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Sanctions at Sea

A Study of the Russian Shadow Fleet's Exploitation of Legal Gaps in International Maritime Law

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Contents

SUMMARY	1
SAMMANFATTNING	2
ABBREVIATIONS.....	3
1 INTRODUCTION	4
1.1 Background	4
1.2 Aim and Research Questions	5
1.3 Method and Material	5
1.4 Delimitations.....	6
1.5 Previous Research.....	7
1.6 Outline.....	7
2 INTERNATIONAL REGULATIONS	8
2.1 Maritime Zones under UNCLOS.....	8
2.2 IMO Conventions and Regulations.....	9
3 RUSSIAN SHADOW FLEET OPERATIONS	12
3.1 EU Sanctions.....	12
3.1.1 Oil Price Cap	12
3.2 Definition of the Term ‘shadow fleet’	13
3.3 Operational Characteristics of Shadow Fleet Vessels	14
3.3.1 Insurance	14
3.3.2 Methods of Evasion.....	15
3.4 Implications	15
4 SHIP REGISTRATION	17
4.1 Genuine Link	17
4.2 Closed and Open Registries	18
4.3 Fraudulent Registration.....	20
5 FLAG STATE JURISDICTION AND OBLIGATIONS	22
5.1 Flag State Jurisdiction.....	22
5.2 Flag State Obligations and Responsibilities	23
5.3 Proposed Legal Responses to Flag State Non-Compliance.....	24

6	DISCUSSION AND CONCLUSION.....	26
	BIBLIOGRAPHY	28

Summary

In response to Russia's full-scale invasion of Ukraine, EU and allied G7 countries implemented extensive sanctions regimes targeting Russian oil and petroleum products. To circumvent these sanctions, Russia has increasingly relied on a parallel fleet operating without Western ties – a shadow fleet – which has come to play an important role in funding the Russian war effort. Shadow fleet vessels employ a range of tactics to conceal their operations and cargo, while raising concerns in relation to maritime safety, security, and environmental protection. The Russian shadow fleet has thus emerged as a significant challenge to the international maritime legal framework and the effectiveness of sanctions regimes. Applying a legal dogmatic method, this essay examines how shadow fleet operations exploit legal gaps in international maritime regulations, as well as structural weaknesses in the flag State obligations regime established under the United Nations Convention on the Law of the Sea (UNCLOS).

The essay focuses on the principles of ship nationality and registration, the requirement of a genuine link between a State and vessels flying its flag, and exclusive flag State jurisdiction on the high seas. While UNCLOS assigns primary regulatory and enforcement responsibility to flag States, the lack of a clear definition of the genuine link and the absence of effective international enforcement mechanisms allow certain States to offer registration without exercising substantial control. The essay also demonstrates how the use of fraudulent or non-existent registries, as well as poorly managed open registries, undermines the effectiveness of flag State control.

The results of the analysis show that the shadow fleet problem is not solely a matter of substandard vessels, but increasingly one of substandard or unwilling flag States. In the absence of an international framework capable of holding flag States accountable for persistent failures to enforce their obligations, the current maritime regulatory system remains vulnerable to exploitation.

Sammanfattning

Som en reaktion på Rysslands fullskaliga invasion av Ukraina har EU och allierade G7-länder infört omfattande sanktioner riktade mot rysk olja och petroleumprodukter. För att kringgå dessa sanktioner har Ryssland i allt större utsträckning förlitat sig på en parallell flotta – en så kallad skuggflotta – som har kommit att spela en betydande roll i finansieringen av den ryska krigföringen. Skuggflottans fartyg använder en rad metoder för att dölja sin verksamhet och last, samtidigt som de medför risker för maritim säkerhet och miljön. Den ryska skuggflottan utgör därmed en betydande utmaning för det internationella sjörättsliga ramverket och sanktionsregimernas effektivitet. Med utgångspunkt i rättsdogmatisk metod undersöker denna uppsats hur skuggflottans verksamhet utnyttjar rättsliga luckor i internationella sjörättsregler samt strukturella svagheter i regelverket kring flaggstatskyldigheter enligt Förenta nationernas havsrättskonvention (UNCLOS).

Uppsatsen fokuserar på bestämmelserna om fartygsnationalitet och fartygsregistrering, kravet på en genuin koppling (genuine link) mellan en stat och fartyg som för dess flagg, samt principen om exklusiv flaggstatsjurisdiktion på det fria havet. Trots att UNCLOS ålägger flaggstaterna det primära tillsyns- och verkställighetsansvaret möjliggör avsaknaden av en tydlig definition av den genuina kopplingen, och bristen på effektiva internationella verkställighetsmekanismer, att vissa stater kan erbjuda registrering utan att utöva faktisk kontroll. Uppsatsen visar även hur användningen av falska eller icke-existerande register, liksom bristfälligt administrerade öppna register, underminerar effektiviteten av flaggstatskontroll.

Analysens resultat visar att skuggflotteproblematiken inte enbart rör undermåliga fartyg, utan i allt högre grad även undermåliga eller ovilliga flaggstater. I avsaknad av ett internationellt ramverk som kan hålla flaggstater ansvariga för ihållande underlåtenhet att fullgöra sina skyldigheter förblir det nuvarande sjörättsliga systemet sårbart för utnyttjande.

