ANNEX XVII

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Annex XVII

Action by the European Union

I. Maritime policy and governance.

The maritime policy followed by the European Union forms a whole through the interactivity of its different components. European studies materialised in a Green Paper (requested by the Commission for use as a consultation document) which was made public on 7 June 2006. This Green Paper given the title "Towards a future Maritime Policy for the Union: a European vision for the oceans and seas" was open to wide consultation up until 30 June 2007; the European Council was to give its conclusions in December 2007.

The need for governance that is specific to an integrated maritime policy has become evident.

Governance, beyond the limits of the EU, raises the issue of how the interests of the Union can be expressed and defended within the universe of inter-governmental organisations. In other words, who will have authority to speak at the International Maritime Organization, the OSPAR[1] Convention, the Barcelona Convention[2] or before regional fishing organisations? Who will represent the States thereat? And to defend which interests? The issue is truly raised and is not a neutral issue. The debate, opened by the Union's Green Paper on maritime policy, on the subject-matter of governance undeniably warrants deeper discussion.

II. Green Paper on ship dismantling

The Commission plans to issue a Green Paper in March 2007 on the specific subject of ship dismantling. This Green Paper is intended to detail the measures mentioned on this subject in the Green Paper on European maritime policy.

The French MIDN Committee on ship dismantling has offered a reasoned contribution to the Commission for the coming publication of the Green Paper on the dismantling of time-expired ships, in the following form:

Proposed French contribution to a European plan of action for ship dismantling

This White paper proposal relating to a specific Green Paper on ship dismantling comprises the three main following points:

- *how to contribute actively to the rapid adoption of an international convention;*
- *how to lead specific, concerted European action for the dismantling of government-owned ships;*
- *how to encourage ship operators and "recycling" sites to give joint support to these new standards under a renewed industrial strategy;*

[1] The 1992 OSPAR Convention is the current instrument guiding international cooperation on the protection of the marine environment of the North-East Atlantic. It combined and up-dated the 1972 Oslo Convention on dumping waste at sea and the 1974 Paris Convention on land-based sources of marine pollution.

[2] The Barcelona Convention of 1976, amended in 1995, and the Protocols drawn up in line with this Convention aim to reduce pollution in the Mediterranean Sea and improve the marine environment in the area, thereby contributing to its sustainable development.

1 NEW INTERNATIONAL RULES.

The EU is desirous of the rapid adoption of a compulsory system guaranteeing the protection of workers and of the environment during dismantling operations, and hence the signing of an **international convention lying within the sphere of the International Maritime Organization (IMO),** giving consideration to the efforts already made by the International Labour Organization (ILO) and the Basel Convention (BC).

The EU will emphasise the need for very broad acceptance of resulting standards by the chief flag States and by States on whose territory the majority of dismantling operations are currently being carried out. The EU may in particular encourage dialogue with relevant representatives of the ship dismantling sector.

There is a risk however that this necessary universality of a strict convention may not be easy to organise rapidly, and it would be helpful to encourage the implementation of already existing guidelines or even to make provision for **ISO standards enabling ship demolition facilities to attain environmentally sound management** while awaiting the entry into force of the IMO Convention. These standards could be based on relevant IMO/ILO/CB provisions. Those demolition facilities heedful of these guidelines and standards could then, after EU verification of conformity, be awarded a special label allowing them to be considered by European regulations as ensuring safe, clean dismantling.

The EU could provide them with technical and financial assistance so that they can upgrade their facilities gradually, to achieve required standards of protection of the marine environment and of the health and safety of workers.

2 NEW INDUSTRIAL PARTNERSHIPS

The EU should promote **contractual documentation inspired in particular by the standard *DEMOLISHCON* contract drawn up by BIMCO, making specific reference to the above-mentioned IMO and/or ISO standards.**

The EU must also encourage the introduction of **framework-agreements** between national and/or international trade organisations of ship operators and ship demolition companies to promote concerted action towards the achieving of safer, cleaner dismantling.

