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STRUCTURAL CHANGES IN THE MARITIME TRANSPORTATION INDUSTRY AND THE ROLE OF MULTINATIONAL ENTERPRISES IN LATIN AMERICAN SHIPPING

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SUMMARY

The organizational and operational structure of the international shipping industry has changed significantly in the past decade. The traditional concept of national merchant fleets is being antagonized by the growing internationalization of shipping companies.

This paper focuses on the effects of this radical change upon the interests of the maritime transportation industries in developing economies especially from Latin America.

Open registers, flags of convenience and regulatory reform are analyzed, establishing distinctions between the concepts of ownership and management of the merchant fleets. The need to enhance sub–regional, regional and inter–regional cooperation in Latin America is emphasized, as well as the need to recognize that competition in the future wil take place with multinational enterprises as major players. The author sees this as a new opportunity for Latin American integration to take place.

I. INTRODUCTION

Seventy percent of the earth is covered by water. Consequently, ocean–going vessels are needed to transport both liquid and dry cargo intercontinentally. It is easy to understand the why international trade is so closely related to maritime transportation 1 .

Thelink between international trade and maritime transportation helps explaining why cyclical fluctuations of world trade have notorius impact on shipping and shipbuilding as well.

After World War II, world seaborne trade expanded rapidly until the oil crisis hit in 1974. After a decline in 1975, there was a slow recovery until 1979, when the expansion ended in the face of declining exports and imports in almost all economies, due to a worldwide recession. The upturn in international trade occurred in 1984 and from that year on there has been a steady climb of shipping markets to almost four billion tons of cargo carried at the present time.

On the average, the developed market economies of North America, Western Europe and Japan have accounted for close to 70% of total seaborne imports, in the 1980's and over 40% of total exports. Developing countries in Latin America, Africa and Southeast Asia have accounted for about 25% of total seaborne imports and 50% of total exports. The remaining percentages were generated by the USSR, China and Eastern Europe.

While the above percentages are expressed in terms of the total cargo volume, the percentages in terms of cargo value are much lower for developing countries[2]. This reflects the dominant influence of the developed economiens on seaborne trade, considering the fact that maritime transportation is a buyer's market.

This pattern of high prices of imports and low prices of exports from developing countries actually has prevailed since the 1960's. Third World leaders and prominent economist like Raul Prebisch argued then, that the structure of shipping, dominated by the developed economies, perpetuated severe differences in the terms of trade. Problems such as discriminatory practices in

liner shipping and the use of "flags of convenience" (FOC) by developed nations triggered the establishment in 1964 of the United Nations Conference on Trade and Development (UNCTAD), an international forum where the political and economic aspirations of developing countries were to be promoted[3].

The new organization established a permanent committe on maritime transportation in 1965 with two main long–run objectives[4].

(I) To reduce maritime transportation costs and freight rates for developing countries.
(II) To increase participation of developing countries in the maritime sector by acquiring new vessels and gaining admission to liner conferences.

In 1974, UNCTAD passed the Code of Conduct for Liner Conferences allocating 80% of cargo es to the vessels of exporting and importing nations. The Code applies only to liner services operating within a conference (or cartel) and on routes between countries that are contracting parties to the convention. It was ratified in 1983 except by the United States[5]. Consequently, it does not apply to any trade involving the U.S. nor does it apply between EEC countries, due to the modified "Brussels Package"[6].

In the earley 1980's, Third World governments sought intensively the abolition of flags of convenience as a condition of Third World national fleet development, a position opposed by the United States with the argument that countries with low cost environments for shipping services provided a valuable service to the rest of the world.

At the present time, the concepts of pretectionism and liberalization of maritime transportation have become controversial issues in the international arena as well as important considerations of current negotiations under the auspices of the General Agreement on Tariffs and Trade (GATT). The Uruguay Round has included on its agenda the issue of trade in services, and international shipping is an important part of it. Consequently, it is of interest for the international community the possible outcome of this and other related UNCTAD sponsored negotiations, within the framework of the international regulatory environment and the international relations between industrialized and developing nations.

It is a well known fact that the structur of the international shipping industry has changed signficantly over the past decade. The traditional concept of national merchant fleets is in conflict with the growing internationalization that the industry has witnessed. What I adress in this paper is the impact of this radical change upon the interests of the maritime transportation industry in developing economies, especially from Latin American.

The paper is organized as follows: Section 2 presents the issues and principles behind protectionism, discussing the monopoly controversy of shipping conferences, the UNCTAD Code of Conduct, the nedd for an international regulatory instrument, the protectionist implications of cargo reservation and whether protectionism is a failure or a success story based on the evidence gathered to date. Section 3 discusses the issues and principles behind liberalization, flags of convenience, the "genuine link" concept and the United Nations Convention on the Law of the Sea (UNCLOS), and whether liberalization is good or bad for shipping. Section 4 proposes a framework for future negotiations confronting the positions of the United States and the developing world. Section 5 presents some recommendations for Latin American shipping within the context exposed in previous sections, highlighting the role of international cooperation and the formation of multinational enterprises. Section 6 presents the final remarks and conclusions of this paper.

Tables and notes are at the end.

2. THE CASE FOR PROTECTIONISM

If a historical analysis were conducted on liner shipping, the result would show that it has been dominated by conferences or cartels since the second half of the 19th century. The Far East trade in the 1870's witnessed newly emerging liner companies, wih substantial overhead costs due to their expensive steamships, forming cartels to avoid ruining each other[7].

The first conference was formed in 1875 by the liners competing in the route United Kingdom–Calcutta. Shipping companies were supposed to charge similar rates, limit the number of sailings, set sail according to schedule, and avoid discriminating against any shipper[8].

By 1881, the Calcutta Conference was well established and besides freight rates being fixed by shipowners, shippers were given loyalty rebates in return for exclusive dealing with conference members[9].

Other liner shipping companies organized cartels in the Australian, African, Argentina, Brazilian and China trades during subsequent decades, some during the interwar period and others after World War II. By 1973, there were about 360 conferences operating especially in the deep sea trades, with membership ranging between 2 to 40 or more shipping lines[10]. By 1980, more than 500 conferences were in existence[11].

2.1 The Monopoly Controversy

Ever since they started operating in the latter years of the 19th century, shipping conferences

have been under attack for their monopolistic tendencies. For instance, in 1909 the Royal Commission on Shipping Rings was set up to investigate loyalty rebates, concluding that they should be tolerated in orden to strengthen the conference system[12].

