**Flags Of Convenience**

  10th February 2020

Introduction

Flags of convenience refers to the practice of vessels registering in countries with less restrictive regulation or regulatory enforcement, particularly concerning the environment and labour. They are often more formally referred to as ‘open registries’. Flags of convenience operate in a context where the United Nations Convention on the Law of the Sea (UNCLOS) requires all vessels to be registered in a recognised ship registry and sail under the flag of their country of registration. This means the legal identity for a ship is based primarily on the flag it flies.

UNCLOS ascribes various duties to flag states, including “exercise[ing] [their] jurisdiction and control in administrative, technical and social matters over ships flying [their] flag”.[1](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-1-68) While the regulations of a port state might take precedence depending on circumstance, a ship’s flag generally determines applicable laws, especially on the high seas.

A large ship in the water

Description automatically generated*A ship flagged to Panama, an open registry, by*[*Future Atlas*](http://futureatlas.com/blog/) Attribution 2.0 Generic (CC BY 2.0)

Characteristics

*Users*

The use of open registries is a common practice not an illegal activity in of itself.

However, there is a large body of evidence that shows that flags of convenience are commonly used by vessels engaging in illicit activities to avoid oversight, scrutiny and enforcement.[2](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-2-68) As Feldman argues, ‘the anonymity afforded by FOCs and the poor due diligence practices of many open registries are also very appealing to actors seeking to hide illegal activities’.[3](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-3-68) Users also sometimes swap from flag to flag to obscure ownership and preserve anonymity.

*Flag States*

A UK report on shipping identified six primary characteristics of flags of convenience states.[4](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-4-68) These are:

1. The country of registry allows ownership and/or control of its merchant vessels by non-citizens;
2. Access to the registry is easy.
3. Taxes on the income from the ships are not levied locally or are low.
4. The country of registry is a small power with no national requirement under any foreseeable circumstances for all the shipping registered, but receipts from very small charges on a large tonnage may produce a substantial effect on its national income and balance of payments.
5. Manning of ships by non-nationals is freely permitted.
6. The country of registry has neither the power nor the administrative machinery effectively to impose any government or international regulations; nor has the country the wish or the power to control the vessels themselves.

Preferred flag states are not static, because international pressure may lead some to reform their systems of regulation. However, some of the long-preferred flag states that meet these characteristics are Panama, Marshall Islands, Belize, Bahamas, Isle of Man, Liberia, St Vincent and the Grenadines, and Vanuatu.[5](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-5-68) Mongolia, which is land-locked, is a newer flag of convenience.[6](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-6-68)

Scope

*Flags of Convenience States*

The International Transport Workers’ Federation maintains a dynamic list of flags of convenience. As of 2022, there are 42 countries listed as maintaining open registries.[7](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-7-68) An FAO report on fishing vessel flags identified 32 flag of convenience countries in 2002.[8](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-8-68)

*Vessels registered*

According to the United Nations Conference on Trade and Development (UNCTAD) ‘Review of Maritime Transport’ more than 70% of deadweight tonnage (DWT) of the world’s ships sail under foreign flags, many of them open registries.[9](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-9-68) This represents a significant increase from about 21.6 % in 1970,. The top three flag states by tonnage are flags of convenience – Liberia, Panama, and the Marshall Islands.[10](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-10-68)

A WWF report on flags of convenience use by IUU Fishers, analyzed information available from the Lloyd’s Register of Ships between 1999 and 2005 on fishing vessels registered to the top 14 countries that operate open registries or ‘Flags of Convenience’ for large-scale fishing vessels.[11](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-11-68) It found over 1,000 large-scale fishing vessels flew flags of convenience. This is likely to have increased given the growing scope of IUU Fishing.

