Dear Delegates,

My name is Fiona Reuter, and I have the utmost pleasure of serving as the Director of the International Maritime Organization at VMUN 2019. I am currently a grade 12 student at Crofton House School, where I have been involved with Model UN since grade 8. Through MUN, I have developed a passion for international relations and diplomacy, as well as improved my public speaking skills. Along with me on the dais team are Jason Fan, who will be serving as your Chair, and Kelsi Lee, who will be serving as your Assistant Director. Jason is a senior at Gleneagle Secondary School and Kelsi is in her grade 12 year at Crofton House School.

Since its formal inception in 1959, the International Maritime Organization has been a major player on the oceanic world stage, dedicated to improving the lives of seafarers and increasing the efficiency and safety of the shipping process. At VMUN 2019, delegates will delve into two challenging topics: The Rise of Mega-ships and Flags of Convenience, both of which incite significant controversy and debate in the maritime world. When preparing, it is crucial to bear in mind the integral nature of maritime shipping to the world as well as the historic impacts of treaties like the United Nations Convention on the Law of the Sea.

Above all, the dais team and I are beyond excited to meet you come January. Whether you are a first-time delegate or a long-time participant, I encourage you to take advantage of all that this committee has to offer.

Sincerely,

Fiona Reuter
IMO Director
Position Paper Policy

What is a Position Paper?

A position paper is a brief overview of a country’s stance on the topics being discussed by a particular committee. Though there is no specific format the position paper must follow, it should include a description of your positions your country holds on the issues on the agenda, relevant actions that your country has taken, and potential solutions that your country would support.

At Vancouver Model United Nations, delegates should write a position paper for each of the committee’s topics. Each position paper should not exceed one page, and should all be combined into a single document per delegate.

For the International Maritime Organization, position papers are not mandatory but highly recommended, and required for a delegate to be considered for an award.

Formatting

Position papers should:
— Include the name of the delegate, his/her country, and the committee
— Be in a standard font (e.g. Times New Roman) with a 12-point font size and 1-inch document margins
— Not include illustrations, diagrams, decorations, national symbols, watermarks, or page borders
— Include citations and a bibliography, in any format, giving due credit to the sources used in research (not included in the 1-page limit)

Due Dates and Submission Procedure

Position papers for this committee must be submitted by midnight on January 13, 2019.

Once your position paper is complete, please save the file as your last name, your first name and send it as an attachment in an email, to your committee’s email address, with the subject heading as your last name, your first name — Position Paper. Please do not add any other attachments to the email or write anything else in the body.

Both your position papers should be combined into a single PDF or Word document file; position papers submitted in another format will not be accepted.

Each position paper will be manually reviewed and considered for the Best Position Paper award.

The email address for this committee is imo@vmun.com.
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The Rise of Megaships

Overview

Since the introduction of containerization (the widespread use of containers in international freighting) in the 1950s, the average size of container ships has drastically increased.¹ Today, most container ships are “megaships”, meaning that they have an immense carrying capacity and are, as the name suggests, mega in size. A megaship is defined as “an extremely large cruise vessel, typically with a passenger capacity of greater than 2,000”; however, it is important to note that the word “megaship” in this background guide refers exclusively to colossal container and freighter ships, not gargantuan cruise ships or superyachts. Today, megaships can reach lengths of up to 400 metres and often have carrying capacities of over 8,000 twenty-foot equivalent units (TEUs), or 136,000 freight tons.²

After the 2008 financial crisis, shipping companies switched to almost exclusively building mega-ships, promised to be more fuel-efficient and cost-effective.³ Despite these benefits, however, megaships have had severe ramifications on the shipping industry; issues including overcapacity and insufficient port infrastructure have arisen as a result.⁴ The rise of megaships has also resulted in the destruction of many smaller shipping companies, it being virtually impossible to succeed in the shipping industry without owning multiple megaships. While some members of the shipping industry view this development positively, others wholeheartedly disagree.⁵

The broad issue of modern megaships can effectively be crystallized into three main facets. Firstly, there are the problems associated with ports and channels: megaships struggle to pass through major shipping passages and often cannot be docked at major ports due to their size.⁶ Delegates need to formulate a creative solution that can be implemented worldwide while also recognizing international differences in port facilities and maritime programs. Secondly, there are the economic problems surrounding megaships: many shipping companies are put at financial risk after investing in megaships while remaining unaware of the consequences. While doing so, delegates must be careful not to harm shipping companies even more; an economic crisis in the shipping industry would be hugely detrimental to the global economy. Finally, there are the various safety concerns accompanying

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³ EJ, “TEU Definition - Twenty-Foot Equivalent Unit”, Dedola Global Logistics, October 13, 2011, https://docs.google.com/document/d/1f4WXoeAdbPEQdmmC0Hri7MUTOnVoOfdXqGphVm-Q3T8/edit;
megaships: they often stow cargo improperly and are considered poorly-designed due to their length and size. At the same time, delegates must keep in mind the conservative and reticent nature of shipping companies, tending to dislike interference in internal affairs. Essentially, delegates need to be aware of the multi-faceted nature of this issue and the multiple layers involved in drafting resolutions. Because of the numerous problems and widespread risks associated with megaships, it is critical that the International Maritime Organization (IMO) swiftly and efficiently formulates effective and applicable solutions to this issue.

**Timeline**

**45,000 BCE** — The first marine transportation is believed to be employed, with Indigenous Australians using boats for locomotion and food collection.

**1400s–1800s** — Europe’s Age of Discovery, during which many improvements were made to navigation and shipbuilding, lasts for four centuries, greatly advancing intercontinental exploration.

**August 15, 1914** — The opening of the Panama Canal symbolizes the beginning of modern maritime shipping through the Americas.

