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**MEASURES TO PREVENT UNLAWFUL PRACTICES ASSOCIATED WITH THE  
FRAUDULENT REGISTRATION AND FRAUDULENT REGISTRIES OF SHIPS**

**Final report of the Study Group submitted by the World Maritime University,  
the IMO International Maritime Law Institute and  
the United Nations Conference on Trade and Development**

**Note by the Secretariat**

**SUMMARY**

*Executive summary:* This document provides the final report of the Study Group on Fraudulent Registration and Fraudulent Registries of Ships.

*Strategic direction, if applicable:* 1 and 7

*Output:* Not applicable

*Action to be taken:* Paragraph 4

*Related documents:* LEG 110/6 and LEG 110/18/1

**Introduction**

1 At its 110th session, the Committee considered document LEG 110/6 (Secretariat) containing the interim report of the Study Group it established at its 109th session to initiate a comprehensive study to address all issues arising in connection with fraudulent registration and fraudulent registries of ships, and possible measures to prevent and combat them (LEG 109/16/1, paragraphs 6.9 to 6.12 and annex 2). The interim report was submitted by the World Maritime University (WMU), the IMO International Maritime Law Institute (IMO IMLI) and the United Nations Conference on Trade and Development (UNCTAD) and included a summary of preliminary findings of the responses to a research questionnaire compiled by the Study Group, which was answered by only 31 registries, representing 22.75% of the world fleet.

2 The Committee expressed concern that the participation in the study had been very low and that the data was likely to be inadequate to bring worthwhile results. The Committee noted the preliminary findings of the responses to the questionnaire as well as the proposed way forward and took action, as set out in paragraphs 6.4 to 6.12 of document LEG 110/18/1.

3 The Study Group continued its work and, pursuant to its terms of reference (reproduced in annex 1 to this document for ease of reference), has submitted its final report, as set out in the annex to this document.

#### **Action requested of the Committee**

4 The Legal Committee is invited to:

- .1 note the information provided in this document comment and take further action, as appropriate;
- .2 strongly encourage Member States to act on their commitments as reflected in Assembly resolution A.1162(32) and, in collaboration with all relevant stakeholders, take the necessary measures, individually and collectively, to promote effective actions for the prevention and suppression of fraudulent registration and fraudulent registries and other fraudulent acts in the maritime sector (annex, paragraph 34);
- .3 take steps for the development of guidelines or best practices on registration of ships, which could eventually be the basis for the development of a treaty on registration of ships to ensure the effective implementation of IMO treaties, taking into consideration, as appropriate, the provisions of the UN Convention on Conditions for Registration of Ships, 1986 (annex, paragraph 99); and
- .4 consider improvements to the GISIS module, including suggestions provided in annex 4 of the annex to this document (annex, paragraph 101).

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## ANNEX

REPORT OF THE STUDY GROUP ON FRAUDULENT REGISTRATION  
AND FRAUDULENT REGISTRIES OF SHIPS

## Part I Method and findings

## Execution of the task

1 WMU continued assuming the lead of the Study Group and coordinated the tasked work in collaboration with UNCTAD and IMLI. WMU carried out the survey and provided an analysis of the results. Relevant parties that could provide pertinent information were identified and invited to collaborate in the work of the Study Group. The registries of Member States were contacted again through their IMO representative and with the assistance of the IMO Secretariat, for their responses to the enhanced questionnaire (parts A+B, reproduced in annex 2 to this document).

## Recipients of the research questionnaire and responses received

2 The addressees are divided into categories to assist the readers in comprehending the source of findings. The first category refers to ship registries, the second to port State control MOUs, while the remaining categories comprise other relevant stakeholders.

3 As of the date of submission of this document, the questionnaire had been addressed to the following recipients and the responses received as shown in table 1 below. The enhanced questionnaire was sent only to ship registries and three MOUs, but not to any other category of recipient of the initial questionnaire.

Table 1: initial and enhanced questionnaires, recipients and responses

CATEGORY	Recipients	Responses Part A (initial questionnaire)	Responses Parts A+B (enhanced questionnaire)	Total Responses
<b>Registries</b> IMO Member States	175	31	30	61
<b>Port State Control</b> MOUs	3	0	3	3
<b>Recognized Organizations</b> IACS members	11	3	n/a	3
<b>Recognized Organizations</b> Non-IACS members	50	2	n/a	2
<b>P&amp;I Clubs</b> International Group members	1	1	n/a	1
<b>P&amp;I Clubs</b> Non-International Group members	16	0	n/a	0
<b>Underwriters</b>	18	0	n/a	0
<b>INTERTANKO</b>	1	1	n/a	1
<b>BIMCO</b>	1	0	n/a	0

4 The period of research extended from October 2022 until September 2023, during which the number of "false" flagged ships in the GISIS database shows fluctuations and are discussed further in part II of this report. The study took into consideration the various updates but the crystallized catalogue refers to a snapshot date of 11 September 2023, which shows 101 ships with 12 new entries since the last update on 30 August 2023.

5 This catalogue was submitted to the European Maritime Safety Agency (EMSA) with a request to provide data that may be available from their database regarding behaviour of those ships during the relevant period within European waters.

### Summary of findings

6 The findings of the analysis of responses to the initial and the enhanced questionnaire are the following:

- .1 Sixty-one registries<sup>1</sup> (out of 175 Member States contacted) submitted responses, out of which only 30 responded to both Parts A and B of the questionnaire, according to the table above, accounting for 29.158% of the world fleet.
- .2 Of those 61 responses, only 6 registries submitted data with a ship name and/or IMO number – pertaining to 12 ships, suspected to fly a "false" flag, to the best of their knowledge. From those suspected ships, only five (5) were included in the catalogue of "false" flagged ships in the GISIS database during the relevant period.
- .3 Of the three port State Control MOUs to which the enhanced questionnaire was addressed, two responded with names of ships fraudulently registered and one reported possession of indications of ships fraudulently registered, which could not be verified due to non-response from the registries where the ships had been purportedly registered. Of the ships reported with a "false" flag, five appeared in the GISIS database as such.
- .4 Data received from EMSA comprised a list of 1,242 entries with at-sea encounter events (i.e. ship-to-ship transfer of cargo) committed by 125 ships flying a "false" flag. Another list encompassed 764 non-reporting events (i.e. switching off AIS), 94 of which were committed by nine ships flying a "false" flag.

The registries, whose flags were fraudulently used in both lists, were the following, in alphabetical order:

Belize: 1 ship  
Comoros: 2 ships  
Democratic Republic of the Congo: 16 ships  
Equatorial Guinea: 10 ships  
Federated States of Micronesia: 15 ships  
Fiji: 16 ships  
Gabon: 1 ship  
Gambia: 5 ships  
Guyana: 22 ships  
Mongolia: 1 ship

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<sup>1</sup> This number includes one response received from an International Registry of an IMO Member State.

Palau: 1 ship  
Bolivia (Plurinational State of): 1 ship  
Samoa: 5 ships  
Sao Tome and Principe: 12 ships  
Sierra Leone: 1 ship  
Somalia: 1 ship  
St. Vincent and the Grenadines: 1 ship  
Timor-Leste: 1 ship  
Togo: 7 ships  
United Republic of Tanzania: 4 ships  
Zambia: 2 ships

Forty-eight of the above ships appeared to fly two "false" flags (consecutively rather than simultaneously) within a period of one year – according to the EMSA database. The rest of the ships either remained listed as flying "false" flag or were removed from the catalogue during the relevant period according to the records of EMSA.

- .5 The majority of responses, with the exception of eight, reflected an admitted institutional lack of knowledge of fraudulent ship registries (QA.1). There were also five affirmative responses with no personal knowledge but rather information publicly circulated. Further, the majority of responses pertaining to specific incidents of fraudulent registration and false documents (QA.2) were negative. However, six registries reported cases of "false" flag ships with names and IMO numbers and four registries reported the detection of forged certificates.
- .6 As regards reasons for committing the act of fraudulent registration (QA.3) many were identified (e.g. non-compliance with IMO conventions standards, misleading authorities, tax benefits, illegal trade, etc.).
- .7 Many respondents identified the following practices linked with fraudulent registered ships (QA.4): ship-to-ship transfers of illegal cargo, unjustified switching off of AIS, sanction breaking, etc.
- .8 Regarding the impact of such practices (QA.5), respondents identified the commission of illegal activities, substandard ship operation, risk to seafarers' lives and marine pollution.
- .9 On the question of best practices to combat fraudulent registration (QA.6-7), most respondents did not declare relevant knowledge, while some underscored the significance of information exchange between port State control authorities as well as sharing incidents with IMO.
- .10 In response to the question on relevant stakeholders (QA.8), most respondents identified IMO, flag State control and port State control.
- .11 The majority of answers on the characterization of the act of establishing a fraudulent registry and committing fraudulent registration point towards criminal law in addition to administrative measures and a need to convert it to an international crime (QA.9-15).
- .12 On the question on which legal instruments (QA.16) are infringed by committing the above-mentioned acts, most responders identified the United Nations Convention on the Law of the Sea (UNCLOS), IMO regulations and other legal instruments as below.

- .13 In relation to the question of possible preventative and combative measures against the above-described problems (QA.17), many responders recommended actions and measures that need to be taken by IMO, especially the role of GISIS (QA.18).
- .14 Regarding the three additional questions, as approved by LEG 110, and addressed to the ship registries as part of the enhanced questionnaire, a total of 30 responses were received. Since the majority was not privy to specific incidents (QB.1) but knowledge was gained only from public information, there was no concrete response regarding the action taken by the relevant maritime administrations. However, three registries responded that on detection of a forged document they follow a comprehensive set of national rules, which may lead to:
- (a) withdrawal and nullification of the forged document,
  - (b) invitation of the owner to a hearing on the alleged act, and
  - (c) criminal sentence of the ship's master.
- .15 On the additional question whether fraudulent registration and related practices constitute a real threat to the shipping community as a whole (QB.2), all responses received (30) were affirmative with emphasis on the subversion of the global regulatory system of IMO.
- .16 To the additional question, what message is generated to the perpetrators of such acts by the low participation of Member States in the initial phase of the Study (QB.3), all respondents (30) confirmed that higher participation would generate a stronger message against such practices.
- .17 Of significant interest were the responses to the substantive additional question, whether fraudulent registration may be linked to the lack of minimum requirements for due and effective ship registration (QB.4). The vast majority of respondents expressed the view that it was worth pursuing research in that direction.
- .18 Some registries responded that it would be worth examining if there is objective evidence of a linkage between lack of minimum requirements for ship registration and related abuse by criminal actors; in other words, to investigate loopholes in the international ship registration system which are being exploited by perpetrators of such fraudulent acts.
- .19 A crucial aspect of the above-mentioned problem seems to be linked with the criteria and the processes under which a ship is "transferred" from one registry to another. One country underscored the significance of taking into consideration the "genuine link" provision in the United Nations Convention on Conditions for Registration of Ships of 1986 (not in force), when examining the necessity for minimum requirements for due and effective ship registration.
- .20 In many instances of ships flying a "false" flag, or even more than one flag consecutively, the problem appears twofold. In the legitimate situation of "provisional registration", the length of which ranges from country to country and in which due diligence of the submitted documents should be performed by the registry, in many cases the shipowner may have originated from a previous fraudulent registry with forged documents. By the time the period of

provisional registration lapses, the perpetrator can file a new application for registration to another registry. However, during that period the ship would appear to be validly registered – albeit provisionally – with a lawful registry.

- .21 At the same time, it is manifest that the perpetrators almost invariably commit the act of fraudulent registration with the flag of countries that lack capacity to exercise effective jurisdiction and control over their registered ships, more so over ships that fly their flag without due registration. This category is a *locus classicus* of lack of "genuine link" between the ship and the flag State as prescribed by Article 91 of UNCLOS.<sup>2</sup>
- .22 Based on the above, it seems that the crystallisation of minimum criteria for ship registration will ensure effective jurisdiction and control over them and will provide substance to the notion of "genuine link", a prerequisite that could thwart behaviours, leading to fraudulent registration and related illegal practices.
- .23 No best practices were discernible from the responses received.

