Summary on the new

Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009

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1. Introduction

This new free standing international Convention was signed by sixty seven countries on 15th May 2009. It is designed to address the concerns about the standards of ship recycling around the world.

Lloyd’s Register have closely followed this Convention from its inception at MEPC 56 in 2006 and have represented IACS at IMO and been instrumental in drafting and submitting many papers to the IMO on the subject, which have been influential in the drafting of the Convention.

The ‘Lloyds Register Guidance for the Inventory of Hazardous Materials’ was updated especially for the conference and thus its current date is May 2009. A software is being updated.

The Convention text is now ‘locked’, and apart from legal secretarial changes between now and the end of summer, and cannot be changed after it is opened for ratification, until after the Entry into Force date.

The Entry into Force criteria are complex and the Convention is not expected to enter into force until 2015 or later.

2. The Convention

2.1. General Layout

The Convention is free standing and does not in essence rely on or affect other maritime law. It may have an effect on other UN and local law, such as the ‘Basel Convention on the Transboundary Movement of Hazardous Material’ or the ‘European Waste Shipment Regulations’, however that will be identified by the proper agencies as part of the ratification and acceptance processes.

The Convention is in the familiar format of Articles (which require formal acceptance to change) and Regulations (which may be amended by tacit approval). There are 21 articles and 25 regulations.

The Convention covers the entire process from newbuilding to the ship recycling facility and has requirements on shipowners and ship recycling facilities. The flag State (or its recognised organisations) is responsible for the ship survey and certification and the National Authority (or its competent authority) of the recycling facility is responsible for elements concerning the ship recycling facility. The whole legislation is extremely complex and introduces several new concepts and certificates.
2.2. Articles

2.2.1. Application and enforcement

These start with familiar preambles, obligations, definitions, applications etc. The Convention applies to ships of 500gt and over, with the normal exclusion of warships or government owned ships.

Port State Control inspection can be applied for this Convention.

There are a series of articles to allow detection of violations, communication, technical assistance, dispute settlement and relationship with international law – none of which have particular significant consequence except for what is known as the ‘party / non party issue.

Party / non party issue. The Convention requires that party ships (i.e. ships which are flagged by States which have ratified the Convention) must only be dismantled in party facilities, (i.e. in countries that have ratified the Convention) and that party facilities do not recycle ships which are flagged with non party countries. Thus ships which do not fly the flag of a State which is party to the convention cannot be recycled in a State which is party to the convention. This causes severe restriction both for ships which are not party to the Convention and for recycling facilities if their States are not party to the Convention.

2.2.2. Entry into Force criteria

This is particularly complicated. There are three criteria;

- 15 States to ratify; of which combined tonnage is
- Not less than 40% of world fleet, and
- Their combined ship recycling capacity not less than 3% of their combined gt (over the past ten years)

This last criterion is unique and is to ensure that when the Convention enters into force that there is sufficient shipbreaking capacity for the member States. The number is very important since it not only recognises that 3% is roughly equivalent to the replacement rate per annum, but it also allows for the criteria to be satisfied if China, and either Bangladesh or India ratify the Convention.

2.3. Regulations

2.3.1. Definitions and applicability

These follow the standard layout of definitions, applicability and relationships with other standards.

Shipowner: Traditionally, ships to be recycled are sold through an intermediary owner called a ‘cash buyer’. An important new element in the Convention is that it allows for a ‘cash buyer’
to be formally identified as a shipowner. He/she will thus not be able to avoid any of the elements of the Convention, and must comply with all its requirements, like any other shipowner, no matter how short a period of time during which he/she owns the ship: Convention certificates will have to be issued on behalf of the flag State, even if he/she only owns the ship for a matter of hours.

2.3.2. Requirements for Shipowners

There are a number of important new requirements for ships.

Restriction of materials; the Convention reinforces restrictions on asbestos, TBT, ozone depleting substances and PCBs (poly chlorinated biphenyls) in its appendix 1. These are in line with existing or planned restrictions so should have little effect other than to tighten up – especially with new installations of asbestos, and removing the present exemptions.

