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The need for co-operation among maritime administrations of open registry countries

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THE NEED FOR CO-OPERATION AMONG MARITIME ADMINISTRATIONS OF OPEN REGISTRY COUNTRIES

By

JOSEPH MUSA
SIERRA LEONE

A dissertation submitted to the World Maritime University in partial fulfillment of the requirements for the award of the degree of

Master of Science
in
GENERAL MARITIME ADMINISTRATION

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DECLARATION

I certify that all material in this dissertation which is not my own work has been identified and that no material is included for which a Degree has previously been awarded to me.

The contents of this dissertation reflect my personal views and are not necessarily endorsed by the University.

SIGNATURE:................................
DATE: 27th October 1994....

Supervised by:.........................
Prof. Theodore J. Sampson
Course Professor
World Maritime University
Malmö, Sweden.

Assessed by:.........................
Prof. Hugh R. Williamson
Associate Professor
World Maritime University
Malmö, Sweden.

Co-Assessed by
Dr. James M. McConville
Professor
London Guildhall University
London EC2M 6SQ
United Kingdom.
DEDICATION

This Dissertation is dedicated to my parents, Mr. & Mrs.

Solomon Musa, and my Loved one.
ACKNOWLEDGEMENT

I wish to acknowledge, with sincere thanks and appreciation the International Maritime Organisation for providing sponsorship, and all those who made it possible for me to pursue a Master of Science degree course at the World Maritime University.

I am particularly indebted to Mr. Francis Bockari, Senior Planning Officer at the Department of Transport and Communications, who recommended my nomination; Mr. Franklyn B. Kargbo, then Secretary of State and Mrs. Y. Nelson-Harding respectively, who endorsed my nomination.

This dissertation would not have been successfully completed without the assistance of various officials of the Maritime Administrations, Organisations and Institutions I visited during my studies. In this regard, I would like to express sincere thanks and appreciation to the many people I held discussions with during my field training, in particular, Messrs Jonathan Pace, Registrar at the Malta Maritime Authority; John Gauchi-Maistre, Chairman, GM International, Limited and Lawrence D. Barchue Sr., Deputy Permanent Representative of the Republic of Liberia to the International Maritime Organisation respectively; Dr. Anthony M. Madella, Merchant Shipping Officer, Department of Merchant Shipping, Cyprus, and Dr. Eduardo da Silva Martins, Deputy Director-General, Directorate of Maritime Transport, Ports and Navigation in Portugal, who in
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I would also like to thank the staff of the University Library for their patience and co-operation during the research for this dissertation, the Faculty Secretary, the hard-working receptionists and the entire staff of the University for their assistance during my studies.

Finally, I wish to thank members of my family for their continuous moral support, and my closest friends, in particular, Mr. and Mrs. Richard E. Luamba for their assistance to my family during my studies in Sweden.
ABSTRACT

It is a general view within the international shipping community that open registries are havens for substandard ships. This view fails to appreciate the fact that there are open registries with comparable, if not better safety records than the so-called traditional maritime countries.

It is, however, true that there are some irresponsible shipowners, who have not been observing acceptable international safety regulation, yet they have always been accepted by some open registries. In addition to the above, while some open registries have been striving to implement and enforce international safety regulations, others have not been so enthusiastic. For example, there have been instances wherein a vessel which is rejected by one registry, especially due to safety related reasons, is easily accepted by another registry. In other words, a shipowner is always assured that regardless of the condition of his vessel(s) there are registries around prepared to accept the vessels. These, among others, are some of the reasons for the criticisms against the system coupled with the fact that each open registry had been proceeding on its own course.

This dissertation, therefore, considers the prospects of co-operation among open registries in view of the criticisms made against the system and the inability of some administrations to implement and enforce international safety regulations.
In order to set the pace for the discussion, the factors necessary for developing an open registry are first considered. This is meant to serve as a guide to countries intent upon developing one. This is followed by a discussion of the responsibilities of an administration in the implementation and enforcement of international standards.

The benefits of open registries, especially to a flag state, are evaluated, and measures that would ensure maximum benefits suggested.

The Benefits of cooperation among open registries are considered in the concluding chapters. It is emphasised that, irrespective of the element of competition in the system, there are areas of common concerns that should be considered collectively by open registries.

The main conclusion arrived at is that open registries need to pull their resources together in order to not only rid the system of irresponsible shipowners, but also to overcome the challenges ahead.

It is envisaged that the proposals made in this dissertation would stimulate discussions and positive actions by the respective maritime administrations of open registry countries.
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CHAPTER ONE

INTRODUCTION

1.1 DEFINITION OF AN OPEN REGISTRY

Definition of an open registry has been clouded in controversy. It is, however, generally accepted that a state can only exercise effective control over its registered vessels if there is a genuine link between the vessels and the state of registry. In other words, the state should exercise effective control over crewing, the operations of the vessels, among other elements.

One proponent of this genuine link concept is Egiyan. According to him, the principal criterion for distinguishing an open registry country should be the presence of the elements of a genuine link between the vessel and the State of registry. This he believes would enable the State to effectively exercise its jurisdiction and control over ships flying its flag. However, like many other proponents of the genuine link concept, he failed to specifically define the precise meaning of "his" genuine link. He also did not establish the basis for testing whether this link does exist.

For their part Metaxas and Doganis define open registries as

"... the national flags of those States with
whom shipowners register their vessels in order to avoid a) the fiscal obligations, and b) the conditions and terms of employment of the factors of production that would have been applicable if the vessels were registered in their own countries”.

This definition tends to bring legitimate shipping concerns established in countries other than those of their parent companies, and other overseas industries, under the above definition, since avoidance of fiscal policies and conditions for employment of productive forces are not restricted to shipping. Furthermore, while the avoidance of conditions and terms of employments may be true, the two scholars did not appreciate that there are very responsible and reputable operators such as oil companies and multinational corporations which offer comparable or even better conditions of employment than the conditions under their own countries. To buttress this point, the observations of the Editor of Fairplay Magazine, who interviewed seafarers from Scotland, Britain and Germany respectively on the conditions of employment on open registry ships is appropriate. At the end of the interview, he observed that³:

"There are a few diabolical employers ... but the fact is inescapable that most seamen work for open registry ships because they find that pay conditions are better than they would get in their national flag fleet. It is also often forgotten that the shipowner is in the market for the best officers ... and that he needs to provide the best wages and conditions to get the best crew".
Martin Stopford defines an open registry as one that has been set up with the specific aim of offering shipowners internationally competitive terms, often as a means of earning revenue for the flag state. Whilst the author agrees with this definition, it is worth noting that a flag state's objective is not merely to earn foreign exchange but that it also exercises control, albeit limited, over vessels flying its flag.

For the purpose of this dissertation, the definition of Tolofari is the most objective from the author's point of view. He defines an open registry as:

"a state which has a declared policy of selling its nationality to shipowners for the registration of ships ... as a means of earning national income in the first instance; and not necessarily as a means for effective control and jurisdiction, by offering shipowners conditions of ship registration which they find commercially and economically attractive in comparison with conditions under their own flags for the purpose of obtaining cost and fiscal advantages which make them internationally competitive".

This definition easily identifies an open registry, since any country which advertises itself as an open registry falls under this definition. It also recognises the fact that while the primary motivation for a flag state to go open is to earn foreign currency, it is also possible for that state to exercise control over its ships. Furthermore, the definition recognises the fact that the
primary motivation of a shipowner to have his ships under an open register is the need to be competitive and not to evade or avoid tax obligations under his national flag.

1.2 CONDITIONS/FACTORS NECESSARY FOR SETTING UP AN OPEN REGISTRY

The motivation to transfer a ship from one register which an operator or shipowner finds unprofitable to another where he can compete profitably is not peculiar to shipping. The driving forces in these circumstances, like all other industries, are the needs to ensure the survival of the firm or shipping company by spreading the risks of business, to minimise costs in order to break even, to ensure the future growth of the enterprise, to streamline and contain excesses and unprofitable activities, with the ultimate goal of running a profitable business. Therefore, in adopting a policy of open ship registration, several conditions or factors should be taken into consideration, some of which are included in this section.

In some developing countries, like Sierra Leone, maritime issues have not been given the priority that they deserve. In most cases there is hardly any distinction between the administration of maritime affairs and that of other para-statals which fall under the purview of the department of transport and communications.

It is worth emphasising that while the department of transport should be responsible for maritime legislation and implementation of government policy, due cognisance
ought to be given to the establishment of a maritime administration as the specialised body responsible for implementing and enforcing the maritime regulations of the flag state. The maritime administration plays an important role in combating substandard ship operations and ensuring safety of life at sea. Ships must be operated and manned by trained and experienced personnel who can deal with safety requirements and carry out proper maintenance to reduce the risk of accidents and marine pollution. This can only be achieved if the maritime administration is capable of effectively enforcing internationally agreed standards regarding environmental protection and safety of life at sea.

Developing countries, like Malta and Cyprus, recognised this need when it became evident that the department of transport and communications and ministry of communications and works, respectively, could not adequately cope with the increasing maritime activities that were taking place in both countries. This subsequently led to the establishment of the Malta Maritime Authority and the Department of Merchant Shipping (in Cyprus). Today, despite many obvious challenges, both countries, tiny as they are, are ranked among the ten topmost registries in the world based upon tonnage enroled.

