

# COUNCIL ON ETHICS

THE GOVERNMENT PENSION FUND GLOBAL

**To Norges Bank**

29 June 2017

UNOFFICIAL ENGLISH TRANSLATION

**Recommendation to place Pan Ocean Co Ltd under observation**

## Summary

The Council on Ethics recommends that Pan Ocean Co Ltd be placed under observation. Pan Ocean is a South Korean shipping company that owns and operates bulk carriers, container ships and tankers.

The Council rests its assessment on the fact that Pan Ocean has disposed of obsolete vessels by sending them to be broken up for scrap on the beaches of Bangladesh, a practice known as *beaching*, where working conditions are extremely poor. The process also causes severe environmental damage. The Council considers that companies which dispose of ships for breakup in this way can be said to contribute to serious human rights violations and severe environmental damage.

In its assessment of the likelihood that the company will in future contribute to such norm violations, the Council on Ethics has attached importance to the company's assurance that it is willing in future to take the method of breakup into account as far as possible when making decisions on the sale of vessels for scrapping. Although the Council does not consider this to be a strongly binding pledge on the part of the company, it nevertheless perceives it as a positive indication of a change in future practice.

The Council will re-examine the grounds for observation if at the end of four years the company has not sent any ships for *beaching*, or before that time if the company issues a more binding pledge that it has ceased this practice. Should the company dispose of any more ships by means of *beaching*, the Council on Ethics will recommend that it be excluded from investment by the Government Pension Fund Global (GPF).

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# 1 Introduction

The Council on Ethics for the Government Pension Fund Global (GPF) has assessed the fund's investments in Pan Ocean Co Ltd (Pan Ocean)<sup>1</sup> against the guidelines for observation and exclusion from the GPF (ethical guidelines).<sup>2</sup>

At the close of 2016, the GPF owned 0.47 per cent of the shares in Pan Ocean, with a market value of NOK 71 million.

Pan Ocean is a South Korean shipping company that owns and operates a number of bulk carriers, container ships and tankers.<sup>3</sup> The company is listed on the stock exchange in South Korea.

## 1.1 Matters considered by the Council

The Council on Ethics has assessed the fund's investment in Pan Ocean against s 3(a) and (c) of the ethical guidelines, which state that companies “*may be put under observation or be excluded if there is an unacceptable risk that the company contributes to or is responsible for a) serious or systematic human rights violations, [...] c) severe environmental damage.*”

The starting point for the Council's assessment is that, in 2016, the shipping company Pan Ocean disposed of obsolete vessels by sending them to be broken up for scrap on beaches in Bangladesh, where working conditions are extremely poor. The process also causes severe environmental damage.

The Council has assessed whether the company, by disposing of vessels for scrap in this way, can be said to contribute to the violation of norms as set out in the GPF's ethical guidelines.

In assessing whether companies should be excluded from the GPF under the human rights criterion, the Council on Ethics has previously considered the link between the company's operations and the norm violations. This includes an assessment of whether the company has contributed actively to or has been aware of the norm violations without attempting to prevent them. The Council has also considered whether the violations remain ongoing and whether there is an unacceptable risk of such violations occurring in the future. In some cases, the Council has also attached importance to the extent to which ethical norms are violated to further the company's interests or to facilitate its business activities.

The UN Guiding Principles on Business and Human Rights expresses an expectation that companies will respect human rights, prevent the risk of their violation and deal with actual violations thereof. Companies have a duty to comply with national legislation and norms, even though these are not enforced by the authorities. It is expected that a company assess which actual and potential negative impacts its operations have for those affected by them.<sup>4</sup>

The Council on Ethics takes as its starting point the labour rights encompassed by articles 23 and 24 of the UN's Universal Declaration of Human Rights and set out in article 7 of the

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<sup>1</sup> Issuer ID: 9818707

<sup>2</sup> Guidelines for Observation and Exclusion from the Government Pension Fund Global (GPF): [http://etikkradet.no/files/2017/04/Etikkradet\\_Guidelines- eng\\_2017\\_web.pdf](http://etikkradet.no/files/2017/04/Etikkradet_Guidelines- eng_2017_web.pdf)

<sup>3</sup> The company's website: <http://www.panocean.com/Eng/Biz/biz-overview.aspx>.

