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From: General Secretariat of the Council
To: Permanent Representatives Committee/Council
Subject: Proposal for a Regulation of the European Parliament and of the Council on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC **(first reading)**
- Adoption of the legislative act (LA + S)
= Statements

Statement by Bulgaria, Cyprus and Malta

The abovementioned Member States recognise that ship recycling raises significant environmental challenges, which need to be addressed.

However, we cannot agree that a regional approach is the most appropriate way forward. In view of the inherently global nature of the shipping sector and the right of ship owners to re-flag their ships, it would have been better to link the date of application of this Regulation to the date of entry into force of the Hong Kong Convention.

Moreover, the threshold of 2.5 million light displacement tonnes in Article 32 is far too low to provide assurance that it will actually be possible to comply with the Regulation once it applies.

Statement by Cyprus

Cyprus regrets the failure to include more explicit wording in Article 16 (4) of the Regulation, regarding the application of the principle of equality in Union law, and in particular, providing for non-discriminatory access to recycling facilities for ships flying the flag of any EU Member State.

Cyprus considers that the absence of such a reference does not mean that the Commission may approve ship recycling facilities located in third countries, such as Turkey, that apply discriminatory measures to ships associated with any Member State. Such an approval would be in breach of the principle of equality and thus, be considered unlawful.

In this context, and in addition to the principles enshrined within the Treaty of the European Union, Cyprus recalls the Council Conclusions of 11 December 2012 on Enlargement and Stabilisation and Association Process, and the Declaration by the European Community and its Member States of 21 September 2005, and emphasises the obligation for non-discriminatory implementation of the Additional Protocol of the Association Agreement between the Union and Turkey, towards all Member States.

The continuation of restrictive measures applied by Turkey vis-a-vis the Republic of Cyprus, coupled with the provisions of this Regulation, will impact negatively Cyprus's economy and shipping industry. Cyprus-associated ships will be excluded from EU-approved recycling facilities in Turkey, thereby limiting their recycling options. An inevitable loss of flags from the Cyprus shipping registry will lead to a loss of revenue. The port and shipping management industries will also receive a significant blow, as ship owners will choose to avoid Cyprus as a hub.

Cyprus, therefore, calls on the Commission to respect scrupulously the principle of equality when drawing up the list of ship recycling facilities. Cyprus reserves all its rights, including legal redress where appropriate, to ensure that the principle of equality is respected.

Statement by Poland

Poland acknowledges that ship recycling practices in some parts of the world raise serious safety and environmental concerns and need urgent and effective solutions.

Poland also believes that maritime transport as a sector of intrinsically global nature requires measures wider than unilateral EU regulations. In consequence, Poland has been hesitant to lend its support for an EU regulation on ship recycling and instead advocated a concerted effort to facilitate earlier entry into force of the Hong Kong Convention for the safe and environmentally sound recycling of ships. We believe that the problem of unsound ship recycling can effectively be tackled only through an early entry into force of the Convention and its enforcement.

Poland highly appreciates that the final text of the Regulation on ship recycling extensively aligns with the Convention and may ease future adjustments of EU law to the Hong Kong Convention.

However, Poland maintains doubts that the conditions for application of the Regulation as provided in Article 32 are optimal. The application date in paragraph 1(b) fails to guarantee that compliance with the Regulation will be possible due to the probable lack of available recycling capacity and no firm link to the Hong Kong Convention.

Taking the foregoing into account, **Poland cannot support the regulation and abstains from voting.**

Statement by Germany

Germany still has concerns as to whether the Regulation can make any contribution to achieving its purpose, since it cannot stop shipowners continuing to register ships under a non-EU flag when they are to be broken up, and thus maintaining their existing practice.

Statement by the Commission on the procedure of adoption of implementing acts

The Commission underlines that it is contrary to the letter and to the spirit of regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5§4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission *may* adopt a draft implementing act when no opinion is delivered.

Given that it is an exception to the general rule established in Article 5§4 recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified.

Statement by Latvia

Latvia agrees with the draft Regulation recognising the environmental challenges related to ship recycling practices. At the same time, Latvia believes, that a global regime established by the Hong Kong Convention would be more effective in view of the global nature of the shipping sector and competitiveness aspects of the EU ports.

In this regard Latvia would like to invite the European Commission while preparing the report on the feasibility of a financial instrument that would facilitate safe and sound ship recycling in accordance with the Article 29 and Recital 19 of the draft Regulation to also assess the influence of any such possible measures on the competitiveness of EU ports in comparison with ports situated in non-EU member states in the same region.
