

OECD

THE ORGANIZATION OF ECONOMIC COOPERATION AND DEVELOPMENT AND MARITIME TRANSPORT IN 1985

SUMMARY: I. Introduction: Global perspectives. – II. The Report by the Committee on Maritime Transport. – 1. Worldwide excess of tonnage. – 2. Matters relating to the United Nations: – a) UN Convention on a Code of Conduct for Liner Conferences. – b) UN Convention on Multimodal Transport of Goods. – c) UN Convention of 1978 on Transport of Goods by Sea (Hamburg Rules). – d) UN Convention on the Law of the Sea. – e) UN Convention on Conditions for Registration of Ships. 3. Fleets of the OECD member States. – a) Size and age of the fleets. – b) Personalalia.

I. Introduction: Global perspectives

The maritime transport sector, in spite of moderate economic expansion, was not able to overcome in 1985 the crisis that it is suffering. The petroleum and bulk sectors continued to have an excess of gross capacity and the growth in demand for transport of goods in general was offset by the great number of high capacity container ships, whose existence continues to provoke tension in the entire transport sector. Many maritime transport companies, large as well as medium in size, were forced to declare bankruptcy.

Pressures in favor of national fleets were intensified and the Maritime Transport Committee made great efforts to fight against the use of flagship privileges, especially in Africa. This Committee showed an interest in measures taken by certain member States to protest the increase in Central Freight offices, which seek to exercise control over cargo before dispatch. Meanwhile, the Committee's working group continued to observe closely the maritime companies of those countries with State-run trade in their dealings with OECD countries.

The Committee's special group on international organizations, as in the past, played an active role in the formation of a common policy by

CNUCYD member States in meetings called under its sponsorship. In 1985, activities were oriented principally towards the two parts of the Conference on Conditions for Registration of Ships, in which the coordination of positions adopted by the OECD countries greatly contributed to the possibility of reaching by the beginning of 1986 an agreement which would permit the identification of liabilities incurred by owners and operators of ships which do not conform to the rules, without preventing the owners from benefitting from a certain flexibility regarding nationality of the crew, owners and operators. The group also prepared meetings on maritime fraud, maritime liens and mortgages, and guidelines for prices for multimodal transport involving containers. At the same time a series of works was begun in order to prepare the revision of the United Nations Convention on a Code of Conduct for Liner Conferences, which eight countries adhered to at the end of the year.

The Committee dedicated most of its time to discussing a draft text on a common maritime policy of the member States. A thorough debate on principles applicable to consultations, the attitude to adopt in response to pressures by member States, utilization of compensatory powers, the role of governments with respect to competition in the maritime transport sector and methods of conflict avoidance, as well as a complete series of directives on competition and operation of mobile coastal transport units. At the same time works are being carried out on a certain number of issues, especially on methods to impede the granting of subsidies that distort competition and on methods to liberalize member States' policies in the maritime transport area. These works are carried out in cooperation with the Committees on capital movements and invisible transactions¹.

II. The Report of the Committee on Maritime Transport

In its thirty second report, the Committee on Maritime Transport examined the depressed situation of maritime transport, reviewing the principal events of 1985 and the early part of 1986².

1. THE WORLDWIDE EXCESS OF TONNAGE

The worldwide fleet decreased by 20 million deadweight tons, approximately 3%, with the decrease in tankers being offset in part by the increase in tonnage of dry bulk transport ships. Demolition affected 29

¹ *Activités de l'OCDE, Rapport du Secrétaire Général*, OCDE, Paris, 1986, pp. 25-2

² *Les Transports Maritimes*, OCDE, Paris, 1986.

million deadweight tons worth of tankers, more than 50% of the 1984 level, and was especially marked in regard to supertankers of more than 200,000 tons. This evolution represents a net progress in the elimination of excess tonnage, keeping in mind that current estimates place excess capacity at 100 million deadweight tons, which account for approximately 40% of available tonnage. The disequilibrium is even greater in the supertanker sector, where the excess represents approximately 50% of available capacity.

