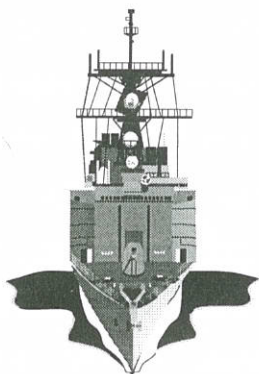


The Benefits of Running Under the FOC Flag



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I) How the shipowners run a business to get the most profit

The shipping industry, as highly competitive as any other enterprise in this industry, strives to survive as well as to make profit.

These objectives can be achieved in a variety of ways, the most common being minimizing costs through producing more efficiency.

The shipowner/operator must choose the best combination of factors that would yield the desired output at the desired profit level given the state of the market. Therefore, apart from direct saving that can be obtained by re-flagging under a relatively low cost country, the shipowner should also seeks to explore other ways in order to attain the desired output level.

The labor cost is the area of the largest increase. A steady rise in wages will no doubt

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lead shipowners to automate. The easier way to achieve that is to capitalise intensive ships with a smaller crew, e.g. unmanned engine rooms, dual purpose crewing and so on. The ease which this can be done will depend on the maritime laws of the flag under which a ship sails.

It is the economic reality of the firm changing with its operating environment and adapting to change in its market sphere that has contributed to the process of flagging-out, a phenomenon which as we have seen gave birth to the modern day open registry shipping. The urge to flag-out has never been stronger as it is today due to the longest recession known to the industry in which, for the first time since 1935, the world tonnage actually recorded a negative growth rate due to heavy vessel scrapping in the market sector. It is for these reasons of hard times in market conditions that even governments and trade unions which have, in the past, argued strongly against the practice of flagging-out particularly to open registers have today compromised their stances to argue in favour of flag transfers.

With the increasing globalization of the maritime industry, commercial registers have become more prominent and the choice of

register has become one of major policy decisions facing a shipowner. Today, the use of international open registers is common, essential and even necessary of this highly competitive industry.

The entrepreneurs of the last two centuries used the device of the foreign flags simply to ensure the survival of their relatively small shipping firms. It was often a very straightforward matter-if they were unable to register under another flag, the business would collapse. While shipping, entrepreneurs of today also consider the rise of flags of convenience as an issue of necessity, the reasons are more complex and interrelated. Today they must base their decision-making in this respect on considerations such as price, cost tax structure, availability of credit facilities, and short-run political developments.

II) Advantages and disadvantages.

The general advantages and disadvantages of "A flag of convenience (FOC)" are :

Advantages :

1) TAX, COMPANY LAW AND FINANCIAL LAW

A company that has registered a ship in a particular country becomes subject to that

countries's laws. These laws will determine the company's tax liability. The company is also subjected to all kinds of rules and regulations, such as organisation, auditing of accounts, employment of staff and limitation of liability, all of which will affect its economics.

But by using FOC, there are practically no taxes on profits and no financial controls. The only tax is the subscription fee per net registered ton. And as a rule, the shipping company is given considerable freedom over its corporate activities. For example, ownership of the stock in the company need not be disclosed, shares are often in "BEARER" form, which means that they belong to the person who holds them; liability can be limited to a one-ship company; and the company is not required to produce audited accounts. There are generally few regulations regarding the appointment of directors and the administration of business.

2) SAFETY STANDARDS.

The ships are subjected to high safety standards that include the construction as well as the operation of them. Registration of ships under a flag that has ratified the rules of safety laid down by (SOLAS) in 1974, leaves the shipowner with no choice but to maintain high

standards in the operation of his vessel. Conversely, registration under a flag that has not ratified SOLAS, or does not have the means to enforce it, may allow shipowners to cut corners, thereby saving on equipment and maintenance.

FOC vary widely in the extent to which they enforce safety standards for the ships on the register. Some enforce high standards, while others leave the safety issue entirely up to the shipowner.

