

Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC (Text with EEA relevance)

REGULATION (EU) No 1257/2013 OF THE  
EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 20 November 2013

on ship recycling and amending Regulation  
(EC) No 1013/2006 and Directive 2009/16/EC

(Text with EEA relevance)

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<sup>(1)</sup>,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure<sup>(2)</sup>,

Whereas:

- (1) Ships which constitute waste and which are subject to a transboundary movement for recycling are regulated by the Basel Convention of 22 March 1989 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<sup>(3)</sup>. Regulation (EC) No 1013/2006 implements the Basel Convention as well as an amendment<sup>(4)</sup> to that 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 Cooperation and Development (OECD). Such ships are generally classified as hazardous waste and prohibited from being exported from the Union for recycling in facilities in countries that are not members of the OECD.
- (2) The mechanisms for monitoring the application of, and enforcing the current Union and international law are not adapted to the specificities of ships and international shipping. Efforts involving inter-agency cooperation between the International Labour Organisation (ILO), the International Maritime Organisation (IMO) and the Secretariat of the Basel Convention have been successful in reaching agreement on the introduction of mandatory requirements, at global level, aimed at ensuring an efficient and effective solution to unsafe and unsound ship recycling practices in the form of the Hong Kong

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International Convention for the Safe and Environmentally Sound Recycling of Ships ('the Hong Kong Convention').

- (3) Current ship recycling capacity in OECD countries which is legally accessible to ships flying the flag of a Member State is insufficient. Current safe and environmentally sound ship recycling capacity in countries which are not members of the OECD is sufficient to treat all ships flying the flag of a Member State 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.
- (4) The Hong Kong Convention was adopted on 15 May 2009 under the auspices of the International Maritime Organization. The Hong Kong Convention will enter into force only 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. That Convention covers the design, the construction, the operation and the preparation of ships with a view to facilitating 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) This Regulation is aimed at facilitating early ratification of the Hong Kong Convention both within the Union and in third countries by applying proportionate controls to ships and ship recycling facilities on the basis of that Convention.
- (6) 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. Taking that into account, this Regulation should provide protection from the possible adverse effects of hazardous materials on board all ships calling at a port or anchorage of a Member State while ensuring compliance with the provisions applicable to those materials under international law. In order to ensure the monitoring of compliance with the requirements relating to hazardous materials under this Regulation, Member States should apply national provisions to implement Directive 2009/16/EC of the European Parliament and of the Council<sup>(5)</sup>. Currently, port State control inspectors are tasked with the inspection of certification and with active testing for hazardous materials, including asbestos, under the International Convention for the Safety of Life at Sea ('SOLAS'). The Paris Memorandum of Understanding on Port State Control provides a harmonised approach for those activities.
- (7) 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 workplace and environmental standards and to direct ships flying the flag of a Member State to ship recycling facilities that practice safe and environmentally sound methods of dismantling ships instead of directing them to substandard sites as is currently the practice. The competitiveness of safe and environmentally sound

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recycling and treatment of ships in ship recycling facilities located in a Member State would thereby also be increased. The establishment of a European List of ship recycling facilities ('the European List') fulfilling the requirements set out in this Regulation would contribute to those objectives as well as to better enforcement by facilitating the control of ships going for recycling by the Member State whose flag the ship is flying. Those requirements for ship recycling facilities should be based on the requirements of the Hong Kong Convention. In this regard, ship recycling facilities approved in accordance with this Regulation should meet the necessary requirements to ensure protection of the environment, the health and safety of workers and the environmentally sound management of the waste recovered from recycled ships. For ship recycling facilities located in a third country, the requirements should achieve a high level of protection of human health and the environment that is broadly equivalent to that in the Union. Ship recycling facilities which do not meet those minimum requirements should therefore not be included in the European List.

- (8) The principle of equality in Union law should be applied and its application monitored, in particular when establishing and updating the European List in respect of ship recycling facilities located in a Member State and ship recycling facilities located in a third country fulfilling the requirements set out in this Regulation.
- (9) Member States are encouraged to adopt appropriate measures to ensure that ships excluded from the scope of this Regulation act in a manner that is consistent with this Regulation, in so far as is reasonable and practicable.
- (10) In order to avoid duplication, it is necessary to exclude ships flying the flag of a Member State falling under the scope of this Regulation from the scope of application of Regulation (EC) No 1013/2006 and of Directive 2008/98/EC of the European Parliament and of the Council<sup>(6)</sup> respectively. Regulation (EC) No 1013/2006 applies to shipments of waste from the Union, subject to exclusions for certain categories of waste where an alternative regime applies. This Regulation subjects ships within its scope to controls throughout their life-cycle and aims to secure recycling of those ships in an environmentally sound manner. It is therefore appropriate to specify that a ship subject to the alternative control regime throughout its life-cycle under this Regulation should not be subject to Regulation (EC) No 1013/2006. Ships neither covered by the scope of the Hong Kong Convention nor by this Regulation, and any waste on board of a ship other than operationally generated waste, should continue to be subject to Regulation (EC) No 1013/2006 and to Directives 2008/98/EC and 2008/99/EC of the European Parliament and of the Council<sup>(7)</sup>, respectively.
- (11) It is also acknowledged that ships continue to be subject to other international conventions to ensure their safe operation at sea during the operational part of their life-cycle and, although they can exercise certain navigational rights and freedoms, ships are required to provide prior notice of entry into ports. Member States should be able to choose to apply further controls in accordance with other international treaties. Additional transit controls are therefore not considered necessary under this Regulation.

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- (12) When interpreting the requirements of this Regulation, consideration should be given to the guidelines developed by the IMO ('IMO guidelines') to support the Hong Kong Convention.
- (13) For the purposes of this Regulation, the term 'recycling' should not have the same meaning as defined in Directive 2008/98/EC. This Regulation should therefore introduce a specific definition for the term 'ship recycling'.
- (14) Regulation (EC) No 1272/2008 of the European Parliament and of the Council<sup>(8)</sup> implements at Union level the Globally Harmonised System for the classification and labelling of chemicals. That Regulation, together with Council Directive 67/548/EEC<sup>(9)</sup> and Directive 1999/45/EC of the European Parliament and of the Council<sup>(10)</sup>, provides useful guidance in determining what constitutes a hazardous material.
- (15) Keeping an inventory of hazardous materials on board a ship throughout its life-cycle is a key requirement laid down in the Hong Kong Convention and in this Regulation. In accordance with Regulation 8(2) of the Hong Kong Convention, a ship destined to be recycled should minimise the amounts of operationally generated waste in the period prior to entering the ship recycling facility. If the operationally generated waste is intended for delivery with the ship to a ship recycling facility, the approximate quantities and locations of that waste should be listed in Part II of the inventory.
- (16) Member States should take measures to prevent circumvention of ship recycling rules and to enhance transparency of ship recycling. As provided for in 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 ship recycling and follow-up actions that they have undertaken.
- (17) Member States should lay down rules on penalties applicable to infringements of this Regulation and ensure that those 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.
- (18) In accordance with the case-law of the Court of Justice, the courts of the Member States are required to interpret, to the fullest extent possible, the procedural rules relating to the conditions to be met in order to bring administrative or judicial proceedings in accordance with the objectives of Article 9(3) of the Aarhus Convention.
- (19) In the interest of protecting human health and the environment and having regard to the 'polluter pays' principle, the Commission should assess the feasibility of establishing a financial mechanism applicable to all ships calling at a port or anchorage of a Member State, irrespective of the flag they are flying, to generate resources that would facilitate the environmentally sound recycling and treatment of ships without creating an incentive to out-flag.
- (20) In order to take into account developments regarding the Hong Kong Convention, 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

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of Annexes I and II 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.

