

Flag State Implementation system

1. General

Under the provisions of the United Nations Convention on the Law of the Sea, 1982 (UNCLOS) and the International Maritime Organization (IMO) Conventions, Administrations are responsible to promulgate laws and regulations and to take all other steps, which may be needed to give these instruments in fulfilment and complete full effect so as to ensure that, from the point of view of safety of life at sea and protection of the marine environment, a ship is fit for the service for which it is intended and manned with competent maritime personnel.

2. Objective

The objective of this system is to enhance global maritime safety and protection of the marine environment and assist the implementation of instruments of the IMO. Comprehensive technical regulations and standards regarding construction, equipment, manning and operation of ships have been developed and adopted by IMO. Myanmar, as an IMO member State, has responsibility to improve safety of life at sea and to minimize the adverse effect in shipping and environment, and to promote working and living conditions onboard.

3. Responsibility

The Department of Marine Administration (DMA) is the focal government institution in maritime sector, and has the primary responsibility to take in place an adequate and effective system to exercise control over sea going ships entitled to fly Myanmar flag, and to ensure that they comply with relevant international rules and regulations and to verify that the foreign ships entering the Myanmar ports, are the condition of the ships and its equipment comply with the requirements of international regulations.

4. Implementation of IMO Instruments.

4.1 Flag State Obligation

The DMA is a maritime authority on behalf of Ministry of Transport and Communications, the Republic of the Union of Myanmar, which is an IMO member State to fulfill its flag State obligations, and to regulate and maintain safety standards of the flagged ships plying in international voyage or exclusively in Myanmar waters in accordance with IMO instruments and national legislations.

4.2 Ratified IMO Instruments

(a) The major conventions ratified by Myanmar are:

- .1 International Convention for the Safety of Life at Sea (SOLAS Convention), 1974, as Modified by the Protocol of 1988 relating thereto, as amended (SOLAS 74/88);

- .2 International Convention on Load Lines (LL), 1966, as modified by the Protocol of 1988 relating thereto, as amended (LLC 66/88);
- .3 International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended MARPOL 73/78), Annexes I to V;
- .4 International Convention on Tonnage Measurement of Ships, 1969; (Tonnage Convention)
- .5 Convention on the International Regulations for Preventing Collisions at Sea, 1972, (COLARGE Convention) and as amended;
- .6 International Convention on standards of Training, Certification and Watchkeeping for Seafarers, 1978, (STCW Convention) as amended;

Myanmar has not signatory yet to the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004.

(b) Existing Myanmar Maritime Laws are:

- .1 Myanmar Merchant Shipping Act (1923, as amended);
- .2 Myanmar Registration of Ships Act (1841, as amended);
- .3 The Bills of Lading Act (1856);
- .4 The Burma Carriage of Goods by Sea Act (1925);
- .5 Carrier Act (1865); and
- .6 Inland Vessel Law (2015).

4.3 Ratification and implementation process of IMO instruments

Myanmar government ratified IMO instruments with the approval of Union Parliament (Pyidaungsu Hluttaw). Myanmar has responsibility to establish and maintain measures for the effective application and enforcement of the IMO instruments after ratified them. Moreover, the DMA has been implementing policies through issuing national legislations and guidance, which shall assist in the implementation and enforcement of the requirements of all safety and pollution prevention conventions and protocols; and it assigns responsibilities within DMA to update and revise any relevant policies adopted, as necessary.

5. Implementation process to National legislation

When a new or amended IMO mandatory instrument enters into force after ratification process, the DMA establishes in implementation and enforcement its provisions through appropriate national legislation and to provide the necessary implementation and enforcement infrastructure.

5.1 DMA function

When a new or amended IMO mandatory instrument enters into force, Legal and Technical standards division informs respective divisions through the office of Deputy Director General (Technical). After receiving that information, Directors of the respective divisions contemplate the subject instrument to be

implemented providing draft of polices, notification or directive or guidance, to Legal and technical standards division in order for incorporating into laws through national legislation process.

