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RECYCLING OF SHIPS

Ready for Recycling Criteria

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SUMMARY

Executive summary: ICS *et al* comment upon the ready for recycling provisions of the draft International Convention for the Safe and Environmentally Sound Recycling of Ships and propose modifications to the draft Requirements

Action to be taken: Paragraph 23

Related documents: MEPC-ISRWG 2/2, MEPC 55/3/16 and MEPC 55/INF. 12

Introduction

1 This document is submitted in accordance with the provisions of paragraph 4.10.5 of the Committee's Guidelines (MEPC/Circ.405).

2 It is noted that the processes leading to the issuing of a Ready for Recycling Certificate, and the certificate itself, will be an important enforcement mechanism for the Convention and the improvement of safety, health and environmental conditions and practices in the recycling industry.

3 The shipping industry has, in previous submissions to the Committee, made detailed observations on the complexity of sale processes for end of life ships. It is felt, in light of the draft Convention, that the ready for recycling criteria may significantly impact upon these processes and increase liabilities and risks for stakeholders if due consideration is not given to the commercial realities of ship recycling in their formulation.

4 For the Convention to be effective in the context of the global ship recycling market, any compliance mechanism to enforce the ready for recycling concept must be proportionate, balancing the obligations of Parties under its provisions realistically, and ensuring that it does not unnecessarily burden stakeholders or create new obstacles and risks during sales.

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5 Bearing this in mind, industry provides comments on the ready for recycling concept as currently described in the draft Convention with a view to identifying shortfalls, clarifying its terms and criteria and proposing a means by which it could be developed into an operationally feasible system to support and reinforce the Convention.

Need for greater clarity

6 It is currently difficult to establish the actions required of stakeholders to confirm ready for recycling status due to the distribution of the relevant provisions throughout the draft Convention. In certain instances these provisions seem not to be coherent and this acts as a considerable impediment in defining what operational obligations will exist under the Convention and how any ready for recycling mechanism might work.

7 An example of such a discrepancy can be seen when considering regulation 18.2.1 which requires recycling facilities to only accept ships that comply with the Convention.

8 Depending on the interpretation of “accept” and “comply”, 18.2.1 can be read to state that yards may only begin a dialogue on a sale of a ship with owners who have a ready for recycling certificate since 8.1.5 clearly states that ships destined to be recycled “shall be certified as ready for recycling ... prior to any recycling activity taking place”. A ship without a certificate is therefore not authorized in accordance with the Convention and yards would not be able to commence the early stages of recycling, such as drafting a Recycling Plan.

9 Unfortunately, for a ship to obtain the ready for recycling certificate, a dialogue must be opened with the yard to establish if it can handle the vessel in question and to begin the process of drafting the Ship Recycling Plan required by the Administration which forms an important criterion for establishing the ready for recycling status. Thus a Catch 22 situation would effectively arise where owners require ready for recycling status to be able to sell to a yard, but cannot obtain it due to the fact that the contact needed with the yard to establish that ready for recycling status is impossible, since yards themselves are unable to accept ships without the certificate.

10 A less restrictive interpretation of this provision which could allow negotiation and exchange of information between stakeholders could still create commercial obstacles due to apparent uncertainties in the approval requirements for recycling States.

11 It is evident from other work that such a discrepancy and interpretation was not intended by the authors of the Convention, yet the fact that it exists in what will ultimately be the principal mechanism for enforcing the provisions in the crucial sales period only serves to reinforce the need for a consolidation of the ready for recycling criteria. Consolidation into a single location in the text of the Convention would clarify requirements on parties and stakeholders.

