



Submission of the EU and its Member States presenting the table and preliminary assessment pursuant to decision OEWG-VII/12 (environmentally sound dismantling of ships)

I/ INTRODUCTION

1. By decision IX/30 adopted at the 9th Conference of the Parties of Basel Convention, the Open Ended Working Group was requested

"... to carry out a preliminary assessment of whether the ship recycling convention, as adopted, establishes an equivalent level of control and enforcement as that established under the Basel Convention, in their entirety, after having developed the criteria necessary for such assessment, and, in doing so, to take into account:

- (a) The special characteristics of ships and international shipping;*
- (b) The principles of the Basel Convention and the relevant decisions of the Conference of the Parties;*
- (c) The comments submitted by Parties and other relevant stakeholders, as appropriate"*

2. On the 21 October 2009, the Council adopted conclusions on the EU Strategy for better ship dismantling¹ and which, amongst other things:
 - ENDORSES the outcome of the International Maritime Organisation Conference on Ship Recycling in May 2009 and the adoption of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships ("Hong Kong Convention");
 - UNDERLINES that the Hong Kong Convention, which represents a major achievement for the international community, provides a comprehensive system of control and enforcement from "cradle to grave", and an important step towards phasing out unsafe and environmentally harmful working methods, including in relation to unsafe aspects of the current practise of so called beaching of end of life ships.
 - ENCOURAGES strongly EU Member States to ratify the Hong Kong Convention as a matter of priority so as to facilitate its entry into force as early as possible and to generate a real and effective change on the ground.

¹ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/envir/110626.pdf

- SUPPORTS the ongoing assessment of the level of control and enforcement established by the Basel Convention and the Hong Kong Convention following Decision IX/30 and other relevant decisions of the Conference of the Parties to the Basel Convention.
3. During the 7th Open Ended Working Group, criteria and a specific table were agreed upon and are annexed to decision OEWG VII/12 on environmentally sound dismantling of ships. By the same decision, Parties and other relevant stakeholders, were invited, based on these criteria, to review and complete the table annexed to the decision.

I/ EU PRELIMINARY ASSESSMENT

4. The Basel Convention applies to all types of ships when they are waste and the transboundary movement of ships that are waste. It takes into account the principle of environmentally sound management and contains general provisions which aim to ensure that the generation of hazardous waste and other wastes is reduced to a minimum.
5. In comparison, the Hong Kong Convention covers the whole life cycle of ships of 500 GT and above². Warships or government owned ships are excluded, although the Convention does require Parties to ensure that excluded ships act in a manner consistent with its requirements, so far as is reasonable and practical. The Hong Kong Convention contains provisions which aim to ensure the safe and environmentally sound recycling of ships and includes specific provisions addressing ships in their design and construction phase, during their operation (including maintenance) and during their recycling.
6. Under the Basel Convention, the original notification to competent authorities seeking approval to the movement of waste, considering ship dismantling as an interim operation, must identify any further facilities to which waste will be sent for its further safe and environmentally sound management³.
7. As far as the further processing or disposal of waste resulting from the recycling of a ship is concerned, the Hong Kong Convention requires that waste be transferred to waste facilities authorised to deal with its treatment and disposal in a safe and environmentally sound manner and requires that waste management and disposal sites are identified for this purpose. Like the Basel Convention, the Hong Kong Convention does not establish any system of control for such waste in the recycling state once it leaves the Ship Recycling Facility but it is understood that Parties to the Basel Convention would still need to comply with the requirements of that Convention to ensure the environmental sound management of the waste.
8. Some control and enforcement elements in both the Basel Convention and the Hong Kong Convention are different but serve nevertheless similar purposes:
 - a. Both instruments require the authorization of recycling facilities or of persons to

² See article 3(1) of the Hong Kong Convention,.

³ Dismantling, including ship dismantling is considered as interim operation R12, according to EU legislation (Directive 2008/98/EC).

perform a recycling operation, respectively. The Basel Convention here does not provide for specific requirements for authorization criteria and procedures although it does emphasise the need for environmentally sound management and avoidance of pollution.

In this context it is important to note that the Hong Kong Convention establishes safe and environmentally sound treatment requirements for authorization. This goes beyond the mere requirement of ESM.

b. The documentary control (“PIC”) procedure for transboundary movements of hazardous waste is at the core of the Basel Convention and is the means used to approve any proposed movement. The Hong Kong Convention requires approval of the ship recycling plan by the recycling State, its transmission to the Flag State and the issuance of the International Ready for Recycling Certificate by the Flag State as the procedure to approve a proposed movement of a ship going for dismantling.

c. Reporting obligations, which are found in both Conventions, constitute also an element of control and enforcement. Regulatory enforcement against violations or “illegal traffic” provisions can be found in both Conventions, as can the communication of information from the recycling state to the Secretariat and the other Parties of the respective Convention.

