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Economic developments in the shipping industry: implications for seafarers

Flags of convenience are not a new phenomenon. The practice goes back to the 17th century when ship masters, in times of war, faked their place of residence in order to be able to operate their vessel under a neutral flag. It is for this reason that for a short span of time Stade, the little port not very far from here, was the most important Swedish port. Since at the time Stade belonged to Sweden, its fleet did as well. Flagging out in order to make use of a neutral flag went on till the Second World War, when a number of ships were operated under the flag of Switzerland. And it was also in the line of this tradition that the US Liberty ships which were to transport supplies for the Allies in the first years of the Second World War were flagged out to Panama. This state had already created a flag of convenience in 1923. It was effectively made use of since 1925. Every now and then it becomes evident that a neutral flag is still being made use of for the transport of weapons for one of the opponents in a civil war. But clearly, and as you all know, these political reasons are no longer decisive for the use of a flag of convenience. Today, the bulk of respective decisions follow exclusively economic rationality.

The respective advantages also have a historical background. Already in the 1930s some Greek and Spanish ship-owners used a flag of convenience in order to be able to pay lower wages. But the next step only occurred after the Second World War, when the US government decided to sell its liberty ships. Since it was obvious that the new owners would only be able to continue operating these very simply constructed ships for a short time, they used the flags of Panama, Liberia or Honduras, the so-called Panlibhon States. Amongst the advantages that these flags offered was already the absence of any legal obligation as far as the nationality and the wages of the crews were concerned. In the 1950s and 1960s flags of convenience were sometimes made use of, but ship-owners wanting to save their public reputation did not participate in this practice.

And these ship owners also continued using national ship registers when beginning with the 1960s wages of seafarers as well as the costs for the conditions of living aboard started to rise. More and more new ships were fitted out with single cabins and better sanitary facilities and

on many ships the food became much better. And this was not only due to the fact that refrigeration had become possible and was widely made use of but also because more money was spent on nutrition. The reasons for this development are at least twofold. The first was full employment in almost all of the leading maritime states of the period. It was very difficult to not only find enough men being willing to work aboard ship but to also keep them, and the second reason was the international discourse about the necessity of bettering working conditions which went on ashore and which also influenced the world of shipping. And then the tradition of the paternalism of ship owners and of their personal relation to their ships and to their captains had not yet been broken. If you talk with seamen having served the sea in these times they will not only recall the visits of ship owners before a ship set to sea and when it returned to the home port but also the many services that could be expected from ship-agents in former times: from bringing fresh bread and the latest newspapers to organizing transport ashore and many other forms of support for immediate needs. Today, the chores of agents refer much more to the cargos than to the crews, the little things which make the life of a seafarer easier to bear are now more or less exclusively furnished by the personnel of welfare associations.

These changes go back to the late 1970s, to the time that is, when the world of shipping was thoroughly upset by developments of the world economy. I will try to very briefly explain these developments, but am going to integrate these explanations into the elaboration of the three or rather four main phenomena which condition the development of the international shipping industry.

The first one is the fierce international competition which – at least since the middle of the 19th century is one of the characteristics of this economic branch. And already at that time newcomers used the advantage of low wages in order to achieve an entry into existing shipping relations. One of the most telling examples was provided by Prussian ship owners. They not only paid very low wages but also spent very little on the food for their crew. When Prussian ship owners first sent their ships to London these were usually called peas ships because the crews were served peas six and sometimes even seven days a week. At that time not only the competition between owners of only one or two ships was very fierce but also competition between the companies which tried to built up or to defend specific shipping lines. Since this could really prove devastating, some of these companies decided to form so-called “conferences” in the last decades of the 19th century.”Conferences” were organizations designed to lessen competition. We do not have to go into their various forms. The fact that

conferences were tolerated even in countries with rather strict laws against cartels is proof to the extremely hard competition. It was only in 2008 that the European Commission decided to ban shipping conferences. But at that time the importance of conferences had already dwindled because not only so called outsiders had managed to establish themselves as competitors but also because concentration processes in the branch of charterers had become more and more important.

