European “national” flag issues

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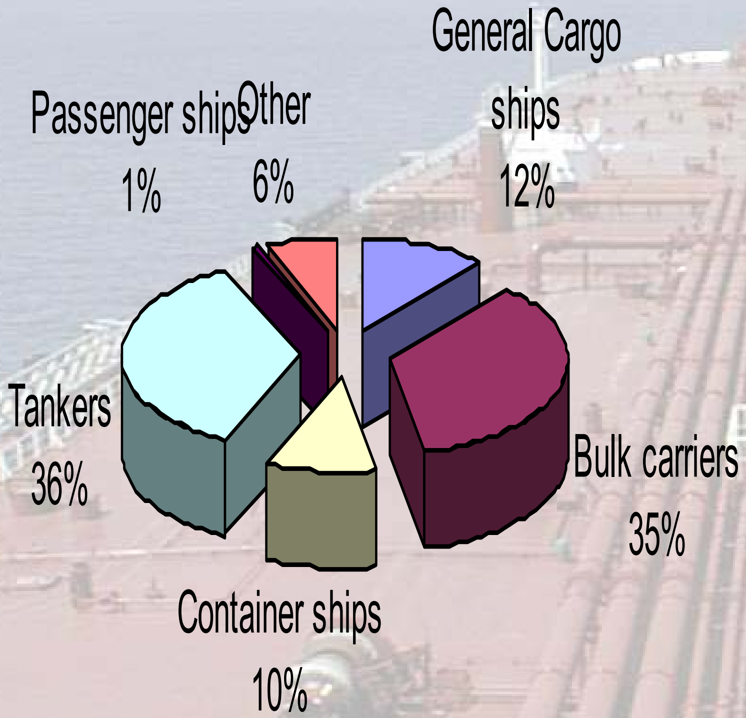
World shipping

• represents **90%** of the world trade (roughly 24.000 billion tonne-miles)

• operation of merchant ships generates an annual income of ca. **380 billion U$** in freight rates within the global economy = 5% of total world trade

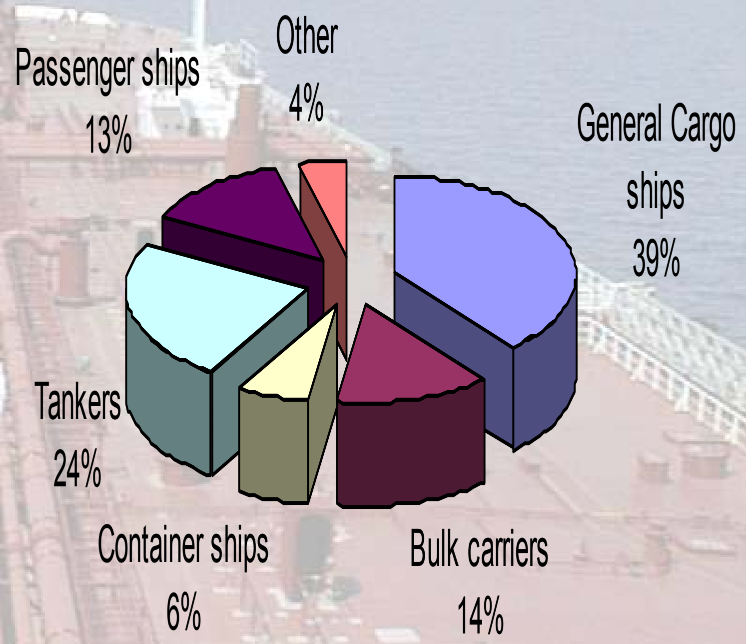
Source: Fearnleys

World fleet



Total dwt: 844.235.000

Source: UNCTAD 2003



Total n° ships: 46.656

Source: LR - Fairplay 2002

The 35 most important maritime countries & territories (2003)

