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PROPOSAL

from:	European Commission
dated:	23 March 2012
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Subject:	Proposal for a Regulation of the European Parliament and of the Council on ship recycling

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

Encl.: COM(2012) 118 final



EUROPEAN COMMISSION

Brussels, 23.3.2012
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2012/0055 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on ship recycling

{SWD(2012) 45 final}

{SWD(2012) 47 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1. General context and grounds for the proposal

Environmentally unsound and unsafe practices for dismantling ships remain a matter of serious concern. At the end of their operating life, most large commercial seagoing vessels are being dismantled in facilities using methods with significant environmental and health impacts. These negative aspects prevent ship recycling from becoming a properly sustainable industry.

The situation is likely to worsen since large numbers of ships are expected to be sent for dismantling in the coming years as a result of the current overcapacity of the world fleet which is estimated to remain for at least 5 to 10 years. In addition, the coming peak in ship recycling that will occur around the phasing-out date for single-hull tankers (2015) is expected to essentially benefit the most sub-standard facilities.

The Waste Shipment Regulation¹ implements in the European Union the requirements of the Basel Convention on the control of transboundary movements of hazardous wastes and their disposal. It also implements the provision of an Amendment to the Convention (the so-called 'Ban Amendment') which prohibits the export of hazardous waste outside the OECD. This Amendment has not yet entered into force at international level due to insufficient ratification.

According to the Waste Shipment Regulation, EU-flagged ships going for dismantling are classified as hazardous waste since they contain hazardous substances. As such, they can only be dismantled within countries of OECD. However, this legislation is almost systematically circumvented by EU-flagged ships² thereby rendering both International rules and Union legislation ineffective.

Such widespread non-compliance is firstly linked with the lack of recycling capacity available within the OECD in particular for the largest ships. The existing capacity at European level is used for the dismantling of small ships and governmental ships but not for large commercial sea-going vessels. Similarly to shipbuilding, ship dismantling has re-located during the last few decades from European countries to non-OECD countries for economic reasons (demand for steel, low labour costs, no internalisation of environmental costs). As a result, the option of developing additional dismantling capacity in Europe has not been economically feasible.

A significant recycling capacity exists outside the OECD in China, India, Pakistan and Bangladesh. It is expected that facilities located in the OECD, in China as well as some facilities located in India will be able to comply with the requirements of the Hong Kong Convention by 2015.

¹ Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste.

² In 2009, more than 90% of EU flagged ships were dismantled outside the OECD, mostly in South Asia.

The current existing capacity available in China (2,83 millions LDT³ in 2009) is, in fact, already largely sufficient to treat all EU flagged ships until 2030 (the maximum yearly volume in the period 2012-2030 will be of 1,88 million LDT) and a new facility with a capacity of 1 million LDT will shortly start its activities. This is the result of actions undertaken by the public authorities to promote specifically the green ship recycling market and close substandard facilities as well as investments made by responsible European shipowners in safe and sound recycling facilities.

Secondly, the current situation of the ship recycling market favours facilities in Bangladesh, India and (to a lesser extent) Pakistan whilst competitors in the EU, Turkey and China with higher technical standards are only able to occupy niche markets such as those for small ships, government vessels including warships or the fleet of committed shipowners.

Finally, the current legislation is not adapted to the specificities of ships. Identifying when a ship becomes waste is difficult. Shipowners' decisions to send their ships for recycling are based on an economic comparison of the costs and benefits of maintaining a ship in operation and sending it for dismantling.

If this decision is taken while the ship is in international waters or in waters under the jurisdiction of the recycling state, it is very difficult or impossible to apply the procedures of the Waste Shipment Regulation. Moreover, commercial ships leaving European ports and waters usually optimise their last voyage by delivering goods in Asia prior to going for dismantling. If the shipowner does not declare the intention to dismantle a ship when leaving an EU port, the relevant authorities can in general not intervene. The Waste Shipment Regulation establishes rights and obligations for the exporting state, the importing state and, if applicable, the transit states. The port states are, however, not necessarily informed of the shipowner's intention to recycle a ship. Finally, it is also not uncommon for a ship to be sold to another operator under the pretence that the ship will continue trading only for it to be transferred to a ship dismantling facility.

In order to apply the current legislation and, in particular, the ban on exporting end of life ships outside the OECD, Member States would have to make a disproportionate effort on enforcement given the lack of recycling capacity within the OECD as well as the legal possibility for any ship to change its state of registration ("flag state").

In order to improve the situation, Parties to the Basel Convention invited, in 2004, the International Maritime Organization (IMO) to develop mandatory requirements for ship recycling⁴. In 2006, the Parties to the Basel Convention welcomed the steps taken by the IMO in developing the draft ship recycling convention and recognised that the duplication of instruments having the same objective should be avoided. Parties were invited to carry out an assessment of the level of control and enforcement established by the Basel Convention in its entirety and an assessment of the expected level of control and enforcement to be provided by the draft ship recycling convention in its entirety, and to compare the two conventions⁵.

The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships (hereinafter referred to as the Hong Kong Convention) was adopted in May 2009 by

³ The weight of a scrap ship is most often expressed in light displacement tonnes (LDT) which is calculated without cargo, fuel, ballast water etc and roughly equals the steel weight of a vessel.

⁴ Decision VII/26 on the Environmentally sound management of ship dismantling adopted during the 7th Conference of the Parties to the Basel Convention.

⁵ See decision VIII/11 <http://archive.basel.int/meetings/cop/cop8/docs/16eREISSUED.pdf>

the International Maritime Organization. This Convention, when it comes into force, will require the Parties (including EU Member States) to dismantle their large commercial ships only in countries that are party to the Convention. This may include Asian countries, whose ship dismantling facilities will need to meet internationally accepted standards (higher than the current standards). These facilities will have to treat ships coming from non-Parties in a similar manner as ships flying the flags of the Parties to the Convention ('no more favourable treatment' clause).

The Hong Kong Convention was adopted in 2009 but needs to be ratified by a sufficient number of both large flag and recycling states in order to enter into force and start producing effects. This is not expected to happen before 2020 at the earliest. This Convention will enter into force twenty four months after the date on which the following conditions are met:

- not less than 15 States have either signed it without reservation as to ratification, acceptance or approval, or have deposited the requisite instrument of ratification, acceptance, approval or accession;
- their combined merchant fleets constitute not less than 40 per cent of the gross tonnage of the world's merchant shipping; and
- the combined maximum annual ship recycling volume during the preceding 10 years constitutes not less than 3 per cent of the gross tonnage of the combined merchant shipping of the same States.

The Parties to the Basel Convention welcomed the adoption of the Hong Kong Convention in 2010⁶ and embarked on a preliminary assessment of whether the Hong Kong Convention establishes a level of control and enforcement equivalent to that established under the Basel Convention⁷.