Other conditions or factors to be considered when examining a policy of open ship registry include the following:

- ships registered should be able to trade world-wide without any restrictions imposed by the flag state with regard to carrying cargoes to certain countries.
- there should be no discrimination against vessels trading under the flag state.
- there should exist a reasonably neutral political policy in relation to other countries. The significance of this could best be appreciated when a ship is arrested and the flag state's assistance is requested in securing its release.
- the shipowner should be allowed to repair vessels anywhere in the world without being restricted to national shipyards.
- the shipowner should be allowed to build vessels according to international standards rather than be subjected to specific directives imposed by the flag state.
- in order to make financing more attractive there should be safeguards to the mortgages of the flag state's ships. During the last five years, the Maltese government has enacted far-reaching legislation aimed at upgrading the position of financiers of Maltese registered ships and at the same time enhancing the utility of the Malta flag to shipowners. Some of the provisions of the Maltese ship mortgage require that:
  - the vessel may not be deleted from the register at the owner's request without the written consent of the mortgagee.
  - the vessel's registry may not be closed on the expiration of the vessel's current certificate of registry, or for any reason at law permitting the Registrar to delete the vessel without him granting a month's notice to the mortgagee/s.
  - the Registrar is bound, upon the transfer of a Maltese registered ship/vessel to new Maltese owners, to notify the mortgagee/s of such transfer.
- the vessel may not be sold to foreign nationals without the consent of the mortgagee/s.
- the mortgagee enjoys an executive title and may thus in the event of default proceed to enforce his security without lengthy court proceedings.

The effect of these safeguards is that international banks have found the Maltese ship mortgages satisfactory and this has in turn attracted shipowners to the registry. It is not merely enough to set up an open registry without creating the mechanism and atmosphere for ship financing.

1.3 AN OVERVIEW OF SOME CRITICISMS OF THE SYSTEM

It is not the purpose of this work to discuss in detail the criticisms levied against open registry shipping; that would require a separate study. The author, however, would like to make few comments on some of these criticisms in view of the fact that they relate to the need for cooperation among open registries, which is the topic of this dissertation.

Open registries are considered by critics as being synonymous with substandard shipping both in the sense of their vessels not meeting international legal requirements for technical seaworthiness of ships, and in the sense of employing unqualified crew.

A very important point worth emphasising is that as long as shipowners, as human beings, are far from perfect, there will always be some shipowners in any fleet, irrespective of registry, who would not observe the spirit of safety regulations. The question of substandard
shipping, therefore, can be seen as a matter of degree as it is obvious that substandard ships operate in all fleets to a varying degree. It should also be pointed out that the association of open registry shipping with substandard operations fails to appreciate an inescapable fact that there are a number of highly reputable shipowners who operate under these same flags, with comparable, if not, better standards than in some traditional national registers.

One cannot categorically deny the fact that there are irresponsible owners in open registries; but it is equally true that most of the open registries have over the years stepped up actions designed to improve safety standards by instituting vessel inspection services (flag state inspectorates). For example, the Malta Maritime Authority has appointed about 400 flag state inspectors in different ports all over the world and these officers have been carrying out inspections of Maltese registered ships (at the Government's expense). The activities of the inspectors are closely monitored by random visits at various ports by inspectors from the Authority's head office in Valletta. Similarly, in a bid to improve the casualty record of the Cyprus registered ships, the government of Cyprus established the Department of Merchant shipping, as the exclusive body responsible for all shipping matters. This department has also stepped up actions by appointing surveyors and inspectors who carry out random inspections of Cyprus registered ships in various ports around the world.

Another criticism of open registries relates to labour standards, and one of the main critics in this regard is the International Transportworkers' Federation (ITF)
which for several decades has been campaigning for the phasing out of open registry shipping.

One of the main objectives of the Federation’s campaign has been to ensure that seafarers who serve on board open registry ships, whatever their nationality, are protected from exploitation by shipowners.\(^9\)

While this objective appears reasonable, certain aspects of the collective agreement leave much to be desired. For example, it stipulates a minimum wage\(^{10}\) which is applicable to all seafarers irrespective of whether they are from a developed or developing country. In the author’s opinion, the levels of a seafarer’s wages and his other conditions of employment should be determined by the criteria applicable in the country from which he is recruited. In view of the completely different standards of living between a developing and a developed country, it does not seem realistic for the ITF to have imposed a minimum wage. If shipowners were to adhere to the provisions of the so called collective agreement, in the short run, it would be good for all seafarers; but in the long run, it would adversely affect employment opportunities for seafarers from developing countries. Ready rightly summarizes the reason for the collective agreement thus,

"... the chief motivation has been to prevent loss of work opportunities for seafarers in traditional maritime countries, where spiralling wage costs have rendered the operation of ships increasingly uneconomical".\(^{11}\)
Open registries have also been criticised because of the alleged inability of flag states to exercise effective control over their ships, particularly those that do not regularly call at the ports of the flag states. Furthermore, the ability of flag states to ratify and implement international maritime conventions expeditiously has been questioned.

In the view of the author, ships do not necessarily have to call at the flag states' ports before they could exercise control over them. This could adequately and effectively be carried out by inspectors appointed at various ports around the world and monitored by random inspections by senior inspectors from headquarters.

While it may be true that developing countries have been encountering some problems in implementing international conventions, most of the open registries have been making strenuous efforts in this regard. Also, it would be observed from Table 1 that most, if not all, open registry countries have ratified the major international maritime conventions.

The above discussions have emphasised the challenges involved in open ship registration. While some of the criticisms may be true, they fail to appreciate the fact that there are reputable shipowners who operate under open registries with comparable or even better standards than those in traditional maritime countries. If these criticisms were true a decade or two ago, most of them are no longer the case in view of the steps currently been taken by various administrations. If only open registry countries could co-operate among themselves, the
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Source: IMO News, Number 2 of 1994
negative image of the system could be improved significantly.

Notes.

1. A paper on Legal problems of navigation in Russia, page 1
2. B. N. Metaxas and R. Doganis, The impact of flags of convenience, page 3
5. S.R. Tolofari, Open Registry Shipping, page 21
6. N.P Ready, Ship Registration, page 57 & 58
7. Notes from Malta Maritime Authority.
9. opcit.
10. ITF Magazine.
11. opcit.
CHAPTER 2

A GOVERNMENT'S RESPONSIBILITIES IN ENSURING COMPLIANCE WITH INTERNATIONAL STANDARDS.

In the last chapter the need for a specialised body for the administration of maritime affairs was emphasised. This is because, while the registration of foreign ships under a national flag is a source of foreign exchange, it also imposes obligations and responsibilities on the flag state. This chapter discusses in detail the responsibilities of a Maritime Administration vis-à-vis the registration of ships.

2.1 ENACTMENT OF NATIONAL MARITIME LEGISLATION

National maritime legislation consists of requirements of international instruments adopted by the government, but may also comprise requirements on matters which are not subject to any international treaties or agreements. The requirements laid down in the conventions are not always specific; this means that the administration is expected to specify the required details. Some regulations in maritime conventions require interpretations which may be expanded on in the national law. The requirements of a convention are to be regarded as minimum requirements; as such, the government may stipulate more stringent requirements than those of the convention.

Implementation of convention provisions into domestic legislation may be carried out by various legislative methods. If the convention texts are complete and self-explanatory, implementation may be carried out by making an appropriate reference in the national law to the
relevant convention, thereby including the convention as a whole as an integral part of domestic legislation. For more complex conventions, implementation may be achieved by referring to, or rewriting the appropriate part of the requirements of the convention into the domestic regulation. The importance of national maritime legislation is based on the fact that it is not the international instruments as such, but the domestic legislation which is the regime for the public control of ships flying a country's flag.

2.2 FLAG STATE INSPECTIONS

In carrying out flag state inspections, the flag state has several responsibilities. By means of periodical surveys and renewal of various certificates, the administration ensures that the ships meet the requirements laid down in the national legislation. On completion of a survey and re-certification, it is a prerequisite that the conditions are maintained during the period of validity and that no items covered by the certificate could be changed without the sanction of the administration.

In addition to the periodical surveys, intermediate surveys and endorsements on the certificates are prescribed. The administration could also undertake additional surveys, and unscheduled inspections to ensure that the ships are in compliance with the regulations. Whenever an accident occurs involving a ship or a defect is discovered, the master or owner of the ship is required to make a report at the earliest opportunity to the administration, the nominated surveyor or recognised organisation responsible for issuing the relevant
cerificates. These would then cause investigations to be initiated in order to determine whether a survey is necessary. If a ship is in a port of another state, the master or owner is required to also report immediately to the appropriate authorities of the port state, and the nominated surveyor or recognised organisation is required to make sure that such a report is made.

In order to assist flag states effectively carry out their responsibilities, the Maritime Safety Committee of the International Maritime Organisation has established a sub-committee on flag state implementation. The main function of this sub-committee is to provide assistance to flag states which have found it difficult to respond to their various obligations under IMO instruments due to lack of resources, both human and material. Among the various actions taken by the sub-committee, were the approval of guide-lines for Organisations acting on behalf of Administrations, and preliminary guide-lines designed to assist flag states in their implementation of IMO instruments. In addition to enacting national legislation the guide-lines emphasised the need for flag states to:

- develop goals for effective implementation of international instruments, to which the state is a party, in conjunction with applicable national legislation.
- implement policies through the issuance of national legislation which provide a course of action for achieving the stated goals.
- assign responsibilities within the administration to update and revise the goals and policies as necessary.
The guidelines also state that flag states should seek to establish a support infrastructure capable of administering their safety and environmental protection programme which, as a minimum, should consist of the following:

- personnel with appropriate technical expertise and background, qualified to guide, direct, and manage the programme, as well as providing continuity in service. Flag states should recruit and train suitable personnel by taking full advantage of existing training and technical support assistance offered by the IMO.
- administrative instructions which implement international, as well as any interpretative national regulations, that may be needed.
- resources to ensure compliance with basic MARPOL, SOLAS AND LOAD LINES requirements, using an audit and inspection programme independent of the entities delegated authority by the flag state to issue the required international certificates and documentation.
- resources to ensure compliance with the requirements of the STCW convention.
- resources to ensure that investigations into casualties are conducted as well as adequate and timely handling of cases of deficient ships.