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<sup>2</sup> According to the ratio decidendi of The M/V "Virginia G" (Panama/Guinea-Bissau), Judgment, a decision of the International Tribunal of the Law of the Sea (ITLOS), "...*In the view of the Tribunal, once a ship is registered, the flag State is required, under article 94 of the Convention, to exercise effective jurisdiction and control over that ship in order to ensure that it operates in accordance with generally accepted international regulations, procedures and practices. This is the meaning of "genuine link"*", ITLOS Reports 2014, p. 4.

## PART II STATISTICAL ANALYSIS<sup>3</sup>

### Distinction between a ship flying a "false" flag and one being part of the "dark fleet" or "shadow fleet"

7 Before considering the statistical information available, a distinction in terminology and usage is important to be recognized. According to the criteria used by IHS Markit/S&P Global, any ship which transmits, broadcasts, displays, or otherwise engages in the misuse of flag details, which are confirmed by the flag Administration as not being legally registered under the flag in question, is designated as Flag "FALSE" in the GISIS database.<sup>4</sup>

8 That status of Flag "FALSE" must be distinguished from a ship being part of a "dark fleet" or "shadow fleet", as described in documents LEG 110/5 and LEG 110/18/1, paragraph 5.10. As noted by the Committee at its 110th session, the tankers in the dark fleet posed a real and high risk of incident particularly when engaged in ship-to-ship transfers, as they disguised the cargoes' destinations or origins, or avoided oversight or regulation by flag or coastal States. This practice, in many cases, transferred the risk of oil pollution damage to coastal States that were not involved in, or benefiting from, the oil being transferred and could increase the risk of shipowners evading their liability under the 1992 Civil Liability Convention (CLC) and the Bunkers Convention, with implications for affected coastal States and the exposure of the IOPC Funds. A number of related recommended measures supported by the Legal Committee are detailed in document LEG 110/18/1 at paragraph 5.10. In December 2023, the Assembly also considered information about those ships and adopted resolution A.1192(33) on *Urging Member States and all relevant stakeholders to promote actions to prevent illegal operations in the maritime sector by the by the "dark fleet" or "shadow fleet"*.

### Characteristics of fraudulently registered (FR) ships identified in the GISIS module

9 There were 116 ships in the data set "GISIS Data of false flagged ships" as of 6 June 2023. Out of these 116 ships, 85 were included in the UNCTAD database of the world fleet, provided by Clarksons Research Services, which covers all 100,441 commercial seagoing ships of 100 GT and above as of 1 January 2023.<sup>5</sup> The remaining 31 ships that were not included in the data set were mostly very small ships, i.e. with a tonnage below 100 GT. Some ships may also be fishing or other ship types, not covered by the data set.

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<sup>3</sup> Note on the statistical comparison:  
UNCTAD, based on data provided by Clarksons Research Services and other data providers, regularly publishes maritime statistics on-line (<http://stats.unctad.org>) and in the Review of Maritime Transport (<http://unctad.org/RMT>). For the purposes of the present study, UNCTAD drew on the same data set used for the production of the above-mentioned statistics.

**Vessel types and flag of registration:** The data provided in the present document coincides, apart from some rounding differences, with the tables published by UNCTAD.

**Classification societies:** Given that for a large number of ships the classification society is not known, UNCTAD does not normally publish this table. The table presented in the present report is generated here solely for the benefits of the present study.

**Ownership:** For the statistics on ownership provided regularly by UNCTAD, UNCTAD only considers ships of 1000 GT and above, because information on ownership is comprehensively available for these ships. Having received and reviewed the data on "false flag" vessels, and seeing that many of these ships are smaller than 1000 GT, UNCTAD undertook an additional analysis based on all ships of 100 GT and above, even though information about ownership is not known for about 3% of the fleet of smaller ships. Given that countries have different shares in the world fleet for different vessel sizes, the tables generated here for the Study are different from those published by UNCTAD, but more appropriate to compare to the list of "false flag" ships UNCTAD had received.

<sup>4</sup> <https://gisis.imo.org/Members/SHIPS/Default.aspx>

<sup>5</sup> The source of tables 2, 3, 4, 5 and 6 in this part is UNCTAD, based on data provided by Clarksons Research Services.



10 A statistical comparison of the 85 "false" flagged ships for which more detailed information is available, against the average of the world fleet, reveals the following:

- .1 The 116 ships in the whole data set represent 0.12% of the world fleet.
- .2 At 34 years, the fraudulently registered (FR) ships are on average 12 years (53%) older than the world fleet, which has an average age of 22 years. Fraudulently registered ships are smaller than the global average, with 8,803 GT compared to the global average of 14,582 GT as shown in table 2.

**Table 2: Average data**

Averages	all vessels	FR vessel	FR vessels (%)
Age	22	34	153%
TEU	2'383	211	9%
GT	14'582	8'803	60%
dwt	26'221	16'239	62%
LOA	106	92	87%
Breadth	18	15	82%
Draft (m)	7	6	83%

- .3 The majority of the identified fraudulently registered ships are oil tankers and general cargo ships, as shown in table 3.

**Table 3: Ship types**

All vessels		FR vessels		
Class	%	Type	Count	%
Grand Total	100.0%	Grand Total	85	100.0%
Bulk carriers	12.5%	Bulk carriers	1	1.2%
Chemical tankers	4.4%	Chemical tankers	5	5.9%
Container ships	5.7%	Container ships	0	0.0%
Ferries and passenger ships	8.3%	Ferries and passenger ships	3	3.5%
General cargo ships	19.5%	General cargo ships	37	43.5%
Liquefied gas carriers	2.3%	Liquefied gas carriers	2	2.4%
Offshore supply	29.4%	Offshore supply	7	8.2%
Oil tankers	11.2%	Oil tankers	25	29.4%
Other/n.a.	6.8%	Other/n.a.	5	5.9%

- .4 For more than two thirds of the fraudulently registered ships, the class is unknown. Members of IACS are less frequently found among class providers for the fraudulently registered ships, as shown in table 4.

**Table 4: Classification Societies<sup>6</sup>**

All vessels		FR vessels		
Class	%	Class	Count	%
<b>Grand Total</b>	100.0%	<b>Grand Total</b>	85	100.0%
<b>Unknown</b>	37.5%	<b>Unknown</b>	62	72.9%
<b>NKK</b>	8.2%	<b>Maritime Bureau</b>	2	2.4%
<b>DNV</b>	7.5%	<b>Panama SR</b>	2	2.4%
<b>BV</b>	7.4%	<b>Phoenix</b>	2	2.4%
<b>ABS</b>	6.6%	<b>Union Bureau</b>	2	2.4%
<b>Indonesia</b>	6.5%	<b>Universal Maritime</b>	2	2.4%
<b>LR</b>	6.3%	<b>Bulgarian</b>	1	1.2%
<b>China</b>	4.7%	<b>BV</b>	1	1.2%
<b>RINA</b>	4.2%	<b>Capital Register</b>	1	1.2%
<b>Korean</b>	2.3%	<b>Cosmos Marine, Global Marine</b>	1	1.2%
<b>Russian</b>	1.9%	<b>Dromon</b>	1	1.2%
<b>Indian</b>	1.1%	<b>Hellas Naval</b>	1	1.2%
<b>Vietnam</b>	0.6%	<b>Indonesia</b>	1	1.2%
<b>Polski</b>	0.3%	<b>Intertek Maritime</b>	1	1.2%
<b>Turk</b>	0.3%	<b>IROS</b>	1	1.2%
<b>Phoenix</b>	0.3%	<b>OMCS</b>	1	1.2%
<b>Croatian</b>	0.3%	<b>OMCS, Sing-Lloyd</b>	1	1.2%
<b>Zhong Chuan</b>	0.2%	<b>Sing-Lloyd</b>	1	1.2%
<b>BV, Phoenix</b>	0.1%	<b>Naval</b>	1	1.2%

.5 As regards countries of ownership, these are shown in table 5.

<sup>6</sup> Note: List of "All vessels" does not include information for classification of 91 or fewer ships.

**Table 5: Country of ownership**

<b>All vessels</b>		<b>FR vessels</b>		
<b>Country of ownership</b>	<b>%</b>	<b>Country of ownership</b>	<b>Count</b>	<b>%</b>
<b>Grand Total</b>	100.00%	<b>Grand Total</b>	85	100.00%
<b>Indonesia</b>	11.04%	<b>Unknown</b>	11	12.94%
<b>Japan</b>	8.28%	<b>Singapore</b>	10	11.76%
<b>China</b>	7.83%	<b>China</b>	8	9.41%
<b>Greece</b>	5.55%	<b>China, Hong Kong SAR</b>	6	7.06%
<b>Singapore</b>	4.49%	<b>Greece</b>	5	5.88%
<b>United States</b>	4.49%	<b>Türkiye</b>	5	5.88%
<b>Unknown</b>	3.52%	<b>United Arab Emirates</b>	4	4.71%
<b>Republic of Korea</b>	2.99%	<b>Viet Nam</b>	4	4.71%
<b>Russian Federation</b>	2.94%	<b>Albania</b>	3	3.53%
<b>Germany</b>	2.56%	<b>Indonesia</b>	3	3.53%
<b>Türkiye</b>	2.56%	<b>Equatorial Guinea</b>	2	2.35%
<b>Norway</b>	2.54%	<b>Japan</b>	2	2.35%
<b>United Arab Emirates</b>	2.42%	<b>Republic of Korea</b>	2	2.35%
<b>China, Hong Kong SAR</b>	2.32%	<b>Lebanon</b>	2	2.35%
<b>Philippines</b>	2.13%	<b>Panama</b>	2	2.35%
<b>Viet Nam</b>	2.12%	<b>Russian Federation</b>	2	2.35%
<b>United Kingdom</b>	1.83%	<b>Ukraine</b>	2	2.35%
<b>India</b>	1.79%	<b>Denmark</b>	1	1.18%
<b>Malaysia</b>	1.79%	<b>India</b>	1	1.18%
<b>Netherlands (Kingdom of the)</b>	1.77%	<b>Iran (Islamic Republic of)</b>	1	1.18%
<b>Taiwan Province of China</b>	1.35%	<b>Lithuania</b>	1	1.18%
<b>Italy</b>	1.32%	<b>Malaysia</b>	1	1.18%
<b>Denmark</b>	1.07%	<b>Marshall Islands</b>	1	1.18%
<b>Thailand</b>	0.92%	<b>Nigeria</b>	1	1.18%
<b>Nigeria</b>	0.87%	<b>Romania</b>	1	1.18%
<b>Iran (Islamic Republic of)</b>	0.84%	<b>Syrian Arab Republic</b>	1	1.18%
<b>Brazil</b>	0.83%	<b>Thailand</b>	1	1.18%
<b>Canada</b>	0.81%	<b>United Kingdom</b>	1	1.18%
<b>France</b>	0.77%	<b>Yemen</b>	1	1.18%

- .6 Finally, ships that have been identified as being fraudulently registered do not appear to fly the flag of any of the major flag States. Further information on (purported) flag of registration is set out in table 6.