In the United States, the Shipping Act of 1916 imposed a regime of economic regulation on U.S. and foreign liner operators involved in U.S. overseas trades, granting them partial inmunity from the anti–trusts laws. Major modifications were included in the Shipping Act of 1984, although maintaining the basic nature and structure of the regulations[13].

In he 1950's and 1960's, developing nations, especially from Latin America, expressed their concern over the excessive power exerted by the conferences serving their trades. These countries complained, in several international forums, about the refusal of certain conferences to publish their freight rates, increasing them in many cases without advance notice[14]. Furthermore, developing countries were finding increasingly difficult to gain entry to the confererences carrying their trade, mainly because of their limited experience in the liner business.

In 1971, the Ministers of Transport of Werstern Europe and Japan agreed on the necessity to regulate conferences in order to improve the way they operated. Consequently, they instructed the Council of European and Japanese National Shipowners (CENSA) to prepare a Code of Conduct for Liner Conferences[15].

The code prepared by CENSA contained a number of fundamental principles in order to regulate the operation of conferences. However, developing countries did not accept it arguing that the code had to be developed within the framework of the United Nations. In December 1972, the U.N. General Assembly asked the Secretary General to convene a conference of plenipotentiaries, under the auspices of UNCTAD, in order to consider and adopt a convention (or any other multilaterally legally binding instrument) on a Code of Conduct for liner conferences[16].

2.2 The Code of Conduct for Liner Conferences

In April 1974, UNCTAD passed the Code of Conduct for Liner Conferences with the fnial act beng signed by 73 countries. Seven countries refused to sign, among them the United States[17].

The Code of Conduct advocates essentially an international regulatory system for liner conferences. Althought it recognizes conferences as necessary to provide efficient service[18], the Code also addresses very clearly the following issues:

(i) The right to automatic membership for national shipping lines of countries whose foreign trade is being served.

(ii) The rigth to carry cargo on an equal basis by the national shipping lines of the two countries whose mutual foreign trade is being served (40% each) with the remaining 20% reserved for third parties shipping lines[19].

(iii) The duty of shipping conferences to justify rate changes, by previous consultations with shippers over the rates charged, the sub–charge system and the way to deal with currency fluctuations.

(iv) The requirement that all major conference decisions affecting the countries whose foreign trade is being served, should have the consent of the national shipping lines of developing countries, in order to ensure that they are fully involved in major policy decisions.

The Code of Conduct was ratified in April 1983 with ratifyng countries representing almost half of the world's gross tonnage[20]. Again, the United States refused to recognize the Code and was not among the ratifying nations[21].

2.3 Why an International Regulatory Instrument

Throughout the years there have been many cases where developing countries have been subject to retaliation when attempting to impose national regulaion on enterprises from industrialized countries[22]. In some circumstances, bilateral agreements have solved these problems despite the rigidity and lack of flexibility they sometimes show.

For the case of liner shipping, an international regulatory instrument was clearley needed given the international nature of liner services. It was assumed that conferences would modify their monopolistic behavior if they would be assured of impartial and practical mechanisms for the settlement of disputes.

The Code of Conduct, in articles 23 thru 46, details the provisions and machinery available for settlement of disputes between a conference and a shipping line, the shipping lines members of a conference, a conference or shipping line and representatives of shippers, and two or more conferences[23].

According to article 30 of the Code, disputes are to be settled by mandatory conciliation based on the recommendation of an international panel of conciliators[24]. The disputes settled by mandatory conciliaton take precedence over alternative solutions under national laws, although contracting governments may adopt the Code as national law in order to avoid conflict.

By requiring only the intervention of a registrar appointed by the U.N. Secretary General[25] for the

implementation of the conciliation procedure, the Code minimizes the role of outside international institutions in its interpretation or enforcement. When used flexibly and within a cooperative context between all interested parties, the Code aims to set down the ground rules for the necessary dialogue and coordination between them.

2.4 The Protectionist Implications of Cargo Reservation

The United States opposes the implementation and enforcement of The Code of Conduct claiming that ist is protectionist and fosters governmental intervention in cargo allocation[26].

On the other hand, developing countries claim that the allocation or reservation of cargo shares to their national shipping companies is paramount to the development of their merchant marines and the establishment of their national fleets[27].

While the goals of developing nations are entirely justified, unfortunately they get into a vicious circle when they try to help their inexperienced and non–competitive shipping industries to grow and develop. The operating costs of their national shipping companies are high due to the poor technology of their aging vessels and the lack of managerial skills. This in turn makes their governments decide on continuous protection to assure their survival.

Historical evidence supports their actions, however. From ancient times, all coastal nations have assited their merchant marines to become instruments for their development and economic independence. England was one of the first countries to pass laws protecting its merchant marine[28] and Spain granted exclusive rights to its vessels by passing the Indies Act in the 16th century[29]. Venice also adopted protectionist measures during the Middle Age years[30].

In the case of the United States, there is a long tradition of protectionism. In 1789, the first act passed by Congress was the Shipbuilding and Shipping Act. aimed at promoting shipbuilding and the merchant fleet[31]. The Jones Act of 1920 requires that all seaborne trade between U.S. ports be carried in U.S. ships built in the United States, owned by U.S. citizens and operated by U.S. citizens[32]. In the international arena, the United States has separate bilateral shipping agreements with other countries where the 40–40–20 cargo reservation guideline applies without problems[33].

Developing countries, especially from Latin America, modeled their cargo reservation practices on the basis of the historical evidence presented before. Nearly 30 developing nations, including practically all Latin America countries, reserve even up to 50% of general cargos to their national shipping fleets. In fact, a total of 62 nations provide for government–related cargo (i.e., cargo owned, purchased or sold by the government) to be transported exclusively by national shipping companies[34].

Bilateral agreements are also common practice. Only in Latin America, there are nine of them enforcing equitable sharing of exchange cargos[35]. In some cases, unilateral reservation of up to 50% of government related cargo has occurred, mainly when the offer of bilateral agreement was rejected by the other party.

Benathan and Walters (1969) have argued that cargo reservation interferes with the efficient use of resources in shipping, with marginal cost pricing becoming impracticable under such constraints. Devanney, et al (1975) studied conference rate making on the west cost of Sotuh American, finding that cargo sharing may impose later additional costs if the developing country is the high cost partner[36]. Other authors have also found that cargo sharing and bilateral cargo reservation agreements increase costs and rates significantly[37]. In general, they all seem to agree that governmental or inter–governmental regulation of shipping have a negative impact on the effective use of resources and on costs and rates, translating into higher import and export costs for developing economies.

