

## **OEWG-VII/12: Environmentally sound dismantling of ships**

*The Open-ended Working Group,*

*Recalling* decision IX/30 of the Conference of the Parties to the Basel Convention,

*Recalling also* decision VIII/11 of the Conference of the Parties, by which the Conference of the Parties “invites the International Maritime Organization to ensure that the draft ship recycling convention to be adopted by it establishes an equivalent level of control as that established under the Basel Convention, noting that the duplication of regulatory instruments that have the same objective should be avoided”,

*Recalling further* the request by the Conference of the Parties at its ninth meeting to the Open-ended Working Group at its seventh session to carry out a preliminary assessment of whether the ship recycling convention, as adopted, establishes an equivalent level of control and enforcement as that established under the Basel Convention, in their entirety,<sup>1</sup> after having developed the criteria necessary for such assessment, and, in doing so, to take into account:

- (a) The special characteristics of ships and international shipping;
- (b) The principles of the Basel Convention and the relevant decisions of the Conference of the Parties;
- (c) The comments submitted by Parties and other relevant stakeholders, as appropriate,

*Acknowledging* that, in its decision IX/30, the Conference of the Parties requested that the results of the assessment should be transmitted to it at its tenth meeting for consideration and action, as appropriate,

*Stressing* the importance of implementation programmes relating to sustainable ship recycling in the light of the forecasts of tonnage to be dismantled in the near future, which indicate a need for appropriate action from the international community,

### **I**

#### **Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships**

1. *Welcomes* the adoption of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships;

2. *Invites* the International Maritime Organization to continue to have due regard to the role, competence and expertise of the Basel Convention in matters related to ship dismantling and in particular with regard to the environmentally sound management and disposal of hazardous and other wastes;

3. *Considers* the criteria contained in the annex to the present decision to be an appropriate basis for further work, including discussion, to implement decision IX/30;

4. *Invites* Parties and other relevant stakeholders, based on these criteria:

- (a) To review and complete the table set out in the annex to the present decision;
- (b) On the basis of the table, to provide a preliminary assessment of whether the Hong Kong Convention establishes an equivalent level of control and enforcement as that established under the Basel Convention, in their entirety, and in doing so, to take into account:
  - (i) The special characteristics of ships and international shipping;
  - (ii) The principles of the Basel Convention and the relevant decisions of the Conference of the Parties;
  - (iii) The comments previously submitted by Parties and other relevant stakeholders, as appropriate;

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<sup>1</sup> *Editors' note:* This wording, as it appears here and elsewhere in the present draft decision, is taken verbatim from the text of decision IX/30 and has not been edited.

5. *Also invites* Parties and other relevant stakeholders to submit their tables and preliminary assessments pursuant to paragraph 4 above to the Secretariat by 15 April 2011 and requests the Secretariat to publish these on the website of the Basel Convention;
6. *Requests* the Secretariat to compile and synthesize the completed tables and to publish these and the preliminary assessments by 15 June 2011 on the website of the Basel Convention;
7. *Also requests* the Secretariat to transmit the compilation and synthesis of the completed tables and the preliminary assessments referred to in paragraph 6 above to the Conference of the Parties at its tenth meeting for consideration and action, as appropriate;
8. *Further requests* the Secretariat to continue to follow developments in relation to the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, in particular the development of the guidelines in that regard, and to report thereon to the Conference of the Parties at its tenth meeting;
9. *Requests* the Secretariat to transmit the present decision to the International Maritime Organization for consideration by the Marine Environment Protection Committee at its sixty-first session;

## II

### **International cooperation on the environmentally sound dismantling of ships**

1. *Underlines* the importance of continued inter-agency cooperation between the International Labour Organization, the International Maritime Organization and the Basel Convention on issues related to ship dismantling, as appropriate;
2. *Welcomes* the development of implementation programmes relating to sustainable ship recycling and requests the Secretariat, subject to the availability of funding, to continue its work and to develop further the programmes for sustainable ship recycling in conjunction with other bodies, in particular the International Maritime Organization and the International Labour Organization, and to report thereon to the Conference of the Parties at its tenth meeting;
3. *Calls upon* all Parties and other stakeholders in a position to do so to make financial or in kind contributions to the implementation of activities under the relevant programmes relating to sustainable ship recycling;
4. *Requests* the Secretariat to report to the Conference of the Parties at its tenth meeting on the outcome of the third session of the Joint Working Group on Ship Scrapping of the International Labour Organization, the International Maritime Organization and the Basel Convention, and to provide further information, if available, on the scheduling of further sessions of the Joint Working Group;
5. *Encourages* Parties to be mindful of the recommendations, in particular those on interim measures, of the third session of the Joint Working Group on Ship Scrapping of the International Labour Organization, the International Maritime Organization and the Basel Convention

