

ANNEX 7

DRAFT ASSEMBLY RESOLUTION

URGING MEMBER STATES AND ALL RELEVANT STAKEHOLDERS TO PROMOTE ACTIONS TO PREVENT ILLEGAL OPERATIONS IN THE MARITIME SECTOR BY THE "DARK FLEET" or "SHADOW FLEET"

THE ASSEMBLY,

NOTING Article 1(a) of the Convention on the International Maritime Organization (the Convention) regarding the purposes of the Organization to provide machinery for cooperation among Governments in the field of governmental regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade; to encourage and facilitate the general adoption of the highest practicable standards in matters concerning maritime safety, the efficiency of navigation and the prevention and control of marine pollution from ships; and to deal with administrative and legal matters related to the purposes set out in Article 1 of the Convention,

RECALLING Article 15(j) of the Convention regarding the functions of the Assembly,

RECALLING ALSO its resolutions 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* and A.1142(31) on *Measures to prevent the fraudulent registration and fraudulent registries of ships* and the creation of the Registries of ships function in the Contact Points module in the Global Integrated Shipping Information System,

RECALLING FURTHER its resolution A.1117(30) on *IMO Ship Identification Number Scheme* and Circular Letter No.1886/Rev.7 supporting the implementation of the IMO Ship Identification Number Scheme,

NOTING that the effective implementation of the conventions and instruments relating to maritime safety and pollution prevention, including those dealing with the training and certification of seafarers and procedures for the control of substandard ships adopted with a view to the eventual elimination of substandard conditions, contribute to the prevention and suppression of maritime fraud,

NOTING ALSO resolution MSC.160(78) on the *Adoption of the IMO unique company and registered owner identification number scheme* to enhance maritime safety, security and environmental protection and to facilitate the prevention of maritime fraud, and Circular Letter No.2554/Rev.3 supporting the implementation of resolution MSC.160(78),

RECALLING the recommended procedure for the transfer of ships between flag States approved through MSC/Circ.1140 and MEPC/Circ.424,

RECALLING ALSO the recommended best practices to assist in combating fraudulent registration and fraudulent registries of ships approved through LEG.1/Circ.10,

RECALLING FURTHER that the long-range identification and tracking (LRIT) system can be used to identify ships up to 1,000 nautical miles from the coastal State,

NOTING WITH CONCERN information about those ships, engaging in illegal operations for the purposes of circumventing sanctions or engaging in other illegal activities and referred to for the purposes of this resolution as the "dark fleet" or "shadow fleet",

NOTING WITH FURTHER CONCERN information that these ships intentionally disable or manipulate their shipborne automatic identification systems (AIS) in disregard of the guidance for legitimate disablement of AIS contained in the *Revised guidelines for the onboard operational use of shipborne automatic identification systems (AIS)* (resolution A.1106(29)), have substandard maintenance, unclear ownership, lack of insurance coverage, and disguise their cargoes destination or origin,

NOTING ALSO that non-receipt of AIS transmissions by shore stations or AIS satellites may not be determinative of illegal activity but may warrant further investigation,

NOTING WITH GRAVE CONCERN that the ships in the "dark fleet" or "shadow fleet" pose a real and high risk of incident, particularly when engaging in ship-to-ship (STS) transfers, as they disguise the cargoes destinations or origins, or otherwise avoid oversight or regulation by flag or coastal States,

ACKNOWLEDGING that the fraudulent registration of ships, the existence of fraudulent registries and related deceptive shipping practices are serious threats to the safety and security of international shipping, including the safety, well-being and potential criminalisation of the crew and the protection of the environment, and can facilitate illegal maritime trafficking and the evasion of sanctions and other illegal activities,

RECOGNIZING the importance of obtaining, maintaining, and exchanging information by all stakeholders, through bilateral or multilateral mechanisms and in accordance with domestic and international law, across the maritime sector to prevent and counter such issues,

RECOGNIZING ALSO that the ratification, accession, and effective implementation of other IMO conventions and other relevant international instruments can make a significant contribution to the prevention and control of maritime fraud,

RECOGNIZING FURTHER that there are shipowners who are engaged in the trade in a responsible manner and in accordance with their obligations under international conventions and regulations.

