

【欧州】【海事】

Maritime Issues – Ship recycling: BIMCO commissioned report points to possible problems concerning the European List of ship recycling facilities

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【概要 : Summary】

Ship recycling is an important aspect in the shipping industry, as in the EU and at global level regulations for responsible recycling are in force or are in preparation. Although in 2009 the International Maritime Organisation (IMO) approved the Hong-Kong Convention, which aims at guaranteeing the safe and ecologically sound recycling of ships, there are so far not enough IMO member states, which acceded to the law in order to make it come into force. Therefore, without waiting for the Convention's international ratification and entry into force, the EU introduced its own Ship Recycling Regulation (SRR) in 2013. The EU legislation transposes most of the IMO's Hong Kong Convention rules into EU law. The EU law imposes on EU-flagged ships certain requirements for the dismantling of end-of-life ships and adds also stricter environmental provisions. Since the beginning of 2019, any end-of-life, EU-flagged vessel needs to be scrapped at an approved ship recycling facility, which is included in the EU's list of ship recycling facilities that comply with the requirements of the SRR. The EU SRR seems to set higher standards than the IMO's Hong Kong Convention, with the beaching method being not allowed and more requirements related to downstream toxic waste management as well as labour rights being included. Moreover, EU-listed ship recycling

facilities are subject to a higher level of scrutiny, since there is independent third party certification and auditing. Since the EU's latest update of the list of approved recycling facilities includes also three non-European facilities, hope increases that eventually also Asian recycling facilities could become included into the list.

However, also the EU SRR will not prevent the ship breaking in substandard facilities. The EU's ship owners have still the option to change flag of their end-of-life vessels to a flag of convenience and to sell them to middle men, or cash buyers, to bring the ships for recycling to the same yards with substandard conditions like before.

In this context, a BIMCO commissioned report highlights the fact that the EU List yards give excellent geographical spread for the local market of EU countries, but it lacks of global provision. Some EU facilities in the list of facilities for ship recycling seem not to be ready to fulfilling uniform criteria, while on the other hand, the non-EU yards have been waiting for two years for approval to be inspected by European Commission appointed auditors. BIMCO also points out problems that could occur due to a possible lack of available recycling capacity of EU shipyards. At the same time, BIMCO sees the problem that if there is no path for non-EU facilities to get on the EU list, the SRR will continue failing to achieve its

objective to have ship owners in the EU to recycle their ships in authorised yards only.

【記事 : Article】

1. The Hong Kong Convention and the EU's Ship Recycling Regulation (SRR)

Every year, many of the end-of-life ships are being dismantled on tidal beaches in South Asia, under substandard and dangerous conditions for worker and the environment. India, Bangladesh, China, Pakistan and Turkey together recycle 98% of all tonnage in the world.

According to data released by the NGO Shipbreaking Platform, 744 large ocean-going commercial vessels were sold to scrap yards in 2018. Of these vessels, 518 were broken down under substandard conditions, amounting to 90,4% of the gross tonnage dismantled globally. Also European ship owners, which own 35% of the total world fleet, are still sending their end-of-life ships to substandard recycling facilities. In order to change this unsustainable situation at global level, already in 2009, the International Maritime Organisation (IMO) approved the “Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships” (Hong Kong Convention). The intention is to improve the conditions of shipbreaking at global level and to guarantee the safe and ecologically sound recycling of ships. The Convention will enter into force 24 months after the date on which 15 States, representing 40% of world merchant shipping by gross tonnage have either signed it without reservation as to ratification, acceptance or approval or have deposited instruments of ratification, acceptance, approval or accession. Since January 2019, there are seven states that have acceded to this convention, including Turkey as the latest country, next to Belgium, Congo, Denmark, France, Norway and Panama.

Without waiting for the Hong Kong Convention's entry into force, the EU started its own legislative process to transpose the Hong Kong Convention's rules into EU law. On 23 March 2012, European

Commission presented a draft proposal for a Regulation on the dismantling of ships. The new Regulation (EU) No 1257/2013 on ship recycling, amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC, came into force on 30 December 2013 (EU Ship Recycling Regulation, SRR). Regulation (EU) No 1257/2013 was amended by Decision (EU) 2018/853 regarding procedural rules in the field of environmental reporting.

