

# THE EUROPEAN RESPONSE TO OPEN SHIP REGISTRIES AND FLAGS OF CONVENIENCE THROUGH THE CREATION OF OFFSHORE AND INTERNATIONAL SHIP REGISTRIES

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## **Abstract**

The main objective of this essay is to access the different forms of the European response to the challenge of the Open Ship Registries and the Flags of Convenience. The policies concerning the maritime sector adopted by the various European Countries differ significantly. The method followed to support this essay is based mainly on the in-depth research in the regulatory framework established in the respective States as well as the European Institutions themselves. The analysis includes a multi-layered assessment of the key features of the Offshore and International Ship Registers. The findings of the current essay extend beyond the obligatory compliance to the legal restrictions posed by the Flag's Authorities. They include important business characteristics such as the type of vessel, the geographical area of business activity and the tax regime. The novelty of this essay lies in the specialization in the shipping policies that were implemented by the European countries and the comparison among them.

**Keywords:** Open Ship Registry, Flags of Convenience, Second Ship Registry, Offshore Ship Registry, International Ship Registry

**JEL classification:** F13, L92, O31, O38

## **1. Introduction**

Both Offshore and International Ship Registries incorporate European efforts for the containment of the phenomenon of flagging out towards the Open Ship Registries and Flags of Convenience. They combine features from both Closed / National Ship Registries and Open Ship Registries (Watterson, Osborne and Grant 2020) and were established by countries with a long history in the shipping sector, that attempt to reverse the trend of ships abandoning Closed / National Ship Registries in favour of Open Ship Registries (Yin, Fan and Li 2018, 153). The occurrence of a state creating an Offshore or Open Ship Registry originally occurred in the European area and primarily affects European states, despite the fact that this institution has extended to countries outside of Europe. We can discern two obviously distinct types among the states that have chosen this method of pursuing a marine strategy, depending on the degree of correlation between the state that drives the creation of the Ship Registry and the area in which the Offshore or International Ship Registry is established. The degree of integration of the territory in which the Ship Registry is located in the state entity that led its creation is the main criterion for categorizing it in one of the two categories (European Union 2002). In practice, however, it is typical for Ship Registries from one category to be included in the other, and vice versa.

## **2. Offshore Ship Registries**

Offshore Ship Registries are the outcome of certain states', that have Closed / National Ship Registries, reaction to Open Ship Registries. In recent decades, the diminishing size of conventional states' fleets in favour of Open Registries has prompted serious worries about the future of national shipping. According to calculations, in some situations, flagging-out of the Closed / National Registries would result in a significant devaluation of their fleets in a few of years. As a result, some traditional shipping States that possessed overseas territories

altered their shipping policies and established new Ship Registries in those territories with unique status.

The first step was taken by the United Kingdom, which took advantage of the British Empire's existence to allow the British Crown's Overseas Territories and Crown Dependencies to establish separate Ship Registries with privileged access to British shipping. The Bermuda and Gibraltar Registries were the first to allow shipowners from other countries, particularly the United Kingdom, to register their ships there without regard to the Genuine Link criteria of the shipowner's nationality. While ships owned by shipowners of any nationality can be registered, these Ship Registries were primarily created to entice British shipowners who, in their search for Ship Registries that are more competitive than the British Registry, would prioritize an Open Ship Registry. The Cayman Islands, Isle of Man, and British Virgin Islands are among the several Ship Registries available to British shipowners and may be included in this category.

Other European countries that had previously been colonial powers followed the United Kingdom's successful example. France has taken similar efforts, utilizing its location in the Indian Ocean's Kerguelen Islands. For its part, the Netherlands has established an Offshore Ship Registry in the Caribbean's Netherlands Antilles. In the same category of Ship Registries, we may include the Luxembourg Ship Register, which has been supporting Belgium's nautical interests since its inception (Vlachos 2000, 554).

The Offshore Ship Registries could include the Marshall Islands Ship Registry, according to the international literature (R. P. Carlisle 2017). This is backed by the fact that this Pacific archipelago was a US foreign territory until 1982, when it declared independence. In actuality, a transnational agreement with the United States was signed concurrently with the proclamation of independence, under which it gains the status of an affiliated state and, as a result, delegates its essential sovereign powers to the United States.