The European Union and its Member States finalised their assessment in April 2010 which concluded that the Hong Kong Convention appears to provide a level of control and enforcement at least equivalent to that provided by the Basel Convention for ships which are classified as waste under the Basel Convention⁸.

In October 2011, Parties to the Basel Convention encouraged the ratification of the Hong Kong Convention to enable its entry into force⁹.

The Commission adopted a Green Paper on better ship dismantling in 2007 and a Communication proposing an EU strategy on ship dismantling¹⁰ in 2008. This strategy focused on measures to improve ship dismantling conditions as soon as possible, including in the interim period before the entry into force of the Hong Kong Convention: i.e. dealing with key elements of the Convention, encouraging voluntary industry action, providing technical assistance and support to developing countries and better enforcing the current legislation. The following has been achieved by the Strategy:

⁶ Decision OEWG-VII/12 on the Environmentally sound management of ship dismantling.

⁷ See decision OEWG VII/12 <http://archive.basel.int/meetings/oewg/oewg7/docs/21e.pdf>

⁸ Submission from the European Union and its Member States available at <http://archive.basel.int/ships/oewg-vii12-comments/comments/eu.doc>

⁹ Decision X/ AA on the environmentally sound dismantling of ships adopted during the 10th conference of the Parties to the Basel Convention.

¹⁰ Communication COM(2008) 767 final of 19 November 2008 presenting an EU strategy for better ship dismantling, and its impact assessment in Commission Staff Working Document SEC(2008) 2846

- Adoption of a Convention which will enhance ship recycling with its procedures adapted to the specificities of ships and detailed requirements to be met by improved recycling facilities;
- Support for the voluntary actions by the industry prior to the entry into force of the Convention:
 - voluntary application of the Convention's requirements and guidelines (for example, development of inventories of hazardous materials),
 - adoption of green sales contracts,
 - investments in safe and sound recycling facilities;
- Studies, research and pilot projects have been conducted to assess developments and promote better ship recycling technologies for ships under the scope of the Hong Kong Convention and other ships,
- Actions have been undertaken by the Commission to better implement the Waste Shipment Regulation when it was alerted that specific ships would go for dismantling,
- Support has been provided to ship recycling countries through a grant under the Thematic Programme for the environment and sustainable management of natural resources including energy (ENRTP) to the "Global Programme for Sustainable Ship Recycling" jointly managed by Secretariats of the Basel Convention, of the International Maritime Organization and of the International Labour Organization.

1.2. Objective of the proposal

The objective of the 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 proposed Regulation brings into force an early implementation of the requirements of the Hong Kong Convention, therefore hastening its entry into force globally.

1.3. Existing provisions in the area of the proposal

The proposal concerns the adoption of a regulation on ship recycling. The new regulation is intended to replace the existing Regulation (EC) No 1013/2006¹¹ with regard to ships covered by the Hong Kong Convention.

¹¹ Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENT

2.1. Consultation of interested parties

In developing the impact assessment supporting this legislative proposal, the Commission consulted stakeholders and drew upon external expertise through a public consultation from April to June 2009 and four expert workshops.

Most stakeholders clearly supported prompt ratification of the Hong Kong Convention by the EU Member States in order to hasten its entry into force by encouraging ratification by other States. Many stakeholders are in favour of early implementation of the Convention by the EU since they consider that waiting for its entry into force is unacceptable when ship-breaking workers continue to be killed or injured at work and considerable environmental damage occurs. Some consider that the EU should not impose additional requirements that go beyond the Convention. The contributions, the summary of the responses to the public consultation and the reports on the stakeholders' workshop are available on the Internet¹².

The European Parliament, the European Economic and Social Committee and the Council debated the Communication and adopted respectively a resolution on 26 March 2009¹³, an opinion on 13 May 2009¹⁴ and conclusions on 21 October 2010¹⁵ concerning an EU strategy for better ship dismantling.

2.2. Impact assessment

An impact assessment was conducted by the Commission to consider the options for a ship recycling regime which can be effectively enforced. The analysis considered the economic, social and environmental impacts of different options.

The recommendations of the impact assessment board (IAB) were taken into account, with the main modifications concerning the need for a clearer problem definition, clearer presentation of the actions already taken in ship recycling countries in the baseline scenario, strengthening of the intervention logic and a better link between the specific and operational objectives and the problems and drivers, and strengthened assessment of the policy options regarding in particular the potential future enforcement and compliance difficulties.

Only the policy package D fully satisfies the identified objectives as demonstrated in the impact assessment.

This option consists in introducing an ad-hoc Regulation covering the ships under the Hong Kong Convention (large commercial seagoing vessels). This Regulation would cover the whole life cycle of EU-flagged ships, implement early the requirements of the Hong Kong Convention and, as allowed by the Convention, include more stringent environmental requirements for ship recycling facilities. Ships flying the flag of EU Member States would only be allowed to be recycled in facilities meeting requirements.

¹² <http://ec.europa.eu/environment/waste/ships/index.htm>

¹³ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2009-0195+0+DOC+XML+V0//EN&language=EN>

¹⁴ http://eescopinions.eesc.europa.eu/EESCopinionDocument.aspx?identifier=ces\nat\nat425\ces877-2009_ac.doc&language=EN

¹⁵ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/envir/110626.pdf

EU Member States will be informed in writing and in due time of the shipowner's intention to send a ship for recycling. This requirement as well as the introduction of sanctions, which would be at least equivalent to those applicable under the current legislation, will ensure compliance. While it is difficult to expect the current 'beaching' facilities to be able to meet these requirements, it is possible that upgraded facilities might be able to fulfil these criteria in the future. In order to avoid confusion, overlaps and administrative burden, ships covered by this new legislation would no longer come under the Waste Shipment Regulation.

This policy package constitutes the basis for this proposal.

3. LEGAL ELEMENTS OF THE PROPOSAL

3.1. Summary of the proposal

This legislative proposal addresses, by means of a new ad-hoc Regulation, ships which fall within the scope of the Hong Kong Convention (large commercial seagoing vessels). It covers the whole life cycle of EU-flagged ships, implement some of the requirements of the Hong Kong Convention (establishment of an inventory of hazardous materials, obligation to recycle ships in safe and sound facilities, general requirements applicable to ships prior to recycling) and, as allowed by the Convention, include more stringent environmental provisions which are necessary prior to the entry into force of the Convention (requirements for ship recycling facilities, establishment of an European list of ship recycling facilities, establishment of a contract between the shipowner and the ship recycling facility).

Obligation to establish and maintain an inventory of the hazardous materials present on board ships

Ships flying the flag of an EU Member State will have to establish and maintain during their whole operating life an inventory of the hazardous materials present on board. While new ships flying the flag of a Member State are requested to establish an inventory immediately, existing ships will have five years to do so except if they are sent for dismantling earlier.

The inventory has to be updated and completed prior to sending the ship for recycling so as to ensure that the selected ship recycling facility is able and authorised to manage all the hazardous materials and waste present on board.

