

# The Question of Fraudulent Registration of Ships and Fraudulent Ship Registries; the Response of the International Community

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The aim of this paper is to address the issue of fraudulent registration and fraudulent Ship Registries, mainly as a means of concealing illicit activities, such as piracy, slavery, maritime migration, IUU fishing, and the evasion of UN sanctions. The method that has been followed includes the presentation of all types of fraudulent flagging as reported by the interested Flag States, Port States, and the associated international organisations of IMO and FAO. The analysis compares the findings that have been collected by the various sources and the drawing of strong conclusions. The results of this essay extend to cover the various forms of fraudulent registration, the legal framework that governs the registration of ships, and the proposed measures to deal with this phenomenon. The novelty lies in the multi-level approach of fraudulent registration, covering all of its forms, and the solutions proposed, either already applied or innovative. In conclusion, insufficiency to deal with this phenomenon so far leaves room for the application of new strategies, like the ones proposed in the current essay.

## KEY WORDS

- ~ Open ship registry
- ~ Flag of convenience
- ~ Fraudulent registration of ships
- ~ Piracy
- ~ Maritime migration
- ~ Classification societies

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doi: 10.7225/toms.v13.n01.w18

Received: 13 Feb 2023 / Revised: 27 Feb 2024 / Accepted: 11 Mar 2024 / Published: 15 Mar 2024

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## **1. INTRODUCTION**

Fraudulent registration and fraudulent Ship Registries has been a matter of concern for both the separate States and the international community as a whole, due to the extent of its effects, especially for the past few years. Starting from the submission of a paper in the Legal Committee of the International Maritime Organisation LEG 105/11 on behalf of a group of States, according to which 73 out of 84 vessels registered in the Democratic Republic of Congo (DRC) were fraudulently registered, stakeholders of the shipping sector realised that necessary measures should be taken to deal with this phenomenon. Fraudulent registration is the practice of using a Flag without the prior consent of the respective Maritime Authority. In addition to the above definition, it should be noted that there are various forms where one can locate traces of fraudulent registration or even the very existence of fraudulent Ship Registries. The main aim of the fraudster is to alter the true identity of the vessel by falsifying the Nationality of the vessel, the name of the vessel, the IMO number, and the exact location of the vessel displayed in the AIS transponder. In most cases, fraudulent registration is accompanied by illicit activities connected with the maritime sector, such as piracy, slavery, smuggling of arms, maritime migration, IUU fishing, and undermining the UN sanctions.

Addressing the phenomenon of fraudulent registration and fraudulent Ship Registries requires the cooperation of a number of stakeholders of the shipping and shipping-related community. Developments in the technological field and the application of new business patterns on behalf of the Flag States, Port States, international organisations and key players of the private sector, such as marine insurers, ship-brokers, financiers and ship suppliers, can help to effectively control any unlawful practices associated with the fraudulent flagging.

## **2. LEGAL FRAMEWORK FOR THE REGISTRATION OF SHIPS**

### **2.1. United Nations Conference on the Law of the Sea of 1958 (UNCLOS I)**

In principle, the registration of ships is regulated by the United Nations Conference on the Law of the Sea of 1982 (UNCLOS III) that revised its predecessor, the United Nations Conference on the Law of the Sea of 1958 (UNCLOS I). According to the terms of the UNCLOS I, Article 3, (United Nations, 1958) it was enshrined for the first time in an international treaty the existing right of states to establish Ship Registries and consequently to grant their Nationality to ships. States have the exclusive right to set the conditions that a ship must meet in order to be registered in the Ship Registry of the respective country according to Article 4 of UNCLOS I. At the same time, however, for the first time, it is explicitly stated that the State in question must fully and effectively carry out the tasks arising from the exercise of its national sovereignty over the relevant ship. In other words, the states that grant their Nationality to ships must have established sufficient administrative structures in order to be able to exercise effective control over these ships. It is noteworthy that in most cases, the phenomenon of fraudulent registration of ships appears in Ship Registries that show deficiencies in the administrative control they are supposed to exercise, as stated in the 106th session of the Legal Committee International Maritime Organisation (IMO) (Kenney, 2019).

