Regulatory, social and commercial considerations on ship recycling

The two excellent pieces discussing the regulatory changes that are emerging for ship recycling in the last issue of HANSA by Henning Gramann and Ralf Nagel call for some further discussion. By Nikos Mikelis

First of all, all stakeholders will probably agree that international regulation was needed to improve safety and environmental protection in ship recycling. The International Hong Kong Convention for the Safe and Environmentally Sound Recycling of Ships (HKC) was adopted in 2009 to address ship recycling in a global and practical way. For understandable reasons, it takes time for governments to accede to international conventions, and this is also the case with the HKC. Progress is nevertheless being made following a Decision of the European Council in April 2014 to remove a legal obstacle that stopped European Union member States from acceding/ratifying HKC. Subsequently France ratified the convention in July bringing the number of contracting countries to three. Further activity is expected on this front in the future, but in any case Mr Nagel made some pertinent remarks in his article pointing to the moral obligations of governments not only to adopt conventions but also to accede or ratify them (and to implement and enforce them).

Both contributors also made relevant references to the new EU Ship Recycling Regulation (SRR) noting its great similarity to the HKC, but also alerting against the adverse consequences of a possible decision of DG Environment to interpret a vague provision of the SRR as intended to exclude all recycling yards that rely on the beaching method from the European List of approved yards. Such a decision by the European Commission would block European Union flagged ships from accessing all of South Asia’s ship recycling yards, in other words more than 70% of the world’s recycling capacity. At the same time the Commission would be disregarding the investments and improvements that are already being made by individual yards in the Subcontinent and would have the unintended consequence of halting the sustainable development that is taking place.

There is a third piece of legislation addressing ‘end-of-life’ ships. This is the European Regulation on Shipments of Waste, which forbids the export of hazardous waste to developing (non-OECD) countries, and which is the EU implementation of the Basel Convention (‘Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal’) together with its internationally not-yet-in-force Ban Amendment. It was under the Shipments of Waste regulation that the car carrier ‘Global Spirit’ was detained in Antwerp in June 2014 and was ordered to change its recycling destination from India (non-OECD) to Turkey (OECD). The Shipments of Waste regulation, whilst in its general implementation being a laudable instrument, is now recognised as being unsuitable for regulating ships and ship recycling. The European Commission, having tried over the years to enforce it to end-of-life ships, eventually recognised that it had no option but to replace it with the new EU Ship Recycling Regulation. However, there is a source of future confusion and bad decisions here because, while SRR when fully applied will explicitly exempt EU flagged ships from the scope of the Shipments of Waste regulation, it will not do so for non-EU flagged ships.

The applicable requirements for ship recycling can therefore be summarised in the following three paragraphs:

First, in the period up to the date of application of SRR (i.e. a date between 30 December 2015 and 30 December 2018 which will be triggered when the recycling capacity in the European List of approved yards reaches 2.5 mill. light tons) the Shipments of Waste regulation will apply to all ships regardless of flag that are departing from EU ports destined for recycling. Consequently, shipowners must either contract their end-of-life ships for recycling to Turkish or European or other OECD yards, or their ships must not depart from a European port having declared a non-OECD recycling destination.

Second, in the period after the date of application of SRR, EU flagged ships, regardless of their port of departure, will be able to be recycled only in yards that appear in the European List (this List will be established by 30 December 2014 and will be published before 30 December 2016). Non-EU flagged ships, as well as EU flagged ships having declared a non-OECD recycling destination.

The Shipments of Waste regulation refers to ‘country of dispatch’ (and not to ‘port of departure’) as the place where the obligation arises under the regulation. Caution needs to be applied in interpreting the starting point of a ship’s last voyage, as the regulation includes the concept of ‘country of transits’ through which a shipment of waste can take place. This interpretation was used for detaining the Global Spirit, which was due to depart from EU with cargo for various ports in West Africa prior to its final destination for recycling.

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ships that change flag, will continue to be subject to the Shipments of Waste regulation and will need to make arrangements in line with the paragraph above. Furthermore, from 30 December 2020, non-EU flagged ships calling at a EU port will be required to have an Inventory of Hazardous Materials.

