

## **Draft response of the Irish Maritime Law Association to the Second Draft Instrument on Recognition of Foreign Judicial Sale of Ships**

### **Article 3(1)(c)**

This Article provides that all holders of maritime liens are to receive the notice from the court prior to the judicial sale in accordance with Article 3 generally. Article(1)(c) provides that Court must have received notice of the respective claims. For clarity, wording might be added to this clause stating that the Court conducting the judicial sale must have “received notice of their respective claims prior to issuing the notice of sale”.

### **Article 5**

Article 5 deals with the issuance of a certificate of judicial sale. The Irish Maritime Law Association is of the view that express provision should also be included in the certificate of judicial sale that the vessel has been sold to the named Purchaser. This may be implicit but for clarity purposes it should be included in the wording of Article 5.

### **Article 6(4)**

The Irish Maritime Law Association is of the opinion that deletion of ship registry should also be added to the first sentence so it reads as follows:

*“If, before the deletion of any registered mortgages, hypothèques and charges and the deletion of the ship from the registry or the registration of the ship...”*

### **Article 8**

Article 8 deals with circumstances in which recognition of the judicial sale may be refused. As a general comment, at the end of the clause there is provision that no request to refuse recognition may be admitted unless it is presented within one year from the date of the judicial sale as recorded in the Certificate. This therefore leaves the possibility for challenge of recognition of a judicial sale in the Court of a State Party potentially open for a one year period. The IMLA queries whether this in fact will cause some conflict with the provisions in Article 6(4) and whether a former ship registry will wait until the one year has expired before deleting mortgages and / or deleting the previous registry. It should be clear that Article 6(4) is entirely separate from any time provisions in relation to Article 8.