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The Comite Maritime International (CMI), the world's association of national maritime law associations, has been working on a global convention on judicial sales of ships for 15 years. From left, Maltese maritime lawyer Ann Fenech and Compagnie Maritime Belgelegal manager Peter Laurijssen chair the working group meeting this week in Antwerp. Photo: Bob Rust

UN says yes to Comite Maritime International on ship sale treaty

After 15 years' work by global maritime lawyers, the UN says yes to making sure creditors cannot re-arrest a ship bought in a court sale

19 October 2022 19:15 GMT *UPDATED 20 October 2022 8:25 GMT*

By [Bob Rust](#) in [Antwerp](#)

In January, the UN General Assembly will formally adopt a convention to prevent judicially sold ships from being rearrested in other countries, an agreement that has been backed by many relevant shipping and legal bodies.

UN trade official Jose Angelo Estrella-Faria announced the unofficial yes from the General Assembly on Wednesday to delegates of national maritime law associations meeting in Antwerp.

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"The convention is to be informally approved by the UN General Assembly tomorrow," said Estrella-Faria to a working group of the Comite Maritime International (CMI) meeting in offices of shipowner Compagnie Maritime Belge.

Estrella-Faria is principal legal officer of the secretariat of the UN Commission on International Trade Law (Uncitral) and head of its legislative branch.

The CMI, the global association of the world's national maritime law associations, is marking its 125th anniversary in Antwerp.

The new Convention on the International Effects of Judicial Sale of Ships is a CMI project that has been in the works for 15 years.

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But even after UN adoption it still must be ratified by national governments.

"In our experience, it takes an average of 15 years from UN adoption of a convention to its ratification," said Estrella-Faria.

This convention could go live more quickly than that, some delegates believe. Its text specifies that it needs ratification by just three UN member states.

The convention was first proposed in 2007, hammered into form by CMI delegates as the so-called Beijing Draft in 2014, and taken under the wing of Uncitral in 2019. Sponsorship by a UN organisation is the usual route a proposed UN treaty must follow.



Jose Angelo Estrella-Faria, principal legal officer of Uncitral and head of its legislative branch, told a working group of the Comité Maritime International (CMI) today that its work is done. Photo: Bob Rust

Obstacles along the way included the suggestion by some states that the CMI instead propose a "model law" for states to enact, rather than pursuing the higher goal of getting the UN to pass a convention. Most national maritime law associations favoured the convention route, including those of national jurisdictions that see many ship arrests.

Not least among the reasons was the effect on ship finance of the threat of rearrest.



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"We wanted to ensure that when a ship is sold in one jurisdiction and goes to another, the new owner and financier would have the force of law behind them and not have to fear re-arrest by old creditors," said Ann Fenech, Malta's delegate to the CMI and the organisation's co-ordinator for the project at Uncitral.

After the proposed convention won Uncitral sponsorship, the legislative process was in the hands of foreign ministries and diplomats, some of them with more shipping knowledge than others.

The form in which Uncitral has won acceptance of the draft can no longer be changed.

The essential features of the eight-page convention include a requirement that the courts of signatory states and jurisdictions accept the sale of ships in each others' courts as final, with few and narrow exceptions. The convention would also restrict all applications to undo or vacate judicial sales to the jurisdiction in which the sale was ordered.

It also creates a new global repository for ship sale orders by courts around the world and require courts to notify that repository, which the International Maritime Organization has agreed to host.

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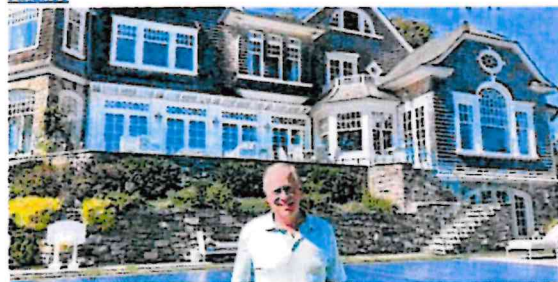
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