



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 27 March 2012

8173/12

**Interinstitutional File:
2012/0056 (NLE)**

ENV	242
MAR	33
TRANS	101
COMER	71

COVER NOTE

from: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 23 March 2012

to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

No Cion doc.: COM(2012) 120 final

Subject: Proposal for a Council Decision requiring Member States to ratify or to accede
to the Hong Kong International Convention for the Safe and Environmentally
Sound recycling of ships, 2009, in the interest of the European Union

Delegations will find attached Commission document COM(2012) 120 final.

Encl.: COM(2012) 120 final



EUROPEAN COMMISSION

Brussels, 23.3.2012
COM(2012) 120 final

2012/0056 (NLE)

Proposal for a

COUNCIL DECISION

requiring Member States to ratify or to accede to the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009, in the interests of the European Union

EXPLANATORY MEMORANDUM

The development and continuation of unsound and unsafe practices of ship dismantling is a matter of serious concern. At the end of their operating life, most of the large commercial sea-going vessels are still dismantled in substandard facilities located in Asia (India, Pakistan and Bangladesh), usually through "beaching" method and with significant environmental and health impacts.

The situation is expected to worsen since large numbers of ships are expected to be sent for dismantling in the coming years as a result of an overcapacity of the world fleet which is estimated to remain for at least 5 to 10 years. In addition, the coming peak in ship recycling around the phasing-out date for single-hull tankers (2015) is expected to essentially benefit the most sub-standard facilities.

The current legislation¹ at international and European levels has proven ineffective to put an end to these ship recycling practices.

The current widespread non-compliance is linked:

- with the lack of recycling capacity available within the OECD in particular for the largest commercial ships,
- the fierce and unfair competition between the substandard facilities and other facilities with higher technical standards which are only able to occupy market niches for special types of ships like small ships and government vessels including warships or the fleet of committed shipowners),
- the fact that the current legislation is not adapted to the specificities of ships and international shipping.

In order to improve the situation, Parties to the Basel Convention invited, in 2004, the International Maritime Organization (IMO) to develop mandatory requirements for ship recycling².

The Hong Kong Convention for the Safe and Sound Recycling of Ships (thereafter referred to as the Hong Kong Convention) was adopted in May 2009 by the International Maritime Organization. It needs to be ratified by a sufficient number of both large flag and recycling states in order to enter into force and start producing effects.

The European Union and its Member States has compared the levels of controls and enforcement provided by the Hong Kong and the Basel Conventions in their entirety. The conclusion reached in April 2010 was that "as a preliminary assessment and taking a life cycle perspective, it can therefore be concluded that the Hong Kong Convention appears to provide a level of control and enforcement at least equivalent to that one provided by the Basel Convention for ships which are waste under the Basel Convention and for ships to which the

¹ The Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste at European level and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal at international level.

² Decision VII/26 on the Environmentally sound management of ship dismantling adopted during the 7th Conference of the Parties to the Basel Convention.

Hong Kong Convention applies and to ships treated similarly pursuant to article 3(4) of this latter Convention".³

In October 2011, Parties to the Basel Convention encouraged the ratification of the Hong Kong Convention to enable its entry into force⁴.

At European level, the Commission adopted a Green Paper on better ship dismantling in 2007 and a Communication proposing an EU strategy on ship dismantling⁵ in 2008. This strategy proposed measures to improve ship dismantling conditions as soon as possible, including in the interim period before the entry into force of the Hong Kong Convention⁶: i.e. preparing the establishment of measures on key elements of the Convention, encouraging voluntary industry action, providing technical assistance and support to developing countries and better enforcing the current legislation.

In its conclusions on the EU strategy on ship recycling, the Council endorsed the Hong Kong Convention, underlining that it represented a major achievement for the international community, provided a comprehensive system of control and enforcement from "cradle to grave" and strongly encouraged Member States to ratify the Convention as a matter of priority so as to facilitate its entry into force as early as possible and to generate a real and effective change on the ground⁷.

