

A LOOK AT SHIP RECYCLING: THE BEGINNING OF THE END

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NG Daryll Richard

LLB, Advocate and Solicitor (Singapore).

WONG Cherilyn, Li Chuen

LLB, Advocate and Solicitor (Singapore).

I. Introduction

1 Along the beaches of Shitalpur Chowdhuryghata area, in the morning at Sagorika Ship-breaking Yard, Shashi Chandra, Md Jalil, and Imran were cutting a scrap ship when a fire broke out from the engine room. The fire engulfed them, and at one point, they jumped into the sea to save themselves but to no avail – Imran suffered critical injuries whilst the other men did not survive the ordeal.¹

2 One may think this anecdote is a relic of the past but sadly, this took place just a few months before the publication of this article, on 18 February 2019. One may also think that Singapore is far removed from the usual business of ship breaking, but being one of the top flags globally, with more than 130 international shipping groups and 5,000 maritime establishments, the fate of the men above may be closer to Singapore than you think.

3 Currently, more than 70 per cent of ships which have reached the end of their lives end up along the beaches of Alang-Sosiya in India, Chittagong in Bangladesh and Gaddani in Pakistan where they are hacked apart by young men equipped with rudimentary tools or, sometimes, with nothing but their bare hands. Manually stripping down a vessel is dangerous work;

1 “Two ship breakers killed” *Daily Sun* (19 February 2019).

falling metal beams, slicing metal propellers, and fiery explosions are some of the dangers these men face. Beyond this, hazardous materials embedded within a vessel, such as asbestos and toxic fumes, are released and swept across the beaches, hurting not only these labourers but also polluting the land and seas and damaging surrounding communities.

4 The example above is not isolated. In 2015, steel-cutter Mohamed Edris brought a claim for the injuries he sustained while demolishing the *Eurus London*, a 915-teu vessel owned by Zodiac Maritime. His injuries included losing a leg, severe injuries to his back, and damaged vision.² In 2016, 12 workers died in an accident at the Gaddani ship-breaking yard in Pakistan.³ On 4 December 2017, a worker died on the spot from inhaling toxic gas.⁴ Whilst the parties in the *Eurus London* settled out of court in 2018,⁵ alarm bells around the world had begun to ring and discussions that ship owners should be held responsible for the deaths and injuries of these labourers grew louder.

5 Locally, in November 2018, the IndustriALL global conference on sustainable shipbuilding and shipbreaking took place. The group recognised the dangers faced by these labourers and discussed action plans for the years to come including a goal for Singapore, among other countries, to ratify the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships 2009 (“Hong Kong Convention”).⁶

2 Adam Corbett, “Zodiac reaches settlement to end demo yard compensation fight” *Tradewinds* (29 March 2018); Adam Corbett, “Test case could make shipowners liable for breaking yard accidents” *Tradewinds* (7 December 2017).

3 Syed Raza Hassan, “Twelve dead in huge blast at Pakistani ship-breaking yard” *Reuters* (1 November 2016).

4 “Surge in number of accidents in Bangladesh shipbreaking yards” *Hellenic Shipping News* (7 December 2017).

5 Adam Corbett, “Zodiac reaches settlement to end demo yard compensation fight” *Tradewinds* (29 March 2018); John Vidal, “‘This is the world’s cheapest place to scrap ships’ – but in Chittagong, it’s people who pay the price” *The Guardian* (2 December 2017).

6 “Fighting forward for a sustainable future in the shipbuilding and shipbreaking industry” *IndustriALL Global Union* (27 November 2018).

On 31 December 2018, the EU Ship Recycling Regulation⁷ came into general application.⁸ In January 2019, Turkey, one of the five major ship recycling countries in the world in 2019, acceded to the Hong Kong Convention.⁹ It is clear that in recent months, countries have been answering their calls to action, showing a global shift away from ship breaking and towards ship recycling.

