The efficiency of the flag state principle in open registries: case study: the Commonwealth of Dominica

Carlita Selicia Benjamin

Follow this and additional works at: https://commons.wmu.se/all_dissertations

Part of the Transportation Commons

Recommended Citation

This Dissertation is brought to you courtesy of Maritime Commons. Open Access items may be downloaded for non-commercial, fair use academic purposes. No items may be hosted on another server or web site without express written permission from the World Maritime University. For more information, please contact library@wmu.se.
THE EFFICIENCY OF THE FLAG STATE PRINCIPLE IN OPEN REGISTRIES

CASE STUDY: THE COMMONWEALTH OF DOMINICA

By

CARLITA BENJAMIN
Commonwealth of Dominica

A dissertation submitted to the World Maritime University in partial fulfilment of the requirements for the reward of the degree of

MASTER OF SCIENCE in
MARITIME AFFAIRS
(MARITIME LAW AND POLICY)

2021

Copyright Carlita Benjamin, 2021
Declaration

I certify that all the material in this dissertation that is not my own work has been identified, and that no material is included for which a degree has previously been conferred on me.

The contents of this dissertation reflect my own personal views, and are not necessarily endorsed by the University.

(Signature):

..........................................................

(Date):

..........21st September 2021..........

Supervised by:

Professor George Theocharidis

Supervisor’s affiliation............
Acknowledgements

First I thank God providing me with this opportunity to attend the World Maritime University (WMU) to carry out research into my home country’s status in the Maritime Industry. In particular, the Government of Norway for funding my studies and the President of WMU and her team for all the effort and faith they place in us as their students. The knowledge shared by the experts in this institution is invaluable and the experience I gained will always be treasured.

I am extremely thankful to my supervisor Professor George Theocharidis for his input and patience during the review of my dissertation. You are a remarkable Professor and Attorney; I aspire to accomplish a fraction of the work you have done.

I must acknowledge the bonds that I developed while here at WMU. Thank you to Deniece, Sedi, Satish, Wenia Dumisa and all other persons at WMU who provided both intellectual guidance and emotional support through these months in Sweden, particularly my Ohana group and Friends of the Caribbean group.

A special thank you is extended Assistant Professor Anish Hebbar for inviting me to explore the practicalities of implementing IMO instruments and Lecturer Anne Pazaver for her initial insight on framing my objectives as well as the semi-structured interviews and Professor Carballo for inspiring me to pursue this topic. I wish also extend my gratitude to the library staff (Mr. Christopher Hoebeke and Ms. Naomi Kindstrom) for their support and great assistance on online research and referencing.

I express immense thanks to the Commonwealth of Dominica Maritime Administration for its contribution to my research. In particular, Mr Harold Guiste, the Maritime Administrator, Mr Steve Ferrol, Consultant and Dominica’s Permanent Representative to IMO as well as the past Maritime Administrator. I would like to thank Mr Eric Dawicki, the CEO of Dominica Maritime Registry Inc and the Deputy
Maritime Administrator, for his contributions. And also Marah Walters from the Chambers of the Attorney General’s office for the information she shared.

Last but by no means least, I forever indebted to my family and friends at home in Dominica that remain a constant source of solace throughout this journey.

Thank you and may God Bless you all.
Abstract

Title of Dissertation: The Efficiency of the Flag State Principle in Open Registries – Case Study: The Commonwealth of Dominica

Degree: Master of Science

This dissertation is a legal analysis of the public responsibilities of a Flag State that employs an Open Registry system and a review of the authority bestowed on private companies contracted to act on the State’s behalf using the Commonwealth of Dominica as a case study.

The study is designed to identify the deficiencies in the Open Registry model currently utilized by the Commonwealth of Dominica and to present a strategy for increasing efficiency of the oversight authority of Dominica’s Maritime Administration.

The study examined the Ship Registry agreements between the Government of Dominica and Dominica Maritime Registry Incorporated (DMRI) in order to assess the authority that DMRI has to carry out the flag State duties, the obligation of oversight of public entities, like the Maritime Administration (MARAD) and the effectiveness of each party in discharging its Flag State responsibilities. It also briefly addresses how Recognized Organizations have been in assisting Dominica in executing those functions.

It is concluded that oversight is a challenge for the State as the lack managerial resources in the MARAD are further constrained by poor implementation of IMO instuments and therefore contributes to the poor performance of the flag State.

Regardless, some recommendations are made for the future improvement of the relationship between MARAD and the DMRI that discusses the potential for growth in building capacity in Maritime Affairs in Dominica and the review the nationalization process of IMO instruments.

KEYWORDS: Flag State, Open Ship Registry, Flag State responsibilities, Maritime Administration, Ship Registry Contract Assessment.
# Table of Contents

Declaration ................................................................................................................................. i  
Acknowledgements ................................................................................................................ ii  
Abstract.................................................................................................................................. iv  
Table of Contents ..................................................................................................................... v  
List of Tables ............................................................................................................................ vii  
List of Cases .............................................................................................................................. viii  
List of Figures ........................................................................................................................... ix  
List of Abbreviations ............................................................................................................... 1  

Chapter 1: Introduction ........................................................................................................... 3  
  1.1 Background ......................................................................................................................... 3  
  1.2 Problem Statement ............................................................................................................ 5  
  1.3 Aims and Objectives of Study ........................................................................................... 5  
  1.4 Research Questions ........................................................................................................... 6  

Chapter 2: Research Methods and Structure of Study ......................................................... 7  
  2.1 Methodology and Research Design..................................................................................... 7  
  2.2 Assumptions and Limitations ............................................................................................ 8  
  2.3 Expected Results .............................................................................................................. 9  
  2.4 Scope ............................................................................................................................... 9  
  2.5 Structure of Research Study ............................................................................................. 9  

Chapter 3: Literature Review .................................................................................................. 11  
  3.1 Characteristics of the Flag State Principle – History, Duties and Expectations ..11  
      3.1.1 General ...................................................................................................................... 11  
      3.1.2 Select Conventions ................................................................................................. 17  
      3.1.3 Legislation ............................................................................................................... 19  
      3.1.4 Case Law – Eastern Caribbean .............................................................................. 19  
  3.2 Maritime Administrations with Open Registries – Challenges and Powers........20  
      3.2.1 Designation and Delegation of Powers .................................................................. 22  
  3.3 Powers Beyond the Flag State ......................................................................................... 22  
      3.3.1 Port State Control and Coastal State Control ....................................................... 22
## Chapter 4 – Findings and Analysis

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.1</td>
<td>Maritime Administration</td>
</tr>
<tr>
<td>4.1.1</td>
<td>Historical Review</td>
</tr>
<tr>
<td>4.1.2</td>
<td>Has this Project been effective?</td>
</tr>
<tr>
<td>4.1.3</td>
<td>As at 2021</td>
</tr>
<tr>
<td>4.2</td>
<td>Open Registry Structure and Duties</td>
</tr>
<tr>
<td>4.2.1</td>
<td>Background</td>
</tr>
<tr>
<td>4.2.2</td>
<td>Organizational Structure of MARAD</td>
</tr>
<tr>
<td>4.2.3</td>
<td>Flag State Performance</td>
</tr>
<tr>
<td>4.3</td>
<td>Class Societies &amp; Recognized Organizations</td>
</tr>
<tr>
<td>4.4</td>
<td>Implementation - Parliament Processes – Draft to Execution</td>
</tr>
<tr>
<td>4.4.1</td>
<td>Background</td>
</tr>
<tr>
<td>4.4.2</td>
<td>Ratification and Implementation of Conventions</td>
</tr>
<tr>
<td>4.5</td>
<td>Dominica’s Status - Summary</td>
</tr>
</tbody>
</table>

## Chapter 5 – Conclusions and Recommendations

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.1</td>
<td>Conclusions</td>
</tr>
<tr>
<td>5.2</td>
<td>Recommendations</td>
</tr>
<tr>
<td>5.3</td>
<td>Room for further study</td>
</tr>
</tbody>
</table>

## References

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
</table>

## Appendices

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appendix 1</td>
<td>Nautical Chart of the Commonwealth of Dominica</td>
</tr>
<tr>
<td>Appendix 2</td>
<td>Nationalization Process</td>
</tr>
<tr>
<td>Appendix 3</td>
<td>Draft Interview Questions – MARAD</td>
</tr>
<tr>
<td>Appendix 4</td>
<td>Application for Authorization as a Recognized Organization</td>
</tr>
<tr>
<td>Appendix 5</td>
<td>Minimum Standards for Recognized Organizations Acting on behalf of the Commonwealth of Dominica</td>
</tr>
<tr>
<td>Appendix 6</td>
<td>Existing RO Agreement between Novel Classification Society and MARAD</td>
</tr>
<tr>
<td>Appendix 7</td>
<td>Template Agreement between the Commonwealth of Dominica Maritime Administration and a Recognized Organization</td>
</tr>
</tbody>
</table>
List of Tables

Table 1  Ratification of IMO Conventions in the Caribbean as at August 2019  18

Table 2  Flag State Performance of Dominica 2020/2021 as adapted from Shipping Industry Flag State Performance Table compiled by the International Chamber of Shipping (ICS)  47

Table 3  Performance of Dominican-flagged vessels according to Paris MoU Annual Report 2020  48

Table 4  Authorized Classification Societies as Recognized Organizations by Dominica Maritime Administration for issuing state certificates  51

Table 5  IMO Instruments ratified in Dominica  56

Table 6  List of Conventions to be ratified in Dominica in order of Priority  57
List of Cases

*M/V "SAIGA" (No. 2) (Saint Vincent and the Grenadines v. Guinea), No 2 (International Tribunal for the Law of the Sea July 1999)*


*Partnerselskabet Parsifal v The Attorney General Of The British Virgin Islands, BVIHCV 2014/0151 (High Court of Justice 2014).*
## List of Figures

<table>
<thead>
<tr>
<th>Figure</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Figure 1</td>
<td>Rationale for employing DMRI</td>
<td>32</td>
</tr>
<tr>
<td>Figure 2</td>
<td>Organizational chart showing the actual social framework of the maritime operations in Dominica, 2021</td>
<td>39</td>
</tr>
<tr>
<td>Figure 3</td>
<td>Map of Dominica Maritime Administration International Office Locations</td>
<td>43</td>
</tr>
<tr>
<td>Figure 4</td>
<td>Diagram of MARAD Organizational structure with DMRI included</td>
<td>44</td>
</tr>
<tr>
<td>Figure 5</td>
<td>Graph illustrating the size of Dominica’s Shipping Registry showing the number of ship and the DWT for a ten-year period from 2011-2021</td>
<td>46</td>
</tr>
<tr>
<td>Figure 6</td>
<td>Nationalization Process of IMO Instruments</td>
<td>53</td>
</tr>
</tbody>
</table>
**List of Abbreviations**

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>CLC</td>
<td>International Convention on Civil Liability for Oil Pollution Damage, 1969</td>
</tr>
<tr>
<td>CMoU</td>
<td>Caribbean Memorandum of Understanding</td>
</tr>
<tr>
<td>DMRI</td>
<td>Commonwealth of Dominica Maritime Registry Inc.</td>
</tr>
<tr>
<td>ECSC</td>
<td>Eastern Caribbean Supreme Court</td>
</tr>
<tr>
<td>EPU</td>
<td>Economic Planning Unit</td>
</tr>
<tr>
<td>FSP</td>
<td>Flag State Principle</td>
</tr>
<tr>
<td>GISIS</td>
<td>Global Integrated Shipping Information System</td>
</tr>
<tr>
<td>GoD</td>
<td>Government of Dominica</td>
</tr>
<tr>
<td>GoD/D-A</td>
<td>Government of Dominica &amp; DMRI Agreement</td>
</tr>
<tr>
<td>IACS</td>
<td>International Association of Classification Societies</td>
</tr>
<tr>
<td>ICS</td>
<td>International Chamber of Shipping</td>
</tr>
<tr>
<td>III Code</td>
<td>IMO Instruments Implementation Code</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organisation</td>
</tr>
<tr>
<td>IMO</td>
<td>International Maritime Organisation</td>
</tr>
<tr>
<td>IMSAS</td>
<td>IMO Member State Audit Scheme</td>
</tr>
<tr>
<td>ITC69</td>
<td>International Convention on Tonnage Measurement of Ships</td>
</tr>
<tr>
<td>MLC 2006</td>
<td>Maritime Labour Convention, 2006</td>
</tr>
<tr>
<td>MoU</td>
<td>Memorandum of Understanding</td>
</tr>
<tr>
<td>LOSC</td>
<td>Law of the Sea Convention</td>
</tr>
<tr>
<td>LLMC 76</td>
<td>Convention on Limitation of Liability for Maritime Claims 1976</td>
</tr>
<tr>
<td>MARAD</td>
<td>Maritime Administration</td>
</tr>
</tbody>
</table>
MLC 2006: Maritime Labour Convention, 2006
OECS: Organization of Eastern Caribbean States
PMoU: Paris Memorandum of Understanding
PSC: Port State Control
RO: Recognised Organisation
STCW 78: International Convention on Standards of Training, Certification and Watchkeeping for seafarers, 1978
TMoU: Tokyo Memorandum of Understanding
UNCTAD: United Nations Conference on Trade and Development
Chapter 1: Introduction

The maritime industry was created mainly to extend sovereign rights and to facilitate transnational trade. The concept of sovereignty is an international legal principle that still dominates the maritime industry today. This industry manages one of the most reliable modes of transport and is the most cost effective way to facilitate trade in bulk. From basic wooden floatation devises to steel encased technology, the shipping industry has grown exponentially.

The accountability on States exercising their sovereignty over their vessels however, has not shifted an inch. The principle of flag State jurisdiction was influenced by the nationality of a vessel by virtue of its registration with the State (Goodman, 2009). The flag State has the ultimate responsibility for vessels registered to fly its flag. This dissertation will expound on the regulatory obligations of flag States in complying with global maritime standards by referencing the development of the flag State principle using the International Shipping Registry of the Commonwealth of Dominica as a case study.

1.1 Background

Maritime transport is a service sector with a derived demand from global trade (Ma, 2021). Initially, this service was managed by maritime administrations which were limited to operating their own vessels requiring owners and the seafarers to be nationals of the country where the MARAD is located (Luo, Fan, & Li, 2013). However, the need to facilitate the most economical trade options has caused the development of open/international registry. This type of registry provides an attractive method to ship-owners seeking to minimize operating costs through more relaxed regulation.
The United Nations Convention on the Law of the Sea (UNCLOS) allows a State to grant its nationality to ships by registration and bestows on the State the sovereign right to fix the conditions for the grant of its nationality. The concept of Flag State responsibilities is borne from that right.

The duties of a Flag State are listed in Article 94 of UNCLOS where the state has “jurisdiction and control over all administration, technical and social matters over ships flying its flag”. These duties are coupled with the enforcement responsibilities in Article 217 of UNCLOS and their efficient execution rests solely on the neck of the State.

This is a non-delegable responsibility that can only be assigned to other entities tasked with carrying out particular functions. In an effort to share the burden of managing the obligations imposed by those rights, the State may employ a legal framework allowing the appointment of private or other state entities to execute these duties. These private entities offer public services to the flag State that fall within administrative, technical and social functions which include registration of vessels, inspection of vessels and working conditions of seafarers among countless other duties. Still, no matter the framework, the State cannot dispose of their responsibility.

With specific focus on the small island developing state of Dominica, this paper aims to describe the legal parameters of public responsibility in the maritime industry, prescribe a modified approach for blurred institutional boundaries and justify operational standards where necessary. An assessment of the laws is not enough, a discussion on the practice is necessary to assess the maritime activity and practical knowledge to whether the Commonwealth of Dominica conforms with general principles or policies established by IMO.

The need to project efficient operation of the flag State is primary to its maritime industry. In Dominica, the maritime sector can only thrive when there is a cohesive
relationship with the Maritime Administration (MARAD) and its selected private counterparts, be it DMRI or otherwise. The flag State’s performance is reflected in its ability to not only ratify IMO instruments but to also implement them and modify where necessary.

1.2 Problem Statement

Dominica is currently performing an assessment of their arrangement with a private entity that operates its Open Registry, Dominica Maritime Registration Inc (DMRI). It is trite law that a flag State can delegate its duties but not its responsibilities. Therefore, there is need for analysis of the agreement to determine whether the DMRI has been executing the required duties in accordance with the IMO instruments during the period of its employ. Also, this paper reviews the relationship between the MARAD and DMRI. Beyond the *International Maritime Act* (IMA) and its regulations, there is little information on the synergy between the public and private entities regarding their structural composition. Further, with no clear delimitation between the two, it begs the question who has the supervisory powers and whether these powers are enforceable. The purpose of this paper is to present ways to improve the Flag State Principle, relations and responsibilities between State and the contracted private entity.

1.3 Aims and Objectives of Study

The main aim of this research is to investigate and assess whether there are any deficiencies in Open Registry system currently employed by the Commonwealth of Dominica and to recommend a strategy for increasing efficiency of the oversight authority of Dominica’s MARAD.

The objectives of the research work are to:
• Evaluate the structure of the MARAD and its effectiveness in discharging its flag State responsibilities, particularly its oversight powers on the DMRI.
• Analyze the Maritime Ship Registry agreements between the Government of Dominica and DMRI
• To assess how effective Recognized Organizations have been in assisting Dominica in its flag State responsibilities.
• Assess the overall contribution of the DMRI in building local capacity in Dominica as a flag State.

1.4 Research Questions

To analyze the basics of this study, the following questions were posed:

• Is the Maritime Administration of Dominica sufficiently equipped with a qualified personnel to oversee and audit on the activities of the DMRI? If not how can capacity be built?
• Does the agreement between the Government of Dominica and DMRI meet the requirements provided in UNCLOS, the IMO instruments and the International Maritime Act of Dominica and its Regulations?
• How does the development of the Flag State Principle through MARAD contribute to a National Maritime Policy for Dominica?
Chapter 2: Research Methods and Structure of Study

2.1 Methodology and Research Design
Desktop research combined with empirical and doctrinal legal analysis was used to assimilate the literary data required for this research. Journal Articles on the development of the shipping industry in relation to the nationality of ships and the State’s responsibilities was explored and analyzed. Additionally, a legislative review of the maritime laws governing flag State responsibilities and the Open Registry arrangement of the Shipping Registry of Dominica was presented. The existing agreement between Dominica and DMRI as well as the agreements the State has with Recognized Organizations were also briefly reviewed.

A semi-structured qualitative research was selected as the method for data collection, to obtain valuable opinions from the key stakeholders managing Dominica’s maritime institutions. Interview questions, along with consent forms were distributed via email among the government entities involved in maritime affairs and the private entity managing the open registry. The interview questions were tailored to the interviewee and consisted, on average of fourteen (14) questions (Appendix 3) for qualitative data analysis in order to:

1. determine the challenges facing proper operation of the MARAD and its open registry and;
2. to collect suggestions for improvement if needed. The semi-structured interviews were conducted both in-person and online. In total, there were four (4) successful interviews out of five (5) as one government entity referred the interview to an entity that had already contributed to the data collection.
2.2 Assumptions and Limitations

Legislation and international scholarly articles for review were more accessible than anticipated. A desktop search provided most of the international and regional literature as well as the local maritime laws and amendments.

An expected limitation in this research process was the physical proximity to the various entities, which were, the MARAD and the Attorney General’s Chambers in Dominica and the DMRI in Massachusetts, United States of America (USA) from the World Maritime University in Malmö. However, a short research trip was allowed to Dominica in spite of the risks to travel. This was not initially budgeted for in the proposal yet was done. The interviews that could not be held in person were conducted online via Microsoft Teams, Zoom, Skype and Whatsapp Video call.

The main limitation was time. Flag State Responsibilities is a grand area of maritime transport and it requires liaising with multiple Caribbean states to give a more comparative assessment of the Commonwealth of Dominica’s status as a flag State. Attempts were made to communicate with Ministries of Foreign Affairs in the Caribbean, namely Antigua and Jamaica, over a three (3) month period with little avail and as a result the scope of this dissertation is confined to Dominica. It is submitted that a comparative study of this nature would benefit the Eastern Caribbean States as they not only lay near each other in the Caribbean archipelago, they operate within similar governance structures and are subject the same economic vulnerabilities. A legal dogmatic research of the the legislative framework of the region is necessary to reveal the trend and projections for the maritime institutions in the respective countries.

Upon interacting with the few parties that contributed to the data collection, it was expressed that “more time to interact” would have been necessary as the interviewees themselves were confined to their other work commitments.
This is a relatively new area of research within the Eastern Caribbean, in particular, Dominica and therefore very little scholarly articles emanate from there. Though, undoubtedly, multiple attorneys may have reviewed the concept of Flag State responsibilities before advising their respective governments, I have come across very little published work focused on the flag State and their Open Registries. The research is usually about marine scientific research, the cruise industry, maritime security and port management.

2.3 Expected Results
The full review of the efficiency of the Flag State Principle in Dominica with special regard for the open registry agreement with DMRI. Additionally, an assessment of the enforcement powers necessary to govern a sustainable Maritime Transport Sector while building maritime capacity.

2.4 Scope
This dissertation reviews the Commonwealth of Dominica’s status as a flag State regarding their international obligations to IMO. It assesses its maritime development over the last two decades since adopting a shipping registry. This study aims to provide insight on how to implement a legal and social framework that would allow the Government of Dominica to exercise their authority as a flag State through proper monitoring of its maritime systems. It does not include an assessment of the revenue sharing aspect of the arrangements between the State and any private parties executing flag State duties.

2.5 Structure of Research Study
This dissertation is divided into five (5) chapters. Chapter 1 introduces the topic and discusses the background of the study. It dictates the issue, the aims and the objectives
of this study. It further lists the research questions that will aid in determining the scope of this research paper.

In Chapter 2, the methods used to collect and process the data were stated. This includes the expected results, the scope given the assumptions made and the limitations of the research.

Chapter 3 reviews the existing literature discussing the development of the flag State principles and open registries, IMO obligations and responsibilities under each.

The fourth chapter discusses the Case Study of this dissertation – the Commonwealth of Dominica. It provides an insight on the Maritime sector in Dominica by observing the existing legislative framework, the shipping registry agreements and the organizational structure of the MARAD. This review is meant to provide a comprehensive analysis of the public and private entities involved in assisting Dominica in the execution of its flag State duties. It also reviews the processes for implementation of an IMO convention in Dominica.

The fifth chapter is the last chapter that summarises chapter 4 and 5 by submitting an analysis and projections for the shipping registry in Dominica as well as the recommendations for a revised model of maritime operations in Dominica which includes a National Maritime Transport Policy.
Chapter 3: Literature Review

3.1 Characteristics of the Flag State Principle – History, Duties and Expectations

3.1.1 General

The Maritime Industry has been responsible for the safe trade of over 80% of the world’s essential goods (Ma, 2021) (Mansell, 2009). The ability of this sector to sustain global commerce has increased international interdependency and allowed for seamless transactions among nations. This international benefit of seaborne trade therefore requires flexible systems and legal frameworks to effectively operate within. The development of maritime law has been pronounced over the last few decades through numerous academic reviews and conferences and maritime research continues to expand as technological advances, maritime incidents and casualties and the need for ease of operations force further development. One of the core principles which provides this flexibility and expansion is the Flag State Principle (FSP).

The aim of this literature review is to present the rationale behind the global use of the Open Registry model and the role of Maritime Governance in regulating its use. This dissertation reveals that the Flag State Principle, through its development, continues to accommodate global economic motives by providing avenues to support commercial expediency in international shipping.

Ultimately the goal of this research is to model the ideal open shipping registry and maritime administration operations policy with a focus on FSP for Small Island Developing States, in particular – the Commonwealth of Dominica. The questions to be answered therefore are how does a State assess whether existing maritime operations are running efficiently, how to build capacity to effect proper regulation oversight and whether a plan can be established for a more effective national Maritime Governance of through the FSP.
The United Nations Convention on the Law of the Sea (UNCLOS) stipulates that the flag State has to ensure the effective exercise of its jurisdiction and control over ships allowed to fly its flag (United Nations, 1982). Art. 94 UNCLOS lists the duties of the flag State and details its jurisdiction and control over administrative, technical and social matters on their ships on the high seas. Further responsibilities are listed in Article 217 of UNCLOS and part 2 of the IMO Instrument Implementation Code (III Code) (IMO, 2013).

When the State grants to the ship its nationality, it assumes the role as the key holder of rights assigned by virtue of the flag. Consequently, the State possesses the duty to monitor and manage the affairs of the ship. This ability to monitor and manage its vessels is assessed as the flag State’s performance. While the word “effectively” of Article 94 is related to the concept of performance, flag State performance is never visibly mentioned in UNCLOS (Graziano, 2018).

The efforts of the International Maritime Organization (IMO) have been focused on how to extend the FSP without actually encroaching on the State’s jurisdiction to govern its vessels by using a "conglomeratic approach” to Maritime governance (Reiling, 2019). The collaboration with extra-national bodies executing Port State and Coastal State control duties became necessary as maritime regulations have become too expansive for efficient application and monitoring by a Flag States.

This approach, however, has expended resources on committees and strategies instead of addressing the issue at the root – establishing a “genuine link” between flag State and vessel to apportion accountability in accordance with Article 91 of UNCLOS. There must be a genuine and visible link between the ship and the State to ensure that beneficial ownership and management are properly identified and constantly monitored. Assessing accountability in maritime governance requires the enforcement of provisions beyond UNCLOS - these include instruments enacted by a multiplication of regulatory actors – international and regional. Most regulatory actions by both the international and regional actors stem from the flag State’s inability to be held fully accountable for its actions - or inactions (Mansell, 2009) (Mbiah E. K., 2020) (Reiling,
2019) as the genuine link theory became more convoluted by ship-owners seeking to avoid strict regulations and direct liability (Mukherjee, 2020, pp. 589-591).

The genuine link theory appears to have weight in theory only, as in practice, this concept rests solely on the State’s sovereign prerogative to fix conditions which establish a genuine link (Theocharidis & Donner, 2017). It has been argued that failure of a flag State to perform its duties could be evidence of the absence of a genuine link (Brown, 1994). However, this was dispelled by the International Tribunal of the Law of the Sea (ITLOS) in the M/V Saiga No.2 case where it was held that the purpose of the provisions of UNCLOS was not to establish criteria for other States to question the validity of the registration of a ship but instead to “secure more effective implementation duties of the flag State” (MIV "SAIGA" (No. 2) (Saint Vincent and the Grenadines v. Guinea), 1999, p. 42). Theocharidis submitted that the judgement contributed nothing substantial to the concept of genuine link and only confirmed what the genuine link could not be linked to. However, in M/V Virginia, just over a decade later, the judges declared that the meaning of the genuine link was simply that a flag State is required to exercise effective control in accordance with the international regulation, procedures and practices over a ship registered under Article 94 of UNCLOS (M/V “Virginia G” (Panama/Guinea-Bissau), 2014).