- (21) 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<sup>(1)</sup>.
- (22) Since the objective of this Regulation, namely 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, but can rather by reason of its scale and effects, 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 on European Union. 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,

HAVE ADOPTED THIS REGULATION:

## TITLE I

### SUBJECT-MATTER, SCOPE AND DEFINITIONS

#### *Article 1*

##### **Subject matter and purpose**

The purpose of this Regulation is to prevent, reduce, minimise and, to the extent practicable, eliminate accidents, injuries and other adverse effects on human health and the environment caused by ship recycling. The purpose of this Regulation is to enhance safety, the protection of human health and of the Union marine environment throughout a ship's life-cycle, in particular to ensure that hazardous waste from such ship recycling is subject to environmentally sound management.

This Regulation also lays down rules to ensure the proper management of hazardous materials on ships.

This Regulation also aims to facilitate the ratification of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 ('the Hong Kong Convention').

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## Article 2

### Scope

1 This Regulation, with the exception of Article 12, shall apply to ships flying the flag of a Member State.

Article 12 shall apply to ships flying the flag of a third country calling at a port or anchorage of a Member State.

2 This Regulation shall not apply to:

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

## Article 3

### Definitions

1 For the purposes of this Regulation, the following definitions 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 a ship for which either:
  - (a) the building contract is placed on or after the date of application of this Regulation;
  - (b) in the absence of a building contract, the keel is laid or the ship is at a similar stage of construction six months after the date of application of this Regulation or thereafter; or
  - (c) the delivery takes place thirty months after the date of application of this Regulation or thereafter;
- (3) ‘tanker’ means an oil tanker as defined in Annex I to the Convention for the Prevention of Pollution from Ships (‘MARPOL Convention’) or a Noxious Liquid Substances (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 and/or the environment;
- (5) ‘operationally generated waste’ means waste water and residues generated by the normal operation of ships subject to the requirements of the MARPOL Convention;
- (6) ‘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, for preparation for re-use or for re-use, whilst ensuring the management of hazardous

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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;

- (7) ‘ship recycling facility’ means a defined area that is a yard or facility located in a Member State or in a third country and used for the recycling of ships;
- (8) ‘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 the ship recycling activity from the owner of the ship recycling facility;
- (9) ‘administration’ means a governmental authority designated by a Member State as being responsible for duties related to ships flying its flag or to ships operating under its authority;
- (10) ‘recognised organisation’ means an organisation recognised in accordance with Regulation (EC) No 391/2009 of the European Parliament and of the Council<sup>(12)</sup>;
- (11) ‘competent authority’ means a governmental authority or authorities designated by a Member State or a third country as responsible for ship recycling facilities, within a specified geographical area or an area of expertise, relating to all operations within the jurisdiction of that state;
- (12) ‘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, 1969, or any successor convention;
- (13) ‘competent person’ means a person with suitable qualifications, training, and sufficient knowledge, experience and skill, for the performance of the specific work;
- (14) ‘ship owner’ 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, such as the manager or the bareboat charterer, who has assumed the responsibility for operation of the ship from the owner of the ship, and the legal person operating a state-owned ship;
- (15) ‘new installation’ means the installation of systems, equipment, insulation or other material on a ship after the date of application of this Regulation;
- (16) ‘ship recycling plan’ means a plan developed by the operator of the ship recycling facility for each specific ship to be recycled under its responsibility taking into account the relevant IMO guidelines and resolutions;
- (17) ‘ship recycling facility plan’ means a plan prepared by the operator of the ship recycling facility and adopted by the board or the appropriate governing body of the ship recycling company that describes the operational processes and procedures involved in ship recycling at the ship recycling facility and that covers in particular workers’ safety and training, protection of human health and the environment, roles and responsibilities of personnel, emergency preparedness and response, and systems for monitoring, reporting and record-keeping, taking into account the relevant IMO guidelines and resolutions;
- (18) ‘safe-for-entry’ means a space that meets all of the following criteria:
  - (a) the oxygen content of the atmosphere and the concentration of flammable vapours are within safe limits;

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- (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;
- (19) ‘safe-for-hot work’ means a space in which all of the following criteria are met:
- (a) safe, non-explosive conditions, including gas-free status, exist 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 18 are met;
  - (c) existing atmospheric conditions do not change as a result of the hot work;
  - (d) all adjacent spaces have been cleaned, rendered inert or treated sufficiently to prevent the start or spread of fire;
- (20) ‘statement of completion’ means a confirmatory statement issued by the operator of the ship recycling facility that the ship recycling has been completed in accordance with this Regulation;
- (21) ‘inventory certificate’ means a ship-specific certificate that is issued to ships flying the flag of a Member State in accordance with Article 9 and that is supplemented by an inventory of hazardous materials in accordance with Article 5;
- (22) ‘ready for recycling certificate’ means a ship-specific certificate that is issued to ships flying the flag of a Member State in accordance with Article 9(9) and that is supplemented by an inventory of hazardous materials in accordance with Article 5(7) and the approved ship recycling plan in accordance with Article 7;
- (23) ‘statement of compliance’ means a ship-specific certificate that is issued to ships flying the flag of a third country and that is supplemented by an inventory of hazardous materials in accordance with Article 12;
- (24) ‘light displacement tonnes (LDT)’ means the weight of a ship in tonnes without cargo, fuel, lubricating oil in storage tanks, ballast water, fresh water, feedwater, consumable stores, passengers and crew and their effects and it is the sum of the weight of the hull, structure, machinery, equipment and fittings of the ship.
- 2 For the purposes of Article 7(2)(d) and Articles 13, 15 and 16,
- a ‘waste’, ‘hazardous waste’, ‘treatment’ and ‘waste management’ have the same meaning as in Article 3 of Directive 2008/98/EC;
  - b ‘site inspection’ means an inspection of the ship recycling facility assessing whether the conditions on site are consistent with those described in any relevant documentation provided;
  - c ‘worker’ means any person who performs work, either regularly or temporarily, in the context of an employment relationship, including the personnel working for contractors and subcontractors;
  - d ‘environmentally sound management’ means taking all practicable steps to ensure that waste and hazardous materials are managed in a manner which protects human health



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and the environment against the adverse effects which may result from such materials and waste.

