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RECYCLING OF SHIPS

Comments on the Report of the Correspondence Group: Selected cases of decommissioning of vessels indicating the need for mandatory requirements

Submitted by Greenpeace International

SUMMARY

Executive summary: This submission presents examples involving the decommissioning of vessels in support of Greenpeace's view that there is an urgent need for mandatory requirements for ship recycling.

Action to be taken: Paragraph 2

Related documents: MEPC 47/WP.13; MEPC 47/3/2; MEPC 48/21, paragraphs 3.1 to 3.28; MEPC 49/3/1

1 Introduction

1.1 The report of the Correspondence Group on the Recycling of Ships notes that the MEPC agreed that the Guidelines should be not, initially at least, of a mandatory nature. The Committee also instructed the Correspondence Group to use the voluntary Industry Code of Practice as a base document in its work (MEPC 49/3/1, paragraph 1.1).

1.2 Greenpeace recognises that the guidance offered in the voluntary Industry Code of Practice (MEPC 47/3/2) and the draft IMO Guidelines (MEPC 49/3/1) is of value. However, Greenpeace remains concerned that neither of these documents are adequate to protect workers or the environment. This concern occurs in part because neither text contains effective mechanisms to monitor or ensure compliance. A further issue of major concern is that neither text provides adequate guidance for companies, courts and governments on how they should deal with the export of ships for scrapping in a manner which is fully consistent with other existing international commitments.

1.3 The annex to this paper presents summaries of cases that highlight reasons why Greenpeace considers that mandatory arrangements are urgently required. The cases concern four vessels - the *Sandrien*, the *Sea Beirut*, the *Forthbank* (renamed *Pacific Emerald*), and the *Silver Ray* (renamed *Naxos I*).

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1.4 In three of these cases, Governments involved sought to ensure that the vessels would not be scrapped without hazardous material being removed prior to the scrapping process commencing. The actions of these Governments are now backed by Court decisions. In one case, the Government authorities allowed the export of a ship containing hazardous material.

1.5 Greenpeace considers that all four cases clearly illustrate the urgent need for a mandatory regime to regulate and make consistent the decommissioning and scrapping of ships.

2 Action Requested of the Committee

2.1 The Committee is invited to take note of the information concerning the individual cases annexed to this note in its consideration of the draft Guidelines on the Recycling of Ships.

2.2 In doing so, it is urged to consider further the need to make mandatory the requirements concerning the decommissioning and scrapping of vessels.

ANNEX

SUMMARIES OF CASES INVOLVING THE DECOMMISSIONING AND
SCRAPPING OF VESSELS**1. Sandrien**

The *Sandrien* is the first ship-for-scrap recognised by a Dutch court as a hazardous waste.

The *Sandrien* is a chemical tanker built in 1974. Shortly after its arrival in Amsterdam - in August 2000 - inspections showed serious corrosion and there was concern that the vessel might not be watertight. The vessel would only be allowed to depart Amsterdam after undergoing major repairs and with major constraints. However, before the vessel departed, the authorities considered that it appeared that the sole reason for its 'final voyage' was in order for the vessel to be scrapped in Asia. The *Sandrien* contained asbestos, heavy metals and other toxic materials and it was considered that the owners – i.e. the producers of this waste - should apply for an export license for the waste.

In February 2001 the Dutch authorities served an order further preventing the departure of the *Sandrien*. The grounds were that there was a scrapping contract and that the *Sandrien* was bound for Asia. There had been no 'notification about the transboundary movement of waste to the competent authorities'. The presence of hazardous materials on board had been proven, including the presence of asbestos. It was considered that the export to Asia of a ship 'not properly emptied' of such waste would violate the European Waste Shipment Regulation (EWSR).

After several court procedures, the Council of State in the Netherlands ruled in June 2002 that an "end of life vessel" not properly emptied of hazardous materials should be classified as hazardous waste. It was the first ever legal recognition that a ship containing asbestos must be treated as hazardous waste. The *Sandrien* was not allowed to leave for scrapping at least until it would be properly emptied of hazardous materials.

It remains unclear who is going to ensure the clean demolition of the *Sandrien* and the vessel remains in the port of Amsterdam.

2. Sea Beirut

Turkey was the first ship-breaking country to refuse to accept a ship destined for scrapping on the basis of the requirements of the Basel Convention.

In 1999, following engine failure off Dunkirk, the 27-year old Liberian flagged *Sea Beirut* effectively was abandoned. The actual ship-owner was never traced and the Dunkirk port authorities became responsible for the ship. The European Waste Shipment Regulation (EWSR) states that if the ship-owner is unknown '...the person having possession or legal control of the waste (the holder)' is responsible. It also says that this person is obliged to '...notify all competent environmental authorities.'

