

# INTERNATIONAL SHIPPING AND NATIONAL ASPIRATIONS

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## Introduction

Australia approaches international shipping issues from the perspective of a trading nation and internationally shares similar interests to Canada and New Zealand. This has led to close co-operation between the three countries on international shipping matters and often to a common purpose in fora such as the OECD Maritime Transport Committee and the UNCTAD Committee on Shipping.

In contrast Australia often has differing views from those of other OECD countries. Many of the European OECD countries have long traditions as maritime nations and this is reflected in their approach to international shipping issues where they tend to place more emphasis on the interests of shipowners than shippers. The United States' approach to international shipping is unique in that it is the only major western nation which has adopted a strict regulatory approach to shipping. Its policies as reflected in the *Shipping Act* of 1916 and other legislation endeavour to reconcile the differing interests of shippers and shipowners. Moreover the United States' policies have an extra-territorial aspect which often leads to differences and at times conflicts with other OECD countries.

These differing perspectives and interests often make the development of a common OECD stance on international shipping issues difficult to achieve. This perhaps underlines the importance which OECD countries attach to the OECD consultative processes which while not always leading to agreement has made a major contribution to the mutual understanding of members' shipping policies.

## The International Shipping Environment

Over the past 15 years or so there has been a demonstrated desire on the part of many governments to influence, either individually or in concert, the commercial and legal framework governing shipping operations. The philosophy of the traditional maritime nations that shipping should be conducted in an environment free from government intervention no longer dominates commercial shipping arrangements, despite the merit some may continue to see in such an approach.

Several important aspirations and objectives have motivated increased government involvement. Many developing countries have sought to establish and promote the expansion of national fleets in the belief that this will bring about improvements to their balance of payments and generally contribute to economic development. Governments have given increased recog-

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dition to the need to protect shipper interests from monopolistic shipowner practices and there has been an express desire to facilitate commercial transactions through internationally agreed rules.

When considering the international aspects of these issues the significant role played by the United Nations Conference on Trade and Development (UNCTAD) and its Secretariat should be kept in mind. The UNCTAD Secretariat has been an important catalyst for many of the shipping proposals which have in recent years emerged in the international arena. Generally the Secretariat has regarded increased intervention in shipping, often in a concerted manner, as an effective means of improving the situation of developing countries vis-à-vis the OECD countries. The proposals formulated by the Secretariat are not of course accepted universally or left unchallenged. Most OECD countries and some developing countries see serious shortcomings in many of the solutions advocated by UNCTAD for perceived shipping problems.

Within the Inter-Governmental Maritime Consultative Organisation (IMCO) the last 15 years have seen the development of various international conventions covering safety at sea of ships and cargo, efficient navigation and the prevention of marine pollution. These conventions are a reflection of national aspirations for higher standards of safety for international shipping and for more effective measures to control pollution of the sea.

### **UN Convention on a Code of Conduct for Liner Conferences and National Flag Protection Legislation**

Some Association members will be familiar with the U.N. Convention on a Code of Conduct for Liner Conferences. The impetus for a Code arose from the increasing international concern in the late 1960's and the early 1970's, particularly among developing countries, about conference practices, the desire of many developing countries to increase their participation in the carriage of their trade and recognition of the need for formalised consultation procedures between shipowners and shippers. The Convention, which was adopted in 1974 but which has not yet entered into force, provides an international framework governing the commercial practices of liner conferences.

The Convention contains detailed provisions on relations among conferences' member lines, including national flag carrier participation; shipper/shipowner consultation procedures and loyalty practices; freight rate determination criteria and machinery for dispute settlement.

