



MARINE ENVIRONMENT PROTECTION  
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Agenda item 3

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## RECYCLING OF SHIPS

### Comments on the Report of the Correspondence Group: Compliance with the Basel Convention

Submitted by Greenpeace International

#### SUMMARY

**Executive summary:** This submission refers to the need to ensure that IMO Guidelines on the Recycling of Ships are in full compliance with the requirements of the Basel Convention.

**Action to be taken:** Paragraph 3

**Related documents:** MEPC 49/3/1; UNEP/CHW.6/23; UNEP/CHW.6/40;  
UNEP/CHW.6/17

## 1 Introduction

1.1 In accordance with paragraph 46.5 of the revised Guidelines, circulated as MSC/Circ.931/MEPC/Circ.336, Greenpeace International submits the following comments on IMO document MEPC 49/3/1, concerning the draft IMO Guidelines on the Recycling of Ships.

1.2 Greenpeace is concerned that requirements of the Basel Convention, and the principles and guidelines subsequently developed pursuant to its requirements, are not fully reflected in the draft IMO Guidelines on Ship Recycling proposed by the Correspondence Group. Some sections may actually conflict with the requirements of the Basel Convention<sup>1</sup>. It should also be noted that the Parties to the Convention are continuing to consider in detail legal issues relating to the dismantling of ships and the Basel Convention.

## 2 Basel requirements relating to shipping

2.1 The Sixth Conference of the States Parties to the Basel Convention (December 2002) stated the expectations of the Basel Parties with respect to ship recycling, including the need for on-going co-operation with IMO and ILO. In Decision VI/24 it adopted the Technical Guidelines for the Environmentally Sound Management of the Full and Partial Dismantling of Ships (UNEP/CHW.6/23).

<sup>1</sup> See attached annex for technical remarks.

2.2 While the Basel Guidelines do not currently fully address measures to **minimise the hazardous materials aboard a ship prior to it being sent to a ship recycling facility, the Parties agreed that such waste minimisation guidelines are an important part of addressing the problems associated with ship recycling** (*emphasis added*).

2.3 The Basel Guidelines identified some preparatory procedures that should be implemented on the vessel **prior to its voyage for dismantling**. These include: preparation of an inventory; removal of hazardous wastes and materials to the extent possible in best available facilities during the ships life cycle and **prior to its voyage for dismantling. Dealing with any residual such materials should be done prior to commencing cutting** operations to ensure that the ship is presented for dismantling in a clean and safe condition (*emphases added*).

2.4 In addition, the States Parties to the Basel Convention agreed that the proposed actions in relation to the guidelines is that the Basel/COP6 '*encourages the IMO to consider establishing the necessary incentives for Shipowners to request Ship Dismantling in accordance with the Basel guidelines*'. This suggests that greater emphasis should be placed on the responsibilities of Shipowners for decontamination prior to recycling in the IMO Guidelines.

2.5 It is recognised that the IMO Guidelines were not drafted with the intention of making them mandatory - at this stage at least. However, it is important to ensure that they are fully in compliance with the Basel Convention's requirements, not least of all as a consequence of the mandatory obligations that this Convention imposes on its Parties.

### **3 Action requested of the Committee**

3.1 Greenpeace requests that the Committee reviews the draft IMO Guidelines in order to ensure that they take fully into account the requirements of the Basel Convention and decisions by the States Parties to the Convention.

3.2 The Committee is invited to take note of this information when considering the draft IMO Guidelines on the Recycling of Ships.

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## ANNEX

## TECHNICAL REMARKS

(Cfr: footnote 1 of Greenpeace International Submission: Comments on the Report of the Correspondence Group (MEPC 49/3/1): Compliance with the Basel Convention)

### I. Observations on Basel Provisions Applicable to Shipbreaking

*Some observations on Basel Convention provisions applicable to shipbreaking follow. Some references to the current draft IMO Guidelines are made.*

- There are serious risks involved in shipbreaking due to the past use of hazardous substances such as asbestos and PCBs on ships, as well as the physical risks involved in the cutting and manipulating of large pieces of steel and explosives danger from gas and fuel residues. Ship recycling is one of the most hazardous forms of employment known. In developing countries, it is a very serious concern. The product stewardship and polluter pays principle asserts a primary responsibility for end of life management of wastes with those producing the wastes. Thus, responsibility for safe and proper dismantling of ships lies primarily with the shipping industry. *References: Preamble*
- A ship becomes a waste when it is intended to be disposed of, regardless of whether it is operating, functioning or continues to generate income: article 2(1) of the Basel Convention. A time-expired ship will be considered waste under the Basel Convention when that intent has been formed. *References: 1.2, 6.9.3*
- The following provisions of the Basel Convention affect Parties as ship owners or other stakeholders:

art. 4(2)(a): the obligation to ensure that the generation of hazardous wastes within it is reduced to a minimum; art. 4(2)(b) – the obligation to ensure the availability of adequate disposal facilities within its boundaries; art. 4(2)(d) – the obligation to ensure that the transboundary movement of hazardous wastes be reduced to the minimum and art. 4(2)(e) – the obligation not to allow hazardous wastes to be exported to a State if the exporting Party has reason to believe that the waste will not be managed in an environmentally sound manner.

