

# Problems related to Ship Recycling IMO Regulations

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## Abstract

Scrapping market is unique in many respects. The value of its products is more affected by international trade than by shipping economic circles. There are many regulations for the environmentally friendly dismantling of ships. Ship recycling is the eco-friendly method of ship dismantling, it is governed by a set of rules, namely: a) Hong Kong Convention on Ship Recycling - SRC - (implemented by IMO), b) UN Basel Convention and c) E.U. Waste Shipment Regulation. Despite this polyphony in legislation, no clear set of rules has been uniformly applied yet, resulting in institutional discontinuities which are often exploited by shipowners.

**Keywords:** SRC, UN Basel Convention, E.U. Waste Shipment Regulation, Ship Recycling

## 1. Introduction

Ship recycling is the result of ship breaking for scrap or disposal of a vessel's structure irrespective where it is implemented. This method is the most environmentally friendly procedure of dismantling ships since every part of the hull and machinery can be re-used. It includes an extensive variety of actions, from removing all parts and equipment to breaking down and recycling its infrastructure (Chang, 2010).

The process, while it is advantageous for the environment, it is not well received by ship owners, who prefer the usage of traditional scraping methods for increased profit. Even if ship recycling is a beneficial result for handling ship scrapping, the global picture is not optimistic, mostly because environmental standards and working practices in recycling facilities are quite poor (Alexopoulos, 2006). So far, there is a lack of consistent regulatory system dealing with ship breaking and ship recycling matters, thus creating a gap, which occasionally shipping companies exploit. Based on this situation, the IMO has adopted the Hong

Kong Convention on Ship Recycling in 2009, though it is not yet in force.

## 2. Legal Issues Related to the Recycling of Ships

### 2.1 The UN Basel Convention

The overall aim of the BC is to protect human life and the environment against harmful substances and unfortunate events, which may result from the generation, management, trans-boundary movements, and disposal of toxic wastes. It is relevant for vessel dismantling, as a vessel that is sent for scrap, in most cases contains hazardous materials and may, therefore, be regarded as a shipment of hazardous waste. Thus, it is implemented to all ships which are considered as "waste" (UNEP, 2002).

Under the Basel Convention's technical guidelines on vessel dismantling, "beaching" is not acceptable as impermeable floors are prescribed for complete ship containment at any step of the recycling process. However, this precaution is implemented on relatively few end-of-life ships and is challenging to enforce most of the world's merchant fleet (Bhattacharjee, 2009). Please explain the Ban amendment here.

The BC regulatory system is rendered inefficient for two practical considerations: (1) Ships travel independently and most importantly can easily change the flag. (2) Leaving port before a decision to scrap the vessel has been officially taken in essence avoids the controls of the BC and its Ban Protocol, especially where the decision is taken while in the high seas, where arguably there is no exporting state except perhaps the flag state. However, even where the flag state has imposed requirements on the ship-owner to obtain permission to export as required under the BC, changing the flag of the ship or selling the vessel to a company incorporated in a state outside the OECD

group avoids the general prohibition and makes the scrap value of the vessel available to the ship-owner.

### 2.2 The Hong Kong Convention on Ship Recycling

The IMO Convention for the Safe and Environmentally Sound Recycling of Ships (2009) ensures that ships, when being recycled after reaching the end of their operational lives, do not provoke any unnecessary risk to human health and safety or the environment. However, the HKC is still not in force because up to present none of the criteria has been met (Moncayo, 2016).

The HKC confronts recycling issues and focuses firstly on ships sold for scrap that may contain environmentally harmful substances such as asbestos, heavy metals, hydrocarbons, ozone-depleting materials and others, and most importantly on issues related to the working and environmental conditions in ship recycling areas. Ships sent for scrap need to carry an “inventory of hazardous materials”, which will be specific to each vessel. At the same time, ship recycling yards will be required to provide a “ship recycling plan”, to specify how each ship will be recycled, depending on its particulars and its inventory (Alexopoulos, 2014). It is questionable how local authorities can inspect this so-called inventory when the HKC is not in force, absent of legal basis to justify and enforce a maritime claim for violation of environmental legislation.

### 2.3 Related EU Regulations

The E.U. Waste Shipment Regulation tries to ensure the protection of the environment when waste is subject to shipment. It adapts the BC at EU level, as well as the

Basel "ban" by banning all exports of waste for dumping, whether hazardous or not, except to European Free Trade Association countries (European Commission, 2010). The regulation covers all vessels, which are "waste" as defined under the EU waste framework directive. In practice, enforcement of the statute is difficult when a ship becomes waste outside European waters, although national courts have made some decisions. Recent cases have shown the uncertainty of some federal authorities when and how to enforce the waste shipment rules about suspected end-of-life ships (Liu et al., 2015). In addition, Regulation No 1257/2013 refers to the establishment of an inventory of hazardous materials (in force 1-1-2016) and resembles the provisions of IMO HKC.

### 3. Conclusion

The main conclusion of the study centers upon the fact that the IMO Convention allows party flag ships after re-flagging to a non-party flag to be sent to a ship recycling facility in a non-party recycling state, thus encouraging states to engage in recycling even after not signing the Convention. In addition, the Convention does not allocate any final responsibility of clean-up to the ship owner. The convention addresses the reduction of the risks to human health and safety and the environment through several requirements, some of which are easy to fulfil, and not direct actions such as banning dismantling activities on beaches. The critical problems associated with ship recycling can be addressed with written procedures and documentation rather than by substantive prohibitions and specific methods.

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