### **2.2. United Nations Conference on the Law of the Sea of 1982 (UNCLOS II)**

The basic principles of the freedom of states to grant their Nationality to ships were confirmed at the UNCLOS III in 1982. In particular, Article 91 reiterates the jurisdiction of states to set the criteria for recognising their Nationality on board ships (United Nations, 1982). It should be noted that it is redefined that there should be a Genuine Link between ships and the state, without, however, a clear definition of its specifications. Once again, it was up to each State concerned to determine the conditions under which the existence of a Genuine Link is certified, thus leaving much room for flexibility in the various states to apply stricter or looser criteria for granting their Nationality to ships (Daniil & Saviolakis, 2020). At the same time, according to UNCLOS III, it was

determined that each ship can have only one Nationality, as well as the ability to change that Nationality even during a voyage. In addition, it is acknowledged that the granting of Nationality by a state creates a framework of rules that must be observed by that state. In Article 94 of UNCLOS III, it is clarified that such issues may concern seaworthiness, construction, manning of ships, labour conditions, and marine accident investigation, as well as a number of details concerning the operation of the ship (Kececi & Arslan, 2017).

In addition, ship surveys may be carried out on matters concerning the ship by a third State, in order to resolve any issues which may arise in cooperation with the State which has granted its Nationality (Campos, 2021). Characteristic of the latter is the case of Port State Control in third-country ports (Zis & Cullinane, 2020), where ships can be controlled by all other States and sanctions can be imposed on these ships. It is worth noting that in cases of marine accidents, even on the High Seas, the ship involved can be controlled by third states and therefore the issue concerns both the state that has granted the Nationality and the third state.

### **2.3. United Nations Convention on Conditions for Registration of Ships of 1986**

Similar was the content of the terms of the United Nations Convention on Conditions for Registration of Ships of 1986, which recognised in principle the right of States to grant their Nationality to ships. This Convention, which is not in force (Xhelilaj, Lapa, & Danaj, 2017), confirms the right of the national authorities to establish the conditions under which the existence of the Genuine Link is documented and, consequently, registration will be allowed in the Ship Registry (United Nations, 1986). Matters concerning the Nationality of the shipowner, the Nationality of the crew, as well as the country of establishment of the ship-owning company, shall be regulated exclusively by the Maritime Authority of the Ship Registry. Consequently, there is no binding framework by the international community for a minimum acceptable level regarding the granting of Nationality to ships. The United Nations Convention on Conditions for Registration of Ships of 1986 reaffirms the strong presence of Open Ship Registries and the crucial role they play in global shipping.

However, this recognition of the extended freedom of States to adopt the criteria on the basis of which they will grant their Nationality implies the assumption of specific responsibilities by the States concerned. In particular, in each state that wishes to offer its Nationality to the ships concerned, a Maritime Authority must be established in advance, which will manage the issues of the Ship Registry. The operation of this Maritime Authority should be effective and meet the international requirements, in particular as regards the safety of human life and the protection of the marine environment. This Maritime Authority will then issue all the required certificates from which the Nationality of the ship will be derived. At the same time, all the necessary procedures will be followed in order to meet the international requirements regarding the correlation of the ownership with the Nationality of the ship, such as the place of establishment of the registered office of the ship-owning company.

Another point which was confirmed by the United Nations Convention on Conditions for Registration of Ships of 1986 is the recognition of only one Nationality for each ship. In order for a ship to acquire the Nationality of a state, it must first have been deleted from the Ship Registry of the previous state, thereby losing its previous Nationality. This limitation stems from the Theory of Territoriality (Goodman, 2021), according to which the ship, as well as the land, can belong to only one state. Therefore, the ship that sails at sea is an extension of the land sovereignty of the State whose Nationality it bears.

### **3. TYPES OF FRAUDULENT REGISTRATION OF SHIPS AND FRAUDULENT SHIP REGISTRIES – MOTIVATIONS AND FACTORS ASSOCIATED WITH FRAUDULENT REGISTRATION OF SHIPS AND FRAUDULENT SHIP REGISTRIES**

#### **3.1. Types of fraudulent registration of ships and fraudulent Ship Registries**

A common case of fraudulent registration of ships is the registration of a ship in the receiving Flag State without the deletion or the consent from the Ship Registry of the previous Flag State (International Maritime Organization, 2002). This type of fraudulent registration has been acknowledged by the International Maritime Organisation (IMO) since 2002 in the 22 Session of the Assembly. According to Resolution A.923(22) of 22/Jan/2002, titled “Measures to prevent the registration of “Phantom” ships”, Article 2, each receiving Flag State needs to receive sufficient evidence from the previous Flag State that it has been deleted. A useful means in combating fraudulent registration is the verification of the IMO Ship Identification Number. In this way, the same vessel shall not fly the Flag of two States simultaneously and, consequently, the latter registration will not be regarded as fraudulent registration (Aladwan, 2020).