The second characteristic of the shipping business I would like to draw your attention to is the phenomenon which economists - somewhat disrespectfully - call "*pig cycles*" or "*hog cycles*" The expression is derived from the fact that it does take quite some time to produce a hog which will fetch money on the market. Now, whenever the price of pork was relatively high, farmers usually decided to raise more hogs. When they brought them to the market, however, they had to realize that their individually rational investment strategy had been shared by many of their competitors. Their expectations, therefore, were disappointed. Not only the production of hogs but also the building of ships does take several months. And more often than not, not only a few but very many new constructions are being delivered when market conditions have already changed. Pro-cyclical investments have characterized the shipping industry since at least a hundred and sixty years. And it is one of the secrets of this industry that until this very day hog cycles have remained one of the main characteristics of the shipping business.

And then there also is the strategy which is typical of companies trying to built up and defend shipping lines. In January 2011 the Shipping Consultants Drewry published their opinion that "whereas the plunge in the red" of container transport in 2009 "could be blamed on external market forces the latest decline in earnings is partly of the lines' own making." (LL No 60, 336, 11th January 2011) This, they explain is being brought about by the fact that lines are holding or even cutting prices in order to fill their very big ships. Two months later Lloyd's List reported "a war over freight rates". (13th April 2011) It broke out because lines aimed at securing their market shares instead of putting the profitability of operating ships first. But since profitability cannot really be discarded, shipping companies focus on the one cost factor which is open to variation. While the price for oil, for port and pilot services and for many other cost factors like, for example, insurance rates is hardly open to bargaining practices, the costs for the crew, minor though they are in relation to the overall costs of operating a ship, offer possibilities for reduction. Managers of personnel therefore are on the lookout for

crewing agencies which offer conditions that promise to be less expensive than those that had been hitherto made use of.

The third characteristic of the shipping business is its almost total dependence on the development of the world market. There are small niches in which business might be less affected by conjunctures, but on the whole the shipping business is chased by the decisions of capital owners outside of the branch. And it is this dependence which can transform a hog cycle into an economic disaster. While the effects of hog cycles have always been felt, these were not devastating if there were not too many newcomers to the business and if the total demand for loading capacity was growing. This was the case in the time span from the 1950s to the beginning of the 1970s. In those years not only the world output in production but also the ratio of this output which was traded internationally was continually growing. It was the time when many banks were ready to finance 90 % and even 99% of the construction costs of a new ship. It was the same epoch to which I have been referring when I talked about the amelioration of the working and living conditions of seafarers on many ships.

While the growth of world production and hence of world trade was not broken at the beginning of the 1970s, the *ratios* of growth diminished. Higher wages had led to a profit squeeze and since no fundamentally new technology was offering new possibilities of investment at the time, capital owners were in dire need for new opportunities to invest. These were offered to them with the breakdown of the so-called Bretton Woods system, the monetary system which had been decided upon in 1944 in Bretton Woods in New Hampshire. This system consisted of fixed exchange rates between the most important currencies and the dollar. Small variations were possible. We can leave them aside. The functioning of the dollar as the leading currency was based on the promise of the US government that dollar would be exchanged into gold whenever a national bank so desired. In spite of many frictions this system was preserved until 1971. But then President Nixon declared that the gold base of the Dollar could no longer be upheld because the gold reserves of the US had been dramatically diminished. Not only had the costs of the Cold War and of the War in Vietnam reduced these reserves but the world production of gold had not been in pace with the demand for gold. When the system was definitely brought to an end in 1973 this offered opportunities to speculate on changes in the exchange rates of currencies, hence possibilities to invest in the financial market instead of in production. And these opportunities were extraordinarily augmented when one government of an industrial nation after another accepted the demands of capital owners to repeal the legal limitations on the mobility of capital which heretofore

had been in force. From these decisions stem the rapid growth of the bulk of financial investments and the growing political influence of the owners of financial capital. Investments in financial markets resulted in the further reduction of investments in production.