<sup>4</sup> UN Guiding Principles on Business and Human Rights: [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

International Covenant on Economic, Social and Cultural Rights (ICESCR), among whose provisions is the right to safe and healthy working conditions.<sup>5, 6</sup>

The Committee on Economic, Social and Political Rights (CESCR) has elaborated on how article 7 should be interpreted and makes clear that health, safety and the environment are fundamental elements of the right to safe and healthy working conditions.<sup>7</sup>

The Council on Ethics also refers to several ILO conventions, including ILO Convention 182, which defines the worst kinds of child labour as, among other things, work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children. There are, furthermore, a number of so-called technical ILO conventions against which the conditions may be assessed.<sup>8</sup>

In addition, the Council has assessed the company's actions with respect to the risk of its contributing to severe environmental damage. Among the issues to which the Council has attached importance in connection with previous assessments of severe environmental damage are the scale of the environmental damage, whether the damage is irreversible, whether the damage has a significantly negative impact on human life and health, whether national legislation or international conventions have been violated, whether the company has failed to take action to prevent damage, and whether it is probable that the company's unacceptable practices will continue in the future. Equally, under the ethical guidelines' environmental criterion, companies may be excluded whether they themselves are responsible for or merely contribute to the damage caused. However, previous assessments have considered environmental conditions at the companies' own operations, not their contribution to environmental damage caused by a third party.

In its assessment of environmental damage, the Council refers, inter alia, to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.<sup>9</sup> 186 states, including Bangladesh, have signed the convention.<sup>10</sup> Since the ships to be broken up by *beaching* seldom carry the flag of the state where this process takes place, the activity will involve the transboundary movement of hazardous wastes, and will therefore be covered by the convention. To assist states and other actors to uphold the Basel Convention with respect to the scrapping of ships, a set of technical guidelines for the dismantling of ships has been drawn up under the convention.<sup>11</sup>

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<sup>5</sup> UN's Universal Declaration of Human Rights:

<http://www.ohchr.org/EN/UDHR/Pages/Language.aspx?LangID=eng>

<sup>6</sup> International Covenant on Economic, Social and Cultural Rights:

<http://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf>

<sup>7</sup> The Committee on Economic, Social and Political Rights (CESCR) is the body of independent experts that monitors implementation of the International Covenant on Economic, Social and Cultural Rights by its States parties, <http://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIntro.aspx> and <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/087/51/PDF/G1608751.pdf?OpenElement>

<sup>8</sup> For example, ILO Convention 167 on Safety and Health in Construction, Convention 148 on Working Environment (Air Pollution, Noise and Vibration), Convention 162 on Safety in the Use of Asbestos, and Convention 130 on Medical Care and Sickness Benefits, <http://www.fn.no/ILO/Konvensjoner/Alle-ILO-konvensjoner>

<sup>9</sup> The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal: <http://www.basel.int/>

<sup>10</sup> Parties to the Basel Convention:

<http://www.basel.int/Countries/StatusofRatifications/PartiesSignatories/tabid/4499/Default.aspx>

<sup>11</sup> Technical guidelines for the environmentally sound management of the full and partial dismantling of ships: <http://www.basel.int/Implementation/ShipDismantling/TechnicalGuidelines/tabid/2767/Default.aspx#>

The Council on Ethics refers to a ruling handed down by the Supreme Court of Bangladesh in 2009, which orders the authorities to comply with the Basel Convention with regard to shipbreaking, to immediately halt all shipbreaking activity that does not comply with national legislation, and introduce stricter national legislation in this area.<sup>12</sup> In 2016, the Supreme Court ordered the authorities and the industry to explain why the 2009 ruling was not being complied with.<sup>13</sup>

The Council on Ethics' task is to assess the GPF's investments in companies against the fund's ethical guidelines. The Council takes no position on the extent to which states have a responsibility for any violations of international conventions. It is sufficient to establish that the company in question acts in a way that contributes to gross violations of recognised human rights norms or results in severe environmental damage.

## 1.2 Sources

The Council on Ethics has received information from Pan Ocean. Furthermore, there are a number of sources covering the environmental and working conditions prevalent in connection with shipbreaking in Bangladesh.