The registration of a vessel that has never been registered in a Ship Registry in the past is a special case that requires particular actions taken by the receiving Flag State. According to Resolution A.923(22), Article 2, the Flag State needs to receive sufficient evidence that the vessel under examination has not been registered in the past.

Another case of fraudulent registration takes place with the use of a fraudulent Ship Registry. This is implemented without the knowledge of the Maritime Authorities of the respective Ship Registry and is accomplished with the falsification of maritime documents as expressed in the IMO Committee session LEG 105/11 of 19 January 2018 (International Maritime Organization, 2018) and the creation of seemingly legitimate websites of the respective Ship Registry. In this context, shell companies are created that imitate the practices and procedures of the Maritime Authorities of the formal Ship Registry (International Maritime Organization, 2019). Fraudulent Ship Registries offer fraudulent vessel registration in fake Ship Registries, as in the case of the illegal Vanuatu International Ship Registry (VISR) that was set up by the private entity Ahapi Shipping Agency (International Maritime Organization, 2019). Again, the IMO has addressed this issue in the 08/May/2019 LEG.1/Circ.10, where possible measures to prevent the fraudulent registration have been proposed.

It is possible that the fraudulent registration might follow in time a previously legitimate registration of a vessel. This happens when the vessel had been entitled to fly the flag of a State, but the registration has been terminated and the vessel chooses to continue to fly the flag of the respective State (International Maritime Organization, 2019). In this way, the Maritime Authorities of the Ship Registry no longer grant their permission to fly the Flag of the State and the registration is fraudulent.

The implementation of the fraudulent registration might even take place with the cooperation of the corporation that was previously authorised to manage the given Ship Registry. In this case, both the ship managing company and the Maritime Authorities of the Ship Registry are unaware of the fraudulent registration. This was massively experienced by the Tanzania Zanzibar International Register of Shipping (TZIR), after the termination of its contract with the private entity Philtex Corporation (Belize) Ltd, that previously managed the TZIR, when more than twenty vessels continued to fly the Tanzanian Flag, after receiving renewals by the Philtex Corporation (Belize) Ltd, without the permission of the Maritime Authorities of the TZIR as stated in the IMO Committee LEG 106/7/5 of 05 February 2019. Further reports have been presented showing the extent of this phenomenon regarding the Ship Registries of Sierra Leone and Samoa (Kenney, 2019).

An interesting case of fraudulent registration is the one that is realised with the assistance received by corrupted members of the Maritime Authorities of the given Ship Registry (Shim & Eom, 2009). Especially, in

the process of issuing shipping documents where e-governance has not yet penetrated, it is possible to experience situations of corruption within the staff of the Maritime Authority, that take advantage of their position in order to improve their personal financial situation, thus harming the interests of the Ship Registry.

According to the provisions of the 106th session of the Legal Committee of the IMO (LEG 106/16/13.May.2019), the fraudulent registration of ships can appear when the vessel is registered in a Ship Registry by Authorities that are based in disputable territories. This opinion was expressed by Ukraine regarding the Russian-flagged vessels there were in the possession of Ship Registry's certificates that were issued by the Russian Authorities based in the Autonomous Republic of Crimea and the city of Sevastopol.

Fraudulent registration of ships can be the result of false representation. According to the UK Fraud Act of 2006, the fraudulent registration of ships is provoked, when ship documents are falsely represented to public authorities and private actors (UK Public General Acts, 2006). These categories may include the Port State Control Authorities, marine insurers, financiers, etc. The representation might be expressed or implied with the intention to make a gain. The representation is false if it is untrue or misleading. Closely connected to the false representation is the fraud that is caused by failing to disclose information. This type of fraud refers to the legal duty of the shipping company to disclose any information regarding the vessel that can be falsified. In addition to the UK Fraud Act of 2006, there is a close link between the fraudulent registration of ships and the fraud of abuse of position by the members of the shipping company. In practical terms, this is related to their role to safeguard the financial interests of the third parties of the shipping sector (Todd, 2010).