Country of domicile	Number of vessels			Deadweight Tonnage (dwt)				
	National flag	Foreign flag	Total	National flag	Foreign flag	Total	**Foreign flag as % of total**	Total as % of world total
Greece	758	2345	3103	44849923	105010880	149860803	**70,1%**	19,52%
Japan	747	2163	2910	13472332	90924107	104396439	**87,1%**	13,60%
Norway	872	819	1691	27138155	30959452	58097607	**53,3%**	7,57%
China	1617	704	2321	22680169	21623434	44303603	**48,8%**	5,77%
United States	583	870	1453	11001954	31536497	42538451	**74,1%**	5,54%
Germany	377	1925	2302	7231590	33517881	40749471	**82,3%**	5,31%
Hong Kong (China)	235	334	569	13206714	24527094	37733808	**65,0%**	4,92%
Republic of Korea	491	364	855	9135854	16633763	25769617	**64,5%**	3,36%
Taiwan Province of China	133	395	528	6313645	16014886	22328531	**71,7%**	2,91%
Singapore	457	257	714	12627368	6764542	19391910	**34,9%**	2,53%
United Kingdom	396	383	779	7867951	10225805	18093756	**56,5%**	2,36%
Denmark	349	333	682	8540665	7971422	16512087	**48,3%**	2,15%
Russian Federation	2176	380	2556	8429692	7816315	16246007	**48,1%**	2,12%
Italy	519	119	638	8315551	3886635	12202186	**31,9%**	1,59%
Saudi Arabia	52	69	121	923734	10086880	11010614	**91,6%**	1,43%
India	344	41	385	9376986	1133341	10510327	**10,8%**	1,37%
Turkey	436	137	573	7252197	1684970	8937167	**18,9%**	1,16%
Netherlands	576	208	784	4045450	3156450	7201900	**43,8%**	0,94%
Iran, Islamic Republic of	149	4	153	6864112	229978	7094090	**3,2%**	0,92%
Switserland	12	225	237	691366	6309602	7000968	**90,1%**	0,91%
Sweden	162	162	324	1429038	5468352	6897390	**79,3%**	0,90%
Malaysia	254	52	306	5790177	798897	6589074	**12,1%**	0,86%
Brazil	142	22	164	4454047	2038788	6492835	**31,4%**	0,85%
Belgium	25	128	153	168703	6008133	6176836	**97,3%**	0,80%
France	168	101	269	2963993	3038662	6002655	**50,6%**	0,78%
Canada	217	110	327	2632406	3354729	5987135	**56,0%**	0,78%
Philippines	305	31	336	4095428	751145	4846573	**15,5%**	0,63%
Indonesia	519	91	610	3225973	1088783	4314756	**25,2%**	0,56%
Spain	67	263	330	145830	4147174	4293004	**96,6%**	0,56%
Kuwait	32	0	32	3341564	0	3341564	**0,0%**	0,44%
Monaco	0	103	103	0	3133767	3133767	**100,0%**	0,41%
Australia	47	40	87	1428901	1409743	2838644	**49,7%**	0,37%
Cyprus	30	38	68	823590	1969719	2793309	**70,5%**	0,36%
Croatia	64	39	103	1029912	1216635	2246547	**54,2%**	0,29%
Chile	56	34	90	862266	1364987	2227253	**61,3%**	0,29%
Total (35 countries)	13367	13289	26656	262357236	465803448	728160684	**64,0%**	94,9%
Total EU/ EEA	4131	6826	10957	110556446	215455670	326012116	**66,1%**	42,5%
World total	15649	14579	30228	281241565	486350815	767592380	**63,4%**	100,0%

Source: UNCTAD 2003

Conclusions

- The 35 most important maritime countries or territories represent 94.9 % of the world fleet
- Registration under foreign flag continued but its growth weakened:

  465.8 mio dwt or 64 % (462.5 mio dwt or 64.1% in 2001)
- The five largest countries represent more than half of the world fleet and the top 10 represents approximately 2/3
- In DMEC's 70.2% is registered under foreign flag

Top 20 largest shipping flags

2003

Panama	128	26,8%
Liberia	52	10,9%
Bahamas	35	7,3%
Greece	31	6,5%
Malta	26	5,4%
Cyprus	24	5,0%
Singapore	22	4,6%
Hong Kong (China)	19	4,0%
Norway (NIS)	18	3,8%
China, People's Republic of	18	3,8%
Marshall Islands	17	3,6%
United States	16	3,3%
Japan	14	2,9%
United Kingdom	11	2,3%
Russia	10	2,1%
Italy	10	2,1%
Korea, Republic of	7	1,5%
India	7	1,5%
St Vincent & the Grenadines	7	1,5%
Isle of Man	6	1,3%
Total	478	100,0%