5.2 National Legislation Process

DMA drafts national instrument such as Law, notification, directive, and sends it to Ministry of Transport and Communications (MOTC). Then MOTC, comments by Union Attorney General Office, submits it to President; office (Legal Advisory team).

After being revised as necessary, the MOTC sends it to Lower House (Pyithu Hluttaw) or Upper House (Amyothar Hluttaw) and then the President of Myanmar signs as a national law after being approved by the Union Parliament (Pyidaungsu Hluttaw).

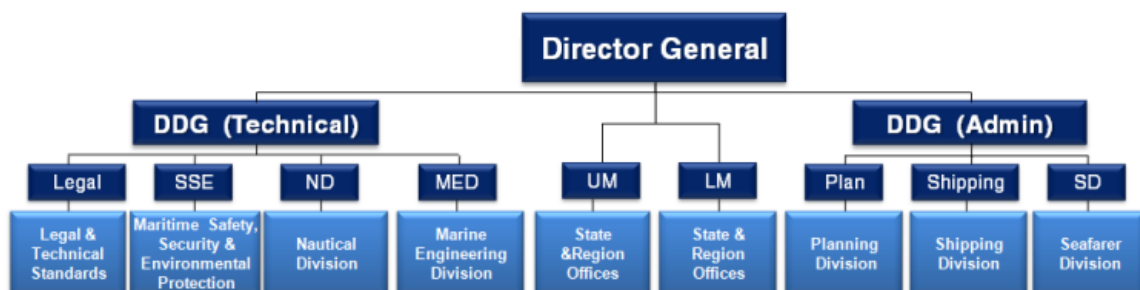
National instruments which permit effective jurisdiction and control in administrative, technical and social matters over ships flying its flag and, in particular, provide the legal basis for general requirements in terms of registry, the inspection of ships, safety and pollution prevention including the investigative and legal processes; and report to IMO, owners, ROs and other interested parties.

6. Assign responsibility within Administration

DMA assigns responsibilities within the Administration to update and revise any relevant policies adopted, as necessary.

Assign designations for the instruments, which the Myanmar is a Party to or intends to become a party or recognizes it by other means.

Department of Marine Administration



7. Resources

7.1 DMA establishes resources and processes capable to be capable of administering a safety and environmental protection programme, which, as a minimum, consists of the following:

- .1 administrative instructions, to implement applicable international rules and regulations as well as developing and disseminating any interpretative national regulations that may be needed including certificates issued by a Recognized Organization (RO), which is recognized by the DMA in accordance with the provisions of International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS Convention) regulation (XI-1/1), which certificate is required to demonstrate compliance with structural, mechanical, electrical, and/or other requirements of an international convention to which compliance with a requirement of the national regulations;
- .2 compliance with the requirements of the applicable international instruments, by means of surveys, audits and inspections' programme;
- .3 compliance with the requirements related to international standards of training, certification and watchkeeping for seafarers;
- .4 the conduct of investigations into casualties, and adequate and timely handling of cases involving ships with identified deficiencies; and
- .5 the development, documentation and provision of guidance concerning those requirements found in the relevant international instruments that are with the satisfaction of the DMA.

7.2 Process for developing resources DMA transacts the enhancement of staff knowledge and skill:

- (a) by the way of knowledge sharing and panel discussion of Recognized Organization fourth time per year;
- (b) by inviting the experienced surveyors or retired surveyors to share updated knowledge and their experience once a month;
- (c) by sharing the knowledge of DMA officers who have attend the training abroad;
- (d) by attending seminar and require courses assisted by IMO;
- (e) by attending further studies at maritime university abroad;
- (f) by recruiting external technical experts.

8. Implementation of STCW Convention

The DMA is responsible for implementation of STCW convention 1978, as amended. DMA develops and promulgates STCW convention into guidance, notifications and directives as national legislations by legal process.

