



Liberian Shipowners' Council Ltd.

28 March 2023

Washington Utilities & Transportation Commission
PO Box 47250
Olympia, WA 98504
Delivered via email to comments@utc.wa.gov

Subject: Docket TP-220513. Oppose – Puget Sound Pilot General Rate Increase

Dear Commissioners:

On behalf of the Liberian Shipowners' Council, I am providing the following comments in opposition to the Puget Sound Pilot's filing (TP-220513) for a 35.6% General Rate Increase, which is understood to be largely based on a misrepresentation of the safety, environmental performance, and compliance of foreign-flagged vessels operating in the waters of the United States.

The Liberian Shipowners' Council (LSC) is the national shipowners' association for the Liberian-registered commercial fleet. As the collective voice of Liberian-flag shipowners, LSC articulates and advocates shipowner positions to the Liberian Registry, as well as to other government regulators and to relevant stakeholders in an effort to manage impacts from regulatory changes while maintaining high standards of quality, safety, and environmental protection.

Liberia is currently the second largest Flag State, representing over 14% of the world's ocean-going fleet with more than 5,000 vessels. The Liberian Shipowners' Council is very proud of the safe, environmentally-friendly, and quality performance of our shipowners and managers.

In the rebuttal testimony of Charles P. Costanzo on behalf of the Puget Sound Pilots, Mr. Costanzo alleges that the "shipping industry's widely known and well-documented unscrupulous practices present significant risks to the Puget Sound." LSC fundamentally disagrees with this statement, and we welcome the opportunity to explain the layers of oversight of foreign-flagged vessels.

General Remarks

The carriage of energy, raw materials, and other goods by sea is a massive global industry facilitating about 90% of world trade. Maritime activity also provides essential support for offshore exploration and energy production. In the modern era, an international ship registration system in which the owner of a ship may be located in a country other than the State whose flag the ship flies is neither inherently unusual nor suspect. To the contrary, open vessel registration is a regular, well-established, and customary practice of recognized, responsible participants in international maritime commerce, and one that is accepted and respected by sovereign nation States and international regulatory bodies worldwide.

Under the United Nations Convention on the Law of the Sea (UNCLOS), all ships must be registered with a country, the vessel's Flag State, which has jurisdiction over the ship and is

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responsible for overseeing its compliance with relevant international safety, environmental, and employment standards, most of which are adopted by the International Maritime Organization (IMO) and the International Labour Organization (ILO). Nearly every Flag State, whether open register or not, has ratified the core IMO Conventions addressing safety and environmental standards, the SOLAS and MARPOL Conventions, as well as the ILO Maritime Labour Convention.

The term used by the United Nations to describe those Flag States which permit the registration of ships that may be beneficially owned in another country is “open register.” However, the Liberian Shipowners’ Council believes that distinctions between open registers and so-called “traditional” maritime flags are not relevant today, particularly when generalizing about the effective implementation of international regulations governing safety, environmental protection, and employment standards.

The IMO Instruments Implementation Code (III Code)

The International Maritime Organization (IMO) is a specialized agency of the United Nations responsible for measures to improve the safety and security of international shipping and to prevent pollution from ships. The IMO currently comprises of 175 Member States, as well as 66 intergovernmental organization holding observer status, and 85 international non-governmental organizations holding consultative status. The IMO develops international conventions, such as SOLAS and MARPOL, codes, guidelines, and standards, which are intended to be implemented by the Member States and form an international regulatory obligation for shipowners and operators.

The IMO Instruments Implementation Code (III Code) was adopted by the IMO in 2013 and is intended to address any concerns by both governments and other stakeholders regarding compliance with all relevant international rules and standards. It was created based on the request of the seventh session of the United Nations Commission on Sustainable Development (CSD 7) for measures to be developed to ensure Flag States give full and complete effect to the IMO and other relevant conventions to which they are a party, so that ships of all Flag States meet international rules and standards. In effect, the III Code ensures that States comply with relevant international rules and regulations with respect to maritime safety, security, and protection of the marine environment.