Ships flying the flag of Member States will have to be dismantled in safe and environmentally sound ship recycling facilities

A list of requirements defining the requirements to be fulfilled by the ship recycling facilities has been developed on the basis of the technical requirements of the Hong Kong Convention. Additional requirements have been added in order to protect better human health and the environment and, in particular, ensure that all hazardous waste will be treated in an environmentally sound manner both in the ship recycling facilities and if it is transferred to waste management facilities.

Individual recycling facilities fulfilling these requirements will apply for inclusion in a European list of ship recycling facilities. Ships flying the flag of an EU Member State will only be allowed to be recycled in facilities present on the European list.

When the Hong Kong Convention will enter into force, Parties will have to establish and transmit lists of ship recycling facilities that they have authorized according to the

Convention. These lists will be transmitted to the International Maritime Organisation for dissemination as appropriate. It will be necessary to review the Regulation on ship recycling when these lists of facilities will become available at international level in order to avoid administrative burden and duplication of work with the European list of ship recycling facilities. A mechanism of mutual recognition could, for example, be introduced.

Specific requirements prior to recycling

Ships flying the flag of Member States will have to minimise the amount of hazardous waste present on board (which can also be present in cargo residues, fuel oil, etc.) prior to delivery to a ship recycling facility.

In the specific case of tankers, the shipowners will have to ensure that ships arrive at the ship recycling facility in a condition which is ready for certification as Safe-for-entry and Safe-for-hot-work so as to prevent explosions and (fatal) accidents amongst workers in ship recycling facilities.

Improving compliance with the Union legislation

Contrary to the existing legislation, the proposed Regulation is based on the system of control and enforcement of the Hong Kong Convention, which is specifically designed for ships and international shipping (certificates, surveys, specific obligations for the flag state, etc.).

By allowing ships to be recycled in facilities located outside of the OECD group of countries as long as they comply with the requirements and are included in the European list, this Regulation will also address the current problem of the lack of recycling capacity legally accessible to shipowners.

In addition, EU Member States will be informed in writing and in due time of the shipowner's intention to send a ship for recycling, thus removing the difficulty of identifying when a ship turns into waste. Member States will receive information about the planned start and about the completion of recycling. By comparing the list of ships for which they have issued an inventory certificate with the list of ships which have been recycled in authorized facilities, they will be able to identify more easily illegal recycling. In addition, sanctions which are more specific and precise than the ones provided for under the current legislation will be introduced. These requirements, coupled with the availability of sufficient legally accessible safe and sound recycling and of a system of control well adapted to the specificities of ships will ensure a better compliance with the legislation.

Finally, in order to avoid confusion, overlaps and administrative burden, ships covered by this new legislation would no longer be covered by the Waste Shipment Regulation.

3.2. Legal basis

The proposal is based on Article 192(1) TFEU.

3.3. Subsidiarity principle

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the EU.

Ship recycling is already covered by European legislation, namely the Waste Shipment Regulation.

The European Union cannot become a party to the Hong Kong Convention since this is reserved to States which are members of the International Maritime Organization. The EU Member States will therefore have a key role, mainly as flag states, in the ratification and achievement of the entry into force of the provisions of this Convention.

Individual action by Member States will not be sufficient since not all Member States consider the ratification of the Hong Kong Convention to be a priority. There is a clear risk of having different legal requirements applied to large commercial EU-flagged ships depending on the different Member States concerned. This situation could result in change of flags and unfair competition between the Member States acting as flag states.

The establishment of a European list of ship recycling facilities fulfilling requirements will avoid duplication of work between EU Member States and facilitate their control procedures as flag states.

Incorporating the Hong Kong Convention into European legislation would promote harmonised decision-making and speed up the ratification process amongst the Member States. In addition, early action by the EU would influence third countries much more than action by individual Member States and thus is more likely to bring the Hong Kong Convention quickly into force. A proposal for a Council decision authorising Member States to ratify or to accede to, in the interests of the European Union, the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 is therefore presented jointly with this proposal for a Regulation.

3.4. Proportionality principle

The proposal complies with the proportionality principle. The additional burdens for economic operators and national authorities are limited to those necessary to ensure that ship recycling is undertaken in a safe and environmentally sound manner. While the proposal entails additional costs for shipowners (development of the inventories of hazardous materials and surveys), these costs are expected to be offset by the substantial social and environmental benefits obtained.

3.5. Choice of instrument

The proposed instrument is a Regulation.

A Regulation is the appropriate legal instrument as it imposes on shipowners and Member States, directly and within a short time frame, precise requirements to be implemented at the same time and in the same manner throughout the Union. The development of requirements for safe and environmentally sound ship recycling facilities and of a European list of ship recycling facilities would, in particular, ensure harmonised implementation of the Hong Kong Convention.

4. BUDGETARY IMPLICATION

The proposal has no implications for the EU budget.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on ship recycling

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Ships which constitute waste and which are subject to a transboundary movement for recycling are regulated by the Basel Convention on the Control of the Transboundary Movements of Hazardous Wastes and their Disposal ('the Basel Convention') and Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on the shipment of waste¹⁶. Regulation (EC) No 1013/2006 implements the Basel Convention as well as an amendment¹⁷ to the Convention adopted in 1995, which has not yet entered into force at international level, and which establishes a ban on exports of hazardous waste to countries that are not members of the Organisation for Economic Co-operation and Development (OECD). Since ships contain hazardous materials, they are generally classified as hazardous waste and are therefore prohibited from being exported for recycling in facilities in countries not members of the OECD.
- (2) The mechanisms for controlling and enforcing the current legislation at international and European level are not adapted to the specificities of ships and international shipping and have proved to be ineffective in preventing unsafe and unsound ship recycling practices.
- (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

¹⁶ OJ L 190, 12.7.2006, p. 1.

¹⁷ Amendment to the Basel Convention ('Ban amendment') adopted by Decision III/1 of the Parties to the Basel Convention.

actions taken by recycling countries to meet the requirements of the Hong Kong Convention.

- (4) The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships ('the Hong Kong Convention') was adopted on 15 May 2009 under the auspices of the International Maritime Organization at the request of the Parties to the Basel Convention. The Hong Kong Convention will only enter into force 24 months after the date of ratification by at least 15 States representing a combined merchant fleet of at least 40 per cent of the gross tonnage of the world's merchant shipping and whose combined maximum annual ship recycling volume during the preceding 10 years constitutes not less than three per cent of the gross tonnage of the combined merchant shipping of the same States. The Member States should ratify the Convention at the earliest opportunity in order to hasten its entry into force. The Convention covers the design, construction, operation and preparation of ships so as to facilitate safe and environmentally sound recycling without compromising ship safety and operational efficiency; it also covers the operation of ship recycling facilities in a safe and environmentally sound manner, and the establishment of an appropriate enforcement mechanism for ship recycling.
- (5) The Hong Kong Convention provides explicitly for its Parties to take more stringent measures consistent with international law, with respect to the safe and environmentally sound recycling of ships, in order to prevent, reduce or minimise any adverse effects on human health and the environment. The establishment of a European list of ship recycling facilities fulfilling the requirements set out in this Regulation would contribute to that objective as well as to better enforcement by facilitating the flag states' control of ships going for recycling. Those requirements for ship recycling facilities should be based on the requirements of the Hong Kong Convention.
- (6) Flag states which are sending their ships to upgraded recycling facilities meeting the requirements of the Hong Kong Convention have an economic interest in ensuring that the Hong Kong Convention enters into force as soon as possible, in order to ensure a worldwide level playing field.
- (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 Directives¹⁸ respectively,
- (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
- (9) When interpreting the requirements of this Regulation, consideration should be given to the guidelines developed by the International Maritime Organization to support the Hong Kong Convention.

