From Law to Launch:
Tackling the Real-World Challenges of the Hong Kong Convention

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Introduction

The IMO Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships 2009 (the "HK Convention") officially entered into force on 26th June, 2025.

Its primary objective is to ensure that ships, when recycled at the end of their operational lives, do not pose undue risks to human health, safety, or the environment.

While this marks a significant advancement in promoting safer and more sustainable ship recycling practices, shipowners face considerable challenges in navigating compliance, particularly where the HK Convention intersects with, or potentially conflicts with, existing legislation.

This publication explores the key requirements of the HK Convention, with a focus on compliance throughout a ship's lifecycle, from construction to end-of-life recycling. It also examines areas of potential regulatory conflict and outlines what shipowners should consider to ensure both legal compliance and contractual protection.

Conventions and regulations

Before reviewing the specific requirements of the HK Convention, it is helpful to first consider the broader framework of key conventions and regulations shipowners will need to have in mind when preparing to recycle a ship.

IMO Hong Kong Convention

The HK Convention requires that all new and existing ships of 500GT and above must obtain and maintain an International Certificate on Inventory of Hazardous Materials ("IHM") throughout their operational life, in accordance with the IMO's MEPC Guidelines for the Development of the Inventory of Hazardous Materials.

From 26th June, 2025 ship recycling facilities will be required to comply with the provisions of the HK Convention. These facilities must prepare a Ship Recycling Facility Plan for each ship they recycle, based on the information contained in the completed IHM.

National authorities are required to take measures to ensure that facilities under their jurisdiction comply with the requirements of the HK Convention.

EU Ship Recycling Regulation (EU SRR)

The EU SRR came into force in December, 2018 and applies to ships of 500GT or more flying the flag of an EU member state. It also applies to non-EU flagged ships that enter the EU.

It is closely aligned with the HK Convention and has required since 31st December, 2020, that all ships entering EU waters - regardless of their flag - carry and maintain an IHM.

The regulation also requires the establishment of a list of approved ship recycling facilities (the "EU List"). Ships flying the flag of an EU Member State may only be recycled at a facility on the EU List. These facilities must meet the specific design, construction and operational standards of the EU. While these facilities can be located outside the EU, they must apply for inclusion on the EU List and accept that they will be subject to on-site inspections by the European Commission, or agents acting on its behalf.

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention)

The UN Basel Convention is an international treaty that came into force in 1992 with the aim of regulating the movement of hazardous wastes. It applies to hazardous ship wastes generated during ship recycling/ scrapping. All OECD (Organisation for Economic Co-operation and Development) member countries are signatories to the Basel Convention.

The Ban Amendment to the Basel Convention entered into force in December, 2019 and prohibits the movement of hazardous wastes from OECD and EU Member States to non-OECD and developing countries.

Inventory of Hazardous Materials (IHM)

To ensure compliance with both the HK Convention and the EU SRR, a key requirement is the development and maintenance of an Inventory of Hazardous Materials (IHM). The IHM is not only critical for safe and environmentally sound ship recycling, it also supports ongoing ship maintenance and operations, facilitating adherence to existing requirements under SOLAS, the ISM Code, and Safety Management Systems.

The IHM comprises three distinct parts:

1. Part I – Hazardous Materials in Ship Structure and Equipment: this includes specific hazardous materials present in the ship's structure or fixed equipment, as outlined in Tables A and B of Appendix 1 to the MEPC Guidelines. Additional materials listed under the EU SRR may also be included, where applicable.
2. Part II – Operationally Generated Wastes: these are detailed in Table C of the MEPC Guidelines and pertain to wastes generated during the ship's operation.
3. Part III – Stores: this includes items stored on board, as specified in Tables C and D of the MEPC Guidelines.

Part I should be compiled during the construction of a new ship, prior to its entry into service. For existing ships it should be developed during operational service. Parts II and III are only required once a decision has been taken to recycle the ship.

Format and development of the IHM

Shipowners may develop the IHM internally, but the process - especially sampling and identifying unknown materials - is complex. The IHM guidelines under the HK Convention provide that, for existing ships, the development procedures "should be carried out by the shipowner, who may draw upon expert assistance."

Major classification societies have established procedures for approving such experts and are well-positioned to advise on their suitability. In some cases, classification societies will only verify and certify an IHM if it has been compiled by one of their approved experts.

Both the HK Convention and EU SRR reference a standardised format for the IHM. While the structure generally aligns with the published format, variations exist due to differing software and design approaches used by expert companies and classification societies. It is advisable to consult the relevant classification society before compiling the IHM to ensure format compliance.

An effective IHM should be ship specific and provide evidence of the documentary review, details of the hazardous materials, the scope of regulations and the sampling strategy used. It should also include the finalised visual/sampling check plan, provide photographic evidence of the onboard survey, with a good description of each sample location (marked on the general arrangement), and include the results of sampling, conducted at a referenced accredited laboratory, including a quantity estimation of any hazardous materials.

