2012/0055(COD)

20.11.2012

***I

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council on ship recycling
(COM(2012)0118 – C7-0082/2012 – 012/0055(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Carl Schlyter
Symbols for procedures

* Consultation procedure
*** Consent procedure
***I Ordinary legislative procedure (first reading)
***II Ordinary legislative procedure (second reading)
***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in bold italics. Highlighting in normal italics is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in bold. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].
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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council on ship recycling
(COM(2012)0118 – C7-0082/2012 – 2012/0055(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council
  (COM(2012)0118),

– having regard to Article 294(2) and Article 192(1) of the Treaty on the Functioning of the
  European Union, pursuant to which the Commission submitted the proposal to Parliament
  (C7-0082/2012),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to the opinion of the European Economic and Social Committee of 12 July
  2012

– having regard to the opinion of the Committee of the Regions of ...2

– having regard to Rule 55 of its Rules of Procedure,

– having regard to the report of the Committee on the Environment, Public Health and Food
  Safety (A7-0000/2012),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its
   proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council, the Commission and the
   national parliaments.

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1 OJ C 299, 4.10.2012, p. 158.
2 ...
Amendment 1
Proposal for a regulation
Title

Text proposed by the Commission  Amendment
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on ship recycling


Or. en

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.

Or. en

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 2

Text proposed by the Commission

(2) The mechanisms for controlling and enforcing the current legislation at international and European level are not adapted to the specificities of ships and international shipping and have proved to be ineffective in preventing unsafe and unsound ship recycling practices.

Amendment

(2) The mechanisms for controlling and enforcing the current legislation at international and Union level are not adapted to the specificities of ships and international shipping and have proved to be largely ineffective in preventing the export of ships, which constitute hazardous waste, to non-OECD countries and thus in preventing unsafe and unsound ship recycling practices.

Or. en

Justification

Editorial precision.

Amendment 4
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

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 U.S. Irrespective of the situation in the U.S. in that regard, there is significant potential capacity in certain Member States and OECD countries, which could nearly suffice for treating ships flying the
Convention. 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.

Or. en

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 5

Proposal for a regulation
Recital 3 a (new)

Text proposed by the Commission Amendment

(3 a) 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 EU 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 6

Proposal for a regulation
Recital 3 b (new)

<table>
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<td>(3 b) In view of the &quot;polluter pays&quot; 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 fee system should be established to generate resources that would contribute to making environmentally sound recycling and treatment of EU ships economically competitive. All ships calling at EU ports and anchorages should contribute to the costs of environmentally sound recycling and treatment of EU ships so as to reduce the economic incentive of EU ships to go to substandard operations. This should also provide a disincentive in relation to out-flagging, and create environmentally sound capacity for the recycling and treatment of ships for the benefit of all ships. Charges should be fair, non-discriminatory and transparent.</td>
<td></td>
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Justification

Self-explanatory
Amd. 7
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 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 Member States should ratify the Convention at the earliest opportunity in order to hasten its entry into force. The Convention covers the design, 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.

**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. 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 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.

Or. en

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 8

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 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.

Amendment

(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 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.
Justification

It should be made explicit that the requirements for ship recycling facilities need to go beyond those of the Hong Kong Convention, as the standards to be established by the Hong Kong Convention fall far short of Union standards (e.g. they would still allow that ships be taken apart on beaches).

Amendment 9

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\(^\text{18}\) respectively.

Amendment

(7) Ships not covered by the scope of the Hong Kong Convention, EU ships that are out of the scope of this Regulation, EU ships that do not comply with this Regulation and ships flying the flag of a third country (non-EU ships) 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\(^\text{18}\) respectively.

Justification

It should be clarified that the obligation to recycle ships in OECD countries only should continue to apply to all EU ships that are out of the scope of this Regulation, that do not comply with this new Regulation, as well as to all non-EU ships that become waste in the territory under the jurisdiction of a Member State.
Amendment 10

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

Amendment

(8) It is necessary to clarify the scope respectively of this Regulation, Regulation (EC) No 1013/2006 and Directive 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 11

Proposal for a regulation
Recital 11

Text proposed by the Commission

(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.

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 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 12
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 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.

Or. en

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 13
Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission

Objective

1. The purpose of this Regulation is to prevent, reduce or eliminate adverse effects on human health and the environment caused by the recycling, operation and maintenance of ships flying

Amendment

Objective

1. 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 human health and the environment caused
by the recycling and treatment of EU ships, and to improve the conditions for the recycling of non-EU ships.

Justification

Accidents, injuries and adverse effects can never be fully eliminated, but only to the extent possible.

While the objective of the regulation fully applies to EU ships, certain provisions would also improve the conditions for the recycling of non-EU ships.

It should also be clarified - in light of the definition for 'ship recycling' in this regulation that diverges from the standard definition of recycling, that the actual treatment of wastes resulting from the recycling of ships is also covered by the objective of this Regulation.

Amendment 14

Proposal for a regulation
Article 2 – paragraph 1 – point 1a (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 15

Proposal for a regulation
Article 2 – paragraph 1 – point 1b (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 16

Proposal for a regulation
Article 2 - paragraph 1 - point 3 a (new)

Text proposed by the Commission

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

Amendment

Or. en

Justification

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

Amendment 17

Proposal for a regulation
Article 2 – paragraph 1 –point 3 b (new)

Text proposed by the Commission

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

Amendment

Or. en

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 c (new)

Text proposed by the Commission

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

Amendment

Or. en

Justification

The definition of 'treatment' 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 d (new)

Text proposed by the Commission

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

Amendment

Or. en

Justification

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

Amendment 20

Proposal for a regulation
Article 2 – paragraph 1 – point 5

Text proposed by the Commission

5. ‘ship recycling’ means the activity of

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; 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 21

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 22

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 23

Proposal for a regulation
Article 3 – paragraph 1

Text proposed by the Commission

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

Amendment

1. This Regulation shall apply to EU ships. Article 5a, Article 11b and Article 23(1) of this Regulation shall also apply to non-EU ships calling at EU ports or anchorages.

