

LEGAL FRAMEWORK AND PRACTICES RELATING TO
TRANSPORTATION ACCIDENTS IN JAPAN

30 November 2015

YAMASHITA, Terutoshi (Mr.)

Director of UNAFEI

The Japan Transport Safety Board (JTSB) is responsible for investigating transportation accidents and providing recommendations for the prevention of future accidents and promoting a safer transportation system. Transportation accidents take place because of various, complicated, scientific and technological causes, which are known as “systemic accidents”. To ensure that technical causes are identified, JTSB investigations do not encompass criminal investigation, and they often express concern over the “chilling effect” of criminal liability on administrative investigations.

Although the police have insufficient knowledge to identify the technical causes of systemic accidents, they are required to conduct investigations if criminal negligence possibly occurred. The police have been a capable organ to deal with transportation accidents in terms of having the human resources necessary to conduct large-scale investigations.

Countries have adopted various ways to prioritize administrative and criminal investigations. Japan’s approach is to respect both investigative authorities and to encourage coordination by a Memorandum between the authorities. As for the admissibility of evidence in criminal trials, professional judges are sufficiently qualified to distinguish factual matters from expert analysis so that the anxiety of the administrative investigators is not a significant issue, unlike in countries that conduct jury trials.

Victims often desire to pursue criminal and civil liability against the persons who allegedly caused an accident, but it is important to make every effort to satisfy this retributive emotion in order to promote the prioritization of administrative investigation and avoid legal liability of the person concerned. Doing so is the most effective way to ensure safe public transportation in the future. This is the reason that the JTSB states that one of its missions is to mitigate the damage caused to the victims by the accident.