

Judicial Sales and the Limits of Vessel Arrest:

Implications of the Beijing Convention for Nigeria's Admiralty Practice



Introduction

Ship arrest has long occupied a central position in admiralty law as a powerful mechanism for securing maritime claims. In Nigeria, ship arrest is firmly recognized under the Admiralty Jurisdiction Act 1991,¹ which regulates the arrest of vessels and the enforcement of maritime claims within the jurisdiction of the Federal High Court. The Admiralty Jurisdiction Act, by allowing a claimant to proceed *in rem* against a vessel, treats the ship itself as the defendant, thereby providing an effective tool for creditors in an inherently international industry.

However, the traditional system of ship arrest has always carried one practical difficulty which is the effect of a judicial sale did not necessarily travel beyond the jurisdiction in which the sale was ordered as a vessel sold by order of court in one country could, in another country, still be exposed to arrest in respect of claims that arose before the sale.² For a purchaser, this means that a supposedly clean acquisition could become the subject of fresh proceedings once the vessel enters a foreign port.

The consequence of this is not merely procedural inconvenience as it affects the commercial value of distressed vessels, reduces confidence among prospective buyers, and introduces a level of uncertainty that also matters to ship financiers. The entry into force of the United Nations Convention on the International Effects of Judicial Sales of Ships, also known as the Beijing Convention on the Judicial Sale of Ships, on 17 February 2026 is therefore significant as it seeks to address this gap by creating a harmonized framework for recognizing judicial sales across borders and by giving greater certainty to purchasers, creditors, financiers, and courts involved in maritime enforcement.

The Existing Framework for Recognition of Judicial Ship in Nigeria

The Admiralty Jurisdiction Act (AJA) 1991, the 1999 Constitution of the Federal Republic of Nigeria, the Admiralty Jurisdiction Procedure Rules 2023 (AJPR) and the Merchant Shipping Act 2007 (MSA),³ remains the foundation of Nigeria's maritime legal system, granting the Federal High Court (FHC) exclusive jurisdiction over actions *in rem*, regulating the procedure for arrest and sale, and defining the legal effect of judicial sales, including the transfer of clean title.⁴

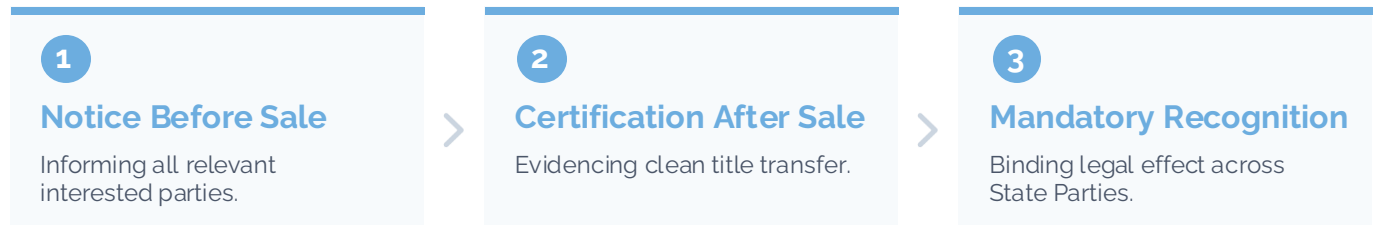
A fundamental limitation however remains, as while Nigerian law provides a functional domestic framework to ensure that creditors cannot make claims and seek an order for the arrest of a ship that has been purchased via the judicial process, its legal authority is generally limited to the Nigerian territory as external recognition of such certificate of sale in foreign jurisdictions still rests on international comity which is discretionary, unpredictable, and easily challenged by aggressive creditors.

Consequently, a buyer who pays millions of dollars for a ship sold via judicial sale in Nigeria has no guarantee that a foreign judicial system will not enforce a challenge by a creditor for an arrest of the ship in a foreign territory or honour the certificate of sale issued through the Nigerian Judicial process. With the Beijing Convention now officially in force, there is a need for Nigeria to participate in a treaty-backed system that guarantees the recognition of its judicial sales across all member states.

Section 77 of the Merchant Shipping Act provides that where a ship is subject of a forced sale in Nigeria and the proceeds of the forced sale have been distributed including to satisfy existing debts owed by the ship, the court shall, at the request of the purchaser, having ascertained that the provisions of this Part of this Act have been complied with, cause to be issued, a certificate to the effect that the ship is sold free of all mortgages and all liens and other encumbrances, except those assumed by the purchaser.

Special features in the Beijing Convention

The Beijing Convention establishes a standardised framework for the international recognition of judicial sales of ships. Its structure rests on **three connected mechanisms**:



Article 4

Under Article 4, notice of the intended judicial sale must be given to relevant interested parties,⁵ including the ship registry, holders of registered mortgages or charges, notified maritime lien holders, the shipowner and, where applicable, the bareboat charterer. This ensures that parties with interests in the vessel are informed before the sale is completed.

Article 6 & 7

Under Articles 6 and 7, signatory states are legally bound to recognize the legal effects of this certificate. Upon receipt of the certificate, the registrar must delete existing mortgages and register the vessel in the name of the new purchaser.⁷ The Convention explicitly prevents the registrar from conducting an independent inquiry into the merits of the sale or the procedural history of the issuing court, provided the certificate is authentic.

Article 5

Article 5 then requires the competent authority in the State of judicial sale to issue a certificate of judicial sale where the sale has complied with the Convention and has conferred clean title on the purchaser.⁶ The certificate operates as sufficient evidence that the ship was sold free of prior mortgages, liens, charges and other encumbrances.