Abbreviations

AIS	Automatic Identification System
CLC	1992 International Convention on Civil Liability for Oil Pollution Damage
G7	Group of Seven (France, Italy, Japan, Kanada, United Kingdom, Germany and United States of America)
ILC	International Law Commission
IMO	International Maritime Organization
IOPC Funds	International Oil Pollution Compensation Funds
ISM Code	International Safety Management Code
ITLOS	International Tribunal for the Law of the Sea
MARPOL	International Convention for the Prevention of Pollution from Ships
P&I	Protection and Indemnity
SOLAS	International Convention for the Safety of Life at Sea
STS transfers	Ship-to-ship transfers
UNCLOS	United Nations Convention on the Law of the Sea
UNCCROS	1986 United Nations Convention on Conditions for Registration of Ships

1 Introduction

1.1 Background

In 2022 Russia launched a full-scale invasion of Ukraine leading to a major escalation of the war that began with the occupation of Crimea in 2014. In response, the European Union (EU) and allied G7 countries, including United States of America and Japan among others, have implemented extensive sanctions targeting sectors of the Russian economy such as trade, energy and transport sectors.¹ The main goal is to restrict revenue funding war efforts, including oil and gas revenue, which traditionally accounts for a considerable part of Russia’s export earnings.²

As the war goes on, there has been no end in sight for the massive sanction regimes and continued economic pressure on the Russian economy. For example, in May 2025 the European Commission presented the REPowerEU Roadmap which sets out to gradually phase out Russian oil, gas and nuclear energy from the EU markets, ultimately accomplishing full independence from Russian energy. As stated by Commission President Ursula von der Leyen, “[...] energy that comes to our continent should not pay for a war of aggression against Ukraine”.³ Likewise, in October 2025 the U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) imposed further sanctions against Russia’s two largest oil companies and its subsidiaries in an effort to support the U.S. president’s attempt to mediate peace.⁴

As an instrument to circumvent sanctions and secure future oil export revenue, Russia launched a new fleet without Western ties – a shadow fleet – that employs a variety of tactics to conceal its cargo. The shadow fleet has come to play an important role in funding the Russian war chest, with recent reports

¹ Council of the European Union, *EU sanctions against Russia*.

² Caprile & Leclerc (2024), p. 2.

³ European Commission, *EU to fully end its dependency on Russian energy*.

⁴ U.S. Department of the Treasury (2025).

of uniformed security personnel onboard shadow fleet vessels, an overall increased Russian presence in the Baltic Sea⁵ and ships being escorted into Russian territorial waters by Russian fighter jets after attempts to carry out checks.⁶

1.2 Aim and Research Questions

The aim of this essay is to examine the operation of the Russian shadow fleet, the legal gaps that are used to circumvent international regulations and sanctions placed upon Russian oil, and the responsibilities of flag States in relation to such practices.

The following research questions are answered:

1. How does the Russian shadow fleet exploit legal gaps in international maritime regulations to operate despite international sanctions on Russian oil?
2. What obligations do flag States have under international law in relation to ships engaged in Russian shadow fleet operations?

1.3 Method and Material

This essay applies a legal dogmatic method which seeks to identify, interpret and reconstruct applicable law, including legislation, statutes and preparatory works.⁷ The legal dogmatic method was chosen considering the research questions that seek to define the legal gaps utilized to round sanctions and the legal obligations and responsibilities of flag States regarding unlawful shadow fleet operations.

International legislation, primarily the United Nations Convention on the Law of the Sea (UNCLOS), will be the main legal instruments of the essay. Case law and legal literature will be used to interpret and clarify the provisions of

⁵ Granlund (2025).

⁶ Ataman (2025).

⁷ Kleineman (2025), p. 25.

international law, while scholarly writing will be used as a complementary source in the analysis of the legal situation and framework. In addition, serving an illustrative purpose, reports and news articles will be used to provide contextual background and insight into the practical implications and scale of the situation.

1.4 Delimitations

Given the limited scope of the essay, some limitations apply.

Shadow fleets are not a new phenomenon but have been used historically in smaller scales by States such as Venezuela, Iran and North Korea to circumvent sanctions.⁸ However, since the full-scale invasion of Ukraine in 2022, Russia has significantly increased its use of the shadow fleet and taken it to another scale, both in numbers and in the refinement of underlying mechanisms.⁹ Therefore, the focal point of this essay will be the Russian shadow fleet and its operations and development since 2022.

The subject matter examined in this essay extends into many areas of international law, such as environmental law, international labour law and international trade law. Though highly relevant in this context, the analysis in this essay is limited to issues of international maritime law. As the public law aspect of maritime law is the main focus of this essay, private law aspects, such as marine insurance, will briefly be touched upon for contextual background, but will not be analysed in depth. Similarly, national law will not be examined in detail.

The shadow fleet operations affect many States, however, the focus of this essay will be on flag States and their obligations and responsibilities under international law. Therefore, any effect on coastal States and questions regarding port States fall outside the scope of this analysis.

⁸ Caprile & Leclerc (2024), p. 4.

⁹ Caprile & Leclerc (2024), p. 4.

1.5 Previous Research

Although there is comprehensive research on the law of the sea in general, research more specific to shadow fleet operations is not as extensive. However, as the shadow fleet has gained more interest and has become increasingly relevant, a larger body of research has recently been made available. Articles such as *Flags of Convenience' to 'Flags of Deceit': The Future of the Law Governing the Nationality of Ships* discusses the topic of ship registration and the related methods used by shadow fleets to circumvent sanctions and proposes potential solutions to these issues.

In this context, I wish for this essay to contribute to the legal scholarship and research on shadow fleet operations in international law, mainly focusing on concerns of flag State responsibility.

