Sailing Under Foreign Flags

(A personal overview)

By Geoff Walker

It was always my wish to serve on ships flying the Red Ensign or at least a flag that offered imperial validity, such as Hong Kong, Bermuda, Australia, or New Zealand, but that was not possible in the changing post WW2 world of shipping. Therefore, I must be the first to raise my hand when it comes to admitting to having sailed under various Foreign Flags or Flags of Convenience. Although, in the majority of cases, I had no real alternative, but I always felt uncomfortable in doing so.

During my 40 years at sea, I sailed under many flags, such as: Panama, Vanuatu, Liberia, Caymen Is, Bermuda, St. Vincent, Marshall Islands, as well as ships under the British Red Ensign, Australia, New Guinea, Singapore, Malaysia, and Hong Kong. Unfortunately, as the 1970s progressed so the number of British Registered ships dwindled alarmingly.

Most Foreign Flags requiring a Certificate of Endorsement (COE), issued by that flag administration. Usually, a Certificate of equivalence is granted by an open registry, according to the national Certificate of Competency held by the applicant. Just the crew licensing alone, became a great source of income for those countries and administrations that offered an open registry, not to mention the expensive lodgment fee and medical examination fee, along with all the other extras that went with each COE application.

When I initially went to sea as a young deck cadet in 1961, on British Flagged vessels, one tended to look upon ships and owners that operated under FOCs, with a rather jaundiced eye. Of course, during that era Britain still retained a very substantial merchant fleet, so job security never really became a consideration. However, from the mid-1960s, more and more ships started to be registered under Flags of Convenience. In consequence, if one wished to build any sort of career with a shipowner that had engaged in the reflagging process, one became entrapped, and had little choice but to accept it.

As the financial burdens of operating merchant ships under the major Western Flags began to increase, along with the fuel crisis of the 1970s, and decline of the British Merchant Navy, fueled by Thatcherism during the 1980s; started to take hold in the UK, shipowners began to purge their fleets, to root out uneconomical vessels and seek cheaper alternatives by which to operate their ships. This resulted in many vessels being sold to developing countries and being placed under Flags of Convenience.

In the late 1950s the United Kingdom still maintained the largest fleet of Merchant Ships in the world. Since 1957 the UK fleet has experienced a steady decline, vessels owned and registered in the United Kingdom, the Isle of Man, and the Channel Isles (now known as the Red Ensign Group)— declined from almost 9 % of the world total in 1957, to just 1 % in 1991. By 1990, British seafarers employed on United Kingdom ships numbered little more than a third of those in 1975. For such a major Maritime Nation as the United Kingdom, the decline can only be considered a national disgrace, even allowing for changes within the global shipping industry.

Accordingly, many shipowners opted to transfer their ships to FOCs, which in some cases freed them from the stringent regulations imposed by the world's major Maritime nations. In some cases, such a

move offered great flexibility for an owner, with such things as reduced manning costs, taxation, terms, and conditions - bypassing laws that protect the wages and working conditions of mariners imposed by their own country, and everything that was likewise connected. This, in some instances included a "softer" approach, towards safety and ship operating conditions.

Of course, there are various ways in which one can present statistics relating to ships and tonnage under a particular register. However, the following relatively recent survey, paints a broad picture of the current situation: Panama had 8,153 ships on its registry, Singapore had 3,605 ships, Liberia had 3,185 ships, the Marshall Islands had 2,942 ships and Hong Kong had 2,515 ships. The UK was the world's 22nd biggest flag state in terms of number of vessels, with 539 (give or take a small margin of error).

During the late 1960s and 1970s, numerous traditional Owners of long standing, and high reputation, suddenly started to "reflag" many of their ships. Also, many of the third world's emerging and fledgling merchant fleets utilized FOCs under which to register their ships, mainly as a matter of economics but also as many of these countries lacked their own statutory Merchant Shipping Legislation. These "Shell" companies did not normally have a nationality or residency requirement for ship registration, and so were often described as an "open register". Hence, by way of example, a Pakistani owner may register a ship in, say Panama, on the basis of a paper company they had purchased, and was incorporated in Panama, it being little more than a brass plate outside a Lawyer's office door. In essence, a "Shell" corporation is a company or corporation that exists only on paper which generally has no assets, office, or employees, but may have a bank account or be the registered owner of assets, such as ships or aircraft. Sometimes, Shell companies are used for tax evasion, tax avoidance, or to achieve a specific goal such as anonymity of beneficial ownership. The word "Shell" should not be confused with the highly reputable and internationally renowned shipping company bearing the same name, as there is no connection whatsoever.

