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WORLD MARITIME UNIVERSITY
Malmö, Sweden

**THE OPEN REGISTRY QUESTION OF SEAFARER
WAGES AND EMPLOYMENT CONDITIONS AND
THE POSITION OF THE ITF**

By

MD. EBADOT ALI

Bangladesh

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

MASTER OF SCIENCE

in

**GENERAL MARITIME ADMINISTRATION AND ENVIRONMENT
PROTECTION**

1995

DECLARATION

I certify that all the material in this dissertation that is not my own work has been identified, and that no materials is included for which a degree has previously been confirmed on me.

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

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ABSTRACT

This dissertation is a study of the open registry question of seafarer wages, employment conditions, performance standards, comparing with those of the traditional maritime seafarer of developed countries, and the position of the ITF, and other organisations over open registry system as well.

The opening chapter of this dissertation has evaluated the growth and development, and characteristics of open registry system. Examining these aspects of open registry, it is assessed that open registry is a necessary demand for merchant shipping industry. Because it has provided shipowners the advantages of reducing their operating costs and many other facilities to compete more effectively in a free market environment in merchant shipping industry.

The issues of open registry seafarers wages, employment situation, working conditions, and their standards, and the manning of open registry ships have been examined in the succeeding chapters and it is found that: (1) average wages of open registry seafarers are not below the ILO standards; (2) average quality of open registry seafarers are not so bad compared with their western counterparts; (3) some major registries are enforcing minimum standards of national/international rules and regulations concerning manning of ships to ensure safe operation of ships, safety of life and property at sea, and prevention of marine environment; while others are flexible to comply these national/international minimum standards. Rather they leave these to the shipowners to comply with such standards according to their wish.

Over the issues of open registry shipping and its seafarers, the position of ITF and other organisations have been discussed. And it is found that: except ITF and its

affiliated developed countries seafarers unions, by this time, other organisations have admitted the very existence of open registry shipping.

The concluding chapter summarises and examines the potential use and implications of open registry system as well as open registry seafarers. A number of recommendations are made concerning the necessity of open registry seafarers and open registry system as well.

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CHAPTER 1

INTRODUCTION

1.1. A GENERAL VIEW ON THE OPEN REGISTRY SHIPPING:

The Merchant Shipping Industry itself is a part of international business. Like so many other commercial enterprises, the basic propensity of this business is also to make profits by using and exploiting its opportunities and scopes up to the maximum level. The inception of an open registry shipping or the phenomenon of shifting of shipping from one flag to another has been, thus, primarily motivated by that simple pursuit of the profit making process done by the shipowners as well as by the ship registers. From the ship registers point of view, the world merchant shipping, at present, is broadly divided into two separate groups as:

- (1) the traditional but national state oriented shipping, and
- (2) the open registry shipping.

The open registry shipping has been set up with the specific aim of offering internationally more simple and competitive terms and conditions to the shipowners for registering their vessels, often as a means of earning revenue for the flag states as well as for the shipowners. The terms and conditions offered by the international registers (open registers) vary considerably, depending upon the policy of the country concerned. Some open registries are highly professional and enforce international rules, regulations, recommendations and conventions on safe operation, safety of life and marine environment for the operation of ships, whilst others are less vigilant, allowing ship owners to cut corners. But these terms and conditions are usually favourable to the merchant shipping industries.

The use of an international open register, according to Professor Martin Stopford, generally involves payment of an initial registration fee and an annual tax, which enables the register to cover its costs and make a profit. In return, the register offers a legal and commercial environment specially designed to suit a ship owner trading internationally.(1) S. R.Tolofari defines an open registry state is a state which has a declared policy of selling its nationality to shipowners for the registration of ships under the state as a means of earning national income in the first instance, and not necessarily as a means for effective control and jurisdiction, by offering shipowners condition of ship registration which they find commercially and economically attractive in comparison with the conditions under their own flags for the purpose of obtaining cost and fiscal advantages which make them internationally competitive.(2) But although this definition is generally true, it is not fully applicable to some representatives of open registries. some of the major open registries also examine the ships concerned and their documents to determine whether minimum standards or national and international rules are complied with before offering a registration.

1.2. ORIGIN AND DEVELOPMENT OF THE OPEN REGISTRY:

The ship registration practice under open registry is not a new phenomenon. Historically it is evidenced, as B.N.Metaxas says, that shifts of maritime activity from one flag to another are as old as modern national states and some cases they (shifts of flags) have been preceded their (modern national states) creation.(3) During the Roman Empire, Roman shipowners placed their vessels in Greek Registry for military reasons.(4) While the earliest example of open registry originated basically from political or military reasons, the modern practice depends largely on a foundation of economic and commercial considerations. B. N. Metaxas discussing the origin of open registry mentions that the political uncertainty in Europe in years leading up to the Second World War, tax avoidance (including double taxation in the case of bi-national joint ventures in shipping) and the excessive formalities imposed by bureaucratic state mechanisms in the maritime sector all have played a role in the

origin of the modern open registry.(5) Drawing upon the famous book "Open Registry and Flag of Convenience", written by G. B. F. Cooper, another author, Martin Stopford, written on the field of maritime affairs, indicates that the movement (modern) towards international open registries started in the 1920s when US shipowners saw registration under the Panamanian flag as a means of avoiding the high tax rates in the United States, while at the same time registering in a country within the stable political orbit of the United States. There was a spate of registrations during this period, but the real growth came after the Second World War when the US Government sold off liberty ships to US owners. Anxious to avoid operation under the American flag, US Tax Lawyers approached Liberia to set up an advantageous regime for ship registration, and the registration conditions in Liberia were developed specially to attract shipowners to register under that flag on payment of an annual fee.(6)

Under the above discussions, it is clear that the modern open registries started in the recent past; but, the real development of this phenomenon came immediately after the end of the Second World War. Professor Herbert R. Northrup and Richard L. Rowan write in their authoritarian book, "The ITF and Flag of Convenience", that in any case, by 1948, the situation of ships effectively owned by companies in one country being registered in another country was expanding.(7)

We have already found that the USA as the modern pioneer of using open registry and that it still remains as one of the largest users of this practice. The other major users in this field are: Greece, Japan, Hongkong, U.K., and Norway. The Table 1.2.1. shows the major users of open registries, their total percentages of fleet registered by open registries, and total percentage of Dead Weight Tonnage (DWT) shared by these ships.

Table 1.2.1: The major users of open registries, their total number of Fleet registered under open registries, and total percentage of Dead Weight Tonnage shared by their open registered ships :

Country	Total No. Of Fleet registered under OR	Total Percentages of DWT shared by OR ships
Greece	54%	55%
Japan	26%	60%
USA	55%	68%
Norway	66%	39%
Hongkong	73%	84%
U. K.	56%	90%

Source: Lloyd's Register of World Fleet Statistics, December 1993.

Among the open registry nations Panama, and Liberia have traditionally registered the largest number of vessels, carrying most of the tonnage. The other major nations are Cyprus, Honduras, and Bahamas. Table 1.2.2. shows the number of Flag of Convenience ships and their gross tonnage (in million) registered in those five major open registry countries.

Table 1.2.2: The Rank of Five Major Open Registries, Number of Flag of Convenience Ships and their Gross Tonnage (in million) :

Rank	Country	Number of FOC Ships	GT. in million
1	Panama	5564	57,62
2	Liberia	1611	53,92
3	Cyprus	1591	22,84
4	Hondurus	1203	1,11
5	Bahamas	1121	21,22

* Source : Lloyd's Register of World Fleet Statistics, December 1993.

As we have already seen (1)Panama, and (2)Liberia were the pioneers of modern open registry shipping, and still they are offering registries to shipowners. Apart from those two, the other open registries are, according to ISF, as follows:

- (3) Antigua and Burbuda,
- (4) Bahamas,
- (5) Belize,
- (6) Bermuda,
- (7) Cayman Islands,
- (8) Costarica,
- (9) Cyprus,
- (10) Denmark (DIS),
- (11) Djibouti, :
- (12) Gibraltar,
- (13) Hondurus,
- (14) Hongkong,
- (15) Isle of Man,
- (16) Kerguelan Islands,

- (17) Luxembourg,
- (18) Madeira,
- (19) Malta,
- (20) Marshal Islands,
- (21) Mauritius,
- (22) Netherlands Antilles,
- (23) Norway (NIS),
- (24) Palau,
- (25) Sao Tome and Principe,
- (26) Singapore,
- (27) Srilanka,
- (28) St. Kitts and Nevis,
- (29) St. Vincent and the Grenadines,
- (30) Turks and Caicos Islands, and
- (31) Vanuta.(8)

According to ISF, The Republic of Djibouti is the latest addition offering the open registry practice to the merchant shipping market. However, apart from those countries, as per ITF identification, Germany(GIS), Maderia, Portugal, and The Philippines are also offering the open registry activities. Of them Germany, Madeira, and Portugal are offering second registries allowing foreign crews on board. The Philippines registry is allowing bareboat chartering for foreign owned ships to Philippines.(9)

From the above mentioned statistics and the list of open registry countries we can easily understand that with the growth and development of the OR ships over the years, the share of the traditional maritime countries has declined in terms of ship registration, considerably. One ITF studies shows that since 1988, the world's total fleet (cargo and passenger) size has grown by 12% because of the growth of the

transfer capital from one flag to another without having any restrictions to their accounts.

(3) THE SAFETY AND SOCIAL STANDARDS:

A further important benefit of open registry exist in the reduced safety and social standards and the laxity in the implementation of maritime safety and in the prevention of marine pollution.(15) But, in this connection, international open registry vary widely on the extent to which they enforce safety standards on their registered ships. Some enforce relatively high standards, for example Panama and Liberia, while some others leave safety to the shipowners.

(4) THE FLEXIBILITY:

Flexibility in almost every spheres of activity is facilitated by open registry shipping which has given an extra advantage to the shipowners to register their ships in the open registry. In this respect there is a very wide debate whether all open registered vessels are flexible in complying international rules or not. However, this study does not concentrate on this wider issue except manning and working conditions of seafarers. But it is true that Some renowned open registries routinely enforce national and international rules and regulations to ensure safe operation of ships, safety of life at sea and prevention of marine pollution. Others are quite flexible and leave it to the shipowners to comply with such rules and regulations according to their wish.

In summary, we can say that due to the various differences in open registries and national registries as found in operating and management costs, registration fees and taxation, wages, working conditions, manning requirements, and deviation in safety and social standards, along with greater flexibility in many other respects, shipowners have been attracted to shift their flags from national to international flags.

seaborne trade. Between 1992 and 1993, the world's fleet grew in total by 1,01%, being a 3,06% increase in Gross Tonnage(GT.). During the same period, there was a much higher growth amongst open registry vessels. OR ship numbers grew by 8,64% and GT. grew by 8,92%. In 1993, 41% of the world's gross tonnage was shipped under a OR, while 18% of the world's fleet were OR ships.(10)

1.3: THE MAIN FEATURES OF THE OPEN REGISTRY:

The wide spread growth of open registry shipping has afflicted, more or less, the merchant fleet of all traditional shipping nations. The above stated trends suggest that owing to restrictive national fiscal policies in the developed maritime nations, the shipowners of those traditional maritime countries are shifting continuously their vessels from their own countries to the open registry countries in search of more economic and commercial benefits in the merchant shipping industry. As we have already understood that the open registry practices can facilitate some comparative advantages over the traditional maritime registries of shipping, in this context, Dr. Boleslaw describes the open registry as the flag of any country allowing the registry 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.(11) However, under this background, we have to think about why the shipowners are so interested to register their ships to an open registry country instead of their own respective countries. In reply to this question we can also understand that there are some considerations that attract shipowners to choose open registry in lieu of the traditional national flags. These considerations are:

- (1) the operating costs (including crew costs and the manning requirements),
- (2) the ship registration fee and taxation,
- (3) the safety and social standard, and
- (4) the flexibility.

(1) THE OPERATING COSTS:

Open registry offers shipowners a comparative advantage of operating costs with minimum constraints for choosing the most economical ship builder, ship repair yard, selection of crews etc., that allow them to compete effectively in the free market. It does not restrict the owner as to ports where the vessels may enter or where customers may or may not be served. The owner is not even bound to be subject to extensive government trade and financial requirements.(12) Rather, some flag states extend credit facilities and freedom in buying, selling and chartering vessels(13) that also encourage shipowners to place their ships in open registries.

Moreover, in traditional national shipping, the shipowners are bound to follow the national recruitment rules, national pay scales and other formalities to man the ship; here they are not able to look for the cheapest labour market; can not recruit non-national seafarers for lower wages and more limited lower cost social security, and pensions schemes. By flying OR vessels, shipowners are able to avoid national manning requirements, employment rules, crew working hours requirements, high wages and so forth. However, some specific regulations on the manning requirements, training, education and certification may be required for registration of ships to some major registers, depending on the policy of the respective registries.

(2) THE SHIP REGISTRATION FEE AND TAXATION:

Under the open registry, there is no need to pay taxes on profits to the respective register; or, in other words, the open registry has no fiscal control over the ship owners. The only tax is the subscription tax per net registered ton.(14) But under national shipping options, the shipowners are compelled to pay comparatively higher taxes and registration fees for their vessels. Similarly they are restricted on raising and transferring capital by the national rules, regulations and administrative orders. Conversely, under the open registry, shipowners have ample freedom to raise and

The British Committee on Inquiry into Shipping, 1970, characterised six features⁽¹⁶⁾ as being common to open registry. These are:

1. The country of registry allows ownership and/ or control of its merchant vessels by non-citizens;
2. Access to registry is easy. A ship may usually be registered at a councils office abroad. Equally important, transfer from the registry at the owners option is not restricted;
3. Taxes on the income from the ships are not levied locally or are low. A registry fees and annual fee based on tonnage are normally the only charges made. A guarantee or acceptable understanding on the future freedom from taxation may also be given;
4. 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 effect on its national income and balance of payments;
5. Manning of ships by non-nationals is freely permitted; and
6. The country of registry has neither the power nor the administrative machinery effectively to impose any government or international regulations; nor has the country a wish, or the power, to control the companies themselves.

But this characterisation of the open registry is general in nature. It does not apply to the changing situation found inside some of the major registries, particularly in the case of the Panamanian Registry and the Liberian registry. Today, they are trying to impose national/international rules and regulations upon their registered ships for its safety and marine environment protection.

1.4. SOME CONTROVERSIES OVER THE OPEN REGISTRY:

It is clear that "ship registration has become an industry in its own right... actively marketing their services to the international shipping community, but, according to IMO compendium, (17) it has still remained one of the running controversies in the

shipping industry.” IMO Compendium added (18) that generally the following charges are being raised against the open registry system:

1. FOC lead to a destructive and unfair competition or at least are distorting competition.
2. FOC prevent developing countries from acquiring a greater share in world shipping or at least impede it.
3. FOC provide opportunities for shipping companies to reduce costs by neglecting labour and social conditions as well as safety requirements; by this FOC at least encourage casualties, poor working conditions and/or breaches of labour agreements.
4. FOC might be a means of driving back achievements of trade unions of seafarers in developed and developing countries.
5. FOC make it extremely difficult, by lack of transparency, for third parties (including interested governments) to obtain pertinent information regarding the real owners or operators.
6. FOC make certain statistics on the distribution of world fleet by countries unrealistic.
7. FOC might encourage the assignment of the duties for control and responsibility for compliance with international rules and standards more to owners and operators than to the flag states.

All these charges raised against the FOC are not beyond any debate. Since different parties are involved with this mechanism and they have multiple types of interests. From ship owners point of view, it has increased their profits that help them to compete with the shipping business to the international shipping markets. The national seafarers of the developed countries found it as quite opposite to their interests. Because it allows non-national seafarers from the labour supplying countries to work on board foreign ships. As a result it has reduced their job opportunities. Conversely, the non-national seafarers of the developing countries have found FOC to provide a solid foundation for the opportunity to attain more jobs on foreign ships with

comparatively higher pay relative to their national pay scales. On the other hand, as we have already mentioned, some of the renowned open registries have by this time tried to improve their ship registration conditions by complying with national /international rules and regulations. Therefore, those allegations are not equally applicable to such open registries. However, this study does not examine all those charges. Rather, it examines the questions of manning requirements and employment conditions, labour quality, wages and working conditions of all open registry seafarers.

1.5. DIFFERENT ORGANISATIONAL ATTITUDES AND VIEWS ON THE OPEN REGISTRY SHIPPING:

Different attitudes and views on open registry shipping exist within international maritime circles. The main criticisms against this system come from the ITF, the National Seafarers Unions of the developed countries. UNCTAD, ILO, and recently the European Unions are also cautious and critical on open registry system. However, this study concentrates on the attitudes of the ITF along with national seafarers unions of the developed countries, UNCTAD, ILO, EU over this system in the succeeding chapters in detail. Here, the researcher underscores their views in brief to give greater perspective to the issues discussed earlier.

1.5.1. THE POSITION OF ITF:

Strong opposition and criticism against open registry shipping, particularly against the manning and employment conditions, wages and working conditions of open registry seafarers, has come from ITF. The ITF argues (19) that:

(1) There should be a genuine link between the flag that a vessel flies and the place where it is beneficially owned and controlled. As a general rule FOC registers fail to enforce minimum social standards or the trade union rights for seafarers and have demonstrated both an unwillingness and an inability to abide by international maritime labour standards and human and trade union rights.

(2) FOC enables shipowners to minimise their operational costs by inter alia, tax avoidance, trade union avoidance, recruitment of non-domiciled seafarers and passport holders on very low wage rates, non payment of social security contributions for their crews, and observance of less onerous safety requirements.

(3) The ITF believes that the that the consequences of FOCs are manifest in the industry where they have been used to secure short term competitive advantage with the result that freight rates are being depressed, crews are too cheap and underqualified, ship maintenance and service leave much to be desired, the ships are too old and shipowners are unable to invest in newer vessels.

(4) The ITF believes that FOCs amount to social dumping and distort competition. Crews are often selected on the basis of cost rather than quality and little consideration is given to long term needs of the industry.

(5) The ITF is against the exploitation and abuse of seafarers and believes that the use of FOC registers facilitates exploitation and enables owners to pay and to treat seafarers as they see fit.

On these arguments and background, the ITF declares that the primary objective of the ITF campaign has always been and remains the elimination of FOC shipping and the establishment of a genuine link between the flag a ship flies and the nationality or domicile of its owners. The secondary objective is to protect and enhance the conditions of employment of seafarers serving on board FOC vessels, in particular, to ensure that seafarers serving on FOC vessels, irrespective of their nationality, are protected from exploitation by shipowners, ship managers and manning agents.(20)

To attain these objectives, the ITF has waged a campaign against the open registry shipowners aimed at forcing them to sign the collective bargaining agreements with the representative national unions or to bargain with the ITF itself and enrol all of their crew members in ITF's "Special Seafarers Department" paying dues for them. In

default, they have to face boycott of ships in ports around the world where ITF is particularly active.

This attitude of ITF towards open registry shipping has had tremendous repercussions on the merchant shipping industry. Although this campaign has been welcomed by the seafarers of the developed countries, it has been equally opposed by the seafarers of the developing nations, as well as by the open registry ship operators and by the ISF. This study examines the ITF position towards open registries, particularly on the issues of the manning and employment situation, labour quality, wages and working conditions of the open registry seafarers.

1.5.2. THE POSITION OF THE NATIONAL SEAFARERS UNIONS:

Generally, the development of open registries have an adverse impact on the seafarers of the traditional maritime developed nations. From the inception of the modern open registry, many trade unions of the western countries have argued for the abolition of FOC registries. Trade unions in many countries actively intervene in order to ensure that employment contracts and safety standards are being complied with, and oppose the transfer of ships from bona fide registries to FOC registries.(21) They thought that open registries have reduced their job opportunities deliberately. The National Union of Seamen of Great Britain writes in its published report, "Flag of Convenience- The unacceptable face of shipping", that .. during the last 30 years there has been a drastic reduction in the number of U.K. seamen in employment. The number of ratings currently (1980) employed is less than a third in 1950.(22) However, while the author was conducting research in London and talking with the British National Seafarers Union Officials, they indicated that there should be close links between a vessel's flag and the beneficial ownership of a vessel and they are very supportive of ITF's opposition to open registries. This position can easily be found in the other parts of the developed world where usually, in response to the ITF call, or their own interests, they boycott open registry ships.