The Ship Registry of the Kerguelen Islands, founded at France's suggestion, is also among the first Offshore Ship Registries. While this Ship Registry had a major impact at first, particularly among shipowners in the maritime transport of bulk cargoes (tankers), it was eventually replaced by the International Ship Registry of France.

## **2.1. Basic features of Offshore Ship Registries**

### **2.1.1. Genuine Link**

The lack of the Genuine Link criteria for the Nationality of shipowners is one of the key aspects of the Offshore Ship Registries; however it is not relevant in all circumstances. These Ship Registries are set up in territories that are not under the jurisdiction of the states that created them, allowing people of those states to raise their flags on their ships. A good example is the Bermuda Ship Register, which allows a shipowner who does not have Bermuda nationality to register his ship there. The Offshore Ship Registries are clearly identical to the Open Ship Registries in this regard, as the Genuine Link between ship and shipowner is also absent.

The Netherlands, which benefited from its colonial position in the Caribbean, followed the United Kingdom's lead. In order to control the flagging-out of ships leaving the regular Dutch Register, he established the Offshore Ship Registry of the Netherlands Antilles in 1987. Similar to the United Kingdom, shipowners with nationalities from different nations were able to register their ships in this Ship Registry, and as a result, there was no Genuine Link between the ship's nationality and the shipowner. The collapse of the Netherlands Antilles in 2010 did not result in the Ship Registry's demise, since the Curacao Registry (Valsen Fiduciaries International 2017) was established, with the same operational requirements respecting the shipowner's nationality.

The Luxembourg Registry, which reflects the efforts of the Belgian shipping community to create more competitive operating conditions for the Ship Flag, was even more typical. Luxembourg developed a Ship Registry with specific favourable provisions in 1987 in conjunction with Belgian authorities and trade unions in order to attract Belgian shipowners (R. Carlisle 2009, 327). The fact that the ships chosen to be registered in the Luxembourg Register were also registered in the Belgian Ship Registry complicated the issue of nationality even further. As a result, we note that there was no Genuine Link with the Luxembourg Ship

Registry for these ships, although there was a Genuine Link with the Belgian Ship Registry. Belgian shipowners' ability to register their vessels in the Luxembourg Ship Registry ceased to exist in 2003 and is now considered extinct.

We cannot, however, say that the lack of the Genuine Link is detected in every situation. The Ship Registry of Kerguelen Islands can be used as a guide. Because these islands are a French Overseas Territory, the people who live there are French citizens. As a result, the ships registered in this Ship Registry satisfy the Genuine Link criteria, as the existence of French nationality is established in both the ship and the shipowner. However, the creation of the French International Ship Registry in 2005 resulted in the Ship Registry's reduction.

### **2.1.2. Geographical area where the Ship Registry is located**

The major aspect of the Offshore Ship Registries is that they choose a territory as its seat, which is clearly distinct from the state's inland regions. It is generally an island that is not a part of the state that is responsible for the creation of the Ship Registry. The rule is to select a former colony with the status of an overseas territory or dependency with the old colonial power.

Following the collapse of the British Empire, the United Kingdom preferred to exploit the older colonial territories with which it had a privileged relationship. They are islands in this situation as well, although they are not part of the United Kingdom and have a variety of relationships with it. We have the case of the United Kingdom's Overseas Territories, which were chosen for the construction of the Offshore Ship Registry, in the instance of Bermuda and Gibraltar. In the case of the Isle of Man, which is a British Crown Dependency, a similar Ship Registry was established (Farthing and Brownrigg 1997, 191).

### **2.1.3. Jurisdiction of the State**

There is a clear prevalent trend among the former colonial powers in terms of the applicable law that controls the operation of the Offshore Ship Registries. It refers to states that worked with an Overseas Territory or Dependency to establish the Offshore Ship Register. The geographical criterion for choosing the Ship Registry's registered office is directly tied to the state law that will be used in the aforesaid scenario.

If an Offshore Ship Registry is established outside of the state, as is the case, for example, in the United Kingdom, the Overseas Territory or Dependency Law that governs this Registry applies. This means that the Offshore Ship Registry of Bermuda, which is not a UK territory, operates in line with Bermuda's counterparts rather than UK law. The operation's overall control, as well as the registration requirements, is governed by Bermuda domestic law. The same can be said for applicable law and Ship Registries established on UK possessions, such as the Isle of Man. The Isle of Man's laws govern the operation of this Ship Registry.

