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*****I**

REPORT

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))

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 2012¹,
- after consulting the Committee of the Regions,
- 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 (A7-0132/2013),

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.

¹ OJ C 299, 4.10.2012, p. 158.

Amendment 1

Proposal for a regulation Title

Text proposed by the Commission

REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

on ship recycling

Amendment

REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL

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

Justification

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

Amendment 2

Proposal for a regulation Recital 1 a (new)

Text proposed by the Commission

Amendment

***(1a) The predominant method of
dismantling ships through the so-called
'beaching' method does not and cannot
represent safe and sound recycling and
should therefore no longer be tolerated.***

Justification

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

Amendment 3

Proposal for a regulation Recital 3

Text proposed by the Commission

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

Amendment

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

Justification

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

Amendment 4

Proposal for a regulation Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) The current situation of ship recycling is characterised by an extreme externalisation of the costs. Ship recycling facilities with little or inexistent standards for the protection of workers, human

health and the environment offer the highest price for waste ships. As a result, the large majority of the global ship fleet sent for recycling is taken apart on the beaches of certain countries under humanly degrading and environmentally destructive conditions that are unacceptable. It is appropriate to create a financial mechanism, applicable to all ships calling at 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 5

Proposal for a regulation Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) In view of the "polluter pays" principle, the costs of environmentally sound recycling and treatment of ships should be covered by ships owners. In the interest of protecting human health and the environment, a financial mechanism should be established to generate resources that would contribute to making environmentally sound recycling and treatment of both EU ships and non-EU ships in EU listed facilities economically competitive. All ships calling at EU ports and anchorages should contribute to the costs of environmentally sound recycling

and treatment of ships so as to counterbalance the economic incentive to go to substandard operations, and to provide a disincentive to out-flagging. Ships that deposit a financial guarantee as a guarantee that they will go to EU listed facilities for recycling and treatment should be exempted from the recycling levy. The recycling levy as well as the financial guarantee should be fair, non-discriminatory and transparent.

Amendment 6

Proposal for a regulation

Recital 4

Text proposed by the Commission

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

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***

environmentally sound manner, and the establishment of an appropriate enforcement mechanism for ship recycling.

to vessels operating throughout their life only in waters subject to the sovereignty or jurisdiction of the State whose flag the ship is entitled to fly. The Hong Kong Convention also does not cover the actual recycling of the steel recovered at the ship recycling facility or the operations of facilities managing waste materials downstream of the initial ship recycling facility. The Hong Kong Convention does not seek to prevent the export of ships that constitute hazardous waste to non-OECD countries - a practice currently prohibited under Regulation (EC) No 1013/2006. It is expected that it will take up to a decade before the Hong Kong Convention enters into force.

Justification

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

Amendment 7

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) The Hong Kong Convention provides explicitly for its Parties to take more stringent measures consistent with international law, with respect to the safe and environmentally sound recycling of ships, in order to prevent, reduce or minimise any adverse effects on human health and the environment. The establishment of a European list of ship recycling facilities fulfilling the requirements set out in this Regulation **would** contribute to that objective as well as to better enforcement by facilitating the

Amendment

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

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

Amendment 8

Proposal for a regulation Recital 7

Text proposed by the Commission

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

Amendment

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

Amendment 9

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) It is necessary to clarify the ***respective scopes*** of this Regulation, Regulation (EC) No 1013/2006 and Directive 2008/98/EC 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 10

Proposal for a regulation

Recital 8 a (new)

Text proposed by the Commission

Amendment

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

Amendment 11

Proposal for a regulation

Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) Member States should arrange for a swift ratification of the IMO Hong Kong International Convention for the Safe and Environmentally Sound recycling of Ships with the aim of improving ship recycling practices and conditions.

Amendment 12

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 13

Proposal for a regulation Recital 14

Text proposed by the Commission

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

Amendment

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

necessary in order to achieve that objective,

Justification

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

Amendment 14

Proposal for a regulation

Article 1 – paragraph 1

Text proposed by the Commission

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 the flag of a Member State*.