¹⁸ OJ L 312, 22.11.2008, p. 3.

- (10) Member States should take measures to prevent circumvention of ship recycling rules and to enhance transparency of ship recycling. As provided for by the Hong Kong Convention, Member States should report information concerning ships to which an inventory certificate has been issued, ships for which a statement of completion has been received and information regarding illegal recycling and follow up actions that they have undertaken.
- (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.
- (12) In order to take into account developments regarding the relevant international conventions, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the updating of the Annexes to this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (13) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers¹⁹.
- (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,

¹⁹ OJ L 55, 28.2.2011, p. 13.

HAVE ADOPTED THIS REGULATION:

TITLE I - SCOPE AND DEFINITIONS

Article 1

Objective

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.

Article 2

Definitions

1. For the purposes of this Regulation, the following definitions shall apply:
 - (1) ‘ship’ means a vessel of any type whatsoever operating or having operated in the marine environment, and includes submersibles, floating craft, floating platforms, self-elevating platforms, Floating Storage Units (FSUs), and Floating Production Storage and Offloading Units (FPSOs), as well as a vessel stripped of equipment or being towed;
 - (2) ‘new ship’ means either of the following:
 - (a) a ship for which the building contract is entered into on the day of the entry into force of this Regulation or thereafter;
 - (b) a ship where, in the absence of a building contract, the keel is laid or the ship is at a similar stage of construction on the day of entry into force of this Regulation or six months thereafter;
 - (c) a ship whose delivery takes place on the day of entry into force of this Regulation or thirty months thereafter;
 - (3) ‘tanker’ means an oil tanker as defined in Annex I to the Convention for the Prevention of Pollution from Ships (MARPOL) or an NLS tanker as defined in Annex II to that Convention;
 - (4) ‘hazardous material’ means any material or substance which is liable to create hazards to human health or the environment, including any substance which is considered to be dangerous under Council Directive 67/548/EEC²⁰ and Regulation 1272/2008 of the European Parliament and of the Council²¹;

²⁰ OJ 196, 16.8.1967, p. 1.

²¹ OJ L 353, 31.12.2008, p. 1.

- (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;
- (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;
- (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;
- (8) 'administration' means a governmental authority designated by a State as responsible, within a specified geographical area or area of expertise, for duties related to ships entitled to fly its flag or to ships operating under its authority;
- (9) 'competent authority' means a governmental authority designated by a State as responsible, within a specified geographical area or area of expertise, for duties related to ship recycling facilities operating within the jurisdiction of that State;
- (10) 'gross tonnage' means the gross tonnage (GT) calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships or any successor convention;
- (11) 'competent person' means a person with suitable qualifications, training, and sufficient knowledge, experience and skill, for the performance of the specific work;
- (12) 'employer' means a natural or legal person that employs one or more workers engaged in ship recycling;
- (13) 'shipowner' means the natural or legal person registered as the owner of the ship, including the natural or legal person owning the ship for a limited period pending its sale or handover to a ship recycling facility, or, in the absence of registration, the natural or legal person owning the ship or any other organisation or person who has assumed the responsibility for operation of the ship from the owner of the ship as well as a legal person operating a state-owned ship;
- (14) 'new installation' means the installation of systems, equipment, insulation or other material on a ship after the day of entry into force of this Regulation;
- (15) 'safe-for-entry' means a space on a ship that meets the following criteria:
 - (a) the oxygen content of the atmosphere and the concentration of flammable vapours are within safe limits;
 - (b) any toxic materials in the atmosphere are within permissible concentrations;
 - (c) any residues or materials associated with the work authorised by the competent person will not produce uncontrolled release of toxic materials or an unsafe concentration of flammable vapours under existing atmospheric conditions while maintained as directed;

- (16) ‘safe-for-hot work’ means a space on a ship that meets the following criteria:
- (a) a safe, non-explosive condition, including gas-free status, exists for the use of electric arc or gas welding equipment, cutting or burning equipment or other forms of naked flame, as well as heating, grinding, or spark-generating operations;
 - (b) the safe-for-entry criteria set out in point 15 are met;
 - (c) existing atmospheric conditions will not change as a result of the hot work;
 - (d) all adjacent spaces have been cleaned or treated sufficiently to prevent the start or spread of fire;
- (17) ‘site inspection’ means an inspection of the ship recycling facility confirming the condition described by the verified documentation;
- (18) ‘statement of completion’ means a confirmatory statement issued by the ship recycling facility that the ship recycling has been completed in accordance with this Regulation;
- (19) ‘worker’ means any person who performs work, either regularly or temporarily, in the context of an employment relationship, including the personnel working for subcontractors;
- (20) ‘recognised organisation’ means an organization recognized in accordance with Regulation (EC) No 391/2009 of the European Parliament and of the Council²²;
2. For the purposes of point 11 of paragraph 1, a competent person may be a trained worker or a managerial employee capable of recognising and evaluating occupational hazards, risks, and employee exposure to potentially hazardous materials or unsafe conditions in a ship recycling facility, and who is capable of specifying the necessary protection and precautions to be taken to eliminate or reduce those hazards, risks or exposures.

Without prejudice to Directive 2005/36/EC of the European Parliament and of the Council²³, the competent authority may define appropriate criteria for the designation of such persons and may determine the duties to be assigned to them.

Article 3

Scope

1. This Regulation shall apply to ships entitled to fly the flag of a Member State or operating under its authority.
2. This Regulation shall not apply to:

²² OJ L 131, 28.5.2009, p. 11.

²³ OJ L 255, 30.9.2005, p. 22.

- (a) any warships, naval auxiliary, or other ships owned or operated by a Member State and used, for the time being, only on government non-commercial service;
- (b) ships of less than 500 GT;
- (c) ships operating throughout their life only in waters subject to the sovereignty or jurisdiction of the State whose flag the ship is entitled to fly.