It is important to highlight that, while the Ship Registry's functioning is governed by the domestic legislation of the Overseas Territory or the Dependency, practical challenges emerge that require the involvement of UK authorities. Because of the small size of the Overseas Territory or the Dependency, and as a result of the objective inability to fully meet the needs of the limited and inadequately trained human resources, as well as the insufficient material resources, issues concerning the final control of the safety rules and operations undertaken by the competent authorities of the United Kingdom itself have arisen (Farthing and Brownrigg 1997, 191). The same Principles dictate the type and quality of the rules that govern the functioning of this Offshore Ship Registry, respectively.

### **2.1.4. Vessel's Flag**

The potential that the shipowner can raise the flag of the state that sponsored the founding of the specific Ship Registry is a typical feature of the Offshore Ship Registries. Even if this state does not recognize the ship's nationality and its laws do not apply to the ship's actions, we see that the ship has the ability to raise the flag of that state rather than the flag of the dependent Overseas Territory or the Dependency to which the Registry belongs. As a result, in the instance of the Netherlands Antilles Ship Registry, ships registered in this Ship Registry might raise the Dutch flag rather than the flag of the Netherlands Antilles, to which the Ship Registry belonged.

In any event, one of the primary aspects of this form of Ship Registry is the capacity of shipowners to raise the flag of the nation of origin. It is regarded as an important advantage

because it assures that the State that assigns its National Flag has administrative authority over the Authorities that have taken over the operation of the Ship Registry and may be located in territory that is not under that State's national sovereignty. It's also a criterion that's taken into account during on-board inspections, thus it carries a lot of weight in shipowners' decisions on the ship's nationality. As a result, it appears to be an element that lends glitz and opulence to the ship that hoists an internationally recognized flag.

#### **2.1.5. Tax Regime**

The fundamental feature of the Offshore Ship Registries is the established advantageous tax regime, which makes them more appealing than the respective Closed / National Ship Registries. It is frequently maintained that, in terms of tax treatment, they are quite comparable to the Open Ship Registries that are required to compete. The major tax instrument is determining the ship's annual financial burden based on the tonnage tax scheme. This means that the tonnage of the ship, not the turnover or profitability of the shipping company to which it belongs, will be used to determine whether the ship must pay the tax. Additional variables may be used in the final computation of the tax amount, depending on the Ship Registry. The category, to which the ship belongs, as well as its age, is examples of such criteria.

There are specific tax arrangements for the employees who work on the ship in addition to the benefits received by the shipping company. The rule is that seamen are exempt from paying taxes on their earnings from the sea. There are also particular provisions in place that reduce the costs associated with these personnel' social security benefits when compared to the costs associated with the ship's participation in the relevant Closed / National Ship Registry.

#### **2.1.6. Seafarers**

The flexibility that characterizes Offshore Ship Registries in terms of crew and officers is one of the primary factors that has aided their development. The Offshore Ship Registries have adopted relatively permissive laws controlling ship crewing in order to compete with the Open Ship Registries, which set virtually no limits on shipowners in the selection of employees to man their ships. The maritime company is entitled to hire crew members of whichever nationality it sees fit for business purposes (Farantouris 2003, 137). In other cases, officers can be selected regardless of nationality, allowing the shipping firm complete control over crew selection.

The level of their salaries is an interesting side effect of the ability to choose the composition of the marine workforce that is employed in the ship. The nationality of the crew has a significant impact on payroll expenditures. This is owing to the fact that the labor is accompanied by national employment contracts, which vary greatly from country to country. However, if the salaries are below the I.T.F.'s minimum, they are considered Flags of Convenience (Vlachos 2000, 482). There are certain Offshore Ship Registries that meet the I.T.F.'s (International Transport Federation) basic requirements, as well as some that fall short of the minimum allowable limits, resulting in their inclusion in the Flags of Convenience

## **2.2. Policy recommendations**

The motivation behind the creation of Offshore Ship Registries is based on the need to react to the flagging-out of vessels. The continuous flow of ships towards more attractive Open Ship Registries or even Flags of Convenience threatened the very existence of the maritime sector in some States with long-lasting maritime tradition. Employment for the local seafarers was deteriorating, state revenues from the taxation of the maritime companies were continuously shrinking and maritime-related activity such as shipbuilding, shiprepairs, marine insurance, ship-broking and ship chandlers was facing the possibility of near extinction within the borders of the respective Closed / National Ship Registry (Alabanos and Theodoropoulos, Measurement of the Administrative burden for the establishment of shipping companies in Greece 2017, 86).

