

MEMORANDUM OF UNDERSTANDING

BETWEEN:

**THE MINISTER OF TRANSPORT, as represented by
Transport Canada Civil Aviation
(hereinafter referred to as "TCCA")**

AND:

**THE CANADA-NEWFOUNDLAND AND LABRADOR OFFSHORE PETROLEUM
BOARD
(hereinafter referred to as "the Board")**

(hereinafter referred to as the Participants)

WHEREAS, the Participants wish to establish a cooperative framework with respect to transportation by air of personnel for offshore petroleum related activities;

AND WHEREAS, pursuant to the *Accord Acts*, the Board has legislative and regulatory responsibilities for petroleum related activities conducted in the Canada-Newfoundland and Labrador Offshore Area, including ensuring the health and safety of personnel transported to and between workplaces by aircraft, namely helicopters;

AND WHEREAS, pursuant to the *Aeronautics Act*, TCCA has legislative and regulatory responsibilities respecting aviation safety including those related to operations, safety and aviation personnel;

AND WHEREAS, TCCA is prepared to assist and support the Board, when possible, in carrying out the Board's mandate respecting the safety of helicopter passengers being transported to and between workplaces and other vessels engaged in offshore petroleum related activities;

AND WHEREAS, the Participants share a common perspective that, in the first instance, the safety of helicopter passengers is the responsibility of the Air Operator Certificate holder and Operator in accordance with the *Accord Acts* and the *Aeronautics Act* and *Canadian Aviation Regulations (CARs)*;

AND WHEREAS, the Participants wish to clarify and coordinate their respective roles and activities, and in particular, how they will cooperate to ensure that those who are providing helicopter transportation for offshore petroleum related activities maintain a prudent regime for achieving aviation safety.

NOW THEREFORE the Participants concur as follows:

1.0 Definitions

In this Memorandum of Understanding (MOU) unless the context otherwise requires:

"Accord Acts" means the federal *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act*, S.C. 1987, c. 3, as amended from time to time, and the provincial *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*, R.S.N.L. 1990, c. C-2, as amended from time to time;

"Aeronautics Act" means the Aeronautics Act, R.S.C., 1985, c. A-2, as amended from time to time;

"Air Operator Certificate" has the same meaning as defined in the CARs;

"Authorization" means an authorization issued by the Board pursuant to the Accord Acts¹;

"CARs" means the *Canadian Aviation Regulations (SOR/96-433)*, as amended from time to time;

"Exemption" has the same meaning as defined in the Civil Aviation Directive (CAD) No. REG-003, in accordance with section 5.9(2) of the Aeronautics Act;

"Marine Installation or Structure" as defined in the *Accord Acts*²;

"Offshore Area" means the Canada-Newfoundland and Labrador Offshore Area pursuant to the *Accord Acts*;

"Operator" means the holder of an operating licence and an Authorization issued pursuant to the *Accord Acts*;

"Passenger craft" has the same meaning as defined in the *Accord Acts*³;

Substitutions as authorized pursuant to the Accord Acts

¹ *Canada Newfoundland and Labrador Atlantic Accord Implementation Act (Federal)*, section 138(1)(b); *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act (Provincial)*, section 134(1)(b)

² *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act (Federal)*, section 205.001(1); *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act (Provincial)*, section 201.1(1)(l)

³ *Canada Newfoundland and Labrador Atlantic Accord Implementation Act (Federal)*, section 205.001(1); *Canada Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act (Provincial)*, section 201.1(1)(r)

2.0 Authority and Purpose

- 2.1 This MOU is entered into pursuant to section 46(1) of the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act* and section 46(1) of the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*.
- 2.2 The purpose of this MOU is to facilitate harmonization of the activities of mutual interest with respect to each Participants regulatory mandate, where it is possible, and to avoid duplication of work in relation to the transport of workers by helicopter.
- 2.3 It is not intended, nor will it be interpreted, that this MOU creates, imposes, or implies any statutory or legal duties, rights, obligations, liabilities, claims or actions on or against the Participants. It is further not intended, nor will it be interpreted that this MOU gives to the Participants any power or authority that they do not otherwise hold nor does it relieve, exclude or prohibit the Participants from performing any duties that they are responsible for under the applicable statutory authority by which they operate. For greater certainty, this MOU is not legally binding.
- 2.4 For greater certainty, this MOU does not address matters respecting aviation security.

