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A7-0132/ 001-113

**AMENDMENTS 001-113**

by the Committee on the Environment, Public Health and Food Safety

**Report**

**Carl Schlyter**

Ship recycling

**A7-0132/2013**

Proposal for a regulation (COM(2012)0118 – C7-0082/2012 – 2012/0055(COD))

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**Amendment 1**

**Proposal for a regulation**

**Title**

*Text proposed by the Commission*

*Amendment*

REGULATION OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL

REGULATION OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL

on *ship* recycling

on *the environmentally sound* recycling  
*and treatment of ships and amending*  
*Directive 2009/16/EC and Regulation*  
*(EC) No 1013/2006*

*Justification*

*'Ship recycling' is defined in this Regulation as the dismantling of ships in a ship recycling facility, but does not include the subsequent treatment of the waste resulting thereof. However, the Regulation as proposed by the Commission also includes downstream treatment of waste. This should also be reflected in the title.*

**Amendment 2**

**Proposal for a regulation**

**Recital 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*(1a) The predominant method of*

***dismantling ships through the so-called 'beaching' method does not and cannot represent safe and sound recycling and should therefore no longer be tolerated.***

#### *Justification*

*In its resolution of 21 May 2008 on the Green Paper on better ship dismantling, the European Parliament considered it "ethically unacceptable to permit the humanly degrading and environmentally destructive conditions involved in the dismantling of ships to continue any longer"(paragraph 1), and that beaching disqualified as an appropriate dismantling methodology (paragraph 12). In its resolution of 26 March 2009, the European Parliament called for "an explicit prohibition of 'beaching' of end-of-life ships" (paragraph 6). This should be the basis also for this Regulation.*

### **Amendment 3**

#### **Proposal for a regulation**

#### **Recital 3**

##### *Text proposed by the Commission*

(3) Current ship recycling capacity in OECD countries which is legally accessible to ships ***flying the flag of a Member State is insufficient. Safe and sound recycling capacity which already exists in countries which are not members of the OECD is sufficient to treat all EU-flagged ships and is expected to expand further by 2015 as the results of actions taken by recycling countries to meet the requirements of the Hong Kong Convention.***

##### *Amendment*

(3) Current ship recycling capacity in OECD countries, which is legally accessible to ships ***that constitute hazardous waste for export, is not sufficiently exploited. There is a controversy about the accessibility and capacity of ship recycling facilities in the United States. Irrespective of the situation in the United States in that regard, there is significant potential capacity in certain Member States and OECD countries, which could nearly suffice for recycling and treating ships flying the flag of a Member State (EU ships), if it was fully mobilised. Together with existing and potential safe and sound recycling capacity in countries which are not members of the OECD, there should be sufficient capacity to treat all EU ships.***

#### *Justification*

*It is important to refer to the significant potential capacity in Europe and in OECD countries. According to a study by the European Commission of 2007, up to 1 mio LDT/year could be mobilised in Member States and up to 600,000 LDT/year in Turkey, compared to a capacity then of 200,000 in the EU and 50.000 in Turkey. The expected demand is between 1,6 and 2 mio LDT/year. Safe and sound recycling capacity of more than 1 mio LDT could be established in certain non-OECD countries.*

## Amendment 4

### Proposal for a regulation Recital 3 a (new)

*Text proposed by the Commission*

*Amendment*

***(3a) The current situation of ship recycling is characterised by an extreme externalisation of the costs. Ship recycling facilities with little or inexistent standards for the protection of workers, human health and the environment offer the highest price for waste ships. As a result, the large majority of the global ship fleet sent for recycling is taken apart on the beaches of certain countries under humanly degrading and environmentally destructive conditions that are unacceptable. It is appropriate to create a financial mechanism, applicable to all ships calling at Union ports irrespective of the flag they are flying, to counterbalance this situation by contributing to render environmentally sound recycling and treatment of ships which constitute hazardous waste competitive vis-à-vis substandard operations.***

#### *Justification*

*The main cause for the ongoing scrapping of the large majority of ships under unimaginable conditions is a clear market failure: health and environmental costs are completely externalised, creating a perverse incentive to ship owners to sell ships to recyclers with the lowest standards. If this is not addressed head-on, the current situation will continue, especially if compliance with legal requirements can easily be circumvented by reflagging, as is the case with the Commission proposal.*

## Amendment 5

### Proposal for a regulation Recital 3 b (new)

*Text proposed by the Commission*

*Amendment*

***(3b) In view of the "polluter pays" principle, the costs of environmentally sound recycling and treatment of ships should be covered by ships owners. In the interest of protecting human health and***

*the environment, a financial mechanism should be established to generate resources that would contribute to making environmentally sound recycling and treatment of both EU ships and non-EU ships in EU listed facilities economically competitive. All ships calling at Union ports and anchorages should contribute to the costs of environmentally sound recycling and treatment of ships so as to counterbalance the economic incentive to go to substandard operations, and to provide a disincentive to out-flagging. Ships that deposit a financial guarantee as a guarantee that they will go to EU listed facilities for recycling and treatment should be exempted from the recycling levy. The recycling levy as well as the financial guarantee should be fair, non-discriminatory and transparent.*

## Amendment 6

### Proposal for a regulation Recital 4

#### *Text proposed by the Commission*

(4) The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships ('the Hong Kong Convention') was adopted on 15 May 2009 under the auspices of the International Maritime Organization ***at the request of the Parties to the Basel Convention.*** The Hong Kong Convention will only enter into force 24 months after the date of ratification by at least 15 States representing a combined merchant fleet of at ***less*** 40 per cent of the gross tonnage of the world's merchant shipping and whose combined maximum annual ship recycling volume during the preceding 10 years constitutes not less than three per cent of the gross tonnage of the combined merchant shipping of the same States. ***The Member States should ratify the Convention at the earliest opportunity in order to hasten its entry into force.*** The Convention covers the ***design***,

#### *Amendment*

(4) The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships ('the Hong Kong Convention') was adopted on 15 May 2009 under the auspices of the International Maritime Organization (IMO). The Hong Kong Convention will only enter into force 24 months after the date of ratification by at least 15 States representing a combined merchant fleet of at ***least*** 40 per cent of the gross tonnage of the world's merchant shipping and whose combined maximum annual ship recycling volume during the preceding 10 years constitutes not less than three per cent of the gross tonnage of the combined merchant shipping of the same States. The Convention covers the ***use of hazardous materials in ships*** so as to facilitate safe and environmentally sound recycling without compromising ship safety and operational efficiency; it also

*construction, operation and preparation of ships* so as to facilitate safe and environmentally sound recycling without compromising ship safety and operational efficiency; it also covers the operation of ship recycling facilities *in a safe and environmentally sound manner*, and *the establishment of an appropriate* enforcement mechanism for ship recycling.

covers, *through guidelines*, the operation of ship recycling facilities, and *includes an* enforcement mechanism for ship recycling. *The Hong Kong Convention does not apply to government-owned ships nor to vessels under 500 Gross Tonnes (GT), nor to vessels operating throughout their life only in waters subject to the sovereignty or jurisdiction of the State whose flag the ship is entitled to fly. The Hong Kong Convention also does not cover the actual recycling of the steel recovered at the ship recycling facility or the operations of facilities managing waste materials downstream of the initial ship recycling facility. The Hong Kong Convention does not seek to prevent the export of ships that constitute hazardous waste to non-OECD countries - a practice currently prohibited under Regulation (EC) No 1013/2006. It is expected that it will take up to a decade before the Hong Kong Convention enters into force.*

#### *Justification*

*The Hong Kong Convention should be properly reflected. It does not really concern the design, construction or operation of ships, but only certain requirements with regard to hazardous materials used. Statements on the ratification should be left to the separate report thereon. The Convention does not ensure environmentally sound treatment in the EU sense, and it remains to be seen whether the enforcement mechanism is appropriate. The limitations of the Convention should also be mentioned.*

#### **Amendment 7**

##### **Proposal for a regulation Recital 5**

###### *Text proposed by the Commission*

(5) The Hong Kong Convention provides explicitly for its Parties to take more stringent measures consistent with international law, with respect to the safe and environmentally sound recycling of ships, in order to prevent, reduce or minimise any adverse effects on human health and the environment. The establishment of a European list of ship recycling facilities fulfilling the

###### *Amendment*

(5) The Hong Kong Convention provides explicitly for its Parties to **be able to** take more stringent measures consistent with international law, with respect to the safe and environmentally sound recycling of ships, in order to prevent, reduce or minimise any adverse effects on human health and the environment. The establishment of a European list of ship recycling facilities fulfilling the

requirements set out in this Regulation **would** contribute to that objective as well as to better enforcement by facilitating the flag states' control of ships going for recycling. Those requirements for ship recycling facilities should be based on the requirements of the Hong Kong Convention.

requirements set out in this Regulation **should** contribute to that objective as well as to better enforcement by facilitating the flag states' control of ships going for recycling. Those requirements for ship recycling facilities should be based on the requirements of the Hong Kong Convention, **but should go beyond them so as to achieve a level of protection of human health and the environment that is broadly equivalent to that of the Union. This should also contribute to increasing the competitiveness of the environmentally safe and sound recycling and treatment of ships in Union facilities.**

## Amendment 8

### Proposal for a regulation Recital 7

#### *Text proposed by the Commission*

(7) The ships not covered by the **scopes** of the Hong Kong Convention **and this Regulation** should continue to be recycled in accordance with the requirements of Regulation (EC) No 1013/2006 and of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives respectively,

#### *Amendment*

(7) Ships not covered by the **scope** of the Hong Kong Convention, **ships that are not able to travel by their own means, unless they have a valid contract for full repair, and ships that do not comply with the applicable provisions under Union and international law with regard to safety when they become waste in the territory under the jurisdiction of a Member State,** should continue to be recycled in accordance with the requirements of Regulation (EC) No 1013/2006 and of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives respectively.

## Amendment 9

### Proposal for a regulation Recital 8

#### *Text proposed by the Commission*

(8) It is necessary to clarify the **respective scopes** of this Regulation, Regulation (EC) No 1013/2006 and Directive 2008/98/EC

#### *Amendment*

(8) It is necessary to clarify the **scope respectively** of this Regulation, Regulation (EC) No 1013/2006 and Directive

in order to avoid *the duplication of regulatory instruments that have the same objective*.

2008/98/EC in order to avoid *applying different legal requirements in the same situation*.

