

## THE EFFECT OF FLAGS OF CONVENIENCE ON NATIONALITY OF SHIPS\*

### Abstract

*The nationality of ships is a fundamental concept in international maritime law, forming the legal basis for the exercise of jurisdiction, regulation and protection by a flag state. Ordinarily, the nationality of a vessel signifies a connection between the ship and state, a genuine link that ensured effective control and accountability. However, the global spread of flags of convenience, whereby shipowners register vessels in states offering lenient fiscal and regulatory conditions without a real connection, has undermined this principle of ship nationality. This paper focuses on the problems that the rise of flag of convenience has eroded the meaning of ship nationality and weakened the flag state responsibilities, creating enforcement vacuums, jurisdictional ambiguities and systemic non-compliance with international maritime obligations. This paper adopts a doctrinal methodology. It critically examines the legal instruments underpinning ship nationality, principally the United Nations Convention on the Law of the Sea 1982, the Convention on the High Seas 1958 and the Maritime Labour Convention 2006 alongside International Maritime Organization and International Labour Organization materials. The findings of this paper reveal that Flags of Convenience have transformed ship nationality into a commercial instrument, enabling shipowners to engage in regulatory arbitrage while evading effective jurisdictional oversight. This has diluted the genuine link principle, transferred enforcement burdens from flag states to port states and weakened compliance with safety, labour and environmental standards. This paper concludes with recommendations that will restore the integrity of ship nationality by a structural reform and reinforcing the genuine link requirement through mandatory registration standards, enhancing global cooperation on port state control, mandating transparency in ship ownership and integrating environmental and social responsibility into maritime financing. By re-establishing accountability and sovereignty in flag state practice, international law can reclaim the functional and normative coherence of ship nationality.*

**Keywords:** Flags of convenience, Flag State Responsibility, Genuine Link Principle, Maritime Jurisdiction, Ship Nationality

### 1. Introduction

The concept of ship nationality constitutes one of the cornerstones of international maritime law. Through nationality, a vessel acquires a legal personality and is afforded the protection and jurisdiction of the state whose flag it flies.<sup>1</sup> This connection often referred to as the genuine link ensures that the flag state exercises effective control over its vessels, maintaining standards of safety, labour and environmental protection.<sup>2</sup> A flag of convenience allows shipowners to register their vessels in states with which they have minimal or no substantive connection, primarily to take advantage of lenient regulations, lower taxation and reduced operational costs.<sup>3</sup> Registries such as those of Panama, Liberia and the Marshall Islands dominate global shipping tonnage, despite their limited domestic fleets.<sup>4</sup> This practice, while legally permissible under international law, raises questions about the erosion of state

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<sup>1</sup> United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3 (UNCLOS) art 91.

<sup>2</sup> UNCLOS art 94; *M/V Saiga (No 2)* (Saint Vincent and the Grenadines v Guinea) (Merits) [1999] ITLOS Rep 10, [83]-[84].

<sup>3</sup> R Alderton and M Winchester, 'Regulation, Enforcement and the International Shipping Industry' (2002) 26 *Marine Policy* 267, 268-269.

<sup>4</sup> UNCTAD, *Review of Maritime Transport 2023* (United Nations 2023) 34-36.

control, the accountability of shipowners and the enforcement of international maritime norms.<sup>5</sup> This paper examines the implications of Flags of Convenience for the nationality of ships, focusing on how they distort the traditional relationship between a ship and its flag state. It first traces the historical evolution of the concept of nationality in maritime law, before analysing the legal, economic and regulatory frameworks that sustain the Flag of Convenience system.

This paper looks at the consequences of Flag of Convenience for jurisdiction, state responsibility, and seafarers' rights, drawing upon international conventions and judicial decisions.<sup>6</sup> Finally, this paper proposes reforms aimed at reasserting the integrity of ship nationality and strengthening compliance within the international maritime regime.<sup>7</sup>

## **2. Statement of the Problem**

The integrity of ship nationality central to the allocation of jurisdiction, regulation and protection under international maritime law has been increasingly undermined by the proliferation of flags of convenience. Although core international instruments such as the United Nations Convention on the Law of the Sea, the Convention on the High Seas, and the Maritime Labour Convention require a genuine link between a vessel and its flag State, as well as effective jurisdiction and control, the practice of registering ships in States with minimal regulatory oversight enables shipowners to evade these obligations.<sup>8</sup> This regulatory arbitrage has weakened flag State responsibility, fostered enforcement gaps, encouraged jurisdictional evasion, and contributed to widespread non-compliance with safety, labour and environmental standards.<sup>9</sup> The problem, therefore, is that the existing international legal framework does not sufficiently regulate or constrain the use of flag of convenience, resulting in diminished accountability and significant challenges to the functional coherence of the international maritime governance system.<sup>10</sup>

## **3. Origin of Ship Nationality**

The notion of ship nationality emerged in the early development of international law, primarily as a mechanism to allocate jurisdiction and determine the applicable legal order at sea.<sup>11</sup> The principle that each vessel should possess a nationality was codified in early maritime codes and later reaffirmed in the Convention on the High Seas,<sup>12</sup> which provides that, 'ships have the nationality of the State whose flag they are entitled to fly'.<sup>13</sup> This principle ensures that ships are subject to the exclusive jurisdiction of their flag state while on the high seas, subject to limited exceptions such as piracy, slavery and unauthorized broadcasting.<sup>14</sup> Ship nationality thus functions as a legal link between a vessel and a

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<sup>5</sup> R Barnes, 'Flag States and their Responsibilities' in R Warner and S Kaye (eds), *Routledge Handbook of Maritime Regulation and Enforcement* (Routledge 2016) 83-85.

<sup>6</sup> Maritime Labour Convention (adopted 23 February 2006, entered into force 20 August 2013) 2952 UNTS 5; *Responsibilities and Obligations of States Sponsoring Persons and Entities with Respect to Activities in the Area (Advisory Opinion)* [2011] ITLOS Rep 10, [122]-[124].

<sup>7</sup> OECD, *Erosion of Flag State Control in Commercial Shipping: Policy Options for Reform* (OECD 2021) 15-22.

<sup>8</sup> United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3 (UNCLOS) arts 91-94; Convention on the High Seas (adopted 29 April 1958, entered into force 30 September 1962) 450 UNTS 82 arts 5-6; Maritime Labour Convention 2006 (adopted 23 February 2006, entered into force 20 August 2013).

<sup>9</sup> ML McConnell, 'Flags of Convenience: A Critical Analysis' (2004) 35 *JMLC* 149, 152-158; A Chircop, 'Ships' Nationality and Flags of Convenience: Reassessing the Genuine Link' (2017) 48 *JMLC* 1, 3-6.