1.6 Outline

Firstly, Chapter 2 presents the international legal framework relevant to shadow fleet operations such as maritime zones, freedoms of the sea, and IMO conventions and regulations. Chapter 3 provides an overview of EU sanctions and defines the term shadow fleet. It also presents the implications of shadow fleet operations and their methods. Following this, Chapter 4 examines ship registration, focusing on the genuine link requirement under article 91 of UNCLOS, closed and open registries, and fraudulent registration. Chapter 5 examines flag State jurisdiction and flag State obligations and responsibilities under UNCLOS and other international regulations. Finally, Chapter 6 contains a discussion of shadow fleet operations in light of the applicable legal framework, analysing the problems and limitations that arise.

2 International regulations

2.1 Maritime Zones under UNCLOS

Under the United Nations Convention on the Law of the Sea (UNCLOS), the oceans are divided into several different maritime zones that extend from the baselines of every coastal State. The zones dictate what jurisdiction States may exercise under UNCLOS. It also indicates what rights and freedoms ships are entitled to exercise. Although there are many maritime zones under UNCLOS, presented below is an overview of those relevant to this essay.

Firstly, the territorial sea spans a width of up to 12 nautical miles measured from the baselines of a coastal State.¹⁰ Everything within the baselines is considered internal waters.¹¹ Within territorial waters, the coastal State enjoys full sovereignty that extends beyond its land territory and internal waters.¹² However, all ships, regardless of State, enjoy the right of innocent passage.¹³ Innocent passage means navigation through the territorial sea, that does not undermine the peace, good order or security of the coastal State.¹⁴

Encompassing the territorial sea, the exclusive economic zone (EEZ) extends up to 200 nautical miles from the baselines of a coastal State.¹⁵ In the EEZ, the coastal State has sovereign rights for the purpose of exploring and exploiting natural resources. The coastal State must however have due regard to the rights and duties of other States in exercising its rights within the EEZ.¹⁶

Beyond the EEZ lies the high seas.¹⁷ In accordance with article 87(1) of UNCLOS, the high seas are open to all States, and the freedom of the high seas comprises, among other freedoms, the freedom of navigation and overflight.¹⁸

¹⁰ UNCLOS, art. 3.

¹¹ UNCLOS, art. 8(1).

¹² UNCLOS, art. 2(1).

¹³ UNCLOS, art. 17.

¹⁴ UNCLOS, art. 19(1).

¹⁵ UNCLOS, art. 57.

¹⁶ UNCLOS, art. 56.

¹⁷ UNCLOS, art. 86.

¹⁸ UNCLOS, art. 87(1).

Under the principle of freedom of navigation, ships may navigate freely without interference from other States.¹⁹ This right is, however, subject to exceptions under UNCLOS and other rules of international law.²⁰ According to article 58(1) of UNCLOS, the freedoms of navigation and overflight are also applicable within the EEZ.²¹ Therefore, for navigational purposes, the EEZ and the high seas are often treated as one zone, hence the term “international waters”, which is likely a reference to all waters beyond the territorial sea.²²

Lastly, straits used for international navigation are defined as straits which are used for maritime international navigation that connect one part of the high seas or an EEZ to another.²³ According to article 38 of UNCLOS all ships enjoy the right of transit passage in these straits, meaning the exercise of the freedom of navigation and overflight for the purpose of continuous and expeditious transit.²⁴ Examples of such straits are the Øresund Sound and the Strait of Gibraltar.

2.2 IMO Conventions and Regulations

The 1974 International Convention for the Safety of Life at Sea (SOLAS) consists of rules which govern minimum safety standards for the construction, equipment and operation of ships and is regarded as the most important international instrument on the safety of shipping.²⁵ The IMO is responsible for reviewing the Convention and to draft any necessary amendments. However, it is the responsibility of the flag State to enforce the provisions of the Convention.²⁶

The International Safety Management (ISM) Code was inserted into the SOLAS Convention as Chapter IX by the IMO in 1994, making the Code man-

¹⁹ UNCLOS, art. 92(1).

²⁰ UNCLOS, art. 87.

²¹ UNCLOS, art. 58(1).

²² Serdy (2021), p. 342.

²³ UNCLOS, art. 37.

²⁴ UNCLOS, art. 38.

²⁵ IMO, *SOLAS*.

²⁶ SOLAS, art. 1; Lorenzon (2021), pp. 375–376.

datory. The ISM Code provides an international standard for shipowners, operators or managers for safe management and operation of ships and for prevention of pollution and requires them to, inter alia, establish a safety management system and ensure good safety practices afloat and ashore.²⁷ The ISM Code is widely accepted as a codification of a set of previously internationally recognised principles.²⁸

The International Convention for the Prevention of Pollution from Ships (MARPOL) covers prevention of pollution by ships caused by accidents or routine operations. MARPOL consists of a framework convention supplemented by six technical annexes, each regulating specific categories of pollution.²⁹

The issues of liability and compensation in case of oil pollution is regulated by the 1992 International Convention on Civil Liability for Oil Pollution Damage (CLC). The convention applies to all tankers that carry oil in bulk and covers pollution damage in a State party's territorial sea and EEZ. The liability for damage is placed on the owner of the ship that is responsible for the oil pollution. Furthermore, tankers carrying over 2 000 tons of oil are required to maintain insurance, normally a P&I insurance, to cover their liabilities under the Convention.³⁰ It is the responsibility of the flag State to not permit ships that are required to maintain insurance to fly their flag and operate without insurance.³¹

The 1992 CLC Convention establishes the first-tier liability and compensation regime for oil pollution damage. As a supplement, the intergovernmental International Oil Pollution Compensation (IOPC) Funds, the 1992 Fund³² and the 2003 Supplementary Fund, provide a second- and third-tier compensation regime to State Parties that cannot obtain full compensation for oil pollution

²⁷ Lorenzon (2021), p. 377; IMO, *ISM Code*.

