CHAPTER III

PROLIFERATION OF THE FLAGS OF CONVENIENCE

'Flag of convenience' is a phenomenon whereby certain States allow the use of their flags by foreign ship-owners by a simple administrative formality, such as the mere registration or the grant of a certificate of registry. The principal motive for the adoption of this practice by some ship-owners appears to be for avoiding restrictive fiscal i.e. taxation, labour or operational requirements of their national laws. The national or municipal laws of the countries of these ship-owners are very strict as far as the wages, accommodation of crew and living standards are concerned. The lure and the lower operational costs and overheads are so immense to shipowners that the number of countries offering such flags has multiplied from three i.e. Panama, Liberia and Honduras in the 1950s to sixteen as on today. The sixteen States are: Costa Rica, Cyprus, Dominican Republic, Greece, Honduras, Lebanon, Liberia, Maldives Islands, Malta, Morocco, Nicaragua, Panama, Singapore, Somalia, Sri Lanka and Vanuatu.

A clear definition of 'flag of convenience State' may be somewhat difficult when considered in a wide economic and social context, because the term can be applied to some when used in one sense and others when used differently. There are two equivalent definitions of this term and these are taken as more or less standard guides. They are:

'A flag of convenience can be defined as a flag of any country allowing the registration of foreign owned and foreign controlled vessels under conditions which, for whatever reasons, are convenient and opportune for the persons who are registering the
vessels.\(^1\) and,

'A flag of convenience can be defined as the flag of such countries whose law allows — and indeed makes it easy — for ships owned by foreign nationals or companies to fly these flags in contrast to the practice in the maritime countries where the right to fly the national flag is subject to stringent conditions and involves far reaching obligations.\(^2\)

In their Inquiry into Shipping, the United Kingdom Committee under Lord Rochdale (May 1970) identified six features common to flag of convenience States. They are as follows:

a) The country of registry allows owner and/or control of its merchant vessels by non-citizens.

b) Access to the registry is easy. A ship may usually be registered at a consul's office abroad. Equally important, transfer from the registry at the owner's option is not restricted.

c) Taxes on the income from the ships are not levied locally or are low. A registry fee and an annual fee, based on tonnage are normally the only charges made. A guarantee or acceptable understanding regarding future freedom from taxation may also be given.

d) The country of registry is a small power with no national requirement under any foreseeable circumstances for all the shipping registered (but receipts from very small charges on a large tonnage may produce a substantial

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effect on its national income and balance of payments).
e) Manning of ships by non-nationals is freely permitted. And,
f) The country of registry has neither the power nor the administrative machinery effectively to impose any government or international regulations; nor has the country the wish or the power to control the companies themselves.  

Although the first flag of convenience ships were registered under the Panamanian flag in 1922, the phenomenon was of little practical significance until after the Second World War. However, in the late 40s and early 50s registrations under the flags of convenience increased rapidly until, in 1959, they made up 13.6 per cent of the world tonnage (in g.r.t.)\(^2\). This share then decreased for several years until, in 1962, it made up only 10.9 per cent. Thereafter, the advance was resumed steadily until at the end of June 1971, ships flying the flags of Liberia, Panama, Lebanon, Somalia, Cyprus and Singapore, with a total of 47.6 million g.r.t., made up 19.3 per cent of the total world fleet. Indeed this somewhat underestimates the significance of the flags of convenience, since, if the United States reserve fleet, fishing vessels and miscellaneous craft are excluded, flag of convenience fleets account for 21.0 per cent of the world total. The growth of flag of convenience fleets is described in detail in Table A at the end of this chapter.

Of the four flag of convenience fleets in existence in 1958, only Panama and Liberia remain significant, Costa Rica, after finding

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2. g.r.t. stands for gross registered tonnage.
that only a fraction of the ships under her flag had paid even a low registration fees that she required and that some were being used for illegal activities, changed her law to such an extent that the present fleet is of less than 5,000 g.r.t. Honduras progressively eliminated the fiscal attractions of registering under her flag and the only significant elements in her fleet are the 50,000 g.r.t. owned by the subsidiaries of the United Fruit Company, which can be regarded as possessing a 'genuine link' with the Honduran economy. Honduras, however, still appears attractive to certain German shipowners.

The initiatives of San Marino and Sierra Leone did not materialise, and although Morrocco has offered flag of convenience facilities since 1957, the fleet does not seem to have grown significantly (with only 18 ships over 300 g.r.t.). Haiti passed a Shipping Law on 20 August 1964 to set up the organisation for establishing a flag of convenience fleet. However, at the end of 1966, its fleet amounted to only 34,000 g.r.t. and by the middle of 1968 it had fallen to one ship with 3,226 g.r.t. It has now no ships under its flag.

The Lebanese fleet grew fairly rapidly in the middle sixties but was unable to attract any of the more stable shipping companies. Lebanon did not place any stipulation on the maximum age of vessels and its bad record for total losses and high break-up contributed to the decline of this flag. This was also affected by the Cuban crisis.

during which a Lebanese ship tried to run the blockade and was seized by the United States Navy. As a result the Lebanese Government stopped further foreign-owned registration, and tightened up 'routeing' regulations, which further led to transfers out of Lebanese registry. Recently the Lebanese Government has attempted to expand the fleet once more but under stricter control than formerly 1.