For all the above mentioned reasons, States with former colonial empires opted for the establishment of new Offshore Ship Registries based on the former colonies. With this method, Offshore Ship Registries could incorporate some of the characteristics of the Open

Ship Registries that otherwise could not be adopted in the traditional Closed / National Ship Registries. Areas of particular concern of the Offshore Ship Registries that enhance their competitiveness are the tax regime and the nationality of the seafarers. Both of them contribute significantly to the total cost of the shipping sector and are a decisive factor for the selection of the appropriate Flag on behalf of the maritime company.

### **2.2.1. Contribution to economic development**

With the creation of an Offshore Ship Registry the economic development of the traditional State is preserved, since local shipowners and shipmanagers may swift to the Offshore Ship Registry of a former colonial territory instead of choosing an Open Ship Registry in another country. The greatest part of the activities of the shipping sector is expected to continue to be based on the traditional maritime State, since many of the functions of the Offshore Ship Registry depend on the cooperation with the Authorities of the traditional maritime State. Because of this reason, the economic development of the State is better preserved and a great part of the maritime and maritime-related activities continues to contribute to the economic development of the traditional maritime State that took the initiative to establish the Offshore Ship Registry in an overseas territory.

### **2.2.2. Importance in the regional development**

Only part of the maritime and maritime-related activity, such as financial services, auditing and marine law, is normally transferred to the territory where the Offshore Ship Registry is based, mainly for reasons of compliance to the local legal system and cooperation with the local authorities. In this way, some of the economic activities that formerly took place within the territory of the Closed / National Ship Registry are now transferred to the country where the Offshore Ship Registry is based. Even with this heterogeneous distribution of economic activity, the creation of an Offshore Ship Registry has a positive impact on the regional development of usually remote island territories, such as Bermuda and Kerguelen.

The territories that are chosen for the establishment of an Offshore Ship Registry normally present insignificant former maritime activity and lack the necessary infrastructure to serve an important maritime sector. Quite often, the overall economic output of these overseas territories is restricted and focuses on specific sectors of the economic activity. Usually, tourism and fishery are the traditional sectors of the previous economic activities of these territories. The creation of a maritime sector contributes to the differentiation of their economies and has a positive impact on their regional development. Only the support of the respective State of the Closed / National Ship Registry, through the establishment of an Offshore Ship Registry, can lay the foundations for the creation of a vivid shipping sector and thus signal the flow of maritime-related activities to the ex-colony.

## **3. International Ship Registries**

The majority of traditional European countries were concerned about the necessity to take action to reverse the deteriorating trend of Closed / National Registries. There were states that were not in possession of colonial territories while the former colonial powers sought solutions to their marine policy that previously entailed colonies. They faced the same issues of their national shipping in terms of survival, but lacked the ability or motivation to establish an Offshore Ship Registry in an Overseas Territory or Dependency. The solution was to create an International Ship Registry based in the territory of the State concerned with characteristics that are significantly similar to the Offshore Ship Registries, but without being identified with them.

Because of the significant similarities between Offshore Ship Registries and International Ship Registries, some Ship Registries have been classified in the first group and others in the second category. Such is the situation with Portugal's Madeira Island and Spain's Canary Islands. Both colonial powers, on the other hand, elected to establish the Ship Registry in their respective metropolitan areas, resulting in the majority of the literature being classified as International Ship Registries.

The subject of whether the International Ship Registries created by European Union member states are compatible with the Treaty on European Union and the Treaty establishing the European Community, particularly Article 87 addressing public aid, has been questioned

(European Union 2002, 67). In a relevant decision (European Union 2002) concerning the International Ship Registry of Germany, the Court of Justice of the European Union ruled that the International Ship Registry's operating status is not contrary to European Union regulatory rules and thus does not constitute a breach of European legislation on state aid.