The EU must show a possible direction of improvement by organising the financing of a fixed number of Green Passports and Recycling Plans, prepared by dismantling professionals for the benefit of interested operators and for ships of over 25 years of age nearing the end of their operational lives.

The payment of **incentive bonuses** by the EU to the partners of such framework agreements, and highlighting thereof by specific **communication actions** are not to be excluded.

The EU must study the relevance and measure the impact of various possible incentive measures. To ensure the **financing of these provisions**, various means can be examined either at European level or at a more international level, for example:

- *levying a tax on all European imports made by maritime route, to be paid into a European fund to allocate aid for the safe, clean dismantling of ships;*
- *introduction of a security deposit for all ships over 25 years of age calling at European ports, which will only be exercised when the ship under consideration is given safe, clean dismantling;*
- *collection by the IMO of an annual tax associated with the issue of the IMO registration number, to be paid into a international fund to allocate aid for safe, clean dismantling.*

On the contrary, **any dismantling operations which deliberately and excessively diverge from minimum standards for protection of the marine environment and prevention of occupational hazards could also come under action taken by the EU.**

3 A EUROPEAN POLICY FOR THE DISMANTLING OF GOVERNMENT-OWNED SHIPS

The EU should group together forecasted figures for the type and number of government-owned ships which are liable to be dismantled in Europe or the OECD over the 10 coming years.

The EU must examine the possible ways of optimising the EU/EFTA/OECD industrial scene, for the dismantling of European government-owned ships which cannot be towed out of Europe or whose European shipowners exhibit a desire to have their ships dismantled in this geographical sphere. This analysis will particularly examine the expediency of adapting existing dismantling capacities in Europe or of developing new capacities.

The EU could in particular investigate the advantages and disadvantages of adopting standard contracts, of pooling means on a European scale and of launching coordinated invitations to tender; European bodies could be appointed for this purpose.

For these same government-owned ships, the EU could encourage European countries to strengthen their coordination so as to facilitate the transit or arrival on their territory of European ships to be dismantled.

In parallel with publication of the Green Paper, the Commission launched several studies which can be used to further investigations under progress.

III. Studies conducted by the European Commission

III.1. "COWI" study and conceivable additions:

The subjects of the study launched by DG Environment in July 06 tally with the concerns of the French MIDN Committee on ship dismantling:

- to update data and predictions for time-expired ships up until 2020;
- to update available data on capacities for the dismantling and prior cleaning of ships;
- to determine future dismantling and prior cleaning capacities and to forecast figures;
- to draw up an inventory of standards in force for environmentally sound management in the ship dismantling sector;

- to give a clearer interpretation of the expression "properly emptied of … hazardous materials" and to endeavour to explain under which circumstances time-expired ships could be considered to be non-hazardous waste;
- to assess the risks of movements of previously cleaned ships from European countries to Asia;
- to calculate the costs and advantages of ship dismantling and prior cleaning in the EU, and in candidate countries;
- to make an assessment of governance in the area of ship dismantling;
- to draw up a list of the different options which can be considered with respect to a ship dismantling strategy and to evaluate each one.

However according to the French MIDN Committee, the consultation on ship dismantling should comprise a series of technical, environmental and economical analyses. In this respect the COWI study could be supplemented.

Technical analyses:

Regarding technical analyses, it would appear to be essential that the work by the Commission takes into account the different conditions of reuse of recycled scrap in general and of ship scrap in particular.

On this point a distinction should be made between the utilisations under consideration in:

basic oxygen processes, for ratio calculations (minority additions to converters);
electric processes (solely used in furnaces) ;
direct re-rolling before drawing, after mere heating at relatively low temperature.

This third method is very widely used in the Indian subcontinent and as it is particularly economical in energy consumption compared with the two others, it leads to greater purchases of ship scrap which proves to be the best adapted to its technical characteristics. At all events, the ecological consequences of each of these methods needs to be assessed both for scrap in general and for ship scrap in particular.

An additional investigation appears to be necessary into the actual techniques used for dismantling on a site-by-site basis, by comparing the infrastructures and equipment used today or which may be used in the future for safe, clean dismantling. Proposals could be made on this matter.

