



## Hong Kong Convention on Ship Recycling to enter into force in 2025

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The International Maritime Organisation (“IMO”)’s **Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships (“HKC”)** was adopted in 2009. Its parties set an unusually stringent set of criteria to be satisfied for it to enter into force. Those criteria were finally met this month, with ratifications by Bangladesh and Liberia. The HKC will finally come into force in two years’ time, in June 2025.

Whilst on the face of it this is good news, in reality owners of end-of-life ships will continue to be confronted with a complex mishmash of contradictory international regulation. In particular, it is far from certain that compliance with the HKC will satisfy the requirements of the **Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (“Basel”)**, adopted in 1989 and in force since 1992.

The HKC regime adopts a cradle-to-grave approach, with every vessel required to have an “inventory of hazardous materials” (“IHM”) and a system of notifications as the ship is readied for recycling, but without any country-based limitation on where the ship may be recycled. Basel, on the other hand, has a completely different set of notification requirements and applies from the moment that the decision to recycle is taken. In many instances Basel prohibits the export of a ship to the countries most often associated with ship recycling (India, Pakistan and Bangladesh). Indeed, export there from OECD/EU countries is prohibited under the so-called **“Ban Amendment”** that has been in force since December 2019.

Ontop of that, for another convention to supersede Basel (in whole or in part), it must require environmentally sound waste management at least equivalent to that mandated by Basel. In practice, the Basel COP must agree the adequacy of the new instrument. The HKC does not specifically address downstream waste disposal and gives the vessel’s flag a key role in its enforcement. These factors make it at least likely that the Basel COP will not agree that the HKC’s environmental protection is adequate to supersede Basel.

In relation to EU- and UK-flagged tonnage, the HKC regime is effectively already in force in the guise of the Ship Recycling Regulation (and its UK equivalent). Under this regime, Basel is broadly (though not entirely) honoured by the requirement that EU/UK-flagged vessels can only be recycled at yards on the relevant list of approved recycling facilities. This has its own problems in terms of insufficient capacity, and they are unlikely to change with the wider application of the HKC.

The potential for conflict between the HKC and Basel has long excited legal commentators in this sector. As the HKC finally comes into force in the coming years, we will finally see if (and how) that potential will be realised, and at what cost for both the industry and environmental protection.



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*“A skilled tactician who can be entrusted with anything.” (Chambers UK, 2020)*

James specialises in cross-border commercial disputes in international arbitration, energy, shipbuilding, offshore construction, shipping and banking. In 2021, Lloyd’s List named James as one of its Top 10 Maritime Lawyers. In 2022, James acted pro bono in support of one of three judicial reviews of the so-called “pushbacks policy” directed at migrants in the Channel, which the government withdrew shortly before the challenges to it were due to be heard.

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