The *NGO Shipbreaking Platform* monitors shipbreaking activities and publishes an annual list of all ships broken up worldwide, with details of the name and type of vessel, its owner prior to scrapping, its flag state and where the ship was broken up.<sup>14</sup> It was this information that prompted the Council on Ethics to contact the company.

## 2 Background

### 2.1 The dismantling of beached ships – “*beaching*”

Large ships have a normal lifespan of around 25 years, after which their residual value lies in their scrap metal. For large ships, this amounts to anywhere between 5,000 and 40,000 tonnes of steel, whose recovery and reuse makes sense from both a financial and resource point of view, provided that it takes place in a safe and sustainable manner.<sup>15</sup>

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<sup>12</sup> Supreme Court of Bangladesh, High Court Division, Petition No. 7260 of 2008.

<sup>13</sup> According to reports in the Bangladesh media:

<http://www.thedailystar.net/backpage/14-govt-high-officials-face-contempt-rule-1208011>

<sup>14</sup> NGO Shipbreaking Platform: <http://www.shipbreakingplatform.org/>. The organisation has informed the Council on Ethics that the list is compiled from several sources. The most important source is Lloyd's Marine Intelligence, which is the starting point for general shipping information. Information taken from here is cross-checked with other sources, including a network of contacts who find the vessel's IMO no./name in various shipping registers; weekly market lists published by cash buyers and agents; shipping publications such as TradeWinds; and data sets like [www.equasis.org](http://www.equasis.org), etc. Experience shows that only in extremely few cases have shipping companies reported back that the information is incorrect, in which case the data set is corrected, once actual ownership of the vessel has been verified.

<sup>15</sup> The World Bank (2010): “*The Ship Breaking and Recycling Industry in Bangladesh and Pakistan*”, Report No 58275-SAS, <http://documents.worldbank.org/curated/en/872281468114238957/pdf/582750ESW0Whit1LIC1011098791web1opt.pdf>.

Globally, 1,000 to 1,200 large ships are broken up each year. Almost 80 per cent of the tonnage is broken up on the beaches of Bangladesh, India and Pakistan.<sup>16</sup>

The dismantling of beached ships takes place only in Bangladesh, India and Pakistan. The process involves running the vessel aground at high tide on beaches with a significant difference between the high and low-water mark. Characteristic for *beaching*, as practised in Bangladesh, is the absence of the fixed installations or infrastructures that would be found at a quayside facility. Because the beached ships rest in sand or mud, access by crane or heavy machinery is not possible, so much of the work is performed manually. The ships are broken up by cutting large sections which fall to the ground in the tidal zone. These sections are then dragged or carried ashore, where they are cut into smaller pieces and sold for scrap.

All shipbreaking in Bangladesh is carried out by *beaching* along a 15-km coastal strip outside the city of Chittagong. Each year, several hundred ships are broken up at a large number of individual “*plots*” along the beach. The Council on Ethics considers that it is not possible to differentiate between the working and environmental conditions prevailing at the various plots in this area, since they are all fairly similar. To date, the Council on Ethics has not examined the way ships are broken up in India.

## 2.2 Transfer of ownership before scrapping

Usually, the company which owns the ship destined to be broken up sells it to a so-called “*cash buyer*” for scrap.<sup>17</sup> The price that the shipowner receives for the vessel depends on the value of the steel and the cost of dismantling it. The shipowner can choose *beaching* or another method. However, *beaching* costs the least and therefore provides the highest price for the shipowner – possibly as much as USD 3-7 million more per ship, compared with the price achievable if the ship is broken up using safer and more sustainable methods.<sup>18</sup> Once title to the ship has been transferred from the original shipowner to the buyer, the vessel is often reregistered under a flag of convenience.

## 2.3 Problems with *beaching*

### *General*

Characteristic for the practice of *beaching* is that unskilled labourers carry out tasks that are extremely dangerous and hazardous to health, without training, protective equipment or basic safety precautions. The accident rate is extremely high, as are the health risks. The use of children to perform dangerous tasks has also been reported.