Regarding environmental matters, the work of the Commission should take into account precise data on pollution of the marine environment[3] generated by ship demolition in particular in the Indian subcontinent as compared with the more general pollution resulting from its urbanisation and industrialisation. The same applies to the health and safety of workers in this ship demolition sector as compared with other industrial sectors in the countries under consideration.

Since it appears difficult to deprive countries in the Indian subcontinent of the scrap raw material on which all or part of their steel-making industry is based, the work of the Commission should look into the conditions which could be used to compensate for losses through compliance with standards or increased ship scrap prices. These conditions should be assessed having regard not only to their cost but also to any possible risks for the environment and the health and safety of workers.

[3] In this respect, the methods tending to consider the entirety of a ship's components and equipment as polluting materials must be set aside.

Economic analyses:

For economic analyses it would be helpful if the work of the Commission does not limit itself to a mechanical market approach but also, taking into account the strong reactivity of maritime operators, is able to assess the capacity of these operators to stagger the placing on the market of vessels to be dismantled after an extended ship operating life, after laying-up in storage or conversion (use as storage, conversion to hydrostatic balanced loading, etc...).

This type of re-investigation of the situation could in fact place in perspective all current opinions on the possible peak of demand for ship demolition on and after 2010, and would also make it possible to better appreciate the trend of this market over the medium and long term.

It would appear essential that the above-described techniques should be assessed in terms of costs, determining the correlation between ship purchase differentials in the different dismantling regions of the world. The low labour costs in the Indian subcontinent do not themselves account for the reasons which lead the dismantling sites in this area to pay more for ships than their European or Asian competitors. Other market factors are to be taken into consideration.

Similarly, it would be helpful if the Commission could determine the financial funding for each of its proposals in the light of financial needs and an evaluation of their consequences on the functioning of markets.

In this respect, the French Ministry for transport, equipment and maritime affairs considers that these means, if they were to involve the European budget, should not under any circumstances be taken from the redeployment of a programme in progress (such as the Marco Polo programme to enhance intermodality in the European freight transport sector).

III.2. Other European studies in progress:

ECODOCK – Environmentally friendly coatings for ship building and ships in operation
The "EcoDock" project in The Netherlands has benefited from a Life subsidy amounting to around €90 000 to set up a dismantling structure for sea transport vessels. The results of this project are not known. It comes under the programme for STREP projects (Specific Targeted REsearch Projects).

Also, DG Transport is financing a "SHIPDISMANTL" project (period: 2005/2009) and a project named "SHIPMATES" (SHIP repair to MAintain transport which is Environmentally Sustainable) (period: 2004/2007) for a total of €1 500 000 for the first and €2 150 000 for the second.

IV. European Maritime Safety Agency (EMSA)[4]:

A certain number of specialised, decentralised agencies of the European Union were set up to provide their support to EU Member States. These agencies meet a desire to achieve geographical distribution and the need to face new tasks of legal, technical and/or scientific nature. The EU agencies are grouped into 4 categories (Community agencies - around twenty -, Common Foreign and Security Policy agencies, Agencies for Police and Judicial Cooperation in criminal matters, Executive agencies).

[4] (source http://www.emsa.europa.eu/)

The European Maritime Safety Agency is a Community agency (formed under Regulation (CE) n° 1406/2002 of 27 June 2002). It is a body of European public law, distinct from the Community institutions (Council, Parliament, Commission, etc.) and has its own legal personality. It was set up by an act of secondary legislation in order to accomplish a very specific technical, scientific or managerial task, in the framework of the European Union's "first pillar". Its head office is in Lisbon.

This agency has a consultative role vis-à-vis Member States and cooperates with the Directorate General for Transport and Energy (DG Tren). Its competence extends to the 25 Member States and to Norway and Iceland.

