

## **Shipbreaking -- PLENARY -- Marcos A. Orellana CIEL**

Thank you, Madame Chair. The Center for International Environmental Law (CIEL) has conducted a legal analysis comparing the Hong Kong Convention and the Basel Convention. This analysis has been made available to the Secretariat in accordance with relevant procedures. Our analysis concludes that the Hong Kong Convention fails to provide an equivalent level of protection for human health and the environment than that established by the Basel Convention.

First of all, the scope of the Hong Kong Convention is more limited than Basel because it does not apply to certain categories of ships. Basel does not admit such exclusions. Also, Hong Kong excludes certain wastes that are identified as hazardous by the relevant Basel Technical Guidelines.

Second of all, the control mechanisms of Hong Kong are weaker than those of Basel. Hong Kong fails to require Parties to minimize the transboundary movement of waste, which is at the heart of Basel. Further, unlike Basel, Hong Kong fails to cover the life-cycle of waste by failing to address the regulation of downstream waste facilities. Moreover, Hong Kong continues to permit the environmentally destructive method of beaching, a practice which the UN Special Rapporteur on Toxic Waste has deplored as inherently against the principle of environmentally sound management of wastes.

Furthermore, Hong Kong fails to require explicit prior informed consent from both importing and transit states. Moreover, Hong Kong fails to explicitly recognize the sovereign right to prohibit imports, and there is no mention of a duty to re-import. These gaps in Hong Kong could lead to toxic ships being abandoned in developing countries.

Third of all, Hong Kong fails to adequately consider the interests of developing countries, which is a key component of Basel. For example, Hong Kong does not establish a fund to address the financial and technological costs of shipbreaking. This is inconsistent with the polluter-pays principle, as it imposes the costs of addressing the shipbreaking problem onto developing countries that did not benefit from the useful life of a ship. Also, by shifting the burdens on developing countries, Hong Kong ignores basic tenets of global environmental justice.

Finally, the enforcement measures of Basel are significantly stronger. Basel clearly considers that illegal traffic of hazardous waste is a criminal activity. Hong Kong, however, requires Parties to adopt civil sanctions instead of criminal penalties.

In the end, the Hong Kong Convention does not provide an equivalent level of protection of human health and the environment as that provided by Basel. The Basel Convention should therefore retain competence over shipbreaking and strengthen its abilities to address the risks of shipbreaking.

To conclude, I would like to announce that CIEL is hosting a side-event tomorrow evening to present the findings of our legal analysis in greater depth. Thank you, Madame Chair.