2. MATTERS RELATING TO THE UNITED NATIONS

a. *UN Convention on a Code of Conduct for Liner Conferences*

Four more OECD countries, namely Denmark, Norway, the United Kingdom, and Sweden, adhered to this Convention in 1985. The EEC member States did so in accordance with the provisions of Rule 954/79, while the adhesion of Finland, Norway and Sweden was inspired by the same provisions³.

b. *JN Convention on Multimodal Transport of Goods*

The Convention will enter into force 12 months after 30 States have become contracting parties. At the end of 1985, four countries, namely Chile, Malawi, Mexico, and Senegal, had ratified the Convention, while three others, Morocco, Norway, and Venezuela, had signed it under reservation of ratification⁴.

c. *UN Convention of 1978 on Transport of Goods by Sea (Hamburg Rules)*

This convention will enter into force when the governments of 20 States have become contracting parties. At the end of 1985, there continued to be 10 States that had ratified or adhered to the Convention:

³ In relation with this Convention: HAQUANI, Z.: *Le Nouvel Ordre Commercial International*, Paris, 1984, pp. 69-72; MARTINEZ PUÑAL, A.: 'La Organización de Cooperación y Desarrollo Económicos y los Transportes Marítimos (1984)', *Anuario de Derecho Marítimo*, Vol. IV, 1986, pp. 512-513; PARKINSON, F.: 'The United Nations Convention on a Code of Conduct for Liner Conferences: Toward a New International Shipping Order', *Current Legal Problems*, 37, 1984, pp. 153-174; SCHEINVAR, I.: 'El Código de conducta de conferencias marítimas', *Consultor*, IO, no 51, noviembre-diciembre 1984, pp. 11-20.

⁴ HAQUANI, *op. cit.*, pp. 72-74.

Barbados, Chile, Egypt, Hungary, Lebanon, Morocco, Romania, Uganda, Tanzania, and Tunisia.

d. UN Convention on the Law of the Sea

This Convention establishes a system of regulation applicable to the oceans. In late 1985, the 1982 Convention, which had been signed by 159 countries, had been ratified by 25 of these countries as well as the United Nations Council on behalf of Namibia. It will enter into force after the deposit of 60 instruments of ratification or adhesion. The preparatory commission charged with the preparation of an international Authority held its third meeting in March of 1985 in Kingston, Jamaica and resumed its work in August in Geneva. This meeting examined the system of exploration and exploitation of the seabed. However, the problem of the claims made by the pioneer investors in this sector, in particular the Soviet and French State companies, was hardly even discussed. The Soviet Union did not appear to be willing to examine this matter with the private mining consortiums, whose legal status continues to cause controversy in the commission. At the end of the August meeting, the Commission president invited the four countries with public companies identified as pioneer investors in the seabed (France, India, Japan and the USSR) to initiate consultations in order to facilitate the consideration of their demands. However, at the end of 1985, no demands had been considered⁵.

e. UN Convention on Conditions for Registration of Ships

The UN Conference on Conditions for Registration of Ships held a session from July 8–19, 1985, in which an agreement was reached on the principal conditions applicable to management, recruitment of personnel and ownership of ships. These conditions would not require changes in legislation currently in force.

⁵ In relation with this Convention EVENSEN, J.: 'The United Nations Convention on the Law of the Sea of December 10, 1982: its Political and Legal Impact-Present and Future', *Revue Egyptienne de Droit International*, Vol. 38, 1982, pp. 10–32; ANAND, R.P.: 'UN Convention on the Law of the Sea and the United States', *Indian Journal of International Law*, Vol. 24, April–June 1984, pp. 153–199; BROWN, E.D.: 'The United Nations Convention on the Law of the Sea 1982: the British Government Dilemma', *Current Legal Problems*, Vol. 37, 1984, pp. 259–293; *The 1982 Convention on the Law of the Sea*, Proceedings Law of the Sea Institute Seventeenth Annual Conference, July, 13–16, 1986, Oslo, University Of Hawaii, 1984; DJALAL, H.: 'The 1982 Law of the Sea Convention: a Southeast Asian Perspective', *The Indonesian Quarterly*, Vol. 13, no I, 1985, pp. 59–73; FORSTER, M.J.: 'Law of the Sea Convention: Signatories Express Problems', *Environmental Policy and Law*, Vol. 15, September 1985, pp. 2–3; HOFER,

The Conference held a fourth and final session from January 20 to February 7, 1986 and obtained a solution to the problems pending regarding the UN Convention on Conditions for Registration of Ships. The convention, open for signature from May 1986 to April 1987, will enter into force when a minimum of 40 States, representing at least 25% of the relevant maritime tonnage (in registered gross tonnage), have become contracting parties⁶.

