



EUROPSKI PARLAMENT

2009 - 2014

Dokument s plenarne sjednice

A7-0166/2014

11.3.2014

PREPORUKA

o nacrtu Odluke Vijeća o ratifikaciji Međunarodne konvencije iz Hong Konga za sigurno i okolišno prihvatljivo recikliranje brodova iz 2009. od strane država članica ili pristupanju država članica toj konvenciji u interesu Europske unije (15902/2013 – C7-0485/2013 – 2012/0056(NLE))

Odbor za okoliš, javno zdravlje i sigurnost hrane

Izvjestitelj: Carl Schlyter

Oznake postupaka

- * Postupak savjetovanja
- *** Postupak suglasnosti
- ***I Redovni zakonodavni postupak (prvo čitanje)
- ***II Redovni zakonodavni postupak (drugo čitanje)
- ***III Redovni zakonodavni postupak (treće čitanje)

(Navedeni se postupak temelji na pravnoj osnovi predloženoj u nacrtu akta.)

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NACRT ZAKONODAVNE REZOLUCIJE EUROPSKOG PARLAMENTA

o nacrtu Odluke Vijeća o ratifikaciji Međunarodne konvencije iz Hong Konga za sigurno i okolišno prihvatljivo recikliranje brodova iz 2009. od strane država članica ili pristupanju država članica toj konvenciji u interesu Europske unije (15902/2013 – C7-0485/2013 – 2012/0056(NLE))

(Suglasnost)

Europski parlament,

- uzimajući u obzir nacrt Odluke Vijeća (15902/2013),
 - uzimajući u obzir Uredbu (EU) br. 1257/2013 Europskog parlamenta i Vijeća od 20. studenog 2013. o recikliranju brodova i izmjeni Uredbe (EZ) br. 1013/2006 i Direktive 2009/16/EZ¹,
 - uzimajući u obzir zahtjev Vijeća za davanje suglasnosti u skladu s člankom 192. stavkom 1. i člankom 218. stavkom 6. podstavkom 2. točkom (a)(v) i stavkom 8. Ugovora o funkcioniranju Europske unije (C7-0485/2013),
 - uzimajući u obzir članak 81. i članak 90. stavak 7. Poslovnika,
 - uzimajući u obzir preporuku Odbora za okoliš, javno zdravlje i sigurnost hrane (A7-0166/2014),
1. daje suglasnost Odluci Vijeća o ratifikaciji Međunarodne konvencije iz Hong Konga za sigurno i okolišno prihvatljivo recikliranje brodova iz 2009. od strane država članica ili pristupanju država članica toj konvenciji;
 2. nalaže svojem predsjedniku da stajalište Parlamenta proslijedi Vijeću, Komisiji te vladama i parlamentima država članica.

¹ SL L 330, 10.12.2013., str. 1.

EXPLANATORY STATEMENT

1. The Hong Kong Convention

The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships was adopted on 15 May 2009 under the auspices of the International Maritime Organization. It will need to be ratified by the major flag and recycling states in order to enter into force and start producing effects. On 9 January 2014, the Convention had been signed by five Parties, and only one Party had so far acceded to it (Norway)¹. Many anticipate that the Convention will not enter into force before 2020.

2. The EU Regulation on ship recycling

Pursuant to the provisions of Regulation (EC) No 1013/2006 on Waste Shipments, the export of EU ships to non-OECD countries for recycling is illegal. The export of hazardous waste from the EU to non-OECD countries is prohibited since 1998, and due the manifold hazardous materials on board of a ship, any ship going for dismantling constitutes hazardous waste. Unfortunately, the export ban is not adapted to the specificities of ships, as it is difficult to identify when ships turn into waste. For that reason, the export ban proved difficult to enforce for waste ships and has in fact been almost systematically disregarded by the shipping community ever since its adoption.