BELIEVING that the development and continuous review of national legislation makes a very significant contribution in countering fraudulent acts in the maritime sector,

DESIRING to promote actions by all relevant stakeholders for the prevention and suppression of fraudulent acts which gravely endanger the integrity of international seaborne trade,

HAVING CONSIDERED the recommendations made by the Legal Committee at its 110th session and the Marine Environment Protection Committee at its eightieth session,

1 DECIDES that, for the purpose of this resolution, "dark fleet" or "shadow fleet" mean ships that are engaged in illegal operations for the purposes of circumventing sanctions, evading compliance with safety or environmental regulations, avoiding insurance costs or engaging in other illegal activities, which may include:

- .1 carrying out unsafe operations which do not adhere to international regulations and well-established and strict industry standards and best practices;
- .2 intentionally avoiding flag State and port State control inspections;
- .3 not maintaining adequate liability insurance or other financial security;
- .4 intentionally avoiding commercial screenings or inspections;

- .5 not operating under a transparent corporate governance policy that assures the welfare and safety of those on board and protection of the marine environment; or
- .6 intentionally taking measures to avoid ship detection such as switching off their AIS or LRIT transmissions or concealing the ship's actual identity when there is no legitimate safety or security concern sufficient to justify such action;

2 CALLS UPON flag States to ensure that ships flying their flag adhere to measures which lawfully prohibit or regulate STS transfers, and that such ships further adhere to the spirit of the safety and pollution prevention requirements in IMO conventions, especially regulations 19 and 19-1 of Chapter V of the International Convention for the Safety of Life at Sea (SOLAS), 1974 and Chapter 8 of Annex I of the International Convention for the Prevention of Pollution from Ships (MARPOL), 1973, and comply with safe shipping standards to minimize the risk of oil pollution;

3 URGES flag States to consider requiring ships flying their flag to update their STS operations Plan to include notifying their flag State when and where they are engaged in such operations, especially when they are engaged in a mid-ocean STS transfer, including issuance of a document acknowledging receipt of the notification for keeping on board the ship electronically;

4 ENCOURAGES port States to ensure enforcement of the safety and liability conventions on these ships including applicable safety requirements in IMO conventions relating to STS transfer operations and that ships have on board valid State certificates of insurance in accordance with the IMO liability and compensation conventions;

5 RECOMMENDS that port States, when they become aware of any ships intentionally taking measures to avoid detection, such as switching off their AIS or LRIT transmissions or concealing their actual identity, should subject such ships to enhanced inspections as authorized through relevant port State control mechanisms, and notify the respective ship's flag administration as appropriate, following an initial investigation to verify whether the ships had stopped transmitting signals for legitimate reasons;

6 CALLS UPON coastal States to monitor STS operations in their territorial sea and exclusive economic zone notified in accordance with regulation 42 of Annex I of MARPOL, including monitoring the provision of the notifications required pursuant to regulation 42 of Annex I of MARPOL, and take appropriate actions in cases identified as not complying with the maritime safety and the prevention of marine pollution regulations;

7 ENCOURAGES coastal States to collaborate to improve monitoring of these practices and operations;

8 URGES Governments, the Secretary-General, flag State authorities, port State control authorities, ship owners and operators, non-governmental organizations, the private sector including the marine insurance industry, ship brokers, and other relevant maritime stakeholders, to develop and deliver workshops that focus on enhancing capabilities and due diligence practices for the prevention, detection, and reporting the operation of dark fleets or shadow fleets and illegal activities facilitated by such ships;

9 REQUESTS the Secretary General to inform other United Nations agencies of the issues discussed, and the concerns and challenges raised, so that they may also take action for matters under their remit;

10 REQUESTS relevant Committees to keep this matter under review and take such further action as they may consider necessary in light of developments.
