journals.unizik.edu.ng/index-php/jcpl
ISSN: 2736-0342
NNAMDI AZIKIWE UNIVERSITY, AWKA
JOURNAL OF COMMERCIAL AND PROPERTY LAW

Challenges of Shipping Companies on Registration of Vessels in Panama and Nigeria: The way forward

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Abstract

Globally, most ships engage in carriage of goods in furtherance of international trade. Furthermore, due to the fact that ships belong to different Nationalities, there is need for their registration for identification purposes. This paper evaluates the regime of ship registration in Panama and difficulties faced by shipping companies in terms of registration of vessels in Nigeria and the attendant legal challenges in both jurisdictions. It observed some lessons Nigeria could learn from the ship registry of Panama. It calls for a review of some of the shipping registration laws of Nigeria as a way of advancing its economic development.

Keywords: Ship registration; Vessels; Shipping companies; Nigeria, Panama.

1. Introduction:

It is a trite principle of law that for a ship to be allowed unhindered access to the high seas, such ship must possess what is usually referred to as national character. The nationality or national character of a ship is reflected by the state or country whose flag the ship is entitled to fly and for a ship to fly a country's flag, it must be registered. Individual countries determine the conditions which a ship that is to be registered in their country must fulfill. This may be in the form of insisting that the owning company of the ship must be incorporated in the country where the ship intends to be registered. Nigeria is an example of this requirement.[697] However, in some countries like Panama, this requirement may not be necessary.[698]

A ship registered and carrying flag of a country symbolizes that the operation of such ship would be subjected to the laws and fiscal regime of that country.[699] By extension, "the jurisdiction over vessels on the high seas will reside with that state", and "the law of the vessel's flag will govern offences on the high seas".[4] Furthermore, the ship is entitled to consular assistance from the flagged country, and 'engage in trade and enter into ports and interact with the authorities of other nations'.[700] Section 11(1) Merchant Shipping Act 2007 provides to the effect that where a ship is

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[697] MSA 2007, s.18 (i). See also, Adedoyin Afun, 'The Shipping Law Review: Nigeria' Bloomfield Law, https://thelawreviews.co.uk/title/theshipping.law.review/nigeria [Accessed 22nd June, 2022].

[698] Ana Lorena Morales, 'Benefits and Advantages of Ship Registry in Panama' https://finm.com.pa/benefits-andadvantages-of-ship-registry-in-panama [Accessed 22nd June, 2022].

[699] AlekaMandaraka –sheppard, *Modern Maritime Law and Risk Management*, 2nd edn. (London, Informa, 2009) 277.

[4] *The Oteri v The Queen* (1997) 1 Lloyds Rep 105 (pc)

[700] Ibid.

not recognized as a Nigerian ship, it shall not be entitled to any benefits, principles, advantages or protection usually enjoyed by Nigerian ships.

One of the major international legal instruments which recognizes and empowers sovereign States to make laws to promote the peaceful uses of seas and oceans is the United Nations Convention on the Laws of the Sea (UNCLOS) 1982.

Internationally, in terms of ship registration, it is provided that "every state shall fix the conditions for the grant of its nationality to the ships, for the registration of ships in its territory, and for the right to fly its flag. Ships, have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship. Every State shall issue to ships to which it has granted the right to fly its flag documents to that effect".[701]

Panama ship registry is considered to be one of the oldest and largest ship registries in the world having been established in 1925.[702] The legal instrument that regulates the registration of ships in Panama is the General Merchant Marine Act (law No. 57 of August 6th, 2008). The effect of this law is that unlike the previous law, this Act "reorganized the Panama merchant marine registration process".[703]

In Nigeria, some of the indigenous statutes that regulate the registration of ship among others include the Merchant Shipping Act (MSA) 2007 and the Maritime Administration and Safety Agency Act (NIMASA) 2007 and the Coastal and Inland Shipping (Cabotage) Act 2003. These Acts would be examined in line with the topic of this work. This study evaluated the regimes of registration of vessel in Panama and Nigeria.