**1950s** — Containerization is introduced to the shipping industry, prompting the beginning of ship size expansion.

**October 1973** — Petroleum fuel becomes extremely expensive due to the OPEC oil embargo, causing shipping companies to opt for diesel engines instead.

**1990s–2000s** — Container shipping prices reach record highs. In 2004, it cost an average of USD 86,000 per day to ship oil in very large crude carriers.

**April 2003** — The **OOCL Shenzhen** is launched at a capacity of 8,063 TEU, marking what is considered to be the beginning of the megaship era.

**2007–2008** — Container shipping costs drop significantly as a result of the global financial crisis.

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2010 — Shipping companies begin to recover from the financial crisis and begin producing and purchasing ships again, the majority of those newly built being megaships.13

2013 — The term “megaship” comes into use in the shipping industry.14

June 17, 2013 — The MOL Comfort, a container megaship with a capacity of 8,110 TEU, splits in half while at sea.15

2014 — After 10 years, high oil prices, which led many shipping companies to purchase megaships, return to a reasonable level.16

June 1, 2016 — The IMO adds new pieces of legislation to the International Convention for the Safety of Life at Sea (SOLAS) that require container ships’ gross mass of cargo to be verified.17

June 26, 2016 — The Panama Canal Expansion project is completed, allowing for more shipping through Central America.18

August 31, 2016 — The Hanjin Shipping Company, one of the world’s top ten container carriers by capacity, declares bankruptcy.19

July 2018 — The megaship YM Efficiency experiences “significant rolling” after sailing in bad weather conditions, resulting in the loss of 81 cargo units.20

Historical Analysis

After containerization was first introduced in the 1950s, the average size of ships began to grow; as ship expansion continued into the 1990s and early 2000s, shipping prices soared to record highs.21 With each successive year, the industry grew larger and more successful, making those involved in the business extremely wealthy. By this time, megaships were already beginning to make their mark in the world of shipping; the then-largest freighter ship, the OOCL Shenzhen, was launched in April 2003, signalling the central importance of

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megaships. To the casual observer, the industry appeared to be thriving; money was being spent on port expansion and shipyards were reaping the rewards of a new wave of globalization.

However, the boom the industry was experiencing reached its breaking point when the global financial crisis struck in 2008, leaving shipping lines around the world struggling to stay afloat. The industry began to shrink rapidly, experiencing a decline of 16 percent in the first half of 2009. As demand for new ships dropped, prices fell in tandem, threatening the financial stability of the industry. Leading shipping lines, fighting bankruptcy, were especially hard-hit, but ship-building companies suffered as well, due to inadequate demand. Additionally, the money spent on expanding ports had been wasted; no new ships were being built, and already-built vessels were not utilizing them, shipping companies no longer having a use for so many vessels. Those that remained at sea sailed mostly half-empty due to a lack of cargo to be transported.

As two years passed, the damage inflicted by the financial crisis became even more apparent. Nevertheless, the financial crisis paved the way towards megaships and ushered in a new era for the shipping industry. When the global economy began to recover in 2010, shipping companies were still attempting to recover from the damages they had suffered. However, slowly, shipping companies began to order ships again, the majority being megaships. For their size, megaships are comparatively inexpensive, leading to widespread acceptance of their cost-effectiveness. This was one of the primary reasons for the purchase of megaships, as the majority of the major shipping companies had not yet regained their former success, and were looking for ways to cut costs and maximize profits. Additionally, fuel prices were still extremely high, further enticing companies to use fuel-efficient megaships. By travelling slower and carrying more cargo, megaships significantly reduce fuel costs. Altogether, the benefits of megaships persuaded numerous shipping companies to buy these vessels; Hyundai Heavy Industries, South Korea’s second-largest shipbuilder, stated in 2015 that “since 2010 it [had] built 82 [megaships],” but only a mere 5 regular ships in the same time span.

Regardless of the benefits megaships initially brought, it was not long before the shipping industry began to experience their negative impacts. Chiefly, insufficient infrastructure in most ports posed a significant problem; because ship size had increased so rapidly, many were unprepared and unable to accommodate megaships. Furthermore, many major shipping passages and bridges were also inadequate; numerous projects were quickly launched to try to expand waterways like the Panama Canal and raise bridges such as the Bayonne Bridge in the United States. Moreover, megaships have been involved in many disastrous accidents. In 2012, two catastrophic fires broke out on board the MSC Flaminia and the Amsterdam Bridge. It is important to note that, although fires are not exclusive to megaships, their sheer size increases the severity of those that do occur. The

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following year, on July 17, 2013, the MOL Comfort split in half because of its enormous length. Seeing the issues with port size and hazard vulnerability, the industry began to notice the drawbacks of megaships.

Regardless, shipping companies did not end up moving away from megaships. Instead, they have done the opposite, with many continuing to purchase even more. Megaship size has also increased significantly over the years; the International Transport Forum (ITF) at the Organisation for Economic Co-operation and Development (OECD) reported that the “average capacity of a container ship [had] doubled” in one decade. Only in recent years have concerns over megaships begun to resurface, spurred on by events such as the Hanjin Shipping Company’s shocking declaration of bankruptcy in 2016. As the IMO considers the best course of action for megaships, it would do well to remember both the industry’s successes and failures in the past.

Past UN/International Involvement

Despite the fact that megaships are growing to dominate the shipping industry at an alarmingly fast pace, relatively little has been done to address their ramifications. Some past action, however, has been taken, including research regarding megaships, industry-led efforts, and international dialogues.