Cyprus, Somalia and Singapore are the most recent additions to the flags of convenience. Cyprus particularly has benefited by its linguistic associations with Greece and its fleet is almost wholly beneficially Greek-owned. The Somali fleet is one of varied provenance and the State has not been able to control the routeing of ships under its flag (as Panama and Liberia have done). Because of this, United States aid has been cut off from Somalia as a result of ships under its flag continuing to trade with North Viet-Nam 2. Singapore is unusual in that it possessed already a fleet of about 150,000 g.r.t. before it introduced flag of convenience facilities, early in 1969, offering low registration fee and tonnage taxes and income-tax exemption on profits of ships joining its register. Since then, its fleet has expanded rapidly and, by the middle of 1971, 580,000 g.r.t. of shipping flew its flag.

By comparison with Costa Rica and the Lebanon, both

2. Congressional Record, 8 July 1970.
the Panamanian and the Liberian fleets increased strongly after the setback in 1959-62. However, new owners have mainly tended to use the Liberian flag, Panamanian growth being largely limited to additions to company fleets already flying the Panamanian flag. Panama seems to have suffered somewhat from its political developments in the mid 1960s. The bulk of all flag of convenience registrations has gone to Liberia which accounts for approximately 80 per cent of the total. The particular success of Panama and Liberia in attracting foreign registrations seems to be due in part to the special relationship between these countries and the United States and the resulting preference of United States owners for registration under these flag. The Panamanian regulations are especially attractive for older ships.

At July 1, 1971 the six largest flag of convenience fleets were constituted as indicated in Table B at the end of this chapter. The importance of tankers in the Liberian and Panamanian fleets is noticeable, but the large bulk carriers and combination carriers are virtually restricted to the Liberian fleet. Even at its maximum in 1964, the Lebanese fleet contained no tankers.

The average age and size of the main flag of convenience fleets are set out in Table C at the end of this chapter.

Ships built before January 1, 1947 are not eligible for registration in Liberia and the Liberian Government is planning
to exclude from registration all ships of more than 20 years of age. Panama, however, accepts for registration ships which, on account of their age, have lost the right to registration in other countries, provided they meet Panamanian safety regulations.

As at December 31, 1971, Lloyd's Register reported 1,924 ships with a total of 22,622,829 g.r.t. under construction. Of these, 91 (3.61 million g.r.t.) were for registry in Liberia, 20 (0.60 million g.r.t.) for registry in Panama, 14 (0.03 million g.r.t.) for registry in Singapore and 2 (0.02 million g.r.t.) for registry in Somalia, making up 18.8 per cent of the world total, rather more than the 18.6 per cent that these countries contribute to the existing world fleet. No ships were under construction for Cypriot registration. Naturally, flag of convenience fleets, like other countries', change not only through new construction but also through transfers from other flags.

At the end of 1969 the distribution of ships belonging to owners of Italian nationality, Greek nationality or origin and to companies controlled from the United States, flying flags of convenience, was estimated as on Table D annexed to this chapter.

The United States figures include only those vessels which are considered under 'effective' United States control, e.g. in the event of hostilities. Greek, United States and Italian ownership thus account for at least 70 per cent of all tonnage
under flags of convenience. The ownership of the remaining 30 per cent seems to be widely distributed. Hong Kong based owners, for instance, control about 2 million g.r.t., Formosan owners, some 650,000 g.r.t. and Danish beneficial ownership accounts for some ten ships with 100,000 d.w.t. Swiss owners operate nine cargo ships with a total deadweight of almost 200,000 tons mainly under Liberian flag. Among other member countries of the OECD, Portugal, Finland and The Netherlands have no beneficial ownerships of ships under flags of convenience and in Japan, Germany and the United Kingdom, although no records are kept, the tonnage, if any, is not substantial. Swedish and Norwegian owners have interests in a very small number of ships under flags of convenience.

It is frequently stated that flags of convenience include a large proportion of low quality vessels operating under minimum maritime safety conditions. While this is almost impossible to document statistically, it can be assumed that this would be reflected by the record of total losses and of vessels broken up. Tables E, E_I at the end of this chapter give these figures for the four of the largest flag of convenience fleets with, for comparison, the overall averages for OECD member countries and the world as a whole. The Liberian total loss figures are twice as high as those for the OECD member countries. Panama is three times as high while the records of the Lebanese and the Cypriot fleets are very much worse (for Cyprus only a five-year period could be covered). Loss figures are closely related to

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1. The Organisation for Economic Co-operation and Development (OECD) is an Intergovernmental Organisation and at present consists of twenty-four developed Nations of the world.
It is, therefore, all the more striking that the Liberian average losses are twice as high as for the OECD member countries as a whole, when the average age over the period for Liberia was 8.7 years compared with 12.0 years for the OECD. Furthermore, a large part of Liberian shipping, particularly tankers and bulk carriers, is employed permanently on long hauls and spends relatively little time in congested waters, by comparison with considerable sections of the fleets of OECD member countries which are employed in their domestic trades.

The financial contribution which the fleets under their flag make to the countries of registry should not be over-estimated. Using the rates for the first registration and annual registration, the direct income to Panama and Liberia for four selected years has been estimated as under:

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<th>Liberia</th>
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<tr>
<td>1958</td>
<td>$2,600,000</td>
<td>$450,000</td>
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<tr>
<td>1960</td>
<td>$750,000</td>
<td>$280,000</td>
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<tr>
<td>1964</td>
<td>$3,450,000</td>
<td>$600,000</td>
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<tr>
<td>1969</td>
<td>$5,140,000</td>
<td>$850,000</td>
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These are minima since it is not possible to determine the extent of vessels leaving registry by change of flag and hence leaving space for first registrations, which are 10 to 12 times more profitable, beyond the annual net addition to the fleet. The Liberian revenue in 1960, a year when the total tonnage had fallen and hence no allowance for the new registry could be made, was actually $1,150,000\(^1\). The revenue from the smaller fleets is, of course, even less significant; Cyprus for example announced that her income from ship registration was £43,000 in 1966, £85,000 in 1967 and £115,000 in 1968\(^2\).