3 For the purposes of point 13 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 that exposure.

Without prejudice to Directive 2005/36/EC of the European Parliament and of the Council<sup>(13)</sup>, the competent authority may define appropriate criteria for the designation of such persons and may determine the duties to be assigned to them.

## TITLE II

### SHIPS

#### *Article 4*

#### **Control of hazardous materials**

The installation or use of hazardous materials referred to in Annex I on ships shall be prohibited or restricted as specified in Annex I, without prejudice to other requirements of relevant Union law which may require further measures.

#### *Article 5*

#### **Inventory of hazardous materials**

1 Each new ship shall have on board an inventory of hazardous materials, which shall identify at least the hazardous materials referred to in Annex II and contained in the structure or equipment of the ship, their location and approximate quantities.

2 Subject to point (b) of Article 32(2), existing ships shall comply, as far as practicable, with paragraph 1.

In the case of ships going for recycling, they shall comply, as far as practicable, with paragraph 1 of this Article from the date of the publication of the European List of ship recycling facilities ('the European List') as set out in Article 16(2).

Subject to point (b) of Article 32(2), when the inventory of hazardous materials is developed it shall identify, at least, the hazardous materials listed in Annex I.

3 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 be compiled taking into account the relevant IMO guidelines;
- d be verified either by the administration or a recognised organisation authorised by it.

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4 In addition to paragraph 3, for existing ships a plan shall be prepared describing the visual or sampling check by which the inventory of hazardous materials is developed and taking into account the relevant IMO guidelines.

5 The inventory of hazardous materials shall consist of three parts:

- a a list of hazardous materials referred to in Annexes I and II, in accordance with the provisions of paragraphs 1 and 2 of this Article, and contained in the structure or equipment of the ship, with an indication of their location and approximate quantities (Part I);
- b a list of the operationally generated waste present on board the ship (Part II);
- c a list of the stores present on board the ship (Part III).

6 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 II and relevant changes in the structure and equipment of the ship.

7 Prior to recycling, and taking into account the relevant IMO guidelines, the inventory of hazardous materials shall, in addition to the properly maintained and updated Part I, incorporate Part II for operationally generated waste and Part III for stores, and be verified by the administration or a recognised organisation authorised by it.

8 The Commission shall be empowered to adopt delegated acts in accordance with Article 24 concerning the updating of the list of items for the inventory of hazardous materials in Annexes I and II to ensure that the lists include at least the substances listed in Appendices I and II of the Hong Kong Convention.

The Commission shall adopt a separate delegated act in respect of each substance to be added or deleted from Annexes I or II.

#### *Article 6*

#### **General requirements for ship owners**

1 When preparing to send a ship for recycling, ship owners shall:

- a provide the operator of the ship recycling facility with all ship-relevant information, necessary for the development of the ship recycling plan set out in Article 7;
- b notify in writing the relevant administration, within a timeframe to be determined by that administration, of the intention to recycle the ship in a specified ship recycling facility or facilities. The notification shall include at least:

- (i) the inventory of hazardous materials; and
- (ii) all ship-relevant information provided under point (a).

2 Ship owners shall ensure that ships destined to be recycled:

- a are only recycled at ship recycling facilities that are included in the European List;
- b 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 waste remaining on board;
- c hold a ready for recycling certificate issued by the administration or a recognised organisation authorised by it prior to any recycling of the ship and after the receipt of the ship recycling plan approved in accordance with Article 7(3).

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3 Ship owners shall ensure that tankers arrive at the ship recycling facility with cargo tanks and pump rooms in a condition ready for certification as safe-for-hot work.

4 Ship owners shall provide the operator of the ship recycling facility with a copy of the ready for recycling certificate issued in accordance with Article 9.

5 Ship owners shall be responsible for the ship and shall make arrangements to maintain that ship in compliance with the requirements of the administration of the Member State whose flag the ship is flying up until such time as the operator of the ship recycling facility accepts responsibility for that ship. The operator of the ship recycling facility may decline to accept the ship for recycling if the condition of the ship does not correspond substantially with the particulars of the inventory certificate, including where Part I of the inventory of hazardous materials has not been properly maintained and updated, reflecting changes in the ship's structure and equipment. In such circumstances, the ship owner shall retain responsibility for that ship and shall inform the administration thereof without delay.

#### *Article 7*

### **Ship recycling plan**

1 A ship-specific ship recycling plan shall be developed prior to any recycling of a ship. The ship recycling plan shall address any ship-specific considerations that are not covered in the ship recycling facility plan or that require special procedures.

2 The ship recycling plan shall:

- a be developed by the operator of the ship recycling facility in accordance with the relevant provisions of the Hong Kong Convention and taking into account the relevant IMO guidelines and the ship-relevant information provided by the ship owner in accordance with Article 6(1)(a) so that its contents are consistent with the information contained in the inventory of hazardous materials;
- b clarify whether and to what extent any preparatory work, such as pre-treatment, identification of potential hazards and removal of stores, is to take place at a location other than the ship recycling facility identified in the ship recycling plan. The ship recycling plan should include the location where the ship will be placed during recycling operations and a concise plan for the arrival and safe placement of the specific ship to be recycled;
- c include information concerning the establishment, maintenance and monitoring of the safe-for-entry and safe-for-hot work conditions for the specific ship, taking into account features such as its structure, configuration and previous cargo, and other necessary information on how the ship recycling plan is to be implemented;
- d include information on the type and amount of hazardous materials and of waste to be generated by the recycling of the specific ship, including the materials and the waste identified in the inventory of hazardous materials, and on how they will be managed and stored in the ship recycling facility as well as in subsequent facilities; and
- e be prepared separately, in principle, for each ship recycling facility involved where more than one ship recycling facility is to be used, and identify the order of use and the authorised activities that will occur at those facilities.

3 The ship recycling plan shall be tacitly or explicitly approved by the competent authority in accordance with the requirements of the state where the ship recycling facility is located, where applicable.

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Explicit approval shall be given when the competent authority sends a written notification of its decision on the ship recycling plan to the operator of the ship recycling facility, the ship owner and the administration.

Tacit approval shall be deemed given, if no written objection to the ship recycling plan is communicated by the competent authority to the operator of the ship recycling facility, the ship owner and the administration within a review period laid down in accordance with the requirements of the state where the ship recycling facility is located, where applicable, and notified in accordance with Article 15(2)(b).

4 Member States may require their administration to send to the competent authority of the state where the ship recycling facility is located the information provided by the ship owner pursuant to Article 6(1)(b) and the following details:

- (i) the date on which the ship was registered within the State whose flag it flies;
- (ii) the ship's identification number (IMO number);
- (iii) the hull number on new-building delivery;
- (iv) the name and type of the ship;
- (v) the port at which the ship is registered;
- (vi) the name and address of the ship owner as well as the IMO registered owner identification number;
- (vii) the name and address of the company;
- (viii) the name of any classification societies with which the ship is classed;
- (ix) the ship's main particulars (Length overall (LOA), Breadth (Moulded), Depth (Moulded), LDT, Gross and Net tonnage, and engine type and rating).