*Justification*

*The issue here is not about duplication of different legal instruments, but about proper inter-linkage of them.*

**Amendment 10**

**Proposal for a regulation**

**Recital 8 a (new)**

*Text proposed by the Commission*

*Amendment*

***(8a) The application of this Regulation should respect the rights of transit countries under international law.***

**Amendment 11**

**Proposal for a regulation**

**Recital 9 a (new)**

*Text proposed by the Commission*

*Amendment*

***(9a) Member States should arrange for a swift ratification of the Hong Kong Convention with the aim of improving ship recycling practices and conditions.***

**Amendment 12**

**Proposal for a regulation**

**Recital 11**

*Text proposed by the Commission*

*Amendment*

(11) Member States should lay down rules on penalties applicable to infringements of this Regulation and ensure that these penalties are applied so as to prevent circumvention of ship recycling rules. The penalties, which may be of a civil or administrative nature, should be effective, proportionate and dissuasive.

(11) Member States should lay down rules on penalties applicable to infringements of this Regulation and ensure that these penalties are applied so as to prevent circumvention of ship recycling rules. The penalties, which may be of a ***criminal***, civil or administrative nature, should be effective, proportionate and dissuasive.

### *Justification*

*Pursuant to Directive 2008/99/EC on the protection of the environment through criminal law, illegal shipments of waste committed intentionally or with at least serious negligence constitute a criminal offence. This should be reflected in the penalties.*

#### **Amendment 13**

##### **Proposal for a regulation**

##### **Recital 14**

###### *Text proposed by the Commission*

(14) Since the objective to prevent, reduce or eliminate adverse effects on human health and the environment caused by the recycling, ***operation and maintenance*** of ships ***flying the flag of a Member State*** cannot be sufficiently achieved by the Member States due to the international character of shipping and ship recycling, and can therefore be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

###### *Amendment*

(14) Since the objective to prevent, reduce or eliminate adverse effects on human health and the environment caused by the recycling ***and treatment*** of ***EU*** ships cannot ***always*** be sufficiently achieved by the Member States ***alone*** due to the international character of shipping and ship recycling, and can therefore ***in some cases*** be better achieved at Union level ***although the ratification of Hong Kong Convention would transfer the Union competence for regulating ship recycling issues back to EU Member States***, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

### *Justification*

*This regulation deals above all with the recycling and treatment of waste ships, and very little with their operation or maintenance, so it is more appropriate to refer to treatment in this context.*

#### **Amendment 14**

##### **Proposal for a regulation**

##### **Article 1**

###### *Text proposed by the Commission*

The purpose of this Regulation is to prevent, reduce ***or*** eliminate adverse effects on human health and the environment caused by the recycling,

###### *Amendment*

The purpose of this Regulation is to prevent, reduce ***to a minimum and, to the extent possible***, eliminate ***accidents, injuries and other*** adverse effects on



***operation and maintenance of ships flying the flag of a Member State.***

human health and the environment caused by the recycling ***and treatment of EU ships, inter alia by recycling them in EU listed facilities located in the Union or outside the Union, and to improve the conditions for the recycling of non-EU ships.***

***The purpose of this Regulation is also to reduce disparities between operators in the Union, in OECD countries and in relevant third countries in terms of health and safety at the work place and environmental standards.***

***This Regulation aims also at facilitating ratification of the Hong Kong Convention.***

## **Amendment 15**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***(1a) 'EU Ship' means a ship flying the flag of a Member State or operating under its authority;***

*Justification*

*Editorial suggestion to simplify the drafting of the text throughout the Regulation.*

## **Amendment 16**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 1 b (new)**

*Text proposed by the Commission*

*Amendment*

***(1b) 'non-EU Ship' means a ship flying the flag of a third country;***

*Justification*

*Editorial suggestion to simplify the drafting of the text throughout the Regulation.*

## **Amendment 17**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***(3a) 'waste' means waste as defined in Article 3(1) of Directive 2008/98/EC;***

*Justification*

*The definition of 'waste' as given in the Waste Framework Directive should also apply for this Regulation.*

## **Amendment 18**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 3 b (new)**

*Text proposed by the Commission*

*Amendment*

***(3b) 'hazardous waste' means hazardous waste as defined in Article 3(2) of Directive 2008/98/EC;***

*Justification*

*The definition of 'hazardous waste' as given in the Waste Framework Directive should also apply for this Regulation.*

## **Amendment 19**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 3 c (new)**

*Text proposed by the Commission*

*Amendment*

***(3c) 'treatment' means treatment as defined in Article 3(14) of Directive 2008/98/EC;***

*Justification*

*The definition of 'treatment' as given in the Waste Framework Directive should also apply for this Regulation.*

## Amendment 20

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 3 d (new)

*Text proposed by the Commission*

*Amendment*

**(3d) 'environmentally sound management' means environmentally sound management as defined in Article 2(8) of Regulation (EC) No 1013/2006;**

*Justification*

*The definition of 'environmentally sound management' as given in the Waste Shipment Regulation should also apply for this Regulation.*

## Amendment 21

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 5

*Text proposed by the Commission*

*Amendment*

(5) 'ship recycling' means the activity of complete or partial dismantling of a ship at a ship recycling facility in order to recover components and materials for reprocessing and re-use, whilst taking care of hazardous and other materials, and includes associated operations such as storage and treatment of components and materials on site, but not their further **processing or disposal** in separate facilities;

(5) 'ship recycling' means the activity of complete or partial dismantling of a ship at a ship recycling facility in order to recover components and materials for reprocessing and re-use, whilst taking care of hazardous and other materials, and includes associated operations such as storage and treatment of components and materials on site, but not their further **treatment** in separate facilities; **the meaning of the term 'recycling' in the context of this Regulation is therefore different from the definition given in Article 3(17) of Directive 2008/98/EC;**

*Justification*

*The term treatment as defined in the waste framework directive covers processing and disposal and should be used for the sake of coherence. It should be clarified explicitly that the meaning of 'recycling' in the context of this Regulation on ship recycling differs from the general definition of recycling in the waste framework directive due to the different meaning given to 'recycling' under the Hong Kong Convention.*

## Amendment 22

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 6

*Text proposed by the Commission*

(6) ‘ship recycling facility’ means a defined area that is a **site**, yard or facility located in a Member State or in a third country and used for the recycling of ships;

*Amendment*

(6) ‘ship recycling facility’ means a defined area that is a **built** yard or facility located in a Member State or in a third country and used for the recycling of ships;

*Justification*

*A ship recycling facility should never just be a 'site', as this could include beaches. Ship recycling facilities should be built yards or facilities.*

## Amendment 23

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 7

*Text proposed by the Commission*

7. ‘recycling company’ means, the owner of the ship recycling facility or any other organisation or person who has assumed the responsibility for the operation of ship recycling from the owner of the ship recycling facility;

*Amendment*

(7) ‘**ship** recycling company’ means, the owner of the ship recycling facility or any other organisation or person who has assumed the responsibility for the operation of ship recycling from the owner of the ship recycling facility;

*Justification*

*Linguistic correction*

## Amendment 24

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 9 a (new)

*Text proposed by the Commission*

*Amendment*

***(9a) ‘transit’ means the movement of a ship to its destination of recycling in accordance with this Regulation through the territory of a country other than the country of dispatch or destination and which is entitled to oppose such a movement under international law.***

**Amendment 25**  
**Proposal for a regulation**

**Article 2 – paragraph 1 – point 20 a (new)**

*Text proposed by the Commission*

*Amendment*

***(20a) ‘abandoned ship’ means a ship which has been left unattended and derelict in an Union port by its last recorded owner***

**Amendment 26**

**Proposal for a regulation**  
**Article 3 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

**1. This Regulation shall apply to ships entitled to fly the flag of a Member State or operating under its authority.**

**1. This Regulation shall apply to *EU* ships.**

***Article 5a, Article, 5b, Article 11b and Article 23(1) and Article 29(1) of this Regulation shall also apply to non-EU ships calling at a port or anchorage of a Member State to engage in a ship/port interface.***

**Amendment 27**

**Proposal for a regulation**  
**Article 3 – paragraph 2 – points c a (new) and c b (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) ships that are not able to travel by their own means, irrespective of the flag they fly and thus constitute waste for the purposes of Regulation (EC) No 1013/2006, unless they have a valid contract for full repair;***

***(cb) ships that do not comply with the applicable provisions under Union and international law with regard to safety.***

## Amendment 28

### Proposal for a regulation

#### Article 4 – title

*Text proposed by the Commission*

Control of hazardous materials

*Amendment*

Control of ***prohibited or restricted***  
hazardous materials

#### *Justification*

*This Article only refers to hazardous materials the use of which has been prohibited or restricted. There are many other hazardous materials on board a ship that are not yet prohibited, but that also need to be controlled during recycling - reason why the inventory does not only require the listing of prohibited/restricted substances. As such, it should be clarified that this Article only deals with the control of prohibited or restricted materials.*

## Amendment 29

### Proposal for a regulation

#### Article 4 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***3a. The new application of anti-fouling systems containing organotin compounds as a biocide or any other anti-fouling system whose application or use is prohibited by the International Convention on the Control of Harmful Anti-fouling Systems on Ships shall be prohibited on ships.***

#### *Justification*

*The prohibition of TBT paints should also be listed.*

## Amendment 30

### Proposal for a regulation

#### Article 5

*Text proposed by the Commission*

Inventory of hazardous materials

1. ***An*** inventory of hazardous materials shall be kept on board ***of*** each new ship.

*Amendment*

Inventory of hazardous materials

1. ***Member States shall ensure that an*** inventory of hazardous materials shall be ***established and*** kept ***available*** on board each new ***EU*** ship.

2. *An* inventory of hazardous materials shall be established before a ship goes for recycling and kept on board.

2. *Member States shall ensure that for existing EU ships, an* inventory of hazardous materials shall be established *in accordance with the timelines indicated in paragraph 2a, or* before a ship goes for recycling, *whatever the earlier,* and kept *available* on board.

