



European Union Network for the Implementation  
and Enforcement of Environmental Law

# 2021/02 End of Life Ships

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*Final report 2019-2021*

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## Introduction to IMPEL

The European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) is an international non-profit association of the environmental authorities of the EU Member States, acceding and candidate countries of the European Union and EEA countries. The association is registered in Belgium and its legal seat is in Brussels, Belgium.

IMPEL was set up in 1992 as an informal Network of European regulators and authorities concerned with the implementation and enforcement of environmental law. The Network's objective is to create the necessary impetus in the European Community to make progress on ensuring a more effective application of environmental legislation. The core of the IMPEL activities concerns awareness raising, capacity building and exchange of information and experiences on implementation, enforcement and international enforcement collaboration as well as promoting and supporting the practicability and enforceability of European environmental legislation.

During the previous years IMPEL has developed into a considerable, widely known organisation, being mentioned in a number of EU legislative and policy documents, e.g. the 7th Environment Action Programme and the Recommendation on Minimum Criteria for Environmental Inspections.

The expertise and experience of the participants within IMPEL make the network uniquely qualified to work on both technical and regulatory aspects of EU environmental legislation.

Information on the IMPEL Network is also available through its website at: [www.impel.eu](http://www.impel.eu)

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<p><b>Executive Summary</b></p> <p>The project has focused on how illegal export of ships for recycling could be prevented, and how authorities can follow up cases where ships already have been recycled illegally. The project has shown that enforcement of the Ships Recycling and Waste Shipment regulations is challenging. Enforcement is shared between different authorities in many Member states, and the project has discovered that Member States also interpret the regulations differently. National and international cooperation between the authorities is essential to prevent illegal ship recycling, and guidance is needed. We hope this project report, the fact sheet developed, and the webinars arranged, will be a useful support for the authorities in their work to prevent and enforce illegal ship recycling.</p>	
<p><b>Disclaimer</b></p> <p>This report is the result of a project within the IMPEL network. The content does not necessarily represent the view of the national administrations or the Commission.</p>	

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## 1. Purpose of the project and background

The scrapping of hundreds of end-of-life seagoing vessels per year worldwide is mostly done in recycling facilities in South Asia under varying, partly low or doubtful environmental, occupational health and safety standards. More than 70 % of the gross tonnage dismantled globally in the recent years has taken place in Bangladesh, India and Pakistan<sup>1</sup>. Despite existing EU and international regulations, such as the Basel Convention, Regulation (EU) No 1257/2013 (Ship Recycling Regulation, SRR) and the Regulation (EC) No 1013/2006 on shipments of waste (Waste Shipment Regulation, WSR), which are intended to prevent or restrict the export of end-of-life vessels from Europe to less developed countries, a large proportion of formerly EU- flagged vessels continue to be scrapped in Asia. This IMPEL project has not focused on beaching itself, but on how illegal export of ships for recycling could be prevented, and how authorities can follow up cases where ships already have been recycled illegally.

In some cases, ship owners systematically circumvent the WSR through the practice of renaming, reflagging and changing the ownership of vessels within a shorter timeframe before the ships are sent for dismantling and recycling. Proving that the vessel is waste is a further hurdle that must be overcome to successfully enforce the regulations. The SRR applies to ships flying a flag of an EEA/EU Member State and ceases to apply when a ship changes flag to another State. Therefore, as changes of registration are common practice during a service life of a ship, its application can in many cases be legally avoided. The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships (The Hong Kong Convention) will apply for all seagoing ships of 500GT or more (no matter EU or non-EU-flag), but the convention is not yet in force, and it is not clear when it will enter into force.

The WSR implements at European level the requirements of the Basel Convention. Ships destined for recycling that are not regulated by the SRR shall be subject to the procedure of prior written notification under the WSR or they are subject to the Basel Ban Amendment. The SRR brings forward the future requirements of the Hong Kong Convention and regulates EEA/EU-flagged ships of 500 GT or more and in international trade sent for recycling. The SRR requires that EU-flagged ships must be recycled at facilities that are on the EU list of ship recycling facilities. Shipments of waste ships intending to be dismantled under non-EEA/EU-flag essentially fall outside of the SRR, instead being controlled under the WSR procedure of prior written notification. The project has developed a fact sheet that shows which regulation applies according to the circumstances (see annex I).

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<sup>1</sup> With reference to MEPC 77/INF.5 and NGO Ship Breaking Platform

Clarity around the requirements of those instruments will be key to improving compliance and understanding of regulators and operators moving forward.

Furthermore, proposed changes to the WSR put forward by the European Commission November 2021 will amend the regulatory framework and the balance between the WSR and SRR.

### 1.1. Desired outcome, in reference to the ToR

The main challenge for end-of-life ships to ensure an environmental sound manner and legal recycling of ships, is to prevent illegal ship recycling and illegal waste shipments. Shipowners can circumvent the applicable requirements of the regulations. The best way to stop this circumvention is to prevent the illegal movements in the first place, enable officers to make positive interventions and develop intelligence methodologies to understand and predict the high-risk operators and vessels. The best way would be a change in practice throughout shipping industry and shipowners sending their ship to listed yards in the first place.

The UK leaving the EU has impacted the SRR and WSR legal frameworks and added further complexity in how the regulations interact<sup>2</sup>. Whilst some of the issues apply to UK flagged vessels only, it causes confusion on the enforceability throughout Europe and wider, due to the interplay between regulatory frameworks. The project seeks to both understand this complexity and feed into the forthcoming WSR recast to prevent loopholes being created allowing ships to go to unsuitable destinations for scrapping. For example, the SRR still applies in Great Britain having been adopted as part of the EU Exit agreements and which takes precedence over the WSR when a qualifying vessel is being moved to the EU. However, as GB is now a 'third country' the EU authorities require importation of vessels under WSR controls. UK based regulators cannot process a WSR notification for the export of vessels to EU countries as the SRR takes precedence. Understanding how this can be resolved, ensuring the new EU WSR regulations provide clarity and that the WSR is not seen as a substantially less environmentally onerous framework are key issues for the project. Further there needs to be discussions around the application of the SRR with regard to Northern Ireland, which is regarded as an EU member state under the current EU exit arrangements. At the end of the UK's transition period with the EU, the UK Ship Recycling Regulations retain the provisions of the EU Regulation within UK Law, to ensure that the UK Ship Recycling regime remains legally operable after

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<sup>2</sup> Notice to stakeholders Rev.1 of 8 June 2020, available under the following link

[https://ec.europa.eu/info/sites/default/files/brexit\\_files/info\\_site/ship\\_recycling\\_en.pdf](https://ec.europa.eu/info/sites/default/files/brexit_files/info_site/ship_recycling_en.pdf)

On the commission's website here: [https://ec.europa.eu/info/strategy/relations-non-eu-countries/relations-united-kingdom/new-normal/consequences-brexit\\_en](https://ec.europa.eu/info/strategy/relations-non-eu-countries/relations-united-kingdom/new-normal/consequences-brexit_en)

31st December 2020. The UK Ship Recycling Regulations also give effect to the Northern Ireland Protocol, which allows the EU Regulation to continue to apply to ship recycling facilities in Northern Ireland as it has effect in EU law.

