

19 August 2025

Federal Maritime Commission
800 North Capitol Street, N.W.
Washington, D.C. 20573
United States

REQUEST FOR COMMENTS CONCERNING ORDER OF INVESTIGATION INTO SO CALLED 'FLAGS OF CONVENIENCE' AND UNFAVORABLE CONDITIONS CREATED BY CERTAIN FLAGGING PRACTICES - DOCKET ID: FMC-2025-0009

The International Chamber of Shipping (ICS), representing over 80% of the world's merchant fleet through its membership of national shipowner associations - including the Chamber of Shipping of America - submits its response (attached) to the Federal Maritime Commission's (FMC) inquiry into the use of so-called "Flags of Convenience" (FOCs) and their potential to create unfavorable conditions for U.S. flag ships or U.S. maritime trade.

Executive Summary

Below is a summary of the key points in the full submission from ICS – see page 3.

International shipping operates within a well-established legal and regulatory framework which governs and ensures the safety and security of ships, their environmental performance, seafarer training and employment standards.

1. The Legal Framework for the Regulation of International Shipping

Registration of ships with a State: The safe operation of the global shipping industry is underpinned by the system of registration of each ship with a state (the flag State). Under international law, the flag State is responsible for ensuring that ships flying its flag comply with international laws and standards on safety, environmental protection and labour standards (Article 94, UNCLOS). Each State retains the right to determine the conditions for granting nationality and the entitlement to fly its flag (Article 91, UNCLOS). The requirement of a "genuine link" between the State and the ship exists to ensure the effective implementation of the flag State's obligations.

Open Registers: While some countries only permit registration of ships where the ships have a connection to the country (such as through ownership), many other countries allow foreign owned ships to be registered and fly its flag through an "open registry".

Performance of Open Registers: As reflected in the ICS Flag State Performance Table, the six largest open registries (Liberia, Panama, Marshall Islands, Singapore, Malta and Bahamas), which jointly account for approximately 60% of the global fleet, consistently demonstrate high levels of compliance with international safety, environmental and labour standards and near-universal ratification and implementation of IMO and ILO conventions.

NB: The term “FOC” to describe legitimate open registers is pejorative: it is a term that is not recognised by the United Nations, IMO or ILO. Instead, ICS uses the internationally accepted term “open register” to describe flag States that allow registration of ships beneficially owned in other jurisdictions.

2. The Regulatory Framework for International Shipping

International shipping operates within a well-established, uniform framework of global rules agreed at, and overseen by, IMO and ILO. These include (inter alia) the IMO SOLAS, MARPOL, STCW conventions and the ILO Maritime Labour Convention (MLC), that together govern safety, environmental protection, training and working conditions.

Flag State Oversight and Port State Control (PSC) Mechanisms: Global regulatory oversight is ensured through the combination of the mandatory flag State responsibilities under UNCLOS and reinforcement and policing by robust PSC regimes. The U.S. Coast Guard’s Qualship21 program and targeting matrix provide objective and effective tools for identifying high and low-performing flags. Many open registers feature prominently on both Qualship21 and the “white lists” of the Paris and Tokyo MoUs.

Labour Standards and Wages: Contrary to claims that seafarers on open register ships are underpaid, these ships are often subject to collective bargaining agreements with higher-than-minimum wage standards and better conditions than “national” flags in many developing countries. The ILO MLC is a central enforcement tool, with strong compliance across major open registers.

Fraudulent Registration and the Shadow Fleet: ICS recognizes the serious concerns highlighted by the FMC about fraudulent ship registrations and “dark” fleets. ICS is also concerned with the compliance and oversight measures from new, emerging registries that are suspected to be linked with or supporting dark fleets. ICS supports ongoing IMO Legal Committee work to combat these threats and urges the U.S. to actively participate in this work to ensure effective measures are agreed at an international level. ICS also clarifies misconceptions around technologies such as AIS and that non-compliant ships can only be addressed through strong enforcement measures and not through registry models.

In conclusion, ICS strongly cautions against reliance on subjective or politically motivated criteria (such as those used by ITF) in assessing flag State performance. The FMC is encouraged to base its findings on objective and internationally recognized indicators such as IMO/ILO compliance, PSC performance and robust audit data. ICS reaffirms its commitment to working with the U.S. and the international community to uphold high global standards for safety, security, environmental protection and seafarer welfare.

Yours sincerely,



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Secretary General, ICS

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Full Submission from ICS in Response to Request for Comments

Introduction

1 The International Chamber of Shipping (ICS) welcomes the opportunity to submit comments to the Federal Maritime Commission (FMC) inquiry into so called ‘flags of convenience’ (“FOC”) and whether the practices of flag State Administrations may potentially create conditions unfavorable to U.S. flag ships or U.S. maritime trade. ICS hopes that the following information will assist the FMC with its investigation.

