



# Ukrainian Maritime Industry under Fire: Consequences of Russian Invasion

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## ABSTRACT

*The maritime industry in Ukraine has now been under significant pressure for eight years. The illegal annexation of Crimea by the Russian Federation in 2014 created a gray area which included a portion of Ukrainian coastal waters around Crimea, where Russia exercises effective control. Disputes over coastal state rights and shipping transit created fertile ground for further bellicose actions and costly vessel detentions. In that period, Russia exerted hybrid pressure on Ukraine’s maritime industry. This involved the creation of various obstacles to freedom of navigation through the construction of the Crimean bridge and the complication of the passage of ships through the Kerch Strait;*

*the closure of significant sea areas by the Russian Federation under the pretext of military exercises; and Ukraine's actual loss of control over a significant part of the EEZ, among others. With the start of a full-scale Russian invasion on February 24, 2022, the Ukrainian maritime industry became the target of direct and indirect attacks. Ukrainian ports and other maritime infrastructure in Ukrainian-controlled territories are regularly subjected to rocket attacks, while the Russian occupation administration loots captured ports. Ukrainian ports have also been indirectly damaged by the blocking of navigation in the Black Sea and the Sea of Azov. This article analyzes the legal aspects of the naval blockade of Ukraine, and the legal actions taken by the Ukrainian maritime authorities and the maritime industry to mitigate the consequences of the ongoing armed conflict.*

**The keywords:** *naval blockade, seaports, martial law, armed conflict, Black Sea, Sea of Azov, Ukraine, Russia.*

## **Introduction**

The full-scale unjustified aggression launched by the Russian Federation against Ukraine on February 24, 2022 (Green et al., 2022) caused military clashes on land and at sea. The Russian armed forces occupied substantial Ukrainian coastal territories in the Black Sea and the Sea of Azov, and the Russian navy established a naval blockade of Ukrainian seaports.

In terms of their strategic importance, ports have always been superior to other modes of transport links, and have also performed essential defensive functions. Before the war more than 75% of Ukraine's foreign trade took place through sea routes, processed in 13 Ukrainian seaports. The Black Sea and Azov Sea ports which have been now either closed due to Russian occupation (Berdyansk, Mariupol, Skadovsk, Kherson) or been blocked by Russia's naval blockade (Pivdennyi, Mykolaiv, Olviia, Odesa, Chornomorsk, Bilhorod-Dnistrovskiy) processed 90% of Ukraine's total maritime cargo turnover (Seaport activities: loss statistics, 2022).

Those ports are critical to the Ukrainian economy. According to forecasts, the armed conflict will cause Ukraine's GDP to fall by 25% if the Black Sea remains closed, and by 22% if ports restart

operations. The issue is even more critical for the trade balance, as the Ukrainian economy is losing about \$ 170 million a day due to the port blockade (Petrushenko & Shevchuk, 2022). The situation is even worse for commodities such as grain, since maritime routes typically served 99% of Ukrainian grain exports. In contrast, only 1% of agricultural commodities were exported by railway (Mykhailov, 2022). According to the UN Food and Agriculture Organization, Ukraine was the world's sixth-largest wheat exporter in 2021, exporting 20 million tons of wheat and meslin, amounting to 10% of the global market; it was also the largest exporter of sunflower seed oil, exporting 5.13 million tons, representing a 37% global market share (The importance of Ukraine and the Russian Federation for global agricultural markets and the risks associated with the current conflict, 2022). The World Food Programme (WFP) has called for the immediate reopening of Black Sea ports so that critical food from Ukraine can reach people facing food insecurity in countries such as Afghanistan, Ethiopia, South Sudan, Syria, and Yemen, where millions are on the brink of starvation (War in Ukraine: WFP calls for ports to reopen as the World faces deepening hunger crisis, 2022).

The humanitarian aspects of the blockade and capture of Ukrainian ports are also important. According to a statement by the International Labour Organization (ILO) and International Maritime Organization (IMO), more than 100 trading vessels with as many as 1,000 seafarers were unable to leave the ports of Ukraine and nearby waters, and were thus exposed to the dangers arising from bombardment, as well as lack of food, fuel, fresh water, and other vital supplies (ILO and IMO call for urgent action, 2022).