<sup>10</sup> RR Churchill and AV Lowe, *The Law of the Sea* (3rd edn, Manchester UP 1999) 268-270; IMO, 'Flag State Implementation' (IMO, 2020) <<https://www.imo.org>> accessed 29 October 2025.

<sup>11</sup> H Ringbom, *Regulating International Shipping: From Fragmentation to Integration* (Oxford University Press 2020) 33-35.

<sup>12</sup> Convention on the High Seas 1958.

<sup>13</sup> Convention on the High Seas (adopted 29 April 1958, entered into force 30 September 1962) 450 UNTS 11, art 5(1); United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3.

<sup>14</sup> *ibid* art 6; UNCLOS art 92; see also D Guilfoyle, *Shipping Interdiction and the Law of the Sea* (Cambridge University Press 2009) 32-37.

sovereign state, conferring both rights and obligations.<sup>15</sup> It also serves as the basis for diplomatic protection, regulatory oversight and the exercise of criminal and civil jurisdictions.<sup>16</sup> The traditional requirement was that, a genuine link must exist between the ship and its flag state, meaning that the flag state must have a real connection and the capacity to exercise effective control.<sup>17</sup>

#### 4. The Evolution of the Genuine Link Concept

The genuine link idea in international law traces eloquently to State practice and judicial pronouncements that equate nationality with a real connection rather than a mere administrative formality. The International Court of Justice's decision in *Nottebohm (Liechtenstein v Guatemala)*<sup>18</sup> famously emphasised that nationality should reflect 'a genuine and effective link' for the purposes of diplomatic protection, and while the case concerned individual nationality its reasoning shaped subsequent thinking about legal ties between ships and flag states.<sup>19</sup> That judicial ethos migrated into the maritime arena where the need to allocate exclusive jurisdiction at sea required that each ship be attributed to a particular State. The Convention on the High Seas (1958) codified that ships 'have the nationality of the State whose flag they are entitled to fly',<sup>20</sup> and UNCLOS later preserved that formulation while also enjoining flag states to exercise jurisdiction and control in administrative, technical and social matters over ships flying their flag.<sup>21</sup> The *Nottebohm* standard therefore supplied the normative language that a nationality must be more than a registry entry if it is to carry the full suite of rights and duties of State sovereignty.

#### 5. Treaties, Judicial Gloss and the Elasticity of the Concept

Despite this doctrinal pedigree, neither the High Seas Convention nor UNCLOS supplied a concrete definition or objective criteria for a genuine link. Article 91(1) UNCLOS states simply that 'every State shall fix the conditions for the grant of its nationality to ships' but does not prescribe minimum substantive contacts.<sup>22</sup> The International Tribunal for the Law of the Sea in *M/V Saiga (No 2)* reiterated the importance of flag-state jurisdiction and duties (including to exercise effective jurisdiction and control), but, again, did not produce a bright-line test that would invalidate registries that lack substantial links.<sup>23</sup> This textual indeterminacy gave States latitude: while some adhered to stricter ownership or domiciliary ties, others adopted permissive registration regimes that effectively separated the legal label of nationality from meaningful sovereign control. The result in practice was that nationality became, to a degree, a regulatory choice rather than an index of effective control.

#### 6. Rise of Open Registries and the Commodification of Nationality

From the mid-20th century onward, a subset of registries commonly described as Flags of Convenience deliberately marketed favourable regulatory, fiscal and labor terms to shipowners irrespective of their domicile or place of business. The combination of permissive registration criteria, tax advantages, and outsourcing of inspection/enforcement produced an economic incentive structure that favoured

<sup>15</sup> R Barnes, 'Flag States and Their Responsibilities' in R Warner and S Kaye (eds), *Routledge Handbook of Maritime Regulation and Enforcement* (Routledge 2016) 78–79.

<sup>16</sup> P Weil, 'The Responsibility of States for Acts of their Ships' (1969) 23 *Current Legal Problems* 1, 3–6.

<sup>17</sup> *M/V Saiga (No 2)* (Saint Vincent and the Grenadines v Guinea) (Merits) [1999] ITLOS Rep 10, [83]–[85]; see further E van Hooydonk, *The Law of Flags, Nationality and Registry of Ships* (Informa Law 2020) 145–150; *United Nations Convention on the Law of the Sea* (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3, art 91(1)

<sup>18</sup> [1955] ICJ Rep 4, 23

<sup>19</sup> *Nottebohm (Liechtenstein v Guatemala)* (Second Phase) [1955] ICJ Rep 4, 23 (affirming the requirement that nationality reflect a genuine and effective link for certain international law purposes).

<sup>20</sup> *Convention on the High Seas* (adopted 29 April 1958, entered into force 30 September 1962) 450 UNTS 11, art 5(1).

<sup>21</sup> *United Nations Convention on the Law of the Sea* (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3 (UNCLOS) arts 91(1), 92–94.

<sup>22</sup> *United Nations Convention on the Law of the Sea* (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3 (UNCLOS) arts 91(1).

<sup>23</sup> *M/V Saiga (No 2)* (Saint Vincent and the Grenadines v Guinea) (Merits) [1999] ITLOS Rep 10, [83]–[85] (on duties of flag states and jurisdiction).

registration in certain open registries. Major empirical surveys and UN reporting show how this shifted world tonnage to a few open registries even where those States had modest domestic maritime communities.<sup>24</sup> Legally, the consequence was a functional decoupling: the registry conferred nationality and thereby immunities and access to markets, while the flag state often lacked the institutional capacity, political will, or resources to exercise continuous effective control (inspections, enforcement, crew oversight). The lack of an enforceable international test for genuine link meant that many registries could persist within the formal legality of UNCLOS and other instruments while undermining the normative aims those instruments sought to protect safety, labour standards and environmental responsibility.