6 With the growing sense of corporate responsibility, globally, companies are increasingly aware of the environmental and labour issues surrounding ship recycling. Responses have been shaping up as well – just last year, Norway’s \$1trn Oil Fund sold its stake in four firms because they scrap on the beach.¹⁰

7 It is with this in mind that we look to the current systems of ship recycling. This article takes a practical look at The Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal made at Basel on 22 March 1989 (“Basel Convention”) and the Hong Kong Convention.

II. The Basel Convention

8 The objectives of the Basel Convention primarily revolve around the global control, prevention and combating of illegal traffic in hazardous and other wastes. Other goals include the pursuit of environmentally sound management of waste.¹¹

7 No 1257/2013.

8 “New EU regime for safer and greener ship recycling enters into force” *European Commission* (8 January 2019).

9 Geoff Garfield, “Turkey joins list of states ratifying ship scrapping convention” *Tradewinds* (31 January 2019).

10 “Shipping’s financiers turning the tide on shipbreaking practices” *TODAYonline* (15 May 2018).

11 The Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal made at Basel on 22 March 1989 (“Basel Convention”); Strategic goals and objectives and indicators for measuring achievement; and performance of the strategic framework (decision BC-10/2) <<http://www.basel.int/Implementation/StrategicFramework/Strategicgoalsandobjectives/tabid/3811/Default.aspx>> (accessed 19 March 2019).

9 Singapore acceded to the Basel Convention on 2 January 1996 and, on 16 March 1998, the Hazardous Waste (Control of Export, Import and Transit) Act (“Hazardous Waste Act”) was enacted. The Basel Convention was duly incorporated.¹²

A. When does the Basel Convention apply?

(1) *Ships and the materials they are constructed from are “hazardous waste”*

10 The Basel Convention does not refer to ships, rigs or other vessels directly. Rather, it applies to “waste” as defined under Art 2 of the Basel Convention. In turn, the term “waste” is to be interpreted by provisions of each ratifying country’s national law.¹³ To that end, the term “waste” is defined in the Hazardous Waste Act to include any object which is “proposed to be disposed of” or which is “disposed of”.¹⁴ Accordingly, once the intention to scrap or recycle a vessel is clear, the vessel may then be defined as “waste”.

11 In a similar fashion, decisions reached at the Basel Convention conference have recognised that ships and other floating structures are known to contain hazardous materials and that such materials may become hazardous waste.¹⁵ It has also been recognised that “ships and other floating structures” may pose a threat to the environment and human health if not dismantled or managed in an environmentally sound manner.¹⁶

12 Hazardous Waste (Control of Export, Import and Transit) Act (Cap 122A, 1998 Rev Ed) s 46 and the Schedule.

13 Basel Convention, Art 2.1.

14 Hazardous Waste (Control of Export, Import and Transit) Act (Cap 122A, 1998 Rev Ed) s 2(1).

15 Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Seventh Meeting), *Environmentally Sound Management of Ship Dismantling* (25–29 October 2004) Decision VII/26, UNEP/CHW.7/33.

16 Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Seventh Meeting), *Environmentally Sound Management of Ship Dismantling* (25–29 October 2004) Decision VII/26, UNEP/CHW.7/33.

12 Further, rigs and ships often contain quantities of controlled materials¹⁷ such as asbestos,¹⁸ waste oil,¹⁹ and heavy metals (eg, copper, zinc, mercury, lead).²⁰ These rigs and ships would thus likely be considered “hazardous wastes” under Art 1 of the Basel Convention and the Hazardous Waste Act.

13 Taking all of the above into consideration, although there is no local case law on this point, it is likely that ships to be recycled will be defined as “waste” and “hazardous waste” as appropriate under the Hazardous Waste Act.

