
- (2) "Investigation." Process conducted with the objective of preventing accidents that includes the collection and analysis of information, preparation of conclusions, including the determination of causes and/or contributing factors, and, when appropriate, the issuance of operational safety recommendations.
- (3) "Records." Are those listed in number 3.001 of this Instructive.
- (4) "Balancing Test." Refers to the determination by the competent authority of the impact that the disclosure or use of accident and incident investigation records may have on current and future investigations;

Note: Provisions on the use and protection of safety information and various sources related to casualty and incident investigation records are included in the IMO Casualty Investigation Code – MSC-255(84).

PART B: OBLIGATIONS OF THE ANGOLAN STATE

4.007 - INTRODUCTION

- (a) Angola must protect all ship or vessel voyage data records and any transcriptions of such records. This protection must begin from the moment an accident or incident occurs and continue until the release of the Final Report.
- (b) Angola must protect other records listed in subparagraph (2) of paragraph (b) of No. 3.001 of this Instruction. This protection must begin from the moment such records are in the custody or control of INIPAT and continue until the release of the Final Report.

4.009 - NON-DISCLOSURE OF AUDIO AND IMAGE RECORDINGS TO THE PUBLIC

- (a) To protect against the disclosure of the contents of audio and image recordings on board ships or vessels, Angola must take the following measures:
 - (1) Adopt national laws, regulations, and policies; or
 - (2) Adopt security measures, such as protective orders, closed-circuit procedures, or review of camera recordings;
 - (3) Use technical means, such as encryption and writing, before returning onboard voyage data recorder records to their owners.



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PART C: COMPETENT AUTHORITY

4.011 – DESIGNATION

- (a) Angola will designate a competent authority or specific competent authorities for the task of administering the balancing test.

Note: *Different competent authorities may be designated for different circumstances. For example, the competent authority designated for the balancing test in criminal or civil proceedings may be a judicial authority. Another competent authority may be designated for the balancing test in cases where the purpose of the disclosure request is for the general public.*

PART D: ADMINISTRATION OF THE BALANCING TEST

4.013 – DISCLOSURE AND USE OF RECORDS FOR PURPOSES OTHER THAN ACCIDENT PREVENTION

- (a) When the use or disclosure of records is requested in criminal, civil, administrative, or disciplinary proceedings, the competent authority must be satisfied that the material facts in issue cannot be determined in the proceedings without the relevant records prior to the administration of the balancing test.

Note: *A material fact in issue is a legal term used to refer to a fact that is significant or essential to the matter at hand, which one party alleges and the other disputes, and which must be determined by the competent authority administering the balancing test.*

4.015 – FACTORS TO CONSIDER IN DETERMINING THE BALANCE TEST

- (a) When administering the balance test, the competent authority will consider factors such as:
- (1) the purpose for creating or generating the record;
 - (2) the applicant's intended use of the record;
 - (3) Whether the rights and interests of a person or organization will be adversely affected by the disclosure or use of the record;
 - (4) Whether the person or organization to whom the record relates has consented to the disclosure of that record;
 - (5) Whether security measures are implemented to limit the disclosure and use of the record;
 - (6) Whether the records have been or can be identified, individually or in aggregate;
 - (7) Whether there is an urgent need to access the record to prevent a serious risk to health or life;



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- (8) Whether the record is of a sensitive or restrictive nature;
- (9) Whether the record reasonably indicates that the accident or incident may have been caused by an act or omission considered, in accordance with national laws and regulations, to be gross negligence, bad driving, or done with criminal intent.

Note 1: *The balancing test may be administered for a specific category of records, and the results incorporated into national laws and regulations.*

Note 2: *The competent authority may need to administer the balancing tests separately to determine whether to permit disclosure of a record and whether to permit use of a record.*

PART E: RECORDS OF DECISIONS

4.017 – RECOMMENDATION

- (a) The competent authority should record the reasons for its determination during the balancing test. The reasons may be made available and considered necessary for subsequent decisions.

Note: *Angola may submit recorded decisions to the International Maritime Organization, in one of that organization's working languages, for archiving in a public database.*

PART F: FINAL REPORT

4.019 – RECOMMENDATION

- (a) To limit the use of the Final Report for purposes other than accident and incident prevention, Angola should consider:
 - (1) Instituting separate investigations for other purposes;
 - (2) Differentiating between the parts of the Final Report to allow the use of the factual information contained therein, while preventing the use of operational safety analysis, conclusions, and recommendations for the purpose of determining fault or liability;
 - (3) Preventing the use of the Final Report as evidence in procedures to determine fault or liability.

Note: *Final Reports are made available to the general public in the interest of accident prevention and are not subject to protection. However, the protected use of the Final Report, particularly the safety analysis, conclusions, and recommendations, as evidence before national courts for the purpose of assigning fault or determining liability is contrary to the purpose for which the investigation is instituted.*



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PART G: ACCIDENT AND INCIDENT INVESTIGATION PERSONNEL

4.021 – RECOMMENDATION

- (a) In the interest of operational safety, Angola should consider that accident investigation personnel cannot be compelled to provide opinions on matters of fault or liability in civil, criminal, administrative, or disciplinary proceedings regarding an incident in which they participated in the investigation.

Article 4

(Final Provisions)

1. Cases not covered by this Instructive will be resolved by the Management of the National Institute for Transport Accident Investigation and Prevention (INIPAT).
2. This Instructive cancels any INIPAT document on the protection of accident and incident investigation records and comes into effect immediately.

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NATIONAL INSTITUTE FOR TRANSPORT ACCIDENT INVESTIGATION AND PREVENTION, In Luanda,
15th April 2025

