

外國船舶遭遺棄於我國水域之管轄權與因應之道

Jurisdiction and Solutions to Foreign Ships Abandoned in Taiwan's Waters

王官苒 Wang, Kuan-Jan

中文摘要

本文為研究近年外國籍船舶棄置於我國現象，分析案例後發現本研究議題主要涉及船舶管轄權、我國商港法規。本文從船舶管轄權中主要關係者，船旗國、港口國、船員國籍國，藉以釐清彼此管轄權交互所產生的灰色地帶。第三，檢視我國商港法規，有關船舶進出港制度及船舶遭棄置情況之作為，加以分析船舶棄置我國之根本原因。

本研究指出，外國籍船舶棄置於我國現象，其根本原因，可綜整為下面兩點：

- 一、 船旗國監管失效引發之效應：權宜船制度導致的問題之一，船旗國監管失效，無法有效監督懸掛旗幟船舶實施國際公約標準或其國內法法規，惡意船東透過船旗國低限度的管轄，規避管理責任，當商業模式達到獲利或虧損時，便導致了船舶棄置於他國的情況。
- 二、 我國對於外國船舶申報進港機制及滯港管理待強化：我國商港法規現行國內法化議題過於單一，導致我國商港法規發展過於扁平。實踐上對於虛報進港資料僅補正即可，未對船舶所有人、船長等關係人，課以相對責任。另外滯港管理航政主管機關間的權責也應即早釐清。

對此本研究由國際法規及國內法，兩部分提出政策建議，分別為國際法規面，成為強制性規範，強化船旗國義務之約束性及適法性，並配合現行國際公約檢查制度；國內法規部分為，持續關注船員遭棄置議題，加強我國港口預報進港船舶審核，導入多元的判斷方式，識別出高風險船舶，達到完整監管效果。

關鍵字： 船舶管轄權、權宜船、船旗國監管失效、遭棄置船員

Abstract

This study is analyzing the cases of the foreign ships abandoned in Taiwan's waters in recent years. In this paper we are interested on knowing maritime jurisdiction, , flag of convenience ships (FOCs) and commercial port law of Taiwan.

First, clarify the gray areas in the jurisdiction over ship, considers the relationship between states-flag states, port states and the states of nationality of seafarers. After that, examines the procedures for entering/departing ports as governed by commercial port law and analyzes the fundamental reasons for ships abandoned in our country

This study found two reasons for the foreign ships abandoned in Taiwan's waters:

1. Consequences Arising from Flag State Negligence:

One of the issues arising from FOCs is the failure of flag state supervision. This results in vessels flying their flags being unable to comply with international convention standards or domestic regulations. Nefarious shipowners exploit the lax management of flag states to evade their responsibility. Resulting in instances of ships abandonment when they generate profits or incur losses.

2. Enhancing Reporting and Port Management for Foreign Vessels:

The current development of commercial port law is overly simplistic and restrictive. There is a lack of accountability among shipowners, captains, and other

relevant parties regarding the false reporting of entry information. The procedures for dealing with ships being abandoned require clarification of the division of responsibilities among administrative authorities as soon as possible.

Keywords: Jurisdiction Over Ship, Flag State Negligence, Abandoned Seafarers