Justification

According to the impact assessment, 37% of the world fleet belongs to EU owners. However, only 17% of the world fleet is flying EU flags. And at the end of life, only 8% fly EU flags. Limiting the scope of the regulation to ships flying EU flags only would be far too limited, and would be an open invitation to ship owners to circumvent it by reflagging ships shortly before the end of their lives. Therefore, key provisions (recycling levy, prohibitions and inventory of hazardous materials, inspections and certain penalties) should apply to all ships calling at EU ports, irrespective of flag.
Amendment 24
Proposal for a regulation
Article 3 – paragraph 2 – point c a (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;

Or. en

Justification

A ship that is not able to travel with its own means is clearly a waste and should therefore fall under the waste shipment regulation.

Amendment 25
Proposal for a regulation
Article 3 – paragraph 2 – point c b (new)

Text proposed by the Commission

Amendment

(cb) ships that do not comply with any of the applicable provisions under Union and international law with regard to safety and thus constitute waste.

Or. en

Justification

A ship that does not comply with relevant safety provisions should be considered waste and should therefore fall under the waste shipment regulation.

Amendment 26
Proposal for a regulation
Article 4 – title

Text proposed by the Commission

Amendment

Control of hazardous materials

Control of prohibited or restricted
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 27

Proposal for a regulation
Article 4 – paragraph 3

Text proposed by the Commission


Amendment


1 OJ L 396, 30.12.2006, p. 1

Justification

The original restriction of PFOS was adopted as Directive 2006/122/EC amending for the 30th time Council Directive 76/769/EEC relating to the restriction on the marketing and use of certain dangerous substances and preparations. The provisions of that Directive were taken over in Annex XVII of Regulation (EC) No 1907/2006 (REACH). It is thus appropriate...
to add a reference to REACH here, and not only refer to the later amendment of the Regulation on persistent organic pollutants.

Amendment 28
Proposal for a regulation
Article 4 – paragraph 3 a (new)

Text proposed by the Commission

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 Convention on the Control of Harmful Anti-fouling Systems shall be prohibited on ships.

Amendment

Or. en

Justification

The prohibition of TBT paints should also be listed.

Amendment 29
Proposal for a regulation
Article 4 – paragraph 4

Text proposed by the Commission

4. Member States shall take all of the following measures:

Amendment

4. Member States shall ensure that ships comply with the requirements set out in paragraphs 1 to 3a, without prejudice to the requirements of other Union legislation.

Or. en

Justification

This moves the provision from paragraph 4(c) here.
Amendment 30
Proposal for a regulation
Article 4 – paragraph 4 – point a

Text proposed by the Commission Amendment
(a) prohibit or restrict the installation or deleted
use of hazardous materials referred to in paragraphs 1 to 3 on ships entitled to fly its flag or operating under its authority;

Or. en

Justification
This is redundant, as already regulated in paragraphs 1 to 3a of this Article.

Amendment 31
Proposal for a regulation
Article 4 – paragraph 4 – point b

Text proposed by the Commission Amendment
(b) prohibit or restrict the installation or deleted
use of such materials on ships whilst in its ports, shipyards, ship repair yards or offshore terminals;

Or. en

Justification
As far as EU ships are concerned, this is covered by paragraphs 1 to 3a. As far as non-EU ships are concerned, this provision is moved to Article 11b which combines key provisions for non-EU ships.
Amendment 32
Proposal for a regulation
Article 4 – paragraph 4 – point c

Text proposed by the Commission
Amendment

(c) effectively ensure that ships comply deleted
with the requirements set out in points (a) and (b).

Or. en

Justification
This provision is covered by the modified paragraph 4.

Amendment 33
Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission
Amendment

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

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

Or. en

Justification
It is important to clarify that the inventory is not only kept on board, but actually kept available for any port state controls.

Amendment 34
Proposal for a regulation
Article 5 – paragraph 2

Text proposed by the Commission
Amendment

2. An inventory of hazardous materials shall be established before a ship goes for

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.

Or. en

Justification

The international shipping industry formally committed in 2009 to establish inventories for new and existing ships. Unfortunately, only very few owners adhered to that commitment. A proper inventory is a prerequisite for proper ship recycling. They should be established according to a staggered timetable (see following amendment).

Amendment 35

Proposal for a regulation

Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

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 ... ****.

* OJ: please insert date: one year after entry into force of this Regulation
** OJ: please insert date: two years after entry into force of this Regulation
*** OJ: please insert date: three years after entry into force of this Regulation
**** OJ: please insert date: four years

after entry into force of this Regulation

Or. en

Justification

A proper inventory can be done relatively quickly and at comparatively limited costs. As the establishment of inventories is overdue, they should be done as soon as possible. To spread the task, a staggered timetable is proposed as a function of the age of ships.

Amendment 36

Proposal for a regulation
Article 5 – paragraph 3

Text proposed by the Commission

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.

Amendment

deleted

Or. en

Justification

This clause is obsolete in light of the proposed provisions of Article 11b that would make an inventory compulsory for all ships calling at an EU port or anchorage.

Amendment 37

Proposal for a regulation
Article 5 – paragraph 4 – point c

Text proposed by the Commission

(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.

Amendment

(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.

Or. en
Justification
The requirements should be differentiated between new ships and existing ships. For new ships, the quantities in the inventory should be precise. There is no reason as to why they should only be approximate.

Amendment 38
Proposal for a regulation
Article 5 – paragraph 4 – point c a (new)

Text proposed by the Commission

Amendment

(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.

Or. en

Justification
The requirements should be differentiated between new ships and existing ships. For existing ships, the quantities in the inventory should be as precise as practicable.

Amendment 39
Proposal for a regulation
Article 5 – paragraph 5

Text proposed by the Commission

Amendment

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.

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.