The DMA shall implement in overall compliance with the requirements relating to STCW "International standards of training, certification and watchkeeping of seafarers". This includes:

- .1 training, assessments of competencies and certification of the seafarers;
- .2 certificates and endorsements that accurately reflect the competencies of the seafarers, using the appropriate terminology as well as terms that are identical to those used in any safe manning document issued to the ship;

- .3 impartial investigation to be held of any reported failure, whether by act or omission that may pose a direct threat to safety of life or property at sea or to the marine environment, by the holders of certificates or endorsements issued by the DMA; and
- .4 arrangements for the withdrawal, suspension or cancellation of certificates or endorsements issued by the DMA when warranted and when necessary to prevent fraud; and mainly, DMA as a responsible body to the IMO audit for the list of parties which communicated information that demonstrated that they give full and complete effect to the relevant provisions of the Convention, to retain in this list only the Parties so concerned²² (White list) that require the administration has, training center oversight, process of certificate revalidation, flag State control, and port State control.

List of Countries that recognized Myanmar Seafarers' Certificate

www.dma.gov.mm/category/certificates-of-recognition/



STCW Regulation I/10 – (Recognition of certificates)
Updated to Dec-2020



List of Countries that have signed MoU and recognized Myanmar Seafarers' Certificates				
Liberia	Singapore	Cyprus	Panama	Malaysia
Belize	Hong Kong	United Kingdom	Vanuatu	Malta
Indonesia	Mongolia	S. Korea	Barbados	Bahamas
Bangladesh	Vietnam	Japan	St. Vincent (Switzerland)	Luxembourg
Denmark	Norway	Portuguese	Switzerland	Thailand

9. Registration of Myanmar ship

Every Myanmar ship, shall be registered under the Myanmar Registration of Ship Act, as amended. If a Myanmar ship proceed to sea without its valid certificate of registry, such Myanmar ship shall be detained until it produces its valid certificate of registry to the authorized officer. The Director General shall be registrar of Myanmar ships and the register kept by the Director General or designated officer by Director General shall contain the particulars, required to be entered in a register by the Myanmar registration of ship Act, in respect of all ships registered by him and of all ships registered by other registers.

9.1 Procedure for the Certificate of Myanmar Registry or Cancelling registry

The shipowners or ship managers or ship operators of ships engaged on international voyage or Myanmar Coastal voyage shall apply to be registered or

cancelled at Nautical Division for the Certificate of Myanmar Registry. The procedure included as follow;

- Owner application, photos of vessel, approved drawings, previous certificate of ship registry (if any), Invoice, bill of sale or sale contract, tonnage certificate, ship station licence, import licence, port clearance certificate (if any), de-registration certificate of previous registry (if any), custom tax clearance document, and such other required typical documents as stipulated at the following web site.

(www.dma.gov.mm/nauticalsurvey/)

10. Flag State surveyor

Flag State surveyor who is appointed by the Director General of the DMA, on behalf of the Government of the Republic of Union of Myanmar, conducts surveys or inspections or audits in compliance with requirement of relevant National Laws and IMO Instruments.

10.1 Duties of Flag State

In the view of ships entitled to fly their flag from registration until such ships can proceed to sea, it is to ensure that such ships is in compliance with the requirements of international rules and standards. The periodic inspection of ships entitled to fly its flag are to be carried out in order to verify that the actual condition of the ship and its crew are in conformity with the certificates it carries; that seafarers assigned to the ships are familiar with their specific duties, ship arrangements, installations, equipment and procedures. It is also to ensure that ship crew can effectively coordinate their activities in an emergency situation instituting proceedings after an investigation.

The flag State should establish an oversight programme for monitoring of its recognized organization(s) in order to ensure that its international obligations are fully met. The flag State should define and document the responsibilities, authority and interrelation of all personnel who manage, perform and verify work relating to and affecting safety and pollution prevention.

10.2 Qualification for Flag State surveyor

The flag State surveyor shall have a minimum qualification as follows:

- .1 holder of a Certificate of Competency Class I or Class II; and
- .2 3 years minimum sea service as an officer, including minimum 1 year at management level, followed by the accomplishment of flag State surveyor basic training course, ship survey, inspection, audit and certification course and applicable on-job training.