2 ICS is the principal global trade association for shipowners and operators, representing national shipowners’ associations from over 40 countries and more than 80% of the world merchant fleet. Our member national shipowner association in the United States is the Chamber of Shipping of America (CSA).

3 ICS member national associations comprise shipping companies from all sectors and trades which service U.S. international trade, carrying approximately 59% of total U.S. imports/exports by value, including vital components, raw materials and minerals needed for the manufacture of U.S. goods for domestic and U.S. export markets.

4 Established in 1921, ICS was the first non-governmental organization to be granted consultative status, in 1961, with the shipping industry’s primary global regulator, the UN International Maritime Organization (IMO). ICS also represents the industry at the tripartite International Labor Organization (ILO) where it is recognized as the official global representative of maritime employers.

5 ICS represents global shipping with all intergovernmental organizations that regulate the international shipping industry and is committed to the promotion of quality shipping and the highest standards of safety, environmental performance and employment conditions for seafarers. This includes promoting ship operators to use flag States (and ship registers) that fully meet their obligations under international maritime

law, Conventions and regulations, and which rigorously enforce compliance with global regulations by any ship entitled to fly their flag.

6 The commitment of ICS and its member national shipowners' associations to promote the use by shipowners and operators of high quality flag States is demonstrated in the annual publication of the [ICS Flag State Performance Table](#), which the FMC may find a useful compilation of objective and externally published data to help with its inquiry.

General comments

7 ICS appreciates the FMC's responsibility under the U.S. Shipping Act to monitor and evaluate conditions that may affect shipping in the foreign trade of the United States, and welcomes this opportunity to contribute factual comments about the comprehensive global framework which exists to regulate global shipping, and the practices of flag State Administrations which are responsible for enforcement of the key 'four pillars' of IMO/ILO regulation.

8 These four IMO/ILO pillars regulate: safety of life at sea (and security) as regulated by the IMO SOLAS Convention, including, inter alia, the International Safety Management (ISM) Code and the International Ship and Port Facilities (ISPS Code); environmental protection as regulated by the IMO MARPOL Convention (and Protocols); seafarer competence standards as regulated by the IMO STCW Convention; and seafarers' labor conditions as regulated by the ILO Maritime Labor Convention (ILO MLC).

9 This submission also provides information about the achievements of IMO and ILO over the past 20 years to further improve the safety of ships, and social conditions on board. This has been achieved through the combination of more effective oversight by all flag States over the ships registered with them and effective implementation by them of the regulations adopted at IMO and ILO, in conjunction with the implementation of an increasingly sophisticated and highly coordinated global network of Port State Control (PSC) inspections of foreign flagged ships visiting ports, in which the United States Coast Guard (USCG) plays a critical and active role in close co-operation with regional PSC authorities around the globe.

10 Information is also provided, inter alia, on recent work being undertaken at IMO to address the possibility of fraudulent ship registration or ship registries, and potentially unlawful operations by ships that are not compliant with international standards on ship safety and operation, as well as concerns about the so-called "dark" or "shadow" fleet that have recently arisen, particularly as a consequence of the G7+ sanctions against Russia.

The Use of the Term "Flag of Convenience"

11 As elaborated on below, neither the global shipping industry, those UN bodies which regulate shipping, nor the United Nations Convention on the Law of the Sea (UNCLOS) recognize use of the term "flag of convenience" or "FOC".

12 This highly pejorative term is often used to tarnish the image of the global shipping industry which - whilst never being complacent and always committed to continuous improvement - is justifiably proud of its high standards of safety and the level of service

which it provides both to the United States and to the global economy. This is achieved despite the considerable physical risk entailed in transporting, in 2024, around 12 billion tons of cargo by sea.

13 Consistent with international practice, ICS therefore uses the term “open register” or “international register” throughout this submission.

14 While there is not a universally agreed definition of “open register”, it is generally understood to mean a flag State which allows the registration of a ship that is beneficially owned in another country.

15 As a general point here (and which is expanded later in this submission), as evidenced by the ICS Flag State Performance Table, many of those flag States that operate “open registers” consistently demonstrate high standards of operation. This is measured by the high level of ratification by the largest “open registers” of the key IMO and ILO Conventions and, most importantly, effective implementation of these regulations as confirmed by PSC inspection data. Their high operating standards are further reflected in their use of reputable Recognized Organizations - such as the American Bureau of Shipping - a member of the International Association of Classification Societies (IACS) - to carry out delegated ship surveys and inspections, as well as their full participation, with a 100% attendance record, at all IMO Committee meetings.