²⁸ Lorenzon (2021), p. 377.

²⁹ IMO, *MARPOL*.

³⁰ IMO, *CLC*.

³¹ IMO, *Information brochure*.

³² The 1992 International Oil Pollution Compensation (IOPC) Fund. Hereafter 1992 Fund.

damage under the CLC Convention. Such situations may arise where insurance is inadequate or where the damage exceeds the shipowner's maximum liability under the CLC Convention. Furthermore, to become eligible for compensation from the IOPC Funds, States must be parties of the 1992 CLC Convention as well as the 1992 Fund.³³ As the shadow fleet vessels are usually uninsured, and thus not covered by the compensation regime under the CLC Convention, claiming compensation through the IOPC Funds would in practice be the only way to get compensated for oil pollution damage by such vessels. This could potentially pose a risk to the IOPC Funds as it would force the Funds to cover all such damages in full.³⁴

³³ IMO, *FUND*; IOPC Funds, *Explanatory Note*, p. 3.

³⁴ Braw (2024).

3 Russian Shadow Fleet Operations

3.1 EU Sanctions

Since February 2022, a total of 19 sanction packages have been adopted by the EU against Russia, many of which targets Russian maritime transport and shadow fleet operations.³⁵ For example, through the fifth sanction package adopted on 8 April 2022, Russian flagged vessels were prohibited access to EU ports³⁶ and in its sixth package of sanctions, the EU adopted a ban on imports of Russian crude oil and refined petroleum products to EU member States, as well as prohibitions on the insurance and financing of maritime transportation of Russian oil to third countries.³⁷ Furthermore, nearly 600 vessels in total have been listed by the EU as part of the Russian shadow fleet and have been made subject to port access bans and prohibitions on the provision of services related to maritime transport. The latest listings were made on 18 December 2025 when EU member States decided to list 41 additional vessels.³⁸ The EU has also taken action against third country operators such as several Chinese entities that are significant buyers of Russian crude oil in an effort to restrict Russian revenue.³⁹

3.1.1 Oil Price Cap

In September 2022 the Price Cap Coalition, composed of the EU and G7 members, established a price cap on all Russian crude oil and petroleum products, only permitting provision of maritime services, such as technical assistance or insurance services, by companies under jurisdiction of participating countries if said products are purchased at or below the price cap. The purpose of the oil price cap is to secure and maintain a reliable supply of Russian crude

³⁵ Council of the European Union, *Timeline*.

³⁶ Council Regulation (EU) 2022/576 of 8 April 2022.

³⁷ Council Regulation (EU) 2022/879 of 3 June 2022.

³⁸ European Commission, *Daily News 18/12/2025*.

³⁹ Council Regulation (EU) 2025/2033 of 23 October 2025.

oil and petroleum products whilst reducing pressure on energy prices and restricting revenue funding Russia's war of aggression against Ukraine.⁴⁰

The price cap effectively restricts Russian trade above the limit in global markets, as the provision of maritime services is largely dominated by EU and G7 countries.⁴¹ However, Russia has since turned to new buyers in countries that do not regard the sanctions regimes with the largest buyers being China, India and Türkiye.⁴²

Initially set at 60 USD per barrel, the oil price cap was lowered on 3 September 2025 to 47,6 USD through Regulation 2025/1494,⁴³ which also introduced an "automatic and dynamic" review mechanism setting the price cap at 15% below the average market price for Russian crude oil and provides for a review every six months. The oil price cap is adjusted if the newly calculated price varies by over 5% from the applicable price cap at that time.⁴⁴

3.2 Definition of the Term 'shadow fleet'

There is no universally accepted definition of the term 'shadow fleet', which is used alongside other expressions, such as 'dark fleet' or 'grey fleet'. Although the terms are frequently used interchangeably in media, some suggest that they denote distinct categories of vessels operating outside of international regulations, with the expression 'shadow fleet' sometimes being used as an umbrella term for all such operations.⁴⁵ However, in its resolution of 6 December 2023, the International Maritime Organization (IMO) defines the terms 'shadow fleet' and 'dark fleet', as:

⁴⁰ Directorate-General for Financial Stability, Financial Services and Capital Markets Union (2025), p. 1.

⁴¹ Caprile & Leclerc (2024), p. 2.

⁴² CREA (2025a).

⁴³ Council Regulation (EU) 2025/1494 of 18 July 2025.

⁴⁴ Directorate-General for Financial Stability, Financial Services and Capital Markets Union (2025), p. 2.

⁴⁵ See, i.a. Caprile & Leclerc (2024).

[...] 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 the 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.⁴⁶

3.3 Operational Characteristics of Shadow Fleet Vessels

The shadow fleet is distinguished by several characteristics. The vessels are typically poorly maintained, aging ships over 15 years old with opaque and complex ownership structures that sail without industry-standard insurance. The ships frequently change their names and flags and often carry sanctioned goods.⁴⁷

3.3.1 Insurance

Protection and indemnity (P&I) is an insurance policy that provides cover against liability claims, such as damage from collisions, pollution and environmental damage, from third parties. P&I insurance is the industry's standard Western insurance and is provided by a network of P&I Clubs called The International Group of P&I Clubs (IGP&I).⁴⁸

⁴⁶ IMO Resolution A.1192(33).

⁴⁷ Braw (2024).

⁴⁸ Caprile & Leclerc (2024), p. 3.