Or. en

Justification
Linguistic correction.
Amendment 40

Proposal for a regulation
Article 5 – paragraph 6 – point a

Text proposed by the Commission

(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);

Amendment

(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;

Justification

As paragraph 4 foresees different requirements on the quantities for new ships as compared to existing ships, cross-reference should be made.

Amendment 41

Proposal for a regulation
Article 5 – paragraph 6 – point b

Text proposed by the Commission

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

Amendment

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

Justification

To be meaningful, the inventory should not only list the type of waste, but also its quantities. Contrary to Part I, it would be acceptable for Part II if the quantities were only approximate.
Amendment 42
Proposal for a regulation
Article 5 – paragraph 6 – point c

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

Amendment
(c) a list of the stores present on board the ship and their approximate quantities (Part III).

Justification
To be meaningful, the inventory should not only list the type of stores present on board the ship, but also its quantities. Contrary to Part I, it would be acceptable for Part III if the quantities were only approximate.

Part III is anyway only due when the ship is meant to be recycled, see paragraph 8, so no need to refer to 'once the decision to recycle has been taken'.

Amendment 43
Proposal for a regulation
Article 5 – paragraph 9

Text proposed by the Commission
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.

Amendment
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 of the use or installation of hazardous materials.

Or. en
Justification

Annex I should obviously be updated in case more substances are added to the inventory pursuant to the Hong Kong Convention. Moreover, as the Commission proposal already contains further substances for the inventory than currently foreseen under the Hong Kong Convention due to EU restrictions (PFOS) or phase-outs in the context of REACH (HBCDD), the Commission should also take account of other relevant phase-outs or restrictions when updating the list of items for the inventory of hazardous materials.

Amendment 44

Proposal for a regulation
Article 5 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financing the environmentally sound recycling and treatment of ships</td>
<td></td>
</tr>
</tbody>
</table>

1. Member States shall ensure that ports collect an additional recycling levy from EU ships and non-EU ships calling at a port or anchorage within their territory from ...*.

2. The recycling levy shall be set at €0,03 per gross tonne.

For ships such as ferries that regularly and frequently call at the same port, Member States shall ensure that ports apply the same reductions for the recycling levy as they apply for the general port fee.

3. Member States shall recover the recycling levy from port administrations, preferably as part of their general system for collecting taxes and other charges from port administrations, and transfer it entirely to a Recycling Fund set up by the European Commission no later than two months after recovery of the recycling levy. The Recycling Fund shall be managed in a risk-averse manner, and apart from the costs for its administration, shall be entirely used to disburse the premiums referred to in paragraph 4.

4. The objective of the Recycling Fund is
to contribute to making ship recycling which complies with this Regulation economically viable. The Recycling Fund shall provide a premium for ship recycling facilities on the European list for the recycling of EU ships that have been flying the flag of a Member State for at least two years prior to the approval of the ship recycling plan. Recycling facilities may apply to the premium in relation to contracts signed after ...**.

5. The premium shall be set at a minimum of €30 per light displacement tonne. The premium shall be payable by the Recycling Fund within two months of receiving the report of completion of the ship recycling 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).

6. Every year, the Commission shall publicly report on the income of the Recycling Fund, the recipients of the premiums disbursed and the amounts of those premiums.

7. The Commission shall be empowered to adopt delegated acts in accordance with Article 26 to adapt the level of the recycling levy where necessary to achieve the objective of the Recycling Fund.

8. The Commission shall assess no later than ...*** the benefits and costs of differentiating the recycling fee 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.
* OJ please insert the date: 1 January of the year that follows one year after entry into force of this Regulation

** OJ please insert the date: 1 January of the second year that follows one year after entry into force of this Regulation

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

(This is a first proposal for an economic instrument. It should not be seen as the perfect formula, but as a working proposal subject to further refinement. The figures are based on a Commission study from 2009 that can be found on


Assuming a total of 4 bn GT per year calling at EU ports, the levy would collect a total of 120 mio €/year. This would allow paying a premium of a maximum of 75€ per LDT for an average of 1.6 mio LDT of EU ships to be sent to recycling every year, assuming that the management costs of the fund can be financed by the interest from the amount gathered in the feed

Or. en

Justification

An economic instrument is needed to counterbalance the current perverse incentive for the last ship owner to go to the lowest standards as well as the possibility of reflagging to escape this Regulation, and to finance environmentally sound ship recycling. A fee should be paid by all ships using EU ports based on their tonnage. The fees would go to a fund, which gives a premium to ship recycling facilities that comply with the provisions of this regulation when recycling ships to make them competitive. A premium is only paid for the recycling of ships that fly an EU flag since at least two years.
Amendment 45

Proposal for a regulation
Article 6 – title

Text proposed by the Commission

Amendment

Preparation for recycling: general
requirements

General requirements for ship owners

Or. en

Justification

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

Amendment 46

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 ...

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

Or. en

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 47

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);

Or. en

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 48

Proposal for a regulation
Article 7 – paragraph 2 – point a a (new)

Text proposed by the Commission
(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);

Amendment

Or. en

Justification
After publication of the European list, only facilities on the European list should be allowed to provide the ship recycling plan.
Amendment 49
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 these hazardous materials and that waste will be treated in the facility as well as in subsequent waste treatment facilities;

**Or. en**

**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 50
Proposal for a regulation
Article 7 – paragraph 2 – point e a (new)

**Text proposed by the Commission**
(ea) be updated within six months of a renewal survey or an additional survey.

**Amendment**

**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 51
Proposal for a regulation
Article 7 – paragraph 2 a (new)

Text proposed by the Commission

2a. The ship recycling plan, as well as any updates thereof, shall be kept available on board. When the ship owner intends to send a ship for recycling, the ship owner shall send the final ship recycling plan to the competent authority of the flag State two months prior to the planned start of the recycling, and at the same time notify the port state authority of the intention to send the ship for recycling. The competent authority of the flag State shall notify the competent authority of the ship recycling facility of the intention of the ship owner.

Or. en

Justification

The competent authority should be informed in time of the final ship recycling plan for explicit approval.