In recent years, multiple organizations have researched and published numerous reports on megaships in order to better understand their effects. Although perhaps seemingly insignificant, these reports have served to highlight the issue and promote global awareness. Supported by statistics and data, these documents have helped shipping companies make more informed decisions about whether to acquire a megaship. A prime example of such an effective and utile report is the 2015 ITF report The Impact of Mega-Ships, featuring information on ports, the advantages and disadvantages of megaships, and analysis of real-world ownership and operating costs. Similarly, multiple websites frequented by the general public feature articles and information on megaships to help further expand the audience for this issue. As many citizens are not aware of the relevance and importance of this problem, continued coverage is vital to public engagement.

Equally important are the efforts of those in the shipping industry themselves. In particular, the countless mergers between shipping companies have been one of the most significant steps. Because small shipping companies lack the funds to purchase megaships, they often face a crucial choice: merge with a large shipping company or go out of business. Most often, they opt for the former, meaning that small shipping companies are quickly disappearing around the globe. This leads to major monopolization and consolidation of market share in a select few oligopolistic shipping firms, often with unfavourable economic consequences. An overly-monopolistic shipping industry could pose a threat to international security, while also engendering a unique slate of inefficiencies and adverse effects. Another momentous set of actions undertaken by the shipping industry

has been the expansion of ports and major passageways to accommodate megaships.\(^{34}\) By developing infrastructure to better support megaships, industry actors are facilitating the shift towards a megaship future.

Additionally, both the ITF and IMO have discussed the impacts of megaships in the past. At the 2014 ITF Summit, the topic of megaships was brought up during the Ministers’ Roundtable.\(^{35}\) While the meeting helped to shed more light on megaships, it did not directly lead to any definitive action from the ITF. Similarly, the IMO reportedly discussed megaships briefly during the 2015 General Assembly Meeting in London, United Kingdom; however, this too did not elicit action.\(^{36}\) Nonetheless, the IMO has worked to limit the chance of megaship accidents resulting from improperly-stowed cargo. On June 1, 2016, the IMO updated SOLAS to include new legislation requiring “[verification of] the gross mass of a packed container.”\(^ {37}\) Unfortunately, this system has not proven effective, evidenced by incidents like the cargo displacement during the rolling experienced by the *YM Efficiency* in early 2018.\(^ {38}\)

### Current Situation

Megaships have continued to proliferate in the shipping industry as their benefits promote their continued use. The majority of the world’s megaships are now consolidated among three main companies: the Mediterranean Shipping Company (MSC), Maersk, and the Compagnie Maritime d’Affrètement – Compagnie Générale Maritime (CMA CGM Group). As previously discussed, this exclusivity of megaship power has made it difficult for smaller companies to prosper in the shipping market, with larger competitors overpowering and consuming smaller-scale firms. Part of this is due to the alliances formed between shipping companies; groups like the Ocean Alliance coordinate both vessel- and slot-sharing, forming predatory market barriers for new and developing shipping firms.\(^ {39}\)

Europe and Asia also dominate the megaship industry; recently accounting for over 73 percent of vessel delivery profits.\(^ {40}\) Like many ports around the world, however, Asian and European harbours are generally unable to properly handle megaships. Additionally, most megaships are deployed on volume-heavy trade routes between the Far East and Northern Europe. Unfortunately, this has adversely impacted other shipping routes; ships that

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formerly sailed the Far East–Northern Europe route are forced to shift to trans-Pacific route, in turn, shunting formerly-trans-Pacific carriers onto trans-Atlantic passages.\footnote{John Kemp, “Megaships are worsening overcapacity in the container market”, \textit{Reuters}, September 23, 2015. \url{https://www.reuters.com/article/us-shipping-megaships-kemp-iduskcxn0rm2as20150923}.}

The numerous challenges posed by megaships can be distilled into three major areas: infrastructural insufficiencies, safety risks, and economic ramifications.

**Insufficient Infrastructure**

It is clear that if megaships are to remain a fixture of the shipping industry, infrastructure must be adapted accordingly. Ports require larger berths and more port services in order to properly function at the dock. However, the issue lies in the fact that ports would lose money if they were to update their equipment to cater to megaships; for all the money invested facilities, there would be no guarantee of increased profits.\footnote{Tom Ward, “Best Practices in Master Planning, Research and Technology Tools”, \textit{American Association of Port Authorities}, January 27, 2017. \url{http://aapa.files.cms-plus.com/2017Seminars/17Shifting/Tom%20Ward.pdf}.} Some ports, such as the Seagirt Marine Terminal in Baltimore, United States, have invested in becoming “big-ship-ready”, but still can only manage one megaship at a time. Through the domino effect, this inability of ports to service multiple megaships simultaneously has also constrained the capacities of inland supply chains, posing wider challenges to the global logistics sector.

Ports are not the only aspect of shipping infrastructure currently unfit for megaships. Bridges are often not high enough for megaships to pass underneath, restricting the routes they can take and limiting trade potential. As well, megaships’ inabilities to travel through certain channels and turning basins compounds the problem. In order to handle the deeper drafts of megaships, port channels would need to be dredged deeper, and turning basins would need to be expanded to accommodate their excessive length.\footnote{John Kemp, “Megaships are worsening overcapacity in the container market”, \textit{Reuters}, September 23, 2015. \url{https://www.reuters.com/article/us-shipping-megaships-kemp-iduskcxn0rm2as20150923}.}