The extent of the phenomenon of fraudulent Ship Registries might defraud international institutions, such as the IMO. In particular, the creation of the fraudulent Micronesia International Ship Registry (MISR) in 2015 led to the creation of an administrator account that was erroneously recognised by the IMO (Kenney, 2019), in spite of the fact that at this time the Federated States Micronesia (FSM) was not even a Member State of the IMO. Furthermore, FSM did not operate an International Ship Registry other than the National Ship Registry (Federates States of Micronesia (FSM), 1997). Luckily, the fraudulent MISR was detected and the access was subsequently revoked. The means of achieving the temporary recognition on behalf of the IMO was the presentation of forged documents that resulted in IMO ship identification numbers (United Nations Conference on Trade and Development (UNCTAD), 2019).

Vessel's identification can be physically or constructively changed, resulting in fraudulent registration as stated in the 08/May/2019 LEG.1/Circ.10 of the IMO. The manipulation of the vessel's identification system data aims at altering the vessel's identifying information, or even to presenting the information of an entirely different ship (United Nations Conference on Trade and Development (UNCTAD), 2019). Usually, the fraudulent vessel is occupied in nefarious activities and there is a need to conceal its real position, as is the case of breaching the UN sanctions. One such method is to halt the transmission of the Automatic Identification System (AIS) signal. The method of manipulation of the vessel's AIS signal might range from the transmission of detectable falsified identifiers to more sophisticated vessels' AIS signals swaps (United Nations Security Council, 2021).

Similar to the above is the technique of vessel identity laundering and swapping (United Nations Security Council, 2021). In this case, the suspect vessel undergoes physical alterations that justify the obtaining of a new IMO number under a new identity and consequently permit registration in another Flag, potentially resuming illicit activities. The initial AIS identification number remains vacant and can be used by another vessel. This time-consuming and elaborate technique has been used to facilitate the sanctionable transportation of oil products to the Democratic People's Republic of Korea (United Nations Security Council, 2021).

Fraudulent flagging can be implemented with the use of shipyards' facilities too. Ship repairs and other forms of physical alterations in the structure and appearance of the vessel might be used to obfuscate the true identity of the vessel. This is extremely important for a shipping company that owns a black-listed vessel and

struggles to evade imposed sanctions. It has been reported that a number of vessels engaged in sanctionable activities of North Korea, such as coal exports and oil imports, have managed to fraudulently alter their identity, after the completion of ship repairs (United Nations Security Council 2020) in specific Chinese, Indonesian, Thai, or North Korean shipyards (United Nations Security Council, 2021).

Similar to the above is the cooperation with shipyards, in order to use vessels intended for scrap in illicit trade patterns (United Nations Security Council, 2020). According to this practice, a vessel reaches a shipyard with the intention to be sold for scrap. Instead of scrapping, there can be a change of ownership for the purpose of breaching the UN sanctions with a particular country, such as North Korea. In the process, the specified vessel might use different AIS identifications systems, Maritime Mobile Service Identity numbers (MMSI), and Flag registrations to justify its chameleon persona.

Fraudulent flagging can materialise in the form of a non-existent ship that fraudulently flies the Flag of the unaware relevant State (Vrus, 1998). This is the type of documentary fraud that has the form of forging documents, such as bills of lading, invoices, marine insurance policies, and certificates of origin. The above-mentioned document might indeed have been issued, but they can be fraudulently altered.

Another aspect of fraudulent registration relates to the operations of the Recognised Organisations (ROs) or else called the Classification Societies. The Maritime Administration Authorities of the Ship Registry usually sign delegation agreements with a number of ROs, according to which the delegated RO is entitled to conduct specific surveys on behalf of the Ship Registry and consequently issue the necessary maritime documents and certifications to show compliance with the IMO requirements. In some cases, the actions of the surveyors and auditors of the RO fall out of the scope of the delegation agreement between the Ship Registry and the RO. For example, they might issue certificates that are supposed to be issued exclusively by the Maritime Authority, such as the International Tonnage Certificate, Seaworthiness Certificate, and Safe Manning Certificate (Maritime Safety Department of the General Directorate of the Merchant Marine, 2018), according to the regulations of several Ship Registries. Another case is the issuance of fraudulent documents by the RO, even after the delegation contract has been terminated. In all cases either the RO or the surveyors and auditors of the RO on their own act in purpose and fraudulently against the interests of the Ship Registry.