According to Angus Maddison (1987, 670) production in the most important industrial nations had been growing annually at an average rate of more than 5% in the years from 1950 to 1973. But world trade had been growing even faster during these years, at an average annual rate of more than 9%. But then the respective percentages for the period from 1973 to 1990 came to be an annual growth of production of a little over 2 % and an annual growth of world trade between three and four percent, at least five 5% less than in the first period. Since most internationally traded commodities were transported on ships, this slackening of the growth rates of world trade directly affected the shipping business.

But the oil shock made an already very difficult situation worse. When in the mid- 1970s the OPEC states decided to decisively raise the price of oil this not only made production factors go up in price but it also directly hit the shipping business. Not only were operation costs much higher than they had been before, but the demand for the loading capacity of tankers diminished dramatically. And if the world fleet of tankers had grown continually since the 1950s it had grown very much faster during the 1960s and the first two years of the 1970. In 1971 ships with tanker transport capacity surpassed the non-tanker fleet. (Stig Tenold, 2006, 9) At that time transport rates were very high because the supply of loading capacity was still definitely below the demand. It was for this reason that the construction of very many new tankers had been commissioned. And they were to be even bigger than the ones having been delivered until then. But then the demand for tanker transport capacity dropped suddenly and decisively. Many tankers, not only those having already been operated but also those which were newly delivered had to be laid up. Shipping companies cancelled construction contracts, but sometimes this was only possible with heavy financial liabilities. Several of the very big Norwegian companies having been engaged in the transport of oil went bankrupt. These bankruptcies were only the most obvious disasters. Almost all of the companies faced very severe difficulties.

The shipping crisis was aggravated by the near breakdown of the second hand market in ships. While in the years preceding the crisis a ship which had already been operated for some years could fetch a price which was more or less equal to its original price, the situation was dramatically altered in the last years of the 1970s. This made it possible for ship owners in developing countries to buy additional ships and for capital owners in these countries to invest

in ships and set up a company. Of course, they faced the same difficulties on the world market for transport as their competitors in the countries which until then had been dominating the international market. But even if they had to hire officers from the heretofore leading maritime countries and had to offer them wages that were only a little lower than the ones this personnel had become used to in the preceding years these new shipping companies could hire crews at wages which were definitely lower than the wages of crews in Europe, the USA or Japan. These newcomers therefore had a good chance to compete on the world market and these chances were not decisively diminished by the fact that they were usually not admitted as members of conferences. This development not only aggravated the crisis, the presence of many newcomers on the markets also transformed the international competition in the shipping business into globalized competition.

It was in this situation that more and more ship owners in the heretofore leading maritime countries decided to flag out at least some of their ships in order to also be able to pay lower wages. At first they usually decided to flag out old ships and they usually did not decisively lower the standard of security devices having been installed on their ships. After a few years, however, the decisions to use a flag of convenience became more and more common. And there appeared more and more of these flags on the world market the state agencies of which made it relatively clear that not only did they refrain from legally prescribing the nationality of crews but that they were also willing to tolerate low standards of security. When the governments of heretofore leading maritime nations realized that they could not stop the practice of using flags of convenience they created so called international registers. Some of these, like the Norwegian, Danish or German international register are directly administered by the respective states, while France uses the flag of the Kerguelen Islands as its international register and Britain the Flag of the Isle of Man. In the meantime there are hardly any ships in all of these national fleets that are not registered in the respective international register. You all know that not only wages but also other conditions of labor for seafarers who are not citizens of the respective states or – in the case of Europe of a European state - correspond to those which are offered when a ship is being operated under a flag of convenience. This correspondence has grown in recent years because the conditions offered by flags of convenience have developed into internationally relevant bench marks for labor conditions. Profits of the shipping industry are still reaped in a very few countries, most of them in Greece, Japan and Germany, but the percentage of the world tonnage which has been registered in open flags has been growing rapidly. In 2005 this percentage still amounted to 50% of the world tonnage. In the meantime it has risen to 70%. Of course, flag states are

nominally still flag states. But nobody would assume that the ships which are operated under the flag of an open register are really swimming parts of a specific nation state. Seafarers of today, therefore, live in a political no-man's land.

