

A principled and practical solution for ship recycling:

NGO Shipbreaking Platform and Greenpeace Position on the European Commission Proposal for a Regulation of the European Parliament and of the Council on Ship Recycling (COM 2012/118)

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The Commission Proposal on ship recycling includes gaps and loopholes which, if not rectified by the Council and the European Parliament, will result in a legislative text unable to respond to the legal and political concerns related to the export of hazardous waste ships to developing countries.

- Article 29 of the Commission Proposal removes hazardous waste ships from the scope of application of the 2006 Waste Shipment Regulation (No 1013/2006). This move is a clear breach of EU existing legal obligations under the Basel Convention.
- Since 1998 the EU has prohibited EU hazardous waste ships from being dismantled in non-OECD countries. The Commission Proposal would change this regime by authorising these exports to developing countries, despite these countries being unable to provide environmentally sound management within the dismantling facilities nor downstream of them, including proper monitoring and enforcement. The proposed policy would do nothing but perpetuate the move of a disproportionate amount of the world's ships containing hazardous waste to developing countries.
- The Commission Proposal claims that OECD countries do not have enough capacity for ship dismantling and recycling. However, this is far from the truth: **the OECD countries have capacity to dismantle all EU flagged ships.**

The NGO Shipbreaking Platform, in its [report](#) of 6 November 2012, provided the real picture of the green recycling capacity that can be used for recycling EU flagged ships in states belonging to the OECD. The Commission's text failed to consider the 13 ship recycling facilities in North America, which can legally manage European end-of-life ships. When North American capacity is included in the picture, available OECD capacity for the EU flagged end-of-life fleet will by 2015 equate to 132% of the total EU ship inventory. This calculation is based on the assumption that no recycling capacity expansion is made in Europe and Turkey. However, if Europe were inclined to increase its recycling operations at dormant shipbuilding sites and elsewhere, and at the same time increase the accompanying jobs, rather than sending much of the fleet and employment opportunities to North America, the total capacity would be far greater. In 2007 the Commission estimated that a total of 1 million light displacement tons (LDT) per year of dormant dry dock ship recycling capacity exists in Europe alone. This means that until 2030, the majority of the EU flagged ships could be recycled in European shipyards.

The Commission Proposal is based on the false assumption that the Basel Convention provisions applying to end-of-life ships cannot be effectively implemented and that the Basel and Hong-Kong conventions cannot co-exist.

Basel can be enforced for ships, regardless of flag state, when they are known to be destined for scrapping facilities while still in European waters. For example, it was the Basel Convention’s application via the Waste Shipment Regulation that forced the aircraft carrier *Clemenceau* back to Europe from India where it was finally dismantled in the UK, providing numerous jobs and economic opportunities in a green ship recycling operation. It is true that too many ship-owners circumvent Basel, and therefore EU obligations, by not declaring their intentions to recycle ships while those ships are still in European waters. Therefore it is important that the Regulation captures all EU flagged ships and prevent their being dismantled in non-OECD/EU countries, while preventing their reflagging.

The argument has been repeated that allowing two regimes for one subject is duplicative, impracticable and overly burdensome; however, this is not the case. While requiring two regimes *for one ship* might be impracticable, this is not what is required for the proper co-implementation of the Hong Kong and Basel Conventions. It is important to remember that under the Commission Proposal, the Basel Convention must apply to ships less than 500 GWT, to government ships, and to ships operating in waters of its flagged territory – because these types of ships are excluded from the Hong Kong regime.

Therefore, both the Waste Shipment Regulation (Basel) and the future Ship Recycling Regulation (Hong Kong) will apply in the EU, although they won’t be applicable to the same ship at the same time.

The table below describes when each **Convention** and associated EU legislation will apply.

