

# **REPORTING, CONTROL AND ENFORCEMENT FOR ENVIRONMENTALLY SAFE SHIP RECYCLING**

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# Contents

- Basic criteria
  - Purpose of control
  - Elements of a control system
  - The Basel system and
  - Prior Informed Consent “the Basel way”
    - why and
    - why not for ships?
    - a practical alternative for ship recycling?
- Enforcement
- Check on progress
- Next Steps
- Summary

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ENVIRONMENTAL PROTECTION AND SCRAPS RECYCLING CAN PROMOTE WORLD ECONOMY DEVELOPMENT



# Purpose of Control

## To:

- protect the environment and human health from the potential adverse consequences of the activities
- demonstrate compliance with applicable environmental and other laws
- prevent long term problems from arising
- provide reassurance to the public and others that the whole process is being managed properly
- ensure sustainable development

# Elements of control system

## Comprises:

### ***Record keeping and reporting***

- Documentary record keeping detailing essential information, actions taken;
- A reporting system;

### ***Regulatory control***

- Powers to enter and inspect property, equipment and documents, take samples etc at all stages in the chain;
- Inspections empowered by an independent regulatory mechanism;

### ***Enforcement***

- A cadre of trained and competent inspectors with the appropriate enforcement powers and
- access to a judicial system capable of imposing penalties for proven breaches of the legislation.

# Equivalent Level of Control – The Basel Convention

## Article 4 – General Obligations

4(1) (b) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes to the Parties which have prohibited the import of such wastes, when notified pursuant to subparagraph (a) above.

4 (1) (c) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes if the State of import does not consent in writing to the specific import, in the case where that State of import has not prohibited the import of such wastes.

4 (2) (f) Require that information about a proposed transboundary movement of hazardous wastes and other wastes be provided to the States concerned, according to Annex V A, to state clearly the effects of the proposed movement on human health and the environment;



# Equivalent Level of Control – The Basel Convention

## Article 4 – General Obligations

- 4 (2) (g) Prevent the import of hazardous wastes and other wastes if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner;
- 4 (2)(h) Co-operate in activities with other Parties and interested organizations, directly and through the Secretariat, including the dissemination of information on the transboundary movement of hazardous wastes and other wastes, in order to improve the environmentally sound management of such wastes and to achieve the prevention of illegal traffic.
- 4 (7) (c) Require that hazardous wastes and other wastes be accompanied by a movement document from the point at which a transboundary movement commences to the point of disposal.

# Equivalent Level of Control – The Basel Convention

## ARTICLE 6 - Transboundary Movement between Parties

1. The State of export shall notify, or shall require the generator or exporter to notify, in writing, through the channel of the competent authority of the State of export, the competent authority of the States concerned of any proposed transboundary movement of hazardous wastes or other wastes. Such notification shall contain the declarations and information specified in Annex V A, written in a language acceptable to the State of import. Only one notification needs to be sent to each State concerned.
2. The State of import shall respond to the notifier in writing, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. A copy of the final response of the State of import shall be sent to the competent authorities of the States concerned which are Parties.