2.3 DELEGATION OF STATUTORY WORK

In accordance with various conventions, a flag state may delegate the inspections and surveys of its registered ships either to surveyors nominated for the purpose, or to organisations recognised by it. In its guide-lines for authorisation of Organisations acting on behalf of administrations, the sub-committee on Flag State
Implementation advises flag states to ensure that any assignment of authority to recognised organisations should, inter alia:

- determine whether the organisation has adequate resources in terms of technical, managerial and research capabilities to accomplish the tasks being assigned, in accordance with the minimum standards for the recognised organisation acting on behalf of the administration.
- have a formal written agreement or equivalent between the administration and the organisation been authorised.
- specify instructions detailing actions to be followed in the event that a ship is found not fit to proceed to sea without danger to the ship or persons on board.
- provide the organisation with all appropriate instruments of national law giving effect to the provisions of the conventions and specify whether the administration's standards go beyond the conventions' requirements in any respect.

Notwithstanding these guide-lines, however, it is the responsibility of the flag state to guarantee the completeness and efficiency of the surveys performed by authorised bodies. To meet this responsibility the administration should establish systems for the supervision of work carried out on its behalf. This area of lack of supervision has been identified as one of the weaknesses of some open registry countries.

When an administration grants a full time authorisation, all documentations regarding each ship's status in terms of certification, mandatory surveys, recommendations
issued and deficiencies recorded may be filed with the authorised organisation; in addition they should be available to the administration upon request at any time. The administration should also have access to all internal circulars, surveyor's instructions and guidelines issued by the authorised organisation, as well as other information and reporting routines as proof that the control activities are carried out in accordance with the statutory rules and regulations in force as stipulated in the authorisation agreement.

The system of monitoring and supervision should consist of several interacting elements such as:

- audit of the authorised organisation, which means a systematic examination of their administrative systems in order to ensure that all control activities relating to statutory provisions are properly complied with.
- submission of regular reports on the control status of all delegated ships.
- thorough delegation of all details of survey and certification documentation of a number of selected ships, either as part of the audit, or as documentation submitted by the organisation on request.
- random inspection and verification of documented matters at local survey offices, on board ships and at shipyards.
- unscheduled inspections on board to ascertain that statutory as well as classification provisions are complied with, and that recorded deficiencies are remedied.

These monitoring and supervision elements would enable the administration to evaluate the performance of the
organisations and to concentrate its limited resources on selected areas or special issues where the effect of available resources may be utilised to the greatest advantage for safety and the protection of the marine environment.

The need for monitoring and supervision of the work of recognised organisations has become apparent in view of the persistent criticisms levied against these organisations, the most recent being the report of a Consultant appointed by the IMO. The report states that compliance with the Quality System Certificate Scheme, which the International Association of Classification Societies (IACS) had been working on since 1991, may not guarantee the standards IMO expects of classification societies. It also expresses doubts over the controls which govern the societies' relationships with flag states in the absence of specific provisions for verification procedures. The report further states that there are insufficient checks on surveyors, and questions the ability of the scheme to weed out unsuitable societies. The report therefore calls for the establishment of an independent and impartial certification body to administer the quality scheme, and identifies the need to set up minimum standards for all societies including those outside IACS.

2.4 PORT STATE CONTROL INSPECTIONS

In most international conventions relating to maritime safety and pollution prevention, control provisions are stipulated to ensure that port state control is enforced on all ships calling at a state's ports. This means that every ship when in a port of another party is subject to
control by officers duly authorised by that party in so far as the control is directed towards verifying that the certificates issued in accordance with the provisions of the conventions referred to are valid.

When a port state control surveyor finds that there are clear grounds to believe that the ship does not comply with relevant provisions, a more detailed inspection will be carried out. By clear ground is meant "a report or a notification by another authority, a report or complaint by the master, a crew member or any person with legitimate interest in the safe operation of the ship, shipboard and living conditions or the prevention of pollution, unless the authority concerned deems the report or complaint to be unfounded".12

Each port state authority should ensure that deficiencies detected by port state control inspectors are remedied. If a deficiency is considered to be clearly hazardous to safety, health or the environment, such hazard should be taken care of before the ship is allowed to sail. If the deficiency cannot be taken care of in the port of inspection, the authority could allow the ship to proceed to another port which has the required facilities for repairs. In such cases the maritime authority in the next port of call will be notified of the deficiencies not rectified and the measures taken.

In the event that a port state control gives rise to an intervention of any kind, the surveyor carrying out the survey is required to inform in writing the Consul or, in his absence, the nearest diplomatic representative of the state, of all the circumstances giving rise to the intervention. Furthermore, nominated surveyors or the
recognised organisation responsible for issuing of certificates should also be notified of all particulars on a special form. The authorities of the flag state should also receive a copy of the deficiency report and where appropriate, report to the classification society which had issued the relevant certificate.

There are basically two prerequisites for the implementation and enforcement of a port state control. First, the flag state must ratify all the relevant international conventions; second, a national legislation should have been enacted to ensure that the convention is part of the national regulations. In most cases, the provisions of an international convention are made an integral part of national regulations before the same convention is ratified. This is the usual case and is preferable to ensure that the infrastructure necessary to implement port state control is already available before ratification.\(^\text{13}\)

A flag state administration may enforce international instruments on its flag vessels to the maximum and to any degree of standards it may decide. On the other hand, however, enforcement of the same convention has limitations when applied to foreign vessels. Port state control is limited to verification of statutory certificates, which if valid, should be accepted unless there are "clear grounds" that the vessel's condition is not in accordance with what is stipulated in the particulars of the certificate.\(^\text{14}\)

It is evident from the above that effective implementation and enforcement of international instruments require adequate expertise and material
resources. For a developing country, these may not be available; as such the inspections and surveys of ships would have to be delegated to classification societies since they have both human and material resources in ports all over the world. It should however, be emphasised that although a state can delegate authority, it cannot delegate responsibility and/ or accountability. Therefore, in view of the fact that the task of exercising effective control over vessels flying their respective flags is one the criticisms of the system, it would auger well for open registry countries if they could collectively address the problem.

Notes.
2. ibid.
3. ibid.
4. 1st. Session of the FSI Sub-Committee Report.
5 ibid.
6. See regulation 1 of SOLAS '74, regulation 4 of annex 1 and regulation 10 of annex 2 of MARPOL '73/78.
7. opcit.
8. opcit.
9. opcit.
10. Trade winds, 1994
11. See regulation 19 of chapter 1 of SOLAS '74 including amendments, article 21 of the Load Lines convention, article 5 of MARPOL '73/78, article 10 of STCW (1978) Convention
12. opcit.
14 R.W.J. Schiferli, Memorandum of Understanding Port State Control.
CHAPTER 3

ECONOMIC IMPACT OF OPEN REGISTRIES

Having discussed some of the criticisms made against open registries, and the responsibilities of a government in the last chapter, this chapter considers how open registries have benefited international activities associated with ocean transportation. This is necessary in order to emphasise how co-operation could be very effective, given the extent of the contribution of the system to the shipping community.

It should be re-iterated that the use of open registries in international shipping was necessitated by the need for private companies to respond to the pressures of competition. International shipping is as competitive as any business enterprise experiencing competition; therefore, if survival is fundamental to any business enterprise, then shipping should not be seen differently. The opportunities offered by open registries in providing competitive advantages to shipowners indicate that, they are important for the global community to deal with rather than just criticize over trivial issues. Instead of attacking open registries, the global community should support and encourage any collective efforts, by them, that would be geared towards improving the system.

There are basically three major areas which have been affected by open registry shipping, and these include:

a) Labour-supplying countries.

b) The shipping community in general, with particular reference to the developed world.

c) Open registry countries."

23
3.1 BENEFITS TO LABOUR-SUPPLYING COUNTRIES

One of the main reasons why shipowners register their vessels under open registries is to avoid the high labour costs prevailing in the traditional maritime countries. Manning represents, by far, the largest item in the direct operating cost of a vessel registered in an economically developed country. According to an European Economic Commission study in 1987, manning costs represented 54 percent of the fixed direct operating costs of a Dutch 1500 TEU container ship. The same study estimated annual crewing cost for a United Kingdom registered tanker with a British crew at US $ 904,000; but in the case of a ship registered under an open registry the cost was estimated at US $ 396,000.

The point being made here is that registration of ships in one of the traditional maritime countries generally restricts the owner to employing crew members who are nationals of the country concerned, and involves negotiations with local trade unions on rates of pay, manning levels and other conditions. On the other hand, registration under an open registry gives the shipowner an opportunity in determining the nationality of his crew and agreeing upon rates of pay.

The flexible conditions offered by open ship registration resulted in a number of developing countries, like The Philippines, India, Korea, Burma and Poland, among others, establishing themselves as labour-supplying countries. If we take into consideration the low standards of living and the acute unemployment in these countries, there is absolutely no doubt that open
registries have significantly contributed to their respective economies. Seafarers' remittances are major sources of foreign exchange for these countries. Sturmey made a very succinct point in this regard when he posed the question, "If a developing country does not have the capital to provide the means to employ all of its potential work-force, which is better: that they starve; that they migrate or that they work on open registry ships?"  

An analysis of the revenue accrued to labour-supplying countries is appropriate at this stage in order to buttress Sturmey's point quoted above.

The Philippines: According to an International Transport-workers' Federation report, "In 1981 some 130,772 Filipino seamen were registered with the Philippines Overseas Employment Association... providing crews for over thirty maritime nations. These seamen were required to remit 70 percent of their basic monthly wages back to the Philippines, and these remittances represented one of the country's most important sources of foreign exchange, totalling over US $150 million". According to the figures released by the Maritime Development Office of the Philippines Maritime Industry Authority in 1985, 51,446 seamen were employed with US $ 89.31 million in earnings, and in 1987 70,973 seamen were employed with US $ 118.59 million being generated in the economy of the country.