Besides registration fees, there are other fees for certification, etc., but the figures can be taken as an indication of the financial advantages to the countries concerned and it seems interesting to relate them to the flag of convenience countries' GNP and total exports as detailed out in Table F at the end of this chapter.

We will now take up the examination of the fiscal advantages enjoyed by the shipowners operating under flags of convenience.

2. Fairplay, 16 July 1970
All flag of convenience States offer extremely low taxation levels. Normally the only payments are an initial registration fee and an annual renewal fee with certain dues for official certifications, no income or corporation taxes being levied on maritime operations.

The scales of payments at the present time for the major flags of convenience are illustrated in Table G annexed to this chapter.

These fees are of very little significance to the shipowner (one of the largest ships afloat, the Universe Iran and her sister ships under the Liberian flag, pay about $10,000 per annum). However, a company operating ships under flags of convenience may not be entirely free from tax. Shipping companies, wherever their place of residence, are often liable to tax in a foreign country or on any profits they derive from international traffic originating in that country. A flag of convenience company is liable for any such tax without means of relief, because the countries offering these facilities cannot have double taxation agreements. It is not, therefore, true to say that flags of convenience operators are necessarily free of all taxation. From the point of view of taxation there is little

1. Committee of Inquiry Into Shipping, op. cit., para 1, page 373.
to choose between flag of convenience countries and 'tax havens'.

In many traditional maritime countries shipping enjoys considerable tax facilities and/or direct financial assistance up to a point where the tax advantages offered by flags of convenience may be of only secondary importance. For United Kingdom shipowners, for instance, there is no strong fiscal inducement to operate under flags of convenience since, for some time to come, most national shipowners are likely to pay corporation tax, as a result of relatively low profitability in the past and allowances on heavy capital expenditure on ships. It was decided in October 1970 that investment grants were to be discontinued. However, United Kingdom shipowners now have the facility of free depreciation on 100 per cent of the capital cost of the ship rather than 80 per cent as previously. So long as United Kingdom shipowners are in the position of not paying corporation tax, they are in this respect in a similar fiscal position as the operator of ships under a flag of convenience and there will continue to be no strong inducement for them to operate under such a flag.

However, this does not take account of the different position of some flag of convenience operators as regards distributed profits. Many flag of convenience owners are resident in 'tax havens'. Freedom from the need to account
for tax on distributed profits gives these operators an advantage over all those whose personal profits suffer tax in one form or another. In this respect, companies resident in flag of convenience States and which have no need to remit distributed profits to countries where these are liable to tax clearly have an advantage over companies with public equity shareholding in traditional maritime countries. An essential point to bear in mind is that not only do flag of convenience countries not impose heavy taxes but they do not even require the submission of tax returns.

Besides advantages in the matter of taxation as noted above, a principal advantage for owners using flags of convenience lies in the field of crew costs. This is particularly so for the ships beneficially owned by United States companies or individuals. Ships flying the United States flag must as a rule be manned by United States citizens paid United States agreed wage rates. In many cases too, they must be built in United States yards and, except in emergency, carry out repairs and dry dockings in United States ports. These regulations would seem to price many United States flag ships out of the international market. For example, a 47,000 ton tanker on a ten-year time charter

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1. 'Active and available merchant ships are growing in importance in the Navy's emergency sea lift planning', R.Adm. Walter C. Ford, United States Naval Academy, Alumni Journal, May 1970.
might be expected to give an annual revenue of about $1,050,000. Estimated operating cost together with depre-
ciation (as on January 1, 1968) for this vessel would be $1,664,000, and even on bare operating costs the owner would
only just break even. Labour costs for a United States manned
ship are more than two and a half times the costs of an
Italian manned ship, in themselves 30 to 50 per cent higher than
certain countries' crew costs.

Thus, particularly from the point of view of crew
costs, the use of flags of convenience by Americans is indeed
a necessity in many cases if they are to compete interna-
tionally without subsidies. The crew cost element, however,
may also be significant for owners of other nationalities
since, even when the crew of a flag of convenience ship
are paid direct wages comparable to, or even higher than
those of traditional maritime nations, there may be a signi-
ficant saving on social security contributions, pension benefits
and other indirect wage elements. In Italy, for example,
sickness insurance alone is considered as adding 25 per cent
to the direct wage, of which half could be saved by access
to the international insurance market.

Furthermore, the use of flags of convenience enables
the owner to operate his ships on lower manning scales than
those imposed by many governments or established by agree-
ment with unions. This has been another handicap to operation under the United States flag and has recently received growing attention in Europe. The Deutsche Afrika Linien, for instance, have estimated that they would be able to operate one of their ships with 27 men, compared to the 38 required for operation under the German flag, with a daily saving of some DM 1,000. The manning scales imposed by the traditional maritime nations do not necessarily constitute minima required for the safe operation of ships. The manning practice of flag of convenience operators, however, have led in several instance during the last few years to circumstances which threatened the safety of the personnel on board and even of the ship herself.

