

Executive Summary and Recommendations

The SMNO has commissioned ISL to prepare a study as a basis for the upcoming strategic decision on the future orientation of the Swiss flag and fleet at sea. As a scientific basis for the assessment of several possible future scenarios, general questions on economic, legal, political and socio-cultural aspects were answered, before drawing conclusions regarding the following four possible future scenarios:

- I. *Continuation of the Status Quo*
- II. *Modernization and opening of the Swiss registry*
- III. *Modernization and*
 - a. *limitation of the Swiss flag*
 - b. *specialization of the Swiss flag*
- IV. *Cessation of the Swiss flag and loss or abandonment of the status as a Flag State*

Competition of Registries:

Fiscal considerations are of utmost importance and a favorable tax regime with strong incentives is a prerequisite to attract businesses and ship's tonnage in order to strengthen the maritime cluster. The international competition between national and open registry States led to a situation where mainly every maritime nation today offers a competitive fiscal system with incentives to hold and/or attract shipping and ship management firms alike. Because of the high-quality and strong incentives of open registry States today, countries with national registers have to make an ever greater effort to remain competitive. Today 70 % of the world fleet in terms of gross tonnage is registered in open registers, which clearly shows the strong affiliation of the shipowners towards these registries. In case of Switzerland, around 97 % of the Swiss owned fleet are operated under foreign flags, whereas Liberia, Panama, and especially the Marshall Islands seem to be the flags of choice.

With the termination of the guarantee system in 2017, to-date Switzerland offers no fiscal incentives to either attract nor to hold ships in their register. Since 2017 no new ships have entered the Swiss flag. Instead, inter alia bankruptcies led to a constant shrinking of the Swiss flagged fleet with the subsequent situation where the remaining fleet could face a potential black-listing in the Paris MoU in the near future. Keeping this environment in mind, the Swiss register as it is now, is seen as internationally non-competitive. However, except of the mediocre performance in Port State controls, this situation is explicitly not seen as lying in the responsibility of the registry, i.e. in the area of the administration, but rather at the State level. In particular, the lack of an all-encompassing shipping strategy can serve as an explanation here. It could be shown, that very strict nationality requirements to register ships in the Swiss register are certainly a factor lessening the register's competitiveness, but are not causal for its actual state. Nor would a liberalization of the nationality requirements as a first measure lead to regaining international competitiveness and a subsequent flagging-in of ships, but needs to be embedded in an overall, interministerial long-term strategy with the intent to actually strengthen the Swiss flag.

Economic Relevance:

The importance of the maritime economy for the Swiss national economy as a whole, especially the seaborne trade of goods, goes way beyond the effects directly generated within Switzerland. The Swiss economy is heavily reliant on the shipping industry, because of their understanding as an export country, but more importantly because of the leading role in international commodities trading. In addition, the Swiss machinery and equipment manufacturers serve as supply industry to the international shipbuilding sector incl. ship maintenance and by that the maritime economy has further indirect effects through this industry. Here, one can say with certainty that several thousand jobs of the machinery and equipment manufacturers are directly dependent on the international maritime economy. Finally, the Swiss economy as a whole is only functioning because of the maritime sector. Even though Swiss trade statistics assign only a small amount of the imported and exported trade volumes to the shipping sector, it could be shown that this is only true because of the place of statistical recording, namely the Swiss border. The importance of the means of transport *ship* is in fact a lot bigger if not only the point of border crossing would be considered.

With a fleet of more than 800 ships in ownership and/or operation, the Swiss commercial shipping contributes a not inconsiderable share to the value added and employment in the Swiss economy. The share of ships under the Swiss flag only makes up a very small part and is negligible in its importance for the Swiss economy. The same is true for the importance of Switzerland's status as a flag state in this regard. The vast majority of Swiss owned ships are being operated under foreign flags, mainly in open registers. Even the four companies that operate the 18 remaining ships in the Swiss register, already operate 50 % of their fleets under foreign flags and the owners tend to register new buildings directly in open registers. In addition, whereas for traditional maritime nations with direct access to the sea, the preservation of maritime know-how, and thus a strong fleet under national flag for the training of young seafarers, is of utmost importance for maintaining a competitiveness and smooth import and export of goods by seagoing vessels, this necessity does not arise for a landlocked country like Switzerland.

