

DRAFT INTERNATIONAL CONVENTION FOR THE SAFE AND ENVIRONMENTALLY SOUND RECYCLING OF SHIPS

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This Draft Convention is currently being prepared by the Marine Environment Protection Committee of the IMO. It arises from the IMO Guidelines on Ship Recycling and amendments thereto, the Basel Convention which adopted the Technical Guidelines for the Environmentally Sound Management of the Full and Partial Dismantling of Ships, and ILO considerations of safety and health in Shipbreaking.

The CMI has been involved in Working Group sessions as an Observer and our representatives are your speakers on this Panel.

This Convention will impact on all stages of construction, ownership and recycling of ships. It will add significantly to the obligations of owners and others with respect to management of hazardous materials. It is a useful step forward to an effective legal regime and provides some protection of recycling operations from political interference. Importantly, it offers owners a degree of certainty about contractual arrangements. The Convention is expected to be adopted in Hong Kong in October, 2009.

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SUMMARY OF PRESENTATION

CHARLOTTE BREIDE*

The draft International Convention for the Safe and Environmentally Sound Recycling of Ships will, when in force, provide for the “cradle to grave” regulation of ship recycling, including standards for monitoring, reporting and certification. The draft Convention is currently scheduled for adoption in October 2009, and is at its last stages of negotiation and will be finalised at MEPC 58 6-10 October 2008. Serious questions remain about the enforceability of the Convention, should major recycling states such as India, Bangladesh and Pakistan do not ratify.

A number of important issues remain to be negotiated, including two which could prevent the wider ratification of the eventual Convention. First, there is division over how compliance with the Convention will be ensured. Second, the recycling of ships by Flag State parties in non-party recycling States raises questions as to how the recycling yard standards can be certified by the Flag State.

Additional questions which will be addressed in this presentation include the following. What are the implications of free trade rules, and could arrangements between Parties and non-Parties can be prohibited? What will be the relationship between the proposed Convention and existing rules under the Basel Convention and the IMO Guidelines, in the interim period before the Convention comes into force? What is the impact of the Indian Supreme Court decision on recycling rules, and how will it interact with the Convention (should India ratify)? How will other approaches to the recycling issue, such as the proposed EU strategy on ship dismantling, be accommodated within the proposed Convention regime?

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SUMMARY OF PRESENTATION

MICHAEL STOCKWOOD*

The focus of the draft International Convention for the Safe and Environmentally Sound Recycling of Ships is the monitoring and disposal at the end of a vessel's life of hazardous material incorporated into and used by ships. As such, it seeks to provide regulation to identify and monitor such material incorporated into the fabric of ships "from berth to grave" and then to regulate the disposal of such material together with hazardous materials that have been used or generated by the vessel during its lifetime when the ship comes to be recycled.

Such a regime inevitably impacts upon shipbuilding contracts, second hand sale contracts and "contracts for scraping". It raises issues of responsibility and accountability for both shipyards and shipowners/operators. It also raises issues of accountability between owners/operators and recycling facilities and, prospectively, between owners/operators and authorities in recycling locations.

These issues will be summarised and, to the extent possible, addressed in this presentation together with an evaluation of the interaction of the Convention scheme with other approaches to the recycling issue.

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