One of the weaknesses of the flag State principle is uncertainty of the genuine link through the use of flags of convenience (Heidegger, Jenssen, Reuter, & Carlsson, 2015). Exercising effective control can be challenging. With seaborne trade comes the responsibility of not only the vessel but also the crew, cargo and safe transit. These four factors are equally important for without one of them there is no sustainable maritime trade. (There are arguments surfacing about how essential crew is to shipping and the future of unmanned ships in discussions about increased maritime operations in a digitalized world and Maritime Autonomous Surface Shipping (M. Baldauf, 2018)).

As enunciated in multiple literature, the flag State principle has its flaws. This principle has received constant critique due to its unavoidable nationalist nature and the purpose
for which it is used for – commercial expediency through regulation avoidance (Mbiashe K., 2020) (Reiling, 2019). As a result of economic motives, the FSP has grown from strictly State-owned and manned registered vessels to the freedom of flag of choice. Iwunze examined the dominance of the use of flags of choice dating it back to the Roman Empire, then tracking its increased use through the 19th Century to accommodate slave trade and then to appeasing the post-World War II competition in the global shipping market (Iwunze, 2021). This freedom to choose system is referred to as the “Flag of Convenience” (FOC) concept and has been defined as “the flag of a country that allows the registration of foreign-owned and foreign-controlled vessels under conditions which, for whatever the reasons, are convenient and opportune for the persons who are registering the vessels” (Boczek, 1962).

Though FOC is synonymous with the terms “open registry” or “international registry”, the latter two are considered to be the more neutral and factual categorization of the ship-owner’s ability, regardless of his own nationality, to register his vessel in a particular flag State (Coles & Watt, 2009). It exists because foreign ship-owners have the liberty to choose to register with a State that allow for ship operations to be conducted at a substantially lower cost. The lower the cost of operations, the more competitive it is in the international freight market.

This “marriage de convenance”, as FOC has been referred to (Chorley, Giles, Gaskell, Debbattista, & Swatton, 1987), has been argued to have promoted a race to the bottom narrative in substandard shipping practices with lower taxes, less safety requirements, strategic flagging by sanctions evaders (Watterson, Osborne, & Grant, 2020) and relaxed labour laws. FOC became subject to serious denigration in the maritime industry as the problems associated with vessels registered under this system were accused of global atrocities like, pollution of the marine environment, poor labour conditions, illegal fishing, and smuggling (Iwunze, 2021, p. 18) (Yu, Zhao, & Chang, 2018).

Regardless of the negative narrative following its use many States still wanted a piece of the pie. As Carballo has stated, the “fight against the flight of fishing and shipping
fleets to flags of convenience” saw a number of European States, like Spain, Portugal, Norway, Denmark and Germany (who has its open registry set up in the Caribbean island, Antigua) launch second and international registries as a way to retain their merchant and fishing fleet (Carballo, 2015) (Mansell, 2009, p. 104). The flexibility afforded to ship-owners, particularly with the management of their sea-farers and their maritime employment contracts, has even provided for terms like “crew of convenience”.

Granted that fiscal benefits and social advantages is the ship-owner’s primary concern when determining vessel registration, the flag State is left to assume the responsibility of regulation of its vessels in order to be compliant with IMO obligations.

In recent years, the Caribbean has been plagued by so many other pains exposing the fragility of its economic system. The small islands will always be in the path of natural disasters (Cruz-Martinez & al, 2018). Also, along with the rest of the world, these islands must find sustainable lucrative ways to recover from the ongoing effects of COVID-19. The ECLAC stated that Latin America and the Caribbean had suffered the largest drop in volume of global trade in good in developing countries for 2020. (Economic Commission for Latin America and the Caribbean (ECLAC), 2020).

Maritime transport an essential service that needs uniform regulation where the flag States play a primary role. Mansell submits that not all flag States perform their international maritime obligations.

“In an ideal world flag States, whose flags are worn by the world’s shipping, would lay down, and enforce upon their shipowners, standards of design, maintenance and operation which would ensure a very high standard of safety at sea... The present system of Flag State Control falls well short of this Ideal...Regrettably it is beyond argument that not all flag States live up to their responsibilities.” (Mansell, 2009)
The primary responsibility of a flag state is to set an effective system to manage and control the ships registered to fly their state’s flag, and to ensure compliance with relevant international rules and regulations (Syafiuddin, 2016).

Additional evidence of the essential role that the flag State plays is seen in the requirement of its authority to issue certificates. Their duties include ensuring that these certificates are valid and consistent with the format and content required by the relevant international convention regarding operating conditions, crewing requirements, and ship equipment carriage requirements as applicable (Paris MoU, 2016).

There are a number of obligations to be carried out specifically by the flag State. If only there were an international convention entered into force to regulate the global standard on registration, very little issue would arise with the flag state principle. Though criticized for its loose and imprecise language (Churchill & Hedley, 2000), an ideal convention for the global regulation of registration of ship is the United Nations Convention on Conditions for Registration of Ships. This would have given much needed support to the existing legal framework by enhancing flag State jurisdiction, its principles and performance while re-establishing the strength of the genuine link argument and assisting the fight against fraudulent registries. This convention has not entered into force since 1986 because Article 19 instructs that not less than 40 States with a combined tonnage of at least 25% of the world tonnage become Contracting Parties before that can be done. (Con, United Nations Conference on Trade and Development, 1986). This has not happened.

Implementation of control mechanisms to improve good maritime governance rests on the State itself. The onus is therefore on the flag State to develop incentive schemes for shipping companies registered under their flag. It is the political will of the government and their intention to govern their maritime sector to promote good governance that must ensure that shipping companies are conducting their business in a responsible corporate and social manner in accordance with IMO’s obligations. (Donner, Theocharidis, & Johansson, 2018)
3.1.2 Select Conventions

As the global regulator of shipping IMO relies on four pillars of international maritime law - the International Convention for the Safety of Life at Sea (SOLAS), International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), International Convention for the Prevention of Pollution from Ships (MARPOL) and the Maritime Labour Convention (MLC). These four pillars among other instruments asset the minimum standards in the industry. Many Caribbean countries have taken initial steps to becoming parties to these and other IMO conventions (IMO, 2020). However, the level of implementation is disappointing in the Caribbean as most Caribbean states have not successfully incorporated provisions into their national legislations to give effect to their international convention obligations (Table 1). Treaty implementation for these four conventions were as follows – SOLAS and STCW was only 57%, MARPOL implementation was between 31% and 33% and the MLC had only 50% implementation (Grant, 2020).

The MLC,2006, for example, is referred to as the Seafarer’s Bill of Rights and its aim is to level the playing field and create minimum standards of employment for seafarers. One the main short-term recommendations for national regulators of flag States is the need to recognize the “importance of the human element and the detrimental impacts of insufficient rest on ship safety, work performance, and occupational safety and health”. (Baumler, De Klerk, Manuel, & Carballo Piñeiro, 2020).
The IMO Instruments Implementation Code (III Code) is a key instrument that instructs a flag State (IMO, 2013). While all other conventions allow for flag States to delegate work to private entities like Recognized Organizations (ROs), the III Code makes it clear that delegation cannot be without responsibility or supervision. The section aimed at flag State is the largest of the three (3) sections of the III Code, and together with the Code for Recognized Organizations (RO Code), they establish a monitoring programme by which flag States are held accountable for. This is further discussed in Chapter 4. The III Code forms the basis of the IMO Member State Audit Scheme (IMSAS).

Table 1 listing the Status of Ratification of IMO Conventions in the Caribbean as at August 2019 obtained from (Grant, 2020, p. 38)
3.1.3 Legislation

A State is the central maritime policy-making element with the most significant jurisdictional element in global maritime regulatory authorities like IMO (Roe, 2016). Up-to-date legislative structures appear to be the main fault in the implementation activities of states. IMO’s laudable aims to regulate an intensely globalized industry are being severely delayed by their own member States. As a result, there has been a need for more “transnational pressure groups or …collective bargaining organizations”, as Strange calls maritime regulatory authority, to supplement to legislative gaps in a State’s framework (Strange, 1976). There can be no maritime governance without proper legislation and the duty to impose laws falls yet again squarely on the flag state. In dualist states, IMO conventions require ratification and implementation to give life to the law. This is further discussed in Chapter 4.

3.1.4 Case Law – Eastern Caribbean

Maritime law has been considered a specialized area of law for the courts and the judges are confined to existing national legislation.

In the Eastern Caribbean, the Eastern Caribbean Supreme Court (ECSC) determines matters that fall with two divisions, Court of Appeal matters and High Court matters. Maritime matters are brought to the admiralty jurisdiction of the court where it determines matters pertaining to salvage claims and constitutionality of maritime legislation.

In Parsifal Case, Justice Ellis ruled that Section 464 of the BVI Merchant Shipping Act and its application under the 1998 order and 1999 regulations were null, void and of no effect as it gave unconstitutional delegation of legislative power to the executive (Parsifal v AG of BVI, 2014). She noted that maritime matters were to be categorized as a special class of cases because of “the nature of the shipping business and the obvious need for confidence based on a uniformity of approach in matters of international maritime law and international trade” (para 101). She further commented
on how other judges in the region have been mindful of the potential impact of an adverse finding in that context.

Though most matters do not expressly discuss flag state responsibilities within the respective island states. The decisions however illustrate that maritime legislation is interpreted and implemented in Caribbean courts with an acute awareness of the expectations of international obligations. Particularly in the *Parsifal v AG of BVI* case, it is evident that this regional court is cautious of how the international maritime conventions, ratified by the state, are applied ensuring, however, that its application will not provide an unconstitutional result. This demonstrates the need for synergy between the domestic legislation and the convention. The legal structure of a country must be able to support the responsibility of granting vessels the use of its flag thereby reinforcing the weight flag State jurisdiction.

### 3.2 Maritime Administrations with Open Registries –Challenges and Powers

Unlike closed registries, open registries can be privately owned. States, like Dominica, have sought profit from the use of their flag by running an open registry (Galley, 2014). However, the lack resources and expertise for flag administration operation has lead them to retain private entities for this purpose. The arrangements are made between the Government and a private entity with functions that allow the private entity to execute the bulk, if not all of that State's flag administration responsibilities, including vessel registration and de-registration while paying royalties to the national government as an effective licensing fee for the use of its flag (Watterson, Osborne, & Grant, 2020, p. 4).

This form of maritime governance by private entities has created unique challenges for effective due diligence. In addition to geographical distance, structural confusion constantly lingers as chain of command and oversight roles tend to get blurred between the State and its shipping registry. The organisational separation also gives way for
foreign staffing, which can make the shipping registry vulnerable to infiltration by international agents of sanctions evasion.

Watterson, relying on a 2017 report from North Atlantic Fisheries Intelligence Group and INTERPOL, stated that of the six (6) such arrangements reviewed, two had provisions for sharing data between the registry and the government, one (1) entitled the State to have a representative situated in the registry head office and none placed the duty on the private entity to forward information on request to the flag state administration about the identity, ownership or location of the registered ship (Watterson, Osborne, & Grant, 2020).

Given the weaknesses of these types arrangements, the IMO Member State Audit Scheme (IMSAS) was created to assist States through their MARAD in the implementation and enforcement of a common maritime standard. It acts as a review of the MARAD’s ability to discharge its flag State operations (Beckman & Sun, 2017, p. 234).

Although MARAD is responsible for the enforcement of all national maritime-related activities, some States, like Dominica, have contracted these private entities to also assume the task of delegating the enforcement of standards through survey and certification to non-public entities called Classification Societies. These Classification Societies can also be designated as Recognized Organizations (RO). (Donner, Theocharidis, & Johansson, 2018, p. 68)
3.2.1 Designation and Delegation of Powers

IMO, through SOLAS 1978, MARPOL Annex I and II and the 1988 Load Line Protocol, instructs that, MARAD may “entrust the inspections and surveys either to surveyors nominated for the purpose or to organizations recognized by MARAD (IMO, 2021).

Classification societies are a “basic and vital part of the fabric of the industry” and their use as ROs for carrying out convention-mandated statutory surveys and certification on behalf of MARAD is necessary and wide spread. IMO has placed heavy reliance on the expert advice of the classification societies through IACS as they possess the technical knowledge, wisdom and expertise for carrying out the classification, and maintenance in class, of vessels. (Mukherjee & Brownrigg, 2013).

The arrangements between a flag State and the Classification Societies are usually private contracts. Therefore, either party may include additional provisions regarding levels of authority, degree of delegation, reporting procedures, access to information and limits of liability among others, to those recommended by IMO under its Model Class Agreement (Villanueva Jr., 2004).

3.3 Powers Beyond the Flag State

3.3.1 Port State Control and Coastal State Control
As a result of the contentious nature of the flag State principle, maritime regimes have been enacted to supplement a State’s efforts in fulfilling their administrative control and international obligations. States that are not able to or reluctant to practice controls on their ships are subject to the Port State Control (PSC) and Coastal State Control (CSC) regimes.
PSC in particular has been considered one of the more important enforcement regimes in the maritime industry as it covers violations that take place on the high seas or in the jurisdiction of another State. PSC refers to inspection of foreign ships in national ports to verify that the condition and manning of that ship complies with international regulations (Beckman & Sun, 2017). The idea of Port State enforcement, pursuant to Article 218, is that when a foreign vessel is voluntarily in port or at an offshore terminal of a State, that State may undertake investigations (Stephenson, 1993). Additionally, subject to Articles 21 and 24, Articles 25, 73 and 220 bestows upon the Coastal State similar rights of enforcement of its laws.

PSC has become an essential and appropriate guardian of maritime safety especially in light of the COVID-19 digitalized era (Kiltidou, 2020).

The next chapter addresses the status of Dominica in managing its flag State responsibilities.
Chapter 4 – Findings and Analysis

4.1 – Maritime Administration

The Dominica Maritime sector was established similarly to other Caribbean countries like Belize, St Kitts and Nevis, Jamaica and Antigua where its maritime affairs, particularly the shipping registry, is outsourced due to the country’s own resource limitations (Mansell, 2009).

In this chapter, a timeline, categorized into four parts, is drawn to review the rationale behind employing the Open registry model. It discusses the current social framework of maritime operations in Dominica, the legislation processes involved in ensuring IMO compliance and the Agreement between the Government of Dominica and DMRI

4.1.1 – Historical Review

- Purpose
In an effort to mitigate against decline in global economic activity (Cette, Fernald, & Mojon, 2016), the Government of Dominica, through the Ministry of Finance, embarked upon an economic project to develop its own shipping registry in 1999. This project was presented as a “sure” self-sustaining avenue to raise financing for the state through a private entity. This was a relatively new opportunity available to Dominica and therefore, at that time, the State did not possess the local human capacity to conduct this activity while building its maritime identity.

In 1999, the Dominica’s Maritime Administration had not been formed as yet, therefore the proposed project presented a structure where a private entity would act as an agent to run the vessel registration operations of the MARAD. Coupled with the need for efficient management of the then emerging shipping sector in Dominica the focus was directed to developing Dominica as a Flag State of quality.
A private company called the Dominica Maritime Registry Inc (DMRI) was incorporated under the laws of the State of Delaware in the United States of America. DMRI entered into an agreement with the Government of Dominica offering extensive maritime services in 1999. The Government of Dominica does not have beneficial ownership in this company.

Essentially, the agreement dictates that the DMRI was to establish an international ship and maritime corporate registry subjected to a theme of “Quantity, Efficiency and Customer Service”, provide a “Flag of Quality” and to “Honor the Mariner”. In Section I of the Government of Dominica & DMRI Agreement (GoD/D-A), it lists that DMRI “aids” the MARAD in the maritime programme by fulfilling the functions required of a Ship Registry as well as a Marine Corporate Registry as listed in Section 1.2(a), administrative functions – Section 1.2(b) as well other functions and services Section 1.2(c).

“1.1 DMRI undertakes to aid the Government and the Commonwealth of Dominica Maritime Administration (hereinafter referred to as “MARAD”) in the administration of the Government’s maritime program, as determined from time to time by the Government or MARAD.

1.2 Within framework of this Agreement, the functions of DMRI are the following:
(a) Ship and Marine Corporate Entity Registry Functions…
(b) Administrative Functions …
(c) Other Functions and Services …
(d) Provide access for regular and active oversight by MARAD, pursuant to Sections XIII and Section XVI…”

DMRI was thereby appointed by the Maritime Administrator as an “exclusive” agent to work with the Dominica Maritime Administration as detailed in Section 2.2 and
Section 2.3 of GoD/D-A. This agreement will be further discussed in Chapter 4.2. The legal authority to act on behalf of the State was reinforced by statutory backing in the legislation.

- **Delegation**

**The Legislation**

The *International Maritime Act of Dominica* (IMA) was passed in the House of Assembly in September, 2000, effectively giving legislative support to the GoD/D-A. The Act also enabled the State to exercise its rights under Article 94 of UNCLOS for jurisdiction to control the administrative, technical and social matters over ships flying its flag.

**The Minister**

By virtue of Section 3 of the IMA, the MARAD was established. That section also gives the Minister responsible for Economic Planning the power to macro-manage the maritime affairs of the State. This Minister is authorized to pass regulations (Section 3(4) IMA), appoint a Maritime Administrator (Section 3(2) IMA), prescribe all necessary and proper fees that were not provided for by the IMA (Section 13 IMA). Additionally, any application to be registered as a Foreign Maritime Entity through which vessels can be registered, must be made to the Minister (Section 211(1) IMA).

Economic Planning Unit (EPU) falls under the portfolio of two separate ministries - Ministry of Finance and the Ministry of Economic Affairs, Planning, Resilience and Sustainable Development, Telecommunications and Broadcasting. This unit is responsible for carrying out macro-economic analysis and advise on the economic performance of the country. One of the functions of the EPU is to conduct of macro-economic forecasts to guide the allocation of the budget based on resource availability and the impact on the economy, and related policy research to inform national and sectoral plans, policies, programmes and projects.  （Government of Dominica, 2021).
According to the IMA, it is the Minister of Finance and the Minister of Economic Affairs, Planning, Resilience and Sustainable Development, Telecommunications and Broadcasting who has the authority to manage the maritime affairs. However, maritime affairs now fall under the portfolio of the Ministry of Tourism, International Transport and Maritime Initiatives (Government of Dominica, 2021). This overlap can greatly affect the organizational (reporting) structure in practice in the Maritime sector – for example the Minister responsible has the authority to register Foreign Maritime Entities (Section 211 IMA) and perform regulatory, investigatory and enforcement functions in relation to the activities of the Foreign Maritime Entity (Section 220 IMA). It would appear therefore that the MARAD is subject direction from three separate ministries and

In actuality, it is whichever Ministry that the maritime portfolio is assigned to by the Prime Minister that is responsible for maritime affairs of the State, which is the Ministry of Tourism, International Transport and Maritime Initiatives.

**The Maritime Administrator**

The IMA further establishes the powers of the Maritime Administrator. The Maritime Administrator is tasked by the IMA to carry out three primary functions. The Maritime Administrator is to:

"(a) administer all matters pertaining to vessels of Dominica engaged in foreign trade and which are subject to this Act;

(b) ensure the seaworthiness of ships of the Commonwealth of Dominica; and

(c) establish proper manning conditions on board."

To execute those primary functions, the Maritime Administrator may delegate by instrument in writing any of the functions conferred on them by the IMA to a Deputy Maritime Administrator and Assistant Administrator (Section 4).

**Deputy Maritime Administrator**
This Deputy Maritime Administrator’s (DMA) duties are not so clearly distinguished from the Maritime Administrator as that person is assigned duties and appointed with the authority necessary for carrying out the purpose of the IMA by the Maritime Administrator. The IMA does not limit the duties that can be assigned by the Maritime Administrator. The duties that the current DMA holds is discussed later in this chapter.

Initially, the IMA provided for a Deputy Administrator of Financial Affairs (Section 5), a Deputy Administrator of Marine Personnel (Section 6 IMA) and Assistant Administrators of Maritime Affairs (Section 7). Each of these positions were to be appointed by the Maritime Administrator with approval from the Minister and were to operate with the authority conferred upon them by the Maritime Administrator. Sections 5-7 of the IMA were repealed in 2001 by Section 5 of the International Maritime (Amendment) Act, 2001, Act 12 of 2001 and Section 4 of that same amendment Act provided for the positions of DMA and Assistant Administrator and their duties as stated before.

**Special Agent**

A special agent under Section 8 of the IMA refers to an ‘agent’ appointed by the Maritime Administrator to act on his behalf in connection with the registration and documentation of the vessels and the recording of the related instruments. This section expressly gives the Maritime Administrator the authority to appoint an agent with the authority to conduct business on his behalf. A general agency is created as the duties assigned to the agent falls within the ordinary course of that its business – to operate a maritime registry. (Halsbury's Laws of England - Agency, 2017). The agent here becomes an agent of the State under the direct authority of the Maritime Administrator.

In law, the word 'agency' is used to connote the relationship between one person who has the authority or capacity to create legal relations between a person occupying the position of principal and third parties (Halsbury's Laws of England - Agency, 2017). An agency relationship depends on the nature of the agreement and the circumstances
surrounding the activities conducted as a result of the agreement. The true definition of agency only occurs when the agent acts ‘on behalf’ of its principal. If the alleged agent acts on his own behalf, regardless of the explicit language in the agreement describing the person as agent, there is no agency relationship. Additionally, it was expressly Regardless, the DMRI was employed to provide flag State services. These services require the DMRI to sell two products – Registration and Certification.

- **Functions**
  The MARAD’s functions include offering two main products. They are, registration of vessels and marine entities and certification of vessels and crew:

  1. **Registration**

     Part 2 of the IMA and the Regulations of the IMA, lists the criteria for vessel registration under the flag of Dominica. No vessel can be documented under the laws of Dominica or accorded the rights and privileges of the State if it is not registered in accordance with the IMA.

     A ‘Certificate of Registry’ is issued to the owner of the vessel once the Issuing Officer is satisfied that the owner is eligible for documentation. The owner is required to present a written application accompanied by the oath (Section 36 IMA).

     - proving that they own the vessel (Bill of Sale transferring title to the present owner, a Certificate of Ownership and Encumbrance from the current flag State registry or Builder’s Certificate or Master Carpenter’s Certificate should be submitted in the case of a newbuilding);
     - the vessel is in seaworthy condition via a Certificate of Confirmation of Class or a Certificate of Seaworthiness (IMA Regulation 19(1)), or an Interim Certificate of Class for a Newbuilding, dated not more than ten (10) days prior to registration;
     - the vessel has the markings of name, official number, home port and draft;
     - payment of registration fees;
a certificate of measurement has been issued;
proof of Insurance
that any foreign marine document for the vessel has been surrendered with consent of the government that issued it or it has been legally cancelled via Certificate of Deletion (Section 35 IMA).

The Issuing officer here refers to either the Registrar of Vessels or any other person duly authorized by the Maritime Administrator to issue the certificate as well as the Maritime Administrator. Upon initial registration, the Maritime Administrator shall assign to the vessel an official number (Section 51 of IMA). A Provisional Certificate of Registry can also be issued by only by the Maritime Administrator.

2. Certification
In addition to registration, a vessel and its crew require specific certification from the flag State. The primary regulatory or statutory certificates a that the Maritime Administration/Ship registry issues are:

- Certificate of Registry – as discussed above
- SOLAS Certificates
- MARPOL Certificates
- International Anti-Fouling System Certificate
- International Load Line Certificate
- International Tonnage Certificate
- Certificates for Masters, Officers and Ratings
- Maritime Labour Certificates
- Certification of Classification

Some of these are issued by the Maritime Administration through a Recognized Organizations. In Dominica, the Recognized Organizations (RO) are appointed by the Minister to act as Special Agents (Section 57 IMA). These ROs are responsible for issuing International Certificates for SOLAS, LL 66, MARPOL, ITC69, or any other International Convention (IMA Regulation 24(2)). The ROs are also the authorized
Agents for measurement and survey of vessels (IMA Regulation 25). RO are further discussed later in this chapter.

**Ship Registration**

This section is the last stage in the cycle of the rationale for why the Government of Dominica uses DMRI to execute their duties as a flag State. As stated before, the need to increase financing influenced the State’s decision to start its Ship Registry Project. With the DMRI undertaking to execute the functions of a Ship Registry under the direction of the Maritime Administrator, Dominica was securing its jurisdiction as a flag State. Dominica did not possess the local human element needed to manage its flag State operations and therefore these duties were outsourced to DMRI. From 2000 to 2005, there was only the Maritime Administrator based in Dominica, a DMA stationed in the MARAD office in located in the USA, to represent the MARAD and oversee the operations of the DMRI, and the DMRI in the USA conducting the registration business.

However, when the DMA left office in 2005, the DMRI’s CEO was assigned the responsibilities of a DMA. This has left Dominica with one local officer, the Maritime Administrator, situated in Dominica, fully dependent on DMRI to execute functions not only of a shipping registry, but also the supervisory role MARAD in the USA.
The cycle depicts the rationale for entering into an arrangement with DMRI and the reasons for it continued engagement (Figure 1). The economic project seems be functioning as planned but for the last stage. The broken arrow between the Ship Registration and the Purpose illustrates the biggest weakness in this cycle. The Maritime Administrator, in the interview, revealed that this arrangement has not produced a profit in over a decade and has done nothing to build capacity in local resources, be it human or otherwise. Corrective action must be taken to at least build the capacity of the maritime sector.
The GoD/D-A will expire eight (8) years on September 30, 2029. The issue of whether or not this project could be deemed successful and whether it is the only available option to the Government of Dominica is of paramount concern for the State as formal notice of intention to renew must be done no later than January 30, 2026 (Section 14.4 of GoD/D-A). The State needs to re-evaluate whether the MARAD is in a better position to re-absorb some of the duties delegated to the DMRI and how to build capacity in its local resources.

In essence, the issue of effective oversight in the maritime affairs of the State requires institutional integrity. This can only be maintained by impartial implementation of the legislation in securing the interests of each entity. It also relies heavily on disclosure of information and independent oversight.

4.1.2 - Has this Project been effective?
Maritime operations in any country require synchronization a number of capable actors. In order to accomplish their under maritime policy output, the State actors must operate under a common goal – efficient flag State operations. The flag State duties go beyond the registering and management of the State’s own vessels to include border protection – from both pollution and security threats; regulation of fishing; accurate mapping to aid navigation; and ensuring compliance with IMO and its instruments. As a flag State, Dominica has been subjected to three audits, IMSAS, STCW Audit as required by 1/8 of STCW and the annual ISO Certification of its Quality Management Systems. However, the audit discussed in the paper is the IMSAS report. State parties are subjected to an audit scheme to monitor whether they are fulfilling their maritime mandates under IMO.

