

**Does the UNCTAD Convention
on the Registration of Ships
need amending?**

**by
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Contrary to popular belief, the world's merchant fleet is not divided between ships flying national flags and those flying the flags of open registries. Rather the distinction between ships is those that are registered in flag states that take responsibility for enforcing international standards and those that do not.

In the early 1980's over 80% of the world's fleet was registered in National Registries. Today, if second (international) registries are included nearly 60% of commercial ships are registered in Open Registries (ORs).

Owners have a plethora of choice when it comes to choosing a registry. If a shipowner decides to utilize an OR, there are options in price, in administration, in efficiency, in reputation, and not least, in standards.

As a quality registry, Liberia would not be averse to a mandatory instrument setting-out the requirements needed to be a flag state (note avoidance of the phrase 'minimum standards'). Such an instrument was thought to be the UNCTAD Convention on the Registration of Ships, but it is unlikely ever to be ratified. Accordingly I suggest a new instrument, which would include requirements covering, inter alia:

- enough staff to efficiently issue registry, safety , technical and crew documentation**
- competent technical staff to interpret and handle compliance with international requirements (Conventions);**
- mechanisms to maintain a close relationship with Classification Societies to which it delegates responsibility to act as approved responsible organizations (ROs)**
- world wide representation, through regional field offices, and a cadre of flag state inspectors around the world to maintain close contacts with clients**
- an ability to investigate all casualties to ships in its flag**

- the ability to monitor, evaluate and follow-up on all port state control (PSC) detentions
- a mandate that P & I cover (include crew repatriation) and ISM certification be maintained for all ships in the registry
- operate to an ISO 9000 standard linked to specific targets or requirements (as required by the ISM Code); and
- participation and representation at IMO and all international organizations and forums.

The Republic of Liberia requires that LISCR provide all this in its legislative approved contract. LISCR has streamlined, effective procedures to administer the registration of ships and business entities for the Republic of Liberia. It requires diligent supervision of every aspect of its responsibilities, with special attention being paid to maritime safety, pollution prevention and crew qualifications.

Clearly one reward for a shipowner flying the Liberian flag is avoiding being targeted by PSC authorities. A ship in a registry on a PSC “black list” is at a distinct disadvantage.

Liberia’s excellent PSC record is a reflection of the concern and attention that is placed on quality operations by all involved in the management of its fleet. Liberia has also had a consistent casualty record well below the world average as reflected in statistics published by the International Union of Marine Insurance (IUMI). These factors, together with statistics on personnel accidents on board ships (on which LISCR can find no comparative statistics), combine to indicate that Liberia is a quality-shiping registry.

In analyzing the responsibilities of flag states, many organizations have roles to play and there are many elements which must be considered. Some of these are:

IMO

The most important role for IMO is to provide a forum where solutions to international problems can be debated and resolved, without recourse to unilateral or regional action. IMO must emphasize that what is needed is enforcement of existing rules, not new rules. IMO is prevented from acting as an enforcement agency, but if its policing power in the form of ‘white lists’ or IMO membership rules does not evolve, others will seek to erode its primacy for international rule making.

RECOGNIZED ORGANIZATIONS (ROs)

Flag States are meant to delegate only to Class Societies that comply with the requirements of IMO Resolutions A.739 and A.789. Societies work for flags when they survey ships for statutory compliance with international requirements. It is the flag state that is ultimately responsible for the ships in its fleet. *When Flag States* inappropriately delegate their authority it is time for the IMO to cross the line from encouraging people to do the right thing, to mandating that they do. There is a precedent – STCW 95 establishes a ‘white list’ of countries having training and certification systems in place that comply with the Convention. IMO should issue a ‘white list’ of ROs based solely on technical competence remote from politics, remote from sovereignty issues.

ISO COMPLIANCE

STCW will mandate that “White List” registries operate to an ISO 9000 type standard. As LISCR completes its efforts for such certification I suggest that IMO could establish an ISO standard linked to specific targets or requirements (much like the ISM Code) in the form of a revised UNCTAD Convention.

ISM

By 2002, all ships and owners/operators will be covered by the ISM Code. Some shipowners and operators believe ISM certification is a piece of paper to put on the bulkhead in the ship and boardroom. LISCR’s experience has been that Liberian flag shipowners understand they bear ultimate responsibility for the quality of their ships.

Liberia would like to see an owner’s approach to safety minimizing the need for detailed overseeing of the ships in its fleet. We would like to deal with owners who had a total quality system in place – a safety culture instilled in all their shore and sea staff

However, for a Flag State not to monitor both the owner’s and ship’s ISM compliance prior to registration is both negligent and irresponsible. Our attention to such compliance reduces the level of overseeing by the flag because we know a system is in place that will identify a problem hopefully before it becomes a disaster.

ADMINISTRATION

All Flag States must comply fully with the guidelines laid down in IMO Resolution A.740 - Interim Guidelines to Assist Flag States. But registries regulated by huge government departments, with eager bureaucrats

translating international rules into national legislation, and assuming total responsibility for ensuring a ship complies with that national legislation is a historical relic. However, maritime administrations that merely take fees, issue registry documents and delegate all responsibility for regulatory compliance to others is no substitute.