As a result of EU sanctions and the oil price cap on Russian crude oil and petroleum products, shadow fleet vessels no longer have Western insurance and have had to turn to offshore, insufficient insurers that are not concerned by EU sanctions, rendering them effectively uninsured.⁴⁹

3.3.2 Methods of Evasion

To conceal the origin of the sanctioned cargo, shadow fleet vessels rely on the practice of transferring liquid cargo between vessels in open waters, so called ship-to-ship transfers (STS transfers).⁵⁰ STS transfers are common practice in international shipping but are however associated with heightened risks of collisions, pollution and oil spills.⁵¹ The shadow fleet conducts STS transfers to avoid docking at ports or to blend Russian oil with oil from other sources to conceal its origin further.⁵²

The automatic identification system (AIS) is a tracking system that is intended to enhance safety and efficiency of navigation and life at sea.⁵³ The AIS transmits data providing information about a ship's identity, position, speed, and course, among other things and mandated by the IMO under the International Convention for the Safety of Life at Sea (SOLAS) for all vessels over 300 gross tonnage. To avoid detection, shadow fleet vessels frequently disable their AIS transponders or manipulate the transmitted AIS data when interfering in STS transfers or approaching port. Repeatedly disabling the AIS of a ship is considered a breach of SOLAS requirements.⁵⁴

3.4 Implications

The operations of the shadow fleet have many potential implications, including concerns of maritime safety and security and environmental concerns.

⁴⁹ Braw (2024).

⁵⁰ Caprile & Leclerc (2024), p. 6.

⁵¹ Britannia P&I Club (2024).

⁵² Caprile & Leclerc (2024), p. 6.

⁵³ IMO Resolution A.1106(29).

⁵⁴ Caprile & Leclerc (2024), p. 6.

In its operations, the shadow fleet vessels pose serious risks to other ships. When disabling their AIS and engaging in STS transfers, the vessels create navigational risks, increasing the risk of collisions.⁵⁵

In December 2024, the *Eagle S*, a Cook Islands-registered ship linked to the Russian shadow fleet, was suspected of intentionally cutting the Estlink 2 electricity cable connecting Finland and Estonia in the Gulf of Finland. The ship was thought to have dragged its anchor across the seabed, thus damaging the underwater cable. Earlier this year, a Finnish court initiated proceedings against several members of the crew, including the captain; however, it later discontinued the case after determining that it lacked jurisdiction over the matter. The Finnish investigation concluded that there were reasons to believe that the anchor was deliberately dragged across the cable, yet the crew claims the incident was an accident.⁵⁶

As many shadow fleet ships are old, poorly maintained and uninsured, the risk of potential damage from oil spills are heightened, as well as the financial burden for potentially affected States. Many ships also evade regulations of safety and environmental standards for ship operations, often having a higher likelihood of accidents or mechanical failure.⁵⁷

⁵⁵ Caprile & Leclerc (2024), p. 8.

⁵⁶ Tano (2025).

⁵⁷ Caprile & Leclerc (2024), p. 9.

4 Ship Registration

The attribution of a nationality to ships constitutes a core principle in international law. A ship's nationality functions as an identification and indicates which flag State acquires rights and duties in respect of the ship, such as the right to exercise jurisdiction. A ship is attributed a nationality and flag by registration in a flag State registry. Once registered, proper documentation proving its nationality and right to operate can be issued.⁵⁸

The right of navigation in article 90 of UNCLOS entails that every State has the right to sail ships flying its flag on the high seas.⁵⁹ Accordingly, in principle, the exercise of navigational rights and access to the high seas are limited to registered ships flying a flag and do not apply to stateless ships. The conditions for granting its nationality to a ship and for registration of a vessel is for each State to establish.⁶⁰

4.1 Genuine Link

While the conditions for the grant of nationality to ships are determined by each State, this discretion is not without limits. Article 91 of UNCLOS requires that a genuine link exist between a State and ships flying its flag.⁶¹ Although several attempts have been made to establish an international standard for determining the existence of a genuine link, there is currently no consensus, leaving the meaning of the requirement unclear.⁶²

In the *M/V Saiga* (No 2) case, the International Tribunal for the Law of the Sea (ITLOS) concluded that the purpose of the genuine link requirement is to secure more effective implementation of flag State duties, rather than to establish criteria through which other States may challenge the validity of ship registration.⁶³

⁵⁸ Mukherjee & Brownrigg (2013), p. 201.

⁵⁹ UNCLOS, art. 90.

⁶⁰ UNCLOS, art. 91(1).

⁶¹ UNCLOS, art. 91(1).

⁶² Churchill et al. (2022), p. 465.

⁶³ *M/V 'Saiga' (No 2)*, para. 83.

There is no binding international framework regulating the registration of ships. The 1986 United Nations Convention on Conditions for Registration of Ships (UNCCROS) was prompted by a desire among sovereign States to resolve, *inter alia*, issues relating to ship registration.⁶⁴ UNCCROS establishes international standards in this regard and seeks to ensure or strengthen the genuine link between a State and ships flying its flag.⁶⁵ According to article 19, the Convention requires 40 contracting States with a combined tonnage of at least 25% of the world total to enter into force.⁶⁶ However, to date, only 15 States are parties to the Convention, which has therefore not yet entered into force.⁶⁷

In its final set of draft articles, the International Law Commission (ILC) concluded that further criteria for ship registration were not possible to regulate and instead settled for the guiding principle of a genuine link. The ILC further acknowledged that it was not possible to define in more precise terms what form such a link should take.⁶⁸

Despite the genuine link requirement being included in multiple international conventions⁶⁹ there remains a long-standing practice of shipowners registering their ships in States with which they have little or no connection. This is done mostly for commercial reasons, such as lower taxation and registration fees, as well as for the purpose of evading sanctions or other restrictions.⁷⁰

4.2 Closed and Open Registries

The closed registry system is the system that most traditional maritime States follow. One of the basic premises on which the closed registry system is founded, is the policy of only conferring its nationality upon ships that are

⁶⁴ See UNCCROS Preamble.