TITLE II - SHIPS

Article 4

Control of hazardous materials

1. The new installation of materials which contain asbestos or polychlorinated biphenyls shall be prohibited in accordance with Council Directive 96/59/EC²⁴ on all ships.
2. New installations of materials which contain controlled substances as defined in Regulation (EC) No 1005/2009 of the European Parliament and of the Council²⁵ shall be prohibited on all ships.
3. The new installation of materials containing perfluorooctane sulfonic acid (PFOS) and its derivatives (PFOS) shall be prohibited in accordance with Regulation (EC) No 757/2010 of the European Parliament and of the Council²⁶.
4. Member States shall take all of the following measures:
 - (a) prohibit or restrict the installation or use of hazardous materials referred to in paragraphs 1 to 3 on ships entitled to fly its flag or operating under its authority;
 - (b) prohibit or restrict the installation or use of such materials on ships whilst in its ports, shipyards, ship repair yards or offshore terminals;
 - (c) effectively ensure that ships comply with the requirements set out in points (a) and (b).

²⁴ OJ L 243, 24.9.1996, p. 31.

²⁵ OJ L 286, 31.10.2009, p. 1.

²⁶ OJ L 223, 25.8.2010, p. 29.

Article 5

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.
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.
5. In addition to paragraph 4, for existing ships a plan shall be prepared describing the visual/sampling check by which the inventory of hazardous materials is developed.
6. The inventory of hazardous materials shall consist of three parts:
 - (a) a list of hazardous materials referred to in Annex I and contained in the structure or equipment of the ship, their location and approximate quantities (Part I);
 - (b) a list of the waste present on board the ship, including waste generated during the operation of the ship (Part II);
 - (c) a list of the stores present on board the ship once the decision to recycle it has been taken (Part III).
7. Part I of the inventory of hazardous materials shall be properly maintained and updated throughout the operational life of the ship, reflecting new installations containing any hazardous materials referred to in Annex I and relevant changes in the structure and equipment of the ship.
8. Prior to recycling, the inventory shall, in addition to the properly maintained and updated Part I, incorporate Part II for operationally generated wastes and Part III for stores, and be verified by the Member State whose flag the ship is flying.
9. The Commission shall be empowered to adopt delegated acts in accordance with Article 26 concerning the updating of the list of items for the inventory of hazardous materials in Annex I.

Article 6

Preparation for recycling: general requirements

1. Shipowners shall ensure that ships:
 - (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. ;
 - (b) after publication of the European List, are only recycled at ship recycling facilities that are included in the European list;
 - (c) conduct operations in the period prior to entering the ship recycling facility in such a way as to minimise the amount of cargo residues, remaining fuel oil, and ship generated wastes remaining on board;
 - (d) update and complete the inventory of hazardous materials in accordance with Article 5;
 - (e) hold a ready for recycling certificate issued by the Member State whose flag they are flying prior to any recycling activity.
2. Shipowners shall also ensure that tankers arrive at the ship recycling facility with cargo tanks and pump rooms in a condition that is ready for certification as safe-for-entry and safe-for-hot work.

Article 7

Ship recycling plan

1. A ship-specific ship recycling plan shall be developed prior to any recycling of a ship.
2. The ship recycling plan shall:
 - (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);
 - (b) be drawn up in an official language of the country authorizing the ship recycling facility and where the language used is not English, French or Spanish, the Ship Recycling Plan shall be translated into one of those languages ;
 - (c) include information concerning the establishment, maintenance and monitoring of the safe-for-entry and safe-for-hot work criteria and other necessary information;
 - (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;

- (e) where more than one ship recycling facility is used, identify the ship recycling facilities to be used and specify the recycling activities and the order in which they occur at each authorised ship recycling facility.

Article 8

Surveys

1. Surveys shall be carried out by officers of the administration or of a recognised organisation acting on behalf of the administration.
2. Ships shall be subject to the following surveys:
 - (a) an initial survey;
 - (b) a renewal survey;
 - (c) an additional survey;
 - (d) a final survey.
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.
4. The renewal survey shall be conducted at intervals specified by the administration, which however shall not exceed five years. The officers carrying out that survey shall verify that Part I of the inventory of hazardous materials complies with the requirements of this Regulation.
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.
6. The final survey shall be conducted prior to the ship being taken out of service and before the recycling of the ship has started.

The officers carrying out that survey shall verify that:

- (a) the inventory of hazardous materials complies with the requirements of this Regulation;

- (b) the ship recycling plan properly reflects the information contained in the inventory of hazardous materials;
 - (c) the ship recycling plan contains the following information:
 - (1) the establishment, maintenance and monitoring of the safe-for-entry and safe-for-hot work criteria;
 - (2) the treatment of the hazardous materials and waste generated by the recycling of the specific ship in the ship recycling facility as well as in any authorized waste treatment facility;
 - (d) there is a contract between the shipowner and the ship recycling facility complying with Article 9,
 - (e) the ship recycling facility where the ship is to be recycled is included in the European List.
7. For existing ships intended for dismantling, the initial survey and the final survey shall be conducted at the same time.

Article 9

Contract between the shipowner and a ship recycling facility

1. The shipowner and a ship recycling facility complying with the requirements set out in Article 12 shall enter into a contract in relation to any ship which needs to be recycled.
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.
3. The contract shall include the following obligations for the shipowner:
 - (a) to apply the general requirements for the preparation of recycling referred to in Article 6;
 - (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;
 - (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.
4. The contract shall include the following obligations for the ship recycling facility:
 - (a) to develop, in collaboration with the shipowner, a ship-specific ship recycling plan in accordance with Article 7;

- (b) to report the planned start of ship recycling to the shipowner in accordance with the form laid down in Annex II;
 - (c) to prohibit the start of any recycling of the ship prior to submission of the report referred to in point (b);
 - (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:
 - (i) name of the State whose flag the ship is entitled to fly;
 - (ii) date on which the ship was registered with that State;
 - (iii) ship's identification number (IMO number);
 - (iv) hull number on new-building delivery;
 - (v) name and type of the ship;
 - (vi) port at which the ship is registered;
 - (vii) name and address of the shipowner as well as the IMO registered owner identification number;
 - (viii) name and address of the company as well as the IMO company identification number;
 - (ix) name of all classification society(ies) with which the ship is classed;
 - (x) ship's main particulars (Length overall (LOA), Breadth (Moulded), Depth (Moulded), Lightweight, Gross and Net tonnage, and engine type and rating);
 - (xi) Inventory of hazardous materials; and
 - (xii) draft ship recycling plan;
 - (e) to transfer all waste generated in the ship recycling facility only to waste treatment facilities which are authorised by the competent authorities to deal with their treatment and disposal in a safe and environmentally sound manner;
 - (f) when the partial or total recycling of a ship is completed in accordance with this Regulation, to report the completion of the ship recycling to the shipowner in accordance with the form laid down in Annex III.
5. The Commission shall be empowered to adopt delegated acts in accordance with Article 26 concerning the updating of the form of the report of planned start of ship recycling laid down in Annex II.
 6. The Commission shall be empowered to adopt delegated acts in accordance with Article 26 concerning the updating of the form of the statement of completion of ship recycling laid down in Annex III.