### **7. Consequences for Jurisdiction, Enforcement and Human Rights**

The practical erosion of meaningful flag-state control has several doctrinal and policy consequences. Jurisdictional certainty is weakened when the link between ship and State is nominal: other States may face obstacles in pursuing enforcement or civil remedies when a flag state does not cooperate. The problem is particularly acute in policing standards addressed by SOLAS, STCW, the Maritime Labour Convention and environmental instruments, where inspection, certification and compliance depend heavily on active flag-state administration.<sup>25</sup> From a responsibility perspective, States that outsource or under-resource oversight nevertheless retain primary international responsibility for ships flying their flags; however, the implementation gap produces accountability deficits victims of pollution, unsafe manning or labour abuses often confront jurisdictional deadlocks or weak avenues for redress. International organizations (IMO, ILO, UNCTAD, OECD) and regional actors have therefore repeatedly emphasised co-operation, port state control regimes and technical assistance as partial correctives, but these are mitigation measures rather than a doctrinal cure for the blurred nationality link.<sup>26</sup>

### **8. Reform Pathways and Doctrinal Options**

Reform proposals in the literature and by international bodies tend to cluster around three tracks. First, clarifying or operationalising genuine link through treaty amendment or an interpretative instrument that sets minimum substantive criteria (ownership, management, crew nationality, economic nexus) could reduce abuse; second, strengthening port-state control and liability regimes can impose practical deterrents on poorly regulated flags; third, capacity-building and conditional recognition (e.g. certification of flag administrations by IMO mechanisms) can improve compliance without stripping States of sovereign registration rights. Each option implicates sovereignty concerns and political economy constraints, but together they suggest a menu of legally coherent and politically feasible reforms to re-embed real control in the concept of ship nationality.<sup>27</sup>

### **9. The Conceptual Clarification and Evolution of Flags of Convenience**

The term flag of convenience refers to the practice of registering a vessel in a country other than that of the shipowner's residence or principal place of business in order to take advantage of more favourable regulatory, fiscal or labour regimes. The ship sails under the flag of a flag state of convenience, which often offers minimal registration requirements, low fees and limited oversight.<sup>28</sup> In contrast, a national

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<sup>24</sup> UNCTAD, *Review of Maritime Transport 2023* (United Nations 2023) ch 3 (showing distribution of world tonnage and flag registry statistics); OECD, *Erosion of Flag State Control in Commercial Shipping: Policy Options for Reform* (OECD 2021) 5-12 (on economic drivers).

<sup>25</sup> International Convention for the Safety of Life at Sea (SOLAS) (adopted 1 November 1974, entered into force 25 May 1980); International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) (adopted 7 July 1978, as amended); Maritime Labour Convention (adopted 23 February 2006, entered into force 20 August 2013) 2952 UNTS 3 see generally IMO and ILO regimes on flag-state obligations.

<sup>26</sup> See, eg, IMO, 'Strategy on the Implementation of Mandatory IMO Instruments' (various Assembly Resolutions); UNCTAD, *Review of Maritime Transport 2023* (n 6); OECD (n 21). Port State Control regimes (Tokyo, Paris, USCG) are also discussed as enforcement backstops in the literature.

<sup>27</sup> For discussion of reform options and the tension between sovereignty and compliance, see R Barnes, 'Flag States and Their Responsibilities' in R Warner and S Kaye (eds), *Routledge Handbook of Maritime Regulation and Enforcement* (Routledge 2016) 78-92; OECD (n 21) 15-22.

<sup>28</sup> Stephen Girvin, *Carriage of Goods by Sea* (4th edn, OUP 2022) 18.

flag registry demands substantive ties between the vessel and the flag state, typically requiring that the shipowner be a national of the state, that a portion of the crew are its citizens or that the vessel management be based within its territory.<sup>29</sup> By circumventing such obligations, flag of convenience enables shipowners to reduce costs and liabilities but undermine the traditional nexus between a vessel and its state.

### 10. Characteristics of Flag of Convenience Registries

Flag of convenience registries are typically characterized by the followings: i) Ease of Registration: Ships can often be registered online with minimal documentation or inspection; ii) Fiscal Advantages: Taxation on tonnage or profits is low or non-existent; iii) Lax Labour Regulation: Flag states rarely enforce international standards on crew welfare or working conditions; iv) Limited Regulatory Oversight: Few flag states of convenience maintain sufficient administrative capacity to monitor or inspect vessels under their flag. Panama, Liberia and the Marshall Islands together account for more than 40 per cent of the world's merchant fleet tonnage.<sup>30</sup> These registries market themselves as open or international registries, claiming to provide services consistent with international obligations. Nonetheless, critics argued that they function as mechanisms of deregulation, enabling shipowners to avoid stringent environmental, safety and employment standards.

### 11. Motivations Behind the Use of Flag of Convenience

The motivations for adopting a flag of convenience are primarily economic. Shipowners operating under national registries face high operating costs due to taxation, wage structures and regulatory compliance. By registering in flag of convenience states, they can reduce expenses through lower crewing costs and flexible regulatory compliance. Furthermore, flag of convenience offers anonymity and asset protection which shield the real identity of shipowners. Many registries allow ownership through bearer shares or nominee companies, making it difficult to identify the true beneficial owner.<sup>31</sup> This opacity has significant implications for accountability, particularly in cases of maritime accidents, environmental pollution and criminal activity. Politically, flag of convenience enables shipowners to distance themselves from the policies of their home governments, especially in times of sanctions or conflict.<sup>32</sup> This flexibility, however, comes at the expense of effective jurisdictional control, diluting the sovereign responsibilities of flag states under international law.

### 12. Legal Framework under International Law Governing Flag State Jurisdiction

*United Nations Convention on the Law of the Sea (UNCLOS)*: The United Nations Convention on the Law of the Sea (UNCLOS) constitutes the central legal framework regulating the nationality of ships and the responsibilities of flag States. Article 91 grants each State the right to determine conditions for conferring nationality and registering vessels, on the condition that a 'genuine link' exists between the State and the ship.<sup>33</sup> Despite this requirement, UNCLOS provides no precise definition of what constitutes this link, nor any mechanism for challenging a ship's nationality on that basis. Article 94 imposes comprehensive obligations on flag States to exercise 'effective jurisdiction and control' over ships flying their flag.<sup>34</sup> These duties extend to administrative, technical and social aspects, including safety at sea, crew working conditions, environmental protection, and maintenance of a ship registry.<sup>35</sup> However, flags of convenience States frequently fail to comply with these duties because of limited

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<sup>29</sup> William Tetley, 'The Law of the Flag 'Flag Shopping' and Choice of Law' (1993) 17 *Tul Mar LJ* 139.

<sup>30</sup> United Nations Conference on Trade and Development, *Review of Maritime Transport* (2023) 45.

<sup>31</sup> Michael Reed, 'Corporate Veil and Ship Registration: The Case of Flags of Convenience' (2018) 22 *J Mar L & Com* 95.

<sup>32</sup> Rodney Carlisle, *Sovereignty for Sale: The Origins and Evolution of the Panamanian and Liberian Flags of Convenience* (Naval Institute Press 1981) 112–115.

<sup>33</sup> United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3 (UNCLOS) art 91.

<sup>34</sup> United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3 (UNCLOS) art 94.