Perhaps the best known aspect of the Convention is the so called 40 : 40 : 20 rule on participation in the trade. Article 2-4 of the Convention provides that when determining *conference members'* share of a cargo pool operated by the conference "the following principles regarding their right to participation in the trade carried by the conference shall be observed, unless otherwise mutually agreed:

- (a) The group of national shipping lines of each of two countries the foreign trade between which is carried by the conference shall have equal rights to participate in the freight and volume of traffic generated by their mutual foreign trade and *carried by the conference*.
- (b) Third country shipping lines, if any, shall have the right to acquire a significant part, such as 20 per cent in the freight and volume of volume of traffic generated by that trade."

The Convention moreover gives national shipping lines the right to *become* a full member of a conference which serves the foreign trade of its country. This right is subject to the caveat that the particular shipping line shall furnish evidence of its ability and intention to operate a regular adequate and efficient service on a long term basis. The national shipping line is also required to provide certain financial guarantees.

The above provisions are an illustration of the complexity of the Convention both in terms of interpretation and application. The membership requirements that the national flag carrier operate a regular, adequate and efficient service provides an obvious possibility for existing member lines to challenge a national flag carrier's right of participation. Whether this will happen in practice is of course another matter.

Also the fact that the Convention only applies to cargo subject to a conference agreement leaves a significant amount of liner cargo outside the scope of the Convention, i.e. liner cargo in trades where conferences do not exist and in conference trades cargo carried by "outsiders". Moreover reservations entered by countries on accession are likely to reduce further both the amount of cargo subject to the Convention and the extent to which the convention applies to conference cargo in some trades.

Czechoslovakia, Cuba and India through reservations intend to disapply the Convention completely to liner services based on intergovernmental agreements. The U.S.S.R., the German Democratic Republic and Bulgaria have entered similar reservations. Peru has entered a reservation to disapply Article 2 : 4 completely.

The EEC regulation under which individual member States will be acceding to the Convention provides for a number of reservations. The major reservation involves disapplication of Article 2 of the Convention to flag carriers of EEC countries and extension of this disapplication to other OECD countries on a reciprocal basis.

Where other OECD countries accept this approach it will mean in practice:

- in *intra OECD trades* conference cargo would be distributed amongst OECD flag carriers on commercial rather than the Convention's principles. There would, however, be no hinderance to developing country lines competing on a commercial basis for this conference cargo, i.e. operating as cross traders but with no prescriptive rights to any particular share;

- in OECD/developing country trades the national flag carrier(s) of the developing countries would in accordance with the Convention be entitled to 40 per cent of the conference cargo. The remaining 60 per cent would be available to OECD flag carriers (and others accepting the EEC approach) on the basis of commercial principles.

The EEC approach also involves disapplication of Article 3 on decision making procedures and Article 14 (5) on General Freight Rate Increases in intra OECD conference trades. It is also expected that EEC shipowners and shippers will agree *not* to resort to the Convention's dispute settlement provisions (Article 23 to 46).

Article 19 of the Vienna Convention on the Law of Treaties provides that a state may, when ratifying a treaty, formulate a reservation *unless* the reservation is incompatible with the object and purpose of the treaty. Association members will undoubtedly have views on the compatibility of the above mentioned reservations with the Liner Convention.

Australia, Canada and New Zealand, being basically trading rather than maritime nations, are concerned about the implications of the Convention for their shippers. In Australia's case difficulties with the Convention arise because of the fundamental differences in approach between the Convention and the overseas cargo shipping provisions contained in Part X of the *Trade Practices Act* 1974. Part X is designed to give effect to the philosophy that shipping conference agreements necessarily are anti-competitive agreements and should be permitted to operate from Australia only as long as they are compatible with Australian trading interests.

In exchange for exemption from the general anti-competitive provisions in Part IV of the *Trade Practices Act* shipowners in Australia's outwards trades are subject to obligations under Part X. Under Part X these shipowners are, when requested, required to negotiate with the designated shipper body (the Australian Shippers' Council) on the terms and conditions of carriage of Australian exports. Moreover there are procedures under Part X for determining conference agreements when the members do not have regard to the need for services to be efficient. Part X is presently being amended to strengthen this approach.