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<sup>16</sup> European Commission: Science for Environment Policy – Ship recycling: reducing human and environmental impacts, June 2016:

[http://ec.europa.eu/environment/integration/research/newsalert/pdf/ship\\_recycling\\_reducing\\_human\\_and\\_environmental\\_impacts\\_55si\\_en.pdf](http://ec.europa.eu/environment/integration/research/newsalert/pdf/ship_recycling_reducing_human_and_environmental_impacts_55si_en.pdf)

<sup>17</sup> Several of these have their own websites describing their operations, eg the company GMS, which claims to be the world’s largest *cash buyer* of ships: [http://www.gmsinc.net/gms\\_new/index.php/about](http://www.gmsinc.net/gms_new/index.php/about).

<sup>18</sup> The ability of shipowners to choose the method/place of the vessel’s scrapping is evident from the Norwegian Shipowners’ Association’s statement from 2015:

“... *We take the position that shipowners are responsible for their ships from ‘cradle to grave’, and must make arrangements in line with this principle. This also applies if the ships are sold to a third party prior to recycling. [...] By selling to yards that make use of ‘beaching’, it will often be possible to be paid USD 3-7 million more per ship than if they are sold to a full-standard shipbreaking yard.*”

<https://www.rederi.no/aktuelt/2015/nei-til-beaching-av-skip/>

Each year, several thousand tonnes of hazardous waste are carried by the ships to the beaches of Chittagong, where they are not handled in a safe or sustainable way. Heavy metals and various environmental toxins are not collected, but are allowed to spread into the natural environment.<sup>19</sup> The damage to health and the environment from this pollution is extremely serious.

### *Working conditions*

In Bangladesh, working conditions in the shipbreaking sector are generally very poor. On the whole, ships are broken up without any prior safety assessment. Hazardous operations are performed without basic safety equipment. The use of cutting torches on corrosion-protected steel produces toxic gases to which unprotected workers are constantly exposed. Fires, explosions, falls from heights and crushing injuries are common:

*“This method of ship dismantling, commonly referred to as “beaching”, generates high levels of pollution of coastal soil, air, sea and groundwater resources, and adversely affects local communities, which often rely on agriculture and fishing for their subsistence.*

*Working in shipbreaking yards is a dirty and dangerous job. Every year, a great number of workers die or are seriously injured because of work-related accidents or occupational diseases related to long-term exposure to hazardous materials present on end-of-life ships. Workers do not usually receive any information or safety training. They live in makeshift facilities which often lack basic minimum requirements such as sanitation, electricity and even drinking water. There is a general lack of medical facilities and social protection, and injured workers or their relatives hardly receive any compensation for work-related accidents resulting in fatal injuries or permanent disabilities.”<sup>20</sup>*

No aggregate information on the number of fatalities is available. In Bangladesh, around 1,000-2,000 accidental deaths have been reported since the 1990s, but these figures are uncertain. At least 30,000 people work directly in the shipbreaking sector in Bangladesh. How many people’s lives are cut short as a result of injury or work that is injurious to their health is difficult to estimate, but it is clear that it must be a substantial number.<sup>21</sup>

Extensive use of child labour in Bangladesh’s shipbreaking industry has previously been reported. It is estimated that children could constitute up to 25 per cent of the workforce, and that 10 per cent of the workforce comprises children under 12. No comprehensive studies have been made of the scale of child labour, but it is nevertheless common for children to

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<sup>19</sup> World Bank (2010): “*The Ship Breaking and Recycling Industry in Bangladesh and Pakistan*”, Report No 58275-SA.

<sup>20</sup> UN Office of the High Commissioner for Human Rights (2015): Annual reports 1996-2014, p. 18: [http://www.ohchr.org/\\_layouts/15/WopiFrame.aspx?sourcedoc=/Documents/Issues/ToxicWastes/CompilationReports1996\\_2014.pdf&action=default&DefaultItemOpen=1](http://www.ohchr.org/_layouts/15/WopiFrame.aspx?sourcedoc=/Documents/Issues/ToxicWastes/CompilationReports1996_2014.pdf&action=default&DefaultItemOpen=1)

<sup>21</sup> “*Accidents and explosions in Bangladesh are not reported properly. The government of Bangladesh has no statistics or reliable records on ship-breaking yards, and yard owners are reluctant to give any information. A single incident or incidents on a small scale do not reach the attention of the authorities outside the scrapping region. Local organizations in Bangladesh have estimated that 1000–2000 workers have died in the last 30 years and that many workers are suffering from serious diseases. [...] There is no disagreement in Bangladesh or abroad that ship breaking is a high-risk, dirty and dangerous occupation.*” Md. Shakhaoat Hossain et al: «*Impact of ship-breaking activities on the costal environment of Bangladesh and a management system for its sustainability*”, Environmental Science and Policy 60 (2016).