The Dunkirk port authorities auctioned the ship and it was sold to the German company MSK which is believed to act on behalf of the Turkish ship-breaking company CEMSAN. Greenpeace enquiries and investigations demonstrated that the port authorities were aware that the *Sea Beirut* contained asbestos when it was auctioned and that its tanks were filled with fuel.

The *Sea Beirut* left Dunkirk April 2002 destined for CEMSAN in Aliaga, Turkey. The relevant authorities ought to have been aware that the vessel's structure and tanks contained hazardous waste and the vessel was intended for scrapping. Both the Basel Convention's and the EU's waste regulations would appear to have been breached.

When the vessel arrived in Turkey, officials from the Ministry of Environment took samples that confirmed the presence of hazardous waste. In accordance with the applicable Turkish law the Minister refused to accept the waste and insisted that the vessel should return to 'the country of origin'. This is due to the fact that, under the Basel Convention, a State of Export is 'a Party from which a transboundary movement of hazardous waste or other wastes is planned to be initiated or initiated.' France, thus, became the State of Export and responsible for the export of this 'ship-for-scrap'.

France refused to take back the *Sea Beirut*. In Turkey CEMSAN asked the court to suspend the ministerial-level decision of May 2002. In November the Turkish Administrative court rejected the appeal of the shipbreaking company. It ordered the *Sea Beirut* to be sent back to France before December 23rd. As France persisted in its refusal, Turkey informed the Basel Convention Secretariat about the export of toxic waste.

The *Sea Beirut* is still anchored before the coast of Aliaga.

3. Forthbank

In 1999, the *Forthbank* was the first ship-for-scrap arrested in Belgium as a hazardous waste export. After a short interval the arrest order on the 26-year old bulk carrier was lifted.

In December 1999, the Belgian Government was informed about the apparent intention of the owner of the vessel, currently in Antwerp harbour, to scrap the bulk carrier in Alang, India. Greenpeace requested the Belgian authorities carry out a full inventory of all hazardous constituents on board.

The Flemish Waste Department carried out two inspections of the *Forthbank* which lead the authorities to detain the *Forthbank* on 'the suspicion it was not properly emptied of hazardous materials'. It was considered that the export of the vessel for dismantling in a non-OECD country would be a violation of the European Waste Shipment Regulation (EWSR) and of the Basel Convention. The registered owner maintained that the *Forthbank* was not going for scrap and provided a declaration from the insurance company and the Belgian prosecutor lifted the arrest order. However, the Belgian government warned the owner that legal action could be taken if the *Forthbank* went to India or any other non-OECD country for demolition following its departure from Antwerp.

The *Forthbank* departed Antwerp harbour on the basis of its insurance papers that required it to continue sailing for another three years. The vessel ended its sailing life in 2002. It was scrapped at the beaches of Chittagong in Bangladesh.

4. Silver Ray

In 2002 the Belgian government required that a ship intended for export for scrapping - the *Silver Ray* - should be decontaminated prior to export. The ship-owner refused and sold the ship. At this time, the *Silver Ray* remains in Antwerp harbour.

In May 2002 the *Silver Ray* suffered a heavy fire accident. The vessel was declared to be a Construction Total Loss (CTL) and had to stay in Antwerp. Greenpeace informed the Belgian authorities about the intention of the Greek owner Stamco Shipping to scrap the vessel in an Asian country.

Greenpeace visited the *Silver Ray* on 3 October 2002 and samples from the ship were taken which revealed the presence of asbestos.

The Belgian Minister of Environment Vera Dua stated on 9 October 2002 that she would '*do everything possible to make sure the vessel is not exported for scrap to Asia without being cleaned first*'. The international rules on the export of waste were to be applied to *the Silver Ray*. In a letter the Minister 'considers the ship 'is' hazardous waste as long as it is not properly emptied of any cargo and other materials that can be classified as hazardous'.

The vessel was sold and renamed *Naxos I*. The owner declared that the ship was to be repaired before sailing.

The owner was required first to clean the ship from its toxic cargo - 2400 vehicles damaged by the fire accident. It became evident that this decontamination process happened in an irregular and illegal way and had to be halted on several occasions. Once completed, however, the owner still refused to decontaminate the ship itself.

In February 2003, the competent Court decided the *Silver Ray* (now *Naxos I*) was hazardous waste. It was determined that the Basel Convention and its Protocol should be followed with the consequence that the vessel cannot leave Antwerp without first being decontaminated of hazardous waste material.

The owner disputes the competence of the Belgian authorities and, at this moment, the ship still lies in the Antwerp harbour awaiting a final decision.