The Australian approach contrasts with the Convention, which is based on the presumption that conferences are desirable, that they should therefore be permitted to operate and that disputes arising out of their operations should generally be a matter for international mandatory conciliation.

In practical terms Australian difficulties with the Convention arise from:

- the fact that Australian shipper interests may not be sufficiently protected by the Convention when compared with Part X of the *Trade Practices Act*;
- the Convention's provisions on international mandatory conciliation for the settlement of disputes which could involve costly, time consuming and probably ineffective proceedings; and

- the Convention's cargo reservation provisions in Article 2 which if strictly applied in Australian trades might be expected to adversely affect the efficiency of services.

Taking into account the above difficulties and in the absence of any substantial offsetting advantages Australia has decided at this stage not to accede to the Convention.

Presently 45 countries (all developing and Eastern Bloc) with some 17 per cent of prescribed world tonnage have become contracting parties to the Convention. The Convention will come into force six months after at least 24 countries with 25 per cent of world tonnage become contracting parties. With several EEC countries actively in the process of preparing legislation for ratification or accession this may be no more than 18 months away.

While the entry into force of the Convention will undoubtedly assist developing countries to increase their participation in the carriage of conference cargo it is reasonable to expect that it will be some time before many developing countries are in a position to take up a significant proportion of their entitlement under the Convention. The realisation of developing countries' aspirations in respect to the carriage of liner cargo is therefore in many instances likely to be gradual and moderated by commercial considerations.

Apart from the Convention there are a number of bilateral agreements regulating the commercial aspects of shipping including the participation of national flag carriers at each end of the trade. Commonly these agreements cover all liner shipping and often would extend into the bulk trades. In the case of some Eastern Bloc and Latin American countries the agreements with third countries have commonly preceded the negotiation of the Liner Convention and are a reflection of the centralised control which is exerted over shipping in such countries.

However, since the negotiation of the Convention more developing countries, perhaps being dissatisfied with the limitations on the Convention in respect of guaranteeing the carriage of cargo by national flag carriers, have sought bilateral agreements and have introduced national laws on cargo reservation. Increasingly this has involved OECD countries.

Presently some 16 OECD countries have entered into a total of nearly 50 bilateral agreements with China, Eastern Bloc and developing countries. The motivation of the OECD countries has often been to preserve and protect their flag carriers' participation in the particular trade.

The potential impact of such agreements on shipping costs should not be overlooked. For example, in the Australian context in neither the liner nor the bulk trades is the cargo flow balanced either in direction or season. This naturally would make it very difficult to sustain cargo movements on a bilateral basis in Australian trades, particularly for bulk shipments.

All the major OECD maritime nations have comprehensive flag protection legislation directed against discriminatory measures which might be

taken by other governments or such governments' national flag carriers. The principal motivation for this kind of legislation has been to provide a counter to the threat which some OECD shipowners have faced from non-commercial competition from Eastern Bloc shipping particularly that of the Soviet Union.

While Part X of the *Trade Practices Act* provides some protection from commercial hindrance to an Australian flag carrier Australia presently does not have any legislation to protect its overseas trades against disruption from non-commercial competition from foreign government controlled shipping. The amendments to Part X, will however, include provisions to permit appropriate Government action, if it ever proves necessary, to protect Australian trading interest against disruption from government controlled shipping.

### **Bulk Shipping**

The momentum for international action to increase developing countries' participation in the bulk trades is a more recent phenomenon. The developing countries' motivation for increased participation becomes clear when it is realised that developing countries export 90 per cent of tanker cargoes and around one-third of the main dry bulk cargoes yet own less than 6 per cent of the world fleet of tankers and bulk carriers.

At UNCTAD V in Manila in May 1979 developing countries sought international action to enable developing countries to transport an equitable (in UNCTAD parlance equal) share of all cargoes generated by their own foreign trade and, in principle, acceptance that regular bulk cargo movements between a pair of exporting and importing countries should be transported on an equitable basis by vessels of the national lines of the respective trading countries.

