

A Workshop on Mutual Recognition of
Certification as Required by Regulation
(EC) 391/2009 Art. 10.1
05 September 2018 in Hamburg



A report from
the EU RO MR Group

September 2018

EU RO MR Workshop 05 September 2018

Executive Summary

A Mutual Recognition Workshop was organized on 05 September 2018 in Hamburg by the EU RO MR Group. The aim of the Workshop was to discuss the status of implementation of EU Regulation 391 / 2009, Art 10.1 on the Mutual Recognition of Class Certificates for materials, components and equipment, with focus on:

- Recalling the principles under which the MR process has been developed
- Current state of MR certification process with regard of MR certificates issued and process improvement steps taken by the MR Group
- Direct involvement of stakeholders which are impacted by the MR process and gaining their views in principle and regarding further developments of the MR process
- Discussing MR in the view of the development and implementation of technical requirements and related processes
- Inviting all principal stakeholders to give presentations and to participate in the discussion (DG MOVE, Flag States, associations of shipowners, shipyards and manufacturers).

The event was well attended by about 60 stakeholders representing a cross section of the maritime industry and regulatory authorities. The Workshop encouraged a two-way exchange of views on the subject based on experience gained to date and stakeholder's expectations.

Contents of the statements have been confirmed by the respective speaker / presenter/ panellist.

Contents

Executive Summary	1
1. Welcome and Introduction	3
2. EU RO MR Group Presentation	5
3. Stakeholder Presentations	5
4. Statements	9
5. Panel Discussion	10
6. Summary	12
7. Appendices	13
Appendix A: List of registered Participants	13
Appendix B: Agenda of the Workshop	16
Appendix C: EU RO MR Group Presentation	17
Appendix D: Stakeholder Presentations	27
Appendix E: JSMEA Statement	55

Welcome and Introduction

This workshop was organised by the EU RO MR Group to raise awareness about the status of the implementation of Mutual Recognition as applied to classification certificates for materials, components and equipment. Mutual Recognition (MR) is referred to in Regulation (EC) 391/2009, under Article 10.1, inviting EU ROs to cooperate with each other in appropriate cases and without prejudice to the powers of flag States. The Regulation is part of the EU third maritime safety package, adopted in 2009.

It was the third public workshop organised by the EU RO MR Group following the workshops carried out in Hamburg 2013 and London in 2014.

The event was well attended by a cross section of the maritime industry and regulatory authorities (EMSA) including, representatives from 12 EU RO's, equipment manufacturers, shipyards, industry associations, insurers, ship owners, flag administrations and other national maritime bodies. The list of registered participants can be found in Appendix A.

It was chaired by Hui Zhang, current Chair of the EU RO MR Steering Committee, and moderated by Peter Swift, past CEO of INTERTANKO. The key note speaker was Reinhard Lüken, Managing Director of the German Shipbuilding and Ocean Industries Association (VSM).

The event provided an opportunity for the EU RO MR Group to give an update on the progress being made in the implementation of MR and to raise awareness on the different aspects and industry views.

The Agenda of the Workshop is listed in Appendix B.

The workshop objectives were:

- to inform stakeholders and interested parties about the progress of implementation and recent developments of the MR scheme
- to raise awareness on the different aspects and industry views, and
- to provide a platform for sharing experience relating to the application of Mutual Recognition in the context of ship classification

This report provides a summary of the presentations and discussions.

Welcome Address

Given by Hui Zhang, Chair EU RO MR Group's Steering Committee.

- The workshop aims at raising awareness and provides information on the Group's work since the last workshop organised in 2014
- In 2015, the Commission report to EP confirmed compliance with Article 10, giving some recommendations that the Group has been working on since
- In the last three years, the MR Group has gained further experience in MR process application and development and maintenance of Technical Requirements
- The RO MR group has accomplished what it has been set out to do. Achievements can be reported related to:

- cooperation to achieve consistent interpretation/definitions enabling consistent application and process execution under MR,
- development of processes and procedures under which technical requirement under MR are developed
- safeguards relating to exchange of information,
- tools for industry seeking clarification on MR matters
- meetings to raise awareness (Technical Review meetings, meetings with Stakeholders, external workshops)
- modernized website
- reporting on any rejections of MR certificates stating the reason for non-acceptance.
- cooperation with both industry and the European Commission.
- Facilitation of certification processes for the product manufacturers, accepting 'safety' as the non - negotiable principle.
- Focus has been on making the certification process more efficient for equipment manufacturers
- Tier 6 MR rules came into force in July 2018

Key Note Address

Given by Reinhard Lüken, Managing Director of the German Shipbuilding and Ocean Industries Association (VSM)

- The Regulator set clear objectives with Art 10 for the EU ROs, who embarked on a process, which is sometimes criticised as being too slow
- However, good progress has been made by the EU ROs, and their efforts to agree on harmonized procedures is recognized
- EU ROs have worked to comply with the regulation and it has taken a lot of effort to find common ground with other parts of the maritime industry
- There is clear progress in the mutual understanding of the diverging interests in the topic
- It is appreciated that so many participants are dedicating time during the busy SMM for such an important topic
- Representing the full value chain, VSM is encouraging the dialogue between the stakeholders involved to find solutions that can serve the common interest of the maritime industry, not forgetting the overall goal for society

Introduction Address by Moderator

Peter Swift welcomed the participants and, following the safety briefing, introduced the agenda and summarised the practicalities of the workshop. Noting that he had chaired the 2014 stakeholder workshop he recognized that in the interim the EU RO MR Group had been working diligently on MR and had held a series of bilateral and regional technical reviews and other meetings, and with today's workshop the Group was again fulfilling their commitment to engage in regular and open dialogue with stakeholders.

He referred to the very full agenda with one change to that published previously. He explained that unfortunately DG MOVE could not attend. It was noted EMSA was present. Instead, some of the prepared statements by various stakeholders who could not attend the workshop in person would be introduced.

EU RO MR Group Presentation

This paragraph shall summarize the presentation given by Ulrich Foerster, LR, on behalf of the EU RO MR Group that can be found in Appendix C.

Focus was to provide a short view of key working principles, e.g. the group structure and governance, the product development process and product safety assessment, status of MR certification (130 MR certificates issued by August 2018, 66% from Europe 25% from Asia), and the Group's view on further MR developments an outlook.

In the past years, the group has further developed their working procedures and MR process related documentation. The website was modernized and improved to better facilitate the understanding of the entire MR process for stakeholders and interested industry. In addition, the Group has initiated projects with the aim to further simplify the MR process and to re-visit the safety critical assessment methodology.

The overall intention of the Group has been to streamline processes, to improve information and awareness, to work closer with stakeholders, to organise workshops or partake in events organized by the industry.

To that end the EU RO Group is committed to:

- continue to further streamline the MR processes allowing wider industry to access
- improve the awareness of marine supply industry by participating in appropriate stakeholder meetings
- endeavour to work closer with global organisations including marine equipment, shipping, shipbuilding and insurance related associations
- organise workshops/meetings to share views on further developments and to inform various stakeholders of latest developments
- further work on developing the product evaluation process whilst never compromising safety.

Stakeholder Presentations

This paragraph summarizes the presentations given by Industry representatives that can be found in Appendix D.

Presentation 1: SEA Europe

The first presentation was given by Christophe Tytgat, Secretary General of SEA Europe. In his presentation, he promoted SEA E's aim for high safety standards and recognizes the role of flag. While appreciating the improved dialogue with the Group, he stated that from the perspective of the marine equipment membership, the implementation of Art 10 has not gone far enough.

- Art 10, was triggered by the European marine manufacturing industry raising serious concerns about multiple certification and administrative burden

- SEA E vision: one set of rules and certificates, meeting the highest level of safety requirements, whereby classification societies would compete on service offered to the industry
- This would reduce high certification costs and administrative burdens enabling the manufacturing industry to invest more in product development and subsequently boost competitiveness of EU marine equipment industry
- SEA E appreciated the changes made to the Group's website
- There is the impression that the 'safety argument' is too often misused and used as an excuse to block further developments (Level 4/Unit Certification)
- Slow progress and desire to stay at Level 3 is seen as inappropriate
- Value of MR lies in acceptance of Level 4 products; the majority of European manufactured equipment could be classified as such and therefore real benefits for industry could be achieved

Having acknowledge that the consultative process 'has in the meanwhile already improved', SEA E suggested to proceed with a constructive dialogue with better explanation and promotion of Class Safety Criticality Hierarchy to all relevant stakeholders, improved assessment of and procedure for Level 3 products and starting a wider dialogue on Level 4 products (unit certification).

Presentation 2: International Chamber of Shipping (ICS)

Jonathan Spremulli, Marine Director of the International Chamber of Shipping (ICS) outlined the perspective of ship-owners. While recognizing the level of application of MR to date i.e. limited to certain type approved equipment, ICS strongly objected to MR being elevated to higher safety critical units that to date still require individual survey and certification in conjunction with the assigned class notations for the ship. ICS also strongly objected to restricting the choice of ship-owners for a trusted class society, as owners are financing the marine equipment and taking the ultimate responsibility for a ship.