<sup>35</sup> *ibid.*

regulatory capacity, economic incentives to maintain lax oversight, and the commercial attractiveness of open registries.<sup>36</sup> Both the International Maritime Organization and the International Labour Organization have documented persistent shortcomings among certain FOC registries, including failure to inspect vessels, inadequate reporting structures, and weak enforcement of labour standards.<sup>37</sup>

*Safety of Life at Sea Convention (SOLAS)*: The International Convention for the Safety of Life at Sea<sup>38</sup> (SOLAS) is the primary global treaty governing maritime safety standards. First adopted in 1914 and most recently revised in 1974, SOLAS imposes mandatory obligations on flag States to ensure that ships meet minimum safety standards relating to: ship construction and seaworthiness, navigation and communication equipment, fire protection systems, life-saving appliances, and safety management systems.<sup>39</sup> Chapter I of SOLAS mandates surveys, certification, and inspections to verify compliance, reinforcing UNCLOS Article 94 duties. The International Safety Management (ISM) Code, made mandatory under SOLAS Chapter IX, requires shipowners and operators to implement safety management systems ensuring operational reliability and environmental protection.<sup>40</sup> The efficacy of SOLAS depends heavily on flag State implementation. Weak or negligent flag of convenience registries often rely extensively on classification societies, sometimes leading to conflicts of interest and reduced oversight.<sup>41</sup>

*Marine Pollution Prevention (MARPOL)*: The International Convention for the Prevention of Pollution from Ships (MARPOL 73/78) establishes the principal regime regulating ship-based pollution. MARPOL obliges flag States to adopt and enforce laws preventing pollution by oil, noxious liquids, sewage, garbage, and air emissions.<sup>42</sup> Under MARPOL: States must inspect ships to ensure compliance with pollution standards, Ships must maintain certificates and records such as the Oil Record Book, and Flag States are responsible for ensuring vessel compliance even when vessels operate abroad.<sup>43</sup> MARPOL's effectiveness has been undermined by non-compliance among poorly regulated flag of convenience States, particularly concerning operational discharges and air emissions. Port State Control regimes, such as the Paris and Tokyo MoUs, play an important supplementary enforcement role by detaining substandard FOC vessels.<sup>44</sup>

*Maritime Labour Convention (MLC 2006)*: The Maritime Labour Convention, sometimes referred to as the 'fourth pillar' of the international maritime regulatory framework alongside UNCLOS, SOLAS and MARPOL, consolidates maritime labour standards into a single instrument. It establishes minimum standards concerning: wages and conditions of employment, accommodation and recreational facilities, food and catering, health and safety protection, and social security.<sup>45</sup> Flag States must certify ships under the Maritime Labour Convention and conduct labour-related inspections. Although Maritime Labour Convention compliance has improved global labour standards, Flag of Convenience regimes have been identified as among the least compliant, often due to weak inspection regimes and incentives to keep costs low for shipowners.<sup>46</sup>

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<sup>36</sup> RR Churchill and AV Lowe, *The Law of the Sea* (3rd edn, Manchester UP 1999) 268-270.

<sup>37</sup> IMO, 'Flag State Implementation' (IMO, 2020) <<https://www.imo.org>> accessed 29 October 2025; ILO, 'Report on Maritime Labour Standards' (ILO 2018).

<sup>38</sup> International Convention for the Safety of Life at Sea (SOLAS) 1974 (adopted 1 November 1974, entered into force 25 May 1980) 1184 UNTS 2.

<sup>39</sup> International Convention for the Safety of Life at Sea (SOLAS) 1974 (adopted 1 November 1974, entered into force 25 May 1980) 1184 UNTS 2.

<sup>40</sup> IMO, *International Safety Management Code* (IMO 2014).

<sup>41</sup> ML McConnell, 'Flags of Convenience: A Critical Analysis' (2004) 35 *JMLC* 149, 156.

<sup>42</sup> International Convention for the Prevention of Pollution from Ships (MARPOL) (adopted 2 November 1973, entered into force 2 October 1983) 1340 UNTS 184.

<sup>43</sup> *ibid.* Annex I regs 17-20.

<sup>44</sup> Paris Memorandum of Understanding on Port State Control (2019).

<sup>45</sup> Maritime Labour Convention 2006 (adopted 23 February 2006, entered into force 20 August 2013).

<sup>46</sup> A Chircop, 'Ships' Nationality and Flags of Convenience: Reassessing the Genuine Link' (2017) 48 *JMLC* 1, 15.

### 13. Regional and Domestic Enforcement Mechanisms

*Port State Control (PSC):* Port State Control functions as a secondary enforcement mechanism, allowing States to inspect foreign vessels entering their ports. Major PSC regimes include: Paris MoU (Europe and North Atlantic), Tokyo MoU (Asia-Pacific), US Coast Guard regime (United States).<sup>47</sup>

Port state control has been particularly effective in policing flag of convenience vessels, with flag of convenience registries overrepresented among detained ships. Port state control does not replace flag State responsibility but mitigates regulatory gaps created by non-compliant registries.

*Domestic Legislation:* Some States, notably traditional maritime nations such as the United States, United Kingdom, Norway, and Australia, impose domestic safety, labour, and environmental requirements on ships calling at their ports. The United States, for example, enforces the Oil Pollution Act, imposing strict liability for oil spills and setting high financial responsibility standards.<sup>48</sup> These domestic frameworks collectively strengthen international norms but cannot fully compensate for weak flag State jurisdiction.

### 14. Relationship Between International Frameworks and Flags of Convenience

Taken together, UNCLOS, SOLAS, MARPOL, and the MLC create a comprehensive regulatory regime intended to ensure that flag States maintain effective oversight over ships registered under their jurisdiction. However, the flag of convenience system fundamentally undermines these obligations by: enabling shipowners to evade strict national regulations, prioritising commercial attractiveness over regulatory compliance, weakening labour protections, increasing risks of pollution and maritime accidents, and eroding the concept of a meaningful ‘genuine link.’ Despite the breadth of international law, the absence of strong enforcement mechanisms especially against flag States themselves continues to hinder the eradication of substandard shipping practices.

#### Abuja Memorandum of Understanding on Port State Control

The Abuja Memorandum of Understanding on Port State Control is a regional port State control agreement covering West and Central African States. It aims to eliminate substandard shipping by harmonising inspection procedures and improving compliance with international maritime conventions. Records show that the member States of Abuja MoU includes the following 20 States:<sup>49</sup> Angola, Benin, Cameroon, Cape Verde, Congo, Côte d’Ivoire, Democratic Republic of Congo, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Nigeria, Sao Tome and Principe, Senegal, Sierra Leone, South Africa, and Togo. These States form a cooperative port State control regime modelled on the Paris and Tokyo MoUs.