## Annex to decision OEWG-VII/12\*

Overarching considerations to be taken into account:

- Special characteristics of ships and international shipping
- Principles of the Basel Convention, including environmentally sound management, and the relevant decisions of the Conference of the Parties

\* The columns entitled “Basel Convention” and “Hong Kong Convention” list potentially relevant articles, regulations and decisions which are not exhaustive and subject to further verification.

Criteria		Basel Convention	Hong Kong Convention	Comments to facilitate a preliminary assessment of equivalent level of control and enforcement <sup>2</sup>
Scope and applicability				
What?	Coverage of ships / wastes	<p>Wastes:</p> <p>Articles 2.1 (definition of “wastes”), [1.1 (definition of “hazardous wastes”)], [2.3 (definition of “transboundary movement”)]</p> <p>[Article 11 agreements]</p> <p>[Article 18]</p> <p>Ships:</p> <p>[Article 2.1]</p> <p>[Article 4.12]</p> <p>Decision VII/26: “a ship may become waste as defined in article 2 of the Basel Convention and that at the same time it may be defined as a ship under other international rules”</p>	<p>Ships:</p> <p>Article 2.7 (Definition of “ship”)</p> <p>Article 3 (Application)</p> <p>[Article 236 (UNCLOS)]</p> <p>Wastes:</p> <p>Article 2.9 (definition of “hazardous material”)</p> <p>[Regulation 4, Appendix 1 and 2]</p> <p>Regulations 5, [6 , 7] 8.2, 20 (20.3 and 20.4)</p> <p>Appendix 1 of Inventory Guidelines]</p>	<p>[The Basel Convention does not exempt military or other State-owned waste – including ships – from its scope.</p> <p>[With the exception of certain categories of ships, the scope of the HK Convention in respect of the recycling of ships and associated wastes is at least equivalent to the scope of coverage provided by the Basel Convention.]</p> <p>1. Some ships are not covered by the HK Convention:</p> <p>(a) Less than 500 GT or ships operating throughout their life only in waters subject to the sovereignty or jurisdiction of the State whose flag the ship is entitled to fly;</p> <p>(b) Warships, naval auxiliary, or other ships owned or operated by a Party and used, for the time being, only for government non-commercial service;</p> <p>(c) [Ships which fly the flag of a non-Party and which do not satisfy the technical requirements of the Convention.]</p> <p>However, each Party shall ensure, by the adoption of</p>

<sup>2</sup> An incomplete example is provided for the first criterion, “Scope and applicability”.

Criteria		Basel Convention	Hong Kong Convention	Comments to facilitate a preliminary assessment of equivalent level of control and enforcement <sup>2</sup>
				<p>appropriate measures, that such ships act in a manner consistent with this Convention, so far as is reasonable and practicable.</p> <p>2. While a ship may become waste under the Basel Convention, ship recycling will not necessarily involve the transboundary movement of hazardous waste [and therefore may not be subject to the full requirements of the Basel Convention:</p> <ul style="list-style-type: none"> <li>(a) The decision to recycle may occur while the ship is on the high seas;</li> <li>(b) The ship may be recycled domestically (noting that the HK Convention would apply unless the ship had never travelled internationally);</li> <li>(c) The transboundary movement of the ship may be complete before the ship becomes waste.]</li> </ul> <p>Exclusions from HKC: Military and government ships / 500 GT / [national definitions are explicitly recognized in Basel but not IMO] / HKC does not define waste / HKC does not consider a ship to be waste</p> <p>Not yet completed.]</p>
	<b>Coverage and identification of hazardous materials</b>	<p>[Article 1 (excerpt): “1. The following wastes that are subject to transboundary movement shall be “hazardous wastes” for the purposes of this Convention:</p> <p>(a)Wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex III; and</p> <p>(b)Wastes that are not covered under paragraph (a) but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the Party of</p>	<p>[Article 2.9</p> <p>Regulation 4 on Control of ships’ Hazardous Materials.</p> <p>Regulation 5 on Inventory of Hazardous Materials.</p> <p>Regulation 6 on Procedure for proposing amendments to Appendices 1 and 2.</p> <p>Regulation 7 on Technical Groups.</p> <p>Regulation 8 on General Requirements (Preparation for Ship Recycling).</p>	