These proposals were vigorously opposed by OECD countries and in the event developing countries resorted to voting through a resolution on the matter against united OECD country opposition. This resolution provides *inter alia* for further studies and international meetings and will undoubtedly form the basis for continued international focus on developing countries' aspirations in relation to bulk shipping.

The basis of developing countries' concern with the bulk shipping market is perhaps somewhat less obvious than in the case of the liner trades. It has been traditionally argued that bulk shipping is one of the world's few free markets and that there are no market mechanisms or other barriers which distort trade. The UNCTAD Secretariat contends, perhaps with some validity, that this is an exaggeration and that there are quite substantial factors which inhibit greater developing country participation in bulk shipping. It is argued that "tied in" ownership patterns, long term charter arrangements and the registration of bulk ships under flags of convenience provide real barriers to greater developing country participation. In the

Australian context there is a noticeable tendency for some of our major trading partners to buy on an f.o.b. basis and in respect of establishing freight rates to treat Australian lines as cross traders.

Somewhere between 40 and 50 per cent of the world tanker fleet is owned by the major international oil companies and presently about half of the remainder is involved in long term charter arrangements with these companies. In the dry bulk trades around 80 per cent of the world fleet is under long term charter arrangements and when grains are removed from the dry bulk figures (the carriage of 90 per cent of which is arranged on the spot charter market), the proportion of the carriage of commodities such as coal and iron ore that are under long term charter arrangements would be somewhat higher. In addition to these possible structural barriers the depressed state of the international bulk shipping market since 1973 has meant that freight rates for new entrants have been insufficient to cover costs.

The extent to which these commercial arrangements are real barriers to aspiring developing countries, or other shipowners is far from being clear. What seems certain however is that such arrangements are likely to come in for increasing international scrutiny.

### **Flags of Convenience**

The flags of convenience (open register) issue is also essentially a bulk shipping issue. At the end of 1978 the total tonnage registered under flags of convenience was 114 million gross registered tonnes (grt) equivalent to 28 per cent of the total world fleet. Around 95 million grt or 83 per cent of the flags of convenience fleets were bulk ships representing nearly 33 per cent of the world bulk fleet.

An UNCTAD intergovernmental working group meeting on flags of convenience in February 1978 was the first broadly based international examination of the economic aspects of flags of convenience. Membership was drawn from OECD countries, developing countries and socialist countries. This working group concluded that the expansion of open registry fleets has adversely affected the development and competitiveness of fleets of countries which do not offer open registry facilities, including those of developing countries.

It is important to recognise that while there was a near threefold increase in the combined tonnage of open registry fleets over the last decade, some developing country fleets have also expanded rapidly. For example, between 1968 and 1978 Brazil's merchant fleet expanded from 1.2 million grt to 3.7 million grt. However in the case of Brazil and many other developing countries such rapid expansion has been only achieved with the assistance of flag reservation policies.

While there appears to be some consensus on the economic impact of open registry fleets on other flag carriers, opinion is divided on the need for international action and possible solutions. Most OECD countries argue that market orientated measures to increase the competitiveness of develop-

ing country fleets is the realistic approach. Increased assistance with ship financing, crew training and technical assistance with ship management are examples of the measures advocated by OECD countries to increase developing country participation in the bulk trades.

The answer in the view of many developing countries and the UNCTAD Secretariat is the phasing out of flags of convenience facilities. In UNCTAD terms this means the gradual elimination of the practice of registering ships in countries with which the ships have no genuine link.

You will be aware of the extent of international consensus on the genuine link concept. Article 5.1 of the 1958 Convention on the High Seas states:

- 1 Each State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship; in particular the State must effectively exercise its jurisdiction and control in administrative technical and social matters over ships flying its flag.