## **3.2. Motivations and factors associated with fraudulent registration of ships and fraudulent Ship Registries**

### **3.2.1. Criminality**

In many cases the ultimate motivation behind the use of fraudulent practices regarding the registration of a vessel is the need to hide criminal activities. A number of illicit activities are associated with maritime business and in some cases might lead to fraudulent techniques.

## **4. CONNECTION OF FRAUDULENT REGISTRATION AND FRAUDULENT SHIP REGISTRIES WITH SPECIFIC MARITIME ACTIVITIES**

Fraudulent registration and fraudulent Ship Registries can be used in order to facilitate certain types of maritime activities. These activities in most cases are illegal and sanctioned, while only in few cases are they legitimate. Furthermore, maritime security concerns emerge, since there is no effective control over the ships that undertake fraudulent practices when it comes to the safety of human life and the preservation of the marine environment.

#### **4.1. Piracy, armed robbery, and hijacking**

A number of ships that have been fraudulently registered, also known as phantom ships, are involved in actions of piracy and armed robbery (International Maritime Organization, 2002). In fact, the vessels involved in piracy might have themselves been victims of piracy in the past. Another source of ships involved in piracy is the salvage market (Koburger & Charles, 2010). Afterwards the ship can either be reflagged under a convenient Ship Registry, with loose control and cheap inspections, or sail as a phantom ship with fraudulent documents, possibly by using the identity of another vessel. The use of fraudulent certificates on behalf of the mariners allows the infiltration of pirates and hijackers in a ship's crew (Koburger & Charles, 2010). Then it is easier for the vessel to fall into the hands of the hijackers and sell its cargo, demand ransom for the crew and for the vessel itself, to operate in the shipping market as a fraudulent vessel, or to start its career as a pirate vessel.

#### **4.2. Narcotics**

There seems to be a close connection between piracy and the illegal transportation of narcotics. After the hijacking of a ship and the selling of its cargo, it is possible that the new holder of the vessel might choose to falsify her identity and re-register, using the services of a convenient Ship Registry. This fraudulent registration would allow the vessel to conduct illegal activities of any kind, including the smuggling of drugs (Koburger & Charles, 2010). Bogus registration of this type usually results in the change of the name of the ship for the rest of her trading life. After changing most of the crew members, the new owners would smuggle narcotic substances, usually avoiding approaching any ports. Instead, they would remain long enough at a safe distance from the reach of the local authorities, and they would co-operate with other vessels in ship-to-ship operations. These authorities include the illegal transfer of drugs and supplies, such as fuel and food for the phantom ship in order to continue to operate under her fraudulent identity.

#### **4.3. Product tankers' market**

Many tanker vessels that fell victim to piracy and are not ransomed back to the owners are product carriers (Koburger & Charles, 2010). This type of tanker is normally active in the transportation of diesel oil, fuel oil, and jet oil or gasoline, as opposed to the crude carriers that are designed for the transportation of crude oil. The reason that product carriers are more vulnerable to hijacking and falsifying of identity in comparison to crude oil, is the high level of control that characterises the crude oil market. On the other hand, the product market is characterised by petroleum products of higher value, smaller volume, and many more potential buyers and stakeholders in general. Needless to mention, that is imperative for a vessel to declare a fraudulent new identity in order to be able to participate in this market.

#### **4.4. Scrapping**

The end of life of a vessel is the road that finally leads to a ship-breaking facility for scrapping purposes (Koburger & Charles, 2010). Ships that have been fraudulently registered could not be an exemption to this rule. Indeed, the usual pattern is that after a vessel has been falsely registered in a Ship Registry, for example following piracy, she would operate for a period of time either in the legitimate market or in the illicit market. If the ship management of the vessel under examination is successful in evading all potential controls and measures against fraudulent registration, then the terminal voyage would normally be to a country of South Asia, such as Pakistan, India, Bangladesh, or China for scrap. It is not uncommon to observe vessels reaching a ship-breaking facility only to find that it has falsified the identity of another vessel, carrying forged documents of even having incorrect IMO identification numbers. European Ship Recycling Regulation 1257/2013, regarding the ship-breaking and ship-recycling (Zhou, Zunfeng, Jiayue, Jing, & Yuekin, 2021), encouraged many shipowners to ostensibly sell their vessels to intermediaries that usually order the vessels to head to an unregulated ship-

recycling facility, for example in India, after a brief call to a Middle East of Persian Gulf port to avoid the strict European Union's (EU) strict regulations (Alcaide, Rodriguez-Diaz , & Piniella, 2017).