16 ICS notes that, as part of its investigation, the FMC also intends to examine what it has described as “unfavorable flagging practices”, identifying some primary areas of concern. In response, ICS wishes to offer some general observations on these areas, as well as the broader issues outlined in the Federal Register Notice.

The legitimate and widespread use by the global shipping industry of “open registers”

17 ICS fully recognizes the need for responsible flagging practices so as to ensure full compliance by international shipping with global maritime regulations adopted by the Member States of IMO and ILO - UN agencies of which the United States is one of the more important and active Member States.

18 The use of flag States with “open registers” is a long-established and legitimate feature of international maritime trade. International maritime law - initially in Article 5 of the High Seas Convention, 1958, and subsequently replicated in Article 91 of UNCLOS - recognizes that each individual State may determine the conditions required for the grant of its nationality to ships, the registration of ships in its territory and the right for a ship to fly its flag and recognizes the freedom of shipowners to register vessels under the flag of any State. While some countries only permit ships to be registered where the ships have a connection to the country through, for example, ownership (“closed registries”), other countries allow foreign-owned or controlled ships to be registered and to fly the flag of the country through an “open registry”. Indeed, “open registers” are now widely adopted worldwide, with many countries operating an international “open register” alongside their more traditional “closed register”.

19. The use of the terms “closed register” and “open register” and an explanation of both is provided in this [IMO webpage](#), where it outlines its work on addressing the registration of Ships and fraudulent registration matters - also addressed later in this submission.

20 An “open register” can offer greater flexibility in ownership and management structures and plays a valuable role in supporting global maritime trade, efficiently meeting shipowners’ commercial needs (for example, allowing ships to be operated with multinational crews) whilst still fulfilling their flag State obligations effectively - as proven by the ICS Flag State Performance Table and PSC inspection data.

21 The largest “open registers” provide shipowners with a very high level of service, including ‘24/7’ availability in most time zones and a network of offices and ship surveyors around the world. Two of the most widely used and top performing “open registers”, Liberia and the Marshall Islands (countries with strong historical ties to the United States) are assisted with oversight and implementation activities by two U.S. corporations, the Liberian International Ship & Corporate Registry (LISR) and the International Registries Inc. (IRI), both based in the Washington, DC metropolitan area.

22 The primary determinant of a ship operator’s choice of flag State, however, is the quality and reputation of that flag State. If ships are registered with a substandard flag, they will be targeted with more frequent and intensive Port State Control (PSC) inspections. If a ship is detained during a PSC inspection, the shipowner will be faced with substantial commercial penalties due to the delay, as well as damage to its reputation. Moreover, even if the ship is not detained, any deficiencies recorded during PSC inspections are also publicly accessible and closely examined by shipowners’ customers before chartering a ship to carry its valuable cargoes. The PSC record of the flag State may also adversely impact the ship’s insurance premiums.

23 While factors such as registration costs may also play a role, in practice most flag States today, including those in the OECD countries and EU, offer frameworks comparable to those “open registers”. This is why, above all else, the reputation and safety record of a flag State (including its PSC record) are the main reasons why shipowners will elect to use a particular flag, together with the level of service. Indeed, large “open registers” such as Bahamas, Cyprus, Liberia, Malta and Singapore - with national shipowners’ associations that belong to ICS - are recognized throughout the maritime industry as being high performing flag States with a reputation for only accepting high quality tonnage.

24 The requirement in UNCLOS (Article 91) for a “genuine link” between the flag State and the ship is intended to secure more effective implementation of flag State duties and obligations and ensure that all flag States, regardless of their registry model, demonstrate a strong commitment to maintaining the highest standards of oversight and compliance as set out in Article 94 UNCLOS. These include, amongst others, specific obligations with respect to safety, environmental protection and performance and labor standards as elaborated in detail in various IMO and ILO Conventions.

25 Of particular relevance to the effective exercise of flag State oversight - whether for a “closed” registry or an “open” registry - has been the establishment by IMO (under the SOLAS Convention), which is in force in 168 states worldwide of the International Management Code for the Safe Operation of Ships and for Pollution Prevention (the ISM

Code). Under the ISM Code, flag States are required to issue shipping companies with what is, in effect, a license to operate, following comprehensive audits of the company's safety management systems both on shore and on board its ships. Equally important, since the 2001 terrorist attacks on the United States, there has been the global implementation of the International Ship and Port Facilities Security (ISPS) Code (also under SOLAS) which, inter alia, places comparable obligations on flag State Administrations to conduct audits ensuring that ships uphold the highest standards of security.

Use of the term “flags of convenience” or “FOC”

26 As mentioned above, the term “Flags of Convenience” or “FOC” is not used by United Nations regulatory agencies including IMO and ILO, or in the text of UNCLOS. The term used by those UN agencies which regulate global shipping (as well by the shipping industry) to describe a flag State that permits the registration of ships beneficially owned by entities outside its national territory is “open register” or “international register”. However, as already explained, the characteristics of many so-called “national” or “traditional” flags, especially in most OECD countries, are often very similar to “open registers”.

