

**MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL  
IN THE ASIA-PACIFIC REGION \***

The Maritime Authorities of

**Australia** <sup>1)</sup>

**Canada** <sup>2)</sup>

**Chile** <sup>3)</sup>

**China** <sup>1)</sup>

**Fiji** <sup>4)</sup>

**Hong Kong, China** <sup>1)</sup>

**Indonesia** <sup>5)</sup>

**Japan** <sup>6)</sup>

**Republic of Korea** <sup>7)</sup>

**Malaysia** <sup>6)</sup>

**Marshall Islands** <sup>8)</sup>

**New Zealand** <sup>6)</sup>

**Papua New Guinea** <sup>6)</sup>

**Peru** <sup>9)</sup>

**Philippines** <sup>10)</sup>

**Russian Federation** <sup>11)</sup>

**Singapore** <sup>12)</sup>

**Solomon Islands** <sup>13)</sup>

**Thailand** <sup>14)</sup>

**Vanuatu** <sup>15)</sup>

**Viet Nam** <sup>16)</sup>

hereinafter referred to as "the Authorities"

**Recognizing** the importance of the safety of life at sea and in ports and the growing urgency of protecting the marine environment and its resources;

**Recalling** the importance of the requirements set out in the relevant maritime conventions for ensuring maritime safety and marine environment protection;

**Recalling** also the importance of the requirements for improving the living and working

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- \* This text contains the 18<sup>th</sup> amendments adopted on 6 November 2018 with the effect on 1 December 2018.
- 1) Accepted the Memorandum on 11 April 1994.
- 2) Accepted the Memorandum on 15 April 1994.
- 3) Became a member Authority on 10 June 2002 in accordance with paragraph 8.2 of the Memorandum.
- 4) Accepted the Memorandum on 1 June 1996.
- 5) Accepted the Memorandum on 1 April 1996.
- 6) Accepted the Memorandum on 1 April 1994.
- 7) Accepted the Memorandum on 7 April 1994.
- 8) Became member Authority on 28 October 2013 in accordance with paragraph 8.2 of the Memorandum.
- 9) Became member Authority on 5 October 2015 in accordance with paragraph 8.2 of the Memorandum.
- 10) Accepted the Memorandum on 9 September 1997.
- 11) Accepted the Memorandum on 1 April 1995.
- 12) Accepted the Memorandum on 9 April 1994.
- 13) Not yet accepted the Memorandum.
- 14) Accepted the Memorandum on 1 May 1996.
- 15) Accepted the Memorandum on 26 April 1994.
- 16) Accepted the Memorandum on 1 January 1999.

conditions at sea;

**Noting** the resolutions adopted by the International Maritime Organization (IMO), and especially Resolution A.682(17) adopted at its 17th Assembly, concerning regional co-operation in the control of ships and discharges;

**Noting** also that the Memorandum is not a legally binding document and is not intended to impose any legal obligation on any of the Authorities;

**Mindful** that the principal responsibility for the effective application of standards laid down in international instruments rests upon the administrations whose flag a ship is entitled to fly;

**Recognizing** nevertheless that effective action by port States is required to prevent the operation of substandard ships;

**Recognizing** also the need to avoid distorting competition between ports;

**Convinced** of the necessity, for these purposes, of an improved and harmonized system of port State control and of strengthening cooperation and the exchange of information;

have reached the following understanding:

## **Section 1 General**

- 1.1** Each Authority that has accepted the Memorandum will give effect to the provisions of the present Memorandum.
- 1.2** For the purposes of the Memorandum, references to the "region", to "regional", to "regional ports" or to "regional port State control" mean the Asia-Pacific region, and references to "port State" means the States, and the territories recognized as Associate Members of IMO in which the ports are located.
- 1.3** Each Authority will establish and maintain an effective system of port State control with a view to ensuring that, without discrimination, foreign merchant ships calling at a port of its Authority, or anchored off such a port comply with the standards laid down in the relevant instruments as defined in section 2.
- 1.4** Each Authority, under the coordination of the Committee established pursuant to paragraph 6.1, will determine an appropriate annual percentage of individual foreign merchant ships, hereinafter referred to as "ships", to be inspected. The Committee will monitor the overall inspection activity and its effectiveness throughout the region. As the target, subject to subsequent review, the Committee will endeavour to attain a regional annual inspection rate of 80% of the total number of ships operating in the region. The percentage is based on the number of ships which entered regional ports during a recent base period to be decided by the Committee.