*2a. The following timelines shall apply for the establishment of an inventory:*

- for ships more than 25 years old on ... \* ;*
- for ships more than 20 years old on... \*\*;*
- for ships more than 15 years old on ... \*\*\*;*
- for ships less than 15 years old on ...\*\*\*\*.*

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*\* OJ: please insert date: one year after the entry into force of this Regulation.*

*\*\* OJ: please insert date: two years after the entry into force of this Regulation.*

*\*\*\* OJ: please insert date: three years after the entry into force of this Regulation.*

*\*\*\*\* OJ: please insert date: four years after the entry into force of this Regulation.*

*deleted*

3. *Existing ships registered under the flag of a third country and applying to be registered under the flag of a Member State shall ensure that an inventory of hazardous materials is kept on board.*

4. The inventory of hazardous materials shall:

- (a) be specific to each ship;
- (b) provide evidence that the ship complies with the prohibition or restrictions on installing or using hazardous materials in accordance with Article 4;
- (c) identify, at least, the hazardous materials referred to in Annex I and contained in the structure or equipment of the ship, their location and *approximate* quantities.

4. The inventory of hazardous materials shall:

- (a) be specific to each ship;
- (b) provide evidence that the ship complies with the prohibition or restrictions on installing or using hazardous materials in accordance with Article 4;
- (c) *for new ships,* identify, at least, the hazardous materials referred to in Annex I and contained in the structure or equipment of the ship, their location and *precise* quantities;

5. In addition to paragraph 4, for existing ships a plan shall be prepared describing the visual/sampling check by which the inventory of hazardous materials *is* developed.

6. The inventory of hazardous materials shall consist of three parts:

(a) a list of hazardous materials referred to in Annex I and contained in the structure or equipment of the ship, their location and *approximate* quantities (Part I);

(b) a list of the waste present on board the ship, including waste generated during the operation of the ship (Part II);

(c) a list of the stores present on board the ship once the decision to recycle it has been taken (Part III).

7. Part I of the inventory of hazardous materials shall be properly maintained and updated throughout the operational life of the ship, reflecting new installations containing any hazardous materials referred to in Annex I and relevant changes in the structure and equipment of the ship.

8. Prior to recycling, the inventory shall, in addition to the properly maintained and updated Part I, incorporate Part II for operationally generated wastes and Part III for stores, and be verified by the Member State whose flag the ship is flying.

9. The Commission shall be empowered to adopt delegated acts in accordance with Article 26 concerning the updating of the list of items for the inventory of hazardous materials in Annex I.

*(ca) for existing ships, identify, at least, the hazardous materials referred to in Annex I and contained in the structure or equipment of the ship, their location and quantities as precisely as practicable;*

*(cb) take into account the guidelines developed by the IMO.*

5. In addition to paragraph 4, for existing ships a plan shall be prepared describing the visual/sampling check by which the inventory of hazardous materials *has been* developed.

6. The inventory of hazardous materials shall consist of three parts:

(a) a list of hazardous materials referred to in Annex I and contained in the structure or equipment of the ship, their location and quantities (Part I) *in accordance with point (c) of paragraph 4;*

(b) a list of the waste *(both hazardous and non-hazardous)* present on board the ship, including waste generated during the operation of the ship, *and its approximate quantities* (Part II);

(c) a list of the stores present on board the ship once the decision to recycle it has been taken (Part III).

7. Part I of the inventory of hazardous materials shall be properly maintained and updated throughout the operational life of the ship, reflecting new installations containing any hazardous materials referred to in Annex I and relevant changes in the structure and equipment of the ship.

8. Prior to recycling, the inventory shall, in addition to the properly maintained and updated Part I, incorporate Part II for operationally generated wastes and Part III for stores, and be verified by the Member State whose flag the ship is flying.

9. The Commission shall be empowered to adopt delegated acts in accordance with Article 26 concerning the updating of the list of items for the inventory of hazardous materials in Annex I *to ensure that the list*



*includes at least the substances listed in Appendices I and II of the Hong Kong Convention, and to take account of relevant Union legislation which provides for the phasing out or restriction on the use or installation of hazardous materials.*

## **Amendment 31**

### **Proposal for a regulation Article 5 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 5a**

***Financial mechanism for the environmentally sound recycling and treatment of EU and non-EU ships***

***1. The Commission shall designate a legal entity responsible for managing a Recycling Fund no later than ...\*.***

***2. The objective of the Recycling Fund is:***

***- for EU ships: to contribute to making their recycling in compliance with this Regulation economically viable;***

***- for non-EU ships: to contribute to making their recycling economically viable, if they choose to be recycled at EU listed facilities.***

***3. The Recycling Fund shall be managed in a risk-averse manner. Apart from the costs for its administration, the resources of the fund shall be solely used to disburse the premiums referred to in paragraphs 12 and 13.***

***4. Member States shall ensure that port authorities collect a recycling levy per port call from EU and non-EU ships, except from ships that have paid an annual recycling levy pursuant to paragraphs 6 and 8, or have deposited a financial guarantee pursuant to Article 5b. The recycling levy shall be collected from ...\*\*.***

***5. The Commission shall assess whether it is appropriate to grant compensation to***

*port authorities for the actual additional administrative work related to the collection and transfer of the recycling levies. If it finds it to be appropriate, the Commission shall , no later than ...<sup>\*\*</sup>, decide by means of an implementing act about the appropriate level for an administrative fee to be added to the recycling levy per port call. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 27.*

*6. Member States shall ensure that the annual recycling levy is paid directly to the Recycling Fund.*

*7. The recycling levy per port call shall initially be set at EUR 0,05 per gross tonne.*

*8. The annual recycling levy shall initially be set so that 20 equal annual payments result in a total of EUR 50 per light displacement tonne (LDT). Ships that have made 20 annual payments shall be exempted from any further payments.*

*9. Member States shall ensure that port authorities transfer all recycling levies collected to the Recycling Fund at least every three months.*

*10. The Recycling Fund shall, upon receipt of the annual recycling levy, issue a certificate for the ship concerned as proof of the annual payment received.*

*11. The Recycling Fund shall issue a certificate of full payment to ships that have paid 20 annual recycling levies.*

*12. The Recycling Fund shall provide a premium for ship recycling facilities included in the European list for the recycling of EU and non-EU ships that have paid at least two annual recycling levies.*

*13. The Recycling Fund shall also provide a premium for ship recycling facilities on the European list for the recycling of ships abandoned in the Union for at least two years, provided that it was not*

*possible after all reasonable efforts to identify and hold responsible the owner.*

*14. The premium shall initially be set at EUR 35 per LDT for ship recycling facilities on the European list.*

*15. Ship recycling facilities may apply for the premium in relation to contracts signed after ... \*\*\*.*

*16. The premium for ship recycling facilities included in the European list shall be payable by the Recycling Fund within two months of receiving the report of completion of the ship recycling by the ship recycling facility in accordance with the form laid down in Annex III, as well as the inventory of the ship, the report documenting the quantities of waste treated, and the corresponding treatment processes, as laid down in point (ca) of Article 13(5).*

*Payment of the premium shall be subject to verification by the Recycling Fund of the accuracy of the information contained in the reports and documents referred to in the first subparagraph. The premium shall not be paid if such verification shows that recycling operations have not been completed in accordance with this Regulation.*

*17. By 1 April of every year, the Recycling Fund shall publicly report on its income, the differential costs of environmentally sound recycling and treatment of ships, the recipients of the premiums disbursed and the amounts of those premiums.*

*18. Based on the report by the Recycling Fund, by 1 July of every year, the Commission shall assess whether the recycling levies and the premium need to be adapted, and whether there are any attempts to unduly profit from the system.*

*The Commission shall be empowered to adopt delegated acts in accordance with Article 26 to adapt the level of the recycling levy and of the premium where necessary to achieve the objective of the*

*Recycling Fund.*

*The Commission shall also be empowered to adopt delegated acts in accordance with Article 26 to reduce or refuse payment in case of abuse of the financial instrument.*

*19. The Commission shall assess no later than ... \*\*\*\* the benefits and costs of differentiating the recycling levy based on the information in the inventory of hazardous materials. If the benefits outweigh the costs, the Commission shall be empowered to adopt delegated acts in accordance with Article 26 concerning the differentiation of the recycling levy based on the information in the inventory of hazardous materials, while safeguarding sufficient funding of the Recycling Fund.*

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*\* OJ please insert the date: six months after the entry into force of this Regulation*

*\*\* OJ please insert the date: one year after the entry into force of this Regulation*

*\*\*\* OJ please insert the date: two years after the entry into force of this Regulation*

*\*\*\*\* OJ please insert the date: five years after the entry into force of this Regulation*

**Amendment 32**

**Proposal for a regulation  
Article 5 b (new)**

*Text proposed by the Commission*

*Amendment*

**Article 5b**

**Financial guarantee**

*1. Member States shall ensure that ships are exempt from the payment of any recycling levy referred to in Article 5a if they have deposited a financial guarantee at the Recycling Fund in a single payment*

*equivalent to EUR 35 per LDT.*

*2. The Recycling Fund shall issue a certificate for any ship that has deposited a financial guarantee.*

*3. The financial guarantee shall be released within two months of receiving the report of completion of the ship recycling by a ship recycling facility included in the European list in accordance with the form laid down in Annex III, as well as the inventory of the ship, the report documenting the quantities of waste treated, and the corresponding treatment processes, as laid down in point (ca) of Article 13(5).*

*The release of the financial guarantee shall be subject to verification by the Recycling Fund of the accuracy of the information contained in the reports and documents referred to in the first subparagraph. The financial guarantee shall not be released if such verification shows that recycling operations have not been completed in accordance with this Regulation.*

*4. By 1 July of every year, the Commission shall assess, based on the report by the Recycling Fund referred to in Article 5a(16), whether the financial guarantee needs to be adapted.*

*The Commission shall be empowered to adopt delegated acts in accordance with Article 26 to adapt the level of the financial guarantee if the differential costs of environmentally sound recycling and treatment of ships have changed significantly.*

*5. The Commission shall assess no later than ...\* the benefits and costs of differentiating the financial guarantee based on the information in the inventory of hazardous materials. If the benefits outweigh the costs, the Commission shall be empowered to adopt delegated acts in accordance with Article 26 concerning the differentiation of the financial guarantee based on the information in the inventory*

*of hazardous materials.*

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*\* OJ please insert the date: five years after the entry into force of this Regulation*

### **Amendment 33**

#### **Proposal for a regulation**

##### **Article 6 – title**

*Text proposed by the Commission*

*Amendment*

**Preparation for recycling: general requirements**

**General requirements for ship owners**

*Justification*

*As this article only concerns obligations for ship owners, it would be adequate to reflect that in the title.*

### **Amendment 34**

#### **Proposal for a regulation**

##### **Article 6 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) prior to publication of the European List, are only recycled in ship recycling facilities that are **located** in the Union or in a *country member* of the OECD. ;

(a) prior to publication of the European List, are only recycled in ship recycling facilities that are **duly authorised by the competent authorities** in the Union or in a *member country* of the OECD. ;

*Justification*

*We must avoid any legal vacuum prior to the publication of the European list.*

### **Amendment 35**

#### **Proposal for a regulation**

##### **Article 7 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. A ship-specific ship recycling plan shall be developed prior to any recycling of a ship.