Third and finally, in the period that will start with the entry-into-force of the HKC, SRR will be amended in accordance with its Article 30.2 so that it is brought in line with HKC. At the same time we can hope that the European Commission will also see the sense to propose amendments to the Shipments of Waste regulation so as to also exempt ships flying the flags of parties to the HKC.

Mr Gramann, in his article, says: «The majority keeps playing the top dollar game, leaving little to no room for investments in recycling quality». I suspect he referred to the majority of ship recyclers, although in my view we should be clear in our understanding that it is the shipowner-clients of the recycling yards that are in a position to demand higher standards through their custom, and not the other way around. Having said that, we ought to recognise that change is taking place. Although the majority of shipowners do play the top dollar game, there is the recognition by a small and slowly increasing number of shipowners of the need for recycling their ships in a responsible manner. Some of these owners have developed a policy of not beaching their ships, as an expression of their corporate social responsibility. Other owners have overcome the bad publicity of beaching as promoted by NGOs, and, having inspected and assessed yards in South Asia, have concluded that there are a number of yards whose investment in safety, environmental protection and social welfare of the workforce are well worth supporting, while also being consistent with the spirit as well as the word of corporate social responsibility. When such an owner contracts through his Cash Buyer a competent yard, say in India, to provide «green» ship recycling, the owner certainly enjoys the commercial benefit of the generally higher prices paid in India. At the same time, the yard owner expects that the price to be agreed will reflect the reality that responsible recycling costs money. In this way we are seeing the beginning of the development of a two-tier market whereby the socially responsible shipowner encourages and supports sustainable improvements. The one risk to this virtuous circle is that the competition for the business of a respected owner can force the Cash Buyer to increase the price he pays, up to the same levels paid by Cash Buyers and yards that do not provide for responsible recycling. If this competition persists and if the shipowner does not resist the temptation of «top dollar», then it may become inevitable that standards will slip.

When seen from the shipowners’ point of view, many of whom are having financial problems these days, it would appear that, until there is enforceable legislation in place, any improvements in the way ships are recycled will have to rely on the altruism of few individual shipowners. However, if the same thing is seen from the point of view of the shipping industry as a whole, it then becomes very clear that higher safety and environmental protection standards will soon be the norm, and therefore the international shipping industry must do whatever is necessary to encourage and support good quality recycling in different geographic locations and, importantly, in countries with a steady appetite for large quantities of ferrous scrap, such as are the countries of South Asia.

GMS is not only the largest Cash Buyer in terms of the number and tonnage of the ships it buys annually but is also well known for its professionalism and its long-term view of the ship recycling business. With this background, GMS has been preparing for the regulatory and cultural changes described here and has been investing in a programme for responsible recycling. We invite like-minded shipowners to speak with us about ship recycling in the best yards in South Asia.

Company profile
Established in 1992, GMS is the world’s largest and only ISO 9001 (BVC) certified Cash Buyer of ships for recycling. Dr. Anil Sharma, its founder and CEO, has been consistently ranked by Lloyd’s List as one among 50 most influential people in the shipping industry. Primary activities include the Sale and Purchase of vessels for recycling and trading, which is complemented by in house commercial and technical management, along with a diversified projects department that specializes in shipping related equity based investments.

With exclusive representatives in all of the major ship recycling markets in the world, GMS has negotiated about 2,200 ships for recycling so far. In addition to its original office in the USA, the company continues to expand its operations with offices in Dubai (UAE), Shanghai (China), Hamburg (Germany), Tokyo (Japan) and Singapore as well as representative offices in India, Romania, Bangladesh, Pakistan and Turkey for a total of ten locations to serve the needs of global clients. GMS is according to Mikelis also the «first» and «only» Cash Buyer to develop a Green Ship Recycling Program (GSSP) together with Germanischer Lloyd (GL) to meet the highest standards of Corporate Social Responsibility (CSR) in the ship recycling industry.

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4 The ship owner, the cash buyer and the new European Regulation, Nikos Mikelis, BIMCO Bulletin, 2013 vol.108 #6, pp 30-32