Legal Relevance:

Switzerland's Flag State status is not of direct relevance to its memberships and presence in international bodies. It is a member of the UN, the UNCLOS, IMO and ILO instruments. Switzerland's membership is key to its participation in these bodies, not its Flag State status. As a Member State to these bodies, Switzerland has the right to participate in their legislative processes, including proposing new legislation or amendments to legislation, regardless of whether it is a Flag State or not.

It is underscored that at the IMO, Switzerland is not only representing its interests as a Flag State but more importantly, it is supporting the interests of Swiss industries associated with the shipping sector and seaborne trade.

With respect to the UNCLOS, Switzerland's participation at the ISA is underscored. Participation in the work of the ISA and in deep-sea mining in the international seabed area might be of interest to Switzerland since, among others, it is a manufacturing country supplying the ship-building and ship-maintenance sectors and it is a leading international trading hub for essential commodities like metals.

As for the diplomatic conferences organized by the UN General Assembly, such process is open to all sovereign States. A flag State status is not directly relevant in order to participate in this process. A binding agreement on marine biodiversity in areas beyond national jurisdiction is currently being negotiated at the UN General Assembly. Switzerland has been participating in its negotiations, exercising its right as a sovereign State and as a member State of the UN and UNCLOS.

Political Relevance:

Switzerland's maritime economic interests go beyond the interests of Flag States. In addition to Flag State and freedom of navigation issues, Switzerland also has interest in representing the Swiss ship-owners, the Swiss manufacturing industry supplying the international shipbuilding sector, the international seaborne trade, and the Swiss trading sector, the human rights of seafarers and protection of the marine environment in general. Switzerland's representation of these political and economic interests at the UN, at the IMO and at the ILO will not necessarily be adversely affected by any change of status as a Flag State. Switzerland's eligibility for any elective positions in these bodies will also not be affected by any change in its Flag State status. It is also noted that Switzerland is also eligible to be elected to the IMO Council as it is a State with significant interests in seaborne trade and maritime navigation.

Switzerland's Flag State status does not have any impact on its entitlement to participate in meetings and diplomatic conferences organized by the UN General Assembly. Switzerland is participating in the on-going negotiations for a binding agreement on marine biodiversity in areas beyond national jurisdiction. This future agreement will be significant not just for the conservation of marine biodiversity in areas beyond national jurisdiction. The future agreement will include management and conservation approaches that will have an impact on the Flag State mechanism on the high seas.

Finally, the political relevance of Switzerland as a Flag State was examined with respect to its interests in elective positions in international bodies. Switzerland's Flag State status is not directly relevant to this issue. Switzerland will be able to leverage its votes in other elective positions in organizations and bodies in the UN and in ocean-related organizations in return for votes for a permanent seat at the UN Security Council in 2023.

Cultural, Social, Scientific Relevance:

For Switzerland as a landlocked country, the cultural relevance of a merchant fleet has been relatively low as compared to traditional seafaring-nations with direct access to the sea, where the history of those nations would always indicate a strong cultural bond. This is likely the case for the social relevance as well, especially for the merchant shipping sector. Contrary to aforementioned, pleasure sailing and yachting has a high social relevance. The interested community in that matter is highly socially connected. Furthermore the associated relevance of the own nations' flag for this community is strong. The high and stable number of yachts and small crafts in the Swiss register reflects the importance of the Swiss flag for this sector. Even though, the general scientific significance of shipping and the maritime economy within Switzerland is relatively low, there still is a smaller number of scientific, social-educational and cultural activities under Swiss flag.