Requirements for new and operational ships

IHM Part I: new ships

The shipbuilder is responsible for compiling Part I of the IHM for new ships at the construction stage.

Comprehensive information should be gathered during the build process and reference should be made to the IMO guidelines to the HK Convention which outline a three-step process for developing the IHM:

1. Collection of hazardous material information, based upon information provided by suppliers;
2. Assessment of the collected information, including identification of all systems and products containing hazardous materials in excess of threshold values; and
3. Preparation of the IHM, following the standard format.

The collection process is expected to involve the entire construction supply chain. It is advisable to consult the relevant classification society and/or flag state to determine whether specific policies or procedures, such as adherence to the EMSA Best Practice Guidelines, are required.

Compliance with Part I of the IHM should be verified through Suppliers Declarations of Conformity and related Material Declarations.

IHM Part I: operational ships

Part I of the IHM for existing ships should be developed by the shipowner. It is recommended that the development process is undertaken during dry-dock where possible.

To ensure accuracy and compliance, shipowners are encouraged to engage a qualified hazardous materials expert company to assist with the following five steps outlined in the IMO Guidelines:

1. Collection of information;
2. Assessment of information, which should be reflected in the visual/sampling check plan;
3. Preparation of a visual/sampling check plan;
4. Onboard visual/sampling check, with sample points clearly marked on the ship plan, supported by photographs, with sample results clearly referenced; and
5. Preparation of Part I of the IHM and supporting documentation, using the standard format.

IHM expert companies and classification societies are well-placed to offer further advice on sampling procedures and the associated costs.

Certification and surveys

Once the IHM has been compiled, ships are subject to both initial and renewal surveys by the flag state or recognised organisation on its behalf.

Initial and renewal surveys should take place prior to the issuance of the relevant Certificate or Statement of Compliance or, for new ships, prior to entering into service.

Additional surveys may be requested by the shipowner following any significant change, replacement or repair to the ship's structure, equipment, systems, fittings, arrangements or materials that could affect the IHM.

These surveys are to ensure continuing compliance and confirm that Part I of the IHM is updated. It is advisable to consult the classification society or certifying authority to determine whether an additional survey is necessary, as interpretations of the term 'significant' may vary.

Ongoing maintenance

Whether the IHM is compiled, verified and certified during construction or operation, one of the most critical requirements is life-cycle management.

Shipowners should establish procedures - both onboard and within the company - to ensure each IHM is maintained and updated throughout the operational life of a ship, reflecting new installations containing any hazardous materials, including additional EU SRR materials (as appropriate) and any relevant structural and equipment changes.

To support this, a designated IHM person should be appointed, and a management system should be established to include specific provisions to safeguard the quality and continuity of the IHM during key events such as shipbuilding, acquisition, sale or changes in the ship's registry. The quality management system should clearly identify procedures for updating of the IHM during both scheduled and unscheduled work that involves changes, replacements or repairs to the structure, equipment, systems, fittings, arrangements and material, which may impact the IHM.

It is recommended that the IHM, whether provided by the shipbuilder or expert company, is in an electronic and editable format to facilitate ongoing maintenance.

If in doubt when it comes to the ongoing maintenance process, it is recommended to consult reputable IHM expert companies for guidance. There are various IHM consultancy firms offering support with ongoing maintenance, and some may even enter into a contractual arrangement with the shipowner to take over the responsibility in full.

Regardless of whether a shipowner opts for external support or chooses to maintain the IHM internally, it is important to understand which items may require a Material Declaration or Suppliers Declaration of Conformity and which do not.

Requirements for end-of-life ships

IHM Parts II and III

Once a decision has been made to recycle a ship, the shipowner must complete Parts II and III of the IHM, and ensure this information is accurately incorporated into the maintained and updated Part I. The IHM will then need to be verified, typically during the final survey.

The compilation of Parts II and III of the IHM is generally more straightforward than the development of Part I. Typically, expert support is not required and there is no requirement for sampling to take place.

Ship Recycling Plan and final survey

The information provided by the shipowner in Parts I, II and III of the IHM, along with other documents specified in the relevant IMO guidelines, should be used by an authorised ship recycling facility to help develop a ship-specific Ship Recycling Plan (SRP).

The SRP must be developed in accordance with the IMO guidelines and should detail procedures for establishing, maintaining and monitoring safe-for-entry and safe-for-hot work conditions. It should also outline how the type and quantity of materials - including those identified in the IHM - will be managed.

Approval of the SRP may be either tacit or explicit, depending on the competent authority overseeing the ship recycling facility. To date, most of the states that have ratified the HK Convention appear to prefer tacit approval. While this approach can expedite the process, it may limit the availability of governmental safeguards that could assist the shipowner to mitigate risks associated with the country of the recycling facility.