27 “FOC” is an outdated term which emerged in the early 20th century from an industrial relations campaign launched by the International Transport Workers’ Federation (ITF) in response to, at that time, the increased use of “open registers”, such as Liberia and Panama, by some shipowners to remain competitive in global shipping markets, especially following World War II.

28 Whilst ICS has good relations with ITF and co-operates closely with ITF on many issues and acts as its Social Partner at the tripartite ILO, ICS continues to question the legitimacy of ITF’s “FOC Campaign”, which it still pursues today.

29 The ITF’s “FOC Campaign” is primarily a means of ensuring that seafarers from developing countries - particularly those in non-officer roles - receive wages above the recommended ILO minimum. At the same time, it generates revenue from ship operators using registers unilaterally designated by ITF as “FOC”. To avoid the possibility of boycott action by ITF affiliated dockworker unions, these operators often agree to ITF - approved wage agreements, which may also require employers to make welfare contributions to the ITF and/or its national union affiliates. Ironically, wage rates for crew from developing countries on “open register” ships, designated by ITF as “FOC” and covered by ITF “FOC” agreements, are generally higher than those that are received by seafarers on “national” flag ships in developing countries. We return to this issue below.

30 The FMC’s stated intention to identify both “best practices” and “unfavorable practices” raises important questions regarding the benchmarks that will be used in such an assessment. ICS suggests that these benchmarks should be set by reference to measurable and objective criteria such as conformity by flag States with international obligations and the maintenance of high standards of oversight, safety and compliance for those ships for which they are responsible, such as those used by ICS for its Flag State Performance Table, and based solely on published IMO, ILO and PSC MoU data.

31 ICS would strongly caution against reliance on, or adoption of, highly subjective criteria that might be similar to that employed by the ITF, which defines a so-called “FOC” ship as one that flies the flag of any country other than the country of ownership, which is also the case with respect to many “national” flags which are not designated by ITF as “FOC”. There is a therefore risk that such a subjective approach may lack objectivity and be too simplistic.

32 Most of the 45 flag States unilaterally labelled by ITF as so-called “FOCs”, and the ships which ITF policies affect, are fully compliant with IMO/ILO Conventions on safety, security, environmental protection and (of particular relevance to ITF) maritime labour standards, as evidenced in Port State Control inspection records. For example, Barbados, Bahamas, Liberia, Malta and the Marshall Islands all appear on the 2025 Paris MoU White List which is based on PSC inspections during the previous three years but are nevertheless designated by ITF as “FOC”. Reputable EU flag States, such as Cyprus, France, Germany and Malta also appear on ITF’s current “FOC” [list](#).

33 ICS therefore has serious concerns about the Federal Notice’s reference to the ITF as a “standard-setting organization”, particularly in the context of its investigation into flag State performance, as this may lend undue weight to subjective criteria that do not reflect the broader regulatory performance or impressive track records of individual flag States.

High standards of performance demonstrated by the largest “open registers”

34 The rapid expansion of ‘open registers’ in the 1980s - driven by restrictions under many OECD flags on the employment of seafarers with a different country of residence to the flag State (restrictions that, with the notable exception of the United States, have since largely been removed) - gave rise to legitimate concerns about the quality of some of the new open registers which emerged or expanded during that period.

35 However, these historical concerns about flag State responsibility have since been successfully addressed due to concerted efforts by IMO and its Member States, with the support of the industry and ICS, including the adoption and implementation, inter alia, of the IMO Member State Audit Scheme, the IMO Instruments Implementation Code, as well as critical developments such as the ISM Code (as mentioned above) and the radical revision of the STCW Convention (in 1995) which placed strict obligations on flag States to verify the competence of crews serving on their ships if they are trained and certificated in another country.

36 Also, of paramount importance, has been the ever-increasing sophistication of regional Port State Control (PSC) regimes (such as the Paris and Tokyo MoUs on Port State Control) and their carefully targeted ship inspection and data sharing programs, undertaken also in co-operation with USCG, which is responsible for PSC of foreign-flag ships trading with U.S ports, which we elaborate on further below.

37 ICS asserts that it is totally inappropriate to conflate “open registry” status with substandard flag State performance, safety concerns or unlawful and/or illicit activity, especially as many of the world's largest and most respected flag States are “open” in nature whilst still having very high levels of demonstrable performance with respect to safety, employment standards and pollution prevention. Rather than apply misguided and

arbitrary distinctions between different models of ship registration as a measure of flag State performance, the performance and oversight of ships by individual flag States should be assessed more accurately and correctly on a case-by-case basis, regardless of whether they are “open” or so-called “closed”/“national” ship registries.