Myanmar (Burma) has one of the largest pools of potential seafarers in the Far East. During the 1980's there were about 4,500 out of 20,000 certificated Burmese seafarers employed world-wide. The direct economic benefit to the
country was the US $25 million paid in wages to seamen. In order to derive more foreign earnings from the employment of its seafarers, the government made the training of seafarers a priority.]

A report by the International Maritime Associates states that about 17,550 Koreans were employed on board foreign vessels in 1978, with foreign exchange earnings of US $100 million.6

According to the Deputy Director-General of shipping in India, 11,105 Indian seamen were employed on foreign registered ships, generating about US $30 million in hard currency.7 According to the General Secretary of the National Union of Seafarers of India, there is absolutely no doubt about the tremendous benefit of open registries. According to him, "In India, apart from a huge array of nearly twenty-one million unemployed, more than 290 million people do not even earn 60/- Rupi (approximately £4) per month... against this background, the average earning of a seaman amounting to 1550/- Rupi (approximately £100) per month... places him in the income tax payers category which forms barely 2 percent of the Indian population".8

From the above analysis, it would be concluded that open registry shipping has provided employment for thousands of seafarers world-wide and has improved their standards of living. For example, the Liberian registry alone employs crew from over 100 countries world-wide. Income earned by seafarers on open registry ships have substantially improved the foreign currency earnings of labour-supplying countries.
Notwithstanding these positive impacts, however, there are several cases wherein unscrupulous operators have been taking advantage of crews leading to reports of non-payment of wages, failure to repatriate, and other instances of exploitation. In such cases, seafarers have faced the problem of seeking redress. Perhaps this could be one area to be considered on the issue of co-operation among open registries.

3.2 BENEFITS TO THE SHIPPING COMMUNITY IN GENERAL

The flexibility in transportation arrangements made possible by open registries has been a fundamental advantage to the shipping community. Ships registered in open registries have proved invaluable in keeping the international oil transportation system working during wars, boycotts and other periods of crisis.

International trade has prospered through the use of open registries. The traditional maritime nations have a major share in the liner conference trade. This dominance and seemingly closed sea transport sector has resulted in higher fixed freight rates for their vessels. Open registry ships, on the other hand, operate in a more open market; their dominance in tramp shipping, especially the bulk cargo trade, has provided competitive pricing for freight. An IMA report states that "open registry shipping has lowered transport costs in the bulk trade. Reduced transport cost opens the market to supplies from more distant locations, and increases volume sold".9
These lower freight rates have largely resulted from the tax and operating cost advantages of open registries which make it possible for owners to charge less for transporting cargoes.

In many traditional maritime nations, national law and trade union pressures require ships to be manned by nationals of the country concerned. Other countries require a high percentage of the crew to be nationals. In addition, traditional maritime nations' strategic and military concerns have resulted in many other forms of subsidies to their national fleet. These policies tend to promote the retention of skills and technology. Open registry ships have been able to circumvent these barriers and provide the mechanism for the transfer of the latter. Ademumi-Odeke argues that "open registry operations constitute the easiest way of transferring technology and skills from the traditional maritime nations to the developing maritime nations, something that has proved difficult to achieve by normal channels". 10

The extent to which open registry shipping has benefited the shipping community could best be appreciated by a discussion of the use of the system by the United States and Canada respectively.

It can be recalled that open registry shipping started gaining momentum in the early 1920's, when United States shipowners registered their vessels under the Panamanian flag as a means of avoiding the high tax rates in the United States, while at the same time registering their vessels in a country within the stable political orbit of the US. A major boost to the use of an open registry was
provided by the United States Sales Act of 1946. Following the enactment of the above Act over 150 ships, which had been sold to private owners, were registered under the Panamanian registry. In fact the initial success of the Panama registry has been attributed, to some extent, to the assistance of the United States Consular services, which represented the interests of Panamanian vessels in Ports where there were no Panamanian Consuls.

One area where the US has benefited from open registry shipping is in the area of subsidies. In 1974 approximately $221 million was required as subsidies for US flagged-ships; however, most of the ships were American-owned foreign-flagged, and consequently were not eligible for subsidy. This meant that the US Treasury was able to save quite a considerable amount. According to Doganis and Metaxas, for the US to have replaced the US effective controlled tanker fleet, then under open registries with domestic vessels, would have required not only a great deal of more shipbuilding capacity, but also would have cost the Treasury approximately $2.4 billion in construction subsidies and every year thereafter about $20 million in operating subsidies.

For his part, Loree, considers open registries as a "solution" rather than a "problem" for the US. He contends that without open registries there would probably not have been much of an American presence internationally in the liquid and dry bulk trades. This is because US flag ships had never been competitive in those open access, free markets, where the business went to owners with the lowest costs and the most efficient operations. He further contends that open registries have
enabled American owners to build vessels in Japan and Europe, to man them with highly trained crews, and to compete on a relatively equal cost basis with shipowners around the world. In addition to the above, open registries have "enabled American owners to continue making use of their ship management and vessel financing skills, and to serve the US national security interest in continuing to have a large modern bulk fleet committed to use, requisition and charter by the US government in time of war or national emergency".15

The author supports the views expressed by Mr Loree in view of the fact that a substantial number of ships registered under foreign flags are owned by Americans. Furthermore, Mr Loree seems to be in a better position to assess the importance of open registries to the United States considering both his several years experience in the shipping industry and more particularly, in his capacity as chairman, Federation of American Controlled ships (FACS).

The objective of the shipping policy of Canada in the 1980's was to ensure the availability of adequate and economic shipping services that would facilitate the carriage of Canadian overseas trade.16 Shippers were free to use vessels from other nations to carry Canadian deep sea trade, and did so to such an extent that there was an almost exclusive reliance on foreign flag shipping, including open registry ships.

Being a major shipping nation, the continuance of open registry shipping was considered to be in the best interests of Canada since it provided an opportunity for a nation without a merchant marine to participate in
international shipping. The immediate economic benefits gained by the use of open registry ships was that, like the United States, the government did not need to provide subsidies to its national fleet.

In the 1980's open registries carried 58 percent crude petroleum, 16 percent of iron ore concentrates, 36 percent of coal and peat for fuel, and 25 percent spring wheat shipments.\textsuperscript{18} This meant that an average of about 30 percent of Canada's sea-borne trade was carried on open registry vessels. This buttresses the contention that Canadian shippers chose low cost shipping in order to make the country's exports remain competitively priced.

3.3 BENEFITS TO OPEN REGISTRY COUNTRIES

(Open registries provide foreign exchange for countries offering such services.) For a small country with limited economic opportunities, earnings from open registries can be quite significant. However, in some open registry countries, like Cyprus, the objective of the system is not necessarily to maximise government revenue from ship registration and tonnage taxes, but according to the Director of the Department of Merchant Shipping,

"what we seek is the know-how, the employment and business opportunities. These not only bring prosperity ... but also provide support to our national entity on a long term basis".\textsuperscript{19}

For the period 1984 to 1993, the total revenue accrued to the Cyprus government amounted to £25 million.\textsuperscript{20} In addition the registry provides employment opportunities.
For example, all non-Cypriot shipowners who wish to register their ships under the Cyprus flag are required to incorporate a company in Cyprus. However, in order to incorporate a company, The Advocates Laws of Cyprus stipulates that only local lawyers are entitled to draft the necessary documents for incorporation. This means that the first step to be taken by persons interested in registering a vessel under the Cyprus flag is to engage the services of a local lawyer.

(The country has also benefited from the employment opportunities provided by ship management companies actually based at various centres in the country.) There are over eighty such companies currently managing ships from the country and these include some of the largest ship management companies in the world. The reasons for the large number of companies managing ships from the country are due to the incentives given by the government, coupled with the fact that ship managers/owners find working conditions very favourable in the country. For example section 8 of the Merchant Shipping Law of 1992 provides for the reduction and the refund of tonnage tax in case the tax has been paid in the following circumstances:

- if the vessels' management and crewing are carried out by Cypriot ship management companies operating in Cyprus, a 30 percent reduction of the tonnage tax is granted to the shipowner.

Revenues from ships registration and related services have made it possible for developing countries to live up to their financial obligations to international organisations like the International Maritime
Organisation. For example during the last four years the Republic of Panama paid a total amount of £12 million as annual payments to the organisation.23 The author doubts whether the government would have conveniently found it possible to live up to its obligations, without securing loans from international financial institutions, had the registry not been in place. In addition to the direct revenues from ship registration, licensing and inspection fees,

"...the shipping trade is of interest to more people than the government and shipowners, since it provides a steady income for many Panamanian lawyers who earn as much for legal opinion, transfer mortgages, and the like as the shipping itself does in fees. In a wider context the business adds another strand to the web of international connections which have made Panama a continental business centre".24

Open registry also provides foreign exchange for the government of Liberia. The revenue generated during the early years of the registry was primarily used to support the then expanding foreign missions of Liberia. During the 1950's and 60's, iron ore mining activities and natural rubber productions provided the bulk of Liberia's foreign currency. The two industries absorbed a substantial portion of the skilled and unskilled labour force. Educational facilities were expanded throughout the country; vocational training centres and enrolment at the University of Liberia increased.

The 1970's and 80's, however, saw employment in the mining sector decline as resources were depleted. The
growing young and literate Liberians could no longer be fully absorbed in the higher institutions of learning. The emerging small industries and businesses could not pick up the excesses, and the government, as the major employer, was also unable to alleviate the unemployment problem. Revenues from the registry became increasingly more significant. The total revenue generated from the registration and related fees for the period 1969 to 1978 amounted to US $93 million.25 This was a substantial amount considering the precarious economic situation the country was then experiencing.