3. FLEETS OF THE OECD MEMBER STATES

a. Size and age of the Fleets

From mid-1984 through mid-1985, the fleets of the OECD member States experienced decreases of 5.7%, a figure whose magnitude was surpassed only in 1982. All of the largest fleets declined sharply, with the exception of the United States and Turkey. With regard to the former, a decrease in deadweight tonnage caused by a sharp fall in the oil sector was offset by the commencement of service of a large number of new high-capacity containerships. Turkey, on the other hand, was the only country which was able to follow a policy of expansion of bulk transporters, especially in relation to high-tonnage oil tankers. This was true despite the loss of two ships, representing more than 600,000 deadweight tons, in an air attack in the Persian Gulf suffered in the middle of 1985.

E.K.: 'The Future of the Law of the Sea Convention', *Swiss Review of World Affairs*, Vol. 34, January, 1985, pp. 12-14; THEBAUD, J.: 'La Convention sur le droit de la mer risque d'être paralysée', *Le Monde Diplomatique*, 32, avril 1985, pp. 30-31; 'Convención sobre el Derecho del Mar: se sienten ya sus repercusiones', *Crónica de las Naciones Unidas*, Vol. XXII, 2, 1985 pp. 55-60; *The Law of the Sea. Status of the United Nations Convention on the Law of the Sea*, Office of the Special Representative of the Secretary-General for the Law of the Sea, New York, 1985; LARSON, D.L.: 'The Reagan Rejection of the UN Convention', *Ocean Development and International Law*, Vol. 14, no 4, 1985, pp. 337-361; JUDA, L.: 'The Exclusive Economic Zone: Compatibility of National Claims and the UN Convention on the Law of the Sea', *Id.*, Vol. 16, no 1, 1986, pp. 1-58; VALENZUELA, N.: 'Implicaciones de la Convención sobre el Derecho del Mar en los convenios internacionales de la OMI', *Anuario de Derecho Maritime*, Vol. IV, 1986, pp. 187-208.

⁶ In relation with this Convention: 'Accord sur la substance d'un accord international sur les conditions d'immatriculation des navires', TAD/IMF/1769, 24 janvier 1986; 'Conférence des Nations Unies sur le commerce et le développement (CNUCED): les conditions d'immatriculation des navires', *La Semaine Internationale*, SI/03/86, 27 janvier 1986, p. 7; 'Conférence des Nations Unies sur le Commerce et le Développement: Convention sur les conditions d'immatriculation des navires', *Id.*, SI/06/86, 17 février 1986, p. 7.

b. Personalia

The decrease in the number of ships and of tonnage under the flagships of almost all the OECD member States caused a corresponding decrease in crew members. In 1984 all of the largest fleets experienced reductions in personnel except for Germany and Turkey. The German fleet and accompanying personnel remained at their 1984 levels. Turkey's increase in personnel was the result of its increase in tonnage. On the contrary, in Australia, Denmark, The United States, France, the Benelux countries, Portugal, New Zealand, and the United Kingdom, the number of crew members decreased by more than 5% in 1984 and according to data available for 1985, similar reductions were experienced again in Spain, Finland, New Zealand, the Benelux countries, Sweden, and the United Kingdom. Among those countries for which only partial data is available, Greece reduced employment in this area by 8% between 1982 and 1984 and in Japan, navigation personnel, including fishermen, decreased from a total of 270,000 to 210,000 in the course of the last eight years; persons employed in international maritime transport also decreased from 47,000 to 30,000.

These reductions reflect not only the weakness of the fleets, but also the efforts made to reduce the number of crew on board each ship, owing largely to new methods of automation. Japan is experimenting with smaller crews in over one hundred ships as is Norway, where crews of from three to fifteen persons are being used. However, questions of safety, working conditions, and opposition by unions are likely to be raised.

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