Source: compiled by ISF / Lloyd's Register - Fairplay

Open-registry fleets as of 1/1/2003

Flag	Number	Thousand dwt	% of world total (844200)
Panama	4068	168508	20,0%
Liberia	1287	68413	8,1%
Bahamas	1057	44122	5,2%
Malta	1029	36649	4,3%
Cyprus	1031	32097	3,8%
Bermuda	91	6293	0,7%
St. Vincent and the Grenadines	532	6554	0,8%
Antigua and Barbuda	789	6039	0,7%
Cayman Is.	123	3321	0,4%
Luxembourg	64	1990	0,2%
Vanuatu	107	1381	0,2%
Gibraltar	98	1261	0,1%
Total	10276	376628	44,6%
Total six major open registers as of 1 January 2003	8563	356082	42,2%
Total six major open registers as of 1 January 2002	9557	373533	
Total six major open registers as of 1 January 2001		395164	
Total six major open registers as of 1 January 2000		388688	

- Open registers contracted by 4.7%
- Tankers increased to 37.7% and bulkers maintained their share of 40.8%. For the six major open registers both types account for 78.5% of the total dwt.
- Panama & Liberia have 66.5% of the total tonnage of the six major open registers

- Panama contracted by 2 % (3.4 mio dwt)
- Liberia decreased by 6.6%
- Malta decreased by 13.1 %
- Bermuda decreased by 22.2% to 6.3 mio dwt
- Bahamas & Cyprus decreased by 2 %
- Minor open registries had more than their share of problems e.g. Cambodia: French Navy seized a vessel (ANNA H) on charges of cocaine smuggling, consequently the manager of the Cambodian registry was replaced by a Korean (Rep.). The previous manager was hired to establish a Mongolian register and later tried to negotiate a deal with the Solomon Islands...

Source: compiled by the UNCTAD secretariat on the basis of data supplied by Lloyd's Register - Fairplay