**Table 6: Flag of registration**

<b>All vessels</b>		<b>FR vessels</b>		
<b>flag on 1 January 2023</b>	<b>%</b>	<b>flag on 1 January 2023</b>	<b>Count</b>	<b>%</b>
<b>Grand Total</b>	100.00%	<b>Grand Total</b>	85	100.0%
<b>Indonesia</b>	11.33%	<b>Equatorial Guinea</b>	9	10.6%
<b>Panama</b>	8.13%	<b>Fiji</b>	6	7.1%
<b>Japan</b>	5.19%	<b>Tanzania</b>	6	7.1%
<b>China</b>	4.84%	<b>Unknown</b>	6	7.1%
<b>Liberia</b>	4.79%	<b>Cameroon</b>	4	4.7%
<b>Marshall Islands</b>	4.16%	<b>Democratic Republic of the Congo</b>	4	4.7%
<b>United States</b>	3.30%	<b>Gambia</b>	4	4.7%
<b>Singapore</b>	3.17%	<b>Guyana</b>	4	4.7%
<b>Russian Federation</b>	2.86%	<b>Micronesia</b>	4	4.7%
<b>Hong Kong, China</b>	2.51%	<b>Sao Tome and Principe</b>	4	4.7%
<b>Philippines</b>	2.18%	<b>Togo</b>	4	4.7%
<b>South Korea</b>	2.12%	<b>Comoro Islands</b>	3	3.5%
<b>Malta</b>	1.94%	<b>Cambodia</b>	2	2.4%
<b>Viet Nam</b>	1.94%	<b>Indonesia</b>	2	2.4%
<b>Unknown</b>	1.72%	<b>Mongolia</b>	2	2.4%
<b>Malaysia</b>	1.72%	<b>Panama</b>	2	2.4%
<b>India</b>	1.59%	<b>Sierra Leone</b>	2	2.4%
<b>Bahamas</b>	1.27%	<b>Tuvalu</b>	2	2.4%
<b>Greece</b>	1.21%	<b>Zambia</b>	2	2.4%
<b>Italy</b>	1.20%	<b>Belize</b>	1	1.2%
<b>Türkiye</b>	1.15%	<b>Gabon</b>	1	1.2%
<b>Netherlands (Kingdom of the)</b>	1.13%	<b>Guinea Bissau</b>	1	1.2%
<b>Norway</b>	1.03%	<b>Independent State of Samoa</b>	1	1.2%
<b>Cyprus</b>	0.99%	<b>Japan</b>	1	1.2%
<b>Iran (Islamic Republic of)</b>	0.96%	<b>Palau</b>	1	1.2%
<b>Nigeria</b>	0.91%	<b>Peoples' Republic of China</b>	1	1.2%
<b>Thailand</b>	0.87%	<b>Republic of Congo</b>	1	1.2%
<b>United Kingdom</b>	0.85%	<b>Singapore</b>	1	1.2%
<b>St. Vincent and the Grenadines</b>	0.82%	<b>South Korea</b>	1	1.2%
<b>Brazil</b>	0.80%	<b>Thailand</b>	1	1.2%
<b>Belize</b>	0.77%	<b>Ukraine</b>	1	1.2%
<b>Madeira</b>	0.73%	<b>Viet Nam</b>	1	1.2%

### PART III THE IMPACT OF FRAUDULENT SHIP REGISTRATION

11 This Part considers the adverse impact of fraudulent ship registration and fraudulent registries of ship as per paragraph 1.3 of the terms of reference of the Study Group. This part will not only consider safety and environmental consequences but will also consider in depth the human element, especially seafarers on board ships fraudulently registered.

#### Ship registration and its legal effect

12 Upholding respect for international standards set by IMO and other entities in respect of navigation, States must ensure compliance when they monitor and enforce those standards. The concept of the genuine link in UNCLOS,<sup>7</sup> enshrined in Article 91, which is customary international law, and expressed in Article 5 of the 1958 Convention on the High Seas is vital.

13 One commentator<sup>8</sup> reasons that this is "*the legal and functional responsibilities assumed by the flag State when it confers national character upon a ship. Registration represents the legal requirement whilst the functional component pertains to periodic surveys, safe and proper working conditions, and social welfare of the crew*". In the *MV "Saiga" (No. 2) Case* it was stated that "*the purpose of the provisions of the Convention on the need for a genuine link between a ship and its flag State is to secure more effective implementation of the duties of the flag State....*".

14 Registration of a ship includes the administrative act by which the nationality and collateral rights and duties are conferred on ships. It is also how the ship is entered in the public records (registry of ships) of the State and the official confirmation that the ship meets the relevant national requirements. This is followed by the issuance to the ship by the competent authorities of the State of a document evidencing the ship's nationality and verifying its right to fly the national flag of that State.

15 A ship can only enjoy freedom of navigation in the high seas if it has a national character and is under the jurisdiction and control of a State.<sup>9</sup> A ship possessing no nationality – a stateless ship – enjoys no protection under international law.<sup>10</sup> What then is a stateless ship? It is a ship flying no flag; or a ship flying the flags of two or more States; or a ship flying an unidentifiable or unauthorized flag.

16 Three principles can be drawn from UNCLOS Articles 90-92. First, no access to the High Seas is allowed to ships not flying a flag; second, the right to fly a flag is linked to the conferment of nationality; and third, it is for each country to determine the conditions for the granting of its nationality to a ship. While UNCLOS Article 94 vests in every country, whether littoral or land-locked, the right to establish a ship registry, this power is not unconditional nor unrestricted. As with all rights, a balance is sought to be achieved by counterbalancing the power provided with a collateral duty. Indeed, the country ought to exercise effective jurisdiction and control over its registered ships. At the same time, the power of a country to fix the conditions for registration of a ship to its registry in its capacity as flag State is restrained by the power of the other countries, which exercise jurisdiction over that registered ship within their waters in their capacity as port States.<sup>11</sup>

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<sup>7</sup> The international Conventions mentioned in this part are considered further in part IV of this document.

<sup>8</sup> *Tache S.W.*, "The Nationality of Ships: The Definitional Controversy and Enforcement of Genuine Link", (1982) 16 *The International Lawyer* 301-12.

<sup>9</sup> In the case of *Naim Molvan v. Attorney General of Palestine Re: Asya*, it was stated that a ship not sailing under the maritime flag of a State enjoys no protection whatever, for the freedom of navigation on the open sea is freedom for such ship only as sail under the flag of a State.

<sup>10</sup> *Watt E.*, *Ship Registration*, 3rd edition, 2019, par. 1.4, 2.

<sup>11</sup> *Theocharidis G.*, *The chronicle of the vexing problem of fraudulent registration* (2023) 29 *JIML* 305.

## **Fraudulent ship registration and its legal effect**

17 The problem of fraudulent registration of ships and fraudulent operation of registries first came to the fore in 2015 by the Democratic Republic of the Congo (DRC) when two ships carrying contraband were intercepted in Spain and the supposed flag was notified. DRC informed Spain that although the ships were carrying DRC registration documents, they were not issued by DRC flag Administration. On further investigation, it was found that over 70% of ships purporting to operate under the DRC flag were not legally registered.<sup>12</sup> Since then, there have been numerous cases related to the fraudulent use of a country's flag, and or to the fraudulent operation of a registry without the purported flag country's permission or knowledge have been identified;<sup>13</sup> an unknown number of additional "false" flagged ships could be in operation but remain to be identified.

18 The IMO numbering schemes for both ships and companies are managed through the offices of IHS Markit/S&P Global. They operate a database of more than 200,000 ships and over 240,000 companies. To have accurate and up-to-date information of ships under their flag, IMO encourages all Member States to supply them with such information. The information received from Member States is forwarded to IMO on a weekly basis and the GISIS website is also updated accordingly. This information includes ships recorded as flying fraudulent flags. These ships are identified as "FALSE flag".

19 According to the usage of IHS Markit/S&P Global, the term "false flag" is used for their purposes to designate any ship which transmits, broadcasts, displays, or otherwise engages in the misuse of flag details, and was confirmed by the Authorized flag Administration as not legally registered under the flag in question. Consequently, such a ship may be considered as not legally registered in any State and therefore without a national character. If so, it would be a stateless ship with the ensuing effect of such a ship in international law, including it being legally unprotected (and it may be seized). It must be understood however that the attribution of a "False flag" identifier in this way by a commercial organisation does not equate to a formal determination or hold any legal status.

20 In addition to UNCLOS Article 94, effective enforcement of international rules and standards are the primary duties of the flag State as seen in Article 217 (1), (2) and (3) of UNCLOS. Flag States are entrusted with issues of compliance by ships with legally applicable international rules and standards adopted for the prevention, reduction and control of pollution of the marine environment from ships and provide for the effective enforcement of such rules, standards, laws and regulations, irrespective of where a violation occurs.

21 The flag State is also obliged to take appropriate measures in order to ensure that its ships are prohibited from sailing, until they can proceed to sea in compliance with the requirements of the international rules and standards, including requirements in respect of design, construction, equipment and manning of ships. In addition, the flag State is also to ensure that its ships carry on board certificates required by and issued pursuant to international rules and standards. These ships should be periodically inspected to verify that such certificates are in conformity with the actual condition of the ships.

22 Fraudulent registrations impair this system of safeguarding the maritime space by preventing a flag State from effectively discharging this duty. The effect of this breach is further amplified by the fact that inspections at port are usually limited to inspection of certificates

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<sup>12</sup> Krzyzak M., 'IHS Markit / S&P Global Work Related to the Fraudulent Registration and Fraudulent Registries of Ships' (Webinar presentation in conjunction with IMO Legal Committee 109th Session, 2022).

<sup>13</sup> See the list of "false" flag ships identified in GISIS and cases notified to the Legal Committee, most recently LEG 110/18/1 at para. 6.13-15.

issued by the flag State unless (as provided further in UNCLOS Article 217) there are clear grounds for believing that the condition of the ship does not correspond substantially with the particulars of the certificates.

23 If the flag is false, it is likely, albeit not certain, that other national or trading certificates carried on board are also false. Therefore, if inspection of such a ship is carried out on certificate basis alone, such a ship will be prejudicial to safety, security and protection of the marine environment. As mentioned above, the known types of ships that engage in such practices are typically very old ships with potentially low value which may not have met the objective registration requirements of the lawful registries of flag States.

### **Seafarers on board a "false" flagged ship**

24 Labour at sea is deemed unique owing to its specific features and the environment in which it takes place. Seafarers, by the nature of their employment, are an isolated international occupational group of workers who face prolonged absence from their homes, resulting in crucial social and legal consequences. The current comprehensive instrument, the Maritime Labour Convention, 2006 was adopted and widely known as the seafarers "bill of rights". Its aim is to ensure that all seafarers have the right to certainty of tenure, safe, secure, and humane workplace.

25 A fraudulently registered ship is a risk to seafarers because the duties of the flag State toward a ship flying its flag as stated in UNCLOS Article 94(2)(b) – to assume jurisdiction under its internal laws over its ship flying its flag and its master, officers and crew in respect of administrative, technical and social matters concerning the ship – do not attach to any one genuine flag State administration and are therefore in practice entirely absent. Furthermore, seafarers are exposed to many other harms due to a lack of flag State jurisdiction and control. Fraudulently registered ships may not be compliant with safety and environmental protection standards, thereby endangering the ships' crew because, as can be seen from the statistical data in part II of this report, they are often very old ships.

26 Seafarer's rights include the rights to life, employment agreement, free employment services and continuity of employment, safe and healthy working conditions, wages, health and medical care, social security and welfare, entitlement to leave, repatriation and freedom from cruel and inhuman or degrading treatment. These rights are all threatened where the ship operates under a "false" flag. Several cases have been reported of abandonment of seafarers on board "false" or fraudulently flagged ships. Abandonment of seafarers manifests itself in several ways including the refusal to pay seafarers, to give them sufficient food, and failure to repatriate them.<sup>14</sup>

27 Repatriation is the seafarer's right to return home at no cost to him/her. The shipowner must also provide financial security for this purpose. The seafarer is entitled to repatriation when his or her employment is terminated by the shipowner, by the seafarer for justified reasons and when the seafarer is no longer able to carry out his/her duties under the contract – which becomes an impossibility when there is a "false" flag to the detriment of the seafarer. As mentioned above, such a ship possesses no nationality and therefore enjoys no protection under international law. In such cases, seafarers' rights are prejudiced because the ship is effectively unsupervised.

28 In such circumstances the state of abandonment or the national state of the seafarer in question comes to shoulder the burden of repatriation if they can.

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<sup>14</sup> See examples provided in annex 3.