IMSAS AUDIT 2019
Dominica is subject to the (III) Code which stipulates a number of principles that the State must adhere to in order for the MARAD to deliver on its international
obligations. The Maritime Administrator is tasked with liaising with multiple State entities, by virtue of the *Framework and Procedures for the IMO Member State Audit Scheme* (International Maritime Organization (IMO), 2013), to keep abreast of the flag State, the Coastal State and the Port State Activities.

In November 2019, an audit of Dominica was conducted. The audit reviewed the flag, coastal and port state obligations of Dominica in relation to eight of the IMO instruments to determine the extent that Dominica had met its obligations imposed on it as a result of adopting these instruments and the effectiveness of its implementation.

These eight (8) instruments were:

- SOLAS 1974
- SOLAS PROT 1988
- MARPOL 73/78
- STCW 1978
- LL 1966
- LL PROT 1988
- TONNAGE 1969
- COLREG 1972

The State entities represented during the audit were:

- Ministry of Environment, Climate Resilience, Disaster Management and Urban Renewal
- Ministry of Information, Science, Telecommunications and Technology
- Ministry of Housing and Lands
- Ministry of Justice, Immigration and National Security
- Office of the Attorney General
These entities were involved in the implementation and enforcement of the provisions for the above instruments were the Ministry of Public Works, Water Resource Management and Ports, through the MARAD, was at the time of the Audit the primary government entity responsible for activities related to transposition, implementation and enforcement of the applicable mandatory IMO instruments. Another State entity under this Ministry is the Dominica Air and Sea Port Authority (DASPA). It is responsible for the administration of the ports of the State.

The Ministry of Environment, Climate Resilience, Disaster Management and Urban Renewal, was responsible, through the Office of Disaster Management, for the formulation of environmental policies and for pollution response. This Ministry was established in 2018 on the heels of the 2017 Hurricane Maria, not long before the audit.

The Marine Police Unit, more commonly referred to as the Coast Guard, operating under the Ministry of Justice, Immigration and National Security, was responsible for search and rescue (SAR) activities and law enforcement. This Marine Police Unit is part of the Commonwealth of Dominica Police Force (CDPF) and is therefore regulated by the 1990 Police Act, Chapter 14:01. Dominica is a party to the SOLAS 1974 regulation V/7 and a party to 1979 SAR Convention, however, at the time of the IMSAS audit, there was no legal framework to regulate the conduct of SAR activities or evidence of any national plans or policies that would promote compliance.

The Office of the Attorney General operated under the Ministry of Justice, Immigration and National Security, and was (is) responsible for legal affairs of all entities of the State. This included the ratification process and drafting of different acts governing the State’s maritime activities. This will be further discussed in Chapter 4.4.

The National Telecommunication Regulatory Commission (NTRC), the Dominica Meteorological Service (DMS), and the Land and Surveys Department operated under the Ministry of Information Science, Telecommunications and Technology and the
Ministry of Housing and Land respectively. Their responsibilities involved implementation and enforcement of the mandatory IMO instruments in the coastal and port State areas regarding radio communication services for vessels.

The IMA stipulated that the MARAD was initially responsible for issuing ship radio licences and call sign (Section 20 and 21 of IMA). However, pursuant to the Telecommunications Act, 2000, Act 8 of 2000 and the Telecommunications (Licensing and Authorisation) Regulations, 2002, SRO 7 of 2002, the NTRC adopted the responsibilities for issuing radio licences.

At the time of the Audit, Dominica did not have legal Port State Control systems, processes or mechanisms in place and it was therefore determined during the audit that there was no formal enforcement regime to support Port State Control.

As expressed before the DMRI, “the extraterritorial Maritime Affairs Office” is responsible for vessel registration and other flag State activities. This will be discussed further in this Chapter.

4.1.3 - As at 2021

The social framework enabling the execution of maritime operation does not appear to be set. The absence of clear local legal structures allows the duties of the entities to become entangled and thereby undermines the structure of responsibility for maritime activities. It allows the public functions to differ according to the Ministry that the Maritime Administration Unit falls under.

Upon conducting research in July 2021, it was revealed that the Ministries that were a part of the IMSAS Audit had been reconstituted. The general elections of Dominica was held a mere two (2) weeks after the Audit was conducted (Caribbean Elections,
2021). After elections, the incumbent Prime Minister “shuffled” his Cabinet Ministers and allocated their portfolios. This allocation of portfolios is usually motivated by the government’s intended policy output (Laver & Shepsle, 1994) and not necessarily regulated by law.

In Dominica, allocation of resources and activity is illustrated in the government’s political will to execute a particular policy. Evidence of their focus can be inferred by the names of their Ministries and the mandates assigned to the Ministries’ portfolio. After the 2019 Audit, the Ministry of Tourism was expanded to incorporate maritime affairs under its portfolio and became the Ministry of Tourism, International Transport and Maritime Initiatives. The current social framework that supports maritime operations is spread over seven (7) government ministries (Figure 2).

These seven government Ministries are:

- Ministry of Foreign Affairs, International Business and Diaspora Relations
- Ministry of Finance and Investment
- Ministry of Economic Affairs, Planning, Resilience and Sustainable Development, Telecommunications and Broadcasting
- Ministry of Tourism, International Transport and Maritime Initiatives
- Ministry of Housing & Urban Development
- Ministry of Blue and Green Economy, Agriculture and Food Security
- Ministry of National Security and Home Affairs

With the maritime affairs spread so laterally, management and co-ordination is challenge. Each department is tasked with collecting information or regulation in one aspect or another. However, their primary mandate in the individual offices may not be focused maritime affairs and sometimes lacks the supervision to ensure that the required duties are consistently conducted.
Also, there may be either an overlap in responsibilities or a massive gap in the execution of the required tasks as the offices rarely liaise on maritime issues. Poor intercommunication among the offices means no synergy in their operations.

The Maritime Administrator post is currently a contractual position of 1-2 years. This position was once filled by an individual who was secured under establishment as a permanent public post and therefore not subject to a contract. As the MARAD was established as a unit as part of an economic project, the person holding that post would have had to be seconded from another Ministry. Between 1999-2005, that post was held by Mr Steve Ferrol. After 2005, the post remained vacant until 2018.

The DMA post was initially held by a Dominica who was stationed in the Washington office of MARAD. His role was to aid in the execution of supervisory functions of MARAD in their global offices. This post however became vacant in 2007 as a result of the financial constraints on the public purse. The State being unable to fund the position, assigned the Deputy Maritime Administrator duties to Eric Dawicki who is the Chief Executive Officer of the DMRI. The GoD/D-A made provision in Section 3.2 for the MARAD to appoint a DMA to aid the government in performing its administrative duties in foreign ports.
Figure 2 Organizational chart showing the actual social framework of the maritime operations in Dominica, 2021 (author’s adaptation)
Pursuant to Section II of the GoD/D-A, the DMRI was appointed by the Government of Dominica as the exclusive agent (Special Agent) in 1999 to not only administer the open ship registry and to act as the Maritime Corporate Registrar, but also to aid in the effective administration of the maritime programme in Dominica. In 2000 however, the IMA stated that the Maritime Administrator is responsible for appointing one or more special agents.

Furthermore, the Government of Dominica, by virtue of Section III GoD/D-A undertook to establish not only a MARAD, but also a body of Marine and Environmental laws and regulations. This was necessary to give effect to the UNCLOS, IMO treaty and the other IMO instruments that Dominica was a party to. The Territorial Sea, Contiguous Zone, Exclusive Economic and Fishery Zone Act, Chapter 1:11 commenced in 1981 and no amendment has been done to it since. There is a bill called the Climate Change, Environment and Natural Resource Management Bill 2016, it has not yet been passed in parliament. The IMO instruments have been incorporated into the IMA in Chapter 5 – 8 of the act. However, it is clear that this legal framework was implemented only to support the efficient functioning of the maritime programme with specific focus on the open ship registry at the time of inception. There has been no amendment to the IMA and its regulations for almost two decades.

4.2 Open Registry Structure and Duties

4.2.1 - Background

The term “open registry” has become the common and less emotive parlance for the “flag of convenience” concept (Coles & Watt, Ship Registration: Law and Practice, 2009). With the negative narrative that trails the term, Dominica has expressed clear
intention to be considered a “Flag of Quality” and not a “Flag of Convenience” in its GoD/D-A.

In October 1999, the Government of Dominica entered into an agreement with the DMRI for the purpose of assisting the Government of Dominica with the establishment and operation of an international shipping registry for a period of thirty (30) years. In October 2005, the agreement was amended. This amendment, called the “Addendum to Agreement” in essence gave the DMRI further supervisory powers and input on the operations of the Maritime Administration in Dominica (1 and 2 of GoD/D-A).

As discussed before in Chapter 4.1.1, the intention of the GoD/D-A was to create an agency relationship, where the Government of Dominica was the principal and the DMRI was the agent. Whether this type of relationship still exists today must be examined by reviewing the precise terminology employed by both parties to describe their relationship in the GoD/D-A, and compare it to the true nature of the agreement and the exact circumstances of the relationship between them.

The DMRI falls under the direct instructions of the Maritime Administrator per the GoD/D-A. This places DMRI as a Special Agent within the organizational structure of the MARAD in line with the Deputy Maritime Administrator.

The Maritime Administrator, from inception has been held by persons who have either legal training, or managerial training, but not maritime affairs training. This presents one of the main issues challenging the efficient operation of the MARAD. With IMO’s focus on implementation and reporting obligations, a person who has the capacity to carry out certain functions of the Maritime Administrator must have sufficient understanding and qualifications to oversee maritime affairs.

The first Maritime Administrator, Mr Steve Ferrol, held the post up until 2005. He was seconded from the Ministry of Foreign Affairs to act as Maritime Administrator as he
had experience with contributing to draft legislation and policies dealing with Law of the Sea. This however was not enough to manage and monitor the flag State responsibilities and thus, DMRI was employed. In the interview, it was expressed that DMRI was considered as part of the staff of the MARAD whose duties were solely to operate the ship registry and the maritime corporate registry under the direction of the Maritime Administrator. By virtue of the GoD/D-A, the flag State operations where to be fully outsourced to DMRI.

4.2.2 - Organizational Structure of MARAD

The current structure of the MARAD is as follows; the Maritime Administrator is the head and he instructs the DMRI, the DMA, the Assistant Administrator. He also communicates with the Coast Guard as part of their core functions is to conduct operations via sea. According to the GoD/D-A, there must be two members appointed to the Board of Directors of DMRI with at least one being a senior member of MARAD (Section 3.1(d)). Also the Government may appoint a DMRI employee as a DMA (Section 3.2). As it stands, the CEO of DMRI is assigned the position of DMA.

The DMRI, as the staff officer responsible for the Shipping Registry and all the flag State operations attached, employs a collection of persons to assist it in carrying out its functions in accordance with the IMA and the GoD/D-A (Figure 4). The company has also established offices around the world.
The MARAD has global offices in the following places:

1. Argentina  
2. Bulgaria  
3. Chile  
4. China  
5. Cyprus  
6. Greece  
7. Hong Kong  
8. India  
9. Latvia  
10. Lebanon  
11. Malta  
12. New Zealand  
13. Panama  
14. Philippines  
15. Russia  
16. Singapore  
17. Spain  
18. Turkey  
19. United Arab Emirates  
20. United Kingdom  
21. United States

They are referred to as Dominica Maritime Administration International Offices and they facilitate ship registration and other duties as the President of DMRI determines.
Figure 4 diagram of MARAD Organizational structure with DMRI included (adapted by author)

Functions and Activities of the DMRI
According to Mansell, Dominica qualifies as a “Pseudo-National Flag State” as the Ship Registry is not located in Dominica; the Registry is administered by a private entity, DMRI and not the flag State; the flag State delegated all statutory functions to the Registry – this is seen through the GoD/D-A agreement; the flag State allows sub-delegation of statutory function to non-IACS members; the flag State facilitates “brass plate” companies where the owner can effectively hide behind the corporate veil and
there is no transparency about the control of ships (Mansell, 2009, pp. 109-110). The name of the **beneficial owner** of the vessel is not a requirement for registration according to the IMA and the DMRI Website.

Section 1 of the GoD/D-A illustrates the maritime functions and key activities of the DMRI. Those functions include, management of the Ship and Maritime Corporate Registry, administrative functions, Port State control advisory services and support, provide representation services to classification societies and other maritime organizations, provide access to ship manning agency services to vessel operators in Dominica’s registry, and any other function deemed necessary to implement the GoD/D-A effectively (section 1.2).

The State issued additional authority to the DMRI in 2005 when it included in the GoD/D-A that the Government shall consult with DMRI on who would be appointed the Maritime Administrator. In essence, the DMRI must be consulted before their supervisor is selected.

4.2.3 - Flag State Performance
The flag State performance of Dominica can be assessed by its ability to meet its international maritime obligations. This is reflected in the IMSAS report and its performance in the MoU Reports. In this section, the data will be illustrated by a graph and table format.

No ship owning company nor ships registered under Dominica’s flag are currently under any United Nations sanctions (GISIS, 2021). With 97 ships registered in its fleet in 2020, Dominica only had a capacity of 1231 Thousands DWT (United Nations Conference on Trade and Development (UNCTAD), 2021). Over the last decade (Figure 5), the number of ships registered in Dominica’s fleet fluctuated, taking a plunge in 2014 for three years until its steady increase from 2017 to 2019. However, the last two years has shown a decline in the number of vessels registered with the

Figure 5 illustrating the size of Dominica’s Shipping Registry showing the number of ship and the DWT for a ten-year period from 2011-2021 (author’s construction based on UNCTAD: Dominica’s Maritime Profile)

It must be noted that 29.9% of the vessels registered under Dominica’s flag and currently in service are over 25 years old, that is 29 vessels out of the 97 vessels. (GISIS, 2021). Although not currently on the black lists of the PMoU and TMoU, according to the Shipping Industry Flag State Performance Table, Dominica has recorded a potentially negative performance because of its lack of PSC and CSC regulations (Table 2). It also did not meet the relevant minimum requirement of inspections or arrivals, as set by the PSC authorities, to be included in an MOU white list ((ICS), International Chamber of Shipping, 2021).
Table 2 showing 2020/2021 Flag State Performance of Dominica as adapted from Shipping Industry Flag State Performance Table compiled by the International Chamber of Shipping (ICS) (International Chamber of Shipping, 2021)

<table>
<thead>
<tr>
<th>Port State Control</th>
<th>Ratification of Conventions</th>
<th>RO Code</th>
<th>Age Reports</th>
<th>IMO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dominica</td>
<td>GREEN squares suggest positive performance indicators</td>
<td>RED squares highlight potentially negative performance</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Paris MOU White List</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Not on Paris MOU Black List</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Tokyo MOU White List</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Not on Tokyo MOU Black List</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>SOLAS 74 (and 88 Protocol)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>MARPOL including Annexes I - II</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>MARPOL Annexes III - VI</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>LL 66 (and 88 Protocol)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>STCW 78</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>ILO MLC</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>CLC/FUND 91</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Recognized Organizations</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Low Average Age (Ship Numbers)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>On latest STCW 95 'white list'</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Completed full ILO Reports</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>IMO Meetings Attendance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>IMO Audit Scheme</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
2020 Paris MoU Annual Report “Dealing with the pandemic” presents the activities and statistics relating to Dominica regarding its inspections, detention and deficiencies (Table 3) (Paris MoU, 2020).


It would appear that Dominica performed worse in the Asia-Pasific Region than around the European coastal States and the North Atlantic basin as according to the Tokyo MoU Annual Report for 2020 as Dominica is currently on the Grey list with a 3-year rolling average detention of 8.11% (Tokyo MoU, 2020). It is important to note, however, that Dominica only had 16 inspections which would be subject to the Paris MoU, whereas there were 74 inspections conducted subject to the Tokyo MoU. Also, flags whose total number of inspections over a 3-years rolling period do not meet the minimum of 30 are not included in the Paris MoU White, Grey and Black lists.
4.3 Class Societies & Recognized Organizations

Mansell proposed that there were two categories of ROs - ‘Conventional ROs vs Convenient ROs’ (Mansell, 2009, p. 114). Conventional ROs are well-established Classification Societies which are members of IACS and Convenient ROs are described non-IACS Classification Societies with no uniformity of standards. Dominica currently employs fifteen (15) ROs to execute the technical functions of the flag State mentioned earlier, of which only (ten) 10 are conventional ROs as depicted on the IACS website (International Association of Classification Societies Ltd, 2021).

The IMA Section 8 allows the Maritime Administrator to appoint one or more Agents (“the Special Agents”) to act on his behalf in connection with the registration and documentation of vessels and the recording of instruments. The RO’s are also classified as Special Agents as they are contracted to extend the functions of the Maritime Administration.

DMRI has published on their website in 2013 a ‘Minimum Standards for ROs Policy Letter’ (Appendix 5) to guide stakeholders regarding the requirements of ROs which is based on the IMO Model Class Agreement that has been instituted for use since 1995 (IMO, 1995). States are expected to conform with the minimum standards and only delegate to the RO that which the RO has adequate technical, managerial and research resources to do (IMO, 1993). IMO adopted the Code for Recognized Organizations (RO Code) by resolutions MEPC.237(65) and MSC.349(92), to replace resolutions A.739(18) and A.789(19) in June 2013. The Dominican Circular titled ‘Application for Authorization as a RO’ (Appendix 4) does not refer to the RO Code even though the Circular was issued by MARAD a month after the RO code was adopted.

The IMO requires every State that discharges its statutory duties to an RO to provide information about the delegation through a module in IMO GISIS (IMO, 2013). There are (ten) 10 out of the fifteen (15) RO agreements listed on GISIS for Dominica; eight
of the ten (10) were signed in 2013 with no further amendments; one (1) RO agreement was amended in 2016 while the other was entered into in 2017. Of the five (5) RO agreements missing from the GISIS, three (3) fall within the “Convenient ROs” category.

Two RO agreements have been terminated since the IMSAS report in 2019. The text of the existing RO agreements (Appendix 6) between Dominica and the RO appear to be much shorter than the template RO agreement used by MARAD (Appendix 7) and the RO Code. (Note that in 2019 the IACS along with Marshall Islands and Russian Federation proposed amendments to the IMO Model Class Agreement for term ‘flag State’ to be replaced with the term ‘Administration’ at the 101st Session of Maritime Safety Committee Meeting (IMO, 2019)).

The GoD/D-A allows DMRI to provide representational services to classification societies (Section 1.2(c)). However, the Class Agreement between the flag State and the RO is signed by the DMA on behalf of MARAD - although the IMA instructs that the Minister appoint the RO. This RO arrangement function is conducted completely outside of Dominica as the DMA operates from the DMRI’s office in the USA. The information regarding the ROs are limited to what is published on the DMRI website and GISIS. The information on GISIS is submitted by DMRI, therefore there is no independent method of ensuring that there are no other existing RO arrangements that have not been published on the two websites.
Table 4 Authorized Classification Societies as Recognized Organizations by Dominica Maritime Administration for issuing state certificates (Dominica MARAD, 2021).

| Recognized Organizations Approved by the Dominica Maritime Administration |
|---|---|
| 1 | American Bureau of Shipping (ABS) |
| 2 | Bureau Veritas (BV) |
| 3 | DNV GL AS (DNV-GL) |
| 4 | Indian Register of Shipping (IRS) |
| 5 | International Naval Surveys Bureau (INSB) |
| 6 | Korean Register of Shipping (KRS) |
| 7 | Lloyd's Register (LR) |
| 8 | Nippon Kaiji Kyokai (NKK) |
| 9 | Novel Classification Society S.A., novelClass (NCS) |
| 10 | Panama Maritime Documentation Services (PMDS) |
| 11 | Polski Rejestr Statkow (Polish Register of Shipping) (PRS) |
| 12 | Rina Services S.P.A (RINA) |
| 13 | Russian Maritime Register of Shipping (RMRS) |
| 14 | Turkish Lloyd (TL) |
| 15 | Universal Maritime Bureau (CLASSUMB) |
4.4 Implementation - Parliament Processes – Draft to Execution

4.4.1 - Background
A flag State’s responsibility includes enacting the legislative systems that can monitor and manage vessels entrusted with its flag. A common way to assess the efficiency of a State in performing its flag State obligations is to review the existing maritime laws as well as the procedures of implementation used by that State. The State entity in charge of implementing the maritime legislative framework is the Chambers of the Attorney General.

The Chambers of the Attorney General operates under the Ministry of National Security & Home Affairs and is the key State entity responsible for nationalization of international obligations. The functions of this office also include timely and accurate drafting of legislations, sound legal advice and legal representation to the Government of the Dominica as well as management of the judicial process in the State (Government of Dominica, 2021).

In relation to the maritime affairs of the state, the Chambers’ of the Attorney General duty is two-fold. Firstly, it is charged with managing maritime civil matters, and secondly it has to ensure that the IMO instruments are properly adopted and that ratifications of these instruments present no conflict the existing laws of the State. This entity is tasked with the review of policies which can affect legislation. Any proposed framework presented to this office for the development of the maritime sector is considered a policy document and is thus vetted by the Chambers of the Attorney General before being presented to Cabinet for approval.

Maritime matters are mainly regulated by the following domestic legislation:

- International Maritime Act 2000, Act No. 9 of 2000;
- International Maritime (Amendment) Act, 2001, Act No. 12 of 2001;
- International Maritime (Amendment) Act, 2002, Act No. 8 of 2002; and
4.4.2 - Ratification and Implementation of Conventions

- Nationalization Process and Judicial Process

The process of ratification of conventions affecting the maritime affairs of Dominica begins from the final provisions of the Convention. The judicial options available for aggrieved parties stems from the nationalization of the various conventions. This is discussed in depth in Appendix 2.

Figure 6 Nationalization Process of IMO Instruments (author’s illustration)

- Role of DMRI in facilitating implementation where there is no legislation

The DMRI also plays an important role in the implementation process. Given the legislative limitations in Dominica on certain IMO instruments, the DMRI publishes Policy Letters, Circulars and Publications as a way to keep the stakeholders aware of the any updates that may affect them. Though these circulars seldom have legal weight, it reminds stakeholders of their international obligations and is an indirect method of implementation of those obligations.
4.5 Dominica’s Status - Summary

Being categorized as a pseudo-national flag is not a compliment to the State. It means that the flag is ‘effectively unregulated’ as the regulatory environment is basically non-existent (Alderton, et al., 2004, p. 80). The genuine link between the DMRI and Dominica is minimal regardless of the provisions in the IMA as both the structures and personnel are not subject to regular audit and oversight by the State itself. Additionally, the ratification rate of IMO instruments is low (Table 5) with at least (ten) instruments requiring urgent attention and ratification by the State to increase the flag State’s enforcement powers (Table 6).

Despite Dominica’s efforts to have a local DMA oversee the international operations of the DMRI, the current DMA operates outside of Dominica, from the office of the DMRI. The person who is the assigned DMA is also the CEO of the DMRI. Although there are no provisions prevent this assignment, nature of the ship registry being a private company with the State’s proposed supervisor being its CEO only adds evidence to the pseudo-national nature of the flag. It also intensifies the risk of conflict of interests. This assignment is a reflection of the lack of capacity in local resources, particularly MARAD and also the lack of control by the State in its own maritime affairs.

The GoD/D-A is a contract and therefore subject to the interest of the parties. The contract is due for revision as the Maritime industry has grown a lot over the last two decades, however, it would be unfair to judge the terms of the contract without first revising the legislative and institutional structures that were created to support it.

Furthermore, the overlap in administrative and executive role of the DMRI and the DMA needs to be clarified and separated. The arrangement between DMRI and Government of Dominica has not produced capable local administrative officers to support the MARAD in Dominica. The concerns raised by this study reveals that
Dominica requires technical assistance in building its capacity to effectively manage its maritime affairs. Without this first step, no proper oversight or duties can be executed by the State.

Moreover, there are other discrepancies in the arrangement between the parties that need attention. For example, in Section IV of the GoD/D-A it provides for an appointment of a DMA for Financial Affairs, however, the IMA has removed that position. Any other conflicting obligations between the IMA and the agreement also need revision.

The stakeholders interviewed in this study listed in order of priority the five main challenges that affect the proper operation of maritime affairs in Dominica as:

1. Co-ordination between the MARAD and DMRI
2. Legislative support and implementation
3. Low capacity in existing domestic personnel
4. Limited local administrative staff
5. Operational resources

These issues, having been identified by persons actively involved in executing Dominica flag State responsibilities, need urgent attention.
Table 5 of IMO Instruments ratified in Dominica- (obtained from GISIS)

<table>
<thead>
<tr>
<th>Treaty</th>
<th>Ratification Type</th>
<th>Date of Entry into Force</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  IMO CONVENTION</td>
<td>Acceptance</td>
<td>1979-12-18</td>
</tr>
<tr>
<td>2  IMO Amendment 93</td>
<td>Acceptance</td>
<td>2002-11-07</td>
</tr>
<tr>
<td>3  CLC Protocol 1992</td>
<td>Accession</td>
<td>2002-08-31</td>
</tr>
<tr>
<td>4  COLREG 1972</td>
<td>Accession</td>
<td>2000-06-21</td>
</tr>
<tr>
<td>5  FAL 1965</td>
<td>Accession</td>
<td>2001-19-30</td>
</tr>
<tr>
<td>6  Fund Protocol 1992</td>
<td>Accession</td>
<td>2002-08-31</td>
</tr>
<tr>
<td>7  Load Lines 1966</td>
<td>Accession</td>
<td>2000-09-21</td>
</tr>
<tr>
<td>8  Load Lines Protocol 1988</td>
<td>Accession</td>
<td>2000-09-21</td>
</tr>
<tr>
<td>9  LLMC 1976</td>
<td>Accession</td>
<td>2001-12-01</td>
</tr>
<tr>
<td>11 MARPOL Annex III</td>
<td>Acceptance</td>
<td>2001-11-30</td>
</tr>
<tr>
<td>12 MARPOL Annex V</td>
<td>Acceptance</td>
<td>2000-09-21</td>
</tr>
<tr>
<td>13 NUCLEAR 1971</td>
<td>Accession</td>
<td>2001-11-29</td>
</tr>
<tr>
<td>14 OPRC 1990</td>
<td>Accession</td>
<td>2001-11-30</td>
</tr>
<tr>
<td>15 PAL 1974</td>
<td>Accession</td>
<td>2001-11-29</td>
</tr>
<tr>
<td>16 PAL Protocol 1976</td>
<td>Accession</td>
<td>2001-11-29</td>
</tr>
<tr>
<td>17 SALVAGE 1989</td>
<td>Accession</td>
<td>2002-08-31</td>
</tr>
<tr>
<td>18 Search and Rescue 1979</td>
<td>Accession</td>
<td>2001-09-30</td>
</tr>
<tr>
<td>19 SOLAS Protocol 1978</td>
<td>Accession</td>
<td>2000-09-21</td>
</tr>
<tr>
<td>20 SOLAS Protocol 1988</td>
<td>Accession</td>
<td>2000-09-21</td>
</tr>
<tr>
<td>21 STCW 1978</td>
<td>Accession</td>
<td>2000-09-21</td>
</tr>
<tr>
<td>22 SUA 1988</td>
<td>Accession</td>
<td>2001-11-29</td>
</tr>
<tr>
<td>24 Tonnage 1969</td>
<td>Accession</td>
<td>2000-09-21</td>
</tr>
</tbody>
</table>
Table 6 List of Conventions to be ratified in Dominica in order of Priority

<table>
<thead>
<tr>
<th></th>
<th>List of Core Conventions to be Ratified in Order of Priority</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><strong>CMoU</strong> - The Caribbean Memorandum of Understanding on Port State Control</td>
</tr>
<tr>
<td>2</td>
<td>The International Ship and Port Facility Security (<strong>ISPS</strong>) code, an amendment to the Safety of Life at Sea (<strong>SOLAS</strong>) Convention (1974/1988)</td>
</tr>
<tr>
<td>3</td>
<td><strong>MARPOL ANNEX VI</strong> – Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978</td>
</tr>
<tr>
<td>4</td>
<td><strong>MARPOL ANNEX IV</strong> – Annex IV of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978, as amended</td>
</tr>
<tr>
<td>5</td>
<td><strong>BWM 2004</strong> – International Convention for the Control and Management of Ships’ Ballast Water and Sediments, 2004</td>
</tr>
<tr>
<td>7</td>
<td><strong>MLC 2006</strong> – Maritime Labour Convention, 2006</td>
</tr>
</tbody>
</table>
Chapter 5 – Conclusions and Recommendations

5.1 Conclusions

Although the traditional system of absolute control by the flag State over its vessel no longer exists, the flag State principle remains the core of the system of maritime regulation and enforcement as they continue to hold the formal responsibility (Bateman, 2016). As a result, the onus will always rest with the flag State to effectively monitor and manage its maritime affairs.