38 In order of size, Liberia, Panama, Marshall Islands, Singapore, Malta and Bahamas, which are commonly described as “open registers”, comprise six of the world’s eight largest flag States and are jointly responsible for the safe and efficient administration of 60% of the world merchant fleet (the other two largest ship registries being Hong Kong, China and the Peoples Republic of China, which are jointly responsible for about 14%).

39 It should also be noted that the six largest “open registries” have ratified all principal maritime Conventions currently in force, adopted by the IMO and ILO, covering safety, pollution prevention, training standards, and employment conditions. Their effective implementation and enforcement of these Conventions is clearly demonstrated by their strong Port State Control (PSC) records and performance in the ICS Flag State Performance Table.

40 One thing to recognize is that, while “open registers” are commonly associated with countries such as Liberia, Marshall Islands, Bahamas and Panama, their use is not limited to these States. For example, Denmark, France, Germany and Norway operate second “international” ship registers which function in a similar manner by offering an open framework while maintaining national regulatory oversight. This illustrates that “open” or “international” registries are employed by a broad range of other IMO Member States.

The importance of Port State Control inspections

41 Port State Control (PSC) is a critical adjunct to flag State responsibility and plays a vital role in assessing a flag State’s performance in ensuring compliance with international regulations and standards by ships flying its flag. U.S. Federal authorities, primarily through USCG, are fully empowered to inspect any foreign-flagged ship calling at a U.S. port to verify and enforce compliance with applicable IMO and ILO standards. To support this mandate, the USCG employs its PSC Targeting Matrix - an effective and strategic screening tool designed to promote a systematic and risk-based approach for evaluating compliance by foreign-flagged vessels entering U.S. ports.

42 The USCG Matrix considers a range of risk indicators to assess a vessel’s likelihood of noncompliance with U.S. regulations and international Conventions ratified, implemented and enforced by the U.S. These cover, inter alia, maritime safety and security, environmental protection and seafarers’ working conditions. These USCG indicators include a vessel’s inspection and detention history, its flag State performance, classification society status, ship type, age and past recorded deficiencies. By prioritizing higher-risk vessels for inspection, the USCG system helps USCG to allocate resources efficiently, minimize the presence of substandard ships operating in U.S. ports and uphold international obligations under treaties such as SOLAS, MARPOL, STCW (and the ISM and ISPS Codes).

43 Complementing this system is the USCG's "Qualship21 Program" - a respected quality designation awarded to ships and flag States that demonstrate exceptional PSC compliance records when trading to U.S. ports.

44 To qualify for Qualship21, a ship must have had no detentions in any U.S. port over a rolling three-year period and must be registered under a flag State with a consistently low global detention ratio. Most leading "open registries" including Bahamas, Cyprus, Liberia, Marshall Islands, Malta, Panama and Singapore, regularly appear on the annually updated Qualship21 list. The Marshall Islands has maintained this prestigious status for 21 consecutive years.

45 ICS notes that the USCG methodology for evaluating PSC detention ratios (USCG target list and Qualship21) uses the formula of detentions/distinct vessel arrivals, rather than detentions/inspections as used by the Paris and Tokyo MoUs.

46 "Open registers" such as Bahamas, Cyprus, Liberia, Marshall Island, Malta, Panama and Singapore are also consistently listed on the "white lists" of quality flag States published by the two principal regional PSC authorities (the Paris and Tokyo MoUs), due to the strong compliance by their ships with IMO and ILO Conventions. These PSC "white lists" are compiled based on tens of thousands of coordinated ship inspections that are collectively undertaken each year by national PSC authorities throughout these PSC regions, to enforce compliance with IMO and ILO maritime Conventions governing, inter alia, maritime safety, pollution prevention and seafarers' employment standards.

47 Below is a list from the most recent Paris MoU report (left) and Tokyo MoU (right).

RANK	FLAG	INSPECTIONS 2021-2023	DETENTIONS 2021-2023
WHITE LIST			
1	Denmark	1,250	12
2	Netherlands	2,648	35
3	Norway	1,758	25
4	Singapore	1,735	25
5	Italy	843	10
6	Finland	362	3
7	Japan	207	1
8	United Kingdom	705	10
9	Ireland	119	0
10	Bahamas	1,802	39
11	France	273	3
12	Cyprus	2,164	50
13	Greece	618	11
14	Hong Kong (China)	1,596	39
15	Sweden	325	5
16	China	241	3
17	Cayman Islands (UK)	322	5
18	Bermuda (UK)	151	1
19	Luxembourg	238	3
20	Malta	3,862	112
21	Germany	516	11
22	Portugal	1,775	52
23	Marshall Islands	5,274	176
24	Belgium	175	2
25	United States	135	1
26	Gibraltar (UK)	349	7
27	Türkiye	601	15
28	Estonia	89	0
29	Faroe Islands	217	4
30	Liberia	5,496	214