Amendment 52
Proposal for a regulation
Article 7 – paragraph 2 b (new)

Text proposed by the Commission

2b. The competent authority shall decide on the approval of the final ship recycling plan within one month. When the competent authority refuses to grant approval, it shall provide the ship owner with a justification. The ship owner shall have one month following the refusal by the competent authority to bring the ship recycling plan into compliance with this Regulation. If the ship owner fails to bring the ship recycling plan into compliance, the planned ship recycling
shall be treated as export of hazardous waste pursuant to Regulation (EC) No 1013/2006.

Justification

There should be an explicit approval of the ship recycling plan.

Amendment 53

Proposal for a regulation
Article 7 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. 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 EU 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 54

Proposal for a regulation
Article 8 – paragraph 5

Text proposed by the Commission

Amendment

5. The additional survey, either general or partial, may be conducted at the request of the shipowner after a change, replacement, or

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

Or. en

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 55

Proposal for a regulation
Article 8 – paragraph 6 – subparagraph 2 – point a a (new)

Text proposed by the Commission

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

Amendment

Or. en

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 56

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.

Or. en

Justification

The correct reference needs to be given.

Amendment 57

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 three 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. en

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.
Amendment 58
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;

Or. en

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 59
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);

Or. en

Justification
To achieve coherence with the requirement for explicit approval of the ship recycling plan.
Amendment 60

Proposal for a regulation
Article 9 – paragraph 3 – point c

Text proposed by the Commission
(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;

Amendment
(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;

Or. en

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 61

Proposal for a regulation
Article 9 – paragraph 3 – point c a (new)

Text proposed by the Commission
(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.

Amendment

Or. en
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 62

Proposal for a regulation
Article 9 – paragraph 4 – point a

Text proposed by the Commission

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

Amendment

(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;

Or. en

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 63

Proposal for a regulation
Article 9 – paragraph 4 – point a a (new)

Text proposed by the Commission

(aa) to ensure that the ship recycling plan is approved by the competent authority in accordance with national requirements prior to the planned start of the ship recycling;

Amendment

(aa) to ensure that the ship recycling plan is approved by the competent authority in accordance with national requirements prior to the planned start of the ship recycling;

Or. en

Justification

The ship recycling plan also needs to be approved by the competent authority of the country.
where the ship recycling facility is located.

Amendment 64

Proposal for a regulation
Article 9 – paragraph 4 – point b

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b) to report the planned start of ship recycling to the shipowner in accordance with the form laid down in Annex II;</td>
<td>(b) to report to the ship owner when the ship recycling facility is ready in every respect to start the recycling of the ship in accordance with the form laid down in Annex II;</td>
</tr>
</tbody>
</table>

Or. en

Justification

Use of wording in line with the wording in Annex II.

Amendment 65

Proposal for a regulation
Article 9 – paragraph 4 – point c

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(c) to prohibit the start of any recycling of the ship prior to submission of the report referred to in point (b);</td>
<td>(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;</td>
</tr>
</tbody>
</table>

Or. en

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 66

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 two months prior to the planned start of the recycling the relevant competent authorities of the intention to recycle the ship concerned:

Or. en

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 67

Proposal for a regulation
Article 9 – paragraph 4 a (new)

Text proposed by the Commission
4a. The ship owner shall provide a copy of the contract to the competent authority.

Amendment

Or. en

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 68

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 69

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
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 70
Proposal for a regulation
Article 11a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 11a</td>
<td></td>
</tr>
<tr>
<td>Inspections</td>
<td></td>
</tr>
<tr>
<td>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:</td>
<td></td>
</tr>
<tr>
<td>– 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</td>
<td></td>
</tr>
<tr>
<td>– there is no procedure implemented on board the ship for the maintenance of the inventory of hazardous materials,</td>
<td></td>
</tr>
<tr>
<td>a more detailed inspection shall be carried out.</td>
<td></td>
</tr>
</tbody>
</table>

Justification

There need to be clear procedures when a port inspection reveals that the ship does not
comply with the prohibitions of hazardous substances (Art. 4), does not have a valid inventory (Art. 5), does not have a ship recycling plan when older than 20 years, or when there are clear grounds for believing that there is non-compliance. The provisions are inspired by Article 8(2) of the Hong Kong Convention (HKC). In line with Article 13(3) of the Directive 2009/16/EC on Port State Controls, a detailed inspection should be mandatory in such cases, and not just optional as foreseen under the HKC.

Amendment 71

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

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 according to 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 certificate 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. 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,

a more detailed inspection shall be carried out.

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.


Or. en

Justification

This new Article pulls together all requirements for non-EU ships calling at EU ports in addition to the recycling levy in Art. 5a. Member States should ensure also for these ships that the prohibitions of certain hazardous materials are respected and that they have an inventory on board. Non-EU ships that used to be EU ships until a certain age should also have a recycling plan. The Port State Control Directive applies to all ships irrespective of flag, so the provisions on inspections for non-EU ships should mirror those for EU ships (see Art.
Amendment 72

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

Text proposed by the Commission

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

Amendment

Or. en

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 73

Proposal for a regulation
Article 12 – subparagraph 2 – point a b (new)

Text proposed by the Commission

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

Amendment

Or. en

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 74

Proposal for a regulation
Article 12 – subparagraph 2 – point b

Text proposed by the Commission

(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;

Amendment

(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 75

Proposal for a regulation
Article 12 – subparagraph 2 – point d

Text proposed by the Commission

(d) develop and approve a ship recycling facility plan;

Amendment

(d) develop and adopt a ship recycling facility plan;

Justification

Linguistic correction - approval is a task for competent authorities. A ship recycling facility adopts a ship recycling facility plan.
Amendment 76
Proposal for a regulation
Article 12 – subparagraph 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;

Or. en

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 77
Proposal for a regulation
Article 12 – subparagraph 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;

Or. en

Justification
Clarification that drainage systems must still contain all hazardous materials and waste.
Amendment 78
Proposal for a regulation
Article 12 – subparagraph 2 – point m a (new)