Impact, Linkages, & Synergies

*Illegal Fishing*

Flags of convenience enable IUU Fishing.[12](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-12-68) A World Wildlife Fund (WWF) report argues that ‘the […] system provides cover to a truly globalized fishing fleet engaged in what is largely illegal or unregulated fishing activity on the high seas’.[13](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-13-68) The Environmental Justice foundation demonstrate this cover comes from obscuring beneficial ownership, which means perpetrators cannot be targeted nor held accountable.[14](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-14-68) The North Atlantic Fisheries Intelligence Group and INTERPOL also focus on the impediments to law enforcement caused by flag state use, particularly the procedural impediments and jurisdictional ambiguity that comes from such secrecy.[15](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-15-68)

*Labour Abuse*

Due to discrepancies in regulations concerning labour and the ability (or willingness) to enforce regulations, flags of convenience are commonly linked to ongoing labour abuses in the fishing and shipping industries.[16](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-16-68) This includes the abandonment of seafarers and unsafe working conditions.[17](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-17-68)

*Sanctions*

Feldman demonstrates that flags of convenience allow for sanction evasion because companies can remain relatively anonymous when trading with those sanctioned.[18](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-18-68) A UN Panel of Experts on North Korea, for example, states that ‘ship-to-ship transfers of petroleum products by foreign-flagged vessels using flags of convenience are a primary method of sanctions evasion by the Democratic People’s Republic of Korea’[19](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-19-68). Ships may regularly change flags to make them difficult to track.

*Pollution*

End of life registers, which are ship…. breaking – to do.

*Smuggling*

Obscure ownership – Ship owned by North Korea flagged as Cambodian, transporting weaponry in 2002 [Stolsvik 2007](https://www.taylorfrancis.com/chapters/edit/10.4324/9780203964415-21/flags-convenience-complicating-factor-combating-crime-sea),and drugs [Richardson 2014](https://www.tandfonline.com/doi/abs/10.1080/07266472.2002.10878692?journalCode=ramo19) includes people smuggling – ship Monica in March 2002 with 928, including 361 children, Iraqi Kurdish immigrants on board. – friendly flags to avoid being focused upon.

*Piracy*

Reflag a ship after hijacking. Some flag states offer a temporary six-month fast-track registration. This allows a hijacker of a ship to take advantage of the secrecy that follows such registration, as demonstrated in the case of the Singaporean-owned ship, the Petro Ranger, which in 1998 was hijacked and reflagged to Honduras.[Stolsvik 2007](https://www.taylorfrancis.com/chapters/edit/10.4324/9780203964415-21/flags-convenience-complicating-factor-combating-crime-sea)

Responses

Because open registries are permitted in international law, this is not an issue that has seen a sustained response from states. UNCLOS has no enforcement or oversight system in place to ensure flag state compliance.

NGOs and some international organisations attempt to advocate for change on the basis of the ‘genuine link’ principle. Both the 1958 High Seas Convention and UNCLOS provide that there must exist a genuine link between a ship and the State purporting to confer its nationality upon that ship. Neither defined the meaning of ‘genuine link’ however. The (as yet unratified) 1986 Registration Convention mandates that states should ensure sufficient national participation in the ownership of vessels flying their flags, but again this is unspecified. Indeed, the International Tribunal for the Law of the Sea found ‘the idea of a genuine link … does not actually provide criteria for other states to challenge the validity of a ship’s right to fly a flag’.[20](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-20-68)

There has been some effort, including by states and regional actors, to highlight problematic practices and put pressure on open registry states to improve standards.[21](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-21-68) The Environmental Justice Foundation believe trade sanctions such as those resulting from anti-IUU regimes will be key in tackling flags of convenience in future.[22](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-22-68) For example, Cambodia closed its registry to foreign ships after it faced pressure from the European Union over linkages between Cambodian flagged vessels and blue crimes.[23](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-23-68) Tonga is another example of a registry that became more stringent after pressure from the US.[24](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-24-68)

Some organisations such as the International Transport Workers’ Federation (ITF) use collective bargaining to influence flag states, particularly around strengthening labour regulations.[25](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-25-68) Another suggestion is to allow the state which has incurred the cost and damages resulting from pursuit, apprehension, and prosecution of the vessel to claim for expenses and damages from the flag State if the flag State fails to exercise due diligence.[26](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-26-68) While this would create costs for the flag state, therefore incentivising change, such an approach has not yet been implemented.

The United Nations Port State Measure Agreement (PSMA) has provided port states with stronger authority in this respect, with Ford & Wilcox arguing that flags of convenience vessels could be targeted due to the potential risk factor.[27](https://www.safeseas.net/evidence/2020/02/10/flags-of-convenience/#easy-footnote-bottom-27-68) This does not impact vessels on the high seas, however, and many vessels engaged in illicit activities actively evade ports with strong enforcement.