⁶⁵ UNCCROS, art. 1.

⁶⁶ UNCCROS, art. 19.

⁶⁷ A full list of Convention parties is available at https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XII-7&chapter=12&clang=en (accessed 5 December 2025).

⁶⁸ United Nations (1957), p. 279.

⁶⁹ See *i.a.* UNCLOS, art. 91(1); Convention on the High Seas, art. 5(1).

⁷⁰ Churchill et al. (2022), pp. 465–466.

owned by flag State nationals.⁷¹ Historically, flag States have demanded strict requirements for ownership and crewing as a way of ensuring an economic and operational link between a ship and its flag State. However, in modern context, this is seen as excessively burdensome by ship owners and operators and to bypass these strict requirements, ship owners and operators may register ships elsewhere that are economically and functionally more favourable or convenient.⁷²

On the contrary, the open registry model abandons the idea of an economic and operational link and instead views owners and flags of registration as separate matters. Other than allowing non-citizens ownership, open registries often offer advantages such as lower taxes, registration fees, and crewing costs.⁷³ This allows shipowners from traditional maritime States to maintain market position in a competitive trade. Open registries are sometimes referred to as flags of convenience which are often based in developing countries or small island nations. In 2024, over 70% of the global ship capacity in dead weight tons are registered in open registries with the top three registries being Liberia, Panama and Marshall Islands.⁷⁴ Although the world ship capacity is largely owned by entities in developed countries, more than 75% of the capacity was registered in developing economies.⁷⁵ Registering ships in foreign countries, however, is not a new practice. During the years of prohibition in the United States, US-owned ships were frequently flying foreign flags as a way of bypassing prohibition regulations and bans on carrying alcohol on passenger liners.⁷⁶

In what way States choose to organize their ship registries differ. Norway, for example, has established two separate ship registries, the Norwegian Ordinary Register (NOR) for Norwegian-owned tonnage and the Norwegian International Register (NIS) for the foreign trading fleet. The NIS was estab-

⁷¹ Mukherjee & Brownrigg (2013), p. 204.

⁷² Mukherjee & Brownrigg (2013), p. 205.

⁷³ Mukherjee & Brownrigg (2013), pp. 206–207.

⁷⁴ UNCTAD (2024), p. 50.

⁷⁵ UNCTAD (2024), p. 50.

⁷⁶ Mukherjee & Brownrigg (2013), p. 205.

lished to discourage foreign registration of Norwegian vessels without sacrificing safety standards or quality whilst offering other benefits such as lower crewing costs.⁷⁷

4.3 Fraudulent Registration

In a response to increased sanctions pressure, open registries and flags of convenience, including Panama, have closed their registries for shadow fleet vessels and vessels over a certain age.⁷⁸ Furthermore, the EU has urged flag States to delist sanctioned vessels and emphasises that aiding the Russian shadow fleet in any way, such as offering registration of shadow fleet vessels, is also aiding the Russian war effort.⁷⁹ When conventional methods fail, shadow fleet vessels may turn to fraudulent registration as an alternative.

The concern of fraudulent ship registration has grown over the past years with regards to the growing shadow fleet and a rise in recorded incidents.⁸⁰ Fraudulent registration, or flying false flag, is the practice of registering of vessels “without the knowledge or approval of the relevant national maritime administration”.⁸¹ This is accomplished through multiple methods including using an expired or terminated registration, submitting fraudulent documentation stating registration in a flag State without the knowledge of that State, or falsifying AIS data to alter the ship’s identity.⁸² The use of fraudulent registries have increased, with vessels being registered in States such as Malawi,⁸³ that has confirmed a fraudulently operated ship registry, and Mozambique,⁸⁴ that has seen a rise in registered ships despite not having a commercial ship registry. In the GISIS database,⁸⁵ a ship is designated as flying false flag if it

⁷⁷ Falkanger et al. (2017), pp. 62–63.

⁷⁸ Lloyd’s List (2025).

⁷⁹ European Parliament resolution of 14 November 2024 on EU actions against the Russian shadow fleets and ensuring a full enforcement of sanctions against Russia (2024/2885(RSP)), paras. 4–5.

⁸⁰ UNCTAD (2024), p. 139; UNCTAD (2025), p. 151.

⁸¹ IMO, *Registration of ships and fraudulent registration matters*.

⁸² IMO, *Registration of ships and fraudulent registration matters*.

⁸³ Meade (2025).

⁸⁴ Diakun & Meade (2025).

⁸⁵ The Global Integrated Shipping Information System is an IMO platform for maritime data and is available at <https://gisis.imo.org/public/default.aspx>.

transmits or displays flag details which are confirmed by the flag Administration as not being legally registered.⁸⁶ Between January and September 2025, 113 vessels of the Russian shadow fleet had flown a false flag during their operations and in September, false flag vessels stood for the transportation of a significant amount of Russian crude oil and oil products with around two thirds transiting through the Danish Straits and the English Channel.⁸⁷

According to article 91 of UNCLOS, a ship possesses the nationality of the State whose flag they are entitled to fly.⁸⁸ A fraudulently registered ship or a ship flying false flag is therefore considered stateless and enjoys no protection in international law.⁸⁹ In the 1948 case of *Naim Molvan v. Attorney General for Palestine*⁹⁰ the vessel *Asya* was subject to assessment. The *Asya* was seized by a British destroyer on the high seas outside of the Palestinian coast. She was initially flying no flag and had no identifying papers. Although later, when being approached and boarded, the *Asya* hoisted the Turkish flag followed by the flag that would later be known as the Israeli flag. As a result of being designated stateless, the court stated that no principle of international law had been violated and that the *Asya* could not claim the protection of any State. Furthermore, the court established that the freedom of the high seas is reserved for ships which fly and are entitled to fly the flag of a State.