Dominica’s maritime sector, i.e. the institutional and regulatory systems, appear to exist solely within the context of the agreement between Government of Dominica and the Dominica Maritime Registry Inc. (GoD/D-A). This system is further limited by the International Maritime Act of Dominica (IMA) and its regulations which were crafted mainly to accommodate the GoD/D-A.

This paper has identified two major gaps in the maritime affairs of the State.

1. Inadequate local administrative resources
2. Unsupervised Shipping Registry

1. Inadequate Local Administrative Resources

There is a significant deficiency in the State ability to execute its own affairs locally and a fear that there is no concrete plan to enable it to.

Since adopting the open registry system in 2000, Dominica has implemented the only a few Conventions. Dominica needs to ratify other IMO instruments and the ILO instrument - the Maritime Labour Convention 2006 - among others to enable it to fortify its legislative regime.
Additionally, the International Maritime Act (IMA) has not been amended since 2002. Therefore, an amended IMA should include Port State Control and Coastal State Control regimes.

Also the GoD/D-A is not fully in sync with the IMA. This agreement was entered into in 1999 and added to in 2005. Much has changed in the international maritime arena since then, particularly with the flag States’ responsibilities of monitoring and reporting. The terms of the arrangement need to be reviewed and revised.

The existence of one local personnel in the MARAD is insufficient and a new administrative regime should be considered. Dominica needs to consider the importance of localizing its critical administrative authority and ascertain the role of Maritime’s central governing body. As it stands, the MARAD’s expansive functions are scattered throughout the public service and private entities. There needs to be a centralized chain of reporting established. Lastly, a State’s agreement with a Recognized Organizations bestows a lot of authority, the DMA being the only post assigned to enter into this arrangement should be subject to internal review and not rely solely on extra jurisdictional personnel.

2. Unsupervised Shipping Registry

A key duty of any flag State is to supervise the entities which it has delegated public functions to. Vessel registration is a public function as grant of the right to fly the State’s flag is a public matter.

MARAD has difficulty in overseeing the functions delegated to DMRI despite some of the provisions in the IMA and the GoD/D-A.

There was no record of an internal audit conducted by MARAD of DMRI shipping registry duties. There are also no systems in place to evaluate and review the operations of MARAD and DMRI.
Given the arrangement with the private entity, DMRI, there is a need for independent oversight of the ship registry operations as Deputy Maritime Administrator (DMA) of MARAD is also the CEO of DMRI.

In order to overcome these major systematic challenges, Dominica may need to develop its human and other resources to rebuild the capacity of its maritime industry.

The inescapable international expectations placed on Dominica regardless of its open registry arrangement with DMRI requires the State to develop its own National Maritime Transport Policy. However, the flag State principle must be developed further to accommodate maritime planning.

In relation to an open registry system, it is easier for the lines to be blurred as to who carries out the duties, but the onus will always be on the flag state to ensure that the international obligations are up to standard.

5.2 Recommendations

The main aim of this research was to assess the deficiencies in the Open Registry system currently employed by the Commonwealth of Dominica and to recommend strategies to increase efficiency of the oversight authority of Dominica’s MARAD. This research reviewed the flag State obligations imposed by IMO and determined that Dominica has not met the minimum standards required regarding flag State performance as indicated by the IMSAS Interim Report 2019. Also, the study demonstrated that Dominica’s maritime legal infrastructure needs further improvement.

The following recommendations are given with the goal of developing Dominica’s potential as a “Flag of Quality”. By examining the contributing factors that negate the performance of the Dominica’s Maritime Administration with specific focus on the its Shipping Registry, this study was able to present 3 key areas that need urgent government attention as the Government of Dominica prepares to re-enter into a new arrangement with DMRI.
• Clarify the roles of the DMRI and DMA and MARAD
  o An amendment to the legislation to re-incorporate local roles in the MARAD in order to remove the overlap in the roles held by senior stakeholders in the maritime sector in Dominica
  o A full review arrangement between DMRI to realign the goal of the project with the responsibilities of the State
  o A national public audit should be conducted of the DMRI to as vessel registration is a public function to ensure integrity and accountability is managed. This is a method of increasing the State’s supervisory powers over the DMRI

• Build Capacity in the local human resource
  o A full restructuring of MARAD in Dominica would require a full assessment of the maritime responsibilities of the State to create positions and assignments for duly trained local personnel.
  o With less than a decade left in the current arrangement with DMRI, the MARAD would require the DMRI to facilitate training of the local personnel in inspection and certification procedures, as well as management of the systems used to house the data of the shipping registry.
  o Request technical assistance from IMO in developing local capacity
  o The creation of a National Maritime Transport Policy will assist the government in allocation resources to not only train personnel but also include a framework to gain optimum use of the Blue Economy and Cruise Tourism

• Generate National Revenue
  o In 1999, the Ship Registry was proposed as an economic project to boost government finance. This is still a viable endeavour if the State
can reabsorb some of the delegated duties that generate income like localizing the issuance of certification.

5.3 Room for further study

The study was limited to discussing the ability of Dominica to execute its functions as a flag State. However, the following are related areas of concern that may require further study in order to compliment the State’s mandate of attaining efficient maritime operations:

- A study on the viability of issuing certifications locally in order to generate national revenue and whether the already established North East Maritime Institute, located in the US under the management of the CEO of DMRI, can open a campus in Dominica.
- An in-depth analysis of the role of the RO in Dominica Ship Registry and how they can be more effectively supervised.
- A plan on how to increase Dominica’s maritime presence and revenue while determining whether there is need to assign a maritime attaché to the global offices in order to facilitate this
- What are the legal and social benefits to Dominica in joining the Caribbean Memorandum of Understanding as an official member and how to implement Port State Control and Coastal State Control Regimes?

These areas all contribute to developing Dominica’s flag State responsibilities by either building local capacity, generating national revenue and re-assessing the role of private entities like DMRI. These studies should be examined based on impact assessments and economic evaluations to prioritize according to the institutional resources available.
References


IMO. (2019). MSC 101/10/2 - Draft revised model agreement for the authorization of recognized organizations.


IMO. (2020). STATUS OF IMO TREATIES - Comprehensive information on the status of multilateral Conventions and instruments in respect of which the International Maritime Organization or its Secretary-General performs depositary or other functions. IMO. Retrieved February 17, 2021, from https://wwwcdn.imo.org/localresources/en/About/Conventions/StatusOfCon ventions/Status%20-%20202020.pdf


Appendices

Appendix 1 – Nautical Chart of the Commonwealth of Dominica
Appendix 2 – Nationalization Process

Nationalization Process

The process of ratification of conventions affecting the maritime affairs of Dominica begins from the final provisions of the Convention. Once the convention has been concluded, a Cabinet Paper is drafted inviting approval for ratification. After Cabinet has approved the ratification, an instrument of ratification is drawn up by the Ministry responsible for Foreign Affairs and signed by the Head of State or the Minister responsible for Foreign Affairs. This instrument provides formal evidence of consent by the State to be bound by the Convention as well as express its reservations and declarations. This instrument is then placed in the custody of the Depository.

As a dualist member state, albeit that an international Convention is signed by the Executive, the Convention will not take effect in Dominica without the process of transference. This means that the convention must first be incorporated into domestic law. In anticipation of this, legislation is usually drafted pre-ratification, this is called the Bill. A Convention can be implemented using a direct approach, an indirect approach or a combination of the two. A direct approach gives the Convention itself the force of law in the legislation and an indirect approach provides for incorporation of the substance of the Convention into the legislation. In some cases, like the IMA, the Convention is implemented in part by the direct approach and in part by the indirect approach.

In the event the provisions of a Convention are in line with the existing laws of Dominica, the provisions are not repeated. The Draft Bill is presented to Parliament and then passed as an Act.

If the Convention is given force of law and placed in the Schedule to the legislation (Revised Treaty of Basseterre Establishing the Organisation of Eastern Caribbean States Economic Union Act, 2013), a provision is usually inserted in the primary legislation providing for the Schedule to be amended by Order made by the Minister. Therefore, when an amendment to a Convention is received, the Ministry of Foreign Affairs drafts the Cabinet Paper that requires Cabinet’s approval in order for the amendments to be made to the Legislation. When the approval is received by the Legislative Drafting Department of the Chambers of the Attorney General, the necessary Order is drafted for the Minister’s signature to give effect to the amendment. Where the substance of the Convention is incorporated into legislation, the same procedure is followed except that an amendment to the Act has to be passed in Parliament to take effect and the signature of the Minister is not required. In both cases the amendment legally comes into effect on the publication date once
there is no specific commencement provision included. Only then can the Convention be enforced through the judicial process.

Judicial Processes

International environmental law, maritime and marine affairs included, is largely encapsulated in legal instruments that lack effective dispute resolution and compensation mechanisms (Brown, 2021). The legislative framework of the State therefore must present domestic courts with the support to give penal effect to non-compliance to the various treaties and conventions that codify this specialized area of law.

It can be argued that though there are limits to the role of domestic courts in enforcing conventions, vigorous application of the treaty norms by the courts promote better compliance of the State (Sloss, 2009).

The courts when interpreting domestic law considers the Convention which led to the enactment of the legislation. However, other domestic rules and legislation as well as relevant case law from other common law jurisdictions are given precedent when deciding upon a matter.

Regulations 18 and 19 of the International Maritime Regulations S.R.O 18 of 2002 gives domestic effect to MARPOL Convention 73/78, SOLAS Convention 1974, the Load Line Convention 1966, the Convention on the Prevention of Dumping of Waste (London Dumping Convention) 1972, the International Tonnage Convention and the STCW 95 code. It states that it shall be the responsibility of owners, operators and Masters to ensure that their vessels are in compliance with the requirements of all applicable International Conventions and Agreements. Section 16A of IMA also outlines the penalty for non-compliance with these international obligations such as, suspension or cancellation of a vessel’s Certificate of Registry and/or the imposition of a fine not exceeding $150,000, and/or other conditions to ensure compliance. This provision is reinforced in the regulations.

Furthermore, section 157 of the IMA and Regulations 44, 45, 46, and 47 of the International Maritime Regulations S.R.O 18 of 2002 provides for marine inspections and marine investigations with respect to a casualty or offence. Regulation 47 in particular outlines the duties of the Maritime
Administrator in the event of a marine casualty or offense. It also lists the duties imposed on the owners of vessels and holders of licenses to cooperate with the Maritime Administrator in formal or informal investigations. The Maritime Administrator has the authority to not only cause an investigation to be taken, but also to make a decision or request further written arguments.

Section 17 of the IMA provides for all causes of action arising under the IMA to be cognizable before the High Court of Dominica in its Admiralty Jurisdiction. This section further provides for other Courts, of Dominica or elsewhere, with the jurisdiction to enforce such causes of action.

An appeal from any decision of a Deputy Administrator or any Assistant Administrator or any Special Agent be taken to the Maritime Administrator in accordance with section 18 of the IMA. Upon exhaustion of administrative remedy, an appeal may be taken to the High Court of Dominica, sitting in Admiralty jurisdiction.

In relation to enforcement of civil law claims like claims for pollution damage, Chapter 6 of the IMA provides for civil liability for oil pollution damage. Section 144 of the IMA incorporates Articles I-XI of the 1992 Civil Liability Convention as part of the law of Dominica. Section 145 to 147 provides that an action for compensation under the 1992 Civil Liability Convention be brought before the High Court of Dominica if the incident occurred in Dominica, its territorial sea, its Exclusive Economic Zone, and any extension of those zones. The High Court also has the jurisdiction to determine the procedure for the presentation of claims and for the distribution of the Limitation Fund.
Interview Questions

Maritime Administration of Dominica

Personal Information
1. Name of Organization:
2. Position in Organization:
3. Length of time employed in organization:
4. Length of time employed in that position in the organization:
5. How was your position established? Is it a:
   a. Contractual position? How long is the contract?
   b. Political appointment?
   c. Permanent establishment?

Organizational Information
6. Can you outline the Maritime Administration’s Organizational Structure?
   a. How many persons are employed in your organization?
   b. What are their positions and duties?
7. How would you describe the Administration in the government structure?
   i. Unit or Division within a Ministry
   ii. Department of a Ministry
   iii. Statutory Administration
   iv. Executive Agency
8. Do other entities (state-entities or private entities) assist compliment the MARAD in carrying out its duties?
   a. If so, please list the other entities that assist and the functions they carry out.
   b. Is a report submitted to the MARAD that gives an account of the above mentioned functions?
9. How does the MARAD carry out its Port State Control duties?
   a. What measures are in place for the MARAD to exercise its Port State Control functions?
   b. Can you give an account of the duties of the Administrator in relation to Port State Control?
10. Dominica is listed as an observer to the CMOU, can you explain the obligations of the MARAD regarding the observer status in the Caribbean Memorandum of Understanding (CMOU)?
    a. What are the benefits of only being an observer?
    b. What are the limitations of only being an observer?
11. In your position at MARAD, have you attended any of the IMO Committee Meetings?
    a. If yes then, how often do you participate attend IMO Committee Meetings?
12. What structures are in place to facilitate effective monitoring and regulations of vessels registered under the Flag of Dominica?
13. Are there any other Companies issuing the same/similar service to Dominica as a Flag State?
14. Is the MARAD aware of any “Fraudulent Registry” accusation discussions around Dominica as a flag state?
15. Is there any emergency response action plan by the MARAD to manage the following maritime issues should they occur within Dominica’s jurisdiction?
    i. Pollution?
    ii. Piracy?
    iii. Delay?
    iv. Threat to life?
16. If so, please indicate.
17. List in your opinion, ranking from most concerning to the least concerning, the challenges facing the proper operation of your maritime administration,
    i. Capacity of existing personnel
    ii. Personnel and staff
    iii. Operational resources (finance and technical material)
    iv. Legislative support and implementation
    v. Monitoring and managing the Maritime Registry
    vi. Are there any other challenges not mentioned above?
18. Do you think the operations MARAD needs improvement?
    a. If so, can you give a few suggestions for improvement.
Appendix 4 – Application for Authorization as a Recognized Organization

Commonwealth of Dominica

Office of the Maritime Administrator

TO:
RECOGNIZED ORGANIZATIONS

SUBJECT: APPLICATION FOR AUTHORIZATION AS A RECOGNIZED ORGANIZATION

REFERENCE:
(a) Resolution A.796(19) - Specifications on the survey and certification functions of Recognized Organizations acting on behalf of the Administration;
(b) Resolution A.739(18) - Guidelines for the authorization of Recognized Organizations acting on behalf of the Administration;
(c) MSC/Circ.888 – Authorization of Recognized Organizations acting on behalf of the Administration;
(d) CDP 101 – The International Maritime Act, 2002; and

APPLICABILITY: The information in this circular applies to all parties seeking initial authorization as a Recognized Organization for Classification and/or Statutory Certification of vessels that fall under the requirements of IMO instruments.

PURPOSE:
The purpose of this Circular is to bring to the attention of all concerned the application process and requirements for authorization as a Recognized Organization (RO) operating on behalf of the Commonwealth of Dominica.

BACKGROUND:
The Maritime Safety Committee, the Marine Environmental Protection Committee, and the Assembly of the International Maritime Organization have developed specifications and guidelines for the authorization of Organizations acting on behalf of Administrations which can be found throughout the references documents.

REQUIREMENTS:

General

The Commonwealth of Dominica Maritime Administration requires that all organizations providing classification and/or statutory certification to vessels flying the flag of Dominica enter into an Agreement for Recognized Organizations. Any such organization must complete an application for review and approval and undergo an audit for formal authorization.

Dominica Maritime Administration will not authorize any more than six (6) non-IACS classification societies at any given time. Requests for authorization as a Recognized Organization for classification and/or statutory certification of Dominica vessels that do not fall under the requirements of IMO instruments may be reviewed on a case-by-case basis.

Organizations to which this circular applies shall be required to operate in accordance with Resolutions A.796(10) and A.739(18) which will be verified during an audit within the first 6-12 months of authorization.

Interested organizations are requested to submit a formal request to the Technical Department at the Office of Maritime Affairs. The request will be reviewed and an application will be provided.

Any questions can be directed to:

Technical Department
Tel: +1 305 992 7170
e-mail: technical@dominica-registry.com

-End-
Appendix 5 – Minimum Standards for Recognized Organizations Acting on behalf of the Commonwealth of Dominica

TO: ALL CURRENT AND PROSPECTIVE RECOGNIZED ORGANIZATIONS ACTING ON BEHALF OF THE COMMONWEALTH OF DOMINICA MARITIME ADMINISTRATION

SUBJECT: MINIMUM STANDARDS FOR RECOGNIZED ORGANIZATIONS ACTING ON BEHALF OF THE COMMONWEALTH OF DOMINICA

PURPOSE: THIS POLICY LETTER PROVIDES THE MINIMUM STANDARDS FOR RECOGNITION AS AN ORGANIZATION ACTING ON BEHALF OF THE ADMINISTRATION

APPLICABILITY: This Policy Letter applies to all current and prospective Organizations acting on behalf of the Commonwealth of Dominica.

General

1. Under the provisions of regulation 16 of SOLAS, 74, article 13 of Load Lines, 66, regulation 4 of Annex I and regulation 16 of Annex II of MARPOL, 73/78 and article 6 of Tonnage 90, the Commonwealth of Dominica authorizes organizations to act on its behalf in the surveys and certification and determination of tonnages as required by these conventions.

2. Control in the assignment of each authority is needed in order to promote uniformity of inspections and maintain established standards. Therefore, any assignment of authority to recognized organizations:
   a. Determines that the organization has adequate resources in terms of technical, managerial and research capabilities to accomplish the tasks being assigned, in accordance with the Minimum Standards for Recognized Organizations Acting on Behalf of the Commonwealth of Dominica set out below;
   b. Has a formal written agreement between the Commonwealth of Dominica Maritime Administration and the organization being authorized which, as a minimum includes the elements set out in Appendix 2 of resolution A.739(18), as amended;
   c. Specifies instructions detailing actions to be followed in the event that a ship is found not fit to proceed to sea without danger to the ship or persons on board, or presenting an unreasonable threat of harm to the marine environment;

3. The Administration has established a system to ensure the adequacy of work performed by the Organizations authorized to act on behalf of the Commonwealth of Dominica. The system includes:
   a. Procedures for communication with the organization;
   b. Procedures for reporting from the organization and processing of reports by the Commonwealth of Dominica;
   c. Additional ship’s inspections by the Commonwealth of Dominica;
   d. The Commonwealth of Dominica’s evaluation/acceptance of the certification of the organization’s quality system by an independent body of auditors recognized by the Commonwealth of Dominica;
   e. Monitoring and verification of claims related matters, as applicable.

Requirements

An organization may be recognized by the Commonwealth of Dominica to perform statutory work on its behalf subject to compliance with the following minimum conditions for which the organization should submit complete information and substantiation:

1. General
   a. The relative size, structure, experience and capability of the organization commensurate with the type and degree of authority intended to be delegated thereto should be demonstrated;
   b. The organization should be able to document extensive experience in assessing the design, construction and equipment of merchant ships and, as applicable, their safety-management system;
   c. The organization should perform survey and certification functions of a statutory nature by the use of only exclusive surveyors and auditors, being persons solely employed by the organization, duly qualified, trained and authorized to execute all duties and activities incumbent upon their employee, within their level of work responsibility. While still remaining responsible for the certification on behalf of the Commonwealth of Dominica, the organization may subcontract radio surveys to non-exclusive surveyors in accordance with the relevant provisions of resolution A.739(18);

2. Specific Provisions
   a. For the purpose of delegating authority to perform certification services of a statutory nature in accordance with regulatory instruments which require the ability to review
applicable engineering designs, drawings, calculations and similar technical information to technical regulatory criteria as dictated by the Commonwealth of Dominica and to conduct field survey and inspections to ascertain the degree of compliance of structural and mechanical systems and components with such technical criteria, the following shall apply:

i. The organization shall provide for the publication and systematic maintenance of rules and/or regulations in the English language for the design, construction and certification of ships and their associated essential engineering systems as well as the provision of and adequate research capability to ensure appropriate updating of the published criteria.

ii. The organization shall allow participation in the development of its rules and/or regulations by representatives of the Commonwealth of Dominica and other parties concerned.

iii. The organization shall be established with:

1. A significant technical, managerial and support staff, catering also for capability of developing and maintaining rules and/or regulations; and
2. A qualified professional staff to provide the required service representing an adequate geographical coverage and local representation as required.

iv. The organization shall be governed by the principles of ethical behavior, which should be contained in a Code of Ethics and as such recognize the inherent responsibility associated with a delegation of authority to include assurance as to the adequate performance of services as well as the confidentiality of related information as appropriate.

v. The organization shall demonstrate the technical, administrative and managerial competence and capacity to ensure the provision of quality services in a timely fashion.

vi. The organization shall be prepared to provide relevant information to the Commonwealth of Dominica.

vii. The organization's management shall define and document its policy and objectives for, and commitment to, quality and ensure that this policy is understood, implemented and maintained at all level in the organization.

viii. The organization shall develop, implement and maintain an effective internal quality system based on appropriate parts of internationally recognized quality standards no less effective than ISO 9000 series, and which, inter alia, ensures that:

1. the organization's rules and/or regulations are established and maintained in a systematic manner;

2. the organization's rules and/or regulations are compiled with;

3. the requirements of the statutory work for which the organization is authorized are satisfied;

4. the responsibilities, authorities and interrelationship of personnel whose work affects the quality of the organization's services are defined and documented;

5. all work is carried out under controlled conditions;

6. a supervisory system is in place which monitors the actions and work carried out by the organization;

7. a system for qualification of surveyors and continuous updating of their knowledge is implemented;

8. records are maintained, demonstrating achievement of the required standards on the items covered by the services performed as well as the effective operation of the quality system; and

9. a comprehensive system of planned and documented internal audits of the quality-related activities in all locations is implemented.

ix. The organization shall be subject to certification of its quality system by an independent body of auditors recognized by the Commonwealth of Dominica.

x. For the purposes of delegating authority to perform certification services of a statutory nature in accordance with regulatory instruments which require the ability to assess by audit and similar inspection of the relevant safety-management system attributes of shore-based ship management entities and shipboard personnel and systems, the following shall, in addition, apply:

1. the provision and application of proper procedures to assess the degree of compliance of the applicable shore-side and shipboard safety-management systems;

2. the provisions of a systematic training and qualification regime for its professional personnel engaged in the safety-management system certification process to ensure proficiency in the applicable quality and safety-management criteria as well as adequate knowledge of the technical and operational aspects of maritime safety management; and

3. the means of assessing through the use of qualified professional staff the application and maintenance of the safety-management system, both shore-based as well as on board ships, intended to be covered in the certification.
Policy Letter
CD-FI 15-13 rev01
Date of Issue: 07/11/2013

Process
Organizations looking for amended, renewed, or initial appointment as a Recognized Organization (RO)
Acting on Behalf of the Commonwealth of Dominica must comply with the aforementioned requirements
and submit an application (see CDIF-7009) and supporting documentation in order to maintain, amend
or request recognition as an RO.

Any questions can be directed to:

Technical Department
Tel: +1 508 992 7170
E-mail: technical@dominica-registry.com

-End-
Appendix 6 Existing RO Agreement between Novel Classification Society and MARAD

PROVISIONAL AGREEMENT GOVERNING THE DELEGATION OF STATUTORY CERTIFICATION BETWEEN THE COMMONWEALTH OF DOMINICA REPRESENTED BY COMMONWEALTH OF DOMINICA MARITIME REGISTRY INC (DMRI) AND NOVEL CLASSIFICATION SOCIETY S.A. (novelClass)

This agreement pursuant to the legislation of the Commonwealth of Dominica and in compliance with the IMO "Guidelines for the Authorization of Organizations Acting on Behalf of the Administration," IMO Assembly Resolution A.739(18) as amended and the Annexes thereto, is between the Commonwealth of Dominica, represented by Commonwealth of Dominica Registry Inc. (DMRI), hereinafter collectively referred to as the "Administration" and Novel Classification Society S.A., hereinafter referred to as "NOVEL CLASS", with respect to the performance of marine statutory surveys and issuance of relevant certificates to vessels registered under the Commonwealth of Dominica flag. Statutory surveys and issuance of relevant certificates are limited to ships classed or have statutory services with NOVEL CLASS.

1. **Purpose**

1.1 The purpose of this Agreement is to delegate provisional authority to perform statutory certification services and to define the scope, terms, conditions and requirements of that delegation.

2. **General Conditions**

2.1 Statutory certification services comprise the assessment of vessels registered in the Commonwealth of Dominica in order to determine the compliance of such vessels with the applicable requirements of the international conventions, codes and national requirements (hereinafter referred to as "applicable instruments") and the issue of relevant certificates as set out in Annex I thereto.