On 20 November 2013, the European Parliament and the Council adopted Regulation (EU) No 1257/2013 on Ship Recycling. The purpose of this Regulation is to ensure the environmentally sound recycling of EU ships. The Regulation also aims to facilitate the ratification of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 ('the Hong Kong Convention').

The new Regulation shall apply not earlier than 31 December 2015 and not later than 31 December 2018. When applicable, it will exempt EU ships from the scope of the Regulation (EC) No 1013/2006 on Waste Shipments. As such, it will legalize the recycling of EU ships in non-OECD countries, provided the recycling is done in facilities that are included in a European list. To be included in the European list, facilities need to comply with strict standards.

3. What about 'beaching'?

It is of paramount importance to recall that the EU legislator, when adopting the new Regulation on Ship Recycling, made use of his explicit right pursuant to Article 1(2) of the Hong Kong Convention to take more stringent measures so as to ensure a truly safe and environmentally sound recycling of ships.

This is all the more important as there is an ongoing controversy about 'beaching' - the currently predominant method of breaking ships on a beach and on the mudflats of an

¹ <http://www.imo.org/About/Conventions/StatusOfConventions/Documents/Status%20-%202014%20New%20Version.pdf>

intertidal area. 'Beaching' puts workers at great risk, both acutely and chronically, and leads to major pollution of the environment. Unfortunately, the Hong Kong Convention does not rule out the practice of 'beaching'.

However, the EU legislator adopted provisions in the new Regulation on Ship Recycling which clearly rule out the inclusion of facilities that practice beaching in the European list.

Firstly, Article 13 of Regulation (EU) No 1257/2013 sets out multiple requirements for ship recycling facilities that are impossible to comply with on a beach:

- point (c) to operate from built structures;
- point (f) to prevent adverse effects on human health and the environment, including the demonstration of the control of any leakage, in particular in intertidal zones,
- point (g)(i) to contain all hazardous materials during the entire recycling process and in addition the handling of hazardous materials, and of waste generated during the recycling process, only on impermeable floors with effective drainage systems and
- point (h) to ensure rapid access for emergency response equipment such as fire-fighting equipment and vehicles, ambulances and cranes to the ship and all areas of the ship recycling facility.

Secondly, the Regulation contains four safeguards to ensure compliance with those criteria:

- there is a regular certification including on-site inspections by independent verifiers of ship recycling facilities (Article 15(4)),
- the Commission has to assess applications in third countries before inclusion in the list (Article 16(1)(b)), inclusion is valid only for a maximum period of five years (Article 16(3), renewal is possible but requires the provision of updated evidence (Article 15(6), and Commission shall remove facilities from the list in case of non-compliance or non-provision of updated evidence upon renewal (Article 16(4)),
- NGOs are allowed to request the Commission to take action in case of non-compliance with the requirements (Article 23), and
- the Commission is allowed to send ad hoc inspections (Article 15(4)).

Thirdly, Recital 7 explicitly sets out the intention of the regulator to direct EU ships away from current substandard facilities to recycling facilities that practice safe and environmentally sound methods of dismantling. It also states that ship recycling facilities located in a third country should achieve a high level of protection of human health and the environment that is broadly equivalent to that in the Union - otherwise they would not be included in the European List.

The dismantling of a ship on a beach would clearly violate the provisions of the Waste Framework Directive 2008/98/EC. Therefore, by no stretch of imagination could 'beaching' be considered achieving a high level of protection of human health and the environment that would be "broadly equivalent to that in the Union". Therefore the legislator, when legalizing the recycling of EU ships in non-OECD countries in order to be able to regulate their recycling effectively, made it very clear that this can only happen in proper facilities.

4. The Commission proposal for ratification of the Hong Kong Convention

The Commission, in its proposal COM(2012)120 final, had proposed that all Member States

should be obliged to ratify the Hong Kong Convention upon entry into force of the new Regulation on ship recycling, and in any case no later than three years after entry into force of the Council Decision.