Hong Kong Convention Application (future Ship Recycling Regulation)	Basel Convention (OECD Decision) Application (Waste Shipment Regulation)
a. Ships flying EU flag located anywhere in the world	a. Ships containing hazardous materials flying EU flag less than 500 GWT
	b. Government ships of an EU country containing hazardous materials
	c. Ships containing hazardous materials of any flag or size in a port or territorial waters of an EU country when its intent to be disposed is known (hazardous waste under Basel)

It is recommended that the competent authority of both Basel and the Hong Kong Conventions shall be the same entity and would understand the procedures of both the Waste Shipment Regulation and the Ship Recycling Regulation.

Avoiding the Double Standard / Complying with Basel Ban Amendment

Ships that fall under either regime can only be directed to the EU List (of green ship recyclers). But, as the EU must not be allowed to derogate from its Basel Convention and Basel Ban obligations and commitments, all ships carrying hazardous materials that would qualify as hazardous waste under Basel must only be allowed to be received in OECD/EU located recyclers on the EU List, as set forth in Art.12 of the Commission Proposal. And those ships (largely of the future) that do not contain hazardous wastes upon arrival in the ship recycling state (with the exception of readily removable residual oils, fuels, and safety equipment necessary to make a final voyage, and which will be pre-cleaned on site) will be allowed to be received in non-OECD/EU green facilities.

The European List will thus be split into two sub-lists:

List A: OECD/EU green ship recycling and pre-cleaning facilities authorized to handle hazardous ships and non-hazardous ships; and

List B: non-OECD/EU green ship recycling and pre-cleaning facilities authorized by EU to handle non-hazardous ships.

No Beaching

None of the operations on the EU List will be allowed to land ships or conduct their operations on pebbly or sandy shores between high and low water marks in the intertidal zone where rapid access to ships cannot be obtained at all times from cranes or emergency equipment operating on a hard durable surface. In this way beaching operations will be explicitly prohibited by the Regulation.

Preventing Reflagging / Internalizing Costs: Ship Life Insurance / Environmental Port Fee

With the current Commission proposal or any other proposal that rightly seeks to go beyond the global norm to create more stringent requirements, a disincentive must be put in place to prevent the reflagging of vessels for the purpose of circumventing otherwise applicable legislation. The solution is to institute a financial instrument that creates a compensating financial incentive not to reflag. One such financial instrument would be a life insurance policy that must be carried by all ships entering the territorial waters or EU's ports. All ships are currently required to carry liability insurance policies in order to enter European waters. By applying the proposed life insurance policy to all ships, the playing field will be levelled globally as most ships, regardless of flag, travel to EU during their lives. Premiums collected during the life of these ships will fund the pay-out at end-of-life of the ship, of a substantial fee, that is gauged to be roughly equivalent to the differential in costs between scrapping at the cheapest global facilities, and the average price of scrapping at the EU List facilities. The pay-out will only be granted if the ship is scrapped at one of the appropriate EU List destinations. Alternatively, a port environmental fee could be collected for pay-out to ships that are scrapped at end-of-life in accordance with the regulation. In this way, reflagging still might be possible and other means should be explored to discourage it, but these instruments will create a strong economic disincentive to do so. That, combined with public knowledge of those ships that ignored the policy requirements will be a strong deterrent to reflagging.

Additionally, the regulation should provide a stronger deterrent against reflagging shortly before ship recycling. Member states shall penalize ship owners when they sell a ship before scrapping and it ends up in a non-EU listed facility within 24 months of the sale. The sanctions for ship owners must also be possible, if a ship is sold several times before scrapping in order to circumvent responsibilities.

Green Ship Design and Building

While the Hong Kong Convention mentions the Substitution Principle in its preamble, nothing is included in the text to implement it. The Substitution Principle, wherein a constant review of hazardous materials is required of owners and manufacturers and safer alternatives are examined and deployed as they become available, should likewise be instituted and put in place by ship manufacturers, owners and importers of ships. Linkage between the Ship Recycling Regulation hazardous materials inventories and the REACH Regulation (EC) 1907/2006 should be institutionalized, and a replication of the model used in the ROHS directive (Restrictions on the use of Hazardous Substances) must be required in Article 4 to ensure application of the substitution principle for the shipping sector.

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