

Ship Recycling Related

Technical Notice

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Subject:

EU Commission Notice

2020/C 349/01

EU Guidelines for the IHM compliance

EU Commission has adopted a Notice providing "**Guidelines on the enforcement of obligations under the EU Ship Recycling Regulation relating to the Inventory of Hazardous Materials (IHM) of vessels operating in European Waters**", considering the disruptions caused by Covid-19.

Since seems to be very likely many ships to be unable to comply with the IHM obligations and may not have the required certification by the deadline of 31 December 2020, EC has suggested to EU member states to apply a **harmonised approach for a limited period of 6 months** after the entry into application of the IHM-related obligations for existing EU flagged ships and non-EU flagged ships calling at EU ports (i.e. **until 30 June 2021**).

Harmonized approach is proposed for the following two specific Covid-19 related scenarios:

- Vessels without a valid IHM and/or accompanying certificate
- Vessels with a semi-completed IHM with an associated approved Inventory Certificate or Ready for Recycling Certificate (for EU flagged ships) or the Statement of Compliance (for non-EU Flagged ships), that does not contain on-board (either targeted or random) sampling

In this harmonised approach, the following guidance is provided:

1. In all cases of non-compliance, including a semi-completed IHM, the **burden of proof is on the shipowner/ship master**, who should provide evidence of all the measures taken to undertake the IHM work and obtain the required certification and documentation. It should be noted that an **automatic recourse to the notion of force-majeure is not an option**.
2. **Port State control (PSC)** inspectors are advised to assess evidence provided on a **case-by-case basis** depending on the specific circumstances of the ship in question and decide accordingly. In case of **acceptance, the IHM should be completed and approved within 4 months of such a PSC inspection**.
3. If these plans are to be amended further owing to the Covid-19 travel and access restrictions, the shipowner/master should obtain sufficient written evidence from the IHM inspectors for assessment by the next PSC inspector.

The full guidance on the enforcement of obligations under the EU Ship Recycling Regulation relating to the Inventory of Hazardous Materials of vessels operating in European waters can be found here

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.C_2020.349.01.0001.01.ENG&toc=OJ%3AC%3A2020%3A349%3ATOC



Commission Notice

under the EU Ship Recycling Regulation relating to the Inventory of Hazardous Materials of vessels operating in European waters
(2020/C 349/01)

ing Regulation (1) requires all existing EU flagged ships and non-EU flagged ships to board an Inventory of Hazardous Materials (IHM) with a certificate or statement of

The Commission has received reports from industry stakeholders that Covid-19 restrictions have led to significant difficulties in surveying ships and producing certified IHMs. The lockdown measures and widespread travel restrictions which were introduced to control Covid-19 have reportedly prevented many ship owners (or their agents) from producing the IHM in the first instance, but also inhibited flag State surveyors and recognised organisations from verifying and certifying the IHMs.

As a consequence, industry stakeholders estimate that several thousand ships are likely to be unable to comply with the IHM obligations and may not have the required certification by the deadline of 31 December 2020.

Therefore, considering the disruptions caused by Covid-19, it is desirable to establish some common guidelines in order to ensure a harmonised approach towards enforcement by the EU port States authorities during ship inspections as of 1 January 2021.

General guiding principles

As a basic principle, the primary responsibility regarding compliance with the IHM-related obligations remains with the ship owner, and monitoring compliance with these legal obligations is the responsibility of the authorities of the EU port States.

Nevertheless, it may be necessary to take into account the exceptional circumstances linked to the Covid-19 crisis in the enforcement of those obligations by Member States, where those circumstances create situations where the compliance with these obligations is temporarily not possible, or excessively difficult.

Because of its links with the principle of proportionality (2), *force majeure* can be considered a general principle of EU law, which can be invoked even in the absence of explicit provisions. (3) Concerning the content of the notion of *force majeure*, the case law of the Court of Justice defined the notion as follows:

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Inventory of Hazardous Material (IHM) and Ship Recycling

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