work at tasks such as digging up ship parts that have sunk into the mud and pulling wires and chains.<sup>22</sup>

### *Environmental damage*

The ships are normally sailed under their own power onto the beach. They will therefore carry everything an operational vessel has on board: several thousand litres of fuel, lubricants and hydraulic oils; 20-80 tonnes of asbestos;<sup>23</sup> PCB (from electrical installations); and – in some cases – radioactive isotopes from instruments and various radiation sources. The hull is protected by 10-100 tonnes of anti-corrosion paint and anti-fouling coatings that may contain lead, cadmium, organic tin compounds, zinc and chromium. In addition, there are often remnants of the products the ship has carried (chemicals, oil, etc.). For example, oil tankers may contain several hundred cubic metres of oil residues if the tanks have not been cleaned.<sup>24</sup> Without any form of infrastructure or facilities for the collection of pollutants, many of these substances will spill out into the natural environment, since it is not possible to collect waste and pollution that falls into the mud and is later washed out by the tides. In any case, there is no infrastructure for the collection and treatment of hazardous waste in Bangladesh.<sup>25</sup> In addition to this, environmental toxins and hazardous substances are able to disperse in an uncontrolled manner because parts are removed from the ships and sold on for reuse. For example, this applies to asbestos panels that are used for housebuilding and emissions of environmental toxins from steelworks that process corrosion-protected scrap metal. A report published by the World Bank in 2010 contains an estimate of the total volume of hazardous waste that will be transported to Bangladesh in connection with shipbreaking in the next 20 years, given that the current scale of the business is maintained. For Bangladesh, this will amount to an estimated 79,000 tonnes of asbestos and 240,000 tonnes of PCB.<sup>26</sup>

Environmental pollution is extensive. Concentrations of heavy metals such as lead, chromium and cadmium in sediments outside Chittagong have been found in quantities several hundred-thousand times higher than the national threshold values. PCB concentrations in arable fields near steelworks that process scrap metal have been found to be several thousand times higher than the level defined as polluted. Concentrations of oil in water are a thousand times higher than the national threshold level. Pollution is dispersed with the tides, and has resulted in the loss of marine species and the destruction of fisheries, which previously represented an important source of income in the area.<sup>27</sup>

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<sup>22</sup> FIDH «*Childbreaking Yards*», *Submission to the UN Committee on the Rights of the Child*, 30 April 2012: <http://www2.ohchr.org/english/bodies/crc/docs/CallSubmissionBusinessSector/InternationalFederationforHumanRights.pdf>

<sup>23</sup> This is an estimate for commercial vessels. Naval vessels may contain much higher quantities. IBAS: *Why most ships contain asbestos*: <http://www.ibasecretariat.org/jc-why-most-ships-still-contain-asbestos.php> and PRI: *Where should old cargo ships go to die?*: <https://www.pri.org/stories/2013-10-21/where-should-old-cargo-ships-go-die-some-europeans-say-bring-them-home>

<sup>24</sup> «*Why Ships are Toxic*», NGO Shipbreaking Platform: <http://www.shipbreakingplatform.org/main-aspects/why-ships-are-toxic/>.

<sup>25</sup> Supreme Court of Bangladesh, High Court Division, Petition No. 7260 of 2008.

<sup>26</sup> World Bank Report No 58275-SAS:

«*The Ship Breaking and Recycling Industry in Bangladesh and Pakistan*» (2010): <http://documents.worldbank.org/curated/en/872281468114238957/pdf/582750ESW0Whit1LIC1011098791webIopt.pdf>.

<sup>27</sup> Dr. Med. M Maruf Hossain et al. (2006): «*Ship Breaking Activities and its impact on the Coastal Zone of Chittagong, Bangladesh: Towards Sustainable Management*», Institute of Marine Sciences, University of Chittagong, ISBN 984-32-3448-0.

### 3 Scope and nature of the Council on Ethics' investigations

The Council on Ethics has not itself undertaken any investigations into environmental or working conditions at the shipbreaking yards in Chittagong. The conditions are considered to have been adequately described in the sources to which the Council refers in this recommendation.

