

Brussels, 29 June 2020

## **EU Ship Recycling Regulation - Inventory of Hazardous Materials: challenges to comply with imminent deadline due to COVID-19**

Dear Mr Virginijus Sinkevičius,

The undersigned represent a group of International Shipping Associations. Together, and on behalf of our respective Member companies, we write to raise concerns about the shipping community's ability to comply with the Inventory of Hazardous Materials (IHM) requirements of the EU Ship Recycling Regulation (EUSRR) (1257/2013) due to operational challenges presented by COVID-19.

The EU Ship Recycling Regulation requires ships of 500 GT and above and flying the flag of countries in the EU and all other ships regardless of the flag they are flying, to carry on-board an IHM from 31 December 2020 when calling at a port or anchorage of a country that is a member of the EU<sup>1</sup>.

The purpose is to compile a detailed inventory of the hazardous materials on-board, which is maintained during the ship's operational life, to support safe and responsible recycling when the ship is taken out of service - which the shipping industry is fully committed to. To best preserve human health and the environment, it is imperative that the IHM is prepared and maintained as comprehensively as possible. Severe disruptions to planned operations due to COVID-19 have had a significant impact on procedures for gathering and certifying the IHM, risking non-compliance by the deadline. To ensure quality and to meet the intended purpose, the undersigned shipping associations believe the extent of the problem requires a coordinated response at European level.

### **Impact of COVID-19 on compliance procedures**

For ships currently in service, shipping companies must compile a list of hazardous materials contained in the structure or equipment of the ships they own or manage, which identifies their location and approximate quantities. This should be complete with sampling and analysis, statements of conformity from equipment suppliers, and a verification survey from the ship's Flag State or a Recognised Organisation acting on their behalf. In normal times, the compilation procedures may last several months per ship, but the unprecedented challenges posed by COVID-19 make full compliance by the deadline especially difficult. Lockdown and quarantine measures implemented

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<sup>1</sup> EEA ports and flagged ships are also covered by the Regulation's requirements on the basis of the EEA Agreement



in most countries since the outbreak of COVID-19 have caused wide-spread disruptions for the shipping industry. Unprecedented numbers of ships are in lay-up, trading areas and schedules have been adapted or cancelled last-minute, and restrictions on movement have impeded the exchange of crew and external third-party personnel.

Consultations with shipping companies represented by the undersigned associations indicate that several thousands of ships are likely to be unable to comply with the Regulation by the entry into force date due to events outside their control. Many report that planned or requested sampling from hazardous materials experts or inspections from surveyors have been put on hold due to restrictions on external personnel coming on board, reduced availability of flights, port closures and social distancing measures put in place around the world. Others cite bottlenecks in obtaining sampling results from accredited laboratories, lack of availability of accredited experts in new ports of call or location of ship lay-up, and difficulties in obtaining Material Declarations and other documents from equipment suppliers to prepare the IHM.

These difficulties are combined with an overall uncertainty as to when travel and economic life may begin to normalise and how economic realities may impact the operation or trading pattern of ships. Even when lockdown and restrictions gradually ease, we are unlikely to see a consistent normalisation across countries and wider regions for some time. The problems discussed above may thus persist, with shipping companies continuing to face difficulties completing the compilation procedures in their areas of operation.

### **Ongoing efforts from shipowners**

It should be stressed that non-compliance is not due to a lack of effort from shipowners. For many of those that face the prospect of being unable to fully comply with the Regulation by 31 December 2020, planning was initiated well before the outbreak of the virus. To the extent that compliance steps can be taken remotely, such steps are being undertaken as are efforts to organise sampling and inspections when circumstances allow. Of the consulted shipping companies who have not yet achieved a certificate or statement of compliance, the majority are in the process of doing so pending i.a. the availability of expert support and laboratory analysis results. A smaller number of shipping companies have completed the preparation and are awaiting only the survey verification from the Flag Administration/Recognised Organisation.

The industry has also issued best management guidance to companies on how to manage their fleets with respect to compliance in the face of the challenges presented by COVID-19 (See annex A). However, the ongoing disruption resulting from the

pandemic makes it unlikely that these processes will be completed by the compliance deadline, since the necessary service providers may not have the capacity to meet demand in the timeframe remaining and in the face of likely ongoing restrictions.