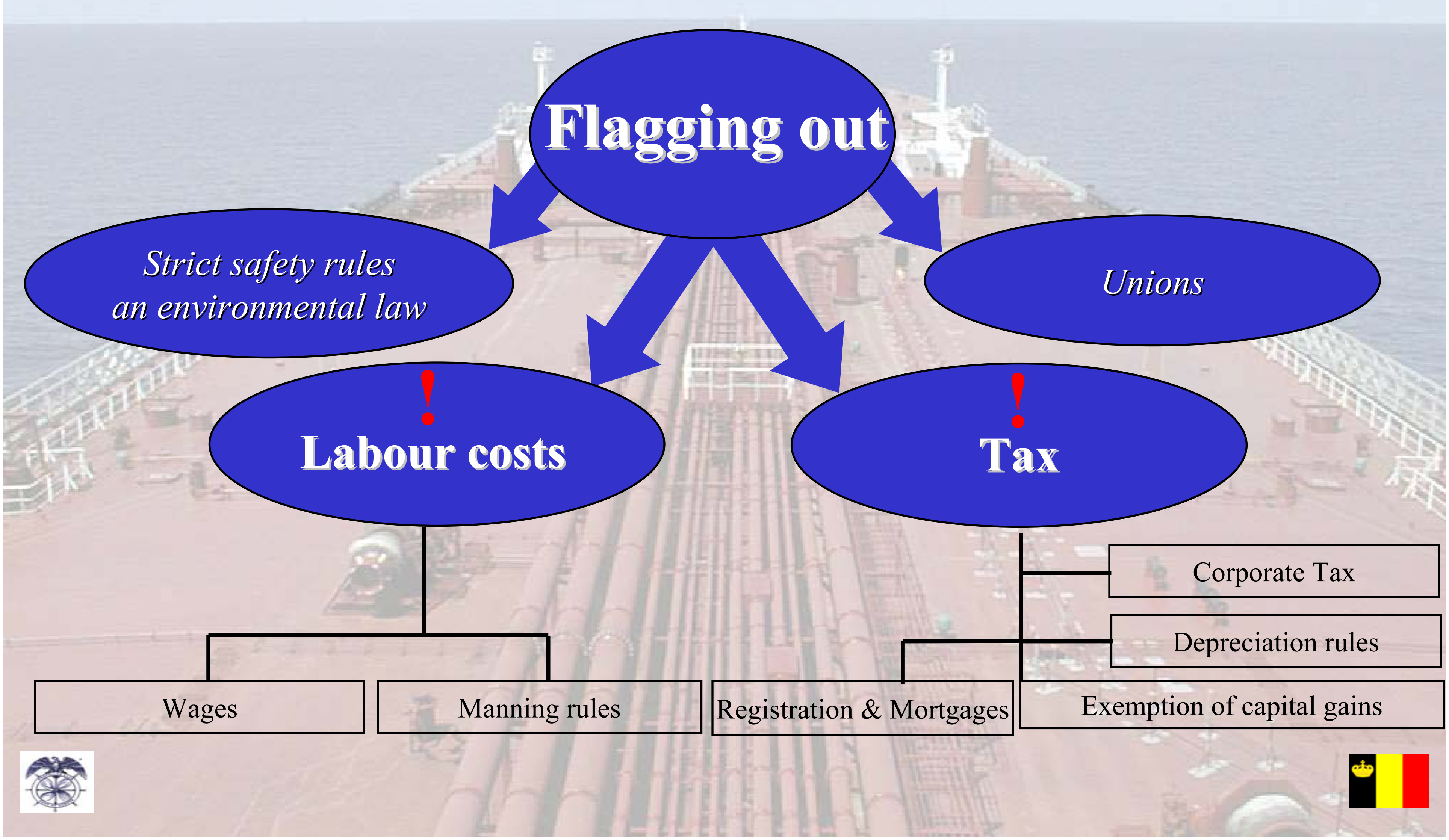
Conclusions

- Participation of nationals in the registry of the major open registers is minimal (<10%)
- For international registers (Denmark, Norway, Hong Kong (China) and Singapore):
  - ownership by nationals in the international register is significant (30% to 80%)
  - nationals of a country having a privileged relationship with the territory of registry have a significant share of the tonnage registered e.g. UK - Isle of Man, US - Marshall Islands, France - Kerguelen, Netherlands - Netherlands Antilles

"European strategic conclusions"

- European owners/ registers control between 35 – 45% of the world fleet. If the EC can get these under EU flags she becomes the largest maritime block in the world, able to control most of the world's maritime policy
- Problems: national registers for national owners OR European open registers (with control in line with EC policy)

Reasons to flag out



EC attempts to competition between 1980-1996

- EUROS register: failed due to lack of social & fiscal harmonisation between the member states (and is still a far cry off)
- Comparison between costs under EC flags and Cyprus (as an open register) & Portugal (one of the ‘poorer’ EC members): failed

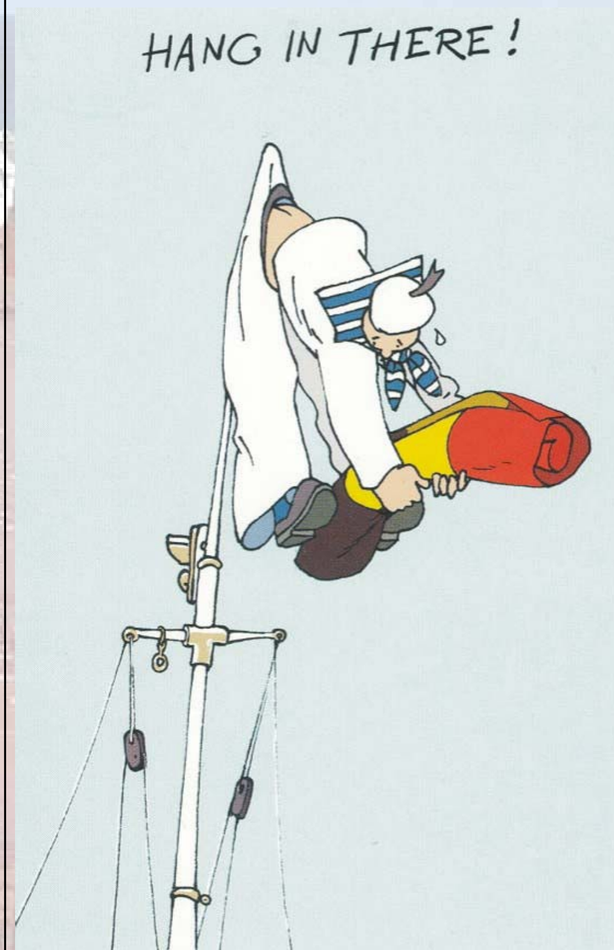
Rationale

Flagging out towards “FOC’s”: 13% of the world's shipping now sails under a Member State flag (32% in 1970).