9. On the other hand, some elements are specific.

1. The concerned states are different in the Basel Convention (state of export, state of import and state of transit) to those in the Hong Kong Convention (flag state, port state and recycling state).
2. The surveys and certificates that under the Hong Kong Convention accompany the ship throughout its operating lifetime until the recycling phase, the controls on the installation or use of certain hazardous materials on ships at design and maintenance stages and the likely port State controls, do not exist as control and enforcement elements under the Basel Convention.
3. Regarding documentary control, the Hong Kong Convention allows recycling states to choose between explicit and tacit consent of the Ship Recycling Plan, while the Basel Convention only foresees the possibility of a written consent to a notification made under the "PIC" procedure⁴.
4. The Basel Convention contains provisions concerning the duty to re-import or duty to make alternative arrangement in case of illegal shipment, but there is no similar provision in the Hong Kong Convention⁵. However, there may be practical difficulties in enforcing the Basel Convention requirement while a ship is at sea⁶. It is also not clear how the provisions in the Basel Convention could be practically applied once the dismantling process has started.

⁴ Some streamlining is allowed e.g. by “general notification” provisions where hazardous wastes or other wastes having the same physical and chemical characteristics are shipped regularly to the same disposer via the same customs offices of exit and entry. In that case, the general notification and written consent may cover multiple transboundary movements of hazardous wastes during a maximum period of 12 months.

⁵ The Hong Kong Convention does however contain a general obligation on Parties to take effective measures to ensure compliance with its requirements (see article 4).

⁶ Where, contrary to the requirements of the Basel Convention, a ship leaves a port to make its final journey for recycling without having notified its intentions to the relevant competent authorities, or without having received the required consent for the movement.

10. In conclusion, it may be said that the system of control and enforcement for transboundary movements of hazardous waste through the Prior Informed Consent Procedure of the Basel Convention is strict and functioning relatively well for most hazardous wastes, but is difficult to enforce in relation to end-of-life ships. The Hong Kong Convention takes a rather different approach to control and contains other elements of control and enforcement which are more adapted to the specificities of the maritime world.

11. As a preliminary assessment and taking a life cycle perspective, it can therefore be concluded that the Hong Kong Convention appears to provide a level of control and enforcement at least equivalent to that one provided by the Basel Convention for ships which are waste under the Basel Convention and for ships to which the Hong Kong Convention applies and to ships treated similarly pursuant to article 3(4) of this latter Convention.

I. TABLE OF COMPARAISON BETWEEN HONG KONG AND BASEL CONVENTIONS

| Criteria | | Basel Convention | Hong Kong Convention | Comments to facilitate a preliminary assessment of equivalent level of control and enforcement ⁷ | |
|-------------------------|----------------------------|------------------|----------------------|---|---|
| Scope and applicability | | | | Basel Convention | Hong Kong Convention |
| What? | Coverage of ships / wastes | Article 2 | Article 3 | <p>The Basel Convention applies to transboundary movements of hazardous wastes and certain other wastes, to domestic environmentally sound management of waste, as well as wastes defined as hazardous waste under national legislation. “Wastes” in the sense of the Basel Convention are, according to Article 2(1), substances or objects which are disposed of or are intended or are required to be disposed of by the provisions of national law.</p> <p>A ship may become waste as defined in Article 2 of the Basel Convention and, at the same time, it may be defined as a ship under other international rules as was stated in Decision VII/26 of the Conference of the Parties to the Basel Convention.</p> <p>The Basel Convention does not exempt military or other state-owned waste - ships - from its scope. All ships that are hazardous waste are covered irrespective of size or type.</p> | <p>The Convention (article 3 (1)) applies to:</p> <p>.1 ships entitled to fly the flag of a Party or operating under its authority;</p> <p>.2 Ship Recycling Facilities operating under the jurisdiction of a Party.</p> <p>This Convention does not apply (article 3 (2) and 3(3)) to:</p> <ul style="list-style-type: none"> - any warships, naval auxiliary, or other ships owned or operated by a Party and used, for the time being, only on government non-commercial service. - ships of less than 500 GT or to 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. <p>However, each Party has to ensure, by the adoption of appropriate measures, that such ships act in a manner consistent with the Convention, so far as is reasonable and practicable.</p> |

⁷ For user-friendliness this column has been divided into two sub-columns.

| Criteria | | Basel Convention | Hong Kong Convention | Comments to facilitate a preliminary assessment of equivalent level of control and enforcement ⁷ | |
|----------|--|------------------|-------------------------------|---|--|
| | Coverage and identification of hazardous materials | Annexes I to III | Article 2; Appendixes 1 and 2 | <p>The Basel Convention applies to transboundary movements of hazardous wastes and certain other wastes.</p> <p>Hazardous wastes are those which either fall in a category listed in Annex I (unless they do not possess characteristics listed in Annex III of the Convention) or are in Annex II of the Convention or are hazardous according to domestic legislation of the Party of export, import or transit.</p> <p>Annex III lists the characteristics that make wastes hazardous.</p> | <p>The Hong Kong Convention establishes control measures for the installation and use of certain hazardous materials in new ships under this Convention and for existing ships under other Conventions.</p> <p>Article 2(9) defines ‘hazardous material’ as any material or substance which is liable to create hazards to human health and or the environment.</p> <p>The installation and use of hazardous materials⁸ listed in Appendix 1 to the Hong Kong Convention is to be prohibited and/or restricted. New ships must have an inventory of hazardous materials while, for existing ships, this inventory must be developed within five years of the Convention coming into force.</p> <p>Appendix 2 of the Hong Kong Convention provides a minimum list of substances which should be addressed in the Inventory of Hazardous Materials.</p> |
| When? | Management of life cycle of ship? | Article 4 | Article 2; Regulation 20 | <p>Parties have to ensure that their domestic generation of hazardous waste and other wastes is reduced to a minimum, taking into account social, technological and economic aspects (article 4(2)).</p> <p>Parties have to ensure that waste are either treated domestically or exported to facilities which will ensure an environmentally sound management of the hazardous wastes and other wastes.</p> <p>“Management” as defined by the Convention comprises the collection, transport and disposal of hazardous wastes or other wastes, including after-</p> | <p>The Convention provides a comprehensive system of control and enforcement from “cradle to grave” and relies in particular on the survey and certification of ships and the authorization of ship recycling facilities.</p> <p>The Hong Kong Convention has two main control and enforcement features: i) controls applied to ships including their design, construction, operation, maintenance and repair that have effect throughout the ship's working life, and ii) controls for the standards and operation of ship recycling facilities.</p> |