The EU Ship Recycling Regulation (EU) No 1257/2013 has the intention to change the European ship owners' current practice to send around 90% of EU flagged ships for dismantling outside of the OECD. The SRR applies to large commercial seagoing vessels flying the flag of a EU Member State and to ships flying the flag of a third country calling at EU ports or anchorages. These ships will be required to have on-board availability of the Inventory of Hazardous Materials (IHM), verified either by the Administration or a Recognised Organization authorized by it, and accompanied by the relevant Certificate. The IHM shall be prepared taking into consideration the relevant IMO Guidelines (MEPC 269. (68) Guidelines). New vessels flying the flag of a EU member state are required to have on board a certified IHM (Inventory Hazardous Material) starting 31 December 2018.

This means that vessels with building contracts signed after this date shall have the IHM certificate in the specifications. All EU-flagged vessels to be recycled after 31 December 2018 are required to have a Ready for Recycling Certificate, which means, among others, these vessels shall only be sent to recycling facilities included in the European List of Ship Recycling Facilities (EU List) that qualify to meet the recycling standards laid down in the Regulation (EU) No 1257/2013.

It should be noted that the EU SRR also affects non-EU-flagged vessels. Also vessels flying a third-country flag (non-EU flag) calling at a port or anchorage of a EU Member State need the same certified IHM as of 31 December 2020. An IHM maintenance procedure should be implemented,

including the assignment of a qualified designated person whose duties should be incorporated in the ship owner's quality management system.

2. The EU's list of ship recycling facilities

While so far, there are still a vast number of end-of-life ships, which are sent to substandard ship breaking facilities in third countries, since 31 December 2018, large commercial seagoing vessels above 500 GT flying the flag of an EU Member State need to comply with the EU Ship Recycling Regulation (SRR) and may be recycled only in ship recycling facilities included in the European List of approved ship recycling facilities. The List was first established on 19 December 2016 and is periodically updated to add more compliant facilities, or to remove facilities, which have ceased to comply.

The European Commission assesses the applications received also from the ship recycling facilities located in third countries. On 6 December 2018, the European Commission published the List's latest update. There are currently 26 yards on the European list, most of which are located in the EU. The 26 shipyards include 23 facilities located in the EU, 2 facilities in Turkey and 1 facility in the United States of America. These facilities have been proven by the EU to fulfil the SRR's requirements for being included in the European List of ship recycling facilities. Regarding the list's latest update, the EU Commissioner for Environment, Maritime Affairs and Fisheries Karmenu Vella stated that the inclusion of the first yards located outside the EU was a major milestone and the recognition of very significant efforts and resources dedicated by the concerned yards towards this goal. The updated List gives European ship owners a wider range of recycling options.

Moreover, another 24 yards located outside the EU have applied for inclusion in the European List of ship recycling facilities. Their assessment is currently on going and the applications are being reviewed and site inspections conducted. New yards located within and outside the EU might be included

in the List in 2019.

3. General shortcomings of the EU's SRR

While ship recycling is a complex issue and ship owners of EU-flagged ships have to recycle their ships in a responsible way by avoiding substandard recycling, the question of the choice of the recycling facility is difficult. The inclusion of the first yards located outside the EU on the List is a major achievement and the recognition of their significant efforts. However, the majority of European shipping companies still register their ships under flags of convenience such as Panama, Liberia, the Marshall Islands and Bahamas, among others. This points to a major shortcoming of the Ship Recycling Regulation, as the change of flag offers European ship owners the opportunity to circumvent the ship recycling law by simply registering their ships to a non-EU flag. Meanwhile, major European ship owner Maersk has also threatened to flag-out from the Danish ship registry to allow the recycling of its end-of-life ships in non-EU approved shipbreaking facilities in India.

4. BIMCO points to possible problems of reduced availability of authorised recycling facilities and other disadvantages for EU-flagged ships

Regarding the list of authorised facilities, there are some shortcomings, as BIMCO, a non-profit organisation and the world's largest international shipping association, with around 2,000 members in more than 120 countries, representing 56% of the world's tonnage, with global membership including ship-owners, operators, managers, brokers and agents has pointed out. BIMCO had commissioned Marprof Environmental Ltd. to evaluate the situation of ship recycling facilities on the European List of ship recycling facilities. According to the Marprof Environmental Ltd. report entitled: "Report on the European List of Ship Recycling Facilities" of February 2019, only 9 out of 26 shipyards on the EU list of approved recycling

facilities are realistically open for ship recycling. Furthermore, out of the 26 shipyards, only 3 are in the position of recycling a large ship, as a Panamax-sized vessels or even larger. According to the Marprof. Environmental Ltd. report, 17 facilities do not display the requirements and are therefore considered to be disqualified. 4 facilities are not considered active out of which 2 facilities are not complete, 1 facility is insolvent, 1 is sold or no longer advertises services. 13 out of the list of 26 ship yards are repair or other multi-function facilities with ship recycling as a low priority, or are normally funded for ship recycling via military, special projects, offshore, or other sensitive items. Nevertheless, the report's findings show that there is a good stock of existing, and even planned, ship recycling facilities providing a high standard of service to the European market. The report comes to the conclusion that the EU List facilities can respond to the likely demands of the European market with high quality yards. However, they cannot, with the exception of Turkey, meet the global International demand for similar ship recycling for the world fleet. The report recognises that the inclusion of non-European recycling facilities is a major step forward in the maturity of the EU List and its usefulness to ship-owners.