# Equivalent Level of Control – The Basel Convention

## ARTICLE 6 Transboundary Movement between Parties

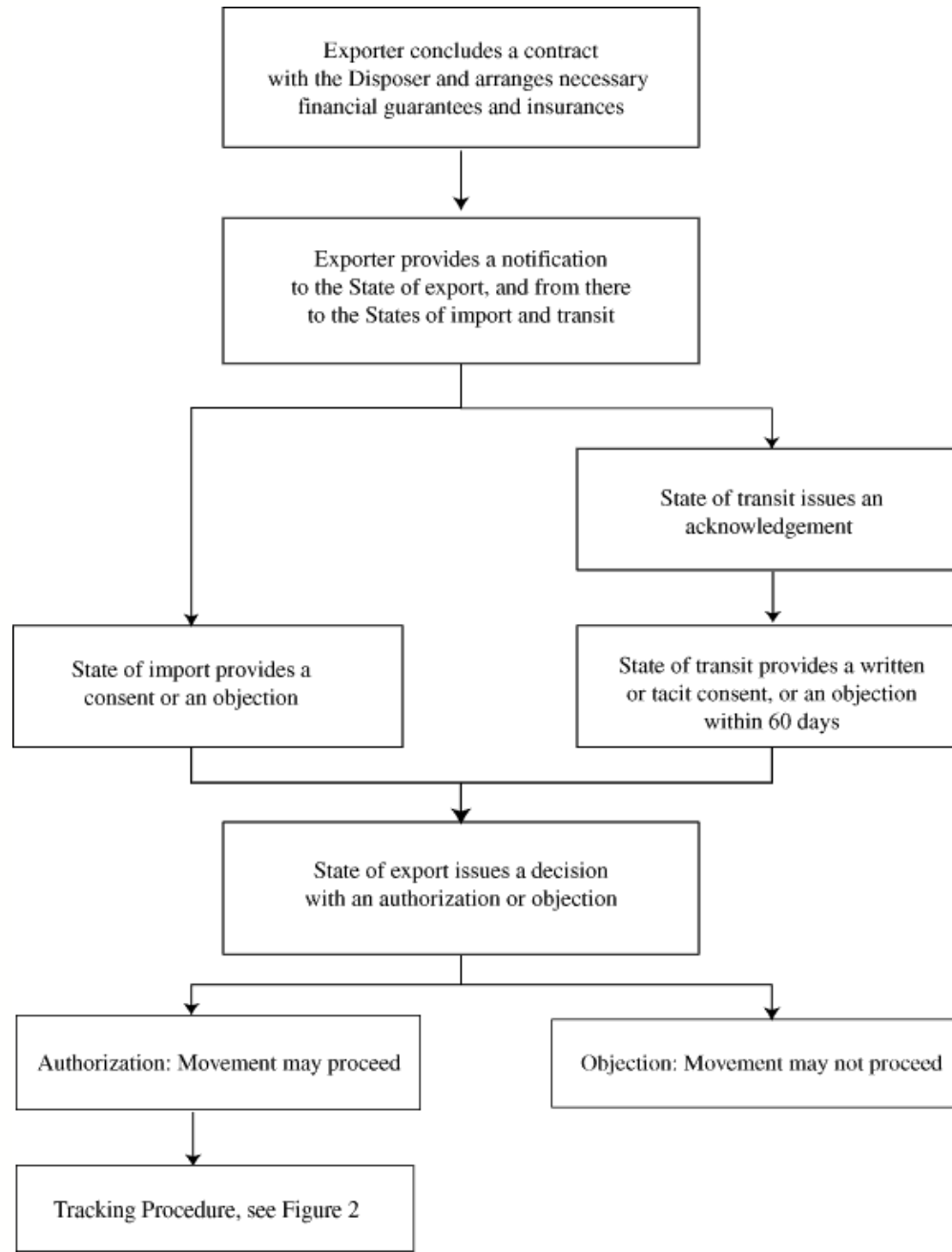
3. The State of export shall not allow the generator or exporter to commence the transboundary movement until it has received written confirmation that: (a) The notifier has received the written consent of the State of import; and (b) The notifier has received from the State of import confirmation of the existence of a contract between the exporter and the disposer specifying environmentally sound management of the wastes in question.
4. Each State of transit which is a Party shall promptly acknowledge to the notifier receipt of the notification. It may subsequently respond to the notifier in writing, within 60 days, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. The State of export shall not allow the transboundary movement to commence until it has received the written consent of the State of transit. However, if at any time a Party decides not to require prior written consent, either generally or under specific conditions, for transit transboundary movements of hazardous wastes or other wastes, or modifies its requirements in this respect, it shall forthwith inform the other Parties of its decision pursuant to Article 13. In this latter case, if no response is received by the State of export within 60 days of the receipt of a given notification by the State of transit, the State of export may allow the export to proceed through the State of transit.

# **How the controls work**

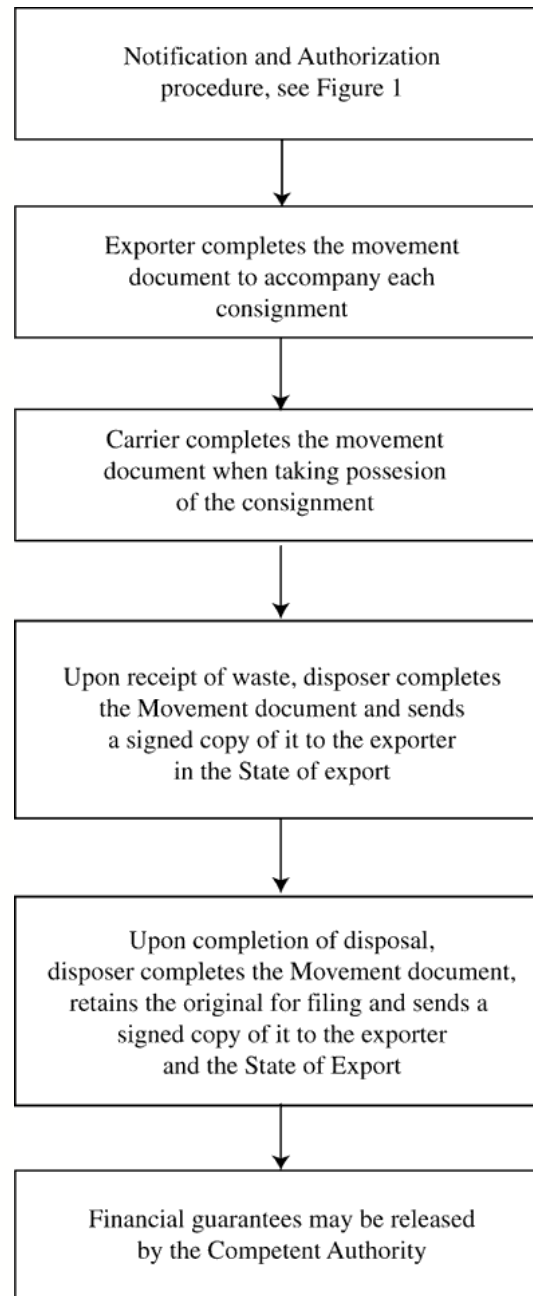
## **Guide to the Control System (Instruction Manual)**

Adopted by the fourth meeting of the Conference of the Parties, Kuching, Malaysia February 1998

# How the controls work



# How the controls work



# Equivalent Level of Control for the Ship Recycling - a Basel yardstick

## Article 11 - Bilateral, Multilateral and Regional Agreements

(1) “....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.”