⁸ Asbestos, ozone depleting substances, polychlorinated biphenyls (PCB), anti-fouling compounds and systems.

| Criteria | | Basel Convention | Hong Kong Convention | Comments to facilitate a preliminary assessment of equivalent level of control and enforcement ⁷ |
|----------|--|------------------|----------------------|--|
| | | | | <p>care of disposal sites.</p> <p>Parties ensure the availability of adequate disposal facilities, for the environmentally sound management of hazardous wastes and other wastes, that persons involved in the management of hazardous wastes or other wastes within it take such steps as are necessary to prevent pollution due to hazardous wastes and other wastes arising from such management and, if such pollution occurs, to minimize the consequences thereof for human health and the environment;</p> <p>Parties ensure that the transboundary movement of hazardous wastes and other wastes is reduced to the minimum consistent with the environmentally sound and efficient management of such wastes, and is conducted in a manner which will protect human health and the environment against the adverse effects which may result from such movement;</p> <p>Ships flying a Party's flag or operating under its authority have to comply with the survey and certification requirements. These are to be effective throughout the operating life of ships, i.e. from the design and construction stage to the phase of preparing for recycling.</p> <p>When the ship comes to the end of its life a ship recycling plan must be prepared.</p> <p>Parties to the Hong Kong Convention have to prevent, reduce, minimize and, to the extent practicable, eliminate accidents, injuries and other adverse effects on human health and the environment caused by ship recycling, and enhance ship safety, protection of human health and the environment throughout a ship's operating life.</p> <p>The definition of "Ship recycling" covers the complete or partial dismantling of a ship at a Ship Recycling Facility in order to recover components and materials for reprocessing and re-use, whilst taking care of hazardous and other materials, and includes associated operations such as storage and treatment of components and materials on site, but not their further processing or disposal in separate facilities (article 2(10)).</p> <p>According to Regulation 20(3), Ship Recycling Facilities authorized by a Party shall provide for and ensure safe and environmentally sound management of all Hazardous Materials and wastes removed from the ship recycled at that Ship Recycling Facility. Waste management and disposal sites shall be identified to provide for the further</p> |

| Criteria | | Basel Convention | Hong Kong Convention | Comments to facilitate a preliminary assessment of equivalent level of control and enforcement ⁷ | |
|---------------|---|-------------------|---|--|---|
| | | | | | safe and environmentally sound management of materials. |
| Who? | Relationship between Party and non-Party | Articles 4 and 11 | Article 3; Regulation 4; Appendix 1 | <p>As a general obligation (Article 4 (5)), a Party shall not permit hazardous wastes or other wastes to be exported to a non-Party or to be imported from a non-Party.</p> <p>However, article 11 allows Parties to enter into bilateral, multilateral, or regional agreements or arrangements regarding transboundary movement of hazardous wastes or other wastes with Parties or non-Parties provided that such agreements or arrangements do not derogate from the environmentally sound management of hazardous wastes and other wastes as required by this Convention. These agreements or arrangements shall stipulate provisions which are not less environmentally sound than those provided for by this Convention in particular taking into account the interests of developing countries.</p> | <p>Article 3(4) of the Hong Kong convention introduces the principle of no more favourable treatment which is understood as applying to:</p> <ul style="list-style-type: none"> - non-Party ships going for recycling to Party recycling facilities; - non-Party ships visiting Party ports; - non-Party ships undergoing repairs in Party repair facilities (for example see Regulation 4.2 requiring the restriction of installation of Appendix 1 materials on ships while in shipyards or ship repair yards of a Party). |
| Where? | Jurisdiction | | | | |