2. The Legal Regime for Ship Registration in Panama

Prior to coming into effect of the extant law of ship registration in Panama, ships were only to be registered for a maximum period of two years. However, with the present law, vessels are to be registered indefinitely.[9] Panama is chosen to be compared because "Currently, Panama is a center of confluence of maritime routes and an important hub of sea cargo distribution and redistribution with the world's largest fleet. The maritime sector of the Republic of Panama contributes 20% to its GDP".[10] Panama practices an open ship registry and registration is open to a ship owner without regard to nationality.

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[701] UNCLOS 1982, art. 91(1) (2).

[702] PSC Holdings, 'Ship Registration', webmaster@panama_psa.com. [Accessed 3rd July, 2022]

[703] Icaza, et al, 'Panama Ship Registry, Guide and Procedure' www.icazalaw.com [Accessed 3rd July, 2022] [9] Ibid. [10] Icaza, et al, 'Panama Ship Registry, Guide and Procedure' www.icazalaw.com [Accessed 3rd July, 2022]. [11] MMDG 2008, art, 3.

2.1 Requirements for registration

In Panama, any person or company irrespective of nationality or domicile, can "register one or more vessels of their property in the Merchant Marine, complying with the requisites and formalities established for that end".[11]

In order to register a vessel in Panama, "its owner must present a formal application, pay the fees, the applicable tariffs as taxes and submit the documents required by the Merchant Marine General Directorate" and the Maritime Authority of Panama can use electronic methods to effect the registration.[704] After registration, the said vessel becomes part of the Panama National Merchant Marine and it is permitted to "raise its national flag, at the request of its owner" and comply with all provisions in the relevant law.[705]

2.2 Denomination of Vessels

The name a vessel will use for registration must not be the same with any other registered vessel in Panama and such a name must be printed on the hull of the ship.[706] A change of name of a registered ship in the Merchant Marine must have been approved by the General Directorate of the Merchant Marine albeit, "the ship owners will have the obligation to update the documents of the vessel in order for its navigational patent, radio license, technical certificates, and any other document to reflect the new name of the vessel".[707]

Once a change of name is authorized, a new certificate of registration is issued and the public registry is notified.[708] Availability of names for registration purposes are reserved by the General Directorate of the Merchant Marine which authorizes registration.[709]

2.3 Registration of vessels of international service

A qualified lawyer in Panama is mandated to submit the necessary registration documents for vessels of International Service. The approval can be secured directly at the "General Directorate of the Merchant Marine or by ship-owner or its representative when effected at a consulate, in the Economic and Commercial Office of Panama or in any other authorized office for that purpose by

[704] MMDG 2008, art, 4.
[705] MMDG 2008, art, 1.
[706] MMDG 2008, art, 9.
[707] MMDG 2008, art, 10.
[708] MMDG 2008, art, 11.
[709] MMDG 2008, art, 12.

the Maritime Authority of Panama abroad or by electronic means authorized by the Maritime Authority of Panama".[710]

The Vessels for international service must present the following documents for registration; "Original of the document appointing the Resident Agent executed by the owner which if issued abroad must be duly authenticated; Prima facie evidence of the ownership of the vessel or of the intention of acquiring such ownership; evidence of the payment of taxes, and corresponding legal duties; any other additional payment required by the General Directorate of the Merchant Marine".[19]

Some documents may be exempted for the shipping company so as to make registration process simpler and must be submitted at a later date but must not exceed thirty days. It is worthy of note that the documents "issued by the General Directorate of the Merchant Marine or in its name in order to be carried on board vessels of International Service must be issued in Spanish and in English".[711]

2.4 Registration of Vessels of Local Costal Service

For vessels of local costal service the application for registration can be submitted by a shipping liner directly without the services of a lawyer.[712] This will make the registration of vessels of local coastal service less expensive as against that of international services. The General Directorate of the Merchant Marine also approves the registration.[713]