In particular this Agency ensures surveys for maritime safety, classification societies and port installations receiving hazardous substances. The Agency is also in charge of highly specialised matters such as the exchange of information on ships and their cargos. EMSA regularly organises workshops with European experts. A workshop on ship dismantling was organised in September 06 (see Appendix).
EMSA takes an interest in dismantling which at first sight did not appear to enter directly into its sphere of competence, in particular regarding the need to develop ship demolition so as to improve the quality of ships in service and their navigational safety with a view to preventing an increase in the number of obsolete ships abandoned in ports and on shorelines.

EMSA and the classification societies:

For the monitoring of ships to ensure that they are built and maintained in compliance with the most recent requirements in safety matters, their design, construction and maintenance must be given approval, and certain inspection and certification procedures must be followed. Ship registration States (flag States) hold this responsibility for ships which come under their jurisdiction, but they may appoint classification societies to carry out these tasks.

These societies are multinational bodies which issue numerous types of certificates which come under two main categories. "Classification certificates" certify compliance with rules laid down by the societies themselves, while their "Certificates" concern compliance with international regulations. Although more than 50 organisations are involved in this type of activity on a world level, only 12 classification societies are currently recognised by the European Union. These include all the major societies which inspect and certify ships representing 90% of world tonnage. EU Member States are only authorised to delegate their responsibilities for ship certification to these 12 recognised societies.

Directive 94/57/CE (such as amended after the Erika disaster) forms Europe's main legislation with regard to the classification societies.

It lays down a certain number of important criteria for the work conducted by those classification societies recognised by the EU. To guarantee that these societies maintain optimal standards of quality, they are subjected to periodical evaluations carried out on behalf of the European Commission. Each classification society recognised by the EU must be assessed once every two years. The Commission has appointed EMSA to conduct this assessment. The Agency's assessors travel to the head offices of the classification societies and to their regional and/or local offices, and also inspect the various ships and shipyards concerned.

EMSA is also experimenting a continual inspection system to assess the performance of these societies, based on data obtained from inspection systems by port State authorities and other sources. Finally, the assessment procedure makes large provision for the issue of site reports before and after assessment. When relying on conclusions drawn by EMSA, the European Commission may request corrective action and/or propose sanctions if the work methods of any of these societies should show any serious flaws.

EMSA and the International Maritime Organisation (IMO):

Substantial efforts are devoted to the improvement of maritime safety standards. International standards of maritime safety are designed and laid down by the International Maritime Organisation (IMO) and experts from EMSA take part in this work on behalf of the European Commission. Progress has recently been achieved in the area of standards for double-hulled tankers (and their maintenance) and in the area of the design of bulk carriers.

Classification societies assessed by EMSA:

A. *Societies recognised by the EU at international level*:

	Ships	World
Nippon Kaiji Kyokai-NKK (Japan)	6 059	15 %
Lloyd's Register of Shipping-LR (RU)	6 056	15 %
American Bureau of Shipping-ABS (USA)	4 158	10 %
Det Norske Veritas-DNV (Norway)	3 908	9 %
Bureau Veritas-BV (France)	4 300	10 %
Germanischer Lloyd-GL (Germany)	4 143	10 %
China Classification Society-CCS (China)	2 006	5 %
Korean Register of Shipping-KR (Korea)	1 312	3 %
Russian Maritime Register of shipping-RS (Russia)	2 537	6 %
Registro Italiano Navale-RINA (Italy)	807	2 %

B. Limited EU recognition:

Hellenic Register of Shipping-HRS (Greece)	340	0,8 %
Registro Internacional Naval-Rinave (Portugal)	27	0,1 %

The societies in list A cover more than 90% of world tonnage.

EMSA and port State inspection:

While the flag States and the classification societies must monitor the adequate construction and maintenance of ships, port States are responsible within the EU for inspecting foreign ships in transit (port State inspection). The authorities of Member States carry out frequent inspections in ports, since each Member State must inspect at least 25% of all ships which call at its ports every year, pursuant to EU Directive 95/21/CE.

This inspection by the port State takes on particular importance for maritime safety, in the event of default by the flag State. Should the inspection system of the port State detect any serious anomalies on a foreign ship in transit, the necessary repairs must be carried out and the port State has authority to retain a ship until such repairs are completed.