#### **4.5. Illegal carriage of arms**

Vessels that fraudulently fly a State's Flag and carry fraudulent certificates have been detected illegally carrying arms. A well-known case is the incident of the vessel under the name "Virginius", which fraudulently raised the US Flag. "Virginius" was initially a Spanish-flagged vessel that was pretending to be a US vessel, in order to facilitate the illegal transportation of weapons to the revolutionary island of Cuba, during the War of Independence (Sohn & Noyes, 2004). The vessel was arrested in the High Seas by the Spanish naval forces and the question of the true nationality of the vessel was of high importance for the fate of both the crew and the vessel. Since the vessel at the time of the arrest was sailing in the High Seas, the extent of the Spanish authorities' jurisdiction depended on the nationality of the vessel.

#### **4.6. Undermine the UN sanctions**

Another area where phantom vessels appear is the evasion of the UN sanctions. The stakeholders in actions that undermine UN sanctions quite often prefer to fraudulently register a vessel by changing her true nationality and possibly other characteristics of her identity, such as the name, IMO identifications number, etc. (International Maritime Organization, 2019). In many cases, these vessels serve the maritime trade of North Korea (Kilpatrick & Richard, 2019). They use a whole framework of identity laundering techniques, in order to cover their illicit commercial transactions by circumventing the UN sanctions. False identification of the vessel, accompanied by registration in a Flag of Convenience, is a combination that successfully undermines the UN sanctions against countries such as North Korea (Huish, 2017).

#### **4.7. Illegal, Unreported or Unregulated (IUU) fishing**

The Cape Town Agreement (CPA) of 2012 highlighted the appearance of fraudulently registered vessels, especially vessels with fraudulent certificates that were engaged in Illegal, Unreported or Unregulated (IUU) fishing activities (International Maritime Organization 2012). Further evidence of fraudulent registration in the fishing industry was reported by the Democratic Republic of Congo (DRC) in the 104th session of the Legal Committee of the IMO in 2017 (International Maritime Organization, 2017). According to DRC's statement, tens of vessels fraudulently registered in its Ship Registry were contacting activities of IUU fishing in its territorial waters. IUU fishing has been associated with fraudulent documentation of vessels in other cases in the past, especially in connection with the jurisdiction of the Port State Control (PRC). The extent of the control that can be exercised by the PRC needs to cover both areas of IUU fishing and fraudulent registration (Witbooi, 2014).

#### **4.8. Slave trade, slavery and maritime migration**

A significant part of the slave trade is undertaken by vessels. In numerous cases, these ships carry fraudulent documents. This phenomenon has been witnessed since the 19th century in various areas of the world, such as the New World and Africa on the High Seas of the Atlantic, Pacific, and Indian Oceans (Allain, 2015). The slow pace of the application of the International Law in the sea played an important role in the employment of ships in the illegal practices of the slave trade. In fact, the Grotian theory of the freedom of the seas was confronted by the opposing attitude of the navies of the involved States, willing to conduct surveys for a number of reasons. The question of the Nationality of the vessel, as well as the type of the maritime zone under examination, was of high importance. Hence, many ships were tempted to fraudulently modify their shipping documents, including their registration status. Given the fact that some of the major migration flows follow maritime routes, heading to Southern Europe via the Mediterranean Sea, to the USA via the Caribbean Sea, and

Australia via the Indian Ocean, the question of the use of both stateless and fraudulently registered vessels arises (McKay, Samantha, Thomas, & Blood, 2011).