10.3 Training requirements

A documented system for qualification as follows;

- .1 knowledge of applicable international and national rules and regulations for ships, their companies, their crew, their cargo and their operation;
- .2 knowledge of the procedures to be applied in survey, inspection, audit, certification, control, investigative and oversight functions;
- .3 understanding of the goals and objectives of the international and national instruments dealing with maritime safety and protection of the marine environment, and of related programmes;
- .4 understanding of the processes both on board and ashore, internal as well as external;
- .5 possession of professional competency necessary to perform the given tasks effectively and efficiently;
- .6 full safety awareness in all circumstances, also for one's own safety; and
- .7 training or experience in the various tasks to be performed and, preferably, also in the functions to be assessed.

Director General of the Department of Marine Administration shall issue an identification document to the surveyor for carrying out performing his/her tasks.

10.4 Surveyor Authorization Matrix

DMA shall issue level of authority for surveyors in respect of types of survey or inspection or audit and certificates.

11. Flag State inspection

Myanmar flag State surveyor should verify a Myanmar flagged ship in compliance with International Conventions including National Standards and regulations during normally scheduled inspection. For Myanmar ships operating strictly in domestic routes, compliance should be verified by flagged State surveyors during regular scheduled inspections, but an educational outreach and awareness approach is encouraged. However, current enforcement options remain in place for willful and egregious violators or repeat offenders.

11.1 Types of flagged State inspection carried out by DMA

.1 Pre-Registration Inspection

Pre-Registration Inspections shall be carried out on all types of vessels that have applied for registration. This inspection is carried out prior to acceptance of a vessel for registration and is focused on assessing the general condition of the vessel and its ability to meet the Administration's standards of quality and compliance.

.2 Flag State inspection

DMA will carry out periodical flag State inspection onboard a ship annually to ensure the condition of the Myanmar flagged ships complying with requirements of IMO Instruments and National laws.

.3 Special safety inspection

In additional to the above, special safety inspections may be required by the DMA;

Prior to resuming service at the end of an official lay-up period in excess of six (6) months or Following any substantial structure alteration.

.4 Follow-up inspection

Any inspection that is conducted to follow-up on a previously issued deficiency or item that may require a physical inspection or check on the corrective action.

DMA carries out Scheduled flag State inspection and Unscheduled flag State inspection.

11.2 Inspection Process

- (a) Qualified surveyors form DMA conduct flag State control inspections
- (b) The Master receives an inspection report upon the completion of an inspection
- (c) The Master is required to rectify any deficiencies in accordance with the Conditions stated in the inspection report.

11.3 Maritime Labour Convention 2006 (MLC Inspection)

DMA issues Declaration of Maritime Labour Convention Part I (DMLC part I), and ship owners, ship managers and ship operators have obligation to draw and (DMLC part II) submit it to DMA or Recognized Organization (RO). The DMA or RO shall conduct survey, audit and inspection for MLC certificate.

12. Flag State Detentions

Flag State Surveyor(s) in consultation with the DMA, shall detain a Myanmar flagged ship if it is unsafe or has violated any requirements of IMO mandatory instruments and National Laws. DMA shall follow processes for after detention and evaluation.

13. Survey and certification

The DMA has delegated its authority to certain ROs in the services of ship statutory survey and certification.

- .1 Myanmar is a contracting state to most of the international maritime Conventions. As the flag Administration for Myanmar-registered ships, the DMA ensures that these ships comply with international and national rules and regulations, covering maritime safety and security, marine environmental protection, and social, living and working conditions on board. The DMA has laid in place infrastructure, resources and processes to fulfil its obligations and continually improve its performance.

- .2 In order to accomplish the responsibilities of the administration, the DMA issues the survey and certification system consisting of the related functions, processes, procedures and qualification of personnel who will conduct the ship survey in accordance with international maritime instruments and national maritime instruments.

14. Types of Survey applying for Myanmar flagged ships

14.1 Initial surveys

An initial survey is a complete inspection, before a ship is put into service, of all the items relating to a particular certificate to be issued, to ensure that the relevant requirements are complied with and that these items are satisfactory for the service for which the ship is intended.