(2) *When should one be concerned?*

14 One should start to be concerned as soon as one harbours thoughts of scrapping a ship.

15 In a statement from the Secretariat to the Basel Convention, it was stated that the Basel Convention applies to situations where the following conditions are fulfilled:²¹

- (a) the movement of the “waste” is from an area under the national jurisdiction of a State; and
- (b) the movement of the “waste” is to or through an area under the national jurisdiction of another State, or, to or through an area not under the national jurisdiction of any State, and at least two States are involved in the movement.

17 Hazardous Waste (Control of Export, Import and Transit) Act (Cap 122A, 1998 Rev Ed) Annex I of the Schedule.

18 Hazardous Waste (Control of Export, Import and Transit) Act (Cap 122A, 1998 Rev Ed) Annex I of the Schedule, at Y36.

19 Hazardous Waste (Control of Export, Import and Transit) Act (Cap 122A, 1998 Rev Ed) Annex I of the Schedule, at Y8 and Y9.

20 Hazardous Waste (Control of Export, Import and Transit) Act (Cap 122A, 1998 Rev Ed) Annex I of the Schedule, at Y22, Y23, Y29 and Y31.

21 Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Tenth meeting), *Note by the Secretariat: Legal Analysis of the Application of the Basel Convention to Hazardous Wastes and Other Wastes Generated On Board Ships* (7 October 2011) UNEP/CHW.10/INF/16 at p 11.

B. *What obligations or restrictions does the Basel Convention impose?*

16 The overarching restriction is on the movement of “hazardous waste”. The Hazardous Waste Act has an explicit prohibition on the import, export and transit of such waste unless the entity holds a permit or is authorised to perform the above actions.²²

17 Flowing from the above, the obligations are mainly of a reporting nature. Any entity which wishes to export, import or transit hazardous wastes to, from or through Singapore must obtain a “Basel Permit” from the Singapore Pollution Control Department (“PCD”) – a department under the Singapore National Environment Agency. In granting any permit for the abovementioned movements of hazardous waste, the PCD adopts the Prior Informed Consent procedure of the Basel Convention.²³

18 To apply for this permit, the applicant, depending on his capacity, must attach the Basel Export/Import/Transit form, as appropriate, the Basel Notification form, a certified true copy of the contractual agreement between the exporter and importer, an original banker’s guarantee (generally S\$100,000 to S\$200,000), the company’s information with the Accounting and Corporate Regulatory Authority, the applicant’s identification documents and other supporting documents, if any.²⁴

19 The wider control procedure under the Singapore framework is as follows:²⁵

22 Hazardous Waste (Control of Export, Import and Transit) Act (Cap 122A, 1998 Rev Ed) ss 25–27.

23 National Environment Agency, “Basel Convention”.

24 National Environment Agency, “Basel Convention”. The application form is accessible from the National Environment Agency website.

25 National Environment Agency, “Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal – Basel Convention Control Procedure” <<https://www.nea.gov.sg/our-services/pollution-control/chemical-safety/multilateral-environmental-agreements/basel-convention-control-procedure>> (accessed 19 March 2019).

- (a) check if the material intended for transboundary movement is subject to the control procedures under the Basel Convention in local legislation as well as whether the intended movement can be carried out in accordance with the Basel Convention and the national legislation of the other concerned countries;
- (b) contact the competent authority of the State of export, import and transit;
- (c) conclude the contract with the importer;
- (d) arrange the financial guarantees and insurances;
- (e) acquire all necessary information (*eg*, disposal/recycling process, *etc*) and complete the notification document;²⁶
- (f) send the copies of the notification to the competent authority of the relevant States and wait for authorisation;
- (g) upon authorisation to export, make an application to the PCD for the Basel Permit.²⁷ It should be noted that transit countries not parties to the Basel Convention must still be notified, though written consent from such countries is not a prerequisite for the movement to commence;²⁸
- (h) the exporter is to complete a movement document to accompany each movement of waste and the carrier is to complete the movement document when taking possession of the consignment;²⁹

26 The notification form is accessible from the National Environment Agency website.

27 See paras 17 and 18 above.

28 Secretariat of the Basel Convention, *Instruction Manual on the Prosecution of Illegal Traffic of Hazardous Wastes or Other Wastes* (United Nations Environment Programme, 2012) at para 44.