#### Challenges Facing the Abuja MoU

*Limited Technical and Human Capacity:* Many maritime administrations within the Abuja MoU region lack adequately trained inspectors, modern inspection tools, and reliable data systems.<sup>50</sup> This results in reduced inspection frequency, inadequate targeting of high-risk vessels, and poor documentation, undermining the deterrent effect of port state control.

*Insufficient Maritime Infrastructure:* Several ports in the region struggle with limited infrastructure, outdated equipment, and inadequate monitoring systems, hindering the effective enforcement of SOLAS, MARPOL and MLC 2006 requirements.<sup>51</sup>

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<sup>47</sup> Paris MoU, *Annual Report 2023* (Paris MoU 2024) 27; Tokyo Memorandum of Understanding on Port State Control (2020).

<sup>48</sup> Oil Pollution Act of 1990 (United States) 33 USC ss 2701-2762.

<sup>49</sup> Abuja Memorandum of Understanding on Port State Control (Abuja MoU) (2020) <<https://www.abujamou.org>> accessed 29 October 2025.

<sup>50</sup> IMO, ‘Needs Assessment of Maritime Administrations in West and Central Africa’ (IMO Report 2019).

<sup>51</sup> Abuja Memorandum of Understanding on Port State Control (Abuja MoU) (2020) <<https://www.abujamou.org>> accessed 29 October 2025.

*High Prevalence of Flags of Convenience in the Region:* Many vessels calling at West and Central African ports fly flag of convenience registries, which are more likely to be substandard.<sup>52</sup> Abuja MoU States often lack the resources to conduct rigorous inspections, allowing high-risk flag of convenience vessels to slip through enforcement gaps.

*Weak Inter-State Coordination and Information Sharing:* Although the Abuja MoU mandates information exchange, reporting culture remains inconsistent. Some States do not regularly upload inspection data to the MoU database or to global platforms like Equasis.<sup>53</sup> This creates safety blind spots and limits regional risk assessment.

*Financial and Political Constraints:* Budgetary limitations, political instability in parts of the region, and competing national priorities reduce the ability of States to invest in port state control. This affects training, recruitment, and upgrading inspection facilities.<sup>54</sup>

*Corruption and Governance Challenges:* Cases of regulatory capture, bribery and political interference in port operations have been documented in parts of West and Central Africa.<sup>55</sup> Such practices compromise the credibility of PSC and increase the likelihood that substandard vessels will evade detention.

*Overreliance on Port State Control Instead of Strengthening Flag State Capacity:* Some Abuja MoU members also operate weak flag administrations. Without strong flag State enforcement, port state control alone cannot ensure compliance. Weak flagging and weak port state control reinforce each other, enabling substandard shipping to persist.<sup>56</sup>

*Lack of Regional Harmonisation in Domestic Legislation:* Differences in the incorporation of international conventions such as SOLAS, MARPOL and MLC lead to inconsistent enforcement standards. Some States have ratified conventions but not fully implemented them into domestic law.<sup>57</sup>

#### **14. The ‘Genuine Link Debate’**

The requirement of a genuine link has been one of the most contested issues in maritime law. Although it appears in both the Convention on the High Seas and United Nations Convention, the meaning remains ambiguous. Attempts to operationalize it, such as the 1986 United Nations Convention on Conditions for Registration of Ships have met with limited success due to insufficient ratification.<sup>58</sup> Scholars have argued that the genuine link requirement should ensure the flag state capacity to exercise control, not necessarily economic ownership or national composition of the crew.<sup>59</sup> Others contended that without enforcing the genuine link, ship nationality becomes merely a matter of convenience, undermining the very foundation of international maritime order.<sup>60</sup> The lack of enforcement mechanisms allows shipowners to shop for favourable flags, effectively commercializing ship nationality.

#### **15. Flag State Responsibilities and International Oversight**

Under Article 94 of the United Nations Convention on the Law of the Sea, flag states must assume responsibility for ships flying their flags ‘in administrative, technical and social matters.’ This includes

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<sup>52</sup> ML McConnell, ‘Flags of Convenience: A Critical Analysis’ (2004) 35 *JMLC* 149, 152.

<sup>53</sup> Equasis, ‘The World Merchant Fleet’ (2021) <https://www.equasis.org> accessed 29 October 2025.

<sup>54</sup> OECD, ‘Maritime Transport in West Africa: Challenges and Opportunities’ (2018) 33-35.

<sup>55</sup> Transparency International, ‘Corruption in Ports: A Global Review with Focus on Africa’ (TI 2020).

<sup>56</sup> A Chircop, ‘Ships’ Nationality and Flags of Convenience: Reassessing the Genuine Link’ (2017) 48 *JMLC* 1, 7.

<sup>57</sup> RR Churchill and AV Lowe, *The Law of the Sea* (3rd edn, Manchester UP 1999) 269-270.

<sup>58</sup> *United Nations Convention on Conditions for Registration of Ships* (adopted 7 February 1986, not yet in force) UN Doc A/CONF.129/15

<sup>59</sup> Aldo Chircop, ‘Revisiting the Genuine Link: Lessons from Modern Shipping Practice’ (2007) 21 *Ocean YB* 33

<sup>60</sup> Donald Rothwell and Tim Stephens, *The International Law of the Sea* (3rd edn, Hart 2022) 142

obligations relating to the manning of ships, the labour conditions of seafarers and the prevention of marine pollution.<sup>61</sup> The International Safety Management Code and the Maritime Labour Convention 2006 further elaborate these duties. However, weak institutional capacity in flag of convenience states has resulted in systemic non-compliance. According to the Paris Memorandum of Understanding on Port State Control, flag of convenience states is disproportionately represented among ships detained for safety and labour violations.<sup>62</sup> This indicates that many flag states fail to meet their international obligations, leaving enforcement to port states, those states where ships call, rather than the flag states themselves. This shift from flag state to port state control represents a significant evolution in maritime governance, reflecting the erosion of confidence in the ability of flag of convenience States to uphold international standards.

*Jurisdictional Implications:* The proliferation of flag of convenience complicates the allocation of jurisdiction in maritime disputes. Under traditional international law, the flag state exercises exclusive jurisdiction over its vessels on the high seas.<sup>63</sup> However, when flag states are unwilling or unable to enforce laws, jurisdictional vacuum arises. In cases of marine pollution or human rights abuses, affected states often attempt to assert jurisdiction through alternative means such as port state control, coastal state regulation or universal jurisdiction under conventions like International Convention for the Prevention of Pollution from ships made in 1973 and modified by the Protocol of 1978.<sup>64</sup> Nevertheless, these mechanisms remain limited, as port state measures are reactive rather than preventive. The consequence is a fragmented regime in which the nominal flag state's authority is diminished and ship nationality ceases to guarantee effective jurisdictional oversight.