- Clear messaging about the role of ship-owners as the 'principle' stakeholders of MR
 - Financing is done by ship-owners
 - Responsibility is taken by ship-owners (damage and public perception)
- So, ship-owner are the principle stakeholders but were not involved (and not addressed in the first EC report to Parliament)
- Owners need to rely on the responsibility of one chosen classification society classing the ship in compliance with the assigned class notations
- Freedom of choice for ship-owners to have one class society for their ship should not be restricted
- With MR, owners are forced to accept certificates from other class societies and can thus no longer address concerns to a single class society
- In the case of TOC the ship-owner decides to go for another single class he trusts and is thus accepting the risk
- Art 10 mixes the role of Class and ROs who work for flag states

- Therefore, owners have reservations about type approved equipment being mutually recognised and object to MR being elevated to safety critical equipment; also objecting to being forced to accept equipment not certified by their chosen class society
- MR impacts on the fundamentals of class and against the choice of ship-owners

Presentation 3: Intertanko

Gilyong Han, Senior Technical Manager at INTERTANKO, criticized that ROs are forced to accept other ROs Type approved components and cannot control the quality of the products except when an incident happens thus warranting their own investigation.

He emphasized the lack of clarity on responsibilities of a solid control as expected by ship owners, Flag Administrations as well as insurers.

Recognizing that MR might be a time-saving and cost-effective product approval solution for manufacturers, INTERTANKO does not see any apparent benefit for other stakeholders.

- The EU principle of MR cannot be imposed on the global shipping industry
- IMO – goal-based standards should be the objective, duplication of harmonisation of standards in addition to IACS UI, UR is not adding any value
- INTERTANKO is not comfortable with the notion of compulsory recognition
- For safety reasons, MR should not be applied on more complex systems
- Unclear legal responsibilities
- INTERTANKO does not support the situation where a party (MR Certifier) does not have a business relationship with the owner
- Latest report on ship failures/fatalities have shown an increase and therefore, safety has to come first
- Apparent benefits exist for manufacturers only

Presentation 4: International Union of Marine Insurance (IUMI)

Lars Lange, Secretary General of the International Union of Marine Insurance (IUMI), stressed the important role classification societies have in ensuring a certain level of safety to the vessel and its equipment, and that most individual insurance conditions have a requirement that the vessel shall be classed with a classification society approved by the insurer before the insurance commences.

Lars Lange concluded that insurers expect the survey of safety critical materials, equipment and components to be carried out by a single insurer approved RO classing the vessel. He stated that allowing MR on safety critical materials, equipment and components would undermine the significance of ship classification as a key component of today's safety regime at sea.

- Insurers rely on the risk assessment of a class society
- The insurance conditions have usually a requirement that the class society is approved by the insurer
- Insurers expect that a classification society classing the ship sees the whole picture. Risk assessment and reliability do not work with scattered certification of safety relevant parts

- IUMI suggests that the quality of class societies differs and expects that safety critical equipment assessment is carried out only by insurer-approved class societies
- Transparency is important for insurers and it's not acceptable for insurers if more than one classification society is involved with regard to safety relevant parts.
- IUMI calls upon the group not to apply MR beyond Level 3, not to include complex systems neither materials, as they are not suitable for MR
- The following questions need to be looked at:
 - Is MR slowing down innovation?
 - Does the system discourage to build under EU flag?
 - Are ship-owners still able to cooperate with their known and trusted partner classification society?
 - How do ROs ensure the update of all „EU RO Mutual Recognition Technical Requirements “?
 - How does the system wish to deal with third party flag states?

Presentation 5: VDMA Engines and Systems

Representing VDMA Engines and Systems, Peter Müller-Baum, Managing Director, focused on the situation of classification for the 21st century. Considering that the manufacturing landscape is currently changing significantly with an impact on almost all supply chain processes in the shipping industry, it seems that the idea of 'Mutual Recognition' tries to answer past questions, while there is a need to find solutions for tomorrow's challenges.

He thinks that it is time for a concept of independent verification of the strategies for certifying marine equipment throughout the entire life-cycle, explaining that already now alternative certification schemes of classification societies offer to varying degrees, a level of flexibility to allow for evolving best manufacturing practices, while using data and statistical analysis which help to achieve product stability and quality improvement.

1. Focus on 'Shipping 4.0 developments requires a rethinking in the marine industry
2. Challenges need to be explicitly articulated (digitalisation, need of added value from class, need for harmonisation of rules, performance requirements)
3. Harmonisation is a key topic, but prescriptive rules don't provide an answer
4. Rules need to be consistent and possible to apply so we don't get unachievable requirements
5. Direct surveys will become less relevant, alternative classification schemes to promote advanced manufacturing practices are an option
6. It's time for a concept of independent verification of the properties of marine equipment throughout the entire life cycle
7. Solution might be seen in less prescriptive, risk based rules and flexible intervention requirements to be applied through the adoption of audit based inspection regimes
8. We need less prescriptive, more risk/performance based rules
9. Supports the comment of SEA E about 'constructive dialogue' between key stakeholders

Statements

The Moderator introduced statements by stakeholders who could not be present in the workshop by the Japanese Government, the Panama Maritime Authority, the Japan Ship Machinery and Equipment Association (JSMEA), and referred to those of the Korean Government and the Korean Marine Equipment Manufacturer's Associations.

A selection of the statements and comments made are given below:

Japan Administration

Article 10 (1) is not in compliance with the RO and III Codes as well as UN Convention on the Law of the Sea.

Japan instructed its ROs not to accept certificates issued under the EU Mutual Recognition Scheme for ships flying the Japanese flag.

PANAMA MARITIME AUTHORITY General Directorate of Merchant Marine

Reference is made to your letter dated August 09, 2018, in which you asked this Administration for its position on Art. 10 (1) of EU Regulation 391/2009. Having reviewed all related documents, we can inform you that, although we take into serious consideration all Regulations emanating from the European Parliament and the Council, this Administration, being a Member State of the International Maritime Organization (IMO), enforces all relevant International Conventions duly adopted and ratified by our Country. In this specific case, we would like to refer to Resolution MSC.349(92), of the Maritime Safety Committee, the Code for Recognized Organizations.

We greatly appreciate your interest in our position and hope to continue cooperating with the Steering Committee towards a fruitful working relation for the benefit of the maritime sector and its stakeholders.

Korean Marine Equipment Manufacturer's Associations have also conveyed their position on this issue as follows:

KOMEA and BMEA are of the opinion that EU RO MR, at the moment, is not a globally accepted scheme. Consequently, KOMEA and BMEA are not sure whether a product with MR TAC would be allowed to be installed on board ships of non-EU flagged ships, including Korea, even though about 20 MR TACs have been issued to some individual members of KOMEA and BMEA.

On the other hand, KOMEA and BMEA are concerned that expanding the MR products to those which are higher safety-critical may lead to difficult situations e.g., when a MR product integrated into a system of a vessel is in trouble. In such case, there will be confusion as to which RO the manufacturer should cooperate with when the RO issuing the MR TAC and the RO classing the vessel are different. This is just one example of many possible problems that KOMEA and BMEA see, and consequently, they are sceptical about the validity of the EU RO MR scheme as well as its effectiveness in relation to global implementation.

Statement JSMEA (Appendix E)

Japan Ship Machinery and Equipment Association (JSMEA) has submitted their statement to the Secretariat and they intend to distribute to Workshop participants a hard copy of their statement.

- EU mutual recognition requirement forces a flag State to accept marine equipment approved by an EU RO, even where the EU RO is not recognized by the flag State as a competent ship inspection and survey organization. This means that, the requirement not only impinges sovereign right of non-EU flag States but also is not in compliance with RO Code and III Code of IMO.
- As stipulated in Article 94 of the UN Convention of the Law of the Sea, it is a flag State's duty to take such measures as for ships flying its flag as are necessary to ensure safety at sea with regard to the equipment.
- If the scheme is expanded to include more safety-related marine equipment and then the defects of the products cause a serious accident, it may undermine the credibility of the entire marine equipment industry around the world. Furthermore, it would lead to impeding fair competition in quality and cost on the world market of marine equipment.

Panel Discussion

The panellists were represented by Carsten Gierga, Liberian Register, Jonathan Spremulli, ICS and Peter Müller-Baum, VDMA Engines and Systems. Focus was on discussing MR implementation aspects regarding safety impact of innovation in the changing industry landscape, matters of global acceptance of the MR scheme as well as answering questions from the audience.

Liberia Flag

Refers to 2009 letter and stresses three areas of concern: sovereignty of flag state, impact on safety, freedom of choice. In addition, it is their view that MR might limit innovation. Liberia is in favour of a goal-based rule development approach instead. Moreover, not even all EU flags have accepted all ROs of the working group. Finally, a global approach is preferred over a regional approach. The signatories of the letter represent 85% of the global classed world fleet.

EU is expecting non-EU MS to adopt the MR scheme. But not all EU MS have entrusted delegation to all EU ROs.

The Moderator referred to the letter of November 2009 naming the 9 states, while stressing that this was a confidential letter.

ICS

Some EU Member States (MS) only recognise 6-7 ROs. Under MR, why should an owner accept certificates of all these ROs if the MS do not?

MR has an impact on safety, the level that has been agreed so far is a cautious approach is supported

- class societies are pumping significant amounts of money in their rule development
- what would be the incentive for them to develop the rules further with a significant reduced income stream from Marine Equipment Certification

VDMA

Understands why SEA Europe is promoting the MR process. However, VDMA is not convinced by the benefits of MR. In the future alternative solutions to better understand the industry expectations are needed to cope with the challenges the industry is facing. Developing new technologies takes time and is increasingly taking longer as complexity of task is raising. Calls for a move from restrictive rules and focus more on manufacturing processes in order to ensure products are safe and provide end-user functionality. Sees a role for certification companies in ensuring these manufacturing processes are safe.