- EU seafarers employment on EU-flagged ships fell by 37% (1985-1995)
- the number of seafarers from non-EU countries rose by 14%
- 51% of the job losses is due to flagging out to FOC’s
- Therefore the European Union decided on two lines of action:
  - to devise a global strategy to make the EU fleet competitive again, by means of "positive measures".
  - to improve on-board safety and environmental protection through strict enforcement of international standards within the EU

A new policy:
EU State Aid Guidelines '97 - revised 2004

- European competition with open registers
- Europeans employed on board of European registered vessels
- Subsidizing is forbidden
- Maximal level: 0 - tax on wages and 0 social security and pension contributions, 0 - corporate tax
- Increased competitiveness in a global industry - competition between EC member states cannot be distorted
- Only for maritime transport (for dredgers & sea-going tugs: min 50%)



General objectives of the revised SAG

- Improving a safe, efficient, secure and environment friendly maritime transport
- encouraging the flagging or re-flagging to Member States' registers
- contributing to the consolidation of the maritime cluster while maintaining an overall competitive fleet
- maintaining and improving maritime know-how
- protecting and promoting employment for European seafarers
- contributing to the promotion of new services in the field of short-sea shipping

Benefits of reflagging: for the government

- Prevents loss of know-how
- Added value (70% of AV is created by ancillary activities)
- control over technical quality, labour conditions, protection of the environment

Benefits of reflagging: for the shipowners

- Prevents loss of know-how + control over training programs
- Domestic recruitment
- Commercially quantifiable:
  - as a quality label
  - no more off-shore constructions
- ITF issues

Rules

- only for ships registered in a Member state.

  Exceptions:
  - the EC int'l registers (Denmark, Germany, Italy, Madeira, Canary Isl.) & Gibraltar, provided:
    - they comply with int'l standards & EC law
    - they are operated from the EC
    - the shipowner is established in the EC (and contributes to the objectives of the SAG).

    NOT for Kerguelen, Netherlands Antilles & Isle of Man
  - flag neutral aid may be granted exceptionally where a benefit to the Community is established
- The EC strives for a flag link. Additional aid may not be granted to companies which do not operate at least 60% of their ships under an EC flag.

  Rem.: this rule is not clear and has several interpretations in the Member States. Belgium & Denmark (Netherlands?, UK?) refer to owned, co-owned or bareboat in. France to the operated fleet incl. T/C & V/C!!!

Corporate Tax: a dual approach

The tax treatment of ocean shipping allows for a dual approach:

- Tonnage tax (<u>profits</u> set at a fixed rate on the tonnage). Tonnage tax entered into force in Greece in the seventies and was progressively extended to the Netherlands (1996), Norway (1996), Germany (1999), the United Kingdom (2000), in 2002 to Denmark, Spain, Finland & Ireland, in 2003 to Belgium & France and Italy (2004)
- Conventional tax

Tonnage tax: an alternative for conventional corporate tax

What is tonnage tax?

- The yearly corporate tax of the shipowner is based on the net tonnages of the vessels he actually operates (V/C & T/C included up to a ratio of 1:3 in some countries) and not based on the actual results of his shipping activities
- Shipowners opting for tonnage tax do so for 10 year periods
- Tonnage tax is often **flag/register blind**

The profit of the taxable period resulting from ocean shipping is assessed per vessel, per day and per 100 net tons on the basis of the amount mentioned in the table below (Belgian system):

For the bracket up to 1000 net tons	**EUR 1,-**
For the bracket between 1000 and 10.000 net tons	**EUR 0,60**
For the bracket between 10.000 and 20.000 net tons	**EUR 0,40**
For the bracket between 20.000 and 40.000 net tons	**EUR 0,20**
For the bracket over 40.000 net tons*	**EUR 0,05**

* only in Belgium& for new vessels or vessels coming from non-EU flags

Ring fencing: the field of application of tonnage tax has to be strictly limited to the shipping activities viz. maritime transport

Tonnage tax: quick reference (Belgium)

Vessel A	5258 NT	4,410.21€
Vessel B	8052 NT	6,490.01€
Vessel C	16138 NT	10,986.07€
Vessel D	24537 NT	14,028.36€
Vessel E	100000 NT	32,762.40€

Tonnage tax, although a virtually 0-taxation, is only interesting for companies which expect to return a profit. Loss deduction is not possible. Most systems will penalise you when you quit early.