**Text proposed by the Commission**

(1) 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;

**Amendment**

Or. en

**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 79
Proposal for a regulation
Article 13 – subparagraph 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;

Or. en

**Justification**

Applicable conditions should also be identified, as this is not necessarily covered by 'limitations'.
Amendment 80

Proposal for a regulation
Article 13 – subparagraph 2 – point 3 a (new)

Text proposed by the Commission

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

Amendment

Or. en

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 81

Proposal for a regulation
Article 13 – subparagraph 2 – point 4 a (new)

Text proposed by the Commission

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

Amendment

Or. en

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 82

**Proposal for a regulation**  
**Article 13 – subparagraph 2 – point 5 – point b – introductory part**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b) which waste <em>management</em> 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:</td>
<td>(b) which waste <em>treatment</em> 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:</td>
</tr>
</tbody>
</table>

**Justification**

The terminology used should be consistent.

### Amendment 83

**Proposal for a regulation**  
**Article 13 – subparagraph 2 – point 5 – point c – introductory part**

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(c) which waste <em>management</em> process will be applied if the hazardous materials <em>is</em> destined for a subsequent waste treatment facility outside the ship recycling facility. The following information shall be provided regarding each subsequent waste treatment facility:</td>
<td>(c) which waste <em>treatment</em> process will be applied if the hazardous materials <em>are</em> destined for a subsequent waste treatment facility outside the ship recycling facility. The following information shall be provided regarding each subsequent waste treatment facility:</td>
</tr>
</tbody>
</table>

**Justification**

The terminology used should be consistent.
Amendment 84
Proposal for a regulation
Article 13 – subparagraph 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 85
Proposal for a regulation
Article 13 – subparagraph 2 – point 5 – point c a (new)

Text proposed by the Commission
(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;

Amendment

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 86
Proposal for a regulation
Article 13 – subparagraph 2 – point 5 a (new)

Text proposed by the Commission

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;

Amendment

Or. en

Justification

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

Amendment 87
Proposal for a regulation
Article 13 – subparagraph 2 – point 5 b (new)

Text proposed by the Commission

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

Amendment

Or. en

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 88
Proposal for a regulation
Article 14

Text proposed by the Commission

Authorization of ship recycling facilities located in a Member State

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.

2. Member States shall establish and update a list of the ship recycling facilities that they have authorised in accordance with paragraph 1.

3. The list referred to in paragraph 2 shall be notified to the Commission without delay and not later than one year from the date of the entry into force of this Regulation.

4. Where a ship recycling facility ceases to comply with the requirements set out in Article 12, the Member State shall withdraw the authorization given to the ship recycling facility concerned and shall inform the Commission thereof without delay.

5. Where a new ship recycling facility has been authorized in accordance with paragraph 1, the Member State shall inform the Commission thereof without delay.

Amendment

deleted

Or. en

Justification

Ship recycling facilities located in a Member State should also apply to the Commission for inclusion in the European List so as to ensure a harmonised approach. The whole article
should therefore be deleted.

Amendment 89

Proposal for a regulation
Article 15 – title

Text proposed by the Commission

Shipment recycling facilities located outside of the Union

Amendment

Inclusion of a ship recycling facility in the European List

Or. en

Justification

Consequential amendment to the deletion of Article 14. All companies wishing to include a specific ship recycling facility in the European list, not just those located outside the Union, should submit an application to the Commission so as to ensure a harmonised approach.

Amendment 90

Proposal for a regulation
Article 15 – paragraph 6

Text proposed by the Commission

6. A recycling company located outside the Union wishing to recycle ships flying the flag of a Member State shall submit an application to the Commission for inclusion of its ship recycling facility in the European List.

Amendment

1. A recycling company owning a ship recycling facility and wishing to recycle EU ships that fall within the scope of this Regulation shall submit an application to the Commission for inclusion of its ship recycling facility in the European List.

Or. en

Justification

Correction of erroneous numbering in the Commission proposal.

Consequential amendment to the deletion of Article 14. All companies wishing to include a specific ship recycling facility in the European list, also those in the Union should submit an application to the Commission so as to ensure a harmonised approach.
Amendment 91
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.

Or. en

Justification

Correction of erroneous numbering in the Commission proposal.

Amendment 92
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. The summary findings of the inspection shall be made permanently available to the public, including in an electronic format.

Or. en

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 93

Proposal for a regulation
Article 15 – paragraph 9

Text proposed by the Commission

9. Based on an assessment of the information and supporting evidence provided in accordance with paragraph 2, the Commission shall decide by means of an implementing act whether to include a ship recycling facility located outside of the Union in the European list. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27.

Amendment

4. Based on an assessment of the information and supporting evidence provided in accordance with paragraph 2, the Commission shall decide by means of an implementing act whether to include a ship recycling facility located in a Member State or outside of the Union in the European list. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27.

Or. en

Justification

Correction of erroneous numbering in the Commission proposal (see also correct reference in Article 16 (3a)(ii)).

Consequential amendment to the deletion of Article 14. There should only be an EU
procedure for the listing of ship recycling facilities, irrespective of their location.

Amendment 94

Proposal for a regulation
Article 16 – paragraph 2

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
</table>
| 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. | 2. The European list shall be published in the Official Journal of the European Union and on the website of twenty-four the Commission at the latest months after ... *.

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

Or. en

Justification

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

Amendment 95

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

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
</table>
| 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. | |

Or. en
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 96

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

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
<td></td>
</tr>
</tbody>
</table>

Or. en

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 97

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

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2c. In the event of any significant changes to the information provided to the Commission, ship recycling companies on 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</td>
<td></td>
</tr>
</tbody>
</table>

(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.