1. A ship-specific ship recycling plan shall be developed **for any EU ship more than 20 years old** or prior to any recycling of a ship, **whatever the earlier, no later than**

... \*

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**\* OJ: please insert date: 30 months after the entry into force of this Regulation**

#### *Justification*

*The average age of a ship sent for recycling depends almost entirely on the economic situation in the freight sector and the demand for steel scrap. The average age has been at 26 in the 90s, then went up to 32 during the financial boom in the middle of the 2000s, but is likely to go down again significantly due to huge overcapacities and the economic crisis. A ship recycling plan should be mandatory for all ships older than 20 years, so that owners think about their responsibility in time.*

#### **Amendment 36**

##### **Proposal for a regulation**

##### **Article 7 – paragraph 2 – point a**

###### *Text proposed by the Commission*

(a) be developed by **the** ship recycling facility taking into account information provided by the shipowner in accordance with point (b) of Article 9(3);

###### *Amendment*

(a) **prior to publication of the European List**, be developed by **a** ship recycling facility **that is located in the Union or in a member country of the OECD**, taking into account information provided by the ship owner in accordance with point (b) of Article 9(3);

#### *Justification*

*To be coherent with Article 6(1)(a), it should be specified that prior to the publication of the European list, the ship recycling plan needs to be developed by a facility in the EU or in an OECD country.*

#### **Amendment 37**

##### **Proposal for a regulation**

##### **Article 7 – paragraph 2 – point a a (new)**

###### *Text proposed by the Commission*

###### *Amendment*

(aa) **after publication of the European List**, be developed by **a** ship recycling facility **that is included in the European List**, taking into account the information provided by the ship owner in accordance with point (b) of Article 9(3);

### *Justification*

*After publication of the European list, only facilities on the European list should be allowed to provide the ship recycling plan.*

### **Amendment 38**

#### **Proposal for a regulation**

#### **Article 7 – paragraph 2 – point d**

##### *Text proposed by the Commission*

(d) include information on the type and amount of hazardous materials and waste generated by the recycling of the specific ship, including those materials identified in the inventory of hazardous materials, and on how *these* hazardous materials and waste will be **managed** in the facility as well as in subsequent waste **management** facilities;

##### *Amendment*

(d) include information on the type and amount of hazardous materials and of waste generated by the recycling of the specific ship, including those materials **and the waste** identified in the inventory of hazardous materials, and on how *those* hazardous materials and **that** waste will be **treated** in the facility as well as in subsequent waste **treatment** facilities;

### *Justification*

*Linguistic corrections to be coherent. It is not so much the management of the waste that is relevant, but the actual treatment of these wastes.*

### **Amendment 39**

#### **Proposal for a regulation**

#### **Article 7 – paragraph 2 – point e a (new)**

##### *Text proposed by the Commission*

##### *Amendment*

**(ea) be updated within six months of a renewal survey or an additional survey.**

### *Justification*

*Pursuant to Art. 5(7), inventories have to be updated throughout the operational life of a ship. Compliance of the inventory with the requirements of the Regulation is checked via renewal surveys every five years, and via additional surveys when applicable. Ship recycling plans should therefore be updated following the relevant surveys.*



## Amendment 40

### Proposal for a regulation

#### Article 7 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***2a. Ship owners selling an EU ship more than 20 years old to a new owner that intends to fly the flag of a third country shall ensure that the contract with the new ship owner stipulates that the new owner, and any subsequent owners, take over the responsibility for developing a ship recycling plan in the event that they wish to call at Union ports or anchorages.***

*Justification*

*The requirement for ships that are older than 20 years to develop a ship recycling plan should be passed on from owners selling an EU ship to a new owner that intends to fly the flag of a third country.*

## Amendment 41

### Proposal for a regulation

#### Article 7 a (new)

*Text proposed by the Commission*

*Amendment*

#### ***Article 7a***

##### ***Intent to recycle***

***At least three months prior to the intended recycling, the ship owner shall notify the relevant ship recycling facility included in the European list of his intent.***

***That ship recycling facility shall finalise and approve the ship recycling plan and notify the relevant competent authorities.***

***In cases where the ship owner has not maintained an up-to-date ship recycling plan or hazardous materials inventory, the ship recycling facility shall notify its competent authorities. The shipowner may then be required to make a payment in accordance with Article 5b on the financial guarantee.***

### *Justification*

*The process of notifying the ship recycling facility and the relevant authorities should be simplified in order to reduce the bureaucratic burden.*

#### **Amendment 42**

##### **Proposal for a regulation**

#### **Article 8 – paragraph 1**

##### *Text proposed by the Commission*

1. Surveys shall be carried **by** out by officers of the **administration** or of a recognised organisation acting on behalf of the administration.

##### *Amendment*

1. Surveys shall be carried out by officers of the **national competent authorities** or of a recognised organisation acting on behalf of the administration.

#### **Amendment 43**

##### **Proposal for a regulation**

#### **Article 8 – paragraph 3**

##### *Text proposed by the Commission*

3. The initial survey shall be conducted before the ship is put in service, **or before the inventory certificate is issued**. The officers carrying out that survey shall verify that Part I of the inventory of hazardous materials complies with the requirements of this Regulation.

##### *Amendment*

3. The initial survey **of a new vessel** shall be conducted before the ship is put in service. **For existing vessels, an initial survey shall be conducted within five years of the entry into force of this Regulation**. The officers carrying out that survey shall verify that Part I of the inventory of hazardous materials complies with the requirements of this Regulation.

### *Justification*

*It must be clearly stipulated when initial surveys of new or existing vessels must be conducted.*

#### **Amendment 44**

##### **Proposal for a regulation**

#### **Article 8 – paragraph 5**

##### *Text proposed by the Commission*

5. The additional survey, either general or partial, **may be conducted at the request of the shipowner** after a change, replacement, or **significant** repair of the structure, equipment, systems, fittings, arrangements and material. The officers carrying out that

##### *Amendment*

5. The **ship owner shall request an** additional survey, either general or partial, after a **significant** change, replacement, or repair of the structure, equipment, systems, fittings, arrangements and material. The officers carrying out that survey shall

survey shall ensure that any such change, replacement, or **significant** repair has been made in a manner that allows the ship to comply with the requirements of this Regulation, and they shall verify that Part I of the inventory of hazardous materials has been amended accordingly.

ensure that any such **significant** change, replacement, or repair has been made in a manner that allows the ship to comply with the requirements of this Regulation, and they shall verify that Part I of the inventory of hazardous materials has been amended accordingly.

#### *Justification*

*It is not appropriate to put the additional survey at the discretion of the ship owner. An additional survey should be mandatory whenever a significant change occurs.*

### **Amendment 45**

#### **Proposal for a regulation**

#### **Article 8 – paragraph 6 – subparagraph 2 – point a a (new)**

*Text proposed by the Commission*

*Amendment*

***(aa) the ship has been pre-cleaned in accordance with point (c) of Article 6(1);***

#### *Justification*

*According to Article 6(1)(c), ships have to conduct operations prior to entering the ship recycling facility to minimise the amount of remaining fuel oil and ship generated wastes (i.e. inter alia oil sludges). According to the Commission staff working document accompanying the Green Paper on better ship dismantling of 22 May 2007, oil sludges represent 88% and oils 10% of the total quantity of hazardous waste from end of life ships. It is thus of paramount importance to verify that ships fulfill the obligation of pre-cleaning as part of the final survey.*

### **Amendment 46**

#### **Proposal for a regulation**

#### **Article 8 – paragraph 7 a (new)**

*Text proposed by the Commission*

*Amendment*

***7a. The officers carrying out the surveys may, at any time or at the duly substantiated request of port authorities which have serious concerns about the condition of a ship that has put into port, decide to carry out an unannounced inspection in order to determine whether the ship complies with this Regulation.***

## Amendment 47

### Proposal for a regulation

#### Article 9 – paragraph 2

*Text proposed by the Commission*

2. The contract shall be effective at the latest from the time of the request for the final survey referred to in Article 8(1)(d) and until the recycling is completed.

*Amendment*

The contract shall be effective at the latest from the time of the request for the final survey referred to in Article 8(6) and until the recycling is completed.

*Justification*

*The correct reference needs to be given.*

## Amendment 48

### Proposal for a regulation

#### Article 9 – paragraph 3 – point b

*Text proposed by the Commission*

(b) to provide the ship recycling facility with all the ship-relevant information necessary for the development of the ship recycling plan required by Article 7;

*Amendment*

(b) to provide the ship recycling facility ***at least four months prior to the intended date for the ship recycling*** with all the ship-relevant information necessary for the development of the ship recycling plan required by Article 7, ***or in cases where the ship owner is not in possession of such information, to inform the ship recycling facility and collaborate with them to ensure that any lacunae are adequately resolved;***

*Justification*

*As the ship recycling plan requires approval, the ship recycling facility needs to be informed in time so as to have enough time to develop a proper ship recycling plan. In some instances the ship owner may not be in possession of all the relevant information for the development of the ship recycling plan. The ship recycling facility will often have more expertise in this regard and promoting collaboration will contribute to resolving any outstanding issues.*

## Amendment 49

### Proposal for a regulation

#### Article 9 – paragraph 3 – point b a (new)

*Text proposed by the Commission*

*Amendment*

***(ba) to provide the ship recycling facility with a copy of the ready for recycling certificate issued in accordance with Article 10;***

*Justification*

*The ship recycling facility should get a copy of the ready for recycling certificate as proof of the successful completion of the final survey.*

## Amendment 50

### Proposal for a regulation

#### Article 9 – paragraph 3 – point b b (new)

*Text proposed by the Commission*

*Amendment*

***(bb) to send a ship for ship recycling only when the ship recycling plan has been explicitly approved by the competent authority in accordance with point (b) of Article 7(2);***

*Justification*

*To achieve coherence with the requirement for explicit approval of the ship recycling plan.*