The initial survey shall consist of:

- .1 an examination of the plans, diagrams, specifications, calculations and other technical documentation to verify that the structure, machinery and equipment comply with the requirements relevant to the particular certificate;
- .2 an inspection of the structure, machinery and equipment to ensure that the materials, scantlings, construction and arrangements, as appropriate, are in accordance with the approved plans, diagrams, specifications, calculations and
- .3 a check that all the certificates, record books, operating manuals and other instructions and documentation specified in the requirements relevant to the particular certificate have been placed on board the ship.
- .4 Examination of plans and designs

An application for an initial survey should be accompanied by plans and designs as appropriate, together with;

- .1 the particulars of ship;
- .2 any exemptions sought; and
- .3 any special conditions.

14.2 Annual surveys

An annual survey is a general inspection of the items relating to the particular certificate to ensure that they have been maintained and remain satisfactory for the service for which the ship is intended. An annual survey shall enable the Administration to verify that the condition of the ship, its machinery and equipment is being maintained in accordance with the relevant requirements.

Annual survey shall be as follows:

- .1 it shall consist of a certificate examination, a visual examination of a sufficient extent of the ship and its equipment, and certain tests to confirm that their condition is being properly maintained;

- .2 it shall also include a visual examination to confirm that no unapproved modifications have been made to the ship and its equipment;
- .3 the content of each annual survey is given in the respective guidelines; the thoroughness and stringency of the survey shall depend upon the condition of the ship and its equipment; and shall any doubt arise as to the maintenance of the condition of the ship or its equipment, further examination and testing shall be conducted as considered necessary.

14.3 Intermediate surveys

An intermediate survey is an inspection of specified items relevant to the particular certificate to ensure that they are in a satisfactory condition and fit for the service for which the ship is intended.

When specifying items of hull and machinery for detailed examination, due account shall be taken of any continuous survey schemes that may be applied by classification societies where an intermediate survey has not been carried out within the due dates.

14.4 Periodical surveys

A periodical survey is an inspection of the items relating to the particular certificate to ensure that they are in a satisfactory condition and fit for the service for which the ship is intended.

The periodical survey shall also consist of a check that all the certificates, record books, operating manuals and other instructions and documentation specified in the requirements relevant to the particular certificate are on board the ship.

14.5 Renewal surveys

A renewal survey is the same as a periodical survey but also leads to the issue of a new certificate.

The renewal survey shall consist of an inspection, with tests when necessary, of the structure, machinery and equipment to ensure that the requirements relevant to the particular certificate are complied with and that they are in a satisfactory condition and are fit for the service for which the ship is intended.

The renewal survey shall also consist of a check that all the certificates, record books, operating manuals and other instructions and documentation specified in the requirements relevant to the particular certificate are on board the ship.

14.6 Inspections of the outside of the ship's bottom of cargo ships

An inspection of the outside of the ship's bottom is an inspection of the underwater part of the ship and related items to ensure that they are in a satisfactory condition and fit for the service for which the ship is intended.

Inspections of the outside of the ship's bottom shall normally be carried out with the ship in a dry dock. However, consideration may be given to alternate inspections being carried out with the ship afloat. Special consideration shall be given before ships of 15 years of age and over, other than bulk carriers and oil tankers, regarding permission to have such surveys afloat. Inspection of the outside of the ship's bottom of bulk carriers and oil tankers of 15 years of age and over, shall be carried out with the ship in dry dock. Inspections with the ship afloat shall only be carried out when the conditions are satisfactory and the proper equipment and suitably trained staff are available. For ships subject to enhanced survey, the provisions of paragraphs 2.4 of the applicable part of annexes A or B, of the International Code on the Enhanced Programme of Inspections during Surveys of Bulk Carriers and Oil Tankers, 2011 (2011 ESP Code) adopted by resolution A. 1049(27), as amended, shall apply.

14.7 Additional Survey

An additional survey is an inspection, either general or partial according to the circumstances, to be made after a repair resulting from investigations or whenever any important repairs or renewals are made.

