

Three's a Regulatory Crowd: Hong Kong Convention Enters Into Force Amidst Existing Recycling Regulation Regimes

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After more than 15 years since its adoption, triggered by the ratifications of Bangladesh and Liberia, the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 (**Hong Kong Convention**) finally entered into force on 26 June 2025 marking what has largely been heralded by the shipping industry as a new era for ship recycling. This article explores whether the entry into force of the Hong Kong Convention is the dawn of a new era for ship recycling, or whether existing frameworks – such as the EU Ship Recycling Regulation (Regulation (EU) No 1257/2013) (**EU SRR**) and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal 1989 (**Basel Convention**) – will continue to ensure that the Hong Kong Convention will be forced to play a complicated joint role in governing international ship recycling regulations until a harmonised global recycling framework is put in place.

Ship Recycling Regulations

The Hong Kong Convention: Aims and Key Requirements

The Hong Kong Convention applies to new and existing ships (which includes, subject to specific exclusions, submersibles, floating craft, floating platforms, self-elevating platforms, floating storage units and floating production storage and offloading units) flying the flag of a party to the convention and ship recycling facilities operating under the jurisdiction of a party to the convention, of 500 GT or more. The aim of the Hong Kong Convention is to ensure that ship recycling is conducted in a safe, environmentally sound and responsible manner.

The three main requirements of the Hong Kong Convention are:

- **Inventory of Hazardous Materials:** New ships (meaning a ship (i) for which the building contract is placed after 26 June 2025; or (ii) where there is no building contract, the keel of which is laid on or after 26 June 2025; or (iii) which is delivered on or after 26 December 2027) and existing ships must have an approved Inventory of Hazardous Materials (**IHM**), which identifies the location and approximate quantities of the hazardous materials held on board. The IHM is comprised of three parts, with Part I maintained during the ship's lifetime and Part II and III developed prior to the ship being recycled.
- **Final Survey and International Ready for Recycling Certificate:** Ships which are planned to be recycled must undergo a final survey, the successful completion of which (involving the verification of IHM Part I, II and III) results in the obtaining of the International Ready for Recycling Certificate.
- **Ship Recycling Facilities:** Ship recycling facilities operating under the jurisdiction of a party to the convention must be authorised by the competent authority designated by the flag state of the ship and must hold a valid Document of Authorisation for Ship Recycling. Authorisation

by the competent authority is obtained by the ship recycling facility submitting to the competent authority a valid and compliant Ship Recycling Facility Plan with the competent authority using IMO Resolution MEPC.211(63) as authorisation guidance.

It is worth noting that despite its entry into force, there are several major ship recycling countries that are not a party to the convention, such as Pakistan and the People's Republic of China.

Basel Convention: A Broader but Blunter Tool

The Basel Convention is an international treaty which was adopted in 1989 and entered into force in 1992 between (currently) 191 states and is responsible for regulating the transboundary movement of hazardous waste by subjecting movement of waste to the prior informed consent of the competent regulators in the export state, import state and any transit states. In 1995, the Basel Ban Amendment (**Ban Amendment**) was adopted and came into force later in 2019, which bans outright the exporting of hazardous wastes from OECD countries to non-OECD countries. It is important to note that the Basel Convention does not specifically reference ships or vessels and instead refers to hazardous waste. From the perspective of ships or vessels, under the Basel Convention a ship or vessel becomes waste when such ship or vessel is intended to be recycled and applies to ships due to the hazardous materials they often contain (such as asbestos or heavy metals). In relation to ship recycling, however, the existence of the Basel Convention has proved problematic for ship owners given the risk that end-of-life ships in full compliance with the Hong Kong Convention could still be detained in ports for violations of the Basel Convention and may be required to obtain prior informed consent of the competent regulators before departure.

In 2011, at the Basel Convention Conference of the Parties 10 (**COP 10**), it was considered whether the Hong Kong Convention could be deemed equivalent to the Basel Convention. The focus, however, of COP 10 was the entry into force of the Ban Amendment and the peripheral question of the Hong Kong Convention's equivalency ultimately could not be agreed. In 2024, at the Marine Environment Protection Committee meeting 81, the Baltic and International Maritime Council (**BIMCO**) together with Bangladesh, India, Norway, Pakistan and the International Chamber of Shipping submitted a paper highlighting the need to solve possible conflicting requirements of the Hong Kong Convention and Basel Convention. This paper was initially supported by the committee who agreed that legal clarity and certainty were needed to ensure that compliance with the Hong Kong Convention did not also result in sanctions under the Basel Convention and the IMO Secretariat was asked to draft guidance on the interplay between the two. At the Basel Convention Conference of the Parties 17 (**COP 17**) held in April of this year, COP 17 adopted a decision welcoming entry into force of the Hong Kong Convention but there was no further agreement to provide clarity on the interplay between the Hong Kong Convention and the Basel Convention.

EU Ship Recycling Regulation: A Stricter Regional Approach

The EU SRR, which came into effect in 2018, govern the recycling of EU flagged vessels of 500 GT and above and largely mirrors the Hong Kong Convention but sets a higher standard in certain areas, in particular a strict regime for independent control and inspections, requirements for yards to have impermeable floors and effective drainage systems and ensuring that yards have set up rapid emergency response systems. The scope of the EU SRR also extends to non-EU flagged vessels of 500 GT and above calling at EU ports or anchorages. It is worth noting that despite the UK's departure from the EU, the UK Ship Recycling Regulations have retained the requirements of the EU SRR in the UK's domestic legislation, meaning that UK flagged vessels and non-UK flagged vessels calling at UK ports or anchorages must comply with the same recycling standards as previously required.