#### **4.9. Connection with Flags of Convenience (FOC)**

Flags of Convenience have frequently been accused of facilitating the operations of phantom ships and the widespread use of fraudulent mariner documents (Negret, 2016). Indigenous deficiencies in the corporate structure of the Administrations of the FOC and the lack of will to effectively exercise control over the foreign vessels have created the necessary environment for the development of illicit activities. Shipping companies prone to illegal actions feel confident that they will represent neither adequate preemptive control nor planned initiatives afterwards on behalf of the Maritime Authorities of certain FOC. It is the unwillingness of particular FOCs that permits the operations of vessels that have been fraudulently registered in the respective FOC. Furthermore, insufficient control over maritime practices allows for the use of fraudulent mariner documents. Additionally, maladministration of the certification process, especially in the ranks of the Maritime Authority in the overseas offices, as opposed to the central offices of the FOC, creates the circumstances for the issuing of fraudulent certificates (Obando-Rojas, et al., 2004). It appears that the process of seafarers' certification is more vulnerable in the geographic area of South Asia and South-East Asia. Obviously, decentralisation of the activities on behalf of the FOC might lead to a greater level of fraudulent documents.

### **5. WAYS TO PREVENT AND TACKLE FRAUDULENT REGISTRATION OF SHIPS AND FRAUDULENT SHIP REGISTRIES**

Ships that are fraudulently registered in a Ship Registry or bear falsified documents are often engaged in illicit activities, such as piracy, drug smuggling, slave trade, illegal carriage of arms, and IUU fishing, not to mention that they are used for the evasion of the UN sanctions. For all the above-mentioned illegal activities the international maritime community has reached the conclusion that measures should be applied in order to limit and effectively eliminate the phenomenon of fraudulent registration of ships and fraudulent Ship Registries.

Initiatives on behalf of the IMO can prove to be very effective and to be sufficient to eliminate Fraudulent Registration. One such proposal made by the IMO (International Maritime Organization, 2002) is that the receiving Flag State should contact the previous Flag State, in order to receive positive verification that the vessel has been deleted from the Ship Registry or has received its consent for the registration in the receiving Ship Registry. Accordingly, the vessel's documents identification elements should be verified so as to avoid falsified registration. In this way, the vessel shall not fly the Flag of multiple States at the same time. It is important to increase the transparency in the communication between the Ship Registries involved, which will not only assist in the efforts to defeat fraudulent registration, but also improve maritime safety too (International Maritime Organization 2004). In this way, the cooperation between the National Authorities can help against the phenomenon of Fraudulent Registration. Furthermore, this exchange of information in the ranks of the Ship Registries is required by the international obligations of the Flag States (Food and Agriculture Organization (FAO), 2014).

Governments can enforce legislation according to which the ancillary maritime sectors of the maritime community, such as ship-brokering, marine insurance, ship finance, and ship surveying are vigilant concerning vessels that have been fraudulently registered (International Maritime Organization, 2002). These types of business activities are necessary for a ship in order to perform her trading obligations. Thereby fraudulently registered vessels ultimately interact with these business sectors, which in turn can be a valuable source of information in the task of counteracting unlawful practices associated with the registration of ships.

The IMO has supported the exploitation of the Global Integrated Shipping Information System (GISIS) to encompass a comprehensive database of Ship Registries. This database could be listed in the Contact Points

Module and it should be publicly available (International Maritime Organization, 2019). In this database, the name and contact details of the Authorities, whether governmental or private, that is entitled to the implementation of the registration procedures of the Flag States should be stated. Accordingly, the information received concerning the Flag Registry should be verified with the database of Ship Registries in GISIS. It is imperative that the Flag States enter and keep up to date their contact information in the Synopsis Record Contact Information of the Contact Point Module in GISIS.

In addition to the application of the Contact Point Module in GISIS, it should be stated that for all the vessels required to comply with SOLAS, the Flag State has some obligations concerning the Continuous Synopsis Record. This record is aimed at providing a brief history of some key elements of the vessel, such as the name of the ship, IMO number, registered owner, etc. The receiving Flag State has to verify the date of the vessel with the previous Flag State according to the Continuous Synopsis Record (International Maritime Organization, 2019). Additionally, the previous Flag State has to transmit to the receiving Flag State the Continuous Synopsis Record for the period covering the vessel's registration under its jurisdiction. The verification of the IMO number is one of the methods that can be exercised for the prevention of the fraudulent registration of vessels. Thus the internal procedures of a Ship Registry can contribute against the Fraudulent Registration.