Whenever an accident occurs to a ship or a defect is discovered which affects the safety or integrity of the ship or the efficiency or completeness of its equipment, the master or owner shall make a report at the earliest opportunity to DMA, the nominated surveyor or Recognized Organization responsible for issuing the relevant certificate. The DMA, the nominated surveyor or RO responsible for issuing the relevant certificate shall then initiate an investigation to determine whether a survey, as required by the regulations applicable to the particular certificate, is necessary. This additional survey, which may be general or partial according to the circumstances, shall be such as to ensure that the repairs and any renewals have been effectively made and that the ship and its equipment continue to be fit for the service for which the ship is intended.

15. Certification

15.1 Statutory certificates

- .1 Passenger Ship Safety Certificate, including Record of Equipment;
- .2 Cargo Ship Safety Construction Certificate;
- .3 Cargo Ship Safety Equipment Certificate, including Record of Equipment;
- .4 Cargo Ship Safety Radio Certificate, including Record of Equipment;
- .5 Document of Compliance – International Maritime Solid Bulk Cargoes Code (IMSBC Code);
- .6 Document of Authorization for the Carriage of Bulk Grain;
- .7 Document of Authorization for the Carriage of Dangerous Goods;
- .8 Document of Compliance for the Carriage of Dangerous Goods ;
- .9 Document of Compliance – ISM Code;

- .10 Safety Management Certificate – ISM Code;
- .11 International Ship security – ISPS Code;
- .12 International Oil Pollution Prevention Certificate;
- .13 International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk;
- .14 International Sewage Pollution Prevention Certificate;
- .15 International Air Pollution Prevention Certificate;
- .16 Maritime Labor Convention Certificate;
- .17 International Load Line Certificate;
- .18 International Tonnage Certificate;
- .19 International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk;(or) Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk;
- .20 International Certificate of Fitness for the Carriage of Liquefied Gases in Bulk;
- .21 Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk.

15.2 Validity of Certificates

Validity of Certificates shall be in accordance with the prescription of relevant convention, and codes. In general, validity for passenger ship certificates shall be in maximum of one year and that of cargo ships shall be in maximum of five years. For certificates with above one-year validity, annual, periodical and intermediate endorsement are required to maintain the validity of the certificates.

16. Delegation of Authority

The DMA authorizes recognized organizations to act on its behalf according with Resolution A.739 (18) "Guidelines for Authorization of Organizations Acting on Behalf of Administration" and Resolution A.789 (19) – "Specifications on the survey and certification functions of recognized organizations acting on behalf on the Administration".

16.1 Lists of Recognized Organizations, authorize by Myanmar

www.dma.gov.mm/category/shipping/recognized-oranizations/

- .1 American Bureau of Shipping;
- .2 Bureau Veritas;
- .3 Lloyd's Register;
- .4 Class NK;
- .5 Korean Register of Shipping; and
- .6 China Classification Society.

16.2 Delegation process to Recognized Organization

The DMA determine that the recognized 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 Administration" set out in the relevant IMO resolution A.739(18);and make a formal written agreement between the Administration and the recognized organization which, as a minimum, includes the elements set out in the relevant IMO resolution (A.739(18), or equivalent legal arrangements, for the authorization of recognized organizations acting on behalf of the Administration(MSC/Circ.710-MEPC/Circ.307).;with the approval from the Ministry of Transport and Communications.

16.3 Recognized Organizations and their role

- .1 The RO's role, as authorized by the DMA, in ensuring compliance with mandatory requirements of international conventions and Myanmar legislation and to outline the potential consequences of non-compliance to ship owners, ship managers or ship operators.
- .2 While it is ultimately the responsibility of the DMA to ensure compliance of owners/operators and ships with the mandatory requirements of the international conventions, protocols and related codes to which the Myanmar is a signatory, the ROs are authorized by the DMA to perform the requisite surveys, inspections, audits and assessments to verify compliance, and to issue the relevant statutory certification as evidence of compliance, where applicable.
- .3 Furthermore, in consultation with the DMA, the ROs are also authorized to withdraw, cancel or invalidate Myanmar statutory certificates in accordance with the results of such surveys, inspections, audits and assessments. Where there is a failure by the ship or shipowners or ship managers or ship operators to correct a serious deficiency, ROs are authorized to suspend the relevant statutory certificates until all such deficiencies are remedied.
- .4 The ROs may also, as applicable, make recommendations to shipowners or shop managers or ship operators as to compliance with the specific requirements of the relevant international conventions, protocols and related codes to which the Myanmar is a signatory.