1.5.3. THE POSITION OF ILO:

The International Labour Organisation (ILO) was established in 1919 with aiming to ensure social justice and higher living standard and better working environment for the working class. It is the first specialized UN agency having special responsibility for social and labour issues. Unlike ITF, it has no special target or issue to cripple or eliminate open registry. But it has a deliberate mission to increase pay scales of the seafarers in particular resulting indirect impact upon open registry seafarers. This sort of activity is also in line with ITF policy of reducing wider gap of wages between developed countries seafarers and underdeveloped countries seafarers. However, the author examines this position of ILO in broader detail.

1.5.4. THE POSITION OF UNCTAD:

The Open Registry issue has repeatedly been discussed in UNCTAD's Committee of Shipping since its founding in 1964; but they are divided over the FOC argument. Initially this organisation was a strong opponent of the open registry system. In 1974 UNCTAD launched a phasing out of the convenience flags movement and emphasised to establish a genuine link between the flag state and the ship (which has been explain in detail in the relevant chapter); but subsequently UNCTAD has slipped away from the movement. Rather, UNCTAD has proposed new compromise conditions for registration of ships which has been approved by the UN and treated as the UN Convention on Conditions for Registration of Ships, 1986. The main features (23) of the UN Convention on Conditions for Registration Ships are as follows:

- (a) The state of registration shall ensure that a satisfactory part of the crew are its nationals, while taking into account the availability of qualified seafarers in the country or territory;
- (b) A flag state shall exercise its law and regulations for the ownership of vessels flying its flags;

- (c) The state of registration shall ensure that the ship owning company or a subsidiary ship owning company is established within its territory in accordance with its laws and regulations before ships are accepted in its registry;
- (d) The state of registration shall enter into its register of ships inter alia, information concerning the ship and its owner or owners;
- (e) States shall establish a register of ships flying its flag, and the register shall be maintained in a management determined by the state in conformity with the relevant provision of this agreement.

The UN convention on the Conditions for Registration of Ships is a compromise formula between different opposite factions within UNCTAD. Through this formula UNCTAD wanted to establish the equity of national participation in ship registration and ship management. However, in the succeeding chapter, we will evaluate the UNCTAD view over the open registry shipping in greater detail.

1.5.5. THE VIEWS OF THE EUROPEAN UNION (EU):

The European Union has not directly criticised open registry shipping. Rather it wants to set up a register, EUROS, which offers shipowners an attractive and at the same time, reasonable alternative to second or open registries. This EUROS will be a parallel register to the national registers, which will not be imposed on shipowners; but would require a "100%- 50% rule", which means that 100% of the officers and at least 50% of the rest of the crew must be EC nationals. However, this proposal has already drawn the attention of ITF and the European Seafarers Union who oppose the idea of crew sharing. In the subsequent chapter the position of the EU on open registry shipping as well as its proposal for the establishment of EUROS is discussed in detail.

1.6. THE NECESSITY OF THE PRESENT STUDY:

This study will examine the manning requirements and employment conditions, wages and working conditions, safety and social standards of the open registry seafarers. It is going to evaluate these burning issues in order to delineate the current situation in the ship registration and ship management arena.

Since the ITF and the national seafarers unions want to eliminate the open registry system, the UNCTAD, and other international organisations introduced different formulas and guidances and they have different views over open registry issues, obviously it demands a study on the issues.

As this study analyses the employment situation of seafarers under open registry, it will obviously review the demand for and supply of the seafarers in the world context in general and in the labour supplying developing countries including this researcher's country, Bangladesh, in particular. This will provide a better understanding of the current employment situation of the seafarers of the the world.

1.7. THE SCOPE AND CONTENTS OF THE STUDY:

This study covers the issues of the open registry seafarers employment situation, manning and employment conditions, wages and working conditions, and safety and social standards compared with those in developed countries. It also covers the different views and positions for or against open registry practices, coming from ITF, the National Seafarers Unions, ILO, UNCTAD, and from the EU.

While terms like the FOC, Second Register or Quasi Register have proponents who regard them to be quite distinct, for the purpose of this study, they are regarded as interchangeable with term Open Registry. Because of common features within these systems that offer ship registration opportunities to shipowners related to allowing non-national seafarers to work on board, they serve a common purpose.

This report has been prepared in five chapters. The present chapter has been designed to highlight the meaning, origin, development and common features of open registry systems with a focus on some views and criticisms of this system.

The second chapter is perhaps the most important chapter of this report. It will provide and discuss the employment situation under the open registry covering the manning requirements and employment conditions, hiring of seafarers practices, quality and potential (capability) of the non-national seafarers, working conditions of the seafarers including wages, working hours, leave, other service benefits, safety and security on board and ashore, trade union rights and so forth.

The third chapter includes the position of the ITF on the seafarers issues. This chapter also examines position of the national seafarers of developed countries relating to job opportunities, wages, and other relating issues. This chapter will also examine the position of ILO on the open registry shipping.

The fourth chapter will examine the positions of UNCTAD, and EU. Here the study will also examine EU's proposal on the establishment of a EUROS Registry as an alternative to the open registry. This report will analyse how this proposal may affect open registry seafarers in terms of obtaining jobs on foreign owned ships particularly on EU's ships.

In the concluding chapter, the researcher reviews and analyses the implications of the different views on FOC and draws conclusions and recommendations on seafarers issues. as well as to the ITF's views relating to the open registry seafarers wages and working conditions in particular and the open registry system in general.

*** References :**

- (1) Martin Stopford, *Maritime Economics*, 1992, pp- 160-161.
- (2) S. R. Tolofari, *Open Registry Shipping*, 1989, pp-20- 21.
- (3) B. N. Metaxas, *Flag of Convenience*, 1985, p-7.
- (4) I.M.A., *Economic Impact of Open Registry shipping*, 1979, pp- 11- 12.
- (5) B. N. Metaxas, *Flag of Convenience*, 1985, p-33.
- (6) Martin Stopford, *Maritime Economics*, 1992, p-160.
- (7) Herbert R. Northrup and Richard L. Rowan, *The International Transport Workers' Federation and Flag of Convenience*, 1983, p- 34.
- (8) ISF, *Guide to International Ship registers and Ship Management Services* 1993.
- (9) ITF, *Flag of convenience- The ITF's Campaign*, p- 25.
- (10) Jane Barret, *Trends in Ship Ownership, Flagging and Crews* (published in *seafarers' Bulletin* , 1994).
- (11) Dr. Boleslaw, *Flag of Convenience: An International Legal study-* 19962, p-2.
- (12) I.M.A., *Economic Impact of Open Registry Shipping*, 1979, pp. 11-12.
- (13) IMO., *Maritime Law: Compendium*, Vol. 1., p. 66.
- (14) Martin Stopford, *Maritime Economics*,1992,p
- (15) ISL, *The Norwegian International Ship Register - A New Approach of A Traditional Shipping Nation*,1988, p. 9.
- (16) *United Kingdom Committee of Shipping Report*, 1970.
- (17) IMO, *Maritime Law: Compendium*, vol. 1, pp- 65.
- (18) *ibid.*, pp. 65-66.
- (19) *ITF Policy on Minimum Conditions of Service and Negotiating Rights on Merchant Ships*.
- (20) *op.,cit.*

(21) The National Union of Seamen of Great Britain, *Flags of Convenience: The Unacceptable Face of Shipping*, 1981, p.1.

(22) *ibid.*, p. 3.

(23) UNCTAD, *The Un Conventions on Conditions for Registration of Ships*, 1986, p.3.

v

CHAPTER 2

EMPLOYMENT SITUATION UNDER OPEN REGISTRY

2.1. GENERAL SITUATION:

The growth and competition in world trade has led to a continuing search for ways to lower shipping costs, especially in the bulk trade. The open registry has introduced a way for ship owners to reduce manning and operating costs under the jurisdiction or flag of a nation that has minimal, inexpensive regulations rather than under the jurisdiction of a nation with a complex and costly regulatory frame work.(1) As we have seen in a traditional registry, ship owners are restricted to hiring seafarers from their own nationals who are more expensive than non-national seafarers. Because, in industrialised nations, high standards of living on shore and often powerful maritime labour unions make hiring such crews many times more expensive than hiring crews from the developing world.(2) Whereas, in an open registry, ship owners are free to hire crews from wherever they wish. Thus, they enjoy a privilege of hiring seafarers from the poor developing countries for low salaries by passing higher salaried seafarers from their own countries. These non-national seafarers are neither the nationality of the flag under which the vessel is sailing or the nationality of the ship owner. But this practice or method for recruitment of seafarers from the developing countries has created a major controversy for the shipowners, suggesting that they have left many skilled mariners from the developed countries without work. The major allegation raised against this system is that it has allowed the ship owners to run the ship with unskilled, untrained and unequal number of seafarers. More over, wages and other service benefits given to the seafarers are not sufficient or at least minimum compare with international standards. Safety and security on board and ashore are not maintained as per provision of the international rules and regulations. Virtually all these and many other allegations raised against the open registry are not by the employees; rather it has been raised by ITF and their affiliated trade unions of the

developed countries. However, in this chapter, we will look closely at the manning requirements and employment conditions, recruitment procedures, labour quality and potential (capability), working conditions (including wages and other service benefits), safety and social security, as well as the training facilities for open registry seafarers.

2.2. MANNING REQUIREMENTS AND EMPLOYMENT CONDITIONS:

There is a well recognised condition for the operation of ships that a minimum number of suitably qualified ship personnel is required to ensure the safe operation of the ship, safety of live at sea, and prevention of marine pollution. Under traditional flags, minimum manning scales and qualifications are usually specified for various types and sizes of vessels, according to trading patterns. Additionally, the shipowner is under pressure from government agencies and other national and international organisations such as seamen's unions to adhere to these regulations. But under an open registry such regulations are not laid down and where they exist may be subject to wide interpretations.(3)However, we can evaluate the existing manning requirements and employment conditions of the major open registries from the following discussions:

2.2.1. THE MANNING REQUIREMENTS AND EMPLOYMENT CONDITIONS OF PANAMA:

Panama is one of the largest open registries of the world. This registry has imposed some control over its registered ships in terms of manning requirements. The cargo vessel up to 1600 grt., with propulsion up to 3000 kW, and trading up to 600 miles requires 1 master, 1 deck officer, 1 chief engineer, 1 engine room officer and 2 radio/telephone operators; similarly a cargo ship up to the same specification but trading over 600 miles requires the same crew, but adding 1 deck officer and 1 engine room officer. Cargo ships over 1600 grt., with propulsion power up to 3000kW, trading up to 600 miles requires 1 master, 1 deck officer, 1 chief engineer, 1 engine room officer and 1 radio officer. Similarly cargo ships of the same specifications but

trading over 600 miles require 1 master, 2 deck officers, 1 chief engineer, 2 engine room officers. For the passenger vessel certified to carry up to 250 passengers on a voyage up to 16 hours duration it requires 1 master, 2 deck officers, 1 chief engineer, 2 engine room officers and 1 radio officer.

From the above statistics we can see that the Panamanian registry has a minimum number of qualified officers that are required to operate a ship under this registry. The Panamanian Administration, SECNAVES, has assumed total control and administration for the issuance of crew licences and its seafarer examination programme. Licence equivalencies for 43 countries were introduced in 1990 and the STCW Convention has been also ratified. Application for examination or certificate equivalence may be submitted to the Technical Department in Panama or through any of the authorised Panama Merchant Marine Consulates. Special offices in Manila, Singapore, and Piraeus have also been appointed to process applications and to co-ordinate the programme in the regions.

In connection with the manning requirements, SECNAVES, through its New York representative offices, is in charge of issuing minimum Safe Manning Certificates to all Panamanian registered ships in accordance with IMO regulation.

All Panamanian registered ships shall carry on board a standard crew role, duly legalised by SECNAVES or by an authorised Merchant Marine Consulate, in which the crew's name, address, position on board, salary, date of engagement and disembarkment should be clearly stated.

Conditions of employment are regulated by the Panamanian Labour Code. International customs, the common practices of states and international conventions are said to apply to cases which the code does not cover. Panama is presently working on a New Maritime Labour Code which will reflect the agreement of all concerned

parties involved in the maritime business.(4)

2.2.2. THE MANNING REQUIREMENTS AND EMPLOYMENT CONDITIONS OF LIBERIA:

Manning requirements for Liberian registered ships are set out in the Liberia Maritime Regulations. It is laid down that a Liberian registered ship must carry a duly certified master and chief engineer(for vessels over 375 kw/500hp) and such number of duly certified deck officers and engineers as is deemed necessary for the safe manning and operation of ships are also to be approved by the Commission or the Deputy Commissioner of the Maritime Administration. In addition, the Commissioner or the Deputy Commissioner may prescribe a minimum number of crew for a ship of which a specified number of these may be required to be rated and/or certificated.

There are no nationality requirements for crews and officers. But officers must possess a Liberian licence valid for five years, which may be issued against a foreign licence recognised to be equivalent by the Liberian authorities. Seafarers must hold a valid Seaman's Identification and Record Book. Certain ratings forming part of the navigation or engineering watches and all officers and ratings participating in cargo loading or discharging aboard oil tankers, chemical tankers and liquefied gas tankers, are required to be certificated for special qualifications with endorsement in their Seaman's Identification Record Book. Officers who do not hold acceptable national licences must pass written examinations given by the Liberian/Marshal Islands Administrations.(5)

The most significant provisions, related to the employment conditions, of the Liberian Maritime Law and Regulations are that:

-all hours in excess of eight per day are considered overtime(except in emergencies) and should be paid to seafarers at overtime rates. After 12 months continuous employment for the same vessel, masters and officers are entitled to a holiday allowance equivalent to at least 12 days' basic wages; ratings are entitled to an

allowance equivalent to at least 8 days' basic wages. Every seaman is entitled to a minimum of five paid holidays per year;

-wages should be paid within two days of termination of the Shipping Articles or on the day of discharge whichever is first unless there is mutual agreement to the contrary. The seaman is also entitled to receive 50% of his accrued wages in local currency at every intermediate port before the voyage's end, but not more than once in every ten day period;

- where the seafarer is not responsible for his sickness or injury, he is entitled to medical treatment, board and lodging up to a maximum period of 30 weeks from when injury or illness began. In addition, from the day when the injury or illness was sustained and subsequent to landing from the vessel for a period up to 16 weeks the seafarer is entitled to draw one third salaries of his basic pay;

- it is the ship owner's discretion to determine whether the repatriation destination is the port at which the seafarer was engaged, where the voyage commenced, seafarers' own country or such other destination as may be agreed between the seaman, ship owner and master. The ship owner is generally responsible for costs of repatriation;

- union membership is permitted but strikes and picketing, or any boycott or like interference with the internal order or operation of a vessel are permitted when a majority of seafarers on the ship concerned have voted for such action in a secret ballot; when 30 days' written notice has been given to the employer or master and when the procedures of conciliation, mediation and arbitration outlined in Liberian Law have been followed to their conclusion.(6)

2.2.3. THE MANNING REQUIREMENTS AND EMPLOYMENT CONDITIONS OF HONDURAS:

We have seen that there are clear mentions of a number of minimum manning scales in the Panamanian and the Liberian open registries, but, there is no mention of minimum manning requirements under Honduras Law. There is, however a requirement that 90% of the crew should be Honduran. If there are no Honduran crew available, then a

waiver is granted. Practically, this equitable national participation has not existed in this registry; rather their own participation is nil.(7) Although, as to the manning requirements, they have allowed other people to enter into their ships; they have introduced a strong system over the issuance and control of crew competency certificates. All certificates of competency for the crews are issued by the Honduran Department of Merchant Marine. On the basis of equivalent and valid certificates, issued by the foreign governments for their nationals, the Honduran authority issues the Crew Competency Certificates.(8)

2.2.4. THE MANNING REQUIREMENTS AND EMPLOYMENT CONDITIONS OF CYPRUS:

The manning requirements and certification under Cyprus Registry is regulated by the Merchant Shipping (Masters and Seamen) Law, 1963 of Cyprus and the regulations made thereunder. These laws and regulations require ship owners to recruit 15% of the crew from Cyprus. But, again this provision is not followed due to the scarcity of the Cypriot seamen. However, in order to facilitate the safe manning of ships flying the Cypriot flag, the government of Cyprus has concluded bilateral agreements with some labour supplying countries such as Poland, The Philippines, Srilanka, Egypt and the CIS to ensure a supply of qualified seafarers.

The crews of Cypriot ships must hold competent crew certificates issued either by the Cyprus government or by the other governments whose education system and examination for certification are acceptable by the Cyprus authority. All seafarers serving aboard vessels registered in Cyprus must sign a crew agreement which should set out:

- * the full name of the seamen, the date and place of birth and domicile;
- * either nature and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement, and places or part of the world, if any, to which the voyage or engagement does not extend;

- * the place and the time at which each seaman is to be on board;
- * the capacity in which each seaman is to serve and the nature of his duties;
- * the amount of wages which each seaman is to receive;
- * a scale of food and provisions which are to be supplied to each seaman;
- * any regulations as to conduct on board and as to fines or other lawful punishment;
- * the agreement may contain a reference to or incorporate the provisions of a collective agreement.

The Merchant Shipping (Master and Seamen) Law of 1963, as amended, lays down the following provisions that:

- wages and allotment of wages that are to be paid must be stipulated in the crew agreement ;
- where a seafarer is not culpable for injury or sickness, the expense providing the necessary surgical and medical advice, attendance and medicine as well as maintenance for the seafarer until he is cured or dies, or is returned either to the port at which he was shipped or to a port in the country to which he belongs, shall be charged to the ship owner; adequate medical stores must be carried and in some circumstances, a ships doctor;
- costs of repatriation are to be paid by the shipowner only where the seafarer is a national of the Republic of Cyprus, the Republic of Greece or Turkey or of the British Commonwealth and discharge of the seafarer has taken place during the currency of the agreement and without his consent. In such cases the repatriation destination may be the port at which the seafarer joined the ship, a port in the seafarers own country or a port agreed at the time of discharge; where a seafarer's service is terminated by the wreck loss or sale at public auction of the vessel, the seafarer is entitled to get two months wages;
- where the service is terminated due to illness, payment of wages beyond the date of termination is not required.(9)

2.2.5. THE MANNING REQUIREMENTS AND EMPLOYMENT CONDITIONS OF THE BAHAMAS:

Like many other major open registry countries, the Bahamas has also set out the manning scales for its registered ships. These scales are designed as per guidance of the Merchant Shipping Act of Bahamas. In general, ships over 1600 grt, over 3000hp and engaged in voyages in excess of 500 miles between ports are required to carry a master, first, second and third mates, and first, second and third class engineers; all of which be duly certificate.

There is no nationality requirement for the manning of Bahamian ships. But, for officers, they must hold a Bahamian licence issued on the basis of their national certificates. For ratings, are require to show their country's registration.