According to the ToR, the project ought to work towards an adequate level of inspections in all Member States, and a consistent level of enforcement regarding the WSR and SRR regulations. These issues have been discussed in the project, but a consistency between the Member States still needs to be improved. But nevertheless, the project has raised the questions and pointed out some of the main challenges. Further, the project has given examples on how some Member States are working with inspections and enforcement regarding WSR and SRR, and when both regulations apply.

Prevention, reduction and early detection of illegal recycling of ships have been important areas of detailed consideration for the project. To support the competent authorities and other involved actors, it has been considered important to develop guidance and pointing out the differences between the WSR and SRR. The project has shared best practise and practical knowledge (court cases, reports, experiences) during workshops and through BaseCamp to help each other in this important work.

The project also did a survey, where the aim was to give an overview on how member states work with inspections and enforcement regarding WSR and SRR (results shared in annex II).

## 1.2 Covid

Due to the Covid-19 pandemic and travel restrictions that entered into force in March 2020 a planned site visit to a recycling facility and physical workshops got postponed and, in the end, cancelled. All meetings and actions have been on MS Teams and through correspondence in BaseCamp.

## 1.3 Budget framework

There have not been any expenses in 2021, due to covid and travel restrictions.

## 2. Activities carried out 2019-2021

### 2.1 BaseCamp

The project was published on BaseCamp in March 2019, with 50 members, and through the project period, it has grown to more than 100 members. The BaseCamp Area has been an important platform for information sharing and updating each other.

The project members have used BaseCamp for sharing:



- Best practice
- Reports from NGO Shipbreaking Platform
- Relevant happenings, conferences, etc.
- EMSAs (European Maritime Safety Agency) guidance on inspections of ships under the SRR by the Port State
- Relevant court cases
- Scrapping lists from NGO Shipbreaking Platform and EMSA
- Relevant information from the EU Ship Recycling Regulation Expert group
- Documentaries and articles about ship recycling
- And last but not least, it has been a great place for getting in touch with other Member States regarding ship recycling issues, both in general and for certain cases.

## 2.2 Presentations and Networking

Beate Langset has given an update of the IMPEL End-of-Life Ships project on every meeting of the Commissions Experts' Group on Ship Recycling since the project start up (meeting nr. 8 to 12). Information about the project has also been presented at the annual IMPELs TFS & Waste conferences and other workshops/meetings under the IMPEL umbrella.

During the project period, presentations have been given by NGO Shipbreaking Platform and EMSA. ENPE (European Network of Prosecutors for the Environment), NGO Shipbreaking Platform and EMSA have also joined one meeting each.

## 2.3 The first project year (2019)

In May 2019 the project started with a conference call to discuss the ToR and the planned activities.

A successful meeting was arranged in Aberdeen 18-19 September 2019. It was a good start for the project, and we had the meeting back-to-back with IMPEL SWEAP3 Inspector Exchange, that made it possible to gather more participants. We had good presentations from the participating countries, sharing their experiences, challenges and enforcements regarding the regulations (SRR and WSR). The participation of a representative of the Commissions Ship Recycling Regulation Team (Peter Koller) was also of great support. The Commission has followed this project with great interest, and they have been very helpful, sharing the project work with the Commission's Ship Recycling Expert Group, commenting the ongoing work and helping distribute the questionnaire to the member states.

## 2.4 The second project year (2020)

The project organised a workshop in Brussels February 2020, just before the Covid restrictions started. Ingvild Jensen from the NGO Shipbreaking Platform held a presentation, and the participants

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<sup>3</sup> More info on the IMPEL SWEAP project can be found at [www.sweap.eu](http://www.sweap.eu)

shared their experiences afterwards. This was the last physical meeting, but it was important for the progress that we had the possibility to get known before we ended up having all meetings on Teams.

There was an extensive dialogue on what should be the outcome of this project and how we should plan the forthcoming activities. It was decided that the project should make a comparison note of the WSR and the SRR. This work was unfortunately never fulfilled. It was also decided to develop a “check list” in case of potential illegal ship recycling with information on what should be red flags for competent authorities and how/where to verify the relevant information. It was suggested developing a guidance and contact list for all member states competent authorities in relation to waste shipments and ship recycling. Further, it was decided that the project should host a webinar whose target audience should be the people out in the field, who might be able to identify illegalities and suspected cases in relation to ship recycling in order to make them aware of the ship recycling rules and how to apply them. The webinar was planned for autumn 2020. Malta should organize the webinar with the assistance of SEPA (Scottish Environment Protection Agency) and it was planned to be an experience sharing and kind of online training. Due to the circumstances, the webinar was postponed to January 2021.

A workshop late November/early December in France or Belgium combined with a site visit was suggested, but due to covid, never arranged.

The project arranged a workshop in November (on Teams) but had to cancel the workshop in Malta at the IMPEL conference and the site visit at Galloo Ship Recycling Facility in Belgium due to the travel restrictions under the pandemic.

## 2.5 The last project year (2021)

The last year was of course affected by covid, but there were also some benefits with the restrictions. It was much easier to organize and host workshops and webinars, and we could easily invite people from all participating countries and organisations. It is also easier to attend the meetings when you can use two hours instead of two days (including time for travelling etc.) and the project budget remained untouched. The major downside of the covid situation was that the project participants couldn't meet physically, with all that entails. The discussions and engagement are not the same virtually, and the important informal lunch and break chats are lost.

The 21st of January we had an open session Webinar with presentations. Invitations were sent through the IMPEL network and had 68 participants from 22 countries and a broad selection of organisations (maritime and environmental authorities, police, custom, local authorities, supervisory authorities and prosecutors).

The purpose of the webinar was to share valuable experience on ship recycling. The webinar hosted four presentations:

- Legal Frameworks governing SRR and WSR by Giuseppe DeAngelis (Malta)
- Background history and court decision on the Harrier case by Beate Langset (Norway)
- Sharing of experiences with the SRR and WSR by Huib Van Westen (Netherlands)
- Maltese experience with the SRR by Alfred Sharples (Malta)

One of the most important activities carried out in 2021, was a survey, with questions to the competent environmental and maritime authorities of all EU Member States regarding how they apply the SRR vs the WSR for a number of described cases. In order to enable evaluation and statistics, the questions described general situations and provided a selection of possible responses. Interpretation of the situations may have slightly differed between the respondents; therefore, the results must be viewed with caution. However, the main findings of the questionnaire were:

- Member states may interpret the regulations differently, and some of these areas have been identified
- In most Member states, enforcement of the WSR and the SRR are done by different authorities
- National and international cooperation of involved authorities are essential to prevent illegal ship recycling
- Guidance is needed to distinguish application of the two instruments SRR and WSR and support their respective control mechanisms

For summary of the results, see annex II.