### **3.1. Basic features of International Ship Registries**

#### **3.1.1. Genuine Link**

The current trend in International Ship Registries is to have proof to establish the presence of the Genuine Link. However, as with Offshore Ship Registries, there is a distinction in this type of Ship Registries as to whether or not the Genuine Link exists. The Genuine Link was not considered a component of the link between the Ship Registry and the ship in Portugal's strategy to introducing the MAR Ship Registry to Madeira in 1990. Of course, the major goal of the MAR Registry's founding was to serve the interests of Portuguese shipping. However, citizens from other countries were granted the chance to register ships, and shipowners from a number of European countries worked with this Ship Registry in this fashion. The fact that more ships belonged to foreign shipowners in 2004 than ships belonged to Portuguese residents is evidence of the lack of the Genuine Link (R. Carlisle 2009, 333)

Norway has taken a similar approach to Genuine Link, establishing loose requirements and essentially enabling shipowners of all countries to register ships in the International Ship Registry (Norwegian Maritime Authority 2016). Norway was the first country to establish an International Ship Registry (Rosaeg 2020) which evolved to be greater than the Closed/National Ship Register (Aarstad 2017), and it served as a model for a number of countries that followed, including Denmark and others (Cusumano and Ruzza 2020).

On the other hand, there is the example of France, which formed the International Ship Registry in order to attract ships with French interests. As a result, the Genuine Link criterion is observed, with the possession of French nationality (France - Ministry of Ecological and Solidarity Transition 2016) as a prerequisite of ship ownership. States that restrict the opportunity to register ships to their International Ship Registries are in the minority, while the majority of International Ship Registries are available to shipowners from other countries.

#### **3.1.2. Geographical area where the Ship Registry is located**

Countries who wanted to improve their shipping business by reviewing their shipping policies formed the International Ship Registries. In order to achieve this, two main pathways were taken in terms of determining the geographical area where the International Ship Registry would be established. Allowing the shipowner to register the ship in the International Ship Register at any port in that State was one of the most important options. The International Ship Registry was established in a clearly defined geographical area of the given state as the second technique.

The shipowner has the option to choose the port of registration in any nations that have elected to create the International Ship Registry on a national level. This means that, in addition to the Closed / National Ship Registry, the International Ship Registry services are available in each port that supports Ship Registry services. The International Ship Registry of Germany is an example of this technique, since it allows the candidate ship to select the port of registration (Germany - Federal Ministry of Transport and Digital Infrastructure 2021) from among all possible ports in the country.

In the second situation, it is not uncommon for a portion of the island country to be chosen as the location of the International Ship Registry's establishment and seat. Portugal is an example of a state that chose a portion of its island territory for the construction of an International Ship Registry. The Portuguese government has picked Madeira, a Portuguese autonomous province in the Atlantic Ocean, as the site of this Ship Registry's headquarters. The people of Madeira are Portuguese citizens, and their rights and obligations are the same as those of any other Portuguese citizen. Similarly, Spain chose the Canary Islands, which are located in the Atlantic Ocean and are part of Spain's metropolitan region, for the development of the International Ship Registry. Finland took a same strategy when creating its own International Ship Registry, selecting the cluster of Aland Islands from all over the country.

On the other hand, several states have elected to form the International Ship Registry on a portion of their mainland. As an example, Norway has the International Ship Registry N.I.S.

(Norwegian International Ship Registry), which is based in the port of Bergen (Norwegian Maritime Authority), which also houses the country's Closed / National Ship Registry. Similarly, Marseille, a mainland port, was chosen for the establishment of the International Ship Registry in France (France - Ministry of Ecological and Solidarity Transition 2016).

### **3.1.3. Jurisdiction of the State**

The full incorporation of the laws regulating their operation into the national law of the state in which they are headquartered is a feature of International Ship Registries. Because their registered office is located within that State's geographical region, their activities are assumed to be governed by the laws of that state, which has unrestricted national jurisdiction. It should be emphasized, however, that the extent of applicability of International Ship Registry's legislation has differed in two significant ways. Countries that elected to establish an International Ship Registry at the national level established a set of rules for the Ship Registry's operation, regardless of where the Ship Registry is situated geographically. On the contrary, several states have designated a certain area of their territory for the creation of such a Ship Registry.

The legislation was changed in order to cover the registration of ships throughout the national territory in the case of states that elected to create the International Ship Registry at the national level. In this sense, there is no preferential treatment for one section of the country over another, because the same International Ship Registry has branches in many parts of the country, all of which offer the same services.