Flag	Inspections 2021-2023	Detentions 2021-2023
Indonesia	654	28
France	88	1
Türkiye	61	0
Tuvalu	267	8
Germany	144	2
United Kingdom (UK)	326	8
Saudi Arabia	81	0
Philippines	385	9
Panama	21,012	792
Malaysia	532	13
Thailand	627	16
Greece	540	13
Cayman Islands (UK)	178	2
Viet Nam	2,288	66
Liberia	9,621	309
Taiwan, China	285	4
Cyprus	1,112	25
Portugal	781	15
Malta	2,274	52
Isle of Man (UK)	380	5
Marshall Islands	8,005	196
Norway	681	11
Denmark	511	7
Bahamas	1,635	27
Korea, Republic of	2,350	37
Japan	521	4
Singapore	5,486	62
Hong Kong, China	7,580	83
China	2,289	10

Flag State Responsibilities and International Oversight

48 IMO and the ILO have adopted a strategic approach to ensuring that flag States adequately assume jurisdiction and control over shipowners and ships that are flying their flags and that they meet their obligations in accordance with Article 94 of UNCLOS. All flag States, whether “open” or “national”, must ensure that ships flying their flag comply with key international Conventions, including:

- SOLAS (Safety of Life at Sea)
- MARPOL (Marine Pollution)
- STCW (Standards of Training, Certification and Watchkeeping)
- ILO MLC (Maritime Labour Convention)

49 Although it is for IMO Member States to effectively implement IMO and ILO Conventions and regulation, the effective implementation of these standards is now comprehensively audited by IMO under its mandatory Member State Audit Scheme. The world's largest “open registers” have all undergone these IMO audits and, as mentioned above, have strong PSC records, often exceeding those of some traditional “national” flags.

Labour Standards and the ILO Maritime Labour Convention (MLC)

50 A common misconception during discussions around “open registries” relates to labor conditions for seafarers. ICS strongly supports the ILO Maritime Labour Convention (ILO MLC), which, as the official ILO Social Partner representing maritime employers, ICS negotiated with unions and governments in 2006. The MLC has established a universal set of global employment standards for seafarers and working and living conditions on board ships. Although not yet ratified by the United States, the ILO MLC is otherwise enforced globally through both flag State and PSC inspections.

51 Whilst the U.S. has not ratified the ILO MLC, the USCG incorporates MLC standards into its PSC regime by inspecting foreign-flagged vessels for compliance with MLC related provisions under existing U.S. labor and maritime laws, as well as through applicable international IMO and ILO Conventions to which the U.S. is a State Party. This pragmatic approach by USCG helps ensure that seafarers serving on foreign vessels calling at U.S. ports are afforded protections which are broadly consistent with ILO MLC principles. As mentioned above, the largest “open registries” have all ratified and implemented the ILO MLC.

52 The ILO MLC includes protections for:

- Employment contracts and repatriation rights;
- Maximum permitted hours of work;
- On board accommodation and food standards;
- Health and safety procedures; and
- Access to shore-based welfare and complaint mechanisms.

53 As mentioned above, many “open register” ships are covered by collective bargaining agreements negotiated with national maritime unions and endorsed by ITF. This is reflected in both the Tokyo and Paris MoU 2024 reports, following a Co-ordinated

Concentrated Inspection Campaign (CIC) focusing on crew wages and Seafarer Employment Agreements, in alignment with the provisions of the MLC. The results of these PSC inspections, available on the respective PSC MoU websites, indicate a notably high level of compliance by ships using “open registers”. Detentions attributable to MLC related deficiencies were exceptionally low, recorded at approximately 0.3% in Asia and 0.78% in Europe. An extract from the 2024 Paris MoU Annual Report is reproduced below.

	INSPECTIONS WITH* A CIC QUESTIONNAIRE	INSPECTIONS WITHOUT A CIC QUESTIONNAIRE
TOTAL	3863	99
DETENTIONS	165	-
DETENTIONS WITH <i>CIC-TOPIC</i> RELATED DEFICIENCIES	30	-

The detention rate in this CIC was 0,78% (30 detentions related to 3863 inspections).

