

정부검사권의 국외적 지위

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International Status of the Administration's Authority to Inspect Vessels

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제2절 IMO RO Code - 공인선박검사기관과 관할권의 존중

RO CODE 8.1 ...authorizations shall not require ROs to perform actions that impinge on the rights of another flag State.

RO CODE "3.9.3.3 No flag State shall mandate its ROs to apply to ships, other than those entitled to fly its flag, any requirement pertaining to their classification rules, requirements, procedures or performance of other statutory certification processes, beyond convention requirements and the mandatory instruments of the IMO."

제3절 RO입법과 관할권의 침해

EU REGULATION 391 article 10
"Recognised organisations shall, in appropriate cases, agree on the technical and procedural conditions under which they will mutually recognise the class certificates for materials, equipment and components based on equivalent standards, taking the most demanding and rigorous standards as the reference."

EU REGULATION 391 전문 (13)
"As part of the monitoring of the operations of recognised organisations, it is crucial that Commission inspectors have access to ships and ship files regardless of the ship's flag in order to ascertain whether the recognised organisations are complying with the minimum criteria laid down in this Regulation in respect of all ships in their respective classes."

제4절 미국과 EU의 RO를 통한 통상제재

2006년 이란리비아 제재법(ILSA, 2006), 이란제재법(ISA, 2006), 포괄적 이란제재법(CISADA, 2010), 이란위협감축 및 시리아인권법(ITRSHR, 2012), 국방수권법(National Defense Authorization Act for Fiscal Year 2013; NDAA 2013), 대통령 명령(Executive Order) 13590과 13645호 등이 그것이다.

미국의 이란제재법

1. 대량살상무기- 핵
2. 경제자체를 무력화시키기 위한 석유 등 에너지분야
3. 해상 운송수단과 운송수단에 대한 서비스업
4. 석유수출에 사용할 수 있는 설비,
5. 기술을 이란에 수출하는 기업부터 해상 보험, 재보험, 해운 서비스 제공기업까지 제재대상에 포함
6. 외환거래의 금지, 미 재산의 동결, 제대대상기관 임직원의 미국입국 금지 등

제5절 주권국가의 기술적 관할권으로서의 정부검사권

UNCLOS

Article 94
Duties of the flag State

1. Every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.
2. In particular every State shall:
 - (a) maintain a register of ships containing the names and particulars of ships flying its flag, except those which are excluded from generally accepted international regulations on account of their small size; and
 - (b) assume jurisdiction under its internal law over each ship flying its flag and its master, officers and crew in respect of administrative, technical and social matters concerning the ship.
3. Every State shall take such measures for ships flying its flag as are necessary to ensure safety at sea with regard, *inter alia*, to:
 - (a) the construction, equipment and seaworthiness of ships;
 - (b) the manning of ships, labour conditions and the training of crews, taking into account the applicable international instruments;
 - (c) the use of signals, the maintenance of communications and the prevention of collisions.
4. Such measures shall include those necessary to ensure:

WTO/GATS

FTA

Public Market