Under the EU SRR, all vessels fitting into the above scope must carry onboard an IHM, whilst EU flagged vessels are subject to a survey regime and must carry onboard a ship specific Inventory Certificate (which is supplemental to IHM Part I) and non-EU flagged vessels calling at a port or anchorage in the EU must carry onboard a Statement of Compliance issued by its flag state (which is also supplemental to IHM Part I). The EU SRR, however, goes even further than the Hong Kong Convention, with the beaching method for vessels being prohibited and both downstream toxic waste management and labour rights are included.

Vessels subject to the EU SRR must also be recycled at ship recycling facilities, which are included on the European list of approved ship recycling facilities. To be included on such list, ship recycling facilities must comply with a number of safety and environmental requirements. In the EU the ship recycling facilities are approved by national authorities for listing whilst non-EU yards are required to apply to the EU Commission for approval and admission to the list. Therefore, from an EU (and UK) perspective, the choice of ship recycling facilities is limited to facilities which are subject to a higher level of scrutiny and safety, however unlike South Asian yards many of the EU approved facilities cannot accommodate larger vessels.

In addition to the EU SRR, the EU Regulation on Shipments of Waste (Regulation (EC) 1013/2006) (**EU WSR 2006**) entered into force in 2006 with an aim of incorporating the provisions of the Basel Convention and Ban Amendment into EU law, the consequence of which was despite the existence of the EU SRR, the export of end-of-life vessels from the EU to non-OECD countries would be in direct breach of the convention. However, multiple South Asian recycling yards, in recognition of the global demand for ship recycling, upgraded their facilities to meet international standards and applied to be included on the European list. In December 2021, all such applications were paused due to concerns regarding the conflict between the EU SRR European list and the requirements of international law under the EU WSR 2006. To address these concerns, in May 2024, the EU Waste Shipment Regulations 2024 ((EU) 2024/1157) (**EU WSR 2024**) entered into force in order to reform and replace the EU WSR 2006 and contains specific provisions to ensure implementation of the Ban Amendment to end-of-life vessels. Under the EU WSR 2024, no end-of-life vessel which becomes waste in the EU may be exported to a non-OECD country (falling squarely within the scope of the Ban Amendment). Alternatively, under the EU WSR 2024, EU flagged vessels that become waste outside of the EU (e.g. the decision to recycle the vessel is taken whilst the vessel is in international waters) are now exempt from the Basel regime and are instead subject to the EU SRR, meaning that they may be recycled in facilities located in a non-OECD country provided that such facility is included on the EU SRR European list.

A Patchwork of Regimes: Key Problems which Arise

Despite the Hong Kong Convention now having entered into force, the regulatory landscape remains complex and uncertain and for shipowners in particular these problems create both legal and economic risk. The following are just a handful of examples of key problems arising from the existing regulatory regime:

- The Hong Kong Convention does not currently address the issue of transboundary movement of ships in compliance with the Basel Convention, despite some signatories to the Hong Kong Convention being non-OECD countries (e.g. Bangladesh). Therefore, a ship which is cleared for recycling per the Hong Kong Convention risks falling foul of the regulations under the Basel Convention if the ship is planned to be transported from an OECD country to a non-OECD country. Equivalency between the two conventions is yet to be determined and is unlikely to be decided before the next Conference of the Parties in 2027.

- Despite the EU SRR including a prohibition on beaching, and specific regions banning the practice (China, North America and the UAE) the Hong Kong Convention remains silent on the issue.
- Re-flagging of vessels by shipowners prior to recycling is a tactic used to circumvent the requirements of the Hong Kong Convention and EU SRR, typically by re-flagging the vessel to be registered with a flag of convenience or a flag of a non-OECD state. However, shipowners found guilty of re-flagging to so circumvent the requirements risk fines or imprisonment.
- The Basel Convention is not cognisant of the concept of flag state and is instead judged by the location of a vessel at the time it is intended to be recycled. Difficulties arise for shipowners in correctly determining when a ship becomes waste under the convention increasing the risk of breach of its regulations.
- Detecting infringements and subsequently enforcing provisions of both the Hong Kong Convention and EU SRR is challenging, in particular due to the difficulties which arise from identifying vessels that are intended to be recycled due to lack of transparency, the dual legal status of some end-of-life vessels as hazardous waste under the Basel Convention and subsequent lack of clarity as to which conventions apply and identifying the authoritative body responsible for enforcement.

Looking Ahead

According to BIMCO, it is predicted that 15,000 vessels will be scrapped by 2032 which emphasises the need for a harmonised regulatory landscape in respect of ship recycling. However, until such landscape is unified, ship owners and operators should carefully plan and seek appropriate advice when looking to recycle their vessels. It is undeniable that the entry into force of the Hong Kong Convention marks a critical shift toward more sustainable ship recycling practices. However, without harmonisation between the Basel Convention and Hong Kong Convention and a reconciliation of EU regulations with these conventions, the dawning of a new era for ship recycling is yet to take place.