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COVER NOTE

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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
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Delegations will find attached document SWD(2025) 7 final.

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COMMISSION STAFF WORKING DOCUMENT

**Union submission to the 83rd session of the International Maritime Organization's
Marine Environment Protection Committee on a collaboration process with the Basel
Convention Secretariat**

Union submission to the 83rd session of the International Maritime Organization's Marine Environment Protection Committee on a collaboration process with the Basel Convention Secretariat

PURPOSE

This Staff Working Document contains a draft Union submission to the International Maritime Organization's (IMO) 83rd session of the Marine Environment Protection Committee (MEPC 83). The IMO has indicatively scheduled MEPC 83 from 7 to 11 April 2025.

The draft submission proposes to establish a collaboration process with the Basel Convention Secretariat in order to provide further clarity regarding the interplay between the Hong Kong convention for the safe and environmentally sound recycling of ships and Basel convention on the control of transboundary movements of hazardous wastes and their disposal, and prepare possible future decision by the MEPC and the Basel COP. In order to do so the draft submission proposes to request the IMO secretariat to forward the “provisional guidance on the implementation of the Hong Kong convention and the Basel convention regarding the transboundary movement of ships intended for recycling” adopted by MEPC82 to the Basel secretariat and to send an invitation from the MEPC to the Basel Conference of the Parties to consider setting up a collaboration process.

EU COMPETENCE

Regulation (EU) No 1257/2013 on ship recycling¹ implements the requirements of the Hong Kong Convention for the safe and environmentally sound recycling of ships into EU law, while including also additional safety and environmental requirements. The EU's Ship Recycling Regulation aims to prevent, reduce and minimize accidents, injuries and other negative effects on human health and the environment related to the recycling of ships flying the flag of European Union countries. It lays down requirements for ships and recycling facilities to ensure that ship recycling takes place in an environmentally safe and sound manner restricts or prohibits the installation and use of hazardous materials on ships, such as asbestos or ozone-depleting substances and establishes a European list of ship recycling facilities.

Regulation (EU) 2024/1157 on shipments of waste² implements the Basel convention on the control of transboundary movements of hazardous wastes and their disposal, and its ban amendment, as well as the OECD decision establishing a control system for waste shipments for recovery within the OECD area. The EU Waste Shipment Regulation lays down measures to protect the environment and human health by preventing or reducing the adverse impacts which can result from shipments of waste and from the treatment of the waste at its destination. It establishes procedures and control regimes for shipments of waste. The new rules, most of which will enter into force in 2027 will reinforce the framework set by the previous EU waste shipment regulation (2006). A general ban on waste exports for disposal and a ban on hazardous waste exports for recovery to non-OECD countries will continue to apply, and additional restrictions for non-hazardous waste will be introduced. More generally companies exporting waste from the EU will have to demonstrate that the waste exported is properly managed in the facility in the recipient country. Companies must ensure that independent audits are carried out in the facilities to which they ship waste, demonstrating that those facilities manage waste in an environmentally sound manner.

These 2 pieces of regulation ensure a coherent framework at EU level implementing in parallel and complementary manner the provisions and obligations of both the Basel and Hong Kong conventions.

In light of all of the above, the present draft Union submission falls under EU exclusive competence,

¹ OJ L 330, 10.12.2013, p. 1.

² OJ L, 2024/1157, 30.4.2024.

pursuant to article 3(2) TFEU as possible decisions or guidance on the interplay of the Hong Kong and Basel convention risk affecting or altering Union legislation and in particular Regulation (EU) No 1257/2013 and Regulation (EU) 2024/1157.³ This Staff Working Document is presented to establish an EU position on the matter and to transmit the document to the IMO prior to the required deadline of 31 January 2025.

³ An EU position under Article 218(9) TFEU is to be established in due time should the IMO Marine Environment Protection Committee eventually be called upon to adopt an act having legal effects as regards the subject matter of the said draft Union submission. The concept of ‘*acts having legal effects*’ includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are ‘*capable of decisively influencing the content of the legislation adopted by the EU legislature*’ (Case C-399/12 Germany v Council (OIV), ECLI:EU:C:2014:2258, paragraphs 61-64). The present submission, however, does not produce legal effects and thus the procedure for Article 218(9) TFEU is not applied.