| Criteria | | Basel Convention | Hong Kong Convention | Comments to facilitate a preliminary assessment of equivalent level of control and enforcement ⁷ | |
|----------|-----------------------------------|------------------|--|---|--|
| Control | | | | | |
| | Authorizations and certifications | Article 4 | Articles 5, 6; Regulations 8 and 15 to 23 | Authorization of recycling facilities is required under the Basel Convention by Article 4.7(a), which obliges Parties to prohibit persons under its national jurisdiction all persons from transporting or disposing of hazardous wastes or other wastes unless such persons are authorised or allowed to perform such types of operations. The criteria and procedure for this are not prescribed. | <p>Article 5 of the Hong Kong Convention relates to requirements for ships. Ships flying a Party's flag or operating under its authority have to comply with the survey and certification requirements. These are to be effective throughout the operating life of ships, i.e. from the design and construction stage to the phase of preparing for recycling.</p> <p>The authorization of ship recycling facilities is provided for in Article 6. Facilities must be authorized in accordance with the regulations annexed to the Convention..</p> <p>Regulation 15 provides for the institution of a control mechanism which should include a mechanism for authorization, inspection, monitoring and enforcement provisions.</p> <p>Regulation 16 establishes the procedure for the authorization, where the procedural details would be supplemented by Guidelines.</p> <p>Regulation 17 sets out general requirements for the recycling facilities, and Regulation 18 requires ship recycling facilities to prepare a Recycling Facility Management Plan.</p> <p>Health and safety matters, such as the prevention of accidents, emergency response and workers' safety training, are covered in Regulations 19-23 and have to be</p> |

| Criteria | | Basel Convention | Hong Kong Convention | Comments to facilitate a preliminary assessment of equivalent level of control and enforcement ⁷ | |
|----------|---|------------------|----------------------------------|---|--|
| | | | | | <p>fulfilled in order for the recycling facility to be authorized.</p> <p>Regulation 8(1)6 requires a ship, prior to any recycling activity taking place, to be certified as “ready for recycling” by the flag state Administration, or by a Recognized Organization on the Administration's behalf.</p> |
| | Surveying, auditing and inspection | Article 4 | Article 8; Regulations 15 and 16 | <p>Parties, through the general obligations of Article 4, shall take appropriate legal, administrative and other measures to implement and enforce the provisions of the convention, including measures to prevent and publish conduct in contravention of the Convention.</p> <p>Parties can undertake joint inspections and exchange programs at regional (IMPEL TFS) or international (INECE) levels, whose main objective is to work towards an adequate level of inspections.</p> <p>Enforcement actions are focused on introducing complete measures in order to prevent and detect illegal waste shipments and to deter illegal waste exporters, verifying waste destination and the treatment at destination, setting up training and exchange programmes for inspectors, and on maintaining and improving the network and collaboration of front line inspectors and other competent authorities and enforcement partners by exchange of information and knowledge.</p> <p>It promotes the exchange of information and experience and the development of greater consistency of approach in the implementation, application and enforcement of environmental legislation in field of waste shipments and waste</p> | <p>The system of control and enforcement to be provided by the Hong Kong Convention is considered in the broader context of the IMO system as a whole that has a number of mechanisms also providing control and enforcement.</p> <p>The first broader element of control and enforcement is that exercised through flag State responsibilities. This is achieved mainly through survey and certification systems (either directly by the flag State inspectors or by appointed Recognized Organizations / classification societies). Apart from the system of detailed surveys and certificates that covers all ships at regular intervals, before the recycling stage, flag states also carry out spot checks throughout the operating life of ships flying their flag.</p> <p>The second broader element of control and enforcement is that exercised by port States. This is achieved through inspection of ships entering the ports or offshore terminals to determine whether such ships are complying with the applicable conventions and IMO mandatory instruments. A port State authority's report to a flag State Administration enables the Administration to take appropriate action to rectify shortfalls in ships. This can also lead to detentions or prohibitions from returning to that port.</p> <p>Most coastal States, moreover, have signed up to</p> |

| Criteria | | Basel Convention | Hong Kong Convention | Comments to facilitate a preliminary assessment of equivalent level of control and enforcement ⁷ | |
|----------|--|------------------|----------------------|--|--|
| | | | | <p>management.</p> <p>Those activities encourage and facilitate the cooperation between environmental authorities, customs, police and traffic inspectors as joint enforcement actions are performed at borders, in ports and on roads.</p> <p>“Seaport project” carried out on both IMPEL TFS and INECE level has been worldwide recognized as efficient mechanism to detect and deter illegal shipments of waste, with special emphasis on e-waste trafficking.</p> <p>Another example of enforcement cooperation is operation “Demeter” targeting the illicit cross-border shipment of hazardous and other waste en route from Europe to countries in the Asia/Pacific region and Africa launched by Customs administration. They were supported by their national environmental agencies, the Secretariat of the Basel Convention, the EU Network for Implementation and Enforcement of Environmental Law (IMPEL), and the seven WCO Regional Intelligence Liaison Offices (RILO).</p> | <p>Memoranda of Understanding (MoUs) on port State control. These MoUs have developed their own rules and procedures in order to define the way inspections are made, and also to share the burden of control between their members. In practice, over 40 States belong to the three most advanced organisations for port State control (Paris MoU, Tokyo MoU and USCG), with half a dozen other MoUs in existence (Indian Ocean, for instance). Use of these is gaining momentum as best practice becomes more widely spread under the auspices of the IMO.</p> <p>Article 8 provides for inspections of ships to ensure that they hold an inventory of hazardous materials or an International Ready for Recycling Certificate. More detailed inspections may be carried out where these certificates are not found.</p> <p>Parties are also required to establish a mechanism for ensuring that Ship Recycling Facilities comply with the requirements of the Convention including the establishment and effective use of inspection, monitoring and enforcement provisions, including powers of entry and sampling(Regulation 15(3)).</p> <p>When authorizing a Ship Recycling Facility, Competent Authorities are required to verify documentation and carry out a site inspection (Regulation 16).</p> |
| | Designation of competent authorities/focal points | Articles 2 and 5 | Regulation 15 | <p>Basel Convention sets in place rights and obligations for the State of export, the State of import and, if applicable, to the transit States.</p> <p>Parties shall designate or establish one or more competent authorities and one focal point to</p> | <p>Hong Kong Convention sets in place rights and obligations for the Flag state, Recycling States and to Port States.</p> <p>Each Party shall designate one or more Competent Authorities and the single contact point to be used by the Organization, Parties to this Convention and other</p> |