5. The Council Decision concerning the ratification of the Hong Kong Convention

The Council modified the Commission proposal: the revised draft Council Decision no longer obliges Member States to ratify, but merely authorises them to do so - and consequently does not set any deadline for Member States for ratification.

Moreover, and very importantly, the Council Decision clarifies explicitly that only certain articles of the Regulation on Ship Recycling provide for the alignment with the Convention: Articles 5(9) [sic!] for the update of the inventory of hazardous materials, Article 7(2) on the ship recycling plan, Article 10(1) and 10(2) on inventory certificates, and Articles 12(1) and 12(3) with regard to the requirement for ships flying the flag of a third country to have on board an inventory of hazardous materials.

The Council Decision - and rightly so! - does *not* refer to various other Articles, where the new Regulation goes beyond the provisions of the Hong Kong Convention, such as inter alia:

- Article 13, which sets out requirements necessary for ship recycling facilities to be included in the European list,
- Article 15 which sets out the specific evidence to be provided to show compliance with Article 13, including regular site inspections,
- Article 16 on the establishment and updating of the European list,
- Article 23 which gives a right to natural or legal persons to request action in case of a breach of Articles 13 in conjunction with Article 15 and Article 16(1)(b) of that Regulation.

6. Should we consent to the ratification of the Hong Kong Convention even though it tolerates 'beaching'?

The Hong Kong Convention is unsatisfactory from an EU point of view - reason as to why the new EU Regulation on Ship Recycling clearly went beyond it as explained above. However, the Convention is still an important improvement at global level over the current situation. As the provisions of the new Regulation on ship recycling only allow the recycling of EU ships in non-OECD countries when they are truly safe and environmentally sound, and as the export ban of hazardous waste from OECD to non-OECD countries pursuant to the Basel Convention proved difficult to enforce, there is no reason to object to allowing Member States to ratify the Hong Kong Convention as a step at global level to move towards safer and more environmentally sound recycling of non-EU ships.

7. Is there a risk of legal conflict in case of entry into force of the Hong Kong Convention before application of the new Regulation on Ship Recycling?

As stated above, the new Regulation on Ship Recycling will legalize the recycling of EU ships in non-OECD countries, provided the recycling is done in facilities that are included in a European list. The new Regulation shall apply not earlier than 31 December 2015 and not

later than 31 December 2018.

There is a theoretic possibility that the Hong Kong Convention enters into force before the new Regulation applies (if the new Regulation only applies at the latest date of 31 December 2018, and the Hong Kong Convention gathers enough ratifications until 31 December 2016). In such a scenario, Member States would allow the scrapping of EU ships in non-OECD countries (moreover under conditions that would not be acceptable in the EU) while their export would still be banned under the Waste Shipment Regulation.

However, in light of the very slow ratification so far (only one Party acceded in almost five years), and the demanding triple condition on ratification (at least 15 States, representing a combined merchant fleet of at least 40 per cent of the gross tonnage of the world's merchant shipping and whose combined maximum annual ship recycling volume during the preceding 10 years constitutes not less than three per cent of the gross tonnage of the combined merchant shipping of the same States), no one expects entry into force of the Convention before 2020.

And even if it nevertheless happened, the new Regulation on Ship Recycling contains a review clause in Article 30 that is triggered not later than 18 months before the entry into force of the Hong Kong Convention. In the highly unlikely scenario of an entry into force of the Hong Kong Convention before the date of application of the Regulation on Ship Recycling, the legislator could advance the application date of the new Regulation to avoid a legal conflict.

8. Conclusion

In conclusion, your rapporteur recommends to consent to the Council Decision allowing Member States to ratify or accede to the Hong Kong Convention as a step at global level to move towards safer and more environmentally sound recycling of non-EU ships, while insisting that truly safe and environmentally sound recycling is only achieved by going beyond the provisions of the Hong Kong Convention as adopted in the new EU Regulation on Ship Recycling.

REZULTAT KONAČNOG GLASOVANJA U ODBORU

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