Conventional tax (SAG 2004)

- Accelerated depreciation
- the right to reserve profits from the sale of ships on a tax-free basis provided that these profits are re-invested in ships

Conventional tax (Belgium)

- Accelerated depreciation (for new vessels and for vessels appearing for the first time on a Belgian balance sheet):
  - 20%-15%-15%-10%-10%-10%-10%-10%
- linear depreciation for second-hand vessels:
  - theoretical age of 15 years - age of the vessel
  - a minimum of 4 years of depreciation
- exemption of capital gains (by reinvestment) for Belgian companies or Belgian agents of foreign companies:
  - vessel had to be owned for 5 years as a fixed asset
  - reinvestment in sea-going vessels, shares in joined ownership of sea-going vessels, in interests or in shares of a company - ship operator whose Registered Office is located within the EU
- tax aid for investment for Belgian companies or Belgian agents of foreign companies of 30% of the purchase price for new or second-hand vessels that are owned for the first time by a Belgian tax payer

Corporate Tax: Management Companies

- flat-rate tax scheme (viz. tonnage tax) for companies managing ships on behalf of third parties (both technical & crewing is required)
- the same rates as those applicable to shipowners apply

REM. RBSA/ Policy Research study for lower rates

No more deferred tax

- In order to be able to flag out a ship beneficially owned in an EC member State one has to set up off-shore constructions which create potential tax liabilities depending on the blind eye the EC member tax authority wants to turn to the construction
- tonnage tax fulfils ALL tax obligations (e.g. capital gains on the sale) generally for the same price as the administrative fee of an FOC (usually also called tonnage tax)

Liberia vs Belgium

Example :	*Net tonnage :*	*21500*
	Price :	*$40.000.000*
	Mortgage value :	*$32.000.000*

Liberian Registry		**Belgian Registry**		
ANNUAL		**ANNUAL**		
1. Vessel		Tonnage Tax		
Tonnage Tax (0,1xNT+3800)	$5.950	> 1000	x € 0,01/day	10 €
Inspection Fee (fix)	$1.200	1001 >< 10000	x € 0,006/day	54 €
MIIPS fee (fix)	$3.500	10001 >< 20000	x € 0,004/day	40 €
Total	$10.650	> 20000	x € 0,002/day	3 €
		Daily rate		107 €
2. SPC			X	365
LISCR fee	$400	Annual rate		39.055 €
JSM fee	$1.000			
Auditor's fee	$3.300			
Bank charges	$3.500	Corporate Tax		33,99%
Accounting services	p.m.			
Corporate taxation	p.m.			
Total	$8.200			
Annual Total	**$18.850**	**Annual Total**		**13.275 €**
INITIAL		**INITIAL**		
Registration Fees (0,13xNT+1500; max 5400)	$4.295	Vessel Registration (price x 0,00052)		20.800 €
Administrative Fees	$6.500	Mortgage Registration (value x 0,00052)		16.640 €
Estimated Certification Fees	$800	Indirect taxes		225 €
Per Mortgage Fee (fix)	$475			
Total Initial Registration Fees	**$12.070**	**Total Initial Registration Fees**		**37.665 €**

Tonnage tax is lower in Belgium compared to Liberia, registration is more expensive but for a one-off cost of 19.000 € (this ex.) in the first year one has no more off-shore companies to maintain.

Alleviation of wage costs (SAG)

- Reduced rates of contribution for the social protection of Community seafarers on board of EC registered ships
- Reduced rates of income tax for Community seafarers on board of EC registered ships

Rem: Community seafarer means:

- – Community/ EEA citizens, in the case of seafarers working on board vessels (incl. roro's) providing scheduled passenger services between ports of the EC
- – in all other cases: all seafarers liable to taxation and/or social security contributions in a Member State

Belgian flag: Wages - cost

Gross wage = 100%

Wage configuration

~ 35%	Employers' contribution
~ 35%	Income Tax
~ 13%	Employee's contribution
	Net Income

Belgian flag

~ 11%	Employee's Contr
	Net Income

Key success factor for longevity

Create returns (added value, employment) for the national economy

Caveats

- There is a political drive in the EC to over regulate, mainly due to a lack of understanding of the maritime sector. Often the effects are exacerbated by knee-jerk reactions to maritime mishaps.
- Implications of the EC treaty on wages/ social security

Positioning of EU ‘national’ flags

- Introduction of tonnage tax in South Korea, India, US(?), South Africa(?), …
- Role for an EC register? National flag for national owners vs. open register look-a-likes (UK and DIS declared FOC’s)
- What with EC registers like Cyprus, Malta or Sweden & Luxembourg?