Once all the requirements have been fulfilled, a final survey is required by the flag state before the ship is taken out of service and prior to the commencement of recycling. The purpose of the final survey is to verify that:

1. Parts I, II and III of the IHM are in accordance with the requirements of the HK Convention and/or EU SRR;
2. The SRP properly reflects the information contained in the IHM and contains information concerning the establishment, maintenance and monitoring of safe-for-entry and safe-for-hot work conditions; and
3. The facility where the ship is to be recycled holds a valid authorisation in accordance with the HK Convention or, for EU-flagged ships, is on the EU List.

In summary, to ensure compliance:

- Ships should only be recycled at ship recycling facilities that are authorised in accordance with the HK Convention or, in the case of EU SRR, are published on the EU List; published on the EU List;
- The recycling facilities should be fully authorised to handle the materials identified in the IHM;
- Operations should be conducted in the period prior to entering the recycling facility in order to minimise the amount of cargo residues, remaining fuel oil, and wastes remaining on board;
- In the case of a tanker, the ship should arrive at the recycling facility with cargo tanks and pump room(s) in a condition that is ready for certification as safe-for entry, or safe-for-hot work, or both, according to national laws, regulations and policies of the jurisdiction under which the recycling facility operates;
- The ecycling facility should be provided with all available information relating to the ship for the development of the SRP as required by the HK Convention and/or EU SRR;
- Parts I, II and III of the IHM must be completed; and
- The ship must be certified as ready for recycling by the relevant administrative authority.

Legal considerations

Differing regulatory frameworks

Ship recycling is a complex and multifaceted process that requires careful adherence to international policies and procedures.

One of the most significant challenges facing shipowners is the interplay between differing regulatory frameworks of the HK Convention, the EU SRR and the Basel Convention.

While the Basel Convention does not specifically address ship recycling, it regulates the movement of hazardous waste, which includes materials generated during the dismantling of ships.

This overlap creates a regulatory maze for shipowners seeking to ensure compliance and responsible recycling of end-of-life ships.

For instance, some of the signatories to the HK Convention are not members of OECD countries. As a result a ship may be authorised for recycling under the HK Convention but be in breach of the hazardous waste requirements under the Basel Convention.

To address some of these concerns the IMO published provisional guidance on 1st November, 2024 regarding the implementation of the HK and Basel Conventions which, in summary, provides that:

1. States party to the HK Convention but not the Basel Convention should apply the requirements of the HK Convention;
2. States party to the Basel Convention but not the HK Convention should apply the requirements of the Basel Convention; and
3. States party to both the HK Convention and the Basel Convention should consider notifying the Secretariat of the Basel Convention that they will apply the HK Convention requirements in respect of transboundary movements of ships intended to be recycled at a ship recycling facility that has been authorised in accordance with the HK Convention and is situated under the jurisdiction of a party to the HK Convention.

It remains to be seen, however, if further guidance will be issued following the HK Convention coming into force.

Prosecutions by national authorities

Since the HK Convention only entered into force in June, 2025 there is a paucity of case law and legal precedent in respect of any prosecutions against shipowners for non-compliance. Nevertheless, enforcement actions under the EU Waste Management Regulation (“EWSR”) demonstrate that violations can result in significant penalties, including fines, sanctions, or criminal liability.

Case study: Seatrade

The Dutch company Seatrade was prosecuted by national authorities for the illegal export of hazardous waste from European ports to non-OECD countries, in contravention of the EWSR.

In 2012, Seatrade sold four vessels to a third-party buyer. These ships subsequently departed from Hamburg and Rotterdam for dismantling in Turkey, India, and Bangladesh. The Dutch court determined that Seatrade had attempted to circumvent the regulations by transferring ownership to a cash buyer and ruled that the transaction constituted a breach of the EWSR.

Two company directors received twelve-month suspended prison sentences, and the company was fined approximately EUR 750,000. Although the judgment was later annulled by the Court of Appeal in The Hague in July, 2020 due to procedural irregularities, Seatrade reached a settlement with the Dutch authorities prior to retrial, resulting in a payment of EUR 5,650,000.

Case study: The Tide Carrier/Harrier

In 2018, a Norwegian shipowner was convicted under the Norwegian Pollution Control Act (which incorporates the EWSR) for the illegal export of hazardous waste. The individual received a six-month prison sentence and was fined NOK 7 million.

The ship, originally called the “Eide Carrier”, had been laid up for several years on the Norwegian coast.

Despite assurances from the owner, Eide Group, that the ship would not be scrapped, it attempted to depart Norway in February 2017 under the new name “Tide Carrier,” with a new registered owner (Julia Shipping Inc.) and flag (Comoros). Shortly after departure, the vessel experienced engine failure and drifted toward the coast, prompting an emergency salvage operation.