3.0 Roles Respecting Occupational Health and Safety During Air Travel

- 3.1 The Minister of Transport has the legislative and regulatory responsibilities respecting aviation safety including operations and aviation personnel;
- 3.2 TCCA administers its regulatory services and safety oversight program through aviation licensing, certification, audits and inspections pursuant to the *Aeronautics Act*;
- 3.3 The Board administers its regulatory oversight of passenger transportation through compliance monitoring, inspections, audits, investigations, and enforcement pursuant to the requirements within the *Accord Acts* and associated regulations.
- 3.4 Some of the respective roles and responsibilities of the Board are set out in the table "Roles Respecting Occupational Health and Safety during Air Travel", attached as Annex 1. This table is provided as guidance only for the purposes of this MOU. TCCA's role is to apply and oversee the regulatory requirements related to aviation including the *Aeronautics Act*, CARs and exemptions.

4.0 Coordination of Activity

- 4.1 To the extent it is permitted by law and where possible, the Participants will keep each other informed of any inspection, compliance, enforcement and audit activities that could impact the activities of the other.**
- 4.2 TCCA and the Board are committed to open communications and sharing information with each other, as appropriate, to create an environment that fosters continuous improvement.**

5.0 Technical Advice and Consultation

- 5.1 When practical, the Participants will engage each other in the application of regulations, and the development or application of standards, guidelines/guidance materials, safety zone notices, directives, or policies pertaining to aviation safety aspects of offshore petroleum related activities, including personnel requirements and certification and the development and implementation of codes of practice.**
- 5.2 The Board may request the technical advice and/or assistance of TCCA in:
 - a) the review of Substitutions;**
 - b) the execution of the Board's mandate respecting passenger craft in Part III.1 of the *Accord Act* (i.e. inspections, audits, investigations, oversight, compliance monitoring, enforcement).****

TCCA will provide such assistance to the extent possible.

- 5.3 TCCA may request the technical advice and/or assistance of the Board in:
 - a) Exemption requests that relate to offshore operations;**
 - b) the execution of the TCCA's mandate (i.e. inspections, audits, investigations, oversight, compliance monitoring, enforcement).****

The Board will provide such assistance to the extent possible.

- 5.4 TCCA agrees to consider extending invitations to the Board, as appropriate, to attend Regional and National Canadian Aviation meetings and forums pertaining to aviation safety aspects of offshore petroleum related activities.**
- 5.5 The Board agrees to consider extending invitations to TCCA, as appropriate, to attend meetings and forums pertaining to aviation safety aspects of offshore petroleum related activities.**
- 5.6 When the Board requests technical advice or assistance in accordance with this MOU and where specific training courses and refresher training courses are identified, that are deemed mandatory by the Board, and such courses (and refresher) are not mandatory for TCCA Inspectors, the cost of these courses (and**

refresher) will be paid by the Board. Any additional health assessments required for these Board specific courses are also to be paid by the Board. All such costs will be pre-approved by the Board.

6.0 Principal Contacts

6.1 Information Sharing

Upon request, and subject to the provisions of this MOU or any Annex attached to this MOU, and to the extent permitted by law, the Participants will:

(1) exchange copies and/or summaries of records of inspections, investigations, enforcement actions, and other reports produced or provided for the purposes of enforcement and administration of their respective legislation and any other information listed in this MOU;

(2) share incident reports related to the following as soon as possible upon receipt:

- a) all incidents involving fatalities, missing persons or work related lost time injury/illness to personnel being transported by helicopter within our jurisdiction to a facility operating under an Authorization in the Offshore Area.
- b) all incidents in which a helicopter is transporting personnel to or from or between a workplace pursuant to an Authorization has sustained damage affecting the helicopter's ability to operate safely.

6.2 The Chief Safety Officer is the contact for TCCA and the Director, Safety is the contact for the Canada-Newfoundland and Labrador Offshore Petroleum Board. These are identified and included in this MOU as Annex 2. TCCA regional operations are the primary contact at TC and will liaise with TCCA HQ as required (e.g. regulatory interpretation).