2.2 Insofar as the certification services covered by this authorization are concerned, NOVEL CLASS agrees to cooperate with Port State Control officers to facilitate the rectification of reported deficiencies on behalf of the Administration when so requested, and to report to the Administration.

2.3 Statutory services rendered and statutory certificates issued by NOVEL CLASS will be accepted as services rendered by or certificates issued by the Administration provided that NOVEL CLASS maintain compliance with the provisions Appendix I to the annex of Assembly Resolution A.739(18), as amended and Assembly Resolution A.786(19), as amended.

2.4 Authorizations for services outside the scope of Annex 1 to this Agreement will be dealt with as mutually agreed on a case by case basis.

2.5 NOVEL CLASS shall endeavor to avoid undertaking activities which may result in a conflict of
3. **Interpretations, Equivalents and Exemptions**

3.1 While interpretations of the applicable instruments as well as the determination of equivalents or the acceptance of substitutes to the requirements of the applicable instruments, are the prerogative of the Administration, NOVEL CLASS will cooperate in their establishment, as necessary.

3.2 Exemptions from the requirements of the applicable instruments are the prerogative of the Administration and must be approved by the Administration prior to issuance.

3.3 In instances where, temporarily, the requirements of an applicable instrument cannot be met under particular circumstances, the NOVEL CLASS surveyor will specify such measures or supplementary equipment as may be available to permit the vessel to proceed to a suitable port where permanent repairs or rectifications can be effected or replacement equipment fitted.

3.4 NOVEL CLASS may interpret the requirements of the international statutory instruments following IACS Unified Interpretations, and generally following guidance issued by the IMO unless the Administration has instructed NOVEL CLASS otherwise.

4. **Information and Liaison**

4.1 NOVEL CLASS will coordinate with the Administration prior to undertaking to issue statutory certification documents and will provide such information as requested by the Administration with respect to the candidate vessel and owner together with the associated port state control records.

4.2 NOVEL CLASS will report to the Administration such information at such frequency as will be agreed between NOVEL CLASS and the Administration as delineated in Annex 2 to this Agreement.

4.3 The Administration shall be granted access to all plans and documents including reports on surveys on the basis of which certificates indicated in Annex 1 are issued or endorsed by NOVEL CLASS.

4.4 The Administration will provide NOVEL CLASS with all necessary documentation for the purpose of NOVEL CLASS provisions of statutory certification services.

4.5 NOVEL CLASS and the Administration, recognizing the importance of technical liaison, agree to cooperate toward this end and maintain an effective dialogue.

4.6 NOVEL CLASS agrees to report immediately to the Administration any case where a ship did not in all respects remain fit to proceed to sea without danger to the ship or persons on board or presented unreasonable threat or harm to the environment.

4.7 NOVEL CLASS and the Administration shall endeavor to co-operate in connection with the development of rules and/or regulations which may include liaison meetings or other forms of communication.

4.8 Both parties shall transmit information regarding current rules and/or regulation and any changes and/or amendments to rules and/or regulations as soon as practicably possible for the benefit of all concerned parties.

4.9 NOVEL CLASS shall provide the Administration any and all information and statistics that may be available in regards to damages, casualties, etc. relevant to the Commonwealth of Dominica fleet.

5. **Supervision**

5.1 The Administration will be given the opportunity to satisfy itself that NOVEL CLASS's quality management system continues to comply with the requirements of Appendix 1 of the Annex to the Assembly Resolutions A.739(18), as amended and Assembly Resolution A.789(19), as amended.
5.2. The Administration may choose to recognize audits performed on NOVEL CLASS by another flag Administration or by an independent audit group which effectively represents the interests of the Administration, and IMO, such as audits of NOVEL CLASS performed by independent accredited certification bodies for compliance with the IACS Quality System Certification Scheme (QSS), or may participate in such audits as an observer.

5.3. Should the Administration choose to conduct direct auditing of NOVEL CLASS, the frequency and extent of audit will be subject to mutual agreement between the Administration and NOVEL CLASS.

6. Other Conditions

6.1 Remuneration

Remuneration for statutory certification carried out by NOVEL CLASS on behalf of the Administration will be charged by NOVEL CLASS directly to the party requesting such services. The Administration and NOVEL CLASS will not invoice each other for any costs or financial burden caused by this Agreement.

6.2 Confidentiality

Insofar as activities related to this Agreement are concerned, both NOVEL CLASS and the Administration agree to hold information in confidence, and shall use such information only to assist it in performing its obligations related to this Agreement. The information shall not be disclosed except: (a) to those of its representatives who need such information for the purpose of performing the obligations under this Agreement, or (b) to those having been given the right to receive such information either by legislation, court decision, or public investigation bodies that are authorized by a decree, or (c) by authorized audit teams performing audits in connection with certification of the Society, or by written consent.

6.3 Surveyors

Normally, surveys shall be carried out by Surveyors working exclusively for NOVEL CLASS. However, NOVEL CLASS may use exclusive Surveyors of another organization with which NOVEL CLASS has a bilateral agreement provided that the other organization is recognized by the Administration. NOVEL CLASS may use sub-contractors or other suppliers of support services being relevant to the statutory surveys related to this Agreement, provided that such sub-contractors and suppliers as well as services performed by them are subject to the quality management system of NOVEL CLASS.

6.4 Amendments

Amendments to the Agreement and Annex 1 will become effective only after consultation and written agreement between the Administration and NOVEL CLASS.

6.5 Governing Law and Settlement of Disputes

1. The Agreement shall be governed by and construed in accordance with English law. Any dispute arising in connection with this Agreement which cannot be settled by private negotiations between the parties shall be settled finally by arbitration in the English language in accordance with the Rules of Conciliation and Arbitration of the International Chamber of Commerce in London, England.

2. In the performance of statutory certification services hereunder, NOVEL CLASS, its officers, employees and others acting on its behalf are entitled to all the protections of law and the same defenses and/or counterclaims as would be available to the Administration and its own staff, surveyors or employees if the latter had conducted the statutory certification services in question.

82
6.6 Liability

.1 In the context of this Agreement, if a liability is finally and definitively imposed on the State of the Administration for loss or damage which is proved in a court of law to have been caused by any negligent act or omission by NOVEL CLASS, its officers, employees or others who act on behalf of NOVEL CLASS under this Agreement, the Administration is entitled to seek from NOVEL CLASS compensation up to but not exceeding the amount of financial liability as defined in the standard terms and conditions of NOVEL CLASS, commensurate with the proven loss.

.2 While acting for the Administration under this Agreement NOVEL CLASS shall be free to create contracts direct with its clients and such contracts may contain NOVEL CLASS normal contractual conditions for limiting its legal liability.

6.7 Termination

.1 If this Agreement is breached by one of the parties, the other party will notify the violating party of its breach in writing to allow the notified party the opportunity to remedy the breach within 90 days, failing which the notifying party has the right to terminate the Agreement immediately.

.2 This Agreement may be terminated by either party by giving the other party one (1) month written notice within the first year of this Agreement’s effective date.

.3 This Agreement may be terminated by either party by giving the other party twelve (12) months written notice after the first year of this Agreement’s effective date.

7. This Agreement commences on the later date of the signatures indicated below.

IN WITNESS WHEREOF the undersigned, duly authorized by the parties, have signed this Agreement on the dates indicated below:

For the Commonwealth of Dominica

[Signature]

Eric R. Dorwicki
Deputy Administrator for Maritime Affairs

Date: 13/02/2015

For NOVEL CLASS

[Signature]

Chris Socrates
Managing Director

Date: 13/02/2015
### ANNEX 1

**APPLICABLE INSTRUMENTS AND DEGREE OF AUTHORIZATION**

NOVELCLASS is hereby authorized as listed below to carry out statutory certification services on behalf of the Administration with respect to vessels and mobile offshore units, registered in the Commonwealth of Dominica.

<table>
<thead>
<tr>
<th>Instrument</th>
<th>Certificate Issuance/Endorsement</th>
<th>Stability Review</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Initial (*)</td>
<td>Renewal (*)</td>
</tr>
<tr>
<td>1. SOLAS Convention 1974 and the Protocol 1988 As Amended</td>
<td>F</td>
<td>F</td>
</tr>
<tr>
<td>1.1 Cargo Ship Safety Construction Certificate</td>
<td>F</td>
<td>F</td>
</tr>
<tr>
<td>1.2 Cargo Ship Safety Equipment Certificate</td>
<td>F</td>
<td>F</td>
</tr>
<tr>
<td>1.3 Cargo Ship Safety Radio Certificate</td>
<td>F</td>
<td>F</td>
</tr>
<tr>
<td>1.4 Passenger Ship Safety Certificate</td>
<td>F</td>
<td>F</td>
</tr>
<tr>
<td>1.5 High Speed Craft Safety Certificate</td>
<td>F</td>
<td>F</td>
</tr>
<tr>
<td>1.6 International Safety Management (ISM) Code</td>
<td>F</td>
<td>F</td>
</tr>
<tr>
<td>1.7 International Ship and Port Facility Security (SPS) Code</td>
<td>I</td>
<td>I</td>
</tr>
<tr>
<td>1.8 Carriage of Liquified Gases in Bulk</td>
<td>I</td>
<td>I</td>
</tr>
<tr>
<td>1.8.1 Certificate for Ships built prior to 31 October 1996</td>
<td>F</td>
<td>F</td>
</tr>
<tr>
<td>1.8.2 Certificate for Ships built after 31 October 1996</td>
<td>F</td>
<td>F</td>
</tr>
<tr>
<td>1.9 Carriage in Bulk of Dangerous Chemicals</td>
<td>I</td>
<td>I</td>
</tr>
<tr>
<td>1.9.1 Certificate for Ships built before 1 July 1986, IGC Code</td>
<td>F</td>
<td>F</td>
</tr>
<tr>
<td>1.9.2 Certificate for Ships built after 1 July 1986, IGC Code</td>
<td>F</td>
<td>F</td>
</tr>
<tr>
<td>1.10 Document of Compliance for the Carriage of Grain</td>
<td>F</td>
<td>F</td>
</tr>
</tbody>
</table>

**Notes:**
- *F*: Full authorization to perform plan review, carry out surveys and issue and/or renew necessary interim and full term certificates.
- *NO*: Limited authorization to carry out certain activities. Consult the table for specific limitations.
- *I*: Interim Authorization to carry out certain activities.
- *NA*: Not Applicable.

*Agreed with effect from the later of the dates indicated below.*

---

84
For the Commonwealth of Dominica

Deputy Administrator for Maritime Affairs

Date: 15/02/2015

ANNEX 2

REPORTING TO THE ADMINISTRATION

NOVEL CLASS agrees to report to the Administration information pertaining to services performed pursuant to this agreement as follows:

1. Reporting in the case of general authorization, a copy of each full term certificate issued under Annex 1.

2. Reporting on classification of ships, a copy of the classification certificate when a vessel enters the registry for which certificates are issued under Annex 1. A copy of any notice of withdrawal, change or cancellation of classification for such vessels.

3. A copy of NOVEL CLASS Rules for Building and Classing Steel Vessels and a copy of the NOVEL CLASS RECORD, latest editions. Alternatively this information may be provided via NOVEL CLASS website.

4. Reporting of cases where a ship did not in all respects remain fit to proceed to sea without danger to the ship or persons on board or presenting unreasonable threat of harm to the marine environment, a report of the non-conformity(ies) and action needed to remediate the threat prior to the vessel's departure.

Agreed with effect from the later of the dates indicated below.

For the Commonwealth of Dominica

Deputy Administrator for Maritime Affairs

Date: 15/2/2015

For NOVEL CLASS

Managing Director

Date 15/02/2015
Appendix 7 Template Agreement between the Commonwealth of Dominica Maritime Administration and a Recognized Organization

AGREEMENT

between

THE COMMONWEALTH OF DOMINICA

and

RO - NAME

to

GOVERN THE DELEGATION

of

STATUTORY CERTIFICATION AND SERVICES

for

VESSELS REGISTERED IN THE COMMONWEALTH OF DOMINICA
TABLE OF CONTENTS

1.0 APPLICATION AND PURPOSE ................................................................. 1

2.0 GENERAL CONDITIONS - AGREEMENT...................................................... 1
  2.1 Establishment of Agreement Annexes ....................................................... 1
  2.2 Amendments .......................................................................................... 2
  2.3 Communications Related to the Agreement ................................................. 2
  2.4 Counterparts ......................................................................................... 3

3.0 GENERAL CONDITIONS – RO ................................................................. 3
  3.1 Recognition ........................................................................................... 3
  3.2 Compliance with the Code for Recognized Organizations ......................... 3
  3.3 Use of Subcontractors ........................................................................... 3
  3.4 Integrity and Code of Ethics .................................................................... 4
  3.5 Conflicts of Interest ............................................................................... 4
  3.6 Communication Related to Statutory Certification and Services ............... 4

4.0 EXECUTION OF FUNCTIONS UNDER AUTHORIZATION ............................. 5
  4.1 Functions in Accordance with General Authorization .................................. 5
    4.1.1 Authorization and Scope .................................................................... 5
    4.1.2 Authority Delegated ......................................................................... 5
    4.1.3 Conditions with Respect to Authority Delegated ............................... 5
  4.2 Functions in Accordance with Special (Additional) Authorization ................ 6
    4.2.1 Helideck Inspections/Certifications ....................................................... 6
    4.2.2 Periodically Unattended Machinery Space (PUMS) Notations ........... 6
    4.2.3 International Ship Security Certificate ................................................. 6
    4.2.4 Other Authorizations ....................................................................... 6
  4.3 Separation of Functions and Statutory Certification and Services ............... 6
  4.4 Cooperation with Port States and Rectification of Deficiencies ................. 7

5.0 SPECIFICATIONS OF THE AUTHORIZATION FROM THE ADMINISTRATION TO THE RO ................................................................. 7
  5.1 Suspension/Revocation of Certificates ...................................................... 7
  5.2 Port State Detentions ............................................................................. 7
  5.3 Flag State Detentions ............................................................................. 7

6.0 LEGAL BASIS OF FUNCTIONS UNDER AUTHORIZATIONS .................. 8
  6.1 Law and Regulation ............................................................................... 8
  6.2 Interpretations ....................................................................................... 8
  6.3 Exemptions and Equivalent Solutions .................................................... 9

7.0 REPORTING TO THE FLAG STATE .................................................... 9
  7.1 Procedures for Reporting ...................................................................... 9

8.0 DEVELOPMENT OF RULES AND/OR REGULATIONS – INFORMATION 9
  8.1 Cooperation Rule/Regulation Development – Liaison Meetings ............... 10
    8.1.1 Administration Documentation ......................................................... 10
    8.1.2 Advice to DMA Delegations ............................................................ 10
  8.2 Exchange of Rules and/or Regulations and Information ......................... 10

87
8.2.1 RO's Rules and Regulations, Registers, Office Locations, and Staff Lists

8.2.2 Exchanges of Data

8.3 Language and form

8.3.1 Language

8.3.2 Plans and Documents

9.0 OTHER CONDITIONS

9.1 Rules for Administrative Proceedings

9.2 Confidentiality with Respect to the Agreement

9.3 Liability

9.4 Warranties

9.5 Termination and Enforceability

9.6 Breach of Agreement

9.7 Settlement of Disputes

100 ADMINISTRATION'S SUPERVISION OF DUTIES DELEGATED TO THE RO

101 RO Oversight and Monitoring

102 Documentation and Review of Quality Management System

103 Oversight of Inspections and Audits

104 Follow-up to Port State Control Detentions

105 Access to Information (Instructions, Circulars, Guidelines)

106 Access to Documentation of Vessels

107 Training

10.7.1 Training and Qualification Program

10.7.2 Participation in Training Programs

11.0 CORRECTIVE ACTIONS (WITH RESPECT TO RO PERFORMANCE)

12.0 ENTRY INTO FORCE

13.0 SIGNATURES

ANNEX I Summary of Applicable Instruments, As May Be Amended, and Degree of Authorization

ANNEX II Reporting to the Administration

ANNEX III Definitions
1.0 APPLICATION AND PURPOSE

1.1 This agreement (the "Agreement") is entered into between the Commonwealth of Dominica Maritime Administration (hereinafter referred to as the "Administration") and RO NAME (hereinafter referred to as the "RO"), a Recognized Organization pursuant to this Agreement.

1.2 The Administration recognizes the RO on a non-discriminatory basis as its agent for the purpose of surveying vessels during and after construction which are, or are to be, classed or provided statutory certificates by the RO.

1.3 The purpose of this Agreement is for the Administration to delegate authority to the RO with respect to the performance of statutory certification and statutory plan review, surveys, audits, and inspections (hereinafter referred to as the "Statutory Certification and Services") for vessels registered in the Commonwealth of Dominica (hereinafter referred to as "Vessels") and to define the scope, terms, conditions, and requirements of that delegated authority.

1.4 Delegated authority provides for the RO to perform:

1.4.1 Statutory Certification and Services noted in this Agreement and its annexes for Vessels classed by the RO,

1.4.2 Statutory Certification and Services under the International Safety Management (ISM) Code noted herein for Vessels (excluding, however, such Vessels while they are bareboat registered under the flag of another State), the owner of a Vessel or fleet of Vessels, and any other organization or person, such as a ship manager or bareboat charterer, who has assumed in writing the responsibility for operation of the Vessel(s) from the Vessel owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed by the ISM Code (hereinafter the "Company"), irrespective of whether or not the Vessel is classed by the RO; and

1.4.3 Statutory Certification and Services under other International Instruments noted herein for Vessels (excluding, however, such Vessels while they are bareboat registered under the flag of another State), irrespective of whether or not the Vessel is classed by the RO.

2.0 GENERAL CONDITIONS - AGREEMENT

2.1 Establishment of Agreement Annexes

2.1.1 Officers of the Administration and the RO (the "Representatives") shall formulate and establish the annexes to this Agreement. The Representatives may propose, and may likewise review and comment upon, the maritime safety, security, and environmental protection measures and maritime labor standards proposed for implementation by the Administration, as these relate to Vessels, their equipment, and related Companies.
The RO shall designate appropriate persons to serve as points of contact with the Administration on matters of interpretation, policy, and port State control (PSC) with respect to issues under consideration and the working relationship.

Amendments

Amendments and modifications to this Agreement and its annexes will become effective only after consultation and shall be made by written agreement between the Administration and the RO.

The RO acknowledges that the Commonwealth of Dominica (DMA) may from time to time amend the Commonwealth of Dominica International Maritime Act, as amended, the International Maritime Regulations of 2002, Policy Letters, and Marine Safety Circulars and become a party to treaties, international conventions, protocols, and amendments thereto (together the “Laws, Treaties, and Conventions”), which may affect the provisions of this Agreement. Notice regarding these changes shall be published on the Administration’s website.

Subject to the provisions of section 2.2.1 above and upon such notice from the Administration to the RO, the parties hereto agree to use their best efforts to agree on any needed changes to the Statutory Certification and Services delegated to the RO under this Agreement, which cannot otherwise be served or provided by the documented instrument itself that is the subject of the notification.

Communications Related to the Agreement

Whenever notice and/or approval is required with respect to this Agreement, it shall be given in writing by mail, or by email, unless otherwise specified in the Agreement.

1. Notice sent by mail shall be deemed to have been given ten (10) days after proper mailing, and the postmark affixed by an official postal service shall be conclusive evidence of the date of mailing.

2. Notice sent by email shall be deemed to have been given when received, and automatically generated delivery/read receipts shall be conclusive evidence of the date of sending.

Communications with respect to the Agreement shall be addressed as follows:

THE ADMINISTRATION:

Commonwealth of Dominica Maritime Administration
32 Washington Street
Fairhaven, MA 02719

Attn: Deputy Maritime Administrator
Tel: +1-508-992-7170
Email: technical@dominica-registry.com
THE RECOGNIZED ORGANIZATION:

<RO NAME>
Contact name: <name>
Address: <address>
Telephone: +
Fax: +
Email: <email>
Website: <website>

2.4 Counterparts

This Agreement may be executed in two (2) counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

3.0 GENERAL CONDITIONS – RO

3.1 Recognition

3.11 The Administration recognizes the RO on a non-discriminatory basis as an agent of the Administration for the purpose of performing Statutory Certification and Services on Vessels before, during and after construction which are, or are to be, classed by the RO, and performing Statutory Certification and Services, as specified in sections 1.4.2, and 1.4.3 above for Companies and for Vessels that are not classed by the RO, as applicable.

3.12 Unless otherwise agreed to in writing by the Administration, the RO agrees that the Statutory Certification and Services shall be performed only by the RO and/or an entity which is 51% or more owned and/or controlled by the RO and, subject to the provisions of section 3.3 below, not by any outside service providers.

3.2 Compliance with the Code for Recognized Organizations

Statutory Certification and Services rendered by the RO shall be accepted as Statutory Certification and Services rendered by the Administration, provided that the RO maintains compliance with the provisions of the Code for Recognized Organizations ("RO Code") as adopted by IMO ("International Maritime Organization"), as amended from time to time. Where the RO is also appointed as a Recognized Security Organization (RSO), the provisions of paragraphs 4.3 to 4.6 of Part B of the ISPS Code are also applicable.

3.3 Use of Subcontractors

3.31 Statutory Certification and Services shall be carried out by surveyors, inspectors, and auditors working exclusively for the RO, being solely employed by the RO, or affiliate and subsidiary companies or entities within its RO group, if applicable, duly qualified, trained, and authorized to execute all duties and activities incumbent upon them, within their level of work responsibility. However, if the RO finds in exceptional and duly justified cases that
its own exclusive surveyor, inspector, or auditor is not available, the RO shall inform the Administration who may then nominate an exclusive surveyor, inspector, or auditor of another DMA recognized organization to perform the Statutory Certification and Services.

3.32 The RO may also utilize the services of sub-contractors and other support service providers, such as for inspection and testing of radio equipment or annual performance testing of Voyage Data Recorders (VDR), in accordance with the relevant provisions of the RO Code, provided that such sub-contractors and suppliers of support services and all services and functions performed by them are approved by the RO or another DMA recognized organization.

3.33 The RO shall monitor surveyors, inspectors, and auditors to determine whether they are carrying out work in accordance with the RO’s Rules for the classification of vessels (hereinafter the “Rules”), the appropriate statutory regulations, and controlled procedures/instructions in accordance with relevant procedural requirements.

3.4 Integrity and Code of Ethics

The RO shall be governed by the principles of ethical behavior, which shall be contained in its internal code of ethics. The code of ethics shall recognize the inherent responsibility associated with a delegation of authority to include assurance of adequate performance of the Statutory Certification and Services. A copy of its code of ethics shall be made available to the Administration upon request.

3.5 Conflicts of Interest

3.51 The RO and its staff shall not engage in any activities that may conflict with their independence of judgment and integrity in relation to their performance of the Statutory Certification and Services. The RO and its staff responsible for carrying out the Statutory Certification and Services shall not be the designer, manufacturer, supplier, installer, purchaser, owner, user, or maintainer of the item subject to the Statutory Certification and Services, nor the authorized representative of any of these parties, nor shall the RO and its staff responsible for carrying out the Statutory Certification and Services be the owner or part-owner of any of these parties. The RO shall not be substantially dependent on a single commercial enterprise for its revenue.

3.52 The RO shall avoid undertaking activities that may appear to be, or result in, a conflict of interest, especially with respect to ISM Code, ISPS Code, and MLC, 2006 Statutory Certification and Services.

3.6 Communication Related to Statutory Certification and Services

3.61 Whenever notice, approval, and/or reporting (as set forth in Annex II, “Reporting to the Administration” (hereinafter “Annex II”)) is required with respect to Statutory Certification and Services provided under this Agreement, it shall be given in writing by email sent to technical@dominicaregistry.com, unless otherwise specified by the Administration.

1 Where extenuating circumstances exist such that email services are unavailable, a follow-up written confirmation shall be provided, as soon as possible thereafter, by the RO in response to any verbal authorizations granted by the Administration.
4.0 EXECUTION OF FUNCTIONS UNDER AUTHORIZATION

4.1 Functions in Accordance with General Authorization

4.1.1 Authorization and Scope

1. This Agreement, as may be amended, including Annex I, "Applicable Instruments, As May Be Amended, and Degree of Authorization" (hereinafter "Annex I"), Annex II, Annex III, and "Definitions" (hereinafter "Annex III"), each attached hereto (collectively referred to as the "Annexes"), states the authorization from the Administration to the RO to perform the Statutory Certification and Services, and the basis upon which the Statutory Certification and Services are to be performed by the RO.

2. The degree to which the Administration authorizes the RO to perform the Statutory Certification and Services is contained in Annex I of this Agreement.

4.1.2 Authority Delegated

1. The RO shall determine by survey, inspection, audit, and assessment the compliance of Companies and Vessels registered in the Commonwealth of Dominica with the mandatory requirements of the Laws, Treaties, Codes, and Conventions referred to in Annex I hereto, as may be amended from time to time (the "Applicable Instruments").

2. The RO shall issue and, in consultation with the Administration, withdraw, cancel, or invalidate Dominica statutory certificates in accordance with the results of such surveys, inspections, audits, and assessments.

3. Upon request of the Company managing the Vessel or the Master of the Vessel, the RO shall attend a Vessel detained by PSC in accordance with section 5.2 of this Agreement.

4. The RO shall require corrective action to be undertaken by a Vessel deemed not fit to proceed to sea in accordance with section 5.2 of this Agreement.

4.1.3 Conditions with Respect to Authority Delegated

1. In fulfilling the duties and responsibilities under this Agreement, the RO shall, as necessary, make recommendations to Vessel owners and managers as to compliance with the specific requirements of the Vessel's certificates or the Applicable Instruments.

2. If a vessel has previously been classed with a Classification Society not recognized by the Administration and a transfer of class is envisioned at the time of registration, issuance of the statutory certificates on behalf of the Administration shall be conditional upon verification of compliance with the Rules of the RO and the statutory requirements of the Applicable Instruments.

Certificate issued by another recognized organization and which is a party to an agreement with the Administration to perform Statutory Certification and Services in terms equivalent to those set forth herein, unless the RO concludes that there are clear grounds not to do so and so informs the Administration.

4. In cases of transfer of the certification of a Vessel from one recognized organization to another, the losing organization shall, without undue delay, provide the gaining organization and the Administration access to the history file of the Vessel including:
   a. Any overdue surveys;
   b. Any overdue recommendations and overdue conditions of class;
   c. Operating conditions issued against the Vessel;
   d. Operating restrictions issued against the Vessel, and
   e. Technical information, drawings, plans, and documents taking into account IMO guidelines.

5. New certificates for the Vessel can be issued by the gaining organization only after all overdue surveys have been satisfactorily completed and all overdue recommendations or overdue conditions of class previously issued in respect of the Vessel have been completed as specified by the losing organization.