29 The movement form is accessible from the National Environment Agency website.

- (i) when the vessel is received by the importer, the exporter is to receive certification of receipt of waste;
- (j) when the vessel is finally disposed of, the exporter is to receive a certification of disposal; and
- (k) the release of financial guarantees by the State of export.

C. What are the effects of violations?

20 Under the Hazardous Waste Act, the penalties that may be meted out on a breach to any entity which imports, exports, or brings to Singapore in the course of carrying out transit proposal include criminal prosecution:

- (a) with companies possibly being subject to a fine not exceeding S\$300,000;³⁰ and
- (b) with individuals (*eg*, directors, employees and agents of the owners) being subject to a fine not exceeding S\$100,000 or to imprisonment for a term not exceeding two years or to both.³¹

21 An instruction manual, put together by the Secretariat of the Basel Convention,³² suggests a very wide slate of persons that may be prosecuted. It gives as examples “the generator, the exporter, the importer, the individuals completing the paperwork (freight forwarder, broker, shipping facilitator or coordinator) and the disposer”.³³ Whilst the above statement may not yet have the force of law, it is likely to be highly

30 Hazardous Waste (Control of Export, Import and Transit) Act (Cap 122A, 1998 Rev Ed) ss 25(4)(a), 26(3)(a) and 27(3)(a).

31 Hazardous Waste (Control of Export, Import and Transit) Act (Cap 122A, 1998 Rev Ed) ss 25(4)(b), 26(3)(b) and 27(3)(b).

32 Secretariat of the Basel Convention, *Instruction Manual on the Prosecution of Illegal Traffic of Hazardous Wastes or Other Wastes* (United Nations Environment Programme, 2012).

33 Secretariat of the Basel Convention, *Instruction Manual on the Prosecution of Illegal Traffic of Hazardous Wastes or Other Wastes* (United Nations Environment Programme, 2012) at para 68.

persuasive given its nature as a guide to the judiciary and prosecutors.

22 Given the individual-targeted nature of convictions and breadth of persons who may be caught, all persons who are dealing with end-of-life ship matters should ensure adherence to the Basel Convention.

III. The Hong Kong Convention

23 The main aim of the Hong Kong Convention is to ensure that ships, at the end of their operational lives, are disposed of or recycled in an appropriate manner. Such disposal should not pose any unnecessary risks to human health, safety and the environment.

24 The Hong Kong Convention works by mandating several requirements, the main two for ship owners being the requirement to carry on board an inventory of hazardous materials (“IHM”) and the requirement that vessels be recycled only at pre-approved facilities compliant with certain Health, Safety and Environmental (“HSE”) Standards.³⁴ There are approximately 30 pre-approved facilities, with most of such facilities in India.

25 To date, several guidelines have been published to supplement the text of the Hong Kong Convention. These include:³⁵

- (a) 2011 Guidelines for the Development of the Ship Recycling Plan;

34 2012 Guidelines for the Authorization of Ship Recycling Facilities, Resolution MEPC.211(63) (adopted on 2 March 2012), MEPC 63/23; 2012 Guidelines for Safe and Environmentally Sound Ship Recycling, Resolution MEPC.210(63) (adopted on 2 March 2012), MEPC 63/23.

35 Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships (15 May 2009) (“Hong Kong Convention”) website <<http://www.imo.org/en/OurWork/Environment/ShipRecycling/Pages/Default.aspx>> (accessed 19 March 2019).

- (b) 2012 Guidelines for Safe and Environmentally Sound Ship Recycling;
- (c) 2012 Guidelines for the Authorisation of Ship Recycling Facilities; and
- (d) 2015 Guidelines for the Development of the Inventory of the Hazardous Materials.