The current practice of ships being registered in a foreign country began in the 1920s, in the United States when shipowners seeking to serve alcohol to passengers during Prohibition registered their ships in Panama. Owners soon began to recognize advantages in terms of avoiding increased regulations and rising labor costs and continued to register their ships in Panama even after Prohibition ended. The use of open registries steadily increased, and in 1968, Liberia grew to surpass the United Kingdom with the world's largest ship register.

To ship owners the reasons for choosing an open register could be varied and include tax avoidance, the ability to avoid national labor and environmental regulations, and the ability to hire crews from an international pool of lower-wage countries. National or closed registries typically required a ship be owned and constructed by national interests, and at least be partially crewed by its citizens. Conversely, nowadays, open registries frequently offer on-line registration with fewer questions asked. The use of flags of convenience lowers registration and maintenance costs, which in turn, theoretically reduces overall transportation costs. The accumulated advantages can be significant, especially if a ship owner has a large and aging fleet.

In 1986, the United Nations Conference on Trade and Development (UNCTAD) attempted to bind the genuine link concept in the United Nations Convention on Conditions for Registration of Ships. The Convention for Registration of Ships would require that a flag state be linked to its ships either by having a financial stake in the ownership of its ships or by providing mariners to crew the ships, to come into

force, the 1986 treaty required 40 signatories whose combined tonnage exceeds 25% of the global total. As of 2017, only 14 countries had signed the treaty.

Amongst the common avenues of criticism applicable to the flag of convenience system, one of the most common is that these flag states have insufficient regulations and that those regulations they do have are often poorly enforced. Another is that, in many cases, the flag state cannot clearly identify a shipowner, much less hold the owner civilly or criminally responsible for a ship's actions or liabilities. As a result of this lack of flag state control, flags of convenience are criticized on grounds of not only enabling tax avoidance, but also serve to conjure up allegations of providing an environment for conducting criminal activities, supporting terrorism, providing poor working conditions for seafarers, and having an adverse effect on the world's ecological environment.

International regulations for the maritime industry are promulgated by agencies of the United Nations, particularly the **International Maritime Organization** and **International Labor Organization**. Flag state administrations adopt these regulations for their ships by ratifying individual treaties. Another common criticism against flag of convenience countries, is that they allow shipowners to avoid these regulations by choosing not to ratify important treaties or by failing to properly enforce them. As of 2010, thirteen flag states which had been targeted by Port State Control organizations were found to have substandard regulations.

As of 2020, Panama still had the largest maritime register in terms of deadweight tonnage, followed by Liberia. Landlocked Bolivia also has a major registry, as does Mongolia. Also, some registers are based in other countries, for example, globally located Panama consulates manage the documentation and collect registration fees, Liberia's registry is managed by a company in Virginia and Bahamas' from the City of London. Several of the designated open registers which are completely landlocked and do not have any coastline whatsoever, likely have none, or very few, national ship operators established within their own borders. Obviously, their geographical situation and "open registry" status, raises questions as to the need and how much regulatory oversight may be exercised.
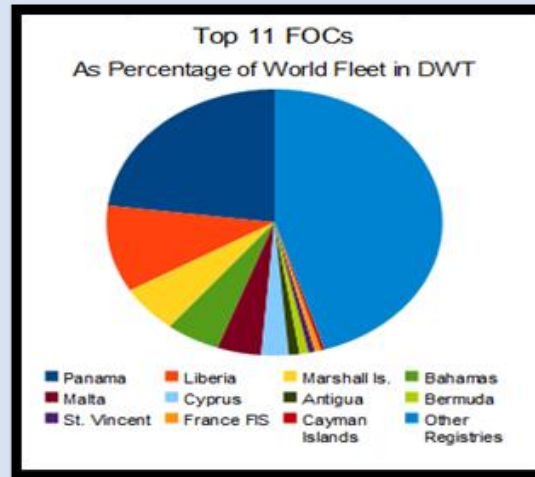