### **Methodology**

This article analyzes the maritime-related legal aspects of the Russian invasion and its impact on Ukraine's maritime industry.

We assess the Russian fleet's actions in carrying out a naval blockade of Ukrainian ports from the point of view of customary international humanitarian law. The article also reviews certain acts of the Ukrainian authorities regulating the activities of seaports in the context of the ongoing armed conflict.

### **1. Freedom of Navigation in the Black Sea and the Sea of Azov: Degrading from 'Hybrid' Obstacles to the Naval Blockade**

Although the term 'blockade' has been widely applied to Russia's moves in the Sea of Azov since the Crimean annexation in 2014, it was used to address hybrid tactics which created a variety of obstacles to freedom of navigation, blurring the distinction between war and peace, with the objective of shaping Ukrainian politics and foreign policy (Hurak & D'Anieri, 2020).

The situation in the Black Sea and the Sea of Azov after the Crimean annexation exemplified the notion of a 'maritime gray zone', emerging from the combination of coastal rights and freedom of navigation, and further exploiting those rights to 'impose quandaries on custodians of an existing order' (Holmes & Yoshihara, 2017, p. 2). At that point, Russian actions focused on contesting 'limited elements of regional orders' (Green et al., 2017, p. 28) with the final goal being to establish a new internationally recognized order in the contested area.

The core of the Black Sea 'gray zone' was created by the ongoing territorial dispute between Russia and Ukraine caused by the annexation of Crimea. This dispute has led to the construction of several overlapping and conflicting sets of rules in the coastal waters surrounding the Crimean Peninsula, partly reflected in Ukraine's dispute before the International Court of Arbitration in 2016 with an indicative title "Dispute Concerning Coastal State Rights" (Ukraine vs. Russian Federation). In practice, for the last eight years, all actors in the region have confronted three sets of

rules: 1) the status quo contested by Russia, 2) a new order backed by Russia, and 3) a *de facto* regime comprising elements of the two previous regimes (Kormych & Malyarenko, 2021).

The contested status quo (the regime of Ukrainian coastal waters ‘before the annexation’) was upheld at the international level by ‘a robust non-recognition regime’ that has been ‘conspicuously absent anywhere else in the world’ (Kontorovich, 2015, p. 629). Meanwhile, the Russian backed order was promoted by several ‘hybrid’ tactics, including:

- Seizure of Ukraine’s offshore oil and gas assets (Statement by the Ministry of Foreign Affairs, 2015);

- Shipping restrictions in the Kerch Strait and the Kerch-Yenikale canal (Kabanenko, 2017);

- Regular closure for shipping of a significant number of zones in the Black and Azov Seas, due to military exercises or security reasons (Klymenko, 2019);

- Detention of Ukrainian ships in the Sea of Azov and at its entrance (Klymenko, 2018).

Finally, a *de facto* regime emerged from a series of horizontal arrangements Ukrainian and Russian authorities and the usage of informal norms. For example, the passage to the Sea of Azov and ports in the Kerch Strait is conducted through the Kerch-Enical Channel, which demands piloting. The vessel traffic service (VTS) terms and conditions apply (VTS Services). Before the annexation of Crimea in 2014, Ukrainian Kerch Merchant Port was responsible for the VTS. Since then, VTS has been provided for Ukrainian ships by the Russian authorities based in Crimea, which the Ukrainian side has informally agreed to respect in order to keep the Mariupol and Berdyansk seaports operational.

Such a situation eventually created increasing pressure upon Ukraine’s maritime industry, particularly the seaports. The volume of cargo processed in Ukrainian ports in 2021 decreased by 6% compared to 2020. The decrease in the volume of transit cargo was

especially noticeable, amounting to – 16.7% (Seaports of Ukraine transshipped 137 million tons of cargo, 2021).