³ Submission from the European Union and its Member States available at <http://archive.basel.int/ships/oewg-vii12-comments/comments/eu.doc>

⁴ Decision X/ AA on the environmentally sound dismantling of ships adopted during the 10th conference of the Parties to the Basel Convention

⁵ Communication COM (2008) 767 final of 19 November 2008 presenting an "EU strategy for better ship dismantling, and its impact assessment in Commission Staff Working Document SEC(2008) 2846

⁶ The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships

⁷ Conclusions adopted by the Council on 21 October 2009 available at http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/envir/110626.pdf.

Proposal for a

COUNCIL DECISION

requiring Member States to ratify or to accede to the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009, in the interests of the European Union

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1), in conjunction with Article 218(6)(a)(v) and the first subparagraph of Article 218(8) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) Ships which are waste are subject to the Basel Convention on Transboundary Movements of Hazardous Wastes and their Disposal at international level. At European level, these ships are subject to Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipment of waste⁸. That Regulation implements the Basel Convention as well as an amendment⁹ to the Convention adopted in 1995, which has not yet entered into force, and which establishes a ban on exports of hazardous waste from Union Member States to countries that are not members of the Organisation for Economic Co-operation and Development (OECD). Since ships contain hazardous materials, they are generally classified as hazardous waste and are therefore prohibited from being exported for recycling in facilities in countries not members of the OECD.
- (2) Significant difficulties have been faced at international and European levels when trying to apply the existing legislation to ships.
- (3) The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 (hereinafter 'the Convention'), was adopted on 15 May 2009 under the auspices of the International Maritime Organisation (IMO) as a result of the deliberations of the International Conference on the Safe and Environmentally Sound Recycling of Ships¹⁰.

⁸ OJ L 190, 12.7.2006, p. 1.

⁹ Amendment to the Basel Convention ('Ban amendment') adopted by Decision III/1 of the Parties to the Basel Convention.

¹⁰ Final Act of the Conference (SR/CONF/45).

- (4) The Convention aims at ensuring that ships, when being dismantled after reaching the end of their operational life, do not pose any unnecessary risks to human health and safety and to the environment. The Convention addresses the issues around ship dismantling in their entirety as well as concerns raised about the working and environmental conditions at many of the ship dismantling locations around the world.
- (5) The environmentally sound management of ship dismantling is a priority for the European Union¹¹ and the early implementation of the Convention is one of the key actions proposed in the Communication of the Commission 'An EU Strategy for better ship dismantling'¹².
- (6) However, so far none of the Member States has ratified the Convention or acceded to it and only three Member States have signed it. Ratification of the Convention or accession to it by Member States would carry weight in the international arena and would speed up the entry into force of the Convention.
- (7) Some provisions of the Convention fall within the exclusive competence of the Union as regards ship recycling.
- (8) The Union cannot ratify the Convention, as only States can be parties thereto.
- (9) The Council should therefore require Member States to ratify the Convention or to accede to it in the interests of the Union,

HAS ADOPTED THIS DECISION:

Article 1

Upon the entry into force of Regulation (EU) No XX of the European Parliament and of the Council (*on ship recycling*) to implement the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, ('the Convention'), adopted on 15 May 2009 under the auspices of the International Maritime Organisation, Member States shall ratify the Convention or accede to it for the parts falling under the exclusive competence of the Union.

Article 2

Member States shall take the necessary steps to deposit their instruments of ratification of the Convention or accession to it with the Secretary-General of the International Maritime Organisation without delay, and in any case no later than three years from the date of entry into force of this Decision.

The progress of the ratification or accession shall be reviewed no later than five years from the date of entry into force of this Decision.

¹¹ Council Conclusions of 20 November 2006.

¹² COM(2008) 767 final.

Article 3

This Decision is addressed to the Member States.

Done at Brussels,

*For the Council
The President*