**Safety Concerns**

As megaships continue to grow larger, more and more safety concerns arise. Many megaships are considered to be poorly designed; when examining the remains of mega-shipwrecks, signs of structural weakness are apparent.\footnote{International Transport Forum, “Mega Ships and their Impact on Port Development and Safety”, \textit{International Transport Forum}, 2014. \url{http://2014.internationaltransportforum.org/mega-ships}.} The lengths of megaships can also prove disastrous; retired British naval and merchant ship commander Captain Michael Lloyd has said that “wave action puts more stress on longer ships, especially around the midsection.” Coupled with the fact that faulty welds will often lead to longer ships bending in the wind, this makes for an unsound, hazardous ship carrying immense amounts of cargo.\footnote{William B. Cassidy, “Mega-ships bring mega-risks, former ship captains tell TPM”, \textit{JOC.com}, March 2, 2016. \url{https://www.joc.com/maritime-news/container-lines/mega-ships-bring-mega-risks-former-ship-capains-tell-tpm_20160302.html}.} Moreover, there are multiple safety issues surrounding the improper stowage of cargo. Because of their size, they are difficult to load, meaning that cargo will often be stowed incorrectly and is vulnerable to displacement during travel.\footnote{International Transport Forum, “Mega Ships and their Impact on Port Development and Safety”, \textit{International Transport Forum}, 2014. \url{http://2014.internationaltransportforum.org/mega-ships}.} In rough weather, cargo can fall overboard if a ship experiences heavy rolling, a phenomenon experienced by several megaships. However,
the problem does not lie solely in the potential loss of cargo; containers falling overboard can also pose a threat to other ships sailing nearby.47

Economic Impacts
On an elementary level, megaships are a good purchase because they are relatively inexpensive for the amount of space they offer. They have expanded the shipping industry and global alliances, contributing significantly to the increase in international shipping and trade. However, the entirety of a megaship’s storage space is hardly ever used, meaning that operators can actually end up losing money from poor utilization. Without a sudden demand increase, it is unlikely that megaships will actually deliver cost savings anytime soon. For example, a megaship with a carrying capacity of 18,000 TEUs would require at least 91 percent of its storage space to be filled in order to obtain savings.48 Additionally, megaships have given rise to other economic problems; namely, the loss of small carriers because of megaships’ capacity inflation and price depression, as well as changes to workers’ overtime payment systems.49 Megaships have led to a drastic shift in market economics, comparable to that of low-cost carriers in the aviation industry, reaching every facet of the shipping industry.

Possible Solutions and Controversies

Expanding Port Infrastructure
With port infrastructure being largely unfit to accommodate megaships, the most obvious and simple solution would be to improve and optimize ports to serve megaships. Tom Ward, a highly-regarded senior maritime planner, proposed an effective way to implement this solution in his 2017 presentation to the American Association of Port Authorities. In his presentation, Ward suggested that, when planning the expansion of new ports, builders must keep in mind the primary reason for expansion: the accommodation of megaships.50 In addition, factors such as berth capacity and ship call patterns must also be taken into account.

However, this solution only addresses a small portion of the problem of megaships and assumes that ports worldwide have the means to update their infrastructure. Naturally, if necessary, market forces have the potential to push for infrastructural reform, albeit slowly. As well, placing the burden on governments, rather than shipping companies, to develop and improve infrastructure may not be a feasible route. However, it is worth mentioning that expansion may not be needed at all; in some cases, expansion can lead to a net loss in efficiency, and the money funnelled into these projects might be better purposed elsewhere.

Enhancing Safety Measures
As mentioned above, one major issue surrounding megaships is safe cargo stowage. Often, cargo is stored improperly, and can be lost overboard if the ship encounters bad weather. Already, legislation was added to

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SOLAS in 2016 by the IMO to require verification of cargo weight.\textsuperscript{51} However, that has not been enough to conquer the numerous safety issues that incorrectly-stored cargo can cause. Implementing measures such as crew training, speed reductions in certain areas, and increased monitoring for hazardous cargo could help limit potential risks.\textsuperscript{52}

**Limiting Ship Size**

When considering all the issues megaships bring the shipping industry, it could be effective for the IMO to impose restrictions on megaships and regulate ship size. If the industry was forced to keep all ships under a carrying capacity of 5,000 TEUs, for example, many safety hazards and market impacts would be eliminated. However, this solution is not entirely feasible as it “goes against the main trends of the world economy”.\textsuperscript{53} Furthermore, the majority of the world’s container ships are now megaships, meaning that a ban would force many vessels out of service and potentially hurt global trade. In spite of this, however, restrictions could be very effective if the aforementioned risks were taken into account.

**Building Offshore Ports**

Already used by many countries around the globe, offshore ports are a feasible and powerful solution that could alleviate the issues of insufficient infrastructure. Essentially, offshore ports are deep-sea platforms built farther out from shore. There, megaships would dock and have their cargo transported to land by smaller vessels. This solution is utilized by the Port Authority of Venice, and Abu Dhabi has swiftly followed suit. Additionally, this solution was supported by the IMO at their 2015 General Assembly, where the idea was briefly raised by the Italian representative.\textsuperscript{54} However, delegates must remember that many nations around the globe may not have the means to build these offshore ports, requiring substantial capital to construct and maintain. Thus, while a good solution in some places, offshore ports merely mitigate some of the impacts of megaships, rather than solving them altogether.

**Optimizing Capacity**

As discussed earlier, a major issue posed by megaships is inefficiency, most often sailing with unused capacity. A simple solution would be for alliance networks to use fewer ships, and to fully load all of them, instead of unnecessarily spreading the cargo across multiple vessels. By doing so, the risks posed by underfilled ships would be eliminated, and shipping companies would eventually be able to achieve cost savings on their megaships. Furthermore, consolidating shipping schedules could also be useful; with fewer sailings per week, fewer ships would strain inadequate infrastructure. However, shippers and freight forwarders do not look favourably upon this solution; consolidation heightens the risk of cargo loss.\textsuperscript{55} As well, unique trade routes could greatly increase the distance travelled by a vessel, potentially lengthening shipping times.


Restructuring Port Tariffs
Currently, one issue with ports is the fact that pricing rates favour megaships. Often, port tariffs are established to give discounts to megaships because they are based on the gross tonnage of a ship. Unfortunately, this loses ports money since it costs considerably more to service a megaship. In order to correct this, ports could implement what is referred to as the “user-pays principle”; if a ship needs more services that the average vessel does, it must pay more accordingly. However, for this to be successful, it would require worldwide cooperation between ports, as well as financial transparency, which is not always easy to achieve. Emboldening ports to cover their financial costs more fairly could be a significant step toward the sustainable accommodation of megaships.