Comparison of regimes

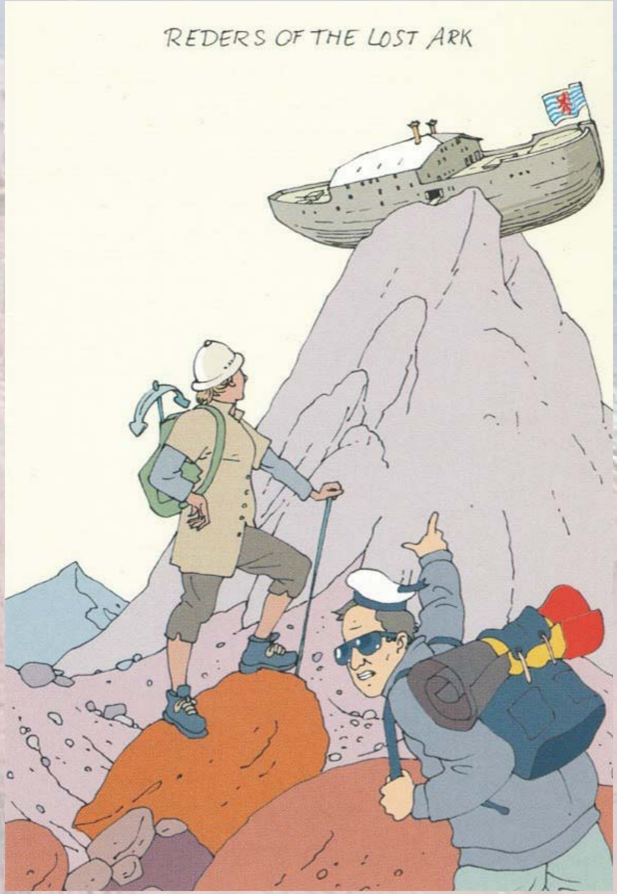
- All tonnage tax systems yield more or less the same results (no distortion of competition between member states). The impact of the corporate tax rate is negligible since TT is a near-0 taxation
- What to look for then?
  - Extra’s: France (GIE fiscal), Germany (KG), UK (Tax lease), Netherlands (CV)
  - Entry/ exit: When to enter the TT-regime (free in Belgium vs. restricted in Netherlands, UK, Germany etc.) and what penalisation when you quit early + Combination: In Germany & Belgium you can combine conventional tax with tonnage tax.
  - Amount of management to be performed from the territory
  - Manning rules: free (Netherlands, Belgium,…) & stable - nationality of the Master (E Court of Justice)
  - Net wage system
  - Social security issues
  - Wage scales
  - Flexible administration, reliable government
  - Flag link required (Finland) or not (UK), combinations possible (Germany, Netherlands) or offering advantages (Belgium)?
  - Class or flag state control?

The “best” European register

Seek professional advice to see whether the register suits your particular needs as a shipowning company. There is no such thing as “the perfect” register for all needs.

Belgian fleet: situation on 18/10/04

- Nearly 6 000 000 dwt, incl. the 4 largest double hull tankers in the world (92 vessels)
- On 18/10/03 the Belgian fleet stood at 0
- Target: reflagging min. 90% of the fleet



EEA registered trading fleet on 1/4/2004

	Flag	#	DWT
1	Greece	1447	68 720 876
2	Malta	1313	44 684 473
3	Cyprus	1213	42 602 046
4	Norway (NIS)	660	26 730 370
5	Italy	957	13 269 285
6	Denmark	373	12 645 392
7	Germany	527	11 631 939
8	United Kingdom	629	11 392 661
9	Netherlands	718	5 802 071
10	France (TAAF)	80	5 550 221
11	Norway	705	3 281 931
12	Belgium	52	3 023 933
13	Sweden	382	2 516 450
14	Spain (CSR)	176	2 282 787
15	Portugal (MAR)	109	1 848 233
16	France	130	1 594 960
17	Finland	174	1 229 794
18	Luxembourg	43	964 877

Europe is not an island

There is a general tendency in EC 'doctrines' that, although having its merits in the field of social & environmental issues, threatens the livelihood of European flags and policy. In order to solve the EC's problems on a global scale (employment, diversification of economies, foreign investment, …) the EC has to find the solution through a balance of advanced implementation and of influencing international fora e.g. IMO, ILO, WHO for her own domestic problems and the advancement of her citizens.

For info on the Belgian Register
www.brv.be

1991

2003

Karl Meersman