**1.5** Each Authority will consult, cooperate and exchange information with the other Authorities in order to further the aims of the Memorandum.

## **Section 2 Relevant Instruments**

**2.1** For the purposes of the Memorandum, the following are the relevant instruments on which regional port State control is based:

- .1 the International Convention on Load Lines 1966;
- .2 the Protocol of 1988 relating to the International Convention on Load Lines, 1966;
- .3 the International Convention for the Safety of Life at Sea, 1974 as amended;
- .4 the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974;
- .5 the Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974;
- .6 the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 relating thereto;
- .7 the International Convention on Standards for Training, Certification and Watchkeeping for Seafarers, 1978, as amended;
- .8 the Convention on the International Regulations for Preventing Collisions at Sea, 1972;
- .9 the International Convention on Tonnage Measurement of Ships, 1969;
- .10 the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No. 147);
- .11 the Maritime Labour Convention, 2006 (MLC, 2006);
- .12 the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001;
- .13 the Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC PROT 1992); and
- .14 the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004 (BWM 2004).

- 2.2** With respect to the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO Convention No. 147) and MLC, 2006, each Authority will be guided by the instructions in Sections 2-2\*, 3.1-4\*\* and 3.2-3\*\*\* of the Asia-Pacific Port State Control Manual (hereinafter referred to as the "Manual"). The implementation of ILO Convention No. 147 will not require any alterations to structure or facilities involving accommodation for ships whose keels were laid down before April 1, 1994. The implementation of MLC, 2006, will not require any alterations to structure or facilities involving accommodation for ships whose keels were laid down before 20 August 2013.
- 2.3** In the application of the other relevant instruments, each Authority will be guided by the standards specified in Section 2-1\*\*\*\* of the Manual.
- 2.4** Each Authority will apply those relevant instruments which are in force and are binding upon it. In the case of amendments to a relevant instrument each Authority will apply those amendments which are in force and which are binding upon it. An instrument so amended will then be deemed to be the 'relevant instrument' for that Authority.
- 2.5** In applying a relevant instrument for the purpose of port State control, the Authorities will ensure that no more favourable treatment is given to ships entitled to fly the flag of a non-party to that instrument.
- 2.6** When inspecting ships for provisions of the relevant instruments to which it is a Party, the Authority as the port State will not impose standards on foreign ships that are in excess of standards applicable to ships flying the flag of that port State.

### **Section 3 Inspection Procedures, Rectification and Detention**

- 3.1** In implementing this Memorandum, the Authorities will carry out inspections, which will consist of at least a visit on board a ship in order to check the certificates and documents, and furthermore satisfy themselves that the crew and the overall condition of the ship, its equipment, machinery spaces and accommodation, and hygienic conditions on board, meets the provisions of the relevant instruments. In the absence of valid certificates, or if there are clear grounds for believing that the crew or the condition of the ship or its equipment does not substantially meet the requirements of a relevant instrument, or the master or crew are not familiar with essential shipboard procedure relating to the safety of ships or the prevention of pollution, a more detailed inspection will be carried out. Inspections will be carried out in accordance with the Manual.

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\* ILO publication of "Inspection of Labour Conditions on Board Ship: Guide-lines for Procedure".

\*\* Guidelines for PSC additional to Resolution A.1119 (30) and ILO control procedures.

\*\*\* Guidelines for PSC Officers on Maritime Labour Convention, 2006.

\*\*\*\* Procedures for Port State Control, 2017 (Resolution A.1119 (30)).

**3.2 Clear Grounds**

- 3.2.1** For the purpose of control, specific ‘clear grounds’ include those as prescribed in paragraph 2.4 of Resolution A.1119(30) and in Section 3.1-4 of the Manual.
- 3.2.2** Nothing in these procedures should be construed as restricting the powers of the Authorities to take measures within their jurisdiction in respect of any matter to which the relevant instruments relate.