Article 10

Issuance and endorsement of certificates

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

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

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.
3. The Commission shall be empowered to adopt delegated acts in accordance with Article 26 concerning the updating of the form of the ready for recycling certificate laid down in Annex V. A ready for recycling certificate issued after a survey conducted in accordance with paragraph 2 shall be accepted by the other Member States and regarded for the purposes of this Regulation as having the same validity as a certificate issued by them.
4. The ready for recycling certificates shall be issued or endorsed either by the administration or by a recognised organisation acting on behalf of the administration.

Article 11

Duration and validity of certificates

1. An inventory certificate shall be issued for a period specified by the administration, which shall not exceed five years.
2. An inventory certificate issued under Article 10 of this Regulation shall cease to be valid in any of the following cases:
 - (a) where the condition of the ship does not correspond substantially with the particulars of the certificate, including where Part I of the inventory of hazardous materials is not properly maintained and updated, reflecting changes in ship structure and equipment;
 - (b) where the renewal survey is not completed at intervals specified by the administration but not exceeding five years;
 - (c) where the certificate is neither issued nor endorsed in accordance with Article 10 of this Regulation.

3. A ready for recycling certificate issued under Article 10 of this Regulation shall cease to be valid where the condition of the ship does not correspond substantially with the particulars of the certificate.
4. A ready for recycling certificate shall be issued by the administration for a period not exceeding three months. The ready for recycling certificate may be extended by the administration or by a recognised organisation acting on behalf of the administration for a single point to point voyage to the ship recycling facility.

TITLE III - SHIP RECYCLING FACILITIES

Article 12

Requirements for ship recycling facilities

Ships shall only be recycled in ship recycling facilities which have been included in the European list.

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

- (a) be designed, constructed and operated in a safe and environmentally sound manner;
- (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;
- (c) prevent adverse effects on human health and the environment ;
- (d) develop and approve a ship recycling facility plan;
- (e) establish and maintain an emergency preparedness and response plan;
- (f) provide for worker safety and training, including ensuring the use of personal protective equipment for operations requiring such use;
- (g) establish records on incidents, accidents, occupational diseases and chronic effects and, if requested by its competent authorities, report any incidents, accidents, occupational diseases or chronic effects causing, or with the potential for causing, risks to workers' safety, human health and the environment;
- (h) ensure safe and environmentally sound management of hazardous materials;
- (i) be authorised to conduct its operations by its competent authorities;
- (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;

- (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;
- (l) demonstrate the control of any leakage, in particular in intertidal zones;
- (m) handle hazardous materials and waste only on impermeable floors with effective drainage systems;
- (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.

For the purposes of point (n), environmentally sound management may be assumed as regards the waste recovery or disposal operation concerned, where the ship recycling facility can demonstrate that the waste management facility which receives the waste will be operated in accordance with human health and environmental protection standards that are equivalent to standards established in Union legislation.

Article 13

Evidence to be provided by ship recycling facilities

The ship recycling facility shall provide evidence that it complies with the requirements set out in Article 12 in order to conduct ship recycling and to be included in the European List.

In particular, the ship recycling facility shall:

- (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;
- (2) certify that it will only accept a ship flying the flag of an European Member State for recycling in accordance with the provisions of this Regulation;
- (3) provide evidence that the ship recycling facility is capable of establishing, maintaining and monitoring of the safe-for-hot work and safe-for-entry criteria throughout the ship recycling process;
- (4) attach a map of the boundary of the ship recycling facility and the location of ship recycling operations within it;
- (5) for each material referred to in Annex I and additional hazardous material which might be part of the structure of a ship specify:
 - (a) if the facility is authorized to carry out the removal of the hazardous material. In this case, the responsible personnel authorized to carry out the removal shall be identified and evidence of its competence shall be provided;

- (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:
 - (i) without risk to water, air, soil, plants or animals;
 - (ii) without causing a nuisance through noise or odours;
 - (iii) without adversely affecting the countryside or places of special interest;
- (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:
 - (i) name and address of the waste treatment facility;
 - (ii) evidence that the waste treatment facility is authorized to treat the hazardous material;
 - (iii) description of the waste treatment process;
 - (iv) evidence that the waste treatment process will ensure that carried out without endangering human health, without harming the environment and, in particular:
 - without risk to water, air, soil, plants or animals;
 - without causing a nuisance through noise or odours;
 - without adversely affecting the countryside or places of special interest.

Article 14

Authorization of ship recycling facilities located in a Member State

1. Competent authorities shall authorize ship recycling facilities located on their territory that comply with the requirements set out in Article 12 to conduct ship recycling. That authorization may be given to the respective ship recycling facilities for the maximum period of five years.
2. Member States shall establish and update a list of the ship recycling facilities that they have authorised in accordance with paragraph 1.
3. The list referred to in paragraph 2 shall be notified to the Commission without delay and not later than one year from the date of the entry into force of this Regulation.

4. Where a ship recycling facility ceases to comply with the requirements set out in Article 12, the Member State shall withdraw the authorization given to the ship recycling facility concerned and shall inform the Commission thereof without delay.
5. Where a new ship recycling facility has been authorized in accordance with paragraph 1, the Member State shall inform the Commission thereof without delay.

Article 15

Ship recycling facilities located outside of the Union

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

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

Article 16

Establishment and updating of the European list

1. The Commission shall establish by means of an implementing act in accordance with the examination procedure referred to in Article 27 a European List of the ship recycling facilities which:
 - (a) are located in the Union and have been notified by the Member States in accordance with Article 14(3);
 - (b) are located outside the Union and whose inclusion has been decided in accordance with Article 15(4).

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.
3. Once adopted, the Commission shall update the European List regularly by means of implementing acts in accordance with the examination procedure referred to in Article 27:
 - (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);
 - (b) to remove a ship recycling facility from the European list in any of the following cases:
 - (1) where the ship recycling facility ceases to comply with the requirements set out in Article 12;
 - (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
4. Member States shall communicate to the Commission all information that may be relevant in the context of updating the European list. The Commission shall forward all relevant information to the other Member States.

TITLE IV - GENERAL ADMINISTRATIVE PROVISIONS

Article 17

Language

The inventory certificate and the ready for recycling certificate shall be drawn up in an official language of the issuing Member State and where the language used is not English, French or Spanish, they shall be translated into one of those languages

Article 18

Designation of competent authorities

Member States shall designate the competent authorities responsible for the implementation of this Regulation and shall notify the Commission of those designations.

Article 19

Designation of contact persons

1. Member States and the Commission shall each designate one or more contact persons responsible for informing or advising natural or legal persons making enquiries. The contact person of the Commission shall forward to the contact persons of the Member States any questions received which concern the latter, and vice versa.
2. Member States shall notify the Commission of the designation of contact persons.