Scenario Evaluation: In addition to the following text, the below diagram and summary table give an overview about the finding of the scenario evaluations. It could be shown that due to the unattractive conditions of the Swiss flag with regard to the tax and fiscal system in international comparison, it is not expected that any of the scenarios investigated would lead to a significant increase in the number

of merchant ships under the Swiss flag. Except for the scenarios that envision an immediate elimination of the Swiss flag for merchant vessels, every other scenario would lead to a gradual decline in the merchant fleet under the Swiss flag.

As described, the status as a Flag State has only a very marginal importance for the Swiss economy and the further decline of the Swiss-flagged merchant fleet is not expected to have noticeable impact on the overall economy. The SMNO currently performs sovereign tasks that are important for the Swiss economy, for example as an accreditation organization for IMDG-code related certifications. However, these tasks can easily be performed by other organizations, e.g. the Swiss Accreditation Service SAS. Thus, none of the scenarios examined should have any appreciable impact on the Swiss economy.

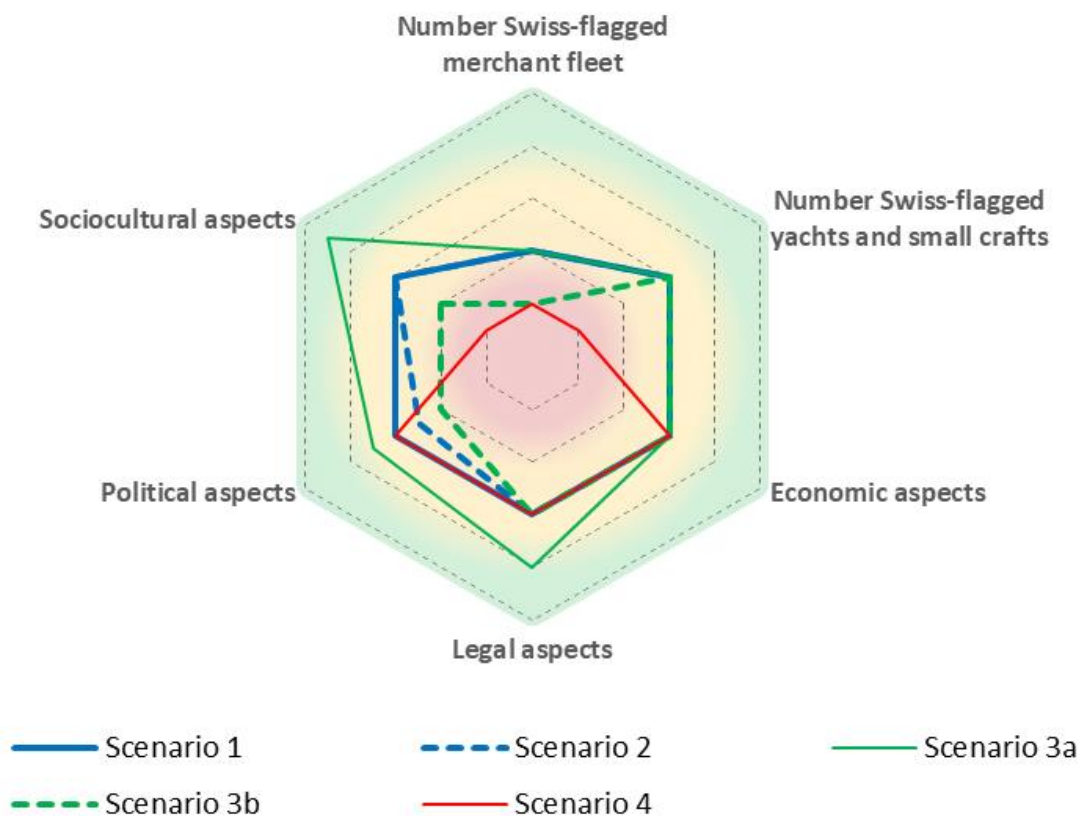
In terms of legal aspects, only the complete abolition of the Swiss flag would have an impact worth mentioning. In the scenarios that provide for the continuation of the Swiss flag, even in the case of partial abolition, e.g. of the register for merchant ships, Switzerland's obligations as a Flag State to adopt and implement the applicable relevant international laws and regulations for maritime safety, security and the protection of the marine environment from ship pollution will remain. The scope of Switzerland's Flag State's duties will be the same with respect to merchant vessels and other types of vessels in the Swiss Maritime Registry. Since UNCLOS does not make a distinction between merchant and non-merchant vessels for purposes of assigning a nationality to a vessel, Switzerland will continue to be considered a Flag State, even when specializing the register on yachts and small crafts. Cessation of Flag State status will mean that Switzerland will cease to have obligations as a flag State under UNCLOS and under IMO instruments. However other duties addressed to all contracting States will remain binding. Cessation of Flag State status would not have implications for Switzerland's membership in UNCLOS, at the IMO, and at the UN. These conventions will continue to be binding on Switzerland. Switzerland will continue to have the right to participate in the legislative processes of these bodies. At the ILO, Switzerland also participates as a Member. However, its status as a Flag State is not of direct relevance in most ILO conventions except in the MLC.