**3.3 Selection of ships for inspection**

- 3.3.1** In selecting ships for inspection, the Authorities will determine the order of priority based on, in principle, the new inspection regime (hereinafter referred to as the “NIR”) as prescribed in Annex 2.
- 3.3.2** Regardless of the NIR, as referred to in paragraph 3.3.1, the following ships will be considered to have overriding priority for inspection:
- .1 ships which have been subject of report or notification by another Authority;
  - .2 ships which have been the subject of a report or complaint by the master, a crew member, or any other person or organization with a legitimate interest in the safe operation of the ship, shipboard living and working conditions or the prevention of the pollution, unless the Authority concerned deems the report or complaint to be manifestly unfounded;
  - .3 ships which have been permitted to leave the port of a State, the Authority of which is a signatory to the Memorandum, on the condition that the deficiencies noted must be rectified within a specified period, upon expiry of such period;
  - .4 ships which have been reported by pilots or port authorities as having deficiencies which may prejudice their safe navigation;
  - .5 ships carrying dangerous or polluting goods, which have failed to report all relevant information concerning the ships’ particulars, the ships movements and concerning the dangerous or polluting goods being carried to the competent authority of the port and coastal State;
  - .6 ships referred to in paragraph 3.9; and

- .7 category of ships identified by the Committee from time to time as warranting priority inspections.
- 3.4** Each ship in the information system will be attributed a ship risk profile, in accordance the NIR, based on which the priority for inspection and the interval for inspection will be determined. However, the frequency of inspection under the NIR does not apply to ships referred to in paragraph 3.3.2, in which case the Authorities will inspect as appropriate.
- 3.5** Inspections will be carried out by properly qualified persons authorized for that purpose by the Authority concerned and acting under its responsibility having regard to sections 1.8 and 1.9 of Resolution A.1119(30) contained in Section 2-1 of the Manual.
- 3.6** Each Authority will endeavour to secure the rectification of all deficiencies detected. On the condition that all possible efforts have been made to rectify all deficiencies, other than those referred to in 3.7, the ship may be allowed to proceed to a port where any such deficiencies can be rectified. The provisions of 3.8 apply accordingly.

In exceptional circumstances where, as a result of the initial control and a more detailed inspection, the overall condition of a ship and its equipment, also taking the seafarers and their living and working conditions into account, are found to be substandard, the Authority may suspend an inspection.

The suspension of the inspection may continue until the responsible parties have taken the steps necessary to ensure that the ship complies with the requirements of the relevant instruments.

Prior to suspending an inspection, the Authority will have recorded detainable deficiencies in the areas set out in Appendix 2 of Resolution A.1119(30) and ILO Convention deficiencies \*, as appropriate.

In cases where the ship is detained and an inspection is suspended, the Authority will, as soon as possible, notify the responsible parties. The notification will include information about the detention. Furthermore it shall state that the inspection is suspended until the Authority has been informed that the ship complies with all relevant requirements.

- 3.7** In the case of deficiencies which are clearly hazardous to safety, health or the environment, the Authority will, except as provided in 3.8, ensure that the hazard is removed before the ship is allowed to proceed to sea. For this purpose appropriate action will be taken, which may include detention or a formal prohibition of a ship to continue an operation due to established deficiencies which, individually or together, would render the continued

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\* Examples of detainable deficiencies are set out in Section 3.1-4 of the Manual.

operation hazardous. In the event of a detention, the Authority will as soon as possible, notify in writing the flag State or its consul or, in his absence, its nearest diplomatic representative of all the circumstances in which intervention was deemed necessary. Where the certifying Authority is an organization other than a maritime administration, the former will also be advised.

In the case of a detention related to a non-compliance with the MLC, 2006, the Authority will, in addition to notifying the flag State, immediately notify the appropriate shipowners' and seafarers' organizations in the port State in which the inspection was carried out.

- 3.8** Where deficiencies which caused a detention as referred to in paragraph 3.7 cannot be remedied in the port of inspection, the Authority may allow the ship concerned to proceed to the nearest appropriate repair port available (or in case of detainable deficiencies in accordance with MLC-2006, to the port where the Rectification Action Plan is to be implemented), as chosen by the master and agreed to by the Authority, provided that the conditions determined by the Authority and agreed by the competent authority of the flag State are complied with. Such conditions will ensure that the ship shall not sail until it can proceed without risk to the safety and health of the passengers or crew, or risk to other ships, or without being an unreasonable threat of harm to the marine environment. Such conditions may include discharging of cargo, temporary repairs and/or confirmation from the flag State that remedial action has been taken on the ship in question. In such circumstances the Authority will notify the Authority of the ship's next port of call, the parties mentioned in paragraph 3.7 and any other authority as appropriate. Notification to Authorities will be made in accordance with Section 3.1-3\* of the Manual. The Authority receiving such notification will inform the notifying Authority of action taken in accordance with Section 3.1-3 of the Manual.
- 3.9** If a ship referred to in paragraph 3.8 proceeds to sea without complying with the conditions agreed to by the Authority of the port of inspection:
- .1 that Authority will immediately alert the next port, if known, the flag State and all other Authorities it considers appropriate; and
  - .2 the ship will be detained at any port of the Authorities which have accepted the Memorandum, until the company has provided evidence to the satisfaction of the Authority of the port State, that the ship fully complies with all applicable requirements of the relevant instruments.
- 3.10** If a ship referred to in paragraph 3.8 does not call at the nominated repair port, the Authority of the repair port will immediately alert the flag State and detaining port State, which may take appropriate action, and notify any other Authorities it considers appropriate.