Russia's distinctive hybrid pressure on the Ukrainian maritime industry intensified just before the start of a full-scale war. In December 2021, the Ukrainian Navy said that about 70% of the Azov Sea was blocked due to Russian military exercises (Ukraine Says Russia Blocking Most of Sea of Azov, 2021). Moreover, at the beginning of February 2022, the Kremlin announced naval maneuvers covering an unprecedented area of the Black Sea and Sea of Azov, and the Kerch Strait, making navigation in both seas virtually impossible (Statement by the Ministry of Foreign Affairs, 2022). However, those events proved that the Ukrainian maritime industry had developed a substantial resilience to hybrid threats in the previous eight years. For example, on February 15, 2022, the State Hydrographic Service of Ukraine managed to conduct a 450-kilometer linear survey and confirm the safety of navigation in the maritime corridor between the western border of the Russian military exercise zone and the Dniester Bank, thus guaranteeing ships' safe passage through the Gulf of Odessa and preventing at that time a blockade of Ukrainian seaports in the area (Ministry of Infrastructure: Ukraine averts the blocking of the Black Sea ports, 2022). Taking a broad view, Russia's decision to launch the full-fledged military offensive in particular signaled its awareness of the potential that it could exhaust its non-military and paramilitary coercive tools in pursuing its agenda in both the Crimean and Donbas conflicts. At a minimum, the demand for Ukrainian and international recognition of Russia's 2014 annexation of the Crimean Peninsula was articulated in all of the Kremlin's ultimatums immediately before and during the 2022 invasion (Belton, 2022).

From the outbreak of the full-fledged conflict onwards, the Russian navy applied all three primary forms of the command of the sea: attacks on shipping and commerce, strikes at targets ashore

using sea-based weapons, and amphibious operations to land ground forces in the adversary's territory (Armstrong, 2015).

Considering the issue of whether the Russian Federation's actions in the Black and Azov Seas can be termed a naval blockade, as well as the legality of such actions, it is worth noting that there are no obligatory international instruments establishing the rules of a naval blockade. It is customary international humanitarian law that provides the legal basis for the deployment of naval blockades, and justifies what would otherwise be regarded as an unlawful violation of the sovereignty of the flag state (Buchan, 2011, p. 214). In that regard, we can refer to the 1909 London Declaration concerning the Laws of Naval War, Chapter I of which aimed to introduce common rules for a naval blockade. The 1994 San Remo Manual on International Law Applicable to Armed Conflicts at Sea also reproduced most of those rules.

In the most general terms, a naval blockade is a method of warfare by which a belligerent party to an armed conflict seeks to prevent all vessels (enemy, neutral and friendly) from entering or exiting specified ports or coastal areas under the control of an opposing force (Drew, 2019).

Following the San Remo Manual, two essential criteria indicate whether a naval blockade is established.

First, Para 93 of the San Remo Declaration demands that 'a blockade shall be declared and notified to all belligerents and neutral States'. Although the Declaration does not specify the exact form of such a notification, its Para 94 demands that 'the declaration shall specify the commencement, duration, location, and extent of the blockade and the period within which vessels of neutral States may leave the blockaded coastline.'

Second, Para 95 of the San Remo Declaration establishes that 'a blockade must be effective', stipulating that 'the question whether a blockade is effective is a question of fact.'

On February 24, 2022, the Russian Federal Agency for Maritime and River Transport (Rossmorrechflot) issued navigational warnings that could be regarded as a formal announcement of the naval blockade of Ukrainian ports. This would include a complete suspension of navigation in the Sea of Azov until further notice, ‘due to a warning received from the Russian Defense Ministry’s Black Sea Fleet amid the beginning of anti-terrorist operations at 4 a.m. on February 24’ (Rossmorrechflot confirms suspended navigation in Sea of Azov, 2022). Another NAVTEX message issued by Rossmorrechflot on February 25, 2022, with the same reference to naval counterterrorism operations, declared that the area in the northwestern part of the Black Sea to the north of parallel 24°21’ N would be prohibited for navigation, emphasizing that ‘ships and vessels in this area will be regarded as a terrorist threat’ (Konrad, 2022). Both navigational warnings clearly expressed the prohibition of navigation near Ukrainian shores and the threat of intentional attacks on vessels attempting to enter the restricted area. As was suggested by experts from the Organization for Security and Co-operation in Europe (OSCE), ‘while Russia has not expressly declared the blockade, a relevant announcement by the Federal Agency for Maritime and River Transport could qualify as such a declaration’ (Report on Violations of International Humanitarian and Human Rights Law, War Crimes and Crimes Against Humanity Committed in Ukraine Since 24 February 2022).

