How the squeeze on standards enables small flags to flourish

Nik Winchester of the Seafarers’ International Research Centre looks at the difference between the established open registers and some of the new arrivals on the scene.

WHEN we see the flags flown by ships, and the ports of registry painted on their stems, we notice that they are almost always attached to such places as Panama and Liberia, Bahamas and Malta. We take them for granted because they have become so familiar and so numerous even though we may find it difficult to connect these flags with our understanding of what constitutes a particular country.

In recent years a number of other flags have arrived on the scene from countries that are not so familiar, such as Belize, Bolivia, Cambodia, and Equatorial Guinea. The international registry of ships attached to these flags have shown extremely rapid growth rates over their short lifespans, it is reasonable to wonder why this growth has occurred and what the consequences might be.

The initial response to these new arrivals is simply to see them as yet further examples of open registers or flags of convenience. After all, don’t all open registers operate in the same manner? Well no, they don’t. Not any longer. As a matter of fact, the large series of tanker disasters beginning, perhaps, with the Torrey Canyon in the late 1960s and culminating in March in the two halves of the Kristal adrift off the Libyan coast in 1998, have developed a regulatory system aimed at clamping ships commonly found on the flag of convenience registers. The big registers such as Panama and Liberia, which are also big businesses, have been obliged to develop tighter practices. And so the new arrivals, which are these new flags is less straightforward than it first appears, because these new registers have had to find a market niche which does not involve them in competing with the established giants in the flag industry.

Of the newcomers like to cite cost as the key reason for choosing to register a ship under a particular flag. Certainly, when looked at in simple cost terms, these new registers display similar qualities to those much bigger brothers and sisters.

Essentially, they make it possible for ship owners to be procured from anywhere in the world; they offer tax regimes which are less onerous; and there are no extensive regulatory requirements placed upon the ships’ owners. But there are several ways in which these new registers differ from their established peers. The most immediately obvious difference is that they have far fewer regulatory restrictions than those required by the big flags of convenience. Certainly a shipowner resorting to any of these new flags may choose to fulfill all international requirements. But the flag administrators – if they may actually be called that – make it plain that this is a matter for the shipowners themselves and that they, the “administrators”, are in practice left with different levels of compliance with international conventions. This practice of passing responsibility for regulatory compliance has, of course, been common among open registers but, as we have seen, the larger registers have begun to place higher expectations upon their shipowner clients. This regulatory squeeze has not only resulted in more marginal owners who have gone in search of (or, in some cases, actually been forced to set up) new flag registers. In short, the raison d’être of these registers is the provision of a regulation free environment for the shipowner.

The very success of these flags depends on continued and anticipated maintenance of a flag state completely uninterested in regulatory enforcement. It is also worth noting that, where the larger flag of convenience registers are anxious to demonstrate their regulatory credentials, the registration requirements for these new registers are organised in such a way as to shield the shipowner from any enforcement procedures which other regulation may seek to apply. That is to say the flag state neither attempts to impinge upon the autonomy of the shipowner, nor specifies any link between the flag and the state. In other words, and in the cases of the new registers, the state as regulator is absent. The administrations of Belize, Bolivia, Cambodia and Equatorial Guinea have no legal means of requiring a shipowner’s compliance with international standards.

The new registers are pretty obviously a commercial response to the new flag market paradoxaically with international regulation. It is this, in turn, has had a negative effect on the quality of shipping and rights of seafarers.