The fourth characteristic of the shipping business is its dependence on political situations. I will not go into this, but only remind you that we do not have to think of really big wars but that also specific political developments like the crisis over the Suez Canal in 1956/57 or the overthrow of a government can have severe repercussions and that in cases like these not only the shipping business is affected. In 1956/57 many seafarers were imprisoned on their ships in the region for months and months. And today they face the dangers of piracy. While these dangers are often described as resulting exclusively from the acts of criminals they are, at least in the case of the piracy off the coast of Somalia, also the result of the fact that the international political community has refrained from any serious endeavor to stabilize the political and therefore also economic situation in this country by non-military measures. And the international political community has definitely refrained from assisting Somali fishermen in preventing foreign fish trawlers to enter the Exclusive Economic Zone of their country, to which Somalia, just like any other coastal state, has a right since the United Nations Law of the Ocean has been adopted.

I started out this contribution by stating that three or rather four phenomena are decisive for the historical development of the shipping business. All of them are present until this very day. And it is against these conditions that the ITF has to try to reach and to defend agreements with ship owners and that the ILO has to try to not only achieve the adoption of conventions but to also make them work. I know that all of those who have been engaged in bringing about the „Consolidated Maritime Labor Convention“ conceive this as being a decisive step forward in bettering labor conditions for seafarers but I continue to be pessimistic. In the context of the international shipping industry market forces have more often than not weakened the effects of regulation. Since you have already discussed this new convention I will refrain from re-opening the discussion but only ask one single question: Can you imagine any captain daring to insist in these days that a charterer take into account the right to shore leave? If this is hardly to be thought of in normal times, it clearly becomes impossible in a time of crisis when shipping companies are almost frantically searching for charters. I might go on to discuss how much courage it takes for a captain to ask the United States Coast Guard for allowance to seek shelter in the lee of the Aleutian Islands during a very heavy storm. Of course, he knows, that the charterer has paid for weather routing and

will not only immediately want to know when the ship will get under way again, but will also threaten to put the ship off hire and call the company in order to demand the removal of the master. (Michael Grey, LL Jan 27th, 2011) Legally masters have always been and they still are responsible for the safety of the ship and the crew, but this responsibility is only seldom recognized in the offices of the charterers where the logistic of transport is worked out.

I might go on to talk about the loneliness of most seafarers and about those who suffer more because they are constrained to live very closely together with a small group of people for weeks and weeks, about the difficulties to communicate with one's family, because not all masters are willing to print out e-mails addressed to crew members which he finds on his PC, and not all crew members would wish to have him read these mails; I could mention the difficulties in trying to talk to each other during the free hours because ship-English is not sufficient for anything more than just that: matters of the ship; I could go on about experiences of prejudice, racism and even of outright bullying and about many more aspects of life aboard about which, I am convinced, you know more about than I do. And then, of course, there are the effects of the ISPS Code, an international measure to prevent potential terrorists entering the shore by institutionalizing suspicions against every seafarer, let alone the specific regulations for the US Coast Guard. If these have been somewhat ameliorated in recent times the last Shore Leave Survey published by the Center for Seafarers' Rights still lists a high ratio of formal restrictions as well as of material restrictions through the fact that high transport and/or escort fees are charged. (www.seamenschurch.org) And then there still is the US-requirement of a D-1 visa. We have got so much used to this requirement that we rarely pause to wonder about the fact that the labor force making globalization possible is often denied access to the world ashore.