In Panama before a ship can be registered, the following documents must be submitted; "Report of tonnage and appraisal; *Prima facie* evidence of the ownership of the vessel or the intention to acquire said ownership; Original authentic copy of the builder's certificate or evidence of the deletion of the previous registry of the vessel; Evidence of payment of import taxes; the original of a sworn statement of private use where it is attested that the vessel will not be used for any commercial purposes; any other document which the General Directorate of the Merchant Marine may require".[714]

[710] MMDG 2008, art, 13.
[19] MMDG 2008, art, 15.
[711] MMDG 2008, art, 15.
[712] MMDG 2008, art, 17.
[713] MMDG 2008, art, 18.
[714] MMDG 2008, art, 20.
[24] MMDG 2008, art, 21.

A certificate of registration will thereafter be issued after all and duties are paid albeit"the General Directorate of the Merchant Marine will proceed to the issuance of the corresponding patent and radio license assuming the vessel is seaworthy".[24]

2.5 Conditions for Refusal to Register a Vessel

Approval for registration can be refused if such registration "poses a harm to the interests of Panama" and this is without prejudice to the fact that the company has complied with all the legal requirements.[715]

The following factors must be considered before such refusal: "The norms contained in the international conventions, specifically those pertaining to marine safety and protection, prevention of contamination and illicit affairs aboard vessels, control of narcotics trafficking, treating of persons, of money laundering and fishing regulation; the age and conditions of the vessel, its antecedents and the activities it undertakes and the suspicion that the vessel is being used for illicit purposes".[26]These provisions connotes that national interest and security is paramount as it relates to registration of ship.

2.6 Dual Registration of Ship in Panama

As stated earlier, dual registration of ship entails a country allowing its ships to be registered both within and outside its territory. It allows a foreign ship to be registered in another country without losing its original registration.[716]In Panama, the law allows a foreign registered ship which is unchartered for a period not exceeding two years to be registered in Panama by the charterer and at the same time, maintain its foreign registration.[717]

However, for dual registration to be allowed in Panama, such dual registration must be allowed by the laws of the country in which the ship was originally registered by its owner.[718] The applicant for duality of registration must file some relevant document with the Shipping Bureau in Panama. The documentation will comprise the authentic copy of the charter party, consent of the owner for registration in Panama and certificate of registration in the foreign country.[719] As evidence of registration, the Panama ship register will issue a "Special Navigation License" and the vessel will be subject to required payments as other ship register in Panama.[720]

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[715] MMDG 2008, art, 5.
[26] MMDG 2008, art, 5.
[716] MMDG 2008, art.70.
[717] MMDG 2008, art.70.
[718] MMDG 2008, art.70.
[719] MMDG 2008, art.70 (3), (4), (5).
[720] MMDG 2008, art.80

2.7 Lay–up Ship Registration

Apart from the normal ship registration categories available to most ship registry, Panama has a special ship registry which is referred as "lay-up ship Registration". The essence of this ship registry is for vessels which are willing to be registered in Panama but are "laid up for lack of commercial exploitation due to financial crisis".[721] Special registration for lay-up vessel lasts for a duration of one year and its' renewable for one (1) additional year.[33]

3. The Legal Framework on Ship Registration in Nigeria

It is a statutory requirement that a ship must be registered before it is allowed to operate commercially in or from the waters of Nigeria except such ship is exempted from registration. Contravention of this requirement will result in some penalties. [722] The law that is primarily concerned with this registration in Nigeria is the Merchant Shipping Act (MSA) 2007. The agency of Government established for the implementation of this [723] Act is the Nigerian Maritime Administration and Safety Agency (NIMASA).[724]