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\* Guidelines for rectifying deficiencies and detentions in accordance with paragraphs of 3.6-3.9 of the Memorandum.

- 3.11** The provisions of this section are without prejudice to the requirements of relevant instruments or procedures established by international organizations concerning notification and reporting procedures related to port State control.
- 3.12** The Authorities will ensure that, on the conclusion of an inspection, the master of the ship is provided with a document, in the form specified in Section 4.1-1\* of the Manual, giving the results of the inspection and details of any action taken.
- 3.13** When exercising control under the Memorandum, the Authorities will make all possible efforts to avoid unduly detaining or delaying a ship. Nothing in the Memorandum affects rights created by provisions of relevant instruments relating to compensation for undue detention or delay.
- 3.14** In the case that an inspection is initiated based on a report or complaint, especially if it is from a crew member, the source of the information must not be disclosed.
- 3.15** The company of a ship or its representative will have a right of appeal against a detention taken by the Authority of the port State. Initiation of the appeal process will not by itself cause the detention to be suspended. The port State control officer should properly inform the master of the right of appeal.

#### **Section 4 Provision of information**

- 4.1** Each Authority will report on its inspections under the Memorandum and their results, in accordance with the procedures specified in the Manual.
- 4.2** Arrangements will be made for the exchange of inspection information with other regional organizations working under a similar memorandum of understanding.
- 4.3** The Authorities will, upon the request of another Authority, endeavour to secure evidence relating to suspected violations of the requirements on operational matters of Rule 10 of the International Regulations for Preventing Collisions at Sea, 1972 and the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto. In case of suspected violations involving the discharge of harmful substances, an Authority will, upon the request of another Authority, visit in port the ship suspected of such a violation in order to obtain information and, where appropriate, to take a sample of any alleged pollutant.

#### **Section 5 Training Programs and Seminars**

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\* Inspection report forms A and B.

The Authorities will endeavour to establish training programs and seminars for port State control officers.

## **Section 6 Organization**

- 6.1** A Committee composed of representatives of each of the Member Authorities, defined in Annex 1 of the Memorandum, will be established. A representative from each of the Co-operating Member Authorities and Observers, referred to in Annex 1 to the Memorandum, will be invited to participate without vote in the work of the Committee.
- 6.2** The Committee will meet once a year and at such other times as it may decide.
- 6.3** The Committee will:
- .1 carry out the specific tasks assigned to it under the Memorandum;
  - .2 promote by all means necessary, including training and seminars, the harmonization of procedures and practices relating to inspection, rectification and detention whilst having regard to paragraph 2.4;
  - .3 develop and review guidelines for carrying out inspections under the Memorandum;
  - .4 develop and review procedures for the exchange of information; and
  - .5 keep under review other matters relating to the operation and the effectiveness of the Memorandum.
- 6.4** A Secretariat will be established in accordance with the following principles:
- .1 the Secretariat is a non-profit making body located in Tokyo;
  - .2 the Secretariat will be totally independent from any maritime administration or organization;
  - .3 the Secretariat will be governed by and be accountable to the Committee;
  - .4 the Secretariat will have a bank account into which all dues and contributions are made; and
  - .5 the Secretariat will operate from the established bank account in accordance with the budget determined by the Committee.
- 6.5** The Secretariat, acting under the guidance of the Committee and within the limits of the resources made available to it, will:

- .1 prepare meetings, circulate papers and provide such assistance as may be required to enable the Committee to carry out its functions;
- .2 facilitate the exchange of information; and

- .3 carry out such other work as may be necessary to ensure the effective operation of the Memorandum.

