



Taming a globalized industry – Forces and counter forces influencing maritime safety



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ABSTRACT

This paper analyzes changes in how regulatory authorities and actors within the industry navigate new challenges and new opportunities presented by globalization. Maritime transport has been one of the drivers of globalization itself, and ships in international passage have for centuries been operating outside the reach of national regulation. Still there are ongoing developments where further changes associated with globalization affect the safety in transport. For example, near coast shipping is increasingly conducted by ships sailing under flags of convenience. They operate along the coast, pivotal to the national economy, and represent a local risk, but they still sail largely beyond the reach of national regulators. This paper discusses challenges and dilemmas this represents for the regulators and the industry and how they work to improve safety in this situation. Based on a discussion of different forms of power three responses are analyzed: 1) The regulators' efforts to improve safety through international regulations, 2) how segments of the industry operate beyond a minimum compliance and how authorities influence this segmentation 3) how digitalization and international collaboration improve the regulators' knowledge and power to exercise their authority in a more directed manner. The paper support previous research contending that internationalization reduces the leverage for national regulators to uphold safety. Still, it also highlights some mechanisms and power-resources, seen in governance and practice, that still are not fully realized or formalized in policy.

Vignette, Tide Carrier – how breakdown reveals the complexity in maritime industry

The 22. of February 2017, the cargo vessel Tide Carrier faced severe engine problems outside the beaches of Jæren, in south west Norway. The ship had 20 crew members on board – mainly Indians and one Russian. There were strong winds and heavy seas, and the engine stopped about 400 m from shore. Despite obvious problems the crew did not ask for help in this situation. The Norwegian Coastal Authority (NCA) still mobilized, considering the uncontrolled ship an environmental hazard. After a challenging rescue operation, due to bad weather, the rescue team succeeded in towing the vessel into a safe preliminary port and eventually to a more permanent solution in a major port in the region.

Before this incident, the Norwegian Maritime Authority (NMA) had inspected the vessel in a Port State Control (PSC) revealing eight deviations, of which five were regarded as so critical that they could hamper the safe operation of the vessel. The vessel was given orders to repair these five nonconformities before they left the port. Most probably this was not done, according the NMA.

Tide Carrier was built in Ukraine in 1989 and is 263 m long. The former owner was Eide Marine, a Norwegian company based in New Orleans, USA. At that time, the vessel had the name "Hickory", but it was later renamed to "Eide Carrier." As Eide Marine went bankrupt the

ship was sold in 2015 to Julia Shipping Inc in Charlestown on Saint Kitts and Nevis and is registered on Comoros, a flag that is blacklisted by Paris MoU and described as a flag of convenience. Nabeel Ship Management in United Arab Emirates, was the managing organization of the vessel. The name was "Tide Carrier" when it almost stranded at the beach in February 2017, but it has later on been renamed to "Harrier."

The vessel is currently classified by the Norwegian environmental authorities as waste and not given permission to leave the country. The vessel had 1500 m³ of bilge water on board, an amount that must be handled in certified institutions on shore. In addition, the inspections gave indications that the vessel was on its way to an illegal scrapping in Asia.

When a phenomenon breaks down, its constituting, often taken for granted elements are revealed. [5:113] illustrates this with his description of how an earthquake may do "an effective job in revealing the constitutive elements in this sociotechnical world." Similarly, the conundrum of who are responsible for a stranded ship, reveals several weaknesses with the regulation of maritime safety in a globalized industry.

The case with the Tide Carrier can also pave the way for such an analytic and de-constructive maneuver. A ship is a highly mobile means of production and may thus be hard to grasp and control for the regulators and authorities. A shipping company is often transnational, and

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makes use of outsourcing, flagging out and complex ownership structures to avoid regulation. The ship itself spends much of its time outside the reach of regulators. Ensuring safety in maritime transport requires new ways of monitoring, accessing and influencing these zones beyond regulatory reach (Roe, 2013).

An important research task would be to uncover the various elements that constitute the Tide Carrier conundrum – similar to the way the earthquake illuminated the construction of land based infrastructure – but without that the vessel undergoes severe engine problems and experience a severe incident like the one from February 2017.

1. Introduction

The mega-trend of globalization, of markets, movement of goods and labor, and of regulation, leads to changes in the framework conditions for the actors with responsibility for safety in the transport sectors.¹ Based on an analysis of interview data from several projects on safety and safety culture in the Norwegian maritime industry, followed up by a targeted interview study on the effects and responses to globalization, this paper discusses some of the changes in how regulatory agencies and actors within the industry navigate new challenges and new opportunities presented by these changes. From a vantage point of the Norwegian maritime sector, it investigates practices by regulators and other national actors to use available power resources to influence maritime safety in a situation where there, arguably, are gaps in terms of policy and regulatory structures.