The ship was later laid-up in Gismarvik, renamed “Harrier” and reflagged to Palau. The Norwegian authorities subsequently arrested the ship after uncovering evidence that the ship was on a voyage to Pakistan for dismantling.

The Norwegian District Court convicted the shipowner, and the Court of Appeal up held the decision, concluding that the intention was to deliberately run the ship onto the beach in Gadani, Pakistan, to be broken up without adequate recycling or waste management facilities.

Contractual protection

It is common practice for shipowners to sell ships to third-party intermediaries for recycling. However, as highlighted by the above case studies and prosecutions by national authorities, such transactions do not absolve shipowners from their obligations under the applicable regulations, even post-sale.

To mitigate legal and reputational risks associated with ship sales for recycling, shipowners should ensure that sale contracts include clauses that provide for compliance with HK Convention or EU SRR ship recycling. These clauses help to safeguard against liability for downstream breaches, particularly as, once a shipowner sells to an intermediary buyer, the level of control it has over the ship's demolition is diminished.

Failure to include such protective provisions may expose shipowners to significant liability and reputational damage.

To assist shipowners in managing these risks, BIMCO has developed standard form contracts and clauses specifically tailored to ship recycling:

1. RECYCLECON

Published in 2012, RECYCLECON is a sale and purchase contract specifically designed for ship recycling, with the aim of helping shipowners to mitigate the reputational risks when selling ships for recycling. In particular, the buyer provides an undertaking in the preamble at Part II of the form "to recycle the vessel in a safe and environmentally sound manner consistent with international and national law and relevant guidelines."

Clause 18 of the contract incorporates key requirements of the HK Convention and the EU SRR regarding the IHM and Ship Recycling Plan:

"[...] If not already provided, the Sellers shall provide the Buyers with Part I of the Inventory of Hazardous Materials as soon as possible after the date of this Contract.

The Sellers shall provide the Buyers with provisional Parts II and III of the Inventory of Hazardous Materials as soon as possible after the date of this Contract and final Parts II and III upon delivery of the Vessel.

The information contained in the Inventory of Hazardous Materials is given to the best of the Seller's knowledge but always without guarantee.

Following the receipt of Part I and the provisional Parts II and III of the Inventory of Hazardous Materials, the Buyers shall without undue delay provide the Sellers with the Ship Recycling Plan.

The Buyers shall ensure that after delivery the Sellers' representatives are allowed to visit the Ship Recycling Facility to ascertain that the Recycling of the Vessel is being conducted in accordance with the Ship Recycling Facility Plan and the Ship Recycling Plan[...]"

However, from a buyer's perspective, clause 18 imposes only a limited obligation on the seller to provide an IHM containing information to "the best of the Seller's knowledge."

A buyer is, therefore, exposed in respect of the seller failing to provide a compliant or accurate IHM and has a limited right of recourse given that the seller's obligation is "without guarantee".

It is interesting to note that since its publication in 2012, there has been limited use of the RECYCLECON form. However, this may change following the HK Convention coming into force and BIMCO are currently in the process of undertaking a comprehensive revision of RECYCLECON to further align with the regulatory landscape.

2. Ship Sales Further Trading Clause

The BIMCO Ship Sales Further Trading Clause 2023 is designed to ensure that both buyer and seller agree that the ship will continue trading after the sale. Its primary objective is to protect the seller from liability for the buyer's post-sale actions, particularly in cases where the buyer disposes of the vessel in breach of applicable regulations governing ship recycling or dismantling.

Shipbuilding and MOA considerations

As outlined above, maintaining a compliant and accurate IHM is essential for shipowners to comply with the requirements of the HK Convention and the EU SRR.

However, while shipowners can maintain a robust compliance record and paper trail during the ship's operational life, they are dependent upon the shipbuilder during the construction phase. This includes reliance on the Supplier Declaration of Conformity and the Material Declaration from various suppliers.

To mitigate risk, shipowners may want to consider incorporating provisions into shipbuilding or supply contracts that provide a right of recourse in cases of negligence or misrepresentation regarding the materials listed in the IHM which are discovered at a later stage.

Similarly, buyers of an existing ship may wish to include contractual safeguards that provide recourse against the seller if the IHM has not been properly maintained or is inaccurate.

Conclusion

The complex and varied regulatory frameworks that apply to ship recycling impose both technical and legal obligations on shipowners in respect of their end-of-life ships. Cases brought against shipowners to date clearly demonstrate that national authorities are taking compliance seriously, which will no doubt further increase with the HK Convention coming into force.

Shipowners are strongly encouraged to proactively prepare for compliance with the HK Convention to mitigate legal exposure and uphold environmental and safety standards. Even when a ship is sold with the expectation of continued trading, sellers should ensure their interests are safeguarded through the inclusion of appropriate clauses in the sale contract.

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