Anticorruption tools, such as the wide application of e-governance practices, can contribute towards counteracting any unlawful attitudes concerning the registration of ships (Shim & Eom, 2009). Since causes for the existence of fraudulent maritime certificates sometimes lie within the organisation of the Maritime Authority, it is important to improve the transparency of the procedures. It is along these lines that modern tools, originating in the application of e-governance, can be used in order to replace the paper-based certificates that are vulnerable to counterfeiting. Needless to mention, the outbreak of the Covid-19 pandemic has significantly contributed towards the development of modern electronic services and the acceleration of their implementation in various aspects of business life (Saviolakis & Pazarzis, The Effect of Covid-19 Pandemic on the Maritime Industry and the Role of the Ship Registries, 2021). Digital signature and electronic verification of certificates can help both to accelerate the issuing of maritime documents, regardless of the geographic proximity, and to alienate the contracting parties so as to avoid the physical contact that can lead to unlawful transactions. The information technology systems lead to digitally signed documents that are more shareable with the Maritime Authorities, ship-brokers, marine insurers, and financiers (Ghosh & Apsara, 2021).

Globalisation in the field of Ship Registries allows for the registration of vessels from around the world in Open Ship Registries (Saviolakis & Pazarzis, The European response to Open Ship Registries and Flags of Convenience through the creation of Offshore and International Ship Registries, 2021). This means that the Maritime Authority has no direct knowledge of the specific information of either the vessel or the shipowning company. As a solution, foreign companies could appoint local representatives that would contact the respective Flag Authorities and co-operate in any issues that might arise. In this way, any vessels registered are expected to follow the regulations of the Maritime Authorities and more personalised business relations are created.

Since a number of fraudulently registered vessels are active in the shipping trade of goods and countries that are sanctioned by the UN, there is growing concern about the level of compliance on behalf of the receiving Flag State. Upon the reception of an application for the registration of a vessel, it is important that the receiving Flag State checks with the United Nations Security Council Consolidated List for any positive findings. In this way, a number of fraudulently registered vessels would not be able to receive the Nationality of the targeted Flag State (International Maritime Organization, 2019).

Another stakeholder that might contribute towards the fight against the phenomenon of fraudulent registration is the community of the Recognised Organisations or else called the Classification Societies. Since almost all Flag States have delegated numerous ROs to contact the ship surveys, it is apparent that every vessel

is expected to be surveyed by a RO. In this way, thorough implementation of the regulations concerning the identity of the vessel, it might assist in presenting the true identity of the vessel.

An important measure that can be adopted is the enhancement of the Automatic Identification System (AIS) features. AIS transponder identifies a vessel and defines her position on the map. Unfortunately, there have been incidents where there was manual data entry, which has enabled the transmission of false data covering fraudulent registration. A solution could be a co-operation between the Flag States and Classification Societies so as to lock the feature of manual bypassing of the vessel's data.

## **6. DISCUSSION/CONCLUSION**

The phenomenon of the fraudulent registration of ships and the fraudulent Ship Registries affects both various aspects of the shipping trade and the international relations between various States. There are numerous shipping activities, such as the illegal transportation of arms, drugs smuggling, piracy, slavery, IUU fishing, and maritime migration, where falsified ship registration is applied. Furthermore, the UN sanctions have been imposed on certain States and fraudulent registration of ships has proved to be a means for bypassing the enforcement of these sanctions. At the same time, the legal framework governing the registration of ships was established decades ago, with the implementation of UNCLOS I and UNCLOS III. These international Conventions do not seem to address the challenges posed by false flagging and further actions on behalf of the international stakeholders, whether intergovernmental organisations or independent States, that need to be taken. The difficulties that have arisen while trying to counteract are indicative of the complexity of fraudulent registration. It can be found in various different forms, including dual registration without consent from the previous Ship Registry, fraudulently altering vessel's identity such as the vessel's name and IMO number, falsification of maritime documents and the operation of fraudulent, seemingly legitimate, Ship Registries.

The extent of fraudulent registration of ships has been detected by the concerned parties, including the States involved in the maritime trade and the international organisations, such as the IMO and FAO. Measures to defeat this threat to the international community lie not only on the role of the Flag States, the Port States and their related Maritime Authorities, since the Classification Societies and the private sector can play a crucial role too. In many cases, adequate and prompt exchange of information between the previous and the receiving Flag State could help to ameliorate the situation. In this direction, the proper use of the GISIS platform and the technological enhancement of the AIS hardware might decisively assist the States. Recent developments in the area of e-governance and the electronic verification of documents, due to the effect of the Covid-19 pandemic, can be a useful tool in the hands of the involved stakeholders of the shipping sector.

## **CONFLICT OF INTEREST**

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

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