

**MEMORANDUM OF COOPERATION BETWEEN
THE UNITED STATES COAST GUARD AND
THE DEPARTMENT OF TRANSPORT OF CANADA
REGARDING THE MANAGEMENT OF THE CODE FOR
RECOGNIZED ORGANIZATIONS OVERSIGHT PROGRAM
WITH RESPECT TO MUTUALLY RECOGNIZED ORGANIZATIONS**

THE UNITED STATES COAST GUARD AND THE DEPARTMENT OF TRANSPORT OF CANADA,
hereinafter referred to as the “Participants”,

HAVE COME to the following understanding:

1. PURPOSE

(a) This Memorandum of Cooperation (MOC) is intended to provide a framework to enable the Participants, as agencies of flag States, to cooperate, coordinate and exchange information in the context of their Code for Recognized Organizations (RO Code) oversight program management. Specifically, this shared information is intended to pertain to mutually recognized organizations (ROs), which may include classification societies, currently performing vessel inspections on behalf of both the United States of America and Canada.

2. AUTHORITIES

International Authority

The RO Code was adopted on 21 June 2013 by the International Maritime Organization (IMO). The Code “provides flag States with a standard that will assist in achieving harmonized and consistent global implementation of requirements established by the instrument of the International Maritime Organization (IMO) for the assessment and authorization of recognized organizations (ROs)” and “provides flag States with harmonized, transparent and independent mechanisms, which can assist in the consistent oversight of ROs in an efficient and effective manner.”

- (a) The IMO’s Marine Environment Protection Committee (MEPC) and the IMO’s Maritime Safety Committee (MSC) adopted amendments to mandatory instruments, which entered into force on 1 January 2015, by means of Resolutions MEPC.238(65), MSC.350(92) and MSC.356(92). These Resolutions made Parts 1 and 2 of the RO Code mandatory under the following conventions:
 - (i) *The International Convention for the Prevention of Pollution from Ships (MARPOL) Annexes I and II;*
 - (ii) *The International Convention for the Safety of Life at Sea (SOLAS);* and
 - (iii) *The International Convention on Load Lines 1966, as Amended by the Protocol of 1988.*

- (b) The IMO Instruments Implementation Code (III Code) states that “[a] flag State [IMO Member State] should establish or participate in an oversight program with adequate resources for monitoring of, and communication with, its [RO(s)] in order to ensure that the flag state’s international obligations are fully met [...]”. This statement derives from the III Code’s Resolution A.1070(28), adopted on 4 December 2013 (see Part 2, “FLAG STATES”, paragraph 20, page 9).
- (c) The ROs have been authorized to act on behalf of the flag State to: (1) conduct surveys, inspections and audits of flag State vessels, and (2) issue certificates and documents attesting to compliance of a flag State vessel with the provisions of IMO’s mandatory instruments (e.g. SOLAS, MARPOL, Loadline, etc.).
- (d) The RO Code and the relevant international instruments require flag States to verify that the ROs fulfill the requirements of the RO Code. This requirement was put forth by Resolution MSC.349(92), and is detailed in the RO Code under Section 7.1.1, on page 38.

The RO Code states that “[a] flag State may enter into a written agreement to participate in combined monitoring/oversight activities with another flag State or States that have authorizations with the same RO, provided that the level of detail regarding individual flag State requirements and individual flag State performance are addressed at a level equivalent to an oversight program conducted by each of the individual flag States. Conversely, no flag State may be compelled by another flag State or organization to accept oversight of an RO by others in lieu of conducting its own individual flag State oversight, unless it so elects by written agreement or is so provided in the law of that State. A copy of all such agreements should be submitted to IMO for the information of the Member States.” This requirement was put forth by Resolution MSC.349(92), and is detailed in the RO Code under Section 7.2.2.2, on page 40.

United States of America Authority

The United States of America’s authority is Title 46 US Code 3316 Classification Societies & Title 46 Code of Federal Regulations, Part 8.130 (23) & (24).

Canadian Authority

The Canadian authority are Sections 10 and 12 of the *Canada Shipping Act, 2001* (2001, c.26).

3. Scope

- (a) Under the respective laws and regulations of the United States of America and Canada, a variety of vessel inspection activities have been delegated to third parties that comply with established standards for recognition.
- (b) In Part 3 of the RO Code, titled “Oversight of Recognized Organizations”, there is a non-mandatory guidance on a flag State’s oversight of ROs. It provides guidance on the principles of oversight that may include ship inspection, auditing, and monitoring of RO

activities. Some oversight activity may involve verifying compliance with specific national requirements that are detailed in the RO agreements of each Participant.

- (c) Proper implementation of these flag specific duties may be indicators of the overall effectiveness of the RO's quality management system. The information in a shared oversight scheme is intended to focus on overall organizational control of processes that may indicate systemic failures, and as such may provide valuable information irrespective of the specific requirements of the relevant flag administration. It should be noted that "processes" pertains to all processes that are covered pursuant to the RO Code.
- (d) The focus of the shared information between the Participants is intended to measure the organizational performance in general, as opposed to the technical details of a flag specific requirement.
- (e) The ROs that the Participants have each recognized are the organizations as listed on the IMO website "Global Integrated Shipping Information System" (see <http://gisis.imo.org>).

4. General Conditions

- (a) The Participants intend to participate in these cooperative monitoring and oversight activities, consistent with their respective laws and regulations.
- (b) The Participants intend to exchange information pursuant to this MOC.
- (c) The Participants intend to meet in person concerning activities under this MOC at least twice a year. Additional meetings may be conducted in person or by teleconference, as needed.
- (d) The Participants may informally determine the format and content that is most expeditious for the information shared.
- (e) Disclosure of any information provided by one Participant to the other(s) is not intended to be provided to any other party without the prior consent of the providing Participant.

5. Coordination and Communication

- (a) Each Participant intends to appoint a coordinator; the coordinators are expected to coordinate the overall exchange of information between the Participants, and act as the common points of contact for issues related to this MOC.
- (b) The Participants intend to inform each other of their coordinators and associated coordinators once they have appointed them. A Participant may modify its designated coordinator by signaling its intention in writing to the other Participant.

6. Financial Arrangements

- (a) The Participants do not intend to expend funds to satisfy a request of the other Participant.
- (b) Each Participant intends to pay for the costs it may incur in administering this MOC.

7. Status

- (a) This MOC is not intended to create any legal right or obligation between the Participants or between the Participants and third parties.
- (b) It is understood that this MOC does not enable a Participant to enforce regulatory issues outside of its national jurisdiction or legislative authority.

8. Settlement of Differences

The Participants intend to resolve any differences in interpretation or application of this MOC through consultations conducted in a timely manner, and not to refer to a third party for settlement.

9. Final provisions

- (a) Activities under this MOC may commence upon its signature by both Participants.
- (b) The Participants may modify this MOC upon their mutual written consent. This modification may pertain to the inclusion of additional participants.
- (c) A Participant may withdraw from this MOC at any point by providing the other Participant(s) with a minimum of thirty (30) days' notice through official written documentation.
- (d) The Participants intend to review this MOC at intervals not to exceed five (5) years from the original date of signature.

SIGNED, in duplicate, in the English and French languages.

Jane Weldon - Director General
Marine Safety and Security
For the Department of Transport of Canada

Jane Weldon

Date: 16/9/18

Place: Ottawa, ON Canada

Paul F. Thomas
Rear Admiral
For the United States Coast Guard

Paul F. Thomas

Date: 31 Oct 16

Place: Washington, DC