# Prior Informed Consent and the “equivalent level of control” for ships

Why?

- The receiving state is not in a position to verify the accuracy of information provided until it is too late;
- It is better to ensure that all is in order rather than try to correct matters after the event ;
- Repatriation or alternative equivalent redress is impractical;
- There is plenty of time if ship owners carry out the recycling decision in a planned and managed way;
- It is easy for an economic operator to avoid responsibilities - they can disappear after the event and elude enforcement – leaving another operator, or even the state, with the consequences of improper actions and correcting them, rather than the perpetrator;
- Proper control is better than expensive and time consuming court action and costly clean up.



# Prior Informed Consent and the “equivalent level of control” for ships

Why not ?

- The Basel notification process is slow and time consuming,
- it is insufficiently flexible to the needs of a market subject to price fluctuations;
- Decisions by regulators may be inconsistent or impede compliant business' reasonable expectations;
- Repatriation or alternative means of redress is impractical;
- Ships are subject to other controls to ensure their safety and traceability, unlike wastes;

# Practical Alternative to Prior Informed Consent, tailored to ship recycling

**“Sufficient information** to allow timely intervention”

Key points:

- A body of information will be required by the Convention – assume this is sufficient and suitable
- To whom will it be sent and when, within what time period?
- How will it be verified?
- What sanctions will exist to enable regulatory action to be taken?
- What is the scope of the regulatory action that may be taken?

# Enforcement

“Sufficient information to allow **timely intervention**”

## Legislation

- Relevant powers
- Implemented into national law

## Capacity and Competence

- Sufficient numbers of trained inspectors with access to

## Information

- On the ship (as per the Convention)

## Means to exercise powers

- Means of access to inspect, detain (for a relevant period ) or demand further information, take samples etc

## Guidance

- Suitable guidance on application of regulatory powers and discretion to act





# Key Activities 1998-2008 – Progress Since MEP Inter Group April 06

|   |                             |
|---|-----------------------------|
| • Basel Convention COP-5                      | December 1999               |
| • Industry Ship Recycling Code of Practice    | 2001                        |
| • Guidelines published                        | BC-2003, IMO-2003, ILO-2004 |
| • Basel Convention Decision VII/26            | October 2004                |
| • 1st ILO/IMO/BC Joint Working Group          | February 2005               |
| • EU Council Conclusions (1)                  | June 2005                   |
| • IMO MEPC53                                  | July 2005                   |
| • IMO General Assembly Resolution A981        | November 2005               |
| • 2nd IMO/ILO/BC JWG                          | December 2005               |
| ➤ <b>IMO MEPC54</b>                           | <b>March 2006</b>           |
| ✓ Basel Convention OEWG5                      | April 2006                  |
| ✓ IMO MEPC55                                  | October 2006                |
| ✓ EU Council Conclusions (2)                  | October 2006                |
| ✓ Basel Convention COP-8                      | November 2006               |
| • European Commission Green paper             | (soon)                      |
| • Inter-sessional Working group               | (very soon)                 |
| ➤ <b>IMO MEPC56</b>                           | <b>July 2007</b>            |
| • <b>IMO General Assembly</b>                 | <b>November 2007</b>        |
| • 3rd IMO/ILO/BC-JWG                          | (No date set)               |
| • IMO MEPC 57/8                               | Mar/ Oct 2008               |
| • Basel Convention Cop 9                      | June 2009                   |
| • IMO Diplomatic Conference                   | 2008/9                      |
| • <b>Entry into force and legally binding</b> | <b>????</b>                 |

# Next Steps

## Trials and checks

- Informal inter-sessional working
- Discussions, desk-top exercises
- EU Commission study, Green Paper
- Development of the text of the draft Convention informed by the above
- Draft guidance – is more needed on this issues?
- interim measures: can these be used to test out some of the assumptions?



# Summary

- A replica Basel control system is not necessarily ideal for end of life ships;
- An alternative needs (for EU at least) to operate to an equivalent standard, however;
- Prior informed tacit assent may work as well for ships as prior informed consent for wastes; provided that
- Good quality data and management systems are in place; and
- Supply and flows of adequate information operate effectively, these will be key to assessing the practical impact and value of any system
- effective communication between industry and regulator is vital;
- Enforcement – as means of last resort – must be tangible;
- More guidance might be needed.



A full-page background image showing a sunset over a body of water. The sun is a bright yellow circle in the upper center, casting a warm orange glow across the sky. In the foreground, the dark silhouettes of buildings and a satellite dish are visible. In the middle ground, a large ship is on the water. In the background, a distant shoreline features a prominent lighthouse and rolling hills under the hazy sunset sky.

**The End**

**Thank You**