

The introduction discusses the negative perception of ship recycling, known as "shipbreaking," due to its hazardous conditions and environmental impact, especially in developing nations like India, Pakistan, and Bangladesh. It mentions the challenges in regulating the industry due to economic factors and local dependence on existing practices. The paper aims to evaluate Canada's involvement in shipbreaking and its international obligations, with a focus on its legal framework. It will review Canada's treaties and domestic laws, present a case study, and conclude with recommendations for improvement.

The Canadian context section highlights Canada's significant presence in the shipping industry, facilitated by its extensive coastline. According to Transport Canada, the country's international maritime trade was valued at \$170 billion in 2010, supported by a large fleet of registered vessels, including commercial, government, and pleasure crafts. Canada is a founding member of the International Maritime Organization (IMO) and actively participates in its committees and subcommittees.

In May 2009, Canada signed the International Convention for the Safe and Environmentally Sound Recycling of Ships, emphasizing the importance of protecting workers and the environment in ship recycling activities. Transport Minister John Baird expressed support for the convention, recognizing its significance in regulating hazardous materials used in shipbuilding and dismantling processes.

Additionally, in 2010, Canada was elected as a member of the IMO Council for the 2010-2011 term, highlighting its role as one of the ten states with the largest interest in international seaborne trade. This underscores Canada's commitment to promoting safety and environmental sustainability in global maritime activities.

Canada's annual ship recycling capacity is around 115,000 light displacement tons (LDT), with about 25,000 LDT being utilized annually. The primary facilities for ship recycling in Canada are located on the shores of the Great Lakes, operated by Marine Recycling Corporation (MRC) and its parent/sister company, International Marine Salvage Inc. MRC is recognized as the world's first ISO 14001 Certified ship recycling company and is experienced in various aspects of ship recycling, hazardous waste removal, and environmental remediation. MRC is also planning to expand its operations to Nova Scotia, aiming to recycle vessels from the military and coast guard.

Additionally, the Basel Convention, which Canada was one of the first countries to sign in 1989. The convention was established in response to incidents of toxic waste dumping in developing countries during the 1980s. Notable incidents include the 1986 "Khian Sea" incident in Haiti and the 1988 waste dumping in Nigeria. Despite efforts such as Nigeria's Harmful Waste Decree 42, attempts to import hazardous waste have continued due to economic factors, enforcement challenges, and porous borders. The Basel Convention aims to regulate such transactions, ensuring safe and environmentally sound management of hazardous waste.

The Basel Convention aims to protect human health and the environment from harmful waste. It

sets rules for controlling the movement of hazardous waste between countries, managing waste in an environmentally sound way, and restricting waste exports to countries not part of the Convention. Parties to the Convention, like Canada, must ensure that hazardous waste sent abroad is disposed of safely.

The Convention defines waste and environmentally sound management and requires parties to minimize waste generation, provide disposal facilities, prevent pollution, and cooperate with other countries. Parties must also reduce transboundary movement of hazardous waste, prohibit illegal waste traffic, and not export waste to non-Parties.

The Ban Amendment, adopted in 1995, prohibits exporting hazardous waste covered by the Convention to non-OECD countries. Canada supports this ban. Another effort, the Hong Kong Convention, focuses on safe ship recycling, but there are concerns about its effectiveness compared to the Basel Convention. In Canada, the federal government is responsible for implementing international agreements like the Basel Convention. This involves creating domestic laws to comply with the Convention's requirements. Several laws were introduced in Canada after it ratified the Basel Convention in 1989.

The relevant acts and regulations pertaining to Canada's implementation of the Basel Convention include:

Canadian Environmental Protection Act, 1999 (CEPA): This act empowers the government to regulate the export of toxic substances listed in the Export Control List. Exporters must provide notice to the Minister before exporting such substances.

Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations (EIHWRMR): These regulations aim to protect the environment from risks posed by the transboundary movement of hazardous waste and recyclable materials. They are directly linked to the Basel Convention and govern the export and import of various hazardous materials.

Transportation of Dangerous Goods Act and Regulations: These federal laws ensure the safe transportation and handling of dangerous goods, including hazardous waste.

PCB Waste Export Regulations: These regulations restrict the export of PCB waste to the United States for disposal purposes only.

However, none of these regulations directly apply to entire ships containing hazardous materials. The legal status of ships as waste is a complex issue. Under Canadian law, a ship remains classified as a ship until it undergoes complete dismantling. The challenge lies in characterizing a ship's materials as waste without undermining its legal identity as a ship.

The European Community has adopted a dual-identity approach, allowing ships to be classified as both waste and ships under different international rules. However, Canada has not yet adopted this approach. *As a result, end-of-life ships cannot presently be classified as waste under Canadian law, and there is currently no specific federal legislation in Canada addressing ship recycling.*

In Canada, hazardous wastes and recyclable materials are defined by Environment Canada as those possessing properties such as flammability, corrosiveness, or inherent toxicity, which can pose risks to human health and the environment. Most hazardous waste transactions in Canada occur with OECD member countries. Maersk, an international shipping company operating in Canada, emphasizes high recycling ratios and environmentally responsible ship recycling practices. However, it acknowledges selling ships long before the end of their service life, which may lead to challenges in ensuring responsible recycling.

Case Study: MV Caribou and MV Joseph and Clara Smallwood

Two Canadian ferries were retired in 2011 and sold to buyers from non-OECD countries, then resold to an Indian ship breaking company. Although the vessels were sold with a commitment to recycle them in compliance with IMO guidelines, they were dismantled without clear evidence of adherence to green recycling rules. Government ministers' responses varied, with some claiming it was an operational decision of Marine Atlantic, while others expressed concern over the lack of policy preventing such incidents.

Assessment of National Practice against National and International Law

Canada's actions in the MV Caribou and MV Joseph and Clara Smallwood case indicate a failure to meet international obligations under the Basel Convention. The sale of ships containing hazardous waste to non-OECD countries without proper disposal facilities violates the convention. Canada's domestic legislation lacks the flexibility to capture hazardous substances in vessels, further exacerbating the issue.

Conclusion:

Ship recycling involves complex global networks, necessitating cooperative action among states to honor international commitments. Canada's hands-off approach to ship sales demonstrates a struggle to balance domestic interests with international obligations. To fulfill its commitments under the Basel Convention, Canada must acknowledge the environmental implications of ship recycling and enact legislation to prevent hazardous waste transfer.

Recommendations:

Canada should consider various options to meet its international legal obligations, including dismantling Canadian ships domestically, removing hazardous waste before export, imposing trade restrictions, and introducing penalties for non-compliance. Legislative amendments should define end-of-life ships as hazardous waste to align with the Basel Convention.

Conference Applications:

Universities, NGOs, and the Canadian government should collaborate to address ship recycling challenges and support sustainable practices. Research on hazardous contents of ships, alternative shipbuilding methods, and shipbreaking beach containment and remediation is essential. NGOs should monitor shipbreaking yards, review conference outcomes, and provide

accurate information to the public. The government should update legislation to address end-of-life ship trade and investigate ship recycling conditions.