For the purpose of registration, a "ship" has been defined by section 16(5) MSA 2007 as including; "any barge, lighter or like vessel used in navigation in Nigeria and however propelled, so however, that no self-propelled vessel which is less than 15 gross tons shall be subjected to registration". The implication of this provision is that ships of less than 15 gross tons are not registrable in Nigeria. Basically, these are ships employed solely in the coast or inland waters of Nigeria and are exempted from registration but can be licensed for operation. Aside registration or licensing of ships, any vessel intending to operate within the coastal and inland waters of Nigeria shall obtain operational permit from the relevant agencies of government. These agencies include the Nigerian Maritime and safety agency (NIMASA).[37]

3.1 Qualification for Ships to be Registered

A ship is to be qualified for registration in Nigeria if it satisfies some conditions. The conditions that needs to be satisfied as stipulated are that such a ship must be owned by a Nigerian citizen.[38]The ship can also be registered if it is owned by a corporation or partnership registered in Nigeria or having its principal place or business in Nigeria.

The advantage of flag of convenience is that the shipping registration laws of such a flag state ignores the requirement of national ownership of ship. It has been argued that flags of convenience

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[721] Icaza, et al, 'Panama Ship Registry, Guide and Procedure' www.icazalaw.com [Accessed 3rd July, 2022]
[33] MMDG 2008, art.70.
[722] MSA 2007, s.5 (1) (2) (3) (4) (5).
[723] MSA 2007, s.16 (5).
[724] MSA 2007, s. 2(1). The specific department of NIMASA that caters for ship registration in Nigeria is the Nigerian Ship Registration Office (NSRO) [37] See MSA 2007, s.2. [38] MSA 2007, s.18.

would continue to be attractive so long as international law recognizes the right of each sovereign state or country to determine the terms and conditions under which it will grant its nationality to ships[725]

Further to this is registration under the international law also recognizes the ultimate 'root test' of a ship's nationality, the international legal position of flags of convenience States are enhanced. It is important to note that Nigeria adopted the United Kingdom (UK) legislation (which is also applicable to commonwealth countries) of ship registration. As mentioned earlier, Nigeria shipping legislation determines the eligibility of a body corporate to own a ship by the combination of elements of the local place of doing business and national incorporation.[726]It is further to be noted that the MSA 2007 allows applicants to register ships in their capacity as sole owner, or as a group but not exceeding five in number or as a corporation registering in its name.[727]

3.2 Register of Ships

Section 17(1) of MSA 2007, empowers the Registrar of ships to keep some certain registers or books as a way of, perhaps, keeping the registers of the different categories of registered ships in Nigeria. These registers are categorized as registers for merchant ships, for fishing vessels and for ships under construction. Other registers include those for ships on bareboat charters and other charters exceeding 12 months' duration registered for licensed ships.

Aside these registers, NIMASA has other registers which cover some registrations. These registers come under the following titles that is, provisional registration, flag registration and bareboat registration (including Nigerian owned joint venture and foreign category). Added to these registers are special cabotage register for wholly Nigerian owned vessels, special cabotage register for bareboat chartered vessels and register of boats with engine of 200 horse power and above.[728]

The authors opine that some of the extra registers created by NIMASA are quite unnecessary as all the sub heads could adequately be captured under the registers created by section 17(1) of the Act. This is very essential in order to ease the administrative bottle necks caused by multiple register of ships.

3.3 Procedure for Registration of Ships in Nigeria

The relevant Minister is empowered to make regulations that would regulate the procedure for the registration of ships in Nigeria. However, such power to regulate the registration of ships must be

[725] See United Nations Convention on Law of the Sea 1982, '(UNCLOS)', Articles, 91(1)(2)
[726] Detailed discussion of this is outside the scope of the write up.
[727] MSA, 2007, s.17 (2).
[728] Nigerian Maritime Administration and Safety Agency. https: //nimasa.gov.ng/saroxes/ship-registration. Accessed 10/7/2022.

done with regard to the provision of the Merchant Shipping Act.[729] Although the power to regulate as given to the Ministry is to be done having regard to the provision of the Act, it can be argued that excess power is invested in the Ministry in matters pertaining to registration of ship in Nigeria. There is a tendency for abuse of this. A review of this provision will not be out of place.