- consider the time of development of new rules is not solely to proceed but
- more to focus on the development of best practices applied through ACS to help to improve the quality processes at the manufacturers

Liberia

We need an open mind for goal-based rules. We are supporting this strongly.

Moderator

The Commission takes the view that DG is the regulator and that the EU ROs have the responsibility for its implementation, in consultation with the other stakeholders. In order to develop global acceptance of MR it would be necessary to involve all relevant regulators, not only the Commission. It would also be logical to look at the practices in other industries. Dialogue must involve the international community.

CEFOR / IUMI

- emphasised that increased complexity and aspects of increasing system integration is on the table and requires solutions – what about MR to develop new technology (standards?) but on goal based principles?

ICS

- ship-owners still value the role of class - even more when considering new technology and innovation
- compare ship construction vs offshore construction when applying Third Party Assurance ...do we want to have the same scenario to open up the market for more fragmentation by adding more and more site teams representing different stakeholders?

IUMI

- we have to rely on Third Party Inspection which is even more significant as ships become more complex and larger (cargo costs) which underpins our concerns
- Question of trust is obviously a key issue here - it is all about trust and performance!

SEA Europe / Danish Maritime

- Regulator should be seen as a very important stakeholder
- we would like to see to move into the areas of unit certification (Level 4)
- let us now move forward

BIMCO

- As a buyer of a ship a shipowner should not be obliged to accept MR on their ship, i.e. to accept the regulation. The obligation of class societies should not confuse contractual arrangements between the shipowner and the shipyard.

- As long as it is in the buyers' option to take or not MR, this is ok, otherwise the acceptance of certificates issued by another class is a breach of contractual obligations.

Summary

The moderator concluded the workshop by thanking all the participants for their very constructive presentations, discussions, comments and questions and for the open expression of their views. He said he would not attempt to draw any conclusions today but reminded the delegates that all of the presentations and statements and a summary of the workshop would be available via a web-link which would be advised post meeting. He also thanked all of those responsible for the organisation and administration of the workshop.

The EU RO MR Group Chair thanked the panellists, presenters and audience for their contribution to the fruitful workshop. appreciating the engagement in the topic of 'Mutual Recognition' and the discussions of the different aspects related to the implementation of Article 10 of Regulation 391/2009/EC.

He expressed his satisfaction to see that the objective of the workshop had been met.

It provided an excellent opportunity to increase knowledge and awareness regarding the implementation of the MR scheme and to develop a common understanding of the different interests and positions.

The stakeholder presentations and statements however have again highlighted the complexity of the issue within the scope of ship classification.

According to the majority of the presenters, the "appropriate cases" where MR should be implemented, should be limited and maintained at current level. The matter regarding acceptance of non-EU flag states has to be considered in any future developments.

The MR Group presentation has shown that the EU ROs do their very best to implement a scheme that takes into account those complexities.

On behalf of the MR Group, the Chair thanked all presenters and those who contributed to make this workshop a valuable experience.

His special thanks went to the moderator Peter Swift for running the workshop, to the presenters and panellists for sharing their experience, as well as to the participating stakeholders and audience for their interest in the topic and for their constructive contributions.

Appendices

Appendix A: List of registered Participants

- ADS Insight Deutschland GmbH
- AEGIR-Marine Group
- American Bureau of Shipping (ABS)
- BIMCO - The Baltic and International Maritime Council
- Bureau Veritas SA (BV)
- Cefor - The Nordic Association of Marine Insurers
- China Classification Society (CCS)
- Croatian Register of Shipping (CRS)
- Arnecke Sibeth Dabelstein
- Danfoss A/S
- Danfoss Drives A/S
- Danish Maritime
- DENO COMPRESSORS BV
- DNV GL
- Eaton Electric BVBA
- ECSA - European Community Shipowners' Association
- Emerson Automation Solutions
- EMISA - European Maritime Independent Suppliers Association
- EMSA
- EU RO MR Group
- ICS - International Chamber of Shipping
- Indian Register of Shipping (IRS)

- International Association of Class Societies (IACS)
- INTERTANKO
- IUMI - International Union of Marine Insurance
- Japan Marine Equipment Association (JSMEA)
- Korean Register of Shipping (KR)
- LISCR Deutschland
- Lloyd's Register (LR)
- MAN Diesel & Turbo
- Member of CIMAC WG
- Netherlands Maritime Technology
- Nippon Kaiji Kyokai (NK)
- Norsk Industri
- Novenco Marine & Offshore A/S
- NTNU - Norwegian University of Science and Technology
- Panama Maritime Authority
- Phoenix Testlab
- Polski Rejestr Statkow (PRS)
- Dancompliance
- Russian Register (RS)
- Schneider Electric
- SEA Europe
- SEA Europe
- Society of Maritime Industries SMI
- VDMA Motoren und Systeme

Registered Participants not attending

- DASPOS A/S
- Deputy Ministry of Shipping, Republic of Cyprus
- International Association of Class Societies (IACS)
- REINTJES GmbH

Appendix B: Agenda of the Workshop

1. Welcome and Introduction

- a. Hui Zhang, CCS, Chair EU RO MR Group
- b. Dr Reinhard Lüken, Verband für Schiffbau und Meerestechnik (VSM)
- c. Peter Swift, Moderator

2. EU RO MR Group – Status and Outlook

3. Stakeholder presentations

- a. SEA Europe
- b. International Chamber of Shipping (ICS)
- c. Intertanko
- d. International Union of Marine Insurance (IUMI)
- e. VDMA Engines and Systems

4. Address DG/MOVE

5. Panel discussion

- a. Panellists
- b. With audience

6. Summary

Appendix C: EU RO MR Group Presentation



EU RO MR Group – Status and Outlook Ulrich Foerster – SC Member – Lloyd’s Register



Contents

EURO MR - introduction and recap on key principles	3
EU RO Group's structure and governance	7
Product development process and product safety assessment	10
Status of MR certification	12
MR Group's view on further MR developments & Outlook	17

2

EURO MR - introduction and recap on principles

*"Talking about the principles
under which the Group has
developed the MR process"*



Source: Internet

3

Mutual Recognition Art 10(1), Reg 391 – main principles

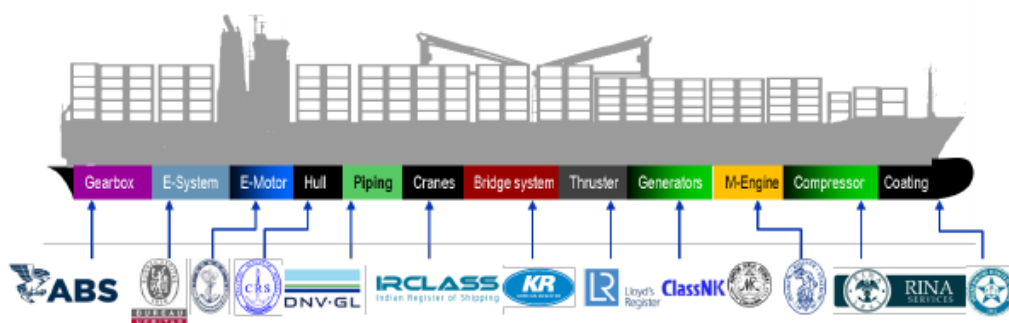
Let's recall the main principles drawn up by the regulation

- The regulatory regime concerning ship safety and marine pollution prevention are contained within:
 - Rules and Regulations of individual Classification Societies
 - IMO International Conventions and Regulations applied by Classification Societies
- Article 10.1 of Regulation (EC) 391/2009 states:
 - “...Recognised organisations shall, **in appropriate cases, agree on the technical and procedural conditions** under which they will mutually recognise the class certificates for materials, equipment and components based on equivalent standards, **taking the most demanding and rigorous standards as the reference...**
*Where mutual recognition cannot be agreed upon for **serious safety reasons**, recognised organisations shall clearly state the reasons therefor...*”

4

Mutual Recognition Art 10(1), Reg 391 – What does it mean?

- Mutual Recognition is not the same as MED and this should not be confused with it, i.e. MED is focussed on statutory certification of marine equipment while the MR process is directed to class issued certificates. Therefore, these are two separate regulations with their own governance and execution procedures
- MR could potentially (in the extreme) result in a complete vessel being covered...e.g. as illustrated below



5

Art 10(1), Reg 391 – Principles to recognise and apply

Our Group are compliant under MR...

- The overall aim of the European Union, through application of Regulation (EC) 391/2009, is to 'ensure cooperation and exchange of knowledge between ROs and to **promote highest safety**'
- EU ROs are **obliged to accept MR Type Approval certificates issued by any of the ROs** for all the products found eligible under the MR programme, when the vessel is flagged by an administration of an EU Member State
- **Recital 25 of Commission Implementing Regulation (EU) No 1355/2014 of 17 December 2014** reads: *"The scheme for the mutual recognition of class certificates for materials, equipment and components laid down by Article 10(1) of Regulation (EC) No 391/2009 is only enforceable within the Union in respect of ships flying the flag of a Member State. As far as foreign vessels are concerned, the acceptance of relevant certificates remains at the discretion of relevant non-EU flag States in the exercise of their exclusive jurisdiction, notably under the United Nations Convention on the Law of the Sea (UNCLOS)"*
- All ROs acting worldwide which have gained EU RO status are committed to developing and implementing the Mutual Recognition Scheme to comply with Regulation (EC) 391/2009.