#### **PART IV THE INTERNATIONAL LEGAL FRAMEWORK**

29 This part presents an analytical overview of the relevant international legal framework in response to the question set out in paragraph 1.9 of the TOR of the Study Group: *What are the conventions, treaties and resolutions related to fraudulent registration and fraudulent registries of ships?*

30 Issues related to ship registration, flagging and ownership are complex and diverse, and the interpretation and enforcement of relevant laws and regulations can vary from one country to another. There is currently no single specific international instrument or treaty that contains a standardized and universally accepted definition of "fraudulent ship registration", though definitions developed by a LEG correspondence group were agreed by LEG 108 and LEG 109 as follows:

""Fraudulent registration of a ship" means the intentional misrepresentation of information and documentation by which a ship is purportedly given its nationality without authorization by the Government of the misrepresented flag State"

""Fraudulent registry" is an unauthorized body or entity that intentionally misrepresents that it is authorized, [at the relevant time,] for the registration of ships on behalf of the flag State" (documents LEG 108/6 and LEG 108/16/1)

"Forged/False document: any document, whether in electronic or paper format, that is:

- .1 forged or falsified to obtain or issue a ship registration certificate;
- .2 a forged or falsified ship registration certificate; or
- .3 issued based knowingly on the forged or falsified ship registration certificate" (documents LEG 109/6 and LEG 109/16/1) .

Absent express definition in treaties or other international instruments, the concept is addressed through a combination of international maritime conventions and other legal instruments, domestic laws, and industry best practices. Among these, UNCLOS is the main instrument setting out the general international legal framework for the use and management of the world's oceans, including allocation of duties and responsibilities of States on related legislative and enforcement matters.

31 Also, there is currently no binding international framework to regulate the ship registration process itself. As regards the United Nations Convention on Conditions for Registration of Ships of 1986, it should be noted that although it has not entered into force, its provisions have significantly influenced a number of national laws on ship registration. Issues related to ship registration are also covered in the International Convention on Maritime Liens and Mortgages 1993, which has however not been widely ratified and which contains no express treatment of fraudulent registration.

32 Some important legal instruments relating to international shipping, adopted under IMO and ILO auspices, are also relevant. While aiming to ensure compliance with regulatory standards to protect ships, crew and cargo safety and wellbeing as well as the environment, which are closely linked to proper registration and management of ships, these instruments indirectly address issues related to ship registration and preventing fraudulent practices.



33 Other relevant international instruments aim to ensure the security of ships and their crew as well as prevent crime and enforce laws on the high seas by addressing unlawful acts against the safety of maritime navigation such as piracy, terrorism and other acts of violence<sup>15</sup>. Nevertheless, preventing fraudulent ship registration mainly remains a matter of legal and administrative control by flag States and relevant national authorities.

34 Special reference should also be made to IMO Assembly resolution A.1162(32) on *Encouragement of Member States and all relevant stakeholders to promote actions for the prevention and suppression of fraudulent registration and fraudulent registries and other fraudulent acts in the maritime sector*, which includes action-oriented measures to be taken by several stakeholders, individually and collectively, to promote effective actions for the prevention and suppression of fraudulent registration and fraudulent registries and other fraudulent acts in the maritime sector.

### **United Nations Convention on the Law of the Sea**

35 UNCLOS, a widely ratified<sup>16</sup> international instrument, defines and codifies established customary international law, setting out the legal framework for the use and management of the world's oceans, including as regards allocation of duties and responsibilities of States. It further strengthens and expands a large portion of the requirements expressed in the earlier 1958 Geneva Conventions on the law of the sea.<sup>17</sup> Although UNCLOS does not include a specific article that explicitly prohibits fraudulent ship registration, it contains provisions that indirectly address the issue.

36 It is a well-known practice in international law that a ship may fly the flag of only one State. Both the 1958 Convention on the High Seas (Article 6) and UNCLOS (Article 92) provide that "*...ships shall sail under the flag of the one State only.*" The 1958 Convention on the High Seas (Article 5) and UNCLOS (Article. 91) provide that "*Ships have the nationality of the State whose flag they are entitled to fly.*" The 1958 Convention on the High Seas (Article 5) also provides that "there must exist a genuine link between the State and the ship; in particular, the State must exercise its jurisdiction and control the administrative, technical and social matters over ships flying its flag". However, it does not define what is meant by "genuine link".

37 The concept of the need for a genuine link was also recognized in UNCLOS, which, states: "*There must exist a genuine link between the State and the ship*" (Article 91), although no further clarification or definition is provided. This provision may however be considered to imply that ships should be registered with a genuine flag State and not engage in fraudulent registration. Normally, the "genuine link" principle requires that a ship must have a connection with the flag State, such as being owned or operated by a citizen or company of that State, in order to be registered under that flag.

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<sup>15</sup> For further information, see also UNCTAD, *Maritime Piracy (Part II): An Overview of the International Legal Framework and of Multilateral Cooperation to Combat Piracy*. Studies in Transport Law and Policy – 2014 (No.2). UNCTAD/DTL/TLB/2013/3

<sup>16</sup> As of 30 September 2023, the Convention had been ratified by 168 States and the European Union. An additional 14 UN Member States have signed, but not ratified it. The Convention was opened for signature on 10 December 1982 in Montego Bay and entered into force on 16 November 1994, upon the deposit of the 60th instrument of ratification. For further information and status see, <https://www.unclos.org/>.

<sup>17</sup> These are the Convention on the Territorial Sea and the Contiguous Zone (CTS); the Convention on the High Seas (CHS); the Convention on Fishing and Conservation of the Living Resources of the High Seas (CFCLR); the Convention on the Continental Shelf (CCS); and the Optional Protocol of Signature concerning the Compulsory Settlement of Disputes (OPSD). For further information and status see <https://legal.un.org/avl/ha/gclos/gclos.html>.

38 In addition, according to UNCLOS, each State has the right to determine the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag (Article 91(1)), as well as the obligation to maintain a register for ships flying its flag (Article 94(2)(a)). A ship may not navigate without being registered in, and flying the flag of, some State. It may navigate only under the flag of the State in which it is registered and must carry documents certifying its registration. A ship that is not registered in any State and is not entitled to fly the flag of any State is considered 'a ship without nationality'<sup>18</sup>; it may be boarded by a warship or other clearly marked law enforcement ship of any State, for the purpose of checking documents and any further examination that may be necessary (Article 92(2) and 110(1)(d)).

39 UNCLOS also imposes an obligation on the State whose flag the ship flies to exercise "*effective jurisdiction and control*" over the ship as to administrative, technical and social matters and safety and other public law requirements to ensure compliance with international regulations (Article 94 and Article 217). These provisions may be considered to imply that States have a responsibility to prevent fraudulent registration or any other illegal activities related to ship registration under their flag. Article 94(2) provides that "*In particular every State shall: (a) maintain a register of ships containing the names and particulars of ships flying its flag, except those which are excluded from generally accepted international regulations on account of their small size; and (b) assume jurisdiction under its internal law over each ship flying its flag and its master, officers and crew in respect of administrative, technical and social matters concerning the ship.*" The difficulty that such an implied duty represents is that Article 94 prescribes control by a lawful flag State over its lawful ships and not on those which are not lawfully part of its fleet, such as "false" flag ships.

40 Every State shall take such measures for ships flying its flag as are necessary to ensure safety at sea and respect for labour aspects. Furthermore, Article 94(6) requires States to take appropriate measures to ensure that ships flying their flag are capable of performing their duties with respect to safety, security and prevention of pollution. Hence, since this provision mandates States to uphold certain standards and responsibilities, it may indirectly serve to discourage fraudulent ship registration. Article 217 is also relevant, as it deals with enforcement duties of flag States and/or States of registration in the implementation and enforcement of international conventions, including those on technical and safety aspects of shipping and seafarers' working conditions, and in monitoring compliance with relevant mandatory standards. The difficulty identified above, namely that the prescribed object of this flag State duty is lawfully registered ships (rather than fraudulent ones) is equally relevant to these provisions.

41 In this context, it is worth mentioning that countries treat ship registration differently. Some only allow traditional or "closed" registry, meaning they allow the registration of ships owned by local residents or companies. Other countries allow "open" registries or ships that sail under what have been termed 'flags of convenience'. Others choose not to allow the use of their flag for international trade at all. Through open registries, some countries allow foreign-owned ships to register under their flag, granting them their nationality, irrespective of the nationality or location of the shipowner.

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<sup>18</sup> As discussed in part III of this report, a "stateless ship"

## United Nations Convention on Conditions for Registration of Ships of 1986

42 There is currently no binding international framework to regulate the ship registration process itself. The United Nations Convention on Conditions for Registration of Ships<sup>19</sup>, was adopted with the aim of "*strengthening the genuine link between a State and ships flying its flag, and in order to exercise effectively its jurisdiction and control over such ships with regard to identification and accountability of shipowners and operators as well as with regard to administrative, technical, economic and social matters*" (Article 1).

43 The Convention establishes details on ship registration as well as special rules to enable the State of registration to exercise effective control over ships flying its flag by ensuring that those who are responsible for the management and operation of a ship on its register, are readily identifiable and accountable.<sup>20</sup> It provides that each State concerned shall establish "a *competent and adequate national maritime administration*", able to ensure compliance with international rules and standards concerning "*the safety of ships and persons on board and the prevention of pollution of the marine environment*", provide for periodical surveying of ships, and require ships to carry documents evidencing the right of the ship to fly the State's flag and other relevant documents (Article 5). In addition, the Convention contains provisions relating to ship ownership, management, and manning, including measures to protect the interests of labour-supplying countries, and minimize adverse economic effects (Articles 8–10, 14 and 15).

44 The Convention does not specifically address the issue of fraudulent registration of ships. However it draws an important distinction between "flag State" and "State of registration". According to it: "Flag State" means a State whose flag a ship flies and is entitled to fly; "State of registration" means the State in whose register of ships a ship has been entered; "Register of ships" means the official register or registers in which particulars referred to in Article 11 of the Convention are recorded" (Article 2). In addition, "... 2. *Ships have the nationality of the State whose flag they are entitled to fly; 3. Ships shall sail under the flag of one State only; 4. No ships shall be entered in the registers of ships of two or more States at a time, subject to the provisions of paragraphs 4 and 5 of Article 11 and to Article 12*"<sup>21</sup> (Article 4).

45 The Convention was set to enter into force after ratification by no less than 40 States representing 25% of the world fleet, but has been ratified by only 15 States. Although the Convention has not entered into force, it should be noted that its provisions have significantly influenced a number of national laws on ship registration.

## International Convention on Maritime Liens and Mortgages 1993

46 The International Convention on Maritime Liens and Mortgages 1993, adopted under the joint auspices of UNCTAD and IMO, entered into force on 5 September 2004, after ratification by 10 States. As of 4 January 2024<sup>22</sup>, this Convention had been ratified/acceded to by 21 States. The Convention does not specifically address the issue of fraudulent registration of ships but among others contains provisions in its Article 16 that are applicable in cases

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<sup>19</sup> The UN Convention on Conditions for Registration of Ships was adopted by the Conference of plenipotentiaries which met at Geneva from 20 January to 7 February 1986 under the auspices of UNCTAD, in accordance with resolution 37/209 of the General Assembly of the United Nations dated 20 December 1982 (UNGA Res A 37/209, pg. 139).

<sup>20</sup> Information and data about structure, ownership and registration of the world fleet is systematically provided as part of UNCTAD's annual Review of Maritime Transport.

<sup>21</sup> These provisions regulate the practice of bareboat charter registration.

<sup>22</sup> Authoritative up to date information regarding the status of UN Conventions for which the UN Secretary-General is the depositary is available on the UN Treaty Collection website at <https://treaties.un.org/>.

where a seagoing ship registered in one State is permitted to fly temporarily the flag of another. It allows the temporary suspension of flag for ships registered in a State Party when they are bareboat chartered to a foreign charterer and are permitted to fly the flag of the charterer's State and allows that foreign ships bareboat chartered by nationals temporarily fly the flag of such States (Article 16).