Criteria		Basel Convention	Hong Kong Convention	Comments to facilitate a preliminary assessment of equivalent level of control and enforcement <sup>2</sup>
		<p>export, import or transit.”</p> <p>Annex I: Categories of wastes to be controlled</p> <p>Annex III: List of hazardous characteristics</p> <p>Annex VIII (List A): Wastes which are characterized as hazardous under Article 1.1 (a) (conditions attached).</p> <p>Annex IX (List B): Wastes which are not covered by Article 1.1 (a) (conditions attached).]</p>	<p>Regulation 9 on the Ship Recycling Plan.</p> <p>Regulation 10 on Surveys.</p> <p>Regulations 20.2 and 20.3</p> <p>Appendix 1: Controls of Hazardous Materials.</p> <p>Appendix 2: Minimum list of items for the Inventory of Hazardous Materials.</p> <p>Appendix 5: Form for the Authorization of Ship Recycling Facilities.</p> <p>Appendix 1 of Inventory Guidelines]</p>	
When?	Management of life cycle of ship?	<p>Article 1.4</p> <p>Article 2.1</p> <p>Decision VII/26</p> <p>“a ship may become waste as defined in article 2 of the Basel Convention and that at the same time it may be defined as a ship under other international rules”</p> <p>Article 4.2 (a) [Article 4.2 (b), 4.2 (c)] [Article 4.8]</p>	<p>Articles 4.1,4.2</p> <p>Article 2.10</p> <p>Regulation 4</p> <p>Regulation 5 on Inventory of Hazardous Materials.</p> <p>Regulation 6 on Procedure for proposing amendments to Appendices 1 and 2.</p> <p>Regulation 7 on Technical Groups.</p> <p>Regulation 8 on General Requirements (Preparation for Ship Recycling).</p> <p>Regulation 9 on the Ship Recycling Plan.</p> <p>Regulation 10 on Surveys.</p> <p>Regulation 11 on Issuance and endorsement of certificates.</p> <p>Regulation 20 on Safe and environmentally sound management of Hazardous Materials.</p> <p>Appendix 1: Controls of Hazardous Materials.</p> <p>Appendix 5: Form for the Authorization</p>	

Criteria		Basel Convention	Hong Kong Convention	Comments to facilitate a preliminary assessment of equivalent level of control and enforcement <sup>2</sup>
			of Ship Recycling Facilities Appendix 6: Form of report of Planned start of ship recycling Appendix 7: Form of Statement of completion of ship recycling	
Who?	Relationship between Party and non-Party			
Where?	Jurisdiction			
Control				
	Authorizations and certifications			
	Surveying, auditing and inspection			
	Designation of competent authorities/focal points			
	Standards (mandatory or voluntary)			
	Ability to prohibit import/export			

Criteria		Basel Convention	Hong Kong Convention	Comments to facilitate a preliminary assessment of equivalent level of control and enforcement <sup>2</sup>
	Traceability and transparency of hazardous materials until final treatment / ultimate disposal			
	Prior notification and prior consent			
	Certification of disposal/statement of completion of ship recycling			
	[Other control mechanisms]			
Enforcement				
	Illegal shipments, violations and sanctioning, including criminalization, of illegal traffic			
	Dispute settlement			
	Duty to re-import			

Criteria		Basel Convention	Hong Kong Convention	Comments to facilitate a preliminary assessment of equivalent level of control and enforcement <sup>2</sup>
<b>Exchange of information by Parties / cooperation and coordination</b>				
	Access to and dissemination of information, e.g., administrative, enforcement, emergency matters			
	Reporting obligations			
	Transmission of information regarding import / export restrictions			
	Among Parties to advance environmentally sound management, through information exchange and technical assistance and capacity-building on best practices, technical guidelines, monitoring and public awareness			