## **EU policy and guidance throughout COVID-19 outbreak**

The far-reaching effects of the COVID-19 pandemic on the maritime transport sector overall have been well recognised in EU guidelines<sup>2</sup> which have helped to keep trade flowing whilst maintaining safety. Amendments to EU regulations have also sought to provide relief to the transport sector by addressing practical problems and increasing flexibility<sup>3</sup>, noting the pervasive impact of COVID-19 which is likely to continue to have a profound and lasting impact for some time. In some cases, regulation deadlines have been extended to provide transport operators more time to comply with requirements given the unforeseeable obstacles from COVID-19<sup>4</sup>. The exceptional circumstances have also been reflected internationally via – for instance – the Paris MoU on Port State Control, which produced temporary guidance<sup>5</sup> to participating maritime administrations and supports a pragmatic approach to ship inspections by providing certain time-limited flexibilities with respect to ship certificate requirements and survey/audit intervals. The latter also makes reference to flexibilities for regulatory requirements<sup>6</sup>, provided the ship carries evidence of a plan towards compliance. Unfortunately, none of this existing guidance fully reflect the challenges of the imminent IHM deadline which we believe merits consideration.

## **Desired flexibility**

An IHM is a crucial document to enhance safety and the protection of human life and the environment. To ensure quality and to meet the intended purpose, the undersigned shipping associations emphasise the challenges posed by COVID-19 and believe the extent of the problem requires a coordinated response at European level. We therefore request a time-limited implementation or grace period of 12 months which would enable shipping companies to make up for lost time caused by COVID-19 restrictions and interruptions.

Such flexibility may be best achieved at the level of Port State Control, harmonised fully across EU ports to ensure equal treatment. In the interim period, EU guidance

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<sup>2</sup>Guidelines on protection of health, repatriation and travel arrangements for seafarers, passengers and other persons on board ships <https://ec.europa.eu/transport/sites/transport/files/legislation/c20203100.pdf> / Communication from the Commission on the implementation of the Green Lanes [https://ec.europa.eu/transport/sites/transport/files/legislation/c20201897\\_en.pdf](https://ec.europa.eu/transport/sites/transport/files/legislation/c20201897_en.pdf)

<sup>3</sup> Package of measures to support transport sector, Proposal for amending Regulation 2017/352 [https://ec.europa.eu/transport/sites/transport/files/legislation/com\\_2020\\_0177.pdf](https://ec.europa.eu/transport/sites/transport/files/legislation/com_2020_0177.pdf)

<sup>4</sup> Coronavirus: extended deadline to equip planes with surveillance technology: [https://ec.europa.eu/transport/modes/air/news/2020-04-29-coronavirus-extended-deadline-equip-planes-surveillance-technology\\_en](https://ec.europa.eu/transport/modes/air/news/2020-04-29-coronavirus-extended-deadline-equip-planes-surveillance-technology_en)

<sup>5</sup> Paris MoU on Port State Control, Temporary Guidance Related To Covid-19 For Port State Control Authorities (Rev.2) <https://www.parismou.org/system/files/PSCIRC97%20-%20TEMPORARY%20GUIDANCE%20RELATED%20TO%20COVID-19%20REV.2.pdf>

<sup>6</sup> Paragraph 9: Installation of Ballast Water Management System



could be issued clarifying what could be considered acceptable evidence of compliance efforts (such as a service contract for sampling or a survey). Moreover, in accordance with the Regulation, ships taken out of service for recycling during this period and beyond should remain subject to a completed IHM Part II (operationally-generated waste) and Part III (stores), together with verifications from the Flag Administration.

The undersigned respectfully ask your attention to the topic and the proposed way forward and stand ready to discuss more in detail the topic and proposed way forward.

Yours sincerely,

Martin Dorsman  
Secretary General  
European Community Shipowners'  
Associations

Guy Platten  
Secretary General  
International Chamber of Shipping

Yuichi Sonoda  
Secretary General  
Asian Shipowners' Association

Angus Frew  
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Tom Boardley  
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Margaret Fitzgerald  
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## **Annex A: Industry Guidelines On European Union Ship Recycling Regulation Compliance And Developing Inventories Of Hazardous Materials**

### **Introduction and Purpose**

The COVID-19 crisis has presented significant challenges to the shipping industry. For a period of at least 6 months, crew changes and shipboard access has been severely affected and this is continuing in most parts of the world. The impact of this disruption is likely to be felt long after the peak of the pandemic has passed, with routine operations requiring rescheduling, and statutory surveys significantly disrupted for some time. This has been recognised by IMO and the two major Port State Control Memorandums of Understanding, which have issued clear guidance on exemptions and waivers which will apply as a consequence of the impact of COVID-19 on ships' and shipowners' ability to meet their statutory obligations in the normal manner.