A. Who does it apply to?

26 Unlike the Basel Convention, the Hong Kong Convention is not yet in force. It will enter into force 24 months after the date on which the following conditions are met:³⁶

- (a) ratification by 15 States;
- (b) such States represent 40 per cent of world merchant shipping by gross tonnage; and
- (c) a maximum annual ship recycling volume in the preceding ten years being not less than 3 per cent of the combined tonnage of the ratifying States.

27 It is worth noting that at a conference held by a global union that took place at the end of 2018, goals were set for Singapore, Japan, Netherlands, Germany, the UK and Australia to ratify the Hong Kong Convention by 2020.³⁷

28 The type of ships that would be caught under the Hong Kong Convention are those entitled to fly the flag of a party to the Hong Kong Convention or operating under the flag of such a State.³⁸ Ship recycling facilities which are operating under the jurisdiction of a party to the Hong Kong Convention will be subject to the Hong Kong Convention as well.³⁹

36 Hong Kong Convention, Art 17.

37 IndustriALL Global Union, “Global Conference on Sustainable Shipbuilding–Shipbreaking: Action Plan for 2019–2022” (1–2 November 2018).

38 Hong Kong Convention, Art 3.1.

39 Hong Kong Convention, Art 3.1.

29 Exceptions are provided for any warships, naval auxiliary, or other ships only on government non-commercial service.⁴⁰ The Hong Kong Convention will also not apply to ships with gross tonnage less than 500MT or ships operating throughout their life only in waters subject to the sovereignty or jurisdiction of the State whose flag the ship is entitled to fly (*eg*, harbour craft or bunker barges).⁴¹ With that being said, each party is to ensure that even these exempted ships act in a manner consistent with the Hong Kong Convention.

30 Additionally, the Hong Kong Convention is only an agreement between States and requires implementation through the respective national or domestic laws of these parties. Individual States or groups of States may implement the standards as set out in the Hong Kong Convention before it comes into force. As an example, the EU Ship Recycling Regulation came into force on 31 December 2018.

B. What obligations or restrictions does the Hong Kong Convention impose?

(1) Requirement to carry on board an inventory of hazardous materials

31 Guidelines for the development of IHM have been provided by the International Maritime Organization (“IMO”) with a standard format set out in Appendix 2 of the guidelines.⁴²

32 One of the main obligations imposed under the Hong Kong Convention is the requirement to carry on board an IHM at all times. The IHM consists of three parts:⁴³

40 Hong Kong Convention, Art 3.2.

41 Hong Kong Convention, Art 3.3.

42 2015 Guidelines for the Development of the Inventory of Hazardous Materials, Resolution MEPC.269(68) (adopted on 15 May 2015), MEPC 68/21/Add.1.

43 2015 Guidelines for the Development of the Inventory of Hazardous Materials, Resolution MEPC.269(68) (adopted on 15 May 2015), MEPC 68/21/Add.1 at para 3.1.

- (a) Part I consists of materials contained in the ship's structure or equipment;
- (b) Part II consists of operationally generated wastes; and
- (c) Part III consists of stores.

33 Part I should include Tables A and B of the Inventory Guidelines.⁴⁴ These tables in turn comprise the materials listed in Appendices 1 and 2 of the Hong Kong Convention which list hazardous materials typically used in the structure of the ship. Appendix 1 includes asbestos, ozone-depleting substances, polychlorinated biphenyls and anti-fouling compounds and systems. Appendix 2 includes heavy metals, radioactive substances and other compounds.⁴⁵ Part I should further identify such materials in the ship's structure or equipment, their location, as well as their approximate quantities.

34 Part II consists of Table C of the Inventory Guidelines.⁴⁶ Table C comprises items which are potentially hazardous to the environment and human health at ship recycling facilities.⁴⁷

35 Part III consists of Tables C and D of the Inventory Guidelines.⁴⁸ Table D comprises regular consumer goods which are not integral to a ship and are unlikely to be dismantled or

44 2015 Guidelines for the Development of the Inventory of Hazardous Materials, Resolution MEPC.269(68) (adopted on 15 May 2015), MEPC 68/21/Add.1 at para 3.2.2.

