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Journal Item

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Version: Version of Record

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How the squeeze on standards enables small flags to flourish

Nik Winchester of the Seafarers’ International Research Centre looks at the difference between the established open registers and some of the new arrivals on the scene.

WHEN we see the flags flown by ships, and the ports of registry painted on their sterns, we notice that they are often attached to such places as Panama and Liberia, Bahamas and Malta. We take them for granted because they have become so familiar and so numerous even though we may find it difficult to connect these flags with our understanding of what constitutes a proper maritime nation.

In recent years a number of other flags have arrived on the scene from countries that are not so familiar, such as Belize, Bolivia, Cambodia, and Equatorial Guinea. The registries display similar qualities to their much bigger brothers and sisters.

The very success of these flags depends on the continued and increasing deletion of sub-standard ships from established flags of convenience. Certainly a shipowner resorting to any of these new flags may choose to fulfil all international requirements. But the flag administrations – if they may actually be called that – make it plain that this is a matter for the shipowners themselves and that they, the “administrators”, are in practice responsible for the different levels of compliance with international conventions.

This practice of passing responsibility for regulatory compliance on, or, course, has been common among open registers but, as we have seen, the larger registries have begun to place higher expectations upon their shipowner clients. This regulatory squeeze has resulted in a marked advantage to the new flag state. The register has been able to set up a provision of a regulation free environment for the shipowner.

The successful operation of these new flags depends on the continued and anticipated maintenance of a flag state completely uninterested in regulatory enforcement. It is also worth noting that, where the larger flag of convenience registers are anxious to demonstrate their regulatory credentials, the registration requirements for those new vessels are organised in such a way as to shelter the shipowner from any enforcement procedures which other regulation may seek to apply. That is to say the flag state does not attempt to impinge upon the autonomy of the shipowner, nor specify any link between the flag and the state. In other words, and in the cases of the new registries, the state as regulator is absent. The administrations of Belize, Bolivia, Cambodia and Equatorial Guinea have no legal means of requiring a shipowner’s compliance with international standards.

These new registries are pretty obviously a commercial response, to the new flag market patriarchally opened up by the world-wide pressure for higher operational standards in shipping. The limited success of port state control as a means of enforcing international regulations has been well documented. Yet however limited port state control has been, it has nevertheless led to the increasing deletion of sub-standard ships from established open registers and the introduction of more rigorous entry requirements for registration.

These deletions and heightening standards have led to the existence of a significant number of companies without flags but in need of one. Without a flag, an asset cannot trade legally. In these circumstances the owner has either to scrap the ship, or find another flag willing to take the rejects of the big flags of convenience. This is where registers such as Belize and Cambodia enter the scene. The established open registers have closed a portion of the market to themselves in order to protect the profitability of the register. Yet the invisible hand of the market works by the process of filling niches, and the new entrants can do just that by picking up unwanted tonnage considered too risky by the Panama and Liberias.

The decision by established open registers to delete ships likely to be detained by port state control is a recognition of the increasingly successful implementation of international standards. Shipowners wishing to avoid deletion must conform to minimum standards: the established flags are not. This has cost implications. The net effect of this process has been to increase the volume of shipping filling niches, and the new registers have thus been able to fill them comfortably without raising standards.

With the success of international regulation has been, it can be claimed that the established open registers are part of the network of international regulatory bodies. Panama and Liberia are, after all, among the largest due-paying contributors to the International Maritime Organisation. By contrast, the new registers operate outside such bodies, and their success shows, paradoxically, that the enforcement measures which led to the further deregulation of a part of the ship registration market. This, in turn, has had a negative effect on the quality of shipping and rights of seafarers.