Like the other registries already discussed, the Malta registry has contributed to the economic development of the country. Direct revenue from ship registration and annual fees for the last five years was about US $15 million.26 Revenues for the incorporation of Maltese companies have also been significant.

The registry has not only brought the country to the attention of the international shipping community, but has in itself enhanced the reputation of the country's maritime flag, by demonstrating that the registry is sustained by a comprehensive range of maritime services and facilities. The effects of these wide ranging services are the employment opportunities they have created. In addition to the staff employed at the Merchant Shipping Directorate of the Malta Maritime Authority, there are over fifty agencies, with supporting staff, involved in the process of registration of ships.

The revenue generated by the registration and related activities has enabled the government to honour its financial obligations to the International Maritime
Organisation and other International Organisations. Unlike the country's main source of revenue, which is tourism, the generation of foreign currency from the registry puts no pressure on the country's infrastructure. In other words, unlike tourism, ship registration does not result in much use of the country's roads, water supply, electricity and sewage services. One of the few pressures on the country's infrastructure is the heavy utilisation of telecommunication facilities; this, however, also generates revenue for the country.

In general, the advantages of the system to the flag state are mainly financial. The fees generated by ship registration, the employment opportunities created in the country, the incorporation of shipowning companies, among others, are significant contributions to the country's revenue. Involvement in shipping can also give a country a higher international profile which may then generate interests in other activities.

3.4 PROPOSED MEASURES THAT COULD DERIVE MAXIMUM BENEFITS TO OPEN REGISTRY COUNTRIES

It is evident from the discussions of the benefits open registries derive from the system that, while the revenue generated may be significant developing countries should consider adopting some policy measures that would maximize benefits to their respective economic development. In this section a number of measures have been proposed and will be discussed below.
A). A REVIEW OF MANNING REQUIREMENTS

(It is the general practice in almost all open registries to make manning requirements so flexible that hardly any nationals are employed on ships flying the respective countries' flags.) The employment of seafarers is a very important source of foreign exchange; this is one of the reasons why many developing countries like The Philippines, Poland and India, among others, have made tremendous efforts in encouraging the training and subsequent employment of their seafarers.

It can be observed from the analysis of the benefits of open registries that the revenue generated by labour supplying countries in one year is, in some cases, five or more times greater than the revenue an open registry generates in five years from registration and related fees. In order to attract shipowners, registration and tonnage fees are so minimal that one sometimes doubts the rationale of establishing an open registry.

(Administrations in existing open registries and prospective ones should consider a review of the manning requirements by making it mandatory for vessels registered under their respective flags to employ at least a percentage of their nationals. This no doubt would require the authorities to adopt policies that would encourage nationals to take up seafaring. They would also have to create a conducive atmosphere that would encourage shipowners to accept the mandatory manning requirements.)
Some open registry countries, like Cyprus, require that at least 15 percent of the crew on board its registered ships should be Cypriots; however, due to the lack of interest (by Cypriots) in seafaring the requirement is not enforced; the government instead concluded bilateral agreements with some labour-supplying countries.27

The scarcity of nationals for seafaring is only found in a very few countries, and even in these countries concerted efforts are now been made to encourage their nationals to take up jobs either on board ships or on shore. For example, the Cyprus Shipping Council has initiated a training scheme for school leavers. Members of the Cyprus Shipping Council employ as trainees young Cypriots who wish to make a career in shipping. They will, over a period of three years receive training in the various departments of member companies and at the same time study for the Institute of Chartered Shipbrokers examination, with their progress being monitored by the Council.28

(In order to encourage shipowners to accept the mandatory employment of nationals the respective administrations should provide reasonable incentives. Some open registry countries have recognised the benefits that could be derived from the employment of nationals on their respective registered ships. For example, the Panamanian government has adopted an incentive scheme for the hiring of Panamanian deck officers employed on vessels of one thousand gross registered tonnes or more under the Panamanian flag. According to a recent government Decree, a shipowner is entitled to a reduction in taxes and other charges, against the salaries of the officers employed.)
The scheme is subject to a maximum of $1000 per month for each officer employed plus expenses incurred, to place the officer onboard, of up to $2000. Similarly, in Cyprus if members of the crew of the vessels are Cypriots, for each month that they are employed a percentage of tonnage tax paid by those vessels are refundable as follows:

- for officers and cadet officers, 2.5 percent for each month of actual employment on board.
- for each rating, 1.5 percent for each month of actual employment on board.

The long term benefits of these incentives would possibly be the preference of shipowners to employ available national seafarers. The benefits cannot be determined in the short-run; however, it is expected that, depending on number of nationals that would be employed, in the long run, the respective governments would recoup more in taxes paid by the seafarers.

**B). IMPROVED SAFETY STANDARDS**

One of the most important issues about open ship registration concerns the reputation of the flag state vis à vis the safety standards it enforces on shipowners. Notwithstanding the wide choices shipowners may have in deciding under which flag to register their vessels, allowing a ship to fly a country's flag carries with it the responsibility of ensuring proper observance of the domestic and international regulations. Unless a state can effectively enforce international safety standards, its reputation as a responsible flag state would be undermined.
(In order for a state to exercise effective control over its registered ships, it should establish a flag state inspectorate comprising of competent and qualified ship surveyors, who would not only check a ship's papers and certificates in an office, but would visit the ships themselves.) The surveyors would carry out random inspections at various ports and thereby considerably reduce the number of the country's registered ships that could be detained by port state inspectors. If a state maintains a close monitoring of the enforcement of international standards, it would prevent negative reporting and publicity and which would in turn portray the good image of the flag state. Shipowners will subsequently find it more conducive to register their vessels under the country's flag, since they would not be faced with unnecessary detentions by port state inspectors simply because of a previous poor safety record of the flag state.

(Developing (open registry) countries should consider training their nationals as marine engineers who will be appointed to man the flag state inspectorate division.) The practice at present in most registries is to contract surveyors of the International Association of Classification Societies (IACS) to carry out inspections at various ports with little or no monitoring by the flag states.

One of the advantages of employing nationals who will carry out random inspections of the country's registered ships is that, they are very likely to be more faithful and committed. Furthermore, the administration would exercise better control over them and necessary action can be taken for failure to do their jobs properly. It
would also improve the country’s foreign currency earnings since the administration may not have to delegate the inspection of vessels to foreign surveyors.

In order to encourage local surveyors in the flag state and to reduce costs, shipowners may be given an option, at the time of registration, of a choice between subsidizing the cost of a trip for an inspection and calling at the home port for annual inspection purposes. Unlike the practice in almost all open registries, except Malta, where the shipowner covers the full cost of inspection, giving the shipowner the above options may be acceptable.

The survey or inspection at the port of registry will not only cost less but will also promote local support industries such as chandlers as well as ship repairers. It will enable the flag state to adopt a mixed system wherein its surveyors would be supplemented by those from an international group.

The present trends in the shipping industry indicate that complacency and lethargy in the enforcement of international accepted safety standards no longer have a place. Unless this issue of safety standards is adequately addressed, a country’s registry cannot be expected to be competitive over the long term.

C). SECURITY OF MORTGAGES

Raising capital in the international capital markets in order to finance the acquisition of new or second-hand vessels has in recent years been very difficult, particularly in developing countries. Financiers do not
seem prepared to advance funds to countries with a history of default in the repayment of loans or whose legal systems may present obstacles to the enforcement of a lender's security. There is therefore the need to enhance lenders' confidence in the flag state's laws regarding the security of their funding.

In Cyprus, for example, once a ship has been registered, a mortgage can be created thereby securing a loan or other financial obligations on any conditions that the parties may agree, without the need for exchange control permission. If a ship on which a mortgage has been created belongs to a Cypriot company the mortgage will also have to be registered with the Registrar of companies within a maximum period of 42 days after its creation. The mortgagee's security is thus protected in case of the liquidation of the shipowning company. Also in order to discharge a mortgage, a memorandum of discharge should be duly executed by the mortgagee. The financiers will also prefer a registry with world-wide consular representations, both for the creation of the mortgage and for assistance in the case of an owner's default.

D). PROVISIONS FOR BAREBOAT CHARTER REGISTRATION

This form of registration allows a vessel, which is registered in one state in the name of its owner, to have temporarily the right to the flag of a second state. It is the flag of a ship and not the registration which determines nationality, applicable law and state responsibility.
The modern application of bareboat charter registration could be traced to the German Law Act of 1951, when there was only a small residual German fleet and many problems in the financing of reconstruction in Germany. The 1951 Act created, among other things, the rules that made it possible to charter back from abroad vessels that had been previously expropriated and operate them under the German flag.

The system became more popular following the 1986 United Nations Convention on Conditions for the Registration of ships. Article 6 of that convention states that ships shall sail under the flag of one state only and that, except where expressly provided for, international treaty shall be subject to the exclusive jurisdiction of that state on the high seas. The ship may not change its flag during a voyage, nor while in a port of call, except in the case of a real transfer of ownership or registry. However, later in the convention, articles 11 and 12 set out some basic principles which confirm the international acceptability of the bareboat registration principle.

The Convention makes a distinction between the "Flag State" and the "State of Registration". It defines the Flag State as, "a state whose flag a ship flies and is entitled to fly", and the State of Registration as, "the state in whose register of ships a ship has been entered".

The provisions imply not merely the grant of the right to fly the flag of the state where the vessel is bareboated in, but a grant of registration, complying fully with the conditions of registration contained in the convention. It further requires that ships may be entered in the register of the "flagging in" state either in the name of
the owner or, where national laws and regulations so provide, the bareboat charterer. In the case of a ship bareboat-chartered in, a state should ensure that the right to fly the flag of the former flag has been suspended. In addition, it should ensure its full jurisdiction and control over a ship bareboat-chartered in and flying its flag. Finally, for the purpose of applying the requirements of the convention in the case of a ship bareboated in, the charterer is considered as the owner.