#### *Article 8*

#### **Surveys**

1 Surveys of ships shall be carried out by officers of the administration, or of a recognised organisation authorised by it, taking into account the relevant IMO guidelines.

2 Where the administration uses recognised organisations to conduct surveys, as described in paragraph 1, it shall, as a minimum, empower such recognised organisations to:

- require a ship that they survey to comply with this Regulation; and
- carry out surveys if requested by the appropriate authorities of a Member State.

3 Ships shall be subject to the following surveys:

- a an initial survey;
- b a renewal survey;
- c an additional survey;
- d a final survey.

4 The initial survey of a new ship shall be conducted before the ship is put in service, or before the inventory certificate is issued. For existing ships, an initial survey shall be conducted by 31 December 2020. The survey shall verify that Part I of the inventory of hazardous materials complies with the requirements of this Regulation.

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5 The renewal survey shall be conducted at intervals specified by the administration, which shall not exceed five years. The renewal survey shall verify that Part I of the inventory of hazardous materials complies with the requirements of this Regulation.

6 The additional survey, either general or partial depending on the circumstances, shall be conducted if requested by the ship owner after a change, replacement or significant repair of the structure, equipment, systems, fittings, arrangements and material, which has an impact on the inventory of hazardous materials. The survey shall be such as to ensure that any change, replacement, or significant repair has been made in a manner that ensures that the ship continues to comply with the requirements of this Regulation, and that Part I of the inventory of hazardous materials is amended as necessary.

7 The final survey shall be conducted prior to the ship being taken out of service and before the recycling of the ship has started.

That survey shall verify that:

- a the inventory of hazardous materials complies with the requirements of Article 5;
- b the ship recycling plan properly reflects the information contained in the inventory of hazardous materials and complies with the requirements of Article 7;
- c the ship recycling facility where the ship is to be recycled is included in the European List.

8 For existing ships intended for ship recycling, the initial survey and the final survey may be conducted at the same time.

### *Article 9*

#### **Issuance and endorsement of certificates**

1 After successful completion of an initial or renewal survey, the administration or a recognised organisation authorised by it shall issue an inventory certificate. That certificate shall be supplemented by Part I of the inventory of hazardous materials, referred to in Article 5(5)(a).

Where the initial survey and the final survey are conducted at the same time as provided for in Article 8(8), only the ready for recycling certificate referred to in paragraph 9 of this Article shall be issued.

The Commission shall adopt implementing acts to establish the format of the inventory certificate to ensure it is consistent with Appendix 3 to the Hong Kong Convention. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 25 of this Regulation.

2 An inventory certificate shall be endorsed at the request of the ship owner either by the administration or by a recognised organisation authorised by it after successful completion of an additional survey conducted in accordance with Article 8(6).

3 Subject to paragraph 4, the administration or recognised organisation authorised by it shall issue or endorse, as appropriate, an inventory certificate, where the renewal survey is successfully completed:

- a in the three month period before the expiry date of the existing inventory certificate, and the new certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing one;

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- b after the expiry date of the existing inventory certificate, and the new certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing one;
- c more than three months before the expiry date of the existing inventory certificate, and the new certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of completion of the renewal survey.

4 Where a renewal survey has been successfully completed and a new inventory certificate cannot be issued or placed on board before the expiry date of the existing certificate, the administration or recognised organisation authorised by it shall endorse the existing certificate and such a certificate shall be accepted as valid for a further period which shall not exceed five months from the date of expiry.

5 In case of an inventory certificate issued for a period of less than five years, the administration or the recognised organisation authorised by it may extend the validity of the existing certificate for a further period which shall not exceed five years.

6 In special circumstances as determined by the administration, a new inventory certificate need not be dated from the date of expiry of the existing certificate as required by points (a) and (b) of paragraph 3 and paragraphs 7 and 8. In those circumstances, the new certificate shall be valid for a period not exceeding five years from the date of completion of the renewal survey.

7 Where a ship is not at the port or anchorage where it is to be surveyed when the inventory certificate expires, the administration may, if it is proper to do so, extend the period of validity of the inventory certificate for a period not exceeding three months to enable the ship to complete its voyage to the port in which it is to be surveyed. Any such extension granted shall be conditional on the survey being completed at that port before the ship leaves. A ship to which an extension is granted shall not, on its arrival in the port in which it is to be surveyed, be entitled, by virtue of such extension, to leave the port without having a new certificate. When the renewal survey is completed, the new inventory certificate shall be valid for a period not exceeding five years from the date of expiry of the existing certificate before the extension was granted.

8 An inventory certificate for a ship engaged on short voyages and which has not been extended under the conditions referred to in paragraph 7 may be extended by the administration for a period of grace of up to one month from its expiry. When the renewal survey is completed, the new inventory certificate shall be valid for a period not exceeding five years from the date of expiry of the existing certificate before the extension was granted.

9 After successful completion of a final survey in accordance with Article 8(7), the administration or a recognised organisation authorised by it shall issue a ready for recycling certificate. That certificate shall be supplemented by the inventory of hazardous materials and the ship recycling plan.

The Commission shall adopt implementing acts to establish the format of the ready for recycling certificate to ensure it is consistent with Appendix 4 to the Hong Kong Convention. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 25 of this Regulation. A ready for recycling certificate issued after a final survey in accordance with the first subparagraph of this paragraph shall be accepted by the other Member States and regarded for the purposes of this Regulation as having the same validity as a ready for recycling certificate issued by them.

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## Article 10

### Duration and validity of certificates

- 1 Subject to Article 9, an inventory certificate shall be issued for a period specified by the administration, which shall not exceed five years.
- 2 An inventory certificate issued or endorsed under Article 9 shall cease to be valid in any of the following cases:
  - a if the condition of the ship does not correspond substantially with the particulars of that inventory certificate, including where Part I of the inventory of hazardous materials has not been properly maintained and updated, reflecting changes in ship structure and equipment, taking into account the relevant IMO guidelines;
  - b where the renewal survey is not completed within the intervals specified in Article 8(5).
- 3 A ready for recycling certificate shall be issued by the administration or by a recognised organisation authorised by it for a period not exceeding three months.
- 4 A ready for recycling certificate issued under Article 9(9) shall cease to be valid where the condition of the ship does not correspond substantially with the particulars of the inventory certificate.
- 5 By way of derogation from paragraph 3, the ready for recycling certificate may be extended by the administration or by a recognised organisation authorised by it for a single point to point voyage to the ship recycling facility.