Furthermore, the Council takes as its starting point the list compiled by the organisation *NGO Shipbreaking Platform* for details of how many ships Pan Ocean has sold for *beaching* in Bangladesh over the past three years. The list identifies three ships in 2016.<sup>28</sup> Prior to scrapping, the vessels were reregistered in the flag states Comoros and Panama, both of which are signatories to the Basel Convention.

### 4 Information from the company

The Council on Ethics has written to the company and asked whether it has disposed of ships by means of *beaching* in India, Pakistan or Bangladesh in the past three years, and in which case how many. The Council has also enquired whether the company has adopted a policy indicating that this practice will cease.<sup>29</sup> The company did not reply to the Council's enquiries, but was subsequently invited to submit its comments on a draft recommendation to exclude it from the GPFG.<sup>30</sup> The company responded to this invitation in June this year.<sup>31</sup>

In its response to the Council on Ethics, the company confirms that it has disposed of ships by *beaching* in Bangladesh. Furthermore, the company writes that it is aware that shipbreaking in Bangladesh results in considerable pollution and the risk of human rights violations. The company goes on to say that it is the buyer who decides where the ship will be broken up, not the shipowner selling the vessel, and that the entire responsibility cannot therefore be placed on the shipping company. The company states that in the future it will consider preventing its ships from being sold for *beaching*:

*“Anyhow, with strongly feeling social responsibility, we are willing to make every effort to consider the final stage of scrapping, dismantlement method, as much as possible when we make a decision in relation to sale of vessels for the purpose of scrapping in the future. While such consideration would affect our profit by making selling prices lower, we have the same sentiment that the negative impact on our reputation is likely to be greater if we become known as a company destroying the environment.”*

### 5 The assessment of the Council

The Council on Ethics has considered whether there is an unacceptable risk that Pan Ocean contributes to or is itself responsible for severe environmental damage and systematic violations of internationally recognised human rights norms in connection with the scrapping of the company's ships in Bangladesh.

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<sup>28</sup> In 2016, the company's vessels “Ocean”, “New Fantasy” and “New Giant” were broken up for scrap on the beaches outside Chittagong, Bangladesh, <http://www.shipbreakingplatform.org/annual-lists-of-scrapped-ships/>.

<sup>29</sup> Letter from the Council on Ethics to Pan Ocean, 8 March 2017.

<sup>30</sup> Letter from the Council on Ethics to Pan Ocean, 12 May 2017.

<sup>31</sup> Email from Pan Ocean to the Council on Ethics, 5 June 2017.

There can scarcely be any doubt that, viewed in isolation, the environmental and working conditions associated with *beaching* as it is carried out in Bangladesh exceed the threshold for the exclusion of companies from the GPFG. However, these operations are not performed by companies in the GPFG's portfolio. The issue is firstly whether a company may, under these circumstances, be said to contribute to the violation of ethical norms by disposing of a ship for the purpose of *beaching* it. An assessment must then be made of the likelihood that the company will continue to dispose of ships in this manner in the future.

#### *Assessment of the company's contribution to the violation of ethical norms*

When a company sells a ship to a *cash buyer*, it is at the outset clear that the ship is being sold for the sole purpose of scrapping. Furthermore, both parties are aware that the price agreed depends largely on two factors: the volume of steel in the ship and the cost of dismantling it. The cheapest method of dismantling a ship is by *beaching*, which is why this process gives the seller the highest price for the vessel concerned.

The Council on Ethics presumes that companies that dispose of a ship for scrapping in this way are fully aware of what will happen to it next. It must also be considered as general knowledge in the shipping industry that environmental and working conditions associated with *beaching* are extremely poor. That a ship is nevertheless sent for scrapping at the Chittagong beach in Bangladesh is a consequence of an active choice on the part of the company that owned the vessel to maximise its profit. In the Council's opinion, that company must shoulder an independent responsibility for doing so. There are better ways of dismantling ships that are readily available to the shipowner, but these are more expensive.

In the opinion of the Council on Ethics, therefore, there exists a tangible connection between the shipowner's actions and the violation of ethical norms, which is of such a nature as to constitute a contribution to the latter under the GPFG's ethical guidelines.

