

MARINE ENVIRONMENT PROTECTION  
COMMITTEE  
82nd session  
Agenda item 16

MEPC 82/16  
11 July 2024  
Original: ENGLISH  
Pre-session public release:

## ANY OTHER BUSINESS

### Draft guidance on the implementation of the Hong Kong and Basel Conventions regarding the transboundary movement of ships intended for recycling

#### Note by the Secretariat

#### SUMMARY

*Executive summary:* This document contains draft guidance on the implementation of the Hong Kong Convention and the Basel Convention with respect to the transboundary movement of ships intended for recycling, developed by the Secretariat as requested by MEPC 81. The draft guidance, set out in the annex, presents an option that Parties to the two Conventions may wish to consider in their efforts to provide clarity with respect to the transboundary movement of ships intended for recycling.

*Strategic direction, if applicable:* 7 and 8

*Output:* 7.1 and 8.1

*Action to be taken:* Paragraph 7

*Related documents:* MEPC 81/15/5 and MEPC 81/16

#### Introduction

1 The Marine Environment Protection Committee, at its eighty-first session (18 to 22 March 2024), requested the Secretariat to develop draft guidance on the interplay between the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 (Hong Kong Convention) and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention) regarding ship recycling, in consultation with the Basel Convention Secretariat, for consideration at MEPC 82 (MEPC 81/16, paragraph 15.13).

#### The Basel Convention

2 The overarching objective of the Basel Convention is to protect human health and the environment against the adverse effects of hazardous wastes and other wastes requiring special consideration. The provisions of the Basel Convention centre around the following

principal aims: (1) the reduction of hazardous wastes and other wastes generation and the promotion of their environmentally sound management, wherever the place of disposal; (2) the restriction of transboundary movements of hazardous wastes and other wastes; and (3) a regulatory system applying to cases where transboundary movements are permissible. Since its adoption in 1989 and entry into force in 1992, the Basel Convention has seen a number of significant developments. On 5 December 2019, the "Ban Amendment", prohibiting transboundary movements of all hazardous wastes covered by the Convention from countries listed in annex VII to the Convention (Parties and other States which are members of the OECD, EC and Liechtenstein) to all other countries, entered into force.\*

### **The Hong Kong Convention**

3 The Hong Kong Convention is an international framework to regulate ship recycling by embracing a cradle-to-grave approach of control and enforcement, including ships' design, construction, operation, maintenance, repair and recycling. The Convention, which was adopted in 2009 and will enter into force on 26 June 2025, is aimed at minimizing the environmental, occupational health and safety risks associated with ship recycling, taking into account the particular characteristics of international shipping.

### **Draft guidance on the implementation of the Hong Kong and Basel Conventions with respect to the transboundary movement of ships intended for recycling**

4 The Secretariat of the Basel Convention has advised the IMO Secretariat that it was not in a position to contribute to the development of the draft guidance until the matter had been considered by the Conference of the Parties at its seventeenth meeting (COP-17), which is scheduled to take place from 28 April to 9 May 2025, in Geneva, Switzerland.

5 Consequently, the draft guidance was developed solely by the IMO Secretariat, in view of the impending entry into force of the Hong Kong Convention in June 2025 and taking into account the close proximity of COP-17 to the Basel Convention and that entry-into-force date. In preparing the draft guidance, the Secretariat, inter alia, also took note of the following:

.1 Article 15 of the Hong Kong Convention, which reads as follows:

"1 Nothing in this Convention shall prejudice the rights and obligations of any State under the United Nations Convention on the Law of the Sea, 1982, and under the customary international law of the sea.