In regard to political aspects, an abandonment of Flag State status will not affect Switzerland's memberships and participation in international bodies. Switzerland will be able to continue to represent its interests and foreign policy in these bodies. Switzerland's lack of a Flag State status will not be significant for swapping votes in elective positions. Still, closing the ship registry for merchant ships or even a complete abandonment of the Flag State status could send a problematic political signal. It might be perceived that Switzerland has benefitted substantially from the shipping sector and from seaborne trade, but is not willing to shoulder associated regulatory burdens that come with the shipping sector and seaborne trade sector. In addition, the Flag State status of Switzerland with respect to Swiss-owned vessels undertaking philanthropic, humanitarian and cultural missions, has a relevance from the political perspective. These vessels are in essence ambassadors of Switzerland's foreign policy essentially focused on peace, security and rule of law. As for vessels in the marine scientific research and offshore economic activities or vessels in support of offshore economic activities, a Swiss Flag would be of relevance in Switzerland's foreign policy strategy areas of science diplomacy, prosperity and sustainability. On the other hand, opening the register to non-Swiss nationals, and even extending it beyond the eligibility of EU/EFTA-citizens could have an impact on the reputation of the Swiss Flag State. Though not synonymous, the term "open registry" is sometimes used interchangeably with "Flags of Convenience." Switzerland can address this issue by ensuring that it is effectively exercising its duty as a Flag State over vessels flying its flag.

Assuming that, after many years of no effective Swiss shipping policy, policymakers can eventually decide and agree to establish an all-encompassing, internationally competitive shipping policy with the intent to actually strengthen the Swiss flag, this could eventually lead to a flagging-in into the Swiss registry. Under these conditions, the upgrading of the technical requirements of vessels in the Swiss Registry could have a positive impact on the reputation of the Swiss Flag State and for Switzerland as a whole.

In regard to socio-cultural aspects, abandoning the merchant fleet could potentially create a feeling of lost sovereignty within the public. But, especially the abandonment of the overall Swiss flag would inevitably lead to a negative public image by abandoning the possibility to register small/pleasure crafts within the Swiss Flag and by that losing a part of "Swissness" (national pride).

Overview of Evaluation Results



Recommendations:

Under the current conditions with internationally uncompetitive framework conditions for shipping under the Swiss flag and the lack of an all-encompassing Swiss shipping policy, recommendations regarding the future direction of the Swiss flag and fleet at sea are difficult. The desolate state of the merchant fleet under the Swiss flag, brought about by fraudulent and mismanaged shipping companies, has been accompanied by losses of millions of francs for the Swiss Confederation and its citizens, and has thus led to a loss of reputation at national and international level. Political decision-makers have been unable to agree on a shipping policy for years, allowing the Swiss flag to slowly perish.