### **United Nations Convention on the International Effects of Judicial Sales of Ships of 2022**

47 The Convention was negotiated under the auspices of UNCITRAL and formally adopted by the United Nations General Assembly on 7 December 2022. The basic rule of the Convention is that a judicial sale conducted in one State Party which has the effect of conferring clean title on the purchaser has the same effect in every other State Party (Article 6). The Convention establishes how a judicial sale is given effect after completion. One requirement is that the ship registry shall deregister the ship or transfer registration at the request of the purchaser. At the request of the purchaser or subsequent purchaser and upon production of the certificate of judicial sale, the registry or other competent authority of a State Party shall delete the ship from the register and issue a certificate of deletion for the purpose of new registration (Article 7). The Convention was opened for signature in September 2023 and has been signed by 17 countries; it will enter into force 180 days after the date of the deposit of the third instrument of ratification, acceptance, approval or accession<sup>23</sup>. The Convention does not specifically address the issue of fraudulent registration of ships.

### ***Key international maritime law conventions***

48 These include the four “pillar” international maritime law conventions, namely, the International Convention for the Safety of Life at Sea (SOLAS), the International Convention for the Prevention of Pollution from Ships (MARPOL), and the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers (STCW) 1978 – adopted under IMO auspices, and the Maritime Labour Convention (MLC) 2006 – adopted under ILO auspices. These instruments do not directly address fraudulent ship registration, but where they contain relevant or analogous provisions, those will be briefly highlighted below.

### **International Convention for the Safety of Life at Sea, 1974 (SOLAS)**

49 The primary purpose of SOLAS is to establish minimum safety standards for the construction, equipment, and operation of ships, emphasizing safety measures and requirements to protect lives at sea.<sup>24</sup> However, some of its provisions indirectly address issues related to fraudulent ship registration, as they aim to maintain transparency and accountability in ship registration and documentation processes.

50 In general, ensuring that ships are properly registered and flagged under the correct State, is essential for compliance with SOLAS. For instance, relevant SOLAS provisions include regulations concerning the survey of the various types of ships and the issuing of documents and certificates from the flag State providing evidence of a ship's compliance with SOLAS requirements, which should be based on accurate ship registration (Chapter I). Other relevant regulations dealing with ship structure, subdivision, stability and installations

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<sup>23</sup> Authoritative up to date information regarding the status of UN Conventions for which the UN Secretary-General is the depositary is available on the UN Treaty Collection website at <https://treaties.un.org/>.

<sup>24</sup> For the latest status of ratifications, see <https://www.imo.org/en/About/Conventions/Pages/StatusOfConventions.aspx>, or <https://gisis.imo.org/Public/ST/Treaties.aspx>. For more information, see [https://www.imo.org/en/About/Conventions/Pages/International-Convention-for-the-Safety-of-Life-at-Sea-\(SOLAS\)-1974.aspx](https://www.imo.org/en/About/Conventions/Pages/International-Convention-for-the-Safety-of-Life-at-Sea-(SOLAS)-1974.aspx).

(Chapter II), include requirements for marking and identification of ships, such as the ship's name, port of registry and registration numbers, which are crucial in identifying a ship and its legitimate registration status.

51 In addition, provisions related to Safety of Navigation (Chapter V), outline the requirements for ship identification and tracking systems, such as Automatic Identification System (AIS), which help in ship identification and tracking. By employing these systems, authorities can verify a ship's registration and detect any fraudulent or unauthorized activities. Proper ship registration is also essential for maintaining accurate records of navigational activities and voyage-related information, while fraudulent registration can lead to discrepancies in these records. A similar logic applies for other matters covered by the Convention, including those related to carriage of cargoes (Chapter VI, Regulation 6) and carriage of dangerous goods (Chapter VII, Regulation 3), where fraudulent ship registration can lead to inaccuracies in shipping documents.

52 Other relevant provisions (Chapter XI-1) focus on the control of ships in ports, including port State control inspections. Through these inspections, the authorities can verify the ship's documentation, including its registration and certificates, to ensure compliance with SOLAS requirements and potentially detect any fraudulent activities.

53 In addition, SOLAS enshrines the International Ship and Port Facilities Security Code (ISPS Code) (Chapter XI-2), adopted following the terrorist attacks of 11 September 2001 in the United States, which aims to enhance security in the maritime industry and ensure that commercial ships engaged in international trade and port facilities meet certain security standards.

54 While it may not directly address fraudulent ship registration, the ISPS Code indirectly contributes to its prevention and detection by ensuring accurate and verifiable ship registration, documentation and identification, and promoting security measures and cooperation among various maritime stakeholders. For instance, to comply with the ISPS Code, ships must be registered with a recognized flag State and must be certified by a recognized security organization. Flag States are responsible for ensuring that their registered ships comply with the ISPS Code and undertake regular inspections to verify compliance.

### **International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, and as further amended by the Protocol of 1997 (MARPOL)**

55 The International Convention for the Prevention of Pollution from Ships addresses marine pollution by regulating the discharge of various pollutants from ships into the marine environment. It has been amended several times since its adoption, including by a Protocol of 1997. The MARPOL Convention and the 1997 Protocol apply to the vast majority of the world's fleet.<sup>25</sup> MARPOL primarily focuses on the prevention of marine pollution, particularly from ships, and does not address fraudulent ship registration directly. However, certain provisions indirectly underline the importance of accurate ship registration and documentation for MARPOL compliance. Fraudulent registration of ships undermines implementation and enforcement of the substantive provisions in MARPOL and its Annexes. Proper ship registration is crucial for ensuring that ships adhere to MARPOL regulations, as fraudulent registration can lead to non-compliance, which may result in environmental pollution and potential legal consequences.

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<sup>25</sup> For the latest status of ratifications, see <https://www.imo.org/en/About/Conventions/Pages/StatusOfConventions.aspx>, or <https://gisis.imo.org/Public/ST/Treaties.aspx>.



56 Relevant MARPOL provisions include for instance those emphasizing the importance of issuing of a relevant International Oil Pollution Certificate, which must contain details about the ship's name, flag, number, registry tonnage and other particulars (Annex I, Appendix II), as well as maintaining proper documentation of oil and cargo residues and their discharge and transfer (Annex I). Thus, accurate ship registration is crucial for compliance, ensuring that the ship's documentation is reliable.

57 Compliance with other requirements under MARPOL, including those for the control of pollution by noxious liquid substances in bulk (Annex II) and by harmful substances in packaged form carried by sea (Annex III), requires that ships be registered correctly and that their documentation accurately reflects their status and capacity to handle such substances. Similarly, accurate ship registration is important for determining capacity for sewage treatment and compliance with related standards (Annex IV); as well as for ensuring that the ship's documentation reflects its requirements for garbage management and record-keeping (Annex V).

58 As regards prevention of air pollution from ships, including GHG emissions reduction, accurate ship registration is important to determine for instance, the ship's compliance with fuel sulphur content limits and its eligibility for exemptions or special considerations (Annex VI), as well as for helping establish the ship's eligibility for compliance with the availability and quality of fuel oil provisions (Annex VI).

#### **International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW)**

59 This Convention establishes minimum training, certification and watchkeeping standards for seafarers, in order to ensure the competence and safety of ship crew members. It has been amended at intervals.<sup>26</sup> As of 20 November 2023, it had 167 States Parties, representing 98.91% of the global fleet. Among these, the 2010 amendments specifically introduced improved measures to prevent fraudulent practices associated with certificates of competency and strengthen the monitoring of Parties' compliance with the Convention.<sup>27</sup>

60 While the STCW Convention does not have explicit provisions solely dedicated to fraudulent ship registration, its broader framework of responsibilities, training standards, and welfare provisions indirectly touch upon the issues associated with such practices. Under the Convention, flag State authorities are responsible for ensuring that ships registered under their flag comply with STCW standards. Among others, States Parties shall take and enforce appropriate measures to prevent fraud and other unlawful practices involving seafarer certificates and endorsements issued – but not fraudulent registration as such.

61 Flag States are expected to maintain a record of all seafarers holding STCW certificates, monitor the training and certification of seafarers, and issue certificates in accordance with the Convention (Chapter I, Regulation I/2). They are also required to provide detailed information to IMO concerning administrative measures taken to ensure compliance with the Convention, education and training courses, certification procedures and other factors relevant to implementation (Chapter I, Regulation I/6).

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<sup>26</sup> In 1991, 1994, 1995, 1997, 1998, 2004, 2006, 2010, 2014, 2015, 2016 and 2018.

<sup>27</sup> For the latest status of ratifications, see <https://www.imo.org/en/About/Conventions/Pages/StatusOfConventions.aspx>, or <https://gisis.imo.org/Public/ST/Treaties.aspx>. For more information about the Convention, see <https://www.imo.org/en/OurWork/HumanElement/Pages/STCW-Convention.aspx>.

62 Seafarers are not commonly aware of whether a ship on which they are engaged is fraudulently registered. As discussed in part III of this report, when shipowners engage in fraudulent ship registration to avoid adhering to these standards, it can potentially result in seafarers on those ships not receiving proper training or certification. This compromises maritime safety and can lead to accidents and incidents at sea. It can also negatively impact the welfare and wellbeing of seafarers, as ships fraudulently registered often have substandard working and living conditions for seafarers, such as long working hours, low pay and inadequate safety measures and other facilities. In addition, if a ship is suspected of fraudulent registration or non-compliance with STCW requirements, it may face detention or penalties when inspected at ports of other countries. This can disrupt shipping operations and increase the financial and legal risks for shipowners involved in fraudulent registration practices.

### **Maritime Labour Convention, 2006 (MLC)**

63 The Maritime Labour Convention, 2006 primarily focuses on establishing comprehensive labour standards and conditions for seafarers to ensure their fair treatment and protection while working onboard ships. It entered into force on 20 August 2013, and as of 4 January 2024, had 104 States Parties representing 96.6% of the world fleet. While the MLC does not specifically address fraudulent ship registration, it indirectly addresses issues related to substandard conditions and labor exploitation that can be associated with such practices, by emphasizing the importance of flag State responsibilities, the need for ships to adhere to labor and social standards, inspections and port State control.

64 The MLC sets out comprehensive labour and social standards for seafarers, including provisions related to conditions of employment, accommodation, food and catering, health and safety, and repatriation. These standards are designed to ensure that seafarers enjoy decent working and living conditions. Fraudulent ship registration practices, which are sometimes associated with substandard conditions and exploitation of seafarers, can be seen as a violation of these standards.

65 Other relevant provisions include for instance those related to flag State responsibilities (Regulation 5.1), aiming to ensure that ships flying its flag comply with the MLC's requirements. As discussed in part III of this report, flag States are expected to inspect and certify their ships, issue maritime labour certificates, and conduct regular inspections to verify compliance with the Convention's labor and social standards. This may be considered to imply that if a flag State turns a blind eye to fraudulent ship registration practices, it can be seen as a violation of its responsibilities under the Convention.

66 Other relevant provisions relate to port State responsibilities (Regulation 5.2), including inspections of foreign ships visiting their ports to verify compliance with the MLC. If a ship is found to be in violation of the MLC's labour and social standards due to fraudulent registration practices, it may potentially be subject to detention or other enforcement actions.

### ***Other relevant maritime law instruments***

#### **Convention on Facilitation of International Maritime Traffic, 1965 (FAL)**

67 The Convention on Facilitation of International Maritime Traffic, 1965 (FAL) has 129 States parties, representing 95.85% of the world fleet<sup>28</sup>. The Convention primarily focuses on simplifying and harmonizing formalities, documentary requirements, and procedures

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<sup>28</sup> For the latest status of ratifications, see <https://www.imo.org/en/About/Conventions/Pages/StatusOfConventions.aspx>, or <https://gisis.imo.org/Public/ST/Treaties.aspx>.

associated with the arrival, stay, and departure of ships engaged in international voyages. While it does not specifically deal with fraudulent ship registration, the Convention indirectly promotes transparency and the prevention of fraudulent activities by emphasizing the importance of accurate documentation and information exchange. It encourages States to ensure that the information provided by ships, including their identity and registration details, is accurate and reliable. This is essential for maritime security, safety, and efficient port operations.