ANY OTHER BUSINESS

Collaboration with the Basel Convention Secretariat towards providing further clarity and certainty regarding the implementation of the Basel and Hong Kong Conventions

Submitted by Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands (Kingdom of the), Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the European Commission acting jointly in the interest of the European Union

SUMMARY

Executive summary: The co-sponsors propose to establish a collaboration process with the Basel Convention in order to provide further clarity and certainty regarding the interplay between the Hong Kong and Basel Conventions. In order to do so the co-sponsors propose to request the IMO secretariat to forward the provisional guidance adopted by MEPC 82 to the Basel secretariat and to send an invitation from the MEPC to the Basel Conference of the Parties to consider setting up a collaboration process.

Strategic direction, if applicable: 7 and 8

Output: 7.1 and 8.1

Action to be taken: XX

Related documents: MEPC 81/15/5, MEPC 81/16 and MEPC 82/16

Background

1 During the 82nd session of the Marine Environment Protection Committee (MEPC 82), the Committee adopted provisional guidance as an interim measure to help Member States. As reflected in the report of the meeting, the Committee also noted that additional work was required to improve the guidance in order to provide further clarity and certainty, and that such work should be carried out in cooperation with the Secretariat of the Basel convention.

2 Although MEPC 81 had concluded the need for the IMO Secretariat to develop draft guidance in consultation with the Basel convention, the provisional guidance was developed solely by the IMO Secretariat, as the Basel Convention secretariat was unable to act on this request without a mandate from its Conference of the Parties. This also means that the mandate given to the IMO secretariat by MEPC 81 was only partially fulfilled without this consultation being finalized. Against this background, as reflected in MEPC 82 report, some delegations were of the view that the draft guidance should be forwarded to the Secretariat

of the Basel Convention for further consideration and cooperation concerning the interaction of the two Conventions and to show how both conventions could work together.

3 Furthermore, as recalled by the representative of the Basel Convention Secretariat during MEPC 82, it is anticipated that the seventeenth meeting of the Conference of the Parties to the Basel Convention (BC COP-17) will discuss the matter under agenda item 5 on international cooperation and coordination. Under this item, BC COP-17 may decide to consider further to ensure cooperation between the two Conventions.

Discussion

4 The conclusions of MEPC, as reflected in the report from MEPC 82, remain limited to further general cooperation between the two Secretariats. In parallel, the Committee mandated the IMO Secretariat to report the outcome of MEPC 82 to the next Conference of the Parties to the Basel Convention. Nevertheless, these conclusions leave aside the need for further work on the guidance in cooperation with the Basel Convention Secretariat and to that end, the need to forward the provisional guidance to the Basel Convention Secretariat.

5 It is important to recall, as the IMO Secretariat did in document MEPC 82/16, that the interpretation of Treaties is the sole prerogative of the Parties. Since the guidance requires an interpretation of both the Basel Convention and the Hong Kong Convention to clarify their interplay, its content will have to be shared and commented by the Conference of the Parties to the Basel Convention and cannot solely be finalized by the MEPC. Otherwise, the possible inconsistencies in the interpretation of the two conventions will remain and such a guidance will only lead to further obstacles on the effective implementation of the Hong Kong Convention.

6 The interplay between the two Conventions should not prevent the MEPC from also working as a priority on ensuring proper implementation and enforcement of the Hong Kong Convention so that end-of-life ships are recycled in an environmentally sound manner. It would also be useful to explore if and how the requirements from the Hong Kong Convention could be strengthened, in order to provide clear safeguards that end-of-life ships are treated in an environmentally sound manner.

Proposal

7 The co-sponsors are of the view that, to address the above considerations, the IMO Secretariat should report the outcome of MEPC82 to BC COP-17 and share with the Basel Convention Secretariat the provisional guidance for further work and input from it.

- 8 On that basis the cosponsors would like to request the Committee to:
- Agree to forward the provisional guidance to the Basel Convention Secretariat for further work and collaboration,
 - Request the Secretariat to report the outcome of MEPC82 to BC COP-17;
 - Request the Secretariat to send an invitation from MEPC to the COP of the Basel Convention to consider setting up a collaboration process to improve the provisional guidance in order to provide further clarity and certainty regarding the implementation of the Basel and Hong Kong Conventions with respect to the transboundary movement of ships intended for recycling.

Action requested of the Committee

9 The Committee is invited to note the proposals contained in paragraphs 7 to 8 above and take action, as appropriate.