Amendment

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

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

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

Amendment 15

Proposal for a regulation

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

Text proposed by the Commission

Amendment

1a. 'EU Ship' means a ship flying the flag

of a Member State or operating under its authority;

Justification

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

Amendment 16

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 17

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 18

Proposal for a regulation

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

Text proposed by the Commission

Amendment

3b. 'hazardous waste' means hazardous waste as defined in Article 3(2) of

Directive 2008/98/EC;

Justification

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

Amendment 19

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 20

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 21

Proposal for a regulation

Article 2 – paragraph 1 – point 5

Text proposed by the Commission

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;

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 **treatment** in separate facilities; **the meaning of the term 'recycling' in the context of this Regulation is therefore different from the definition given in Article 3(17) of Directive 2008/98/EC;**

Justification

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

Amendment 22

Proposal for a regulation

Article 2 – paragraph 1 – point 6

Text proposed by the Commission

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

Amendment

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

Justification

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

Amendment 23

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Text proposed by the Commission

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

Amendment

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

Justification

Linguistic correction

Amendment 24

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Amendment 25

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(20a) 'abandoned ship' means a ship which has been left unattended and derelict in an EU port by its last recorded owner;

Amendment 26

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

Amendment 27

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

Text proposed by the Commission

Amendment

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

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

Amendment 28

Proposal for a regulation Article 4 – title

Text proposed by the Commission

Control of hazardous materials

Amendment

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

Justification

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

Amendment 29

Proposal for a regulation

Article 4 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

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

Justification

The prohibition of TBT paints should also be listed.

Amendment 30

Proposal for a regulation

Article 5

Text proposed by the Commission

Amendment

Inventory of hazardous materials

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

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

Inventory of hazardous materials

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

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

available on board.

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

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

** 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 deleted*

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

4. The inventory of hazardous materials shall:

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

4. The inventory of hazardous materials shall:

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

(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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. The Commission shall be empowered to adopt delegated acts in accordance with Article 26 concerning the updating of the list of items for the inventory of hazardous materials in Annex I *to ensure that the list includes at least the substances listed in Appendices I and II of the Hong Kong Convention, and to take account of relevant Union legislation which provides for the phasing out or restriction of the use or installation of hazardous materials.*

Amendment 31

Proposal for a regulation Article 5 a (new)

Text proposed by the Commission

Amendment

Article 5a

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

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

2. The objective of the Recycling Fund is:

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

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

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

***4. Member States shall ensure that port
authorities collect a recycling levy per
port call from EU and non-EU ships,
except from ships that have paid an
annual recycling levy pursuant to
paragraphs 5a and 7, or have deposited a
financial guarantee pursuant to Article
5b. The recycling levy shall be collected
from ... **.***

***5. The Commission shall assess whether it
is appropriate to grant compensation to
port authorities for the actual additional
administrative work related to the
collection and transfer of the recycling
levies. If it finds it to be appropriate, no
later than ... **, the Commission shall
decide by means of an implementing act***

about the appropriate level for an administrative fee to be added to the recycling levy per port call. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 27.

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

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

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

9. Member States shall ensure that port authorities, upon receipt of the annual recycling levy, issue a certificate for the ship concerned as proof of the annual payment received.

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

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

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

13. The Recycling Fund shall also provide a premium for ship recycling facilities on the European list for the recycling of ships abandoned in the EU for at least two years, provided that it was not possible after all reasonable efforts to identify and hold responsible the owner.

14. The premium shall initially be set at 35 EUR per LDT for ship recycling

facilities on the European list.

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

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

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

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

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

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

The Commission shall also be empowered to adopt delegated acts in accordance with

Article 26 to reduce or refuse payment in case of abuse of the Recycling Fund.

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

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

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

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

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

Amendment 32

Proposal for a regulation Article 5 b (new)

Text proposed by the Commission

Amendment

Article 5b

Financial guarantee

1. Member States shall ensure that ships are exempt from the payment of any recycling levy referred to in Article 5a if they have deposited a financial guarantee at the Recycling Fund in a single payment equivalent to 35 EUR per LDT.

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

3. The financial guarantee shall be

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

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

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

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

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

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

Amendment 33

Proposal for a regulation

Article 6 – title

Text proposed by the Commission

Amendment

Preparation for recycling: general requirements

General requirements for ship owners

Justification

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

Amendment 34

Proposal for a regulation

Article 6 – paragraph 1 – point a

Text proposed by the Commission

Amendment

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

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

Justification

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

Amendment 35

Proposal for a regulation

Article 7 – paragraph 1

Text proposed by the Commission

Amendment

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

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

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

Justification

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

Amendment 36

Proposal for a regulation

Article 7 – paragraph 2 – point a

Text proposed by the Commission

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

Amendment

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

Justification

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

Amendment 37

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 38

Proposal for a regulation

Article 7 – paragraph 2 – point d

Text proposed by the Commission

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

Amendment

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

Justification

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

Amendment 39

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 40

Proposal for a regulation

Article 7 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Ship owners selling an EU ship more than 20 years old to a new owner that intends to fly the flag of a third country shall ensure that the contract with the new ship owner stipulates that the new owner, and any subsequent owners, take over the responsibility for developing a ship recycling plan in the event that they wish to call at 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 41

Proposal for a regulation

Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7a

Intent to recycle

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

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

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

financial guarantee.