Article 20

Meeting of contact persons

The Commission shall, if requested by Member States or where it considers it appropriate, periodically organize a meeting of the contact persons to discuss the questions raised by the implementation of this Regulation. Relevant stakeholders shall be invited to such meetings, or parts of meetings, where all Member States and the Commission are in agreement that this is appropriate.

TITLE V - REPORTING AND ENFORCEMENT

Article 21

Notification and reporting requirements for shipowners

A shipowner shall:

- (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;
- (b) transmit to the administration the report of the planned start of the ship recycling established by the ship recycling facility as required by Article 9(4)(b);
- (c) transmit to the administration the report of the completion of the ship recycling established by the ship recycling facility as required by Article 9(4)(f).

Article 22

Reports by the Member States

1. Each Member State shall send to the Commission a report containing the following information:
 - (a) a list of the ships flying their flag to which an inventory certificate has been issued, and the name of the recycling company and the location of the ship recycling facility as shown in the ready for recycling certificate;
 - (b) a list of the ships flying their flag for which a statement of completion has been received;
 - (c) information regarding illegal recycling and follow-up actions undertaken by the Member State.
2. Each Member State shall transmit the report by 31 December 2015 and every two years thereafter.
3. The reports shall be submitted to the Commission electronically.

Article 23

Enforcement in Member States

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

3. Member States shall cooperate, bilaterally or multilaterally, with one another in order to facilitate the prevention and detection of potential circumvention and breach of this Regulation.
4. Member States shall designate those members of their permanent staff responsible for the cooperation referred to in paragraph 3. That information shall be sent to the Commission, which shall distribute to those members a compiled list.
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.
7. Member States shall regularly notify the Commission of their national legislation relating to the enforcement of this Regulation and the applicable penalties.

Article 24

Request for action

1. Natural or legal persons affected or likely to be affected by a breach of this Regulation or having a sufficient interest in environmental decision-making relating to the breach of the Regulation, or, alternatively, alleging the impairment of a right, where administrative procedural law of a Member State requires this as a precondition, shall be entitled to submit to the contact persons of a Member State any observations relating to instances of breach of this Regulation or an imminent threat of such a breach of which they are aware of and shall be entitled to request the competent authority to take action under this Regulation

The interest of any non-governmental organisation promoting environmental protection and meeting any requirements under national law shall be deemed sufficient for the purpose of having a sufficient interest in environmental decision making relating to the breach of the Regulation. Such organisations shall also be deemed to have rights capable of being impaired for the purpose of alleging the impairment of a right, where administrative procedural law of a Member State requires this as a precondition.

2. The request for action shall be accompanied by the relevant information and data supporting the observations submitted in relation to the breach of the Regulation in question.

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.
4. The competent authority shall, without delay and in any case in accordance with the relevant provisions of national law, inform the persons referred to in paragraph 1, who submitted observations to the authority, of its decision to accede to or refuse the request for action and shall provide the reasons for it.
5. Member States may decide not to apply paragraphs 1 and 4 to cases of imminent breach of this Regulation.

Article 25

Access to justice

1. Member States shall ensure that the persons referred to in Article 24(1) shall have access to a court or other independent and impartial public body competent to review the procedural and substantive legality of the decisions, acts or failure to act of the competent authority under this Regulation.
2. This Regulation shall be without prejudice to any provisions of national law which regulate access to justice and which require that administrative review procedures be exhausted prior to recourse to judicial proceedings.

TITLE VI – FINAL PROVISIONS

Article 26

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
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.
3. The delegation of power referred to in paragraph 2 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European*

Union or at a late date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to paragraph 2 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 27

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. When reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 28

Transitional provision

1. An inventory of hazardous materials shall be established for all ships not later than five years after the entry into force of this Regulation.
2. Member States may, prior to the publication of the European list, authorise the recycling of ships in facilities located outside the Union subject to the verification that the ship recycling facility complies with the requirements set out in Article 12 based on the information provided by the shipowner, the ship recycling facilities or acquired by other means.

Article 29

Amendment to Regulation (EC) No 1013/2006

In Article 1(3) of Regulation (EC) No 1013/2006, the following point is added:

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

(*) OJ L [...], [...], p. [...]

Article 30

Review

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.

Article 31

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX I

LIST OF ITEMS FOR THE INVENTORY OF HAZARDOUS MATERIALS

1. Materials containing asbestos
2. Ozone-depleting: controlled substances defined in Article 1(4) of the Montreal Protocol on Substances that Deplete the Ozone Layer, listed in Annexes A, B, C or E to that Protocol in force at the time of application or interpretation of this Annex. Ozone-depleting substances that may be found on board ship include, but are not limited to:
 - Halon 1211 Bromochlorodifluoromethane
 - Halon 1301 Bromotrifluoromethane Halon 2402 1,2-Dibromo-1,1,2,2-tetrafluoroethane (also known as Halon 114B2)
 - CFC-11 Trichlorofluoromethane CFC-12 Dichlorodifluoromethane CFC-113 1,1,2-Trichloro-1,2,2-trifluoroethane
 - CFC-114 1,2-Dichloro-1,1,2,2-tetrafluoroethane CFC-115 Chloropentafluoroethane
3. Materials containing Polychlorinated biphenyls (PCB)
4. Anti-fouling compounds and systems regulated under Annex I to the International Convention on the Control of Harmful Anti-fouling Systems on Ships (AFS Convention)
5. Materials containing perfluorooctane sulfonic acid and its derivatives (PFOS)
6. Cadmium and Cadmium Compounds
7. Hexavalent Chromium and Hexavalent Chromium Compounds
8. Lead and Lead Compounds
9. Mercury and Mercury Compounds
10. Polybrominated Biphenyl (PBBs)
11. Polybrominated Diphenyl Ethers (PBDEs)
12. Polychlorinated Naphthalenes (more than 3 chlorine atoms)
13. Radioactive Substances
14. Certain Shortchain Chlorinated Paraffins (Alkanes, C10-C13, chloro)
15. Brominated Flame Retardant (HBCDD)

ANNEX II

FORM OF REPORT OF PLANNED START OF SHIP RECYCLING

The (*Name of ship recycling facility*)

located at (*Full ship recycling facility address*)

included in the European list established by Regulation (EU) No XXXX of the European Parliament and of the Council of on ship recycling and authorized to conduct ship recycling under the authority of the Government of

..... (*Place of authorization*)

by (*Full designation of the competent authority*)

on (dd/mm/yyyy)..... (*Date of issue*)

Hereby reports that the ship recycling facility is ready in every respect to start the recycling of the vessel (*IMO number*)

The ready for recycling certificate issued under the provisions of Regulation (EU) No XXXX of the European Parliament and of the Council of on ship recycling under the authority of the Government of

..... (*Full designation of the State*)

by (*Full designation of the person or organization authorized under Regulation (EU) No XXXX*)

on (dd/mm/yyyy)..... (*Date of issue*) is enclosed.