The Council does not know at which *plots* Pan Ocean's ships have been broken up, nor does it know the specific circumstances under which this has taken place. Nor will it be possible for the Council to establish this after the fact. The Council takes the view that the environmental and working conditions associated with the scrapping of ships in Bangladesh are generally extremely poor, and that nowhere there is the process carried out in an acceptable manner. In consequence of this, the Council considers that any company which sends its ships for scrapping there will contribute to serious violations of ethical norms as a result of the way in which the ships are broken up.

#### *Assessment of human rights violations*

Extensive use of child labour in Bangladesh's shipbreaking industry has been reported, with children as young as 12 performing dangerous work and work that is hazardous to their health. If children under the age of 18 perform such work, it may be considered *the worst form of child labour* in contravention of ILO Convention 182. This alone can constitute grounds for exclusion of companies from the GPFG.

To this must be added the continuous, innumerable and serious violations of a number of ILO conventions whose purpose it is to establish minimum standards which safeguard the lives and health of workers. The Council on Ethics does not find it necessary to consider the violations of each individual convention separately. The reported conditions demonstrate an almost total failure to comply with the conventions and to implement minimum standards, and this results in the vast number of accidents and considerable harm to health deriving from these operations. One reason why it is possible to operate this business at a low cost is the deliberate use of minimal resources on measures such as protective equipment, training,

safety procedures and creating a secure working environment. Wide-ranging and serious violations of these conventions must be deemed to infringe fundamental rights to life and health, the sum of which must be said to constitute a serious breach of fundamental human rights.

#### *Environmental damage*

Environmental damage occurs as a result of failure to comply with both the Basel Convention and national legislation, in that several thousand tonnes of hazardous waste are sent annually to a country that has no infrastructure capable of dealing with it in a safe and sustainable manner. It is precisely this kind of transboundary transport of waste that the convention is intended to prevent. Given that it nevertheless does take place, the consequences are predictable: Serious pollution and the dispersal of environmental toxins, which in turn have a negative impact on human health and ecosystems in the area. Although no comprehensive documentation exists with respect to the harm caused, studies have revealed levels of pollution deriving from heavy metals, among other things, that to an extreme degree exceed established norms.

One particular problem with *beaching* is that shipbreaking takes place when the vessels are standing in mud and sand. As a result, the pollution leaches into the ground and is washed out with the tides. Even if arrangements were put in place at the *beaching* sites for the treatment of asbestos and PCBs, for example, the fundamental problem of containing and collecting the pollution would be impossible to resolve.

#### *Assessment of the risk of future violations of ethical norms*

The Council on Ethics' assessment of future risk is linked to the company's actions, not to the environmental and working conditions prevalent in the shipbreaking industry in Bangladesh in general. There is no reason to assume that the latter will improve materially in the foreseeable future. However, Pan Ocean can avoid contributing to violations of ethical norms by ceasing to dispose of its ships for *beaching*.

In 2017, the Council on Ethics has been in contact with a number of shipping companies that have disposed of ships by means of *beaching* in the past three years. In response to the Council's enquiries, some companies have decided to change their practice in this area, and have assured the Council that they no longer dispose of ships in this way. The Council considers that the likelihood of these companies contributing to future norm violations is low, and has therefore put these cases aside.

In its reply to the Council on Ethics, Pan Ocean writes that it is willing in future to take the method of breakup into account as far as possible when making decisions on the sale of vessels for scrapping. Although the Council does not consider this to be a strongly binding pledge on the part of the company, it nevertheless perceives it as a positive indication of a change in future practice.

The Council on Ethics therefore recommends that Pan Ocean Co Ltd be placed under observation for a period of four years. The Council will re-examine the grounds for observation if at the end of four years the company has not sent any ships for *beaching*, or before that time if the company issues a more binding pledge that it has ceased this practice. Should the company dispose of any more ships in this way, the Council on Ethics will recommend that it be excluded from the GPFG.

## 6 Recommendation

The Council on Ethics recommends that Pan Ocean Co Ltd be placed under observation for a period of four years.

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Johan H.  
Andresen  
Chair

(Sign.)

Hans Christian  
Bugge

(Sign.)

Cecilie  
Hellestveit

(Sign.)

Trude  
Myklebust

(Sign.)

Brit  
Rugland

(Sign.)