## Amendment 51

### Proposal for a regulation

#### Article 9 – paragraph 3 – point c

*Text proposed by the Commission*

*Amendment*

(c) to take back the ship prior to the start of the recycling or after the start of the recycling, where technically feasible, ***in case the content of hazardous materials on board does not substantially correspond to the inventory of hazardous materials and does not allow for appropriate recycling of the ship;***

(c) to take back the ship prior to the start of the recycling or after the start of the recycling, where technically feasible, ***if the intended ship recycling is impractical or would undermine safety or protection of the environment due to a failure to describe the ship properly, whether in the inventory or elsewhere;***

### *Justification*

*Take-back is a consequence that should only apply in very specific circumstances. The provision proposed by the Commission is a combination of two criteria, one of which refers to 'appropriate recycling' that is however not defined. It would be better to introduce two clear and independent criteria that would lead to the consequence of take-back. A separate clause should be introduced in case the quantities of hazardous materials are higher than indicated in the inventory - see next amendment.*

### **Amendment 52**

#### **Proposal for a regulation**

#### **Article 9 – paragraph 3 – point c a (new)**

*Text proposed by the Commission*

*Amendment*

***(ca) to cover the actual extra costs in the event that the content of hazardous materials on board is significantly higher than indicated in the inventory of hazardous chemicals, but does not render the intended ship recycling impractical or undermine safety or protection of the environment.***

### *Justification*

*If the content of hazardous materials is significantly higher than indicated in the inventory, but does not undermine the recycling operation or its safety altogether, it should be clarified that the ship owner would have to pay the extra costs that actually arise because of that.*

### **Amendment 53**

#### **Proposal for a regulation**

#### **Article 9 – paragraph 4 – point a**

*Text proposed by the Commission*

*Amendment*

(a) to develop, in collaboration with the shipowner, a ship-specific ship recycling plan in accordance with Article 7;

(a) to develop, in collaboration with the ship owner, a ship-specific ship recycling plan in accordance with Article 7 ***within one month of reception of all relevant information pursuant to point (b) of paragraph 3;***

### *Justification*

*A deadline should be given to the ship recycling facility so that the ship owner can request approval of the ship recycling plan by his competent authorities in time.*

## Amendment 54

### Proposal for a regulation

#### Article 9 – paragraph 4 – point c

*Text proposed by the Commission*

(c) to **prohibit** the start of any recycling of the ship prior to submission of the report referred to in point (b);

*Amendment*

(c) to **refuse** the start of any recycling of the ship prior to submission of the report referred to in point (b) **and prior to approval of the ship recycling plan by its competent authority**;

#### *Justification*

*The ship recycling facility cannot prohibit itself to do something, but it can only refuse to do something. It should only start the recycling when it is ready in all aspects (= report under point b), and when the ship recycling plan has been approved by its competent authority.*

## Amendment 55

### Proposal for a regulation

#### Article 9 – paragraph 4 – point d – introductory part

*Text proposed by the Commission*

(d) when preparing to receive a ship for recycling, to notify in writing at least **14 days** prior to the planned start of the recycling the relevant competent authorities of the intention to recycle the ship concerned:

*Amendment*

(d) when preparing to receive a ship for recycling, to notify in writing at least **three months** prior to the planned start of the recycling the relevant competent authorities of the intention to recycle the ship concerned:

#### *Justification*

*The notification should be given at least two months prior to the planned start of the recycling so that there is enough time for the authorities to do the necessary work.*

## Amendment 56

### Proposal for a regulation

#### Article 9 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

**4a. The ship owner shall provide a copy of the contract to the competent authority.**

### *Justification*

*There needs to be control over the contractual obligations between ship owners and ship recycling facility. Pursuant to Art. 18(2) of the Waste Shipment Regulation, the competent authority can request a copy of the contract between the person who arranges the shipment and the recovery facility. In this case, a copy should be provided in all cases.*

#### **Amendment 57**

##### **Proposal for a regulation**

##### **Article 10 – paragraph 1**

###### *Text proposed by the Commission*

1. After completion of an initial or renewal survey or of an additional survey ***conducted at the request of the shipowner,*** a Member State shall issue an inventory certificate in accordance with the form laid down in Annex IV. This certificate shall be supplemented by Part I of the inventory of hazardous materials.

The Commission shall be empowered to adopt delegated acts in accordance with Article 26 concerning the updating of the form of the inventory certificate laid down in Annex IV.

###### *Amendment*

1. After ***successful*** completion of an initial or renewal survey or of an additional survey, ***the*** Member State ***whose flag the ship is flying*** shall issue an inventory certificate in accordance with the form laid down in Annex IV. This certificate shall be supplemented by Part I of the inventory of hazardous materials.

The Commission shall be empowered to adopt delegated acts in accordance with Article 26 concerning the updating of the form of the inventory certificate laid down in Annex IV.

### *Justification*

*A certificate should only be issued after successful completion of the relevant surveys in line with the wording of the Commission proposal in Article 10(2) related to the final survey. It is more appropriate to use the standard nomenclature of 'administration of recognised organisation acting on its behalf'.*

#### **Amendment 58**

##### **Proposal for a regulation**

##### **Article 10 – paragraph 2**

###### *Text proposed by the Commission*

2. After successful completion of a final survey in accordance with Article 8(6), the administration shall issue a ready for recycling certificate in accordance with the form laid down in Annex V. This certificate shall be supplemented by the inventory of hazardous materials and the ship recycling plan.

###### *Amendment*

2. After successful completion of a final survey in accordance with Article 8(6), the administration shall issue a ready for recycling certificate in accordance with the form laid down in Annex V, ***if it considers that the ship recycling plan complies with the requirements of this Regulation.*** This certificate shall be supplemented by the



inventory of hazardous materials and the ship recycling plan.

*Justification*

*A ready for recycling certificate should only be issued by the administration when the ship recycling plan complies with the requirements of this Regulation.*

**Amendment 59**

**Proposal for a regulation**

**Article 11 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 11a***

***Inspections***

***Member States shall apply control provisions for EU ships equivalent to those laid down in Directive 2009/16/EC, in accordance to their national legislation. A more detailed inspection shall be carried out, taking into account guidelines developed by the IMO, where an inspection reveals that a ship does not comply with the requirements set out in Article 4(1) to (3a), Articles 5 and 7, or does not carry a valid inventory certificate in accordance with Article 10(1), or whenever there are clear grounds for believing, after an inspection, that:***

- the condition of the ship or its equipment does not comply with the requirements set out in Article 4(1) to (3a) or does not correspond substantially to the particulars of the certificate, and/or the inventory of hazardous materials, or***
- there is no procedure implemented on board the ship for the maintenance of the inventory of hazardous materials.***

**Amendment 60**

**Proposal for a regulation**  
**Article 11 b (new)**

*Text proposed by the Commission*

*Amendment*

**Article 11b**

***Provisions applicable to non-EU ships in addition to Article 5a, Article 5b, Article 23(1) and Article 29 (1)***

- 1. Member States shall ensure that non-EU ships comply with the requirements set out in Article 4(1) to (3a), without prejudice to the requirements of other Union legislation which may require further measures. Member States shall prohibit the installation or use of the materials referred to in Article 4(1) to (3a), on non-EU ships whilst in its ports, anchorages, shipyards, ship repair yards or offshore terminals.***
- 2. New non-EU ships entering a port or an anchorage of a Member State shall keep available on board a valid inventory of hazardous materials.***
- 3. Existing non-EU ships entering a port or an anchorage of a Member State shall keep available on board an inventory of hazardous materials in accordance with the timelines indicated in Article 5(2a). The inventory shall fulfil the requirements set out in Article 5(4) to (7).***
- 4. Non-EU ships entering a port or an anchorage of a Member State shall present a statement of compliance issued by the ship's administration or recognised organisation acting on its behalf confirming that the ship complies with the provisions set out in paragraphs 1 to 3.***
- 5. Non-EU ships that have been bought from an owner flying an EU flag when the ship was older than 20 years, where entering a port or an anchorage of a Member State, shall keep available on board a ship recycling plan in accordance with point (d) of Article 7(2).***
- 6. A more detailed inspection shall be carried out where an inspection reveals***

*that a non-EU ship does not comply with the requirements set out in paragraphs 1 to 5, or whenever there are clear grounds for believing, after an inspection, that:*

- the condition of the ship or its equipment does not comply with the requirements of paragraph 1 or does not correspond substantially to the particulars of the certificate or the inventory of hazardous materials, or*
- there is no procedure implemented on board the ship for the maintenance of the inventory of hazardous materials.*

*7. Member States shall ensure that effective, proportionate and dissuasive penalties are applicable to owners of non-EU ships that do not comply with the provisions in this Article.*

**Amendment 61**  
**Proposal for a regulation**

**Article 12 – paragraph 2 – introductory part**

*Text proposed by the Commission*

In order to be included in the European list, a ship recycling facility shall comply with the following requirements:

*Amendment*

In order to be included in the European list, a ship recycling facility shall comply with the following requirements, ***taking into account relevant IMO, ILO and other international guidelines:***

**Amendment 62**

**Proposal for a regulation**  
**Article 12 – paragraph 2 – point a (new)**

*Text proposed by the Commission*

*Amendment*

***(aa) operate from permanent built structures (dry docks, quays or concrete slip-ways);***

*Justification*

*The operation from permanent built structures should be a minimum requirement to allow that hazardous materials can be contained. This is added to clarify that sites using the current and*

still predominant method of "beaching" would not qualify for the European list of ship recycling facilities.