2.5 Is Protectionism a Failure or a Succes Story?

What has been said in the preceding section poses the question of whether or not protectionist measures like cargo reservation have helped developing countries achieve their goals of developing their national fleets and increasing their percentages of seaborne cargo.

Between 1970 and 1990, Latin American shipping tonnage increased from 4.2 million GRT to 12 million GRT. The number of vessels went from 685, with an average age of 13.3 years, in 1970, to 898, with an average age of 12.5 years, in 1990. Overall, developing countries shipping share as a percentage of world's gross registered tonnage (GRT) increased from 7% to 17% between 1970 and 1990, although their percentage of world seaborne trade decreased from 63 to 49%[38].

An important characteristic of the growth of national shipping fleets in developing countries has been the increased participation of the state in enterprise ownership[39]. This is clearley not the case in developed economies like the United States, Japan, Germany and the United Kingdom where their "national" fleets are almost entirely privately owned[40].

In many developing nations, including those with market oriented economies, the state has played a high profile role in the operations of the economy, both at the micro and macro level. In many instances, the state has been the only entity

able to raise the high amounts of capital required to establish industries and to build the infraestructure necessary for different types of economic activity. International lending institutions, especially during the 1970's, often required Government guarantees in oder to extend loans to private enterprises in developing counties, thereby forcing governmental control on the management of the companies concerned.

These and other factors of political nature help explaining why shipping companies in developing countries are mostly state–owned.Their governments recognized at one time the need to have their own vessels to carry part of their foreign trade, searching for autonomy from foreign companies and for reduction of their payments in foreign currency for transportation services[41].

While there have been some gains for developing countries due to protectionist measures such as cargo reservation, mainly related to the increase in their share of world tonnage, losses have also been incurred in the process of growth. And they are important.

Table 1 shows international freight transactions of ten Latin American countries for selected years between 1971 and 1988[42]. The growth of the shipping industry in these countries started to pay of in the early 1980's until it peaked in 1985, a year in which these nations' actually showed a surplus of 47 million SDR in their balances. Individually, Brazil managed a surplus of 506 million SDR, Argentina 204 million, Chile 47 million, and Peru and Ecuador showed minimum deficits[43]. The rapid decline since 1985 can be observed from the subsequent figures, with Venezuela, Paraguay, Colombia and Peru as heavy losers.

Based on the evidence presented, protectionist measures seem to be part of a story of artificial success for developing countries, mainly from Latin America, which managed to build–up their national shipping fleets at the expense of their fiscal stability, with increasing international and external debts. The artificial success story of the early 1980's turned into a nightmare during the second half of the past decade, with deteriorating balance of payments and increasing debt levels impossible to pay back, as well as with national shipping fleets that cost so much to build–up, turning old and obsolete, not ready at all for the changing environment of the 1990s.

3. THE CASE FOR LIBERALIZATION

A growing belief shared by most industrialized countries nowadays, is that the shipping industry has suffered radical changes in the last decade increasingly moving towards true internationalization, from the years when nationalism was behind major decision–making concerning fleet build–up, vessel registration and vessel operation.

Indeed, the industry has changed. Nowadays, it is not rare to see a ship built in South Korea, owned by a Greek shipowner, registered in Panama, insured in England, and operated by an Indian crew. A truly international shipping example contrasting the old protected nationalism advocate by developing nations.

Industrialized countries believe that the industry has to adjust to the rapidly changing environment by abandoning all protectionist practices and liberalizing all types of maritime transportation services[44]. This view is obviously opposed by developing nations, which have used protectionist measures such as cargo reservation to promote their national merchant fleets.

Consequently, the world situation nowadays is characterized by a dichotomy between the protectionist view advocated by developing economies and the so called "freedom of the seas" preache by the major industrialized nations[45]. The issue has become an important part of the agenda of current GATT negotiations as well as other related UNCTAD sponsored international meetings.

3.1 The Principles of Liberalization

Schrier et al (1985) identify four major principles that a liberalized regime for seaborne trade must seek to armonize: (i) freedom of acces, (ii) reciprocity, (iii) harmonized trade regulation, and (iv) voluntary cargo sharing.

Freedom of acces is the central of liberalization and refers to the freedom of all carriers to compete for internatonal cargo, as well as the freedom of all shippers to purchase transport services from any carrier[46]. Following Schrier's analysis, freedom of access is the conrnerstone of international equity, and it addresses the major moral argument put forward by developing nations in support of the UNCTAD Code of Conduct for Linear Conferences[47].

The second principle, reciprocity, refers to the behavior of a particular country, conditioned on the behavior of another. In the case of free access, reciprocity would encourage the acceptance of the first principle since it would provide the opportunity to gain in some markets, making up for potential losses in others for abandoning protectionist policies[48].

The third principle, harmonized trade regulation, advocates the establishment of basic and enforceable rules enhancing "fair" competition which can be applied equally to al parties involved in a trade[49].

Finally, the fourth principle, voluntary cargo sharing, pursues the minimization of the effects of mandatory cargo reservation policies by

encouraging and facilitating voluntary cargo sharing arrangements. Combined with the principle of free access to all trades for all carriers, they appear to be acceptable alternatives to protectionist measures used by many countries to achieve "fair" shares in previously closed trades[50].

Industrialized countries like the United States and Japan have argued in the last few years that the principles of liberalization support the widespread use of the so called "open registry vessels" or flags of convenience (FOC), because they favor free competition with a limited set of national or international regulations. Whether this is true or not, flags of convenience represent the decline of national shipping flags and the clear indication that the industry has evolved from protected nationalism to true internationalization. An assessment of this is presented ne .

3.2 Flags of Convenience

Under the terms set down by the 1958 Convention on the High Seas, in its Article 5, "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"[51]. Despite the provissions of the Convention, the legal aspect of vessel registration is still imprecise.Furthermore, the lack of international legislation and control has allowed some smalll countries to establish the so called open registry flags, in many cases without the minimum administrative infrastructure necessary to regulate and to enforce international maritime standards.

The origins of open registry flags or flags of convenience (FOC's) have been traced back to the post World War I period, when U.S. shipowners placed their vessels under Panamanian flag to avoid navigational prohibitions established by the passage of the Volstead Act[52].