### **Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA)**

68 The Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of 2009 has 78 States Parties.<sup>29</sup> The Agreement focuses on preventing and combating illegal, unreported and unregulated (IUU) fishing by strengthening port controls and documentation verification procedures. Ultimately, the goal is to promote transparency and accountability in the fishing industry to ensure the sustainability of marine resources and marine ecosystems.

69 While the PSMA does not specifically address fraudulent ship registration, it includes provisions that indirectly relate to addressing issues of ship identity, ownership, and documentation, and may help detect ships that engage in fraudulent ship registration to disguise their true identities and activities.

70 The PSMA for instance, requires that foreign fishing ships provide accurate and complete information about their identity, ownership, registration, and other relevant documentation when requesting entry to a port (Article 8). This information is crucial for verifying the legitimacy of the ship and ensuring it is not fraudulently registered. Port State authorities, under the PSMA, have the authority to inspect and verify the documentation of foreign fishing ships to ensure compliance with the agreement and in particular “*to determine whether the ship requesting entry into its port has engaged in IUU fishing or fishing related activities in support of such fishing.*” To deter ships engaged in IUU fishing or other related fraudulent activities, including those with fraudulent ship registration, the port State can deny them access to its ports (Article 9). The port State can also conduct a thorough inspection if there are suspicions of irregularities (Article 9), which could also include fraudulent ship registration (Article 9).

71 In addition, the agreement encourages the sharing of information among Member States (Article 16), including data related to IUU fishing and ships involved in such activities. This information exchange could potentially help identify patterns of illicit activities, including fraudulent ship registration. The agreement also recognizes the importance of international cooperation and capacity building (Article 21). Member States are encouraged to work together to improve their ability to detect and address IUU fishing, which may include addressing issues related to fraudulent ship registration.

### **Relevant international criminal law instruments**

72 Other important international legal instruments include those aimed at criminalizing and addressing unlawful acts against the safety of maritime navigation such as piracy, terrorism and other acts of violence against ships and their crew, as well as other offences of a more general nature not limited to the maritime domain, including corruption, bribery, drug trafficking, money laundering, and transnational organized crime. Nonetheless the investigation, prosecution and enforcement of specific cases involving fraudulent ship registration would depend on the relevant legal frameworks in place in various countries.

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<sup>29</sup> For more information and status, see <https://www.fao.org/treaties/results/details/en/c/TRE-000003/>.



## **International Convention on the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention)**

73 The International Convention on the Suppression of Unlawful Acts Against the Safety of Maritime Navigation of 1988, and its Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988 SUA Protocol), were adopted under IMO auspices on 10 March 1988 and entered into force on 1 March 1992. As of 20 November 2023, the SUA Convention had 166 States Parties representing 95.15% of the global fleet, and the 1988 SUA Protocol had 157 States Parties, representing 94.40% of the global fleet.<sup>30</sup>

74 The SUA Convention primarily aims to prevent and suppress unlawful acts against the safety of maritime navigation such as piracy, terrorism and other acts of violence against ships and their crew. It is a comprehensive treaty on maritime security issues, which aims to streamline and integrate efforts to prevent and disrupt maritime terrorism.<sup>31</sup> While the Convention does not specifically deal with fraudulent ship registration – which concerns issues of ship identity and documentation, rather than acts of violence – it contains definitions of relevance when dealing with issues related to the registration of ships and their legal status.

75 Other provisions (Article 6) deal with jurisdiction issues – for example, flag States have jurisdiction over offences committed on board ships flying their flag, as well as offences committed against their ships or aircraft, even if the offence occurs outside their territory. The fraudulent registration of a ship is itself not such an offence. Other relevant provisions (Articles 10 and 11) deal with the extradition of individuals accused of committing offences under the Convention, and cooperation of States in the extradition of suspects. For instance, if fraudulent ship registration is linked to an unlawful act against maritime navigation, these provisions could potentially apply.

## **United Nations Convention against Corruption (UNCAC)**

76 The United Nations Convention against Corruption was adopted in 2004, and as of 4 January 2024 had 190 States Parties. The Convention primarily focuses on combating corruption in various forms, including within government institutions, the private sector, and international bodies.<sup>32</sup> While UNCAC may not specifically address fraudulent ship registration in its text, it does contain general provisions that could be relevant in cases involving corruption and fraud related to ship registration.

77 Some relevant provisions include those addressing: bribery of national public officials (Article 15) and bribery of foreign public officials or officials of public international organizations (Article 16) - which could be relevant if corruption is involved in securing fraudulent ship registrations with the involvement of such officials; as well as embezzlement, misappropriation or other diversion of property (Article 17) of a public official - which could apply if a public official is involved in the fraudulent registration of ships and embezzles or misappropriates funds in the process.

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<sup>30</sup> The 2005 Protocols to the SUA Convention and the 1988 SUA Protocol, which were adopted on 14 October 2005 and entered into force 28 July 2010, have not attracted a high number of ratifications, and as of 20 November 2023 had 53 and 46 States parties representing 39.95 and 39.53% of the global fleet, respectively. For the latest status of ratifications, see <https://www.imo.org/en/About/Conventions/Pages/StatusOfConventions.aspx>, or <https://gis.imo.org/Public/ST/Treaties.aspx>.

<sup>31</sup> For more information about the Convention, see <https://www.imo.org/en/About/Conventions/Pages/SUA-Treaties.aspx>.

<sup>32</sup> Authoritative up to date information regarding the status of UN Conventions for which the UN Secretary-General is the depositary is available on the UN Treaty Collection website at <https://treaties.un.org/>. For more information about the Convention, see <https://www.unodc.org/unodc/en/corruption/index.html?ref=menuaside>

78 The Convention includes similar relevant provisions on bribery in the private sector (Article 21) and embezzlement of property in the private sector (Article 22). In addition, there are provisions on laundering of proceeds of crime (Article 23) - which could be relevant if the proceeds from fraudulent ship registration are laundered through financial systems; on obstruction of justice (Article 25) - which could apply if there are attempts to obstruct investigations or legal proceedings related to fraudulent ship registration; and on cooperation (Articles 37-39).

### **Organization for Economic Co-operation and Development (OECD) Anti-Bribery Convention**

79 The Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (the Anti-Bribery Convention) is the first and only international anti-corruption instrument focused on the “supply side” of the bribery transaction – the person or entity offering, promising or giving a bribe. Parties to the Convention agree to establish the bribery of foreign public officials as a criminal offence under their laws and to investigate, prosecute and sanction this offence.<sup>33</sup> The Convention was adopted in 1997, entered into force on 15 February 1999, and as of 21 January 2024, had 46 States Parties.<sup>34</sup> While the Convention does not directly address fraudulent ship registration, some of its provisions can be relevant when bribery and corruption in various international contexts, including activities involving foreign officials and international business transactions, are concerned.

80 Relevant provisions include those relating to: the definition of the offence of bribing a foreign public official (Article 1) – which could be relevant if fraudulent ship registration involves bribing foreign public officials to gain favorable treatment or approvals; the responsibility of legal entities (such as companies) for bribery offences (Article 2) - which could apply to keep a company accountable if it is involved in fraudulent ship registration and engages in bribery; jurisdiction of each party to the Convention over bribery offences (Article 4) and measures to investigate or prosecute (Article 10) - which could be relevant if such party discovers that fraudulent ship registration involving bribery has taken place within its jurisdiction, and is obligated to investigate and prosecute those responsible; establishment and maintaining by the parties of books and records that accurately reflect their financial transactions (Article 9) – which could be relevant if fraudulent ship registration involves falsifying financial records; and the requirement for States parties to impose effective, proportionate, and dissuasive sanctions for bribery offences (Article 16) – which could also apply for those involved in fraudulent ship registration.

### **United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances**

81 The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, entered into force on 11 November 1990. As of 4 January 2024, this Convention had 192 States Parties.<sup>35</sup> The Convention provides comprehensive measures against drug trafficking, including provisions against money laundering and the diversion of precursor chemicals. While the Convention does not specifically address fraudulent ship registration, it does

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<sup>33</sup> For more information about the Convention, as well as related 2021 OECD Anti-Bribery Recommendation see <https://www.oecd.org/corruption-integrity/explore/oecd-standards/anti-bribery-convention/>.

<sup>34</sup> These include all 38 OECD member countries plus Argentina, Brazil, Bulgaria, Croatia, Peru, Romania, Russian Federation and South Africa. See <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0293#adherents>.

<sup>35</sup> Authoritative up to date information regarding the status of UN Conventions for which the UN Secretary-General is the depositary is available on the UN Treaty Collection website at <https://treaties.un.org/>.

emphasize the need for international cooperation to combat drug trafficking by sea through, for example, extradition of drug traffickers, controlled deliveries and transfer of proceedings. Fraudulent ship registration may be relevant for instance in cases where criminals use false identities or flags of convenience to disguise the ownership and operation of ships involved in drug trafficking. In such cases, the enforcement of the Convention's provisions would likely involve cooperation with relevant maritime authorities, flag States, and law enforcement agencies to identify and apprehend those responsible for such activities.

### **United Nations Convention Against Transnational Organized Crime and Protocols thereto**

82 The United Nations Convention Against Transnational Organized Crime, 2000,<sup>36</sup> entered into force on 29 September 2003. As of 4 January 2024, this Convention had 192 States Parties. States that ratify this Convention commit themselves to taking a series of measures against transnational organized crime, including the creation of domestic criminal offences (participation in an organized criminal group, money laundering, corruption and obstruction of justice); the adoption of new frameworks for extradition, mutual legal assistance and law enforcement cooperation; and the promotion of training and technical assistance for building or upgrading the necessary capacity of national authorities.

83 While the Convention does not specifically address fraudulent ship registration, it provides a legal framework for addressing various aspects of transnational organized crime, some of which may be connected to fraudulent ship registration and related criminal activities. Relevant provisions include for instance, those addressing: money laundering (Articles 6 and 7), which involves concealing the proceeds of criminal activities through legitimate financial transactions, often associated with organized crime and can be linked to illegal activities involving ships, such as drug trafficking.

84 In cases where fraudulent ship registration is used to facilitate money laundering, the Convention's provisions on money laundering may be relevant. Confiscation of the proceeds of transnational organized crime (Articles 12-14) may apply – if fraudulent ship registration is used to enable or disguise criminal activities such as drug trafficking or smuggling, the assets connected to those activities, including ships, can be subject to confiscation. Mutual legal assistance between countries (Article 18) may be used to investigate and prosecute transnational organized crime – this can be essential when addressing cases involving fraudulent ship registration that span multiple jurisdictions. International cooperation in the fight against organized crime (Articles 27 and 28) is also relevant – Member States are encouraged to collaborate and share information to combat criminal organizations engaged in illegal activities, which may involve the misuse of ships or fraudulent ship registration.

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<sup>36</sup> The Convention is further supplemented by three Protocols, which target specific areas and manifestations of organized crime: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Protocol against the Smuggling of Migrants by Land, Sea and Air; and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition. Countries must become parties to the Convention itself before they can become parties to any of the Protocols. For further information and status of ratifications, see <https://www.unodc.org/unodc/en/treaties/CTOC/signatures.html>.

### **United Nations Resolutions**

85 The United Nations Security Council may issue resolutions<sup>37</sup> related to sanctions, arms embargoes, piracy and armed robbery at sea, illegal, unreported and unregulated fishing (IUU), and the prevention of illicit transfers of goods, including those involving ships. Fraudulent ship registration is often used for sanctions evasion or other illegal purposes. These resolutions sometimes contain provisions related to inspections, which include ship inspections – with ship registration and documentation being key aspects of such inspections. Another relevant recent UN Security Council resolution,<sup>38</sup> adopted unanimously on 19 July 2019, acknowledged that terrorists can benefit from organized crime whether domestic or transnational, such as trafficking in arms, drugs, artifacts, cultural property and trafficking in persons, as well as the illicit trade in natural resources including gold and other precious metals, minerals, charcoal and oil as the illicit trafficking in wildlife. The resolution also mentioned the organized crime at sea, and as already highlighted, such crimes may often be related to fraudulent ship registration.<sup>39</sup>

86 In addition, the United Nations General Assembly resolutions, including those on "Oceans and the Law of the Sea,"<sup>40</sup> encourage States to enhance their legal and regulatory frameworks to combat piracy and armed robbery at sea, and prevent and guard against fraudulent practices in ship registration. Another recent resolution<sup>41</sup> on tackling illicit trafficking in wildlife, adopted on 25 August 2023, expressed serious concern about the increasing scale of poaching and illegal trade in wildlife and wildlife products and its adverse economic, social and environmental impacts.