The person who is qualified to make application for registration of ship is dependent on who owns the ship. Furthermore, such application shall be made formally in writing to the Registrar at a port of registry in Nigeria.[730]Thus, if the ship is owned by an individual, the application for registration shall be made by that individual or his agent. However, if it is owned by a group of individuals, the application can be made by one or more of them or their agents.[731]Where a ship is to be registered by a corporation, the application for registration shall be done by its agents.[732] Where an agent is acting on behalf of an individual or group of individuals, his letter of authority shall be signed by his appointers. If appointed by a corporation, the common seal of the corporation must be embedded on the letter of appointment.[733]

From the provision of section 21 MSA, it can be deduced that an individual or group of individuals or a corporation can apply for registration of ship either directly or through an agent. It is submitted that where an agent is appointed to register a ship on behalf of his principal, such letter of authority must be well defined to avoid a situation where the agent would misinterpret his scope of authority and lead to avoidable litigation.

Aside the above requirements, for a corporation to register a ship, other documents that are required to be filed include the current Tax Certificate of the company and its shareholders, company's bank statements or reference letter and letter of declaration of ownership form(this form is issued at the ship Registry office)[734]. It is also important to note that for a corporate body to be qualified for registration to own a ship, the share capital must not be less than N25,000,000 (Twenty-Five Million Naira).

Further requirement for registration is that an applicant is to provide a current certificate of classification from an approved international classification agency. To this end, the Nigerian Maritime Administration and safety Agency has a collaborative link with some international classification agencies. Thus, it ends by signing memoranda of understanding with them and has

[729] MSA, 2007, s.20.
[730] MSA 2007, s.21(1)
[731] MSA 2007, s.21 (2) (a)
[732] MSA 2007, s.21 (2) (b)
[733] MSA 2007, s.21 (3)
[734] Milestone Partners, 'Registration of ships in Nigeria: Requirement Procedure and Applications' (2019) Milestone Partners. www.milestonelegal.net [Accessed 22nd June, 2022].

issued marine notice to this effect.[735] Some of the classification agencies include: American Bureau of Shipping, Bureau Veritas, Det Norske Veritas, Lloyds Register, the International Naval Survey Bureau and the International Register of Shipping.[736]

The law under MSA 2007 further provides for the maintenance of a central ship registry for registration and licensing of Nigerian ships. However, the relevant Minister is empowered to appoint other places for the purpose of registering ships.[51] This power is exercised by notice published in the Gazette. It is doubtful if such exercise of power has been done by the relevant Minister. It is submitted that the exercise of this power by the Minister would promote accessibility and quicker dispensability of shipping registry challenges.

3.4 The Need for Marking Requirements

A ship to be registered in Nigeria must be marked in accordance with the requirements of MSA 2007 s.23 wherein the markings shall comprise the name of the ship, the port of registry, the appropriate colour with the requisite lettering of a proportionate size and the marking shall also include the official number of the ship with the registered tonnage.[52]The ship's draught must be marked at the stipulated areas of the ship.

The marks must be shown in Roman lettering or figures and must not be less than six inches long and the lower line of the marking should coincide with actual draught line.[737]The section also lays down penalties for the owner or master of the ship if they are found guilty of allowing others to alter, deface, obliterate or conceal the markings. The penalty which the Act fixes is a fine not exceeding N100, 000 (One Hundred Thousand Naira).[738]

3.5 Declaration of Ownership in the Registry

Declaration of ownership of ship is one of the requirements that need to be met before a ship is registered in Nigeria. It is provided that a person or a corporation would not be registered as an owner of a ship or a share in the ship until the person or corporation makes a declaration as to the ownership of the ship.[739] The declarant shall state that he or the corporation (where necessary) is qualified to be registered as the owner of a Nigerian ship. Where the ship was brought after

[735] AdedoyinAfu, 'The shipping Law Review', 8 June 2021. https://thelawreviews.co.uk/title/the-shipping-lawreview/nigeria [Accessed 22nd June, 2022].