Bloc Positions

Shipbuilding States
China, South Korea, and Japan dominate the global shipbuilding sector, closely intertwining them with megaships. South Korea’s Daewoo Shipbuilding is the world’s largest shipbuilder by gross tonnage, while the China State Shipbuilding Corporation (CSSC) and Japan’s Mitsubishi Heavy Industries top lists in their respective countries. China, in particular, has risen to prominence in recent years, embarking in September 2018 on the construction of two next-generation megaships in Shanghai. Other significant shipbuilding states include the Philippines, Vietnam, Italy, and the United States, among others. Any restrictions on megaship building would substantially harm these nations’ shipbuilding industries, and they are thus considered to be pro-megaship; opposing measures to curb their pervasion and seeking ways to accommodate them instead.

Mediterranean States
Located near one of the world’s busiest shipping routes, Mediterranean countries have been greatly impacted by the rise of megaships. With ships in the Asia–Mediterranean route growing ever-larger, problems will inevitably arise. SeaIntel predicts that route traffic in the Mediterranean Sea will have increased 83 percent by 2020. Furthermore, SeaIntel believes that it will be impossible for the route to absorb a significant volume of spillover traffic from the Northern European route. As such, Mediterranean countries would generally be in favour of restrictions on megaships in order to protect their shipping routes and economies, though specific views are liable to vary from country to country.

American States
North and South American states, especially the United States, have historically been heavily involved in transoceanic shipping. Recently, the issue of port size has limited American ports’ abilities to accommodate megaships, potentially hampering the development of new intercontinental trade. This issue is most significant for ports on the west coast of North America and on the east coast of South America, both situated on high

volume shipping routes to Asia. If the status quo continues, these ports may lose out on new opportunities, to the invariable detriment of their respective countries’ economies. While clearly a major issue, this also affords these nations a mixed stance on megaships, recognizing both their benefits and drawbacks. These countries would generally favour increased regulations on megaships, especially regarding safety, and promote the necessary modification of port infrastructure.

Asian and European States
By far the most important players in the megaship industry today are Asian and European countries, owning the majority of megaships globally. This has caused problems for them too; even their high-volume market cannot withstand gross overcapacity. Furthermore, overflow from the Far East–Northern Europe trade route is being pushed into the trans-Pacific and trans-Atlantic paths, hardly ideal for Europe and Asia as they stand to lose much potential shipping traffic. Overcapacity on the Far East–Northern Europe trade route could also contribute to more pollution, meaning that Asia and Europe would likely push for solutions addressing the environmental issues of megaships. As well, Asia and Europe have had their fair share of problems regarding port size; Northern European ports are currently trying to update their infrastructure in order to fully accommodate megaships. Due to their own previous experiences, this bloc is likely to advocate for solutions enhancing port infrastructure.

Discussion Questions
1. Which of the three main problems (insufficient infrastructure, safety concerns, and economic considerations) should the IMO prioritize when discussing solutions?
2. Is it possible for the shipping industry to continue to use megaships or is the damage they do too great?
3. Would the shipping industry be able to weather an outright ban on megaships?
4. How can the IMO reach a solution that satisfies all those involved in the shipping industry?
5. How does the megaship industry differ around the world, and how might these differences impact the solutions the IMO puts forth?
6. Should further amendments be made to SOLAS to prevent incorrect cargo mass records or is the current legislation sufficient?

Additional Resources
Discovery Canada’s TV Program “Mighty Ships”:

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https://www.discovery.ca/Shows/Mighty-Ships

FAQ Regarding SOLAS’ Container Mass Verification Requirements:
http://www.imo.org/en/MediaCentre/HotTopics/container/Pages/default.aspx

Bloomberg Summary of Megaships:

Information on SOLAS Container Mass Verification Requirements:

OECD Insights on the Impact of Megaships:
http://oecdinsights.org/2015/06/22/the-impact-of-mega-ships/


Flags of Convenience

Overview

After the conclusion of the Second World War, the shipping sector faced an issue that would plague the industry for decades to come: open registries. Due to the surplus of low-cost wartime ships and an uptick in global trade, American ship owners began registering their vessels to fly the Panamanian flag, sailing under Panama’s jurisdiction to avoid the high costs of U.S. ship registration. As time passed, the popularity of this practice spread worldwide and was termed flying under a “flag of convenience”. Broadly, this refers to the system by which a ship owner registers their vessel in a country other than the one in which they reside. It is important to note that the terms “flag of convenience”, “lenient registry”, and “open registry” are largely synonymous, and can therefore be used interchangeably.

Flags of convenience (FOC) are used by ship owners for many reasons. Offshore registration allows owners to be taxed in a different jurisdiction, most likely with a lower tax rate. As well, ship owners are able to employ lower-wage foreigners as crew members, potentially reducing operating costs considerably. Countries with open registries are also typically relaxed in the enforcement of maritime regulations, to the benefit of the ship’s owners. However, open registries certainly do not benefit everyone in the shipping industry; seafarers working onboard FOC ships are often exploited greatly, and there are numerous environmental impacts to shirking regulations and checks. Furthermore, tax avoidance has a considerable financial impact on the ship owner’s home country, and can create an unlevel playing field in the shipping industry.