1. [UNCLOS 1982](https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf)
2. [Metaxas 1981](https://www.sciencedirect.com/science/article/pii/0308597X81900737); [Fossen 2016](https://research-repository.griffith.edu.au/bitstream/handle/10072/99637/FossenPUB1582.pdf?sequence=1); [Zhang & Drumm 2020](https://www.sciencedirect.com/science/article/pii/S0308597X19309832); [Ford & Wilcox 2019](https://www.sciencedirect.com/science/article/pii/S0308597X18303257); [Fan et al. 2014](https://www.sciencedirect.com/science/article/pii/S0967070X1400095X); [Bergantino & Marlow 1998](https://www.tandfonline.com/doi/abs/10.1080/03088839800000026?journalCode=tmpm20)
3. [Feldman 2022](https://www.sciencedirect.com/science/article/pii/S0308597X22001762?casa_token=lmo5x4Fym7cAAAAA:EVvepUTfS7t_P1Bd-r861dyeE0Dtk9mGlyNjZq7bPFmX6K3Aw3t0kvDknCAmqcwdeDdnzLMLFAg)
4. [HMSO 1970](https://discovery.nationalarchives.gov.uk/details/r/C10967884)
5. [Gianni 2005](https://assets.wwf.org.uk/downloads/flagsofconvenience.pdf); [Lloyds Register n.d.](https://www.lr.org/en/lrofships/)
6. [Gianni 2005](https://assets.wwf.org.uk/downloads/flagsofconvenience.pdf)
7. [ITF n.d.](https://www.itfglobal.org/en/sector/seafarers/flags-of-convenience)
8. [FAO 2002](https://www.fao.org/3/y3824e/y3824e.pdf)
9. [UNCTAD 2020](https://unctad.org/system/files/official-document/rmt2020_en.pdf); [Ford & Wilcox 2019](https://www.sciencedirect.com/science/article/pii/S0308597X18303257)
10. [International Relations and Defence Committee 2022](https://committees.parliament.uk/work/1557/unclos-fit-for-purpose-in-the-21st-century/publications/)
11. [Gianni 2005](https://assets.wwf.org.uk/downloads/flagsofconvenience.pdf)
12. [North Atlantic Fisheries Intelligence Group and INTERPOL 2017](https://www.interpol.int/content/download/5146/file/Chasing%20Red%20Herrings%20Report.pdf); [Petrossian et al. 2020](https://www.sciencedirect.com/science/article/pii/S0308597X19306372); [Miller & Sumaila 2014](https://www.sciencedirect.com/science/article/pii/S0308597X13001930)
13. [Gianni 2005](https://assets.wwf.org.uk/downloads/flagsofconvenience.pdf)
14. [Environmental Justice Foundation 2020](https://ejfoundation.org/reports/off-the-hook-how-flags-of-convenience-let-illegal-fishing-go-unpunished)
15. [North Atlantic Fisheries Intelligence Group and INTERPOL 2017](https://www.interpol.int/content/download/5146/file/Chasing%20Red%20Herrings%20Report.pdf)
16. [Gianni 2005](https://assets.wwf.org.uk/downloads/flagsofconvenience.pdf)
17. [ITF n.d.](https://www.itfglobal.org/en/sector/seafarers/flags-of-convenience)
18. [Feldman 2022](https://www.sciencedirect.com/science/article/pii/S0308597X22001762?casa_token=lmo5x4Fym7cAAAAA:EVvepUTfS7t_P1Bd-r861dyeE0Dtk9mGlyNjZq7bPFmX6K3Aw3t0kvDknCAmqcwdeDdnzLMLFAg)
19. [UNSC 2019](https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2019_171.pdf)
20. [International Relations and Defence Committee 2022](https://committees.parliament.uk/work/1557/unclos-fit-for-purpose-in-the-21st-century/publications/)
21. [Stolsvik 2007](https://www.taylorfrancis.com/chapters/edit/10.4324/9780203964415-21/flags-convenience-complicating-factor-combating-crime-sea)
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23. [Kotoski 2021](https://www.phnompenhpost.com/business/flag-convenience-scheme-retired.)
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25. [Lillie 2004](https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1467-8543.2004.00304.x)
26. [Ford et al. 2022](https://onlinelibrary.wiley.com/doi/full/10.1111/faf.12677)
27. [Ford & Wilcox 2019](https://www.sciencedirect.com/science/article/pii/S0308597X18303257)