All seafarers serving on Bahamian ships must be signed on a crew agreement in an approved form. The main features of the agreement are that:

- the agreement is between the master and the crew, not between the employer and the crew;
- the agreement may be for a single voyage or a running agreement but in any event it must expire after a period of twelve months;
- the owner must keep copies of the agreement for seven years;
- after twelve months' service, an officer is entitled to leave with pay not less than 18 working days, and a rating is entitled to enjoy that leave with pay not less than 12 days plus 9 days public holidays;
- repatriation costs are the responsibility of the master or the owner. But, if the seaman deserts or is imprisoned or is suffering from an illness concealed at the time of engagement, in such cases the master must make the necessary repatriation arrangements but the costs may be recovered from the wages;
- the disciplinary provisions are strict;

- strikes are only lawful if the vessel is safely moored in a Bahamian port.(10)

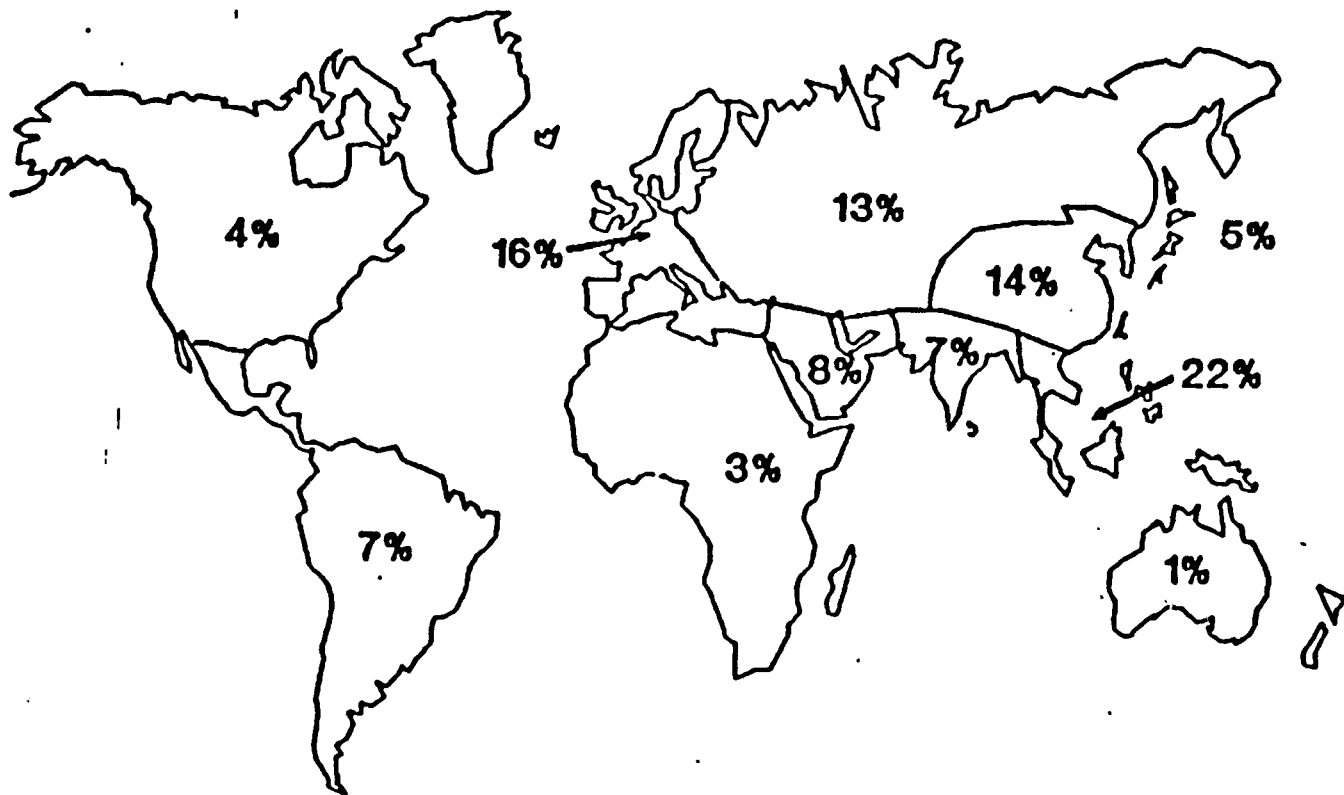
Under the above discussions, we can see that all these major open registries are more or less complying with national and international rules and regulations relating to the minimum scales of qualified seafarers required for the safe operation of ships.

2.3. RECRUITMENT OPPORTUNITIES AND PROCEDURES FOR THE OPEN REGISTRY SEAFARERS:

With the growth and development of the open registry system, the demand for foreign seafarers has increased considerably. But it is a little more difficult to get the employment figures internationally. The ISF stated in a report published in 1990 on the "World Wide Demand for and Supply of Seafarers" that there were about one and quarter million seafarers available for work in the world's commercial fleet, of which 400,000 were officers and 840,000 were ratings. They pointed out that there was a demand for 450,000 officers and 600,000 ratings- implying a world wide shortage of officers but a surplus of ratings.(11) From the above statistics and the attached figures(see figures: 2.3.1 and 2.3.2) Supplied by the ISF, we can get further information that the Asia/ Pacific region is the major supplier of the seafarers. This region alone can provide 49% of the world's seafarers, although only 31,5% of seafarers of this region are being employed. These figures indicate that there are high rates of unemployment amongst the seafarers of the Asia/Pacific region.

The ISF " Guide to Maritime Labour Supply"(London, 1990)provides the statistics of seafarers for some individual countries of Asia shown in the Table 2.3.1.

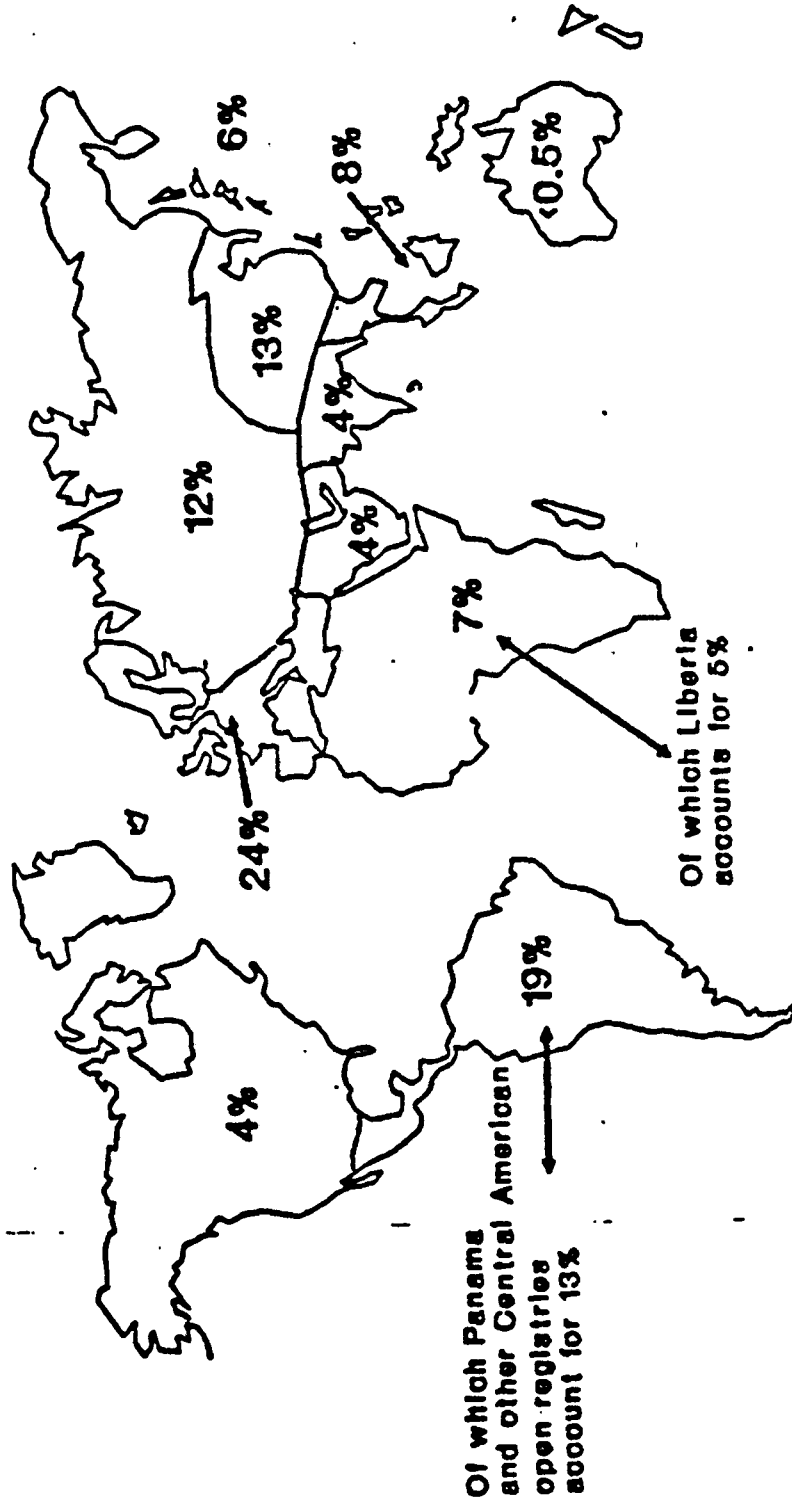
Figure 2.3.1. World supply of Seafarers, 1990



Total World Seafaring Supply = 1.2 million

* Source: ISF Survey 1990.

Figure 2.3.2. World Demand for Seafarers, 1990



Total World Demand for Seafarers in 1990 is estimated at 1.06 million

* Source: ISF Survey 1990

Table 2.3. 1. Statistics of seafarers for individual countries of Asia:

Country	Registered Seafarers	Total Employed	Employed on Foreign Ships	Total Unemployed
Bangladesh	7,500	3,300	majority	4,200
China	284,000	284,00	4000	Nil
India	49,000	20,000	9,300	29,000
Indonesia	82,000	40,000	12,000	40,000
S. Korea	52,000	42,000	32,000	10,000
Myanmar	18,964	18,964	9,482	Nil
Pakistan	10,150	4,850	2,950	5,300
Philippines	190,000	100,000	85,913	90,000
Srilanka	8,000	3,000	3,000	5,000
Taiwan	28,000	28,000	-	Nil

* Source: ISF Guide to Maritime Labour Supply, London, 1990.

From the above Table, we can observe that the Philippines, Indonesia, South Korea, Myanmar and India are the major labour supplying countries of Asia. But, at the same time, we can also see that most of the Asian countries are facing unemployment problems. Apart from Asia, after the breakdown of the Soviet Union and the socialist countries of the Eastern Europe, more recently all these newly created countries are becoming major sources for labour supply to the world market.

Open registry allows the ship owners to recruit seafarers from the labour supplying developing countries for low salaries; but the methods used to hire seafarers from these countries are not so easy to discern. It is this process that the seafarers may be cheated by the recruiting agents or by the other related personnel. The ILO Convention No. 9, Placing of Seamen Convention, has clearly indicated how to

employ the seafarers ensuring no harassment by any person. In practice, this is not enforced or followed properly by the recruiting agents of the labour supplying countries. The ILO Convention No. 9 indicates that "the business of finding employment for seamen shall not be carried on by any person, company or other agency as a commercial enterprise for pecuniary gain; Nor shall any fees be charged directly or indirectly by any person, company or other agency, for finding employment for seamen on any ship." But due to the lack of an orderly international system for matching labour supply and demand, seafarers usually face difficulties in obtaining their jobs. Paul K. Chapman, in this regard, has pointed out that when seafarers are in demand, recruiters generally offer decent terms. When there are more seafarers than jobs, recruiters tend to take advantage.(12)

In the past, the recruitment situation was different from the present situation. In the past, seafarers were often employed by one company throughout their careers. There was a good professional relationship between the company and seafarers. But this has changed partly because of the development of rapid communications that allow more decisions about what happens on board a vessel to be taken ashore by people in the company. The use of third party managers and crewing agents has also strained the present situation.(13)

However, normally the ship owners or the ship masters notify the recruiting agents of the concerned labour supplying countries to make contracts and do the necessary recruiting of the seafarers as per the demands of the ship owners. The nominated recruiting agents of the ship owners then make the necessary arrangement with the respective authorities of the labour supplying countries for recruiting the seafarers. Here the job seekers need not pay anything to the recruiting agents or to the government authorities. On the surface, it seems to be a very simple task, but inherently, it is not so easy. Paul K. Chapman writes, in spite of the ILO Convention No. 9, many seafarers from developing countries have to pay manning agents in order

to get work. Jobs seekers from these countries with high unemployment rates, deceived by the myth that there are high paying jobs at sea, are easy victims of corrupt recruiters.(14)

2.4. LABOUR QUALITY AND POTENTIAL (CAPABILITY) OF THE LABOUR SUPPLYING COUNTRIES:

The Article 1 of the ILO Recommendation No. 139, regarding "Employment of Seafarers (Technical Development)" recommends that:

1. Each member which has a maritime industry should ensure the establishment of national manpower plans for that industry within the framework of its national employment policy.

2. In preparing such manpower plans account should be taken of-

(a) the conclusions drawn from periodic studies of the size of the maritime labour force, the nature and extent of employment, the distribution of the labour force by such characteristics as age and occupational group and probable future trends in these fields;

(b) studies of trends in the evolution of new techniques in the maritime industry both at home and abroad, in relation, among other things to structural changes in the industry in the form of-

(1) changed methods of operation of ships, technically and organisationally; and

(2) modification in manning scales and job contents on different types of ships;

(c) forecasts, in the light of the foregoing studies, of the probable requirement, at different dates in future, for various categories and grades of seafarers.

3. Such manpower plans should be designed to obtain for ship owners and seafarers as well for the community as a whole for the greatest benefits from technical progress, and to protect from hardship seafarers whose employment is affected.

Article 2 of the same Recommendation states that: Recruitment of seafarers into the maritime industry should take account of existing manpower plans the forecasts

contained therein. Article 5 recommends that: To avoid hardship to such seafarers employed in foreign ships as are likely to be affected by technical changes aboard ship, the governments and ship owners and seafarers organisations concerned should undertake early consultation and should co-operate with a view to-

- (a) adjusting the supply of these seafarers gradually to the changing requirements of the foreign countries on whose ships they are employed; and
- (b) minimising the effects of redundancy by the joint application of relevant provision of this Recommendation.

From the above stated articles of the ILO Recommendation, we can see that it is the primary responsibility of the respective maritime country to make a specific plan for meeting the local as well the foreign requirements as for the seafarers so that they could serve properly in their respective fields. However, although, from the ship owners' points of view, the seafarers of the developing countries are no longer inefficient or inferior, it is alleged from the critics of the open registry that these seafarers are not competent enough to ensure the safe operation of ships. In light of this background, here the researcher will evaluate the overall labour quality and potential of the maritime labour supplying countries in general, and for the case of Bangladesh, in particular.

2.4.1 A CASE STUDY ON BANGLADESH:

Bangladesh is by tradition a seafaring nation. Geographically and culturally it is located in the region of the Indian sub-continent. Before the partition of India, it was a part of the undivided Bengal of the British rule in India. Accordingly, seamen of Bangladesh were administered in pre-partition India through Calcutta and Bombay ports. After the partition of India, this tradition was continued up to the Pakistan period, when this land became part of Pakistan until 1971. But things have totally changed with the independence of Bangladesh in 1971 from the Pakistani regime. At present, recruitment and control of Bangladeshi seafarers are administered through

the Shipping Master's Office at Chittagong.

Traditionally Bangladesh has supplied mainly ratings. Recently, apart from these ratings, Bangladeshi officers are now entering into the labour market in growing numbers. The present policy of the government of Bangladesh is to supply more ratings and officers to the foreign market. For doing so, it has ratified the STCW Convention in 1981 and has accepted the international minimum training standards contained therein and has also progressively amended the training programmes to incorporate the IMO standards. The recruitment of Bangladeshi seafarers are administered and controlled as per instructions laid down in the Merchant Shipping Ordinance of Bangladesh and the constitution of the Maritime Board of Bangladesh by the Shipping Master's Office located at Chittagong.

As we have seen in the previous Table that a considerable number of Bangladeshi seafarers are available to work onboard either national ships or foreign ships. The government of Bangladesh is also keen to promote more employment for its seafarers and is actively taking measures as per the ILO Recommendations to cope with changing situations prevailing in the world's merchant shipping. Like other Indian sub-continent seafarers, Bangladeshi seafarers were also traditionally, employed in the British ships. However, at present, the majority of the ratings from Bangladesh are employed on foreign ships including those registered in the Bahamas, Liberia, Hong Kong and the UK(15)

2.4.1.2. RECRUITMENT PROCEDURES FOR SEFARERS OF BANGLADESH:

The recruitment procedures followed for the Bangladeshi seafarers are quite simple. The employment policy is continued and regulated by the government under the Merchant Shipping Ordinance, along with the Maritime Board (Bangladesh). All ratings are required to register under this Ordinance with the Shipping Master for

getting recruitment on board as seafarers. Foreign ship owners, who are willing to recruit Bangladeshi seafarers, need to appoint a local agent who will then place the requisition to the Shipping Master. After receiving this requisition from the agent of the ship owner or from the master of the ship or from the ship owner himself, the Shipping Master then calls forward from the general roaster sufficient seafarers to allow the owner or his agent to select the crew. The selected seafarer then usually sign Bangladesh Articles of Agreement, according to the Merchant Shipping Ordinance of Bangladesh, in the presence of the Shipping Master before proceeding overseas to his newly assigned ship and, as appropriate, to sign further foreign crew agreements. The relevant Article (under section 134 of the Merchant Shipping Ordinance of 1983) says, about the "Engagement of seamen for ships other than Bangladesh ships", that:

(1) When the Master of a ship, other than a Bangladesh ship, being at a port or place in Bangladesh, or the owner's agent in Bangladesh of such ship, engages any Bangladeshi seamen to proceed to any port or place outside Bangladesh, he shall enter into an agreement with every such seamen, and the agreement shall be made before a Shipping Master in the manner provided by this Ordinance for making of agreements... ..

(2) All provisions of this Ordinance respecting the form of such agreements and the stipulations to be contained in them, and the making and signing of the same shall be applicable to the engagement of such seamen....

(3) The Master of such ship shall give to the Shipping Master a bond in the prescribed form with the prescribed security for every such seaman engaged by him in Bangladesh and conditioned for the due performance of such agreement and stipulations, and for the repayment to the Government of all expenses which may be incurred by the Government in respect of any such seamen who is discharged or left behind at any port or place outside Bangladesh and becomes distressed and is relieved under the provisions of this Ordinance:

Provided that the Government may waive the execution of such bond where the

owner of the ship has an agent at any port in Bangladesh and such agent accept liability in respect of all matters for which the master of the ship would be liable if he were to execute the bond or may accept from the agent such security as it may consider appropriate.

(4) The fees prescribed for the purpose shall be payable in respect of every such engagement and deductions from the wages of a seaman so engaged may be made to the extent and in the manner allowed under this Ordinance.

(5) If the master of a ship other than a Bangladesh ship engages such a seaman in Bangladesh otherwise than in accordance with the provisions of this section, he shall, for such offence, be punishable with the fine which may extend to ten thousand Taka (40 Taka= 1 USD).

(6) If a Bangladeshi seaman engaged under this section breaks or attempts to break, whether in a port or place in or out side Bangladesh, an agreement made in the presence of the Shipping Master, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to Taka fifteen thousand, or with both; and his Continuous Discharge Certificate shall also be suspended for a period of three years.(16)

It is noteworthy to mention here that the engagement of officers to foreign ships from Bangladesh is not regulated in the same manner as prescribed in the above section of the Merchant Shipping Ordinance. There are different procedure applied to the engagement for the officers to the foreign ships from Bangladesh. If an officer wants to engage in a foreign ship he has to obtain a "No Objection Certificate" from the Bangladesh Shipping Corporation, a public owned shipping company, which certifies that he has properly been released from his present engagement for joining with other companies. Here, the present policy of the government is to encourage the surplus officers to go for service with the foreign ships.

2.4.1.3. TRAINING AND CERTIFICATION PROCEDURES:

As we have already mentioned that having ratified the STCW Convention in 1981 Bangladesh has accepted the international minimum training standards contained therein and has progressively amended the training programmes to incorporate the IMO standards therefore, at present it is imparting the following training and certification programmes to the officers as well to the ratings.

For the officers' training and certification there is a Marine Academy in Chittagong that provides pre-sea, and a range of certificate courses for both deck and engineer officers. The Academy is well maintained and well equipped with the modern facilities including radar simulator, and a fire fighting training block. Since 1993, 200 pre-sea officer cadets have been admitted each year for the two years of training and education. The cadets are smart, well selected and well disciplined. The syllabus and certification system is based on the British model. The medium of instruction and examination are conducted in English.

For the ratings, the Bangladesh Seaman Training Centre located in Chittagong is playing a vital role. The Centre has been modernised with Japanese Grants and furnished with the modern tools and equipment available to the shipping industry with the aiming of producing world class seamen for employment on board both local and foreign ships. The Centre is one of the most modern centres of its kind in South and south-east Asia. For the training of deck ratings the centre is provided with a complete bridge with simulators, one set of derricks, one hatch, and other related deck instruments. Similarly, for the engine ratings, the centre is fitted with one workshop, two generators, compressors, refrigeration gear, models, various types of Main and Auxiliary engines. For catering ratings, one complete galley and dining salon is also provided. The school is provided with a set of gravity davits complete with one enclosed lifeboat, one rescue boat and various other life saving apparatus (LSA) and fire fighting apparatus (FFA).(17)

Trainee ratings are to receive one year of training at the school. Before passing out the group is to be divided into three different categories and trained accordingly. Minimum qualifications set for the fresh recruit are secondary school certificates. The age limit is between 18 and 28.(18) Initially 130 young men were admitted into the school as a single batch but subsequently it has been increased up to 300 trainees per batch per year.

2.4.1.4. SKILL LEVELS AND EXPERIENCE:

Bangladesh ratings have a long history of expertise in the traditional maritime skills. Their employment on relatively modern domestic and foreign vessels has given them some experience of current expectations with reduced manning levels but, as with most seafarers from the region, training will need to be given before they can reach their full potential on more sophisticated ships. However, they are generally good nature and mix well, and they are familiar with the English language and will understand normal instructions.