### **Regional agreements**

87 Flag States, port States, and coastal States all play roles in preventing and addressing fraudulent practices involving ships. Combating fraudulent ship registration often requires international cooperation, information sharing, and coordinated enforcement efforts. While there is no single dedicated international instrument solely addressing fraudulent ship registration, the combination of existing international legal instruments and regional agreements and/or legal instruments can help address this issue more effectively.

### **European Union regulations and directives**

88 The European Union (EU) has regulations and directives that are of relevance to combating and/or mitigating the effects of fraudulent ship registration, particularly those concerning sanctions and tax avoidance and evasion, port State control, and reporting formalities for ships<sup>42</sup>.

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<sup>37</sup> See e.g. [S/RES/2616 \(2021\)](#), [S/RES/2608 \(2021\)](#), [S/RES/2511 \(2020\)](#), [S/RES/2498 \(2019\)](#), [S/RES/2370 \(2017\)](#), [S/RES/2317 \(2016\)](#).

<sup>38</sup> [S/RES/2482 \(2019\)](#).

<sup>39</sup> Recalling this resolution, a draft resolution on enhancing the framework of the fight against organized crime in the maritime sector, was proposed to the 33<sup>rd</sup> session of the IMO Assembly by Belgium, Colombia, Kenya, Netherlands (Kingdom of the), Panama, Peru, FONASBA, IAPH and WWF, on 13 November 2023. The objective of this draft resolution is to raise awareness of the security threats caused by organized crime and to enhance the framework to help the seafarers and port workers to build resilience against the threats and pressure caused by organized crime.

<sup>40</sup> See e.g. [A/RES/77/248](#), [A/RES/76/72](#), [A/RES/75/239](#). Most recently, see [A/RES/78/69](#) at paras. 130 and 181.

<sup>41</sup> [A/RES/77/325](#).

<sup>42</sup> E.g. Directive (EU) 2009/16/EC on Port State Control, as amended by Directive 2017/2110.

## **Regional Fisheries Management Organizations**

89 Regional Fisheries Management Organizations (RFMOs) often have measures in place to combat illegal, unreported, and unregulated (IUU) fishing, which may include rules on ship registration and flagging.

### **Maritime law enforcement agreements**

90 Some countries enter into bilateral or multilateral agreements to enhance maritime law enforcement, which can help detect and prevent fraudulent ship registration and related criminal activities.

### **Bilateral agreements**

91 Countries may enter into bilateral agreements or memoranda of understanding to address specific issues related to fraudulent ship registration. These agreements can involve information sharing, cooperation, and enforcement measures. For instance, agreements related to financial transparency, tax evasion, and money laundering may indirectly address fraudulent ship registration, as ships are often used as assets in financial transactions.

## **PART V CONCLUSION AND RECOMMENDATIONS**

### **Summary**

92 Fraudulent ship registration is a global issue with far-reaching implications, including for maritime safety and security, pollution, seafarers' welfare, and international legal compliance in general.

93 There is currently no single specific international instrument or treaty that contains a standardized and universally accepted definition of "fraudulent ship registration." Instead, the concept is addressed through a combination of multiple and international maritime conventions focused on disparate subject-matter and other legal instruments, domestic laws, and industry best practices. Also, and most importantly, there is currently no binding international framework to regulate the ship registration process itself. There is no well-developed jurisprudence in this area.<sup>43</sup>

94 Various international conventions and agreements (including those adopted under UN, IMO and ILO auspices) may be considered indirectly to address fraudulent ship registration. While aiming to ensure compliance with regulatory standards to protect ships, crew wellbeing, cargo safety, as well as the marine environment – which are closely related to proper lawful registration and management of ships, these instruments indirectly address issues related to ship registration and preventing fraudulent practices.

95 Flag States play a central role in ensuring that ships registered under their flag comply with international standards and regulations. Under international instruments, they are responsible for ship registration and monitoring training and certification. Ensuring that flag States adequately assume jurisdiction and control over shipowners and ships that are flying their flags, and holding flag States accountable for their failures to enforce proper ship registration and certification, is an important step to ensure they take their responsibilities seriously. At the same time, port State authorities can make an important contribution to identifying instances of fraudulent ship registrations, including by increasing relevant inspections.

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<sup>43</sup> During the research period, a desktop study of reported caselaw in this area – across numerous international legal databases and covering over ninety jurisdictions worldwide – found no substantial judicial or equivalent treatment of the subject.

96 Encouraging transparency in ship registration and ownership records is essential for verifying ship legitimacy and detecting fraudulent activities. Implementing stricter penalties, including financial fines and other legal consequences, may be a deterrent against fraudulent ship registration practices. The use of technology, relevant databases and data analysis is key to identifying patterns and trends associated with fraudulent ship registration and enhancing detection and prevention.

97 Collaboration among countries and relevant agencies is vital to address fraudulent ship registration in a comprehensive manner. This involves sharing information, conducting joint inspections, and establishing effective enforcement mechanisms. The situation is dynamic – international regulations and agreements need regular review and updating in order to address evolving challenges associated with fraudulent ship registration effectively. Collaboration and exchange of information with relevant private sector/industry stakeholders can also play an important role in identifying and guarding against fraudulent ship registration and should be encouraged.

98 The overwhelming consensus among those responding to the enhanced research questionnaire was that an investigation was necessary into loopholes in the existing system of international ship registration, which is currently exploited by perpetrators of fraudulent acts.

### **Suggestions for advancing objectives**

99 As a first step, it would be recommended to consider developing guidelines or best practices on registration of ships including stringent measures to deter fraudulent ship registrations practices, based on the model adopted for the authorization of Recognized Organizations to act on behalf of Administrations for survey and certification matters, which could eventually be the basis for the development of a treaty on registration of ships to ensure the effective implementation of IMO treaties. In developing relevant guidelines or best practices, consideration could also be given as appropriate to provisions of the UN Convention on Conditions for Registration of Ships, 1986.

100 The following measures are also proposed for further consideration:

- .1 Strengthen collaboration among countries, relevant maritime and other organizations, and law enforcement agencies in sharing information and best practices for combating fraudulent ship registration.
- .2 Invest in advanced technology solutions for monitoring ship registration and ship activities. This can include the use of data analytics, blockchain, and satellite tracking to improve transparency and detection.
- .3 Consider revising and enhancing penalties for fraudulent ship registration, including increased fines and other legal consequences for shipowners and operators to make them more effective deterrents.
- .4 Ensure that flag States are held accountable for their roles in ship registration negligence/oversight. International bodies can play a role in evaluating their performance and enforcing international standards.
- .5 Encourage port States to play a more active role in identifying cases of fraudulent ship registration and notifying the relevant authorities, as well as the IMO.

- .6 Strengthen provisions for seafarer protection within existing international agreements and conventions, and work to ensure that ships adhere to appropriate labour and social standards.
- .7 Develop initiatives to promote greater transparency in ship registration and ownership records. Encourage the adoption of standardized practices for .9
- .8 Conduct regular reviews of international agreements and conventions to adapt to evolving challenges and issues related to fraudulent ship registration.
- .9 Raise public and industry awareness about the consequences of fraudulent ship registration practices. This can include campaigns highlighting the risks, and legal consequences associated with such activities.
- .10 Education and training for port State control authorities on fraudulent registrations and how they can be identified.
- .11 Increased information sharing and accessibility of such information to enhance control measures. Create possibilities for speedy verification of the identity of ships and their documents connected to the flag State.

101 As a short-term measure, the suggested enhancements of the GISIS module, per annex 4 are recommended.

ANNEX 1

**TERMS OF REFERENCE FOR THE ESTABLISHMENT OF A STUDY GROUP ON  
ISSUES ARISING IN CONNECTION WITH FRAUDULENT REGISTRATION  
AND FRAUDULENT REGISTRIES OF SHIPS AND  
POSSIBLE MEASURES TO PREVENT AND COMBAT THEM**

Title of the study: Issues arising in connection with fraudulent registration and fraudulent registries of ships and possible measures to prevent and combat them.

Objective: The Legal Committee requested that the Secretariat coordinate a study to identify the issues of fraudulent registration and fraudulent registries of ships with a view to developing possible measures to prevent them, with the participation of the United Nations Conference on Trade and Development (UNCTAD), the World Maritime University (WMU), the IMO International Maritime Law Institute (IMLI) and other interested parties with the below terms of reference.

- 1 The Study Group should indicatively address the following questions:
  - .1 What are the practices and types of fraudulent registration and fraudulent registries of ships?
  - .2 Where is it occurring and under which flags? Examples of reported incidents should be provided.
  - .3 What are the reasons for and features of fraudulent registration and fraudulent registries of ships?
  - .4 What are the adverse impacts of fraudulent registration and fraudulent registries of ships?
  - .5 Is there any best practice of national, regional or international arrangements to cooperate and exchange information to combat such an issue? Examples of State practice on prevention and deterrence case should be provided.
  - .6 Who are the various stakeholders that could assist in preventing such fraud?
  - .7 How can GISIS be used to disseminate information on registries?
  - .8 Would this issue be considered as a crime or an offence? Is it national or regional or international in nature? What other international and effective legal sanctions for fraudulent registration, such as criminal punishment and administrative measures, could be imposed?
  - .9 What are the conventions, treaties and resolutions related to this issue?
  - .10 Possible preventative and combative measures going forward?
- 2 The Study Group may identify items, as necessary, for further consideration by the Study Group.
- 3 The Study Group, assisted by the IMO Secretariat, could, as required, contact Member States, through their IMO representative, for more information on cases of fraudulent registration and fraudulent registries of ships, as well as on other issues pertinent to its work.
- 4 The Study Group should submit the study to LEG 111.



ANNEX 2

**ENHANCED RESEARCH QUESTIONNAIRE (A+B)**

**Questions on Fraudulent Registration**

**PART A – Questions agreed by LEG 109 sent in 2022**

**If you have already responded to the questions in part A, please do not respond to that part and only respond to questions in part B on page 5.**

Before completing the questionnaire, please state your exact capacity:  
.....

1. Do you have knowledge of a fraudulent registry of ships?

- Yes
- No

Please provide the name(s) of fraudulent registry(ies) you are aware of  
.....  
.....

2. Are you aware of fraudulent ship registrations?

- Yes
- No

Please provide details of the type of registration, if applicable  
.....  
.....

Please provide the features of the registration, if any  
.....  
.....

Please refer to any relevant example(s) of incident(s) you are aware of  
.....  
.....

3. Which reasons do you identify for fraudulent registration and the use of fraudulent registries?

.....  
.....

4. Do you see any practices adopted by fraudulently registered ships?

- Yes
- No

If yes, please elaborate on the type of practice which has come to your attention e.g. illegal ship-to-ship cargo transfer, illegal switching off of AIS etc.

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.....

In your opinion, what are the adverse impacts of fraudulent registration and fraudulent registries of ships?

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.....  
.....

5. Is there any best practice of national, regional or international arrangements to cooperate and exchange information to combat such an issue?

- Yes
- No
- I am not aware of any

If you know of any best practice, please provide examples of state practice on prevention and deterrence.

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.....  
.....

6. Do you believe that we need to adopt additional best practices on national, regional or international arrangements?

- Yes
- No

If we need to adopt best practices, which would you suggest?

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7. Who are, in your opinion, the stakeholders that could assist in preventing such fraudulent registration or fraudulent registries?