The planned, but at this point still hypothetical, introduction of a tonnage tax without a binding link to the Swiss flag, as promoted by the Swiss Shipowners Association or the STSA, would most likely lead to a significant improvement for the competitiveness of Swiss shipping companies and possibly other areas of the Swiss maritime economy, but could have only minimal impacts on the Swiss flagged fleet.

Although the importance of the flag state status is marginal for a landlocked country like Switzerland, it could be shown that the Swiss flag has its *raison d'être* in socio-cultural, but especially in political terms. First of all, the Swiss-flagged vessels undertaking philanthropic, humanitarian and cultural missions are in essence ambassadors of Switzerland's foreign policy essentially focused on peace, security and rule of law. In addition, the cessation of the Flag State status could send a problematic political signal. It might be perceived that Switzerland has benefitted substantially from the shipping sector and from seaborne trade, but is not willing to shoulder associated regulatory burdens that come with the shipping sector and seaborne trade sector.

For the aforementioned reasons, ISL is currently of the opinion that at least the register for yachts and small crafts under the Swiss flag should remain in existence and, due to political aspects, ideally also the register for merchant shipping. Due to the current limited competitiveness of the Swiss Register and the young age of the merchant fleet under the Swiss flag, a wait-and-see attitude, i.e. maintaining the status quo, would currently be an appropriate measure. Should there be significant changes in Swiss shipping policy in the short or medium term, which could lead to an increase in the flagging-in of ships under the Swiss flag, the introduction of the quality criteria described in scenario 3 a should be considered in order to counteract a renewed slide in the Paris and Tokyo MoU lists at an early stage. Here, additional thought should be given to extending the nationality criteria to foreign interests.

During the examination of the current state and the possible future of the merchant fleet under the Swiss flag, it became apparent that there is currently no cross-stakeholder and all-encompassing discussion of a future shipping strategy for the Swiss Confederation at the political level. The current discussion is characterized by a fragmented discourse, with numerous studies on various segments of Swiss shipping policy commissioned by different organizations and associations. In order to develop a sustainably successful shipping strategy, ISL believes that a large-scale, cross-ministerial and cross-organizational study is necessary, with the involvement of the relevant associations and interest groups.

Scenario 1: Continuation of the Status Quo		
Area	Impact	
Size of Swiss-flagged merchant fleet	Swiss flagged fleet and register would be maintained. This would allow a possible future Swiss shipping strategy related to merchant vessels to be implemented quickly. However, the strict nationality requirements would continue to limit the competitiveness of the Swiss flag even in such a case.	Uncompetitive fiscal regime without incentives leads to a further decline of the Swiss-flagged merchant fleet.
Number of Swiss-flagged yachts and small crafts	The Number of Swiss-flagged yachts and small crafts is deemed to stay stable	
Economic aspects	No direct effects on the Swiss-owned and operated fleet and thus no causal impact on the Swiss economy. The further decline of the Swiss-flagged merchant fleet is not expected to have noticeable impact on the overall economy.	
Legal aspects	There will be no direct consequences to national and international legal framework applicable to Switzerland as a Flag State and to its fleet of ships at sea. The scope of Switzerland's Flag State's duties will remain the same with respect to merchant vessels and other types of vessels in the Swiss Maritime Registry. These vessels will continue to be entitled diplomatic protection in case they are subjected to enforcement measures by coastal States and Port States.	
Political aspects	Maintaining the status quo will have no direct impact on Switzerland's political status in international bodies. Its participation at the UN, the IMO and in UNCLOS bodies will not be affected. Switzerland's representation of its political and economic interests in all of these bodies will continue.	
Sociocultural aspects	Continuation with a stagnant or slowly diminishing merchant fleet in combination with potentially necessary state-backed funding could create a negative image of the sector within the public.	