With junior officers, whilst training standards are good, it will be necessary to devote time and effort to encouraging confidence and hands-on leadership, particularly when they are serving with foreign senior officers. They have no language problem, whilst they are still taught their maritime skills in English and take examinations in that language(19)

2.4.1.5. EMPLOYMENT CONDITIONS:

While the rates of pay and conditions for employment for the Bangladesh Shipping Corporation are dealt separately, the employment of the seafarers on foreign ships are negotiated in the forum of the Maritime Board (Bangladesh). The Maritime Board (Bangladesh) is the forum of representatives of the private ship owners of Bangladesh, foreign ship owners representatives in Bangladesh, and representative of the Seamen's Union. The Board makes the negotiations for adopting wages and

employment conditions. Most recently this forum has revised and consolidated wages and conditions of Bangladeshi ratings that are approved by the government and are shown in the Annex-1.

According to this approved consolidated pay scale, an Able Bodied (AB) seaman, if he works in foreign ship, can draw Taka 7000 thousand as consolidated pay for each month with Taka 19.41 as overtime per hour. Apart from these, he can enjoy national holiday leave for 8 days with pay. He can receive 30% of the total of the consolidated rate of pay as cash advance outside of Bangladesh. He is also entitled to a joining advance of up to one half of the consolidated rate of pay.

The ordinary hours of work for all categories of seamen has scheduled as 44 hours weekly. They are also entitled to enjoy rest period, subsistence allowance, retention allowance, tanker allowance etc., They are also entitled to receive different types of compensations and benefits as per terms of agreement.

2.4.2. LABOUR QUALITY AND POTENTIAL OF INDIA, PAKISTAN, AND SRILANKA:

Like Bangladesh, these three country also inherited the same experience of the region. Before the partition of India in 1947 this region was a major labour supplier in the world. After the partition this tradition also continued but the pace of employment has somehow reduced due to different changes in the international shipping market. But as to the quality of the seafarers of the region ISF has provided praise. It is the advantages of this region, that the seafarers (irrespective ratings and officers) could communicate and follow shipping instructions in English. According to ISF, the levels of education/training, skills and professional expertise of ratings and officers of the region are recommendable.

Regarding quality and potential (capability) of the Indian crews, the ISF survey admits that the skill levels of regular experienced officers and ratings will generally be high

and Indian seafarers are respected for their loyalty and commitment (p.65). One major attraction to many employers with the carriage of Indian seafarers is their fluency in English...(p.66).

ISF has stated about the Pakistani seafarers that they have served at sea with both foreign and national shipping lines for many years and they have the similar tradition of employment to foreign ships like India and Bangladesh. With junior officers training standards are good and they have an aptitude for mechanical skills as well as a natural drive and energy (p.129)

Srilankan seafarers are enjoying an enhanced status in the international labour market and officers will be found on many foreign ships. Ratings are trained to a high standard and are increasingly serving in a wide variety of vessels from sophisticated tonnage to more standard vessels (pp. 182-183).

2.4.3. THE SOUTH- EAST ASIAN REGION:

The seafarers of the South- East Asian region have played a vital role in the field of maritime labour market. We can understand from the above Table (2.3.1) that a huge numbers of Filipino, Indonesian and Burmese seafarers are engaged in foreign ships.

According to the ISF survey (p.121) Myanmar seamen are steady, reliable workers and foreign employers express satisfaction regarding their on-board seamanship qualities.

As to the Indonesian seafarers, the ISF has stated that in respect of those seafarers serving in foreign going vessels, skill levels are reported to be of a more than acceptable standard (p.83). Dimitris K. Mitas says that this is a country with good prospects for the future as new crew sources.(20) Apart from that, according to Mary R. Brooks, (21) to increase the employment of Indonesian seafarers to the foreign

ships, the Indonesian government has taken the following steps:

1. all recruitment of foreign shipowners/operators are to be channelled through the Indonesian Seamen's Union (ISU) which sets standard wages that are competitive in the international market;
2. there are no capital requirements for the establishment of recruitment agencies; and
3. seafarers leaving the country to join their ships overseas are exempted from paying the departure tax of 140 USD.

It is true that the Filipinos are today dominating the international labour market. The ISF survey indicates that Philippine seafarers are experienced and trained on all vessel types, with no major exceptions. Filipinos are adaptable to multi-national complements and there are no obstacles to mixing with other seafarers.(pp. 143-144)

2.4.4. THE FAR EAST REGION:

Traditionally this region is treated as one of the major seafaring nations of the world. Particularly the Republic of Korea and the Peoples Republic of China have so many contributions to the merchant shipping industry. However, as to the quality and potentiality for the seafarers of the region we can see that S. Korea has had an established marine based training programme for many years and thus skill levels are of a high standard (p.92). But, they have communication problem in English language with mixed crews onboard. Secondly, with an impressive overall prosperity in their country, Koreans are now a days increasingly reluctant to sail since they can obtain good wages ashore. Despite all these obstacles, if any ship owner is willing to pay the high wages and have a full Korean crew on board, these problem can easily overcome (22)

According to ISF Survey, the Chinese ratings are good and reliable. They are well disciplined and will work many hours without complaint (p.30). For many years China has been training hundreds of thousands of men to be seafarers. If China were

to implement an aggressive policy to place these hundreds of thousands of trained mariners on international ships, the world wide recruitment situation would be radically altered.(23)

2.4.5. THE FORMER SOVIET UNION AND THE EAST EUROPEAN REGION:

The international marine labour market has experienced a new pace since 1990 when the former Soviet Union and the other East European nations were opened up to the west and these countries began seeking jobs for their seafarers, many for low wages on international ships. They are comparatively well trained, well educated and experienced in the merchant shipping industry, due to their existing infrastructures and solid training facilities prevailing in the respective countries. One study shows that due to their hard training and vast experiences in maritime shipping, the seafarers from the region can be treated as potential sources for the merchant shipping industry(24)

Under the above discussion, we can say that open registry has opened the door for the seafarers of the labour supplying countries to send their surplus seafarers to work in the foreign ships where they can work and earn salaries comparatively higher than their ashore colleagues. And, we can also understand that average qualities of these seafarers are not so poor compared to their western colleagues who are working in the same fields. But one thing, in this respect, should be kept in mind during the selection of crews from labour supplying countries. Shipowners, or their agents, are attempting to recruit the best persons among the seafarers of the respective countries.

2.5. WAGES AND WORKING CONDITIONS OF THE OPEN REGISTRY SEAFARERS:

Although the open registry system has opened the door for the non-national seafarers, it is alleged that some of the ship owners do not usually comply with the national/international rules and regulations in terms of ensuring the service benefits

and service facilities for the seafarers. The major allegations or problems raised against the open registry ship owners are that :

- * wages are not being paid for long periods: it is not unusual for crews to remain unpaid for six months.

- * Delays in sending allotments- the proportion of a seafarer's wage which go directly to his family. When seafarers are thousands of miles from home this can lead to the worst kind of worry.

- * Double wage accounts- one set to show to international union inspectors, and one showing real, lower wage levels.

- * Non payment of overtime where it is stipulated in the contract.

- * Seafarers being offered one kind of contract when they sign on a job before leaving their home countries, and being forced to accept a completely different contract with less favourable conditions when they arrive on the ship.

- * Poor living conditions, such as inadequate food, lack of laundry facilities etc.

- * Denial of access to doctors in event of illness or injury.

- * Seafarers being made to work well beyond the time stipulated in their contracts.(25)

Virtually all these charges are being raised by the ITF or their affiliated western seafarers' unions, and it is difficult to address all of these issues. But, it is true that there may be some grievances prevailing among the seafarers of the foreign crews. For these grievances or differences in wages or working conditions government policies and regulations of the labour supplying countries are also responsible to a certain extent. In this regard Mr. S.R.Tolofari writes, since the government regulations (as to the fixation of wages and service contracts) vary from country to country, and the degree of adherence can also vary amongst companies operating under the same flag, the crew's contracts of service significantly affect the level of crewing cost under different registries.(26)

Despite all these short-comings, it is also true that what non-national seafarers are receiving when serving onboard foreign vessels is obviously higher pays relative to their country men who are serving onboard national ships or ashore. In this regard it is

noteworthy to mention that, with a few exception, these wages are higher than the ILO prescribed pay scales for seafarers. ILO has scheduled the latest revised minimum salaries for seafarer as 385 USD per month, and that are going to be effected from January 1, 1995.(27) However, based on this background, we can compare the existing wages and other benefits of the seafarers which are shown in the following Tables.

Table 2.5.1. Wages and other benefits for the Chief Officers as per month(in USD):

Nationality	Basic wage	Leave pay	Over time	Others	Total wages	Days leave	Voyage months
Australian	3528	3528	0	0	7057	27	2
Bangladeshi	1566	0	4	0	1571	3	9
British	3325	1108	0	0	4433	10	5
Bulgarian	1350	270	405	135	2160	10	6
Canadian	2768	0	4442	1155	7317	10	30
Croatian	1444	421	490	513	2868	6	6
Filipino	1490	421	954	89	2954	8	7
German	3811	4001	495	1707	8951		
Indian	1354	451	749	0	2554	10	6
Russian	953	263	360	449	2025	6	6
Japanese	3564	1225	1304	3564	9656	10	9
Hongkong	2117	271	1131	106	3526	3	2
Greek	881	445	1103	1790	3634	8	7
Norwegian	2756	2756	789	1103	6301	30	4
S. Korean	1053	379	1623	595	3556	5	3
Srilankan	2420	209	285	0	2914	3	12
European	3899	3089	0	1477	7966	3	12

* Source: ISF Earning Survey 1994

Table 2.5.2. Wages and other benefits for the Able Seaman's as per month (in USD):

Nationality	Basic pay	Leave pay	Over time	Others	Total wages	Days leave	Voyage months
Australian	2349	2137	0	305	4524	27	2
Bangladeshi	177	0	71	0	248	6	12
British	1688	592	281	200	2473	12	3
Burmese	346	46	0	15	392	4	10
Chinese	360	36	72	0	468	3	12
Danish	1806	1892	419	55	4131	21	6
Filipino	370	70	200	31	650	6	10
German	1807	2474	1139	961	5673	19	6
Greek	624	331	421	900	2104	8	7
Hongkong	962	117	443	0	1522	3	10
Indian	320	93	334	116	785	6	10
Indonesian	303	30	91	0	424	3	1
Japanese	2762	955	1089	4126	7870	10	9
S. Korean	600	113	300	225	1238	6	12
Polish	550	110	340	60	1060	6	6
Russian	448	162	221	180	1011	6	6
Italian	1401	445	613	1239	2522	10	5
Pakistan	86	19	82	157	301	7	3

* Source: ISF Earning Survey 1994.

From the above Tables, we can also see that the wages of the western and developed countries' seafarers are tremendously higher than that of the seafarers of the labour supplying countries. This trend of higher wages has made a tremendous impact on the merchant shipping industry; and compelled the ship owners to recruit seafarers from the labour supplying countries for low salaries or to follow the mixed crew concept just to reduce the manning costs. This can be found in the following reporting published in different journals. The Lloyd's List Australian Weekly writes (22 August 1994) in a heading, "Foreign Seafarers a threat to expensive crews" that:

The high cost of employing Japanese seafarers is making ships with full Japanese crews an endangered species.

Only 83 merchant vessels had full Japanese crews at the beginning of this year and this may drop to fewer than 50 by the end of the year.

With a Filipino seafarer costing one fifth of Japanese crew member, the temptation to use foreign labour has become almost irresistible.

Mixed manning, started in 1990 on Japanese flag vessels has now become common place, although the All Japanese Seamen's Union does not wish to see it further extended.

The Japanese Ship owners' Association, however, believes that further mixed manning of Japanese flag vessels is necessary to strengthen the competitiveness of the national fleet.(28)

The similar situation is also prevailing in South Korea. The Sea Trade Week News Front (28 October- 3 November) writes that:

Like so many other countries there has been a drain on the pool of local seafarers as they have deserted the sea for better paid shore side jobs. In a bid to stem the flow of labour, owners have flagged out to Panama and Liberia to cut manning costs.

In lieu of the new register Korean owners have been allowed since 1991 to employ Chinese seafarers with Korean ancestry per ship at a lower rate of pay than their

Korean counterparts. By the end of the last year, some 1268 Chinese seafarers were employed on Korean flag ships.(29)

This tendency of increasing national crew costs in the USA is also acute One LSM correspondent from San Francisco writes that the LSM readers should look for fireworks if offshore labour unions try to export US pay scales. Quoting Sailor's Union Vice President Of America, the Journals further stated that: boisiun salaries are 3,366 (USD), AB seamen make 2,536 (USD) per month and both get 14 (USD)/hr or 23/hr (USD) overtime for work that is not spelled out in their contracts. Benefits and overtime boost salaries by as much as 50%. These salaries are more than twice those paid on foreign flag ships.(30)

2.6. CONCLUSION:

From the above discussions, we can come into conclusion that: some major open registries have been introduced a minimum standard for registration of ships with special emphasis given to manning, certifications, examinations and employment conditions for seafarers. These steps are positive to implement and enforcement for national/international rules and regulations. But it is also equally true that some irresponsible shipowners and ship registers have not yet been fully observing international minimum standard to operate ships with ensuring safety of lives and properties in sea, and protection of marine environment.

Secondly, we can not generalise that: average quality of the non-national seafarers is so inferior comparing to their Western counterparts. Rather, we can see that some seafarers from major labour supplying countries are almost equally competent, skilled and trained to run the ships. But one thing must be kept in mind while selecting them for foreign ships that recruiting agents have to be careful to select the best ones among those registered seafarers.

Thirdly, with a few exception, we can say that: open registry seafarers are earning more salaries than the ILO fixed wages. But it is also equally true that these wages are

obviously lower than, comparing with those of developed countries' seafarers.

*** References:**

- (1) Clifford B. Donn (1992), Introduction to Trouble On Board, p. xxiii- xxiv.
- (2) Paul K. Chapman (1992), Trouble On Board, p. 21.
- (3) S. R. Tolofari (1989), Open Registry Shipping - A Comparative Study of Costs and Freight Rates, p. 126.
- (4) ISF (1993), Guide to International Ship Management Services, pp. 54- 55.
- (5) *ibid.*, p. 32.
- (6) *ibid.*, p. 32.
- (7) S.R. Tolofari (1989), Open Registry Shipping - A Comparative Study of Costs and Freight Rates, p. 35.
- (8) ISF (1993) Guide to International Ship Management Services, p. 24.
- (9) *ibid.*, p. 18-19.
- (10) *ibid.*, p. 9.
- (11) ISF (1990), The World Wide Demand For And Supply Of Seafarers.
- (12) Paul K. Chapman (1992), Trouble On Board, p. 20.
- (13) The Missions to Seamen, A Report submitted to the Donaldson Inquiry Committee, p. 2.
- (14) Paul K. Chapman (1992), Trouble On Board, p. 22.
- (15) Lloyd's of London Press Ltd.(LLL) (1990), ISF Guide to International Maritime Labour Supply, p. 6.
- (16) The Merchant Shipping Ordinance Of Bangladesh.
- (17) Toufiq Elahi, A Report on Chittagong Seamen Training Centre, p. 1.
- (18) *ibid.*, p. 1.
- (19) LLL(1990), ISF Guide to International Maritime Labour Supply, p.7.

- (20) LLL(1992), Leading Developments in Ship Management, p. 90.
- (21) Institute of south-east Asian Studies (1989), Seafarers in the Asean Region, p. 45.
- (22) LLL (1992), Leading Development in Ship Management , P. 90.
- (23) Paul K. Chapman (1992), Trouble On Board, p. 21.
- (24) LLL (1992) Leading Development In Ship Management, p. 91.
- (25) The Missions to Seamen , A Report submitted to the Donaldson Inquiry Committee, pp. 3-4.
- (26) S. R. Tolofari (1989), Open Registry Shipping - A Comparative Study of Costs and Freight Rates, pp. 127.
- (27) The Lloyd's List, 14 December, 1994.
- (28) Lloyd's List Australian Weekly, 22 August, 1994.
- (29) The Sea Trade Week News Front, 28 October - 3 November, 1994.
- (30) The Lloyd's Ship Manager, 1994.

CHAPTER 3

THE INTERNATIONAL TRANSPORT WORKERS' FEDERATION (ITF) AND ITS FLAG OF CONVENIENCE CAMPAIGN

3.1. THE ORGANISATION :

The ITF was established as the International Federation of Ship, Dock, and River Workers by dockers' and seamen's representatives from Great Britain, Sweden, Germany, the Netherlands, Belgium, France and the United States attending the London congress of the Socialist International in 1886. The following year the organisation was expanded to include all transport workers and its name was changed accordingly.(1) The ITF has grown in strength and influence over the years in terms of its number of affiliates and memberships. However, we can know in this regard that at the end of 1993 its affiliated memberships have totalled 4,273,074 members from 398 unions in 105 countries.(2)

The main organisational components of the ITF include the congress, general council, executive board, management committee, secretariat, and industrial sections. A president, four vice presidents, and a general secretary are the principal officers in ITF.

The congress is the supreme authority of the ITF and is convened every four years by the executive committee in order to review and take decisions on the following items:

- (a) Report on activities;
- (b) Financial statements;
- (c) Fixing of affiliation fees;
- (d) Any proposed amendments to the constitution;
- (e) Motions;

- (f) Location of head-quarters;
- (g) Elections (for president, vice-presidents, and secretary, the membership of the general council and executive board);
- (h) Such other items as the executive board may decide.(3)

The general council is the next in line of authority to the congress. It is comprised of titular members and deputies, elected by each ordinary congress, and the general secretary. It offers those functions prescribed in the constitution and those delegated to it by the congress. The council meets immediately after each ordinary congress and at the discretion of the executive board.(4)

The executive board is constituted of twenty seven members, elected by congress from among the members of the general council and the general secretary. It is the de facto governing body of the ITF between congresses and meetings of the general council. It has to direct the affairs of the ITF and to take such actions and render such decisions as are necessary and appropriate to safe guard and promote the best interests of the ITF and its affiliated organisations.(5)

The ITF president and four vice-presidents are nominated by the executive board from among its members and proposed to congress for election. The president and four vice-presidents each come from a different regional electoral group. The ITF management committee is comprised of a president, four vice-presidents, three designated members and further members of the executive board. This committee exercises the functions and authority delegated to it by the executive board. The committee must meet whenever the executive so decides or when a majority of the committee itself requests a meeting.(6)

The general secretary is responsible to the board for the general administration of the ITF's affairs. Assistant secretaries are appointed by the board and act under the

direction of the general secretary. The ITF has eight industrial sections and two non administrative departments. Each industrial section establishes its own working programme and elects its own chairman. The secretariat schedules section meetings from time to time which all affiliates are entitled to attend for the purpose of adopting conclusions and recommendations on a variety of subject matters. Any decision affecting the ITF as a whole or any other section must be endorsed by the executive board.(7) Trade union organisations or, where appropriate, federations or associations of such organisations are eligible for affiliation to the ITF. Applications for membership of the ITF are addressed to the general secretary, who, after having received all appropriate information and after consulting other organisations of the same country already affiliated with ITF, submits such application to the executive board, which have power to accept or reject. For holding affiliation, affiliates are required to pay affiliation fees at the standard rates per head of each declared membership.(8)

The ITF's Seafarers' Section, and Seafarers Special Department(SSD) are in charges of the seafarers affairs. The seafarers' section deals with the political side of the FOC campaign for example, lobbying government and international organisations, while its operational or practical side is handled by the special seafarers department. This department was created, inter alia, to negotiate proper collective agreements on behalf of crews serving on flag of convenience ship, to provide such crews with a kind of affiliation to replace the security denied them through the absence of a bona fide trade union, and to give the seafarers concerned access to welfare facilities on an international basis.(9)

3.1.2. THE AIMS AND METHODS:

The general aims that ITF has stipulated in its constitution are as follows:

- (a) to promote respect for the trade unions and human rights, universally;
- (b) to work for peace based on social justice and economic progress;

- (c) to assist its affiliates to defend and promote the economic, social, occupational, educational and cultural interests of their members, internationally;
- (d) to provide research and information service to its affiliates;
- (e) to extend general assistance to transport workers in difficulty.