**6.6** The Asia-Pacific Computerized Information System (APCIS) in the Russian Federation is established for the purpose of exchanging information on port State inspections, in order to:

- .1 make available to Authorities information on inspections of ships in other regional ports to assist them in their selection of foreign flag ships to be inspected and their exercise of port State control on selected ships; and
- .2 provide effective information exchange facilities regarding port State control in the region.

## **Section 7 Amendments**

**7.1** The Memorandum will be amended by the following procedure:

- .1 any Authority that has accepted the Memorandum may propose amendments to the Memorandum;
- .2 the proposed amendment will be submitted through the Secretariat for consideration by the Committee;
- .3 amendments will be adopted by a two-thirds majority of the representatives of the Authorities present and voting in the Committee, each Authority exercising one vote. If so adopted an amendment will be communicated by the Secretariat to the Authorities for acceptance;
- .4 an amendment will be deemed to have been accepted either at the end of a period of six months after adoption by the representatives of the Authorities in the Committee or at the end of any different period determined unanimously by the representatives of the Authorities in the Committee at the time of adoption, unless within the relevant period an objection is communicated to the Secretariat by an Authority;
- .5 any such objection will be considered by the Committee at its next meeting, and the amendment will be confirmed if it is accepted by a two-thirds majority of the representatives of the Authorities present and voting in the Committee at such meeting. In these circumstances, a quorum of more than half of the total number of representatives of the Authorities that comprise the Committee is required. In the event that the

amendment is confirmed, the date of its deemed acceptance will be either at the end of a period of six months after being confirmed or any different period determined unanimously by the representatives of the Authorities in the Committee at the time of confirmation; and

- .6 an amendment will take effect 60 days after it has been deemed accepted, or at the end of any different period of deemed acceptance as determined unanimously by the representatives of the Authorities in the Committee.

**7.2** The Manual will be amended by the following procedure:

- .1 the proposed amendment to the parts other than those factual information/data will be submitted through or by the Secretariat for consideration by the Authorities;
- .2 the amendment will be deemed to have been accepted at the end of a period determined unanimously by the representatives of the Authorities in the Committee at the time of adoption; and
- .3 the amendment will take effect at the end of any period determined unanimously by the representatives of the Authorities in the Committee at the time of adoption.

**Section 8 Administrative Provisions**

- 8.1** The Memorandum is without prejudice to rights and obligations under any international instrument.
- 8.2** Any Maritime Authority meeting the criteria established in Annex 1 to the Memorandum may, with the unanimous consent of the Authorities present and voting at the Committee meeting, become a Co-operating Member or a Member Authority of the Memorandum in accordance with the procedure prescribed in Annex 1. For such an Authority, the Memorandum will take effect upon such date as may be mutually determined.
- 8.3** Any Maritime Authority or an intergovernmental organization wishing to participate as an observer as defined in Annex 1 to the Memorandum will submit in writing an application to the Committee and will be accepted as an observer subject to the unanimous consent of the representatives of the Authorities present and voting at the Committee meeting.
- 8.4** Any Authority may withdraw from the Memorandum by providing the Committee with 60 days notice in writing.
- 8.5** The Committee may, with unanimous consent of the member Authorities present and voting at its meeting except the Authority in question, decide to revoke membership of a Member Authority, a Co-operating Member Authority

or observer status of an Observer that does not comply substantially with the provisions set out in Annex 1. Subject to the appropriate decision by the Committee, the Member Authority or the Co-operating Member Authority after revocation of its membership may be downgraded to a Co-operating Member or Observer respectively.

- 8.6** The Memorandum is signed at Tokyo on December 1, 1993 and will remain open for signature until the signing during the first meeting of the Committee to be held in 1994.
- 8.7** The Memorandum will be available for acceptance from April 1, 1994, and will take effect for each Authority, which has signed the Memorandum, on the date its acceptance is duly notified to the Secretariat.
- 8.8** The English text is the official version of the Memorandum.