Or. en

Justification

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

Amendment 98

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);

Or. en

Justification

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

Amendment 99

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

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
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 100

Proposal for a regulation
Article 21 – paragraph 1 – point a

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 101
Proposal for a regulation
Article 21 – paragraph 1 – point b a (new)

Text proposed by the Commission
(ba) transmit to the competent authority the final ship recycling plan at least two months prior to the planned start of the recycling, and at the same time notify the port state authority of the intention to start recycling, as required by point (a) of Article 7(2).

Amendment

Justification
This mirrors the new requirement introduced by amendment 51. The competent authority should be informed of the final ship recycling plan two months before the planned start of recycling to have enough time for explicit approval. The relevant port state authority should be notified at the same time.

Amendment 102
Proposal for a regulation
Article 22 – paragraph 1 – point c

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

Amendment
(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 103
Proposal for a regulation
Article 22 – paragraph 2

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

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

Or. en

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

Amendment 104
Proposal for a regulation
Article 22 – paragraph 3 a (new)

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

Amendment

Or. en

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 105
Proposal for a regulation
Article 23 – paragraph 1 – introductory paragraph

Text proposed by the Commission
1. Member States shall ensure that

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

effective, proportionate and dissuasive penalties are applicable to the owners of EU ships and non-EU ships that:

Justification

Penalties cannot be applied to ships as such, but only to the ship owners. Effective penalties should apply for both EU and non-EU ships when they do not have certain key documents available (see the specific infringements listed under amendments 106 to 108).

Offences leading to illegal shipment of ships for recycling should be dealt with separately by criminal offences (see amendment 110).

Amendment 106

Proposal for a regulation

Article 23 – paragraph 1 – point a (new)

Text proposed by the Commission

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

Amendment

Text proposed by the Commission

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

Justification

Penalties should be applicable to ship owners whose ships do not comply with the prohibitions of hazardous materials.

Amendment 107

Proposal for a regulation

Article 23 – paragraph 1 – point d

Text proposed by the Commission

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

Amendment

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

Justification

Penalties should be applicable to ship owners whose ships do not comply with the prohibitions of hazardous materials.
Justification

This is a small precision of the Commission proposal to specify that it is not enough to have an inventory, but that the inventory needs to be valid, all the more that it needs to be properly maintained and updated throughout the operational life of a ship.

Amendment 35 introduced a timetable for the obligation to keep available an inventory. As a consequence, amendment 117 deletes the transitional provisions in Article 28, so this reference becomes obsolete. Instead, a reference should be made to Article 11b, as these penalties should also apply to non-EU ships.

Amendment 108

Proposal for a regulation
Article 23 – paragraph 1 – point c (new)

Text proposed by the Commission: (c) do not have on board a ship a recycling plan pursuant to Article 7 and Article 11b;

Or. en

Justification

Penalties should be applicable to ship owners who do not have on board a ship recycling plan.

Amendment 109

Proposal for a regulation
Article 23 – paragraph 1 – points (e) - (i)

Text proposed by the Commission: (e) were sent for recycling without complying with the general requirements for the preparation set out in Article 6; (f) were sent for recycling without an inventory certificate required by Article 6; (g) were sent for recycling without a ready for recycling certificate required by Article 6;

Amendment: deleted
(h) were sent for recycling without a 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.

(proposed by amendment 110)

Justification

Provisions concerning criminal offences to be dealt with separately in the subsequent paragraph (see amendment 110).

Amendment 110

Proposal for a regulation
Article 23 – paragraph 1 a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>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 law1 are applicable to the owners of EU ships that:</td>
<td></td>
</tr>
<tr>
<td>(a) were sent for recycling without complying with the general requirements pursuant to Article 6 of this Regulation;</td>
<td></td>
</tr>
<tr>
<td>(b) were sent for recycling without an inventory certificate pursuant to Article 10(1) of this Regulation;</td>
<td></td>
</tr>
<tr>
<td>(c) were sent for recycling without a contract pursuant to Article 9 of this Regulation;</td>
<td></td>
</tr>
<tr>
<td>(d) were sent for recycling without a notification to the administration in writing pursuant to Article 21 of this Regulation;</td>
<td></td>
</tr>
</tbody>
</table>
(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.

1 OJ L 328, 6.12.2008, p. 28

(reintroduction of the following points of the Commission proposal:
point (e) becomes new point (a) with a modification;
point (f) becomes new point (b) with a modification;
point (g) is deleted, as it is covered by point (a) as modified;
point (h) becomes point (d) without any modification;
point (i) becomes point (e) with a modification)

Justification

According to Article 3 of Directive 2008/99/EC, illegal waste shipments committed intentionally constitute a criminal offence. When an EU ship is sent to non-OECD countries prior to the publication of the European list, to a facility not on the European list after its publication, without the crucial documents that are necessary to ensure compliance with this Regulation, or without approval of the ship recycling plan, the shipment is clearly illegal. Such shipments constitute a criminal offence, and thus the penalties under Directive 2008/99/EC should apply.

Amendment 111

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 twice the price paid to the ship owner for its ship.
Justification

The provision that penalties shall be effective, proportionate and dissuasive is already covered by the reference to Directive 2008/99/EC in paragraph 1a. Losing only the price that was paid for the ship is not sufficiently effective, proportionate and dissuasive. The penalty should be at least twice the price paid.

Amendment 112

Proposal for a regulation
Article 23 – paragraph 5

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.

Amendment

5. Where an EU ship is sold and, within no more than two years of the sale, 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 two year period if the ship is no longer flying the flag of a Member State.

Or. en

Justification

The Commission's proposal would only apply penalties for ship owners that have out-flagged in the last six months. This period should be extended to two years to be effective, otherwise there would be a major incentive to flag out six months before the sale. As the ship might undergo several sales in the last months, the penalty should apply to the last owner flying an EU flag, rather than the penultimate owner.

Amendment 113

Proposal for a regulation
Article 23 – paragraph 6

Text proposed by the Commission

6. Exemptions to the penalties mentioned

Amendment

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.

in paragraph 5 may only be introduced by Member States in the event that a ship suffers an accident due to force majeure which results in it becoming waste pursuant to Directive 2008/98/EC.