7.0 Notices and Information

7.1 The address for notices and information to the Board is:

Canada- Newfoundland and Labrador Offshore Petroleum Board
Suite 1, T D Place
140 Water Street
St. John's, NL. A1C 6H6

Or by e-mail at: information@cnlopb.ca
ATTENTION: Chief Safety Officer

7.2 The address for notices and information to TCCA is

Transport Canada Atlantic Region
95 Foundry Street
P.O. Box 42
Moncton New Brunswick E1C 8K6
ATTENTION: Regional Director, Civil Aviation

Or by e-mail at: tc_aviationservicesatl-servicesav atqnatl tc@tc.gc.ca

8.0 Review

The Participants will meet to review this MOU at least every 5 years.

9.0 Amendments and Termination

9.1 Amendments of this MOU will be made in writing and signed by the Participants.

9.2 This MOU will remain in effect until one of the Participants gives written notice to the other Participant of its intention to terminate the MOU and 60 days elapse from the date the notice is received by the other Participant.

10.0 Settlement of Disputes

Any disputes regarding the interpretation or implementation of this MOU will be resolved only by consultation between the Participants and will not be referred to another entity or for settlement.

11.0 Entire Understandings


This MOU supersedes all previous discussions relating to the subject matter unless otherwise incorporated by reference in this MOU.

12.0 Effective Date

This MOU is intended to take effect on the date of the last signature by the Participants.

IN WITNESS THEREOF the Participants have signed, in duplicate, this MOU on the dates indicated below.

THE BOARD



Chair and Chief Executive
Officer
Canada-Newfoundland and
Labrador Offshore Petroleum
Board

Date: April 19, 2018

TCCA



Director General, Aviation Safety Regulatory
Framework Transport Canada

Date: April 10, 2018



Regional Director General - Atlantic

Date: March 1, 2018

Annex 1

Roles Respecting Oversight of Occupational Health and Safety Regarding Air Travel

P – Denotes Primary responsibility.

S – Denotes Supplementary responsibility. Legislation is supplemental to the primary regulator's responsibility. Accord Acts focus on passenger health and safety and are supplemental to TCCA's responsibilities under the Aeronautics Act and CARs.

N/A – Not applicable.

Subject Matter	Jurisdiction/Roles & Regulations		
	Transport Canada Civil Aviation	Canada-Newfoundland and Labrador Offshore Petroleum Board	Other Gov't Depts./ Agencies
OIL AND GAS OPERATOR PROCESSES			
Aviation Contractor Selection Process	N/A	P	
Aviation Contractor Oversight	N/A	P	
Aviation Equipment Selection Process (helicopter, Search and Rescue [SAR] capabilities)	N/A	P	
Offshore Equipment (helidecks, fueling facilities, etc.)	N/A	P	
SAR Arrangements	N/A	P	Joint Rescue Coordination Centre Halifax (JRCC) ¹
Evac Arrangements	N/A	P	
Emergency Response Plans	N/A	P	
Offshore Workplace (e.g. H ₂ S for Aircraft Crew)	N/A	P	
AIR OPERATOR CERTIFICATE			
Air Operator Certificate Issuance (approving manuals, flight checkrides)	P	N/A	
Airworthiness Certification (aircraft import, visual inspection, tech)	P	N/A	
Aircraft Maintenance Organization Rating	P	N/A	
Safety Management System	P	S (relating to oil and gas operations requirements)	

¹ JRCC provide SAR services for offshore oil and gas operators in the region.

Subject Matter	Jurisdiction/Roles & Regulations		
	Transport Canada Civil Aviation	Canada-Newfoundland and Labrador Offshore Petroleum Board	Other Gov't Depts./ Agencies
Safety Equipment	P	S (beyond CARs requirements)	
Emergency Equipment (Medevac hoist, SAR equipment and Medevac kits)	P	S (beyond CARs requirements)	
Aircraft Crew Training/Competency Requirements	P	S (beyond CARs requirements)	
Aircraft Crew Licensing/Competency Assessment	P	S (beyond CARs requirements)	
FLIGHT OPERATIONS			
Flight Safety			
Flight Crew Occupational Health & Safety - <i>applies when crew is outside the aircraft</i>	N/A	P (offshore)	P (Onshore) Provincial Gov. ²
Flight Crew Aviation Occupational Health and Safety (AOHS) - <i>Applies to employees working on board an aircraft while in operation, and the aircraft is moving under its own power for the purpose of taking off from a Canadian or foreign place of departure until it comes to rest at the end of its flight to its first destination in Canada.</i>	P	N/A	Provincial Gov. ³
Setting of Flight Limitations	P	S ⁴	
Flight Planning	P	S	
Flight Following/Watch Practices	P	S	NAV Canada ⁵