The project carried out three smaller workshops in June, October and December, to fulfil the desired outcome of the project. The main work of the project in the circumstances of the pandemic focused on the first desired outcome and the first two ToR.

### 3. Best practice

#### 3.1 National Cooperation – Legislation and challenges

The outcome of the project underlines that cooperation between maritime and environmental authorities is crucial. Experience and best practise shared between the project members have emphasised the importance of understanding and good teamwork.

The SRR regulates which authority is responsible for different parts of the regulation (Article 3):

- *Administration*: a governmental authority designated by a Member State as being responsible for duties related to ships flying its flag or to ships operating under its authority

- *Competent authority*: the governmental authority or authorities designated by a Member State or a third country as responsible for ship recycling facilities, within a specified geographical area or an area of expertise, relating to all operations within the jurisdiction of that state

**According to the WSR, waste** is as defined in Article 1(1)(a) of the Waste Framework Directive, and ships are covered by the same definition. The flag state authorities are not mentioned in the WSR, but the regulation has defined the authority and the person(s) responsible for the waste (ship):

- *Competent authority of dispatch* means the competent authority for the area from which the shipment is planned to be initiated or is initiated
- *Producer* is anyone whose activities produce waste (original producer) [...]
- *Holder* is the producer of the waste or the natural or legal person who is in possession of it
- *Dealer* is anyone who acts in the role of principal to purchase and subsequently sell waste, including such dealers who do not take physical possession of the waste [...]
- *Broker* is anyone arranging the recovery or disposal of waste on behalf of others, including such brokers who do not take physical possession of the waste [...]

The implementation of the WSR and SRR is partly carried out differently in the Member States in terms of responsibilities due to different structures. The project has concluded that it is difficult to generalise in terms of responsibilities. To prevent and stop illegal recycling of ships the cooperation between the authorities is important. The Member States have solved this challenge differently. Some countries have formal agreements, some countries have informal agreements, and some countries have no cooperation at all, or only case by case.

The project has outlined some main challenges regarding national cooperation:

- The competent authorities responsible for SRR and WSR enforcement respectively are often placed under different ministries: environmental, maritime, transport, infrastructure, regional authorities etc.).
- Information that may be relevant to enforcement of the SRR or WSR is not shared systematically between the national authorities.
- Limited knowledge about the other authority's scope of actions and possibilities to manoeuvre. Each authority can enforce parts of the regulations, but together they have powerful tools for preventing and stop illegal shipments.
- Other related authorities can be key partners in preventing and disrupting the illegal trade and movement of end-of-life vessels such as Ports Authorities and Admiralty.
- Roles, remits and contact points are often challenging.

### 3.2 National cooperation - best practise

The project participants have underlined that cooperation between maritime and environmental authorities is vital. This has been discussed in the project, and the participants have shared their best practice:

- Some countries have enshrined the cooperation between the authorities in their national legislation (Waste act).
- Some countries have a written agreement (cooperation document) that aims to uncover attempts, prevent and sanction any reported illegal export of ships as waste (in Norway there is cooperation between the following partners: the Environmental Agency, the Maritime Authority, the Coastal Administration and the Coast Guard).
- A wider conversation with other organizations such as insurers is possible. Single trip movement insurance policies may be indicative of a vessel heading to be scrapped, and this information could be vital in risk profiling vessels for inspection.
- In the Netherlands the supervision of the WSR and the SRR is carried out by the Human Environment and Transport Inspectorate (ILT). The Flag state and Port State Control authorities are working in the Maritime Division and the Waste Enforcement team in the Division Environment. The application for facilities to be approved to be listed on the EU list as well as the other mandatory reporting and acknowledgements regarding Ship Recycling are being handled by the Permitting Department of this inspectorate.

### 3.3 Cooperation between countries

There is some cooperation between various countries in the EEA/EU, as well as the UK on a frequent basis to inform each other about potential illegal cases, interpretation of certain issues, repatriation of illegal shipments and formal cooperation in law enforcement cases.

Some countries have handed over several cases for prosecution in another Member State/country and repatriated several vessels to the country of origin.

The project members have used BaseCamp as a platform for sharing information for discussing illegal cases, interpretation of the regulations and sharing best practice. BaseCamp has also been used as a contact point for getting in touch with authorities in countries that can be involved in suspicious cases. We must underline that BaseCamp has not been an area for enforcement of possible infringements.

The project has pointed out that cooperation between the countries is crucial. Ships are often sailing the territorial waters of several countries and are also in international waters. Suspect movements often require rapid interventions once the authorities become aware of them, so having an up-to-date contactable network through this project has been instrumental in preventing and intercepting vessels where necessary. Cooperation on enforcement cases when ships are sailing in international waters or to/between Member States is crucial to identify and follow-up possible infringements.

### 3.4 Contact points

Under the SRR, the contact persons for information under Article 19 as well as the staff responsible for cooperation bilaterally or multilaterally under Article 22 are designated, and the list of those persons is distributed by the Commission. The list of designated competent authorities, administrations and contact persons in the Member States can be found on their website:

[https://ec.europa.eu/environment/pdf/waste/ships/List\\_of\\_designated\\_CAs\\_and\\_administrations\\_and\\_contact\\_persons\\_in\\_the\\_MS-updated\\_29062020.pdf](https://ec.europa.eu/environment/pdf/waste/ships/List_of_designated_CAs_and_administrations_and_contact_persons_in_the_MS-updated_29062020.pdf)

Under the WSR, the Commission has shared a list of waste shipments correspondents, a list of competent authorities and a list of custom offices. The contact persons in every EEA/EU country are therefore easily accessible: [https://ec.europa.eu/environment/topics/waste-and-recycling/waste-shipments\\_en#ecl-inpage-424](https://ec.europa.eu/environment/topics/waste-and-recycling/waste-shipments_en#ecl-inpage-424)

The Basel Convention has shared the country contacts that can be used to contact countries outside the EEA/EU-area: <http://www.basel.int/Countries/CountryContacts/tabid/1342/Default.aspx>

### 3.5 Authorities involved in cases of suspicion of an illegal shipment

The project members have shared their experiences in what actions have been taken when suspicious behaviour have been detected or they have received information on attempts of illegal ship recycling. There have also been shared good examples in the questionnaire.

Enforcement of the SRR has been going on for some years, but it is still a rather new area for the Member States. We need to gain more experience in enforcing the SRR. Sharing of enforcement actions has been important for the project. Sharing best practice helps identify how the work can be delivered and funded by those operators who it impacts.