As a specialized agency of the United Nations (UN), the International Maritime Organization (IMO) has a duty to “promote safe, secure, environmentally sound, efficient and sustainable shipping through cooperation”. Unfortunately, the lack of legislation and discussion surrounding flags of convenience means that the IMO has not yet accomplished its stated aim. When considering different solutions, delegates must remember the importance of national sovereignty, as well as the fact that the 1982 United Nations Convention on the Law of the Sea (UNCLOS) grants all countries the right to have a registry. Moreover, delegates should consider the impact that any resolution may have on the shipping industry and the nature of international shipping as a whole. With globalization and international trade rapidly progressing, it is crucial that the IMO create an impactful and effective resolution that can be implemented easily and worldwide to mitigate the adverse economic, social, and political impacts of lenient registries.

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Timeline

1933 — The International Transport Workers’ Federation (ITF) raises questions regarding flag transfers to Panama.

1945 — Significant numbers of American ship owners first register their vessels in Panama; with this, the widespread practice of “flagging out” begins.

1948 — The ITF forms a joint committee of seafarers’ and dockers’ unions amid growing concern about working conditions on FOC ships.

1949 — The ITF holds its first boycott of an FOC ship.

1954 — The collective internal volume of ships registered in Panama, Liberia, and Honduras reaches 6.5 million gross tons.

December 1958 — The ITF holds a four-day boycott of ships registered in Panama, Liberia, Honduras, and Costa Rica, causing major delays for 200–300 ships. Costa Rica subsequently withdraws its open registry.69

1967 — Liberia’s registry becomes the world’s largest, overtaking the that of the United Kingdom.

December 10, 1982 — The United Nations Convention on the Law of the Sea (UNCLOS) is signed, declaring that a ship must fly a national flag and that every state is allowed “to have vessels flying its flag”.70

1995–1996 — The collapse of Adriatic Tankers leaves 49 seafarers stranded, sparking increased scrutiny of the FOC system.

February 23, 2006 — The Maritime Labour Convention, setting out basic labour rights and standards for seafarers is signed.71

May 15, 2009 — The International Maritime Organization’s Hong Kong Convention is created, which addresses concerns regarding ship breaking. However, it is not ratified by any countries.72

August 20, 2013 — The Maritime Labour Convention, now ratified by most major shipping nations, including Panama, Liberia, and the Marshall Islands, enters into force.

October 14, 2015 — A report from the United Nations Conference on Trade and Development (UNCTAD) finds that 71 percent of the merchant navy’s total tonnage flies under a flag of convenience.73

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May 9, 2016 — The Panama Papers are leaked, uncovering the ways in which wealthy individuals have taken advantage of offshore tax havens.\footnote{Luke Harding, “What are the Panama Papers? A guide to history’s biggest data leak.” The Guardian, April 5 2016, https://www.theguardian.com/news/2016/apr/03/what-you-need-to-know-about-the-panama-papers.}

August 18, 2016 — There number of seafarers sailing on vessels flying the Panamanian flag is reported to be 104,421.

**Historical Analysis**

Flags of convenience first gained popularity in the United States. Following the conclusion of World War II, the shipping industry was left with a surplus of cheap wartime vessels just as international trade was rapidly expanding, buoyed by the booming postwar economy. Being extremely expensive to operate a vessel under the U.S. flag, Americans found it difficult to keep pace with the growing industry.\footnote{“Flags of Convenience: Why do shipowners prefer them and what is charterers’ position?”, OpenSea.Pro, 2018, https://opensea.pro/blog/flags-of-convenience.} High crew wages drove operating costs up, prompting Americans to search for cheaper alternatives; thus, open registries were born. During this period, many American ship owners began to register their vessels in Panama; in subsequent years, ship owners from Europe and Asia followed suit, their vessels flying a variety of flags of convenience.

Although flags of convenience appeared well on their way to becoming an integral part of the shipping industry, organizations like the ITF began to fight back. In 1949, the ITF held its first-ever boycott of a ship flying a flag of convenience. However, the measure was unsuccessful in deterring the practice, and flags of convenience continued to proliferate; by 1954, a reported 6.5 million gross tons were registered under the flags of Liberia, Panama, and Honduras. By 1958, it was clear to the ITF that something needed to be done; in December of that year, the federation staged a four-day worldwide boycott of FOC ships.\footnote{“Open Vs. Closed Registry”, Offshore Gate, 2018, http://www.offshoregate.com/foc.html.}

Although the ITF’s actions were minorly successful, prompting Costa Rica to withdraw its open registry, they were unable to suppress the spread of flags of convenience.\footnote{“Global Campaign Unionism: The Seafarers’ Example”, May 12, 2013, https://newunionism.wordpress.com/2013/05/12/global-unionism-the-seafarers-model/.} Still, the IMO had yet to take action. In 1982, it released an updated version of UNCLOS, which did not mention flags of convenience. Instead, UNCLOS affirmed that all ships must fly the flag of a country and that every country had the right to its own registry. By doing so, some consider the IMO to have facilitated the establishment of lenient registries by ensuring no restrictions were imposed on landlocked countries.\footnote{“Flags of Convenience: Why do shipowners prefer them and what is charterers’ position?”, OpenSea.Pro, 2018, https://opensea.pro/blog/flags-of-convenience.} At the same time, countries around the world were beginning to create what so-called “second registries”. Operating similarly to flags of convenience, these second registries served as de facto open registries for countries without official ones. Second registries were created in Norway, Denmark, and Germany and quickly rose in popularity, providing even more options for low-cost registries.