As for the Russian enforcement of the naval blockade of Ukrainian soil, there has been evidence of at least three Russian attacks on commercial vessels off Odessa, Ukraine, in the first days of the invasion. The incidents involved the Marshall Islands-flagged merchant vessel YASA JUPITER (IMO 9848132), which was struck by a Russian missile about 50nm South of Odessa on February 24, 2022, and the Panama-flagged bulk carrier NAMURA QUEEN (IMO 9841299) and Moldovan-flagged bunker vessel MILLENIAL SPIRIT (IMO 7392610), which were both hit by



missiles on February 25, 2022, at the anchorages of the Port Pivdennyi and Port of Odessa respectively (Russian Invasion of Ukraine. Black Sea Report, 2022). Such actions showed that the Russian Navy intended to attack any shipping to or from Ukrainian ports and to make merchant shipping in the northern Black Sea and the Ukrainian part of the Sea of Azov completely impossible.

Nevertheless, there are some suggestions that different factors have effectively minimized maritime traffic into and from Ukraine's ports, and that Russia has not established a naval blockade but rather a maritime zone with the purpose of managing maritime battlespace in an area where belligerent naval operations take place (a concept used previously during the Falklands/Malvinas and the Iraq-Iran conflicts) (Fink, 2022).

However, attention should be paid to the fact that on March 15, 2022, after the occupation of the Port of Berdyansk on the Ukrainian coast of the Sea of Azov, the Russian Federation released five foreign ships that had been moored there since the beginning of the armed conflict (Foreign vessels carrying Ukrainian grain left occupied Berdyansk port, 2022). Although all the details of the respective arrangements are not clear, it is safe to say that this fact suggests that the ban on navigation was designed primarily to block the operation of ports controlled by Ukraine, rather than to manage the war zone. Thus, this makes the regime in question closer to a naval blockade.

In addition, the lack of a clear articulation of the term 'naval blockade' by Russian officials can be considered in the context of the entire course of the Ukrainian-Russian conflict, starting from 2014. During that time, Russia extensively employed a 'hybrid warfare doctrine', denying their responsibility for hybrid operations and attempting to escape the legal consequences of their actions (Resolution on legal challenges related to hybrid war and human rights obligations, 2018). In particular, developing a 'gray zone' in the Black Sea following the Crimean annexation permitted

the aggressor not to apply the law of armed conflict to its military operations, including humanitarian protections for non-combatants (Malyarenko & Kormych, 2022). Furthermore, some have suggested that the Kremlin's rhetoric describing the 2022 invasion of Ukraine as a 'special military operation', along with its claimed goals, were designed to evade obligations to follow the law of armed conflict in Ukrainian areas under Russian control, especially in light of Russia's poor record of compliance with the law of occupation in other areas (Longobardo, 2022). This is typical of Russia's tendency to use the language of international law to blur the boundaries between what is considered a legitimate use of force and what is considered random illegal violence (Wittke, 2020, p. 189).

Currently, we can highlight several cases where the Russian armed forces failed to follow the law of armed conflict in the Black Sea region after the start of a full-scale invasion.

First, for example, the Russian navigational warnings ordering the suspension of navigation in the north part of the Black Sea and the Sea of Azov were issued simultaneously with or even after the Russian invasion, which started at about 5 AM, February 24, 2022. In the light of the San Remo Manual Para 94, those warnings did not provide any grace period and left virtually no time for vessels of neutral States to leave the blockaded coastline.

Second, the aforementioned attacks on neutral merchant vessels on February 24 and 25, apparently conducted by Russia, proved to be indiscriminate and unjustified, and thus did not comport with the law of naval warfare, particularly the principle of distinction (Pedrozo, 2022).

Third, on February 27, 2022, the Russian navy captured the Ukrainian flag rescue tug SAPHIR (IMO 8728531), operated by Ukraine's Marine Search & Rescue Service (MSRS), off Snake Island while it was conducting a rescue mission. The vessel was then forced to Sebastopol, and its crew members were taken prisoner. These actions clearly violated international

humanitarian law rules, which include ‘small craft used for coastal rescue operations and other medical transports’ among the classes of enemy vessels that are exempt from attack (Para 47 of San Remo Manual). SAPHIR was returned to Ukraine only on April 8, 2022, due to the joint efforts of the top leadership of Ukraine, the Ministry of Infrastructure, the Maritime Search & Rescue Service, and the International Maritime Organization (Kholodnova, 2022).