4.2 Functions in Accordance with Special (Additional) Authorization

4.2.1 Periodically Unattended Machinery Space (PUMS) Notations

Upon the request of the Vessel owner, the RO shall carry out the various prescribed surveys and tests for verification of the conditions for the assigned notation relating to PUMS.

4.2.2 International Ship Security Certificate

The Administration considers the ISPS Code to be an extension of the ISM Code and an integral part of emergency preparedness and compliance with international conventions in a Company’s Safety Management System (SMS). Only those recognized organizations that have been specifically designated by the Administration, in writing, may act as an RSO on DMA Vessels.

4.2.3 Other Authorizations

Authorization, for the RO to perform services outside the scope of Annex I to this Agreement shall be approved as mutually agreed in writing on a case-by-case basis.

4.3 Separation of Functions and Statutory Certification and Services

4.3.1 The RO shall, in those instances where it provides both consulting and auditing/inspection for ISM Code, ISPS Code, and/or MLC, 2006 certification, ensure the independence of those functions. Auditors must be free from bias and influences that could affect objectivity.

4.3.2 The conditions upon which the RO agrees to provide ISM Code, ISPS Code, ITC 69, and/or
MLC, 2006 Statutory Certification and Services shall not require that the RO has classed or will be classing the Vessels owned or operated by a Company.

4.4 Cooperation with Port States and Rectification of Deficiencies

4.4.1 Insofar as the Statutory Certification and Services covered by this Agreement are concerned, the RO agrees to cooperate with PSC officers to facilitate the rectification of reported deficiencies and defects on behalf of the Administration on Vessels for which the RO has issued relevant statutory certificates and to keep the Administration informed in accordance with section 8 of Annex II.

4.4.2 The RO shall give consideration to IMO resolutions relating to procedures for port State control and International Labour Organization (ILO) published guidelines for port State control and monitor any security incidents, SMS non-conformities, and/or deficiencies under the MLC, 2006 observed by port State authorities, and that would warrant the detention of a Vessel, regarding Vessels for which the RO has provided relevant Statutory Certification and Services.

4.4.3 As soon as informed and requested, a representative of the RO shall make every effort to attend any Vessel for which the RO has issued relevant statutory certificates under which the Vessel has been detained by PSC. The attending representative shall address, but not limit his or her attention to, the deficiencies identified by PSC following the procedures established in section 5.2 of this Agreement and the reporting requirements of section 8 of Annex II.

4.4.4 If the RO is made aware of deficiencies identified by port State authorities which did not lead to detention action and have not been rectified prior to departure from the current port, the RO shall inform the Administration promptly. The Administration may require the RO to attend the Vessel based on, but not limited to, the seriousness of the deficiencies, the PSC record of the Vessel, and other known risk factors.

5.0 SPECIFICATIONS OF THE AUTHORIZATION FROM THE ADMINISTRATION TO THE RO

5.1 Suspension/Revocation of Certificates

5.1.1 In the exercise of its responsibility under the Laws, Treaties, and Conventions, the Administration may modify, suspend, or revoke any statutory documents or certificates issued by the RO on behalf of the Administration. The RO and the Administration shall develop unified procedures on liaison and the sharing of information for the exercise of this responsibility.

5.2 Port State Detentions

5.2.1 When a Vessel is detained by port State authorities, the Company managing the Vessel or the Master of the Vessel is obliged to inform the Administrator and to immediately call the RO to attend before the vessel’s departure. When so advised of a detention, the surveyor in attendance shall not limit the inspection to the deficiencies noted by PSC, but instead proceed as follows:

1 Statutory Surveys
a. If the date of the detention falls within the ± three (3) month window for the statutory surveys, they shall be conducted before the Vessel sails. In the case of renewal surveys, they shall be conducted to the extent possible, except for safety equipment and radio, which shall be completed. In the event the above action cannot be completed, the Administrator shall be consulted. A time schedule for the completion of surveys at the next convenient port shall be set, and they shall not be delayed until the end of the window.

b. If the date of the detention does not fall within the ± three (3) month window, the RO surveyor, after clearing the PSC deficiencies, shall carry out a general examination of the Vessel and, using professional judgment, decide whether extra surveys are required. Where a flag State inspector is present, the general examinations shall be conducted jointly by the RO surveyor and flag State inspector.

c. In cases where the RO surveyor deems that a more thorough survey is needed, the scope of the survey shall be as required for a change of flag when accompanied by a change of the Company. The RO shall send to the Administrator copies of the reports of such cases.

d. Where an additional audit of the Vessel’s SMS is found to be necessary, its scope shall be equivalent to a renewal audit, taking into account the number and nature of the deficiencies.

2 ISM Code:

a. In the event of a Vessel being detained for a perceived failure of the SMS, an additional audit of the implementation of the Vessel’s SMS shall be conducted, equivalent in scope to an intermediate audit, taking into account the severity of the failure. The timing of the audit shall be as prescribed by port State control or as otherwise decided on a case by case basis in consultation with the Administrator.

b. If necessary, an additional audit of the Company DOC equivalent in scope to a renewal audit shall be conducted, taking into account the severity of the failure.

3 ISPS Code:

a. In the event of a Vessel being detained on maritime security grounds, a shipboard additional audit of the implementation of the Ship Security Plan (SSP) shall be conducted, equivalent in scope to a renewal audit, taking into account the severity of the security failure. The timing of the audit shall be as prescribed by port State control or as otherwise decided on a case by case basis in consultation with the Administrator.

b. If necessary, an additional audit of the Company DOC, equivalent in scope to a renewal audit, shall be conducted, taking into account the severity of the security failure.

4 MLC, 2006:
a. In the event of a Vessel being detained for a serious breach of the MLC, 2006 requirements that represent a violation of seafarer rights, or poses a significant danger to seafarers' safety, health, or security, the RO inspector shall conduct an inspection taking into account the number and severity of the breaches, which may lead to an additional inspection in the scope of a renewal inspection.

b. Based on professional judgment and in consultation with the Administrator and Port State Control Officer (PSCO), the RO inspector shall confirm either that all deficiencies noted during the inspection have been rectified or that a rectification action plan has been provided by the Vessel owner and agreed to by the RO inspector, PSCO, and the Administrator.

c. If necessary, an additional audit of the Company DOC, equivalent in scope to a renewal audit, shall be conducted, taking into account the severity of the breach.

5 Multiple Detentions:

a. When a Vessel is detained two (2) or more times within a two (2) year period, or if a Vessel is banned by a specific PSC MoU, in addition to the provisions of sections 5.2.1.1 – 5.2.1.4, the Administrator shall provide instruction to the RO regarding additional statutory surveys, audits, or inspections.

5.3 Flag State Detentions

5.3.1 If, as determined from a survey, audit, or inspection conducted by the RO, including those carried out in response to a port State authority request, a Vessel is found not to be in substantial compliance with the Applicable Instruments and international standards, and is therefore deemed not fit to proceed to sea without endangering the Vessel or persons on board or presents an unreasonable threat of harm to the marine environment, represents a violation of seafarer rights, or poses a significant danger to seafarers' safety, health, or security, the RO surveyor, auditor, or inspector shall, on behalf of the Administrator, promptly advise the Master and/or owner of the Vessel to undertake corrective action, and if such corrective action is not taken to the satisfaction of the surveyor, auditor, or inspector, in consultation with the Administration, withdraw or invalidate the applicable statutory certificate(s).

5.3.2 In the case of the invalidation or withdrawal of a statutory certificate(s), the RO surveyor, auditor, or inspector shall inform the Master and/or owner of the Vessel in writing that the statutory certificate(s) is/are invalidated or withdrawn as of the date of the written notice, and request that the statutory certificate(s) in question be surrendered.

5.3.3 Concurrently with the requirements of sections 5.2.1 and 5.2.2 above, the RO shall immediately send a copy of the written notice of invalidation or withdrawal by the most expeditious means so that positive action can be taken by the Administration, in collaboration with the port State authority having jurisdiction over this determination, to place the unful Vessel under flag State detention.

6.0 LEGAL BASIS OF FUNCTIONS UNDER AUTHORIZATIONS

6.1 Law and Regulation
6.1.1 The IMO Implementation of Instruments Code ("III Code") imposes upon the Administration a responsibility to verify compliance of Vessels in its registry with the requirements of the international conventions, protocols, and codes promulgated by the IMO to which Dominica is a signatory, and to evidence this compliance by issuing to them relevant statutory certificates.

6.1.2 International instruments permit the Administration to authorize a RO to act on its behalf in the performance of Statutory Certification and Services. These instruments are set forth in Annex I.

6.1.3 The Administration delegates authority to the RO to perform Statutory Certifications and Services for Vessels pursuant to sections 60, 61, and 237 of the International Maritime Act 2000, as amended, and as supplemented by section 24(2) of the International Maritime Regulations, and implemented under this Agreement.

6.2 Interpretations

6.2.1 While interpretations of the Applicable Instruments and the determination of equivalent or acceptable substitutes to the requirements of the Applicable Instruments are the responsibility of the Administration, the RO shall cooperate with and assist the Administration in their establishment, as necessary.

6.2.2 The Administration and the RO shall consult as necessary to consider revision or amendment to this Agreement, including the Annexes hereto, and to resolve and agree as necessary to uniform interpretations and generally accepted equivalents to satisfy compliance with the Administration's responsibilities under the Laws, Treaties, and Conventions.

6.2.3 The Administration may develop Policy Letters to provide specific Administration policy and procedures relevant to the implementation and enforcement of the Applicable Instruments. The RO shall give attention and consider any Policy Letters as part of its authorization to apply under this Agreement in carrying out the Statutory Certification and Services. Policy Letters shall be considered by the RO as a DMA national regulation to be enforced, as applicable, on Vessels and/or Companies.

6.2.4 The Administration may, when deemed necessary, develop Marine Safety Circulars to provide specific Administration policy guidance and procedures to the RO in carrying out the Statutory Certification and Services. The Marine Safety Circulars shall be considered by the RO as further authorizations and requirements from the Administration to be applied under this Agreement, as applicable, on Vessels and/or Companies.

6.2.5 IACS Unified Interpretations ("UIs") that are adopted by the IMO shall be applied under this Agreement by the RO with respect to the IMO convention regulations concerning the course of classification and statutory certification of Vessels on behalf of the Administration. IACS UIs that have been submitted to the IMO, but which have not been reviewed or adopted, may be applied under this Agreement by the RO with respect to the IMO convention regulations concerned. IACS UIs that have not been submitted to the IMO but have been adopted and published by IACS may be applied.

6.2.6 The Administration has access to IACS UIs via the IACS website.

6.3 Exemptions and Equivalent Solutions
6.3.1 Exemptions from the requirements of the Laws, Treaties, and Conventions as permitted by the particular Applicable Instruments are the sole prerogative of the Administration, and the RO acknowledges that it has no power to grant exemptions, issue exemption certificates, or waive statutory requirements with regard to Statutory Certification and Services carried out under this Agreement, except as authorized in Table I of Annex I.

6.3.2 Waivers of, or exemptions from, the requirements of the Applicable Instruments shall be authorized directly by the Administration in writing. All requests from Vessels for waiver or exemptions are to be submitted to the RO, which shall evaluate the proposals and then forward them to the Administration with a clear recommendation for the acceptance or rejection of the requested waiver or exemption.

6.3.3 In instances where, temporarily, the requirements of an Applicable Instrument cannot be met by a Vessel under specific circumstances, the RO surveyor or representative may, after consulting with and gaining written authorization from the Administration, accept such equivalent or supplementary measures or equipment as may be available and necessary to permit the Vessel to proceed under short term statutory certification to a suitable port where repairs to, or rectification of, the deficiency can be effected or replacement equipment fitted.

7.0 REPORTING TO THE FLAG STATE

7.1 Procedures for Reporting

The RO shall report to the Administration such information at such frequency as agreed between the RO and the Administration and as delineated in Annex II to this Agreement.

8.0 DEVELOPMENT OF RULES AND/OR REGULATIONS – INFORMATION

8.1 Cooperation Rule/Regulation Development – Liaison Meetings

8.1.1 Administration Documentation

The Administration shall provide to the RO free of charge all necessary national documentation required for the purpose of enabling the RO to provide the Statutory Certification and Services to expected national standards.

8.1.2 Advice to DMA Delegations

The RO agrees to assist the Administration in the preparation of technical position papers for the guidance of the DMA delegations to international meetings upon request by the Administration.

8.2 Exchange of Rules and/or Regulations and Information

8.2.1 RO's Rules and Regulations, Registers, Office Locations, and Staff Lists

1 The RO shall provide the Administration free of charge one (1) current set of its Rules for the classification of vessels of all types which the RO has in class and which are registered in the DMA. Alternative electronic arrangements may be provided.

2 In the event online access is available, the Administration shall be provided free of charge with continuous online access to the RO's register of Vessels in class.
3 When developing new Rules or amending existing Rules relating to statutory certification survey requirements to verify compliance with the Applicable Instruments, including for surveys, inspections, audits, and assessments to be performed in accordance with this Agreement, the RO shall give the Administration an opportunity to present its views with respect to such proposals for new or amended Rules. The RO shall consider any such views or recommendations made by the Administration when developing such new or amended Rules.

8.2.2 Exchanges of Data

1 The Administration and the RO shall exchange data on a regular basis and in a mutually agreed form for the purpose of enabling the Administration and the RO to check the accuracy of its respective records with regard to Companies and Vessels.

2 Upon request from the Administration, or pursuant to the conditions specified in this Agreement, including its Annexes, the RO agrees to disclose and make available to the Administration documentation specific to the delivery of the Statutory Certification and Services under this Agreement, such as audit reports and related supporting documentation, and information regarding non-conformities and corrective actions.

3 The RO shall provide data it has available, to assist the Administration in meeting reporting obligations for relevant convention regulations. The RO shall cooperate with the Administration in providing information and statistics that it has available relevant to the performance of the DMA fleet.

4 The Administration shall inform the RO of any other DMA recognized organizations authorized by the Administration to provide ISM Code, ISPS Code, ITC 69, and/or MLC, 2006 Statutory Certification and Services.

5 The Administration shall advise the RO of ISM Code, ISPS Code, ITC 69, and/or MLC, 2006 certificates issued pursuant to the Applicable Instruments by a DMA recognized organization to vessels classed by the RO.

8.3 Language and form

8.3.1 Language

All information and documentation provided to the Administration by the RO shall be provided in English. Where an original document is not in English, an English translation shall be provided by the RO.

8.3.2 Plans and Documents

The Administration shall be granted access to, and upon request provided with, copies of all plans and documents related to the issuance of certificates in accordance with the Applicable Instruments, including reports of survey results on which basis certificates indicated in Annex I are issued or endorsed by the RO.

9.0 OTHER CONDITIONS

9.1 Rules for Administrative Proceedings
911 Appeals related to Statutory Certification and Services of a Vessel or a newbuilding intended to be registered in the DMA (holding a Certificate of Intended Registration of Newbuilding During Construction at Builder’s Yard) shall be handled by the RO through its documented appeals process. The RO shall provide the Administration with one (1) copy of the RO’s documented appeals process free of charge.

912 The RO shall report all appeals to the Administration in accordance with Annex II of this Agreement.

913 The RO shall keep the Administration informed of the status of an appeal and allow for input, where appropriate.

914 The RO shall inform the Administration of all appeals decisions and whenever cases are closed out.

915 In the event that an appeal is contested and cannot be settled within the RO’s appeals process, the case may be heard, at the discretion of the Administration, under the DMA Rules for Marine Administrative and Adjudicatory Proceedings (CDP-104).

9.2 Confidentiality with Respect to the Agreement

921 Insofar as activities related to this Agreement are concerned, the RO shall not, without the prior written consent of the Vessel owner and the Administration, release any documents or other information to third parties that may in any way compromise the legal privilege of the Vessel owner or the Administration. The RO and the Administration shall be bound by other rules relating to confidentiality as may be agreed between them from time to time.

922 Notwithstanding the above, ship classification and statutory certification information may be released by the RO pursuant to, and in accordance with, IACS PRs. Any documents or other information may be released by the RO as required by applicable law, court order, or legal proceedings, after consultation with the Administration.

923 The Rules and Statutory Services Procedures, including the ISM Code Services audit procedural guidelines, ISPS Code Services audit procedural guidelines, and MLC, 2006 inspection procedural guidelines of the RO, shall remain the property of the RO and shall not be reproduced without permission.

924 This Agreement, copies thereof, or extracts therefrom, may be made available to the IMO, ILO, and, by mutual agreement of the Administration and RO, to appropriate branches of international agencies concerned with maritime safety, security, marine environmental pollution prevention, and maritime labour standards.

925 Information required to be transmitted to the European Union (EU) Commission in accordance with Article 10 of the Regulation European Commission (EC) No. 391/2009, as amended, shall not be restricted by these or other confidentiality conditions.

9.3 Liability

931 If, notwithstanding the sovereign immunity of the DMA and its constituent agencies, including the Administration, its employees or agents, and any and/or all of its branches, subsidiaries, and affiliates, and their employees or agents, liability arising out of any
incident is finally and definitely imposed on the DMA, or any of its constituent agencies, including the Administration, its employees or agents, and any and/or all of its branches, subsidiaries, and affiliates, and their employees or agents, by a court of law or as part of the settlement of a dispute through arbitration procedures, together with a requirement to indemnify the injured parties for loss or damage to property or personal injury or death, which is proved to have been caused by a willful act or omission or gross negligence of the RO, its bodies, officers, employees, agents, or others who act on behalf of the RO under this Agreement, the Administration, its employees or agents, and any and/or all of its branches, subsidiaries, and affiliates, and their employees or agents, shall be entitled to indemnification from the RO to the extent that such loss or damage to property, personal injury, or death (including all legal costs) is determined to be caused by the RO, its bodies, officers, employees, agents, or others who act on behalf of the RO under this Agreement.

If, notwithstanding the sovereign immunity of the DMA and its constituent agencies, including the Administration, its employees or agents, and any and/or all of its branches, subsidiaries, and affiliates, and their employees or agents, liability arising out of any incident is finally and definitely imposed on the DMA, or any of its constituent agencies, including the Administration, its employees or agents, and any and/or all of its branches, subsidiaries, and affiliates, and their employees or agents, by a court of law or as part of the settlement of a dispute through arbitration procedures, together with a requirement to compensate the injured parties for personal injury or death, which is proved to have been caused by any negligent or reckless act or omission of the RO, its bodies, officers, employees, agents or others who act on behalf of the RO under this Agreement, the Administration, its employees or agents, and any and/or all of its branches, subsidiaries, and affiliates, and their employees or agents, shall be entitled to indemnification from the RO to the extent of the said personal injury or death (including legal costs) is determined to be caused by the RO, its bodies, officers, employees, agents, or others who act on behalf of the RO under this Agreement, up to but not exceeding the maximum amount of Six Million Dollars US (6,000,000 USD).

If, notwithstanding the sovereign immunity of the DMA and its constituent agencies, including the Administration, its employees or agents, and any and/or all of its branches, subsidiaries, and affiliates, and their employees or agents, liability arising out of any incident is finally and definitely imposed on the DMA, or any of its constituent agencies, including the Administration, its employees or agents, and any and/or all of its branches, subsidiaries, and affiliates, and their employees or agents, by a court of law or as part of the settlement of a dispute through arbitration procedures, together with a requirement to compensate the injured parties for loss or damage to property, which is proved to have been caused by any negligent or reckless act or omission of the RO, its bodies, officers, employees, agents or others who act on behalf of the RO under this Agreement, the Administration, its employees or agents, and any and/or all of its branches, subsidiaries, and affiliates, and their employees or agents, shall be entitled to indemnification from the RO to the extent of the said loss or property damage (including all legal costs) is determined to be caused by the RO, its bodies, officers, employees, agents, or others who act on behalf of the RO under this Agreement, up to but not exceeding the maximum amount Three Million Dollars US (3,000,000 USD).

Unless otherwise specified in this agreement, neither party shall be liable to the other for any special, indirect, or consequential losses or damages resulting from or arising out of
Statutory Certification and Services performed under this Agreement, including without limitation loss of profit, loss of production, loss of contract, loss of use, business interruption or any other special, indirect, or consequential losses suffered or incurred by any party howsoever caused.

If the DMA, or any of its constituent agencies, including the Administration, its employees or agents, and any and/or all of its branches, subsidiaries, and affiliates, and their employees or agents, is summoned, or is expected to be summoned to answer for such liability as mentioned previously in this section, the RO shall be informed without undue delay. The Administration shall, for information purposes, send copies of all claims, documents, and other relevant material to the RO.

The Administration, including its employees or agents, and any and/or all of its branches, subsidiaries, and affiliates, shall not enter into conciliation, which involves acceptance of such liability as covered by sections 9.3.1, 9.3.2, or 9.3.3 without full discussion with and the agreement of the RO.

While acting for the Administration under this Agreement, the RO shall be free to conclude contracts directly with its clients. Such contracts may contain the RO’s normal contractual conditions for limiting its legal liability.

For the avoidance of doubt, nothing contained herein shall create or is intended to create any new cause of action in favor of the Administration or third parties.

Should an amendment to or change of national law or regulation occur that directly controls the Administration, including its affiliates, or an RO such that the Administration, including its affiliates, or an RO cannot perform some or all of its obligations under this Agreement consistent with controlling law or regulation, neither the Administration nor the RO will be liable to the other or to any third party for any damages, actual or consequential, for failure to perform any of the obligations under this Agreement.

In the performance of their duties, any agent appointed, authorized, recognized, and/or designated by the Administration for the performance of statutory certification or classification services together with their stockholders, members, directors, officers and employees, wherever located, shall have full immunity from liability and from suit, in accordance with the Commonwealth of Dominica International Maritime Act, with respect to any act or omission or thing done by any of them in good faith in the exercise or performance, or in the purported exercise or performance, of any power, authority or duty conferred or imposed upon any of them under or in connection with the performance of statutory certification services hereunder. The immunity provided by this Section shall only apply to those acts or omissions of recognized agents of the Administration done by them in the course of and in connection with their said duties.

Warranties

The RO warrants that no payments of money or anything of value or any other advantage will be offered, promised, or given, directly or indirectly, by the RO to any domestic or foreign government official or to another person upon the official’s request or with the official’s assent or acquiescence intending to obtain or retain business or an advantage in the conduct of business; further, the RO warrants that it will not offer to, promise to, or
perform improperly any of its functions pursuant to this Agreement in exchange for payment of money or anything of value or any other advantage, nor will it offer money or anything of value or any other advantage in exchange for, or as an award for, the improper performance of another individual or entity.

The RO warrants that it will exercise due diligence in the selection of entities and other individuals acting on its behalf and that they are all required to warrant that no funds, money or anything of value has been or will be paid, offered, given, promised, received or requested by them or any of their agents, representatives or employees, directly or indirectly, to or from any official or employee of any government-controlled entity or commercial entity, any political party or official thereof or any candidate for political office, for purposes of influencing any act or decision in order to obtain or retain business, direct business to any party, obtain favorable treatment, or secure an improper advantage.

The RO further warrants that no Statutory Certification and Services performed in connection with this Agreement will be provided to individuals, entities, or vessels located, resident, or formed in, or on route to, a nation or region subject to comprehensive economic sanctions contrary to United States, United Nations or other applicable local law or to any individuals, entities, or vessels appearing on the U.S. List of Specially Designated Nationals and Blocked Persons, or any similar applicable U.S., U.N., E.U. national or international list of individuals, entities or vessels subject to asset freezing or blocking of property interests or other sanctions, or any entity in which one or more of the foregoing owns a 50 percent or greater interest.

9.5 Termination and Enforceability

This Agreement may be terminated as between the RO and the Administration by either party giving the other party twelve (12) months written notice of termination.

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be deemed invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and shall continue in full force and effect.

This Agreement, and any amendments hereto, including its Annexes, constitute the entire agreement between the parties and shall supersede all previous agreements between the parties hereto with respect to the subject matter hereof.

9.6 Breach of Agreement

If this Agreement is breached by either the Administration or the RO, the party claiming breach shall notify the other party in writing to allow the defaulting party the opportunity to remedy the alleged breach within ninety (90) days, failing which the notifying party may have the right to immediately terminate its participation in this Agreement with the defaulting party and to refer the matter to arbitration, as provided for in section 9.7 below. Any such termination will have the effect as between the notifying party and the defaulting party only, and any identical or similar Agreement will continue as between the Administration and the remaining recognized organizations recognized by the Administration.

9.7 Settlement of Disputes
9.7.1 This Agreement shall be governed by the laws of the State of Commonwealth of Massachusetts in the United States of America.

9.7.2 Should any dispute arise out of this Agreement which has not been resolved by private negotiations between the parties involved, the matter in dispute shall be resolved by arbitration in accordance with the Rules of Conciliation and Arbitration in the International Chamber of Commerce in London, United Kingdom.

10.0 ADMINISTRATION'S SUPERVISION OF DUTIES DELEGATED TO THE RO

10.1 RO Oversight and Monitoring

10.1.1 The RO acknowledges that the Administration has implemented an oversight and monitoring program of organizations authorized to conduct Statutory Certification and Services on its behalf in accordance with the RO Code. The RO agrees to fully cooperate with such oversight and monitoring activities as requested by the Administration.

10.2 Documentation and Review of Quality Management System

10.2.1 The RO shall maintain an effective internal quality management system based on appropriate parts of internationally recognized quality standards no less effective than the ISO 9000 series. The quality management system must be certified by an independent body.

10.2.2 The Administration may accept the results of audits required under the IACS Quality System Certification Scheme ("QSCS") independent assessment and certification as suitable verification of compliance with the quality management system and independent audit requirements of the RO Code, as amended.

10.2.3 The Administration also may give consideration to the results of audits conducted on behalf of the European Commission, where available.

10.2.4 The Administration shall itself be allowed the opportunity to review the RO's quality management system on a periodic basis and to satisfy itself that the RO is in compliance with the requirements of Part 2, Recognition and Authorization Requirements for Organizations, and Annex 2, Specifications on the Survey and Certification Functions of Recognized Organizations Acting on Behalf of the Flag State, of the RO Code, and the requirements of the Administration. If a member of IACS, this may be accomplished by a representative of the Administration participating as an observer in an IACS QSCS audit.

10.2.5 The Administration may choose to have audits performed on the RO by an independent audit group effectively representing solely the interests of the Administration.

10.2.6 The RO shall immediately notify the Administration in the event of invalidation of, or changes to, its quality management system certification.

10.2.7 The RO shall immediately notify the Administration of any major non-conformities identified during third-party audits which relate to the Statutory Certification and Services covered by this Agreement.

10.3 Oversight of Inspections and Audits

10.3.1 The Administration shall review the functions delegated to the RO under this Agreement.
and satisfy itself that they are being effectively carried out by performing monitoring activities which may include vertical contract audits or inspections and/or audits of Companies and Vessels to ensure that the work of the RO is maintained within accepted standards.