Or. en

Justification

This exemption provides a loophole that is already being used to circumvent the Waste Shipment Regulation. In the past, ship owners have provided false contracts claiming that further commercial use was intended, when the ships were in fact meant to be dismantled. The only justification for an exemption from the penalties would be if a ship became a waste by force majeure.

Amendment 114

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.

Or. en

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 115

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.

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

Or. en

Justification

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

Amendment 116

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 of entry into force of this Regulation.

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 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.

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

Or. en
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 117

Proposal for a regulation
Article 28

Text proposed by the Commission

Amendment

Transitional provision deleted

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.

2. Member States may, prior to the publication of the European list, authorise the recycling of ships in facilities located outside the Union subject to the verification that the ship recycling facility complies with the requirements set out in Article 12 based on the information provided by the shipowner, the ship recycling facilities or acquired by other means.

Justification

There is no need for a transitional provision. The timelines applicable are covered by the amendment to Article 5. Member States should not be allowed to authorise the recycling of ships in facilities outside the Union, as this might lead to very divergent authorisations.

Amendment 118

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 control¹, 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]*'

¹ OJ L 131, 28.5.2009, p. 57
* OJ L […], […], p. […]'

Justification

The most elegant way to ensure that all ships calling at an EU 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 119

Proposal for a regulation
Article 29 – paragraph 1
Regulation (EC) No 1013/2006
Article 1 – paragraph 3 – point i (new)

Text proposed by the Commission

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

Amendment

'(i) EU Ships falling under the scope of, and complying with the provisions of Regulation (EU) No XX [insert full title of this Regulation].'

Or. en
Justification

It is not enough for an EU ship to fall under the scope of the new Regulation to be exempted from the waste shipment regulation. EU ships also have to effectively comply with the provisions of the new Regulation to be exempted from waste shipment rules.

Amendment 120
Proposal for a regulation
Article 30 – paragraph 1

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 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.

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 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 121
Proposal for a regulation
Article 31 – subparagraph 1

Text proposed by the Commission

This Regulation shall enter into force on the 365th 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 ...*.
* OJ please insert date one year after entry into force of this Regulation.

Or. en

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 122

Proposal for a regulation
Annex 1 – point 2 a (new)

Text proposed by the Commission

Amendment

2a. Ozone-depleting:

HCFCs

Or. en

Justification

Hydrochlorofluorocarbons (HCFCs) are a class of ozone-depleting chemicals used to replace CFCs. Although their ozone-depleting potential is less than that of CFCs, their global warming potential is quite high. Developed countries are already reducing their consumption of HCFCs to meet their phase-out obligations under the Montreal Protocol and its adjustments and amendments, which call for a 90% reduction from baseline by 2015\(^*\). HCFCs should therefore also be included in the inventory to facilitate proper treatment.

Amendment 123

Proposal for a regulation
Annex 1 – point 15 a (new)

Text proposed by the Commission

Polyvinylchloride (PVC)

Amendment

Or. en

Justification

According to the Commission staff working document accompanying the Green Paper on better ship dismantling of 22 May 2007, when excluding oil sludges, oils and paints, PVC makes up more than 50% of the remaining hazardous materials from end of life ships. There are manifold problems with the treatment of PVC waste, especially when incinerated (e.g. dioxin formation, generation of an equivalent or even higher amount of secondary hazardous wastes with high bioavailability of the hazardous materials therein). PVC should thus be added to the inventory.
EXPLANATORY STATEMENT

"Considers it ethically unacceptable to permit the humanly degrading and environmentally destructive conditions involved in the dismantling of ships to continue any longer, ...

European Parliament resolution of 21 May 2008 on the Green Paper on better ship dismantling

1. The Background

According to the EU Waste Shipment Regulation, the export of hazardous waste from the EU to non-OECD countries is prohibited since 1998. This prohibition implements at European level the so-called "Ban Amendment" to the Basel Convention (BC) on the control of transboundary movements of hazardous wastes and their disposal.

Due the manifold hazardous materials on board of a ship, any ship going from the EU for dismantling constitutes hazardous waste - and can thus currently only be dismantled legally within the OECD. However, this legislation is almost systematically circumvented. According to the impact assessment of the Commission, "in 2009, more than 90% of EU-flagged ships were indeed dismantled outside the OECD, mostly in South Asia (India, Pakistan and Bangladesh) through the so-called 'beaching' method and with significant environmental and health impacts".

What is beaching? Ships are driven as close as possible to a beach during high tide, and normally get stranded on the mudflats near the beach in the intertidal area. They are cut apart vertically into very big parts with no other help than that of blow torches and gravity - parts then crashing onto the mudflats. Workers are put at great risk, both acute and chronic, proper containment of hazardous materials is impossible, and the part of hazardous materials that is taken out separately is not treated adequately.

What we see is capitalism in its crudest form: Most of the last ship owners try to maximise profits by selling their ship to sites with little to no standards of worker and environment protection, thus able to offer the highest price. We are faced with a clear market failure due to an "extreme externalisation of costs"2, at the expense of worker's health and the environment.

For ships scrapped/to be scrapped between 2006 and 2015, "an estimated 5.5 million tonnes of materials of potential environmental concern will end up in dismantling yards (in particular oil sludge, oils, paints, PVC and asbestos)"3.

The Commission gives three reasons for this near-total non-compliance:

- lack of recycling capacity in the OECD, in particular for the largest ships,
- fierce and unfair competition between recyclers in the major recycling states Bangladesh, India and Pakistan with competitors with higher technical standards (EU, Turkey, China),
- current legislation not adapted to the specificities of ships: difficult to identify when ships turn into waste; ships can escape legal obligations by out-flagging.