Article 8

Article 8 protects the purchaser from the re-arrest of the vessel for claims arising before the judicial sale. It does not extinguish the underlying debt but prevents creditors from enforcing such pre-sale claims against the vessel after a recognised judicial sale.

Article 11

Finally, Article 11 promotes transparency by requiring notices and certificates to be made available through the designated international repository.

Economic Implications: Role of the CVFF

The recent launch of the application portal for the Cabotage Vessel Financing Fund (CVFF) in January 2026 marks an important step in the operationalisation of a scheme conceived over two decades ago.⁸ It also strengthens the economic case for Nigeria's adoption of the Beijing Convention. As the disbursement process progresses and Primary Lending Institutions (PLIs) are set to begin disbursing funds, each must be confident that in the event of a default by the shipowners to pay back the loan, a judicial sale of the financed vessel will attract competitive bidding at auction.

Under the Admiralty Jurisdiction Procedure Rules 2023, the Admiralty Marshal conducts the sale of an arrested vessel by auction, following a court-ordered valuation.⁹ In principle, this process should allow the vessel to realise its proper market value. In practice, however, buyers may discount their bids where they are unsure that the title obtained from a Nigerian judicial sale will be recognised abroad.¹⁰ This is because a purchaser who fears that the vessel may later be arrested in a foreign port for pre-sale claims is likely to factor that risk into the purchase price.

This “risk discount”¹¹ has direct consequences for vessel financing as if the vessel is sold below its true market value, the proceeds available for distribution under Section 76 of the Merchant Shipping Act may be reduced. This may, in turn, affect the recovery available to the PLI and weaken confidence in the use of vessels as reliable security for CVFF-backed financing.

The Beijing Convention addresses this concern by giving international effect to certificates of judicial sale issued in accordance with its framework. If domesticated in Nigeria, it would improve confidence in Nigerian judicial sales, reduce title-related risk at auction, encourage stronger bidding, and enhance the prospects of lender recovery where a financed vessel is sold following default.

The Path to Harmonization

The path to harmonisation begins with Nigeria signing the Convention and thereafter domesticating it through an Act of the National Assembly. In accordance with Section 12 of the 1999 Constitution, treaties do not attain the force of law in Nigeria until they are so domesticated. The purpose of such legislation is not to reform Nigeria's admiralty framework, which is already broadly compatible with the Convention, but to confer on judicial sales conducted by the Federal High Court the international recognition that the Convention provides. It is therefore imperative that a bill is introduced and passed to provide this legal framework.

Certain procedural refinements will be required to ensure full compliance. For instance, Order 16 Rule 2 of the AJPR 2023 prescribes a minimum notice period of 21 days prior to sale, while the Convention requires at least 30 days' notice to interested parties. The Federal High Court will need to align sale notice with this threshold. Following the passage of the Bill, the Chief Judge can issue a Practice Direction to equip court registries for their enhanced statutory responsibilities, including the standardized issuance of certificates under Article 5 and their transmission to the IMO repository.

Procedural Alignment Required: Notice Period Prior to Sale

Current AJPR 2023 (Order 16 Rule 2)

21 DAYS



Beijing Convention Threshold

30 DAYS

The Federal High Court will need to align its judicial sale notice procedure with this new threshold.

Conclusion

The Admiralty Jurisdiction Act provided Nigeria with a solid domestic foundation, but the Beijing Convention represents the necessary evolution for a globalized maritime economy. With the 2026 operationalization of the CVFF, the stakes for legal certainty have never been higher. Domesticating this treaty ensures that a judicial sale conducted within a Nigerian court carries permanent legal finality, protecting the investments of indigenous shipowners and the competitiveness of the Nigerian flag in every port worldwide.

1. Admiralty Jurisdiction Act 1991
2. UNCITRAL, 'Explanatory Note on the United Nations Convention on the International Effects of Judicial Sales of Ships' (2023) https://uncitral.un.org/en/texts/maritime/conventions/judicial_sale_of_ships accessed 23 February 2026.
3. Section 77 of the Merchant Shipping Act provides that where a ship is subject of a forced sale in Nigeria and the proceeds of the forced sale have been distributed including to satisfy existing debts owed by the ship, the court shall, at the request of the purchaser, having ascertained that the provisions of this Part of this Act have been complied with, cause to be issued, a certificate to the effect that the ship is sold free of all mortgages and all liens and other encumbrances, except those assumed by the purchaser.
4. Merchant Shipping Act 2007, Section 77
5. United Nations Convention on the International Effects of Judicial Sales of Ships, Article 4(3)a,b
6. United Nations Convention on the International Effects of Judicial Sales of Ships, Article 5
7. United Nations Convention on the International Effects of Judicial Sales of Ships, Article 6,7
8. NIMASA, 'Launch of the CVFF Digital Application Portal' (January 2026) <https://nimasa.gov.ng/cvff-portal-launch> accessed 23 February 2026.
9. Admiralty Jurisdiction Procedure Rules, 2023
10. Henry Hai Li, 'A Brief Discussion on Judicial Sale of Ships' (Comité Maritime International, 2018) <https://comitemaritime.org/wp-content/uploads/2018/05/A-Brief-Discussion-on-Judicial-Sales-of-Ships.pdf> accessed March 27, 2026.
11. A risk discount is a reduction in bidding price that prospective buyers apply at ship auctions to account for potential risks in acquisition such as legal costs.

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