



E u r o p e a n M a r i t i m e S a f e t y A g e n c y

PRESENTATION

The agreements between the Flag Administration and the Recognised Organisations

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E u r o p e a n M a r i t i m e S a f e t y A g e n c y

The agreements between the Flag Administration and the Recognised Organisations

- Why?
- Main elements of the agreement
- Examples

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Why an agreement?

- Delegation to perform a public service;
- EU legislation
- IMO RO Code

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Authorisation of Recognised Organisations

- IMO RO Code, Part 2, Section 8
 - Legal basis of the functions under authorisation
 - The formal written agreement
 - Acts, regulations and supplementary information
 - Interpretations
 - Deviations and equivalent solutions
 - Specification of authorisation
 - ...

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Elements to be included in an agreement

- RO Code, Appendix 3

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Elements to be included in an agreement

- Purpose

“1. Purpose

1.1 The purpose of this Agreement is to delegate authority to the RO to perform Statutory Surveys, Inspections and Certification Services and to define the framework, scope, terms, conditions and requirements of that delegation. Statutory surveys and the issuance of relevant certificates, except ISM and ISPS Code Certification are limited to ships classed by the “RO”.

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Elements to be included in an agreement

- General conditions:
- 3.6 *The RO shall ensure that no conflict of interest will arise between its obligations under this Agreement and those arising from other commercial activities it may be engaged in. Specifically that control of its activities will not be governed by ship owners, ship operators, shipbuilders or other commercial organisations associated with the repair, construction or operation of ships.*
- 3.7 *The RO is obliged to maintain a local representation in 'Country'. This requirement is satisfied by a local representation of a legal nature ensuring legal personality under National law and the competence of National courts.*

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Elements to be included in an agreement

- The execution of functions under authorisation:
 - Functions in accordance with the general authorisation
 - Functions in accordance with special (additional) authorisation
 - Relationship between the organisation's statutory and other related activities
 - Functions to cooperate with port States to facilitate the rectification of reported port State control deficiencies or the discrepancies within the organisation's purview

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Elements to be included in an agreement

- The execution of functions under authorisation:
 - Functions in accordance with the general authorisation

"Statutory functions and certification services comprise the assessment of FS registered ships classed with RO or when so otherwise authorised in accordance with Annex 1, in order to determine the compliance of such ships with the applicable requirements of the international conventions, codes, EU Directives, EU Regulations and national requirements"

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Elements to be included in an agreement

- The execution of functions under authorisation:
 - Functions in accordance with special (additional) authorisation

"Authorisation for services outside the scope of Annex 1 to this Agreement will be dealt with as... "

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Elements to be included in an agreement

- Cooperation with Port State Control

“In so far as the certification services covered by this Agreement are concerned, the RO agrees to co-operate with port State control officers to facilitate the rectification of reported deficiencies, when so requested, and carry out any other inspections on behalf of the Competent Authority in accordance with standing instructions and as may be specifically requested. All reports on these shall be forwarded without delay to the Competent Authority.”

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Elements to be included in an agreement

- Legal basis of the functions under authorisation
 - Acts, regulations and supplementary provisions
 - Interpretations
 - Applicable interpretations, authority
 - Procedure
 - Deviations and equivalent solutions
 - Authority to approve deviations
 - Procedure, including urgent situations, etc.

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Elements to be included in an agreement

– Deviations and equivalent solutions

3.2 All requests for exemptions and equivalencies (per International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended, Regulations 4 and 5 respectively), must be forwarded to the Administration for approval. Such requests must include supporting information and a recommendation from The RO concerning approval. Upon approval by the Administration, The RO may issue the appropriately annotated SOLAS Cargo Ship Safety Construction Certificate.

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Elements to be included in an agreement

Deviations and equivalent solutions

12. Interpretations and equivalents

12.1 The RO shall decide on interpretations and equivalents within the framework of the agreement and according to the following hierarchy of rules and guidance:

- a) **National laws**
- b) Orders, regulations, interpretations and circulars, etc. issued by the **Flag administration**
- c) Regulations, interpretations and other communications issued by the European Community.
- d) Resolutions, circulars and other statutory documents issued by the IMO.
- e) Procedures, regulations and interpretations issued by the entity referred to in article 11 of the RO Regulation (QACE).
- f) Procedures, regulations and interpretations issued by IACS.