The International Ship Registry of Germany (G.I.S.) is a unique case of an International Ship Registry that chose not to apply any geographical limits in terms of its headquarters. While there is no concept of geographical restriction, there is an institutional constraint on the state of the ship's registration prior to its arrival. Only ships registered in the German Closed / National Ship Registry are authorized to be registered in the German International Ship Registry at the same time (Mansell Springer Science & Business Media, 5). As a result, registration in the International Ship Registry of Germany is limited to ships flying the German flag, and ships from other Ship Registries are not permitted to register in this Ship Registry (Daniil and Saviolakis 2020, 955). It may be argued that the G.I.S. is designed primarily to assist ships currently flying the German flag and does not seek to attract ships from other Open or Second Ship Registries in the international competition between Ship Registries.

The states that have opted to form the International Ship Registry in a specified area of the territory within which they have complete sovereign rights are on the other side. The Canary Islands, which are an integral part of the Kingdom of Spain and where the domestic law of that country is completely enforced, were chosen for the founding of the Ship Registry in Spain. Of course, it should be noted that the legal status of operation of this type of International Ship Registries is unique. The legislation governing the operation of these Ship Registries is not applicable on a national level. That is, the Spanish International Ship Registry of the Canary Islands does not apply to the entire Spanish territory because it only provides special privileged privileges in the Canary Islands' geographical area.

The argument given by certain nations for enacting a special legislative regime that allows for the creation of an International Ship Registry in a certain geographical area, as opposed to the remainder of the national territory, where the current Closed / National Ship Registry continues to operate, has two components. One is the necessity to provide incentives to the domestic shipping community in order for them to be able to compete on more favorable terms while preserving their nationality and avoiding the use of an Open Ship Registry. The second reason has to do with the state's desire to promote growth in specific geographic areas. Because these places are typically located outside of the mainland, their business activities are subjected to more adverse economic conditions. As a result, in most cases, the establishment of an International Ship Registry is part of a larger set of development initiatives aimed at boosting commercial activity in these locations (Gobierno de Canarias 2021).

### **3.1.4. Vessel's Flag**

The states formed the International Ship Registries in order to attract ships that would otherwise prefer to register in an Open Ship Registry. To achieve this purpose, it is critical to adopt not just a package of enticing incentives with financial impact, but also to provide the

option of selecting a high-quality Flag. As a result, the International Ship Registries allow shipowners who select them to fly the flag of the country that is responsible for the development of these Ship Registries.

Raising the national flag of a traditional maritime country with a long history is particularly essential in terms of ships flying its flag. The ability of a ship to hoist a high-quality flag that is not on an international organization's or M.O.U.'s black list is regarded as extremely important. A ship is subjected to a more favorable regime in terms of the controls and numerous inspections carried out in the ports it approaches by raising a quality Flag. Furthermore, it is possible to implement intergovernmental agreements between the Flag State and the port state to which the ship is approaching, resulting in potentially preferential treatment of port /harbor expenses and other fees, as well as priority entry into the port.

### **3.1.5. Tax Regime**

A significant guide in the application of tax policy in the International Ship Registry is the requirement to attract ships from the reservoir of ships that are prone to registration in an Open Ship Registry. The tonnage tax scheme is a basic taxation instrument in which a shipping company's taxation consists of a fixed amount based on the tonnage of the ship multiplied by a varied rate depending on the Ship Registry. As a result, the determination of the basic taxation is not influenced by the year's financial results. It is worth mentioning that the tax resulting from the tonnage tax scheme is often lower than the tax coming from the application of the traditional profit taxation system (Germany - Federal Ministry of Transport and Digital Infrastructure 2021).

VAT is an important tax instrument, particularly in the European Union's region. It is, however, subject to specific constraints (France - Ministry of Ecological and Solidarity Transition 2016, 11). The most typical requirements are provided for the ship to conduct shipping or similar activities exclusively on the High Seas.

The outcome of the ship's financial activity is considered to have already been taxed under the tonnage tax scheme, which is a final tax and can thus be given to the ship-owning company's shareholders without extra tax charges (Norwegian Maritime Authority 2016). To avoid double taxation, special intergovernmental agreements may exist between the State that has established an International Ship Registry and the other States.

The usual guideline for seafaring employees employed on ships listed in the International Ship Registries is that the payroll should adhere to the requirements of the seafarers' home country. As a result, if the seamen hired are from the Philippines, they will be paid according to Philippine law. However, like in the instance of the French International Ship Registry, it is feasible that the State providing the International Ship Registry establishes a minimum threshold beyond which seafarers' pay are not allowed to fluctuate (France - Legifrance 2021).