In the years after World War II, the reasons of using the open registry options were mostly economic. The majority of shipbuilding orders were placed by U.S. shipowners intending to operate their vessesls under the Liberian flag, in order to take full advantage of tax exemptions. At the same time, the lower operating costs accruing from the commercial freedom characteristic of open registry made possible more favorable credit facilities. Consequently, there was a substantial increase in the number of vessels under flags of convenience, primarily that of Liberia[53].

Between 1948 and 1989, vessels under flags of convenience increased their share of gross registered tonnage (GRT) in the world from 3.8% to 40.5%. The United States, Japan, and Greece own together close to 60% of the world's open registry tonnage. Shipowners from sixteen other countries own the remaining 40%[54].

Table 2 shows the annual indexed costs for owning and operating a vessel under U.S. and Liberian flag. Crew costs are five times more expensive in the U.S. Taxes are more than 10% of total annual costs in the U.S. while for the vessel under Liberian registry, they amount to only .5%. Overall total annual costs in the U.S. are more than three times higher than those in Liberia. And the difference is most likely bigger between the U.S. flag and other open registers[55].

The numbers presented above are a clear indication that ships registered under flags of convenience are cheaper to own and to operate than ships operating under regulated national flags. This statement, however, does not take into consideration the high costs and adverse social economics effects of marine casualties, that in many cases involve loss of human life and damage to the environment.

Several studies have shown quite clearly that the casualty rate of the FOC fleet is substantially higher than of regulated national fleets. Metaxas (1985) for example, has indicated that the entire FOC fleet has a poor safety record in comparison to those of major regulated fleets[56]. Smaller open registers such as Malta and Cyprus have a worse safety record than that of larger FOC fleets, such as Liberia and Panama.

An important question arises from what has been presented above.Do the cost advantages open registry vessels enjoy under a liberalized regime versus the regulated regime of traditional national fleets, offset the high casualty, third party, environmental damage costs resulting from their poorer safety records? Unfortunately, there are clear indications that they do not[57].

3.3 The Genuine Link Concept and the United Nations Convention on the Law of the Sea (UNCLOS)

Articles 91 and 94 of UNCLOS are based on Article 5 of the 1958 Convention on the High Seas[58]. The articles indicate very clearly that "there must exist a genuine link between the state and the ship and that the "flag state must effectively exercise its jurisdiction and control in administrative, technical, and social matters over ships flying its flag". Furthermore, they must ensure safety at sea on mateers relating to manning, seaworthiness, collision prevention, construction and crew qualification in accordance with generally accepted international regulations, procedures and practices[59].

Further flag state obligations are set in Article 211, which rules that the laws and regulations adopte in relation with the protection of the marine environment "shall at least have the same effect as that of generally accepted international rules and standards established thought the competent international organization or general diplomatic

conference". The International Maritime Organization (IMO) is considered the "competent international organization" in the field of shipping[60].

IMO, has been concerned for a number of years with a number of problems originate by the existence of FOC fleets.As an entity of the United Nations, IMO has based the discussions and decision–making relate to safety and the protection of the marine environment on the concept of "genuine link"[61]. Unfortunately, this is a concept mentioned but not rigorously defined by the UNCLOS, and consequently it has different interpretations for the different parties involved.

The UNCTAD Secretariat took the responsability of defining the "genuine link" concept. The Secretariat pointed out that for the orderly development of international trade, it was essential "to ensure the identifiability and accountability of shipowners and operators, the welfare of the crews, the compliance of international standards and the prevention of maritime malpractices"[62].

In February 1986, UNCTAD adopted the Convention on Conditions for Registration of Ships (UNCCORS), which up to this date has note been enforced. UNCCORS pursued in the beginning the phase out of FOC's. In ended up trying to set standards for FOC's. While the objective is good, the final document has a lot of opposition, especially from the OECD countries (including the United States), mainly because it attempts to define the "genuine link" between the flag state and the ownership/management of ships.

Despite the efforts of UNCTAD to solve this importante matter that UNCLOS failed to address satisfacorily, the truth is that the "genuine link" concept is still to be defined and accepted by all parties. Without this conflict being resolved it will be difficult to change the present form of open registers, not to mention allownig national states to enforce current or future international and national regulations in accordance with UNCTAD guidelines[63].

3.4 Is Liberalization Good for Shipping?

The principles of liberalization for shipping seem to be consistent with the theory of comparative advantage. Given each nation's endowments, the world will be better off if each nation specializes in those activities to which it is best suited, exchanging the resulting outputs of goods and services whenever it is advantageous to do so.

For the advocates of liberalization, world trade is best promoted by having shipping services provided by the lowest cost producer, regardless of nationality. This is precisely the reason why the U.S. opposes the cargo reservation schemes of the UNCTAD Code of Conduct and also the reason behind U.S. support for flags convenience, which are considered to be the flags of liberalized shipping[64].

Unfortunately, there are two major flaws behind the position of liberalization:

(i) The world we live in is not characterized by free trade, despite the long standing and commendable efforts of the GATT and the encouraging trends of the last few years.

(ii) Empirical evidence has shown that most of the marginal benefit resulting from lower operating costs and taxation avoidance of the FOC fleet benefited mostly the shipowners (mainly from the U.S., Japan and Greece) rather than the users of maritime transportation services[65].

Protectionism is still very much entrenched in different parts of the world. Agricultural products, services and selected manufacturing industries mainly related to declining or emerging markets (textiles and high technology electronics for example) are still enjoying protectional measures, some in Europe, other in Japan and the United States. Any proposal to liberalize shipping should be seen whithin this context[66].

Developing countries see their economic development, which many base on their exports, limited by the protectionist measures of industrialized countries. This, in turn, makes them lobby in international forums for their own forms of protection, such as cargo reservation, in order to balance the protectionism of industralized countries in agriculture, manufacturing and even maritime transportation services. Liberalization of shipping cannot occur with this situation prevailing in the developed economies.

The second flaw affecting the position of liberalization is the effects of the FOC fleet on the structure of international shipping. Its rapid expansion in the post–war era, which has reached more than 40% of current total world tonnage has erected major barriers to entry into the main shipping markets, instead of enhancing the liberalization principle or freedom of acces. This includes better acces to financial markets for well established FOC firms, which can obtain credits under better terms than firms under regulated flags[67]. Other additional social costs incurred as a result of the expansion of the FOC fleet include higher long run economic due to poor maintenance and repairs, and restoration costs related to damage to the enviroment, the loss of

human life, and the loss of cargo due to casualties at sea.