16.4 Procedure for Unfit to proceed to sea

- .1 The RO is authorized to invalidate or withdraw a statutory certificate, in consultation with the DMA, if corrective action of a deficiency is not taken and it is determined by a survey that a ship is not in substantial compliance with required standards and, therefore, is deemed unfit to proceed to sea without endangering the ship or persons on board or presents an unreasonable threat of harm to the marine environment.
- .2 In such cases, the RO is required to provide written notice to the Master and/or ship owners or ship managers or ship operators of the invalidation/withdrawal and request that the statutory certificates be surrendered immediately. Concurrently, the DMA shall also provide written notice of the ship being placed under flag State detention.

- .3 Statutory certificate(s) shall not be reinstated until the required corrective action, which may be equivalent to those required to remove a Port State Control (PSC) detention, has been accomplished to the satisfaction of both the DMA and the ROs.

16.5. Implementation of RO oversight programme

The DMA shall implement oversight programme to its authorize RO that including;

- .1 PSC detentions analysis
- .2 Flag State inspection results
- .3 Guidance to ROs
- .4 Reporting Procedures
- .5 Meetings with ROs
- .6 Communication arrangements
- .7 Review of RO's quality system
- .8 Audits
- .9 Monitoring of/participation in rule development

16.6 Procedure to monitor

The following oversight programme procedures shall be prepared and addressed by assigned competent flag State surveyor(s):

- .1 planning and scheduling of oversight activities;
- .2 assigning the roles and responsibilities;
- .3 conducting monitoring activities;
- .4 conducting follow-up, if applicable;
- .5 maintaining oversight programme records;
- .6 monitoring the performance and effectiveness of the oversight programme; and
- .7 reporting on the overall achievements of the oversight programme.

16.7. Oversight programme monitoring and reviewing

- .1 The implementation of the oversight programme shall be monitored and, at appropriate intervals, reviewed to assess whether its objectives have been met and to identify opportunities for improvement.
- .2 The flag State surveyor(s) shall develop and use performance indicators which includes the following factors (but not limited to) to monitor the effectiveness of its oversight programme for ROs:
 - the ability of assigned personnel to implement the oversight plan;
 - conformity with the requirements of the RO Code, monitoring activities, and schedules; and
 - feedback from clients, ROs and assigned personnel.
- .3 The flag State surveyor(s) shall consider the following performance indicators when evaluating the performance of the ROs:

- .1 port State performance of ROs;
- .2 results of RO's internal audits;
- .3 results of quality management system audits performed by third-party organizations;
- .4 the results of previous performance monitoring; and
- .5 condition/compliance of ships that receive survey and certification from the ROs.

17. Enforcement

To fulfil its international obligations, it is essential for a flag State to establish and maintain an effective control over the ships flying its flag. The need for this control is set out in Article 94 of UNCLOS and implied in the IMO Conventions.

17.1 The DMA shall take all necessary measures to secure observance of international rules and standards by every Myanmar flagged ship and by entities and persons under its jurisdiction so as to ensure compliance with its international obligations. Such measures shall include:

- .1 prohibiting any Myanmar flagged ship from sailing until they are ensured in compliance with applicable requirements;
- .2 conducting periodic inspections of its ships in its own ports or, where necessary, in foreign ports;
- .3 ensuring safe manning of ships;
- .4 instituting proceedings, after an investigation, against owners, managers, operators or crews of ships where national laws have been infringed, with application of penalties where appropriate;
- .5 implementing a control and monitoring programme;
- .6 providing appropriate number of qualified personnel to implement and enforce national legislation; and
- .7 taking actions after a Myanmar flagged ship has been detailed by PSC.