[736] Adedoyin Afu, 'The Shipping Law Reviews: Nigeria, 13 June, 2022, Bloomfield Law. https://thelawreviews.co.uk/title/the-shipping-law-review/nigeria.Accessed [Accessed 22nd June, 2022]. [51] MSA 2007, s.16 (1) [52] MSA 2007, s.23.

[737] MSA 2007, s.23.

[738] MSA 2007, s.23.

[739] MSA 2007, s.27.

condemnation by the court, the particulars of the time, when, the place and where and the court by which the ship was condemn must be provided.[740]

To be included also is the fact that no unqualified person is the owner of the ship nor entitled to any beneficial interest. It is to be noted that the shares in the ship being referred to in the above provision should not be misunderstood for the share capital with which an incorporated company that intends to own a ship in Nigeria is to be registered with at the Corporate Affairs Commission.[741]

The Nigerian Companies and Allied Matters Act 2020, states that to register a private company, the minimum issued share capital should not be less than N100,000.00 and for public company N2,000,000.00. The shares shall be divided into shares of a fixed amount for the acquisition of shareholders. As stated earlier, for a company to own and register a ship in Nigeria, the minimum issued shares capital should not be less than N25, 000,000.[58]

3.6 Documents required for first registration of ship in Nigeria

The Merchant Shipping Act 2007 has made provision for the document which an applicant that intends to do a first registration of ship must make available to the ship registration office. Specifically, section 25 of the Act has outlined the documents that are needed, which includes a declaration by the owner of his ownership of the ship. If the ship is a newly built ship the owner is expected to include the builder's certificate. However, if it is a foreign purchase ship, there must be a statement as to the time and place of building. This is also required if there is no foreign builder's certificate available. In the absence of foreign builder's certificate or where some relevant information are unknown, a statement disclosing today's fact and a bill of sale relating to the transaction would be accepted.

3.7 Requirements for Naming of Ship

The rules relating to naming a ship are set out in section 13 to 15 of the MSA 2007. According to the Act, a ship is only to be described by the name under which it is registered and no two or more ships shall bear the same name nor shall the names be calculated to deceive or offend the public interest. Where a ship has been registered with a name, the name cannot be changed without the approval of the appropriate agency and the new approved name must be published in the way and manner as directed by the approving agency.

The new name must be reflected in the log book the ship certificate of registration and on the ship's bow and stern. Moreover, where a ship had once be registered and it's no longer under registration,

[740] MSA 2007, s.27.
[741] The Commission that is in charge of registering companies in Nigeria.
[58] Companies and Allied Matters Act (2020), s. 27 (2)(a)

no person shall apply to register the ship in any other name unless such a person was ignorant of the first registration.

The burden of proving ignorance of alien registration is on the person seeking the new registration. Where a foreign ship had been registered with a particular name, it cannot be registered with any other name without written permission to register a different name. A fine of not less than N100, 000.00 (One Hundred Thousand Naira) is payable for breach of these rules. The ship concerned may be detained until these provisions are complied with.

3.8 Bareboat Charter Registration

A bareboat chartered ship is registrable in Nigeria. Upon registration it flies the Nigerian flag and it is regarded as a Nigerian ship whilst the charter persist.[742] After registration, the registrar of ships is to notify "the former port registry of a Nigerian bareboat chartered ship of the registration of the ship in Nigeria and satisfy him that the registration of that port is suspended".[743]

The implication of this section is that a ship that is registered in Nigeria cannot maintain another valid registration elsewhere as the principle of dual registration of ship is not recognized under the Nigerian law. However, where a ship is under a charter of 12month duration and not being a bareboat charter, such a ship is not registrable in Nigeria and cannot fly the Nigerian flag as it is not a Nigerian registered ship.[744] Renewal of charter is done on annual basis.[745]

For a charter to be registered in Nigeria, the applicant must furnish the ship registry with documents pertaining to the duration of the chartered party, the party to be chartered, the cost on the route on which the vessel is expected to be carried. To be included also is a document evidencing the type of goods that are expected to be carried.[746] Furthermore, every vessel registered in Nigeria whether unchartered or otherwise is subject to an annual payment of fees as may be imposed by the relevant minister. Failure to pay the fee attract a penalty of a fine of not less than N100, 000 (One hundred thousand Naira)

One is at a loss as to why the annual fees payable by registered ship should be left at the discretion of a Minister to decide since there may be a tendency of abuse of this discretionary power and the authors are of the view that this section should be reviewed.