6

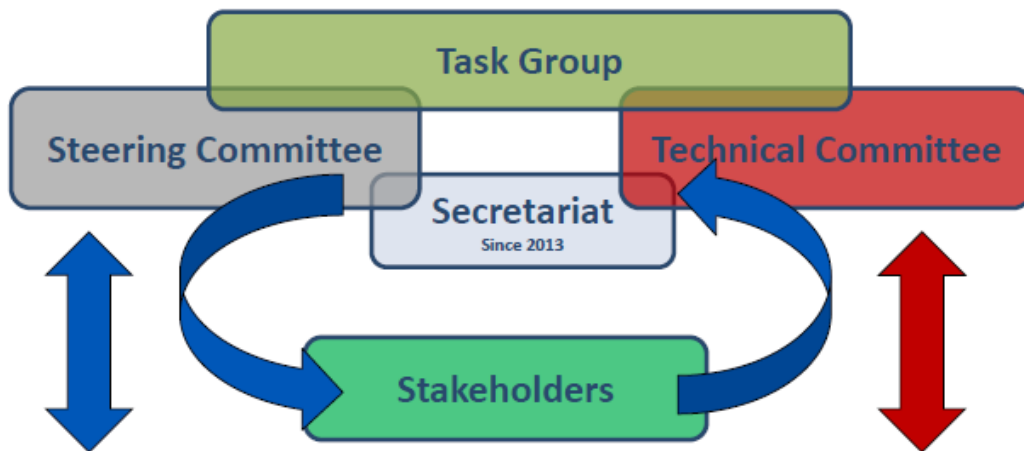
EU RO Group structure and governance

*"Overview about the Group's
structure and activities"*



7

Governance of the EU RO MR Group



Decisions and guidance within EU RO MR Program, overall responsible and ensuring compliance

Recommendations for Steering Committee regarding products eligible for MR, development, adoption and maintenance of MR Technical requirements

8

Since the last report to the Commission in 2015, which followed the 2014 workshop the EU RO MR Group has...

- Further developed new procedures and relevant documentation to ensure consistency in the implementation and maintenance of technical requirements [Request for Clarification [RfC], Change request [CR], Alert process, Maintenance procedure, Product Consideration Process [PCP]
- Renewed and improved our own web page in 2018 to become more user – friendly and providing more comprehensive information to industry covering procedural and technical details of the entire MR process

<https://www.euomr.org>

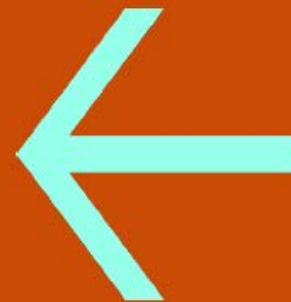


- Initiated further work on simplifying the MR process required technical consultation and the transition processes
- Reviewed the safety criticality assessment methodology to consider the received feedback by industry and stakeholder organisations.

9

Product development process and safety assessment

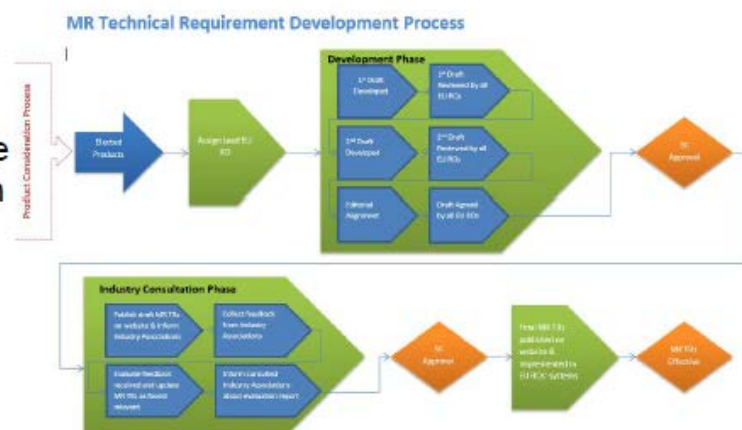
Tier 7 developments and supporting tools / procedure under MR



10

Update on MR Technical Requirements development and industry consultation process

- Any manufacturer may, at any time, propose new products for MR
- A step by step process has been established to enable effective consultation with industry
- There are procedures and tools/forms implemented to enable Industry to direct communicate with the Group on technical and procedural matters



Version 2.0 – January 2016

11

Status on MR certification

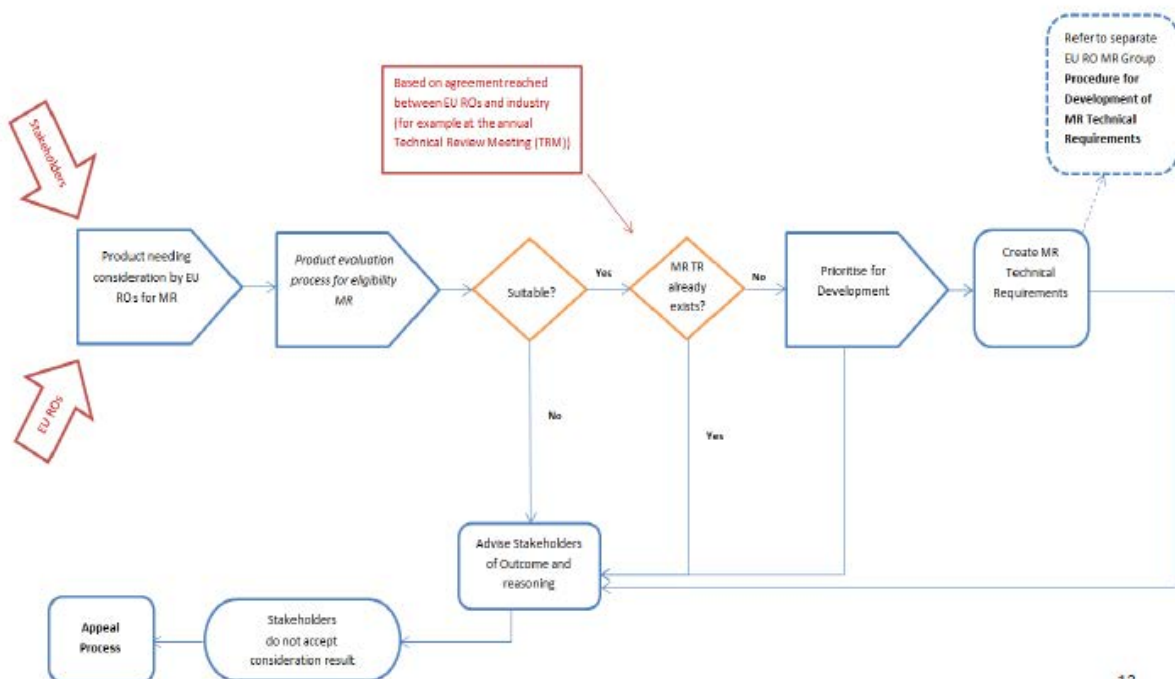
Talking about how the Group has achieved and maintains compliance with the regulation



Source: Internet

What have we done since the last report has been issued?

Brief status report – MR Process



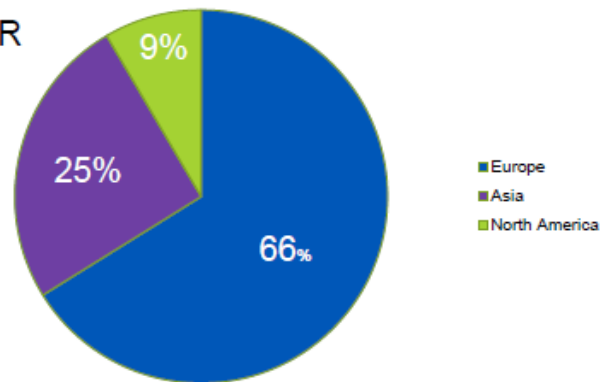
Status of Mutual Recognised TA Certificates

Some statistics as per August 2018

Through development and application of transparent procedures and processes, 130 MR Type Approval Certificates have been issued (as of August 2018)

This has seen global coverage

% of MR TACs by Region

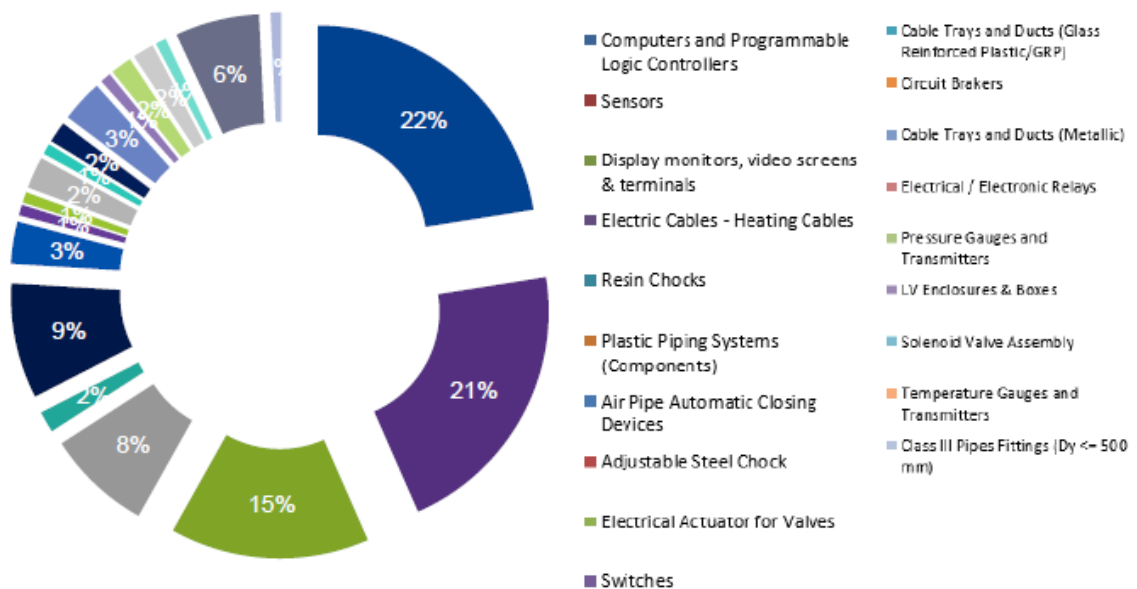


14

Status of Mutual Recognised TA Certificates

Status August 2018

% of MR TACs Issued by Product



1

15

MR Group's view on MR

Aspects to consider...