As far as other operating costs are concerned, there seems in general no reason why a Liberian or Panamanian ship should have lower operating costs than a similar ship under the flag of a traditional maritime nation provided that nation does not impose regulations which insist on the use of particular national facilities. This certainly applies to repairs, bunkers, port charges and, for similar manning scales, victualling. Insurance, however, can be a special case. Where a particular flag of convenience has a bad loss record the premia paid may well be higher than they would be under a national flag, although the assessment of premia will take into account the personal standing and
record of the owner perhaps more than the flag of registry. This may be counteracted by the fact that certain nations which have significant insurance industries, such as France, require that their ships must be insured on the national market, which, regardless of the owner's record, may be more expensive than on the international market.

The fact that profits made by flag of convenience ships can be retained without any formality for further investment without taxation may make finance houses more willing to provide credit facilities, particularly against the security of firm period charters, since the threat of changes in the tax levels is removed. Furthermore, in the view of many finance houses, the stability of the government and the currency, particularly of Liberia, combined with, until recently, its unwillingness to interfere in the internal operation of the ship, significantly reduced the financing risks. In at least one instance, it was a condition of obtaining funds on the American market to finance demise charters to a major oil company that the ships should be under the Liberian flag.

Besides the above financial advantages, flags of convenience also provide certain non-economic advantages. Flag of convenience registration can be useful if owners are reluctant to be identified with a particular country.
For this reason, both Israel and South Africa have made extensive use of flags of convenience. In a similar way, the major Greek independents preferred in the 1950s to register their ships abroad. Special efforts by the Greek authorities, coupled with liberal tax policies and revised maritime regulations, have induced a large amount of Greek owned tonnage to return to the Greek flag.

It is important not to underestimate the aspect of independence from state intervention in the decision of many owners to the flags of convenience. Various allowances and grants may often make operation under 'traditional' flags as economical as under flags of convenience. However, a strong tradition of secrecy, self-reliance and opposition to government regulation makes certain owners prefer the flags of certain socialist ports.

A particular aspect is the way many countries limit, by import restrictions or other means, the shipowner's choice of shipyards on the international market, and his opportunities to purchase second-hand tonnage. Swiss maritime law, for example, imposes severe requirements on domicile and nationality of owners as well as on the source of financial investment in their ships.

A further advantage to the owner of ships operating
under flags of convenience is that, in the event of war or other emergency, his ships would be less liable to control by the government of beneficial ownership. The United States have attempted to combat this by establishing formal contracts with owners, either by surety bonds or by arrangements to be associated with the war risk insurance; other ships are covered by letters of commitment. The United States Maritime Administration considered 1 that in 1968 some 45 per cent of the tonnage under the Panamanian and Liberian flags, as well as a further 44,000 g.r.t. flying the Honduran flag were 'under effective United States Control'.

We will now examine the various disadvantages faced by the shipowners operating under the flags of convenience. It is obvious that an owner under a flag of convenience cannot take advantage of fiscal and financial benefits which particular governments grant to vessels flying their flags. Fiscal benefits such as accelerated depreciation, investment allowances, etc., cannot generally put national owners in a better position than a flag of convenience owner except where the annual registration fee charged by the flag of convenience country is appreciable, but positive grants or the provision of loans at lower than market rates (unless

similarly favourable rates are obtainable elsewhere) can offer actual incentives to the operator to remain under the respective flag.

Compared with the major maritime nations, the flag of convenience countries are extremely limited in their provision of world-wide diplomatic and particularly consular facilities. As a result, it can be difficult for an owner using flags of convenience to have governmental support where it may be needed. Partly as a result of this, it is normal for the charter parties for Liberian and Panamanian ships to exclude, for example, certain socialist ports.

Flag of convenience ships will also, of course, be excluded from cabotage trades where these are reserved to ships of particular flags. There has been very little participation by flag of convenience ships in liner shipping or in liner conferences, which have traditionally been dominated by lines with direct national trade interests or by traditional cross-traders.

The existence of large fleets sailing under flags of convenience definitely affects world shipping. There are three aspects in this regard viz. Economic, Safety and Labour, which will be discussed in brief in the following paragraphs.
The flexibility of investment which flag of convenience owners enjoy through their tax status and the other advantages mentioned above have resulted in rates of development and modernisation of some of these fleet considerably above those of traditional maritime countries. This has been particularly noticeable since the mid 1960s; between 1963 and 1971 Liberian tonnage increased by 238 per cent compared with 45 per cent for the European members of the OECD and faster even than Japan and the USSR.

Flag of convenience owners have been in the forefront of the tanker and large bulk carrier development, with the first 100,000 and 300,000 tonners both under the Liberian flag. The same is true for combination carriers, though not for more specialised fields such as gas transportation or container ships. Of the 209 container ships on order on February 1, 1972, only five were for Liberian and none were for Panamanian registry.

Of the total world tanker tonnage of vessels over 10,000 d.w.t., however, 29 per cent were registered under flags of convenience at the beginning of 1972, thus forming together with the cross-trading tanker tonnage of the traditional maritime nations a world pattern with a relatively weak correlation between oil trading countries and the flags
flown by the tankers. It may be noted in passing, that at the time of Suez crisis and the boycott of several nations' flags by the Arab States, the presence of a block of tanker tonnage of politically uncommitted nationalities contributed greatly to the oil companies' freedom of action.

From a national point of view, registration under flags of convenience may mean the withdrawal of a productive element and source of employment and of income and tax revenue from the national economy. It may also affect the balance of payment through additional freight and charter payments in foreign currency. It may furthermore lead to unfairly low cost competition for the national shipowners and thus limit their productive capacity. In addition the safety and labour aspects discussed below, will be of concern to governments of traditional maritime countries.

