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The SIRC column

How the squeeze on standards enables small flags to flourish

Nik Winchester of the Seafarers' International Research Centre looks at the difference between the established open registers and some of the new arrivals on the scene



WHEN we see the flags flown by ships, and the ports of registry painted on their sterns, we notice that most of them are attached to such places as Panama and Liberia, Bahamas and Malta. We take them for granted because they have become so familiar and so numerous even though we may find it difficult to connect these flags with our understanding of what constitutes a proper maritime nation.

In recent years a number of other flags have arrived on the scene from countries that are not so familiar, such as Belize, Bolivia, Cambodia, and Equatorial Guinea. Since the registers of ships attached to these flags have shown extremely rapid growth rates over their short lifespans, it is reasonable to wonder why this growth has occurred and what the consequences might be.

The initial response to these new arrivals is simply to see them as yet further examples of open registers or flags of convenience. After all, don't all open registers operate in the same manner? Well no, they don't. Not any longer. In the wake of a long series of tanker disasters beginning, perhaps, with the Torrey Canyon in the late 1960s and culminating in March in the two halves of the *Kristal* adrift off northern Spain, the world has developed a regulatory system aimed at chasing ships commonly found on the flag of convenience registers. The big registers such as Panama and Liberia, which are also big businesses, have been obliged to develop tighter practices. And so the situation in respect of these new flags is less straightforward than it first appears, because these new registers have had to find a market niche which does not involve them in competing with the established giants in the flag industry.

Shipowners like to cite cost as the key reason for choosing to register a ship under a particular flag. Certainly, when looked at in simple cost terms, these new registers display similar qualities to their much bigger brothers and sisters.

Essentially, they make it possible for seafaring labour to be procured from anywhere in the world; they offer tax regimes which are low or non-existent; and there are no extensive regulatory requirements placed

upon the ships' owners.

But there are several ways in which these new registers differ from their established peers. The most immediately obvious difference is that they have far fewer regulatory restrictions than those required by the big flags of convenience. Certainly a shipowner resorting to any of these new flags may choose to fulfil all international requirements. But the flag administrations – if they may actually be called that – make it plain that this is a matter for the shipowners themselves and that they, the “administrators”, are in practice indifferent as to levels of compliance with international conventions.

This practice of passing responsibility for regulatory compliance has, or course, been common among open registers but, as we have seen, the larger registries have begun to place higher expectations upon their shipowner clients. This regulatory squeeze has driven out the more marginal owners who have gone in search of (or, in some cases, actually helped to set up) new flag registries. In short, the *raison d'être* of these registers is the provision of a regulation free environment for the shipowner.

The very success of these flags depends on the continued and anticipated maintenance of a flag state completely uninterested in regulatory enforcement. It is also worth noting that, where the larger flag of convenience registers are anxious to demonstrate their regulatory credentials, the registration requirements for these new registers are organised in such a way as to shelter the shipowner from any enforcement procedures which other regulators may seek to apply. That is to say the flag state neither attempts to impinge upon the autonomy of the shipowner, nor specifies *any* link between the flag and the state. In other words, and in the cases of the new registries, the state as regulator is absent. The administrations of Belize, Bolivia, Cambodia and Equatorial Guinea have no legal means of requiring a shipowner's compliance with international standards.

The new registries are pretty obviously a commercial response to the new flag market paradoxically opened up by the world-wide pressure for higher opera-

tional standards in shipping. The limited success of port state control as a means of enforcing international regulations has been well documented. Yet however limited port state control has been, it has nevertheless led to the increasing deletion of sub-standard ships from established open registers and the introduction of more rigorous entry requirements for registration.

These deletions and heightened entry standards have led to the existence of a significant number of ships temporarily without flags but in need of one. Without a flag, an asset cannot trade legally. In these circumstances the owner has either to scrap the ship, or find another flag willing to take the rejects of the big flags of convenience. This is where registers such as Belize and Cambodia enter the scene. The established open registers have closed a portion of the market to themselves in order to protect the profitability of the register. Yet the invisible hand of the market always finds a way of filling niches, and the new entrants can do just that by picking up unwanted tonnage considered too risky by the Panamas and Liberias.

The decision by established open registers to delete ships likely to be detained by port state control inspectors is a recognition of the increasingly successful attempts to enforce international standards. Shipowners wishing to avoid deletion must conform to minimum international standards, but this has cost implications. The net effect of this process has been to slowly increase standards in the established open registers, although it would be false to claim that standards have risen considerably across the board. This increase in standards has left a gap in the flag market both for ships that have been deleted, and shipowners who do not wish, or who are unable, to cover the costs of increased regulation. It is this very space at the rock bottom of the market that these new registers enter and fight for among themselves.

While the success of international regulation has been limited, it can be claimed that the established open registers are part of the network of international regulatory bodies. Panama and Liberia are, after all, among the largest due-paying contributors to the International Maritime Organisation. By contrast, the new registers operate outside such bodies, and their success shows, paradoxically, that the enforcement of standards has led to the further deregulation of a part of the ship registration market. This, in turn, has had a negative effect on the quality of shipping and rights of seafarers.