12.2 If no rules or guidance is available for RO decisions on interpretations and equivalents according to the hierarchy mentioned in section 13.1, the RO shall make a motivated proposal to the Admin. for final decision.

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Elements to be included in an agreement

Deviations and equivalent solutions

4. Interpretations, Equivalents and Exemptions

4.1 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 Competent Authority, the RO may use his professional judgment to interpret technical requirements of the international instruments and accept equivalents within the limits of these instruments and in accordance with the RO's technical standards, subject to keeping the Competent Authority informed at all times which should provide its confirmation or not.

4.2 All exemptions from the requirements of the applicable instruments must be approved by the Competent Authority prior to issuance.

4.3 In instances where, temporarily, the requirements of an applicable instrument cannot be met, an RO surveyor may 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. Wherever possible surveyors of the RO shall undertake this duty in consultation with the Competent Authority. Where this is impractical the Competent Authority shall be informed of the provisions taken at the earliest opportunity thereafter.

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Elements to be included in an agreement

- Reporting to the flag State
 - Procedures for reporting in the case of general authorisation
 - Procedures for reporting in the case of special authorisation
 - Reporting on classification of ships
 - Reporting of cases where a ship did not in all respects remain fit to proceed to sea without danger
 - ...
 - Other reporting

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Elements to be included in an agreement

- Reporting to the flag State

5. Information and Liaison

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5.1 The RO will report to the Competent Authority such information and at such frequency as agreed between the RO and the Competent Authority, as specified in Appendix 2 to this Agreement.

5.2 The Competent Authority shall be granted access to all plans and documents including reports on surveys, on the basis of which certificates are issued or endorsed by the RO on behalf of the Competent Authority. This includes remote access to any computer records of the above.

Elements to be included in an agreement

- Reporting to the flag State (II)

1. The RO shall keep the Competent Authority informed of the work being carried out in accordance with the authorization granted, and in accordance with notices and circulars listed in Appendix 3.

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1.1 All reports on inspections or surveys carried out in accordance with the provisions of article 3 of this Agreement shall be forwarded without delay to the Competent Authority

2. The Competent Authority shall be informed in writing when a [REDACTED] ship has been assigned classification by the RO. This information shall include any restrictions or other essential limiting conditions relating to class or statutory certificates, regarding the operation and trading area of the ship. Significant deviation, if any, from the RO's rules, shall be reported.

3. The RO is to advise the Competent Authority promptly, in writing, when the RO suspends, withdraws, cancels, or alters either the classification status, or

Elements to be included in an agreement

- Reporting to the flag State (III)

"Whenever a request for classification of a ship that will be or has been registered in the Flag Register is received, the RO shall immediately inform the Competent Authority.

The RO will inform the Competent Authority immediately, by the most effective means when a statutory certificate is amended, withheld or withdrawn together with the reasons for this withholding or withdrawal."

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Elements to be included in an agreement

- Reporting to the flag State (IV)

"The RO shall, as soon as possible after completing the initial survey or inspection within the scope delegated under Appendix 1, send the Competent Authority confirmation to the effect that the ship complies with the relevant requirements. Also that all reports on the surveys undertaken have been received, checked and filed. In all cases, when the RO issues or renews certificates which is authorized to issue, copies of them shall be sent to the Competent Authority."

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Elements to be included in an agreement

- Reporting to the flag State (V)

5.7 The RO agrees to provide the Competent Authority with electronic access to any databases it maintains on ships registered in [REDACTED]. Access shall enable the Competent Authority to view the survey status, recommendations or conditions issued, reports of statutory and class surveys and any repair or remedial action taken in respect of defective items or areas found during survey. Access shall be permitted on a 24 hour basis, for an agreed number of simultaneous users and other than communication costs without charge to the Competent Authority.

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Elements to be included in an agreement

- Reporting to the flag State (VI)

10.3 When [REDACTED] makes a determination that a [REDACTED], flagged vessel [REDACTED] in [REDACTED] receiving certificates under this Agreement is not in compliance with class rules, applicable international conventions, or supplemental requirements under which its reports or certificates were issued and corrective action is either insufficient to ensure compliance or is not taken or are beyond any extensions allowable under the appropriate instruments, [REDACTED] immediately shall report the determination to the [REDACTED]. The report shall contain the vessel name and official number, if applicable, and a description of the circumstances and deficiencies.