From the point of view of the owners operating under traditional flags, the financial and other advantages enjoyed by the shipowners operating flag of convenience vessels can also be regarded as constituting a handicap in competition. This seems to be particularly relevant for owners in those maritime countries which offer no subsidies or no other incentives which might counter-balance the competitive advantage of flag of convenience fleets.
One of the problems of flag of convenience registrations is that the host countries are normally unable or unwilling to provide enforcement mechanisms for safety and social regulations. Generally speaking this does not apply to hull and machinery certification, since the major flag of convenience countries have transferred responsibility by requiring certification by international classification societies.

In other respects, international safety certificates are required by ships flying the flag of any State which is a signatory to the appropriate Conventions, including the flag of convenience countries. Liberia, Panama, Lebanon, Cyprus, Somalia and Singapore have all accepted the International Convention for the Safety of Life at Sea (SOLAS), 1960, and the International Convention on Load Lines, 1966, and Liberia also requires that ships under its flags should conform with, inter alia, the stipulations of the International Telecommunications Conference, 1966, the ILO Conventions Nos. 53, 55 and 58, the International Regulations for Preventing Collisions at Sea, 1960, and the International Convention for the Prevention of Pollution of the Sea by Oil, 1962.

1. Also accepted by Lebanon, Cyprus and Singapore.
2. Also accepted by Panama and Lebanon.
Liberia also lays down requirements in detail for the certification of officers. These are, however, formal requirements which can only have sense if the administration retains direct or indirect control of their fulfilment. This is sometimes lacking in the case of flag of convenience countries (as well as for certain other flags) and under such circumstances the ships involved may threaten the safety both of other ships and of the countries whose shores they pass.

A particularly blatant case of neglect of control over the required rules occurred in October 1970, when the Allegro (95,445 d.w.t.) and the Pacific Glory (77,648 d.w.t.), both laden tankers flying the Liberian flag, collided with the loss of 14 lives. In the subsequent Liberian inquiry, it transpired that three officers on the Pacific Glory and four on the Allegro did not possess the required Liberian certification and that the third officer of the Allegro, who was on watch at the time of the collision, held no certificate whatever. It appears that partly as a result of the public reaction to this accident, Liberia announced in April 1971, that it was to establish an inspection and enforcement system, by positioning qualified inspectors at major parts. A comprehensive evaluation on the licensing regulations and procedures is also envisaged.

According to information recently received from
the International Transport Workers Federation, a report compiled for Liberian Services Inc., in October 1971, revealed that almost half of the 1,600 officers serving in Liberian ships in 1971 did not hold Liberian licences and referred to cases where forged licences had been accepted and Liberian licences issued on the strength of them.

In the case of the larger and more reputable owners it may be a matter of enlightened self-interest to ensure that international regulations are observed, but it is certainly true that, particularly under Lebanese flag, smaller and less reliable owners have often offended against international maritime regulations. The Rochdale Committee refers to the case of certificate of competence as engineer issued by the consul of a flag of convenience country to a man with no previous engineering experience whatever. It remains true in every case that compliance with the safety Conventions is far better assured under the control and responsibility of governmental administration than left to the conscience or self-interest of owners.

The personnel of flag of convenience vessels have in various instances been given lower than average standards, especially during periods of shipping depression and abundant labour supply. The Greek Government, assisted by the
Panhellenic Maritime Federation, has organised a considerable number of foreign flag Greek-owned ships, and their effects can be gauged by the fact that the personnel on 1,242* such ships were included in Greek Seamen's Pension Fund coverage. The development of unionisation on flag of convenience ships has contributed considerably to the reduction of pressure by the International Trade Union movement since the 1958 boycott.

The seafarers on flag of convenience ships may also suffer from the fact that legal disputes, e.g. in the case of breach of a seamen's contract, will normally have to be pursued in the country of registration.

Because of the many problems created by the operation of flags of convenience, both the international as well as the national fora have taken steps to counter registration under them. These are discussed below.

1. As at 1.5.1971.
Up to the present time, the boycott of December 1958, organised by the International Transport Workers Federation, has been the only significant collective action against flag of convenience ships. Its incidence was extremely patchy. No support was given by shipowners and governments and the International Shipping Federation dissociated itself from the boycott, because it involved a breach of national collective agreements and, in some cases, a breach of national law. Nevertheless, the impact of the boycott, combined with a liberalisation of Greek maritime law, led to the only temporary decline of flag of convenience tonnage so far registered.

Intergovernmental action seems to have been limited to such relatively ineffectual measures as the attempt to deny Liberia its seat on the Maritime Safety Committee in IMCO (now IMO) in January 1959, which was rejected by the International Court of Justice in the Hague in June 1960. Liberia was on the MSC from that time until the autumn 1969, when she failed to secure re-election and actively participated in its work, as well as contributing an eighth of IMO's budget.

The other major attempt to control flags of convenience by international action was a group of proposals put forward by the International Law Commission, (ILC), aimed at establishing the principle of 'genuine link' between the State of Registry and the ship. These proposals were taken up at the United Nations Conference on the Law of the Sea, February 24, to April 27 1958. The subject occasioned extensive debate and the concept was incorporated in the Convention on the High Seas, Articles Nos 4 and 5 which are reproduced below:

Article 4:

'Every State, whether coastal or not, has the right to sail ships under its flag on the high seas'.

Article 5:

1. 'Each State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality

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of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ships; in particular, the State must effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.