To this end, States Parties must ensure that new ships are built with a minimum of hazardous substances onboard, ensure the decontamination of vessels prior to dismantling and provide guidance in this regard, and encourage recycling after hazardous substances are safely removed and disposed of in an environmentally sound manner.

Even if Parties are not shipowners themselves, art. 4(4) of Basel requires that Parties implement and enforce its provisions. This requires the Parties to translate their Basel obligations into domestic law or application, passing the above obligations to shipowners and other stakeholders.

Ship and equipment designers must recommend designs to ship operators that minimise or prevent waste at source in the operating life of the ship, and ship owners and operators must ensure that such waste and hazard minimization must take place in new design and in life-cycle operations. Administrations of flag States and ship building States must require shipbuilders to keep to a minimum the use of hazardous materials in ship construction.

Art. 4(7)(b) of Basel requires the proper labeling, packaging, and transport of hazardous wastes, so at the end-of-life of vessels, the asbestos, PBC waste, etc. in the vessel must be properly labeled. Once the ship becomes a waste (i.e. after its disposal is intended), these hazardous wastes must be properly put in an inventory to ensure immediate compliance and proper decontamination.

Any transboundary movement of a ship containing hazardous wastes or deemed a hazardous waste must comply with all provisions of Basel and its Decisions. The Basel Decisions I/22, II/12 and III/1 preclude the export of hazardous wastes from OECD member states to non-OECD states. The Basel Convention will soon be conducting work on the special legal ramifications of ships as wastes.

The principle of decontamination prior to export for dismantling must be implemented. All hazardous materials should be removed prior to a ship's final voyage. Asbestos, PCBs and other persistent organic pollutants (POPs) materials arising from the ship dismantling operations must not be recycled and POPs wastes must be disposed of consistent with the Stockholm Convention. Recycling States must require prior decontamination of vessels.  
*References:* Key Principles, 3.1, 5.1 5.2, 5.4, 6.1.1, 6.3.2, 6.4, 6.9.3

## II. Suggested Changes

- **1.2 Existing text:** *“Disposal refers to ... international controls.”*  
**Comment:** This definition is not consistent with the Basel Convention, art 2(4) of which defines ‘disposal’ to mean any operation specified in Basel Annex IV, which includes a lengthy list of operations, including recycling. Further down, Paragraph 6.9.1 suggests that disposal does not include recycling.  
**Suggestion:** 1. Replace text to read: *“Disposal includes any operation specified in Annex IV to the Basel Convention. It is understood that such material would need to be managed in an environmentally responsible manner consistent with the Basel Convention and other international and local controls.”* 2. Replace the words *“recycling or final disposal”* in para. 6.9.1 with the word *“disposal”*.
- **1.2 Existing Text:** *“Hazardous wastes... as defined below.”*  
**Comment:** These Guidelines must not re-define hazardous waste. There is an international regime for doing this: the Basel Convention, art. 1 of which defines hazardous wastes. The terms ‘hazardous waste’ and ‘hazardous materials’ are used indiscriminately in the text. In general, the term ‘hazardous waste’ should be used throughout.  
**Suggestion:** Replace the words *“Hazardous wastes refer to hazardous materials as defined above that are considered to be wastes as defined below”* with *“Hazardous wastes are wastes as defined in Article 1 of the Basel Convention.”* Make appropriate changes in the text..
- **6.2.1 Existing Text:** *“In most cases, ...(see Recycling State below).”*  
**Comment:** The statement fails to take into consideration the obligation of Parties to the Basel Convention, many of whom may be a port State.  
**Suggestion:** Replace the above text with: *“A number of States may be in a position to control issues related to a ship destined for recycling in addition to the Recycling State (the port where the recycling operation is to take place). There will be times when a Port State is under obligations in the Basel Convention as a state of export, import or transit. The flag State may also be under obligations. Presently, the definite obligations of port States with regard to ship deliveries for dismantling is still being considered by the Basel Convention.”*
- The term Green Passport is misleading. A ship is not “green” simply by knowing what the environmental hazard might be. It should be called an inventory of hazard. *References:* 2.1
- The exporting port State must assume its role as exporting State under Basel. *References:* 6.2
- The Basel Parties concluded in Decision II/12 that exports of hazardous wastes to developing countries did not constitute ESM and should therefore be banned. Many consider the export of ships that contain hazardous substances that are destined for disposal to be hazardous wastes under the Convention and subject to the Basel Ban Amendment. *References:* 6.9
- Due to the ongoing work in Basel, the present IMO Guidelines may need to be revisited to conform and complement the outcome of the work by the Basel Convention. *References:* 6.9
- Exports of hazardous wastes depend on cheap labor and lax environmental standards and enforcement in developing countries, and not the lack of ESM facilities. *References:* 6.9.3
- Dumping a vessel at port or at sea is within the jurisdiction of Basel as vessels disposed of as wastes by their owners, and containing hazardous wastes controlled under Basel. Art. 6 of Basel requires prior written consent of the State of import. Failure to follow the Art. 6 procedure of the Convention necessitates the application of Art. 9, which defines illegal traffic and imposes the take-back obligation by the exporter of the waste. *References:* 6.10.2.