| Criteria | | Basel Convention | Hong Kong Convention | Comments to facilitate a preliminary assessment of equivalent level of control and enforcement ⁷ | |
|----------|---|------------------------------|----------------------------------|---|---|
| | | | | facilitate the implementation of the Convention (Article 5). The "competent authority" is responsible, within such geographical areas as the Party may think fit, for receiving the notification of a transboundary movement of hazardous wastes or other wastes, and any information related to it, and for responding to such a notification (Article 2). | interested entities, for matters related to Ship Recycling Facilities operating within the jurisdiction of that Party (Regulation 15(4)). |
| | Standards (mandatory or voluntary) | | Regulations 3 and 19 to 22 | Standards of facilities are to be set in accordance with the principle of ESM. It has been further elaborated through the development of a series of Technical Guidelines adopted by the Parties to the Basel Convention published by its Secretariat. | <p>The Hong Kong Convention contains various provisions that establish its own system of control and enforcement. The provisions of this Convention are intended to be holistic, covering health, safety and environmental issues in relation to shipping and ship recycling in one single document.</p> <p>Regulation 3 requires Parties to take into account relevant and applicable standards, recommendations and guidance developed by ILO and Basel Convention.</p> <p>Regulations 19 to 22 set a series of mandatory health and safety standards such as the prevention of accidents, emergency response and workers' safety training.</p> <p>A series of technical guidelines supporting the Convention will have to be taken into account by the Parties when applying the Convention.</p> |
| | Ability to prohibit import/export | Article 3, 4; Decision III/1 | Regulations 9 and 16; Appendix 5 | Parties are empowered by Article 4 of the Convention to unilaterally establish import prohibitions via their domestic legislation. Other Parties shall take steps to ensure that they respect such prohibitions by their own legislation. Many countries have exercised this right. | The concepts of "import" and "export" are not directly used in the Hong Kong Convention. However, Regulation 9 requires approval of a Ship Recycling Plan by the Competent Authority authorizing the Ship Recycling Facility before a ship is sent for recycling. This allows the opportunity for the "importing" country to effectively |

| Criteria | | Basel Convention | Hong Kong Convention | Comments to facilitate a preliminary assessment of equivalent level of control and enforcement ⁷ | |
|----------|---|------------------|-----------------------------|--|--|
| | | | | <p>Article 3 lays down obligations of Parties to inform each other - through the Secretariat of the Basel Convention - about the decisions taken by them to prohibit or limit the import or export of waste and any accidents occurring during transboundary movements of hazardous waste.</p> <p>In 1995, the Basel Convention was amended by Decision III/1 of the Conference of the Parties prohibiting all transboundary movements of hazardous wastes to all states which are not listed in Annex VII, comprising members of the OECD, the EC and Liechtenstein. This “Basel Ban Amendment”, intends to protect developing countries from the high environmental risks of hazardous waste being shipped from developed countries and not being managed in an environmentally sound manner at the destination. The Ban Amendment has not yet entered into force generally although it is given effect within the EU.</p> | <p>refuse the import of a particular ship. Furthermore, Article 9 of the Convention allows Parties to dismiss from their ports ships that are in breach of the Convention’s requirements.</p> <p>The Hong Kong Convention addresses the risks of hazardous waste being shipped from developed to developing countries by requiring the environmentally sound management of end of life ships and the waste arising from them.</p> <p>Furthermore, facilities must comply with the requirements of the Convention and be authorized as such by the competent authority of the recycling state. The authorization process offers the recycling state the opportunity to prohibit or limit the import of ships containing specific hazardous materials.</p> |
| | Traceability and transparency of hazardous materials until final treatment / ultimate disposal | Articles 4 and 6 | Regulations 5, 9, 20 and 25 | <p>Parties have to:</p> <ul style="list-style-type: none"> - require information about a proposed movement be provided to the States concerned (export, import, transit) and to state clearly the effects of the proposed movement on human health and the environment (Article 4(2)(f)) , - waste shall be accompanied by a movement document from the point at which the transfer commences to the point of disposal (Article 4(7)(c)) , | <p>Ships have to develop and update an Inventory of Hazardous Materials during the operating life of the ship. Prior to recycling the Inventory shall, in addition incorporate information about operationally generated wastes and stores and be verified either by the Administration or by any person or organization authorized by it (Regulation 5).</p> <p>A Ship Recycling Plan has to be developed by the Ship Recycling Facility(ies) prior to any recycling of each ship. It has to include information concerning inter alia how the</p> |