The advantages of a bare-boat registration vary from country to country. In general, however, it is a useful vehicle in the internationalisation process and is primarily motivated by shipowning companies which need to cut crew cost. It allows a shipping company from a developed country to join forces with cargo owners in a developing country.³³ The system is also useful because it makes it possible for developing countries to build up their own fleets and to employ their own seamen when they have difficulty in raising funding.

Another advantage is that bareboat charter registration allows people, not experienced in shipping, to invest in a ship without having to shoulder the responsibility of operating it. It also makes it possible for local knowledgeable entrepreneurs to assume the role of owner without having to raise the necessary finance. This could in turn result in the flag state developing a spectrum of shipping services with consequent direct and indirect benefits to the economy of the country;

"Such development of shipping services in all fields—ship management, brokerage, chartering, insurance,
average adjusters, shipping agencies, ship financing, etc.- cannot but bring to the countrysubstantial foreign exchange, provide employment, not only on board the ships but in the country itself, train cadres in all aspects of shipping, and develop technology of all sorts".34

The system also tends to encourage the development of ship management companies. For example, two of the largest ship management companies had their origins in the necessity to have management presence in Cyprus in order to perfect the Cyprus/West Germany bare-boat system.35

One country which has benefited significantly from bare-boat charter registration is The Philippines. According to the Director, Filipino Shipowners Association,36 the time-chartering of bare-boat chartered vessels and cross-trading operations have consistently provided sources of income as well as other benefits for the country's overseas shipping industry and the local economy. Such income and benefits were accumulated in actual preparation for the transition into permanently owned tonnage for the Philippines. The Philippines' experience with the bare-boat chartering system can be said to coincide with the country's "...avowed policy of expansion and modernisation, as well as the increased generation of foreign and maritime employment". For example, apart from conserving foreign exchange, the government over the years had been able to realise net foreign exchange revenues in administrative fees and regulatory taxes from bare-boat charter operations. At the same time the socio-economic plight of seamen got a much needed boost with the bare-boat chartering programme
by providing them more employment opportunities onboard Philippine flag ships at higher income levels compared to those of locally employed personnel. In addition to these workers, other sectors of the country's work-force such as legal, management and other personnel have been given the opportunity to be employed in administrative offices of local companies engaged in bare-boat chartering.

Quite apart from purely financial benefits,

"The system makes possible the acquisition of much needed technical and management expertise in the increasingly sophisticated operation of ocean-going vessels at the barest minimum financial risk".  

The positive aspect of having a technology transfer scheme in ship management further enhanced the integrity and competence of Filipino seafarers in increasingly competitive global manning markets.

Bareboat chartering in the Philippines has also made significant contributions in the creation and development of ancillary industries. These industries, which have been developed in key areas in the country-side, are quite significant both for their contribution to the economy and to the improvement of living conditions in the areas where they operate. According to the Director of The Philippines Shipowners Association, bareboat charter registration has been quite successful in furthering the goals and aspirations of the government.

It can be concluded that had it not been for open registries, many people traditionally involved in shipping would have disappeared from the industry. This
is because, shipping being a capital intensive industry, they would not have survived the very high cost of operating vessels under their respective (developed) countries' flags. In other words, the shipping industry needs open registries in order to survive. Therefore, co-operation in certain key areas would bring greater benefits to open registries in particular, and the shipping community in general. There are many examples of co-operation in the maritime field, which have proved valuable over the years; some of these will analysed in the next chapter.

Notes.

7. Ibid.
8. Ibid.
10. Ademun-Odeke, Shipping in International Relations.
11. Opicit.
12. Ready N. P., Ship Registration, page 26
15. Ibid
20. Department of Merchant shipping, Cyprus.
23. Lloyd's' List, May 1994
25. Opcit pages 11 & 12
27. Opcit
28. Profile of The Cyprus Shipping Council.
30. Opcit
31. Opcit
34. Ibid.
35. Opcit.
36. Opcit.
37. Opcit.
38. Opcit.
CHAPTER 4

SOME EXAMPLES OF CO-OPERATION IN THE MARITIME FIELD

This chapter briefly analyses some examples of co-operation over the years. These examples indicate that while open registries have remained aloof of each other, other areas of the industry have nurtured the spirit of exchange of ideas and co-operation. The intention here is not to examine each form of co-operation (each of which could be the subject of a dissertation), but to illustrate how other areas in the industry have benefited from concerted action.

4.1. THE PARIS MEMORANDUM OF UNDERSTANDING ON PORT STATE CONTROL

The agreement between the maritime authorities of fourteen European countries, widely known as the Paris Memorandum of Understanding on port state control, which led to the establishment of a harmonised system of port state control is one example of co-operation. According to the terms of the agreement, among others, each administration is required to maintain an effective system of port state control in order to ensure that foreign merchant ships visiting its ports comply with the standards laid down in the relevant international conventions.¹

The important point worth emphasising here is that, even though the catastrophic grounding of the Amoco Cadiz in Brittany, France, may have prompted action, it was
observed by the countries concerned that controls which were based on quite different rules than those outlined in the IMO and ILO conventions were being exercised. For example, port state control inspections performed by the navy in a certain port reported inferior painting on the hull as a main deficiency, and in another case "trivial items such as "a stop watch", "rockets" not required by SOLAS"\(^2\) were considered as major deficiencies.

It was, therefore, decided by the respective administrations to establish a harmonised system, which to some extent has proved successful. Since the agreement became effective in 1982, the joint efforts of the respective maritime authorities has resulted in over thirteen thousand inspections.\(^3\)

4.2. CLASSIFICATION SOCIETIES AND P&I CLUBS

In the past the P&I clubs' conditions for members were somewhat flexible in the sense that they relied on the sincerity of shipowners. However, these conditions have changed in recent years. This is because the Clubs discovered that some shipowners, whose vessels had discrepancies with a time limit for rectifying them, moved the vessels to other classification societies. Consequently, in cooperation with the classification societies, it has now been made mandatory for members to notify the club when a vessel changes class.\(^4\) The clubs then have the opportunity to check with the former classification society as to whether there are notations outstanding and to consider the position accordingly. This co-operation has improved to such an extent that "there is now an open dialogue and exchange of
information between the classification societies and the P&I clubs. ”5

4.3. THE INTERNATIONAL SHIPMANAGERS' ASSOCIATION (ISMA)

In the mid 1980s, as the shipping industry started to come out of the deep recession, there were two negative developments. First, the number of shipping casualties, which in certain cases involved substantial loss of human lives, started to slowly but inexorably increase. Second, it became readily apparent that seafaring skills were not as high as they should be, and also that there was going to be a shortage of qualified seafarers in the early 1990s unless steps were taken to improve training levels.

Ship Managers, therefore, recognised that something had to be done in order to counteract the deteriorating standards of the system and the personnel employed. A number of companies in the shipmanagement industry subsequently decided that, at least in their sector of the industry action had to be taken to improve standards across the board, including the skills of seafarers. Initially, thirty-five (35) companies 6 agreed that the best interests of the industry would be served, by forming a professional body bringing together ship managers who would subscribe to a code of standards.

The ship managers recognised that there was something lacking and in their own ways decided to address that abnormality. They appreciated the fact that whatever had to be done should not be done in isolation, but in cooperation with each other.
A positive aspect of this co-operation is that governments and major oil companies all require, inter alia, compliance with the ISMA Code. This means that even though membership is voluntary, in the long-run non-members would either have to "shape up" or "ship out".

4.3. AN ADMINISTRATION AND SHIPOWNERS

During the early 1980s, the maritime administration of Panama established five advisory committees of shipowners through whom a direct dialogue evolved between the administration and its shipowners. Through these committees, inputs are received, prospective policies and requirements are discussed and agreements arrived at on procedural matters.

The close rapport that exists between the owners and the administration has been to the mutual advantages of both parties. According to an official of the Directorate of Consular and Maritime Affairs, "there has developed a conviction that the communication between the shipowners and the administration is strong enough to ensure mutually acceptable policies and regulations, and that the tenets of the conventions are duly observed".

4.4. THE ASSOCIATION OF SOUTH-EAST ASIAN NATIONS (ASEAN)

The co-operation, in the maritime sector, that exists among the members-states of ASEAN shows how developing counties can pull their resources together in order to ensure more equitable participation in the international maritime industry, while at the same time promoting their respective trade.
The member-states of the Association appreciated the fact that both national and regional actions were necessary in order to overcome the problems in shipping and other maritime related issues. In other words, they realised that while individual member-states can address the problems, collective action was a better alternative. This resulted in the establishment of the ASEAN Committee on Transportation and Communications (COTAC) with the following objectives:

1. To promote close co-operation, establish joint programmes and develop technical projects in the field of communications, and transportation, including marine transportation and inland waterways.

2. To review, reconcile and collate projects under considerations by ASEAN dealing with all modes of transportation and communications, and identify areas for international financial and technical co-operation.

3. To coordinate plans and activities pertaining to Communications and transportation among ASEAN countries, and to maintain close co-ordination with sub-regional, regional and international organisations for transportation and communications where ASEAN countries are members.

4. To recommend measures for ASEAN co-operation in land, air and maritime transport in the field of navigation, safety and the protection of the marine environment.
5. To recommend measures for standardizing and development of training and facilitating the exchange of experts.

This committee co-ordinates the activities of four sub-committees, one of which is the sub-committee on shipping and ports. Its main function is to improve the activities of the fleet of ASEAN members and the improvement of the ports' facilities.

One of the benefits of this co-operation is that, after over fifteen years many of the intra-ASEAN projects designed to improve port services have been implemented; other projects currently underway include:

1. Implementation of ASEAN Ports Authorities Association (facilitation of maritime transport) forms which ensure standardization and simplification of documentation procedures in ports.


