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# The United Nations Convention on the International Effects of the Judicial Sale of Ships

## The Beijing Convention on the Judicial Sale of Ships



### Introduction

The shipping industry has for years encountered issues with the recognition of the judicial sale of ships by a foreign court. The United Nations Convention on the International Effects of the Judicial Sale of Ships (the "**Convention**") paves the way towards greater harmonisation and commercial certainty for purchasers where the judicial sale occurs in one jurisdiction and registration of that vessel is sought in another jurisdiction.

The judicial sale of a vessel confers clean title, free and clear of all encumbrances, to a purchaser of that vessel. While a majority of the jurisdictions currently recognise the clean title acquired by purchasers, there are still a handful which refuse to recognise and give effect to this. As a result, purchasers of vessels sold by judicial sales may nonetheless face claims from creditors which arose prior to the judicial sales. In addition to the possibility of arrests of the vessel by these creditors, the bona fide purchaser could also face difficulties in the deletion of the vessel from its registry, and in the subsequent re-registration of the vessel in another jurisdiction.

## How the Convention is relevant



The Convention aims to resolve this issue by requiring a Certificate of Judicial Sale (the "**Certificate**") to be issued by the court or authority conducting the judicial sale. The Certificate confers on the purchaser a clean title to the vessel and has the same legal effect in all states which are party to the Convention (Article 6 of the Convention).

Upon completion of a judicial sale conducted in accordance with (i) the requirements of the law of the jurisdiction where the judicial sale is conducted, and (ii) the requirements of the Convention, a Certificate will be issued to the purchaser of the vessel. The minimum content of the Certificate is set out in Article 5 of the Convention and contains a statement that the vessel was sold in accordance with the requirements of the Convention. Other crucial information required are the state of judicial sale, the authority that issued the certificate, and particulars of the owner and purchaser. The model Certificate may be found in Annex II of the Convention.

Under Article 11 of the Convention, the Certificate is to be promptly transmitted to the International Maritime Organization (IMO) as the repository for publication. The Certificate may be produced by a purchaser of a vessel to a registry or competent authority of a State Party for the purposes of:

- (a) deleting a mortgage registered prior to the judicial sale against the vessel;
- (b) deleting a vessel from the register; or
- (c) registering a vessel with the registry, provided that the requirements of the law of the State of registration are met.

In time to come, the industry may expect to encounter more of these Certificates, particularly in sale and purchase transactions involving a judicial sale, or as conditions precedents to finance transactions.

The Convention could also affect advice on whether a vessel should be registered in one jurisdiction instead of another jurisdiction which is not party to the Convention. Given the greater commercial certainty that comes with the issuance of such internationally recognised documents, the Convention could potentially have a positive effect on the price realised from judicial sales.

## When will the Convention be in force?

The Convention was prepared by the United Nations Commission on International Trade Law (UNCITRAL) and was adopted by the United Nations General Assembly on 7 December 2022. The Convention will be open for signature in Beijing on 5 September 2023. Accordingly, the General Assembly has hence recommended for the Convention to be known as the "Beijing Convention on the Judicial Sale of Ships".

In signing the Convention, a State or regional economic integration organization only signals its intention to be party to the Convention in the future. The Convention will enter into force and six months after the deposit of the third instrument of ratification, acceptance, approval or accession, and this signifies a State's commitment at an international level to undertake the obligations under a treaty like the Convention.

## Concluding remarks

The Convention is a step in the right direction towards the harmonization of international regulation and commercial certainty for purchasers of vessels pursuant to judicial sales. Given the cross-border nature of the industry, the Certificate of Judicial Sale could potentially resolve a multitude of issues arising from the differing regimes for ship registration across the globe.

While a uniform international regulation is desirable in principle, this is heavily dependent on the Convention receiving universal international support.

Commentators have expressed that the practical benefits of the Convention may not be significant considering that the few jurisdictions which have categorically refused to recognize the legal effects of foreign judicial vessel sales will be unlikely to adopt any agreement requiring the automatic recognition of foreign judicial sales of vessels flying their flags.

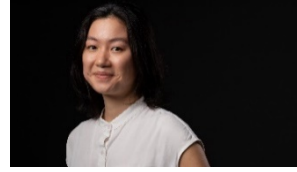
The Fifth Revision of the draft Convention is accessible via this link: [Working Group VI: Judicial Sale of Ships | United Nations Commission On International Trade Law](#).

## Get in touch



### Colin Jarraw

Partner  
T: +65 6661 6852  
E: colin.jarraw@shlegalworld.com



### Jamie Loh

Associate  
T: +65 6661 6853  
E: jamie.loh@shlegalworld.com

The Singapore law aspects of this article were written by lawyers of Virtus Law (a member of the Stephenson Harwood (Singapore) Alliance).

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