There is a significant disparity in the social security of mariners amongst the numerous International Ship Registries that have been formed. While they tend to follow the general rule that employer contributions are not the same as those of ships registered in the Closed / National Ship Registry, there are several exceptions. The minimal level determined by the International Labor Organization is specified as a minimum in several International Ship Registries, such as the French (France - Ministry of Ecological and Solidarity Transition 2016). Furthermore, the State that formed the International Ship Registry may have entered into bilateral transnational agreements with a number of third countries (Germany - Federal Ministry of Transport and Digital Infrastructure 2021). It is feasible to identify details relevant to the social security of the hired personnel based on these contracts.

### **3.1.6 Seafarers**

The selection of crews and officers of ships registered in the International Ship Registries vary significantly depending on the state and the maritime policies that it follows. The final mix of policy adopted is a combination of the necessity to offer enticing incentives, frequently comparable to those offered by an Open Ship Registry, as well as the satisfaction of each state's economic and social interests, particularly with regard to seafarer employment. As a result of these considerations, the available International Ship Registries have established varied criteria for the nationality of the crew members.



There are International Ship Registries that have an aggressive policy of faithfully copying the Open Ship Registries and allowing the shipping firm total freedom of movement. As a result, the shipowner has the freedom to choose any nationality for his Master, Officers, and crew. The Norwegian International Ship Register (N.I.S.) is a good example of such an International Ship Register, as it allows shipowners to choose the nationality of their crew almost entirely (Norwegian Maritime Authority 2016). Portugal (International Business Centre of Madeira n.d.) has taken a similar stance on the question of maritime personnel nationality. While it has set a requirement that at least 30% of the total number of staff on board originate from a European or Portuguese-speaking country, the ship-owning firm can seek for an exemption from this requirement in practice and Recruit personnel from all around the world, regardless of the seaman's nation of birth.

International Ship Registries, on the other hand, place tight restrictions on the nationality of the marine workers. It is noted that in the case of the Canary Islands Ship Registry, both the Captain and the Officers must be citizens of a European Union member state (International Ship's Register, S.L n.d.). Only 50% of the junior crew can be non-EU nationals. The Danish International Ship Registry, which has similarly tight standards that confine the Master's nationality to the European Economic Area (E.E.A.), has also been formed, but allows the remainder of the crew to be signed up from any country of the shipowner's choice (Danish Maritime Authority n.d.). This has resulted in lower crew cost of approximately 50% compare to the cost of vessels under the Closed/National Ship Registry (Sornn-Friese and Iversen 2014). The same restriction applies to only the shipowner's nationality in Germany's International Ship Registry, which accepts only European Economic Area nationalities (Germany - Federal Ministry of Transport and Digital Infrastructure 2021).

France has used a unique technique to determine the crew's nationality. Unlike some countries, which segregate the Master's nationality from that of the rest of the crew, the International Ship Registry of France takes a uniform approach to the topic of the workforce's nationality. More specifically, a single rate of 25% applies to the entire crew, all of whom must be from EEA nations (France - Ministry of Ecological and Solidarity Transition 2016). In fact, if the ship-owning company has received financial incentives for the purchase of the ship in issue, the aforementioned proportion may be increased to 35 percent.

### **3.2. Policy recommendations**

The driving force behind the creation of an International Ship Registry is the need to respond to the threat of the Open Ship Registries and Flags of Convenience. The maritime sector of the European States faces the possibility of near extinction due to the continuous flagging-out of vessels towards the usually more cost-efficient and less restrictive Open Ship Registries or even Flags of Convenience. The positive experience of Great Britain, France and the Netherlands with the establishment of Offshore Ship Registries in former colonies encouraged the creation of Second Ship Registries under the form of an International Ship Registry by many European countries that lacked former colonial territories. Norway was the first State in the world that chose to lay the foundations of an International Ship Registry and many other European and non-European States followed.

The success of the institution of the International Ship Registry is based on its flexibility to adhere to the local needs and demands. Areas of concern such as the tax regime (Jolley, et al. 2017, 54), the nationality of seafarers, the genuine link between the shipowners and the International Ship Registry, the geographical area of trade where the vessels are permitted to operate, the types of cargo that the ships are allowed to transport might significantly differ among the various International Ship Registries under examination. International Ship Registries can be very flexible in the adoption of the proper set of rules that better serve the needs of the respective State and thus materialize the national maritime policy.