In the late 2000s, the IMO attempted to implement further legislation to help address the problem of ship breaking. This legislation came in the form of the 2009 Hong Kong Convention, but ultimately led nowhere, not being ratified by any country.\footnote{“Flags of Convenience: Why do shipowners prefer them and what is charterers’ position?”, OpenSea.Pro, 2018, https://opensea.pro/blog/flags-of-convenience.} Without any effective solutions in place, the IMO struggled to control the
adoption of flags of convenience. Globalization continued steadily onwards, meaning that the number of vessels flying flags of convenience continued to grow. By 2015, it was reported that 71 percent of the merchant navy’s total tonnage was registered under a flag of convenience.\(^8^0\) The 2016 leak of the Panama Papers thrust the issue of tax havens into the global spotlight. Although not explicitly related to shipping and flags of convenience, the revelations reminded the world how wealth can be sequestered and leveraged in offshore jurisdictions. From wartime cost-cutting measure to commonly-accepted practice, lenient registries have integrated themselves in the shipping industry so completely that their eradication would be almost impossible. Nevertheless, understanding the motives behind their proliferation is essential to drafting an appropriate, effective solution addressing their negative impacts.

Past UN/International Involvement

There exist three main actors which have previously attempted to take action against flags of convenience: the IMO, the ITF, and numerous ports around the world. The IMO has been primarily involved in the creation of legislation, while the ITF, port, and state authorities have sought to address the problem through more direct action. Despite their differences in approach, both methods have proven significant.

As previously mentioned, the IMO released its updated version of UNCLOS in 1982, which did little to help restrict open registries. In particular, Article 91 of UNCLOS was arguably counterproductive, emphatically stating that vessels “have the nationality of the State whose flag they are entitled to fly.” Moreover, the 2009 Hong Kong Convention attempted to address the issue of ship owners using flags of convenience for ship breaking. Owners of old, unfit ships will often register them under an open registry in a South Asian country and then destroy their ships on the ship-breaking beaches located there. Ship breaking causes a huge amount of environmental damage, releasing toxic waste, and the convention places responsibility for cleaning up such damage on the flag state rather than on the ship owners.\(^8^1\) Because of this, ship owners are often able to abrogate their responsibilities unfettered, generally not being citizens of the countries their vessels are registered in. Consequently, practical responsibility for environmental damage typically falls on the state in which the ships were broken. When the convention was first opened in 2009, it was not ratified by any countries, but it has since been ratified by states such as Norway, Congo, and France.\(^8^2\) Lastly, the UN attempted to solve this issue through the creation of the United Nations Convention on Conditions for Registration of Ships. Through this convention, the UN aimed to ensure that there was “a link between the real ownership of the ships and the retention of a flag”. However, this convention was never ratified or put into effect due to a lack of political will.\(^8^3\)

In comparison, the ITF has opted for a more hands-on approach against lenient registries, involving itself with the issue both politically and industrially. As an organization, they firmly believe that a “genuine link” should exist between the ship’s owners and its flag state. Moreover, the federation has worked tremendously to ensure that crew members onboard vessels flying flags of convenience are treated fairly, and has enforced agreements.

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that have helped over 250,000 seafarers receive wages. Additionally, the ITF’s Fair Practices Committee has published a list of all flag states it considers to host flags of convenience, including countries like the Bahamas and Cayman Islands.

The third main actor in the struggle against flags of convenience is port state control around the world. Through international accords called Memorandums of Understanding (MoU), they have investigated flags of convenience for a number of years, and each one creates annually what are referred to as the “whitelist”, the “greylist”, and the “blacklist”. Essentially, these lists function as a way to identify which flag states are generally considered to be law-abiding and which ones routinely fail to comply with international regulations. Countries are placed on lists based on the results of their ship inspections; countries that have a high number of detained ships will be placed on the blacklist, while countries with few detentions will appear on the whitelist. As a result, these MoUs have been able to create a comprehensive list of the world’s flag states and the extent to which each is in compliance with international regulations.

Current Situation

Cost-Efficiency

By registering their vessels under a flag of convenience, ship owners are able to reduce their expenses tremendously, as the open registries in these states often have far lower tax rates than those in the owners’ home countries. Although regarded negatively, it is worth noting that this practice is actually quite lucrative for open registry countries; the Cayman Islands and the British Virgin Islands derive significant proportions of their GDPs through financial services, establishing themselves as tax havens for offshore incorporation. These so-called “shell corporations” are often involved in foreign registrations themselves, tying in closely with flags of convenience. Additionally, using offshore registries allows ship owners to employ seafarers at a lower cost. Most FOC countries do not strictly enforce labour laws, and many have regulations that benefit the ship owners, rather than the seafarers. Lastly, the ease of open registration entices ship owners; fees themselves are far lower than for traditional registries.

Environmental Degradation

Flag of convenience ships are found to cause more environmental damage than ordinarily-registered ones through incidents such as oil spills. Furthermore, FOC ship owners often will often abandon their vessels and declare bankruptcy if they lose control of the situation, leaving behind extensive environmental problem for other governments to deal with. As discussed earlier, the issue of ship breaking is alarming—poor regulation on part of both registry countries and international organizations has been detrimental in this regard. Furthermore, open registries often have looser regulations on fuel usage and sustainable practices; as a result, FOC ships are hardly incentivized to implement costlier environmentally-considerate policies.

Revenue Direction
Despite the rewards that open registry countries reap, there are enormous negative economic ramifications for the ship owners’ countries.\(^8\) Chiefly, these countries lose out on revenue from registrations, shipping fees, and tax revenue; however, the negative impacts extend to the industry as a whole. The shipping industry functions in a highly oligopolistic manner; in order to protect market share, imitation is seen as integral to maintaining competitiveness. However, this is not necessarily beneficial to society at large; “flags of convenience…have no economic impact to added value of services, products, or the development of markets”, according to New Maritime World.\(^7\)

Labour Exploitation
One of the most significant facets is the exploitation of maritime workers that occurs onboard ships flying flags of convenience. Due to limited labour regulations and inspections, masters on these vessels will often deny their workers suitable working conditions and fair wages. Seafarers working on such ships are often subjected to erratic working schedules and given insufficient rest periods. Ship owners also often deny workers the rights to join a union and to be paid regularly.\(^8\) Ideally, owners would be paying their workers wages that are relative to the “prices and costs of production”; however, seafarers often make mere dollars per hour, significantly less than what guidelines suggest.\(^8\) Seafarers are also often refused compensation for workplace injuries, despite the higher possibility for injury due to insufficient training and inadequate safety equipment.\(^9\)