Justification

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

Amendment 42
Proposal for a regulation

Article 8 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 43
Proposal for a regulation

Article 8 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Justification

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

Amendment 44

Proposal for a regulation Article 8 – paragraph 5

Text proposed by the Commission

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

Amendment

5. The ***ship owner shall request an*** additional survey, either general or partial, after a ***significant*** change, replacement, or repair of the structure, equipment, systems, fittings, arrangements and material. The officers carrying out that survey shall ensure that any such ***significant*** change, replacement, or repair has been made in a manner that allows the ship to comply with the requirements of this Regulation, and they shall verify that Part I of the inventory of hazardous materials has been amended accordingly.

Justification

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

Amendment 45

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 46
Proposal for a regulation

Article 8 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

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

Amendment 47

Proposal for a regulation
Article 9 – paragraph 2

Text proposed by the Commission

Amendment

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.

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

Justification

The correct reference needs to be given.

Amendment 48

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

Text proposed by the Commission

Amendment

(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;

(b) to provide the ship recycling facility ***at least four months prior to the intended date for the ship recycling*** with all the ship-relevant information necessary for the development of the ship recycling plan required by Article 7, ***or in cases where the ship owner is not in possession of***

such information, to inform the ship recycling facility and collaborate with them to ensure that any lacunae are adequately resolved;

Justification

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

Amendment 49

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 50

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 51

Proposal for a regulation

Article 9 – paragraph 3 – point c

Text proposed by the Commission

(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;***

Justification

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

Amendment 52

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Justification

If the content of hazardous materials is significantly higher than indicated in the inventory, but does not undermine the recycling operation or its safety altogether, it should be clarified

that the ship owner would have to pay the extra costs that actually arise because of that.

Amendment 53

Proposal for a regulation

Article 9 – paragraph 4 – point a

Text proposed by the Commission

(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;***

Justification

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

Amendment 54

Proposal for a regulation

Article 9 – paragraph 4 – point c

Text proposed by the Commission

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

Amendment

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

Justification

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

Amendment 55

Proposal for a regulation

Article 9 – paragraph 4 – point d – introductory part

Text proposed by the Commission

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

Amendment

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

Justification

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

Amendment 56

Proposal for a regulation

Article 9 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 57

Proposal for a regulation

Article 10 – paragraph 1

Text proposed by the Commission

Amendment

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

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.

certificate in accordance with the form laid down in Annex IV. This certificate shall be supplemented by Part I of the inventory of hazardous materials.

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

Justification

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

Amendment 58

Proposal for a regulation Article 10 – paragraph 2

Text proposed by the Commission

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

Amendment

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

Justification

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

Amendment 59

Proposal for a regulation Article 11 a (new)

Text proposed by the Commission

Amendment

Article 11a

Inspections

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

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

Amendment 60

Proposal for a regulation Article 11 b (new)

Text proposed by the Commission

Amendment

Article 11b

Provisions applicable to non-EU ships in addition to Article 5a, Article 5b and

Article 23(1) and Article 29 (1)

1. Member States shall ensure that non-EU ships comply with the requirements set out in Article 4(1) to (3a), without prejudice to the requirements of other Union legislation which may require further measures. Member States shall prohibit the installation or use of the materials referred to in Article 4(1) to (3a), on non-EU ships whilst in its ports, anchorages, shipyards, ship repair yards or offshore terminals.

2. New non-EU ships entering a port or an anchorage of a Member State shall keep available on board a valid inventory of hazardous materials.

3. Existing non-EU ships entering a port or an anchorage of a Member State shall keep available on board an inventory of hazardous materials 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 statement of compliance issued by the ship's administration or recognised organisation acting on its behalf confirming that the ship complies with the provisions set out in paragraphs 1 to 3.

5. Non-EU ships that have been bought from an owner flying an EU flag when the ship was older than 20 years, where entering a port or an anchorage of a Member State, shall keep available on board a ship recycling plan in accordance with point (d) of Article 7(2).