Furthermore, Russian naval operations in the Black Sea proved to be no less than another attempt at a brutal land grab. On May 21, 2022, the Togo-flagged livestock carrier BRITTA K (IMO: 7368815), which was making a transit passage through Ukrainian territorial waters near Snake Island, received a signal from an unidentified Russian navy unit demanding that it ‘leave the territorial waters of Russia otherwise [the Russian unit] will use weapons’ (Russians threatened to fire on a merchant ship, 2022).

Such Russian neglect of the law of armed conflict logically carries additional risks for the maritime industry in the Black Sea area. It leaves little to no chances for a prompt restoration of the freedom of navigation.

## **2. Ukrainian Maritime Industry and Russian Invasion: Challenges and Responses**

Since 2014, Ukrainian authorities have taken, or at least declared, several measures designed to address threats and challenges for the country’s maritime industry arising from the confrontation with the Russian Federation in the Black Sea region. Furthermore, the Maritime Doctrine of Ukraine for the period up to 2035, which enumerated potential threats to national security, specifically articulated a possibility of further violations of territorial integrity by the Russian Federation through expanding aggression in coastal regions, internal sea waters, and the territorial sea of Ukraine. Thus, the military component of Ukrainian

maritime policy has significantly expanded, declaring objectives of countering aggression, ensuring defense from the sea, developing naval forces and infrastructure, and training qualified personnel. However, Ukraine came to the outbreak of a full-fledged armed conflict with almost non-existent naval capabilities, represented by a handful of lightly-armed patrol boats that were insufficient to protect the freedom of navigation or security of seaports.

Thus, from the very beginning of the Russian invasion, the maritime industry of Ukraine was practically stalled, and the decisions of the Ukrainian authorities were, in many ways, just a statement of the current situation.

A direct consequence of the Russian invasion was the closure of Ukrainian ports on the Black and Azov Seas. It should be noted that this initially meant a prohibition on the entry and exit of ships from the port, which was formally established after the introduction of martial law (Decree on the introduction of martial law in Ukraine, 2022). That prohibition was imposed following the orders of Ukrainian Naval Forces (COASTAL WARNING 97/22 ODESA-NAVTEX BLACK SEA and UKRAINE COASTAL WARNING 96/22 ODESA-NAVTEX BLACK SEA), stated to be ‘due to a mine danger’ (Operational Navigation Information Bulletin, 2022). At the same time, the ports continued to process and release the stored cargo and provide services to the ships located in the ports and at anchorages. Eventually, the suspension and limitations on navigation were reflected in navigational warnings (NAVAREA III 0092/2022 BLACK SEA – NORTHWESTERN PART MINES AREA, NAVAREA III 0122/2022 BLACK SEA POSSIBLE DRIFTING MINES, NAVAREA III 0124/2022 BLACK SEA WAR RISK AREA) (NAVAREA III warnings, 2022).

In addition, the Ukrainian authorities have taken some measures to regulate the maritime industry’s work in current armed conflict conditions, and to ensure the safety of maritime infrastructure.

The order No. 181-r of February 24, 2022 of the Ukrainian Cabinet of Ministers approved the plan for the implementation and provision of measures to implement the legal regime of martial law in Ukraine. This act instructed the Administration of Seaports of Ukraine and its branches in seaports, the Shipping Administration, to take measures aimed at:

- organization of enhanced protection and defense of important objects of the national economy and objects that ensure the livelihood of the population;
- mobilization and evacuation measures,
- transition of enterprises, institutions, and organizations to work in the conditions of the ‘special period.’

The Order of the Cabinet of Ministers of Ukraine dated February 25, 2022, No. 183-r “On establishing the level of maritime security in the sea and river ports of Ukraine, port facilities, vessels entitled to sail under the State flag of Ukraine” introduced the MARSEC Level 3 Exceptional (Attack Imminent) starting from February 25, 2022, for the duration of martial law in Ukraine. This level of protection, provided for by the International Ship and Port Facility Security Code, means the level for which further specific protective security measures shall be maintained for a limited period when a security incident is probable or imminent, although it may not be possible to identify the specific target. In that regard, the ports of Ukraine were announced to be closed for entry and exit. Interestingly, the Order was circulated by IMO Circular Letter No.4518 dated February 24, 2022.