## Article 11

### Port State control

- 1 Member States shall apply control provisions for ships in accordance with their national law having regard to Directive 2009/16/EC. Subject to paragraph 2, any such inspection shall be limited to checking that either an inventory certificate or a ready for recycling certificate is kept on board, which, if valid, shall be considered sufficient for the inspection to be approved.
- 2 A detailed inspection may be carried out by the relevant authority involved in port State control activities, taking into account the relevant IMO guidelines, where a ship does not carry a valid certificate or there are clear grounds for believing either that:
  - a the condition of the ship or its equipment does not correspond substantially with the particulars of that certificate, Part I of the inventory of hazardous materials, or both; or
  - b there is no procedure implemented on board the ship for the maintenance of Part I of the inventory of hazardous materials.
- 3 A ship may be warned, detained, dismissed or excluded from the ports or offshore terminals under the jurisdiction of a Member State in the event that it fails to submit to the relevant authorities of that Member State a copy of the inventory certificate or the ready for recycling certificate, as appropriate and on request of those authorities, without prejudice to Article 9. A Member State taking such action shall immediately inform the administration concerned. Failure to update the inventory of hazardous materials shall not constitute a detainable deficiency, but any inconsistencies in the inventory of hazardous materials shall be reported to the administration concerned and shall be rectified at the time of the next survey.

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4 Access to a specific port or anchorage may be permitted by the relevant authority of a Member State in the event of force majeure or overriding safety considerations, or to reduce or minimise the risk of pollution or to have deficiencies rectified, provided that adequate measures to the satisfaction of the relevant authority of that Member State have been implemented by the owner, the operator or the master of the ship to ensure safe entry.

#### *Article 12*

### **Requirements for ships flying the flag of a third country**

1 Subject to point (b) of Article 32(2), when calling at a port or anchorage of a Member State, a ship flying the flag of a third country shall have on board an inventory of hazardous materials that complies with Article 5(2).

Notwithstanding the first subparagraph, access to a specific port or anchorage may be permitted by the relevant authority of a Member State in the event of force majeure or overriding safety considerations, or to reduce or minimise the risk of pollution or to have deficiencies rectified, provided that adequate measures to the satisfaction of the relevant authority of that Member State have been implemented by the owner, the operator or the master of the ship to ensure safe entry.

2 The installation of hazardous materials referred to in Annex I on ships flying the flag of a third country, whilst in a port or anchorage of a Member State, shall be prohibited or restricted as specified in Annex I.

The use of hazardous materials referred to in Annex I on ships flying the flag of a third country, whilst in a port or anchorage of a Member State, shall be prohibited or restricted as specified in Annex I, without prejudice to the exemptions and transitional arrangements applicable to those materials under international law.

3 The inventory of hazardous materials shall be specific to each ship, be compiled taking into account the relevant IMO guidelines and serve to clarify that the ship complies with paragraph 2 of this Article. When the inventory of hazardous materials is developed it shall identify, at least, the hazardous materials listed in Annex I. A plan shall be established by the ship flying the flag of a third country describing the visual/sampling check by which the inventory of hazardous materials is developed taking into account the relevant IMO guidelines.

4 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 II and relevant changes in the structure and equipment of the ship, taking into account the exemptions and transitional arrangements applicable to those materials under international law.

5 A ship flying the flag of a third country may be warned, detained, dismissed or excluded from the ports or offshore terminals under the jurisdiction of a Member State in the event that it fails to submit to the relevant authorities of that Member State a copy of the statement of compliance in accordance with paragraphs 6 and 7, together with the inventory of hazardous materials, as appropriate and on request from those authorities. A Member State taking such action shall immediately inform the relevant authorities of the third country whose flag the ship concerned is flying. Failure to update the inventory of hazardous materials shall not constitute a detainable deficiency, but any inconsistencies in the inventory of hazardous materials shall be reported to the relevant authorities of the third country whose flag that ship is flying.



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6 The statement of compliance shall be issued after verification of the inventory of hazardous materials by the relevant authorities of the third country whose flag the ship is flying or an organisation authorised by them, in accordance with the national requirements. The statement of compliance may be modelled on the basis of Appendix 3 to the Hong Kong Convention.

7 The statement of compliance and the inventory of hazardous materials shall be drawn up in an official language of the issuing relevant authorities of the third country whose flag the ship is flying and where the language used is not English, French or Spanish, the text shall include a translation into one of those languages.

8 Subject to point (b) of Article 32(2), ships flying the flag of a third country applying to be registered under the flag of a Member State shall ensure that an inventory of hazardous materials, as provided for in Article 5(2), is kept on board or is established within six months of the registration under the flag of that Member State or during any of the next surveys under Article 8(3), whichever comes first.

### TITLE III

#### SHIP RECYCLING FACILITIES

##### *Article 13*

#### **Requirements necessary for ship recycling facilities to be included in the European List**

1 In order to be included in the European List, a ship recycling facility shall comply with the following requirements, in accordance with the relevant Hong Kong Convention provisions and taking into account the relevant guidelines of the IMO, the ILO, the Basel Convention and of the Stockholm Convention on Persistent Organic Pollutants and of other international guidelines:

- a it is authorised by its competent authorities to conduct ship recycling operations;
- b it is designed, constructed and operated in a safe and environmentally sound manner;
- c it operates from built structures;
- d it establishes management and monitoring systems, procedures and techniques which have the purpose of preventing, reducing, minimising and to the extent practicable eliminating:
  - (i) health risks to the workers concerned and to the population in the vicinity of the ship recycling facility, and
  - (ii) adverse effects on the environment caused by ship recycling;
- e it prepares a ship recycling facility plan;
- f it prevents adverse effects on human health and the environment, including the demonstration of the control of any leakage, in particular in intertidal zones;
- g it ensures safe and environmentally sound management and storage of hazardous materials and waste, including:
  - (i) the containment of all hazardous materials present on board during the entire ship recycling process so as to prevent any release of those materials into the environment; and in addition, the handling of hazardous materials, and of waste generated during the ship recycling process, only on impermeable floors with effective drainage systems;

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- (ii) that all waste generated from the ship recycling activity and their quantities are documented and are only transferred to waste management facilities, including waste recycling facilities, authorised to deal with their treatment without endangering human health and in an environmentally sound manner;
  - h it establishes and maintain an emergency preparedness and response plan; ensures rapid access for emergency response equipment, such as fire-fighting equipment and vehicles, ambulances and cranes, to the ship and all areas of the ship recycling facility;
  - i it provides for worker safety and training, including ensuring the use of personal protective equipment for operations requiring such use;
  - j it establishes records on incidents, accidents, occupational diseases and chronic effects and, if requested by its competent authorities, reports any incidents, accidents, occupational diseases or chronic effects causing, or with the potential for causing, risks to workers' safety, human health and the environment;
  - k it agrees to comply with the requirements of paragraph 2.
- 2 The operator of a ship recycling facility shall:
- a send the ship recycling plan, once approved in accordance with Article 7(3), to the ship owner and the administration or a recognised organisation authorised by it;
  - b report to the administration that the ship recycling facility is ready in every respect to start the recycling of the ship;
  - c when the total or partial recycling of a ship is completed in accordance with this Regulation, within 14 days of the date of the total or partial recycling in accordance with the ship recycling plan, send a statement of completion to the administration which issued the ready for recycling certificate for the ship. The statement of completion shall include a report on incidents and accidents damaging human health and/or the environment, if any.
- 3 The Commission shall adopt implementing acts to establish the format of:
- a the report required by point (b) of paragraph 2 of this Article to ensure it is consistent with Appendix 6 to the Hong Kong Convention; and
  - b the statement required by point (c) of paragraph 2 of this Article to ensure it is consistent with Appendix 7 to the Hong Kong Convention.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 25 of this Regulation.