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8. What does an act of establishing and operating a fraudulent ship registry qualify as?

.....  
.....

9. Should such an act be considered a crime or an offence under international law?

- Yes
- No

Is it considered a crime or an offence in your jurisdiction? Please provide the relevant legislation

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.....

10. In your opinion, an act of establishing and operating a fraudulent registry as described above, is

- national
- regional
- international

If the nature of such an act is different, please elaborate

.....  
.....  
.....

11. Which do you consider as effective legal sanctions for the establishment and operation of a fraudulent registry?

- criminal punishment
- administrative measures
- other types of sanctions

Please elaborate what other types of sanctions should be imposed and on whom

.....  
.....  
.....

12. What does an act of fraudulent ship registration qualify as?

- a crime
- an offence
- none of the above

Should it be considered in a different way? Please elaborate

.....  
.....

13. In your opinion, an act of fraudulent registration as described above is

- national
- regional
- international

If you have a differing view regarding its nature, please elaborate

.....  
.....

14. Which do you consider as effective legal sanctions for fraudulent registration?

- criminal punishment
- administrative measures
- other types of sanctions

Please elaborate, which other types of sanctions you would consider effective and on whom they should be imposed

.....  
.....  
.....

15. Which conventions, treaties and resolutions do you consider to be related to this issue?

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.....  
.....  
.....

16. What possible preventative and combative measures against the above described problems can you recommend?

.....  
.....  
.....

17. How can the Global Integrated Shipping Information System (GISIS) be used to disseminate information on registries related to the above described problems?

.....  
.....  
.....

**Part B – Additional questions agreed by LEG 110**

*The Legal Committee, at its 110th session (27-31 March 2023) agreed that it would be helpful for the study group to consider what the registries did when they received reports of fraudulent registration of their ships or fraudulent registries activities. In this context, the Committee was reminded of Assembly resolution A.1162(32), which should also form part of the study.*

**Question B-1.** What are the actions that your administration has taken with regard to reports on fraudulent activity relating to ships allegedly registered under your flag?

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.....  
.....

*The Committee also agreed that the three additional questions asked by WMU in plenary should be added to the initial questionnaire, as follows:*

**Question B-2.** Do we consider fraudulent registration and related practices a real threat to the shipping community as a whole?

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.....  
.....

**Question B-3.** Considering that only 31 registries, accounting for 22.75% of the world fleet, responded to the questionnaire addressed to them, what is the message generated to the perpetrators of these illegal/reprehensible acts?

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.....  
.....

**Question B-4.** Is the problem of fraudulent registration inextricably linked to the lack of minimum requirements for due and effective ship registration and, if yes, should we direct the research of the Study Group to that issue?

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.....  
.....

ANNEX 3

REPORTED CASES OF ABANDONMENT IN FALSE FLAGGED VESSELS

**Jian Ye (previously Tian Chen 9)[disputed]**

IMO8805262

Abandonment ID: 00637  
Ship name: **Jian Ye (previously Tian Chen 9)[disputed]**  
Flag: **Togo**  
7-digit IMO no.: **8805262**  
Port of abandonment: **Kaohsiung, Taiwan**  
Abandonment date: **28 March 2022**  
Notification date: **11 April 2022**  
Reporting Member Govt. or Org.: **ITF**  
No. of Seafarers: **9**  
Nationalities: **China(1); Indonesia(8)**  
Circumstances: **P&I : Unknown**

**Two months owed wages**

Actions taken: **31 March 2022: Flag State informed**

Govt. of Togo (16 May 2022)

The embassy of the Republic of Togo presents its compliments to the International Maritime Organization (IMO) and following the electronic correspondence of 25th April 2022 the abandonment of the vessel "Jian Ye" in Kaohsiung, Taiwan, has the honour to notify to it that the said vessel does not fly the Togolese flag. Indeed, the documents held by this vessel are false and illegal because this vessel has never been registered on a Togolese registry.

Govt. of China (18 May 2022)

As confirmed with Hong Kong Marine Department (HKMD), the HK registered owner Jianfu Shipping Co. Ltd. of the said vessel 'Jian Ye' has dissolved itself from HK Company Registry on 21 March 2021. It means the said company (registered owner) is no longer existed and operated in Hong Kong, China.<sup>44</sup>

**A M Alpit[resolved]**

IMO9563079

Abandonment ID: 00724  
Ship name: **A M Alpit[resolved]**  
Flag: **Equatorial Guinea**  
7-digit IMO no.: **9563079**  
Port of abandonment: **Male, Maldives**  
Abandonment date: **20 January 2023**  
Notification date: **25 January 2023**  
Reporting Member Govt. or Org.: **ITF**  
No. of Seafarers: **9**  
Nationalities: **Indonesia; India**  
Circumstances: **P&I : Shipowners**

**Type : Tug Boat**

**Unpaid wages for 5 months**

Actions taken: **21 January 2023: Flag State informed**  
Written to owners, flag state and P&I. Compiled all necessary documents.

Comments and Observations: Other (7 February 2023)

<sup>44</sup> [https://www.ilo.org/dyn/seafarers/seafarersbrowse.details?p\\_lang=en&p\\_abandonment\\_id=637&p\\_search\\_id=220611052514](https://www.ilo.org/dyn/seafarers/seafarersbrowse.details?p_lang=en&p_abandonment_id=637&p_search_id=220611052514)

From S&P Global Market Intelligence:  
After numerous reminders Equatorial Guinea have finally responded.  
They are saying vessel is not registered under their flag and that registration is fraudulent.  
See attached response:  
The ship with the call sign of 3CUBN is not registered under the flag of Equatorial Guinea.  
Those will be fraudulent certificates, thank you very much.<sup>45</sup>

### **Dox - fishing vessel[disputed]**

IMO

Abandonment ID: 00751  
Ship name: **Dox - fishing vessel[disputed]**  
Flag: **Sao Tome & Principe**  
Port of abandonment: **Djibouti, Djibouti**  
Abandonment date: **29 March 2023**  
Notification date: **9 April 2023**  
Reporting Member Govt. or Org.: **ITF**  
No. of Seafarers: **12**  
Nationalities: **Indonesia(6); Yemen(1); Somalia(2); India(3)**  
Circumstances: **P&I : Hafez Insurance but the certificate is likely to be false**  
  
**Type : Fishing vessel but the Alannah Palm is a crew/supply vessel**  
  
**6 months of unpaid wages + repatriation as for the Indonesian crew**  
**10 months of wages for the Indian crew.**  
**Other crew have not reported.**

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Actions taken: **30 March 2023: Flag State informed**  
Trying to solve out the double identity issue with the Flag and the issue of the expired certificate of registry

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Actions taken: 30 March 2023: Flag State informed

Trying to solve out the double identity issue with the Flag and the issue of the expired certificate of registry.<sup>46</sup>

### **Pruvaline[disputed]**

IMO7615232

Abandonment ID: 00614  
Ship name: **Pruvaline[disputed]**  
Flag: **Sao Tome & Principe**  
7-digit IMO no.: **7615232**  
Port of abandonment: **Tripoli, Lebanon**  
Abandonment date: **7 January 2022**  
Notification date: **12 January 2022**  
Reporting Member Govt. or Org.: **ITF**  
No. of Seafarers: **13**  
Nationalities: **Syrian Arab Republic(10); Egypt(1); Libyan Arab Jamahirya(1); India(1)**  
Circumstances: **13 seafarers have not been paid for between 8-9 months.**  
**All crew have expired contracts and want to be repatriated.**

Ship is fraudulently flying the Flag of Sao Tomé and Príncipe; this was confirmed by the Sao Tomé and Príncipe maritime authority 02/02/2022

Comments and Observations: ITF (13 January 2022)

We have now heard from Sao Tome and Principe advising that Pruvaline/Antalya is flying their flag fraudulently. The ship was formerly called Antalya.

International Maritime Organisation (2 February 2022)

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<sup>45</sup> [https://www.ilo.org/dyn/seafarers/seafarersbrowse.details?p\\_lang=en&p\\_abandonment\\_id=724&p\\_search\\_id=240118184536](https://www.ilo.org/dyn/seafarers/seafarersbrowse.details?p_lang=en&p_abandonment_id=724&p_search_id=240118184536)

<sup>46</sup> [https://www.ilo.org/dyn/seafarers/seafarersbrowse.details?p\\_lang=en&p\\_abandonment\\_id=751&p\\_search\\_id=231218183437](https://www.ilo.org/dyn/seafarers/seafarersbrowse.details?p_lang=en&p_abandonment_id=751&p_search_id=231218183437)

In November 2021 IHS Markit received a Company IMO request for this vessel and were advised 'owner' of vessel was to be MADI SHIPPING CO LTD, Marshall Islands. However, there were no further updates received and new 'owner' not posted against vessel. Insurer: Unknown.<sup>47</sup>

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<sup>47</sup> [https://www.ilo.org/dyn/seafarers/seafarersbrowse.details?p\\_lang=en&p\\_abandonment\\_id=614&p\\_search\\_id=231218183437](https://www.ilo.org/dyn/seafarers/seafarersbrowse.details?p_lang=en&p_abandonment_id=614&p_search_id=231218183437)

#### ANNEX 4

### **SUGGESTIONS FOR IMPROVEMENTS TO THE GISIS MODULE RELATED TO FRAUDULENT REGISTRATION OF SHIPS**

Information on "False Flag" vessels can be currently found under GISIS module "Ship and Company Particulars" (<https://gisis.imo.org/Members/SHIPS/Default.aspx>). Searches are possible by "Ship IMO Number", "Ship name", "Flag Administration", "Call sign" and MMSI. The module also contains information on companies related to ships, such as "Classification society", "Registered owner", "Ship manager", "Group beneficial owner" and "Operator".

To enhance this module for better detection and prevention of fraudulent ship registration, the following improvements may be considered:

- .1 Improve the search function to enable advanced search by Status for 'False Flag' vessels.
- .2 As part of the module, also include searchable information on fraudulent ship registries and encourage Member States, authorities and industry stakeholders to identify and report relevant fraudulent registries.
- .3 Highlight the availability of the module on the public IMO website to facilitate access by private and public sector stakeholders with a legitimate interest.
- .4 Develop standardized reporting templates to ensure consistency in the information provided by member States and other stakeholders.
- .5 Ensure that the GISIS module/database supports multiple languages to facilitate effective communication and reporting by member States.
- .6 Include a reporting mechanism within the "Ship and Company Particulars" part to allow users, as well as port State control entities to report suspicious registrations.
- .7 Urge Member States to provide up to date information on flag State administration authorities and contact persons responsible for ship registration, which should be easily accessible.
- .8 Encourage Member States to provide comprehensive data on the companies associated with fraudulently registered ships.
- .9 Expand the scope of company information required during ship registration to include details such as ownership structure, and historical registration data, and financial standing.
- .10 Implement advanced authentication methods to ensure the legitimacy of the information provided during ship registration; e.g. incorporate biometric data, as an additional layer of verification, to reduce the risk of identity theft.
- .11 Incorporate real-time data validation checks to identify inconsistencies or anomalies in the information submitted during ship registration, to promptly update information related to fraudulent ship registration, ensuring timely awareness and response.



- .12 Conduct regular audits and checks on registered ship and company information provided, in order to verify its continued accuracy.
  - .13 Potentially link the GISIS database with those of international maritime bodies and law enforcement agencies, such as INTERPOL, to facilitate the sharing of information on known fraudulent entities.
  - .14 Cooperate with financial institutions to verify financial transactions related to ship ownership, in order to identify unusual financial activities that may indicate fraudulent registration practices.
  - .15 Establish an international framework/platform for cooperation and information sharing, encouraging member States to collaborate in addressing cross-border fraudulent ship registration.
  - .16 Conduct ongoing training programs for users of the GISIS module to keep them informed about evolving fraudulent practices, and provide guidance on accurately documenting such incidents.
  - .17 Establish a feedback mechanism to gather input and suggestions from GISIS IMO database users, Member States, and other stakeholders, to identify opportunities for further improvements.
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