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THE IMPORTANCE OF INTERNATIONAL REGISTRIES FOR NAVAL TRANSPORT

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1. Introduction

The evolution of flag state jurisdiction is incontestably linked to the evolutions that have been brought to the concepts of nationality, ship registration and safety. Also it has been efforts of the shipping community through international organizations to set rules and standards to govern the operation of ships.

Effective enforcement and implementation of flag state duties counts practically on the flag state itself as much as international organizations such as IMO and ILO, port and coastal states and also classification societies.

At first there were traditional maritime flags, whose registers are available only to nationals of those states, being operated by the maritime administration of those states and requiring owners, demise charterers to be nationals of those countries or having the body corporates duly incorporated under their national laws and all or the majority of the crew to be nationals of those states [1].

Later on appear open or international registries which offer to owners that register their ships under flag of these states some better economic and fiscal incentives.

Indeed, although these flag states bear certain administrative, technical and social responsibilities when attributing its flag to ships, Article 5 of 1958 HSC (Convention of High Seas) and Article 94 UNCLOS 1982, it is the flexible degree with which these flag states oversee and enforce these responsibilities [2].

2. International registries

With the globalization of activities in shipping sector and the expansion of the open and international registries phenomenon the operation of ships has taken another concept. So, the traditional way of conducting shipping business has evolved into a more pragmatic matter, driven by priorities like competitive advantages and cost cutting.

There are two types of registries offering more incentives for registration, open registries (flags of convenience) for some, and second or international registries (quasi flags of convenience).

About half of the world's merchant ships were registered with open registries, and the Panama, Liberia, and Bahamas flags accounted for almost 40% of the entire world fleet, in terms of deadweight tonnage.

Open register means registering the ship with a state that has more liberal fiscal and corporate legislation. In this kind of registries registration are normally open to non-residents; have low or zero corporate tax rates; size of registered fleet disproportionate to the needs of the country; indiscriminate enlistment of foreign seafarers; absence of facilities for enforcing international standards.

Second or international register are established by a traditional flag state and provides an alternative to open registries. This type of register offers substantial tax and social security contribution incentives, aimed at reducing the running costs of the ships. It also allows non-national manning and a fiscal regime that is usually beneficial to the shipowner while allowing the state to have a degree of control over the ship.

A number of states from Europe have their own tonnage tax regime, with others expected to follow, some in the near future. Seven countries have a second or international register: Denmark (Danish International Ship Register - DIS), France (French International Register - RIF), Germany (International Shipping Register - ISR), Italy (RINM), Norway (Norwegian International Ship Register - NIS), Poland (Polish flag), Portugal (The Madeira register –MAR- is the second register for Portugal), Spain (The Canary Islands is the second register for Spain).

Open registries such as of Panama, Liberia, Ins. Marshall are example of those cases where exist a lack of control and jurisdiction of those flag states on the vessels registered under their flag especially with respect to safety and prevention of marine pollution.

Problem that arises at these ships registered under flag of convenience is linked with the major concern that ships may be used for terrorist activities, contraband and other illegal activities.

The most famous flag of convenience is represented by Panama, in 2011 being ships registered with a gross tonnage that represents 21.9% of global tonnage. Panama occupy first place from 2005 in top 3 flag fleets followed by Liberia and Marshall Isl. (table 1). Knowing that in 2011 the average age of the world fleet per dwt was 12 years we may conclude that many of ships registered under Panama flag are old (over 20 years) which leads us to the idea of using these flags of convenience by the shipowners as an exit for ships of a certain age which requires payment of higher taxes in some registries.

Table 1 Top 3 flag fleets, millions dwt

2005			2007		
	Gross tonnage	Average age (ships)		Gross tonnage	Average age (ships)
Panama	133,7	18	Panama	155	18
Liberia	56	12	Liberia	68,4	12
Bahamas	36,6	15	Bahamas	40,8	15
2009			2011		
	Gross tonnage	Average age (ships)		Gross tonnage	Average age (ships)
Panama	183,5	18	Panama	201,3	17
Liberia	82,4	12	Liberia	106,7	10
Bahamas	46,5	15	Ins.Marshall	62	8

Source: International Transport Workers' Federation, Seafarers Bulletin 2005-2011

Registering a ship outside its country of ownership means that shipowners don't have to stand by national laws reporting on working conditions, wages or workers' rights. In many cases, seafarers that are working on ships with flag under open registries are not protected by standard labour legislation – either in their home country or in the country of the employer.

States like Denmark, France and Germany have developed such registries and offer the same fiscal and manning incentives as open registries but at the same time have in place stringent maritime legislations in line with international commitments.

For example, the advantages of the French International Register (RIF) are:

- the RIF is a EU registry;
- the RIF register offers all guarantees with regard to ships safety and security;
- the RIF registration is accompanied by various fiscal and exonerations measures;
- the RIF sets a social base for seafarers residing outside France;
- the RIF sets nationality rules with regard to the crew.

The main reason for appearance of international registries was to encourage its nationals to remain with or return to the national flag. This new trend of second or international registries is closely connected to the actions initiated at the international level for the exercise of stricter control on shipping activities.

A sensitive subject of second or international registries is related to social cost for seafarers. The impact of applying UE employment conditions on social cost is the wage differential plus the change in additional cost. The increase of social cost is 35% on top of the wage increase on board ships registered in the first register of Spain. For Swiss operators using foreign flags, the social cost would increase by 10% on top of the wage increase. For the other countries, the regulations on payment of social security contributions of non-national seafarers

imply social cost does not marginally increase on top of the wage increase [3].

An important advantage for ownership with ships registered under international registries refers to labor market in shipping. In some cases, if members of the crew of the ship are flag citizens, a percentage of the tonnage tax paid by shipowner of that ship may be refunded for each month they are employed on board the ship.

But not any state can have second or international registries. A state that holding this kind of registry has certain responsibilities. According to international conventions, the flag state is responsible for a major disaster involving a ship registered in its register. Clearly, the ship and the shipowner must ensure in case of disaster, but when the insurer is unable to cover the costs of removing the consequences of the disaster, the obligation to solve the problem lies with the flag state.

Secondly, according to the Maritime Labour Convention (MLC 2006), where abandoned seafarers on ships registered under its flag, state has an obligation as a state flag to repatriate, then recover the costs from owners, if they longer exists, or foreign seafarers' home states if they have insurance.

Thirdly, as the fleet of the international registries grows, increase the state contribution to be paid to the International Maritime Organization. However, increasing costs of service and Flag State Control, which the state is obliged to provide. The question is whether these costs can be covered by the tonnage tax that will pay shipowners.

3. Conclusions

In order to reduce the drastic flagging out from their first maritime registries, some countries have created second registers. Thus is now a new course which is developing, that of setting up second registries which are adaptable enough to attract shipowners by offering fiscal, economic and even political incentives. This registries need to have adequate administrative and legal framework coupled with effective enforcement powers to regulate shipping activities.

Actual profit of international registries is the social issue: solving the problem of practice for cadets, a very sensitive issue in our day and potential employment of national seafarers on ships registered in this registry.

The increased social cost that result from the application of EU employment conditions to ships in regular intra-EU maritime services flying an EU-flag induce out flagging.

A decision taken by EU Commission require that by 2014 european shipowners, have to register at least 60% of the tonnage under the flag of EU and in addition, european coastal traffic and transportation of petroleum products to and from EU ports to carry only by vessels flying an EU flag.

Among those who will benefit from this decision will be states that have second or international registries.

4. References

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