#### *Article 14*

#### **Authorisation of ship recycling facilities located in a Member State**

1 Without prejudice to other relevant provisions of Union law, competent authorities shall authorise ship recycling facilities located on their territory that comply with the requirements set out in Article 13 to conduct ship recycling. That authorisation may be granted to the respective ship recycling facilities for a maximum period of five years and renewed accordingly.

Provided that the requirements of this Regulation are complied with, any permit produced pursuant to other relevant national or Union law provisions may be combined with the authorisation under this Article to form a single permit, where such a format obviates the unnecessary duplication of information and the duplication of work by the operator of the ship recycling facility or the ship recycling company or the competent

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authority. In those cases the authorisation may be extended in accordance with the permit regime referred to in the first subparagraph, but not exceeding a 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 communicated to the Commission without delay and not later than 31 March 2015.

4 Where a ship recycling facility ceases to comply with the requirements set out in Article 13, the Member State where that ship recycling facility is located shall suspend or withdraw the authorisation given to it or require corrective actions by the ship recycling company concerned and shall inform the Commission thereof without delay.

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

#### *Article 15*

### **Ship recycling facilities located in a third country**

1 A ship recycling company owning a ship recycling facility located in a third country and intending to recycle ships flying the flag of a Member State shall submit an application to the Commission for inclusion of that ship recycling facility in the European List.

2 The application referred to in paragraph 1 shall be accompanied by evidence that the ship recycling facility concerned complies with the requirements set out in Article 13 in order to conduct ship recycling and to be included in the European List in accordance with Article 16.

In particular, the ship recycling company shall:

- a identify the permit, license or authorisation granted by its competent authorities to conduct the ship recycling and, where relevant, the permit, license or authorisation granted by the competent authorities to all its contractors and sub-contractors directly involved in the process of ship recycling and specify all information referred to in Article 16(2);
- b indicate whether the ship recycling plan will be approved by the competent authority through a tacit or explicit procedure, specifying the review period relating to tacit approval, in accordance with national requirements, where applicable;
- c confirm that it will only accept a ship flying the flag of a Member State for recycling in accordance with this Regulation;
- d 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;
- e attach a map of the boundary of the ship recycling facility and the location of ship recycling operations within it;
- f for each hazardous material referred to in Annex I and additional hazardous material which might be part of the structure of a ship, specify:
  - (i) whether the ship recycling facility is authorised to carry out the removal of the hazardous material. Where it is so authorised, the relevant personnel authorised to carry out the removal shall be identified and evidence of their competence shall be provided;

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- (ii) which waste management process will be applied within or outside the ship recycling facility such as incineration, landfilling or another waste treatment method, the name and address of the waste treatment facility if different from that of the ship recycling facility, and provide evidence that the applied process will be carried out without endangering human health and in an environmentally sound manner;
  - g confirm that the company adopted a ship recycling facility plan, taking into account the relevant IMO guidelines;
  - h provide the information necessary to identify the ship recycling facility.
- 3 The Commission shall be empowered to adopt implementing acts to specify the format of the information required to identify the ship recycling facility. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 25.
- 4 In order to be included in the European List, compliance by ship recycling facilities located in third countries with the requirements set out in Article 13 shall be certified following a site inspection by an independent verifier with appropriate qualifications. The certification shall be submitted to the Commission by the ship recycling company when applying for inclusion in the European List and, every five years thereafter, upon renewal of the inclusion in the European List. The initial inclusion on the list and the renewal thereof shall be supplemented by a mid-term review to confirm compliance with the requirements set out in Article 13.
- By applying for inclusion in the European List, ship recycling companies accept the possibility of the ship recycling facility concerned being subject to site inspections by the Commission or agents acting on its behalf prior to or after their inclusion in the European List in order to verify compliance with the requirements set out in Article 13. The independent verifier, the Commission or agents acting on its behalf shall cooperate with the competent authorities of the third country where the ship recycling facility is located in order to carry out those site inspections.
- The Commission may issue technical guidance notes in order to facilitate such certification.
- 5 For the purposes of Article 13, with regard to the waste recovery or disposal operation concerned, environmentally sound management may only be assumed to be in place provided the ship recycling company 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 broadly equivalent to relevant international and Union standards.
- 6 The ship recycling company shall provide updated evidence without delay in the event of any changes to the information provided to the Commission and shall, in any event, three months prior to expiry of each five year period of inclusion on the European List, 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 13.

### *Article 16*

#### **Establishment and updating of the European List**

- 1 The Commission shall adopt implementing acts to establish a European List of ship recycling facilities which:

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- a are located in the Union and have been notified by the Member States in accordance with Article 14(3);
- b are located in a third country and whose inclusion is based on an assessment of the information and supporting evidence provided or gathered in accordance with Article 15.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 25.

2 The European List shall be published in the *Official Journal of the European Union* and on the website of the Commission not later than 31 December 2016. It shall be divided into two sub-lists indicating the ship recycling facilities located in a Member State and the ship recycling facilities located in a third country.

The European List shall include all of the following information about the ship recycling facility:

- a the method of recycling;
- b the type and size of ships that can be recycled;
- c any limitation and conditions under which the ship recycling facility operates, including as regards hazardous waste management;
- d details on the explicit or tacit procedure, as referred to in Article 7(3), for the approval of the ship recycling plan by the competent authority;
- e the maximum annual ship recycling output.

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

4 The Commission shall adopt implementing acts to regularly update the European List, in order to:

- a include a ship recycling facility in the European List where:
  - (i) it has been authorised in accordance with Article 14; or
  - (ii) its inclusion in the European List is decided in accordance with paragraph 1(b) of this Article;
- b remove a ship recycling facility from the European List where:
  - (i) the ship recycling facility ceases to comply with the requirements set out in Article 13; or
  - (ii) the updated evidence is not provided at least three months prior to expiry of the five-year period as set out in paragraph 3 of this Article.

Those implementing acts shall be adopted, in accordance with the examination procedure referred to in Article 25.

5 In establishing and updating the European List, the Commission shall act in accordance with the principles enshrined in the Treaties and with the international obligations of the Union.