Signed.....

ANNEX III

FORM OF THE STATEMENT OF COMPLETION OF SHIP RECYCLING

This document is a statement of completion of ship recycling for.....

(Name of the ship when it was received for recycling/at the point of deregistration)

Particulars of the ship as received for recycling

Distinctive number or letters	
Port of registry	
Gross tonnage	
IMO number	
Name and address of shipowner	
IMO registered owner identification number	
IMO company identification number	
Date of construction	

THIS CONFIRMS THAT:

The ship has been recycled in accordance with the ship recycling plan and Regulation (EU) No XXXX of the European Parliament and of the Council of on ship recycling at:

..... *(Name and location of the authorized ship recycling facility)*

and the recycling of the ship was completed on: (dd/mm/yyyy)

(Date of completion)

Issued at*(Place of issue of the statement of completion)* on

(dd/mm/yyyy)*(Date of issue)*

(Signature of the owner of the ship recycling facility or a representative acting on behalf of the owner)

ANNEX IV

FORM OF THE INVENTORY CERTIFICATE

(Official seal) (State)

Issued under the provisions of Regulation (EU) No XXXX of the European Parliament and of the Council of on ship recycling (hereinafter ‘the Regulation’)

under the authority of the Government of

.....*(Full designation of the State)*

by

.....*(person or organization authorized under the Regulation)*

Particulars of the ship

Name of the Ship	
Distinctive number or letters	
Port of registry	
Gross tonnage	
IMO number	
Name and address of shipowner	
IMO registered owner identification number	
IMO company identification number	
Date of construction	

Particulars of Part I of the inventory of hazardous materials

Part I of the inventory of hazardous materials identification/verification number:

.....

THIS IS TO CERTIFY:

1. that the ship has been surveyed in accordance with Article 8 of the Regulation;

2. that the survey shows that Part I of the inventory of hazardous materials fully complies with the applicable requirements of the Regulation.

Completion date of survey on which this certificate is based:.....(dd/mm/yyyy)

This certificate is valid until:.....(dd/mm/yyyy)

Issued at:.....(*Place of issue of certificate*)

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

(*Date of issue*) (*Signature of duly authorized official issuing the certificate*)

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

ENDORSEMENT TO EXTEND THE VALIDITY OF THE CERTIFICATE WHICH IS VALID FOR LESS THAN FIVE YEARS²⁷

The ship complies with the relevant provisions of the Regulation, and this certificate shall, in accordance with Article 10 of the Regulation, be accepted as valid until (dd/mm/yyyy):
.....

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

Place:

Date: (dd/mm/yyyy)

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

ENDORSEMENT WHERE THE RENEWAL SURVEY HAS BEEN COMPLETED²⁸

The ship complies with the relevant provisions of the Regulation, and this certificate shall, in accordance with Article 10 of the Regulation, be accepted as valid until (dd/mm/yyyy):.....

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

Place:

Date: (dd/mm/yyyy)

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

ENDORSEMENT TO EXTEND THE VALIDITY OF THE CERTIFICATE UNTIL REACHING THE PORT OF SURVEY OR FOR A PERIOD OF GRACE²⁹

²⁷ This page of the endorsement at survey shall be reproduced and added to the certificate as considered necessary by the administration.

²⁸ This page of the endorsement at survey shall be reproduced and added to the certificate as considered necessary by the administration.

²⁹ This page of the endorsement at survey shall be reproduced and added to the certificate as considered necessary by the administration.

This certificate shall, in accordance with Article 10 of the Regulation, be accepted as valid until (dd/mm/yyyy):.....

Signed: *(Signature of duly authorized official)*

Place:.....

Date: (dd/mm/yyyy)

(Seal or stamp of the authority, as appropriate)

ENDORSEMENT FOR ADDITIONAL SURVEY ³⁰

At an additional 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)

³⁰ This page of the endorsement at survey shall be reproduced and added to the certificate as considered necessary by the administration.

ANNEX V

FORM OF THE READY FOR RECYCLING CERTIFICATE

(Official seal) (State)

Issued under the provisions of Regulation (EU) No XXXX of the European Parliament and of the Council of on ship recycling (hereinafter ‘the Regulation’) under the authority of the Government of:

.....(*Full designation of the State*)

by

..... (*person or organization authorized under the Regulation*)

Particulars of the ship

Name of Ship	
Distinctive number or letters	
Port of registry	
Gross tonnage	
IMO number	
Name and address of shipowner	
IMO registered owner identification number	
IMO company identification number	
Date of construction	

Particulars of the ship recycling facilities

Name of ship recycling facility	
Distinctive recycling company identity number ³¹	

³¹ Identity number as indicated in the European list.

Full address	
Date of expiry of document of compliance with the Regulation	

Particulars of the inventory of hazardous materials

Inventory of hazardous materials identification/verification number:.....

Particulars of the ship recycling plan

Ship recycling plan identification/verification number:.....

Note: The ship recycling plan, as required by Article 7 of the Regulation, is an essential part of the ready for recycling certificate and must always accompany the ready for recycling certificate.

THIS IS TO CERTIFY:

1. that the ship has been surveyed in accordance with Article 8 of the Regulation;
2. that the ship has a valid inventory of hazardous materials in accordance with Article 5 of the Regulation;
3. that the ship recycling plan, as required by Article 7 of the Regulation, properly reflects the information contained in the inventory of hazardous materials as required by Article 5 of the Regulation and contains information concerning the establishment, maintenance and monitoring of the safe-for-entry and safe-for-hot work criteria;
4. that the ship recycling facility where this ship is to be recycled is included in the European List in accordance with Article 16 of the Regulation.

This certificate is valid until (dd/mm/yyyy)..... (Date)

Issued at(Place of issue of certificate)

(dd/mm/yyyy)

(Date of issue) (Signature of duly authorized official issuing the certificate)

(Seal or stamp of the authority, as appropriate)

ENDORSEMENT TO EXTEND THE VALIDITY OF THE CERTIFICATE UNTIL REACHING THE PORT OF THE SHIP RECYCLING FACILITY FOR A PERIOD OF GRACE ³²

³² This page of the endorsement shall be reproduced and added to the certificate as considered necessary by the administration.

This certificate shall, in accordance with Article 8 of the Regulation, be accepted as valid for a single point to point voyage

from the port of:

to the port of:.....

Signed: *(Signature of duly authorized official)*

Place:.....

Date: (dd/mm/yyyy)

(Seal or stamp of the authority, as appropriate)

ANNEX VI

FORM ON THE IDENTIFICATION OF THE SHIP RECYCLING FACILITY

Identification of the ship recycling facility

Name of ship recycling facility	
Distinctive recycling company identity No.	
Full address of ship recycling facility	
Primary contact person	
Phone number	
E-mail address	
Name, address, and contact information of the recycling company	
Working language(s)	