2. Each State shall issue to ships to which it has granted the right to fly its flag, documents to that effect.

However, the proposal by the ILC that a clause of the form — 'Nevertheless, for the purpose of recognition of the national character of a ship by other States, there must exist a genuine link between the State and the ship' was rejected by the Conference in plenary session, as offending against the principle of national sovereignty. As a result, the Convention did not formally establish the right of a State to challenge a ship's registration on the grounds of lack of a 'genuine link'.

The Articles in the Convention on the High seas remain the definitive framework for judging a ship's nationality. The Convention came into force in 1962 when it had been ratified or acceded to by 22 nations, but although 50 countries had ratified or acceded to the Convention by the
middle of 1971, neither Liberia, Panama nor Cyprus were among them (although Norway, Greece, Germany and France had not ratified either).

If it has not been possible to discourage flag of convenience registration by enforcing international standards, those traditional maritime countries which desire to discourage their nationals from owing flag of convenience tonnage will have to act on the national level, either individually or collectively. Individual countries have made limited attempts to deter operations under flags of convenience by their nationals.

The Italian Government is preparing a draft law to require Italian Government authorisation for any immatriculation of Italian ships under a foreign flag under pain of severe penalties. At the same time, fiscal and other advantages are envisaged in order to encourage the repatriation of flag of convenience ships to Italian registry. Denmark has taken no measures to discourage flag of convenience transfers but a licence from the Danish authorities may be needed for carrying out the capital investment abroad connected with shipping operations under flags of convenience.

The United Kingdom has taken no measures specifically affecting transfer to or from flags of convenience,
but transfer of business without authority, from the sterling area is not permitted and this has in the past had an effect on the possible transfer of ships. Belgian ships cannot be transferred to any other flag unless specially authorised by the Ministry of Communications, and this only if at least 50 per cent of the ownership is sold to a national of the country concerned. (Thus flag and registry are strictly associated with at least 50 per cent ownership).

In Norway the transfer of capital to foreign countries is in general subject to government licensing and this applies also when a shipowner registered in Norway wants to transfer a Norwegian ship to a foreign flag while remaining owner of the ship or part of it. For the establishment of a subsidiary company in a foreign country or for participation in a foreign shipping company, an application has to be filed with the Norwegian Government. The Government pursues the general policy of rejecting applications for establishment under flags of convenience or other flags whenever the motive of the application is to benefit from the advantages offered by other governments. However, participation in vessels operating under flags of convenience has been granted exceptionally when such registration has been claimed by the foreign partner.

Under the national 'Flag Law' German owners residing
having their business seat in the Federal Republic of Germany cannot legally operate their vessels under flags of convenience. Several other States also do not allow individuals or companies to operate ships under other than their national flags, although in practice there is no way to effectively prevent the establishment, via intermediaries subsidiary companies in flag of convenience countries to hold the legal ownership of the vessel, while overseas subsidiaries for other purposes are permitted. Although Liberian law does not require the ownership of a vessel to be vested in a Liberian national or a local company, some 60 per cent are in fact owned by companies legally located in Liberia.

NOTE:

At a meeting on September 30, 1971, the Maritime Transport Committee of the OECD considered a report which formed the basis for the Annex to the ILO Report No.Doc. JMC/21/4 on which the above chapter is mostly based. The Committee felt that the subject was of sufficient importance to merit continued close study. During the discussions the view was expressed that flags of convenience posed two major problems; firstly, the danger of unfair competition resulting from special economic advantages and, secondly, the threat to the maritime community as a whole which might result from inadequate safety standards and their ineffective enforcement. The latter aspect, with its associated
danger of the environment seemed to require particular attention in the future, and this has been partly discussed in the following chapter.
### Table A

**Flag of Convenience Fleets (Vessels of 100 G.R.T. and Over) (As at MID-YEAR)**

*Source: Lloyd's Register*  
*Table A*

<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
<th>World</th>
<th>Americas</th>
<th>Japan</th>
<th>Australia</th>
<th>Brazil</th>
<th>South Africa</th>
<th>Spain</th>
<th>France</th>
<th>Germany</th>
<th>Italy</th>
<th>United Kingdom</th>
<th>Russia</th>
<th>Scandinavia</th>
<th>Germany</th>
<th>Canada</th>
<th>United States</th>
<th>Romania</th>
<th>Iran</th>
<th>Hong Kong</th>
<th>Greece</th>
<th>Singapore</th>
<th>China</th>
</tr>
</thead>
<tbody>
<tr>
<td>1971</td>
<td>1,500</td>
<td>1,500</td>
<td>750</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

**Legend**

- **World**: Total vessels of 100 G.R.T. and over registered in the flag country.
- **Americas**: Vessels of 100 G.R.T. and over registered in the Americas.
- **Japan**: Vessels of 100 G.R.T. and over registered in Japan.
- **Australia**: Vessels of 100 G.R.T. and over registered in Australia.
- **Brazil**: Vessels of 100 G.R.T. and over registered in Brazil.
- **South Africa**: Vessels of 100 G.R.T. and over registered in South Africa.
- **Spain**: Vessels of 100 G.R.T. and over registered in Spain.
- **France**: Vessels of 100 G.R.T. and over registered in France.
- **Germany**: Vessels of 100 G.R.T. and over registered in Germany.
- **Italy**: Vessels of 100 G.R.T. and over registered in Italy.
- **United Kingdom**: Vessels of 100 G.R.T. and over registered in the United Kingdom.
- **Russia**: Vessels of 100 G.R.T. and over registered in Russia.
- **Scandinavia**: Vessels of 100 G.R.T. and over registered in Scandinavia.
- **Germany**: Vessels of 100 G.R.T. and over registered in Germany.
- **Canada**: Vessels of 100 G.R.T. and over registered in Canada.
- **United States**: Vessels of 100 G.R.T. and over registered in the United States.
- **Romania**: Vessels of 100 G.R.T. and over registered in Romania.
- **Iran**: Vessels of 100 G.R.T. and over registered in Iran.
- **Hong Kong**: Vessels of 100 G.R.T. and over registered in Hong Kong.
- **Greece**: Vessels of 100 G.R.T. and over registered in Greece.
- **Singapore**: Vessels of 100 G.R.T. and over registered in Singapore.
- **China**: Vessels of 100 G.R.T. and over registered in China.
TABLE B