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Elements to be included in an agreement

- Development of rules and regulations
 - Cooperation in connection with development of rules and/or regulations
 - Exchange of rules and/or regulations and information
 - Language and form

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Elements to be included in an agreement

- Development of rules and regulations
- 16.1 The RO and the **Administration**, recognising the importance of technical liaison, agree to co-operate toward this end and maintain an effective dialogue.
- 16.2 The RO shall invite the **Administration** to participate in relevant technical committees, etc. in order to permit the Administration to participate in the development of the rules and procedures.
- 16.3 The **Administration** shall provide the RO with access to all appropriate instruments of national law giving effect to the provisions of the conventions, notify the RO of any additions, deletions or revisions thereto in advance of their effective date and specify whether the **National standards** go beyond convention requirements in any respect.

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Elements to be included in an agreement

- Other Conditions
 - Remuneration
 - Rules for administrative proceedings
 - Confidentiality
 - Liability
 - Financial responsibility
 - Entry into force
 - Termination
 - Breach of agreement
 - Settlement of disputes
 - Use of subcontractors
 - Issue of the agreement
 - Amendments

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Elements to be included in an agreement

- Other Conditions
 - Confidentiality

Example 1

- 7.2 Confidentiality

In so far as activities related to this Agreement are concerned, both the RO and the Competent Authority shall be bound by a confidentiality provision to be agreed between them, subject to the provisions of the National Legislation in force

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Example 2

- 8. Confidentiality

8.1 When acting on behalf of the Administration, the RO, its bodies, employees, agents or others who act on behalf of the RO shall be subject to the following rules of national law on confidentiality & disclosure for the national public service,

Elements to be included in an agreement

- Other Conditions
 - Use of subcontractors

Surveys in accordance with the authorizations given in Appendix 1 shall be carried out only by surveyors working exclusively for the RO. The RO may use exclusive surveyors of another organization with which the RO has a bilateral Agreement provided that the other organization is recognized by the Competent Authority. Whilst remaining responsible for the certification on behalf of the Competent Authority, the RO may subcontract radio surveys to a professional radio installation inspection service company recognised by the RO and in accordance with circulars produced by the Competent Authority.

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Elements to be included in an agreement

- Specification of the authorisation from the flag State to the organisation:
 - Ship types and sizes
 - Conventions and other instruments, including relevant national legislation
 - Approval of drawings
 - Approval of material and equipment
 - Surveys
 - Issue of certificates
 - Corrective actions
 - Withdrawal of certificates
 - Reporting

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Elements to be included in an agreement

- Specification of the authorisation from the flag State to the organisation:

1. The RO is authorized to carry out statutory surveys, inspections and certification services on behalf of the Competent Authority in respect of registered ships, flying the [REDACTED] Flag in accordance with the following table. Any subsequent additions or amendments to this table shall be effected by an exchange of letters between the Competent Authority and the RO.

2. This authorisation includes Passenger ships, Cargo ships and any other ships to which the International Conventions and applicable instruments listed in Appendix 3 apply.

3. The RO is authorized to perform : plan approvals (including approvals of drawings, specifications, procedures and manuals required by the International Conventions given in Appendix 3 and detailed in the table below), to approve intact and damage stability calculations and documentation, to survey and inspect as required by the conventions or national instruments also listed in Appendix 3. Such surveys include, when appropriate, those made under the Harmonized System of Survey and Certification (HSSC) scheme.

4. The RO is authorised to issue certificates as required by the Conventions and other instruments prescribed by the IMO or listed in Appendix 3. When issuing certification under the HSSC only individual certificates for Loadline, Safety Construction, Safety Radio and Safety Equipment shall be issued.