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[742] MSA 2007, s.19 (6).
[743] MSA 2007, s.19 (7).
[744] MSA 2007, s.19 (9).
[745] MSA 2007, s.20 (10).
[746] MSA 2007, s.19 (10).
[64] MSA 2007, s.30.

3.9 The Certificate of Registration

The Registrar of ship is empowered to issue a certificate of registration upon the completion of registration.[64]Basically the certificate of the registration of ship must only be used for lawful navigation and 'shall not be subject to detention by reason of any title, lien charge or interest which the owner or mortgagee or any other person has or claims to have on or in the ship'[747]

Certificate of registration can be considered to be an instrument in helping to establish the identity of the ship owner and should at all times be kept on board ship. It is an offence to 'use or attempt to use for navigation of ship, a certificate of registration not legally granted in respect of the ship whether or not the ship is a Nigerian ship''.[66]

3.10 Cancellation of Registration

There is no principle of once registered always registered when it comes to ship registration. This is because section 28 of MSA 2007, has given power to the registrar of ships to cancel the registration under some certain circumstances. These circumstances include where the ship appears to have been registered in a foreign country.

This foreign registration would have imputed on the ship the stamp of dual registration which the shipping law in Nigeria does not accept. The registrar of ship is also authorized to cancel a certificate of registration where the owner of the ship has ceased to comply with the requisite qualification for ownership of ship in Nigeria. Nonetheless, where the ship appears to have been lost, abandoned or broken up,[748]the certificate of registration would also be redrawn.

3.11 Dual Registration

The law disallows dual registration of ship. The MSA 2007 provides that only Nigerian citizens or corporate bodies or partnerships that are regulated by the Nigerian law and having their principal place of business in Nigeria that are permitted to register their ships or shares in a ship in Nigeria and also to fly the Nigeria flag. The implication of this is that the owner of a foreign registered ship who is also desirous of registering the ship in Nigeria (to enable the ship fly the flag of Nigeria) must deregister the previous registration.

However, the law, allows for a provisional registration of a vessel for six months to allow it sail into Nigeria (with the Nigerian flag) before completing a full registration on arrival. [749]Dual registration of ships entails a country allowing its ships to be registered both within and outside its

[747] MSA 2007, s. 30(2).
[66] MSA 2007, s. 31.
[748] MSA 2007, s.28 (e).
[749] MSA 2007, S.37 (2).
[69] MSA 2007, s. 30.

territory, it is mostly practiced by countries with a liberal or open ship registry. Mostly no special requirements are demanded for an owner of ship to comply with before a ship is registered. Rather, it allows an owner of ship to register ship on almost the same basis as their own nationals.

3.12 The Lacuna in the Nigerian Legal Framework

The MSA 2007 did not provide or stipulate the person who should be the recipient of the certificate of registration by a shipping company. This lacuna may be considered to have a reason as a result of faulty draftsmanship. It is the opinion of the authors that the recipient should be named and ought to be the applicant for the registration of the ship. It may be the ship owner or the agent of the ship owner or whoever that is authorized by the applicant to receive the certificate on the applicant behalf.[69]

4. Similarities between Panama and Nigeria Ship Registration Regimes

A few similarities exist in the registration of ships in Panama and Nigeria. Registration of ships in the two jurisdictions are subject to legislation.[750] Before a ship is registered, the name sought to be used must be free and available.[751]

4.1 Differences between Panama and Nigeria Ship Registration Regimes

A critical study of the Panama regime shows that it has an open ship Registry wherein, the nationality of ship-owner is not a prerequisite for registration.[752] To show the extensive nature of the regime, Panama allows for duality of ship registration.[753]Panama has a Maritime Court that sits all round the clock.[754] This enables maritime matters to be timorously deliberated in courts without any delays. Panama has a lay- up ship Registry that registers vessels that are laid up for lack of commercial exploitation due to financial crisis.[755] Nigeria does not have provision for such.