6 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.

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## TITLE IV

### GENERAL ADMINISTRATIVE PROVISIONS

#### Article 17

##### Language

1 The ship recycling plan referred to in Article 7 shall be developed in a language accepted by the state authorising the ship recycling facility. Where the language used is not English, French or Spanish, the ship recycling plan shall be translated into one of those languages, except where the administration is satisfied that that is unnecessary.

2 The inventory certificate and the ready for recycling certificate issued pursuant to Article 9 shall be drawn up in an official language of the issuing administration. Where the language used is not English, French or Spanish, the text shall include a translation into one of those languages.

#### Article 18

##### Designation of competent authorities and administrations

1 Member States shall designate the competent authorities and administrations responsible for the application of this Regulation and shall notify the Commission of those designations. Member States shall immediately notify the Commission of any changes in such information.

2 The Commission shall publish on its website lists of the designated competent authorities and administrations and shall update those lists as appropriate.

#### 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. Member States shall immediately notify the Commission of any changes to that information.

3 The Commission shall publish on its website lists of the designated contact persons and shall update those lists as appropriate.

#### Article 20

##### Meeting of contact persons

The Commission shall, if requested by Member States or where it considers it appropriate, periodically organise a meeting of the contact persons to discuss the questions raised by the implementation of this Regulation. Relevant stakeholders shall

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be invited to such meetings, or parts of meetings, where all Member States and the Commission are in agreement that it is appropriate to do so.

## TITLE V

### REPORTING AND ENFORCEMENT

#### Article 21

##### Reports by the Member States

- 1 Each Member State shall send to the Commission a report containing the following:
  - a a list of the ships flying its flag to which a ready for recycling certificate has been issued, and the name of the ship 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 its flag for which a statement of completion has been received;
  - c information regarding illegal ship recycling, penalties and follow-up actions undertaken by the Member State.

[<sup>F12</sup> Each report shall cover three years and shall be electronically transmitted to the Commission no later than nine months after the end of the three-year period covered by it.

The first electronic report shall cover the three-year period starting on the date of application of this Regulation, in accordance with Article 32(1). Where a Member State authorises the recycling of ships in ship recycling facilities that are included in the European List prior to the date of application of this Regulation in accordance with Article 26, the first electronic report of that Member State shall also cover the period from the date of such authorisation to the date of application of this Regulation.

The Commission shall publish a report on the application of this Regulation no later than nine months after receiving the reports from the Member States.]

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

#### Textual Amendments

- F1** Substituted by [Decision \(EU\) 2018/853 of the European Parliament and of the Council of 30 May 2018 amending Regulation \(EU\) No 1257/2013 and Directives 94/63/EC and 2009/31/EC of the European Parliament and of the Council and Council Directives 86/278/EEC and 87/217/EEC as regards procedural rules in the field of environmental reporting and repealing Council Directive 91/692/EEC.](#)

#### Article 22

##### Enforcement in Member States

- 1 Member States shall lay down provisions on penalties applicable to infringements of this Regulation and shall take all the measures necessary to ensure that they are applied. The penalties provided for shall be effective, proportionate and dissuasive.

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2 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.

3 Member States shall designate those members of their permanent staff responsible for the cooperation referred to in paragraph 2. That information shall be sent to the Commission, which shall distribute to those members a compiled list.

4 Member States shall communicate to the Commission the provisions of their national law relating to the enforcement of this Regulation and the applicable penalties.

### *Article 23*

#### **Request for action**

1 Natural or legal persons affected or likely to be affected by a breach of Article 13 in conjunction with Article 15 and Article 16(1)(b) of this Regulation, or having a sufficient interest in environmental decision-making relating to the breach of Article 13 in conjunction with Article 15 and Article 16(1)(b) of this Regulation shall be entitled to request the Commission to take action under this Regulation with respect to such a breach or an imminent threat of such a breach.

The interest of any non-governmental organisation promoting environmental protection and meeting the requirements laid down in Article 11 of Regulation (EC) No 1367/2006 of the European Parliament and of the Council<sup>(14)</sup> shall be deemed sufficient for the purposes of the first subparagraph.

2 The request for action shall be accompanied by the relevant information and data supporting that request.

3 Where the request for action and the accompanying information and data show in a plausible manner that a breach of Article 13 in conjunction with Article 15 and Article 16(1)(b) has occurred, or that there is an imminent threat of such a breach, the Commission shall consider any such requests for action and information and data. In such circumstances, the Commission shall give the ship recycling company concerned an opportunity to make its views known with respect to the request for action and the accompanying information and data.

4 The Commission shall, without delay and in accordance with the relevant provisions of Union law, inform the persons who submitted a request pursuant to paragraph 1, of its decision to accede to or refuse the request for action and shall provide the reasons for it.

### TITLE VI

#### **FINAL PROVISIONS**

### *Article 24*

#### **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 Article 5(8) shall be conferred on the Commission for a period of five years from 30 December 2013. The Commission shall draw



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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.

3 The delegation of power referred to in Article 5(8) 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 Article 5(8) 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 25*

### **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.

Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

#### *Article 26*

### **Transitional provision**

As of the date of publication of the European List, Member States may, prior to the date of application of this Regulation, authorise the recycling of ships in ship recycling facilities included in the European List. In such circumstances, Regulation (EC) No 1013/2006 shall not apply.

#### *Article 27*

### **Amendment to Regulation (EC) No 1013/2006**

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

- (i) ships flying the flag of a Member State falling under the scope of Regulation (EU) No 1257/2013 of the European Parliament and of the Council<sup>(15)</sup>.

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## Article 28

### Amendment to Directive 2009/16/EC

In Annex IV, the following point is added:

49. A certificate on the inventory of hazardous materials or a statement of compliance as applicable pursuant to Regulation (EU) No 1257/2013 of the European Parliament and of the Council<sup>(16)</sup>.

## Article 29

### Financial incentive

The Commission shall, by 31 December 2016, submit to the European Parliament and to the Council a report on the feasibility of a financial instrument that would facilitate safe and sound ship recycling and shall, if appropriate, accompany it by a legislative proposal.

## Article 30

### Review

1 The Commission shall assess which infringements of this Regulation should be brought under the scope of Directive 2008/99/EC to achieve equivalence of the provisions related to infringements between this Regulation and Regulation (EC) No 1013/2006. The Commission shall report on its findings by 31 December 2014 to the European Parliament and to the Council and, if appropriate, accompany it by a legislative proposal.

2 The Commission shall review this Regulation not later than 18 months prior to the date of entry into force of the Hong Kong Convention and at the same time, submit, if appropriate, any appropriate legislative proposals to that effect. This review shall consider the inclusion of ship recycling facilities authorised under the Hong Kong Convention in the European List in order to avoid duplication of work and administrative burden.

3 The Commission shall keep this Regulation under review and, if appropriate, make timely proposals to address developments relating to international Conventions, including the Basel Convention, should it prove necessary.