| Criteria | | Basel Convention | Hong Kong Convention | Comments to facilitate a preliminary assessment of equivalent level of control and enforcement ⁷ | |
|----------|---|------------------|----------------------------------|--|--|
| | | | | <p>- this document should be signed by each person who takes charge of the movement either upon delivery or receipt The disposer has to inform both the exporter and the competent authority of the State of export of receipt by the disposer of the wastes in question and, in due course, of the completion of disposal as specified in the notification. If no such information is received within the State of export, the competent authority of the State of export or the exporter shall so notify the State of import (Article 6(9)).</p> | <p>type and amount of materials including those identified in the Inventory of Hazardous Materials will be managed (Regulation 9)</p> <p>Waste management and disposal sites shall be identified to provide for the further safe and environmentally sound management of materials (Regulation 20.3).</p> <p>All wastes generated from the recycling activity shall be only transferred to a waste management facility authorized to deal with their treatment and disposal in a safe and environmentally sound manner (Regulation 20.4)</p> <p>When the partial or complete recycling of a ship is completed, a Statement of Completion shall be issued by the Ship Recycling Facility and reported to its Competent Authority(ies) which have to send a copy of the Statement to the Flag state administration that issued the International Ready for Recycling Certificate for the ship.</p> <p>The Statement shall be issued within 14 days of the date of partial or completed Ship Recycling in accordance with the Ship Recycling Plan and shall include a report on incidents and accidents damaging human health and/or the environment, if any (Regulation 25).</p> |
| | Prior notification and prior consent | Article 6 | Regulation s 8, 9, 10, 24 and 25 | <p>Article 6 of the Basel Convention sets out the main provisions of the administrative control system that applies to legitimate transboundary movements of hazardous waste. Every generator of hazardous waste wishing to export it is required to provide notification of the proposed transboundary movement of hazardous waste in writing, through the channel of the “competent authority” of the State of export, to</p> | <p>Regulations 24 and 25 in the Annex to the Convention provide for reporting requirements that relate to notification of and information about the recycling of an individual ship.</p> <p>The shipowner is obliged to notify his flag State Administration in writing of the intention to recycle a ship. This enables the flag State Administration to prepare the</p> |

| Criteria | Basel Convention | Hong Kong Convention | Comments to facilitate a preliminary assessment of equivalent level of control and enforcement ⁷ |
|----------|------------------|----------------------|--|
| | | | <p>the competent authorities in the State of import, and to any transit States . The State of export shall not allow transboundary movement to commence until it has received the explicit written⁹ consent of the State of import and confirmation of the existence of a contract between the exporter and the disposer. Prior written consent by the State(s) of transit is also necessary, unless that Party has informed the other Parties of the Convention that it renounces this requirement. The export may then proceed if the State of transit does not respond within 60 days after receiving the notification (“tacit consent”).</p> <p>Any transboundary movement of hazardous wastes shall be covered by insurance, bond or other guarantee as may be required by the State of import or any transit State.</p> <p>It should be noted that “consent” under the Basel Convention does not always require written consent in all circumstances. (Some streamlining is allowed e.g. by “general notification” provisions where hazardous wastes or other wastes having the same physical and chemical characteristics are shipped regularly to the same disposer via the same customs offices of exit and entry. In that case, the general notification and written consent may cover multiple transboundary movements of hazardous wastes</p> <p>survey and certification required by the Convention (including the Inventory of Hazardous Materials and the International Ready for Recycling Certificate).</p> <p>Regulation 8(1)6 requires a ship, prior to any recycling activity taking place, to be certified as “ready for recycling” by the flag state Administration, or by a Recognized Organization on the Administration's behalf.</p> <p>Regulation 9 provides for the development of a Ship Recycling Plan by the recycling facility taking into account information provided by the shipowner prior to any recycling taking place.</p> <p>This Ship Recycling Plan has to be approved (explicitly or tacitly) by the Competent Authority authorizing the Ship Recycling Facility.</p> <p>Once approved the Ship Recycling Plan be made available for inspection by the Flag State Administration (Regulation 9 (5)). During the final survey prior to the ship being taken out of service and before the recycling of the ship has started, the flag state shall verify that the Ship Recycling Plan properly reflects the information contained in the Inventory of Hazardous Materials and contains information concerning the establishment, maintenance and monitoring of Safe-for-entry and Safe-for-hot work conditions (Regulation 10 (4)).</p> |

⁹ Some streamlining is allowed e.g. by “general notification” provisions where hazardous wastes or other wastes having the same physical and chemical characteristics are shipped regularly to the same disposer via the same customs offices of exit and entry. In that case, the general notification and written consent may cover multiple transboundary movements of hazardous wastes during a maximum period of 12 months.

| Criteria | | Basel Convention | Hong Kong Convention | Comments to facilitate a preliminary assessment of equivalent level of control and enforcement ⁷ | |
|----------|--|------------------|----------------------|---|---|
| | | | | during a maximum period of 12 months.) | Regulation 24(1) requires ship owners to notify administrations of the intention to recycle a ship. Regulation 24(2) requires a ship recycling facility to notify its competent authorities of its intent to accept a ship for recycling. |
| | Certification of disposal/statement of completion of ship recycling | Article 6 | Regulation 25 | The disposer has to inform both the exporter and the competent authority of the State of export of receipt by the disposer of the wastes in question and, in due course, of the completion of disposal as specified in the notification. If no such information is received within the State of export, the competent authority of the State of export or the exporter shall so notify the State of import (Article 6(9)) | A “statement of completion” is to be issued by the recycling facility, when the partial or complete recycling of a ship is completed in accordance with the Convention. This Statement of Completion shall be issued by the Ship Recycling Facility and reported to its Competent Authority(ies) which have to send a copy of the Statement to the Flag state that issued the International Ready for Recycling Certificate . The Statement shall be issued within 14 days of the date of partial or completed Ship Recycling in accordance with the Ship Recycling Plan and shall include a report on incidents and accidents damaging human health and/or the environment, if any (Regulation 25). |
| | [Other control mechanisms] | | | | |