On March 1, 2022, the Ukrainian Cabinet of Ministers adopted Order No. 191-r ‘On safe entry for the safety of merchant shipping.’ The act banned navigation in the internal waters of Ukraine and calling at Ukrainian seaports for:

- vessels under the Russian Federation flag;
- vessels owned by citizens or legal entities of the Russian Federation; legal entities whose final beneficiaries or shareholders

are citizens of the Russian Federation; natural and legal persons subject to sanctions following the Law of Ukraine “On Sanctions.”

This act also bans Ukrainian-flagged vessels from calling into Russian ports.

Formally, the functioning of Ukrainian seaports in the newly Russian-occupied territories was suspended on April 28, 2022, when the Ministry of Infrastructure issued the relevant order. Under that act, the seaports of Berdyansk, Mariupol, Skadovsk, and Kherson were closed ‘from the date of entry into force of this order until the resumption of control over these seaports’ (Order on the closure of seaports, 2022). Nevertheless, the actual loss of Ukrainian control over the seaports of Kherson, Skadovsk, and Berdyansk occurred in late February 2022, and of the port of Mariupol on April 11, 2022. Thus, the order to close the ports mentioned above mainly reflected the Ukrainian authorities’ awareness that the military conflict had entered a protracted stage, and that the rapid return of control over ports in the occupied territories should not be expected.

Measures taken to mitigate the economic consequences of the Russian invasion fall into several categories: the direct reaction of the maritime industry to the situation; the redistribution of cargo flows and ensuring the operation of the Danube ports; and measures for the preliminary assessment and minimization of, and subsequent compensation for, the damage caused by the invasion.

In recent years, as many as 15 large shipping companies have been calling into Ukrainian ports. Ukrainian ports were included in the routes of such ocean services as Bosphorus Express Service (BEX) – a weekly Ocean Alliance service with entries to Odesa Sea Port; ZIM Med Pacific (ZMP) – a weekly ZIM service connecting Far East ports with entry into Odesa Sea Port; ECUMED – a weekly Maersk Line liner service connecting Latin America with entry into the Port of Yuzhny; and Middle East (ME3) – a weekly

Maersk Line liner service connecting Ukrainian ports with the countries of the Middle East (Vladyslav Kryklii: In 2019 seaports of Ukraine handled over 1 mil TEU containers, 2020).

After the hostilities started, all major container line services announced the suspension of vessel calls to Ukrainian ports until further notice. Cargo currently *en route* was redirected either to the other Black Sea ports, primarily Constanza (Romania), or was unloaded at the last transshipment ports, including Haifa (Israel), Korfez (Turkey), Piraeus (Greece), Port Said (Egypt) and Tripoli (Lebanon) (Howard, 2022).

In addition, most container lines introduced sets of special conditions for customers affected by the closure of Ukrainian ports, typically including:

- Change of destination without fee or at cost (stowage or shifting costs may apply);
- Full waiver of cancellation fees for bookings on Ukrainian ports;
- Special conditions for demurrage and detention of containers discharged in alternative ports;
- Special conditions for storage of containers unloaded in certain ports (Gorovaya & Gorachek, 2022; Ukraine. Special Conditions for Containers Release Update, 2022).

Meanwhile, the Ukrainian government has begun to create ‘Wartime Logistics,’ given the impossibility of exporting general cargo (grain, ore, ferrous metals, etc.) through the Black Sea and Azov ports. They are trying to solve this problem by creating logistics routes in two main directions. The first solution consists of the priority development of the three fully operational Danube seaports: Reni, Izmail, and Ust-Dunaisk. The second solution relies on the redirection of freight flow through railway routes to the Republic of Poland, the Slovak Republic, Romania, Hungary, and further to Western Europe (Government measures to ensure logistics routes, 2022).