#### **3.2.1. Contribution to economic development**

International Ship Registries are an important tool for the preservation of the core of maritime activities within the borders of the traditional maritime State. The establishment of an International Ship Registry helps to maintain under the national Flag, although under a different set of rules, the tonnage that under other circumstances would have chosen to re-register under an Open Ship Registry or a Flag of Convenience. For this reason, economic

activities, associated with the maritime sector, are allured to continue to take place in the same economic environment with the Closed / National Ship Registry. Both the management of the maritime company which is shore-based and other maritime-related activities such as shipbuilding, ship repairs, ship finance, marine insurance and ship broking can contribute to a flourishing home-base maritime sector that is fueled by the operations of an International Ship Registry.

Additionally, to the preservation of the national fleet, which is better served with the establishment of an International Ship Registry, certain International Ship Registries also target the international market in order to attract foreign vessels (Alabanos and Theodoropoulos, A hybrid model proposal based on SCM and RCM administrative burden models (A.B.Ms) 2019, 96). This is the case of the MAR Portuguese International Ship Registry and the NIS Norwegian International Ship Registry that further contribute to the economic development of the respective countries by attracting foreign-flagged vessels.

### **3.2.2. Importance in the regional development**

The creation of an International Ship Registry can boost the regional development of certain geographic areas and enhance the regionalization process (Belyakova and Vorobyeva, Opportunities and limitations of regional Authorities' use of public administration tools for economic development 2018, 144-145). In many cases, the traditional maritime States choose to establish the International Ship Registry in certain geographic areas thus encouraging the transfer of economic activities in these regions (Panagou, Kokkali and Stratigea 2018, 89). Interestingly, quite often these areas are islands, as is the case of Finland that has established its International Ship Registry in the Islands of Aland, or Spain with the Canary Islands.

The regional development can be further accelerated if the States opt for the establishment of special, business-friendly economic and fiscal regimes in parallel to the creation of an International Ship Registry (Korres and Tsamadias 2009). The creation of an International Ship Registry can be accompanied by tax incentives (Amri, et al. 2019, 73), social security allowances, free trade zone (Khan and Haasis 2020, 179-180) and simplified procedures that favor the creation of a Business Centre.

This is the case of Portugal with the establishment of the MAR International Ship Registry as part of the International Business Centre of Madeira in the isolated island of Madeira (Portugal - International Business Centre of Madeira 2021). The success of this initiative is apparent in the transformation of the formerly agricultural and rural economic character of Madeira into the dominant tertiary sector that contains not only shipping. Trade and financial services flourish and innovation is highly encouraged (Belyakova, Belyakov, et al. 2017, 123). Unemployment rate has well below the national levels (European Commission 2021) and it is estimated that the contribution of this specific Business Centre to the local economy in terms of Gross Value Added (GVA) surpasses 10% (Confraria 2019, 3).

## **4. Conclusion**

Open Ship Registries and Flags of Convenience have resulted in a dramatic reduction in the capacity of European countries' fleets, including the traditional shipping states. The threat of European shipping disappearing has prompted European countries' and the European Union's maritime regulations to seek remedies. While the endeavor to establish the common European Registry, EURO, was unsuccessful, many alternatives have been offered at the national level, the most prominent of which is the development of Offshore Ship Registries and International Ship Registries. In a variety of areas of interest, they are unique forms of Ship Registry that include aspects from both Closed / National Ship Registries and Open Ship Registries.

The unique characteristics of Offshore Ship Registries and International Ship Registries are examined in detail, with a focus on issues such as the degree of compliance with the Genuine Link as a criterion for determining the ship's nationality and the applicable law in relation to the ship's right to raise the flag of a specific State. At the same time, the institutional framework that governs the operation of the Ship Registries shows significant variation between the solutions adopted by European states. In some cases metropolitan territories have been selected for the seat of the Ship Registry, while in other States overseas

territories have been selected. In the former case the legal framework of the metropolitan State applies, while in the latter case it doesn't.

At the same time, the establishment and operation of Offshore Ship Registries and International Ship Registries has important consequences for the tax treatment of shipping companies. Furthermore, the condition of the working circumstances is critical, depending on the Ship Registry regulations. Finally, the institutional structure that administers The Offshore and International Ship Registers has a considerable impact on the geographical region of activity of the ships, and it is worth noting that there are substantial variations between them.

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