To achieve these aims, the ITF has adopted the following methods:

- (a) establishing and promoting close relations among its affiliates, nationally and internationally;
- (b) assisting affiliates to organise themselves;
- (c) promoting and co-ordinating mutual schemes among the affiliates in different countries;
- (d) seeking co-operation with other international/inter-governmental organisations;
- (e) collaborating with other international trade secretariats;
- (f) providing information to its affiliates and other interested parties through its publications;
- (g) providing financial or material support and aid to transport workers.(10)

3.1.3. THE ORIGIN AND DEVELOPMENT OF THE FOC CAMPAIGN:

The ITF is unique among the international trade union organisations in having a direct influence on wages and conditions of seafarers working on board vessels flying flags of convenience. The ITF campaign against the flag of convenience or open registry was launched at the 1948 Oslo Congress at which the seafarers' section of the ITF, backed by the Dockers, decided to take boycott action against open registries. The two main aims of this campaign were to:(a) eliminate the FOC system altogether and (b) to drive the ships back to their flags. The 1950 Stuttgart Congress refined the ideas behind the campaign into a form still recognisable today. The idea was to seek collective negotiations with FOC ship owners on the basis of defined minimum conditions and to take boycott action only against owners who refused to apply such standards.(11)

The International Boycott Committee originally set up by the 1948 congress was transformed in 1952 at the Stockholm Congress into the Fair Practice Committee (FPC) which still administers the campaign today.(12)

In 1958, the ITF organised a world wide boycott of open registry vessels who refused to sign agreements with ITF. The FPC, the joint body of seafarers and dockers, who run the anti open registry campaign, meeting in London in 1959 laid down the principle that all agreements should be based on the ship's country of ownership rather than on the crew's nationality. During the 1960s the practical side of the campaign was reduced. The ITF concentrated the campaign work on lobbying and working with governmental and international bodies.(13)

The 1971 ITF Congress in Vienna devoted much time to the FOC question. Unions from Scandinavia demanded a higher level of activity in the campaign. As a result the campaign was reorganised and relaunched. A standard ITF agreement and wage scale was developed, which, with a few amendments, still remains in force today. The Vienna Congress also decided to establish a permanent inspectorate drawn from ITF seafarer and docker affiliates in order to provide direct contact points between seafarers and the ITF campaign.(14)

The 1983 Madrid Policy re-stated the principle that the union of the beneficial ownership country retains negotiating rights under the ITF policy, but recognised also that the objective of the campaign was not just to drive ships back to their original flag but also to improve the conditions and defend the interests of seafarers, mainly from developing countries, who crew the ships.

The Geneva Policy of ITF has most recently indicated that the objectives of the campaign that the primary objective of the ITF's campaign has always been, and

remains, the elimination of flag of convenience shipping and the establishment of a genuine link between the flag a ship flies and the nationality of, or domicile of, its owners. The secondary objective and, one which has grown in importance as a result of the growth in FOC tonnage, is to protect and enhance the conditions of employment of seafarers on board FOC vessels. In particular, to ensure that seafarers serving on FOC vessels, irrespective of their nationality, are protected from exploitation by ship owners, ship managers and manning agents.(15)

3.1.4. THE WAGE PUSH:

One of the main goals of the ITF campaign against open registry shipping is to equalise the pay scale of the seafarers, irrespective of whether national or non-nationals are serving on the open registry vessels. In order to impose Western standards on FOC vessels, the ITF has attempted over the years to substitute either itself or the unions of a vessel's owner's country in place of the flag country's union (if any) as the bargaining agent for FOC crews. Sometimes this has even meant setting aside a legitimate ITF member acting as bargaining agent (union) for the seafarers involved. Catering to its European affiliates, the ITF has also opposed lower than European wages and conditions for Asiatic seamen serving on European vessels.(15) The Asiatic seafarers unions have always opposed the ITF single wage demand. But, under pressure from its European affiliates, and particularly, the British National Union of Seamen(NUS), the ITF announced a policy in early 1983 of prohibiting any differentials between the pay of European and Asiatic seamen on European flag vessels.(16)

The ITF wage rate for seafarers on FOC ships is, however, based upon a formula devised in the 1970s: national wage rates for seafarers are converted into US dollars and combined into a weighted total based on the true ownership of the FOC fleets. This formula also generates a substantial 30% increment of the wage. In the Hamburg meeting, held in 1993, the Fair Practice Committee of the ITF once again has

agreed to increase of ten percent of wages for open registry seafarers.(17) According to this new increment of wages, the basic rate for an Able Seaman rises from USD 821 to USD 856 per month, and consolidated earnings (including overtime, improved leave and subsistence allowances) increase ten percent from USD 1,634 to USD 1,804 per month. It is also reported to the FPC that the number of vessels covered by an ITF acceptable agreement is continuing to rise, and now stands at over 2,300.(18) The ITF wage scale for the FOC seafarers made by the ITF is shown as Annex-2.

It is note-worthy to say that the key to the ITF's ability to force FOC ships to agree to its demands is its ability through affiliates to hold ships in port at great cost to their owners or charters until they succumb. Thus even in countries such as Germany, the Netherlands, or even the United States, payments to and agreements with the ITF are made because legal action against ITF requires costly delays. Therefore, when an ITF inspector boards a ship, and an FOC vessel without a blue certificate then the ship has to be faced the ITF boycott; that make unwanted delay of ship at port with increasing operating costs. To avoid these sorts of difficulty and delay, the shipowner or operator usually bound to make an agreement with the ITF or ITF affiliated trade union covering the following procedure:

- * An agreement is signed either with the ITF or an ITF affiliated union.
- * Each seaman is provided with an employment contract.
- * All seamen on board, regardless of their wishes, must either be members of an ITF affiliated union, or if not eligible therefor, must be enrolled in the ITF's Special Seafarers Department at a joining fee of USD 23.00 and a membership fee of USD 46.00 per year, both per seaman. The owners shall pay on behalf of each seafarer in accordance with the terms of the relevant organisation.
- * the ship owners must pay USD 230.00 per seafarer per annum to the ITF Seafarers' International Assistance, Welfare and Protection Fund.(19)

* Back pay is demanded from the date of each seaman's signing onboard to the date of signing of the ITF contracts for the difference between the wages paid and the ITF agreement wages. This amount can be negotiated.

* The owner must agree to maintain stipulated conditions, despite any waivers by the crew, and to advise the ITF of all crew changes and contract changes. The blue certificate and contract must be available for inspection by crew members.(20)

3.1.5. ITF'S MANNING PUSH:

Under section 14 of the ITF Standard Collective Agreement for crews on flag of convenience ships, it is indicated that the ship shall be competently and adequately manned so as to ensure its safe operation and the maintenance of a three watch system, whenever required, and in no case manned at a lower level than the ITF manning scale (shown as Annex-3).

The three watch system is based on an 8 hour working day. As ITF stipulates, this system:

- shall be applied to the deck and engine departments in all seagoing ships. Neither the master nor the chief engineer shall be required to stand watches, and shall not be required to perform non-supervisory work;
- the number of qualified personnel on board ships shall be at least such as to ensure compliance with the 1978 International Convention on Standards of Training, Certification and Watch keeping for Seafarers and the 1980 IMCO Assembly Resolution on Principles of Safe Manning.(21)

The ITF Policy on Manning of Ships has imposed further criteria, apart from the traditional criteria for manning of ships as:

- safe watch keeping requirements and procedures are to be followed;
- provisions regarding working hours are to be maintained;

- the maintenance functions relating to ship machinery and support equipment, radio-communications equipment, cargo support and handling equipment, navigation and safety equipment are to be arranged and maintained;
- health and human endurance factors are to be considered (manning must never fall below the level at which the seafarers' right to good health and safety is jeopardised)
- adequate manning is to be ensured so that the crew can cope with on board emergencies and assist other ships in distress;
- on board training facilities and environmental protection responsibilities are to be provided;
- industrial safety and seafarers' welfare provisions in general and conditions for specialised ships are to be included and observed;
- other work related safety aboard the ship, and age and condition of ship are to be considered.(22)

3.2. THE OPEN REGISTRY ISSUE, ITF CAMPAIGN AND THE POSITION OF DEVELOPED NATIONS SEAFARERS:

It has already been indicated that the development of open registries has had an adverse impact on the seafarers of the developed traditional maritime nations. It has also been hinted that from the inception of modern open registry shipping, many trade unions of the Western countries have argued for the abolition of open registries. However, here it is necessary to analyse the position of the national seafarers from the developed nations to open registry system and what extent they do co-operate with or make pressure over ITF to take an anti FOC position.

It is true that open registry has allowed the ship owners to recruit cheap crews from wherever they wish. Conversely, this trend of crew choices has had a negative impact on the developed countries' seafarers where the standard of living is so high that their wages are several times higher than those of the labour supplying maritime countries. In this context, when the shipowners are eager to employ cheaper crews from any

nations, the seafarers of the developed countries are then, eager to protect their jobs. Keeping in mind this odd situation, the ITF affiliate trade unions of the Western nations put pressure on the ITF to protect their interests. In the years following the second world war, the ITF also became particularly concerned about the increasing number of jobs that were going to non-western seafarers and it shifted its focus to the problem of economic competition from workers of poor countries. The Special Seafarers Section of ITF(now renamed as the Special Seafarers Department), then sought to sign collective bargaining agreements with the shipowners that would raise the wage rates earned by seafarers from developing country levels to a level comparable to those earned by Westerners.(23)

The ITF plan of this action was to seek collective negotiations with ship owners on the basis of defined minimum conditions that may subject to the changes in course of time. If any shipowner failed to come into a negotiation and to make an agreement with ITF or its affiliates he would then face boycott action at any port of the world where ITF affiliates seafarers, dockers, tugboatmen, lock-keepers, other workers, and inspectors are active.(24) The ultimate goal of this action plan was to (1) discourage Western shipowners from flagging out simply to save labour costs, and (2) to save the job opportunities for the Western seafarers.

The ITF campaign and the ultimate goals of its Western allies were encouraged by the adoption of some international rules and regulations. The adoption of the "genuine link" concept by the International Law Commission in 1956, its subsequent incorporation as article 5 in the United Nations Convention on the High Seas, and the adoption of "Seafarers' Engagement(Foreign Vessels) Recommendation (No. 107)" and the "Social Conditions and Safety (Seafarers) Recommendation (No. 108)" by the International Labour Organisation (ILO) marked the most significant achievements for the coalition of interests among the ITF and the Western Europe.(25)

The idea of a "genuine link" sought to establish an effective bond of control between a state and ships registered under its flag as a principle of international law. Article 5 of the UN Convention on the High Seas states, "...there must exist a genuine link between the state and the ship; in particular the state must effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag."

The ILO's Recommendation on the Social Conditions and Safety (Seafarers) incorporated many of the proposals forwarded by the European seafarers' group. The ILO's Recommendation concerning the Seafarers' Engagement (Foreign Vessels), was a clear victory for ITF and its Western affiliated unions. It advised states to discourage seafarers from crewing foreign flag vessels without collective contracts or provisions comparable to the minimum already recognised by shipowners' and seafarers' group of European maritime countries.(26)

The ITF's 1958 boycott programme was successful enough. But these recommendations, however, proved to lack any real influence or effect. Rather, the development of Third World crews aboard open registry vessels became an increasing concern of the ITF in the 1960s. This growing number of non-national seafarers ultimately affected the very jobs of European and North American affiliate members of ITF. In this juncture, ITF adopted a new policy, stating "such agreements (are) to be concluded through the affiliated unions of the country in which actual control of the shipping operation is vested and, where necessary, by the ITF Seafarers Section through its Fair Practices Committee."(27)

In the 1970s and early 1980s Western seafarers unions put further pressure on ITF to strengthen its anti FOC campaign. In 1972, the Fair Practices Committee of ITF directed a sub-committee composed of representatives of the national seafarers unions from Britain, Sweden, and Italy to draft a new ITF collective agreement and

requested ten key ports of developed countries to appoint inspectors to oversee the conditions on open registry ships.

In the 1980s and 1990s, the national seafarers unions of Western Europe, North America, Australia, Newzealand and Japan have strengthen their activities to establish an effective control over the genuine link of ships. Considering their causes, the ITF has repeatedly stipulated the conditions for open registry shipping in the name of standard collective bargaining between the shipowners and the ITF affiliate trade unions or with the Special Seafarers Department of ITF. In "A Message to Seafarers on FOC ships," ITF advised them to join with the ITF affiliated seafarers and dockers unions, and ITF inspectors in the ports throughout the world, who are working to secure, for the crews of all FOC vessels, collective agreements providing wages and other conditions of employment which meet standards acceptable to ITF affiliated unions. Where a ship not covered by such an agreement enters port, ITF affiliated dockers, tugboatmen, lock-keepers and other workers will, when they can, provide solidarity assistance to crew members in their fight to achieve decent working conditions.(28) In addition to that programme, in the name of abuses of open registry seafarers by the operators, the ITF and its Western affiliates have also launched a "black listing" programme of open registry ships, their words, to ensure justice to the open registry seafarers. The Maritime Monitor (a Journal, published from Greece) writes:

In a move aimed to exert pressure on owners who employ Eastern European, Far Eastern and South American seamen allegedly paid less than the wages set by the International Labour Organisation, leaders of the ITF have disclosed their plan to issue a black list of fleets abusing seafarers.(29)

3.3. THE OPEN REGISTRY ISSUE AND THE POSITION OF ILO:

The International Labour Organisation (ILO) was established in 1919, under the Treaty of Versailles, to bring governments, employers, and trade union

representatives together for united action in the cause of social justice and higher living standards everywhere. In 1946 it became the first specialised agency of the United Nations having special responsibility for social and labour issues. The aims and activities of ILO are to:

- formulate international policies and programmes to help improve working and living conditions, enhance employment opportunities and promote basic human rights;
- create international labour standards to serve as guidelines for national authorities in putting these policies into action;
- carry out an extensive programme of technical co-operation to help Governments in making these policies effective in practice; and
- engage in training, education and research to help advance these efforts.(30)

The ILO is unique among world organisations in the sense that workers' and employers' representatives have an equal voice with those of governments in formulating its policies. However, the activities of the ILO are based on the three fundamental organs:

- * the International Labour Conference;
- * the Governing Body; and
- * the International Labour Office.

The International Labour Conference meets yearly in June in Geneva. It is composed of delegates from each member country, two from the Government, one each from the Workers and the Employers, and a number of experts and advisers. Normally it discusses general reports, programme, budget, and information and reports on the application of Conventions and Recommendation. It adopts new labour standards and revises existing ones.

The Governing Body determines the line of action of the organisation by deciding the agenda of the Conference and also by directing the work of the International Labour

Office. It is composed of 28 Government members, 14 Employer and 14 Worker members and meets 3-4 times per year.

The International Labour Office is the permanent secretariat of the Organisation. It is charged with the execution of the decisions of the Conference and the Governing Body.(31)

Between 1919 and 1993, the ILO has adopted 174 Conventions and 181 Recommendations. Their coverage includes certain basic human rights such as freedom of association, freedom from forced labour, and equality of opportunity in employment and occupation, labour administration, industrial relations, employment policy, working conditions, social security, occupational safety and health, protection of children, and employment of special categories such as migrant workers and seafarers.

In the field of maritime affairs, particularly as to seafarers affairs, the ILO has adopted (between 1920 to 1987) a total of 36 Conventions and 26 Recommendations concerning seafarers, which demonstrates the important part of ILO activities devoted to seafarer questions.(32) A list of the important Maritime Labour Conventions and the Maritime Labour Recommendations regarding seafarers are shown in Annex 4.

Unlike ITF the ILO has no special target to cripple or eliminate the open registry system. But, due to the consistent efforts of the ITF in demonstrating open registry as an issue to the ILO, the activities of this organisation has also been centred around open registry shipping. In 1933, the ITF first officially brought this issue before the ILO stating that open registry shipping is substandard and that an inquiry needed to be made by the ILO. At the 18th session of the Joint Maritime Commission in 1955, which advises the Governing Body on maritime issues, the ITF submitted a report on the problems of open registry. The commission agreed that the issue could be

considered at the 1956 Preparatory Technical Maritime Conference and at the 1958 Maritime Session of the International Labour Conference. The Preparatory Conference adopted it as a text which was submitted to the Maritime Session of the International Conference. After a brief discussion, the Session adopted it as the Social Conditions and Safety (Seafarers) Recommendation Number 108. The body of the Recommendation strengthened the genuine link requirement regarding administration, regulation, inspection and control. Although as a recommendation, this did not have the force of law, it must be regarded as a victory for the ITF representatives at the ILO.(33)

At the twenty first maritime session of the International Labour Conference in 1970, the workers' delegate from Finland (a major area for ITF anti-FOC activity) submitted a draft resolution on open registry. The resolution requested member states to report on steps taken to comply with Recommendation Numbers 107 and 108. After debate, the resolution was passed with minimal changes.

The ILO Convention No. 147, which strengthens port state control, is being treated as a powerful tool for ITF seafarers to control substandard ship. They also use the ILO recommendations and conventions as a legal stand for boycotting open registry ships. Moreover, the regular increases of ILO recommended minimum wages schedules have also been an important factor in reducing the wider gap of wages between developed countries seafarers and under-developed countries seafarers. This is, of course, in line with ITF policy which is clearly designed to protect the jobs of seafarers from developed countries, in part by raising the wages of those from the third world.(34).

*** References:**

- (1) Herbert R. Northrup and Richard L. Rowan, *The International Transport Workers' Federation and Flag of Convenience Shipping*, (1983), p. 3.
- (2) ITF, *Report on Activities, 1990-91, 1992-93*. pp. 15, 77.
- (3) ITF Constitution (1990), pp. 5,7.
- (4) *Ibid.*, p. 8.
- (5) *Ibid.*, p. 9.
- (6) *Ibid.*, p. 11.
- (7) Ake Selander, *Is ITF Right ?* Lloyd's London Press Ltd.(1981), p. 2.
- (8) ITF Constitution, (1990), p. 3, 16.
- (9) Ake Selander, *Is ITF Right?* Lloyd's London Press (1981), p. 3.
- (10) ITF Constitution (1990), pp. 2-3.
- (11) ITF, *Flag of Convenience- The ITF's Campaign*, p. 18.
- (12) *Ibid.*, p. 18.
- (13) *Ibid.*, p. 19.
- (14) *Ibid.*, pp. 20-21.
- (15) Herbert R. Northrup and Richard L. Rowan, *The ITF and FOC shipping*, (1983) p. 102.
- (16) *Ibid.*, pp. 102- 103.
- (17) ITF, *Seafarers Bulletin*, (1993), p. 4.
- (18) *Ibid.*, p. 14.
- (19) ITF, *Standard Collective Agreement for FOC Seafarers*, (1994), pp. 11, 16.
- (20) Herbert R. Northrup and Richard L. Rowan, *The ITF and FOC Shipping* (1983), pp. 117, 122.
- (21) ITF, *Standard Collective Agreement*, (1994), p. 18.
- (22) *Ibid.*, pp 17-18.
- (23) Paul K. Chapman, *Trouble On Board*, (1992), p. 87.
- (24) ITF, *FOC- The ITF's Campaign*, p. 18.

- (25) Herbert R. Northrup and Richard L. Rowan, *The ITF and FOC Shipping*, (1983), p. 46.
- (26) *Ibid.*, p. 46.
- (27) *Ibid.*, p. 47.
- (28) ITF, *Message To Seafarers*, (1995), p. 1.
- (29) *The Maritime Monitor*, (January, 10, 1995).
- (30) UN, *Basic Facts About The United Nations*, p. 227.
- (31) ILO, *Report On The ILO Seminar For Senior Government Officials From Asian Countries On Maritime Labour Standards*, (1983), p. 16.
- (32) ILO, *Maritime Labour Conventions and Recommendations*, (1994), p. 2.
- (33) Herbert R. Northrup and Richard L. Rowan, *The ITF and FOC Shipping*, (1983), p. 219.
- (34) *Ibid.*, p. 220.

CHAPTER 4
THE OPEN REGISTRY SHIPPING AND THE POSITION OF THE
UNCTAD, AND THE EUROPEAN UNION

4.1. THE POSITION OF THE UNCTAD

4.1.1. THE ORGANISATIONAL STRUCTURE, OBJECTIVES AND THE ACTIVITIES OF UNCTAD:

The United Nations Conference on Trade and Development(UNCTAD) was established in 1964, as a specialised organ of the United Nations(UN). Its mandate is to promote international trade, particularly that of the developing countries, with a view to accelerating their economic development. In the line with its mandate, the functions(1) of UNCTAD comprise:

- policy analysis;
- intergovernmental deliberations, consensus building and negotiations;
- monitoring, implementation and follow up; and
- technical co-operation.