To that end, the Ukrainian Cabinet of Ministers issued Order No. 255-r ‘Some Issues of Ensuring the Safety of Navigation in the Waters of Ukrainian Ports in the Danube Region and Rail Transport’ dated March 30, 2022. This act obliged the Ministry of Infrastructure, the Ministry of Economy, and the Ministry of Finance to ensure the allocation of funds to compensate for damage caused by hostilities in Ukraine in the event of insurers refusing to provide coverage to charterers, operators, and owners of sea and inland waterway vessels flying the flag of Ukraine and under the flags of foreign states, if such vessels were in the waters of Ukrainian ports in the Danube region.

Eventually, certain container lines may also become solutions for rerouting import and export cargo, identifying merchant haulage and carrier haulage options to and from Ukraine via Poland or Romania. However, merchant haulage to or from Ukraine remains strictly under customer responsibility (Russia/Ukraine Update, 2022).

The location of Ukraine’s Danube ports permits vessels’ passage to and from the Black Sea through the deep-water fairway ‘Danube River – the Black Sea’ along Bystroe Mouth and Sulina canal (Danube Ports Handbook, 2021), and further through Romanian territorial waters, in relative safety from Russian threats. Whereas in peacetime, Ukrainian Danube ports’ capacity did not exceed 10% of all maritime cargo turnover, they managed to increase their cargo processing to 15% of Ukraine’s total pre-war cargo turnover as of April 2022 (Seaport activities: loss statistics, 2022). Despite these noticeable positive effects, the ongoing hostilities make the future prospects of the Danube route very vulnerable. For example, in just one week, the Russian Federation attacked the bridge across the Dniester Estuary with cruise missiles three times (April 26 and 27, May 2) and completely disabled it (The enemy in the Odessa region fired at the bridge, 2022). This bridge is the only railway connection with the Danube ports passing through the territory of



Ukraine. The other routes pass through the territory of Moldova, including through Russian-controlled Transnistria.

This situation leads us to the next question, about possible actions to assess, mitigate and subsequently compensate for the damage caused by the Russian invasion. The Resolution of the Cabinet of Ministers of Ukraine No.326 established the procedure to determine damages and losses caused to Ukraine due to the Russian aggression. Following its norms, this direction includes the lost part of the territorial waters of Ukraine in the Black Sea and the internal waters of Ukraine in the Sea of Azov. The leading indicators to assess are:

- lost profits as a result of the loss of part of Ukraine’s territorial sea in the Black Sea and inland waters in the Sea of Azov;
- environmental damage caused to these waters;
- losses caused due to the lack of access to the exploration and development of natural resources of its continental shelf.

In this regard, it should be noted that the project “Russia will pay” has been implemented since the end of February 2022 as a public-private partnership between the Government of Ukraine and several private companies. A register of damages and an aggregated material loss database within its framework have been created based on an analysis of public reports from citizens, the government, local authorities, and public sources.

The collected data is to be used:

- 1) to record war crimes and human rights violations;
- 2) as evidence for lawsuits, including lawsuits against Russia in international courts;
- 3) for payment of individual compensation;
- 4) to receive reparations and compensation from the aggressor country for the restoration and reconstruction of Ukraine.

Due to the project mentioned above, as of May 2, 2022, the damage to the port infrastructure was estimated as up to

\$ 622 million, counting only Berdyansk and Mariupol ports. However, the actual figure seems to be much higher, since information about damage to the ports' infrastructure (at least those under Ukrainian control) is classified till the end of hostilities.

Finally, there is one more 'maritime-related' sphere to handle damages of the Russian invasion. There have been several reports of looting of grain silos by Russian authorities in the occupied territories. According to experts, there are about 1.5 million tons of grain stored in the occupied territories of Ukraine (Nekrashhuk, 2022), which Russian authorities have already started to loot and export through the ports of the occupied Crimea in the guise of Russian grain (Comment of the Ministry of Foreign Affairs, 2022). Notably, there has been a documented attempt to export 27,000 tons of stolen Ukrainian grain by the Russian-flagged bulk carrier MATROS POZYNICH (IMO 9573816). The vessel left Sevastopol in Russian-annexed Crimea on April 30 for the port of Alexandria (Egypt), but had to change course after the Egyptian port refused due to warnings by Ukrainian authorities that the grain had been stolen. The dry cargo ship then headed for Beirut (Lebanon), turning off its transponder (A ship with stolen Ukrainian grain, 2022).