The concept is covered in similar terms in Articles 91 and 94 of the draft Law of the Sea Convention. The relevant IMCO and ILO Conventions on maritime safety standards and labour conditions can be regarded as implementing certain aspects of the genuine link concept outlined in the above Conventions. Other aspects would normally be implemented through national registration laws.

In the case of safety and crew standards, the OECD countries have on a number of occasions stated their support for efforts to ensure that flags of convenience fleets observe the internationally accepted IMCO and ILO Conventions. In Australia all ships calling at ports are subject to strictly enforced safety requirements specified in the *Navigation Act* which reflects internationally accepted rules and practices. In 1979 the *Navigation Act* was amended to allow for Australian accession to various international safety Conventions. These conventions are the Convention on the International Regulations for Preventing Collisions at Sea, 1972, the International Convention for the Safety of Life at Sea 1974, known as the SOLAS Convention and the International Convention for Safe Containers which was adopted in 1972. The amendments to the Act also provide for more flexible manning provisions and update provisions relating to crew qualifications. In relation to the carriage of dangerous goods a Determination has been made under the Navigation (Dangerous Goods) Regulation with effect from 1st January, 1980, adopting the IMCO Maritime Dangerous Goods Code together with an Australian Supplement.

Legislation presently being prepared to grant ships Australian nationality and the right to fly the Australian National Flag will make Australian conditions for the granting of its flag compatible with the 1958 Geneva Convention on the High Seas. The UNCTAD concept of a genuine link is substantially broader than that outlined in the 1958 Geneva Convention or the draft Law of the Sea Convention and has been termed the "economic

genuine link". The UNCTAD working group meeting in February 1978 identified certain economic elements which are *normally* relevant when establishing whether a genuine link exists between a vessel and its country of registry. These were:

- the merchant fleet contributes to the national economy of the country;
- revenues and expenditures of shipping as well as purchases and sales of vessels, are treated in the national balance of payments accounts;
- employment of nationals on vessels; and
- the beneficial ownership of the vessel.

At the second meeting of the UNCTAD working group on flags of convenience in January this year the spokesman for Group B (OECD) countries indicated that OECD countries did not accept the idea that these economic elements *must* always exist and the absence of any one particular element from a vessel would classify it as having no genuine link with its country of registry. The Group B spokesman indicated that OECD countries did not consider it appropriate to establish such rigid requirements for all countries since economic realities differ widely between countries.

The absence of a consensus on the economic aspects of a genuine link has not inhibited consideration of the impact of the phasing out of open registry facilities.

All the major open registry countries such as Liberia, Panama, Cyprus and Singapore are readily identifiable and the question of definitions only becomes crucial if, and when, in principle agreement has been reached on phasing out.

In a background paper for the January 1980 meeting of the Working Group, the UNCTAD Secretariat analysed the repercussions of a possible phasing out of flags of convenience. The report argues that the main beneficiaries would be the developing countries, since the five countries accounting for 81 per cent of the beneficial fleets (United States, Greece, Hong Kong, Japan and the Federal Republic of Germany) could not repatriate the ships because of high labour costs and/or shortage of seamen. It is claimed that the developing countries can offer an adequate supply of ship board labour at low cost and would thus get an opportunity to carry a greater volume of world tonnage. The report estimates that gross earnings of flags of convenience shipping were some \$15 billion in 1978.

In respect of the repercussions of a phasing out on the countries which operate open registries the report claims that their benefits from these operations may be smaller than generally assumed. Accordingly to UNCTAD, gains through operating open registers even for the major open registry country (Liberia) do not amount to more than 3 per cent of its GNP.

Phasing out of open registries would give these countries an opportunity to develop as "real" shipowners. It is claimed that as open registry countries receive none of the profits made by their flags of convenience and

employment of their nationals is minimal, even a comparatively small increase in real ownership would outweigh losses in revenue through the phase out of vessels only nominally owned by them.