6. A more detailed inspection shall be carried out where an inspection reveals that a non-EU ship does not comply with the requirements set out in paragraphs 1 to 5, or whenever there are clear grounds for believing, after an inspection, that:

– the condition of the ship or its equipment does not comply with the

requirements of paragraph 1 or does not correspond substantially to the particulars of the certificate or the inventory of hazardous materials, or

– there is no procedure implemented on board the ship for the maintenance of the inventory of hazardous materials.

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

Amendment 61
Proposal for a regulation

Article 12 – paragraph 2 – introductory part

Text proposed by the Commission

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

Amendment

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

Amendment 62

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

Text proposed by the Commission

Amendment

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

Justification

The operation from permanent built structures should be a minimum requirement to allow that hazardous materials can be contained. This is added to clarify that sites using the current and still predominant method of "beaching" would not qualify for the European list of ship recycling facilities.

Amendment 63

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 64

Proposal for a regulation

Article 12 – paragraph 2 – point b

Text proposed by the Commission

Amendment

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

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

Justification

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

Amendment 65

Proposal for a regulation

Article 12 – paragraph 2 – point d

Text proposed by the Commission

(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 66

Proposal for a regulation

Article 12 – paragraph 2 – point j

Text proposed by the Commission

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

Amendment

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

Justification

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

Amendment 67

Proposal for a regulation

Article 12 – paragraph 2 – point k

Text proposed by the Commission

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

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;

intertidal zones, ***notably by cutting the bottom part in a permanent or floating dry dock;***

Justification

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

Amendment 68

Proposal for a regulation

Article 12 – paragraph 2 – point m

Text proposed by the Commission

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

Amendment

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

Justification

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

Amendment 69

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 70
Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 71
Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 72
Proposal for a regulation

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

Text proposed by the Commission

Amendment

(md) ensure appropriate storage for explosive and/or inflammable materials

and gas, including the prevention of fire hazards and excessive stockpiling;

Justification

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

Amendment 73
Proposal for a regulation

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

Text proposed by the Commission

Amendment

(me) ensure appropriate impermeable and sheltered storage and containment for solid and liquid PCB/PCT waste or material.

Justification

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

Amendment 74
Proposal for a regulation

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

Text proposed by the Commission

Amendment

(mf) ensure that all PCB/PCT containing material is managed in accordance with the obligations and Guidelines of the Stockholm Convention.

Justification

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

Amendment 75
Proposal for a regulation

Article 12 – paragraph 2 – point n

Text proposed by the Commission

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

Amendment

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

Therefore draw up a register of secondary operators working at the main facility, including information on their waste management methods and capacities;

Amendment 76

Proposal for a regulation

Article 13 – paragraph 2 – point 1

Text proposed by the Commission

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

Amendment

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

Justification

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

Amendment 77

Proposal for a regulation

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

Text proposed by the Commission

Amendment

3a. provide evidence that the ship

recycling facility complies with all health and safety provisions under the laws of that country;

Justification

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

Amendment 78

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 79

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

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

Justification

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

Amendment 80

Proposal for a regulation

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

Text proposed by the Commission

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

Amendment

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

Justification

The terminology used should be consistent.

Amendment 81

Proposal for a regulation

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

Text proposed by the Commission

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

Amendment

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

Justification

It should be specified who has to grant the authorization.

Amendment 82

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 83

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 84

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 85

Proposal for a regulation

Article 14 – paragraph 1

Text proposed by the Commission

Amendment

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

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

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

Justification

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

Amendment 86

Proposal for a regulation Article 15 – paragraph 7

Text proposed by the Commission

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

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

Amendment

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

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

Justification

Correction of erroneous numbering in the Commission proposal.

Amendment 87

Proposal for a regulation Article 15 – paragraph 8

Text proposed by the Commission

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

Amendment

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

unannounced site inspections by an international team. The international team of experts shall cooperate with the competent authorities of the Member State or the third country where the facility is located in order to carry out such site inspections.

Justification

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

Amendment 88

Proposal for a regulation Article 16 – paragraph 2

Text proposed by the Commission

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

Amendment

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

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

Justification

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

Amendment 89

Proposal for a regulation

Article 16 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

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

(a) the method of recycling;

(b) the type and size of ships that are suitable for recycling; and

(c) any limitation under which the facility operates, including as regards hazardous waste management.

Justification

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

Amendment 90

Proposal for a regulation

Article 16 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 91

Proposal for a regulation

Article 16 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. In the event of any significant changes to the information provided to the Commission, ship recycling 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

(a) the evidence that it has provided is complete and up-to-date;

(b) the ship recycling facility continues and will continue to comply with the requirements of Article 12.

