



MARINE ENVIRONMENT PROTECTION
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RECYCLING OF SHIPS

Proposal for an enforceable legally binding system for the recycling of ships

Submitted by Denmark

SUMMARY

Executive summary: This document presents a proposal for an enforceable legally binding system for the recycling of ships. The objective for such a system is to ensure environmentally sound management of ship recycling and to protect human health in such an activity.

Action to be taken: Paragraph 21

Related documents: MEPC 53/3/1 and MEPC 52/WP.8

Introduction

1 The safe recycling of ships has long been on the international agenda, and considerable work has been carried out, especially under the auspices of IMO.

2 A recent example, involving Denmark, has convinced us that a legally binding system should be developed as soon as possible.

3 In February 2005 the Government of Denmark became aware that a 51 year old Danish ferry named **Kong Frederik IX**, later renamed **Frederik** and after that **Ricky**, was to be sold - possibly for recycling in India. It also became known that the ship contained asbestos. When the ship was sold it was docked in Denmark but registered in St. Vincent and the Grenadines.

4 The former owner of the ship, as well as the new owners, claimed that the ship was sold allegedly to be put in service in the Middle East as a cargo ship. The Danish authorities requested the involved parties to produce documentation on this.

5 As declarations and documentation for this activity were produced, the national competent authority classified the ship as a non-waste and the ship left the Danish port on 16 March 2005.

6 However, after having left the Danish port and Danish waters the ship sailed directly for recycling in India.

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7 According to article 2, paragraph 1 of the Basel Convention “*objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law are wastes*” and as such the export for dismantling has to fulfil the notification requirements of the Basel Convention.

8 The ship reached India on 22 April 2005. Denmark is of the opinion that the export of this ship should be regarded as an export of hazardous waste, and as such falls under the Basel Convention. Furthermore, Denmark believes that as the exporting State, it has a responsibility to re-import the ship. India does not share this opinion.

9 Denmark was not able to take action when the ship was anchored in the Danish port, since the new owner assured by a sworn statement that the ship was going to carry trailers as ro-ro cargo. By this sworn statement it was believed that the ship could not be classified as waste and hence could not be detained.

10 Whether the new owner decided to dismantle the ship while the ship was anchored in the Danish harbour (and as such has been providing the Danish authorities with false information), or whether this decision was taken in Danish waters or international waters, this case shows that we need an enforceable regime for ship dismantling. This regime should be set up to fulfil the goal of protecting the environment and human health when carrying out ship recycling.

Development of an enforceable legally binding regulation on ship recycling

11 The Danish Government appreciates and supports the efforts undertaken both in the IMO Working Group on Ship Recycling and the joint efforts of the ILO/IMO/BC Working Group on Ship Scrapping to find a solution to the problem.

12 The above mentioned case illustrates clearly the need for the work undertaken in the two groups.

13 The Danish Government therefore invites all concerned to speed up the work both in the area of creating a harmonized and enforceable international legal regime concerning the recycling of ships and the work relating to making the IMO Guidelines on Ship Recycling mandatory.

14 The principles for a solution should on the one hand respect the environmentally sound management in accordance with the Basel Convention and on the other hand establish a mandatory international regime that could be applied in a fair and practical way by the States and the shipping community.

15 The key stakeholders in the procedure are the shipowners, the recycling facilities, the flag States and the recycling States.

16 Key to establishing an operational system is the identification of the relevant operators and the competent authorities to monitor and control the system, including how the system could be enforced in case of violations. The entity under the obligation to notify must be defined and thereby identifiable. Furthermore, information in the form of a notification is essential to enable control of the management of recycling of the ships.

17 The competent authority of the State where recycling is to take place must receive all relevant information in due time to make an informed decision, and possess the legal capacity to consent or refuse to receive a ship for recycling, and is empowered to enforce the decision.

18 The system should be based on the following basic principles:

- prior informed consent;
- environmentally sound management; and
- transparency, efficiency and uniformity.

19 The basic elements of such a system should be:

- continuously updated documentation to follow a ship during its entire lifetime, describing the materials used in the ship, in particular the hazardous materials;
- mandatory requirements on “ready for recycling” according to IMO rules (based on the present Guidelines);
- mandatory prior informed consent by the State where recycling is to take place and the flag State, based on a notification encompassing all relevant information;
- sufficient information in the notification to enable the competent authorities to make informed decisions, for example, a recycling contract, a recycling plan, and a list of potential hazardous materials aboard the ship either as included in the “Green Passport” or as a separate list;
- a transparent and efficient information and reporting system for ships destined for recycling (a reporting system as drawn up in the annex 2 of MEPC 52/WP.8), to facilitate the control and enforcement of any mandatory provision on ship recycling developed by IMO;
- a system for certifying recycling yards in accordance with the Basel Convention and the ILO Guidelines, and other relevant provisions;
- equal application to all parties; and
- application of the precautionary approach.

20 Denmark is of the opinion that such a system can be included in the existing MARPOL regulations.

Action requested of the Committee

21 The Committee is requested to consider this document and take action as appropriate.