Scenario 2: Modernization and Opening of the Swiss Registry		
Area		Impact
Size of Swiss-flagged merchant fleet		Swiss fleet and register would be maintained. This would allow a possible future Swiss shipping strategy related to merchant vessels to be implemented quickly.
		Uncompetitive fiscal regime without incentives leads to a further decline of the Swiss-flagged merchant fleet. Opening of Swiss flag is not expected to attract a flagging-in.
Number of Swiss-flagged yachts and small crafts		The Number of Swiss-flagged yachts and small crafts is deemed to stay stable
Economic aspects		No direct effects on the Swiss-owned and operated fleet and thus no causal impact on the Swiss economy. Cessation of the Swiss-flagged merchant fleet is not expected to have noticeable impact on the overall economy.
Legal aspects	Opening the Swiss register to foreign-owned and controlled vessels would be within the sovereign discretion of Switzerland as a Flag State. Switzerland, as a Flag State, will meet the genuine link by exercising effective control and jurisdiction over the vessel flying its flag in accordance with Art. 94 of UNCLOS.	The opening of the Ship Registry to non-Swiss nationals will not alter the scope of Switzerland's Flag State duties to merchant vessels, yachts and coastal boats flying its flag. It will also not have any impact on Switzerland's right to participate in the legislative processes at the IMO, at the UN, and in UNCLOS bodies. Switzerland's ability to swap votes to win elective positions in organizations and bodies in the UN and in ocean related organizations will not be affected.
Political aspects		The opening of the Swiss Maritime Registry will not be an issue with respect to Switzerland's representation and participation in international bodies. Switzerland has the right to participate, including the right to vote and be elected to positions in these organizations. Its Flag State status does not have any bearing on this right of participation.
		Opening it to non-Swiss nationals could have an impact on the reputation of the Swiss Flag State. Though not synonymous, the term "open registry" is sometimes used interchangeably with "Flags of Convenience." Switzerland can address this issue by ensuring that it is effectively exercising its duty as a Flag State over vessels flying its flag.
Sociocultural aspects		No direct implications for sociocultural aspects. No changes in the small and pleasure crafts regulatory regime.

Scenario 3a: Modernization and Limitation		
Area	Impact	
Size of Swiss-flagged merchant fleet		Swiss fleet and register would be maintained. This would allow a possible future Swiss shipping strategy related to merchant vessels to be implemented quickly.
		Uncompetitive fiscal regime without incentives leads to a further decline of the Swiss-flagged merchant fleet. Opening of Swiss flag is not expected to attract a flagging-in.
Number of Swiss-flagged yachts and small crafts		The Number of Swiss-flagged yachts and small crafts is deemed to stay stable
Economic aspects		No direct effects on the Swiss-owned and operated fleet and thus no causal impact on the Swiss economy. Cessation of the Swiss-flagged merchant fleet is not expected to have noticeable impact on the overall economy.
Legal aspects	Upgrading the technical requirements of vessels allowed to be registered in its Ship Registry is within the sovereign discretion of Switzerland under Art. 91 of UNCLOS.	There will be no direct consequences to the international legal framework applicable to Switzerland as a Flag State and to its fleet of ships at sea. The scope of Switzerland's Flag State's duties will remain the same with respect to merchant vessels and other types of vessels in the Swiss Maritime Registry. These vessels will continue to be entitled to diplomatic protection in case they are subjected to enforcement measures by coastal States and Port States.
Political aspects	Upgrading the technical requirements of vessels in the Swiss Registry could have a positive impact on the reputation of the Swiss Flag State and for Switzerland as a whole.	As a member, Switzerland has the right to participate, including the right to vote and be elected to positions at the UN, the IMO and in UNCLOS bodies. Switzerland's reputation as a Flag State does not have any bearing on this right of participation but it could be a positive element. While not a crucial element, an improved reputation as a Flag State could also support Switzerland election campaigns. Switzerland is currently campaigning for a non-permanent seat at the UN Security Council for the 2023 election.
Sociocultural aspects	Positive public image by modernizing the fleet towards environmentally and/or specialized vessels.	No changes in the small and pleasure crafts regulatory regime.