I will conclude by drawing your attention to some developments which refer to *changes in the labor of seafarers*. The ones I decided to focus on also go back to the 1970s. When more and more crews started to consist of members of different nationality, the numerical size of crews also started to be reduced. In the course of thirty years the average crew size has been "chopped by 75%". (I used the expression of Michael Grey, June 27th, LL) If this was clearly motivated by the endeavor to reduce costs, seemingly convincing excuses were offered by technological developments or rather by the explanations which ship yards put forward in their advertisements for new technology. Not only were the managements ashore quite ready to believe that containers made skilled deck crews totally superfluous but they were also ready to let themselves be convinced that the so-called watch free engine did not afford

constant control and regular maintenance and that modern engines were no longer prone to develop serious problems or to even prove unreliable. They therefore assumed that ratings which came aboard with only a rudimentary professional education would be able to effectively assist officers in controlling the engines and in overcoming the minor problems which, once in a while, might occur. Any real problem, improbable as it might be, would be solved by specialists to be sent aboard during a short stretch of a journey. This lovely picture of modern technology differs decidedly from the realities which engine crews have to face even on very modern ships, let alone on the no so very modern ships still being operated. If most ship engines today are, indeed, watch free, engineers do not necessarily get more sleep than in former times, because now every malfunction, and be it ever so little, is transmitted as an alarm in their cabins. In order to find out what the alarm was about they have to go down to the engine room. And ratings working in a watch free engine certainly do not have more chances to go ashore or to even remain on deck longer than a few minutes in order to look at some spectacular landscape while the ship is in port. Most of the time they will be busy with maintenance work only being possible when the engine is stopped. But this is not only a problem of missed shore leave or of long hours but also of competence. Because an engine crew will only manage to, for example, change a fuel injector during the very short time they have at their disposal, if they have acquired the necessary skills.

We all know that the many accidents which have occurred when the practice to flag out became widespread has led to the deliberation and to the conclusion of a convention on “Standards of Training, Certification and Watchkeeping” in 1978 and that this IMO Convention has been revised in 1995, a new revision having been drafted in 2010. And we also know that Port State Controls have been established in order to control the adherence to these as well as to other regulations which have been internationally agreed upon. While skeptics like myself have always pointed out that Port State Controls focus on documents and not on actual competency and that in many ports it is possible to influence the outcome of controls through bribes, there is no denying that these controls did, indeed, have some positive effects. Not only did the total number of accidents per year drop for some time, but several of the long established flags of convenience are today amongst those with a relatively low number of detentions by port state controls. On the other hand, not only Honduras and other notorious offenders but also the very important flags of Panama and Malta have seen high rates of detentions in 2010. (Lloyd’s List June 6th, 2011) And there is also no denying that the total number of accidents per ship year has again been growing markedly since the turn of the century. (Richard Meade, Lloyd’s List, 24th May 2011) Three months ago the influential

classification society Det Norske Veritas stated that declining safety standards proved lax approaches to training across the industry and that companies must now be prepared to fire crew if they do not reach the required standards. (op. cit.) The authors of the 2010 draft of a revision of STCW 95 tried to tackle the problem by once again stressing the necessity of measures to prevent fraudulent practices associated with certificates of competency. (Chapt. I) It might also help if overlong working hours and hence fatigue were prevented. But who really believes in the success of such measures? In my opinion, however, the real problem is neither sufficiently explained by the harsh competition over jobs which tempt applicants to buy a forged certificate nor by the economic pressure which provokes further intensification of labor aboard. One has also to take into account the effects of personnel management which have become dominant. Today's shipping companies do not see any real difference between ordering a new screw driver or a new rating, an item to be easily exchanged by an order on the world market. There are exceptions but on most ships the composition of engine crews is constantly changing. This endangers the training of personnel on the job. When an engineer starts working again after some weeks or months ashore he will always find a different engine crew. And this will also be the case if he comes back to the same ship. The practice of ordering ratings from the agency which offers low wages and the practice of agencies to send out ratings to ships regardless of their employment during a former contract makes for constant change of personnel. This would demand of engineers that they once and again start all over with slowly and repeatedly explaining and demonstrating specific procedures. There are engineers who are willing to do so, but many others who have long ago decided that this cannot be expected of them, sometimes even coming to the conclusion that those foreigners from faraway countries are simply not capable to really understand the functioning of an engine. Even if controls of the professional training centers ashore and measures against forged certificates will become more effective there still remains the problem that as far as the acquisition of the skills of a seafarer is concerned things have not changed quite as radically as is often assumed. Learning by doing and being trained on the job has remained a necessity. And this would be much enhanced if the managers of personnel would try to do lessen the constant change of crew members. Shipping companies can do nothing against the pressures of competition, but they can envision strategies of building up well trained and reliable crews by demanding of crewing agencies to repeatedly send well trained seafarers to a certain ship or at least to one of the ships being operated by a specific company.