10.3.2 In exercising this responsibility, the Administration agrees to promptly notify the RO of the results of any inspection in which it has participated that may require action to be taken or require an explanation to be provided by the RO.

10.4 Follow-up to Port State Control Detentions

10.4.1 If a detention was related to an item covered by a survey associated with a statutory certificate issued or endorsed by the RO within the three (3) months prior to the detention, the Administration will require the RO to conduct an investigation into the circumstances of the case. Findings of the investigation shall be shared with the Administration. Any corrective action(s) shall be subject to the approval of the Administration.

10.4.2 If a detention was related to an item covered by a survey associated with a statutory certificate issued or endorsed by an RO within one (1) month prior to the detention, the Administration will require the RO to conduct an investigation into the circumstances of the case. Findings of the investigation shall be shared with the Administration. Any corrective action(s) shall be subject to the approval of the Administration. Suspension of the surveyor from attending DMA registered Vessels may be decided by the Administration after discussion with the RO. The Administration may require an external audit of the RO. The location and scope of the audit shall be determined by the Administration.

10.4.3 If an RO surveyor attended a Vessel to conduct any class or statutory surveys in the three (3) months prior to a detention and the surveyor did not report an observed detainable deficiency, or where the RO surveyor, when exercising due diligence, should have observed and reported a detainable deficiency during the course of that statutory survey, the Administration will require the RO to conduct an investigation into the circumstances of the case. Findings of the investigation shall be shared with the Administration. Any corrective action(s) shall be subject to the approval of the Administration. Suspension of the surveyor from attending DMA registered Vessels may be decided by the Administration after discussion with the RO. The Administration may require an external audit of the RO by the Administration. The location and scope of the audit shall be determined by the Administration.

10.5 Access to Information (Instructions, Circulars, Guidelines)

10.5.1 The RO shall establish and maintain written procedures, guidelines, and/or instructions for detailing the implementation and execution of the Statutory Certification and Services it is providing. Upon request, the RO shall provide the Administration with copies.

10.5.2 The RO shall forward to the Administration, on an annual basis, the current country file for the DMA or give electronic access to it and the Administration shall confirm that the contents are acceptable.

10.5.3 The RO shall make available to the Administration free of charge one (1) current and complete set of its procedural guidelines and instructions, and any revisions thereto, for providing Statutory Certification and Services under this Agreement or provide electronic
access to them.

10.5.4 Where the RO adopts changes to its procedures that are determined by the Administration to be inconsistent with the associated Applicable Instrument(s) or the Administration's policy, the Administration may require the RO to amend the inconsistencies that affect any delegated activities on behalf of the Administration.

10.6 Access to Documentation of Vessels

The Administration shall be provided, free of charge, access to all documentation maintained by the RO that relates or is relevant to any Vessel registered under the DMA flag upon request.

10.7 Training

10.7.1 Training and Qualification Program

1. The RO's surveyors, inspectors, and auditors performing and responsible for the Statutory Certification and Services, and the RO's personnel assisting in the performance of such Statutory Certification and Services, shall have a formal education in compliance with section 4.2.5 of Part 2 of the RO Code.

2. The RO shall implement a documented system for the qualification of its surveyors and continuous updating of their knowledge. This system should be comprised of appropriate training courses, including but not limited to, Administration requirements, international instruments, and appropriate procedures related to the certification process, as well as practical tutored training. Documented evidence of satisfactory completion of this training shall be provided upon request.

3. The RO shall establish and maintain a systematic training and qualification program to ensure the proficiency of those of its personnel engaged in the SMS verification and certification process, applicable quality and safety management criteria, and adequate competence and skills in the technical and operational aspects of marine safety management in accordance with IACS PRs.

4. The RO shall establish and maintain a systematic training and qualification program to ensure the proficiency for those of its personnel engaged in the ISPS verification and certification process, applicable security management criteria, and adequate competence and skills in the technical and operational aspects of maritime labour, conditions of employment, and seafarer living conditions aboard ships.

5. The RO shall establish and maintain a systematic training and qualification program to ensure the proficiency for those of its personnel engaged in the MLC, 2006 certification process, applicable criteria, and adequate competence and skills in the technical and operational aspects of maritime labour, conditions of employment, and seafarer living conditions aboard ships.

6. The RO shall ensure that its personnel engaged in the performance of functions delegated under this Agreement comply with the applicable requirements herein. The RO shall also ensure that its personnel are aware of and require compliance with applicable DMA laws and regulations, Administration policies, interpretations, and instructions, including:

19
a. As authorized, the Applicable Instruments to which the DMA is a party;

b. DMA statutes;

c. DMA national regulations;

d. RO procedures for the classification and certification of Vessels; and

e. Any restrictions, special instructions, and supplemental requirements as required by this Agreement.

10.7.2 Participation in Training Programs

By mutual agreement, the Administration may participate in, attend, or oversee the RO's training and qualification programs, without attendance fees, for the purpose of assuring itself of the proper systematic training and qualification of professional personnel to be engaged in the Statutory Certification and Services.

11.0 CORRECTIVE ACTIONS (WITH RESPECT TO RO PERFORMANCE)

11.1 Where the Administration identifies potential non-conformities by the RO with respect to Statutory Certification and Services provided under this Agreement, the RO shall investigate and provide a corrective action plan to the Administration. Once the corrective action plan is agreed between the two Parties, the RO shall implement the plan to the satisfaction of the Administration.

12.0 ENTRY INTO FORCE:

This Agreement shall be effective as of ______________.
13. SIGNATURES

IN WITNESS WHEREOF, the undersigned, duly authorized by the parties, have signed this Agreement on the dates indicated below:

This document has been entered into by the Parties or their duly authorized representatives on the date set out at the beginning of this document.

**Dominica Maritime Administration**

Signed by:

duly authorized for and on behalf of the **Dominica Maritime Administration**

Print Name: Mr Eric R. Dawicki

Title: President and CEO

Date: __________________________

**RO NAME**

Signed by: __________________________

duly authorized for and on behalf of **RO NAME**

Print Name: __________________________

Title: __________________________

Date: __________________________

21
ANNEX I

APPLICABLE INSTRUMENTS, AS MAY BE AMENDED, and
DEGREE OF AUTHORIZATION
ANNEX I

APPLICABLE INSTRUMENTS,
AS MAY BE AMENDED,
and

DEGREE OF AUTHORIZATION

1.0 Table 1: Instruments and Authorizations

1.1 The RO agrees to perform ship classification and statutory certification surveys and issue certificates, statements of fact or fitness, and/or approvals verifying the extent of compliance with the Applicable Instruments as listed in Table 1 of this Annex.

1.2 In so doing, the RO shall consider and apply the more specific details contained in the DMA International Maritime Act, as amended, Maritime Regulations, codes, Policy Letters, and Marine Safety Circulars, of which the most up-to-date versions can be found at http://www.demaritime.registry.com.

1.3 Any subsequent additions or amendments to Table 1 shall be effected in accordance with section 2.2 of the Agreement.

2.0 Procedures Relating to Statutory Certification and Services

2.1 Unless otherwise specified in this Annex or by promulgation of a Policy Letter and/or Marine Safety Circular, Statutory Certification and Services are to be carried out in accordance with the IMO Survey Guidelines under the Harmonized System of Survey and Certification (HSSC), 2011, as amended, and as prescribed by the Applicable Instruments.

2.2 Surveys and Certificates

1. Extensions: The RO may only extend, with the written approval of the Administration, the validity of certificates within the terms laid down in the applicable international code or conventions.

3. “Short-Term” Certificates: In limited circumstances, the RO may issue a temporary short-term certificate to allow a vessel to proceed to sea with deficiencies that cannot be corrected in the port of survey to a port where the permanent repairs are to be made. Where a major deficiency or serious safety-related matter has been discovered and a temporary measure(s) related to that deficiency is imposed, the written approval of the Administration must be obtained before a short-term certificate is issued. In such cases, the Short-Term Certificate shall be issued to replace the full-term certificate.

4. “Condition of Authority”, “Statutory Menu / Condition / Recommendation / Deficiencies” (or equivalent wording). As alternative to issuing a Short Term Certificate, the RO may issue a temporary Condition of Authority, Statutory Menu/Condition/Recommendation/Deficiency, with an assigned due date, instead of a Short Term Certificate to allow a vessel to proceed to sea with deficiencies that cannot be corrected in the port of survey to a port where the permanent repairs are to be made or for the time needed to rectify the deficiencies. Where a major deficiency or serious safety-related matter has been discovered and a temporary measure(s) related to that deficiency is imposed, the written approval of the Administration is to be obtained before a Condition of Authority, Statutory Menu / Condition / Recommendation / Deficiency is issued. In such cases, the full-term certificate shall be maintained and a copy of the Condition of Authority, Statutory Menu / Condition / Recommendation / Deficiency shall be attached to the full-term certificate.

5. Additional Surveys: The RO is authorized to perform additional surveys on all vessels after a casualty or discovery of deficiencies, or whenever modifications, alterations, repairs, or renewals are made which may affect the validity of existing certificates.
.6 Dry-docking Surveys: In the event of an extension, information must be submitted with a request for dry-dock extensions which documents the basis for claiming that "exceptional circumstances" (i.e. unavailability of dry-docking facilities; unavailability of repair facilities; unavailability of essential materials, equipment or spare parts; or delays incurred by action taken to avoid severe weather conditions) exist.

.7 Experimentation: All exceptions and approvals for experimental purposes, and all exemptions referred to in any of the international codes or conventions will be reviewed and approved, as necessary, directly by the Administration. The RG shall, however:

a. bring any requests for such consideration to the attention of the Administration; and

b. provide technical advice, when required, on the advisability of granting any such dispensations.
### Table 1

**APPLICABLE INSTRUMENTS and DEGREE OF AUTHORIZATION**

The following three types of authorizations apply as noted:

- **F**: Full authorization for the RO to perform plan reviews, approve relevant plans/manuals, carry out surveys, and issue and/or cancel necessary interim and full-term certificates.
- **P**: Partial authorization to perform plan reviews, carry out surveys, and possible issue of interim certificates. (Specific guidance to be provided by the Administration and the full-term certificate is to be issued by the Administration.)
- **C**: Case-by-case authorization. The Administration must be contacted prior to performing plan review or carrying out surveys to obtain specific guidance concerning applicable standards and statutory requirements.

Under some circumstances, it may be advantageous for Vessels outside the scope of applicability to comply with listed national standards and international codes or conventions. The Administration encourages voluntary compliance with these instruments and authorizes the RO to issue documentation attesting to voluntary compliance for Dominica flagged Vessels.

<table>
<thead>
<tr>
<th>INSTRUMENT (AS MAY BE AMENDED)</th>
<th>AUTHORIZATION (ISSUE/ENDORSE/APPROVE)</th>
<th>STABILITY REVIEW</th>
</tr>
</thead>
<tbody>
<tr>
<td>SOLAS Convention 74/78 and the Protocol 1996</td>
<td>F F F C P</td>
<td>Yes</td>
</tr>
<tr>
<td>Cargo Ship Safety Construction Certificate</td>
<td>F F F P F</td>
<td></td>
</tr>
<tr>
<td>Cargo Ship Safety Equipment Certificate</td>
<td>F F F F C F</td>
<td></td>
</tr>
<tr>
<td>Cargo Ship Safety Radio Certificate</td>
<td>F F C F F</td>
<td></td>
</tr>
<tr>
<td>Document of Authorization for the Carriage of Grain</td>
<td>F C C</td>
<td>Yes</td>
</tr>
<tr>
<td>Passenger Ship Safety Certificate</td>
<td>F C F P</td>
<td>Yes</td>
</tr>
<tr>
<td>Measurements and certificatet</td>
<td>f F F C F</td>
<td>Yes</td>
</tr>
<tr>
<td>MARPOL Convention 73/78 Protocol</td>
<td>F F F</td>
<td></td>
</tr>
<tr>
<td>Annex I – Prevention of Pollution by Oil</td>
<td>F F F F C F</td>
<td>Yes</td>
</tr>
<tr>
<td>International Oil Pollution Prevention Certificate with Supplement</td>
<td>F F F F C F</td>
<td>Yes</td>
</tr>
<tr>
<td>Annex II – Prevention of Pollution by Noxious Liquid Substances in Bulk</td>
<td>F F F F C F</td>
<td>Yes</td>
</tr>
<tr>
<td>International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk</td>
<td>F F C F F</td>
<td></td>
</tr>
<tr>
<td>Annex III – Harmful Substances in Package Form</td>
<td>F F C F</td>
<td></td>
</tr>
<tr>
<td>Annex IV – Prevention of Pollution by Seagoing</td>
<td>F F C F</td>
<td></td>
</tr>
<tr>
<td>International Seagoing Pollution Prevention Certificate</td>
<td>F F C F</td>
<td></td>
</tr>
<tr>
<td>Annex V – Prevention of Pollution by Garbage</td>
<td>F F</td>
<td></td>
</tr>
<tr>
<td>Annex VI – Prevention of Air Pollution from Ships</td>
<td>F F</td>
<td></td>
</tr>
<tr>
<td>International Air Pollution Prevention Certificate with Supplement</td>
<td>F F F F C F</td>
<td></td>
</tr>
<tr>
<td>Hague International Air Pollution Prevention Certificate</td>
<td>F F</td>
<td></td>
</tr>
<tr>
<td>International Energy Efficiency Certificate</td>
<td>F F F</td>
<td></td>
</tr>
<tr>
<td>Statement of Compliance – Fuel oil Consumption reporting</td>
<td>F F</td>
<td></td>
</tr>
<tr>
<td>Confirmation of Compliance – Review of SEEMP Part II</td>
<td>F F</td>
<td></td>
</tr>
<tr>
<td>SO₂ Emission Compliance Certificate (SMCC)</td>
<td>F F F</td>
<td></td>
</tr>
</tbody>
</table>

---

[8] Measurements and certification
[9] MARPOL Convention 73/78 Protocol
[10] Annex I – Prevention of Pollution by Oil
[13] International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk
[16] International Seagoing Pollution Prevention Certificate
[18] Annex VI – Prevention of Air Pollution from Ships
[19] International Air Pollution Prevention Certificate with Supplement
[22] Statement of Compliance – Fuel oil Consumption reporting
[23] Confirmation of Compliance – Review of SEEMP Part II
| INSTRUMENT (AS MAY BE AMENDED) | AUTHORIZATION
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>INSTRUMENT</strong></td>
<td>INITIAL</td>
</tr>
<tr>
<td>3.6.7 SDI Emissions Compliance Plan (SEC)</td>
<td>F</td>
</tr>
<tr>
<td>4.0 Ballast Water Management Convention</td>
<td></td>
</tr>
<tr>
<td>4.1 Ballast Water Management Plan</td>
<td>F</td>
</tr>
<tr>
<td>4.2 International Ballast Water Management Certificate</td>
<td>F</td>
</tr>
<tr>
<td>5.0 International Convention on Harmful Anti-fouling Systems</td>
<td></td>
</tr>
<tr>
<td>5.1 International Anti-fouling System Certificate and Record</td>
<td>F</td>
</tr>
<tr>
<td>5.2 Declaration on Anti-fouling System</td>
<td>F</td>
</tr>
<tr>
<td>6.0 International Regulations for Preventing Collisions at Sea, 1972</td>
<td></td>
</tr>
<tr>
<td>6.1 Initial survey for verification of compliance</td>
<td>F</td>
</tr>
<tr>
<td>7.0 International Convention on Tonnage Measurement, 1969</td>
<td></td>
</tr>
<tr>
<td>7.1 International Tonnage Certificate</td>
<td>F</td>
</tr>
<tr>
<td>7.2 National Tonnage Certificate</td>
<td></td>
</tr>
<tr>
<td>8.0 National (DMA) Certificates</td>
<td></td>
</tr>
<tr>
<td>8.1 Non-SOLAS Vessels</td>
<td></td>
</tr>
<tr>
<td>8.1.1 National Cargo Ship Document of Compliance</td>
<td>F</td>
</tr>
<tr>
<td>8.1.2 National Cargo Ship Document of Compliance (for Vessels &lt;500 GT)</td>
<td>C</td>
</tr>
<tr>
<td>8.2 Vessels</td>
<td></td>
</tr>
<tr>
<td>8.2.1 Commercial Vessel Document of Compliance</td>
<td>F</td>
</tr>
<tr>
<td>8.2.2 Private Vessel Document of Compliance</td>
<td>F</td>
</tr>
<tr>
<td>9.0 International Code Certificate</td>
<td></td>
</tr>
<tr>
<td>9.1 Ballast Water Management Code</td>
<td></td>
</tr>
<tr>
<td>9.1.1 Ballast Water Management Certificate</td>
<td>F</td>
</tr>
<tr>
<td>9.1.2 Ballast Water Management Certificate</td>
<td>F</td>
</tr>
<tr>
<td>9.1.3 Ballast Water Management Certificate</td>
<td>F</td>
</tr>
<tr>
<td>9.2 ISM Code</td>
<td></td>
</tr>
<tr>
<td>9.2.1 ISM Code</td>
<td>F</td>
</tr>
<tr>
<td>9.2.2 ISM Code</td>
<td>F</td>
</tr>
<tr>
<td>9.3 ISM Code</td>
<td></td>
</tr>
<tr>
<td>9.3.1 ISM Code for Carriage of Liquefied Gases in Bulk</td>
<td>F</td>
</tr>
<tr>
<td>9.3.2 ISM Code for Carriage of Liquefied Gases in Bulk</td>
<td>F</td>
</tr>
<tr>
<td>9.4 ISM Code</td>
<td></td>
</tr>
<tr>
<td>9.4.1 ISM Code for Carriage of Liquefied Gases in Bulk</td>
<td>F</td>
</tr>
<tr>
<td>Instrument (as May Be Amended)</td>
<td>Authorization (Issue/Endorse/Approve)</td>
</tr>
<tr>
<td>--------------------------------</td>
<td>---------------------------------------</td>
</tr>
<tr>
<td>9.5 IMSBC Code - Carriage of Solid Bulk Cargo</td>
<td></td>
</tr>
<tr>
<td>9.5.1 Statement of Compliance with the IMSBC Code</td>
<td>F</td>
</tr>
<tr>
<td>9.6 HSC Code - High Speed Craft</td>
<td></td>
</tr>
<tr>
<td>9.6.1 High Speed Craft Safety Certificates</td>
<td>F</td>
</tr>
<tr>
<td>9.7 CSS Code - Safe Practice for Cargo Storage and Securing</td>
<td></td>
</tr>
<tr>
<td>9.7.1 Cargo Securing Manual</td>
<td>F</td>
</tr>
<tr>
<td>9.8 Safe Practice for Ships Carrying Timber Deck Cargo</td>
<td></td>
</tr>
<tr>
<td>9.8.1 Document of Compliance with the Code of Safe Practice for Ships Carrying Timber Deck Cargo</td>
<td>F</td>
</tr>
<tr>
<td>9.9 SPS Code - Safety for (specify) Purpose Ships</td>
<td></td>
</tr>
<tr>
<td>9.9.1 Special Purpose Ship Safety Certificate</td>
<td>F</td>
</tr>
<tr>
<td>9.10 Code of Safety for Dynamically Supported Craft</td>
<td></td>
</tr>
<tr>
<td>9.10.1 Dynamically Supported Craft Construction and Equipment Certificate</td>
<td>F</td>
</tr>
<tr>
<td>9.11 Code of Safety for Diving Systems</td>
<td></td>
</tr>
<tr>
<td>9.11.1 Diving System Safety Certificate</td>
<td>F</td>
</tr>
<tr>
<td>10.0 International Safety Management Code</td>
<td></td>
</tr>
<tr>
<td>10.1 Document of Compliance</td>
<td>F</td>
</tr>
<tr>
<td>10.2 Safety Management Certificate</td>
<td>F</td>
</tr>
<tr>
<td>11.0 International Ship and Port Facility Security Code</td>
<td></td>
</tr>
<tr>
<td>11.1 International Ship Security Certificate</td>
<td>F</td>
</tr>
<tr>
<td>12.0 International Labour Organization</td>
<td></td>
</tr>
<tr>
<td>12.1 Maritime Labour Convention, 2006</td>
<td></td>
</tr>
<tr>
<td>12.1.1 Maritime Labour Certificate</td>
<td>F</td>
</tr>
<tr>
<td>12.2 Declaration of Minimum Labour Compliance</td>
<td>F</td>
</tr>
<tr>
<td>12.3 Convention Nos. 92 and 147</td>
<td></td>
</tr>
<tr>
<td>12.3.1 National Document of Compliance for Accommodation</td>
<td>F</td>
</tr>
<tr>
<td>12.3.2 Convention No. 157</td>
<td></td>
</tr>
<tr>
<td>12.3.3 National Document of Compliance for Lifting Appliances</td>
<td>F</td>
</tr>
<tr>
<td>13.0 Equipment/Material Certification and Type-Approvals</td>
<td></td>
</tr>
<tr>
<td>13.2 Annex and Approval</td>
<td>F</td>
</tr>
<tr>
<td>14.0 Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 (HKSCR 2009)</td>
<td></td>
</tr>
<tr>
<td>14.1 International Certificate on Inventory of Hazardous Materials</td>
<td>F</td>
</tr>
<tr>
<td>14.2 International Certificate on Inventory of Hazardous Materials</td>
<td>F</td>
</tr>
<tr>
<td>15.0 Hong Kong Regulation (EU) No. 1271/2012 on Ship Recycling</td>
<td></td>
</tr>
<tr>
<td>15.1 Statement of Compliance on Inventory of Hazardous Materials</td>
<td>F</td>
</tr>
<tr>
<td>15.2 Ready for Recycling Statement of Compliance</td>
<td>F</td>
</tr>
</tbody>
</table>
1. The Administration must evaluate each request for an exemption and authorize the issuance of the initial exemption certificate by the RO. The RO may then renew an exemption certificate during a renewal survey after verifying that the conditions for the issuance of the initial exemption certificate are still satisfied.

2. DMA flagged Vessels may be given specific authorization for the assignment of more than one (1) load line.

3. Administration approval of the garbage management plan is not required for compliance with MARPOL 73/78, Annex V. The RO is encouraged to conduct surveys and approve plans, as well as review record keeping, to verify continuing compliance. The RO may develop its own documents stating to compliance with Annex V of MARPOL 73/78.

4. Issuance of DMA National Tonnage Certificates, as required by DMA Tonnage Regulations, shall apply to all Vessels that do not require International Tonnage Certificates under ISTC.

5. Commercial yachts of 500 GT or greater are to be considered SOLAS cargo ships. Commercial yachts of less than 500 GT meeting Yacht Code requirements will be issued a Commercial Yacht Document of Compliance.

6. Private yachts which voluntarily comply with the provisions of the Yacht Code applicable to commercial yachts may be issued a Private Yacht Document of Compliance when requested by the owner of the yacht.

7. Offshore supply vessels (OSV) means a vessel which is used for the transportation of stores, materials, equipment, or personnel to, from, and between offshore installations. These vessels are sometimes categorized as "offshore support vessels." The term OSV also includes crew boats.

8. Approval and, if required, issuance of Document of Compliance with the Code of Safe Practice for Cargo Storage and Securing, as amended (CSS Code) and SOLAS 74, Chapter VI, as amended, including survey and certification of cargo storage and securing arrangements when deemed necessary. Review and approval of Cargo Securing Manuals (CSM) in accordance with SOLAS 74/88, Chapter VI, 5 and Chapter VII, 3.

9. Administration approval of the garbage management plan is not required for compliance with MARPOL 73/78, Annex V. The RO is encouraged to conduct surveys and approve plans, as well as review record keeping, to verify continuing compliance. The RO may develop its own documents stating to compliance with Annex V of MARPOL 73/78.

10. Following the implementation of MARPOL Annex VI, Regulations for the Prevention of Air Pollution from Ships.

11. See Resolution MEPC.203(68).

12. See Resolution MEPC.259(68).

13. The Ballast Water Management Convention (BWMc) was adopted by consensus on 13 February 2004 and will enter into force 12 months after ratification by 50 States, representing 5% of the world gross tonnage. It will require that all Vessels be designed and constructed to meet the requirements of the BWMc. Local ballast water and sediment discharge controls are already in place in the United States, Australia, Canada, Brazil, and other jurisdictions. For those Vessels engaged in trade which takes them into these territorial waters, BWMPs must be implemented. Until such time as the BWMP enters into force and effect, a Vessel's BWMP should and may be reviewed and approved by the RO, taking into account the guidelines developed by the IMO. Further, the RO is authorized to verify compliance and approve BWMPs. Additional coastal State requirements may apply and should be part of the survey by the RO.

14. International ballast Water Certificates may be issued under the provisions of BWMc/Circ.40.

15. Anti-fouling certification is returned when the anti-fouling systems are changed or replaced.


17. If applicable. When the vessel is trading internationally it needs to comply with international standards.

18. Non-SOLAS vessels are:

(a) vessels not engaged in international voyages,
(b) cargo ships of less than 500 gross tonnage,
(c) ships not propelled by mechanical means,
(d) wooden ships of primitive build,
(e) pleasure yachts not engaged in trade,
(f) vessels engaged in fishing.

The scope of application for these non-SOLAS vessels of less than 500 gross tons differs as that prior to performing statutory certification and Services on these Vessels, the RO shall consult with the Administration and receive confirmation of standards to be applied and instruments to be issued.

19. If the vessel in trading internationally it needs to comply with international standards.

20. Prior to performing statutory Certification and Services on these Vessels, the RO shall consult with the Administration and receive confirmation of standards to be applied and instruments to be issued.

21. Prior to performing statutory Certification and Services on these Vessels, the RO shall consult with the Administration and receive confirmation of standards to be applied and instruments to be issued.

22. Yachts - See Yacht Code.

23. Commercial yachts of 500 GT or greater are to be considered SOLAS cargo ships. Commercial yachts of less than 500 GT meeting Yacht Code requirements will be issued a Commercial Yacht Document of Compliance.

24. Private yachts which voluntarily comply with the provisions of the Yacht Code applicable to commercial yachts may be issued a Private Yacht Document of Compliance when requested by the owner of the yacht.

25. See Mobile Offshore Unit (MOU) Standards in CD-MSC.31-01 Rev.01.

26. See Mobile Offshore Unit (MOU) Standards in CD-MSC.31-01 Rev.01.

27. Offshore supply vessels (OSV) means a vessel which is used for the transportation of stores, materials, equipment, or personnel to, from, and between offshore installations. These vessels are sometimes categorized as "offshore support vessels." The term OSV also includes crew boats.

28. A National Offshore Supply Vessel Document of Compliance will be issued to qualifying Vessels upon completion of an initial survey which is carried out concurrently with the surveys required for registration.