## 16. The Effects or Impacts of Flags of Convenience on Ship Regime Nationality

The impacts of flags of convenience on ship nationality are multifaceted and can produce both positive and negative consequences. On the positive side, flag of conveniences provides shipowners with a range of economic advantages, most notably through reduced taxation, relaxed regulatory frameworks, and cheaper labour markets. Many open registries allow shipowners to avoid strict national labour and environmental regulations, while enabling the recruitment of crews from lower-wage countries.<sup>65</sup> In contrast, national or closed registries generally require that ships be owned and built by national interests and often mandate that they be partially crewed by nationals, which typically increases operational costs.<sup>66</sup> Open registries also streamline administrative processes. Many offer online registration systems that can be completed within a day, thereby reducing administrative burdens and accelerating deployment of vessels.<sup>67</sup> Consequently, the use of flag of convenience lowers both registration and maintenance costs, resulting in lower overall transportation expenses. The cumulative financial benefits are substantial; for example, it has been documented that in 1999, 28 of the Sea-Land fleet's 63 vessels were foreign-flagged, yielding estimated savings of up to US\$3.5 million per ship annually.<sup>68</sup>

However, the flag of convenience system has attracted significant criticism. A central concern is that flag of convenience-operating states often have inadequate regulatory frameworks, and where such frameworks exist, enforcement is frequently weak.<sup>69</sup> Moreover, in many cases, flag states cannot reliably identify or exert effective control over shipowners, undermining the capacity to hold them

<sup>61</sup> UNCLOS (n 2) art 94(3).

<sup>62</sup> Paris MoU, *Annual Report 2023* (Paris MoU 2024) 27.

<sup>63</sup> *Lotus (France v Turkey)* (1927) PCIJ Rep Series A No 10

<sup>64</sup> *International Convention for the Prevention of Pollution from Ships (MARPOL 73/78)* (adopted 2 November 1973, entered into force 2 October 1983) 1340 UNTS 184

<sup>65</sup> United Nations Conference on Trade and Development (UNCTAD), *Review of Maritime Transport 2022* (UN 2022) 41-45.

<sup>66</sup> International Transport Workers' Federation (ITF), *What is a Flag of Convenience?* (ITF, 2021) <<https://www.itfglobal.org>> accessed 29 October 2025.

<sup>67</sup> International Maritime Organization (IMO), *Flag State Implementation* (IMO 2020) 12-14.

<sup>68</sup> OECD, *Maritime Transport: FOCs and Their Economic Implications* (OECD 2003) 22.

<sup>69</sup> Robert McLaughlin, 'UNCLOS and the Problem of Flags of Convenience' (2019) 68 *International & Comparative Law Quarterly* 659, 664-666.

civily or criminally responsible for maritime misconduct.<sup>70</sup> This regulatory deficit creates an environment in which vessels registered under flag of convenience have been associated with criminal activity, terrorist financing, poor labour conditions, and environmental degradation.<sup>71</sup> The lack of effective flag state oversight has therefore been cited as a major contributor to substandard shipping, posing risks to maritime security, marine ecosystems, and seafarers' welfare.<sup>72</sup> Others include:

*Erosion of the Genuine Link Principle:* The rise of Flag of Convenience has transformed ship nationality from a reflection of sovereign control into a commercial choice. While international law maintains that a ship must have a nationality, the proliferation of open registries has rendered the 'genuine link' requirement largely symbolic. The flag a ship flies no longer signifies effective jurisdiction or cultural identity but rather the regulatory environment chosen for convenience.<sup>73</sup> This development undermines the integrity of international law by allowing private economic interests to dictate jurisdictional links. The International Law Commission has expressed concern that the absence of effective control negates the very purpose of ship nationality, which is to ensure that vessels are subject to continuous and responsible state oversight.<sup>74</sup> The Flag of Convenience system thus detaches nationality from responsibility, producing a form of jurisdictional evasion in maritime governance.

*Dilution of Flag State Responsibility:* Under the traditional regime, a ship's flag state assumes full responsibility for its conduct, including compliance with safety, labour and environmental standards.<sup>75</sup> Yet many Flag of Convenience states delegate or ignore these obligations. This has resulted in widespread non-compliance with international conventions such as International Convention for the Safety of Life at Sea, International Convention for the Prevention of Pollution from Ships and Maritime Labour Convention, 2006. For instance, investigations into high profile maritime disasters such as the *Erika* (1999) and *Prestige* (2002) oil spills, revealed that both vessels were registered under flag of convenience regimes that failed to exercise proper oversight.<sup>76</sup> These incidents demonstrated how weak flag state enforcement can have catastrophic environmental and human consequences, while also complicating liability and compensation claims. Consequently, the notion of nationality becomes legally hollow when flag states fail to perform their responsibilities. The *Erika* case in the French courts established that states and classification societies can share liability for regulatory failures, signalling a shift toward holding multiple actors accountable in the absence of flag state diligence.<sup>77</sup>

*The Jurisdictional Consequences:* Flag of Conveniences have created jurisdictional ambiguities by separating ownership, management and control across multiple jurisdictions. A vessel might be owned by a corporation incorporated in the Cayman Islands, managed from Greece and registered in Liberia. This fragmentation complicates the attribution of legal responsibility and weakens enforcement. The United Nations Convention on the Law of the Sea presupposes that the flag state exercises 'effective jurisdiction and control in administrative, technical and social matters.'<sup>78</sup> Yet in practice, flag of convenience states often lacks the administrative capacity to investigate or prosecute violations. As a result, enforcement increasingly relies on port state control regimes. Under instruments such as the Paris Memorandum of Understanding and Tokyo Memorandum of Understanding, port states inspect foreign ships to ensure compliance with international conventions.<sup>79</sup> While port state control mechanisms provide a partial remedy, they invert the traditional hierarchy of maritime jurisdiction. Port states act as

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<sup>70</sup>International Transport Workers' Federation (ITF), *What is a Flag of Convenience?* (ITF, 2021) <<https://www.itfglobal.org>> accessed 29 October 2025.

<sup>71</sup>Michael Tsimplis, 'Maritime Security, Transparency, and Flags of Convenience' (2018) 49 *Journal of Maritime Law and Commerce* 1, 7-11.