| Criteria | | Basel Convention | Hong Kong Convention | Comments to facilitate a preliminary assessment of equivalent level of control and enforcement ⁷ | |
|--------------------|---|----------------------|-----------------------|---|--|
| Enforcement | | | | | |
| | Illegal shipments, violations and sanctioning, including criminalization, of illegal traffic | Articles 4, 9 and 19 | Articles 9, 10 and 12 | <p>Article 4 of the Basel Convention (paragraphs 3 and 4) establishes that illegal traffic in hazardous wastes or other wastes is criminal and requires each Party to take appropriate legal, administrative and other measures to implement and enforce the provisions of the Convention, including measures to prevent and punish conduct in contravention of the Convention.</p> <p>In particular, Parties, through the general obligations of Article 4, may establish national legislation including creation of “competent authorities”. These authorities enforce the requirements and administer the notification and consent procedure.</p> <p>Article 9 of the Basel Convention determines those actions that are deemed to be illegal traffic in hazardous waste. This includes transboundary movements of hazardous waste made without notification or consent as described above. Parties are required to introduce domestic legislation to prevent and punish illegal waste traffic.</p> <p>Article 19 provides for circumstances where a Party has reason to believe that another Party is acting or has acted in breach of its obligations under the Convention. It may - apart from informing that Party of the allegations - inform the Secretariat, and the Secretariat should submit all relevant information to the other Parties.</p> | <p>Article 9 of the Hong Kong Convention deals with detection of violations and action to be taken in this case, and requires Parties to cooperate. It foresees investigations to be undertaken at ports and empowers Parties to warn, detain, dismiss or exclude a ship from their ports as a result of the findings. Where sufficient evidence exists that a ship recycling facility operates in violation of the Convention, the Party with jurisdiction over it should make an inspection and report about the findings.</p> <p>Article 10 of the Hong Kong Convention obliges Parties to prohibit violations and establish sanctions through domestic legislation. Furthermore, the competent authorities are required to investigate alleged violations, take proceedings according to the law and inform the Party that reported the violation about the action it has taken or the reasons for not taking action. Sanctions shall be “adequate in severity to discourage violations of this Convention whenever they occur”.</p> <p>Under Article 12, each Party must report to IMO violations of this Convention.</p> |

| Criteria | | Basel Convention | Hong Kong Convention | Comments to facilitate a preliminary assessment of equivalent level of control and enforcement ⁷ | |
|----------|---------------------------|------------------|----------------------|--|---|
| | Dispute settlement | Article 20 | Article 14 | Settlement of disputes is addressed in article 20 of the Convention. Parties shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice. If the concerned Parties cannot settle their dispute or if they agree to do so, shall be submitted to the International Court of Justice or to arbitration under the conditions set out in Annex VI on Arbitration. | Settlement of disputes is addressed in article 14 of the Convention. Parties shall settle any dispute by negotiation or any other peaceful means agreed upon by them, which may include enquiry, mediation, conciliation, arbitration, judicial settlement, or resort to regional agencies or arrangements. |
| | Duty to re-import | Article 9 | | Further under Article 9, if the illegality is the result of conduct on the part of the waste exporter or generator, the State of export is obliged to ensure that the wastes in question are taken back by the exporter or generator or, if necessary, to do this itself. If such take-back is impracticable, the wastes have to be disposed of or otherwise treated in an environmentally sound manner. In other cases, the importer, disposer or the State of import are responsible for the environmentally sound disposal of the waste, or this has to be ensured by cooperation of the authorities concerned. | |

| Criteria | | Basel Convention | Hong Kong Convention | Comments to facilitate a preliminary assessment of equivalent level of control and enforcement ⁷ | |
|--|---|-----------------------------|---|---|---|
| Exchange of information by Parties / cooperation and coordination | | | | | |
| | Access to and dissemination of information, e.g., administrative, enforcement, emergency matters | Articles 3, 4, 5, 10 and 13 | Articles 7 and 12; Regulations 23 and 25 | <p>The Basel Convention provides for transmission of various kinds of relevant information by Parties to other Parties and the Secretariat. Articles 3, 5 and 13 lay down obligations of Parties to inform each other - mostly through the Secretariat of the Basel Convention - about their national focal points and competent authorities, the national definition of hazardous waste, decisions taken by them to prohibit or limit the import or export of waste and any accidents occurring during transboundary movements of hazardous waste.</p> <p>Parties shall co-operate in activities with other Parties and interested organizations, directly and through the Secretariat, including the dissemination of information on the transboundary movement of hazardous wastes and other wastes, in order to improve the environmentally sound management of such wastes and to achieve the prevention of illegal traffic (Article 4(2)(h)).</p> <p>Upon request, Parties have to make available information, whether on a bilateral or multilateral basis, with a view to promoting the environmentally sound management of hazardous wastes and other wastes, including harmonization of technical</p> | <p>Each Party shall report to the Organization and the Organization shall disseminate, as appropriate, notably information concerning violations of this Convention; and actions taken towards ships and Ship Recycling Facilities under the jurisdiction of that Party (Article 12).</p> <p>Ship Recycling Facilities authorized by a Party shall report to the Competent Authority(ies) any incident, accident, occupational diseases, or chronic effects causing, or with the potential of causing, risks to workers safety, human health and the environment. Reports shall contain a description of the incident, accident, occupational disease, or chronic effect, its cause, the response action taken and the consequences and corrective actions to be taken (Regulation 23).</p> <p>The Statement of completion shall include a report on incidents and accidents damaging human health and/or the environment, if any (Regulation 25).</p> <p>For the Ship Recycling Facilities authorized by a Party, such Party shall provide to the Organization, if requested, and to those Parties which request it, relevant information, in regard to this Convention, on which its decision for authorization was based. The information shall be exchanged in a swift and timely manner (Article 7).</p> |