Authorities may be involved in suspicious/illegal shipments at:

- Inspections by the flag state administration
- Inspections by the water police
- Inspections by the Port state authority (Port State Control)
- Investigations by the police
- Environmental inspections
- Inspections or investigations by maritime, environmental, police and customs control.
- Inspections and/or investigation by the maritime authorities in cooperation with environmental authorities

Summed up, a crucial way to prevent and stop illegal shipments is through cooperation between the authorities.

### 3.6 Best practice: How authorities work to prevent illegal ship recycling

The project members have shared experiences in regard of prevention of illegal ship recycling. The actions depend on many various factors, such as how the authorities have organized their inspections and enforcement authorities and what type of deals and action plans the authorities have agreed to cooperate on.

A list of best practice shared between the project members and in the questionnaire:

- Inspections:
  - o For ships flying an EU flag: Performing inspections according to Directive 2009/16/EC and SRR.
  - o For ships flying a non-EU flag: Performing inspections according to WSR and national law
- Asking for the reason for reflagging
- Controls by Port state authorities (PSC)
- Prohibit a ship from departing when the relevant requirements are not met (Port States authorities)
- Creating internal processes and routines to have all the details in the right place on beforehand
- “Early warning system”: In the Netherlands, the ILT has developed a predictive model, which is now being fine-tuned. Based on the model preventive measures towards ship owners, recycling facilities and other stakeholders involved can be undertaken. Besides that, ILT invested in the cooperation with industry stakeholders, NGO’s and international organizations such as INTERPOL. Several vessels were intercepted after being imported illegally into the Netherlands and repatriated to the country of origin. Several investigations are on-going related to vessels which had Netherlands as last country in the EU before being scrapped in Asia and Turkey and where Dutch ship owners were involved in scrapping their vessels on beaches in South Asia.
- Information and communication with
  - o ship owners’ associations
  - o relevant NGOs
  - o insurance companies
  - o other parties involved in ships recycling issues
- Shipowners’ awareness of the importance of compliance with SRR to the environmental sustainability

### 3.7 Use of check lists to prevent illegal recycling of ships

Some members of the project have developed a first check list (see annex II) where typical indications to look for, to prevent illegal recycling of ships has been listed. We strongly recommend that this checklist is discussed in-depth by the follow-up project.

Suggested check points to prevent illegal recycling of ships (often a combination of two or more of these bullet points):

- ✓ Ships been in storage or cold stacked for some years
- ✓ Ships with low market value (ex-cruise ships under the pandemic, etc.)
- ✓ Ships changing name, ownership, flag (black or grey listed<sup>4</sup>)
- ✓ Ships stripped for expensive equipment necessary for normal operations (navigation equipment etc.)
- ✓ Use of short-term certificates (Single voyage certificate)
- ✓ Ships heading for Chittagong (Bangladesh), Alang-Sosiya (India), Gadani (Pakistan) or Aliaga, (Turkey)

For a detailed check list that could form the basis of further work by a possible follow-up project, see annex III.

## 4 Loopholes and circumventions

One of the main challenges with the SRR and WSR is that it is relatively easy to circumvent the applicable requirements of the regulations.

To circumvent the SRR, the ship owner has to reflag to a non-EU/EEA flag before scrapping. To circumvent the WSR, the ship has to sail outside the EU/EEA-area for a time (length of period is not defined) and leave EU/EEA-waters before "the decision" to scrap the ship is taken.

To circumvent both the WSR and SRR, the shipowner must use a non-EU/EEA flag and not enter EU/EEA waters the last years before scrapping.

There are also other challenges connected to the regulations and the enforcements.

First of all, it's difficult to define when a ship becomes waste. When is the intention for recycling? The Waste Framework Directive defines "waste", but according to ships, it's difficult to determine exactly when it becomes waste. And therefore, it can be extremely challenging to enforce such cases.

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<sup>4</sup> List of black and grey listed flag: <https://www.parismou.org/detentions-banning/white-grey-and-black-list>



Thorough investigations through the documentation, physical inspections and interviews with crew members may be needed to collect the evidence to prove that the ship was destined for recycling beyond all reasonable doubt. The SRR does not clearly mention at which moment the intention of ship recycling starts.

Secondly, it is a fact that recycling of ships is least profitable in EU/EEA-area, medium profitable in Turkey and most profitable in Southeast Asia. Shipowners save more money when ships are recycled where the prices are higher for metals and valuable inventory. The financial incentives for scrapping ships inappropriately far outweigh the risks of enforcement being successful due to the challenges outlined above. The financial aspects of ship breaking and “monetising” the damage caused by these activities ought to be taken into account.

Regarding the SRR, the authorities in the Member States where the ship is located exercise Port State control. However, if the ship trades outside the EU/EEA waters, the Port State Control regime will not cover the SRR requirements. In general, the maritime authorities are not always aware enough of the experiences of circumvention and ‘intention for scrapping’ as they are considered under the WSR. Flag changes to avoid the recycling at EU listed facilities are being carried out longer time before the last voyage to try and hide the ultimate destination and purpose. Therefore, the combination of the circumstances pointed out above, appears to enable profitable systematic circumvention of regulations for sustainable ship recycling

- Regulations are easy to circumvent
- Regulations are challenging to enforce
- Economic incentives to recycle the ships outside OECD are very high

## 5 Recommendations to the Commission

The project members have been encouraged by the Commission to share their views and thoughts regarding this End-of-life-Ships topic and to assist the Commission in their important work with the regulations. What is clear is that a global industry requires global collaboration and communication to protect the environment.

*The recommendations are divided in two sections; the recommendations that have been discussed in the project, and suggestions mentioned in the questionnaire.*

### **Some of the suggestions expressed by group members**

- More clarity with regard to when a ship becomes waste: The Commission can develop guidelines for WSR when a ship becomes waste.
- Enhance communication to ship owner associations that when a ship under the scope of the SRR is being transported from a country outside the EU/EEA towards an approved recycling facility outside the EU that Basel Convention also applies to that particular shipment. In the

WSR there is presently an exception for vessels destined for recycling which are falling under the scope of the SRR. In the Basel Convention there is not such an exception.

- Make stating the reason for reflagging mandatory.
- Consider ways to enhance control on re-flagging of ships, for example in the process of revising the SRR
- It is particularly challenging to act based on potential/subjective intentions, which generally cannot be linked to concrete evidence. Is there an opportunity to amend the SRR to be clearer on that point?
- Can the Commission assist the need of continued and further enhanced co-operation with our EU and non-EU colleagues and dedicated contact points dealing with illegal ship recycling?
- Flag changes to avoid the recycling at EU listed facilities are being carried out longer time before the 'last voyage to try and hide the ultimate destination and purpose. The SRR is based on the flag and flagging out is a common practice in shipping and does not only happen at the end. This is the "weakness" of the SRR that has been repeatedly identified during the project. Is there a way to strengthen the SRR requirements?
- In view of the constraints due to the worldwide pandemic and the different aspects related to the application of the WSR and SRR identified by the project, the project recommends to the Commission to support and facilitate further exchange of experience and consultation on ships sent for dismantling in appropriate fora.
- We would also encourage the Commission to share relevant court cases to make it easier for the authorities to enforce illegal ship recycling in their own countries.