The OECD countries have challenged the UNCTAD contention that phasing out of flags of convenience fleets will necessarily result in the large majority of these fleets being transferred to developing countries. In particular it is considered that UNCTAD has given insufficient weight to the importance of taxation and other financial incentive and that much of the open registry fleet would probably be reflagged under quasi flags of convenience in the lower cost OECD countries such as the United Kingdom, Greece and perhaps Spain.

UNCTAD argues that one of the main effects of establishing a genuine link between a ship and the country whose flag it flies would be to bring employment of seafarers within the jurisdiction of the flag country. Moreover it is contended that the transfer of ships from open registers to developing country registers would lead to lower total labour costs which might normally be expected to account for something in the order of 40-50 per cent of operating costs. The basis of this argument is that action taken by the International Transport Workers Union (ITF) against open registry operators has led to wages and conditions above those which are applying in many developing countries. However most developing countries hoping to expand into shipping would find it difficult to obtain officers and crews for their vessels without a major and lengthy training program. Such countries would therefore have to turn initially to other countries for their labour force and phase in their own nationals once they were trained and qualified over the years. During this phasing in period they would have to pay the international market rate for trained and experienced officers and crew, some of whom would be available to transfer from the open registry flags as they were phased out. Therefore, in the shorter term, the phasing out of open registry fleets seems unlikely to provide any advantages in terms of labour costs. Labour incentives to transfer ships to developing countries will thus be absent and in such circumstances the U.K., and Greece may prove to be more attractive countries in which to transfer open registry fleets.

The OECD countries also believe UNCTAD has underated the impact of phasing out on other shipping costs. It considered that higher costs will result from the loss of the existing economies which most open registry vessels gain in the present market by multi-leg voyage patterns which minimise ballast and general operational flexibility including, in the case of the oil and grain trades the ability to reroute cargoes when at sea. Costs will also be affected by any loss of flexibility resulting from restrictions on the nationality of the crew, choice of repair centres, bunkering, etc.

The potential impact of phasing out of open registry facilities on freight rates has important implications for Australia. In 1978-79 around 16 per cent of our dry bulk exports, 28 per cent of our dry bulk imports and 24 per cent of tanker imports were carried in Liberian or Panamian flag

vessels. In terms of individual commodity exports 1977-78 figures show some 30 per cent of Australian coal, 35 per cent of sugar and nearly 18 per cent of cereals were carried in vessels from these two countries. The figure for iron ore is somewhat lower at around 12 per cent. Against this background you will appreciate that Australia has indirectly benefited from the open registry systems through freight rates being lower than otherwise might have been the case. Australian interest would therefore best be served by having any changes to the open registry system being compatible with the facilitation of international trade.

### **International Transport Conventions on Carriers Liability**

The traditional international transport conventions establish standardised carrier liability regimes and documentation rules for international contracts of carriage covering individual transport modes. In this context Association members will be aware of the U.N. Convention on the Carriage of Goods by Sea (Hamburg Rules) adopted in March 1978 which is intended to replace the Hague Rules.

The Hamburg Rules provide certain improvements for shippers when compared to the situation under the Hague Rules. Some of the clearest advantages could be considered to be:

- the making of the contracting carrier responsible for the acts of the actual carrier which means that a claimant does not need to unravel the complicated contractual relations between the charterers and vessel owner before taking suit;
- the application of the Convention to all contracts for the carriage of goods by sea;
- the period of responsibility of the carrier being from port to port compared with "tackle to tackle" in the case of the Hague Rules;
- the liability regime being based on presumed fault of the carrier with consequent elimination of the Hague Rules navigational error defence;
- the overcoming of the Hague Rules problem of applying the package or unit test to containers; and
- increased monetary limits of liability.