Justification

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

Amendment 92

Proposal for a regulation

Article 16 – paragraph 3 – point a

Text proposed by the Commission

Amendment

(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);

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

Justification

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

Amendment 93

Proposal for a regulation

Article 16 – paragraph 3 – point b – point 2

Text proposed by the Commission

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

Amendment

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

Justification

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

Amendment 94

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 95

Proposal for a regulation Article 21 – point a

Text proposed by the Commission

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

Amendment

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

Justification

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

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

Amendment 96

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

Text proposed by the Commission

Amendment

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

Amendment 97

Proposal for a regulation

Article 22 – paragraph 1 – point c

Text proposed by the Commission

(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 98

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.

Justification

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

Amendment 99

Proposal for a regulation

Article 22 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

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

Justification

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

Amendment 100

Proposal for a regulation Article 23 - paragraph 1

Text proposed by the Commission

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

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

(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;

(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.

Amendment

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

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

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

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

deleted

deleted

deleted

deleted

deleted

Amendment 101

Proposal for a regulation

Article 23 - paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall ensure that penalties pursuant to Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law¹ are applicable to the owners of EU ships that:

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

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

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

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

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

¹ OJ L 328, 6.12.2008, p. 28

Amendment 102

Proposal for a regulation

Article 23 - paragraph 2

Text proposed by the Commission

Amendment

2. The penalties shall be effective,

2. Without prejudice to the application of

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 103

Proposal for a regulation

Article 23 - paragraphs 5 and 6

Text proposed by the Commission

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

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

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

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

Article 5 of Directive 2008/99/EC, in particular, where a ship is sent for recycling in a ship recycling facility which is not included in the European list the applicable penalties shall, as a minimum, correspond to the price paid to the ship owner for its ship.

Amendment

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

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

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

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

Amendment 104

Proposal for a regulation Article 24 – paragraph 3

Text proposed by the Commission

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

Amendment

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

Justification

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

Amendment 105

Proposal for a regulation Article 24 – paragraph 5

Text proposed by the Commission

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

Amendment

deleted

Justification

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

Amendment 106

Proposal for a regulation Article 26 – paragraph 2

Text proposed by the Commission

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

Justification

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

Amendment 107

Proposal for a regulation Article 28 – paragraph 1

Text proposed by the Commission

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.

Amendment

deleted

Justification

Amendment 108

Proposal for a regulation

Article 28 a (new)

Directive 2009/16/EC

Annex IV – point 45 (new)

Text proposed by the Commission

Amendment

Article 28a

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

In Annex IV of Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State 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 109

Proposal for a regulation

Article 29 – paragraph 1

Regulation (EC) No 1013/2006

Article 1 – paragraph 3 – point i

Text proposed by the Commission

Amendment

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

*'(i) Ships **that are delivered to a ship recycling facility on the European list according to** Regulation (EU) No XX*

this Regulation].

[insert full title of this Regulation].

Amendment 110

Proposal for a regulation

Article 29 a (new)

Text proposed by the Commission

Amendment

Article 29a

Transit

- 1. Member States shall ensure that the relevant administration, or another governmental authority, notifies the competent authority or authorities of transit within 7 days of receipt of the notification from the ship owner.***
- 2. The competent authority or authorities of transit shall have 60 days from the date of notification referred to in paragraph 1 within which to:***
 - (a) consent to the transit of the ship through its waters, with or without conditions; or***
 - (b) refuse to consent to transit of the ship through its waters.***

The Member State concerned shall immediately inform the ship owner of the decision of the competent authority or authorities of transit.
- 3. In the event that the consent referred to in paragraph 2 is refused, or is made subject to conditions which are not acceptable to the ship owner, the ship owner may only dispatch the ship for recycling via transit States which have not objected.***
- 4. In the absence of a reply within the 60-day period referred to in paragraph 2, the competent authority of transit shall be presumed to have refused its consent.***
- 5. Notwithstanding paragraph 4, in accordance with Article 6(4) of the Basel***

Convention, if at any time a competent authority of transit has decided not to require prior written consent, either generally or under specific conditions, the competent authority of transit shall be presumed to have given its consent if no response is received by the Member State concerned within 60 days of the transmission of the notification to the competent authority of transit.

Amendment 111

Proposal for a regulation Article 30 – 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 112

Proposal for a regulation Article 31 – subparagraph 1

Text proposed by the Commission

This Regulation shall enter into force on

Amendment

This Regulation shall enter into force on

the **365th** day ***after*** its publication in the Official Journal of the European Union.