VEssel Types Under Flags of Convenience
(At 1.7.1971)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Tankers</td>
<td>763</td>
<td>22.31</td>
<td>183</td>
<td>3.24</td>
<td></td>
<td></td>
<td>10</td>
<td>0.11</td>
<td>10</td>
<td>0.12</td>
<td>26</td>
<td>0.09</td>
</tr>
<tr>
<td>Ore and Bulk</td>
<td>526</td>
<td>8.63</td>
<td>49</td>
<td>0.61</td>
<td></td>
<td></td>
<td>5</td>
<td>0.06</td>
<td></td>
<td></td>
<td>5</td>
<td>0.05</td>
</tr>
<tr>
<td>Combined Carriers</td>
<td>87</td>
<td>3.52</td>
<td>1</td>
<td>0.04</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Cargo</td>
<td>599</td>
<td>3.59</td>
<td>641</td>
<td>1.95</td>
<td>61</td>
<td>0.13</td>
<td>246</td>
<td>1.28</td>
<td>99</td>
<td>0.47</td>
<td>127</td>
<td>0.43</td>
</tr>
<tr>
<td>Container Ships</td>
<td>11</td>
<td>0.08</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Passenger Liners</td>
<td>5</td>
<td>0.09</td>
<td>7</td>
<td>0.14</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Liquidated Gas</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chemical Carriers</td>
<td>2</td>
<td>0.01</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fishing Vessels</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Research Vessels</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td>0.00</td>
<td></td>
<td></td>
<td>3</td>
<td>0.00</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td>46</td>
<td>0.12</td>
<td>96</td>
<td>0.11</td>
<td></td>
<td></td>
<td>15</td>
<td>0.05</td>
<td></td>
<td></td>
<td>23</td>
<td>0.01</td>
</tr>
</tbody>
</table>

Total               | 2,050         | 38.55          | 1,031        | 6.26           | 65            | 0.13           | 277          | 1.50           | 109           | 0.59           | 185             | 0.58           |

Source: Lloyd's Statistical Tables, 1971.
### TABLE C

**AVERAGE AGE AND SIZE OF FLAG OF CONVENIENCE FLEET**

<table>
<thead>
<tr>
<th></th>
<th>Mid-1965</th>
<th>Mid-1971</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Average size, g.r.t.</td>
<td>Average age, years</td>
</tr>
<tr>
<td>Liberia</td>
<td>13 600</td>
<td>10.3</td>
</tr>
<tr>
<td>Panama</td>
<td>6 500</td>
<td>14.8</td>
</tr>
<tr>
<td>Lebanon</td>
<td>5 000</td>
<td>24.7</td>
</tr>
<tr>
<td>Cyprus</td>
<td>...</td>
<td>..</td>
</tr>
<tr>
<td>Somalia</td>
<td>...</td>
<td>..</td>
</tr>
<tr>
<td>Singapore</td>
<td>...</td>
<td>..</td>
</tr>
<tr>
<td>World</td>
<td>3 900</td>
<td>12.1</td>
</tr>
</tbody>
</table>

1 Average age of tonnage calculated on a weighted average of Lloyd's Statistical Tables analysis by five year age groups, on the assumption that all vessels within a particular group had the age of the mid-point of that group.

**Source**: Lloyd's Register Statistical Tables.
### TABLE D

**BENEFICIAL OWNERSHIP OF FLAG OF CONVENIENCE FLEET**

<table>
<thead>
<tr>
<th></th>
<th>Greece</th>
<th>United States</th>
<th>Italy</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Ships</td>
<td>Million g.r.t.</td>
<td>Ships</td>
</tr>
<tr>
<td>Liberia ....</td>
<td>812</td>
<td>14.35</td>
<td>268</td>
</tr>
<tr>
<td>Panama ....</td>
<td>122</td>
<td>0.89</td>
<td>117</td>
</tr>
<tr>
<td>Honduras ....</td>
<td>-</td>
<td>-</td>
<td>9</td>
</tr>
<tr>
<td>Lebanon ....</td>
<td>29</td>
<td>0.10</td>
<td>-</td>
</tr>
<tr>
<td>Cyprus ....</td>
<td>169</td>
<td>0.97</td>
<td>-</td>
</tr>
<tr>
<td>Somalia ....</td>
<td>8</td>
<td>0.03</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total ....</strong></td>
<td>1140</td>
<td>16.34</td>
<td>394</td>
</tr>
</tbody>
</table>

**Source**: Greece: Journal de la Marine Marchande, 5 February 1970. Italy and United States: National delegations to the OECD.
### TABLE E