A view that opposes full liberalization because it would encourage national fleets vessels flagging out to low cost open registers is the one related to national defense. Many governments support their national fleets because they believe their vessels ensure the availability of maritime transportation services whenever needed. And they see this as a national priority.

this thought was probably justified during the 1960's and 1970's when the old break bulk carriers where suited to transport commercial as well as military cargo. In the 1980's however, with the technological revolution started by large containerships and other advanced ocean carriers, the odd–sized military supplies are increasing difficult to accommodate on board[68]. Consequently, the national defense justification to oppose liberalization and to support instead the development of national fleets is no longer as strong as it used to be[69].

Liberalization will bring benefits for the maritime transportation industry when the two major flaws described above are taken care of. The GATT is the best alternative to deal with the first one and the current Uruguay round of negotiations are already addressing the elimination of the staunchest measures of protectionism, especially in the developed world. With regard to the FOC fleet problem, this is an issue that needs to be resolved by the maritime community in international negotiatons under the auspices of UNCTAD. The FOC fleet operators, as they are right now, violate the liberalization principles of freedom of access and harmonized regulation, and this is something that nedds to be corrected for the benefit of all parties involved.

4. A FRAMEWORK FOR FUTURE NEGOTIATIONS

Since its establishment in 1964 as an international forum to promote the political and economic aspirations of developing countries, UNCTAD has not been very successful in bringing the major negotiating parties to agreement in issues of international such as The Code of Conduct and the Convention on Conditions for Registration of Ships, the former dealing with the problem of cargo reservation and the latter with flags or convenience.

UNCTAD has failed to bring agreement in these important issues because of a biased behavior that in many instances leans too much towards the position of developing countries. While it is true that it was established to promote the aspirations of these countries, UNCTAD seems to forget that the powerful bloc of industrialized nations led by the United States sits also at the negotiating table.

Despite its past flaws, there is currently no better forum than UNCTAD for future international meetings because firstly, it is part of the United Nations organization and secondly, negotiations need to be conducted within a framework where the development aspirations of Third World countries play an important part[70].

To be successful, UNCTAD must be abel to engage tangible interests both of developing countries and the industrialized world whose major exponent, the United States, has a long tradition of opposing any final act of agreement when, so they argue, it goes against their commitment to the principle of free trade.

4.1 The Position of the United States

The United States is the only major country of the industrialized world that has not signed major international conventions or treaties related to maritime activities:

(i) The UNCTAD code of Conduct for Liner Conferences has not been signed or ratified by the United States.
(ii) The United Nations Conference on the Law of the Sea (UNCLOS) treaty has not been endorsed by the United States.
(iii) The United Nation Convention on Condition for Registration of Ships (UNCCORS) has not been signed by the United States.

Other major industrialized countries in Western Europe and Japan have not refused to adhere to these international treaties, although in some cases they have placed reservations that at the end have not prevented them to sign the final acts[71]. Consequently, the U.S. is clearly the major obstacle for agreement between industrialized and developing nations in maritime issues of international relevance. What is it that makes the U.S. such a stubborn opponent?

Conservative thoughts have dominated the political and economic decision–making machinery of the United States in the last twenty years. Its "commitment" to the principles of free trade and its long-standing fight to eradicate ideological impurity from international negotiation have placed the United States always at one side of the negotiating table (some say the right side, right referring to location at the table, not necessarily rightness of thought), unwilling to even think about concessions[72].

But the truth is that the United States does not

practice what it preaches. It has a long tradition of protectionism not only in shipping but in other service and manufacturing industries[73]. Some say it is the rational way to respond to a protectionist world, but in reality, it seems more as a way to hang on to a declining hegemony and power in the political and economic arenas.

The United States strongly opposes cargo reservation practices because they say they are protectionist and foster governmental intervention[74], while it favours the existence of the minimally regulated flags of convenience. Its opposition to the former is based on its ideological commitment to the principles of free while its support for FOC vessels is both for political and economic reasons.

Some call flags of convenience the champions of shipping liberalization. Others claim they are the instruments of U.S. hegemony and power in the world trade and maritime affairs. The U.S. flags flies in 6% of the world merchant tonnage but if the 27% share of U.S. ownership of open registry vessels is counted, then the U.S. interests in world shipping amount to about 17% of total world tonnage. Similar shares correspond to Japanese and Greek interests, but these two countries have avoided conflictive in the majority of international negotiations. Clearly, the United States is the conflicting party of the industrialized world.

4.2 The Position of Developing Countries

Concerning cargo reservation, developing countries pursue the enforcement of the 1974 UNCTAD Code of Conduct especially to take advantage of what they called mandatory cargo sharing, a position totally encountered to what the United States favours[75].

With respect to the issue of flags of convenience, the extreme position of developing countries is to phase them out, althought there are some that already use them extensively and that are willing to accept their existence under more stringent regulations, with the concept of "genuine link" between the state and the ship properly defined. Consequently, this changing position could spill over to the rest with positive effects for future negotiations.

4.3 The Path to a Possible Agreement

In the past, the cago reservation issue and the FOC problem have been negotiated in separate U.N. conventions. If an agreement is desired, a different approach should be used in the future.

The different approach should be based on the combination of the two issues, that individually have proven to be unresolvable, in one round of negotiations under a UNCTAD sponsored convention. The purpose is to generate a zone of agreement as suggested by Sebenius (1984) to solve the case of the seabed portion of the UNCLOS conference[76].

The United States and possibly other developed countries find the alterntive of phasing out FOC's increasingly objectionable. On the other issue, developing countries prefer mandatory cargo sharing but this is out of the question for the United States and perhaps other develped countries.

A zone of agreement would result in the acceptance of open registers with regulations enhacing safety at sea rather than constraining competition, leaving open the option for governments to engage in voluntary cargo sharing if they wish to give support to vessels flying their flags.

Is this outcome possible? I believe so. Shipowners from developed economies agree that a feasible alternative must be developed and implemented. The chairman of the International Chamber of Shipping has said:

> "We all want the freedom to operate in an environment which imposes the minimum number of constraints, under the flag which best suits our purposes, whether fiscal, manning, economic and commercial. But we must accept certain obligations in return, one of which is to operate our ships in a responsible manner with a due regard for the safety of personnel and of the environment. In the main, these are obligations on the administrations of flag states, and it is obvious that some administrations neither have the ability nor have made proper arrangements to supervise their sometimes fast–growing fleet in a satisfactory manner. The result is that the industry as a whole suffers"[77].