However, one regulation which currently falls outside this exemption framework is the European Union Ship Recycling Regulation (EUSRR) which will fully apply from 31 December 2020. The challenges for surveyors and other external experts to access ships has significantly impacted on the ability of companies to develop Inventories of Hazardous Materials (IHM) in compliance with the European Ship Recycling Regulation (EUSRR), and this shortfall is likely to persist beyond the application date, with possible confusion in Port State Control (PSC) inspections and penalties for non-compliance following as a consequence.

Whilst industry associations are working to address this problem with the European Commission, companies and ships will need to ensure that they do their utmost to comply at the earliest opportunity, demonstrating to regulators that they are taking measures to meet their statutory obligations. This document therefore provides guidance on measures that companies should take at the earliest opportunity to demonstrate actions have been taken comply with the EUSRR within the appropriate schedule despite the impact of COVID 19.

### **1. European Union Ship Recycling Regulation and Inventories of Hazardous Materials**

The EUSRR came into force in 2018 and is effective for all ships calling at EU ports from 31 December 2020. Whilst the instrument broadly mirrors the requirements of the Hong Kong Convention, it exceeds it in certain areas.

A fundamental requirement of the regulation is that ships develop inventories in accordance with the Hong Kong Convention and its guidelines. However, it should be

noted that the EU list of materials to be included in the inventory contains two additional materials to those required by the Hong Kong Convention.

Ships flying the flag of an EU Member State must develop and maintain an IHM in accordance with the EUSRR. Ships flying the flag of a non-EU State which call at EU ports must have on board an inventory which complies, as far as practicable, with the Regulation's requirements for existing ships. Such inventories should be accompanied by a statement of compliance issued by the relevant authorities of the country whose flag the ship flies or an organisation authorised by them.

## **2. Delays due to COVID-19**

It is likely that a significant proportion of ships subject to the regulation will not have fully met the requirements to have a certified IHM on board by 31 December 2020. Whilst in some cases this may be due to a failure to prepare adequately, in many others, delays to survey cycles and scheduled IHM programmes have resulted from the disruptions of the COVID-19 pandemic, and programmes that have been in place for two years or more to ensure compliance have been severely put off schedule. Whilst there are some mitigation measures that will allow delayed schedules to catch up in the interim, it is uncertain whether existing capacity will be able to meet the likely surge in demand in the final six months of 2020. As such, at least some ships calling at European ports after entry into force will not be fully compliant with the requirements and potentially subject to port state control restrictions as a consequence. It is therefore strongly recommended that shipowners follow the measures outlined below and endeavour to manage their fleets to ensure compliance when their ships call at European Ports from 1 January 2021.

## **3. Managing Compliance with the EUSRR**

Shipowners should assume that the application date for the EUSRR will stand without a transition period or relaxation, and that ships that are not fully compliant with the EUSRR will risk penalisation under national Port State Control regimes in EU Member States. Whilst there is much that is uncertain about how the regulation will be applied in practice, preparing for a worst case scenario will ensure maximum preparedness and minimise the exposure of ships calling at ports of EU Member States to control measures and penalties.

### **3.1. Fleet Planning**

From a planning perspective, companies should undertake the following activities at the earliest opportunity to maximise the readiness of their fleet to comply or, demonstrate compliance, with the EUSRR:

- Assess planned operations on the basis of the likelihood of European port calls for at least the first six months of 2021.
- Develop a strategy for the development of IHMs, prioritising those ships that will need them most urgently.
- Contact relevant flag States so as to identify their requirements with respect to timetables, and possible alternative arrangements for survey and certification.
- Contact Class Societies and IHM service providers to assess the timetable in which IHMs can be realistically developed, including possible alternative arrangements for survey and certification.