⁸⁶ IMO, *Final Report*, p. 9.

⁸⁷ CREA (2025b).

⁸⁸ UNCLOS, art. 91(1).

⁸⁹ Watt (2019), p. 2.

⁹⁰ [1948] A.C. 351

5 Flag State Jurisdiction and Obligations

5.1 Flag State Jurisdiction

Under UNCLOS, the high seas constitute a shared maritime space open to all States.⁹¹ Nonetheless, article 89 of UNCLOS establishes that no State may claim sovereignty over any part of the high seas, creating what may be described as a legal vacuum. The exclusive flag State jurisdiction set out in article 92 of UNCLOS should be seen as a way of avoiding this legal vacuum and maintaining public order at sea.⁹² According to article 92(1), ships are subject to flag State exclusive jurisdiction on the high seas.⁹³ This exclusivity means that, save for limited exceptions under UNCLOS and other international treaties - such as piracy or unauthorised broadcasting⁹⁴ - other States may not exercise jurisdiction over ships flying a foreign flag on the high seas. Flag State jurisdiction thus provides the primary legal framework for regulation and enforcement on the high seas, ensuring that vessels are subject to legal authority despite the absence of territorial sovereignty.

While flag State jurisdiction is most significant on the high seas, it also applies in other maritime zones. Within the EEZ of another State, vessels remain subject to the jurisdiction of their flag State, though coastal States have limited functional jurisdiction over matters such as resource exploitation.⁹⁵ During transit passage through international straits, flag State jurisdiction continues to apply, but coastal State jurisdiction is limited to specific regulatory powers, with an obligation not to hamper or suspend passage.⁹⁶

⁹¹ UNCLOS, art. 87.

⁹² Serdy (2021), p. 349.

⁹³ UNCLOS, art. 92(1).

⁹⁴ UNCLOS, art. 109–110.

⁹⁵ UNCLOS, art. 56, art. 58.

⁹⁶ UNCLOS, art. 42, art. 44.

5.2 Flag State Obligations and Responsibilities

The duties of the flag State are established in article 94 of UNCLOS which states that every State shall “effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag”,⁹⁷ which includes maintaining a ship registry and taking necessary measures to ensure safety at sea. Such measures include ensuring that each ship is equipped with appropriate and needed navigational instruments for the safe navigation of the ship and that the crew is qualified. Furthermore, flag States are obliged to “conform to generally accepted international regulations, procedures and practices”,⁹⁸ which includes international conventions such as SOLAS, MARPOL and CLC. This is also made apparent in the *M/V Virginia G* case, where ITLOS concluded that, once a ship is registered, the obligation under article 94(5) of UNCLOS is fulfilled by the flag State by exercising effective jurisdiction and control over that ship.⁹⁹

Paragraph 6 of article 94 of UNCLOS entitles another State to report any non-compliance to the flag State if it has “clear grounds to believe that proper jurisdiction and control with respect to a ship have not been exercised”. The flag State is then obliged to investigate the matter and, if appropriate, act to remedy the situation.¹⁰⁰

The right to report a flag State does not, however, apply to situations where the genuine link is subject to dispute. This is illustrated in the *M/V Saiga* (No 2) judgement. In this case, Guinea argued that the *Saiga*, registered in Saint Vincent and the Grenadines, lacked a genuine link between it and its flag State, due to the flag State’s limited ability to exercise effective control over the ship in accordance with article 94 in UNCLOS. ITLOS concluded that article 94 and the need for a genuine link under UNCLOS does not permit

⁹⁷ UNCLOS, art. 94(1).

⁹⁸ UNCLOS, art. 94(5).

⁹⁹ *M/V ‘Virginia G’ (No 2)*, para 113.

¹⁰⁰ UNCLOS, art. 94(6).

another State to refuse to recognize the right of the ship to fly its flag or challenge the validity of the registration of said ship.¹⁰¹

Under article 217 of UNCLOS, flag States bear the primary responsibility for the effective enforcement of international rules and standards as well as laws and regulations concerning pollution from vessels, irrespective of where a violation occurs. Moreover, flag States are obligated to ensure that ships flying their flag comply with such international regulations. In particular, flag States must prohibit their ships from sailing if not in compliance with the requirements of international rules and regulations. Under article 217, flag States are also required to investigate any alleged violations committed by vessels flying their flag, including requests submitted by other States.¹⁰²

However, there is a lack of effective mechanisms for the enforcement of flag State obligations and requirements under international regulations, such as UNCLOS, against flag States who do not enforce or observe compliance by the ships flying their flag.¹⁰³

5.3 Proposed Legal Responses to Flag State Non-Compliance

In his article *From 'Flags of Convenience' to 'Flags of Deceit': The Future of the Law Governing the Nationality of Ships*, author Eduardo Cavalcanti de Mello Filho discusses flag non-recognition as a lawful response if a flag State is unwilling to exercise effective jurisdiction and control over its ships. The article is based on a discussion of flag State willingness to exercise effective control, rather than flag State ability to do so. Cavalcanti de Mello Filho argues that if a State establishes a ship registry and has the ability to become a judicious State in the eyes of the international community, ability to exercise effective control is not an issue, willingness to do so, however, is.¹⁰⁴ He further reasons that if a registry knowingly enables unlawful operations, such as

¹⁰¹ *M/V 'Saiga' (No 2)*, paras 82–83.