The acceptance of cargo reservation schemes of the voluntary type do not violante the principles of liberalization that the United States so strongly defends. They provide the best possible alternative for governments wishing to support their national fleets, and they recognize the fact that it is unlikely that any significant international agreement can be reached prohibiting governments to use cargo reservation policies.

The likely outcome of this proposed negotiatios framework is clearly a compromise agreement between the negotiations parties. It is very unlikely that there will ever be a global agree-

ment on whether the issues and principles behind liberalization are better and more efficient than protectionism, and vice versa. both have benefits and both have high costs as well.

Consequentely, this compromise outcome represents the best possible alternative that satisfies both the just develpment objectives of the Third World as well as the need for a cleaner marine environment with a properly regulated shipping industry where both men and ships operate safely.

5. THE ROLE OF MULTINATIONAL SHIPPING COMPANIES IN LATIN AMERICA

Latin American shippings faces an enorm ous task to adjust to the drastic changes in the maritime transportation industry. While cargo reservation is stil a fair claim of developing economies, vis–a–vis other types of protectionism in the industrialized world, shipping companies in Latin–America must not fool themselves anymore and must understand the nature of the competitive environment of the nex few years. Some of them have already realized the importance of cost–effectiveness and have taken measures in that respect.

However, those cost saving measures are not enough if the local framework in wich they operate is not changed by the government action to favor the effcient operation of these enterprises. Legal restraints concerning labor, vessel acquisition, and ownership structure are still in place in some countries and they need to be relaxed to allow national flag companies, as well as other with vessels flying other Latin America flags, to have free access to the cargo reserved for the region, with voluntary sharing applied whenever the interest of cargo owners are not affected.

The reader has probably already noticed that I have referred to cargo as "reserved for the region". This is not a conceptual mistake. In fact, it is one importante reason behind the argument for the formation of multinational shipping enterprises in Latin America. Cargo reserved for each country under the provisions of the UNCTAD Code of Conduct world actually be open, with the blessing of local regulations and subregional, regional or inter–regional agreements, not only to national shipping companies but also to any shipping company owned by local investors and other Latin American investors, with equal percentage of company shares per nationality group.

While locally owned companies would still be required to comply with local regulations and obviously to fly the national flag (not neccesarily at the lowest cost), multinational. enterprises would enjoy the use of factor markets offering the lower costs. This way, a company could be multinationally owned, with their vessels managed, for example, by a Chilean ship management team, having them built in a multinational shipyard based in Peru with the financing of a regional fund, the ships operated by an Ecuadorian crew, and registered in Costa Rica, Honduras or perhaps a "second register", as a way to reduce owners costs while keeping them under the flag of the countries which cargoes will be mostly carried.

Multinational ownership offers the possibility for Latin America shipowners, trapped in the bureaucratic environments and legal frameworks still reigning in some countries of the region, to flag out, no to traditional flags of convenience, but rather to an entirely differente low cost arrangements that allow them to take full advantage of the UNCTAD 'cargo reservation schemes. At the same time, it provides an incentive to those countries with heavily restricting shipping legislation, and still committed to the traditional concept of national fleets, to deregulate as necessary, in order to allow local companies to be competitive with the multinacional firms. Furthermore, multinational ownership enhances the use of the best managerial abilities and maritime skilled manpower in the region, in the provisin of a cost–effective and competitive shipping service. Finally, it contributes to a long–time needed regional integration, both to strengthen the region's negotiating with the industrialized world, as well as to optimist the use of scarce resources.

6. CONCLUSIONS

I have attempted the difficult task of assessing the impact of the structural changes in maritime transportation upon the shipping industries of developing economies, especially from Latin America. Althought I am a firm believer that multinational shipping companies represent a valid option for shipowners in the region, willing to adjust to the drastic changes in the industry, I am also aware that there are other factors that attempt against a superior performance: high port costs and poor transport infrastructure, in port and inland, are two of them. The situation worsens when taking into consideration current restrictions in international credit to Latin America. What is left for our region is to show that is to entrepeneurs and government officials have grown up after all these years and that they are able to show innovative manageiral skills, dealing with the current issues and conflicts with a

pragmatic approach, leaving aside the dogmatic positions, ideological beliefs and historic disputes that have affected regional interests so negatively in the past.

TABLE 1
INTERNATIONAL FREIGHT TRANSACTION BALANCE
(MILLION SDRs)

Country	1971	1981	1985	1986	1987	1988
Argentina	-88	-34	204	118	122	101
Bolivia	-25	-116	-80	-81	-83	-60
Brazil	-69	255	506	237	115	N/A
Chile	-101	-241	47	54	24	23
Colombia	-36	-151	-113	-129	-114	-134
Ecuador	-43	-113	-6	-8	-25	-10
Paraguay	-8	-78	-33	-94	-95	-106
Peru	-52	-101	-4	-27	-76	-67
Uruguay	-30	-79	-15	-29	-27	-25
Venezuela	-207	-814	-459	-486	-536	-589

SOURCE: IMF Financial Statistics.

TABLE 2
ANNUAL OWNERSHIP AND OPERATING COSTS FOR A VESSEL UNDER U.S. AND LIBERIAN REGISTERS
(TOTAL COSTS UNDER LIBERIAN FLAG = 100)

Cost Structure	U.S.	Liberia
Finance	130	41
Crew	78	14
Taxes	35	0.5
Fuel	33	33
Preventive/Corrective Maintenance	16	4
Insurance	11	3.5
Stores	8	3
Administ./Overhead	7	1
Total	318	100

SOURCE: Author's calculations based on Lloyd's and UNCTAD Statistics.

NOTES

1 For the case of Latin America countries, over 90% of their foreign trade is carried by sea (Sepúlveda, 1987, p. 13).

2 Latin America, for instance, accounted for close to 20% of total cargo volume, which was about 5% of total cargo value.

3 Liner shipping carries manufactured goods as well as products requiring packaging (like fruits for example). Flags of convenience (FOC) are the national flags of those states with whom shipping firms register their vessels in order to maximize profits by avoiding regulations, and the conditions and terms of employment of factors of production that would have applied if their vessels were registered in the countries of their national origin. For an excellent review on flags of convenience and UNCTAD regulations see Metaxas (1985).

4 See Metaxas (1985), p. 67.

5 The United States refused to endorse the Code of Conduct arguing that its protectionist and fosters governmental intervention in cargo allocation, thereby going against U.S. principles and commitment to free trade. For further details on the position of the U.S. on the Code see Herman (1983).