Contrarily, Nigerian regime is not wide enough to accommodate global economic growth in terms of foreign investments. Nigerian ship Registry is very restrictive. The owner of a ship must be a Nigerian and if it is a company, it must be registered in Nigeria.[756] This limits foreigners from directly investing in maritime businesses in Nigeria. Maritime matters are handled by the Federal High Court which is a regular court and not specialized.[757]It is more costly to register ships in

[750] MMDG 2008, art.1; MSA 2007, s.28.
[751] MMDG 2008, art.9
[752] MMDG 2008, art.3
[753] MMDG 2008, art.6
[754] Code of Maritime Procedure, 1982, art. 2.
[755] MMDG 2008, art.1.
[756] MSA 2007, s.18.
[757] The 1999 Constitution of the federal Republic of Nigeria, s.251.

Nigeria than in Panama. Nigeria does not register all manner of ships without strict regard to age.[758]It takes less time to register ship in Panama than Nigeria. In Nigeria, the relevant Minister is given an overwhelming authority in terms of ship registration.[759]

5. Essential Lessons to Nigeria from Panama

Panama has a non-cumbersome and flexible ship registration procedure which does not attach much importance to the nationality of the owner of the ship. It allows for duality of ship registration. Panama ship registry is considered to be less expensive and has high speed time frame in terms of ship registration. Panama also enjoys more patronage as a result of its choice of ship registry. It leads the world in registering 'boats, ships and vessels.'[760] Furthermore, 'Panama has a tonnage which is set to equal 22% of the total tonnage in the world'[81]In terms of maritime dispute resolution, Panama has a maritime court that sits 24hours every day of every week for urgent action relating to maritime claims that could cause much damage if not presented in a timely manner.[761]

6. Conclusion

Registration of ships in Nigeria is a subject of legislation. Ship registration provides advantages which are also subject to statutory control. Some of these advantages include right to own a ship and fly the Nigerian flag with its attendant benefits which include consular assistance. This write up analyzed the procedure for ship registration and ownership in Nigeria and the challenges associated with statutory requirements. It also made an inroad into ship registration in Panama and possibly the advantages it has over Nigeria ship registry. It concludes by suggesting a review of some of the provisions of the law as a way of improving ship registration in Nigeria and its attendant's economic benefit.

7. Recommendation for Panama and Nigeria

1. Panama should have a second look at the idea of registering a ship without due consideration to the age of the ship.
2. While Nigeria should curtail the excess power given to the relevant Minister in terms of ship registration. This is to be reviewed by whittling it down to avoid abuse. This is more so because a Minister is an appointee of the Government in power and possibly the member

[758] MSA 2007, s.19 (2).
[759] MSA 2007, s.15 and 16.
[760] Ibid.
[81] Ibid.
[761] PSA Holdings, 'Ship Registration' webmaster@panama.psa.com [Accessed 7th July, 2022].

of the political party in power. There may be the tendency of such an appointee to pander to the dictates of his appointers.

3. It is suggested that a board should be created to exercise the powers vested in the Minister where he can act only as a member of the board.
4. Where an agent is appointed to register a ship for his principal, such letter of authority should be properly defined to avoid ambiguity.
5. Multiple registers should be streamlined to ease administrative bottlenecks caused by multiple registrations of ships.
6. Relevant sections of MSA 2007 should be amended to stipulate who should be the recipient of the certificate of registration of a shipping company.