#### Amendment 63

##### Proposal for a regulation

##### Article 12 – paragraph 2 – point a b (new)

*Text proposed by the Commission*

*Amendment*

**(ab) have sufficient cranes available for lifting parts cut from a ship;**

*Justification*

*The availability of sufficient cranes for lifting should be a minimum requirement for safe dismantling of ships. This is added to clarify that the current and still predominant method of "beaching", which does not use cranes, but only gravity, would not qualify for the European list.*

#### Amendment 64

##### Proposal for a regulation

##### Article 12 – paragraph 2 – point b

*Text proposed by the Commission*

*Amendment*

(b) establish management and monitoring systems, procedures and techniques which **do not pose** health risks to the workers concerned or to the population in the vicinity of the ship recycling facility and which will prevent, reduce, minimise and to the extent practicable eliminate adverse effects on the environment caused by ship recycling;

(b) establish management and monitoring systems, procedures and techniques which **ensure that no** health risks **are posed** to the workers concerned or to the population in the vicinity of the ship recycling facility and which will prevent, reduce, minimise and to the extent practicable eliminate adverse effects on the environment caused by ship recycling;

*Justification*

*Linguistic correction: Management and monitoring systems do not normally pose a health risk as such, but are used to ensure that no health risks are posed.*

#### Amendment 65

##### Proposal for a regulation

##### Article 12 – paragraph 2 – point d

*Text proposed by the Commission*

*Amendment*

(d) develop and **approve** a ship recycling

(d) develop and **adopt** a ship recycling

facility plan;

facility plan;

*Justification*

*Linguistic correction - approval is a task for competent authorities. A ship recycling facility adopts a ship recycling facility plan.*

**Amendment 66**

**Proposal for a regulation**

**Article 12 – paragraph 2 – point j**

*Text proposed by the Commission*

(j) ensure access for emergency response equipment such as fire-fighting equipment and vehicles, ambulances and cranes to all areas of the **ship** recycling facility;

*Amendment*

(j) ensure **rapid** access for emergency response equipment such as fire-fighting equipment and vehicles, ambulances and cranes to **the ship and** all areas of the recycling facility **once work has commenced to recycle the ship**;

*Justification*

*Access has to be made possible immediately and it is also necessary to have access to the ship, even if it is in the tides. This will also help preclude dangerous operational platforms such as beaching.*

**Amendment 67**

**Proposal for a regulation**

**Article 12 – paragraph 2 – point k**

*Text proposed by the Commission*

(k) ensure the containment of all hazardous materials present on board of a ship during the recycling process so as to prevent any release of these hazardous materials into the environment and in particular in intertidal zones;

*Amendment*

(k) ensure the containment of all hazardous materials present on board of a ship during the recycling process so as to prevent any release of these hazardous materials into the environment and in particular in intertidal zones, **notably by cutting the bottom part in a permanent or floating dry dock**;

*Justification*

*It should be better specified how the containment of hazardous materials is to be achieved. While the upper parts of a ship should only be cut from permanent structures (see Article 12 (2)(aa) new), the bottom part with all the oils and sludges should be cut in a permanent or floating dry dock to ensure containment of all hazardous materials.*

## Amendment 68

### Proposal for a regulation

#### Article 12 – paragraph 2 – point m

*Text proposed by the Commission*

(m) handle hazardous materials and waste only on impermeable floors with effective drainage systems;

*Amendment*

(m) ***without prejudice to point (k)***, handle hazardous materials and waste only on impermeable floors with effective drainage systems;

*Justification*

*Clarification that drainage systems must still contain all hazardous materials and waste.*

## Amendment 69

### Proposal for a regulation

#### Article 12 – paragraph 2 – point m a (new)

*Text proposed by the Commission*

*Amendment*

***(ma) ensure that all wastes prepared for recycling are only transferred to recycling facilities authorised to deal with their recycling without endangering human health and in an environmentally sound manner;***

*Justification*

*The steel waste for recycling is often contaminated with hazardous materials, which can endanger human health and the environment, if improperly recycled. All waste for recycling should therefore only go to facilities authorised to deal with their recycling.*

## Amendment 70

### Proposal for a regulation

#### Article 12 – paragraph 2 – point m b (new)

*Text proposed by the Commission*

*Amendment*

***(mb) ensure appropriate storage for dismantled spare parts, including impermeable storage for oil-contaminated spare parts;***

*Justification*

*There needs to be some greater specificity in order to promote safer and greener ship recycling operations with the aim to eliminate substandard working conditions, and prevent environmental hazards.*

**Amendment 71**

**Proposal for a regulation**

**Article 12 – paragraph 2 – point m c (new)**

*Text proposed by the Commission*

*Amendment*

***(mc) ensure functioning equipment for the treatment of water, including rainwater, in compliance with health and environmental regulations;***

*Justification*

*There needs to be some greater specificity in order to promote safer and greener ship recycling operations with the aim of eliminating substandard working conditions and preventing environmental hazards.*

**Amendment 72**

**Proposal for a regulation**

**Article 12 – paragraph 2 – point m d (new)**

*Text proposed by the Commission*

*Amendment*

***(md) ensure appropriate storage for explosive and/or inflammable materials and gas, including the prevention of fire hazards and excessive stockpiling;***

*Justification*

*There needs to be some greater specificity in order to promote safer and greener ship recycling operations with the aim of eliminating substandard working conditions and preventing environmental hazards.*

**Amendment 73**

**Proposal for a regulation**

**Article 12 – paragraph 2 – point m e (new)**

*Text proposed by the Commission*

*Amendment*

***(me) ensure appropriate impermeable and sheltered storage and containment for***

***solid and liquid PCB/PCT waste or material;***

*Justification*

*There needs to be some greater specificity in order to promote safer and greener ship recycling operations with the aim of eliminating substandard working conditions and preventing environmental hazards.*

**Amendment 74**  
**Proposal for a regulation**

**Article 12 – paragraph 2 – point m f (new)**

*Text proposed by the Commission*

*Amendment*

***(mf) ensure that all PCB/PCT containing material is managed in accordance with the obligations and Guidelines of the Stockholm Convention on Persistent Organic Pollutants;***

*Justification*

*There needs to be some greater specificity in order to promote safer and greener ship recycling operations with the aim of eliminating substandard working conditions and preventing environmental hazards.*

**Amendment 75**  
**Proposal for a regulation**

**Article 12 – paragraph 2 – point n**

*Text proposed by the Commission*

*Amendment*

(n) ensure that all wastes generated from the recycling activity are only transferred to waste management facilities authorised to deal with their treatment and disposal without endangering human health and in an environmentally sound manner.

(n) ensure that all wastes generated from the recycling activity are only transferred to waste management facilities authorised to deal with their treatment and disposal without endangering human health and in an environmentally sound manner.  
***Therefore draw up a register of secondary operators working at the main facility, including information on their waste management methods and capacities.***



## Amendment 76

### Proposal for a regulation

#### Article 13 – paragraph 2 – point 1

*Text proposed by the Commission*

(1) identify the permit, license or authorization granted by its competent authorities to conduct ship recycling and specify the size limitations (maximum length, breadth and lightweight) of the ships it is authorized to recycle as well as any applicable limitations;

*Amendment*

(1) identify the permit, license or authorization granted by its competent authorities to conduct ship recycling and specify the size limitations (maximum length, breadth and lightweight) of the ships it is authorized to recycle as well as any applicable limitations **and conditions**;

*Justification*

*Applicable conditions should also be identified, as this is not necessarily covered by 'limitations'.*

## Amendment 77

### Proposal for a regulation

#### Article 13 – paragraph 2 – point 3 a (new)

*Text proposed by the Commission*

*Amendment*

***(3a) provide evidence that the ship recycling facility complies with all health and safety provisions under the laws of that country;***

*Justification*

*Worker's health and safety are major issues in the context of ship recycling. The facility should provide evidence of its compliance with these.*

## Amendment 78

### Proposal for a regulation

#### Article 13 – paragraph 2 – point 4 a (new)

*Text proposed by the Commission*

*Amendment*

***(4a) identify all subcontractors directly involved in the process of ship recycling and provide evidence of their permits;***

### *Justification*

*Sub-contractors that are directly involved in the ship recycling operation may create additional risks for it, or be themselves at special risk, if they are not properly trained. To ensure safety both of the recycling operation as well as of the sub-contractors, they should be identified, and evidence of their permits provided.*

#### **Amendment 79**

##### **Proposal for a regulation**

##### **Article 13 – paragraph 2 – point 5 – point b – introductory part**

###### *Text proposed by the Commission*

(b) which waste **management** process will be applied within the facility: **incineration, landfilling** or other waste treatment method and provide evidence that the applied process will be carried out without endangering human health, without harming the environment and, in particular:

###### *Amendment*

(b) which waste **treatment** process will be applied within the facility: **(e.g. landfilling, neutralization of acids, chemical destruction)** or other waste treatment method **for each of the materials listed in Annex I**, and provide evidence that the applied process will be carried out **in accordance with established best practices, global norms and laws**, without endangering human health, without harming the environment and, in particular:

### *Justification*

*This is necessary for all Annex 1 materials and there is also need to see evidence that these methods are best available technologies or practices.*

#### **Amendment 80**

##### **Proposal for a regulation**

##### **Article 13 – paragraph 2 – point 5 – point c – introductory part**

###### *Text proposed by the Commission*

(c) which waste **management** process will be applied if the hazardous materials **is** destined for a subsequent waste treatment facility outside the ship recycling facility. The following information shall be provided regarding each subsequent waste treatment facility:

###### *Amendment*

(c) which waste **treatment** process will be applied if the hazardous materials **are** destined for a subsequent waste treatment facility outside the ship recycling facility. The following information shall be provided regarding each subsequent waste treatment facility:

### *Justification*

*The terminology used should be consistent.*

## Amendment 81

### Proposal for a regulation

#### Article 13 – paragraph 2 – point 5 – point c – point ii

*Text proposed by the Commission*

(ii) evidence that the waste treatment facility is authorized to treat the hazardous material;

*Amendment*

(ii) evidence that the waste treatment facility is authorized **by the relevant competent authority** to treat the hazardous material;

*Justification*

*It should be specified who has to grant the authorization.*

## Amendment 82

### Proposal for a regulation

#### Article 13 – paragraph 2 – point 5 – point c a (new)

*Text proposed by the Commission*

*Amendment*

**(ca) have a system in place to document the actual quantities of hazardous materials removed from each ship compared to the inventory of hazardous materials and the respective treatment processes applied within the facility and outside the facility for those materials**

*Justification*

*It is important to be able to trace the hazardous materials from the inventory to the actual treatment. Such traceability systems are already being applied in several countries.*

## Amendment 83

### Proposal for a regulation

#### Article 13 – paragraph 2 – point 5 a (new)

*Text proposed by the Commission*

*Amendment*

**(5a) have adequate insurance to cover health and safety liabilities and the costs of environmental remediation in compliance with relevant legislation of the Member State or third country where the facility is located.**

### *Justification*

*This provision was included as a minimum standard for ship recycling facilities in the UK ship recycling strategy of February 2007.*

### **Amendment 84**

#### **Proposal for a regulation**

#### **Article 13 – paragraph 2 – point 5 b (new)**

*Text proposed by the Commission*

*Amendment*

***(5b) conduct regular monitoring of water and sediments in the vicinity of the ship recycling facility to check for pollution.***

### *Justification*

*This is a reduced provision compared to what was included as a minimum standard for ship recycling facilities in the UK ship recycling strategy of February 2007.*

### **Amendment 85**

#### **Proposal for a regulation**

#### **Article 14 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Competent authorities shall authorize ship recycling facilities located on their territory that comply with the requirements set out in Article 12 to conduct ship recycling. That authorization may be given to the respective ship recycling facilities for the maximum period of five years.