The BIMCO commissioned Marprof Environmental Ltd. report also shows evidence that the capacity for Turkey, as the world's fifth largest recycling nation, is still significantly lower than that of the other four leading ship-recycling nations. In this regard, the report points out that it is also not the purpose of the EU List to provide recycling facilities to the entire world fleet, but only to EU-flagged end-of-life ships and other ships, which have a EU port as their last port of call. In this context, the requirement appears to be met.

BIMCO highlights the fact that the EU List of yards gives excellent geographical spread for the local market of the EU Member States. However, it also shows the lack of global provision. Furthermore,

BIMCO supports the audits to consider and reward improvements to health, safety and environmental protection that have been achieved at facilities in Asia.

Furthermore, according to BIMCO Secretary General & CEO Angus Frew, the fact that some EU facilities in the EU's list of facilities for ship recycling seem not to be ready to fulfilling uniform criteria is of concern, while on the other hand, the non-EU yards have still to be inspected by European Commission appointed auditors or are waiting for the decision to be included in the list. There are some Asian yards that have been waiting for two years for approval, after having submitted their application. BIMCO also wants the facilities to improve their safety and environmental performance, but if there is no path for non-EU facilities to get on the EU list, it is questionable if the Regulation will achieve the objective to stop dismantling of EU ships in substandard yards. Furthermore, there should also be a renewed inspection of the EU yards. Since only nine shipyards, out of 26, on the EU list of approved recycling facilities are realistically open for ship recycling, and only three of the 26 could recycle a large ship, BIMCO is concerned that the new EU ship recycling rules appear as a "measure of protectionism under the guise of environmental friendliness".

Finally, the report points out that in comparison to the 3 ship recycling nations with the biggest capacity, which are prepared to pay over \$400 per tonne to purchase a ship, it is not clear if the yards on the EU List of facilities are prepared to pay similar prices to the ship-owners. The maximum figure available is the \$240 per tonne offered in Turkey, although some sources expect further surcharges for EU flagged ships. Therefore, a situation could arise in which the Europe's Ship Recycling Regulation would only allow EU-flag ships to be recycled at approved ship breaking yards, which are offering much lower market rates compared to the major international ship breaking facilities.

This would cause a significant disadvantage to the European ship owners if they decide to recycle their ships according to law. It will be even more difficult to convince them to not change to a flag of convenience and sell them to cash buyers, who would offer a better price, bringing the end-of-life ships for recycling to the same yards with substandard conditions like before.

BIMCO criticises that on this basis it appears impossible for any EU List facility to meet the economically viable commercial ship recycling criteria, as the EU is expecting ship-owners to pay a regional penalty to recycle a ship. BIMCO sees the problem that if there is no path for non-EU facilities to get on the EU list, the SRR will continue failing to achieve its objective to make EU ship owners recycle their ships in authorised yards only.

5. Conclusion

The practice of EU ship owners to changing to a flag of convenience in order to avoid financial disadvantages if they sell their end-of-life ships to yards on the EU's list of approved ship recycling facilities will probably continue if there are not created better, advantageous conditions. Firstly, it will need more evidences that the operability of authorised EU ship recycling facilities is ensured to cover the demand. The European Commission should consider adequate measures in order to avoid the appearance that EU yards are allowed on the list without clearly fulfilling the criteria set in the SRR, whereas non-EU yards have only limited possibilities to enter the list. In this respect, it needs to be clarified why those 3rd country ship recycling facilities that have applied for approval have to wait more than two years for a result of the approval procedures. Secondly, the payment differences for end-of life ships that could mount to a regional penalty for EU ship owners if they recycle their end-of-life ships in authorised EU recycling facilities need to be compensated. The sale price that can be achieved in the EU should be

similar to the offers in third country yards not listed in the EU list of recycling facilities. Otherwise, the EU needs to offer other advantages or services that could compensate the financial disadvantage to recycle end-of-life ships in the facilities in the list of European ship recycling facilities.

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