Wage Accusations

54 A common misconception is that seafarers working on ships flagged with “open registers” are paid less than those on “national” flag ships. This is demonstrably inaccurate. In fact, many seafarers across a range of nationalities enjoy higher wages and better employment conditions on vessels using “open registries”. “National” or “traditional” registries in developing countries, such as India or Bangladesh, often adopt wage scales aligned with the wages of their domestic shore-based workforce. For non-officer roles, including ratings, ‘national’ flag States in developing countries frequently default to the ILO minimum wage - as these positions are rarely filled by foreign nationals. The ITF does not challenge this practice when it concerns “national flags”, which it chooses not to label as “FOC”.

55 In contrast, open registry operators often go beyond these minimums. Open registry vessels frequently sign ITF “Special Agreements,” which legally bind shipowners to Collective Bargaining Agreements (CBAs) that guarantee significantly higher wage levels (including overtime rates) and stricter conditions than required by the ILO MLC or national flag agreements. Furthermore, many shipowners using “open registers” are members of the International Maritime Employers’ Council, which negotiates favourable terms for the seafarers they employ with ITF, also exceeding both “national” flag and ILO MLC standards or recommendations.

“MV Dali”: clarifying misconceptions

56 ICS notes that the Federal Register Notice cites the “MV Dali” incident as an example of alleged weaknesses in “open” registries - singling out the Marshall Islands (RMI) flag in particular. In fact, while “MV Dali” was previously registered with the Marshall Islands, the vessel was registered and flagged in Singapore at the time of the incident in Baltimore in March 2024. Moreover, as indicated above, both Marshall Islands and Singapore have demonstrated very impressive levels of performance as flag States.

57 ICS acknowledges that such incidents require a complete and thorough investigation, including consideration of all factors which could have contributed to the incident such as those included in the USCG PSC Targeting Matrix. However, the

reasons behind any casualty or incident are often complex and multifaceted, and ICS emphasizes that the mere fact that a ship is registered with an “open” flag State does not in itself pose a danger or elevate the risk of an incident. What is key is the overall system of oversight, including the performance of individual registries (whether “open” or “national”) and how this oversight impacts the quality and safe operation of the ship.

Fraudulent Registration and Fraudulent Registries

58 ICS acknowledges that fraudulent registration of ships and fraudulent operation of registries as an important issue of concern, recognizing that fraudulently registered ships are unlikely to be in full compliance with safety and environmental protection standards and thus endanger the ship, the crew and the marine environment.

59 Fraudulent registration and fraudulent registries remain a priority agenda item for the IMO Legal Committee with the development in 2019, following a working group chaired by the U.S, of “Recommended Best Practices to Assist in Combating Fraudulent Registration and Fraudulent Registration of Ships” (LEG.1/Circ. 10), which explains what fraudulent registration is, as well as providing guidance governments to combat this.

60 ICS also wishes to highlight the following new work to be undertaken by the IMO Legal Committee:

- A new work output agreed by the Legal Committee (LEG 112) in March 2025 is to develop guidelines or best practices related to the registration of ships, which follows on from earlier work by the IMO Legal Committee to consider the elements of due diligence to be exercised in the process of ship registration when involving vessels in the IMO unique company and registered owner identification scheme; and
- A new work output also approved at LEG 112 to conduct a regulatory scoping exercise of IMO Conventions and other instruments available for IMO Member States to further develop actions to prevent unlawful operations, including substandard ships. This work will involve an extensive analysis of IMO Conventions and instruments (including LEG.1/Circ. 10 referred to above) in terms of flag and coastal State responsibilities and, given its wide-ranging and holistic nature, will also address potential issues of safety.

61 However, while flag States play a critical role in combatting fraudulent activity, the evolving tactics of fraudsters and the complexity of the issue is such that it is imperative that all States remain vigilant. In this context, robust PSC measures are essential to strengthening the global response. As IMO is primarily a standard-setting body, the successful implementation and enforcement of its instruments depends on the active participation of all its Member States. ICS, therefore, hopes that the U.S. will be an active participant in the work outputs agreed by the IMO Legal Committee for addressing fraudulent registration which requires coordinated action from all stakeholders (flag and port States and shipowners) to develop and implement an effective global solution.

The so-called “dark” or “shadow fleet”

62 Whilst it is noted that the FMC has raised a concern that the lack of standardized definition for terms like “shadow/dark” fleet makes problems more difficult to identify and successfully regulate on a global scale, IMO Resolution A. 1192(33) does contain the following definition of “dark” or “shadow” fleet for the purpose of that Resolution:

“Ships that are engaged in illegal operations for the purposes of circumventing sanctions, evading compliance with safety or environmental regulations, avoiding insurance costs or engaging in other illegal activities” - followed by examples of such operations.

