

Guidance on dealing with abandonment of ships on land or in ports

The Conference of the Parties at its seventh meeting in Decision VII/27 requested submissions from Parties regarding the abandonment of ships on land or in ports. The responses made have been reviewed by the Conference of the Parties at its eighth meeting. The information contained in the submissions was considered to represent a reasonable cross section of the overall population and types of cases of abandoned ships. This information indicates that while a wide range of sizes of ships appears to be involved, small ships are the most dominant. Many of these appear to be ships involved in domestic trade. It is further noted that there is a wide variety of causes leading to abandonment, including: confiscation in response to illegal activities, abandonment due to financial difficulties and also abandonment following a maritime casualty.

Furthermore, the Conference of the Parties at its eighth meeting, by its Decision VIII/13, recognized the need for guidance on how best to deal with ships that are abandoned on land or in ports. This Decision also requested the information to be forwarded to the International Maritime Organisation and the International Labour Organisation for their consideration.

Accordingly the following points are noted:

(i) The Legal Committee of the International Maritime Organization has considered the issue of abandonment of ships in relation to decision VII/27 of the Basel Convention and the outcome of the first session of the ILO/IMO/BC Working Group on Ship Scrapping. The result of this consideration is found in document (LEG 91/11) of the Legal Committee a copy of which is on the Basel Convention website (*link to be inserted*). The general view expressed is that acts of abandonment of ships on land or in ports (internal waters of a State) should be addressed in the national laws of the State concerned. The 1996 Protocol to the London Convention 1972 may cover the dumping of a ship in the internal waters of a State if that State has chosen to apply the “opting-in” provisions of the Protocol to its internal waters (Article 7.2).

(ii) The Nairobi International Convention on the Removal of Wrecks, 2007, which was adopted in May 2007, has relevance to some cases of abandoned ships. This Convention applies to wrecks, either posing a danger or impediment to navigation or which may be expected to result in major harmful consequences to the marine environment or damage to the coastline or related interests of one or more States. A wreck is defined as a sunken or stranded ship consequent to a maritime casualty. This Convention provides the legal basis for States to remove, or have removed, shipwrecks that may have the potential to affect adversely the safety of lives, goods and property at sea, as well as the marine environment and which are located beyond the territorial sea. It also includes an optional clause enabling State Parties to apply certain provisions to their territory, including their territorial sea. The Convention incorporates gross tonnage (GT) as the unit of measurement of ships required to maintain compulsory insurance. The figure of 300 GT was the agreed threshold for ships to be included under the compulsory insurance provisions. The Nairobi International Convention on the Removal of Wrecks may address some cases of abandoned ships at sea, when these ships are wrecks consequent to a maritime casualty and when they present an identifiable hazard. Furthermore, the wreck must be in the geographic area of application of the treaty, which under an opt-in provision of the Convention might extend to a State Party’s territory, including its territorial sea.

This information note may be updated from time to time as new information becomes available.