2 Nothing in this Convention shall prejudice the rights and obligations of Parties under other relevant and applicable international agreements";

.2 the penultimate preambular paragraph of Decision VII/26 of the seventh meeting of the COP to the Basel Convention, which reads as follows:

"*Realizing* that States have distinct obligations as Parties to the United Nations Convention on the Law of the Sea and relevant International Maritime Organization conventions, including obligations of States in their capacities as flag States and as Parties to the Basel Convention, including obligations in their capacities as States of Export, and that States should be able to meet these obligations in a consistent manner"; and

---

\* <https://www.basel.int/TheConvention/Overview/tabid/1271/Default.aspx>

---

.3 Article 11 of the Basel Convention, which contains a specific requirement in relation to bilateral, multilateral and regional agreements, and reads as follows:

"1 Notwithstanding the provisions of Article 4 paragraph 5, Parties may enter into bilateral, multilateral, or regional agreements or arrangements regarding transboundary movement of hazardous wastes or other wastes with Parties or non-Parties provided that such agreements or arrangements do not derogate from the environmentally sound management of hazardous wastes and other wastes as required by this Convention. These agreements or arrangements shall stipulate provisions which are not less environmentally sound than those provided for by this Convention in particular taking into account the interests of developing countries.

2 Parties shall notify the Secretariat of any bilateral, multilateral or regional agreements or arrangements referred to in paragraph 1 and those which they have entered into prior to the entry into force of this Convention for them, for the purpose of controlling transboundary movements of hazardous wastes and other wastes which take place entirely among the Parties to such agreements. The provisions of this Convention shall not affect transboundary movements which take place pursuant to such agreements provided that such agreements are compatible with the environmentally sound management of hazardous wastes and other wastes as required by this Convention."

6 The interpretation of treaties is the sole prerogative of the States Parties thereto. Therefore, the draft guidance set out in the annex is presented purely as an option that Parties to the Hong Kong Convention and the Basel Convention may wish to consider in their efforts to provide clarity with respect to the transboundary movement of ships destined for recycling.

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

7 The Committee is invited to consider the draft guidance on the implementation of the Hong Kong Convention and the Basel Convention regarding the transboundary movement of ships intended for recycling, as set out in the annex, and take action as it deems appropriate.

\*\*\*



## ANNEX

### **DRAFT GUIDANCE ON THE IMPLEMENTATION OF THE HONG KONG CONVENTION AND THE BASEL CONVENTION REGARDING THE TRANSBOUNDARY MOVEMENT OF SHIPS INTENDED FOR RECYCLING**

Member States may wish to take into account the following guidance in relation to the implementation of the requirements of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 (Hong Kong Convention) and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention):

- .1 States that are Parties to the Hong Kong Convention but are not Parties to the Basel Convention should apply the requirements of the Hong Kong Convention;
- .2 States that are Parties to the Basel Convention but are not Parties to the Hong Kong Convention should apply the requirements of the Basel Convention, including its Ban Amendment, if they have expressed their consent to be bound by it; and
- .3 States that are Parties to both the Hong Kong Convention and the Basel Convention, including Parties that have expressed their consent to be bound by the Ban Amendment, and are of the view that the provisions of the Basel Convention should not affect the transboundary movements that take place pursuant to the Hong Kong Convention, may consider notifying the Secretariat of the Basel Convention as follows:

"In accordance with Article 11 of the Basel Convention, the Basel Convention Secretariat is hereby notified that [name of the State that is a Party to both the Hong Kong Convention and the Basel Convention] is a Party to the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 (Hong Kong Convention) and will apply the Hong Kong Convention's requirements in respect of transboundary movements of ships\* intended to be recycled at a ship recycling facility that has been authorized in accordance with the Hong Kong Convention and is situated under the jurisdiction of a Party to the Hong Kong Convention.

Relevant arrangements have been made to ensure environmentally sound management of hazardous wastes and other wastes (arising from ship recycling) as required by the Basel Convention. Consequently, the provisions of the Basel Convention shall not affect transboundary movements which take place pursuant to the Hong Kong Convention."

---

\* Ships that fall within the scope of article 3 (Application) of the Hong Kong Convention.