<sup>72</sup>United Nations Conference on Trade and Development (UNCTAD), *Review of Maritime Transport 2022* (UN 2022) 47-52.

<sup>73</sup>A Chircop, 'Revisiting the Genuine Link: Lessons from Modern Shipping Practice' (2007) 21 *Ocean YB* 35.

<sup>74</sup>International Law Commission, *Report on the Work of its Eighth Session* (1956) UN Doc A/3159, 281.

<sup>75</sup>UNCLOS (n 2) art 94.

<sup>76</sup>European Commission, *Case Study: Erika and Prestige Oil Spills* (EC 2004).

<sup>77</sup>*Total SA v Erika Shipping Company Ltd (The Erika)* [2008] 2 Lloyd's Rep 679 (Paris CA).

<sup>78</sup>UNCLOS (n 2) art 94(1).

<sup>79</sup>Paris MoU (n 16) 31.

de facto regulators of international shipping, compensating for the failures of flag of convenience states. This evolution underscores the decline of flag state authority and challenges the classical understanding of ship nationality as the primary determinant of jurisdiction.

*Concealed Ownership:* Concealed ownership is a persistent challenge in the maritime industry, as shipowners frequently establish shell corporations often located in offshore jurisdictions to act as the formal legal owners of vessels. To distinguish between the real commercial actor and the intermediary corporate entity, the terms ‘beneficial owner’ or ‘ultimate owner’ are used in maritime practice. Webster’s Dictionary defines a beneficial owner as ‘one who enjoys the benefit of a property of which another is the legal owner.’<sup>80</sup> In the maritime context, the beneficial owner is the individual or entity that ultimately controls, finances, and benefits from the ship’s operation, even though legal title may be held by a separate corporate vehicle.<sup>81</sup> Beneficial owners carry the real economic and managerial responsibility for the ship and its activities, influencing decisions on crewing, management, safety compliance and insurance.<sup>82</sup> Because shell companies are commonly used to obscure beneficial ownership, this practice complicates enforcement, enables avoidance of liability, and reinforces the anonymity that characterises many flags of convenience.<sup>83</sup>

*Creating an environment for criminal activity:* Flag of convenience ships have long been linked to crime on the high seas. For example, in 1982, Honduras shut down its open registry operations because it had enabled illegal traffic of all kinds and had given Honduras a bad name. Ships registered by the Cambodia Shipping Corporation were found smuggling drugs and cigarettes in Europe, breaking the Iraq oil embargo and engaging in human trafficking and prostitution in Europe and Asia. In response to these activities, in 2000, Ahmad Yahya of the Cambodian Ministry of Public Works and Transport told industry publication Fairplay, ‘We don’t know or care who owns the ships or whether they are doing’ ‘white or ‘black business... it is not our concern’. Less than two years later, French forces seized the Cambodian-flagged, Greek-owned MV Winner for cocaine smuggling.

*Working conditions:* In the accompanying material of the United Nations’ Maritime Labour Convention of 2006,<sup>84</sup> the International Labour Organization estimated that at that time there were approximately 1,200,000 working seafarers across the world. This document goes on to say that when working aboard ships flagged to states that do not exercise effective jurisdiction and control over their ships that seafarers often have to work under unacceptable conditions, to the detriment of their well-being, health and safety and the safety of the ships on which they work. The International Transport Workers’ Federation goes further, stating that flags of convenience provide a means of avoiding labour regulation in the country of ownership, and become a vehicle for paying low wages and forcing long hours of work and unsafe working conditions. Since flag of convenience ships have no real nationality, they are beyond the reach of any single national seafarers’ trade union.

*Environmental effects:* While flag of convenience ships have been involved with some of the highest-profile oil spills in history, such as the Maltese-flagged MV *Erika* (The MV *Erika* sank in Bay of Biscay, about 60 nautical miles off the Brittan coast, on December 12, 1999. As a result, about 19800 tons of cargo oil spilled into the sea.

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<sup>80</sup>Merriam-Webster Dictionary (Merriam-Webster 2024) ‘Beneficial Owner’ <<https://www.merriam-webster.com/dictionary/beneficial%20owner>> accessed 29 October 2025.

<sup>81</sup> B Soyer and A Tettenborn, *Maritime Letters of Indemnity* (2nd edn, Informa Law 2014) 45.

<sup>82</sup> International Maritime Organization (IMO), *Guidelines on Shipowner and Operator Responsibilities* (IMO 2016).

<sup>83</sup> R DeSombre, *Flagging Standards: Globalization and Environmental, Safety, and Labour Regulations at Sea* (MIT Press 2006) 63-66.

<sup>84</sup> FATF, *Guidance on Beneficial Ownership for Legal Persons*, FATF, Paris, 2023, <<http://www.fatf-gafi.org/publications/FATFrecommendations/guidance-beneficial-ownership-legalpersons.html>> (accessed 18 October 2025).

## **17. Regulatory Challenges of Flag of Convenience**

*Enforcement Gaps:* Flag of Convenience states often operate with minimal regulatory oversight. Many maintain registries administered by private companies located abroad, further weakening governmental control.<sup>85</sup> This commercialization of registry services results in an enforcement vacuum, where the flag state is nominally responsible but practically absent. The International Transport Workers Federation has repeatedly documented substandard working conditions on flag of convenience vessels, including non-payment of wages, poor safety standards and suppression of union rights.<sup>86</sup> Because flag of convenience states rarely intervene, enforcement depends on the efforts of labour unions, coastal states, or international organizations. This creates a fragmented enforcement landscape lacking consistency and predictability.

*Jurisdictional Conflict Between Flag and Port State:* The tension between flag and port state jurisdiction lies at the heart of modern maritime governance. United Nations Convention on the Law of the Sea, Article 94 vests primary responsibility in the flag state, yet the failure of many flags of convenience states to enforce compliance has forced port states to adopt unilateral measures. For example, the Paris Memorandum of Understanding allows port authorities to detain substandard ships, effectively compensating for weak flag state control.<sup>87</sup> Similarly, the European Union's Port State Control Directive (2009) empowers member states to ban persistently non-compliant ships from European Union waters.<sup>88</sup> These mechanisms represent a pragmatic adaptation to regulatory gaps but also highlight the erosion of the traditional nationality-based regime of jurisdiction. As port states assume greater enforcement roles, the functional relevance of a ship nationality diminishes. Nationality becomes less a marker of legal identity and more of a procedural formality required for registration.