Other ideas mentioned by individual Member States in the questionnaire, but not discussed in the project:

- The economic disincentives, like progressive yearly bails (returned only at SRR recycled terms), are probably the only feasible and effective paths and have to be managed at EU level.
- A reverse burden so that it is for the ship owner to prove that the vessel is not waste or if it is that it is destined for a facility on the list.

## 6 Conclusions

The project has been successful regarding sharing knowledge, experience and best practice, and also to get a broader understanding of how the SSR and WSR are connected. The project has also succeeded partly in engaging both maritime and environmental authorities, that has been an important issue for this particular project.

Unfortunately, the pandemic has also affected this project. The project needed some time to adapt work to the new virtual meeting conditions. And another downside is the lack of a site visit at a ship recycling facility.

Nevertheless, it has been great to have engaged and experienced project members, and it's our hope that the work of this project can be followed up by a new IMPEL project. There are still a lot of challenges and activities that can be done to prevent illegal recycling and to improve enforcement regarding ship recycling.

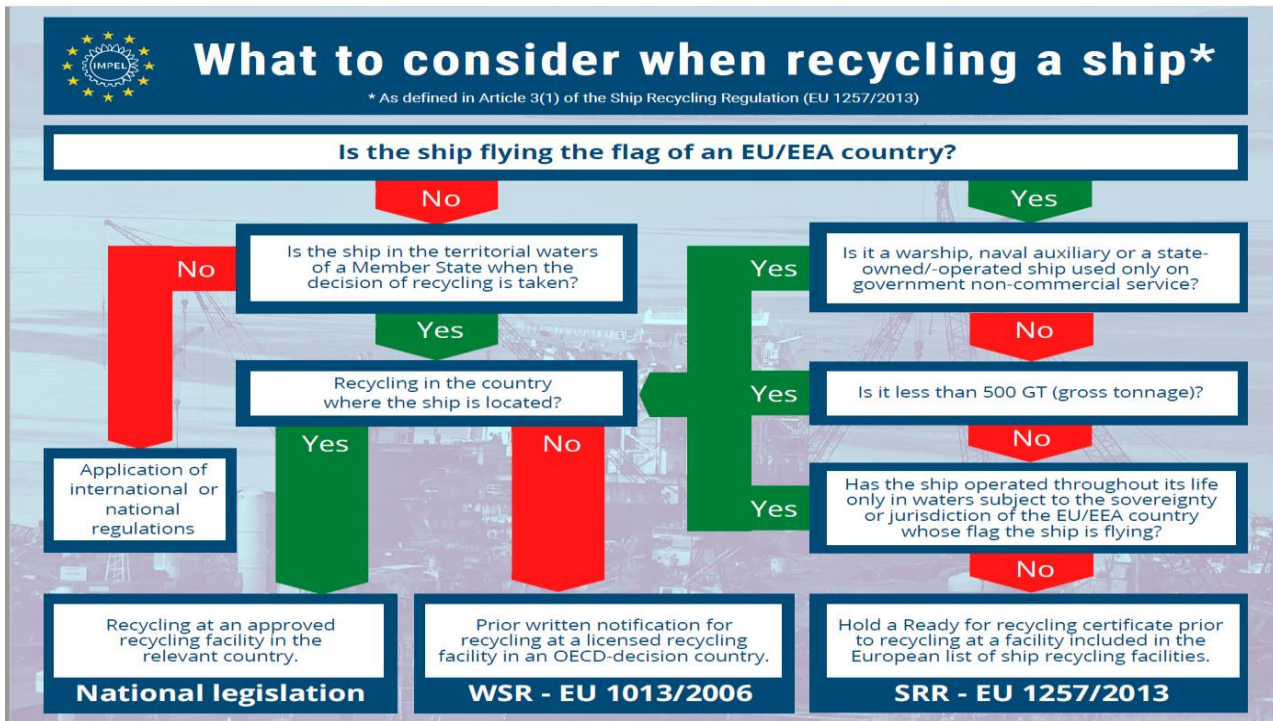
# Annexes

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Annex I Fact sheet (page 22)

Annex II Results from the questionnaire (page 23)

Annex III Check list (page 35)



# IMPEL End of Life Ships project 2019-2021

## Summary of questionnaire April 2021 regarding administrative procedures and enforcement of the Waste Shipment Regulation and Ship Recycling Regulation in relation to End of Life-Ships

The questionnaire was sent to IMPEL members and members of the Ship Recycling regulation expert group March 2021. We received 27 answers, from 23 countries

In order to enable evaluation and statistics, the questions described general situations and provided a selection of possible responses. Interpretation of the situations may have slightly differed between the respondents and the results must be viewed with caution.

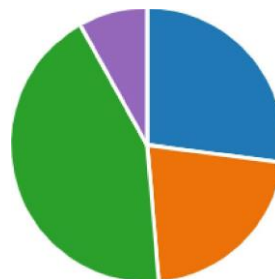
**Participating countries:** Belgium, Belgium (Flanders), Croatia, Denmark, England (UK), Finland, France, Germany, Greece, Iceland, Ireland, Italy, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Sweden and Switzerland

### Main findings:

- Member states interpret the regulations differently, and not always in accordance with the regulations
- National and international cooperation are essential to prevent illegal ship recycling
- Guidance is needed

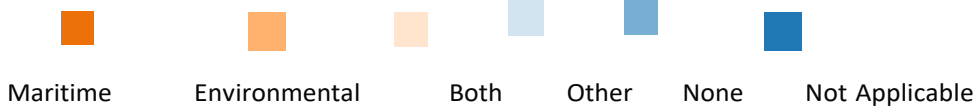
### Authorities participating

●	● Maritime authority (Flag State ...	10
	● Maritime authority (Port State ...	8
	● Environmental authority	16
	● Coast guard	0
	● Other	3



### Vessels falling under the scope of the Ship Recycling regulation:

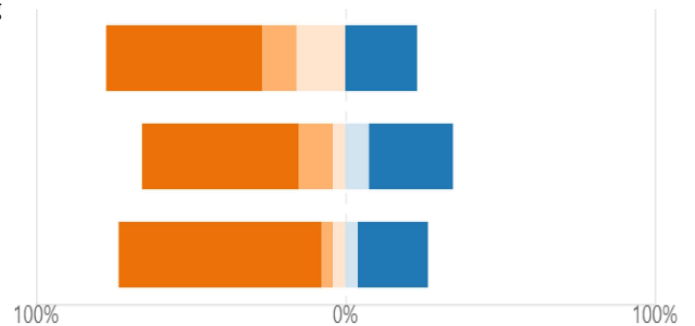
When a vessel is flying the flag of your country and is intended for recycling in your country, which authority:



Receives information about the intention for recycling

Receives the Ready for recycling certificate<sup>5</sup>

Carries out (or delegates) the last inspection/Final survey acc. EU 1257/2013 art. 8.7

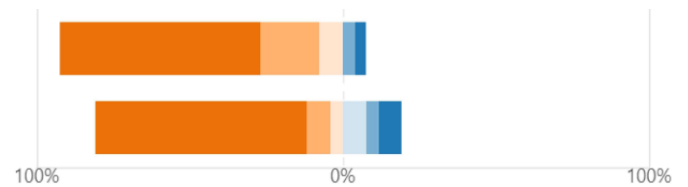


When a vessel is flagged in your country and is intended for recycling in another country, which authority:



Receives information about the intention for recycling

Carries out (or delegates) the last inspection/Final survey acc. EU 1257/2013 art. 8.7



When a vessel is flagged in another MS and is intended for recycling in your country, which authority:

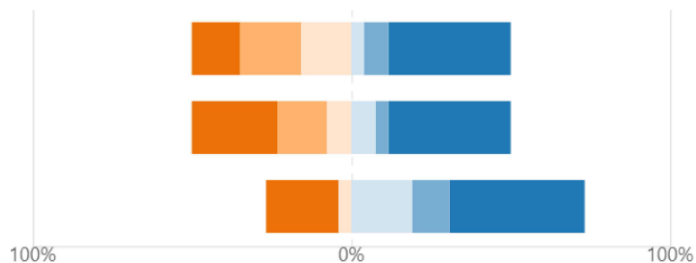


<sup>5</sup> According to SRR, it's not mandatory for the MS to receive the RfRC

Receives information about the intention for recycling 6

Receives the Ready for recycling certificate 7

Carries out (or delegates) the last inspection/Final survey acc. EU 1257/2013 art. 8.7 8



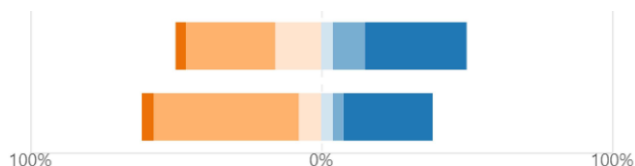
Vessels falling under the scope of the Waste Shipment regulation:

When a vessel is flying a non-EU flag but is located and intended for recycling in your country, which authority:

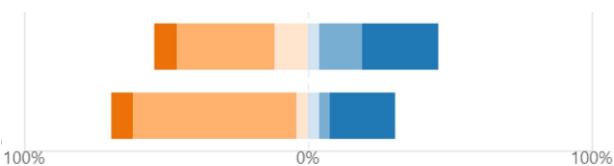
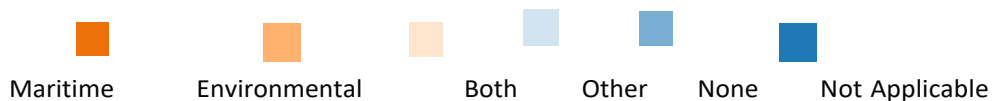


Receives information about the intention for recycling

Receives the notification documents/PIC



When a vessel is flagged and intended for recycling outside EU, but located in your country, which authority



6 The “information about the intention for recycling” was understood to be sent to the flag State Administration and in this question “our country” is the recycling state. However, it should be noted that the authority in the recycling state receives some information on an intended recycling when receiving the ship recycling plan from the facility for approval.

7 The RfRC is received by the shipowner, and the shipowner provides a copy to the recycling facility.

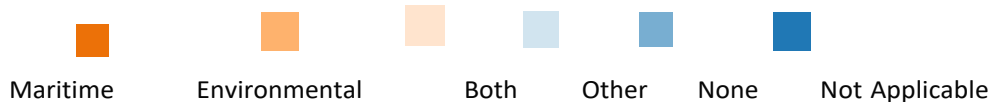
8 The recycling state cannot carry out or delegate a final inspection, as this is the responsibility of the flag State



Receives information about the intention for recycling 9

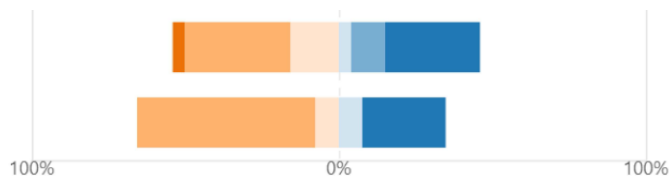
Receives the notification documents/PIC

When a vessel is flagged and located outside EU, but is intended for recycling in your country, which authority:



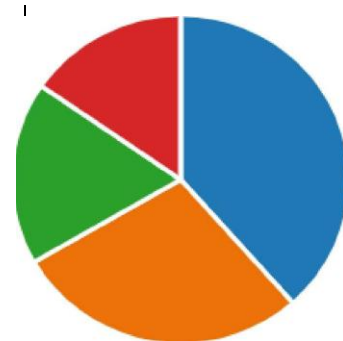
Receives information about the intention for recycling 10

Receives the notification documents/PIC



When you receive information that an EU flagged vessel located in your country is going to be recycled or become an end-of-life vessel, and there are indications that the SRR will not be complied with. Which authority can take action?

- Port State Control in the port where the vessel is laying 15
- Flag state authorities in the other MS 11



9 Not required

10 Not required

●	Environmental authorities where the vessel is laying	7
●	Other	6

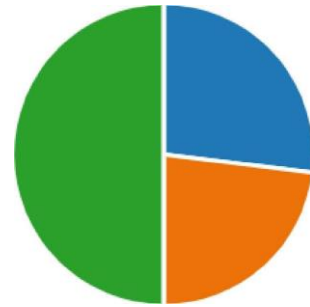


When you receive information that an EU flagged vessel located in your country is going to be recycled or become an end-of-life vessel, and there are indications that the SRR will not be complied with. What actions can be taken?

