

Better Late Than Never - Publication of UK Approved List of Ship Recycling Facilities

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PRACTICES Shipping, Ship Sale and Purchase

Issue of UK List closes a lacuna

On 5th February 2021, the United Kingdom Maritime and Coastguard Agency (**MCA**) published (with an update on 12th February 2021) Maritime Information Notice MIN 657 (M+F) setting out the United Kingdom list of approved ship recycling facilities (**UK List**), addressing a one month lacuna during which United Kingdom ships¹ (**UK ships**) of over 500 GT could only be recycled at approved facilities set out in a UK approved list of ship recycling facilities, but no such list existed.

Prior to 1st January 2021, UK ships of over 500GT (and ships of over 500GT flagged in EU Member States) could, pursuant to the European Ship Recycling Regulations², only be recycled at approved facilities set out in the EU list of approved ship recycling facilities (EU List). Prior to 1st January 2021, the EU List included approved ship recycling facilities located in the UK as well as in EU Member States and also further afield.

As from 1st January 2021, ships of over 500GT flagged in EU Member States are still only to be recycled at facilities set out in the EU List, however, all UK (excluding Northern Ireland) ship recycling facilities that were previously included in the EU List have ceased to be part of the EU List. Additionally, as from 1st January 2021, UK ships over 500GT can only be recycled at approved facilities set out in the UK List, although, as noted above, the UK List was not immediately available when this change came into force.

What is in the UK List?

A total of 44 approved ship recycling facilities have been included in the UK List. The UK List is divided into Part A (approved facilities in the UK) and Part B (non-UK facilities which are approved on the EU List). As a result, the UK List includes the UK recycling facilities that ceased to be approved facilities under the EU List and also includes all recycling facilities that are currently approved under the EU List. Technically, this means there are more recycling facilities available for the recycling of UK ships than for vessels flagged in EU Member States.

A review of the UK List and EU List also demonstrates a clear application of the Protocol on Ireland/Northern Ireland, as Harland and Wolff (Belfast) Ltd, is included in both Part A of the UK List and also Part A (ship recycling facilities located in Member States) of the EU List.

For UK ship recycling facilities, inclusion in the UK list does not give rise to any right to be included in the EU List. Therefore, any UK ship recycling facility wishing to be able to recycle ships (over 500GT) flagged in EU Member States, will need to submit a separate application to the European Commission to be included in the EU List.

Scope for divergence between UK List and EU List?

Whilst the existing EU List was carried over to be Part B of the UK List, the UK List need not automatically follow the EU List and going forward there is scope for divergence between the UK List and the EU List (beyond just the recent removal of the non-Northern Ireland UK ship recycling facilities from the EU List). The UK legislative regime allows for non-UK recycling facilities to be included under Part B of the UK List on the express basis that they are included in the EU List³, but also allows for non-UK facilities to be included in Part B of the UK List (provided they comply with the UK standards) even if these non-UK facilities are not included in the EU List.

In the short term, we would expect to see ship recycling facilities outside both the EU and UK to focus their intention on securing inclusion on the EU List, as inclusion on the EU List will: (i) afford access to the greater potential tonnage of the wider European fleet for recycling; and (ii) may, in any event, result in the UK authorities electing to include such ship recycling facility on the UK List. In order not to disadvantage the UK flag, we expect the UK to make regular use of the power to include recycling facilities into Part B of the UK List on the basis that the relevant recycling facilities have been included in the EU List as this will afford a ready means of ensuring the UK flag is not perceived as less attractive than EU Member State flags in respect of end of life options for vessels.

In the medium to long term, it will be very interesting to watch for any examples of non-UK ship recycling facilities securing inclusion in the UK List but failing to secure inclusion in the EU List and thereafter to monitor what this might mean for the relative appeal of the UK flag to shipowners.

¹ For the purpose of the relevant legislation, United Kingdom ships mean ships registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995 (i.e. does not include ships on the wider Red Ensign Group of ship registers).

² Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling.

³ Provided that that the standards applied for inclusion to the EU List at such time are no less than the standards required for inclusion on the UK List.