

Ship recycling

2012/0055(COD) - 08/08/2017 - Follow-up document

In accordance with Article 29 ('Financial incentive') of Regulation (EU) No 1257/2013 on ship recycling, the Commission presented a report on the feasibility of a financial instrument that would facilitate safe and sound ship recycling.

Each year, hundreds of large ships are sold for dismantling on the tidal beaches of South Asia, with adverse consequences for the environment and human health.

Difficulties in enforcing the Basel Convention with regards to ships led to the adoption of the Hong Kong Convention in 2009 and the European Ship Recycling Regulation in 2013. The Ship Recycling Regulation sets **more stringent requirements than the Convention**, notably with regards to health, safety and the environment.

The primary instrument is the **European List of ship recycling facilities**. No later than 31 December 2018, EU-flagged ships may only be recycled in listed facilities.

State of play of research: it is recalled that a financial instrument was already considered in the lead up to the adoption of the Hong Kong Convention. A 2005 study called for a 'Ship Recycling Fund' tasked with collecting fees and disbursing funds for environmentally sound scrapping.

Taking a different approach, the Hong Kong Convention contains a 'funding' clause in its article on technical cooperation, on the basis of voluntary contributions.

In 2014, the Commission ordered a study to inform the present report. After discarding several options, the study identified a new option – the **Ship Recycling Licence**. Its key principles are the following:

1. ships calling at EU ports would obtain a prior licence from a centralised agency (e.g. an existing European agency);
2. when applying for the Licence, ship owners would be charged a contribution. The contribution would cover a small administrative retribution (0.8%) and a premium earmarked to the individual ship (99.2%);
3. the premium levied would depend on the capital amount that needs to be accumulated to bridge the financial gap between dismantling in a substandard yard and dismantling in a yard included on the European List at the end of the ship's lifetime;
4. the full capital amount would be paid to the ultimate owner of the ship on a condition that the ship was sent to a ship recycling facility on the European List;
5. the penalty for not opting for recycling in a facility included in the European List would be a forfeiture of the accrued rights;
6. to avoid a system working disproportionally against ships with either very high or very low port call frequency, the Licence validity would be time-based rather than based on the number of calls.

Perspectives: while acknowledging the merits of a potential Ship Recycling Licence (the most promising option assessed thus far), the Commission is aware that a number of issues deserve further analysis, including with regard to the **compatibility of such a potential financial instrument with EU and international law**.

The report noted in this respect that a legal opinion commissioned by the **shipowner organisations** further describes the Ship Recycling Licence as a '**primary fiscal measure**'. It suggested that the EU

would have no competence to administer an EU ship recycling scheme and infers an incompatibility with the UN Law of the Sea Convention (UNCLOS), with World Trade Organisation rules and the Principle of Common but Differentiated Responsibilities.

In contrast, the NGO Shipbreaking Platform published a position paper in October 2016 supporting the legal arguments of the 2016 study.

The Commission concluded that the need for additional measures on financial incentives will be **reassessed at a later stage**, based on an analysis of the use and effects of the European List of ship recycling facilities.