¹⁰² UNCLOS, art. 217.

¹⁰³ Watt (2019), p. 15.

¹⁰⁴ Cavalcanti de Mello Filho (2025), p. 136.

those carried out by ageing and unsafe shadow fleet vessels, it may be assumed that the State is unwilling to exercise the effective control required under UNCLOS. This includes obligations relating to safety at sea, seaworthiness of vessels and prevention of pollution. In such cases, Cavalcanti de Mello Filho argues that flag States should not be able to claim exclusive jurisdiction over their vessels in relation to other States.¹⁰⁵ Non-recognition of the flag State's exclusive jurisdiction would permit other States to exercise jurisdiction over these ships. Importantly, Cavalcanti de Mello Filho emphasises that non-recognition does not challenge the validity of registration, rather, ships that are not subject to effective flag State control are denied flag State exclusive jurisdiction.¹⁰⁶ Non-recognition must, however, be exercised cautiously and through structured procedures that emphasise fact-finding and registry transparency, make use of existing UNCLOS reporting mechanisms and involve diplomatic engagement.¹⁰⁷

Regarding the practice of fraudulent registration and registries, port State authorities play an important role in identifying instances of such practice as they indirectly expose flag States to external oversight. This could be done by increasing relevant inspections, such as verification of CLC certificates, or improvement of cooperation between States. A key aspect in deterring fraudulent registration practices is encouraging transparency and implementing stricter penalties for such practices.¹⁰⁸ The IMO Study Group's recommendations include developing general guidelines or best practices on registration which could eventually be the basis for developing a treaty on registration of ships. In this development, consideration could be given to the provisions of UNCCROS, the 1986 United Nations Convention on Conditions for Registration of Ships, which is not widely ratified and not yet in force.¹⁰⁹

¹⁰⁵ Cavalcanti de Mello Filho (2025), p. 136.

¹⁰⁶ Cavalcanti de Mello Filho (2025), p. 136.

¹⁰⁷ Cavalcanti de Mello Filho (2025), p. 136.

¹⁰⁸ IMO, *Final Report*, pp. 30–31.

¹⁰⁹ IMO, *Final Report*, p. 31.

6 Discussion and Conclusion

The Russian shadow fleet is a growing problem and poses an increasing threat to international maritime safety. Its operation has exposed fundamental weaknesses and limitations within the current regime of flag State jurisdiction and control.

Flag State jurisdiction is the primary mechanism through which legal authority is exercised on the high seas, and the effectiveness of many UNCLOS provisions depends on flag States fulfilling their regulatory and enforcement obligations. Article 94 of UNCLOS requires flag States to exercise *effective* jurisdiction and control over ships flying their flag. However, when the State is unable or unwilling to fulfil these obligations, limited legal resources remain for other States to intervene, thereby undermining the legitimacy of exclusive flag State jurisdiction. In practice, the system heavily relies on port State and coastal State control to serve as corrective mechanisms. Nevertheless, such corrective measures are inherently limited and are reactive, addressing issues only after they arise, and geographically restricted to areas where vessels enter ports or coastal State waters.

Even though a ship is legally registered, it may be practically unregulated. The vague definition of a genuine link undermines its intended purpose, as there are no real enforcement mechanisms to verify compliance or, as demonstrated in the *M/V Saiga (No 2)* case, to challenge the validity of registration based on the lack of a genuine link. Since there is no clear definition of what constitutes a genuine link, States can offer registration with minimal substantive connection to the ship. However, it is important to recognize that not all open registries are poorly managed. Several open registries comply with international rules and standards and effectively enforce flag State obligations. Nonetheless, there are open registries that are unwilling to comply and fail to exercise effective control over vessels flying their flag and it is these registries that are exploited by the Russian shadow fleet because of their lack of oversight. The choice to register in jurisdictions with minimal enforcement effectively allows operators to circumvent international regulations, transport

sanctioned goods, and avoid compliance with safety and environmental standards. Where legitimate open registries with minimal oversight prove insufficient, the shadow fleet has resorted to fraudulent registration and fraudulent registries as an alternative. These include registrations under non-existent flags, such as the case of the Malawian registry, where regulatory oversight is entirely absent and the concept of flag State jurisdiction becomes meaningless in practice.

While potential legal responses, such as flag non-recognition, may address some weaknesses in the current system, their implementation requires careful consideration. These proposals are founded on sound principles of improving enforcement of flag State obligations and providing other States opportunities to intervene when effective control is not being exercised. However, caution must be taken when implementing such regimes to prevent misuse and abuse for political or economic purposes rather than regulatory concerns.

In conclusion, the operations of the Russian shadow fleet demonstrate how deficiencies in flag State liability, jurisdiction and control under international maritime law can be exploited to circumvent sanctions on Russian oil. These mechanisms are likely to remain ineffective in the absence of an international framework capable of holding States accountable for persistent failures to enforce or ensure compliance with their obligations.

The challenges exposed by the shadow fleet demonstrate that the problem is no longer solely a matter of substandard vessels, but increasingly one of substandard or unwilling flag States. The maritime regulatory system as a whole must adapt to address these challenges. While Russia has taken the phenomenon of the shadow fleet to a new level, it was not the first nor will it be the last State to exploit legal gaps in international maritime law for economic or geopolitical purposes. Without systemic reform, the weaknesses exposed by the shadow fleet risk continuing to undermine maritime safety and security, environmental protection, and the overall integrity of the international maritime legal order.

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