1. ***Without prejudice to other Union health and environmental legislation,*** competent authorities shall authorize ship recycling facilities located on their territory that comply with the requirements set out in Article 12 to conduct ship recycling. That authorization may be given to the respective ship recycling facilities for the maximum period of five years.

***Provided that they are in conformity with the objectives of this Regulation and comply with the requirements laid down in this Article, any permits issued under other national or Union rules may be combined with the authorisation issued under this article to form a single permit, where this will avoid any unnecessary duplication of information and of work for the operator or the competent authority. In such cases, the authorisation may be extended in line with the permit arrangements referred to above.***

### *Justification*

*Unnecessary duplication of formalities must be avoided, given that EU facilities are already subject to a range of obligations imposed under other EU legislation which go beyond what is required under the proposal for a regulation on ship recycling.*

#### **Amendment 86**

##### **Proposal for a regulation Article 15 – paragraph 7**

###### *Text proposed by the Commission*

7. That request shall be accompanied by the information and supporting evidence required by Article 13 and Annex VI that the ship recycling facility complies with the requirements set out in Article 12.

The Commission shall be empowered to adopt delegated acts in accordance with Article 26 concerning the updating of the form on the identification of the ship recycling facility provided for in Annex VI.

###### *Amendment*

2. That request shall be accompanied by the information and supporting evidence required by Article 13 and Annex VI that the ship recycling facility complies with the requirements set out in Article 12.

The Commission shall be empowered to adopt delegated acts in accordance with Article 26 concerning the updating of the form on the identification of the ship recycling facility provided for in Annex VI.

### *Justification*

*Correction of erroneous numbering in the Commission proposal.*

#### **Amendment 87**

##### **Proposal for a regulation Article 15 – paragraph 8**

###### *Text proposed by the Commission*

**8. By applying for inclusion** in the European **List**, ship recycling facilities **accept the possibility of being subject to a site inspection** by the Commission **or agents acting on its behalf** prior **or after** their inclusion in the European list **in order to** verify their compliance with the requirements set out in Article 12.

###### *Amendment*

**3. In order to be included** in the European **list**, ship recycling facilities **shall be audited by an international team of experts nominated** by the Commission prior **to** their inclusion in the European list **with a view to verifying** their compliance with the requirements set out in Article 12, **and once every two years thereafter. The ship recycling facility shall also agree that it may be subject to additional unannounced site inspections by an international team. The international team of experts shall cooperate with the competent authorities of the Member**

***State or the third country where the facility is located in order to carry out such site inspections.***

*Justification*

*Ship recycling involves large quantities of hazardous materials. If we are to exceptionally legalize the export of EU flagged ships from the EU to non-OECD countries for scrapping due to their special nature, then we have to be sure that the treatment is done in compliance with this regulation. As such, regular inspections should be a prerequisite for any facility to qualify for the EU list. This would ensure an equal treatment of all facilities, and the international nature of the team as well as the cooperation with the relevant competent authority should lead to general acceptance.*

**Amendment 88**

**Proposal for a regulation  
Article 16 – paragraph 2**

*Text proposed by the Commission*

2. The European list shall be published in the Official Journal of the European Union and on the website of the Commission at the latest ***thirty-six*** months after the day of entry into force of this Regulation.

*Amendment*

2. The European list shall be published in the Official Journal of the European Union and on the website of the Commission at the latest ***twenty-four*** months after ... \*. ***It shall be split into two sub-lists, including EU/OECD, and non OECD ship recycling facilities, respectively.***

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***\* OJ please insert the date of entry into force of this Regulation***

*Justification*

*Two years after the entry into force should be fully sufficient for the Commission to establish the first European list.*

**Amendment 89**

**Proposal for a regulation  
Article 16 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. The European List shall include the following information about the ship recycling facility:***

***(a) the method of recycling;***

- (b) the type and size of ships that are suitable for recycling; and*
- (c) any limitation under which the facility operates, including as regards hazardous waste management.*

*Justification*

*It would be important for ship owners to have this information with regard to the ship recycling facilities on the European list so as to be able to choose amongst appropriate facilities.*

**Amendment 90**

**Proposal for a regulation**

**Article 16 – paragraph 2 b (new)**

*Text proposed by the Commission*

*Amendment*

***2b. The European List shall indicate the date of inclusion of the ship recycling facility. An inclusion shall be valid for a maximum period of five years and shall be renewable.***

*Justification*

*The inclusion in the European list should only be valid for five years at a given time, but be renewable. This would ensure that facilities provide updated information.*

**Amendment 91**

**Proposal for a regulation**

**Article 16 – paragraph 2 c (new)**

*Text proposed by the Commission*

*Amendment*

***2c. In the event of any significant changes to the information provided to the Commission, ship recycling facilities included in the European list shall provide updated evidence without delay. In any event, three months prior to the expiry of each five year period of inclusion on the European list, the ship recycling company shall declare that:***

- (a) the evidence that it has provided is complete and up-to-date;***
- (b) the ship recycling facility continues and will continue to comply with the***

*requirements of Article 12.*

*Justification*

*The obligations of ship recycling companies with regard to updating their information need to be clarified.*

**Amendment 92**

**Proposal for a regulation**

**Article 16 – paragraph 3 – point a**

*Text proposed by the Commission*

(a) to include a ship recycling facility in the European list ***in any of the following cases:***

***(i) where it has been authorized in accordance with Article 13;***

***(ii) where its inclusion in the European list has been decided in accordance with Article 15(4);***

*Amendment*

(a) to include a ship recycling facility in the European list where its inclusion in the European list has been decided in accordance with Article 15(4);

*Justification*

*There is no need to refer to Article 13, as all the relevant provisions are in Article 15(4).*

**Amendment 93**

**Proposal for a regulation**

**Article 16 – paragraph 3 – point b – point 2**

*Text proposed by the Commission*

(2) where the ship recycling facility ***has been included in the list for more than five years and*** has not provided evidence that it still complies with the requirements set out in Article 12.

*Amendment*

(2) where the ship recycling facility, ***three months prior to the expiry of the five-year inclusion,*** has not provided evidence that it still complies with the requirements set out in Article 12;

*Justification*

*There should be a clear deadline by when a ship recycling facility has to provide updated evidence that it still complies with the requirements set out in Article 12 so as to stay on the list. A facility should be removed from the European list when it has not provided evidence three months prior to the expiry of the five-year period.*



**Amendment 94**  
**Proposal for a regulation**

**Article 16 – paragraph 3 – point b – point 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***(2a) where the ship recycling facility is located in a State that applies prohibitions or discriminatory measures against any ships flying the flag of a Member State.***

*Justification*

*Based on Article 4(2) of the EU Treaty (“The Union shall respect the equality of Member States before the Treaties ...”).*

**Amendment 95**

**Proposal for a regulation**

**Article 21 – point a**

*Text proposed by the Commission*

*Amendment*

(a) notify the administration in writing at least **14 days** before the planned start of the recycling of the intention to recycle a ship in order to enable the administration to prepare for the survey and certification required by this Regulation;

(a) notify the administration, in writing at least **three months** before the planned start of the recycling of the intention to recycle a ship in order to enable the administration to prepare for the survey and certification required by this Regulation; ***it shall simultaneously notify its intention to recycle a ship to the administration of the country under whose jurisdiction it is at that time;***

*Justification*

*Two weeks are too short for the notification of the administration. To be consistent with the proposal to submit the ship recycling plan two months prior to the planned date of dismantling for approval by the competent authorities (see Article 7(2a), the notification should be sent at the same time, see also subsequent amendment).*

*To ensure proper application of this Regulation, it is important that ship owners also notify the administration of the country under whose jurisdiction it is at that moment, in order to allow for good cooperation.*

## Amendment 96

### Proposal for a regulation Article 21 - point b a (new)

*Text proposed by the Commission*

*Amendment*

***(ba) transmit to the administration a list of the States through which the ship is intended to transit on its voyage to the ship recycling facility;***

## Amendment 97

### Proposal for a regulation Article 22 – paragraph 1 – point c

*Text proposed by the Commission*

*Amendment*

(c) information regarding illegal recycling and follow-up actions undertaken by the Member State.

(c) information regarding illegal recycling and follow-up actions undertaken by the Member State, ***including details of the penalties laid down pursuant to Article 23.***

#### *Justification*

*Member States should also report about the penalties that they have applied. This is important to ensure that they are effective, proportionate and dissuasive, as required by Article 23.*

## Amendment 98

### Proposal for a regulation Article 22 – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. Each Member State shall transmit the report by 31 December 2015 and every ***two years*** thereafter.

2. Each Member State shall transmit the report by 31 December 2015 and every ***year*** thereafter.

#### *Justification*

*To have a better overview over the proper application of this Regulation, Member States should report every year to the Commission.*

## Amendment 99

### Proposal for a regulation

#### Article 22 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***3a. The Commission shall enter this information in an electronic database that is permanently accessible to the public.***

*Justification*

*The information reported by the Member States should be compiled by the Commission in an electronic database that should be permanently publicly accessible so as to have transparency over the actual situation of application of this Regulation in the Member States.*

## Amendment 100

### Proposal for a regulation

#### Article 23 - paragraph 1

*Text proposed by the Commission*

*Amendment*

1. Member States shall ensure that effective, proportionate and dissuasive penalties are applicable to ships that:

1. Member States shall ensure that effective, proportionate and dissuasive penalties are applicable ***and effectively applied to the owners of EU ships and non-EU*** ships that:

***(d)*** do not have on board ***an*** inventory of hazardous materials ***required by*** Articles 5 and 28;

***(a)*** ***do not comply with the prohibitions of certain hazardous materials pursuant to Article 4 and Article 11b;***

***(b)*** do not have on board ***a valid*** inventory of hazardous materials ***pursuant to*** Article 5 and ***Article 11b;***

***(e)*** ***were sent for recycling without complying with the general requirements for the preparation set out in Article 6;***

***(c)*** ***do not have on board a ship recycling plan pursuant to Article 7 and Article 11b;***

***deleted***

***(f)*** ***were sent for recycling without an inventory certificate required by Article 6;***

***deleted***

***(g)*** ***were sent for recycling without a ready for recycling certificate required by Article 6;***

***deleted***

***(h)*** ***were sent for recycling without a***

***deleted***

*notification to the administration in writing as required by Article 21;*

*(i) were recycled in a manner which did not conform with the ship recycling plan required by Article 7.*

*deleted*

## **Amendment 101**

### **Proposal for a regulation Article 23 - paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Member States shall ensure that penalties pursuant to Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law<sup>1</sup> are applicable to the owners of EU ships that:***

***(a) were sent for recycling without complying with the general requirements pursuant to Article 6 of this Regulation;***

***(b) were sent for recycling without an inventory certificate pursuant to Article 10(1) of this Regulation;***

***(c) were sent for recycling without a contract pursuant to Article 9 of this Regulation;***

***(d) were sent for recycling without a notification to the administration in writing pursuant to Article 21 of this Regulation;***

***(e) were recycled without approval of the ship recycling plan by the competent authority pursuant to point (b) of Article 7(2) of this Regulation or in a manner which did not comply with the ship recycling plan pursuant to Article 7 of this Regulation.***

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<sup>1</sup> OJ L 328, 6.12.2008, p. 28

## Amendment 102

### Proposal for a regulation Article 23 - paragraph 2

*Text proposed by the Commission*

**2. The penalties shall be effective, proportionate and dissuasive.** In particular, where a ship is sent for recycling in a ship recycling facility which is not included in the European list the applicable penalties shall, as a minimum, correspond to the price paid to the shipowner for its ship.