18. Flag State Investigation

Upon the degree of severity any casualty investigation process shall be executed under Myanmar merchant shipping act:

- .1 a Preliminary Inquiry into the casualty may be conducted by the person or persons appointed by the Director-General;
- .2 a Board of Inquiry may be formed consisting of person appointed by the Ministry for further investigation; and
- .3 a formal investigation into the casualty may be conducted by the Board of Inquiry composed of persons appointed by the Ministry.

- 18.1 Marine safety investigations are, to be carried out by qualified investigators, irrespective of the location of the casualty or incident and impartial and investigations are conducted by impartial and objective investigators, who are suitably qualified and knowledgeable in matters relating to the casualty.
- 18.2 The DMA ensures that individual investigators have working knowledge and practical experience in those subject areas pertaining to their normal duties. Additionally, in order to assist individual investigators in performing duties outside their normal assignments, The DMA to ensure ready access to expertise in the following areas, as necessary:
- .1 navigation and the Collision Regulations;
 - .2 flag State regulations on certificates of competency;
 - .3 causes of marine pollution;
 - .4 interviewing techniques;
 - .5 evidence gathering; and
 - .6 evaluation of the effects of the human element.
- 18.3 Any accident involving personal injury necessitating absence from duty of three days or more and any deaths resulting from occupational accidents and casualties to Myanmar flagged ships shall be investigated and the results of such investigations made public.
- 18.4 Ship casualties shall be investigated and reported in accordance with the relevant international instruments, taking into account the Casualty Investigation Code, as may be amended, and guidelines developed by the IMO. The report on the investigation shall be forwarded to the IMO together with the flag State's observations, in accordance with the guidelines referred to above.

19. Evaluation and Review of Flag State Implementation

- 19.1 The Department of Marine Administration (DMA) shall issue evaluation and review of the flag State Implementation and Performance report every calendar year. Flagged Ships and, on a periodic basis, evaluate its performance with respect to the implementation of administrative processes, procedures and resources necessary to meet its obligations as required by the international instruments
- 19.2 The DMA shall develop and implement a evaluation and review programme, as appropriate, in order to:
- .1 provide for prompt and thorough casualty investigations, with reporting to the Organization as appropriate;
 - .2 provide for the collection of statistical data, so that trend analyses can be conducted to identify problem areas; and
 - .3 provide for a timely response to deficiencies and alleged pollution incidents reported by port or coastal States.

19.3 Measures to evaluate the performance of flag States should include, inter alia, port State control detention rates, flag State inspection results, casualty statistics, communication and information processes, annual loss statistics (excluding constructive total losses (CTLs)) and other performance indicators as may be appropriate, in order to determine whether staffing, resources and administrative procedures are adequate to meet its flag State obligations. Areas recommended for regular review may include, inter alia:

- .1 fleet loss and accident ratios to identify trends over selected time periods;
- .2 the number of verified cases of detained ships in relation to the size of the fleet;
- .3 the number of verified cases of incompetence or wrongdoing by individuals holding certificates or endorsements issued under the flag State's authority;
- .4 responses to port State deficiency reports or interventions;
- .5 investigations into very serious and serious casualties and lessons learned from them;
- .6 technical and other resources committed;
- .7 results of inspections, surveys and controls of the ships in the fleet;
- .8 investigation of occupational accidents;
- .9 the number of incidents and violations that occur under the applicable international maritime pollution prevention regulations; and
- .10 the number of suspensions or withdrawals of certificates, endorsements, approvals, or similar.

20. Reporting to IMO (Global Integrated Shipping Information System (GISIS))

The DMA, Myanmar, shall report to IMO through GISIS as follow:

(a) Mandatory reports

Reporting required by mandatory instruments such as (SOLAS Reg. I/4 - Exemptions, I/5 - Equivalents, I/6 – Recognized Organizations, I/21(b) – Casualties, II-2/17 – Alternative design, LL Articles 6 – Exemptions, 8 – Equivalents, 9 – experimental approvals)

(b) Recommended reports

Reporting requirements in non-mandatory instruments such as Notification, Directives, Circular, Contact/ Focal points.