Top 25 Beneficial Ownership Countries
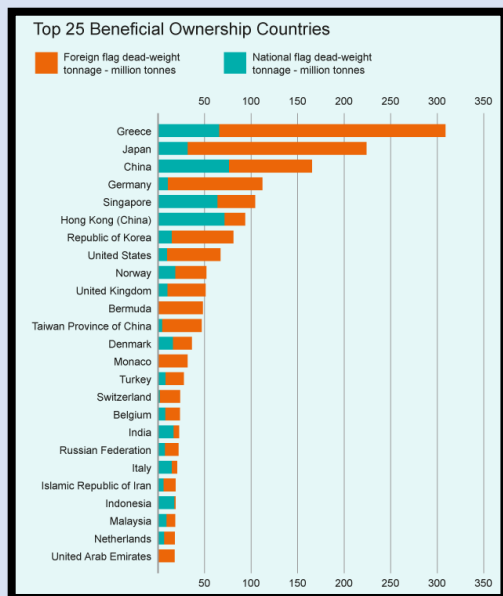
The chart on the left indicates the Global trend, showing the percentage of national fleets flagged out to FOCs.

A recent List of 35 Flags of Convenience as declared by the International Transport Federation (ITF)

- Antigua and Barbuda
- Bahamas
- Barbados
- Belize
- Bermuda (UK)
- Bolivia
- Cambodia
- Cayman Islands
- Comoros
- Cyprus
- Equatorial Guinea
- Faroe Islands (FAS)
- French International Ship Register (FIS)
- German International Ship Register (GIS)
- Georgia
- Gibraltar (UK)
- Honduras
- Jamaica
- Lebanon
- Liberia
- Malta
- Madeira
- Marshall Islands (USA)
- Mauritius
- Moldova
- Mongolia
- Myanmar
- Netherlands Antilles
- North Korea
- Panama
- Sao Tome and Príncipe
- St Vincent
- Sri Lanka
- Tonga
- Vanuatu

From a seafarer's perspective, noticeable differences were the absence of ship's articles, instead the tendency was to have a contract with the shipowner or manager (usually based on the lowest going market rates with varying terms and conditions), lack of any form of pension fund, although it must be said that the traditional owners who flagged out, in most cases just continued with arrangements already in place for their permanent employees prior to change of registry.

The other area that required careful consideration by the sea staff was the total lack of any Income Tax regime, which meant those serving on FOC vessels needed to seek professional advice to ensure that they did not infringe their country of origin's taxation laws.

Top 11 FOCs
As Percentage of World Fleet in DWT

Legend: Panama, Liberia, Marshall Is., Bahamas, Malta, Cyprus, Antigua, Bermuda, St. Vincent, France FIS, Cayman Islands, Other Registries

A simple Pie Chart indicating the percentage of the World Fleet using an Open Register.

	Number of vessels	Vessel share of world total (percentage)	Thousands of dead-weight tons	Share of world total dead-weight tonnage (percentage)	Cumulated share of dead-weight tonnage (percentage)	Average vessel size (dead-weight tons)	Dead-weight tonnage growth, 2015–2016 (percentage)
Panama	8 153	8.97	334 368	18.51	18.51	42 768.99	-0.53
Liberia	3 185	3.50	206 351	11.42	29.93	64 869.88	2.21
Marshall Islands	2 942	3.24	200 069	11.07	41.00	68 073.98	12.03
Hong Kong (China)	2 515	2.77	161 787	8.96	49.96	65 553.85	7.63
Singapore	3 605	3.97	127 193	7.04	57.00	37 028.53	7.50
Malta	2 101	2.31	94 992	5.26	62.26	45 867.66	8.90
Bahamas	1 450	1.59	79 541	4.40	66.66	55 545.18	7.61
China	4 052	4.46	75 850	4.20	70.86	19 845.66	-0.96
Greece	1 386	1.52	73 568	4.07	74.93	63 640.19	-2.49
Cyprus	1 053	1.16	33 313	1.84	76.77	32 405.97	0.46
Japan	5 320	5.85	31 869	1.76	78.54	7 435.49	3.55
Isle of Man	389	0.43	22 539	1.25	79.79	57 940.94	-8.36
Norway	1 561	1.72	20 697	1.15	80.93	15 308.45	3.00
Indonesia	7 843	8.63	18 117	1.00	81.93	3 858.78	3.41
Denmark	671	0.74	17 185	0.95	82.88	27 540.26	4.57
Republic of Korea	1 906	2.10	16 820	0.93	83.82	9 899.83	-5.42
Italy	1 376	1.51	16 470	0.91	84.73	14 296.63	-2.14
India	1 625	1.79	16 338	0.90	85.63	10 439.41	4.58