Shipping has a long history as an international business. International cargo transport has been, and still is, one of the drivers of globalization itself. Ships in international passage have for decades, even centuries, been operating outside the reach of national regulators and regulation. This has led to a poly-centric mode of governance, where rules are largely developed in international arenas, and where a variety of national, international, global and private actors as well as NGOs are parts of the regulatory apparatus. According to [32:423]; see also [33], however, this apparatus is outdated and in need of new approaches to absorb and accommodate the challenges presented by globalization. In terms of policy-making and structure, maritime regulation is lagging behind. This paper discusses some of the practices within the existing imperfect regulation, highlighting how different actors utilize their power resources to pursue improved safety in a globalized industry.

Though shipping has been global for a long time, there are still relevant developments in which further changes, associated with globalization of the industry, influence safety in transport. For example, near coast shipping between national ports in Norway is increasingly conducted by ships sailing under flags of convenience, with crews from low cost countries hired by third-party manning agencies. They operate along the coast, serve the national economy, and represent a local risk, but they still sail largely beyond the reach of national regulators. All in all, "this change within the industry may be seen as a consequence of an adaptation to a more [easy]² access to cheaper work force, and the regulations of the industry." [9]. Caught in a dilemma between economic interests, ambitions to maintain a viable maritime industry on one hand and the task of improving safety, the national regulators are seemingly paralyzed [39]. Their power to influence the industry is limited. How trends related to globalization affect near coast shipping, and how authorities and others are able to work with the safety levels in this context, is also the case around which our argument will pivot.

In this paper some of the challenges and dilemmas globalization represents for the regulators and the industry are discussed. Some of the

means by which actors in the maritime sector employ available power resources in their work to improve safety are discussed: 1) The regulator's efforts and strategies to effectuate safety improvements through international regulatory bodies and thorough international collaboration. 2) The development of segments of the industry that operate above compliance to international rules, why they come about and how authorities indirectly influence them. 3) Also some examples are given on how digitalization and international collaboration improves the regulator's knowledge, and hence power to exercise their supervisory authority in a more directed manner. In conclusion, the paper supports the argument forwarded in previous research that internationalization reduces the leverage and power available for national regulators to uphold and improve safety. Still, it is argued, there are counter forces: international collaboration and technological developments also provide some new mechanisms and power-resources that are still not fully realized, and national actors can influence the safety levels of some sectors of maritime transport through indirect means.

2. A global industry, a linchpin of globalization

While international trade on land had important impacts on early societies, such as the caravans carrying oriental goods to mediaeval Europe, and later on, railways and roads in modern societies, shipping has been a pivotal element in international trade for recent centuries and still is the one of the lifelines of globalization today. While air transport and the internet has brought the world together in new ways, the global distribution of labor in traditional industries is enabled by an ever more effective maritime industry. The bulk of the trade of raw materials, consumer goods, food, oil is based on maritime transport.

Ships in international trade move between countries, outside the boundaries of national states. They cross international waters, and can move between jurisdictions. While a factory, a farm or an oil field or, to take another transport system, a railway is fixed to one location and jurisdiction and thus cannot easily escape national regulation, ships are mobile and highly independent. The ship owner doesn't really need any specific country to make money. A ship is a perfectly mobile means of production. It is also, in contrast to for example airplanes that are also globally mobile, able to sustain itself in international waters for extended periods of time, and generally not dependent on specific infrastructures or support systems. Given this mobility the ship owner can choose which regulating regime the vessel belongs to. As a consequence of the global nature of shipping, regulation of shipping has largely based on international agreements. It is an international trade regulated primarily by international agreements, and has been so for more than a century. (See for example [15]; Roe, 2013) This has implications for the ways national regulators can influence safety in their own waters.

The prime responsible regulator for each ship is the Flag State, the state in which the ship is registered. This state is responsible for inspecting and certifying that the ship is compliant to the minimum requirements set by international bodies such as the International Maritime Organization (IMO) and the International Labor Organization (ILO). As the Flag States operate differently in their regulatory practice and their fees vary, several shipping companies have moved their ships to flags with laxer regulatory regimes, to more "convenient" flags, so called Flags of Convenience (FOCs). "Having taken the decision to flag out, companies continue to shift between registers to minimize costs and maximize profits" [37: 757]. Flagging out thus gives the owners the ability to choose among regulatory regimes for one that is most suitable for their business model.

The first examples of ships flagging out to avoid burdensome regulators were seen just after World War 1. It is common to state that Flags of convenience (FOCs) has its origin in the 1920s when, "American shipping companies began to register ships in Panama in order to avoid what were seen as burdensome crewing regulations in pertaining to US flagged vessels." [24,31: 125]; see also, [16] for a discussion of these concepts). Also, during the prohibition era ship owners started

¹ See Le Coze [26] for a recent discussion of globalization and safety, including a survey of some of the extensive literature on globalization.

² Spelling error in original.

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