

Articles from NGO Shipbreaking Platform

Press Release – EU Bans Breaking of Ships on Beaches

2013-10-22 16:10:21 Shipbreaking

NGOs Call on a Financial Incentive to Ensure Effective Implementation of New EU Ship Recycling Regulation Brussels, 22 October 2013 – Today the European Parliament voted in favour of the new EU Ship Recycling Regulation that bans the breaking of EU ships on beaches [1]. The new Regulation only allow ships registered under the flag of an EU Member State to be dismantled in facilities that meet the requirements set out in the Regulation and that are listed by the European Commission. It will also demand Inventories of Hazardous Materials for all ships visiting European ports. These are all welcomed elements that have repeatedly been called for by the NGO Shipbreaking Platform to improve shipbreaking practices globally. The NGO coalition warns however that the Regulation will fail to change the current state of play if no financial incentive is rapidly introduced to ensure compliance with the new rules. *“Without a financial incentive, circumvention of European law covering end-of-life vessels will persist and European ship owners will be allowed to continue to seek significant financial profits by externalizing environmental and human health costs to the shipbreaking beaches of Bangladesh, India and Pakistan, and to the exploited workforce there,”* said Patrizia Heidegger, Executive Director of the NGO Shipbreaking Platform [2]. The new Regulation asks the European Commission to elaborate on the possibilities of a financial mechanism to enhance clean and safe ship recycling [3]. Several other elements that can contribute to ensuring a more robust legislative framework are also left open for further development, such as the need to amend the Environmental Crimes Directive (2008/99/EC) to include breaches of the new Regulation and the need to develop adequate technical guidance notes on the requirements for ship recycling facilities and for the certification and auditing of ship recycling facilities outside the EU. *“To ensure that the Regulation has a positive impact on improving ship recycling practices globally the European Commission needs to make sure that the listed facilities are properly audited and certified to guarantee Environmentally Sound Management (ESM) of hazardous waste; that breaches of the law are sanctioned in line with internationally accepted penalty schemes; and that ship owners do not simply flag out to a non-EU flag prior to selling the vessel for dismantling in an attempt to circumvent EU law,”* said Patrizia Heidegger. The new Regulation does nothing to prevent ship owners from jumping register to a non-EU flag prior to sending their ships for breaking in order to avoid falling under the requirements of the law. In 2012, three quarters of European owned vessels broken on the beaches of South Asia were registered under non-EU flags such as Panama, Liberia and Bahamas. With the new Regulation being a further incentive to flag out, vessels still registered under a flag of an EU Member State at end-of-life is likely to decline even further to a disillusioning number of ships, rendering the impact of the

Ship Recycling Regulation non-existent for the purpose of improving ship recycling practices [4]. In fact, the Regulation may even have the unintended effect of shrinking the number of ships registered under an EU flag, and therefore making the Regulation counterproductive to other EU initiatives aimed at building a more robust EU fleet. Recent studies have proposed an array of possible mechanisms to implement the polluter pays principle for end-of-life ships and have clearly shown that a financial incentive for proper ship recycling is legally feasible, enforceable, and necessary [5]. In adopting the new Ship Recycling Regulation, the EU will also inevitably be forced to reconcile the illegality of unilaterally acting in non-compliance with international law – NGOs, independent environmental law experts and even the European Council Legal Services have warned of the illegality of the new Regulation [6]. **CONTACT:** Ingvild Jenssen Policy Advisor NGO Shipbreaking Platform Ingvild@shipbreakingplatform.org +32 2 609 44 20 **NOTES:** [1] The EU Ship Recycling Regulation will be published in the Official Journal towards the end of this year of beginning of 2014. The regulation will be applicable at the earliest 2 years and at the latest 5 years after its entry into force. [2] In 2012, 70% of all end-of-life ships were broken in Bangladesh, Pakistan and India on tidal beaches whose soft sands cannot support crucial safety measures such as heavy lifting or emergency response equipment and which allow pollution to seep directly into the delicate coastal zone environment. No country in the developed world allows ships to be broken on their beaches. While shipbreaking can be done in a safe and clean way with proper technologies and infrastructure, and enforced regulations, most ship owners choose to sell their ships for significantly greater profit to substandard yards operating in countries without adequate resources to provide safeguards and infrastructure to manage the dangerous business. On the South Asian shipbreaking beaches, vulnerable migrant workers, many of them children, break apart massive and toxic ships by hand, often without shoes, gloves, hard hats or masks to protect their lungs from asbestos, and poison fumes. The International Labour Organization (ILO) considers shipbreaking on beaches to be among the world's most dangerous jobs. [3] The new Ship Recycling Regulation asks the Commission to "submit [...] a report on the feasibility of a financial instrument that would facilitate safe and sound ship recycling and [...] if appropriate, accompany it by a legislative proposal". The recitals further state "In the interest of protecting human health and the environment and having regard to the "polluter pays" principle, the Commission should assess the feasibility of establishing a financial mechanism applicable to all ships calling at Union ports and anchorages, irrespective of the flag they are flying, to generate resources that would facilitate the environmentally sound recycling and treatment of ships without creating an incentive to out-flag". [4] The scope of the Regulation on ship recycling at end-of-life is limited to EU flagged vessels only – this represents less than 10% of the vessels sent for breaking. In 2012, 143 ships that were registered under an EU Member State's flag were broken. Of these vessels, 102 were broken on the beaches of South Asia, while the vast majority (76 ships) were registered under either the Greek, Cypriot or Maltese flag. Already, most European owned vessels broken on the beaches of South Asia are registered under non-EU flags such as Panama, Liberia and the Bahamas. Just as ship owners circumvent the current export prohibition under the European Waste Shipment Regulation by not declaring their intent to dispose the vessel whilst at a European port, it is very likely that more ship owners will circumvent the new EU rules by simply flagging out

to non-EU flags at end-of-life, so that they avoid extra costs of using safe and environmentally sound ship recycling facilities. [5] A financial instrument will provide a strong incentive to prevent ship owners from reflagging as the costs for proper end-of-life management will already have been pre-paid. The study prepared by Profundo, entitled [Financial mechanisms to ensure responsible ship recycling](#) (2013) outlines possible options and recommendations taking into account scope, calculations of contributions, collection of dues, beneficiaries, and enforcement. [65] The new ship recycling Regulation conflicts with the United Nations Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and the Basel Ban Amendment, both of which are instruments that have been ratified and implemented into the national legislation of all EU Member States via the European Waste Shipment Regulation, and of which the latter forbids the export of hazardous wastes from the EU to non-OECD countries. Article 29 of the EU law on ship recycling removes hazardous waste ships from the scope of application of the European Waste Shipment Regulation. There are clear and compelling legal opinions proving that this unilateral exemption of ships is a breach of the European Union's legal obligations to uphold international law. For more see: Ludwig KRÄMER – [The Commission Proposal for a Regulation on ship recycling, the Basel Convention and the protection of the environment](#) (2012); CIEL – [Legality of the EU Commission proposal on ship recycling](#) (2012); Council of the European Union – [Opinion of the Legal Service 16995/12](#) (28 November 2012)