**BREAK-UP AND TOTAL LOSS RECORDS 1951-1970**

Annual Averages in '000 g. r. t. and per cent of total fleet

<table>
<thead>
<tr>
<th></th>
<th>LIBERIA</th>
<th>PANAMA</th>
<th>LEBANON</th>
<th>CYPRUS</th>
<th>OECD MEMBER COUNTRIES</th>
<th>WORLD</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>'000 G.R.T.</td>
<td>%</td>
<td>'000 G.R.T.</td>
<td>%</td>
<td>'000 G.R.T.</td>
<td>%</td>
</tr>
<tr>
<td><strong>1951-1955</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Loss</td>
<td>12</td>
<td>0.66</td>
<td>28</td>
<td>0.66</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Break-up</td>
<td>20</td>
<td>1.11</td>
<td>118</td>
<td>3.07</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>1956-1960</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Loss</td>
<td>39</td>
<td>0.41</td>
<td>39</td>
<td>0.91</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Break-up</td>
<td>86</td>
<td>0.89</td>
<td>153</td>
<td>3.59</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>1961-1965</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Loss</td>
<td>73</td>
<td>0.53</td>
<td>39</td>
<td>0.94</td>
<td>27</td>
<td>3.94</td>
</tr>
<tr>
<td>Break-up</td>
<td>136</td>
<td>0.99</td>
<td>128</td>
<td>3.11</td>
<td>38</td>
<td>5.62</td>
</tr>
<tr>
<td><strong>1966-1970</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Loss</td>
<td>154</td>
<td>0.62</td>
<td>66</td>
<td>1.31</td>
<td>20</td>
<td>3.84</td>
</tr>
<tr>
<td>Break-up</td>
<td>452</td>
<td>1.74</td>
<td>351</td>
<td>6.94</td>
<td>83</td>
<td>20.94</td>
</tr>
<tr>
<td><strong>1951-1970</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Loss</td>
<td>71</td>
<td>0.55</td>
<td>43</td>
<td>0.96</td>
<td>241</td>
<td>3.96</td>
</tr>
<tr>
<td>Break-up</td>
<td>173</td>
<td>1.18</td>
<td>188</td>
<td>4.15</td>
<td>611</td>
<td>13.28</td>
</tr>
</tbody>
</table>


SOURCE: Lloyd's Register of Shipping.
TABLE E

LOSS RECORDS OF THE WORLD AND FLAG OF CONVENIENCE FLEETS.
1950-1970

BREAK UP RECORDS OF THE WORLD AND FLAG OF CONVENIENCE FLEETS,
1950-1970

---

Note: Flag of convenience fleets considered - Cyprus, Lebanon, Liberia, Panama, Somalia
Source: Lloyd's Register of Shipping, Casualty Returns
### TABLE F

OTHER REVENUE FROM FLAG OF CONVENIENCE FLEETS.

<table>
<thead>
<tr>
<th></th>
<th>Liberia</th>
<th>Panama</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Exports</td>
<td>Dues</td>
</tr>
<tr>
<td></td>
<td>million</td>
<td>income as</td>
</tr>
<tr>
<td>$</td>
<td>percentage of exports</td>
<td>of GNP</td>
</tr>
<tr>
<td>1958</td>
<td>54</td>
<td>4.8</td>
</tr>
<tr>
<td>1960</td>
<td>83</td>
<td>1.4</td>
</tr>
<tr>
<td>1964</td>
<td>126</td>
<td>2.7</td>
</tr>
<tr>
<td>1969</td>
<td>168¹</td>
<td>3.1</td>
</tr>
</tbody>
</table>

¹ 1968.
² 1963.
³ 1967.

**Source:** Trade data for exports and GNP: UNCTAD. Handbook of international trade and development statistics, 1969 and supplement, 1970.
TABLE G

Scales of payments at the present time for the major flags of convenience.

<table>
<thead>
<tr>
<th>Country</th>
<th>Initial registration</th>
<th>Annual Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liberia</td>
<td>$1.20 per n.r.t.</td>
<td>$0.10 per n.r.t.¹</td>
</tr>
<tr>
<td>Panama</td>
<td>1 Balboa ($1.00) per n.r.t. Provisional permit $20.00 Permanent permit $25.00</td>
<td>10 centesimos ($0.10) per n.r.t.</td>
</tr>
<tr>
<td>Honduras</td>
<td>50 ctvos ($0.25) per n.r.t. N.B. Honduras imposes certain taxes on income from maritime affairs</td>
<td>10 ctvos ($0.05) per n.r.t. provided the ship has touched at a Honduran port during the year; if not, the fee is 1 Lempira ($0.50) per n.r.t.</td>
</tr>
<tr>
<td>Lebanon</td>
<td>LL4 ($1.22) per n.r.t. for vessels under 5 years old; LL3 ($0.92) for vessels over 5 years old.</td>
<td>50 piastres ($0.15) per n.r.t.</td>
</tr>
<tr>
<td>Cyprus</td>
<td>£3 ($7.84) per 100 g.r.t. Transfer of ownership £1.5 ($3.92) per 100 g.r.t. (Profits exempt from tax up to 1975)</td>
<td>1st 2 000 g.r.t. 75 mls ($0.20) Next 2 000 g.r.t. 100 mls ($0.26) Next 3 000 g.r.t. 125 mls ($0.33) Next 3 000 g.r.t. 150 mls ($0.39) Additional g.r.t. 200 mls ($0.52) (all per g.r.t.) £1 per month per non-Cypriot crew member</td>
</tr>
<tr>
<td>Singapore</td>
<td>$2.50 ($0.70) per n.r.t.</td>
<td>$2.20 ($0.06) per n.r.t.¹</td>
</tr>
</tbody>
</table>

¹These charges will not be increased during the 20 years following initial registration.