3. Submission of various project proposals on training to the European Union for funding.

The examples analysed above illustrate that, while individual actions can be successful, collective actions to address issues of common interests, could be to the mutual benefit of those concerned. Some of the common issues which, in the opinion of the author, could be
pursued by open registry countries, will be discussed in the next chapter.

End Notes.

1. The relevant conventions are i) the International convention on Load-lines (1966); ii) the International Convention on the Safety of Life at Sea (SOLAS) 1974; iii) the International convention for the International convention for the prevention of pollution, 1973/78; iv) the International on Standards of Training, Certification and Watch-keeping, 1978; Convention on the international regulations for the prevention of collisions at sea, 1972 and the Merchant shipping (minimum standards) convention (ILO Convention 147).

2. INTERTANKO, European Port state control, December, 1983, page 1


5. ibid

6. ibid.

7. ibid.


CHAPTER 5

A CASE FOR CO-OPERATION AMONG OPEN REGISTRIES.

4.1. WHY DO THEY NEED TO CO-OPERATE?

When the establishment of a specialised agency specifically responsible for dealing with maritime affairs was initially proposed, the main motivating factor was to evolve international machinery for the improvement of safety of life at sea. Notwithstanding the fact that a number of international agreements had already been adopted, the consensus was for the establishment of a permanent body which would be charged with the responsibility of co-ordinating and promoting further measures on a continuing basis.

It was against this background that the International Maritime Organisation came to be established. According to article 1 of the Organisation's convention, one of the purposes of the IMO,

"...is to provide a machinery for co-operation among governments in the field of governmental regulations and practices relating to technical matters of all kinds regarding shipping engaged in international trade..."
In order to achieve its objectives, the Organisation has adopted several conventions and protocols, and a number of codes and recommendations. These multi-lateral instruments impose international treaty obligations; and governments which ratify or accept them agree to bring their laws in conformity with the provisions of such treaties. One may, therefore, wish to pose a question thus: In view of the fact that open registry countries are members of the IMO, and have ratified most of the major conventions, why do they need to co-operate since they are part of the "... machinery for co-operation among governments"?

The answers to the above question vary. The co-operation envisaged in this dissertation is meant to consider how the system of open ship registration could be improved by the countries actually involved in it, that is, governments which have decided to allow foreign shipowners to register their vessels under their respective flags. The countries envisaged are developing countries which had been finding difficulty in the implementation and enforcement of international instruments. It is a co-operation among governments which, in the opinion of the author, have been subjected to unfair criticisms, sometimes over very trivial issues. Finally, it is a co-operation among governments which have made positive contributions to the international shipping community, but which have not derived maximum benefits for their services.

Over the last decade the fleets of the traditional maritime nations have continued to decline while those of open registries have been on the increase. For example, the number ships registered under the Malta flag
increased from 778 in 1987 to over 2000 by the end of 1993; similarly, the number of ships registered under the Cyprus flag increased from 1961 in 1987 to nearly 2500 by the end of 1993.² This accelerated growth in the number of vessels registered under open registry countries has led to doubts (by critics) about the capabilities of the respective administrations to adequately exercise effective control over their registered vessels. In fact critics of the system have gone to the extent of stigmatising open registry countries as "havens for substandard shipping"; how and why they came to that conclusion is one reason why open registries should collectively consider taking proactive steps if the system should overcome the forces against it.

While it is an indisputable fact that "some of the best known open registries have better than average safety records... and some of the traditional fleets have worse ones",³ the fact still remains that there are a few unscrupulous shipowners who cherish flouting international regulations. It is, therefore, necessary for open registries to co-operate in order to at least eliminate from the system the irresponsible owners. This is because even though the irresponsible owners may be few, they are the ones that have been giving critics the opportunity of portraying a negative image to the system. This is not the case with traditional registries, even when these become open registries— as happened in the case of the re-flagging of the Kuwaiti ships during the Iran/ Iraq war in the 1980's;⁴ not even when disasters or tragedies are caused by vessels flying their own maritime flags is the integrity of traditional registries questioned. Two very serious accidents involving vessels flying the flags of traditional maritime nations readily
come to mind— the Herald of Free Enterprise which resulted in severe loss of human lives, and the Exxon Valdez which caused unprecedented damage to the environment.

The potential powerful forces that could be unleashed when maritime calamities occur cannot be over-emphasised. For example, the Exxon Valdez accident brought the maritime industry problems such as unlimited liability, the likely inability to obtain required certificates of financial responsibility, the threat of criminal penalties, and legislatively mandated tanker hull designs. It has also led to some states taking unilateral actions as evidenced by the Oil Pollution Act which was passed in 1990 by the United States Congress. According to one maritime expert, almost all of legislated changes ironically had little or no relevance to the apparent human error which was the cause of the accident. The actions, which accidents like the Exxon Valdez caused, put open registries in a high risk position since they account for a substantial share of tankers and passenger cruise vessels— the types most likely to attract the electronic media, and thus the greatest public outcry should an accident occur.

The author cannot imagine how the electronic media and the international shipping community would have reacted had the Exxon Valdez not been "an extremely modern vessel", operated by a company with a first rate reputation and flying the US flag; what would have happened had the Exxon Valdez been an ageing vessel with a record of safety problems, manned by officers with questionable qualifications and flying the flag of an open registry country. One wonders how the US Congress
might have reacted, considering how its response was in the case of the Exxon Valdez which was "a good ship and operated by a good operator". The point being made here is that open registries should consider how they would collectively address the safety standards of vessels registered under their respective flags.

According to Phil Loree, the shipping industry is about to enter into an era of international scrutiny of ship registries; an era in which open registries will be watched more closely and more critically than ever before. They will be watched with increasing intensity on the basis of whether they are meeting their responsibilities of ensuring safety of life at sea. He believes that open registries will be subjected to even higher standards of excellence than the programmes of the so-called traditional maritime countries. This is because many of those who will be assessing open ship registration have little or no liking for a system, which they consider has, over the years, substantially replaced or at least threatened to replace the old order.

The views expressed by Loree are no exaggeration, considering the current measures being taken in the implementation and enforcement of port state control such as the publications of the names, owners, registries and classification societies of vessels detained in various European ports. It is the view of the author that if some positive actions are not taken collectively, open registries will always be on the defensive.

Co-operation is necessary in order to address some of the practices of shipowners. For example, there have been instances wherein a shipowner easily changes flag from
one open registry to another simply because the previous register appears more stricter than the other; there are other instances wherein a shipowner changes classification society because one more strictly applies international requirements than another. For example, the Hellenic Register of Shipping (a classification society) was recently called in to class a ship after the American Bureau of Shipping could not reach an agreement with the owner of the vessel on essential repairs. As a result of the disagreement, the owner subsequently decided to switch to HRS, which went on to issue interim SOLAS and Classification Certificates for three months. 9

In the opinion of the author, while open registries could compete for tonnage, they should co-operate in addressing certain key areas, especially those relating to safety issues. For example, if a registry rejects a vessel because of safety related reasons, other registries should not consider that as an advantage by accepting that vessel in their register without ensuring that the defects are rectified. A mechanism should be worked out wherein other open registries would be informed when a shipowner decides to change flag, or if a registry withdraws its flag, and the reasons for such actions. This would obviously mean a reduction in the number of vessels in the respective registries, but as the Minister of Transport and Communications of Malta rightly stated recently,

"an increase in the number of ships registered ... cannot be attained at the expense of safety...it could mean saying no to new business... nevertheless, it would also be saying no to... substandard shipping, no to irresponsible owners
... but yes to safe shipping and yes to cleaner seas... we seek growth not only in numbers, but also in quality". 10

These are the kinds of positions open registries should adopt; even though some may be taking such positions, it would auger well for the system if done in co-operation with other open registries through the exchange of information.

4.2 BENEFITS OF CO-OPERATION

In the last section the point was made that open registries are about to enter into an era in which their respective maritime programmes will be subjected to increased scrutiny by the shipping community. The scrutiny could have significant impact for two reasons: 1. While some administrations have been striving to improve the image of the system, others have been either dragging their feet or have been ill-equipped to enforce international regulations. 2) Each open registry has been proceeding independently on its own course, each with its own objectives and without consultations or actions in concert with other open registries. This individualistic attitude may have been due to the fact that the registries have been competing against each other, and as such may not have considered it feasible to co-operate in any way whatsoever. Notwithstanding the competitiveness of the system, there are certainly a number of issues and problems that merit the collective attention of respective open registry administrations.
Open registries could agree on procedures and minimum standards for mutual action with respect to officers' licences. During the research for this project, it was found that The Republic of Panama registry does not issue a reciprocal Panamanian licence to an officer holding a valid Liberian licence issued on the basis of a written exam, and vice versa; yet each of the administrations grants reciprocity to licences issued by other countries. Whatever may have been the reasons for such a situation, issues of this nature could be the kinds of problems that could be resolved by good faith discussions.

Another problem that could be collectively considered is the adoption of procedures for verification of licences in cases of suspected malpractice. If, for example, one registry becomes suspicious about the validity of an officer's certificate, it should be possible (with less bureaucracy) for the validity of the licences to be verified. Officers' licences is just one of the operational and administrative matters where consultation and co-operation by professionals and technical experts of the respective administrations could prove positive, practical and mutually beneficial.

