



The Hong Kong Convention – will it be a game changer?

The Hong Kong Convention will finally enter into force in 2025, but what does that mean in practice? How will ship recycling practices be impacted, and what will a key recycling nation like Pakistan do? Gard's Special Adviser Kim Jefferies spoke with Herman Steen, Partner at Wikborg Rein, to get some answers.

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The IMO adopted the [Hong Kong Convention](#) for the Safe and Environmentally Sound Recycling of Ships in 2009. The Convention is now finally set to enter into force on 25 June 2025, two years after Liberia and Bangladesh acceded to the Convention, which triggered the entry into force mechanism. Can you briefly explain what the Convention requires?

The aim of the Hong Kong Convention is to ensure safe and environmentally sound recycling. There have particularly been concerns with the recycling practices in South Asia where ships have been rammed up on beaches at high tide and broken up in the tidal zone in ways that are unsafe for the workers and releases pollutants to the environment. The Convention takes a cradle-to-grave approach. It applies to ships flagged in contracting states, which will be required to carry an Inventory of Hazardous Materials (IHM) and will only be allowed to be recycled at authorized facilities. The Convention also applies to recycling facilities located in contracting states. They must be authorized by national authorities and they are required to provide a Ship Recycling Facility Plan (SRFP) and also, in each project, to develop a Ship-Specific Recycling Plan (SRP). National authorities will be responsible to ensure that recycling facilities under their jurisdiction comply with the requirements of the Convention.

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International conventions take time, and some are never ratified. The EU adopted their own ship recycling regime some time ago, largely based on the provisions of the HK Convention. In what way do the EU regulations differ from the Hong Kong Convention?

The EU believed that the entry into force of the Hong Kong Convention went too slowly and that it was not strict enough. Therefore, it enacted the EU Ship Recycling Regulation in 2013, which implemented the Convention on an EU/EEA level, and also introduced some additional requirements, most importantly that EU/EEA flagged vessels shall only be recycled at facilities which are approved by the EU Commission and placed on the so-called European List. So far, the EU Commission has not approved any facilities in South Asia, which means that EU/EEA flagged vessels cannot be recycled there. The Ship Recycling Regulation also has additional downstream waste management requirements and certain health and safety requirements. These stricter requirements will be allowed to continue when the Hong Kong Convention enters into force, since the Convention only sets out minimum requirements and does not prevent national or regional regulations from going further.

Norway is not a member of the EU but is a member of the EEA agreement and has implemented the EU Ship Recycling Regulation in domestic legislation, meaning a Norwegian flagged vessel must be recycled in a facility on the European List. But what about non-EU vessels? I recall that in the Norwegian case involving the "Tide Carrier", the owner was criminally convicted due to intention to recycle a Comoros flagged vessel in Pakistan. Was this because of legislation incorporating the Basel Convention and Basel Ban Amendment?

Yes, that is correct. The conviction in that case was pursuant to Norwegian regulations incorporating the EU Waste Shipment Regulation 2006, which in turn implement the Basel Convention 1989 and Basel Ban Amendment 1995. The Basel Convention controls the movements of hazardous waste across international borders, including ships for recycling, and requires consent from the export, import and transit state. The Basel Ban Amendment goes further and prohibits export to non-OECD-states. The export ban, as implemented in the EU Waste Shipment Regulation, means that a non-EU/EEA flagged ship which is in EU/EEA waters whilst an intention to scrap the ship is taken, will be prohibited from being exported to a non-OECD state. The owner of the " *Tide Carrier* " was sentenced to 6 months in prison for having assisted a cash buyer in attempting to export the vessel from Norway for recycling at a beach in Gadani, Pakistan, which is outside the OECD. In other words, these regulations are subject to very strict enforcement.

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India and Bangladesh have ratified the HK Convention, and will no doubt have Hong Kong compliant facilities available at the time the Convention comes into force. These countries are not OECD countries. Would the Basal Ban Amendment and implementing domestic legislation mean that a foreign flagged vessel located in Norway or the EU could not be sent directly to a compliant yard in India or Bangladesh?

The general view, including that of the EU, has been that the Basel Ban Amendment would not prevent a vessel from being exported from an OECD or EU/EEA country to a yard in a non-OECD country like India or Bangladesh for recycling, provided that the yard is authorized by national authorities under the Hong Kong Convention or is on the European List. This is because the Hong Kong Convention and the EU Ship Recycling Regulation will supersede the Basel Convention if they impose environmentally sound waste disposal standards at least equivalent to those under the Basel Convention. Therefore, the EU is in principle positive to including yards for example in India or Bangladesh as long as they satisfy the requirements under the EU Ship Recycling Regulation. However, this has been questioned by several NGOs who claim that the Basel Ban Amendment would in fact bar the possibility of exporting ships from an OECD or EU/EEA country for recycling in a non-OECD country, even if the yard is Hong Kong authorized or on the European List.

Pakistan has a significant share of the gross tonnage recycled, but has not yet ratified the Convention. Peering into your crystal ball – do you think it is likely that Pakistan will join the two other recycling giants, India and Bangladesh, and ratify the Convention? Or will they stay outside and try to undercut the compliant yards in India and Bangladesh to raise its relative market share?

I think there are reasons to be optimistic. So far there are 22 contracting states, which represent about 80 per cent of the ship recycling market, including Bangladesh, India, and Turkey. Standards have been raised significantly, particularly at yards in India and Bangladesh. While waiting for the Convention to enter into force it is expected that this trend will continue. Whether Pakistan will join or not will probably depend on whether it believes that their yards can be compliant by the time the Convention enters into force. There are also some questions as to whether recent natural catastrophes and lack of foreign currency will impact Pakistan's share of the recycling market. They may feel pressured to join, particularly if the difference in price is not big enough to make up for the legal and reputational risks associated with sending ships to non-compliant yards in Pakistan.

Will the entry into force of the Hong Kong Convention be a game changer? And, if so, in what ways?

I think it is going to have significant global impact and that it will be a game-changer, yes. It will be a significant milestone to finally have a binding set of international regulations aimed at ensuring the safe and sustainable ship recycling. In many ways it has been good that the EU has been leading the way and managed to accelerate the adoption of the Hong Kong Convention, as well as the Basel regime. However, the regulatory landscape has become very complex with several layers of rules. Moreover, the regional EU rules have not been very effective since it has been too easy to circumvent them by reflagging or trading outside of the EU/EEA when making the recycling decision. You need global regulations to tackle global problems. The entry into force of the Hong Kong Convention represents an important commitment by the international community towards sustainable and responsible ship dismantling practices, especially as it ensures important and binding minimum standards applicable to yards in most of the countries where the problems related to recycling have been greatest.

Editor update: On 30 November 2023, Pakistan acceded to the Hong Kong Convention meaning all of the major recycling states have now committed to the Convention.