6 For an excellent review on the Code of Conduct and

the Brussels Package, see Ademuni–Odeke (1984).

7 The opening of the Suez Canal in 1869 was the ideal setting to demonstrate the advantages of steamships, which enabled shipping companies to offer regular services especially on the prosperous Far East trade. For an interesting review with a historical perspective on the Far East route see jennings (1980).

8 See Deakin and Seward (1973), p. 25.

9 Ibid, p. 25.

10 Ibid, p. 13.

11 See Frankel (1987), p. 15.

12 See Sturmey (1962), p. 327. As indicated before, liner companies have high overheads that must be covered during depression as well as during booms at stable rates, in order not to disturb regular service to shippers. The stability and regularity required are obtained by limiting competition within the conference.

13 In general, all studies conducted in the UK and the U.S. conclude on the need of conferences, to maintain regularity and stability in shipping rates and services. For this reason, they were exempted from anti–monopoly laws. For details see Sepúlveda (1987), p. 39.

14 Sepúlveda (1987), p. 39.

15 Ibid, p. 40.

16 The General Assembly agreed to the request of the Group of 77, led by the Latin American bloc, to set up a preparatory commission to prepare a draft of a Code of Conduct for liner conferences. See Sepúlveda (1987), p. 40.

17 See note 5 above.

18 Farthing (1973) has argued that conference maintain orderly markets, avoid cut throat price competition, maintain undiscriminated service different ports, and rationalize trade, thereby reducing freight rates to shippers.

19 This guideline is called the 40–40–20 cargo sharing formula and is to be enforced unless otherwise mutually agreed. For a whole version of the Code see Herman (1983), p. 219–244.

20 Gross Tonnage is a measure of the total enclosed capacity of a vessel and it is calculated from the total volume of all enclosed spaces, using a standard formula.

21 the members of the Euopean Economic Community (EEC) ratified the Code with reservations. While the Code applies for trade with developing countries, it does not apply to trade among EEC countries and other OECD members who are Code members and who are prepared to reciprocate. Furthermore, the EEC considera as national shipping line any shipping company established in any EEC country. Consequently, the 40% reserved for a particular EEC country trading with a developing country is actually open to all shipping within the EEC. For further details on the so called Brussels Package, see Ademuni–Odeke (1984).

22 Goss (1968) has dealt extensively with the problems of jurisdictional conflict and incompatible national demands.

23 Conciliation procedures apply to disputes related to admission and expulsion from a conference, freight rate increases, surcharges, currency adjustments, and inconsistencies of a conferencen agreement with the Code of Conduct. See Herman (1983), p. 48.

24 Article 30 of the code of Conduct proposes that the international panel of conciliators to be established, should be composed of "experts of high repute or experience in the fields of law, economics of sea transport, or foreign trade and finance". See Herman (1983), p. 236.

25 See Herman (1983), p. 241.

26 Ibid, p. 197.

27 Developing countries believe that establishing their national fleets will give them stronger bargaining power for freight rate negotiations. Their governments could then save foreign currency by shipping their exports in their national fleets under special rates.

28 In the 17th century, Oliver Cromwell promulgated the famous Navigation Act, the mother of all modern protectionist measures related to cargo reservation, which actually helped Great Britain attain world supremacy in maritme trade. The Navigation Act ruled for two centuries, establishing that all products from British colonies had to be carried in British ships, or in ships of the country of origin, reserving coastal shipping for the national flag. See Sepúlveda (1987), p. 81 and Rinman and Brodefors (1983), p. 14.

29 Sepúlveda (1987), p. 82.

30 Rinman and Brodefors (1983), p. 10.

31 Sepúlveda (1987), p. 82. As part of the Act, discriminatory import duties were imposed on cargoes carried by foreign flag ships, supplemented by part tonnage taxes on the ships themselves.

32 Essentially, the Jones Act provides protected markets for U.S. shipbuilders and U.S. shipowners who must by their ships from U.S. shipyards. For details related to the Jones Act see Whitehurst (1984).

33 For details on those bilateral agreements, see Juda (1983).

34 In many instances, national shipping companies have the right of first refusal or the right to at least 50% of all government–related cargo. See Frankel (1987), p. 45.

35 In those cases where national shipping lines do not have enough tonnage capacity available for purposes of cargo reserve, some governments extend special permissions to charter foreign vessels and consider them as national. See Sepúlveda (1987), p. 85–86.

36 Operators get marginal return from a general increase of conference rates.

37 See Frankel (1987) for a review of literature on restrictive shipping policies.

38 Tonnage shares of Latin American countries were the following:

Country	**1970**	**1990**
Brasil	31(201)	47(300)
Argentina	28(185)	15(141)
México	8(37)	9(92)
Venezuela	8(38)	8(72)
Chile	7(43)	4(35)
Peru	7(38)	4(41)
Others	**11(143)**	**13(217)**
Total	100(685)	100(898)

SOURCE: Sepúlveda (1987), p. 88 and Informative Alamar (1990), p. 14.

Note: Number of vessels are in parenthesis.

39 Between 1970 and 1990, state ownership of Latin America shipping increased from 56 to 65%.

40 See Sepúlveda (1987), p. 85.

41 In many cases, government invested in vessel acquisition because private investors in developing countries did not have enough incentives to invest in a highly capital intensive industry like shipping, where risk and uncertainty are permanently part of the game. Besides, in many cases, the states was the principal exporter and/or importer, so it was inevitable for government to play an active role in establishing and opearting shipping companies.

42 Numbers are in million SDR (Special Drawing Rights). SDR's were introduced in 1971 as an alternative reserve currency. Originally based on a basket of 14 currencies, the SDR has been based since 1986 on five currencies with the following weights.: U.S. dollar 42%, West German deutschemark 19%, Japanese yen 15%, French franc 12% and UK pund 12%. For other details, see IMF Financial Statistics.

43 Brazil, Argentina, Chile, Peru and Ecuador were prominent in the build–up of their national shipping fleets in the 1970's. In the cases of Brazil, Argentina and Peru the promotion of their merchant marines was tied in with incentives to shipbuilding. The case of Chile is a particulary interesting one. In 1979, Chile abolished cargo reservation in the external trade with countries outside Latin America, and also in coastal shipping, where it allowed competition from foreign vessels if their rates were lower than those charged by Chilean ships. (Sepúlveda, 1987, p. 85). The numbers show that with these liberalization or deregulation measures, Chile managed to go from a balance deficit of —241 million SDR in 1981 to a surplus of 47 million in 1985 despite the severe depression in world seaborne trade during the first half of the 1980's. But, then again, other countries with protectionist regimes (notably Brazil and Argentina) also managed increasing surplus trends during those troubled years. What contributes to this puzzling story of protectionism (regulation) vs. liberalization (deregulation) is that Chile modified its liberalized regime in 1986 going back to cargo reservations based on the volume of cargo to be transported. From the numbers in Table 1, it is clear that the second half of the 1980's shows declining balances for all countries with protectionist regimes (including Chile) despite the clear upturn with world seaborne trade during those years. All this makes an interesting subject for future analysis.

