



Rotterdam, 15 March 2018

Today the Rotterdam District Court rendered judgment in the case against several shipowning companies, group companies and executives within the Seatrade group of companies concerning ship dismantling and recycling in India, Bangladesh and Turkey back in 2012. The Regulation (Ec) No 1013/2006 of 14 June 2006 on Shipments of Waste (the 'Regulation') with associated regulations formed the basis for the case, in particular violation of art. 34 and/or art. 36 Regulation.

The court held that the intention was to dismantle the vessels in India. The fact that eventually three of the four vessels ended up in other countries where they were dismantled does not make a difference: at the time the vessels departed from Europe, the intended destination was India in order to dismantle the vessels, which the court held to be a proven fact. The court further held that the vessels qualified as waste destined for recovery on the basis that the primary purpose of dismantling was the recycling of steel. Although the vessels contained considerable amounts of hazardous waste, such as asbestos and CFC which had to be disposed off, the court held that nevertheless the recycling of steel was the purpose of the dismantling. On this basis the court dismissed the charges based on violation of art. 34 Regulation (prohibition of export of waste destined for disposal).

For the charges based on art. 36 Regulation (prohibition of export of waste destined for recovery to non-OECD countries) the court held that the vessels contained a mixture of both hazardous and non-hazardous waste. As such the export of the vessels was in violation of art. 36 Regulation par. 1 sub d.

In determining the sentences against the two remaining executives and the shipowning and group companies the court holds that the decision to export the vessels for dismantling in India was driven by commercial reasons only, despite a warning of the Dutch authorities. The suspects have not given consideration to the detrimental effects for health and environment which are caused by dismantling vessels in particular in India and Bangladesh. No measures were taken to diminish these effects, although eventually two of the vessels were dismantled in Turkey under better conditions for people and environment. Exporting the vessels to India is distorting competition with other shipowners who abide with the rules and regulations.

Because of the fact that this is the first time a case like this is tried in The Netherlands, the court will not impose a prison sentence, although in the opinion of the court the seriousness of the crimes committed do call for a prison sentence. The court sentences the executives which are found guilty to a fine of EUR 50,000 and a ban from being professionally involved with a shipowning company or related company in the position of director, advisor, employee or otherwise for the period of one year. The companies which are found guilty are sentenced to fines ranging from EUR 100,000 to EUR 750,000. One of the executives was not sentenced because the court held that criminal relevant involvement of this person was not established.

Report by Markwin Wattel, partner with [DOCK Legal Experts](#)