



This copy is for your personal, non-commercial use. For high-quality copies or electronic reprints for distribution to colleagues or customers, please call UK support at +44 (0)20 3377 3996 / APAC support at +65 6508 2430

Printed By **Ann Fenech**

Rapid ratification likely for judicial sales convention

Clean sales advocates confident eight or nine states ready to back deal immediately, meaning entry into force by mid-2024 at the latest

26 Apr 2023 | **NEWS**

by **David Osler** | @finance_LL | david.osler@lloydslistintelligence.com

Effectiveness hinges on big open registries signing up, but hope is that self-interest and pressure from lenders will get them on board sooner rather than later



MALTESE FOREIGN MINISTER IAN BORG HAS REAFFIRMED HIS COUNTRY'S COMMITMENT TO SIGNING UP TO THE JUDICIAL SALES CONVENTION.

Source: *REUTERS / Alamy*
Stock Photo

A NEW international convention releasing buyers of ships at judicial sales from prior claims against vessels bought at auction has sufficient diplomatic momentum to enter into force by the middle of next year, its backers believe.

Malta — which has taken the lead in pushing the agreement, regarding it as in the national interest — has already made a public commitment to sign up.

That stance was reaffirmed by Maltese foreign minister Ian Borg in a video message to a conference discussing the deal in Valletta this morning.

In addition, conference co-organiser the Comité Maritime International is privately insisting that assurances from a further eight or nine further countries, most of them national flags, are in the bag.

On top of that, the European Commission has come as close as can be expected at this stage to saying yes.

Given that the so-called Beijing convention kicks in 180 days after being ratified by just three states, it now looks all but certain to be operational from 2024 at the latest.

Whether or not it has real impact on the industry will depend on the stance adopted by giant open registries such as Panama, Liberia and the Marshall Islands.

But a combination of owner preference and pressure from lenders, some of whom are likely to make registration with a ratifying flag a condition for mortgages, could ensure they come on board sooner rather than later.

The United Nations Convention on the International Effects of Judicial Sales of Ships — to give it its full title — was formally adopted by the UN general assembly last year.

The adoption was welcomed by the International Maritime Organization's Legal Committee late last month.

A signing ceremony is to be held in Beijing at a date to be confirmed later this year, which accounts for its shorthand title. It will then be open to ratification.

The impetus behind the Beijing convention stems from what many regard as abuses of the current judicial sales mechanisms, under which courts can order the forced sale of a ship where creditors including unpaid seafarers take out a lien to ensure that debts are paid.

There have been instances in which buyers of what were supposed to be free and unencumbered vessels have faced continued legal action from creditors of the previous owners.

In one instance, a bona fide new owner lost a charter and had to lodge 75 separate legal proceedings, with the support of insurer Steamship Mutual, to get a creditor of the previous owner off its back.

In addition, flag states have sometimes failed to record the transfer of ownership, or delete previous mortgages.

The convention provides that a certificate of judicial sale, once lodged in a repository at the London-based International Maritime Organization, will provide 'clean title' to a vessel, and will be recognised by all state parties to the convention.

The wording has largely been drafted by the CMI, a non-governmental organisation that has since 1897 worked for the unification of maritime law across jurisdictions.

The CMI took first drafts of the convention to the IMO Legal Committee in 2015 and 2016, but the committee did not accept the proposal for the inclusion of this work on its agenda.

The consensus was that the matter was an issue of commercial law, more appropriately handled by the Vienna-based United Nations Commission on International Trade Law.

Uncitral accepted a proposal tabled by the Swiss government to take the idea forward in 2018 and adopted an agreed wording by consensus in June 2022. This was then carried at the UN general assembly in December 2022.