45 Hong Kong Convention, reg 5.1.

46 2015 Guidelines for the Development of the Inventory of Hazardous Materials, Resolution MEPC.269(68) (adopted on 15 May 2015), MEPC 68/21/Add.1 at para 3.2.2.

47 2015 Guidelines for the Development of the Inventory of Hazardous Materials, Resolution MEPC.269(68) (adopted on 15 May 2015), MEPC 68/21/Add.1 at para 3.2.1.3.

48 2015 Guidelines for the Development of the Inventory of Hazardous Materials, Resolution MEPC.269(68) (adopted on 15 May 2015), MEPC 68/21/Add.1 at para 3.2.2.

treated at a ship recycling facility.⁴⁹ For example, loose batteries and consumer batteries should be listed in this part.⁵⁰

36 With regard to the obligations ships have to meet at each point of their operational lives:

- (a) Part I of the IHM is to be on board every new ship⁵¹ or, for existing ships, within five years of the entry into force of the Convention;⁵²
- (b) Part I of the IHM is to be maintained and updated throughout the ship's operational life;⁵³ and
- (c) Parts I, II and III are to be prepared prior to recycling.⁵⁴

37 When the IHM is in order, the ship may apply for its International Certificate on Inventory of Hazardous Materials.⁵⁵ Renewal surveys are then to take place, at intervals set by the flag State of the vessel with such period not exceeding five years.⁵⁶ Additional surveys may take place after significant changes, replacements or repairs to the ship.⁵⁷ There will also be a final survey before the ship is taken out of service wherein the International Ready for Recycling Certificate is to be issued.⁵⁸

49 2015 Guidelines for the Development of the Inventory of Hazardous Materials, Resolution MEPC.269(68) (adopted on 15 May 2015), MEPC 68/21/Add.1 at para 3.2.1.4.

50 2015 Guidelines for the Development of the Inventory of Hazardous Materials, Resolution MEPC.269(68) (adopted on 15 May 2015), MEPC 68/21/Add.1 at para 3.2.4.

51 Hong Kong Convention, reg 5.1.

52 Hong Kong Convention, reg 5.2.

53 Hong Kong Convention, reg 5.3.

54 Hong Kong Convention, reg 5.4.

55 Hong Kong Convention, reg 10.1.1.

56 Hong Kong Convention, reg 10.1.2.

57 Hong Kong Convention, reg 10.1.3.

58 Hong Kong Convention, reg 10.1.4.

38 Additionally, it was recommended that ship owners implement certain measures to ensure conformity of the IHM, such as:⁵⁹

- (a) designating a person to be responsible for maintaining and updating the IHM; and
- (b) establishing and supervising a system to ensure the necessary updating of the IHM in the event of new installations, which system should include all past deleted entries, any dates of changes and the signature of the designated person accompanying any entries.

(2) *Requirement to control ships' hazardous materials*

39 Pursuant to reg 4 of the Hong Kong Convention, if a State party legislates to prohibit or restrict the installation or use of hazardous materials, the ship will need to comply, or the abovementioned certificates will not be issued.⁶⁰

(3) *Vessel to be recycled only at pre-approved facilities*

40 Before a ship can be recycled, it needs to be properly certified.⁶¹ To obtain such certification, the following are required: verification of the IHM,⁶² approval of the Ship Recycling Plan (“SRP”), and confirmation that the ship recycling facility where the ship is to be recycled holds a valid authorisation in accordance with the Hong Kong Convention.⁶³ When the above are all in order, the International Ready for Recycling Certificate may be issued.⁶⁴

59 2015 Guidelines for the Development of the Inventory of Hazardous Materials, Resolution MEPC.269(68) (adopted on 15 May 2015), MEPC 68/21/Add.1 at para 5.2.