From at the eight session of UNCTAD, held in Cartagena, in 1992, it has given emphasis on the need both for effective national policies and for international co-operation aimed at improving the external economic environment based on the recognition of the mutuality of interests among countries from different regions and at different levels.(2)

UNCTAD has 179 member states, including 175 members of the United Nations. UNCTAD membership is divided into various groups representing varying interests in the field of trade and development in general and maritime issues in particular. Group A and C represent(the Group of 77) largely developing countries from Asia, Africa,

Central and South America, including the former communist bloc, China, and Yugoslavia, aligning. This Group is the pressure group within the UNCTAD mechanisms dealing with policy formulation and implementation.

Group B is comprised of mainly the developed market economy countries, effectively the OECD countries. And Group D represents the open registry countries.

UNCTAD activities are conducted through the executive body, two specialised bodies (the Special Committee on Preferences, and the Intergovernmental Group of Experts on Restrictive Business Practices), four standing committees, and five working groups.

The executive body is the Trade and Development Board (132 member states), which meets biennially in two stages and reports to the UN General Assembly through the Economic and Social Council (ECOSOC). As agreed upon the Cartagena Conference, one meeting of the Board will focus on the international implications of macroeconomics policies and issues concerning interdependence. The other meeting will concentrate on trade policies, the problem of structural adjustment and economic reform.

The four standing committees deal, respectively with trade in commodities, poverty alleviation, economic co-operation among developing countries, and developing the service sector.

The five ad hoc working groups works on investment and financial flows, trade efficiency, privatisation, trading opportunities for developing countries, and the inter relationship between investment and technology transfer.

Apart from those formal members of the UNCTAD, the external actors- such as enterprises, trade unions, the academic community and non-governmental organisations have a greater participation at meetings of the various intergovernmental bodies of UNCTAD.(3)

4.1.2. MARITIME ACTIVITIES OF UNCTAD:

As UNCTAD is concerned with international trade and development, maritime issues have assumed a prominent place in its activities. Professors Herbert R. Northrup and Richard L. Rowan pointed out in this regard that two major issues have dominated maritime matters in UNCTAD activities... One is bulk cargo sharing agreements designed to insure that an exporting nation, particularly a Third World country, receives a major share of the shipping of its exports. The second is the elimination of open registry ships.(4) This study will focus on this second activity of UNCTAD. It is note-worthy to mention that since its inception in 1964, UNCTAD efforts have resulted in conventions in the area of maritime transport relating to:

- participation in liner shipping, including the apportionment of national shares therein(1974);
- the multi-modal transport of goods(1980); and
- conditions for the registration of ships, including the issue of linkages between ships and their flag states(1986).

4.1.3. OPEN REGISTRY ISSUE IN UNCTAD:

The open registry issue has been argued in UNCTAD, broadly speaking, in the two phases. In the initial stage the discussion of this issue was limited to the phasing out of the open registry system and replacing it with a genuine link between a state and a vessel. These activities continued from 1974 to 1983. The second stage of the open registry issue was limited to the formulation of the conditions for the registration of ships. These activities continued from 1984 to 1986. It is known that control over shipping constitutes the basis of the UNCTAD controversy with open registry

shipping; but with the adoption of the Convention on the Conditions for Registration of Ships in 1986, the issue of phasing out open registry shipping appear latent. However, a discussion of the above mentioned activities of UNCTAD is provided in the succeeding paragraphs.

UNCTAD, being an international body where politics tend to dominate the views of the organisation to a considerable degree, has reflected the wish of the majority of its members, particularly of the Group of 77. Basically, the Group of 77 countries took the initiative through UNCTAD to attack open registry shipping arguing that:

- open registry shipping hampers the development of national fleets of developing countries;
- there exists no genuine link between the flag state and the ship; and
- developing nations have not equitably participated in world trade as providers of world shipping services.

4.1.4. THE GENUINE LINK CONCEPT AND THE PHASING OUT OF OPEN REGISTRY ACTIVITIES IN UNCTAD:

The genuine link concept, which was the basis for UNCTAD to launch a phasing out of open registry shipping, was first introduced in 1956 into the deliberations of the International Law Commission (ILC) set up by the United Nations to formulate an international law of the sea by the Dutch delegation with the full backing of the traditional shipping states, particularly by the UK. The purpose has been to curb the development of open registry shipping. The draft convention, which followed the ILC, included the requirement that a genuine link must exist between ship and registry to ensure effective control and jurisdiction over such (registered) vessel by its state of registry. But in doing so it failed to specifically define the precise meaning of genuine link and failed to establish the basis for testing whether this link exists between ship and registry. In the subsequent UN Conference convened in 1958 on the law of the sea at Geneva, the conference also failed to reach an agreement on what elements

constituted a genuine link but merely adopted the concept in the final wording in the UN Convention on the High Sea. Right from its codification into international maritime law in 1958, the genuine link concept has been widely and severally interpreted and has over the years caused a great deal of disagreement between legal commentators on the issue.(5)

Due to the vagueness and different interpretations of the genuine link concept surrounding the open registry controversy, UNCTAD and its Preparatory Committee sought to define the factors that constitute a genuine link. To this end the 1977 UNCTAD report(6) elaborated the following elements of genuine link to be considered when establishing a genuine link between a state and a vessel:

- (I) the vessel or the company owning the vessel should be beneficially owned for a substantial part by nationals of the flag states;
- (ii) the principal place of business and effective management of the legal entity should be located in the flag state;
- (iii) the principal officers of the shipping company should be nationals;
- (iv) the flag state should exercise financial control by subjecting the profits of the shipping to taxation;
- (v) the state of registry should exercise full and regular control over the standards of the vessels and, qualification and conditions of crew employment.

The economic implications of the establishment of a genuine link and the repercussions of phasing out open registry were addressed in the 1979 UNCTAD report.(7) This report suggested that if open registries were to be phased out over a ten year period starting in 1981 there would be four options for the beneficial owners:

- (1) repatriating their investments to their home countries;
- (2) establishing genuine links with the open registry countries;
- (3) transferring investments to developed countries having a supply of shipboard labour;

(4) transferring investments to developing countries having a supply of shipboard labour.

The 1979 UNCTAD report defined "phasing out" in this way : "Phasing out does not imply the abolition of shipping registries of countries presently offering open registry facilities, but rather a gradual tightening of the conditions on which those countries will accept new registrations (or retain vessels on their registers), as well as simultaneous restrictions on the establishment of any new open registry facilities". But in practice, one critic says, whatever the form of words, it is generally accepted in the shipping trade that if it were to be implemented, this would mean an end of open registry practices as they are at present.(8)

As has already been seen, open registry countries provide a more convenient economic environment to the shipowner. Lower operating costs are the most commonly cited economic reasons for the use of open registries. States which are in favour of the least-cost shipping service and convenience flag vessels, opposed the phasing out of open registry launched by the UNCTAD. Similarly, open registry countries like Panama and Liberia, that are used to earning significant income through registration fees, also expressed their concern about UNCTAD's phasing out programme. Moreover, some labour supplying countries, particularly Asian countries, have expressed concern about the possible elimination of job opportunities if open registries are phased out.(9)

With this background, in order to resolve the issue, UNCTAD's Committee on Shipping, in its May-June 1981 meeting, passed a resolution calling for the gradual tightening of registry conditions and the creation of an Intergovernmental Preparatory Group (IPG) to decide how to accomplish this. The UNCTAD Trade and Development Board approved this resolution late in 1981, and the IPG was

established. The IPG was assigned to make specific proposals on the following four areas on the basis of the basic principles for registration of ships:

- (a) the manning of vessels;
- (b) the role of the flag countries in the management of shipping companies and vessels;
- (c) equity participation in capital; and
- (d) identification and accountability of owners and operators.

To do the assigned tasks, IPG convened meetings at two times during 1982. But the United States, Panama, and Liberia did not attend the meetings because of the failure to reach prior consensus. On the other hand, the meetings themselves produced little agreement between the Groups seeking to negotiate the draft text of a proposed international agreement for consideration by diplomats at an international UN Conference.(10)

With regard to manning requirements, the Group of 77, Group D, and China recommended that a significant percentage of key officers and crew be nationals of the flag state. But Group B did not support these national crew composition requirements. They opposed the idea stating that this is a question to be settled by national law and that introduction of national crew requirements would probably increase the cost of shipping to all countries.(11)

Considering the possible impact of phasing out or tightening of open registry flags to the labour supplying countries, all UNCTAD Groups have agreed in these meetings in 1982 that the best means of protecting these states is to provide assistance for the creation of national registers which because of attractive labour costs, would be utilised by many shipowners.(12)

Regarding national participation in the shipowning company, all groups agree that a shipowning company must have a physical presence in the flag state, but they did not reach any consensus about the extent to which nationals are to participate within such companies. The Group of 77, Group D and China have wanted an adequate national participation in the shipowning company. They intended to ensure that vessels flying a national flag would be operated in the national interest and would be accountable to national maritime authorities. But Group B opposed this formula arguing that national equity participation is incompatible with the principle of freedom of capital movements and that shipping is being discriminated against in comparison to the other international activities.(13)

On the issue of identification and accountability of shipowners, an agreement has been reached whereby vessels and registers should carry or ensure that sufficient information is available to identify individuals or companies that can be held accountable for the actions of a vessel. States are to ensure that accountable individuals be in a position, financially or otherwise, to meet the obligations a vessel may incur.(14)

Under the above discussion, it can be easily understood that there was a lack of consensus among the groups over the issues. However, despite the lack of consensus, the second IPG meeting held in November 1982, passed a resolution recommending a 1983 UN Plenipotentiaries Conference to consider the language in dispute. It was at this point, according to Federation of American Controlled Shipping (FACS), that UNCTAD's control over the open registry proceedings was effectively diluted. FACS writes that in December 1982, the UN General Assembly prompted UNCTAD by stepping into the picture and establishing a UN Conference on Conditions for Registration of Ships which was to take into account the views of all interested parties ...to achieve consensus in the international negotiations which would had to a draft Convention for Registration of Ships. UNCTAD was given the task of providing a

secretariat and other support services for the conference but its overall control had been substantially eroded.(15)

By the time, the two weeks Preparatory Committee meeting for the UN conference was convened in November 1983, there had been no resolution of any of the outstanding issues on nationality links to manning, management or equity. But one development of note did occur in that Liberia and Panama participated for the first time in the November 1983 meetings and joined Group B in opposing the phase out of open registries. Despite the failure of resolving the issues, this committee tried to make a compromise suggesting that states could have the option of either having significant national manning requirements or significant national equity participation; but again it was rejected.(16)

4.1.5. THE FINAL PHASE OF UNCTAD ACTIVITIES (1984-86) - THE UN CONVENTION ON CONDITIONS FOR REGISTRATION OF SHIPS, 1986:

With this background, the UN Conference on Conditions for registration of Ships was convened at its first part from 16 July to 3 August 1984 in accordance with the General Assembly resolution 37/209 of 20 December 1982. But it failed to make an agreement on whether there should be nationality links to manning, management or equity, despite a strong public relations effort by UNCTAD before and after the session to create the impression that progress was being made in abolishing open registries.(17)

The UN Conference resumed its three weeks session at its second part from 28 January to 15 February 1985 in accordance with the General Assembly resolution 39/213A of 18 December. Regarding this session, the FACS writes, " For the first time, however, this meeting evidenced a sharp drop in anti-open registries rhetoric and an acceptance of reality that open registries were an integral part of international shipping some countries liked it or not. The attitudinal change was reflected in the

activities of the UNCTAD Secretariat which were becoming less antagonistic to open registries.”(18)

The third session of the UN Conference, resumed for two weeks from 8 to 19 July in accordance with the General Assembly resolution 39/213B of 12 April 1985, produced some notable agreements on critical issues which presaged that the final outcome of the conference would not radically alter the status-quo. For the first time the ideological arguments against open registries were missing. It seemed that the delegates and the Secretariat had finally faced up to the reality of international shipping and were seeking to reflect those realities in an international agreement.(19)

The final session of the conference was resumed for three weeks from 20 January to 7 February 1986 in accordance with the General Assembly resolution 40/187 of 17 December 1986. About this session, the FACS writes, “... this year (there) was no different in tone or attitude. Indeed it was anticlimactic.”(20) However, after several years of wrangling, negotiations and compromises, the United Nations Conventions on Conditions for Registration of Ships was adopted on 7 February 1986 in the presence of some 110 countries and an equal number of deliberations members from specialised agencies, intergovernmental and non-intergovernmental agencies as well as observers.(21)

4.1.6. THE PROVISIONS OF THE CONVENTION AND ITS IMPACTS ON OPEN REGISTRY SHIPPING:

The UN Convention on Conditions for Registration of Ships is an international convention spelling out the pre-requisite conditions under which the states can accept ships under their flags. It was claimed by UNCTAD that for the first time an international instrument now existed which defined the elements of the genuine link that should exist between a ship and the state whose flag it flies. The convention is comprised of 22 articles, and 3 appendices. The Articles cover subjects ranging from

definition, objectives, scope of application, general provisions, and entry into force, to reviews and amendments. Among these Articles, Articles 7, 8, 9, and 10 are the most important ones in terms of spelling out the requirements for a genuine link. These Articles outline the conditions in respect of national ownership and/ or manning, ownership of ships, manning and management respectively. Other important Articles are Article's 1, 5, 6, and 11.

Article 1 defines the objectives of the convention as such:

For the purpose of ensuring or, as the case may be, strengthening the genuine link between a state and ships flying its flag, and in order to exercise effectively its jurisdiction and control over such ships with regard to identification and accountability of shipowners and operators as well as with regard to administrative, technical, economic and social matters, a flag state shall apply the provisions contained in this connection.

Article 7 has given optional requirements for the state of registry to choose whether to make national equity participation as the requisite condition for vessel acceptance or to base acceptance on national manning in accordance with its national interests and circumstances. It indicates that:

... a state of registration has to comply either with the provisions of paragraphs 1 and 2 of Article 8 or with the provisions of paragraphs 1 to 3 of Article 9, but may comply with both.

Professor Ademuni Odeke remarks on Article 7 stating that the provision for options in Article 7 renders the operation of Article 8 on ownership and Article 9 on manning ineffective.(22)

Article 8 provides that:

1. Subject to the provisions of article 7, the flag state shall provide in its laws and regulations for the ownership of ships flying its flag.
2. Subject to the provisions of Article 7, in such laws and regulations the flag state shall include appropriate provisions for participation by that state or its nationals as owners of ships flying its flag or in the ownership of such ships and for the level of such participation. These laws and regulations should be sufficient to permit the flag state to exercise effectively its jurisdiction and control over ships flying its flag.

Article 9 requires that:

1. Subject to the provisions of Article 7, a state of registration, when implementing this Convention, shall observe the principle that a satisfactory part of the complement consisting of officers and crew of ships flying its flag be nationals or persons domiciled or lawfully in permanent residence in that state.
2. Subject to the provisions of Article 7 and in pursuance of the goal set in paragraph 1 of this Article, and in taking necessary measures to this end, the state of registration shall have regard to the following:
 - (a) the availability of qualified seafarers within the state of registration;
 - (b) multilateral or bilateral agreements or other types of arrangements valid and enforceable pursuant to the legislation of the state of registration;
 - (c) the sound and economically viable operation of its ships.

From the provisions of the Articles 7, 8, and 9 we can see that state of registry has given the privileges to establish a genuine link, in terms of national equity participation in manning and ownership, either through national vessel ownership or through manning. The purpose here is, according to Professor S. R. Tolofari, to ensure that the state is able through its laws and regulations to sufficiently exercise effective jurisdiction and control over its ships.(23)

Article 10 addresses responsibility and accountability of the state of registration in terms of financial management and safe operation of ships. It states that the state of registration is responsible for ensuring that persons accountable for the management and operations of ships are in a position to meet the financial obligations that may arise from the operation of such ships and to cover risks which are normally insured in international maritime transportation in respect of damages to third parties.

Other important Articles as Articles 11, 5, and 6 also addressed some requirements on the conditions for registration of ships. Article 11 spells out the necessity of information about the owners and the ships to be recorded in the register of ships. Article 5 provides for the establishment by a flag state of a competent and adequate national maritime administration. Article 6 provides that a state shall have the necessary measures to ensure that owners and operators on a ship on its register are adequately identifiable for the purposes of ensuring their full accountability.

4.2. THE POSITION OF EUROPEAN UNION (EU):

4.2.1. THE MARITIME POSITION OF EU:

The European Union is the organisation for the 15 member states of Europe that has been created for the integration of Europe politically, socially, culturally, and financially. The organisation has its own parliament, executive council, and secretariat for formulating policy, functions, and implementing all these to a certain extent. Among the activities of this organisation, maritime transport has historically been of great economic, social, strategic and political importance. At present, according to EU statements, more than 90% of the community's total external trade is carried by maritime transport, less than 10% by all other modes of transport together.(24) Despite all these importance, the percentage of the world's merchant fleet sailing under the flag of an EU member states has been fallen from 40% in 1960 to 30% in 1980 and has then further decreased to 13.8% in 1990. The extent of flagging out of

the community vessels from national shipping to open registry shipping is very much substantial in the last few decades. In 1990 Liberia, and Panama alone hold 12%, and 10.3% of the world fleet respectively.(25) The number of European seafarers has also fallen sharply from 300 000 in 1980 to 119 000 in 1991.(26)

This trend of flagging out of the community ships has tremendous effects on the EU. Dr. Wim A. G. Blonk pointed out the following effects(27) could be found in the member states:

- the loss of employment in various industries supplying the shipping industry;
- the fall in shipping's contribution to the member states' balance of payments;
- the loss of income for European governments (in income tax, corporation tax, etc.) ; and
- the rise in welfare payments as a result of increasing unemployment among EC seafarers.

From the above discussion, we can see that European shipping has largely lost its comparative advantage over many ships which fly the flag of non-community countries; because of the following causes(28):

- (1) European seafarers' pay levels are too high compared with those of seafarers working under "cheap" flags (open registry).
- (2) Social security contributions in the community are incomparably high.
- (3) The above factors are compounded by stringent manning regulations.
- (4) If a European shipowner should make a profit, the taxes taste a large part of it.
- (5) Western European governments are wary of granting aid which would enable European shippers to hold their own in this economic battle.
- (6) Shipping safety standards in the community are high, which of course is good for shipping safety but increases costs.

(7) A relatively large number of third countries apply protectionist measures, most in the form of cargo reservation or cargo sharing systems which allow European shipowners little or no access to such cargoes.

(8) The competition rules laid down by the EC Treaty are aimed at free and open competition.

4.2.2. THE EU MARITIME TRANSPORT POLICY:

The European maritime industry today is facing a considerable number of difficulties. To overcome these obstacles, the EU therefore formulates a common maritime transport policy for its member countries' shipping industries. The main objectives (29) of this policy are as follows:

- 1- the creation of positive measures such as the setting up of a European ship register, the EUROS,
- 2- the further and intensified development of coastal or short sea shipping,
- 3- the improvement of the competitive position of EC shipping lines by way of a non-protectionist policy, based on the freedom to provide services, free access to trade and cargo as well as free and fair competition,
- 4- the creation of increased opportunities for EC shipping lines in maritime transport with and between third countries, and
- 5- the improvement of maritime safety and the prevention of marine pollution.

The EU has not directly criticised the open registry system. But through its policy objectives, particularly through the creation of EUROS--the European ship register, the EU ultimately has wanted to stop the flagging out of the community ships and thereby preserve the interests of the community's seafarers. This, in turn, may affect the interests of the open registry shipping as well as of non-community seafarers. However, in this study, it is not intended to evaluate all these policy objectives; rather an attempt is made to understand the scope and possibilities of EUROS as a second register to open registry or a parallel register to national registry.

4.2.3. THE HISTORY AND DEVELOPMENT OF EUROS:

The idea and possibility of creating a community register to promote the European shipping industry was raised first in 1988 by Commission Member Stanley Clinton Davis. He proposed that ships flying the community flag should be manned solely by the European. But this idea of manning such crews was refused by Karl-Heinz Narjes, another Commission Member, who was in charge of the shipping industry. He proposed that 100% crews should be recruited from non-community nationals. However, Mr. Clinton Davis' idea of creating a community register was picked up, latter on, by Mr. Karel Van Miert, who was the successor of Mr. Clinton Davis. Mr. Karel worked out a compromise formula relating to manning where he stipulated that 100% officers on board of community ships must be European and at least half of the rest of the crew must be community nationals (100% + 50%).(30)

The draft proposal to set up a European ship register (EUROS) was officially presented to the European Council in August 1989. Since then, with its two amendments of 1991, the reflection papers on it by 1993, and 1994, it has not been approved by the EC. The original proposal and its subsequent amendments contain 5 Sections covering 29 Articles. Section 1 provides scope of the regulation, Section 2 stipulates the register, vessel owners and vessels. Section 3 addresses the safety, manning and crew. Section 4 provides facilities attached to registration in EUROS. Section 5 addresses the European flag, and port of registration. Of all these, the following Articles are important in terms of ship registration, employment opportunities, wages and social security for seafarers which are the focal points for this study.