*Amendment*

**2. Without prejudice to the application of Article 5 of Directive 2008/99/EC, in** particular, where a ship is sent for recycling in a ship recycling facility which is not included in the European list the applicable penalties shall, as a minimum, correspond to the price paid to the ship owner for its ship.

## Amendment 103

### Proposal for a regulation Article 23 - paragraphs 5 and 6

*Text proposed by the Commission*

5. Where a ship is sold and, within less than **six** months after the selling, is sent for recycling in a facility which is not included in the European list, the penalties shall be:

(a) **jointly** imposed **to** the last **and penultimate** owner if the ship is still flying the flag of **an European** Member State;

(b) **only** imposed **to** the **penultimate** owner if **a** ship is **not** flying **anymore** the flag of **an European** Member State.

6. Exemptions to the penalties mentioned in paragraph 5 may be introduced by Member States in the case where the shipowner has not sold **its** ship with the intention to have it recycled. In that case, Member States shall **request** evidence supporting the shipowner's claim including a copy of the sales contract.

*Amendment*

5. Where a ship is sold and, within less than **twelve** months after the selling, is sent for recycling in a facility which is not included in the European list, the penalties shall be:

(a) imposed **on** the last owner if the ship is still flying the flag of **a** Member State;

(b) imposed **on** the **last** owner **who was flying a flag of a Member State in that one-year period** if the ship is **no longer** flying the flag of **a** Member State.

6. Exemptions to the penalties mentioned in paragraph 5 may **only** be introduced by Member States in the case where the ship owner has not sold **his** ship with the intention to have it recycled. In that case, Member States shall **require the ship owner to provide** evidence supporting the ship owner's claim, including a copy of the sales contract **with corresponding provisions, and information about the business model of the buyer.**

## Amendment 104

### Proposal for a regulation

#### Article 24 – paragraph 3

##### *Text proposed by the Commission*

3. Where the request for action and the accompanying observations show in a plausible manner that a breach of the Regulation exists, the competent authority shall consider any such observations and requests for action. In such circumstances, the competent authority shall give the recycling company an opportunity to make **its** views known with respect to the request for action and the accompanying observations.

##### *Amendment*

3. Where the request for action and the accompanying observations show in a plausible manner that a breach of the Regulation exists, the competent authority shall consider any such observations and requests for action. In such circumstances, the competent authority shall give the **ship owner and the** recycling company an opportunity to make **their** views known with respect to the request for action and the accompanying observations.

##### *Justification*

*As not only the ship recycling company can breach this Regulation, but also the ship owner, the latter should also be given an opportunity to make his views known.*

## Amendment 105

### Proposal for a regulation

#### Article 24 – paragraph 5

##### *Text proposed by the Commission*

**5. Member States may decide not to apply paragraphs 1 and 4 to cases of imminent breach of this Regulation.**

##### *Amendment*

**deleted**

##### *Justification*

*There is no reason to waive the application of paragraphs 1 and 4 for imminent breaches of this Regulation.*

## Amendment 106

### Proposal for a regulation

#### Article 26 – paragraph 2

##### *Text proposed by the Commission*

2. The power to adopt delegated acts referred to in Articles 5, 9, 10 and 15 shall be conferred on the Commission for **an indeterminate period of time from the date**

##### *Amendment*

2. The power to adopt delegated acts referred to in Articles 5, 9, 10 and 15 shall be conferred on the Commission for **a period of five years from ...\*. The**

*of entry into force of this Regulation.*

*Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension no later than three months before the end of each period.*

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*\* OJ: Please insert date of entry into force of this Regulation*

#### *Justification*

*The delegation of powers should not be conferred upon the Commission for an indeterminate period of time, but for a limited period of time, that is extended tacitly. This has become the standard formula in environmental legislation that has been adopted since the entry into force of the Lisbon Treaty.*

#### **Amendment 107**

##### **Proposal for a regulation Article 28 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

*1. An inventory of hazardous materials shall be established for all ships not later than five years after the entry into force of this Regulation.*

*deleted*

#### **Amendment 108**

##### **Proposal for a regulation Article 28 a (new) Directive 2009/16/EC Annex IV – point 45 (new)**

*Text proposed by the Commission*

*Amendment*

##### **Article 28a**

*Amendment to Directive 2009/16/EC on port State control*

*In Annex IV of Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control<sup>1</sup>, the following point is added:*

**'45. A certificate on the inventory of hazardous materials pursuant to Regulation (EU) No XX [insert full title of this Regulation]\*'**

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<sup>1</sup> *OJ L 131, 28.5.2009, p. 57*

*\* OJ L [...], [...], p. [...]*

#### *Justification*

*The most elegant way to ensure that all ships calling at an Union port or anchorage effectively have established an inventory as required by Article 5 as amended is by adding the certificate on the inventory to the list of certificates and documents that are to be checked as a minimum by every inspector pursuant to the Directive on port state control in case of an inspection.*

#### **Amendment 109**

##### **Proposal for a regulation**

##### **Article 29 – paragraph 1**

Regulation (EC) No 1013/2006

Article 1 – paragraph 3 – point i

#### *Text proposed by the Commission*

'(i) Ships ***falling under the scope of*** Regulation (EU) No XX [insert full title of this Regulation].

#### *Amendment*

'(i) Ships ***that are delivered to a ship recycling facility included in the European list in accordance with*** Regulation (EU) No XX [insert full title of this Regulation].

#### **Amendment 110**

##### **Proposal for a regulation**

##### **Article 29 a (new)**

#### *Text proposed by the Commission*

#### *Amendment*

#### ***Article 29a***

#### ***Transit***

***1. Member States shall ensure that the relevant administration, or another governmental authority, notifies the competent authority or authorities of transit within 7 days of receipt of the notification from the ship owner.***

***2. The competent authority or authorities of transit shall have 60 days from the date***



*of notification referred to in paragraph 1 within which to:*

*(a) consent to the transit of the ship through its waters, with or without conditions; or*

*(b) refuse to consent to transit of the ship through its waters.*

*The Member State concerned shall immediately inform the ship owner of the decision of the competent authority or authorities of transit.*

*3. In the event that the consent referred to in paragraph 2 is refused, or is made subject to conditions which are not acceptable to the ship owner, the ship owner may only dispatch the ship for recycling via transit States which have not objected.*

*4. In the absence of a reply within the 60-day period referred to in paragraph 2, the competent authority of transit shall be presumed to have refused its consent.*

*5. Notwithstanding paragraph 4, in accordance with Article 6(4) of the Basel Convention, if at any time a competent authority of transit has decided not to require prior written consent, either generally or under specific conditions, the competent authority of transit shall be presumed to have given its consent if no response is received by the Member State concerned within 60 days of the transmission of the notification to the competent authority of transit.*

## **Amendment 111**

### **Proposal for a regulation Article 30**

#### *Text proposed by the Commission*

The Commission shall review this Regulation not later than two years after the date of entry into force of the Hong Kong Convention. This review shall consider the inclusion of facilities

#### *Amendment*

The Commission shall review this Regulation not later than two years after the date of entry into force of the Hong Kong Convention. This review shall consider **whether** the inclusion of facilities

authorized by the Parties to the Hong Kong Convention in the European List of ship recycling facilities *in order to avoid duplication of work and administrative burden*.

authorized by the Parties to the Hong Kong Convention in the European List of ship recycling facilities *complies with the requirements of this Regulation*.

#### *Justification*

*In light of the far weaker standards of the Hong Kong Convention for ship recycling facilities, and the fact that the Hong Kong Convention does not address the treatment of waste outside the ship recycling facility, all facilities that are authorized by the Parties to the Hong Kong Convention need to be assessed against the provisions of this Regulation if they want to be included in the European List.*

### **Amendment 112**

#### **Proposal for a regulation Article 31 – paragraph 1**

##### *Text proposed by the Commission*

This Regulation shall enter into force on the 365<sup>th</sup> day *after* its publication in the Official Journal of the European Union.

##### *Amendment*

This Regulation shall enter into force on the *third* day *following* its publication in the Official Journal of the European Union.  
*It shall apply from ... \*.*

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*\* OJ: please insert date: one year after the entry into force of this Regulation.*

#### *Justification*

*This is identical to the provisions in the Waste Shipment Regulation. There is no reason to deviate from it. A fast entry into force ensures legal certainty. A transitional period of one year should be given for Member States, ship owners and ship recycling facilities until the new provisions actually apply.*

### **Amendment 113 Proposal for a regulation**

#### **Annex IV – subtitle 5 a (new)**

##### *Text proposed by the Commission*

##### *Amendment*

#### **UNANNOUNCED SURVEY CERTIFICATE**

*At an unannounced survey in accordance with Article 8 of the Regulation, the ship was found to comply with the relevant provisions of the Regulation.*

*Signed:..... (Signature  
of duly authorized official)*

*Place:*

.....  
.....

*Date*

*(dd/mm/yyyy):.....*

.....

*(Seal or stamp of the authority, as  
appropriate)*