

Press Release – NGOs Do Not Support Newly Approved EU Ship Recycling Regulation

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EU Council and Parliament Cave in to Shipping Industry Lobby

Lisez le communiqué en français "Des ONG décrient le nouveau Règlement européen sur le recyclage des navires"

Brussels, 27 June 2013 - The NGO Shipbreaking Platform and European Environmental Bureau (EEB), and the more than 160 environmental, human and labour rights organisations they represent, denounce the new EU Regulation on ship recycling voted today by the European Council, and already approved by the European Parliament, for effectively postponing and possibly ridding the EU with its responsibility to provide solutions to the global shipbreaking crisis. The NGO coalition warns that the Regulation will fail to change the current state of play. European shipping interests will continue to make 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 [1]. The Regulation may direct a very limited scope of ships registered under an EU flag to "green" listed ship recycling facilities, those that are built to adequately contain hazardous materials - an effective ban on the breaking of EU flagged ships on tidal beaches. But the Regulation does nothing to prevent shipowners 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 new EU law [2]. 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. "We fear that the Regulation will end up applying to very few ships" said Jeremy Wates, Secretary General of the EEB. "Unless an economic incentive for all ships calling at EU ports is rapidly introduced, circumvention of the law will persist, and the European shipping industry will continue to be at the heart of scandals involving severe pollution of coastal zones and exploitation of vulnerable workers in developing countries," he added. Recent studies have proposed an array of possible mechanisms to implement the polluter pays principle, which would focus on the shipowner, and have clearly shown that a financial incentive for proper ship recycling is legally feasible, enforceable, and necessary. [3] The NGOs welcome that the Council accepted the European Parliament's proposal to bind all ships calling at EU ports to have an inventory of hazardous materials (IHM) that are contained within the vessels' structure, a prerequisite for clean and safe ship recycling. The shipping industry already pledged years ago to equip vessels with such an IHM. Yet most ships go for breaking with an unknown amount of hazardous materials on board, many even falsely claiming to be toxic free. The Parliament also succeeded in convincing the Council to support requirements for ship recycling facilities that go beyond those set in the International Maritime Organisation's - yet to enter into force - Hong Kong Convention. Most importantly, beaching sites will not be approved for EU listing, which prevents EU flagged ships from being beached. But, large shipping nations such as Greece, Malta, Cyprus blocked additional measures proposed by the European Parliament to strengthen the Regulation, such as ensuring traceability of hazardous wastes dumped in developing countries and clearly linking liability for these wastes to the polluter, who in this case is the shipowner. "We are concerned that the shortcomings of the Regulation will make it ineffective, and worse still, that the EU could be setting a dangerous precedent for other industries that want to avoid being held accountable to international environmental laws" said Patrizia Heidegger, Director of the NGO Shipbreaking Platform. The ship recycling Regulation that was voted today in Council exempts ships from the European Waste Shipment Regulation, which aims at protecting developing countries from the dumping of hazardous wastes and incorporates the United Nations Basel Convention and its Basel Ban Amendment [4]. 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 the Basel Convention and its Basel Ban Amendment. Independent environmental law experts [5] and the European Council Legal Services [6] have warned of the illegality of the new Regulation. "Not only do the EU institutions create a legal dilemma for themselves, but also for all of the 27 European Member States that are Parties to the Basel Convention. All will have to reconcile the illegality of unilaterally acting in non-compliance with their international obligations", said Patrizia Heidegger. While the EU has failed to provide effective solutions to remedy the global shipbreaking crisis, the NGO Shipbreaking Platform is moving ahead with a market-based solution in an effort to hold the industry accountable. The Platform launched last week a data-driven website, www.offthebeach.org, which lists shipping companies that have commercially benefited from selling their end-of-life vessels for breaking on the beaches of India, Bangladesh and Pakistan. The aim of the campaign is to forge partnerships with industry leaders - recycling, shipping, cargo owners, etc. - to promote Clean and Safe Ship Recycling and to avoid business dealings with companies that continue to opt for beach breaking operations. "The fight for environmental justice in the shipping industry is far from over," said Patrizia Heidegger, "When political leadership fails us, it is time to pressure the marketplace by shaming substandard practices and directing customers to the green ship recyclers". **CONTACT:** Ingvild Jenssen Policy Advisor NGO Shipbreaking Platform ingvild@shipbreakingplatform.org +32 2 609 44 20 **NOTES:** [1] In 2012, 70 percent 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 shipowners 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. [2] 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 shipowners 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 shipowners 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. [3] The European Parliament and Council call on 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". 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 Profondo, 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. [4] The new ship recycling Regulation conflicts with the United Nations Basel Convention on the 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 law on ship recycling adopted yesterday removes hazardous waste ships from the scope of application of the European Waste Shipment Regulation. [5] 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) [6] Council of the European Union – *Opinion of the Legal Service 16995/12* - 28 November 2012