II-1

30. 1979 MODU Code MODU Safety Certificate: MODUS meeting the requirements of the 1979 MODU Code, as modified by the interpretations of the Administrator, will be issued an international 1979 Mobile Offshore Drilling Unit Safety Certificate (1979 Code Certificate). Units constructed on or after 31 December 1981 and prior to 1 May 1991 are required to meet these standards in order to be issued an international certificate. MODUS which are constructed prior to 31 December 1981 and are found to be in full compliance will be issued a 1979 Code Certificate upon request of the unit owner.

31. 1989 MODU Code MODU Safety Certificate: MODUS meeting the requirements of the 1989 MODU Code, as modified by the interpretations of the Administrator, will be issued an international 1989 Mobile Offshore Drilling Unit Safety Certificate (1989 Code Certificate). Units constructed on or after 1 May 1991 and prior to 1 January 2009 are required to meet these standards in order to be issued an international certificate. MODUS which are constructed prior to 1 May 1991 and are found to be in full compliance will be issued a 1989 Code Certificate upon request of the unit owner.

32. 2009 MODU Code MODU Safety Certificate: MODUS meeting the requirements of the 2009 MODU Code, as modified by the interpretations of the Administrator, will be issued an international 2009 Mobile Offshore Drilling Unit Safety Certificate (2009 Code Certificate). Units constructed on or after 1 January 2012 are required to meet these standards in order to be issued an international certificate. MODUS which are constructed prior to 1 January 2012 and are found to be in full compliance will be issued a 2009 Code Certificate upon request of the unit owner.

33. Applicable to Vessels built before 1 July 1986.

34. Applicable to Vessels built on or after 1 July 1986.

35. International Certificate of Fitness for Carriage of Liquefied Gases in Bulk (COLG)- applicable to vessels built after 1 July 2016.


39. Approval and issuance of Statement of Compliance with the IMSBC Code is required, including survey and verification of solid bulk loading arrangements when carrying solid dangerous goods in bulk.

40. Approval and issuance of Document of Compliance with the International Code for Safe Practice for High-Speed Craft, 2000, as may be amended, and SOLAS, Chapter XI as required.

41. Approval and, if required, issuance of Document of Compliance with the Code of Safe Practice for Cargo Stowage and Securing, as amended (CSS Code) and SOLAS 74, Chapter VI, as amended, including survey and verification of cargo stowage and securing arrangements when deemed necessary. Review and approval of Cargo Securing Manuals (CSM) in accordance with SOLAS 74/90, Chapter VI, 3 and Chapter VII, 5.

42. Approval and, if required, issuance of Document of Compliance with the Code of Safe Practice for Ships Carrying Timber Deck Cargo, 2011 V of LL 96/98. Survey and verification of timber deck cargo stowage arrangements when deemed necessary.

43. A special purpose ship is a Vessel of 300 GT or greater which carries more than 12 persons onboard who are specially needed for the particular operational duties of the Vessel and are in addition to those crew required for the normal navigation, engineering, and maintenance. Vessels carrying the special purpose cargo shall be issued a Special Purpose Ship Safety Certificate.

44. Annual ISM audits for DOC should evaluate implementation, management, and documentation of ISPS Code requirements. The ISM shall conduct annual safety management audits of the Company. During such audits, the RO shall verify that the Company is conducting a complete internal audit of each Vessel in its fleet to verify that the Company SMS is being maintained in substantial compliance with the ISM Code during the period of certificate validity.

45. An internal DOC may be issued to facilitate initial implementation of the ISM Code in cases where compliance with the ISM Code is a new requirement or where changes to the Company’s organization or its operations have rendered the existing certificate inappropriate.

46. The ISM shall conduct an intermediate safety management audit of a Vessel being certified by it between the second and third anniversary date of the issuance of the Vessel’s SMIC.

47. An intermediate SMIC may be issued to facilitate initial implementation of the ISM Code in cases where compliance with the ISM Code is a new requirement or where changes to the Company’s organization or its operations have rendered the existing certificate inappropriate.

48. For the purposes of the ISPS Code, the RO shall also be designated as a Recognized Security Organization (RSO) and may fulfill the duties required of the RSO. This authorization is limited to those specified in an assignment letter from the Administrator.

49. Each Vessel to which the ISPS Code applies shall be subject to an initial verification audit before the Vessel is put in service or before an ISCC is issued for the first time; at least one (1) intermediate verification, and a renewal verification at intervals specified by the Administrator, but not more than five (5) years. This authorization includes approval of the Ship Security Plan.

50. An intermediate ISCC may be issued by the RSO on behalf of the Administrator, for a period not longer than six (6) months, for the purposes of accommodating: a) a Vessel without a certificate, on delivery or prior to its entry or re-entry into service; b) the transfer of a Vessel from the flag of a contracting government to the flag of a non-contracting government; c) the transfer of a Vessel to the flag of a non-contracting government from a flag of a non-contracting government; or d) the assumption by a Company of the responsibility for the operation of a Vessel not previously operated by that Company. Under no circumstances may a second consecutive interim ISCC be issued to a Vessel unless the circumstances require with the specific authorization of the Administrator.

51. The RSO shall verify compliance with the MLC, 2006, including the requirements pertaining to the Declaration of Maritime Labour Compliance (DMLC) Parts I and II, and for issuing a Maritime Labour Certificate on behalf of the Administrator.

II-4
52. An intermediate inspection shall take place between the second and third anniversary dates of the certificate. The scope and depth of the intermediate inspection shall be equal to the inspection for certificate renewal. The certificate shall be endorsed following satisfactory intermediate inspection.

53. A Marine Labour Certificate may be issued on an interim basis for a period of up to six (6) months: (a) to a new Vessel on delivery; (b) when a vessel changes flag; or (c) when an owner assumes responsibility for the operation of a Vessel which is new to that owner.

54. The DMCC shall consist of two parts—(1) the DMCC Part I, drawn up by the Administrator, and (2) the DMCC Part II, drawn up by the Vessel owner. Copies of both shall be supplied to the RO. The RO shall certify DMCC Part II against DMCC Part I.

55. Reissuance of the DMCC is not required at the renewal inspection, provided there have been no changes to the national provisions or Vessel owner measures recorded in DMCC Part I or DMCC Part II, respectively.

56. A DMCC need not be issued for the period of validity of an interim certificate. However, the Vessel must have submitted the relevant information to the RO necessary to produce a DMCC.

57. The Administrator has recognized ILO Conventions No. 92 and No. 113 as industry standards for which voluntary compliance by Vessels is highly encouraged. The RO may issue optional certifications for Vessels constructed prior to the date of entry into force of the ILO, 2006 at the request of a Vessel owner or operator, upon satisfactory completion of the necessary plan reviews and deck surveys and Documents of Compliance (Davit); shipboard accommodation (SAFOS); compliance with either ILO Convention No. 92 or No. 113. All new Vessels, constructed on or after the date when the ILO, 2006 came into force, as determined by when its keel is laid or when it is at a similar stage of construction, must comply with the requirements contained in ILO, 2006, Title 3.

58. For vessels not to be in compliance, there must be a survey and certification with the requirements of ILO Conventions No. 92 and No. 133. For existing vessels to be in compliance, prior to admission or re-admission to the DMCC registry, there must be a survey and certification to the Administrator confirming that: (a) the vessel is in full compliance with the requirements of the conventions and DMCC national requirements; or (b) the vessel is in substantial compliance with the requirements of the conventions and the national requirements to which the vessel is not in full compliance; or (c) that the vessel is not in compliance and requires specified alterations to bring the vessel into full or substantial compliance. The RO may survey existing Vessels registered in DMCC at the request of the Administrator or the Vessel owner, or whenever the crew accommodations of such Vessel are substantially altered or reconstructed, to ascertain whether such Vessel is in full or substantial compliance, or otherwise, with the requirements of these conventions. The maximum period of validity for the certificate noted in this sub-section shall be five (5) years. Survey for verification of compliance with applicable regulations in required at the time of renewal. Annual surveys or endorsements are not required.

59. The Administrator has recognized ILO Conventions No. 132 as an industry standard for which voluntary compliance by Vessels is highly encouraged. The RO may issue optional certification at the request of a Vessel owner or operator, upon satisfactory completion of the necessary plan review and deck surveys. Cargo Gear Certificate of Record and any other "authorized records" used to certify lifting appliances and loose gear.

60. For vessels not to be in compliance, there must be a survey and certification with the requirements of the convention. For existing vessels to be in compliance, prior to admission or re-admission to the DMCC registry, there must be a survey and certification to the Administrator shall confirm that the vessel is: (a) in full compliance with the requirements of the convention and DMCC national requirements; or (b) in substantial compliance with the requirements of the convention and the requirements to which the vessel is not in full compliance; or (c) not in compliance and requires specified alterations to bring the vessel into full or substantial compliance. Survey of existing Vessels registered in DMCC at the request of the Administrator or the Vessel owner, to ascertain whether each Vessel is in full or substantial compliance, or otherwise, with the requirements of the convention. The maximum period of validity for the certificate noted in this sub-section shall be five (5) years. Survey for verification of compliance with applicable regulations is required at the time of renewal. Annual surveys or endorsements are not required.

61. The Administrator does not itself issue equipment type approvals but recognizes approvals granted by the RO; provided, the approvals are fully in accordance with convention requirements, IMO guidelines, and/or Directive 96/98/EC of 20 December 1996 on marine equipment, as amended. Administrators may generally accept equipment type approvals granted by another State that is a party to the applicable convention; provided, the approvals are fully in accordance with convention requirements and other IMO guidelines.
ANNEX II

REPORTING TO THE ADMINISTRATION

II-i
ANNEX II

REPORTING TO THE ADMINISTRATION

The RO agrees to report to the Administration information pertaining to the Statutory Certification and Services performed pursuant to this Agreement as indicated in the table below.

Unless stated otherwise, where copies of certificates, documents, etc., are required to be submitted to the Administration, electronic access via the RO’s web site or an attachment to an email will be acceptable.

<table>
<thead>
<tr>
<th>Reporting Requirements</th>
<th>Reporting Period</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1.0 INITIAL CLASSIFICATION</strong></td>
<td></td>
</tr>
<tr>
<td>1.1 Upon issuance of an interim or full-term certificate of class to a Vessel, the RO will advise the Administration and provide it with a copy of the certificate.</td>
<td>On issuance of such certificates.</td>
</tr>
<tr>
<td><strong>2.0 NEW VESSELS/NEW REGISTRATIONS/RE-REGISTRATION</strong></td>
<td></td>
</tr>
<tr>
<td>2.1 When a Vessel applies for registration, re-registration, or to come out of lay-up, the RO agrees that upon proper request it will promptly furnish a Vessel owner and/or operator in good standing with the RO the following information and documentation, with an English translation where the original is not in the English language, directly to the Administration:</td>
<td></td>
</tr>
<tr>
<td>2.1.1 Confirmation of classification certificate from the RO, together with a copy of the then current Interim or Full Term Classification Certificate. These documents are to be provided in hard copy or as email attachments.</td>
<td>At the date of registration.</td>
</tr>
<tr>
<td>2.1.2 A Statement or Affidavit from the RO at the date of registration, either in hard copy or as email attachments, indicating:</td>
<td></td>
</tr>
<tr>
<td>a. the current status of all classification and relevant statutory surveys, setting forth the dates of completion of each;</td>
<td></td>
</tr>
<tr>
<td>b. all conditions of classification, outstanding classification recommendations and/or memoranda, and outstanding statutory deficiencies;</td>
<td></td>
</tr>
<tr>
<td>c. the relevant statutory certificates listed in Annex I to this Agreement (&quot;Applicable Instruments&quot;) which the RO is prepared to issue on behalf of the Administration when all statutory surveys have been satisfactorily carried out; and</td>
<td></td>
</tr>
<tr>
<td>d. to the extent known by the RO, any reasons why the Vessel is not fit to proceed to sea prior to the completion of outstanding as noted above.</td>
<td>At the date of registration.</td>
</tr>
<tr>
<td>2.1.3 Set of survey reports (only for existing vessels of 15 years of age or more), including:</td>
<td></td>
</tr>
<tr>
<td>a. Classification Special Survey, Hull;</td>
<td></td>
</tr>
<tr>
<td>b. Classification Special Survey, Machinery, and Electrical Equipment;</td>
<td></td>
</tr>
<tr>
<td>c. Classification Drydocking Survey or Underwater Examination in Lien of Drydocking;</td>
<td></td>
</tr>
<tr>
<td>d. Load Line Survey;</td>
<td></td>
</tr>
<tr>
<td>e. Safety Construction Survey;</td>
<td></td>
</tr>
<tr>
<td>f. Safety Radio Survey;</td>
<td></td>
</tr>
</tbody>
</table>

II
<table>
<thead>
<tr>
<th>Reporting Requirements</th>
<th>Reporting Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>g. Safety Equipment Survey;</td>
<td></td>
</tr>
<tr>
<td>h. IOPP Survey;</td>
<td></td>
</tr>
<tr>
<td>i. ISPP Survey;</td>
<td></td>
</tr>
<tr>
<td>j. ISM and ISPS audits; and</td>
<td></td>
</tr>
<tr>
<td>k. MLC, 2006 Inspection.</td>
<td>Promptly after the registration of the Vessel.</td>
</tr>
</tbody>
</table>

2.2 A copy of General Arrangement drawings (after registration of Vessel).

3.0 **EXISTING VESSELS MAINTENANCE OF CLASSIFICATION**

3.1 The Administration shall be provided with a copy of any initial, interim, or full-term classification certificates that are issued by the RO. As and when issued.

3.2 The Administration shall be advised when:

3.2.1 there has been a change in the content(s) in any renewal or permanent certificate(s) issued;

3.2.2 where the class status of a Vessel is temporarily changed or certain material and/or operational restrictions are imposed. Such cases are deemed to be those involving surveys of outstanding deficiencies and, if necessary, temporary repairs which enable a Vessel to sail for only a limited period. The notification shall include the reason(s) why such action was taken;

3.2.3 there are overdue surveys causing Class Suspension;

3.2.4 a Vessel has been deemed unfit to proceed to sea, forwarding to the Administration copies of any amended certificates that may have been issued; or

3.2.5 upon the extension of the validity of any certificate(s) issued, the RO shall promptly advise the Administration in writing.

3.3 The RO shall provide the Administration with any Vessel statutory certificate issued by the RO on behalf of the Administration. Immediate, upon request.

4.0 **CHANGE OF CLASS**

4.1 In cases of a transfer of the classification of a Vessel from one recognized organization to another, the Administration, along with the gaining organization, shall be granted access to the history file of the Vessel. Without undue delay.

5.0 **WITHDRAWAL/CESSATION OF CLASSIFICATION AND/OR REGISTRATION**

5.2 Inform the Administration when class is suspended, withdrawn, or cancelled for any reason, and explain the reason(s) for removal from class. Immediate.

---

1 Examples of where the class status of a Vessel is temporarily changed or certain material and/or operational restrictions are imposed include: in specified ballast and/or loaded conditions; at reduced speed and/or machinery output, with reduced availability of power for essential power consumption; in restricted areas of navigation or on specific voyages only; for operation in specified weather conditions; and under tow or under escort.
<table>
<thead>
<tr>
<th>Reporting Requirements</th>
<th>Reporting Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.3 Inform the Administration in case of major casualties or serious safety-related issues which would normally result in suspension of class or be considered sufficient to detain a Vessel from proceeding to sea pending correction and explain the cause.</td>
<td>Immediate.</td>
</tr>
<tr>
<td>6.0 CLASS NOTATION</td>
<td></td>
</tr>
<tr>
<td>6.1 The Administration shall be informed on each occasion a notation assigned to a Vessel is suspended or reinstated.</td>
<td>Immediate.</td>
</tr>
<tr>
<td>6.2 Certificates or certifying statements attesting to the continued assignment of the Periodically Unattended Machinery Space (&quot;PUMS&quot;) notation shall be issued to the Administration and Vessel owners on request.</td>
<td>On request</td>
</tr>
<tr>
<td>6.3 The Administration shall be informed on each occasion a notation assigned to a Vessel with regards to PUMS is suspended for any cause or when it is reinstated.</td>
<td>Immediate.</td>
</tr>
<tr>
<td>7.0 LABOUR GRIEVANCES</td>
<td></td>
</tr>
<tr>
<td>7.1 The RO will immediately forward to the Administration any formal labor grievance or complaint brought to its attention in writing by a seafarer or seafarers onboard a Vessel to which the RO is providing Statutory Certification and Services.</td>
<td>Immediate.</td>
</tr>
<tr>
<td>7.2 In the event the labor grievance or complaint is informally communicated through verbal means to the RO, the seafarers or seafarers concerned shall be provided with the contact information of the Administration.</td>
<td></td>
</tr>
<tr>
<td>8.0 DETENSIONS, DEFICIENCIES AND NON-CONFORMITIES</td>
<td></td>
</tr>
<tr>
<td>8.1 The Administration shall be notified by the RO of any detention, contravention, casualty, or pollution incident brought to its knowledge involving Vessels to which the RO is providing relevant Statutory Certification and Services that would appear to warrant a report to the International Maritime Organization (&quot;IMO&quot;) in accordance with SOLAS 74/78, Chapter I, Part C, Regulations 19 and 21, or MARPOL 73/78, Article 6.</td>
<td>Immediate.</td>
</tr>
<tr>
<td>8.2 The RO shall inform the Administration when a survey, audit, or inspection of a Vessel requires invalidation or withdrawal of a statutory certificate.</td>
<td>Immediate.</td>
</tr>
<tr>
<td>8.3 The Administration shall be provided with a survey report of any statutory survey or inspections resulting due to a detention.</td>
<td>On completion of such survey/inspection.</td>
</tr>
<tr>
<td>8.4 The Administration shall be notified immediately upon the RO becoming aware of a situation on board a Vessel involving a major deficiency, or serious safety related case, that would normally be considered sufficient to detain a Vessel from proceeding to sea pending correction.</td>
<td>Immediate.</td>
</tr>
<tr>
<td>8.5 The Administration shall be informed immediately upon the RO becoming aware of a situation on board a Vessel or within a Company involving a major nonconformity, as defined in the Guidelines on the Implementation of the International Safety Management (ISM) Code by IMO Resolution A.1071(28), as amended.</td>
<td>Immediate.</td>
</tr>
<tr>
<td>8.6 The Administration shall be notified of any major nonconformities of a Vessel identified by third party audits.</td>
<td>Immediate.</td>
</tr>
<tr>
<td>Reporting Requirements</td>
<td>Reporting Frequency</td>
</tr>
<tr>
<td>------------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>8.7 The Administration shall be informed, as soon as possible, of any dangerous occurrences, accidents, machinery or structural breakdown, or failures that they are aware of on a Vessel.</td>
<td>Immediate.</td>
</tr>
<tr>
<td>8.8 The RO shall notify the Administration whenever a survey is requested to clear PSC action codes 30, 17, 15, 16, 40, 50, and/or 60 imposed as a result of a PSC examination, regardless of whether or not the Vessel is detained.</td>
<td>Immediate.</td>
</tr>
<tr>
<td>9.0 RO'S QUALITY MANAGEMENT SYSTEM (QMS)</td>
<td></td>
</tr>
<tr>
<td>9.1 The Administration shall be provided with relevant documentation relating to the RO's QMS.</td>
<td>Upon request.</td>
</tr>
<tr>
<td>9.2 The Administration shall be notified of any invalidation of the RO's QMS certificate or any change in the scope of the certification.</td>
<td>Immediate.</td>
</tr>
<tr>
<td>9.3 The Administration shall be notified of major nonconformities in an RO's QMS identified by third party auditors where they relate to Statutory Certification and Services on Dominica Vessels.</td>
<td>Immediate.</td>
</tr>
<tr>
<td>9.4 Where there is an exceptional and duly justified case that the RO's own exclusive surveyor, inspector, or auditor is not available, the Administration shall be notified and have the authority to nominate an exclusive surveyor, inspector, or auditor of another recognized organization to perform the Statutory Certification and Services.</td>
<td>As soon as possible and without undue delay.</td>
</tr>
<tr>
<td>10.0 DOMINICA DELEGATIONS</td>
<td></td>
</tr>
<tr>
<td>10.1 Where, at the Administration's request, the RO has provided a technical advisor/member to an DMA delegation pursuant to this Agreement, the RO's technical advisor/member shall provide a summary report of significant aspects of the meeting.</td>
<td>Without undue delay.</td>
</tr>
<tr>
<td>11.0 INFORMATION, DOCUMENTATION AND STATISTICS</td>
<td></td>
</tr>
<tr>
<td>11.1 The Administration shall be provided with access to the RO's documentation that is relevant to the Vessels registered in the DMA. Additionally, the Administration shall be provided relevant information and statistics relating to the DMA Fleet, including, but not limited to, information and statistics relating to damage and casualties.</td>
<td>Upon request, as necessary.</td>
</tr>
<tr>
<td>11.2 Upon request the RO shall provide the Administration with any relevant statistics and other information, as mutually agreed and provided by a Marine Safety Circular, necessary for the Administration to produce the Annual MLC, 2006 Report on inspection activities and other reports as may be necessary.</td>
<td>Upon request.</td>
</tr>
<tr>
<td>12.0 APPEALS</td>
<td></td>
</tr>
<tr>
<td>12.1 Immediate notification shall be provided to the Administration of any appeal relating to a Vessel registered in the DMA.</td>
<td>Immediate.</td>
</tr>
<tr>
<td>12.2 The Administration shall be kept fully informed of the status of any appeals and be provided the opportunity for input, where appropriate.</td>
<td></td>
</tr>
<tr>
<td>12.3 The Administration shall be informed of all appeals decisions and when cases are closed out.</td>
<td></td>
</tr>
</tbody>
</table>
ANNEX III

DEFINITIONS
ANNEX III

DEFINITIONS

The following definitions and acronyms are used throughout the Agreement and the Annexes:

Administration: The Commonwealth of Dominica Maritime Administration.


AIB: Aviation Inspection Body.

Annex I: "Applicable Instruments, As May Be Amended, and Degree of Authorization."

Annex II: "Reporting to the Administration."

Annex III: "Definitions."


Appointed Representative (AR): An Administration appointed agent or representative that conducts statutory surveys of unclassed yachts for the issuance of statutory certificates (initial, annual, and renewal surveys), compliance verifications, and other services in accordance with a written agreement.

BCII Code: Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk, as amended.


BWMP: Ballast Water Management Plan.

Classification Society: A Classification Society recognized by the Administration.
<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>COLREGS</td>
<td>International Regulations on Preventing Collisions at Sea, 1972, as amended.</td>
</tr>
<tr>
<td>Company</td>
<td>The owner of the Vessel or any other organization or person, such as the manager or the bareboat charterer, who has assumed the responsibility for operation of the Vessel from the Shipowner and who, on assuming such responsibility, has agreed in writing to take over all the duties and responsibilities imposed by the ISM Code. For the purposes of this Agreement, this term shall have the same meaning as for the term &quot;Shipowner&quot; when used in the application of MLC, 2006 services.</td>
</tr>
<tr>
<td>CSCC</td>
<td>The Classification Society Consultative Committee.</td>
</tr>
<tr>
<td>DMA</td>
<td>Commonwealth of Dominica Maritime Administration.</td>
</tr>
<tr>
<td>DMLC</td>
<td>Declaration of Maritime Labour Compliance.</td>
</tr>
<tr>
<td>DOC</td>
<td>ISM Code Document of Compliance.</td>
</tr>
<tr>
<td>EC</td>
<td>European Commission.</td>
</tr>
<tr>
<td>EU</td>
<td>European Union.</td>
</tr>
<tr>
<td>GC Code</td>
<td>Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk, as amended.</td>
</tr>
<tr>
<td>IACS</td>
<td>International Association of Classification Societies.</td>
</tr>
<tr>
<td>III Code</td>
<td>IMO Implementation of Instruments Code, as amended.</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organization.</td>
</tr>
<tr>
<td>IMO</td>
<td>International Maritime Organization.</td>
</tr>
</tbody>
</table>

**III-m**
IMSBC Code: International Maritime Solid Bulk Cargoes Code.

IOPP: International Oil Pollution Prevention.

IS: Intact Stability.


Policy Letter: National requirement that, when properly promulgated by the Maritime Administration, has the force and effect of Regulations.


Maritime Regulations: DMA Maritime Regulations, as amended.

Maritime Safety Circular: Supplemental instruction from the Administration to the RO addressing specific areas relevant only to Statutory Certification and Services delegated.


MODU: Mobile Offshore Drilling Unit.

MOU: Mobile Offshore Unit.

MoU: Memorandum of Understanding.

PRs: IACS Procedural Requirements.
PSC: Port State Control.

PSCO: Port State Control Officer.

PUMS: Periodically Unattended Machinery Space.

QSCS: IACS Quality System Certification Scheme.

Recognized Organization: An entity that has been delegated authority to act on behalf of the Administration with respect to Statutory Certification and Services and, if a Classification Society, that has been assessed by the Administration and found to comply with the RO Code or, if an Appointed Representative, that has been assessed by the Administration and found to substantially comply with the RO Code.

Representatives: Officers of the Administration and the RO which include, but are not limited to, surveyors, inspectors, and/or auditors.

RO: The entity that has been delegated authority pursuant to this Agreement to act on behalf of the Administration with respect to Statutory Certification and Services. The RO has been assessed by the Administration and found to comply with the RO Code.

RO Code: IMO Code for Recognized Organizations, serving as the international standard and consolidated instrument containing the minimum criteria against which recognized organizations are assessed towards recognition and authorization and the guidelines for the oversight by flag States.

RSO: An organization with appropriate expertise in security matters, and with appropriate knowledge of ship and port operations, authorized to carry out an assessment, verification, approval, or certification activity required by SOLAS Chapter XI-2 or by part A of the ISPS Code. Only those Classification Societies that have been specifically designated by the Administration in writing may act as a RSO on DMA flagged Vessels.

Rules: The Rules and Regulations of the RO.

SMS: Safety Management System.

SOLAS 74/78: The International Convention on the Safety of Life at Sea, 1974, and the Protocol of 1988, as may be further amended.

SPS Code: Code of Safety for Special Purpose Ships.

Statutory Certification and Services:

Certificates issued, and services provided, on the authority of laws, rules, and regulations set down by the DMA. This includes plan review, survey, inspection and/or audit leading to the issuance of, or in support of the issuance of, a certificate by or on behalf of the Administration as evidence of compliance with requirements contained in an international convention or national legislation. This also includes certificates issued by an organization recognized by the DMA flag State in accordance with the provisions of SOLAS regulation XI-1/1, and which may incorporate demonstrated compliance with the structural, mechanical, and electrical requirements of the RO under the terms of its agreement of recognition with the Administration.

TDC Code:


UIs:

IACS Unified Interpretations.

URs:

IACS Unified Requirements.

VDR:

Voyage Data Recorders.

Vessel(s):

Vessel(s) registered in the DMA.