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Elements to be included in an agreement

AUTHORIZATIONS TABLE

	Applicable Legislation	Authorisation (Certificate/Endorsement)				Plans, manuals etc and Stability approvals Ref Para 3
		Initial (*)	Renewal (*)	Annual/Intermediate	Exemption	
1	Solas Convention 1974 and the Protocols of 1978 and 1988 as amended and other mandatory SOLAS instruments					
1.1	Cargo Ship Safety Construction Certificate	F	F	F	N	F
1.2	Cargo Ship Safety Equipment Certificate	F	F	F	N	F
1.3	Cargo Ship Safety Radio Certificate (GMDSS)	F	F	F	N	N/A

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Elements to be included in an agreement

- Corrective actions

10.3 Where the condition of a ship or company, its equipment, manning or operation in important respects is found not to be in accordance with the specifications of the relevant certificates, or to be such that the ship is not fit for navigation without danger to the ship or those on board or the marine environment or to third parties or represent significant deviations from the standards required in international conventions and rules, national laws, rules and regulations, the RO shall immediately make sure that the necessary corrective actions are taken to rectify the defects. This obligation applies regardless of how such faults or defects are discovered.

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10.4 If such corrective actions are not taken, the relevant certificates shall be cancelled /withdrawn

The cancellation/withdrawal of an ISM Document of Compliance (DOC) requires special provisions; refer to the annex to this agreement. by the RO. The company and the Administration shall be notified immediately. If the ship is in a port outside "Country", the appropriate authorities of the port State shall also be notified immediately.

Elements to be included in an agreement

- Corrective actions

- *When the general condition of a ship or its equipment does not correspond substantially with the particulars of any of the certificates issued to it, or if its condition is found to be such that the ship is not fit to proceed to sea without danger to the ship or the persons on board, or presents an unreasonable threat of harm to the marine environment, the RO surveyor shall bring these issues to the master's attention by written notice. The surveyor shall specify that their non-rectification before departure will result in the withdrawal of applicable certificates. If it becomes apparent that the deficiencies either cannot or are unlikely to be completed through any reason, before departure the surveyor shall immediately inform the Competent Authority, copying the notice previously referred to. Upon Agreement the surveyor shall withdraw the applicable statutory Certificates, again serving written notice of this to the Master, the Shipowner or Operator and Port State officials of the port in which the ship is moored or berthed.*

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Elements to be included in an agreement

- Corrective actions
 - *In other instances where temporarily the requirements of a relevant convention cannot be complied with before departure e.g. appropriate repair or service facilities not being available, a report should be urgently sent to the Competent Authority by the most direct means giving details of the problem and requesting instructions or approval of equivalent arrangements to permit the ship to proceed to a suitable port where permanent repairs or rectifications can be effected or replacement equipment fitted.*

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Elements to be included in an agreement

- The flag State's supervision of duties delegated to the organisation
 - Documentation of quality assurance system
 - Access to internal instructions, circulars and guidelines
 - Access by the flag State to the organisation's documentation relevant to the flag State's fleet
 - Cooperation with the flag State's inspection and verification work
 - Provision of information and statistics on e.g. damage and casualties relevant to the flag State's fleet

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Elements to be included in an agreement

- The flag State's supervision of duties delegated to the organisation
 - Monitoring
 - Auditing
 - Ship Inspections
 - Fleet performance

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Elements to be included in an agreement

- The flag State's supervision of duties delegated to the organisation
- 6. Supervision
- 6.1 *the Competent Authority will periodically monitor the work delegated to the RO under this Agreement and satisfy itself that the RO's quality system is satisfactory in meeting the requirements... The RO also undertakes to make available to the Competent Authority the results of other audits of the quality system carried out by independent bodies for the issue or maintenance of quality certification.*
- 6.3 *The RO undertakes to give the audit team of the Competent Authority access to the documentation system... And information concerning the ships covered by the authorization.*
- 6.6 *The Competent Authority shall satisfy itself that the functions delegated to the RO are effectively being carried out by performing random inspections of flag State registered ships in order to control the ships of its fleet, and to review the work of the RO.*

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Some agreements available:

- UK:
 - <http://www.dft.gov.uk/mca/>
- Cyprus:
 - <http://www.mcw.gov.cy/>
- Denmark:
 - <http://www.soefartsstyrelsen.dk/>
- USA:
 - <http://www.uscg.mil/hq/cg5/acp/>
- Italy:
 - <http://www.mit.gov.it/mit/site.php?p=cm&o=vd&id=1850>
- France:
 - <http://www.developpement-durable.gouv.fr/>
- Norway:
 - <http://www.sjofartsdir.no/en/vessels/inspection/approved-classification-societies/klasseavtalen/>