63 ICS appreciates that circumvention of sanctions is a key U.S. concern, and it is important to recognize the difference between sanctions imposed at UN level and those measures imposed by individual States or at regional level such as those imposed on Russia by the United States, EU or the G7+. Only UN sanctions have global application and, therefore, it is possible for a ship registered in a jurisdiction not subject to regional sanctions to transport cargo targeted by such sanctions, provided that any such ship continues to fully adhere to international standards on safety and protection of the environment. This includes ensuring that the ship has insurance sufficient to meet its liabilities under the IMO compensation and liability regimes and/or any other relevant national law regimes requiring compulsory insurance.

64 Mischaracterizing all such vessels as engaging in “illegal” behaviour risks undermining the clarity of maritime law and overextends the extraterritorial reach of unilateral or regional sanctions. Where violations occur, they should be addressed through targeted enforcement, such as PSC, not by broadly condemning “open registry” structures or the flag State system as permitted under UNCLOS.

65 The “dark” or “shadow” fleet has also, in some cases, mischaracterized how ship identification and tracking technologies work. We wish to address these claims directly:

AIS Deactivation

The Automatic Identification System (AIS) is not a safety-critical system but rather an *aid to navigation* and a tool for vessel tracking. Contrary to some claims, it is not illegal to deactivate AIS under certain circumstances. IMO guidelines allow a ship’s Master to disable AIS if he or she believes its use may compromise the safety or security of the ship - for example, when transiting waters associated with piracy.

AIS Spoofing vs. Jamming

There is sometimes confusion between AIS jamming and AIS spoofing. Jamming refers to signal interruption, whereas spoofing refers to broadcasting false positions (e.g. appearing in a different location). Incidents of spoofing are relatively rare and tend to involve specific regions or trades.

Conclusion

66 ICS appreciates the FMC’s desire to ensure a fair and competitive environment for U.S. ship operators using the U.S. flag and for the conduct of U.S. maritime trade. However, ICS cautions the FMC against making generalized assumptions about the quality of flag States which are “open registers”. Global shipping is governed by a

comprehensive, mature and integrated system of international maritime law, regulations and oversight, in which both “national” and “open register” flag States play vital and legitimate roles. Arbitrary or subjective distinctions between different types of flag State Administrations when assessing their performance is therefore counterproductive and unhelpful.

67 The competitive landscape is not solely defined by flag State choice. The widespread use of “open registers” reflects a range of legitimate commercial and regulatory considerations and, above all else, the high reputation of a flag State based on its Port State Control record as well as the level of service provided. Indeed, the principal reason why ship operators elect to use “open registers” is because of the high standards of performance associated with them, as demonstrated by the ICS Flag State Performance Table.

68 Most importantly, the safe, secure and efficient operation of international shipping to serve the global economy, including the United States, relies on a level playing field provided by uniform and universally enforced global rules, rather than unilateral determinations of a flag State’s legitimacy.

69 ICS fully shares the FMC’s interest in promoting high standards across all segments of the global fleet. Where legitimate concerns arise about substandard ships, the international maritime community, including IMO and its Member States, has a number of overlapping mechanisms in place to respond. These include:

- The IMO Member State Audit Scheme, including audits of flag State Administrations with respect to their implementation of IMO instruments, and IMO’s technical co-operation programs;
- Flag State inspections of ships, mostly delegated to Recognized Organizations which are classification societies that are members of IACS;
- PSC targeting of high-risk ships and any ship using high-risk flag States, and use of objective USCG and PSC MoU data about the performance of flag States; and
- The [ICS Shipping Industry Flag State Performance Table](#), which contributes to transparency of about flag States’ effectiveness to ensure compliance by ships with international maritime regulations.

70 In the latest version of this ICS Table, published in February 2025, “open registers” such as Bahamas, Cyprus, Liberia, Marshall Islands, Malta, Panama and Singapore are amongst the highest performing flag States, outperforming a number of so called “national” ship registers including those in several OECD countries.

71 ICS fully supports all efforts to discourage the use of any flag State Administration that fails to meet its international obligations. However, it is important to distinguish between outliers with which only a small number of ships may be registered and the vast majority flag States, including the large “open registers” responsible for the majority of the global fleet, which demonstrate a very high level of performance, whilst some “national” flags, unfortunately, continue to show a lower level of performance.

72 ICS does share the FMC's concerns about the potential for fraudulent ship registration and fraudulent registries and which are considered to be not in compliance with their obligations as flag States to ensure safe shipping. This issue is under active consideration at the IMO as described above and ICS hopes that the United States will actively participate in the work outputs agreed at the IMO Legal Committee in March 2025 to tackle this important issue.

73 ICS encourages continued U.S. leadership in supporting robust international enforcement of IMO and ILO standards, along with constructive engagement with global partners, including ICS, to further raise standards for all seafarers and ships.

74 We stand ready to provide further information and clarifications to the FMC to assist with its investigation.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Thomas Kazakos', written over a horizontal line.

*Thomas Kazakos
Secretary General, ICS*