Global ship scrapping increased by a factor of six from 2007 to 2009 (from 4.2 mio GT to 24.9 mio GT), fueled by the accelerated phase-out of single hull tankers, the economic crisis and a major overcapacity (the global fleet has almost doubled in the last 10 years: from 574 mio GT in 2001 to 1043 mio GT in 2011)\(^1\). And it is set to increase further, not only due to the market situation (overcapacity and low demand for freight), but also due to the upcoming entry into force of the Water Ballast Convention of the IMO. In the current situation, instead of investing into expensive retro-fitting of their ships required under that Convention, many ship owners might well decide to scrap their ships instead.

2. The Hong Kong Convention

To improve the situation a specific Convention has been developed by the IMO. The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships was adopted in 2009 but will need to be ratified by the major flag and recycling states in order to enter into force and start producing effects. It is expected that the Convention will not enter into force before 2020.

At international level, a major controversy persists as to the equivalence of the Hong Kong Convention (HKC) with the Basel Convention (BC). While the Commission considers them to be equivalent\(^2\) - key reason for its proposal to exempt ships that fall under the new regulation from the Waste Shipment Regulation - other parties to the BC do not agree\(^3\).

Comparison between the two Conventions - one being in force, the other being years away from it - is a complex matter. However, it is clear that they differ in at least:

- scope: HKC includes use phase of a ship, but contrary to BC does not include the actual waste treatment downstream of the dismantling yard,
- standards: HKC does not rule out beaching, whereas the guidelines of BC do not accept beaching as an acceptable dismantling method,
- enforcement: HKC foresees the possibility of inspections of ships, but not of recycling yards, and only foresees normal sanctions, while BC would require authorisation of recycling yards and considers illegal traffic in hazardous waste a criminal offence.

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\(^1\) Personal communication by Nikos Mikelis, IMO, based on IHS Fairplay data
\(^2\) Communication COM(2010)88 final
3. The Commission proposal

According to the Commission, the objective of the proposed Ship Recycling Regulation is to reduce significantly the negative impacts linked to the recycling of EU-flagged ships, especially in South Asia without creating unnecessary economic burdens.

The scope of the Commission proposal is limited to EU-flagged ships. It proposes to set up a European list of recycling facilities anywhere in the world, if they comply with certain standards (somewhat above the provisions of the HKC, e.g. hazardous materials to be handled on impermeable floors, downstream waste treatment facilities to operate in accordance with EU standards for the protection of human health and the environment), but without mandatory controls. EU flagged ships would no longer fall under the Waste Shipment Regulation, but be allowed to go to listed facilities for dismantling. Member States would have to establish penalties, and NGOs can request enforcement action, including access to a court.

4. Reaction from key stakeholders

The European Community Ship owners' Associations (ECSA) welcomes the Commission proposal, but believes "that it would not be conducive to include elements going beyond the IMO requirements as this will cause confusion and thus adversely affect the efforts undertaken for improving ship recycling practices and conditions."\(^1\)

The NGO Shipbreaking Platform strongly criticizes the Commission proposal as it "could effectively legalize the export of end-of-life ships containing hazardous wastes from the EU to developing countries" and calls for dismantling all EU-flagged and EU-owned ships in OECD countries\(^2\).

5. Resolutions by the European Parliament from 2008 and 2009

The European Parliament adopted two resolutions on ship dismantling - one in response to the Commission's Green Paper in 2008\(^3\), one in response to the Commission's strategy in 2009\(^4\).

In both resolutions, Parliament took a clear stance, calling for full implementation of the export ban of hazardous waste also for waste ships, an explicit prohibition of beaching, an inventory of hazardous materials for all ships calling at EU ports, as well as a fund based on mandatory contributions from the shipping industry to ensure environmentally sound recycling.

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\(^3\) see footnote 1

6. Key proposals by the rapporteur

Your rapporteur initially envisaged extending the scope of the Regulation to all EU owned ships, but had to look for other solutions to strengthen the Commission proposal in light of the opinion by the Legal Service that the nationality of the ship owner may not be relied upon as a criterion for the scope of the Regulation.

Your rapporteur suggests introducing the following key modifications to the Commission proposal:

a) a financial mechanism to finance environmentally sound ship recycling,

b) an inventory of hazardous materials for all ships calling at EU ports,

c) a ship recycling plan for all EU ships going for recycling or older than 20 years, to be approved by the competent authorities,

d) more explicit requirements on ship recycling facilities, not least to exclude beaching, as well as auditing and regular inspection of these facilities,

ad e) criminal sanctions for certain violations.

ad a) The root-cause of the problem is the current perverse incentive for ship owners to go to the sites with the lowest standards, as they pay the highest price. A finance mechanism should be introduced to finance environmentally sound ship recycling. A fee should be paid by all ships using EU ports based on their tonnage. The fees would go to a fund, which would give a premium for the actual recycling by ship recycling facilities that comply with the provisions of this regulation to make them competitive. A premium would only be paid for the recycling of ships that fly an EU flag since at least two years. This would increase the value of EU ships - listed facilities could offer a higher price to the last ship owner and as such act as a disincentive for ship owners to flag out, while ensuring at the same time that last minute flagging in is not rewarded.

ad b) A proper inventory is a key pre-requisite for proper ship recycling. The shipping industry formally committed in 2009 to establish inventories for new and existing ships\(^1\). Unfortunately, only few owners adhered to that commitment. All ship owners calling at EU ports should establish an inventory. This will greatly accelerate a key provision in the HKC.

ad c) A ship recycling plan established on the basis of a correct inventory is another prerequisite for proper ship recycling. The average age of a ship sent for recycling has varied between 26 in the 90s 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. Such a plan should be approved by the competent authorities.

ad d) Several supplementary provisions should be established to ensure that recycling and waste treatment occur in an environmentally sound manner (permanent and built structures with sufficient cranes available to clarify that sites using the beaching method would not

qualify for the European list; identification of all relevant sub-contractors; a traceability system for the hazardous materials removed from the ships; adequate insurance cover; monitoring of pollution).

ad e) Directive 2008/99/EC on the protection of the environment through criminal law establishes criminal penalties for illegal waste shipments. Such penalties should also be applicable for violations of this Regulation that could lead to unsound recycling.