16

Continuing work on MR it is to consider that...

- Evaluating the works capabilities and harmonisation of technical standards alone without considering the application case and safety criticality of equipment is not enough to ensure the holistic approach of our safety concept
- A ship safety concept can only be ensured if intervention in each stage of the classification cycle is applied, i.e. if carried out by the RO classing the vessel as it requires special system knowledge due to tendency of increased integration of safety critical equipment
- In the light of the above and to achieve compliance with the Regulation taking 'safety as the first priority', it is the EU ROs view that only non-ship specific products are to be considered as potential MR products
- It is the EU ROs position that the MR scheme as it stands should further focus on the development of technical requirements to a mutually agreed scope of potential products.

17

Outlook ...

The EU RO Group will

- continue to further streamline the MR processes allowing wider industry to access
- improve the awareness of marine supply industry by participating in appropriate stakeholder meetings
- endeavour to work closer with global organisations including marine equipment, shipping, shipbuilding and insurance related associations
- organise workshops/meetings to share views on further developments and to inform various stakeholders of latest developments
- further work on developing the product evaluation process while never compromising safety.

18

For further information please contact:

EU RO MR Secretariat:

secretariat@euomr.org

<https://www.euomr.org>

Thank you!



Appendix D: Stakeholder Presentations



Hamburg, 5 September 2018





EU RO MR Group Workshop

Christophe Tytgat - SEA Europe



SEA Europe
Shipyards' & Maritime Equipment Association

EU RO Workshop – SMM
Christophe Tytgat

SEA Europe

- Shipyards' + Maritime Equipment Association of Europe
- Civil & naval interests
- Association of national associations from EU/NO/TR
- Merger of CESA (shipyards) & **EMEC** (equipment)



4 Questions

- **Question 1** – *Why did Europe's marine equipment industry advocate for mutual recognition?*
- **Question 2** – *What does Article 10 para 1 of Regulation 391/2009 provide for?*
- **Question 3** – *Where are we today with Art 10 (1) and its implementation?*
- **Question 4** – *How do we move on from here?*



Q1- Why MR for Marine Equipment?

- Marine equipment industry in Europe:
 - All types of products and services, including technical services
 - 53% of world market in marine supplies
 - World leader in sophisticated equipment / technology
 - 232,000 direct jobs / 109,000 indirect jobs
 - € 60 bn turnover / € 17 bn total export
 - Highly innovative and technology-intensive industry



Q1- Why MR for Marine Equipment?

- Currently: No clear and harmonised set of technical rules at EU level.
- More than 1 class. certificate for same product
 - Unnecessary high costs
 - Cumbersome administrative burdens
 - Less money to invest elsewhere
- *MR of class. certificates + harmonised class. rules =*
 - *Reducing high costs and administrative burdens*
 - *Boosting competitiveness of EU marine equip. industry*



Q1- Why MR for Marine Equipment?

- SEA Europe's Vision =

“There should be one set of rules and certificates, meeting the highest level of safety requirements, whereby class. societies would compete on service offered to the industry”.



Q2 – What does Article 10 para 1 of Regulation 391/2009 provide for?

- Recognised organisations shall, in appropriate cases, agree on the technical and procedural conditions under which they will mutually recognize the class certificates for materials, equipment and components based on equivalent standards, taking the most demanding and rigorous standards as the reference.
- Where mutual recognition cannot be agreed upon for serious safety reasons, Recognised Organisations shall clearly state the reasons therefore.



Q3 – Where are we today with Art 10 (1) and its implementation?

Not far yet certainly not from the perspective of SEA Europe or its marine equipment membership



Q4- How do we move on from here?

- Option 1 – Get rid of the current system
- Option 2 – Constructive cooperation



Shall we go for option 2?

- Better explanation and promotion of Class Safety Criticality Hierarchy to all relevant stakeholders.
- Improve assessment of and procedure for Level 3 products.
- Start dialogue on Level 4 products (unit certification)
- Proper consultation on any changes to the system (which meanwhile has already improved)



EU RO MR Group Workshop

Jonathan Spremulli - ICS



EU RO Mutual Recognition Workshop
Hamburg 5 September 2018

Article 10.1 of Regulation (EC) No. 391/2009
Shipowners Perspective



**International
Chamber of Shipping**
Shaping the Future of Shipping

Jonathan Spremulli CEng CMarEng MIMarEST,
Marine Director

Who are the key stakeholders in MR?


- Manufacturers
- EU ROs
- Anybody important missing?
- Shipowners ?
- Shipowners are the Principal Stakeholders!
Why?

Ship Classification and the Shipowner

- Important Fundamental Principle! ROs work on behalf of Flag Administrations applying and verifying compliance with statutory instruments. Classification Societies work on behalf of the shipowner ensuring the ship meets Class rules
- Who chooses a ship's Class?
- On what basis does the shipowner choose the Class?
- Why is the Certificate of Class, the notations and their meaning important to the Shipowner?

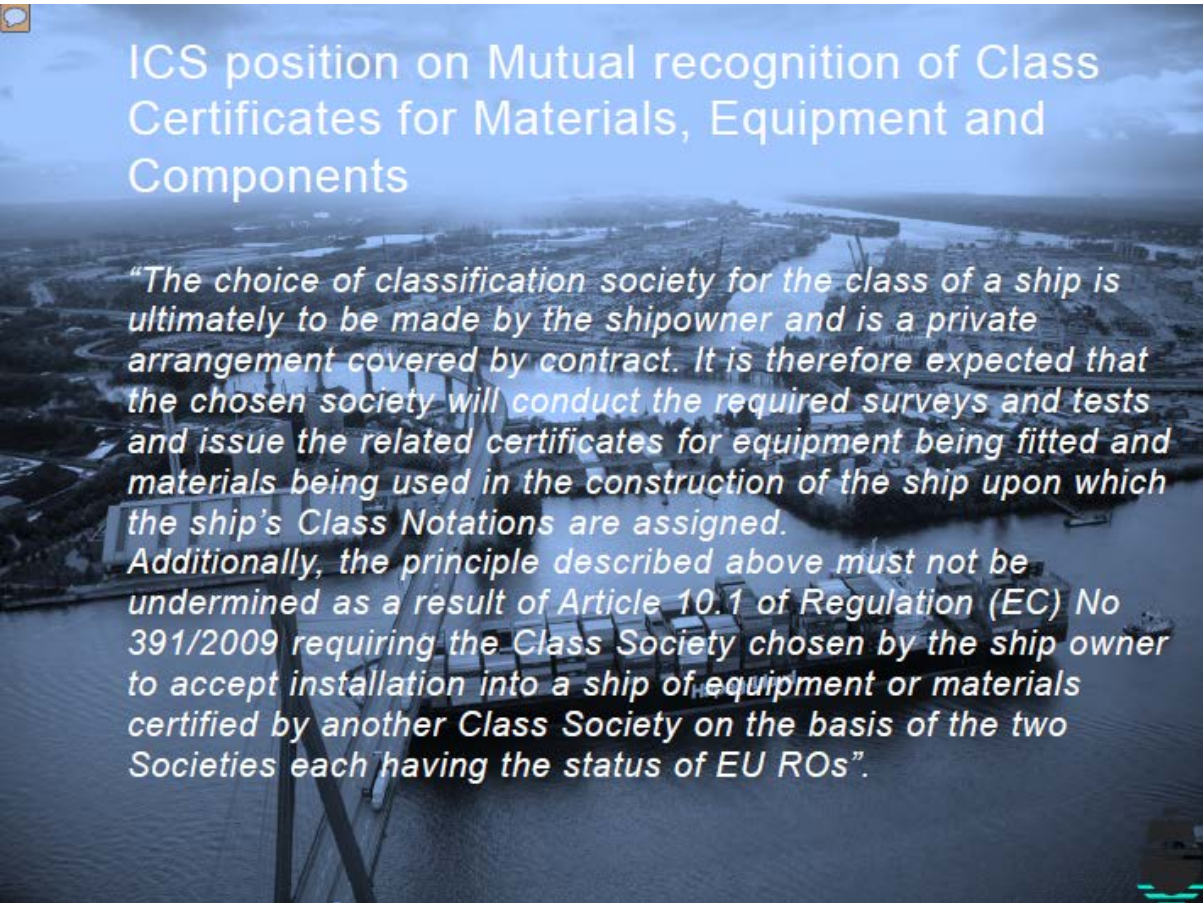
+LMC – *This notation will be assigned when the propelling and essential auxiliary machinery have been **constructed, installed and tested under LR's Special Survey** and in accordance with LR's Rules and Regulations for the Classification of Ships*