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.***

Justification

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

Amendment 113 **Proposal for a regulation**

Annex IV – subtitle 5 a (new)

Text proposed by the Commission

Amendment

UNANNOUNCED SURVEY CERTIFICATE

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

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

Place:

.....
.....

Date

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

(Seal or stamp of the authority, as appropriate)

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 dismantling¹

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:

¹ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bTA%2bP6-TA-2008-0222%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN> (first paragraph)

² Commission Green Paper on better ship dismantling, COM(2007) 269 final, page 7)

³ Commission Green Paper on better ship dismantling, COM(2007) 269 final, page 2)

- 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 equivalent² - 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 agree³. 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.

¹ Personal communication by Nikos Mikelis, IMO, based on IHS Fairplay data

² Communication COM(2010)88 final

³ BC-10/17 Environmentally Sound Dismantling of Ships, Report of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal on its tenth meeting, 17-21 October 2011, page 53, <http://archive.basel.int/meetings/cop/cop10/documents/28e.pdf>

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 countries².

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 2008³, one in response to the Commission's strategy in 2009⁴.

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.

¹ http://www.ecsa.eu/files/EU_Ship_Recycling_Reg_proposal_COM2012-118_ECSA_Position_Paper_v21_05_2012.doc

² <http://www.shipbreakingplatform.org/media-alert-ngos-call-on-progressive-eu-governments-to-protect-developing-countries-against-hazardous-shipbreaking-waste/>

³ see footnote 1

⁴ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bTA%2bP6-TA-2009-0195%2b0%2bDOC%2bXML%2bV0%2f%2fEN&language=EN>

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,
- 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 ships¹. 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

¹ http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---safework/documents/publication/wcms_117945.pdf

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.

PROCEDURE

| | | | |
|---|---|-------------------|-------------------|
| Title | Ship recycling | | |
| References | COM(2012)0118 – C7-0082/2012 – 2012/0055(COD) | | |
| Date submitted to Parliament | 16.3.2012 | | |
| Committee responsible Date announced in plenary | ENVI 29.3.2012 | | |
| Committee(s) asked for opinion(s) Date announced in plenary | ITRE 29.3.2012 | TRAN 29.3.2012 | JURI 29.3.2012 |
| Not delivering opinions Date of decision | ITRE 23.4.2012 | TRAN 23.4.2012 | JURI 25.4.2012 |
| Rapporteur(s) Date appointed | Carl Schlyter 29.5.2012 | | |
| Discussed in committee | 28.11.2012 | | |
| Date adopted | 26.3.2013 | | |
| Result of final vote | +: 60 -: 2 0: 0 | | |
| Members present for the final vote | Kriton Arsenis, Paolo Bartolozzi, Sandrine Bélier, Lajos Bokros, Martin Callanan, Chris Davies, Esther de Lange, Bas Eickhout, Edite Estrela, Jill Evans, Karl-Heinz Florenz, Elisabetta Gardini, Gerben-Jan Gerbrandy, Matthias Groote, Françoise Grossetête, Satu Hassi, Jolanta Emilia Hibner, Christa Klač, Eija-Riitta Korhola, Holger Krahmer, Jo Leinen, Peter Liese, Zofija Mazej Kukovič, Linda McAvan, Radvilė Morkūnaitė-Mikulėnienė, Vladko Todorov Panayotov, Gilles Pargneaux, Antonyia Parvanova, Mario Pirillo, Anna Rosbach, Oreste Rossi, Dagmar Roth-Behrendt, Carl Schlyter, Horst Schnellhardt, Richard Seeber, Theodoros Skylakakis, Bogusław Sonik, Salvatore Tatarella, Sabine Wils, Marina Yannakoudakis | | |
| Substitute(s) present for the final vote | Inés Ayala Sender, José Manuel Fernandes, Christofer Fjellner, Julie Girling, Jutta Haug, Georgios Koumoutsakos, Jiří Maštálka, Justas Vincas Paleckis, Alojz Peterle, Vittorio Prodi, Britta Reimers, Michèle Rivasi, Birgit Schnieper-Jastram, Renate Sommer, Marita Ulvskog, Vladimir Urutchev, Kathleen Van Brempt, Peter van Dalen, Anna Záborská, Andrea Zanon | | |
| Substitute(s) under Rule 187(2) present for the final vote | Zuzana Brzobohatá, Jörg Leichtfried | | |
| Date tabled | 28.3.2013 | | |