Article 4 of Section 2 describes the eligibility of vessels for registration under EUROS as such:

Eligible for registration in EUROS is any sea-going merchant vessel with a tonnage of at least 500 grt, built or under construction, which is already registered in a Member State and is used or to be used for the transport of cargo or passengers or any other commercial purpose, if it fulfils the following conditions:

- (a) the vessel must be and remain registered in the ship register of a Member State for the duration of its registration in EUROS;
- (b) the vessel must be owned, and for the duration of its registration in EUROS remain owned, by a Community vessel owner;
- (c) the vessel shall not be more than 20 years old at the time of its registration in EUROS unless it has been completely refurbished and certified by a Member State as complying with the regulations for new ships defined in the 1974 SOLAS Convention.

Article 12 of Section 3 describes the nationality of crew that:

On vessels registered in EUROS all officers and at least half of the rest of the crew referred to in their minimum manning certificates shall be nationals of a Member State.

But this provision can be relaxed where national seafarers are not available for employment. Article 13(29) states that (in this context)...under the terms and conditions... the Member State may grant permission to the master of the vessel to sail on the forthcoming voyage with fewer seafarers who are nationals of the Member States than those provided in Article 12.

Articles 14 (1)(2), and 15 of Section 3 stipulate the wages, working hours and further labour conditions of non-national seafarers in accordance with the ILO Wages, Hours of Work and Manning (Sea) Recommendation (No. 109), 1958 subject to any collective wage agreement concluded with trade unions representing non-national seafarers.

As to the social security for the seafarers on board vessels registered in EUROS, it is stipulated that it shall be the responsibility of the country in which the seafarer has his usual residence to extend these facilities to seafarers.

4.2.4. THE ADVANTAGES OF EUROS:

As EUROS is a parallel register, existing along side the national registers, Mr. Balt Helling, in his notes for a lecture given to the European Maritime Law Organisation, held in London, October 1992, on EUROS and Related Issues, pointed out that the following advantages⁽³¹⁾ are being found in this registry:

- (1) On the assumption that the use of a mainly European crew accounted for a large part of the cost differential with competitors flying flags of convenience, the Commission would have preferred to offer some form of compensation.
- (2) EUROS ships would be granted exclusive rights to participate in cabotage market where it was still restricted to ships flying European national flags. They would also have sole rights to carry EC aid shipments.
- (3) It would be easier to simplify the transfer of ships from one register to another within the community.
- (4) EUROS also offers the advantages of guaranteeing a high quality register with a recognisable European identity. Quality is to be guaranteed by compliance with the member states' national safety standards, the 20 years age limits for registration, and the high proportion of European seafarers, trained by European training institutions.

4.2.5. CONTROVERSY OVER EUROS:

Despite all these advantages, the Economic and Social Committee (ESC), European Parliament, and national unions and ITF took the EUROS proposal very seriously. The ESC called it "imaginative", but said it lacked real incentives. The Committee suggested various solutions, which mainly boiled down to offering fiscal and financial incentives to close the gap with the flags of convenience.⁽³²⁾

The European Parliament proposed a series of amendments to the EUROS proposal. These included helping EUROS shipowners with a range of fiscal and financial measures such as a Greek-style tonnage tax where shipowners are being helped with a range of fiscal and financial support from the government of Greece. Here shipowners are used to enjoy tax concessions, and exempted from income tax for the seafarers in order to reduce shipowners' labour costs. If tax concessions proved insufficient, community funds could be made available to cover seafarers' pension contributions, training and repatriation, and to modernise the fleet.(33)

The ITF European seafarers' Regional Committee Steering Committee, meeting in Athens on 12 and 13 May observed that the current EUROS proposal has not enough financial and fiscal support measures for European shipowners and seafarers. They demanded that EUROS, if introduced, should provide jobs and continuity of employment for European seafarers and should not be developed into a flag of convenience register. In this regard they concluded that the EU Commission, in its latest attempt to revise EUROS, has not taken the seafarers' proposals on EUROS into serious consideration and that therefore there will be no guarantees of job security and continuity of employment for seafarers if EUROS is introduced. And therefore they urged the ITF Fair Practices committee at its next meeting from 1 to 3 June in London to declare EUROS as a flag of convenience if and when it is instituted under terms which are not acceptable to the European Seafarers...(34)

4.2.6. THE LATEST POSITION OF EUROS:

Despite two amendments in 1991 to the original proposal of EUROS in 1989 and further suggestions and reflections from various sides, it has not received the approval of the Council. However, on 24 March 1994 the Council requested the Commission to encourage work directed towards the introduction of a community register as a register of high safety standards and competitive conditions for ships. In response the Commission carried out a series of consultations on a possible solution for adoption in

the foreseeable future. These consultations showed that it was necessary to take into account the following factors (35):

- * the idea of a Community register should be widely supported, because this would be the expression of a development towards a truly European maritime identity and of the commitment of the Community and its Member States to an active Shipping policy;

- * such a policy should aim at improving the competitiveness of Community shipping companies, preserving maritime know-how and maritime infrastructure in the Union; and maximising the contribution of the sector to the economy of the Union as a whole;

- * many states, including OECD member countries, are adopting or have in place measures to support their fleets;

- * it is in the Community interest to take coherent action, albeit not through the adoption of protectionist measures;

- * there is a general fear that the gap between the operating costs of ships flying flags of Member States and other flags is tending to become wider;

- * it is generally accepted that the cost gap relates to wage-related costs and to differences in fiscal regimes;

- * it is likely that the modernisation of the Community flag fleet will lead to the need for highly qualified seafarers and therefore more employment;

- * there was a general feeling that EUROS as a mechanism and reference point of shipping policy will lead to a real Community alternative to open registers, providing for continuity in the maritime profession, representing quality by applying technical and operational standards in accordance with existing international rules and ensuring that distortion of competition between Member States' shipping companies is limited to a minimum;

- * the Commission emphasised that State aid will be granted only in accordance with current policy and jurisprudence, so that it must generally decrease over a given

period of time, it must be necessary and proportional to its objective and be transparent.

On the basis of these consultations, it appears that 20 specific points could attribute to an acceptable solution.(36) Of them the following are the relevant ones in terms of ship registration and seafarers' causes:

1. there should be a recognition that the shipping sector, and in particular Community shipowners operating Community flag ships, is of vital importance for the European Union for economic and strategic reasons;
2. it should also be recognised that there is a Union interest in seeking to prevent flagging out and in stemming the increasing trend towards second and off-shore registers with varying requirements;
3. in reviewing its proposal for EUROS the Commission would in particular examine the possibilities for a scheme which would provide greater flexibility in the crewing nationality requirements, while maintaining a minimum complement of Community seafarers;
7. manning conditions for EUROS would not have any impact on manning conditions required in conformity with the cabotage Regulation;
10. all non-Community seafarers on board EUROS ships would be holders of certificates organised by the Community on the basis of the STCW Convention and Directive 29/92 on the minimum safety and health requirements for improved medical treatment on board vessels would apply;
12. financial support would be granted as compensation for extra costs incurred through employing Community seafarers...
16. Member states would direct financial support mainly towards ships registered in EUROS;
18. the administrative management of the EUROS register would be carried out by Member States authorities in parallel to the procedures related to the national register, but the Commission would be duly informed and would have the right to examine the registers whether they are complying with the conditions laid down in the Regulation.

Although, there was a broad consensus that the Commission should be invited to present a modified proposal for EUROS, incorporating all these of 20 points, with a view to its being adopted as soon as possible; it is not yet done. As a result the EUROS proposal is still under modification and consideration for final approval of the European Council.

4.3. CONCLUSION:

It is now evident, from the above discussions, that UNCTAD is no longer now so hostile or critical of an open registry system as it was in before. Rather it is understood that, with the inception of the UN Convention on Conditions for Registration of Ships, 1986, the UNCTAD issue of phasing out of open registry ships has become latent. The first part of UNCTAD activities over open registry was in the line with ITF and its affiliated western seafarers trade unions to eliminate open registry practice in the name of establishing a "Genuine Link" between the flag state and the ship. But in the course of time, UNCTAD has slipped away from this position and ultimately admitted the existence of the open registry system with a compromise shape that has been formulated in the said UN Convention.

Unlike ITF or its Western Seafarers Trade Unions, the European Union is not at all hostile to open registry practices. Rather it has admitted the existence of this system. Side by side it wants to establish its own ship registry "EUROS". The EUROS is a parallel registry to national registries and a reasonable alternative to second or open registry, in terms of ensuring a high quality of seafarers, high standards of ships, and safety of vessels. But this proposal for establishing EUROS is still under considerations for approval of the European Council. Whatever the fate of this proposal to establish the EUROS, one thing is clear: If this registry comes into being, it would then obviously reduce job opportunities for the non-European seafarers on the European Unions's ships.

*** References:**

- (1) United Nations (1992), Basic Facts About The United Nations, pp. 105.
- (2) *ibid.*, p. 105.
- (3) *ibid.*, p. 106.
- (4) Herbert R. Northrup and Richard L. Rowan (1983), The International Transport Workers' Federation and Flag of Convenience Shipping, p. 232.
- (5) S. R. Tolofari (1989), Open Registry Shipping- A Comparative Study of Costs and Freight Rates, p. 29.
- (6) UNCTAD, "Economic Consequence of the Existence or Lack of a Genuine Link between Vessel and Flag of Registry", U.N. DOC. TD/B/C.4/168, 10 March 1977.
- (7) UNCTAD, "The Repercussions of Phasing Out Open Registries", U.N. DOC. TD/B/C.4/AC.1/5, 24 September 1979.
- (8) The Economist Intelligence Unit Ltd (EIU) (1970), Open Registry Shipping- Some Economic Considerations, p. 39.
- (9) Dalhousie University, Canada (1984), A Research Report on: Flags of Convenience - The Emerging International Regime and the Canadian Experience, pp. 11-12.
- (10) Federation of American Controlled Shipping (FACS) (1986), The UNCTAD/Open Registries Controversy - Lessons for the Future, p. 8.
- (11) UNCTAD, "Report of IPG on Conditions for Registration of Ships on Its First Session", U.N. DOC. TD/B/AC.34/4, 24 May 1982.
- (12) Dalhousie University, Canada (1984), A Research Report on: Flags of Convenience - the Emerging International Regime and the Canadian Experience, p. 21.
- (13) *ibid.*, pp. 23-24
- (14) *ibid.*, p. 23.

- (15) FACS (1986), *The UNCTAD/Open Registries Controversy - Lessons for the Future*, pp. 8-9.
- (16) Dalhousie University, Canada (1984), *A Research Report on : Flags of Convenience - The Emerging International Regime and the Canadian Experience*, p. 23.
- (17) FACS (1986), *The UNCTAD/Open Registries Controversy - Lessons for the Future*, p. 9.
- (18) *ibid.*, p. 9.
- (19) *ibid.*, p. 10.
- (20) *ibid.*, p. 10.
- (21) Ademuni-Odeke (1988), *Shipping in International Trade Relations*, p. 112.
- (22) *ibid.*, p. 114.
- (23) S. R. Tolofari (1989), *Open registry Shipping - A Comparative Study of Costs and Freight Rates*, p. 330.
- (24) Dr. Wim A. G. Blonk, *Development in the Maritime Transport Policy of the European Union,- A Lecture given to the Greenwich Forum Twentieth Anniversary Conference, February 1994*, p. 3.
- (25) Dr. Wim A.G. Blonk, *The Community Register: An Alternative? - A Lecture given to the Conference "Maritiem Strategisch Kruispunt, in Delft, 11 February 1992*, p. 2.
- (26) *ibid.*, p. 2.
- (27) *ibid.*, p. 2.
- (28) *ibid.*, p. 1.
- (29) Dr. Wim A.G. Blonk, *Development in the Maritime Transport Policy of the European Union, - A Lecture given to the Greenwich Forum Twentieth Anniversary Conference, February 1994*, p. 4.
- (30) Balt Holding, *EUROS and Related Issues - A Lecture Notes for European Maritime Law Organisation, London, October 1992*. P. 1.
- (31) *ibid.*, pp. 4-5.

(32) *ibid.*, p. 5.

(33) *ibid.*, p. 5.

(34) ITF, a decision of the ITF European Seafarers' Regional Committee Steering Committee meeting, held in Athens on 12 and 13 May 1994.

(35) Commission of the European Communities, Report of the Commission service on consultations with Member States concerning the proposal on the establishment of a community ship register (EUROS), SEC(94) 817 Brussels, 16.05.1994, P. 1.

(36) *ibid.*, pp.-5.

CHAPTER 5

SUMMARY AND CONCLUSIONS

5.1. The World Merchant Shipping is broadly divided into (a) the traditional national or state oriented shipping and (b) open registry shipping. The open registry shipping or the phenomenon of shifting of shipping from one flag to another has been set up with the specific aim of offering internationally more simple and competitive terms and conditions to the shipowners for registering their ships. Under an open registry system, the register offers a legal and commercial environment to a shipowner trading internationally, in return, the flag state generally receives payment of an initial registration fee and an annual tax from the shipowners for selling such rights. The terms and conditions offered by the open register may vary from one registry to another depending upon their policies; but it generally offers economic, commercial, and legal advantages to the shipowners to operate their ships more effectively and economically. Consequently, shipowners from the traditional and high costs flags are continuously shifting their vessels from their own countries to open registry countries in search of more economic, commercial, and legal benefits. Similarly, it attracts many new-comers, mainly from developing countries to offer an open registry system in pursuit of earning revenue or hard currencies.

Thus, it is found that open registry system itself is a profit making process for ship registers, and shipowners alike. Here shipowners can acquire some comparative advantages over a traditional registry of ships by obtaining (1) lower operating costs and manning requirements, (2) lower registration fee and taxation, (3) lower safety and social standards, and (4) greater flexibility in many other respects.

5.2. Apart from shipowners and ship registers, seafarers of developing countries are also deriving benefits from the open registry system. Since manning of ships by non-nationals is nearly freely permitted in open registry ship; it has created an attractive

and wider job opportunity for lower salaried seafarers of developing countries. But, on the other hand, this system has equally reduced job privileges for higher paid seafarers of developed countries. As a result, many skilled seafarers of developed countries are, today, without adequate job opportunities.

5.3. Despite these advantages of open registry over traditional registry, it has still remained as one of the running controversies in merchant shipping circles. There are several charges being raised against this system. Of them concentrated on by this study relates the question of manning requirements and employment conditions, labour quality, wages and working conditions of all open registry seafarers. In this regard, it is alleged that open registry has allowed the shipowners to run the ships with unskilled, untrained and lower number of seafarers. Additionally, wages and other service benefits given to them are not sufficient or at least minimum compared with international standards.

But these allegations are not exclusively true. Rather, it is evident that there are a large number of trained, skilled and experienced crews available in some major maritime developing countries of Asia and other parts of the world. It is worthy to note that out of them a huge number of seafarers are still working onboard open registry ships with efficiency along their western counterparts. One thing should be kept in mind during selection of crews from these countries, shipowners or their agents should attempt to recruit the best seafarers from the respective labour supplying countries.

Regarding manning requirements and employment conditions, it is true that there are some irresponsible shipowners/ship operators who do not usually comply with national/international rules and regulations. Conversely, it is also found that there are some major open registries that ensure compliance with acceptable minimum

national/international standards relating to manning requirements and employment conditions onboard ships.

Relating to wages and working conditions for open registry seafarers, it is also evident that they are, with a few exceptions, earning more than international minimum wages scheduled by ILO. But these wages are, of course, less than those of their western counterparts who are working in the same fields. It is also again true that these wages are higher when compared with their respective national pay scales.

5.4. This study has also examined the positions of ITF, National Seafarers Unions, UNCTAD, and the European Union (EU) in regard to open registry practices in general and seafarers' wages and employment conditions in particular. Among these organisations, ITF has a direct influence on wages and conditions of seafarers working onboard open registry ships. Since 1948, ITF has launched an anti-FOC campaign. The primary objective of ITF's campaign has been to eliminate the FOC shipping and to establish a genuine link between the flag a ship flies and the nationality of its owners. The secondary objective is to protect and enhance the conditions of employment of seafarers onboard vessels. One of the ultimate motives of the ITF campaign against open registry shipping is to equalise the pay scales of the seafarers irrespective of nationals and non-nationals. This stand of ITF against open registry has been welcomed by the Western affiliated seafarers unions; but it has been criticised by the Asiatic seafarers unions who are always opposing ITF's single wage demand. Actually in the name of a pay equalisation campaign, ITF actions work to protect and secure the job opportunity of the Western seafarers.

5.5. The growth and development of open registry has had an adverse impact on the developed countries' seafarers. The open registry system has allowed shipowners to recruit cheap crews from wherever they wish. This trend of crew choices has insecured the job opportunity of the developed countries' seafarers.. Because their

standards of living are so high, their wages are several times higher than those of labour supplying countries. In this context, to protect their jobs, they also, like ITF, want to eliminate open registry shipping. To do so, they always put pressure on ITF to protect their interests. Accordingly, ITF announced a policy in early 1983 prohibiting any differentials between the pay scales of European and Asiatic seamen on European flag vessels.

5.6. Unlike ITF or its affiliated European Seafarers Unions, ILO has no special target to cripple or eliminate open registry practices. But due to consistent efforts of ITF in demonstrating open registry as an issue to ILO, the activities of this organisation has also been centred around open registry shipping. At times ITF and its affiliated Western seafarers unions try to use ILO conventions and recommendations as a powerful tool and a legal stand to oppose open registry shipping. Moreover, ILO itself, has worked to reduce the wide differences in wages between developed countries' seafarers and those from developing countries. Accordingly, ILO increases pay scales schedules for the seafarers in line with ITF policy that is designed to protect jobs of developed countries' seafarers.

5.7. The open registry issue has been argued in UNCTAD for several years. Initially UNCTAD was hostile and critical to an open registry system. In this stage(1974-83) UNCTAD launched a phasing out of the open registry programme in the name of establishing a genuine link between the flag state and the ship. But in the course of time, UNCTAD changed its position towards open registry shipping and ultimately admitted the existence of open registry shipping. With the inception of the UN Convention on Conditions for Registration of Ships, 1986, the UNCTAD agenda to phase out open registry shipping has become latent.

5.8. The position of European Union(EU) over open registry shipping is quite clear. Unlike ITF or its affiliated Western seafarers trade unions, EU is not at all hostile to

the open registry system. But they have a special interest in the protection of European interests in all respects. Admitting the existence of open registries, EU wants to establish its own European Registry of ships (EUROS). The EUROS is a parallel registry to national registries and reasonable alternative to second or open registry, in terms of ensuring high qualities of seafarers, high standards of ships, and safety of ships. Through this effort, EU also wants to preserve to a certain extent job security for its member countries' seafarers where 100% officers onboard of community ships must be European and at least half of the rest of crew must be community nationals. But this proposal for establishing an EUROS has not yet been approved by the European Council. If it is approved, then it would obviously reduce the job opportunities and earnings for open registry seafarers and the open registry system.

5.9. Despite all these challenges and hostilities to open registry, this system is now treated as an established phenomenon of the merchant shipping industry. Therefore, in order to maximise total potential gains, the following steps may be considered:

- all international organisations, including ITF and its affiliated Western Seafarers Unions, should recognise this system by extending their positive criticisms; so that it can be run more effectively in a free market environment of shipping;
- single wage demands, irrespective of all seafarers nationality by ITF and its affiliated Western Seafarers Unions is irrational. Wide differences in wage levels among various countries are reflections of the differences in economic development and the cost of living in the crews' home countries. In this context, the ITF authority needs to consider revising their position on the open registry system, and its seafarers.
- the regular increment of ILO wage scales schedules, irrespective of all seafarers is not so justifiable. Since there are clear differences that exist in wage levels and

standards of living in different countries, it is not so wise to impose a single pay scale for all seafarers, irrespective of their nationalities. Therefore, ILO may schedule two different wage scales, one for the western seafarers, and another for the developing countries seafarers. Or ILO may leave it to the governments concerned to make fixation of wages and service contracts for seafarers with concerned operating companies.