In my opinion the disregard of crews is not only endangering the quality of training but may also prove to be counterproductive the safety of ship and crew. The "International Safety

Management Code” (ISM) transferred the responsibility for safety measures to the ship operators. In order to receive the necessary certificates the operators had to develop “safety management systems” for their ships and to appoint a “designated person” who is to guarantee regular communication between the ship and the management ashore. Safety management systems prescribe how key shipboard operations are to be fulfilled and they also prescribe how dangerous situations are to be dealt with. In order to prepare for such situations regular safety drills have to be held aboard. At the end of each of these drills a meeting with the whole crew is to be organized. Theoretically this would be the time when not only the officer in charge would voice and explain his interpretation and critique of the drill but when junior officers and ratings could also express their opinion and make suggestions.

Unfortunately, the fear to appear as somebody who is not following orders without questioning them usually prevents any such statement. When Syamantak Bhattacharya collected opinions on seafarers’ participation in safety management aboard he was told by ratings that they were afraid to take part in any discussion about the drill because the captain may put a bad remark in the confidential report to the crewing agency, thereby minimizing their chance to once again get a contract. While this reluctance to voice one’s opinion must not necessarily immediately endanger the safety of a ship Bhattacharya is certainly correct in stating that “a wider participation from ratings who could have usefully shared their concerns backed up with their knowledge and experience of risk posed in the workplace [would enhance safety aboard]. (Bhattacharya , 1987, p. 170) One could add that in the case of a really dangerous situation the formal procedures prescribed in the safety management systems are rarely sufficient. Indeed, they might even be fallacious. In all of the ISM safety manuals which I have had a chance to take a look at it was prescribed that the most important thing to do in case of an emergency was to establish the contact to the management ashore, in none of them did I find anything on the importance of the crew making use of its training to overcome the problems at hand. I am not the only one in thinking that hierarchy, be it hierarchy aboard or the hierarchical relation between the management ashore and the bridge team may not always prove to be functional for safety measures. Evidently, this is also the conviction of members of the UK’s National Maritime Health and Safety Committee. In their recently published guidelines on limiting human error they stress that safety cannot really be achieved through the application of the International Safety Management Code. Instead, they content, safety requires “that crew members...take responsibility both for their own safety and for the safety of others, and simply not tolerate unsafe acts or conditions”. And this should not only imply mutual observance and critique amongst ratings but also observance and critique of

officers by ratings. The Committee lists several conditions for the development of a behavioural safety system aboard, the most important one being that everyone must have the opportunity to contribute and to be involved. (Loyd's List, March 30th, 2011)

This brings us back to one of the central problems of shipboard organization: hierarchy. Many still seem to assume that hierarchy is something like a natural law aboard ships. But not only ashore but also aboard ships strict command and order are not sufficient for the smooth management of labor. Unfortunately this insight has to come up against the fact that the internationalization of crews has, once again, hardened hierarchical practice aboard. The usual explanation being: "They expect it and they need it." Maybe the argument that critical observation of officers by ratings is a prerequisite for an effective safety system can encourage those who think it high time to question the necessity of strict hierarchy aboard.

Literature which has been cited:

- Bhattacharya, Symantak (2007) Seafarers' Participation in Safety Management On Board Cargo Ships; SIRC, Symposium 2007 ; www.sirc.proceedings
- Maddison, Angus (1987) Growth and Slowdown in Advanced Capitalist Economies, Techniques of Quantitative Assessment; in: Journal of Economic Literature, Vol. XXV, p. 670
- Tenold, Stig, (2006) Tankers in Trouble: Norwegian Shipping and the Crisis of the 1970s and 1980s (International Maritime Economic History Association, St. John's Newfoundland)
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