*Economic and Political Dimensions:* The economic rationale for Flag of Convenience cannot be overstated. By lowering operational costs, Flag of Convenience registries make global shipping more competitive and efficient. For developing countries such as Liberia or Panama, Flag of Convenience regimes also generate significant revenue through registration fees and maritime services.<sup>89</sup> However, this economic benefit often comes at the cost of reputational harm and diminished regulatory credibility. Politically, Flag of Convenience have shifted power from traditional maritime nations to small coastal or even landlocked states that host open registries.<sup>90</sup> This redistribution of maritime authority undermines the correlation between maritime capacity and regulatory competence. The system enables small states to exercise nominal jurisdiction over fleets vastly exceeding their capacity to supervise them.<sup>91</sup> Furthermore, the concentration of flag of convenience tonnage in a few states has created an oligopolistic structure in global shipping governance. These states often influenced by industry interests tend to resist international reforms that might constrain their registries competitiveness.<sup>92</sup> As a result, global efforts to strengthen the genuine link requirement or impose stricter registration standards have largely stalled.

## **18. The Role of the International Maritime Organization**

The Organization has sought to address the flag of convenience issue through technical instruments rather than direct regulation of flag registries. The Flag State Implementation Code, now integrated into the International Maritime Organization Instruments Implementation III Code, sets performance standards for flag states and mandates periodic audits.<sup>93</sup> The audits assess whether states fulfil their

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<sup>85</sup> S Girvin, *Carriage of Goods by Sea* (4th edn, OUP 2022) 22.

<sup>86</sup> International Transport Workers' Federation (ITF), *FOC Campaign Report 2023* (ITF 2023).

<sup>87</sup> Paris MoU (n 37) 27.

<sup>88</sup> Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on Port State Control [2009] OJ L131/57.

<sup>89</sup> UNCTAD, *Review of Maritime Transport 2023* (n 4) 66.

<sup>90</sup> Rothwell and Stephens (n 14) 153.

<sup>91</sup> A Chircop, 'Ships' Nationality and Flags of Convenience: Reassessing the Genuine Link' (2017) 48 *JMLC* 1, 38.

<sup>92</sup> Stephen Girvin, *Carriage of Goods by Sea* (4th edn, OUP 2022) 24.

<sup>93</sup> IMO, *III Code Implementation Report 2022* (IMO 2022).

obligations under International Maritime Organization conventions, including those related to safety, security and pollution prevention. Although these audits have increased transparency, participation remains voluntary and there are no enforcement mechanisms for states that fail to meet standards.<sup>94</sup> Consequently, the International Maritime Organization approach relies on moral persuasion rather than legal compulsion.

### **19. The International Labour Organization and Seafarers Rights**

This constitutes a major step toward protecting seafarers working under Flag of Convenience registries. It consolidates over 60 existing instruments into a single comprehensive framework addressing working conditions, hours of rest, repatriation, and social protection.<sup>95</sup> Under Regulation 5.2 of the Maritime Labour Convention, port states are authorized to inspect ships for compliance regardless of nationality, effectively introducing a universal enforcement mechanism.<sup>96</sup> Nevertheless, enforcement is uneven, as not all flag states have ratified the convention or possess the administrative capacity to implement it fully. The continued prevalence of Flag of Convenience related labour abuses demonstrates the limits of international labour law in the absence of effective flag state governance.

### **20. Conclusion and Recommendations**

The flag of convenience system epitomizes the tension between economic globalization and the territorial foundations of international law. Originally conceived as a symbol of national jurisdiction and accountability, ship nationality has become a transactional commodity detached from genuine sovereign control. The resulting fragmentation undermines the efficacy of international maritime regulation and erodes confidence in the rule of law at sea. From the above analysis in this study, we saw that the flag of convenience regime has brought many economic benefits and freedom to the maritime industry. However, the negative impacts on the maritime industry in particular and the international community in general that Flag of Convenience brings are not small. It is said to create an environment for criminal activities, support terrorism, provide poor working conditions for seafarers and have an adverse impact on the environment. This paper has demonstrated that the widespread use of Flag of Convenience State has diluted the genuine link principle, weakened flag state responsibility and generated complex jurisdictional conflicts. While initiatives by the International Maritime Organization, International Labour Organization and International Transport Workers Federation have mitigated some harms, the structural incentives sustaining Flag of Convenience State remain deeply entrenched in global shipping economics.

Reforms must therefore be multifaceted, reinforcing the legal obligations of flag states, enhancing port state coordination, increasing transparency in ship ownership and protecting seafarers rights. Only through a reintegration of responsibility and nationality can the maritime community restore coherence to the international legal order of the seas. The challenge is to reconcile efficiency with accountability, ensuring that the flag a vessel flies once again signifies not convenience, but commitment to the rule of law. The following measures are important:

*Strengthening the Genuine Link Requirement:* A reinvigoration of the genuine link principle is essential. This could be achieved through ratification of the 1986 Convention on Conditions for Registration of Ships, incorporation of Link Verification into International Maritime Organization Audits, regional enforcement mechanisms and regional bodies such as the European Union could mandate that vessels calling at their ports provide proof of a substantive link between flag state and ownership. Such measures would restore the connection between legal nationality and state responsibility.

*Enhancing Port State Cooperation:* Given that port state control has become the de facto enforcement mechanism, greater harmonization among regional Memorandum of Understanding is required. A global database under the auspices of International Maritime Organization could facilitate the exchange

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<sup>94</sup> *ibid.*

<sup>95</sup> *Maritime Labour Convention* (adopted 23 February 2006, entered into force 20 August 2013) 2952 UNTS 5.

<sup>96</sup> *ibid* reg 5.2.

of detention and inspection data, ensuring that persistently substandard ships are denied access to all compliant ports.

*Linking Financial and Environmental Regulation:* The Flag of Convenience issue also intersects with environmental and financial governance. Ships registered under lax jurisdictions often operate with lower compliance costs, giving them unfair competitive advantages over those adhering to stricter regimes. Incorporating environmental, social and governance metrics into maritime financing could incentivize shipowners to choose responsible registries. Financial institutions, through green shipping initiatives, are increasingly requiring proof of compliance with international standards as a condition of lending or insurance.

*Empowering Seafarers and Labour Enforcement:* The persistence of exploitative labour practices aboard Flag of Convenience ships calls for stronger transnational labour enforcement. The Maritime Labour Convention, 2006 should be amended to include joint liability between shipowners and charterers, ensuring that responsibility cannot be evaded through complex contractual chains.

Furthermore, an international compensation fund similar to those under the oil pollution conventions could be established to provide redress for seafarers abandoned under Flag of Convenience regimes. Such mechanisms would humanize maritime governance and counterbalance the economic rationality driving Flag of Convenience proliferation.