Economic Inequivalences
Finally, the issue of the unlevel playing field created by lenient registries is a serious topic that delegates must consider. Ship owners who still use traditional registries have vastly higher operating costs than those who use open registries, distorting the market. New Maritime World reported that registering a ship under the U.S. flag yields per diem operating expenses nearly three percent higher than if the vessel was registered in a flag of convenience state. Furthermore, ship owners who use open registries are able to turn a greater profit than those who do not; practices such as paying low wages have “virtually no impact on [the prices]” of goods, meaning that the money saved benefits the owners solely.\(^9\) Thus, the status quo unfairly penalizes ship owners who continue to use traditional registries, at the potential future expense of the industry at large.

Possible Solutions and Controversies

Creating Second Registries
Originally started by Norway, Germany, and Denmark, the creation of second registries in countries around the world could help resolve the problems posed by flags of convenience. Second registries act as open registries of sorts, but are used in countries where the primary registry remains the traditional one. Second registries would allow for governments to directly oversee leniently-registered vessels. Under the status quo, legal flag states have exclusive jurisdiction over their vessels, meaning that the nation in which the ship owner resides has no authority.92 By creating second registries, ship owners could be dissuaded from using other countries’ open registries, instead using the second registry provided by their home country. However, the main cause of concern with this solution is that it does not address all aspects of the problem, particularly the ancillary privacy and tax benefits provided by offshore open registries. As well, this solution would likely be difficult to implement worldwide, perhaps proving ineffective in comprehensively addressing the issue.

Abolishing Flags of Convenience
Another option for the IMO would be to enact new legislation effectively banning flags of convenience. While this solution is deceptively simple, more in-depth analysis reveals that such a ban would spark controversy, potentially harm the global shipping market and costing an enormous amount of money to enforce. This would also anger ship owners, forced to forfeit their financial and operating advantages. This approach could also detriment the economies of FOC countries, and lead to overall inefficiency within the shipping industry. Potentially, providing some form of a financial incentive might help to ensure that the legislation is well-received and adhered to, but an outright ban on flags of convenience must be carefully considered.

Enforcing Regulatory Compliance
Possibly one of the most effective solutions would be for the IMO to increase the amount of enforcement action carried out in ports.93 Port state authorities maintain direct contact with all vessels, and can easily complete inspections to ensure that ships are in compliance with applicable international regulations. Already, port state authorities’ MoUs create inspection lists every year, meaning that there is already significant familiarity with enforcement procedures. Under this solution, vessels would be inspected on a frequent and consistent basis, with port state authorities detaining vessels noncompliant with IMO standards.94 However, this solution may prove difficult to coordinate, and periodic inspections, resulting in more detainments, are liable to anger ship owners.

Bolstering Trade Unions
Many seafarers currently face cruel and unacceptable conditions when working onboard FOC vessels. A potential solution to combat this exploitation would be to facilitate communication between maritime workers’ trade unions and the seafarers that they represent. Improving the efficacy of these unions, more unified action could send a message to ship owners and, in practical terms, aid in the reporting and amelioration of improper conditions onboard vessels. To this end, mandating more radios onboard ships and instituting regular check-ins

may also be beneficial. However, delegates must remember that many FOC ship owners currently do not allow seafarers to join or have contact with unions, posing a significant barrier to the implementation of this solution.95

Bloc Positions

Traditional Registry States
Countries with traditional registries have been negatively affected by flags of convenience; it would thus be in these nations’ interests to eliminate them. The United States, for example, has lost a significant fraction of its vessels to open registries in the past several decades; in fact, American ship owners were the first to begin using flags of convenience after World War II. The biggest barrier to the use of these nations’ registries is their comparatively higher costs, several percent above those of the average open registry.96 If these nations wish to retain their current ship owners and entice those who left to return, it is essential for them to combat the use of open registries.

Second Registry States
Norway, Germany, and Denmark are the three countries which originally established second registries, though several others have since followed suit. In doing so, they created a way for ship owners to still reap the benefits of an open registry while remaining registered in their home country. This method arguably allows for governments to monitor conditions and situations more closely; ships remaining under their jurisdictions rather than those of FOC states.97 These nations have acknowledged both the benefits and drawbacks of open registries, and wish to pursue solutions, potentially that which they have adopted, which strike a balance between them.

Open Registry States
These countries benefit greatly from having open registries. Abandoning flags of convenience means that these countries would forfeit a significant source of income, potentially harming their economies. A ban on flags of convenience might not necessarily destroy the world economy, but it is unclear how it would affect the financial situations of these nations, as well as that of the overall industry.98 Because of the potential negative ramifications for their respective countries, these states strongly oppose the abolition of flags of convenience. All comprehensive list of countries with open registries is attached below.

Discussion Questions
1. How would a ban on flags of convenience impact the countries and ship owners who provide and use them?
2. Is the use of flags of convenience an ethical practice?

3. What amendments can be made to current IMO legislation (e.g. UNCLOS) in order to help address this issue?

4. If only one type of registry (traditional or open) could be used worldwide, which should it be and why?

5. How can the IMO ensure that countries adhere to international legislation while respecting national sovereignty?

Additional Resources

Flag of Convenience Countries:

“Flying the Flag, Fleeing the State”, New York Times Op-Ed:

United Nations Convention on the Law of the Sea:

Hong Kong Convention:

ITF’s Flag of Convenience Campaign Video:
https://www.youtube.com/watch?v=UdQ1uUjNqhw
Bibliography


