



Key Issues

Flag State Performance and Ratification Campaign

In March 2019, ICS published the latest update of its Flag State Performance Table, which can be downloaded free of charge via the ICS website.

The annual update, which is now also supported by the Asian Shipowners' Association (ASA) and the European Community Shipowners' Associations (ECSA), provides an indication of the performance of individual flag administrations, using information available in the public domain.

The purpose of the ICS Table is to encourage ship operators to examine whether a flag state has substance before using it and to put pressure on their flag administrations if improvements might be needed, for example with regard to Port State Control records of ships under their flag, failure to ratify key IMO Conventions or regular attendance at IMO meetings.

Since the Table was launched 15 years ago, ICS has been encouraged by the ongoing improvement which the data has helped to demonstrate. Among the twelve largest flag states, responsible for 80% of the world merchant tonnage, none currently have more than one potential negative indicator and nine of these have no negative indicators at all.

There is nothing inherently unusual in an international ship registry system in which the owner of a ship may be located in a country other than the state whose flag the ship flies. But a balance has to be struck between the commercial advantages of selecting a particular flag and the need to discourage the use of flag states that may not fully adhere to their international obligations, especially with regard to safety and environmental performance.

Given that shipping is a global industry, it is reliant on global regulatory frameworks to operate efficiently. The alternative would be a plethora of regional or unilateral regulations, which would lead to chaos within the international shipping industry while hindering the smooth flow of global trade.

In conjunction with the Comité Maritime International (CMI) – the international association for maritime lawyers – ICS continues to promote the importance of governments ratifying international maritime conventions, especially those adopted by the UN IMO. At the core of the campaign is a joint ICS/CMI brochure 'Promoting Maritime Treaty Ratification', the aim of which is to encourage more widespread ratification of some key maritime instruments that would benefit from a greater level of global acceptance. This includes a number of important instruments which have not yet received adequate ratifications from governments to enter into force globally.

The current campaign particularly focuses on three key IMO instruments: the Hong Kong Convention on ship recycling; the 2003 Protocol to the 1992 Civil Liability and Fund Conventions concerning oil spill compensation; and the 2010 Protocol to the HNS (liability and compensation) Convention.

While the slow pace of ratification of these crucial IMO instruments remains disappointing, there is now some cause for optimism. In particular, the Hong Kong Convention on ship recycling has been ratified by the world's largest flag state, Panama, having also now been ratified by Belgium, Denmark, France, Japan, Netherlands and Norway. Turkey, a major ship recycling nation, also ratified in January 2019. But other IMO Member States now need to build on this momentum or else be faced with the confusion likely to be caused by unilateral or regional regulation, including the EU Regulation on Ship Recycling.

The current brochure – which is being updated in 2019 – can be downloaded from the ICS website, and also highlights the need for greater ratification of several other important instruments that address international liabilities and compulsory insurance cover for ships. ICS is also co-operating with the ILO to achieve 100 ratifications of the ILO Maritime Labour Convention before the end of 2019, the ILO's 100th anniversary year.





The following Conventions are the main focus of the current ICS/CMI campaign

- IMO Convention for the Safe and Environmentally Sound Recycling of Ships (Hong Kong), 2009*
- IMO 2003 Supplementary Fund Protocol to the 1992 Fund Convention
- IMO 2010 Protocol to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS), 1996*
- ILO Maritime Labour Convention, 2006
- IMO Convention on Control and Management of Ships' Ballast Water (BWM), 2004
- IMO Protocol of 1997 to MARPOL (Annex VI – Prevention of Air Pollution from Ships)
- IMO Protocol of 1996 to the Convention on Limitation of Liability for Maritime Claims (LLMC Protocol), 1976
- IMO Convention on the Facilitation of International Maritime Traffic (FAL), 1965
- ILO Seafarers' Identity Documents Convention (Revised) (ILO 185), 2003*
- IMO Nairobi International Convention on the Removal of Wrecks (Nairobi WRC), 2007
- IMO Protocol of 2002 to the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea (PAL), 1974
- United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (Rotterdam Rules), 2009*

* *Instruments that have not yet entered into force.*

