

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 EU¹.

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

¹ 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 guidelines² 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 flexibility³, 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-19⁴. The exceptional circumstances have also been reflected internationally via – for instance – the Paris MoU on Port State Control, which produced temporary guidance⁵ 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 requirements⁶, 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

²Guidelines 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

³ 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

⁴ 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

⁵ 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>

⁶ 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,

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