Another area of co-operation could be in casualty investigations in order to ensure that they are carried out in accordance with international regulations. According to regulation 21 of SOLAS chapter one, each administration is required to conduct an investigation of any casualty occurring to any of its ships, and for the administration to furnish the IMO with pertinent information regarding the findings of such investigation. However, in a recent report of the Organisation it is
clearly evident that some of the administrations have not been living up to their obligations; this may not necessarily be due to negligence, but in most cases due to the lack of resources, both human and material. Currently, the number of outstanding maritime accident reports being awaited by the IMO has increased from about 700 to over 830 in the last year. Some open registry countries, like Cyprus, have been quite successful in furnishing the Organisation with findings of casualty investigations. According to the Director of Shipping, the registry does not have any outstanding reports to send on casualty investigations. In the spirit of cooperation, the experiences of one registry could be shared with others who may be encountering difficulty in a particular casualty investigation. In fact it should even be possible for one registry to request the assistance of another if that registry feels it lacks the expertise to carry out an investigation. In view of the competitiveness of the system the above proposal may be viewed with pessimism, however, in the author's opinion if the right atmosphere is created, the exchange of casualty investigators should not be a problem.

Another benefit which could be derived from cooperation is the political force that open registries might be able to exert by concerted actions. These would include protesting against unilateral and even some multi-lateral actions that would discriminate unfairly against open registries. Apart from making protests, open registries could also collectively initiate and even influence some international actions that they consider would be of mutual benefit to their respective countries.
It is very astonishing that open registries have been passive over the years, even when certain actions which seriously affected them have been taken. An example of this passiveness was their apparent silence when a controversial Bill known as "the Clay Bill" was submitted to the Education and Labour Relations Committee's sub-committee on Labour Management in 1989 for consideration.

The Bill sought to extend United States labour laws to crews of foreign ships calling at US ports. In other words, it extended to seafarers on cargo and passenger ships the same rights granted to US flagged seafarers. When the Bill was first made public, thirteen nations filed protests against it; they protested because they believed it would have directly affected the prerogatives of all shipping registries. The Bill had the potential of seriously disrupting future shipboard employment relations. Apart from the fact that it was contrary to international law and comity, it could have undermined the employment opportunities of seafarers from developing countries. According to Loree, "Not a single open registry was among those protesting the Bill". This, in the opinion of the author, is very surprising because if the Bill had been enacted, open registries would have been the most severely affected in view of the fact that a substantial number of vessels calling at the US ports are open registry vessels. If they had added their voices to the thirteen nations, or even consulted among themselves and agreed on concerted action, perhaps the Bill would not have reached its present stage. The Bill has passed the Committee stage and is now poised to move to the full United States House of Representatives.
Their joint protests may not have had the desired effects, but it could have made the government more aware that it was treading on dangerous ground.

Co-operation could result in open registry countries adopting standard interpretations of the major international maritime conventions, especially those dealing with safety. Notwithstanding the efforts by IMO, through the Sub-Committee on Flag State Implementation, it is evident that some administrations have still found it difficult to implement and enforce the International Instruments. Therefore, administrations of open registry countries should, by concerted action, supplement the guide-lines of the FSI by the adoption of standard interpretations of the conventions.

The adoption of standard interpretations would, in the view of the author, facilitate a more effective implementation and enforcement of the conventions, since experts from the respective administrations of open registries would have to be involved in the formulation of the standard interpretation. This would no doubt send signals to critics of the system that open registries are determined to work together in order to improve and upgrade the system in their own way.

In chapter three, it was proposed that open registries should consider adopting some measures that would derive maximum benefits to their respective countries. One such measure proposed was a review of the manning requirements, wherein vessels registered under their respective flags would be required to employ a reasonable percentage of nationals. It was, however, stressed that this measure would only be practicable and
successful if the appropriate training, among other conditions, are provided to the seafarers of the respective countries.

Some open registries do not have well established maritime institutions. As a result, it would be difficult for their nationals to receive the appropriate training and subsequent employment on board vessels registered under their respective flags. This is another area that requires the co-operation of open registries, especially those already with very well established training institutions. A mechanism could be worked out wherein nationals of open registries which do not have training facilities are given the opportunity of been trained in other open registry countries. One advantage of the possible cultural mix is that, the seafarers would become familiar or even receive specialized training to work within the multi-lingual, multi-national shipboard environment in which they will have to work.

The training of nationals for seafaring has become more important in view of the growing shortage of trained and competent seafarers. According to a recent research project report undertaken by the International Shipping Federation and Baltic and International Maritime Council, the shipping industry experiences a significant but manageable shortage of officers. In the long run, however, "about 40,000 new officers would need to be produced each year...over the next decade and beyond". 17

If open registries could co-operate in extending training facilities to others they stand to derive tremendous benefits for their respective economies. For example, it would mean a significant increase in the foreign exchange
earnings of the countries with training facilities. In the case of those without training facilities, it would mean greater opportunities of employment of their nationals on board various ships, which would also mean more foreign currency earnings. Co-operation in the training of seafarers would also make it possible for experts in the maritime field from other open registry countries to share their knowledge and experiences with trainees of the respective institutions.

Closely connected with the training of seafarers is the appalling conditions under which seafarers serving on board some of the vessels registered under open registry countries work. It is the view of the author that an administration should not only be concerned with the revenues derived from ship registration, but should also monitor the working conditions of the crew. Whatever may be the quality of training of a seafarer, if not adequately motivated, output could be seriously affected.

There have been several instances of shipowners failing to pay agreed-upon wages as well as providing reasonable working and living conditions. An administration does not have to wait until the International Transport-workers' Federation or other unions detain a vessel before taking action to protect the interests of the crew. One of the advantages enjoyed by shipowners registering their vessels under open registries is the opportunity of employing low-cost crew from developing countries. Therefore, if a shipowner has agreed to pay certain wages, there should be no be reason why several months should elapse before payment is effected, sometimes as a result of strikes or other forms of coercion.
This issue of working conditions requires the collective actions of all responsible open registries. Co-operation in ensuring acceptable working conditions would not only protect seafarers, but would make it almost impossible for a shipowner who is reprimanded by one administration to be easily accepted by another. In the opinion of the author, some of the malpractices of shipowners may be due to their awareness that there are many options open to them for registration of their vessels; therefore, it would be to the benefit of open registries if they could collectively address some of these issues.

Open registries could also consider convening biennial meetings (perhaps on a rotating basis) where they could exchange views on issues affecting the system. At such meetings, various key issues of concern could be discussed and possible actions adopted. Also at such meetings, the more experienced and successful registries could exchange ideas with their counterparts. While some registries have been the subject of much criticism, others have been relatively successful. In view of the fact that only a few shipowners or registries have been the cause of the criticisms against the system, co-operation would be of tremendous benefit to all concerned. It would also ensure that vessels registered under open registries are of better quality than they are at present.

There are tremendous benefits to be derived from a registry or a vessel being one of quality. Insurance companies would be in a position to grant preferential rates; bankers and financial institutions would be more willing to do business with owners of vessels registered under a quality registry; classification societies would
be less pressured to turn a blind eye on deficiencies; the manning of vessels and the problems associated with it could be solved through concerted actions, and lastly, charterers and freight forwarders would be relieved from the usual inconveniences experienced as a result of undue delays in ports because of deficiencies found on vessels by port state inspectors.

In a nutshell, co-operation would not only elevate the credibility and standing of open registries in general, but would also lead to more effective and efficient operations of the respective maritime administrations and the facilitation of international trade.

End Notes.

2. The figures were got from the headquarters of the Cyprus and Malta registries respectively during field-trips in March, 1994.
5. Ibid.
6. Ibid.
7. Ibid.
8. Ibid.
11. opcit.
14. Among the benefits are a mandated minimum wage at present $4.25 per hour, and the guaranteed right to bargain collectively with shipowners and operators.
15. Phil Loree was reacting to the proposed "Clay Bill".
SUMMARY AND CONCLUSION

This dissertation has considered the prospects of cooperation among open registries in view of the criticisms made against the system. This is borne out by the fact that, even though some open registries have been making strenuous efforts to improve the safety standards of vessels registered under their respective flags, others have either been negligent or lack the resources.

Prior to the consideration of the benefits of cooperation, the responsibilities of an administration in implementation and enforcement of international regulations were discussed. The point was made that in as much as an administration can delegate or authorise organisations, such as classification societies, to carry out statutory and classification functions, it cannot delegate responsibility.

In chapter 3 the benefits of open registries were evaluated, and some measures that would derive more benefits proposed. One such measure proposed was the review of the manning requirements. It was emphasised that the employment of nationals on board vessels flying a country's flag would significantly improve the foreign currency earnings of a country. It was, however, pointed out that such a policy would only succeed, among other conditions, if appropriate training facilities were provided for the training of nationals. Other measures proposed included ensuring improved safety standards, with the establishment of a flag-state inspectorate division, and the training of nationals as maritime
surveyors being the main emphasis; the security of mortgages in order to enhance lenders' confidence in the country's laws on the security of their funding and finally, provision for bareboat charter registration.

In chapter 4, some examples of co-operation in the maritime field were analysed. The main objective of each form of co-operation was to address certain issues that were of common concerns to the respective members.

The main focus of the dissertation was considered in chapter 5, where it was emphasised that in view of the apparent challenges facing open registries, they need to pull their resources together in order to improve the safety standards of the system and subsequently, forestall the criticisms made against it.

It was also stressed that through co-operation, it would be made almost impossible for a vessel which has been rejected or de-flagged by one open registry to be easily accepted by another, especially if the reasons are safety related.

The point was also made that notwithstanding the fact that open registries can compete for tonnage, there are areas of common concerns which warrant their collective action.

Open registries should, therefore, seriously consider pulling their resources together with a view to i) improving the safety standards of vessels registered under their respective flags, ii) getting rid of irresponsible shipowners, iii) deriving maximum benefits from the system and iv) enhancing the credibility of the
system. In view of the increase in the number open registries, a first step in this spirit of co-operation could be the convening of an International Conference of Open Registries, where the modalities of co-operation could be discussed.
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*TIMES of Malta*, 1994.