If a ship is immobilised on several occasions over a certain time period, its access to any EU port may be refused until the owner has provided evidence of the good condition of the ship ("banning" measure).

It is of particular importance to ensure that the agents in charge of inspection by the port State in EU coastline States conduct their operations in harmonised manner. This means that the States must use the same criteria for inspection, issue of reports, training, etc. EMSA is in charge of accomplishing several tasks which come under inspection by a port State.

Inspection is one of the areas in which EMSA acts on behalf of the European Commission in close collaboration with Member States. This area has strong links with the Paris Memorandum of Understanding which covers 22 maritime authorities and aims at harmonising inspections by the port State in all European coastal States and coastal States of the North-Atlantic basin.

Appendix

European Maritime Safety Agency

Workshop Report: Ship Recycling - Lisbon, 21-22 September 2006.

Workshop Conclusions

For each session a full set of conclusions was drafted by EMSA and agreed by the participants.

1. To effectively deal with the current problems of ship recycling, action has to be undertaken at the international level. In this context, the majority of the participants acknowledged the progress made in IMO to develop a future convention for the safe and environmentally sound recycling of ships, which provides requirements for ships, recycling facilities and a reporting and inspection system, and creates a globally binding regime. To make this process in IMO a success, the following elements are of key importance:

- Commitment from the international community to comply with the IMO;
- Time schedule for the negotiations;
- Commitment from major ship building states, flag states and recycling states to solve the problem by taking active part in the negotiations, ratifying the adopted instrument, and establishing the inspection and enforcement mechanisms required by the Convention;
- Active participation from all other stakeholders in the negotiations;
- Commitment from industry to implement the agreed requirements;
- Equal treatment of all parties in the Convention; nevertheless, some participants expressed concerns about the implications of the equal treatment principle and discussed the need of complementary measures.

The NGO platform expressed some criticism of the effectiveness of the current draft instrument.

2. The relationship between the future IMO Convention and other relevant international conventions (Basel Convention and the ILO Convention and standards) will need to be clarified. Any grey areas in the existing legislation and the future legal framework should be avoided.

3. Participants welcomed the concept of life cycle thinking (“from cradle to grave” approach), which is at the basis of the future IMO Convention. The Inventory of hazardous materials and the future system of survey and certification were identified as key elements of the future Convention, as well as the provision of international standards for recycling facilities.

4. The Workshop welcomed the voluntary commitments that were announced by representatives of the shipping industry as a potentially effective tool to improve the practices in the interim period. In this context, the importance of a list of authorized recycling facilities was highlighted.

5. Pre-cleaning was discussed as an important issue. The practical problems of pre-cleaning from the maritime safety point of views were stressed, as well as the need to take into account other hazardous materials on board ships, apart from asbestos.

EMSA
2nd session – Developments at EU level, 22 September 2006.

1. All participants emphasized the need for a strong EU contribution to the development of a future IMO Convention on the safe and environmentally sound recycling of ships;

2. Most participants welcomed the Commission's plan to launch a public consultation on an EU contribution to better management of ship dismantling, in addition to the ongoing consultation on the Green Paper for a future EU maritime policy;

3. It was generally acknowledged that effective measures should be considered to cover the interim period, i.e. until the new IMO Convention has entered into force. The need for better enforcement of the EU Waste Shipment Regulation was highlighted, as well as the application of the existing Guidelines on ship recycling. In addition, the question of funding, based on the polluter pays principle, was debated;

4. It was pointed out that safe and environmentally sound recycling is practically achievable at a reasonable cost, provided that there is proper planning;

5. Participants showed willingness to work towards a common approach on key issues such as Environmentally Sound Management of ship recycling and equivalent level of inspection and enforcement, as established in the Basel Convention, in its entirety;

6. The participants agreed that well timed workshop meetings at expert level are very useful in making progress and developing common understanding. They provide the appropriate forum for an open exchange of views among all relevant stakeholders.