This Memorandum is signed at Tokyo on December 1, 1993 by the following Authorities:

<b>Australia</b>	<b>New Zealand</b>
<b>Canada</b>	<b>Papua New Guinea</b>
<b>Fiji</b>	<b>Philippines</b>
<b>Hong Kong, China</b>	<b>Russian Federation</b>
<b>Indonesia</b>	<b>Singapore</b>
<b>Japan</b>	<b>Solomon Islands</b>
<b>Republic of Korea</b>	<b>Thailand</b>
<b>Malaysia</b>	<b>Viet Nam</b>

This Memorandum is signed at Beijing on April 11, 1994 by the following Authorities:

<b>China</b>	<b>Vanuatu</b>
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## **ANNEX 1**

### **MEMBERSHIP OF THE MEMORANDUM**

#### **1 Definitions**

The following categories of participants to the Memorandum are determined:

- 1.1 A Member Authority - any Maritime Authority responsible for port State control within the region as defined in paragraph 1.2 of the Memorandum (hereafter referred to as “the region”), meeting the qualitative criteria set out in Section 2, and adhering to the Memorandum in accordance with paragraphs 8.2 or 8.7 of the Memorandum is considered to be a Member Authority;
- 1.2 A Co-operating Member Authority - any Maritime Authority, responsible for port State control within the region, undergoing the procedures set out in Section 4, indicating its clear intention to become a Member Authority of the Memorandum, and adhering to the Memorandum in accordance with paragraph 8.2 of the Memorandum is considered to be a Co-operating Member Authority; and
- 1.3 An Observer - any Maritime Authority responsible for port State control within the region or an intergovernmental organization wishing to participate in the Memorandum as described in Section 5, and being accepted in accordance with paragraph 8.3 of the Memorandum is considered to be an Observer.

#### **2 Qualitative Criteria for a Member Authority**

A Member Authority of the Memorandum as referred to in 1.1 will:

- 2.1 explicitly subscribe to the commitments under the Memorandum with a view to contributing to the common endeavour to eliminate the operation of sub-standard ships;
- 2.2 take all necessary measures to encourage the ratification of all relevant instruments in force;
- 2.3 provide sufficient capacity, logically and substantially, to appropriately enforce compliance with international maritime standards regarding maritime safety, pollution prevention and living and working conditions on board with regard to ships entitled to fly its flag, which includes the employment of properly qualified inspectors acting under the responsibility of its Administration, to be demonstrated to the satisfaction of the Committee referred to in paragraph 6.1 of the Memorandum (hereafter referred to as “the Committee”);

- 2.4 provide sufficient capacity, logically and substantially, to comply in full with all provisions and activities specified in the Memorandum in order to enhance its commitment, which include the employment of properly qualified port State control officers acting under the responsibility of its Administration, to be demonstrated to the satisfaction of the Committee;
- 2.5 as of its effective date of membership, establish a connection to the APCIS referred to in paragraph 6.6 of the Memorandum;
- 2.6 sign a financial agreement for paying its share in the operating cost of the Memorandum and will pay its financial contribution to the budget of the Memorandum;
- 2.7 take part in the activity of the Committee; and
- 2.8 take all necessary measures as a flag State administration to decrease its detention rate and report to the Committee of its efforts to improve the quality of ships under its flag if its flag has appeared in the black list of flags published in the Annual Report of the Memorandum.

### **3 Compliance of the Existing Member Authority with the Qualitative Criteria**

- 3.1 If the existing Member Authority fails to comply substantially with the criteria, to fulfill the provisions in paragraph 8.5 of the Memorandum, an assessment of the Authority may be initiated by the Committee. The Secretariat will inform the Committee of such failure in due course.
- 3.2 To assess compliance of the existing Member Authority with the qualitative criteria, the Committee will appoint a team of experts consisting of representatives of three Member Authorities.
- 3.3 The Authority in question will be requested by the Committee to provide a self assessment report based on the criteria stipulated in section 2 to be evaluated and reported to the Committee by the team of experts referred to in paragraph 3.2. The team may request the Authority in question to provide any additional information required for the assessment.
- 3.4 When assessing an existing Member Authority the following will be considered:
  - .1 the Authority has failed to report to the Committee on the progress of the relevant instruments ratification;
  - .2 the flag of the Authority has appeared in the black list of flags published in the Annual Report of the Memorandum, no trend of any reduction of its detention rate during the last three years has been observed and the

Authority has failed to report to the Committee on efforts made to reduce the detention rate of its flag;

- .3 no port State control inspection reports are submitted by the Authority to the APCIS during the previous year;
  - .4 no activity of the Authority in APCIS operation detected during the previous year;
  - .5 no financial contribution of the required amount received from the Authority during the last fiscal year; and
  - .6 the Authority has failed to participate in three consecutive meetings of the Committee.
- 3.5 Supporting participation of an Authority in technical co-operation activities is suspended if no contributions have been received from the Authority for the last fiscal year and until the Authority fully meets financial agreement requirements. In this case the Authority may participate in seminars for port State control officers at its own expenses.