Further materials are introduced which need to be listed, in its appendix 2. This list may cover an enormous number of materials presently used onboard the ship, and the guidelines need to be used to control the impact of these materials.

Inventory of Hazardous Materials; this needs to be prepared for all ships. Newbuilds will need an Inventory from the date of entry into force of the Convention and existing ships will need one not more than five years later, or before going for recycling. For existing ships, the Convention requires a sampling plan to be prepared to show how the inventory has been developed, and this new requirement is being built into our existing requirements.

Surveys and certification; ships will only need a survey of the Inventory every five years, however the Convention requires the Inventory to be maintained and the owner must call for an ‘additional survey’ after any significant change. It is not known how ‘significant’ will be judged, nor how this requirement can be administered or checked. Lloyd’s Register presently uses an Annual Survey system to cover these ambiguities in a reliable and predictable fashion.

Final Survey; before the ship is taken out of service (or before the final voyage) a Final Survey is needed. This will verify the Inventory including new information on stores and bunkers. It will also check that the Ship Recycling Plan ‘properly reflects’ the information and that the facility is properly authorised.

The last sentence is a new concept, but is considerably superior to the previous text. However, it will require a new level of office checking before the final survey is carried out onboard the ship. This new proposal was not expected but should be welcomed since it adds certainty to the process.

On completion of the Final Survey, an International Ready for Recycling certificate should be issued by the flag State or their RO.

The owner will need to advise the flag State that he/she is intending to recycle the ship, in order for the final survey procedures to be started.
2.3.3. Requirements for Ship Recycling facilities

The Regulations then move onto requirements for the Ship Recycling Facility.

Such controls on the facility are not specific and rely on the competent authority of the recycling State. This does not constitute any realistic change from the present.

Facilities should be authorised. This will take the form of an IMO ‘Document of Authorisation for ship recycling facilities’ (At final survey it will be confirmed that this exists, properly stamped and signed). Facilities will need management systems and only accept ships that are flagged by countries party to the convention.

Facilities will need to prepare a ‘Ship Recycling Plan’ – a document that details how the ship will be dismantled. This document also forms part of the check at final survey – but only so far as the hazardous materials on the ship are matched with the hazardous materials that the facility is allowed to handle, plus some other details such as gas free procedures.

The central element for facilities is Regulation 15.1 which states; ‘ensure facilities are designed, constructed and operated in a safe and environmentally sound manner’. It is the interpretation and implementation of this sentence which dictates what a facility looks like. In a robust regime, this is sufficient to ensure proper compliance; in a non robust regime it may be insufficient. It does not create a barrier for ratification, nor stop States from raising standards. It gives no indication of what an acceptable recycling facility should look like and that is why parties with differing vested interests can take diametrically opposed views on compliance.

On completion of ship recycling the facility will have to report to the National Authority and the flag State that the recycling of the ship is complete.

2.4. Appendices

2.4.1. Lists of hazardous materials

Appendix 1 of the Convention contains the list of materials which should be prohibited form newbuilds and listed for existing ships: asbestos, TBT, ozone depleting substances and PCBs. It should be noted that all these are covered by other legislation so there is no more onerous requirement on newbuilds other than to set up systems to prove it.

Appendix 2 of the Convention contains the list of materials to be in the inventory in addition to appendix 1, but only applies to newbuilds and new installations (and existing ships as far as practicable). This list is extremely troublesome and its impact on newbuilding very difficult to measure. A number of papers asking for better definition and clarity in this table and well as a consequence study have been submitted to the next session of IMO’s Marine Environment Protection Committee.
2.4.2. Certificates

The remainder of the texts give model certificates, although interestingly many of them are not actually referenced in the text.

3. Summary

The Convention is a significant step forwards that will assist raising the level of standards in the ship recycling industry. The requirements on owners are far more specific, they will need;

- An Inventory, based on a
- Sampling plan.
- A Ship Recycling Plan (provided by the facility),
- an authorised facility.
- Permission from the flag State to conduct a
- Final survey, in order to issue an
- International ready for recycling certificate

Newbuild yards will have to provide the Inventory for ships in builds, covering both appendices of materials which may be expected to be very onerous and will include the yard receiving the same materials list from all their sub suppliers.