- *MR impacts on the fundamentals of Class and against choice of shipowners*



Shipowners Position on Mutual Recognition of Class Certificates

- Have not objected to the level of application of MR to date i.e. limited to certain type approved equipment
- Strongly object to MR being elevated to safety critical items that require individual survey and certification
- Shipowners should not be forced to accept products not surveyed and certified by the ship's chosen Class Society
- MR impacts on liability should products fail on a classed ship



ICS position on Mutual recognition of Class Certificates for Materials, Equipment and Components

"The choice of classification society for the class of a ship is ultimately to be made by the shipowner and is a private arrangement covered by contract. It is therefore expected that the chosen society will conduct the required surveys and tests and issue the related certificates for equipment being fitted and materials being used in the construction of the ship upon which the ship's Class Notations are assigned. Additionally, the principle described above must not be undermined as a result of Article 10.1 of Regulation (EC) No 391/2009 requiring the Class Society chosen by the ship owner to accept installation into a ship of equipment or materials certified by another Class Society on the basis of the two Societies each having the status of EU ROs".



Additional thought:

What governs which EU RO a manufacturer will choose to certify their products?

Quality of survey, cost of services, something else???





EU RO MR Group Workshop

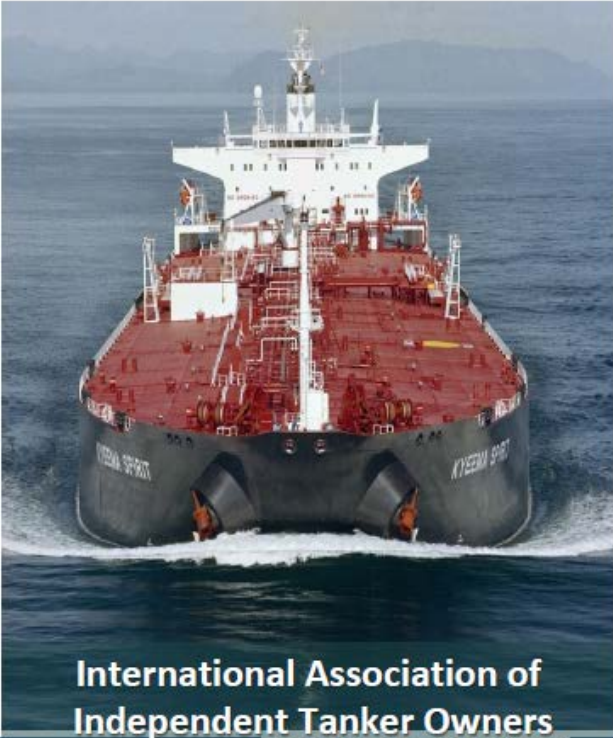
Gilyong Han - INTERTANKO



EU Mutual Recognition (MR), Positive Results?

Gilyong Han

INTERTANKO
5 September 2018



International Association of Independent Tanker Owners

Leading the way, making a difference



INTERTANKO

INTERTANKO 2018



Members

Lead continuous improvement of tanker industry's performance

Strive to achieve the goals of:

- ZERO fatalities
- ZERO pollution
- ZERO detentions

Deliver highest quality services to meet stakeholders' expectations

Promote availability and use of personnel with best marine skills and competencies

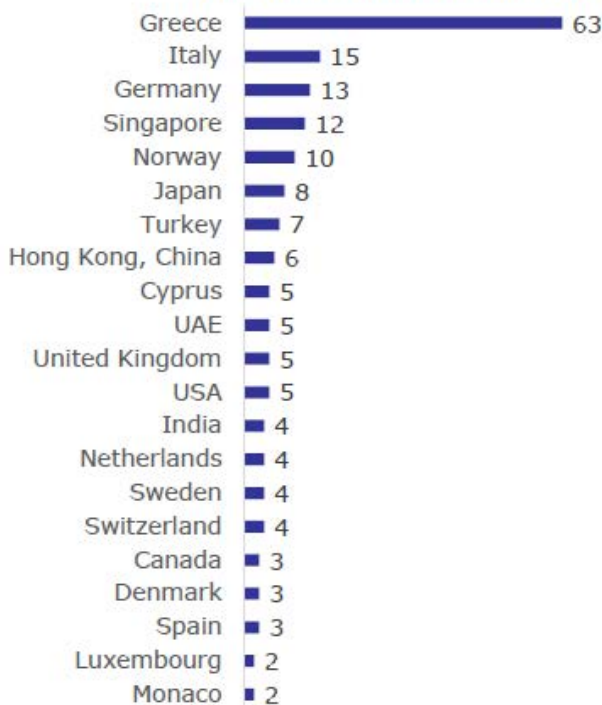
Leading the way; making a difference



INTERTANKO

2018 Membership

204 Tanker Owner Members



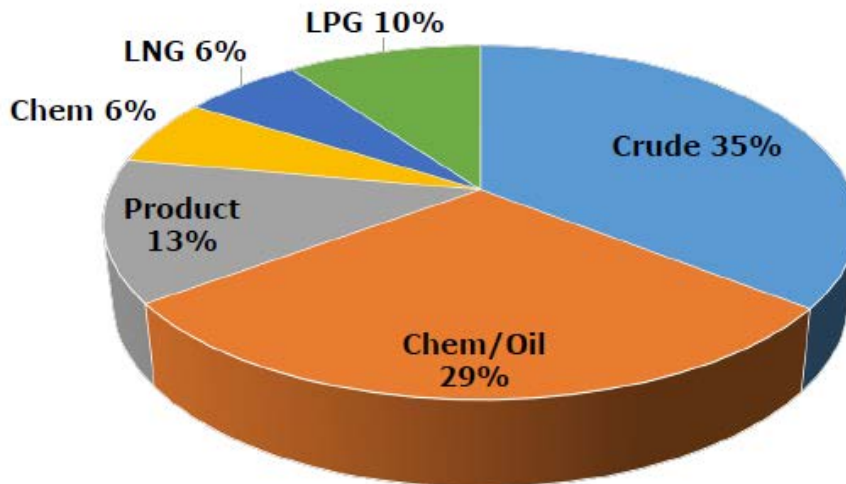
Registered Tanker Fleet



Leading the way; making a difference

2018 Member Fleet

Vessel Type by number of tankers

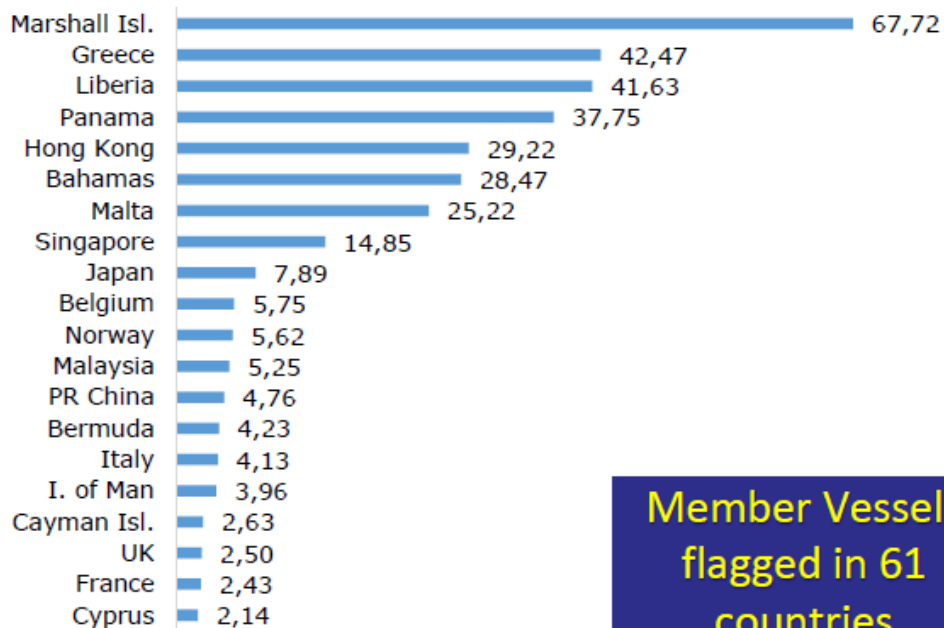


- Gas tonnage increased from 7 mio dwt in 2015 to 30 mio in 2018
- 635 gas carriers registered by 43 Members
- 7 pure gas fleet Members

Leading the way; making a difference

2018 Member Fleet

Top 20 Flag States by mio DWT



**Member Vessels
flagged in 61
countries**

Leading the way; making a difference



EU MUTUAL RECOGNITION

What is the principle of EU MR?

MR is the principle of EU law under which member states (MS) must allow goods that are legally sold in another MS also to be sold in their own territory.

For the exporter, this means that a product legally on sale in one EU country should not have to meet a second set of requirements in the country to which they are exporting.

Importing MS can disregard MR only under strictly defined circumstances, e.g. where public health, the environment or consumer safety are at risk, and where the measures taken can be shown to be proportionate.