A summary of the World's leading countries in terms of number of vessels registered and deadweight tons. An interesting feature of the above list is the column indicating the growth rate of various flag states, from which one can conclude that the Major FOC's dominate the world fleet. However, China, Indonesia, and Japan, still maintained sizable national fleets, in terms of ships registered.

For those serving on FOC ships owned by what I term "Traditional Owners" could rely on most of the company's longstanding and customary "modus operandi" remaining intact, including entry of their ships into a First Class, P&I Club. Regarding crewing matters, for example many owners and managers employed Western Officers and Filipino, Chinese, or Indian crew and continued with this long-standing company policy. Nevertheless, other ship operators engaged a "united nations" crew, which may have been satisfactory from a commercial point of view but was not always the most conducive when it came to actual onboard operations. Often a clash of "cultures" and language difficulties became inevitable. Another aspect of the "Contract" system was that it was frequently the case that crews were not relieved on time, with reliefs being months and months overdue, in many cases.

With introduction of SMS (Safety Management Systems), STCW and other International Conventions, including **Minimum Safe Manning** and many improvements with **SOLAS** and **MARPOL** matters slowly improved and served to create more alignment with what seafarers had been accustomed to over former years. However, this took some years to fully implement. There have been incidents, whereby crew members have received serious and debilitating injury whilst serving on board FOC ships and have been denied any matter of adequate compensation, or in some cases, receiving no compensation at all. Under a FOC it is possible for an owner who in essence, holds the liability, to slip into the vagaries of the system, with the view to avoiding all forms of liability whatsoever by becoming invisible, or disappearing.

Then, there is the vitally important issue of the timely payment of wages. Many shipowners or managers could be late in paying wages and sending allotments to their crews' families, causing extraordinary stress and hardship. This was a common practice with some crewing agents and managers, delaying payments to their crew and sitting on foreign currency funds intended for shipboard salaries, to accrue interest in their own company bank accounts. Some crew have been known to be owed months and months, of overdue wages.

It was not uncommon to learn of ship's and crew being abandoned at ports throughout the world, the crews receiving no financial support whatsoever, no repatriation and in numerous cases without the means to purchase vitals or diesel oil to keep the ship's power supply functioning. It is thanks to the various maritime charities and support groups, that many of these unfortunate seafarers survived such ordeals.

The disappearance of FOC owners was not uncommon, at the first hint of liability to crew or ship, by emptying out bank accounts overnight, before vanishing into obscurity. In more recent years the prominence of ILO (International Labor Organization) Legislation and activities of the ITF (International Transport Federation) have done much improve governance and to protect vulnerable seafarers and eradicate their exploitation. This, in conjunction with the strengthening of mandatory international codes, is coming to grips with the interests and safety of the entire maritime sector and making it more difficult for the shady and shonky shipowner to continue operating in such a way.

Having stated the above, I hasten to add, that not all shipowners that use FOC's are "shonky", indeed they may have a very good reason for doing so and operate their ships in a safe and honorable fashion irrespective of their flag of choice, so it is important to note that Flag of convenience is not necessarily a bad thing. But there is a risk it may lead to outcomes that have not such good implications for seafarers, but no doubt, with the nature of the occupation, they will always face these risks, no matter on which ship and under which Flag they serve.

But in most cases sailing under a FOC means, risks are elevated, and securities decreased. This is when it becomes important, to weigh both the sides of the equation. Being aware of dangers of working on such a vessel is the only way mariners can comprehend the real risk they may possibly face and most important, is the need to research and know for whom one is working.

One of many ships abandoned by their owners around the world. The graphics painted on the ship's side carry their own message.

References: UNCTAD, UK Ship Register, Various Maritime archives, UK Govt Publications, and statistical data on Public Domain.

An aging British tramp ship sold and reregistered, under the Panama Flag, depicted loading Rice in Bangkok ca 1958.

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