## **4 Co-operating Member Authority**

4.1 The Co-operating Member Authority will:

- .1 maintain that status for at least three years;
- .2 declare its target inspection rate as it is required by paragraph 1.4 of the Memorandum;
- .3 participate in the Committee meetings with no voting right and report to the Committee on its port State control activities;
- .4 be accepted for participation in technical co-operation programmes on its own expenses;
- .5 connect to the APCIS in read-only mode, until full access approved by the Committee, for consulting and targeting port State control inspections;
- .6 pay for services provided in relation to participation in the activities of the Memorandum at half amount of the lowest grade of financial contribution;
- .7 take all necessary measures as a flag State administration to decrease its detention rate and report to the Committee of its efforts to improve the quality of ships under its flag in order that it does not exceed double the regional detention rate during last three years;

- .8 by the end of the period determined in paragraph 4.1.1 submit to the Secretariat a self assessment report basing on the membership criteria stipulated in section 2; and
  - .9 by the end of the period determined in paragraph 4.1.1 apply for full membership in the Memorandum or withdraw its participation in the Memorandum.
- 4.2 To assess compliance of the applicant with the qualitative criteria the Committee will appoint a team of experts consisting of representatives of three Member Authorities. The team will evaluate the self assessment information provided by the applicant. The team may request the Authority in question to provide any additional information required for the assessment. The team will perform fact finding mission to the Authority in question and submit a report to the Committee. The fact finding mission expenses will be covered by the applicant.
- 4.3 The following will be observed in the assessment:
- .1 official declaration of the commitments to the Memorandum is made in the application;
  - .2 relevant instruments referred to in paragraphs 2.1.1 – 2.1.10 of the Memorandum are ratified;
  - .3 flag State performance of the Authority is continuously improving during the last three years and its flag is expected to disappear from the black list of flags published in the Annual Report of the Memorandum;
  - .4 declared inspection rate of the Authority is met;
  - .5 connection to the APCIS is regular;
  - .6 services provided for the Authority are paid in accordance with paragraph 4.1.6;
  - .7 sufficient capacity, logically and substantially, to comply in full with all provisions and activities specified in the Memorandum in order to enhance its commitment, which include the employment of properly qualified port State control officers acting under the responsibility of its Administration is provided; and
  - .8 the Authority participated in the Committee meetings.
- 4.4 Before applying for a full membership the Maritime Authority concerned should apply for a Co-operating Member status. The application should

contain self assessment information based on the membership criteria stipulated in section 2.

## **5      Observer**

- 5.1 Application for the Observer status should contain aims of seeking the status and description of the activity of the applicant in port State control matters.
- 5.2 The Observer will actively participate in the activities of the Memorandum including:
  - .1 attending the Committee meetings with no voting right;
  - .2 receiving meeting documents;
  - .3 participating in technical co-operation programmes on its own expense as applicable;
  - .4 submitting documents to the Committee and its subsidiary bodies; and
  - .5 participating in working groups of the Memorandum.

## ANNEX 2

### NEW INSPECTION REGIME (NIR)

#### 1 Ship Risk Profile

1.1 All ships in the information system of APCIS will be assigned either as high, standard or low risk based on generic and historic parameters.

1.2 High Risk Ships (HRS) are ships which meet criteria to a total value of 4 or more weighting points.

1.3 Low Risk Ships (LRS) are ships which meet all the criteria of the LRS parameters and have had at least one inspection in the previous 36 months.

1.4 Standard Risk Ships (SRS) are ships which are neither LRS nor HRS.

**Table 1 – Ship Risk Profile**

Parameters		Profile			
		High Risk Ship (HRS) (When sum of weighting points >=4)		Standard Risk Ship (SRS)	Low Risk Ship (LRS)
Type of Ship	Criteria	Weighting points	Criteria	Criteria	-
	Chemical tanker, Gas Carrier, Oil tanker, Bulk carrier, Passenger ship, Container ship	2			
Age of Ship	All types > 12y	1			-
Flag	BGW-list <sup>1)</sup>	Black	1		White
	IMO Audit <sup>2)</sup>	-	-		Yes
Recognized Organization	RO of Tokyo MOU <sup>3)</sup>	-	-		Yes
	Performance <sup>4)</sup>	Low Very Low	1		High
Company performance <sup>5)</sup>		Low Very Low No inspection within previous 36 months	2		High
Deficiencies	Number of deficiencies recorded in each inspection within previous 36 months	How many inspections were there which recorded over 5 deficiencies?	No. of inspections which recorded over 5 deficiencies		All inspections have 5 or less deficiencies (at least one inspection within

					previous 36 months)
Detentions	Number of Detention within previous 36 months	3 or more detentions	1		No detention