### **Conclusions**

The situation in Ukraine's maritime industry since the start of the full-scale Russian invasion has largely been determined by the specific goals and methods employed by the Kremlin. The direct armed conflict is an escalation of the hybrid war ongoing since 2014. Thus, the aggressor has continued the practice of neglecting or specifically interpreting the norms of international humanitarian law applicable to armed conflicts at sea. This factor creates additional threats to the freedom and safety of navigation. Due to limited resources to counter the naval blockade, Ukraine has taken a mostly reactive stance, trying to adapt the maritime

industry to the current situation. In particular, the government and businesses have taken steps to ensure port security, reroute cargo flows, and assess and reduce the damage caused. Given the Russian navy's command of the sea, the unblocking of Ukrainian ports before the end of hostilities looks unlikely. Moreover, the threat of floating mines could delay the start of shipping for an even more extended period.

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***Кормич Б., Аверочкина Т. Морська галузь України під вогнем: наслідки російського вторгнення. – Стаття.***

Морська галузь України уже вісім років перебуває під значним тиском. Незаконна анексія Криму Російською Федерацією у 2014 році створила сіру зону, що об’єднує частину українських прибережних вод навколо анексованого півострова, де Росією здійснюється ефективний контроль. Відповідні спори про права прибережних держав та транзит суден стали привабливим полем для подальших військових дій або дорогих затримань суден. У той період російський тиск на українську морську галузь мав гібридний характер, виражаючись у різних перешкодах свободі судноплавства у вигляді будівництва Кримського мосту та ускладнення проходження суден Керченською протокою, закритті великих морських територій Російською Федерацією під приводом проведення військових навчань, фактичної втрати контролю України над значною частиною ВЕЗ тощо. З початком повномасштабного російського вторгнення 24 лютого 2022 р. українська морська галузь стала об’єктом прямих та непрямих атак. Українські порти та інша морська інфраструктура на підконтрольних Україні територіях регулярно зазнають ракетних обстрілів, а російська окупаційна адміністрація грабує захоплені порти. Непрямі збитки українським портам задають блокування судноплавства у Чорному та Азовському морях. У цій статті висвітлено правові аспекти морської блокади України та правові дії, вжиті українською владою та морською галуззю для пом’якшення наслідків збройного конфлікту.

***Ключові слова:*** морська блокада, морські порти, воєнний стан, збройний конфлікт, Чорне море, Азовське море, Україна, Росія.

***Кормич Б., Аверочкина Т. Морская отрасль Украины под огнем: последствия российского вторжения. – Статья.***

Морская отрасль Украины вот уже восемь лет находится под значительным давлением. Незаконная аннексия Крыма Российской Федерацией в 2014 году создала серую зону, включающую часть украинских прибрежных вод вокруг аннексированного полуострова, где Россией осуществляется эффективный контроль. Соответствующие споры о правах прибрежных государств и транзите судов стали привлекательным полем для дальнейших военных действий или дорогостоящих задержаний судов. В тот период российское давление на украинскую морскую отрасль имело гибридный характер, выражаясь в различных препятствиях свободе судоходства в виде строительства Крымского моста и усложнения прохода судов через Керченский пролив, закрытия обширных морских территорий Российской Федерацией под предлогом проведения военных учений, фактической потери контроля Украины над значительной частью ИЭЗ и т.д. С началом полномасштабного российского вторжения 24 февраля 2022 г. украинская морская отрасль стала объектом прямых и косвенных атак. Украинские порты и другая морская инфраструктура на подконтрольных Украине территориях регулярно подвергаются ракетным обстрелам, а российская оккупационная администрация грабит захваченные порты. Косвенный ущерб украинским портам наносит блокирование судоходства в Черном и Азовском морях. В данной статье освещены правовые аспекты морской блокады Украины и правовые шаги, предпринятые украинскими властями и морской отраслью для смягчения последствий продолжающегося вооруженного конфликта.

***Ключевые слова:*** морская блокада, морские порты, военное положение, вооруженный конфликт, Черное море, Азовское море, Украина, Россия.