3) CREWING. : The shipping company has complete freedom to recruit internationally. There is no requirement to employ high-wage nationals, as either officer or crew. This will help in cutting labor cost which in turn will result in a competitive advantage.

However, regulations regarding crew standards and training may be enforced, depending on the policy of the register.

This does not imply any lowering of standards to ships, often with nationals still on board, but under different terms and conditions, are as clearly controlled, as carefully managed, and as efficiently maintained as ever.

4) THE COUNTRY OF REGISTRY ALLOWS OWNERSHIP AND/OR CONTROL OF ITS MERCHANT VESSELS BY NON-CITIZENS.

5) ACCESS TO THE REGISTRY IS EASY. A Ship may usually be registered at any consul's office abroad. Equally important, transfer from the registry is not restricted.

6) FREIGHT RATES. It has been proven that flag transfers to open registries lead to lowering freight.

DISADVANTAGES:

1) PROTECTIONISM. Various measures are practised in favor of ships of the national flag against ships of other countries's flags. Such measures are:

A) FLAG DISCRIMINATION OR PREFERENCE. Political Pressure is often exerted on the shipping industry. The cheapest and the best operators do not always get the cargoes. The inter-relataionship of a nation's shipping and port industries and its basic economy has led to a number of practices in which a country ensures that its flag fleet is in a position to get the best deal. Sometimes this is carried out administratively imposed by a licensing system for cargoes carried by foreign vessels, or financially, by the waiving of customs duties on goods carried by the national fleet or vessels of other countries with which a nation is allied, with or by preferential port dues for

favoured customers. It can be the bilateral or multilateral treaties which stipulate that trade between two or more countries is carried in the vessels of those countries, and any outsider is penalised by additional charges which make his effort to enter the trade unviable unless he can charter to one of the countries concerned.

B) SUBSIDIES. Both direct and indirect subsidies offered to reduce the operating cost of ships of the national flag to give them the competitive advantage against other companies.

C) GUARANTEE OF PROFITS AND SHARE OF LOSS. The shipowner in such countries as France and Belgium, are guaranteed by the government a certain amount of profit.

2) INTERNATIONAL ORGANISATIONS' RESPONSE:

A) LABOUR: Labour groups such as the International Transport workers' Federation (ITF) has campaigned against the use of these flags and has cooperated, with some docker unions, to secure the signature of agreements with individual owners to cover wages and conditions of service.

B) OIL POLLUTION CONTROL AND SAFETY: The major flag of convenience

countries, although the members of the intergovernmental maritime organization (IMO) are watched closely and the rules governing safety and oil pollution are forced, it seems that force lacks the practical enforcement mechanism.

The maritime law can only apply to the countries that ratify the conventions. But for the shipowners who did not register in these countries they are able to operate outside the convention's rules. There has, however, been a

recent trend towards "Port State Control", whereby countries enforce safety standards on all the ships that are using their ports.

III CONCLUSION.

Confronted with a choice of flags under which a ship can be registered, the shipowner must weigh the advantages and the in light of his own interests before making such an important decision. □□

REFERENCES

- Ademuni, Odeke. *Protectionism and Future of International Shipping*. mautinus nijihoff 1984.
- Bergstrand, S. J. *Buy the Flag : Development in the Open Registry debate*. London : Polytechnic of Central London, 1993.
- Bruce, Farthing. *International Shipping*. London : Lloyd'of London Pre, 1987.
- Chrayznowski, Ignacy. *An Introduction to Shipping Economics*. Lawrence : Fairplay, 1985.
- Gardiner, Robert. *The Shipping Revolution ; the Modern Merchant Ship*. Baltimore : Conway Maritime Press, 1992.
- Gwilleam, K. M. *Current Issues in Maritime Economics*. Dordrecht : Kluwer Academic, 1993.
- Stopford, Martin. *Maritime Economic*. London : Routledge, 1992.
- Tolofari, S. R. *Open Registrsy Shipping a Comparative Study of Costs and Freight Rates*. London : Gordon and Breach Science, 1989.