44 The term "liberalization" may also be understood as "deregulation".

45 While they preach "freedom of the seas" nowadays, major industrialized nations in North America, Western Europe and Japan have adopted protectionist measures throughout the years in order to gain advantages for their merchant marines, See Secton 2.4 of this paper.

46 See Schrier, et al (1985), p. 69.

47 Ibid, p. 70.

48 An example of this could be given by a protectionist country giving up its protectionist policies in maritime transportation in exchange for an assurance of other country of a more liberalized trade policy.

49 The term "fair" competition is clearly open to different interpretations. Some try to explain it under the strit economic definition of perfect competition which, in my opinion, does not exist,has never happened in this world of ours, and cannot be created based on law enforcement or regulations. Others advocate a more pragmatic interpretation, recognizing the evolution of different competitive practices that adjust to the continuous changes of the particular industry and its environment (see Sturmey, 1988). Clearley, waht is fair for some is unfair for others. The acceptance and the interpretation of the Code of Conduct is a clear example. Future negotiations need to look carefully to the dangers of dogmatic and ideological interpretations of what fair competition is.

50 This time, the term "fair" share appears as the focus of controversy in interpretation. Again, the Code of Conduct is the perfect ground for analysis. To gain "fair" share, supporters of the Code tend to treat its ground rules as mandatory rigid positions (recall 40–40–20 rule) while opponents tend to oveerlook the flexibility of the Code's ground rule to facilitate agreement when practices are in disputes relate to their "fair" shares.

51 Metaxas (1985), p. 68.

52 Sepúlveda (1987), p. 60.

53 Thorsten and Brodefors (1983), p. 113.

54 From UNCTAD Statistics as of 1/1/88. The UK and Germany (FR) are other countries with high percentages.

55 I assume this because the Liberian flag is usually considered one of the better organized open registers. The Malta and Cyprus flags are probably the worse.

57 A maritime economist like Metaxas, who knows the functioning of the industry, does not hesitate to advance hypotheses and draw conclusions based on the scientific and empirical evidence already in existence. For details, see Metaxas (1985), p. 92–101.

58 See Section 3.2 for the first part of Article 5 of the 1958 Convention on the High Seas.

59 Consequently, minimum standards of flag state responsability are provided here. For an interesting article on the subject see Fitch (1979).

60 IMO was founded in 1948 as a specialized agency of the United Nations and is the most important intergovernmental organization with particular responsability for promoting marine safety and pollution control. IMO provides the machinery for governments to cooperate and exchange information related to the standards of marine safety and the prevention and control of marine pollution from ships, with a view to obtaining international regulatory agreement. For an excellent review of the role of IMO and the Law of the Sea, see Srivastava (1987).

61 See Metaxas (1985), p. 69.

62 Ibid, p. 70.

63 Metaxas (1985), p. 71 makes an interesting point. He considers the identification of the maritime firm

and its relation to the national state as the key subject related to the acceptance of vessels into national registries. He worries, thought, about the lack of a formal definition of what makes a maritime firm. for Metaxas what is important is the location of the firm managers which should be known to the national state at all times to ensure accountability.This is clearly a thought ahead of its time given the revolution caused by ship management firms since the late 1980's.

64 For details on the position of the U.S. see Herman (1983), p. 197–215.

65 See Metaxas (1985), p. 43.

66 Major trading partners seem to have understood this by agreeig to conduct multi–issue negotiations under the auspices of the GATT including agricultural protectionism in Europe, trade–related investment, intellectual property, and trade in services (shipping included). The outcome of all this is still to be seen and this paper is mainly concerned with maritime transportation service, althought within the context and implications of remaining protectionist measures.

67 Metaxas (1985) has found that financial institutions in the U.S. extend more credit facilities to FOC firms especially from Liberia and Panama than to firms under regulated flags, because they find them less risky. Another explanation could be that the majority of vessels under Liberian and Panamanian flags are owned by U.S. firms eluding higher wages and taxes in the United States. See Metaxas (1985), p. 73.

68 Developing countries still believe in national defense as a strong reason for support and protection of their merchant marines.This is so because among other things, their fleets still have the old general cargo vessels and break–bulk carriers suited to transport any type of cargo.With the modularized and containerized cargo of the last few years, these vessels have much lower productivity than the advanced containerships and are not efficient in transporting commercial cargo anymore. For the specific case of the United States, the Department of Defense (DOD) has been trying to find ways to enhance the capabilities of containerships for military contingencies mainly trying to adap them as break bulkers through the use of seasheds and flatracks. For an excellent review of the relation between commercial shipping and national security in the U.S. see Ullman (1984).

69 In the U.S. the cost of trying to use commercial vessels for military purposes is high. The budget assigned to DOD to improve sealift capabilities was approximately 5.3 billion dollars over the period 1984–1989. See Ullman (1984), p. 22.

70 Here, it must be understood that development is a long run objective and consequently long–term economic gains should take precedenceover short-term gains. In many instances, disagreements over this fundamental concep have caused negotiations to break without agreement.

71 One example of this is the "Brussels Package" adopted by the European Economic Commission in relation to the Code of Conduct. See Ademuni–Odeke (1984).

72 Sebenius (1984) in his book on the Law of the Sea explains how the deputy chairman of the U.S. delegation to the **final Law of the Sea** negotiating session contended that "the primary U.S. objective, in fact, was the eradication of ideological impurity". See Sebenius (1984), p. 83.

73 See Section 2.4 of this paper for the case of shipping.

74 See Herman (1983), p. 197.

75 If the United States really believes in liberalization of shipping, then its position has to be based on the principle of voluntary cargo sharing. See Section 3.1 of this paper.

76 See Sebenius (1984), p. 193.

77 The Motor Ship (1989), p. 54.

78 The situational would be similar to waht is required for Andean Multinational Enterprises, which are already operatig in other lines of businesses. See my 1990 paper for details about the argument for multinational shipyards.

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