- 1) The Black, Grey and White list for flag State performance is established annually taking account of the inspection and detention history over the preceding three calendar years and is adopted by the Tokyo MOU Committee to publish in the Annual Report.
- 2) The status on completion of IMO Audit will be based on updated information obtained by the Tokyo MOU Secretariat.
- 3) Recognized Organizations of Tokyo MOU are those recognized by at least one member Authority of the Tokyo MOU, a list of which is provided on the web-site.
- 4) The performance of all Recognized Organizations is established annually taking account of the inspection and detention history over the preceding three calendar years and is adopted by the Tokyo MOU Committee to publish in the Annual Report.
- 5) Company performance takes account of the detention and deficiency history of all ships in a company's fleet while that company was the ISM company for the ship. Companies are ranked with a "very low, low, medium or high" performance. The calculation is made daily on the basis of a running 36-month period. There is no lower limit for the number of inspections needed to qualify except a company with no inspections in the last 36 months will be given 2 weighting points.

## 2 Selection Scheme

- 2.1 Based on Ship Risk Profile, the selection scheme determines the scope, frequency and priority of inspections.
- 2.2 Periodic inspections are carried out at intervals determined by the Ship Risk Profile.
- 2.3 Overriding priority might trigger inspections between periodic inspections.
- 2.4 Ships become due for periodic inspection in the following time windows:

**Table 2 - Time Windows**

Ship Risk Profile	Time Window since previous inspection
Low Risk Ships	9 to 18 months
Standard Risk Ships	5 to 8 months
High Risk Ships	2 to 4 months

- 2.5 The selection scheme is divided into two priorities:

Priority I: ships must be inspected because the time window has closed.

Priority II: ships may be inspected because they are within the time window of inspection.

2.6 The priority and the level of selection will be shown for each ship in the information system of APCIS.

### **3 Company Performance**

3.1 Company performance takes account of the detention and deficiency history of all ships in a company's fleet while that company was the ISM company for the ship. Companies are ranked as having a "very low, low, medium or high" performance. The calculation is made daily on the basis of a running 36-month period. There is no lower limit for the number of inspections needed to qualify except a company with no inspections in the last 36 months will be given a "medium performance".

3.2 The formula consists of two elements, the deficiency index and the detention index.

#### Deficiency Index

3.3 When counting deficiencies each ISM related deficiency is weighted at five points. Other deficiencies are valued at one point.

3.4 The Deficiency Index is the ratio of the total points of all deficiencies of all ships in a company's fleet to the number of inspections of all ships in the company's fleet within the last 36 months.

3.5 This ratio is compared with the average for all ships inspected in the Tokyo MOU over the last three calendar years to determine whether the index is average, above average or below average as follows:

**Table 3 - Deficiency Index**

<b>Deficiency Index</b>	<b>Deficiency points per inspection</b>
Above average	> 1 above Tokyo MOU average
Average	Tokyo MOU average +/- 1
Below average	> 1 below Tokyo MOU average

#### Detention Index

3.6 The Detention Index is the ratio of the number of detentions all ships in a company's fleet to the number of inspections of all the ships in the company's fleet within the last 36 months.

3.7 This ratio is compared with the average for all ships inspected in the Tokyo MOU over the last three calendar years to determine whether the index is average, above average or below average as follows.

**Table 4 - Detention Index**

<b>Detention Index</b>	<b>Detention rate</b>
Above average	> 1% above Tokyo MOU average
Average	Tokyo MOU average +/- 1%
Below average	> 1% below Tokyo MOU average

Company Performance Matrix

3.8 Using the below matrix, the combination of deficiency and detention indexes determines the performance level.

**Table 5 - Company Performance Matrix**

<b>Detention Index</b>	<b>Deficiency Index</b>	<b>Company Performance</b>
Above average	Above average	Very Low
Above average	Average	
Above average	Below average	
Average	Above average	
Below average	Above average	Low
Average	Average	
Average	Below average	
Below average	Average	Medium
Below average	Below average	