Inspection and or detention by the maritime authority or police. An official report will be made to inform the Public Prosecutor and the Services for Administrative fines of any violations.
Inspection, detention, reporting to the public prosecutor
investigations by maritime
inspection, investigation by psc
PSC local office should do inspection according to the Regulation
The initial investigations can be carried out by the environmental authorities, but at the same time as there is a concrete suspicion, further investigation must be handed over to the police.
Actions by maritime authority based on SRR art. 11(3). Fine for breaking Act on Environmental Protection in Maritime transport 1672/2009 (SRR art. 6).
On-board inspection for compliance with the SRR, cooperation with national contact person of the other MS as per Art. 19 SRR
Investigation is carried out based on the Information that can be collected, incl. the location, flag, status of the ship.
The Port state control would contact the appropriate authorities. PSC informs the Environmental authorities if a vessel is deregistered. The Port state control can detain the vessel if necessary.
Environmental inspections
If the ship is state flagged, the owner can be summoned; but knowing that declaring the dismissal of the flag due to "dismantling and recycling of the ship in a non 1257 SRR compliant facility" it's a law violation, no owner will do that, and will sold the ship to a third-party subject, dismissing the flag as simple "sale".
inspections, and eventually investigations (by police)
Inspection by PSC, detention and communication to the Flag Administration.
Inspections or investigations by maritime, environmental, police and customs control.
Inspection/investigation by maritime in cooperation with EA

A ship owner is planning to recycle a vessel at a non-EU listed site and is reflagging it from an EU flag to a non-EU flag. Do you consider it as:

- Required to follow WSR/ TFS procedures 7
- Violating the SRR 6
- Other (see next page) 13



\* Answers under "Other":

If the purpose of the reflagging is to circumvent the SRR, then it may be considered as a violation of SRR
inspection of the IHM
If the owner officially declares that is going to send the ship to a Non-EU-Listed facility it could be hold accountable, but he must be very "naive" or stupid to do this. If no official declaration of such willing are made, it's impossible to prosecute a subject for only thinking the eventuality. Selling the ship to a third party it's way easy.
If the maritime authority is already aware that the reflagging is for a subsequent recycling then is a SRR violation. If no, instead, is considered a legal flag change.
Depends of situations. If we know the intention before the reflagging then it's violating of the SRR. When it's after then WSR
We must be sure that the change of flag is related to recycling in a non-euro father.
Circumvention of the SRR and the WSR
"Legal" violation the SRR
The situation has never arisen as reflagging precedes any concrete information on intention to recycle and is usually linked to a change of ownership. Then WRS/TFS procedure is followed.

### How is the cooperation between Maritime authorities and Environmental authorities organized?

Administrative coordination between two ministries
Agreement between the two ministries

Agreements, meetings, mail conversations
An exchange takes place at the administrative level.
As-needed basis.
Informal cooperation (no recycling facilities in this country)
It isn't! This is something we are looking to sort out.
Law based cooperation
MoU (a coordination group with Maritime and Environmental authorities and the Coast guard)
National legislation demands cooperation
Non-official cooperation. Communication between inspectors on work floor
Oral agreement
Provisions are prescribed by Law (common)
Several rules regulated by law
The authorities shall inform each other of shipowners' requests
The Director of the Maritime Office is the head of the local maritime authority as well as the principal administrative organ responsible for the protection of marine environment.
There are close cooperation and exchange of information between these authorities. No specific agreement or MoU is in place; common rules of administrative procedure apply, as both authorities are public bodies.
There is currently no formal arrangement between maritime and environmental authorities
We are in the same organization, just in separated Divisions
The Ministry of Sustainable Infrastructure and Mobility, cooperate with the Ministry of Environment with respect to each other one administrative competence
Our legislation encourages cooperation between government departments. Where we have instances of ships leaving our shores suspected to be waste, we will contact our Maritime Agency to see if they are aware and can assist

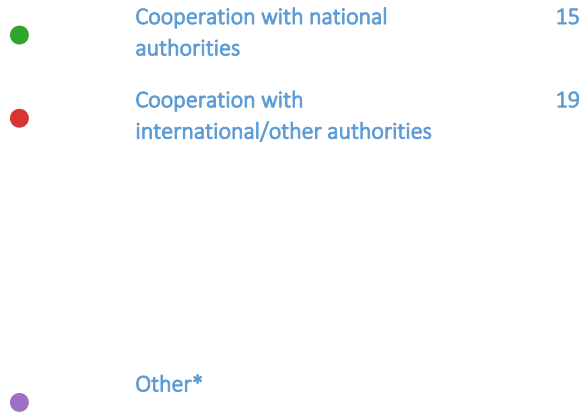
### How does your authority work to prevent illegal shipbreaking?

Controls by PSC Strict interpretation of the SRR. asking for the reason for reflagging.
PSC inspections, asking reason for reflagging, always act on complaints
As inspectorate we do not focus on prevention. Our colleagues do.
Monitoring of maritime domain by maritime inspectors, and local offices

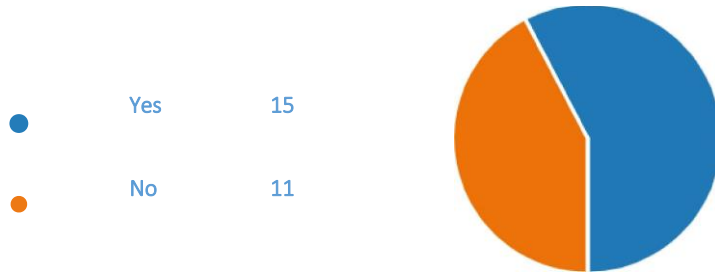
This has proved to be a bit problematic as the two authorities do not fall under the same ministry and due to the division of areas of competence as well as legal areas of responsibility.
Actions based on national legislation. Authority is Regional state administrative agency.
Up to now, our country is not concerned by illegal shipbreaking, nor reflagging issues.
For ships flying an EU flag: Performing inspections according to Directive 2009/16/EC and Regulation (EU) No 1257/2013. For ships flying a non-EU flag: Performing inspections according to Regulation (EC) No 1013/2006 and the German Waste Shipment Act. Information and communication e.g. with ship owners associations
The main aim is to ensure the implementation of either WSR or SRR, whichever applicable, by adhering to the provisions of the relevant legal instruments. Port authorities play a key role as they may allow or prohibit a ship from departing when the relevant requirements are not met.
Authorities notify obligations to relevant parties.
This topic has not arisen since our office was established in 2007
Surveillance, but "reflagging" is an easy way to avoid consequences.
Internal policy
We have no experience
Policy -in progress
It's one of the priorities in the Inspectorate and separate projects are focusing on this. There is also cooperation with the private sector and with the regional environmental authorities which are competent for the ship recycling facilities. Besides that, we are working together with other organizations such as police and international networks.
Cooperation between the authorities, information and presentations to stakeholders.
Shipowners awareness of the importance of compliance with SRR to the environmental sustainability
Careful supervision of all spaces suitable for dismantling
Inspections and investigations by environmental, police and customs control.
Creating internal processes and routines at the authority to have all the details in the right place
No job being done right now
No working experience on this issue

In your opinion, what would make your job easier in regard to the previous question?

- Check-lists 14
- Fact sheets 13



Are you using the THETIS-EU system to report your inspections on SRR?



Who reports to this system?





If you answered "No" to question 16, what system do you use and why?