International ocean-going vessels are regulated by the following authorities:

- **Flag State:** The Flag State is responsible for ensuring compliance with international and national shipping regulations, regardless of the ship’s location.
- **Port State:** The Port State ensures the ships that arrive at their ports, harbors, and anchorages are in compliance with international and local/regional regulations.
- **Coastal States:** The Coastal State may have regulations that ships need to comply with when they are navigating within their territorial waters.

- **Recognized Organizations:** Recognized Organizations establish and maintain technical standards for the construction and operation of ships. If recognized by the Flag State, these organizations can issue certificates confirming compliance on the Flag's behalf.

As per the III Code, each State needs to develop a strategy to meet international obligations and responsibilities, to monitor that the strategies are effective, and to improve their overall organizational performance and capability as a Flag State, Port State, and Coastal State, as appropriate.

Responsibilities of Flag States

Under the III Code, the Flag State has many defined obligations, including the following:

- Provides instructions to companies on how to implement applicable international rules and regulations;
- Ensures compliance with all applicable international rules and regulations, including those associated with the International Convention on the Safety of Life at Sea (SOLAS), the International Convention on the Prevention of Pollution from Ships (MARPOL), the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), and the Maritime Labour Convention (MLC);
- Develops and provides guidance concerning areas for which IMO has not developed international requirements;
- Handles cases involving ships with identified deficiencies or detentions;
- Prohibits ships from sailing if not fit to sail; and
- Conducts regular inspections of ships to verify the actual condition of the ship and its crew.

Significant attention is given by the IMO, its Member States, and the industry itself to the critical importance of Flag State performance. The IMO introduced the IMO Member State Audit Scheme, whereby maritime administrations are now subject to external audit by teams comprising representatives of other Member States. The IMO Audit Scheme is mandatory as of 2016.

Responsibilities of the Port States

Under the III Code, the Port State has the following obligations:

- Ensures implementation of applicable international and national rules and regulations for vessels visiting their ports through Port State Control Inspections; and
- Provides shoreside reception facilities for discharges not permitted to be discharged at sea.



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For ships of Flags that are non-Parties to the international conventions, Port States are obligated to treat them no more favorably than those that are Parties. This means that Port States impose conditions of those instruments, such as SOLAS, MARPOL, and STCW, on Parties, as well as non-Parties.

Today, the largest fleets operating under what are generally accepted to be open registers are Panama, Liberia, Marshall Islands, Hong Kong, Singapore, Bahamas, Malta, and Cyprus. These registries, according to [UNCTAD](#), account for almost 70% of the world's oceangoing commercial fleet.

Both the Paris MoU and the Tokyo MoU, which are regional organizations of maritime administrations with oversight over Port State Control, produce White, Grey, and Black lists of registries as a result of their inspection performance. In the most recent version of the [Paris MoU annual report \(2021\)](#) and the [Tokyo MoU annual report \(2021\)](#), all of the aforementioned open registers were on the White list, which demonstrates that ships from these registries have excellent safety and environmental performance records.

In conclusion, foreign-flagged vessels and their operations are heavily regulated across many jurisdictions, including both international (Flag State) and national (Port and Coastal States), and any foreign vessel entering a U.S. port is subject to the above-mentioned regulatory framework. These multiples levels of regulation and oversight have been implemented over decades and greatly reduce the safety and environmental risks associated with shipping.

If you have any further questions regarding the operation and oversight of foreign-flagged ships in the waters of the United States, please do not hesitate to ask.

Sincerely,

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References:

1. UNCTAD Data:
<https://hbs.unctad.org/merchant-fleet/>
2. Paris MoU Annual Report (2021):
<https://www.parismou.org/publications-category/annual-reports>
3. Tokyo MoU Annual Report (2021):
https://www.tokyo-mou.org/publications/annual_report.php

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