Commercial risk

12 The process by which ready for recycling status may be conferred is established in the Convention as a number of interrelated actions undertaken by shipowners and ship recyclers, consequently verified and authorised by Administrations. These requirements are found in different sections of the instrument which creates uncertainty in the relationship between ships’ sales and ready for recycling status. When brought together, the various provisions, produce the following picture of how the ready for recycling process would exist:

- a. the shipowner decides to recycle a vessel;
- b. a yard is selected;
- c. the Inventory of Hazardous Materials is completed and certified;
- d. information is submitted by the shipowner to the recycling facility to facilitate the drafting of the Ship Recycling Plan;
- e. the Ship Recycling Plan is drafted by the ship recycling facility and agreed;
- f. the Flag Administration certifies the ship as ready for recycling;
- g. the ship recycling facility reports its intention to recycle to its administration; and
- h. the Recycling State Administration notifies the ship recycling facility that recycling can begin.

Within this process the owner may also have to arrange the removal of certain materials onboard in order to comply with the Ship Recycling Plan.

13 It is a significant concern that this process will cause considerable commercial, practical and logistical instabilities and work against the objectives of the Convention.

14 A particular concern is the fact that it is extremely difficult to see where in this process the owner and ship recycler could feasibly agree a contract of any commercial or legal value. As things stand owners could fulfil their obligations under the Convention, including the removal of certain materials from the ship in accordance with a recycling plan, only for the sale to be denied by either their own administrations or that of the recycling State. It would be counterproductive for the Convention to create obstacles and these could have consequences for its adoption and application.

15 The Convention's requirement that States only give approval for sale at the very end of the ready for recycling process generates further commercial obstacles since all actions prior to that approval, despite being integral to the sale itself, must effectively be undertaken on a basis of trust. This is not a sound basis for large business transactions such as ship recycling, and it is industry's belief that an outcome of this kind could significantly limit the application of the Convention.

16 It is felt that the requirements must be approached in a logical manner taking into account timescale, geography and the commercial realities of selling a ship for recycling, including the physical location of the ship during its final voyage.

Time delays and certification

17 The absence of any linkage between the ordinary timescale for sales of ships for recycling and the ready for recycling process described throughout the Convention also has a potential to create problems. It needs to be recognised that a number of parameters influence a shipowner's decision on when and where to recycle a ship. These parameters often change without notice and thus have an impact upon the sale and delivery period.

18 The increased contact between stakeholders and Administrations required by the Convention may well result in increased timescales for sales, thus opening them to further commercial risks. It is likely that this will see sales subjected to near continual renegotiation in light of market changes, further slowing the process of selling ships for recycling to the detriment of the Convention's effectiveness.

19 The detrimental effects of an extended and unstable sale process might complicate the completion and certification of the Inventory of Hazardous Materials. It should be recalled that parts two and three of the inventory will have to be predicted, based on the quantities of stores and bunkers expected to be used on the final voyage and in the process of delivering the ship to the facility. An extended sale period, in which questions exist as to whether a ship will ultimately be accepted for recycling at all, makes the formulation of data necessary for the completion of the Inventory considerably more difficult.

20 Given the fundamental importance of the inventory to the success of the Convention as a whole means that this matter requires urgent consideration.

Proposed solutions

21 If the ready for recycling process is to be effective in operational situations then it must bear relation to the ordinary sale of ships and facilitate that process in its enforcement of the Provisions. In this regard it is proposed that several actions be considered:

- .1 the relevant ready for recycling criteria distributed throughout the Convention should be consolidated in regulation 10. This will help clearly establish the process by which ready for recycling is achieved and ensure that there can be no misunderstanding as to the roles of stakeholders and parties;
- .2 taking into account subparagraph .1, the Committee is also invited to bear in mind the significant commercial risks associated with ship recycling; and
- .3 the ready for recycling process has the potential to cause delay to the final sale of the ship, and the Committee is invited to take this into account and keep the provisions as simple as possible.

Conclusion

22 It is suggested that the overall strength of the Convention and the facilitation of its entry into force would be best served by taking into account the commercial and practical issues described above and through a consolidation of the text.

Action requested of the Committee

23 The Committee is invited to consider the above comments and decide as appropriate.