According to legislation Maritime institution (administrator) should make inspections.
All surveillance is registered in the Icelandic ship register.
All though my answer was yes, I would like to point out that is still in its early age and is still in a working progress.
No port state inspection and no end-of-life vessels declared in this country
No system
Our office has not conducted inspections under the SRR.
Waste inspection database
We are not using any system yet. We have no ship flying our flag or ship recycling facility.
We use our own internal systems including intelligence.

If there is information that there is a potential intention for the recycling of a vessel flying the flag of an EU country, what actions will the maritime authority take, if any?

"Information" has a generic meaning. If "proves" exist, Authorities can summon the offender. If generic information is supplied, these can be used for statistic purpose only.
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<p>A potential intention may not suffice for any action e.g. against a ship owner. In case of a real intention, the measures would depend on the individual situation. If the documents prove that the recycling is planned in accordance with the SRR, there would be no further actions taken. In cases where there are clear grounds or doubts on a possible violation of the SRR, the competent authority of the Flag State would be consulted as a first step. Further actions depend on the individual case.</p>
<p>Approbation du plan de recycling plan, certification, etc</p>
<p>inform and cooperate with the environmental authorities</p>
<p>Inform the flag State - PSC will investigate</p>
<p>Inform the Flag state, investigation of the intentions, searching for prove</p>
<p>Inform the other countries authority</p>
<p>Inspection by maritime authority according to SRR art. 11. Actions by maritime authority based on SRR art. 11(3) if needed. Fine for breaking Act on Environmental Protection in Maritime transport 1672/2009 (SRR art. 6).</p>
<p>The maritime authority could trigger a flag or PSC inspection. The flag state would always be alerted.</p>
<p>The Port state control would contact the appropriate authorities.</p>
<p>The relevant port authority examines the flag status and the documentation of the ship in question, to conclude on the regime (WSR or SRR) applicable. Further actions can be taken, in coordination with the local port authorities, depending on the particularities of each case. However, it is particularly challenging, to act based on potential/subjective intentions, which generally cannot be linked to concrete evidence.</p>

## Annex III Check list

**This check list has been developed by some of the project members and has not been discussed in depth in with the project group. We strongly recommend the follow-up project to develop a comprehensive check list.**

The checklist provide authorities some indicators to take into consideration in relation to prevent illegal recycling of end-of-life ships. Officers that inspect ships might benefit from this list as they most often would be the first to be able to detect any possible breaches of the EU Waste Shipment Regulation or the EU Ship Recycling Regulation in their daily work in the ports. In cases of possible illegal recycling, it can make a huge difference for the environmental impact to stop the ship before it sails to its final destination as often very little can be done after the ship has arrived the ship recycling facility.

**Possible scenarios where the competent environmental authority and/or the competent maritime authority should be contacted and follow up:**

**The competent authorities should act if a ship:**

- ✓ has been in storage or cold stacked for some years, and/or
- ✓ is more than 10 years old, and/or
- ✓ is outdated or has no market value, and/or
- ✓ is stripped for expensive equipment necessary for normal operations (navigation equipment etc.), and/or
- ✓ has changed:
  - Name
  - Ownership
  - Flag from an EU/EEA-country to a non-EU/EEA country (especially black or grey listed flag<sup>11</sup>)

Questions for inspections:

- How long has the ship been in storage or cold stacked?
- Is there any information on where the ship is going or its future plans?
- Do the plans seem plausible?

**Signals that can be detected by the competent maritime authority through its control activities:**

Signs to look for that indicates recycling of the ship (legal or illegal):

- switching flag to a high-risk flag state during the past year
- documents that indicate that the ship will sail to:
  - Chittagong, Bangladesh
  - Alang-Sosiya, India
  - Gadani, Pakistan
- “single voyage” certificate or another temporary certificate
- insurance documents for “break-up voyage”
- no maintenance or repairs have taken place (indicates that the ship will not continue to be operated)

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<sup>11</sup> <https://www.parismou.org/detentions-banning/white-grey-and-black-list>

- dismantled, important or costly equipment that is necessary for regular operation (for example VOC plants or navigation equipment)
- tow approval

**Signals that can be detected by the Coastal service/Coast Guard/Sea Police/other relevant authorities:**

When the ship is either ordering pilot, unloading or other services:

- Poor condition, maintenance and/or low cost used for the ship
- Oral information that indicates that the ship is going to recycling
- Signals indicating that the crew are professional “beachers”
- Signals that there might be a last voyage
- Postponements of departure time due to necessary repairs

**Suggested procedure for detecting the risk of illegal export for scrapping**

The competent environmental authority and the competent maritime authority must be contacted as soon as possible, as time is crucial.

The authorities can ask for the following information:

- An estimate of when the ship can sail
- Where the ship is located
- The reason for the suspicion
- Pictures, copies or any documentation that prove the suspicion
- The time for a possible (new) control

The competent environmental and maritime authorities should assess the case as soon as possible and clarify which authority will follow up on the case.

Relevant further follow-up questions could be:

- Supervision/control that is physically present on the ship
- Drawing up orders that are handed over to the captain, shipowner or owner
- Drawing up information letters that are handed over to captain, shipowner or owner
- Report the case or assess an infringement fee
- Not a good enough case for the authority to legally stop the ship from sailing. Nevertheless, it may be relevant to report the case afterwards.

**Information, tips or messages of concern:**

When information, tips or messages of concern that indicates that a ship is going for illegal scrapping are received by one of the competent authorities, this should be shared between the competent maritime and environmental authorities.

Competent authorities can also look into the weekly scrap reports from known cash buyers. If a ship appears on their scrap report it is a very clear indicator that the ship is going for illegal recycling, but sometimes the ship might still be stopped by other member states if the ship has destined for its journey.

**List of high-risk flag states - "flag of convenience"**

Each year a new White, Grey and Black list is published in the Paris MoU Annual Report.

The “White, Grey and Black list” presents the full spectrum, from quality flags to flags with a poor performance that are considered high or very high risk. It is based on the total number of inspections and detentions over a 3-year rolling period for flags with at least 30 inspections in the period.

The black and grey listed flags are often called "Flag of convenience" (FOC). FOC is a business practice whereby a ship's owners register a merchant ship in a ship register of a country other than that of the ship's owners, and the ship flies the civil ensign of that country, called the flag state. Each merchant ship is required by international law to be registered in a registry created by a country, and a ship is subject to the laws of that country. A ship's owner may elect to register a ship in a foreign country which enables it to avoid the regulations of the ship owners country which may, for example, have stricter safety standards. They may also select a jurisdiction to reduce operating costs, avoiding higher taxes in the ship owners country and bypassing laws that protect the wages and working conditions of mariners. The term "flag of convenience" has been used since the 1950s. A registry which does not have a nationality or residency requirement for ship registration is often described as an open registry.

And updated list of black, grey and white flags is always available at the Paris MoUs web site:

<https://www.parismou.org/detentions-banning/white-grey-and-black-list>