60 Hong Kong Convention, reg 4.

61 Hong Kong Convention, reg 8.6.

62 Hong Kong Convention, regs 5.4 and 8.

63 Hong Kong Convention, reg 10.1.4.

64 Hong Kong Convention, reg 11.

41 Whilst the main responsibility for the development of the SRP lies with the ship recycling facility, the development of the SRP is a co-operative effort between the ship owner and the ship recycling facility. To this end, the ship owner should properly prepare and maintain the ship and the IHM. Ship-specific information that should be prepared includes the capacity plan, fire control plan, accommodation plan, the construction profile, superstructure, piping system of the vessel, as well as any other information that could be useful.⁶⁵

C. What are the effects of violations?

42 The sanctions for violations will mainly be implemented by the State, which should be “adequate in severity to discourage violations”.⁶⁶

43 As a preliminary point, whilst the Hong Kong Convention often refers to the “ship owner” as the entity which is to be held responsible for violations, the term may not refer strictly to owners. Under reg 1 of the Hong Kong Convention, the term “ship owner” would include “those who have ownership of the ship for a limited period pending its sale or handing over to a Ship Recycling Facility”.⁶⁷

44 The term “ship owner” and the punishments that may be meted out could therefore encompass parties such as ship managers or bareboat charterers as well.

(1) Investigation

45 Pursuant to Art 9 of the Hong Kong Convention, where there is “sufficient evidence” that a ship is in contravention of the Hong Kong Convention, an investigation may be requested by a “Party”. As the use of the term “Party” throughout the rest of

65 2011 Guidelines for the Development of the Ship Recycling Plan, Resolution MEPC.196(62) (adopted on 15 July 2011), MEPC 62/24 at para 3.1.

66 Hong Kong Convention, Art 10.3.

67 Hong Kong Convention, reg 1.8.

the convention points to States which are parties to said Convention, it may be the case that this power is reserved for States and not corporate entities.

(2) *Detainment and rejection*

46 The potential powers of authorities, as stated in reg 9 of the Hong Kong Convention, include the detainment, dismissal or exclusion of contravening ships from their ports.⁶⁸

47 Further, pursuant to reg 17 of the Hong Kong Convention, ship recycling facilities may be obligated to reject ships which do not comply with the Convention if their authorising State decides so.⁶⁹

(3) *Compensation*

48 A potentially costly issue is that where a ship is unduly detained or delayed for investigations or as a respect of violations, “it” is entitled to compensation for loss or damage suffered pursuant to Art 11 of the Hong Kong Convention.⁷⁰ Potentially troubling is that, as of now, it is undefined and unclear who is the party that will be compensated and further, who is the party which will bear the cost of the same. Given the potentially high figures that compensation may reach, say where hire accrues over several days of detention, it would be best not to risk any violations.

49 Additional punishments may be implemented by the relevant State under Art 10 of the Hong Kong Convention.

IV. Basel Convention or Hong Kong Convention?

50 A recurring question is whether companies should adhere to the Basel Convention or the Hong Kong Convention, but as can

68 Hong Kong Convention, Art 9.3.

69 Hong Kong Convention, reg 17.

70 Hong Kong Convention, Art 11.

be seen from the above, the two Conventions cover different aspects of the ship's life and end-of-life processes. It would therefore be best for both Conventions to be followed. The two also complement each other; for example, the IHM and other documents prepared and maintained under obligations imposed by the Hong Kong Convention may be used in the reporting system of the Basel Convention.

V. Conclusion

51 Practically, entities would be wise to follow or prepare for the Basel Convention and the Hong Kong Convention. Beyond the legal sanctions that may be inflicted on non-conforming entities and the reputational damage that may be borne by the same, adherence to these Conventions may also very well enable companies to lower the risk of being a test case brought by an injured ship-breaker.

52 In the end, the implementation of these ship recycling conventions is necessary and beneficial not only to the people working in the ship recycling industry, but also the environment.