### **3.2. Development of Inventories of Hazardous Materials**

The Shipping Industry Guidelines on Transitional Measures for Shipowners Selling Ships for Recycling', IMO's Guidelines for Developing the Inventory of Hazardous Materials (IHMs) (MEPC resolution.269(68)), and the EMSA Best Practice Guidance on the Inventory of Hazardous Materials demonstrate preparations that can be undertaken to prepare EU-trading vessels for IHM compliance (survey and certification). It is recommended that shipowners undertake the following actions using fully trained and qualified company and shipboard resources to begin preparing IHMs for their ships at the earliest opportunity, as doing so will speed up the survey, approval and certification processes required by the EUSR and, for ships not compliant by the application date, clearly demonstrate that measures have been taken to achieve compliance. In particular, it should be ensured that all stages are completed up to and including the preparation of the visual/sampling check plan, since this will accelerate the survey, sampling and approval processes when experts are available to carry them out.

#### **3.2.1. Collection of Necessary Information**

The first stage of the development of an IHM involves the collection of available information relevant to the ship's construction. This process consists of a documentation review, visual checks and, if necessary, sampling checks. It draws on a number of potential sources such as maintenance, conversion and repair documents, certificates, manuals, ship plans and drawings, technical specifications, material declarations, and equivalent IHMs from sister ships. It should be recognised that the availability of information about a ship will vary depending on its previous operation e.g. age, number of previous owners, number of changes of class, etc. In some cases, Material Declarations (MD) and Supplier's Declarations of Conformity (SDoC) forms, provided by the suppliers of parts and equipment delivered to the shipyard at construction may be available.

### **3.2.2. Assessment of Information**

Once information has been collected it should be assessed, covering all materials listed in Table A and B of Part 1 of the IHM, to identify locations where they may be present on the ship. The results of this assessment should be used to develop the visual/sampling check plan.

### **3.2.3. Preparation of Visual/Sampling Check Plan**

The visual/sampling check plan should be developed on the basis of the assessment of information collected in the first step of the inventory's development and the expertise of the person/persons developing the inventory. While spot checks and sampling are recommended for new buildings, the visual/sampling check plan is predominantly for the development of inventories for existing ships. It is recommended that a suitably qualified hazardous materials expert assists with the visual/sampling check plan, as this will form the basis of the on board checks and sampling of materials which will, in turn, indicate the location and approximate quantity of hazardous materials throughout the ship's structure and equipment. In some cases, classification societies may request approval of the visual/sampling check plan before any on board inspection or sampling is carried out.

Given the impact of COVID-19, it is likely that the onboard visual/sampling check and associated survey will be delayed due to shortfalls in the availability of qualified experts.

### **3.3. End of Life Ships**

It is strongly recommended that companies apply the Transitional Measures referenced below when selling ships for recycling, and ensure compliance with the relevant regulations. Further guidance from respective classification societies can also be helpful to make informed and responsible decisions for end of life ships because the applicable regulations can vary depending on factors including ship flag and area of operation.

## **4. Useful References**

Shipping Industry Guidelines on Transitional Measures for Shipowners Selling Ships for Recycling (2<sup>nd</sup> Edition):

<https://www.ics-shipping.org/docs/default-source/resources/environmental-protection/shipping-industry-guidelines-on-transitional-measures-for-shipowners-selling-ships-for-recycling.pdf?sfvrsn=8>

IMO's Guidelines for Developing the Inventory of Hazardous Materials (IHM) (MEPC resolution.269(68):





[http://www.imo.org/en/OurWork/Environment/ShipRecycling/Documents/02-1%20RESOLUTION%20MEPC%20269\(68\)%20IHM%20Guidelines.pdf](http://www.imo.org/en/OurWork/Environment/ShipRecycling/Documents/02-1%20RESOLUTION%20MEPC%20269(68)%20IHM%20Guidelines.pdf)

Best Practice Guidance on the Inventory of Hazardous Materials:  
<http://www.emsa.europa.eu/implementation-tasks/environment/ship-recycling/items.html?cid=150&id=3003>

## 5. Supporting Organisations

ASA	<a href="http://www.asianshipowners.org">www.asianshipowners.org</a>
BIMCO	<a href="http://www.bimco.org">www.bimco.org</a>
CLIA	<a href="http://www.cruising.org">www.cruising.org</a>
ECSA	<a href="http://www.ecsa.eu">www.ecsa.eu</a>
ICS	<a href="http://www.ics-shipping.org">www.ics-shipping.org</a>
IMCA	<a href="http://www.imca-int.com">www.imca-int.com</a>
Intercargo	<a href="http://www.intercargo.org">www.intercargo.org</a>
Intertanko	<a href="http://www.intertanko.com">www.intertanko.com</a>