Scenario 3b: Modernization and Specialisation		
Area	Impact	
Size of Swiss-flagged merchant fleet		Cessation of the Swiss-flagged merchant fleet
Number of Swiss-flagged yachts and small crafts		The Number of Swiss-flagged yachts and small crafts is deemed to stay stable
Economic aspects		No direct effects on the Swiss-owned and operated fleet and thus no causal impact on the Swiss economy. Cessation of the Swiss-flagged merchant fleet is not expected to have noticeable impact on the overall economy.
Legal aspects	Switzerland could also consider extending its Ship Registry to vessels undertaking activities in support of emerging offshore economic activities such as offshore renewable energy, deep-sea mining, and harvest of marine genetic resources.	Switzerland will continue to be considered a Flag State under UNCLOS. In general, IMO conventions will not apply to non-commercial vessels. However, some SOLAS provisions on safety of life at sea, MARPOL rules on the ship pollution prevention, and COLREG anti-collision rules, will apply to non-commercial ships. There will be no impact with respect to Switzerland's participation in the legislative processes in international bodies such as the IMO, UN General Assembly and UNCLOS bodies.
Political aspects		Closing its Ship Registry from merchant shipping will not necessarily translate into a bad reputation for Switzerland in the international political arena. Switzerland's ability to swap votes to win elective positions in organizations and bodies in the UN and in ocean-related organizations will not be affected.
		Closing the Ship Registry from merchant shipping could have some political implication. A Flag State status which includes merchant shipping is a political statement that Switzerland is committed to undertake regulatory responsibilities to ensure that the shipping sector and seaborne trade is safe, secure and a clean industry and the working conditions of seafarers accord with international law.
Sociocultural aspects		No changes in the small and pleasure crafts regulatory regime.
		Abandoning the merchant fleet could potentially create a feeling of lost sovereignty within the public

Scenario 4: Abandonment of the Swiss Ship Registry and the Status as a Flag State			
Area	Impact		
Size of Swiss-flagged merchant fleet			Cessation of the Swiss-flagged merchant fleet
Number of Swiss-flagged yachts and small crafts			Cessation of the register for Swiss-flagged yachts and small crafts
Economic aspects		No direct effects on the Swiss-owned and operated fleet and thus no causal impact on the Swiss economy. Cessation of the Swiss-flagged merchant fleet is not expected to have noticeable impact on the overall economy.	
Legal aspects		By abandoning its Flag State status, Switzerland does not lose its right or freedom of navigation and other freedoms of the high seas. Switzerland will cease to have obligations as a flag State but duties addressed to all contracting States will remain binding. This could include the duty to implement the IMDG Code under SOLAS and Switzerland's duty relating to recruitment and crewing agencies in its territory under the MLC.	
Political aspects	An abandonment of its Flag State status would eliminate the risk of financial losses from diplomatic interventions.	The abandonment of Flag State status will not affect Switzerland's memberships and participation in international bodies. Switzerland will be able to continue to represent its interests and foreign policy in these bodies. Switzerland's lack of a Flag State status will not be significant for swapping votes in elective positions.	Cessation of Flag State status could send a problematic political signal. It might be perceived that Switzerland has benefitted substantially from the shipping sector and from seaborne trade, but is not willing to shoulder associated regulatory burdens that come with the shipping sector and seaborne trade sector. The Flag State status with respect to vessels undertaking philanthropic, humanitarian and cultural missions, has a relevance from the political perspective. These vessels are ambassadors of Switzerland's foreign policy on peace, security and rule of law.
Sociocultural aspects			Negative public image by abandoning the possibility to register small / pleasure crafts within the Swiss Flag. Loss of "swissness" (national pride)