EC 391/2009 – Article 10.1

- ❖ ROs shall consult with each other periodically with a view to maintaining equivalence and aiming for harmonisation of their rules and procedures and the implementation thereof. They shall cooperate with each other with a view to achieving consistent interpretation of the international conventions .

INTERTANKO does not see an added value in duplicating rule harmonization work at a detailed technical level.

- ❖ ROs shall, in appropriate cases , agree on the technical and procedural conditions under which they will mutually recognise the class certificates for materials, equipment and components based on equivalent standards, taking the most demanding and rigorous standards as the reference.

INTERTANKO is not comfortable with compulsory recognition.

EC 391/2009 – Article 10.1

- ❖ Where MR cannot be agreed upon for serious safety reasons, ROs shall clearly state the reasons therefor.
INTERTANKO urges ROs to avoid applying MR to complex systems.
- ❖ Where a RO ascertains by inspection or otherwise that material, a piece of equipment or a component is not in compliance with its certificate (INTERTANKO questions when would it be possible?), that organisation may refuse to authorise the placing on board of that material, piece of equipment or component. The RO shall immediately inform the other ROs, stating the reasons for its refusal.
INTERTANKO is concerned that ROs are forced to accept other ROs Type Approved components and can not control the quality of the products except when an incident happens thus warranting their own investigation.

Leading the way; making a difference

EC 391/2009 – Article 10.1

- ❖ There is no limit for the number of systems on board a ship having type approval from other ROs than the RO which classes the ship.

Recital 18 of the EC 391/2009:

(18) While each RO, in principle, should be held responsible solely and exclusively in relation to the parts it certifies, the liability of ROs and manufacturers will follow the agreed conditions or, as the case may be, the applicable law in each individual case.

brings further unclear legal responsibilities.

Lack of clarity on responsibilities of a solid control as expected by ship owners, Flag Administrations as well as insurers.

Leading the way; making a difference



EU MUTUAL RECOGNITION for SHIPPING

INTERTANKO

MR applied to shipping industry = apparent benefits for manufacturers only

- Time-saving and cost-effective product approval solution for manufacturers

No apparent benefit for other stakeholders

MR's expected benefits: ensuring a level playing field, removing trade barriers and avoiding multi certification

Leading the way; making a difference



EU MUTUAL RECOGNITION for SHIPPING

INTERTANKO

Drawbacks:

- leading to a loss of control by the RO classing the ship
- limits the ship owner's choice to engage with their trusted Class Society and their preferred service provider
- Limit the competition and technical innovation.
- Underwriters rely on the quality control by the Class classing the ship - MR removes such a quality and risk control measure.
- leads to reflagging ships to non-EU flag states and discourages to build under EU flags

Leading the way; making a difference



EU MUTUAL RECOGNITION for SHIPPING

INTERTANKO

It is imperative that the ship owners can have confidence on the safety of systems on board their ships.

Key questions which EC and EU MR Group are invited to assess:

- MR introduces a level playing field – did it and if so, how it is assessed?
- Removing trade barriers - what and where are these barriers? Are they removed?
- Is there any indication of a commercial benefit of the MR?
- Does MR incentivise innovation and novelty or is it a hindrance?
- Is veracity on the quality control and testing ensured?

Leading the way; making a difference

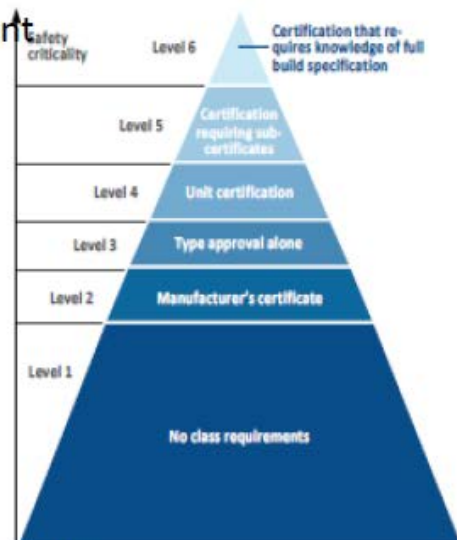


EU MUTUAL RECOGNITION for SHIPPING

INTERTANKO

❖ Comments on EU RO Framework Document Oct 2012 Version 9 July 2018:

- «appropriate cases» are not defined in Version 9.
- «Level 1-6 in Hierarchy» is not included in Version 9.
- “Simplified Risk Based Model” ?



Source: ←
EU RO First Report to EC
Oct 2012

Figure 1

Classification safety hierarchy of materials, equipment and components on a ship

Leading the way; making a difference

END



EU RO MR Group Workshop

Lars Lange - IUMI



EU RO Mutual Recognition Group Workshop The IUMI View

Lars Lange, IUMI Secretary General
Wed, 05 Sep 2018, SMM Hamburg



1. About IUMI

At a glance



1. International Union of Marine Insurance (IUMI) traces its roots back to 1874
2. Membership
 - 41 national (marine) insurance associations as members
 - 19 Affiliate Members, 21 IUMI Professional Partners
3. Represents **property insurance** – cargo, hull, offshore energy, special lines



2

International Union of Marine Insurance

3 September 2018

2. Mutual Recognition - Art 10 (1), EU Reg 391/2009

Where we are



1. Art 10 (1) is into force – the **EU RO MR Group** takes responsibility for implementation of processes and procedures as developed over time
2. EU RO MR Group has its **own governance** led by a steering committee and supported by a technical committee and ad-hoc groups where seen necessary
3. **6 Tiers of „Technical Requirements“** for products eligible under MR developed and in force, Tier 7 of products to come in Jan 2019
4. So far, **ca. 130 certificates** issued showing global coverage



4

International Union of Marine Insurance

3 September 2018

3. Marine Insurance - underwriting needs information

Decision process in hull and cargo insurance



1. **Risk information** needed for underwriting decision - external information sources essential
2. **Classification has an important role** in ensuring a certain level of safety to the vessel and its equipment – insurers rely on classification's judgement
3. most individual **insurance conditions have a requirement** that the vessel shall be classed with a classification society approved by the insurer before the insurance commences



5

International Union of Marine Insurance

3 September 2018

3. Marine Insurance - underwriting needs information

Example: Nordic Plan



Nordic Plan 2013 – Version 2016

(Chapter 3 – Duties of the person effecting the insurance and of the assured

Section 2 – Alteration of the risk)

Clause 3-14. Loss of the main class

- *When the insurance commences the ship shall be classed with a classification society approved by the insurer.*
- *The insurance terminates in the event of loss of the main class, unless the insurer explicitly consents to a continuation of the insurance contract. If the ship is under way when the main class is lost, the insurance cover shall nevertheless continue until the ship arrives at the nearest safe port in accordance with the insurer's instructions.*
- (...)

The Nordic Marine Insurance Plan of 2013, Version 2016

Based on the Norwegian Marine Insurance Plan of 1996, Version 2010



6

International Union of Marine Insurance

3 September 2018

3. Marine Insurance - underwriting needs information

Example: German Standard Hull Clauses DTV-ADS 2009



DE EUROPÄISCHES

26. Classification

26.1 *The Insured must notify the Insurer of a change of classification society prior to the change taking place. The Insurer is entitled to cancel the policy for the vessel in question by issuing two weeks' notice within 14 days of receiving such notification.*

26.2 *If the Insured fails to disclose the change of classification society, the Insurer will be discharged from liability unless the nondisclosure was neither intentional nor grossly negligent, or the change of classification society had no effect on the occurrence of the loss or damage or the extent of the Insurer's obligations thereunder.*

26.3 *If the class of vessel expires, is restricted or withdrawn, the insurance will end on the date on which the vessel continues or resumes its voyage without the consent of the classification society.*

(...)

Non-binding publication of the German Insurance Association (GDV) for facultative use. Other conditions may be agreed. In case of deviations, only the German wording shall be binding and prevail.

DTV - German Standard Terms and Conditions of Insurance for Ocean-Going Vessels 2009 (DTV-ADS 2009) Standard terms and conditions of the GDV

Contents		
Section One: General Provisions		
1 Insured interest	31	1/18
2 Loss of insured interest	32	1/19
3 Loss of insured object	33	1/20
4 Insurances for new account, for the account of another	34	1/21
5 Insurances for new account, for the account of another	35	1/22
6 Legal position of the Insured (third party interest)	36	1/23
7 Offering of business	37	1/24
8 Assignment	38	1/25
9 Term of the insurance	39	1/26
10 Insured value, underinsurance, overinsurance, double insurance, agreed value	40	1/27
11 Insured value and agreed value	41	1/28
12 Underpayment	42	1/29
13 Contribution	43	1/30
		1/31
		1/32
		1/33
		1/34
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		1/100

4. Reliability of Classification

Why is the classification society so important?



1. What if “the” approved classification society for an individual vessel is no longer existing but only consolidating different certificates issued by different classification societies?
2. Insurers see different classification societies with different size, quality, rule-books, experience, specialisation and training of surveyors – see port state control mechanisms
3. Insurers expect that classification needs to see the whole picture – is it possible for the RO classing the vessel to mutually recognize certificates issued by other ROs and still to assess the safety case of the overall vessel?