5.10. Considering all these facts and phenomena, we can say that open registry is a necessary requirement for the international merchant shipping industry. This open registry system has been working with potential gains to the shipowners, ship registers, and non-national seafarers. It has been also providing them more competitive and effective free market environment. Moreover, it has been already proved its worthiness by breaking the monopoly of the national or state oriented shipping. Therefore, this practice of open registry shipping should continue to operate without having any unwanted and unethical interference by the outsiders showing different causes in the name of the betterment of international shipping trade and industry.

BIBLIOGRAPHY

1. Ademuni-Odeke, (1988), Shipping in International Trade Relations, Broke Fields, USA, Gower Publishing Company Limited.
2. Barret, Jane, Trends in Ship Ownership, Flagging and Crews, Seafarers Bulletin, London, October 1994.
3. Blonk, Dr. Wim A. G., Maritime Development in the Transport Policy of European Union - A Lecture given to the Greenwich Forum Twentieth Anniversary Conference, February, 1994.
4. Blonk, Dr. Wim A. G., The Community Register: An Alternative? - A Lecture given to the Conference "Maritiem Strategisch Kruispunt", Delft, 11 February, 1992.
5. Boleslaw, Dr., (1962), Flag of Convenience: An International Legal Study.
6. Chapman, Paul K., (1992), Trouble On Board.
7. Commission of the European Community, Report of the Commission Service on Consultations with Member States concerning the proposal on the establishment of a Community Ship Register (EUROS), SEC(94) 817, Brussels, 16. 05. 1994.
8. Donn, Clifford B., (1992), Introduction to Trouble On Board.
9. Heldring, Balt, EUROS and Related Issues - A Lecture Notes for European Maritime Law Organisation, London, October 1992.
10. Federation of American Controlled Shipping (FACS), (1986), The UNCTAD/Open Registries Controversy - Lessons for the Future, New York, USA.
11. Herbert R. Northrup & Richard L. Rowan, (1983), The International Transport Workers' Federation and Flag of Convenience, Philadelphia, Pennsylvania 19104, USA.
12. ILO, (1983), Report on the ILO Seminar for Senior Government officials from Asian Countries on Maritime Labour Standards, Geneva, Switzerland.
14. Institute of South East Asian Studies, (1989), Seafarers in the ASEAN Region.

15. IMA, (1979), Economic Impact of Open Registry Shipping, Washington D. C., USA.
16. IMO, (1994), Maritime Law: Compendium, Vol. 1., London, UK.
17. ISF, (1993), Guide to International Ship Registers and Ship Management Services London, UK.
18. ISF, (1990) The World Wide Demand For And Supply Of Seafarers, London, UK.
19. ISL, (1988), The Norwegian International Ship Register - A New Approach of Traditional Shipping Nation.
20. ITF, (1993), Flag of Convenience - The ITF's Campaign, London, UK.
21. ITF Policy on Minimum Conditions of Service and Negotiating Rights on Merchant Ships.
22. ITF, A Decision of the ITF European Seafarers' Regional Committee Steering Committee Meeting, Athens, 12- 13 May 1994.
23. ITF, Report on Activities, 1990-91, 1992-93., London, UK.
24. ITF Constitution, 1990.
25. ITF, (1993), Seafarers Bulletin, London, ~~UK~~ ^{ITF}
26. ITF, (1994), Standard Collective Agreements for FOC Seafarers, London, UK.
27. ITF, (1995), Message to Seafarers, London, UK.
28. Lloyd's of London Press Limited (LLL), (1990), ISF Guide to International Maritime Labour Supply, London, UK.
29. LLL, (1992), Leading Development in Ship Management, London, UK.
30. Lloyd's List Australian Weekly, 22 August, 1994.
31. Lloyd's Ship Manger, London, UK.
32. Metaxas, B.N., (1985), Flags of Convenience, Gower Publishing Company Ltd., USA.
33. Selander, Ake, (1981), Is ITF Right?, Lloyd's London Press Ltd. UK.
34. Stoford, Martin, (1992), Maritime Economics, London, UK.

35. The Economist Intelligence Unit Ltd (EIU), (1979), Open Registry Shipping - Some Economic Considerations, London, UK.
36. The Government of Bangladesh, The Merchant Shipping Ordinance of Bangladesh, Dhaka, Bangladesh.
37. The Lloyd's List, London, 14 December 1994.
38. The Maritime Monitor, January, 10, 1995.
39. The Missions to Seamen, A Report submitted by the Missions to the Donaldson Inquiry, London, UK.
40. The National Union of Seamen of Great Britain, (1981), "Flags of Convenience" the unacceptable face of shipping, London, UK.
41. The Sea Trade Week News Front, 28 October - 3 November, 1994.
42. Tolofari, S.R., (1989), Open Registry Shipping - A Comparative Study of Costs and Freight Rates, New York, Gordon and Breach Science Publishers.
43. Towfiq Elahi, A Report on Chittagong Seamen Training Centre, London, UK.
44. United Kingdom Committee of Inquiry into Shipping: The Rochdale Report, London, 1970.
45. UN, (1992), Basic Facts about the United Nations, New York, USA.
46. UNCTAD, (1986), The UN Conventions on Conditions for Registration of Ships, TD/RS/CONF/23, Paris, France.
47. UNCTAD, "Economic Consequence of the existence or Lack of a Genuine Link between Vessel and Flag of Registry", U.N.DOC.TD/B/C.4/168, 10 March 1977.
48. UNCTAD, The Repercussions of Phasing Out Open Registries, U.N.DOC.TD/B/C.4/AC.1/5, 24 September 1979.
49. UNCTAD, "Report of IPG on Conditions for Registration of ships on First Session", U.N.DOC.TD/B/AC.34/4, 24 May 1982.

ANNEX-1

BANGLADESH SEAMEN: RATING CATEGORIES

CONSOLIDATED RATE OF PAY TO HAVE EFFECT FROM 1ST DAY OF 1ST MARCH, 1992

DECK DEPARTMENT

	Consolidated		Overtime	
	Rate of Pay	Taka	per hour	Taka
Carpenter	8512		23.61	
Serang	7798		21.62	
Deck Maintenance hand	7191		19.94	
Tindal/Cassab	7454		20.67	
Tindal	7191		19.94	
Able seaman	7000		19.41	
Seaman/Helmsman	6776		18.79	
Seaman I	6625		18.37	
Seaman II	6433		17.84	
Seaman III	6318		17.52	
General Utility Hand	6318		17.52	

ENGINE DEPARTMENT

	Consolidated		Overtime	
	Rate of Pay	Taka	per hour	Taka
Fitter	8512		23.61	
Serang	7798		21.62	
Fireman	7722		21.42	
Pumpman	7607		21.09	
Tindal/Cassab	7454		20.67	
Tindal	7191		19.94	
Donkey/Greaser	6777		18.79	
ER I	6625		18.37	
ER II	6433		17.84	
ER III/Utility Hand	6318		17.52	

SALOON DEPARTMENT

Ch. Steward	8176	Exempted
Ch. Cook/Baker	7948	Category.
Ch. Cook	7798	22.04
Pantryman/Second Cook	7076	21.62
Laundryman	7191	19.62
General Steward	6695	19.94
Scullion/Gallery boy/		18.57
Bhandary Mate	6318	17.52 *
General Utility Hand	6318	17.52
Bhandary	6695	18.57 *

ITF Wage Scale

Rank or Rating	Para 4		Para 6		Para 9		Para 18
	Basic monthly pay (US\$)	Hourly O/T rate	Para 9		Cash compensation for unclaimed annual leave (per day)		
			Weekdays 1/135th of monthly	Sats., Sundays and Public Hols. 1/75th of monthly		1/25th of monthly	
1. Master	2884	21.4	38.5	115.4			
2. Chief Engineer Officer	2621	19.4	34.9	104.8			
3. Chief Navigating Officer	1862	13.8	24.8	74.5			
4. 2nd Navigating Officer	1491	11.0	19.9	59.6			
5. 3rd Navigating Officer	1437	10.6	19.2	57.5			
6. 1st Engineer Officer	1862	13.8	24.8	74.5			
7. 2nd Engineer Officer	1491	11.0	19.9	59.6			
8. 3rd Engineer Officer	1437	10.6	19.2	57.5			
9. Radio Officer	1491	11.0	19.9	59.6			
10. Electrical Engineer Officer	1491	11.0	19.9	59.6			
11. Chief Steward	1491	11.0	19.9	59.6			
12. Electrician	1282	9.5	17.1	51.3			
13. Boatswain	956	7.1	12.7	38.2			
14. Carpenter	956	7.1	12.7	38.2			
15. Fitter/Repairer	956	7.1	12.7	38.2			
16. Chief Cook	956	7.1	12.7	38.2			
17. Donkeyman	956	7.1	12.7	38.2			
18. Engine room Storekeeper	956	7.1	12.7	38.2			
19. Pumpman	956	7.1	12.7	38.2			

20. Boatswain's Mate	8 8 7	6.6	11.8	35.5
21. Quartermaster	8 8 7	6.6	11.8	35.5
22. Assistant Electrician	8 8 7	6.6	11.8	35.5
23. Able Seaman	8 5 6	6.3	11.4	34.2
24. Fireman/Motorman	8 5 6	6.3	11.4	34.2
25. Oiler/Greaser	8 5 6	6.3	11.4	34.2
26. 2nd Steward	8 5 6	6.3	11.4	34.2
27. 2nd Cook	7 2 9	5.4	9.7	29.2
28. Messroom Steward	7 2 9	5.4	9.7	29.2
29. Ordinary Seaman	6 3 7	4.7	8.5	25.5
30. Wiper	6 3 7	4.7	8.5	25.5
31. Deck Boy	3 6 5	2.7	4.9	14.6
32. Catering Boy	3 6 5	2.7	4.9	14.6

(effective 1 January 1994)

1. Any general purpose rating shall receive 10% higher basic wages and allowances compared to the highest rank of the positions his job designation is supposed to cover.
2. A stockman shall receive the basic pay of an Able Seaman plus an allowance of 10%.
3. A seafarer who is over the age of 18 and who is not listed among the categories of ratings shall be paid at least the equivalent rate of Able Seaman. In no case shall a person over the age of 18 (eighteen) years be engaged as a boy or paid at a boy's rate.

ITF Minimum Safe Manning Scales

Manning Scale No. 1

Proposed manning scale for a cargo Ship of 200 to 499 grt with periodically unmanned engine room and trading worldwide:

	1 Master
	2 Deck Officers*)
	3 Deck Ratings*)
	1 Chief Engineer**)
	1 Engine Room Rating
	1 Cook
Total:	<hr/> 7 - 10 One of whom has medical training beyond First Aid training

*) *When trading in coastal and limited trade areas, and if a properly negotiated relief system is in operation based on a one on one off system and with a maximum period of service of two months, the manning can be reduced by one Deck Officer and one Deck Rating. When engaged in worldwide trading the maximum period of service shall be three months, and the Master should not normally be engaged in watchkeeping duties.*

***) *For Ships of a propulsion power of more than 1500 kW add one Engineer.*

Manning Scale No. 2

Proposed manning scale for a cargo Ship of 500 to 1599 grt with periodically unmanned engine room and trading worldwide:

	1 Master
	3 Deck Officers*)
	3 Deck Ratings*)***)
	1 Chief Engineer
	2 Engineer Officers*)***)****)
	1 Engine Room Rating****)
	1 Chief Steward/Cook
	1 Steward/Stewardess
Total:	<hr/> 10-15 One of whom has medical training beyond First Aid training

*) *When trading in coastal and limited trade areas, and if a properly negotiated relief system is in operation based on a one on one off system and with a maximum period of service on board of two months, the manning can be reduced by one Deck Officer, one Engineer Officer (only in Ships of more than 1500 kW propulsion power) and one Deck Rating. In such cases the Master should not normally be engaged in watchkeeping duties.*

***) *In Ships of less than 1500 kW propulsion power it is only necessary to have two Engineer Officers (including the Chief Engineer Officer) on board the Ship.*

***) *One of which may be a Junior/Entry Rating, taking into account the varying training practices in different countries.*

****) *At times when it is necessary to stand continuous conventional watches the manning scale shall be increased by one Engineer Officer and one Engine Room Rating.*

Manning Scale No. 3

Proposed manning scale for a cargo Ship of 1600 to 2999 grt with periodically unmanned engine room and trading worldwide:

1 Master
3 Deck Officers
1 Bosun
3 A.B.s*)
1 Chief Engineer
2 Engineer Officers**)
1 Electrician/Electrical Engineer
Officer/Repairman
1 Engine Room Rating**)
1 Radio Officer***)
1 Chief Steward/Cook
1 Steward/Stewardess

Total: 15-19 One of whom has medical training beyond First Aid training

*) *One of which may be a Junior/Entry Rating, taking into account the varying training practices in different countries.*

**) *At times when it is necessary to stand continuous conventional watches the manning scale shall be increased by one Engineer Officer and two Engine Room Ratings, one of which may be a Junior/Entry Rating.*

***) *Vessels trading in areas A1 and A2 are not required to carry a Radio Officer subject to the Deck Officers having the required certification. Vessels trading in areas A3 and A4 are required to have a Radio Officer with a First or Second Class Radio Electronics Operator's Certificate, depending on the complexity of the equipment.*

Manning Scale No. 4

Proposed manning scale for a cargo Ship of 3000 to 5999 grt with periodically unmanned engine room and trading worldwide:

1 Master
3 Deck Officers
1 Bosun
3 A.B.s
1 O.S./Junior/Entry Rating
1 Chief Engineer
2 Engineer Officers*)
1 Electrician/Electrical Engineer Officer
1 Repairman
1 Engine Room Rating*)
1 Radio Officer
1 Chief Steward/Cook
1 Steward/Stewardess

Total: 18 or 21 One of whom has medical training beyond First Aid training

*) *At times when it is necessary to stand continuous conventional watches the manning scale shall be increased by one Engineer Officer and two Engine Room Ratings, one of which can be a Junior/Entry Rating.*

Manning Scale No. 5

Proposed manning scale for a cargo Ship of 6000 to 19999 grt with periodically unmanned engine room and trading worldwide:

1 Master
3 Deck Officers
1 Bosun
3 A.B.s
1 O.S./Junior/Entry Rating
1 Chief Engineer
2 Engineer Officers*)
1 Electrician/Electrical Engineer Officer
1 Repairman
1 Engine Room Rating*)
1 Junior Engine Room/Entry Rating
1 Radio Officer
1 Chief Steward/Cook
2 Stewards/Stewardesses

Total: 20 or 22**) One of whom has medical training beyond First Aid training

*) *At times when it is necessary to stand continuous conventional watches the manning scale shall be increased by one Engineer Officer and one Engine Room Rating.*

***) *At times when, for whatever reason, the shipboard complement, including passengers and supernumeraries, is increased by up to four persons, the Catering Department shall receive a bonus of 25% of their monthly basic salaries or pro rata, for the appropriate period. If the shipboard complement is increased in the range of four to ten persons an additional Cook and a Steward/Stewardess shall be added to the*

manning scale. For every subsequent additional ten persons add an extra Steward/Stewardess.

Manning Scale No. 6

Proposed manning scale for a cargo Ship of 20000 grt and over with periodically unmanned engine room and trading worldwide:

1 Master
3 Deck Officers
1 Bosun
3 A.B.s
1 O.S./Junior/Entry Rating
1 Chief Engineer
3 Engineer Officers
1 Electrician/Electrical Engineer Officer/
Repairman
3 Engine Room Ratings*) *****)
1 Radio Officer
1 Chief Steward/Cook
2 Stewards/Stewardesses

Total: 21-23***) *****) One of whom has medical training beyond First Aid training

**) At times when it is necessary to stand continuous conventional watches the manning scale shall be increased by one Engine Room Rating.*

***) At times when, for whatever reason, the shipboard complement, including passengers and supernumeraries, is increased by up to four persons the Catering Department shall receive a bonus of 25% of their monthly basic salaries or pro rata, for the appropriate period. If the shipboard complement is increased in the range of four to ten persons an additional Cook and a Steward/Stewardess shall be added to the manning scale. For every subsequent additional ten persons add an extra Steward/Stewardess.*

****) Vessels over 20000 GRT engaged in carrying petroleum products shall add one Pumpman.*

*****) One of which may be a Junior/Entry Rating, taking into account the varying training practices in different countries.*

MARITIME LABOUR CONVENTIONS

No.		No. of ratifications as at 26 Dec. 1993
7	Minimum Age (Sea) Convention, 1920	50
8	Unemployment Indemnity Shipwreck Convention, 1920	57
9	Placing of Seamen Convention, 1920	37
15	Minimum Age (Trimmers and Stokers) Convention, 1921	67
16	Medical Examination of Young Persons (Sea) Convention, 1921	76
22	Seamen's Articles of Agreement Convention, 1926	56
23	Repatriation of Seamen Convention, 1926	43
53	Officers' Competency Certificates Convention, 1936	32
54 *	Holidays with Pay (Sea) Convention, 1936	6
55	Shipowners' Liability (Sick and Injured Seamen) Convention, 1936	16
56 +	Sickness Insurance (Sea) Convention, 1936	18
57 *	Hours of Work and Manning (Sea) Convention, 1936	4
58	Minimum Age (Sea) Convention (Revised), 1936	50
68	Food and Catering (Ships' Crews) Convention, 1946	22
69	Certification of Ships' Cooks Convention, 1946	34
70 *	Social Security (Seafarers) Convention, 1946	7
71	Seafarers' Pensions Convention, 1946	13
72 *	Paid Vacations (Seafarers) Convention, 1946	5
73	Medical Examination (Seafarers) Convention, 1946	40
74	Certification of Able Seamen Convention, 1946	26
75 *	Accommodation of Crews Convention, 1946	5
76 *	Wages, Hours of Work and Manning (Sea) Convention, 1946	1
91 +	Paid Vacations (Seafarers) Convention (Revised), 1949	23
92	Accommodation of Crews Convention (Revised), 1949	39
93 *	Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949	6
108	Seafarers' Identity Documents Convention, 1958	52
109 *	Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958	15
133	Accommodation of Crews (Supplementary Provisions) Convention, 1970	25
134	Prevention of Accidents (Seafarers) Convention, 1970	26
145	Continuity of Employment (Seafarers) Convention, 1976	17
146	Seafarers' Annual Leave with Pay Convention, 1976	12
147	Merchant Shipping (Minimum Standards) Convention, 1976	29
163	Seafarers' Welfare at Sea and in Port Convention, 1987	10
164	Health Protection and Medical Care of Seafarers Convention, 1987	6
165	Social Security for Seafarers Convention (Revised), 1987	2
166	Repatriation of Seafarers Convention (Revised), 1987	4
Total		953

MARITIME LABOUR RECOMMENDATIONS

No.

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|-----|---|
| 9 | National Seamen's Codes Recommendation, 1920 |
| 10 | Unemployment Insurance (Seamen) Recommendation, 1920 |
| 27 | Repatriation (Ship Masters and Apprentices) Recommendation, 1926 |
| 28 | Labour Inspection (Seamen) Recommendation, 1926 |
| 48 | Seamen's Welfare in Ports Recommendation, 1936 |
| 49 | Hours of Work and Manning (Sea) Recommendation, 1936 |
| 75 | Seafarers' Social Security (Agreements) Recommendation, 1946 |
| 76 | Seafarers' (Medical Care for Dependants) Recommendation, 1946 |
| 77 | Vocational Training (Seafarers) Recommendation, 1946 |
| 78 | Bedding, Mess Utensils and Miscellaneous Provisions (Ships' Crews) Recommendation, 1946 |
| 105 | Ships' Medicine Chests Recommendation, 1958 |
| 106 | Medical Advice at Sea Recommendation, 1958 |
| 107 | Seafarers' Engagement (Foreign Vessels) Recommendation, 1958 |
| 108 | Social Conditions and Safety (Seafarers) Recommendation, 1958 |
| 109 | Wages, Hours of Work and Manning (Sea) Recommendation, 1958 |
| 137 | Vocational Training (Seafarers) Recommendation, 1970 |
| 138 | Seafarers' Welfare Recommendation, 1970 |
| 139 | Employment of Seafarers (Technical Developments) Recommendation, 1970 |
| 140 | Crew Accommodation (Air Conditioning) Recommendation, 1970 |
| 141 | Crew Accommodation (Noise Control) Recommendation, 1970 |
| 142 | Prevention of Accidents (Seafarers) Recommendation, 1970 |
| 153 | Protection of Young Seafarers Recommendation, 1976 |
| 154 | Continuity of Employment (Seafarers) Recommendation, 1976 |
| 155 | Merchant Shipping (Improvement of Standards) Recommendation, 1976 |
| 173 | Seafarers' Welfare Recommendation, 1987 |
| 174 | Repatriation of Seafarers Recommendation, 1987 |
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