As will be appreciated the Hamburg Rules are in many respects a compromise between shipper, carrier and other interests. There are therefore areas, such as treatment of delay in delivery and loss caused by fire, where shipper interests might not be as adequately protected as under the Hague Rules. Moreover it is important to recognise that the potential benefits of the Convention are not likely to be fully realised until courts have clarified certain obscurities in drafting which have arisen through the negotiating process. Any new Convention would, to some extent however, suffer from this problem.

While many OECD countries have supported the development of Conventions such as the Hamburg Rules, developing countries have increasingly become dissatisfied with limiting such conventions to the private con-

tractual relationship between carrier and the user of the transport services. This attitude is most readily illustrated in relation to the draft international Multimodal Transport Convention.

The principal objective of the Convention, at least in the view of OECD countries, is to provide internationally accepted carrier liability provisions for incorporation in international multimodal transport contracts and the establishment of standardised documentation for such contracts based on commercial requirements.

However, in respect of this Convention, developing countries have sought the inclusion of obligatory carrier/user consultation procedures, comprehensive documentation to assist in national regulation of multimodal transport operators and mandatory customs transit provisions.

The incorporation of the "public law" matters in the Multimodal Convention has been vigorously opposed by most developed countries who consider the Multimodal Convention should limit itself to establishing a liability regime for multimodal transport operators and documentation rules for inclusion in multimodal contracts of carriage. During the preparatory stages in the development of the Convention the OECD countries did, however, agree to have reflected in the Convention a recognition of the right of developing countries to regulate at the national level multimodal transport operators.

The degree to which developing countries will be prepared to even eventually accept this limitation on the public law aspects of the Convention is not yet clear. The Convention was considered by a Diplomatic Conference in November 1979 and this conference resumed in May 1980. During the November conference it became apparent that developing countries regarded inclusion of comprehensive documentation requirements in the convention as of importance to the facilitation of national regulation of multimodal transport operators and were reluctant to accept any procedures which would make the issue of a document optional. Moreover indications were that they would continue to seek the inclusion of mandatory customs transit procedures rather than any form of voluntary guidelines.

The developing countries desire for close regulation of multimodal transport operators, who are often multinational shipowners, appears to be based on a concern that such corporations may be contrary to their national interests. Such an interpretation is supported by legislation recently introduced by Mexico which exerts strict governmental control over the operations of multimodal transport operators.

## **Conclusions**

Increasingly many countries are supporting international action to assist in the realisation of their national shipping aspirations. This trend is most apparent among those developing countries whose principal motivation is to establish and promote national merchant fleets. Their approach to the U.N. Liner Convention, cargo reservation in the bulk trades and the flags of convenience issue reflects this objective.

In respect of the OECD maritime nations their principal concern has been to safeguard the interests of their merchant fleets. This consideration is reflected in the EEC approach to the U.N. Liner Convention, national legislation directed at non-commercial competition from State controlled shipping and in their bilateral agreements with Eastern Bloc and developing countries.

The international approach of Australia, Canada and New Zealand has generally been distinct and separate from that of developing and OECD maritime nations. The concern of these countries has been to safeguard the interests of their shippers.

The interaction of the often competing interests of the developing OECD maritime and Eastern Bloc countries has created a complex international shipping environment; added to which are the interests of shipper nations. In such an environment it is difficult to forecast with any degree of accuracy the scenario with respect to individual international shipping issues. In some cases however a time frame is apparent or options have been suggested.

For example, it seems certain that the U.N. Convention on a Code of Conduct for Liner Conferences will enter into force within the next couple of years. However, for reasons outlined above, the degree to which the Convention leads to increased national flag participation will vary from country to country and from trade to trade.

In respect of flags of convenience the UNCTAD Secretariat has suggested options ranging from a resolution urging governments to ensure that their national registration laws conform with certain principles through to the development of an international convention on ships' registration. This issue will be discussed at an UNCTAD Committee on Shipping meeting in September this year. Perhaps after this meeting we may have a clearer idea on where the international community is heading in relation to flags of convenience.