4 Notwithstanding paragraph 2, the Commission shall, by five years after the date of application of this Regulation, submit a report to the European Parliament and to the Council on the application of this Regulation, accompanied, if appropriate, by legislative proposals to ensure that its objectives are being met and its impact is ensured and justified.

## Article 31

### Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

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## Article 32

### Application

1 This Regulation shall apply from the earlier of the following two dates, but not earlier than 31 December 2015:

- a 6 months after the date that the combined maximum annual ship recycling output of the ship recycling facilities included in the European List constitutes not less than 2,5 million light displacement tonnes (LDT). The annual ship recycling output of a ship recycling facility is calculated as the sum of the weight of ships expressed in LDT that have been recycled in a given year in that facility. The maximum annual ship recycling output is determined by selecting the highest value occurring in the preceding 10-year period for each ship recycling facility, or, in the case of a newly authorised ship recycling facility, the highest annual value achieved at that facility; or
- b on 31 December 2018.

2 However in relation to the following provisions the following dates of application shall apply:

- a Article 2, the second subparagraph of Article 5(2), Articles 13, 14, 15, 16, 25 and 26 from 31 December 2014;
- b the first and third subparagraphs of Article 5(2) and Article 12(1) and (8) from 31 December 2020.

3 The Commission shall publish in the *Official Journal of the European Union* a notice concerning the date of application of this Regulation when the conditions referred to in point (a) of paragraph 1 have been fulfilled.

4 If a Member State has closed its national ship register or, during a three year period, has had no ships registered under its flag, and as long as no ship is registered under its flag, that Member State may derogate from the provisions of this Regulation, except for Articles 4, 5, 11, 12, 13, 14, 16(6), 18, 19, 20, 21 and 22. Where a Member State intends to avail itself of this derogation, it shall notify the Commission at the latest on the date of application of this Regulation. Any subsequent change shall also be communicated to the Commission.

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

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## ANNEX I

## CONTROL OF HAZARDOUS MATERIALS

<b>Hazardous Material</b>	<b>Definitions</b>	<b>Control measures</b>
Asbestos	Materials containing asbestos	For all ships, new installation of materials which contain asbestos shall be prohibited.
Ozone-depleting substances	Controlled substances defined in Article 1(4) of the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987, 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 ships include, but are not limited to: <ul style="list-style-type: none"> <li>Halon 1211</li> <li>Bromochlorodifluoromethane</li> <li>Halon 1301</li> <li>Bromotrifluoromethane</li> <li>Halon 2402 1,2-Dibromo-1,1,2,2-tetrafluoroethane (also known as Halon 114B2)</li> <li>CFC-11</li> <li>Trichlorofluoromethane</li> <li>CFC-12</li> <li>Dichlorodifluoromethane</li> <li>CFC-113 1,1,2-Trichloro-1,2,2-trifluoroethane</li> <li>CFC-114 1,2-Dichloro-1,1,2,2-tetrafluoroethane</li> <li>CFC-115</li> <li>Chloropentafluoroethane</li> <li>HCFC-22</li> <li>Chlorodifluoromethane</li> </ul>	New installations which contain ozone-depleting substances shall be prohibited on all ships.
Polychlorinated biphenyls (PCB)	‘Polychlorinated biphenyls’ means aromatic compounds formed in such a manner that the hydrogen atoms	For all ships, new installation of materials which contain Polychlorinated biphenyls shall be prohibited.

**a** Not applicable for ships flying the flag of a third country.**b** Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC (OJ L 158, 30.4.2004, p. 7).

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	on the biphenyl molecule (two benzene rings bonded together by a single carbon-carbon bond) may be replaced by up to ten chlorine atoms	
Perfluorooctane sulfonic acid (PFOS) <sup>a</sup>	‘perfluorooctane sulfonic acid’ (PFOS) means perfluorooctane sulfonic acid and its derivatives	New installations which contain perfluorooctane sulfonic acid (PFOS) and its derivatives shall be prohibited in accordance with Regulation (EC) No 850/2004 of the European Parliament and of the Council <sup>b</sup> .
Anti-fouling compounds and systems	Anti-fouling compounds and systems regulated under Annex I to the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001 (AFS Convention) in force at the time of application or interpretation of this Annex.	<ol style="list-style-type: none"> <li>1. No ship may apply anti-fouling systems containing organotin compounds as a biocide or any other anti-fouling system whose application or use is prohibited by the AFS Convention.</li> <li>2. No new ship or new installations on ships shall apply or employ anti-fouling compounds or systems in a manner inconsistent with the AFS Convention.</li> </ol>

**a** Not applicable for ships flying the flag of a third country.

**b** Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC (OJ L 158, 30.4.2004, p. 7).

## ANNEX II

### LIST OF ITEMS FOR THE INVENTORY OF HAZARDOUS MATERIALS

1. Any hazardous materials listed in Annex I
2. Cadmium and Cadmium Compounds
3. Hexavalent Chromium and Hexavalent Chromium Compounds
4. Lead and Lead Compounds

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5. Mercury and Mercury Compounds
6. Polybrominated Biphenyl (PBBs)
7. Polybrominated Diphenyl Ethers (PBDEs)
8. Polychlorinated Naphthalenes (more than 3 chlorine atoms)
9. Radioactive Substances
10. Certain Shortchain Chlorinated Paraffins (Alkanes, C10-C13, chloro)
11. Brominated Flame Retardant (HBCDD)

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- (1) [OJ C 299, 4.10.2012, p. 158.](#)
- (2) Position of the European Parliament of 22 October 2013 (not yet published in the Official Journal) and decision of the Council of 15 November 2013.
- (3) Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste ([OJ L 190, 12.7.2006, p. 1.](#))
- (4) Amendment to the Basel Convention ('Ban amendment') adopted by Decision III/1 of the Parties to the Basel Convention.
- (5) Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control ([OJ L 131, 28.5.2009, p. 57.](#))
- (6) Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives ([OJ L 312, 22.11.2008, p. 3.](#))
- (7) Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law ([OJ L 328, 6.12.2008, p. 28.](#))
- (8) Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 ([OJ L 353, 31.12.2008, p. 1.](#))
- (9) Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances ([OJ 196, 16.8.1967, p. 1.](#))
- (10) Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations ([OJ L 200, 30.7.1999, p. 1.](#))
- (11) 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 powers ([OJ L 55, 28.2.2011, p. 13.](#))
- (12) Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations ([OJ L 131, 28.5.2009, p. 11.](#))
- (13) Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications ([OJ L 255, 30.9.2005, p. 22.](#))
- (14) Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies ([OJ L 264, 25.9.2006, p. 13.](#))
- (15) Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC ([OJ L 330, 10.12.2013, p. 1.](#))<sup>7</sup>
- (16) Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC ([OJ L 330, 10.12.2013, p. 1.](#))<sup>7</sup>

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