² Newfoundland and Labrador Provincial Government - Department of Labour and Advanced Education enforce OHS legislation applicable when crew are onshore

³ Newfoundland and Labrador Provincial Government - Department of Labour and Advanced Education are responsible for mandating OHS policies for the province

⁴ For example, availability/proximity of standby vessel and JRCC; application of *Atlantic Canada Standby Vessel (AC-SBV) Guidelines*

⁵ NAV Canada operates Canada's civil air navigation service and carries out flight following through the monitoring of aircraft operating in Canadian airspace, and through the opening and closing of Flight Plans

Subject Matter	Jurisdiction/Roles & Regulations		
	Transport Canada Civil Aviation	Canada-Newfoundland and Labrador Offshore Petroleum Board	Other Gov't Depts./ Agencies
Standard Operating Procedures	P	S	
Passenger Safety and Emergency Procedures			
Personal Protective Equipment Requirements (Helicopter Passenger Transport Suits, Emergency Underwater Breathing Apparatus (EUBA))	P	S (beyond CARs requirements)	
Emergency Training Requirements (Helicopter Underwater Escape Training (HUET), EUBA, Basic Survival Training (BST))	P	S	
Flight Prep (e.g. familiarization, passenger briefings)	P	S ⁶	
Passenger Occupational Safety and Health	N/A	P	
Cargo			
General Requirements	P	S ⁷	
Transportation of Dangerous Goods	N/A	S ¹¹	Transport Canada Surface ⁸
Incidents			
Incident Notification/Reporting	N/A	P ⁹	Transportation Safety Board ¹⁰
Occurrence reviews (outside of TSB)			
Aircraft / Crew Related	P	S ¹¹ (aircraft)	
Passenger Related	P	S	
Heliports and Helidecks			
Helidecks offshore - General Requirements (lighting, visual aids, arrangements, firefighting equipment)	N/A	P	

⁶ For example, passenger information pre-flight video

⁷ For example, passenger baggage, or carrying cargo and passengers on same flight

⁸ Transport Canada (Surface) provides oversight and gives expert advice on the transportation of dangerous goods by all modes of transport in Canada

⁹ There is an MOU between TSB and C-NLOPB for Transportation Occurrences (i.e. releasing the site, notification, investigations etc. related to aircraft and passengers)

¹⁰ The Transportation Safety Board of Canada (TSB) is an independent agency that would investigate occurrences involving marine and air modes of transportation

¹¹ Compliance Verification and Enquiry activities in relation to the Accord Acts and requirements of Authorization.

Subject Matter	Jurisdiction/Roles & Regulations		
	Transport Canada Civil Aviation	Canada- Newfoundland and Labrador Offshore Petroleum Board	Other Gov't Depts./ Agencies
Heliports – General Requirements (Ops Manual, certification, Physical characteristics, visual aids, lighting, markers, etc.)	P	S ¹²	
PPE Requirements for helideck crew and firefighting offshore	N/A	P	

¹² For example, passenger transportation refusals and posting information for passenger safety

Annex 2

In accordance with section 6.0 of this Memorandum of Understanding, the following persons have been identified as principal contacts for the purposes of maintaining regular contact as stipulated in this MOU:

Name	Title and Organization	Telephone Number(s)	Email
Paul Alexander	Chief Safety Officer Canada- Newfoundland and Labrador Offshore Petroleum Board	(709) 778-1410	palexander@cnlopb.ca
Keith Whalen	Associate Director Operations Transport Canada Atlantic Region	(506) 851-4512	keith.whelen@tc.gc.ca
Robert Sincennes	Director, Standards Transport Canada Headquarters	(613) 991-2738	robert.sincennes@tc.gc.ca