| Criteria | | Basel Convention | Hong Kong Convention | Comments to facilitate a preliminary assessment of equivalent level of control and enforcement ⁷ | |
|----------|------------------------------|------------------|----------------------|--|---|
| | | | | <p>standards and practices for the adequate management of hazardous wastes and other wastes (Article 10(2)(a)).</p> <p>The Parties shall, whenever it comes to their knowledge, ensure that, in the case of an accident occurring during the transboundary movement of hazardous wastes or other wastes or their disposal, which are likely to present risks to human health and the environment in other States, those States are immediately informed (Article 13)</p> | |
| | Reporting obligations | Article 13 | Articles 7 and 12 | <p>The Basel Convention provides for transmission of various kinds of relevant information by Parties to other Parties and the Secretariat. Article 13 lay down obligations of Parties to inform each other - mostly through the Secretariat of the Basel Convention - about their national focal points and competent authorities, the national definition of hazardous waste, decisions taken by them to prohibit or limit the import or export of waste and any accidents occurring during transboundary movements of hazardous waste.</p> <p>Article 13(3) of the Basel Convention also places regular reporting obligations on Parties. Parties are to report annually, through the Secretariat, to the Conference of the Parties on the amount of hazardous waste exports and imports, disposals which did not proceed as intended, efforts to reduce the amount of hazardous waste, implementation measures and other relevant matters.</p> | <p>Parties are required by Article 12 of the Hong Kong Convention to submit to the IMO a list of authorized recycling facilities, annual lists of ships that are recycled within the jurisdiction of each Party, details of competent authorities and recognized organizations authorized on behalf of the Party, and information on violations of the Convention and actions taken towards ships and recycling facilities. The IMO has to make these data available to other Parties. Article 7 of the Convention also obliges recycling State Parties to provide, on request of other Parties or the IMO, relevant information on which its decision for the authorisation of a recycling facility was based.</p> |

| Criteria | | Basel Convention | Hong Kong Convention | Comments to facilitate a preliminary assessment of equivalent level of control and enforcement ⁷ | |
|----------|---|-------------------------------|----------------------|---|---|
| | Transmission of information regarding import / export restrictions | Articles 4 and 13 | | <p>Parties are empowered by Article 4 of the Convention to unilaterally establish import prohibitions via their domestic legislation. Other Parties shall take steps to ensure that they respect such prohibitions by their own legislation.</p> <p>The Basel Convention provides for transmission of this information to other Parties and the Secretariat via the reporting obligations in Article 13.</p> | |
| | Among Parties to advance ESM, through information exchange and technical assistance and capacity-building on best practices, technical guidelines, monitoring and public awareness | Article 10; Decision VI/12 | Article 13 | <p>Parties have to co-operate with each other in order to improve and achieve environmentally sound management of hazardous wastes and other wastes (Article 10). To this end, they have to:</p> <ul style="list-style-type: none"> - make available information to promote the environmentally sound management of hazardous wastes and other wastes, including harmonization of technical standards and practices, - cooperate in monitoring the effects of the management of hazardous wastes on human health and the environment, in the development and implementation of new environmentally sound low-waste technologies and the improvement of existing technologies, in the transfer of technology and management systems related to the environmentally sound management of hazardous wastes and other wastes and in developing the technical capacity among Parties; and in the development of appropriate technical guidelines and/or codes of practice.. <p>Decision (VI/12) of the Conference of the Parties in</p> | <p>Parties undertake to provide support, directly or through the Organization and other international bodies, to Parties which request technical assistance: to train personnel, to ensure the availability of relevant technology, equipment and facilities, to initiate joint research and development programmes; and to undertake other actions aimed at the effective implementation of the Convention and its technical guidelines.</p> <p>Parties have to co-operate actively in the transfer of management systems and technology in respect of the safe and environmentally sound recycling of ships (Article 13).</p> |

| Criteria | | Basel Convention | Hong Kong Convention | Comments to facilitate a preliminary assessment of equivalent level of control and enforcement ⁷ | |
|----------|--|------------------|----------------------|---|--|
| | | | | 2002, set up a Mechanism for Promoting Implementation and Compliance. The Committee is to assist Parties to comply with the Convention's obligations. | |