5. IUMI's Position

Responsibility of one RO for safety critical parts



- Insurers expect the **survey of safety critical materials, equipment and components** to be carried out by the **insurer approved RO classing the vessel**
- Otherwise, neither the classification society nor owners or underwriters would really know what quality of vessels they have or what quality of components have gone into them
- to allow MR on safety critical materials, equipment and components would undermine the significance of ship classification as a key component of today's safety regime at sea



9

International Union of Marine Insurance

3 September 2018

5. IUMI's Position

MR only for not safety critical parts



1. **Don't take it further as to Level 3 products and type approval**
2. **Don't undermine the responsible decision about „safety criticality“ in the Product Consideration Process**
3. **„unit certification“ / „compley systems“ with need for system integration considerations are too complex for MR – it needs a holistic approach**
4. **Materials are not fitting for the MR process**



10

International Union of Marine Insurance

3 September 2018

6. Finally - some critical questions

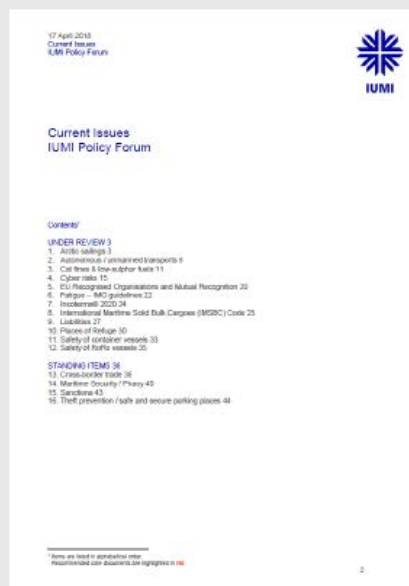


1. Isn't an inflexible MR system slowing down innovation?
2. Commercially:
 - Does the system discourage to build under EU flag?
 - Are ship-owners still able to cooperate with their known and trusted partner classification society?
3. How do ROs ensure the update of all „EU RO Mutual Recognition Technical Requirements“?
4. How does the system wish to deal with third party flag states?



7. IUMI Current Issues

IUMI „Current Issue List“ on www.iumi.com – „Opinions“





That's it!

Lars Lange
Secretary General
International Union of Marine Insurance e.V.
Große Elbstraße 36
D-22767 Hamburg
lars.lange@iumi.com





EU RO MR Group Workshop

Peter Müller-Baum - VDMA Engines and Systems




Peter Müller-Baum
 Managing Director
 VDMA Engines and Systems

EU RO MR Group Workshop on Mutual Recognition

Hamburg
 September 5, 2018

VDMA | Peter Müller-Baum



DNV VGE BE

VDMA | Peter Müller-Baum

Classification for the 21st century Where do we stand today?



Situation Review

- » The manufacturing landscape is currently changing significantly with an impact on almost all supply chain processes in the shipping industry
- » Digital technology including IoT already underpins the world around us and is a trend that it set to accelerate in the years ahead
- » Industry 4.0 processes and 'advanced manufacturing' has the potential to provide step changes in productivity and product quality by using data
- » Taking all this into account, it seems that the idea of 'Mutual Recognition' tries to answer past questions, while we need to find solutions for tomorrow's challenges

Page 2 | 5 September 2018

Classification for the 21st century What are the tomorrow's challenges?

Changing nature of the shipping industry

- » Industry needs to safely and rapidly exploit the benefits offered by developing technologies
- » Industry expectation to derive greater value from class and statutory compliance activities
- » Industry and regulatory expectation for greater commonality in rules and standards
- » Goals and performance Requirements implicit in current Rules need to be explicitly articulated
- » Rules development needs to ensure consistency in decision and application and to avoid unworkable or unachievable solutions that appear fine on paper

Shutterstock

VDMA | Peter Müller-Baum



Page 3 | 5 September 2018



VDMA | Peter Müller-Baum

Classification for the 21st century What might be the right answers?



Advanced manufacturing

- » Direct Survey/Inspection activities at manufacturers will continue to become less relevant
- » Alternative certification schemes of Classification societies, offer to varying degrees, a level of flexibility to allow for evolving best manufacturing practices
- » The application of using data and statistical analysis could help to achieve product stability and quality improvement
- » It is time for a concept of independent verification of the strategies for certifying marine equipment throughout the entire life-cycle
- » Solution might be seen in less prescriptive, risk based rules and flexible intervention requirements to be applied through the adoption of audit based inspection regimes



VDMA | Peter Müller-Baum



Thank you
Thank you
for your attention!

Appendix E: JSMEA Statement



JSMEA

Japan Ship Machinery and Equipment Association

TORANOMON TOYO KYODO BLDG., 13-3, TORANOMON 1 CHOME, MINATO-KU, TOKYO 105-0001 JAPAN

Japan Ship Machinery and Equipment Association

Tel: +81-3-3502-0241 Fax: +81-3-3591-2206 E-mail: info@jsmea.or.jp <http://www.jsmea.or.jp>

EU RO Mutual Recognition Workshop

5 September 2018

Statement of issues related to the EU mutual recognition of marine equipment Submitted by Japan Ship Machinery and Equipment Association (JSMEA)

Summary

- EU mutual recognition requirement forces a flag State to accept marine equipment approved by an EU RO, even where the EU RO is not recognized by the flag State as a competent ship inspection and survey organization. This means that, the requirement not only impinges sovereign right of non-EU flag States but also is not in compliance with RO Code and III Code of IMO.
- As stipulated in Article 94 of the UN Convention of the Law of the Sea, it is a flag State's duty to take such measures as for ships flying its flag as are necessary to ensure safety at sea with regard to the equipment.
- If the scheme is expanded to include more safety-related marine equipment and then the defects of the products cause a serious accident, it may undermine the credibility of the entire marine equipment industry around the world. Furthermore, it would lead to impeding fair competition in quality and cost on the world market of marine equipment.

Background

EU enacted "REGULATION (EC) No 391/2009 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 April 2009 on common rules and standards for ship inspection and survey organizations" (hereafter, referred to as "the regulation") in 2009 to strengthen the oversight of classification societies. Article 10 of the regulation requires EU Recognized Organizations (EU-ROs; 12 classification societies) to develop the mutual recognition scheme of marine equipment (hereafter, referred to as "the scheme") for the harmonization of the standards and approval procedures for the recognition of marine equipment.

Also, EU explains the scheme should be applied to any ships registered by EU-ROs regardless of ship's flag and demands EU-ROs to implement the scheme more actively, implying penalties and the withdrawal of their recognition if they won't.

Based on instructions from EU, EU-ROs are expanding gradually the scope of the target equipment of the scheme since the first set of technical requirements was published in 2013, and they published the 6th-tier requirements (Tier 6) of the scheme on January 2018. After the 6th-tier requirements came into effect in July for this year, 62 product groups of marine equipment (Ex: circuit breaker, small motor, battery, explosion-proof light, etc.) have been included in the target equipment.

Now, the scope of application of the scheme is limited to equipment which has relatively small impact on the safety of ships (equipment which is under LEVEL 3 classified by EU-ROs. i.e. equipment which requires Manufactures' Certificate or Type Approval alone.), excluding marine equipment subject to the Marine Equipment Directive (MED) (equipment the requirements for which are prescribed in IMO Conventions). EU is, however, requiring EU-ROs to further expand the scope to the equipment which requires Unit Certification or more safety critical products, such as main engine, electric generator, propulsion system, boiler, pressure vessel and distribution board. If the scope of application is expanded, it might impact significantly on the safety of ships.

Opinions of non-EU countries and EU-ROs

Non-EU countries expressed concerns over the mutual recognition requirement at IMO conferences. Especially, 17 countries including Japan submitted the following statement to MSC93 in 2014.

<Statement (abstract)>

- It is unclear whether in making reference to EU laws, those member states intend to uphold their obligations and responsibilities under the III code. Of particular concern is whether or not they intend to go beyond the provision of the implementation of the III Code and the RO Code with respect to recognition and certification of RO's for the survey and certification of ship outside of their jurisdiction on non EU-flagged ships.
- ROs are performing their functions under the sole authority of laws, rules and regulations set down by the government of the Member State in order to ensure effective jurisdiction and control of ships flying its flag. In this regard, for any RO to operate with other requirements not set out by the government on whose behalf it operates would be an infringement of sovereignty of that government.

Through intensive discussions including the above at IMO, RO Code and III Code were adopted and made mandatory by the amendments to relevant international conventions and the both Codes stipulate that no flag State shall mandate its ROs to infringe sovereignty of other countries and to apply to ships, other than those entitled to fly its flag, any requirement beyond convention requirements and the mandatory instruments.

In addition, the Japanese government has expressed concern, asking EU in writing to clarify their intention of the scheme, citing the UN convention for the Law of the Sea, which stipulates in Article 94, it is a flag State's duty to take such measures for ships flying its flag as are necessary to ensure safety at sea with regard to the equipment.

EU-ROs also show their concern especially over the further expansion of the scope of the target equipment, which might undermine the fundamental aspect of the duties of statutory certification and services performed by the classification societies.

JSMEA's opinion

JASMEA gives support toward the opinions of the non-EU countries, including the above statement.

Moreover, JSMEA has concerns that the scheme would have some adverse impacts on the entire marine equipment industry around the world in regard to the following points:

- As concerned by EU-ROs and the Administrations of non-EU states, that have the responsibilities to secure the safety of ships flying its flag, there is a possibility that the scheme would affect adversely on the safety of marine equipment.
- If the scheme is expanded to include more safety-related marine equipment and then the defects of the products cause a serious accident, it may undermine the credibility of the entire marine equipment industry around the world. Furthermore, it would lead to impeding fair competition in quality and cost on the world market of marine equipment.