Liberia believes it has found the right mix of control and efficiency.

LAW

In addition to adoption of International laws, each flag state must also have adequate national laws, rules and regulations in place, as well as an ability to impose uniform enforcement and ensure owners' full compliance with them.

CREW

In order to implement STCW95 requirements, the quality registry of the future will need to address deficiencies regarding the lack of qualified and experienced training personnel, as well as the lack of standards for training institutions and the serious lack of financial resources in labour supply countries. Serious review of IMO resolutions on minimum safe manning with respect to sufficiency to maintain ships in proper order and to manage the number of inspections by different organizations must be undertaken. Flag states must develop criteria to be used by ship operators to encourage seafarers to comply with good practice and establish a liaison mechanism to eliminate fraudulent crew certification.

ILO

Proposals under consideration within ILO include the preparation of a radical new instrument to bring international labor standards into the 21st century. As a quality registry, Liberia will need to closely examine such proposals.

PRICE

The cost of registering a ship in an OR, and paying that flag's annual tonnage tax is a very small percentage of a ship's daily operating costs. However, a registry should not be thought of as purely a money earner. Liberia receives an income from providing registry facilities, but in doing so it mandates that its registry is more than a small office manned by a clerk and a pet dog trained to carry registry documents to the local post office. Clearly development of comprehensive state of the art computer and Internet service requires capital.

INSPECTORS

Liberia is taking steps to revise its Inspection Form and develop uniform survey standards for authorized inspectors. Ultimately this will create greater inspection pressure on ships detained with deficiencies and will require additional training of inspectors and expanded guidelines on flag state detentions.

CASUALTY INSPECTION

Liberia maintains a full time staff to investigate casualties. In such investigations it is important to encourage investigators to determine cause and for the Flag State to consider how lessons learned from casualty investigations can be made available to owners and seafarers in an easily digestible form.

PORT STATE

Attention by Flag States to expose ships in their registry which suffer PSC detentions is a prerequisite to quality. Flag States must have regulations granting them the right to impose fines, to permit enhanced flag state inspections, to detain ships until deficiencies are fixed and to suspend the right of a ship with a poor PSC detention record to fly its flag. Furthermore, full details of such actions must be publicly available.

INSURANCE

Flag states should be encouraged only to accept ships that are entered into a member of the International Group of P&I Clubs, or else insured with other recognised underwriters. Similarly, insurers should provide greater transparency for naming ships rejected for P&I cover.

COMMUNITY/OWNERS' ORGANIZATION

A quality registry must have a community of people or significant infrastructure of owners, lawyers, financiers, charterers, insurers, class, ship and cargo brokers, shipbuilders and others that support the Flag State and its activities. In the case of Liberia, its owners' organizations and community of interest has always been active and supportive of the flag. .

TRANSPARENCY - REPORTING INFORMATION

Ownership of merchant ships - in any flag - is not always known by the flag administration and often irrelevant when the owner places responsibility for a ship in the hands of a third party. A quality registry must endorse and

mandate the submission of ship data to international reporting services. However, the need for operating transparency with respect to all ships in a fleet would not necessarily include ownership details. Moreover, a quality ship registry must file an IMO Self Assessment Form. It is inappropriate for countries to indicate that such reporting is an "attack" on a flag state's sovereignty.

CONCLUSION

For the international shipping community the question should not be whether an Open Registry encourages sub-standard shipping, but how can ALL registries of ALL flavours provide a service to the shipping community that actively discourages substandard ships and ship operators.

What needs to be emphasized is the need for all flag states to enforce the requirements of international instruments applicable to ships in their fleet. It has to be re-emphasized again and again that the label "Open Registry" is not synonymous with sub-standard shipping as evidenced by the number of National Registries on PSC "black lists".

Ship registries of the future will need to be competitive, option-oriented and flexible, and prepared to enforce international standards and provide worldwide around the clock service physically and electronically.

If a shipowner maintains a ship in good condition, opts for a quality registry, opts for a quality Classification Society, and provides a competent crew, the ship is more likely to trade without too many port state inspections.

I conclude, therefore, that there is a need to amend the UNCTAD Convention on the Registration of Ships. I have provided some ideas on how this might be achieved. Who should be charged with the task? I believe this should be IMO rather than UNCTAD.

I also believe that the quality Open Registries should establish their own association –The International Association of Flag States (IAFS). The goal of IAFS Member would be to develop mechanisms for self-regulation, promote higher standards through unified rules and procedures, discourage unilateral action and amalgamate and streamline their regulatory activity, all in order to avoid contrary positions being put to IMO. In addition, IAFS members could introduce a mechanism to report flag states which ignore the advice of Class and issue dispensations against the advice of Class. In such cases, the IAFS might establish guidelines to define a competent class society or insurer.

If there is any interest in these ideas Liberia is prepared to both assist in the process and to take a lead in their development.

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