



**Study in relation to options for new initiatives regarding
dismantling of ships**

Table of correspondence

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Requirements under the Ship Recycling Convention and existing EU obligations: A table of correspondence

Introduction

The International Maritime Organization (IMO) International Convention for the Safe and Environmentally Sound Recycling of Ships (Ship Recycling Convention)¹ aims at addressing in a legally binding instrument, the environmental, occupational health and safety risks related to ship recycling, taking into account the particular characteristics of maritime transport and the need to secure the smooth withdrawal of ships that have reached the end of their operating lives. To this end, it regulates:

- The design, construction, operation and preparation of ships so as to facilitate safe and environmentally sound recycling without compromising their safety and operational efficiency;
- The operation of ship recycling facilities in a safe and environmentally sound manner; and
- The establishment of an appropriate enforcement mechanism for ship recycling (certification/reporting requirements).

Structure of the Ship Recycling Convention

The Convention is divided into the main text containing 21 Articles and an Annex which forms an integral part of the Convention. Unless expressly provided otherwise, references to the Convention constitute at the same time a reference to its Annex.² The Annex is entitled ‘Regulations for Safe and Environmentally Sound Recycling of Ships’ and consists of four Chapters and 26 Regulations. The Annex is followed by seven Appendices. For ease of reference a full table of contents of the Convention provisions is provided below:

Article 1	General obligations
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Article 3	Application
Article 4	Controls related to ship recycling
Article 5	Survey and certification of ships
Article 6	Authorization of Ship Recycling Facilities
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Article 8	Inspection of ships
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Article 12	Communication of information
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Article 14	Dispute settlement
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¹ IMO Hong Kong International Convention for the safe and environmentally sound recycling of ships, 2009, (SR/CONF/45) adopted 19 May 2009.

² Article 1(5) of the Ship Recycling Convention

Annex: Regulations for Safe and Environmentally Sound Recycling of Ships	
Chapter 1 (General Provisions)	
Regulation 1	Definitions
Regulation 2	General applicability
Regulation 3	Relationship with other standards, recommendations and guidance
Chapter 2 (Requirements for Ships)	
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Regulation 13	Form of the certificates
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Chapter 4 (Reporting requirements)	
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Appendix 1	Controls of Hazardous Materials
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Appendix 4	Form of the International Ready for Recycling Certificate
Appendix 5	Form of the Authorization of Ship Recycling Facilities
Appendix 6	Form of Report of Planned Start of Ship Recycling
Appendix 7	Form of the Statement of Completion of Ship Recycling

The Convention is supplemented by the following IMO guidelines providing clarifications, interpretations, and uniform procedures for technical issues arising from the provisions of the Convention.

Existing guidelines
<ul style="list-style-type: none"> Guidelines on Ship Recycling Guidelines for the Development of the Ship Recycling Plan Amendments to the IMO Guidelines on Ship Recycling Implementation of the IMO Guidelines on Ship Recycling: 'Gas-free-for-hot-work' certification Promotion of the Implementation of the IMO Guidelines on Ship Recycling Guidelines for the development of the Inventory of Hazardous Materials

Guidelines under development in order of priority
Guidelines for safe and environmentally sound ship recycling Guidelines for the development of the Ship Recycling Plan Guidelines for the authorization of Ship Recycling Facilities Guidelines for survey and certification Guidelines for inspection of ships

Note on table of correspondence

Having illustrated the overall structure of the Ship Recycling Convention, it must be noted that not all its provisions, for example, the provisions on dispute settlement and entry into force, would require transposition at EU level. These provisions are therefore not reproduced in the table of correspondence below which focuses and is based on the key requirements of the Convention. The four headings, into which the table is divided, reflect the key requirements of the Convention that would require transposition at EU level:

- A. Key definitions
- B. Requirements for ships
- C. Requirements for ship recycling facilities
- D. Inspections and Control
- E. Reporting Requirements

The table reproduces the obligation provided by the Convention and any relevant obligations existing under EC legislation. The extent of correspondence between the Convention requirements and relevant Community law is analysed and assessed with a view to highlighting any problems of compatibility that could arise. To this end, in the column on 'extent of correspondence', where problems of compatibility between the Convention requirements and legislation existing at EU level are deemed to be present, the assessment 'compatibility issues' is used. Where no problems of compatibility are identified the extent of correspondence is assessed as follows:

- Adequate (the Convention and EU level requirements are broadly equivalent)
- Indirectly covered
- Partially covered
- Very partially covered
- Not covered (the Convention requirement is currently not catered for at EU level)

Generally, a number of requirements of the Ship Recycling Convention are adequately covered by existing EC legislation, for example, with respect to the controls for ships hazardous materials provided for by Regulation 4 of the Convention. On the other hand, certain compatibility issues have been identified where the Convention requirements and relevant EC legislation could conflict, for example, in the case of the Convention's definition of 'ship', the last part stating 'including a vessel stripped of equipment or being towed' could lead to the vessel being classified as 'waste' under EC legislation.

The Conference of the Parties to the Basel Convention noted in Decision VII/26 on environmentally sound management of ship dismantling that "a ship may become waste as defined in article 2 of the Basel Convention and that at the same time it may be defined as a ship under other international rules." The same approach is followed by the Waste Shipment Regulation which uses this wording in Recital 35. Therefore, a vessel stripped of equipment or being towed could simultaneously be defined as 'waste' under EC legislation and as a 'ship' under the Ship Recycling Convention. This issue may

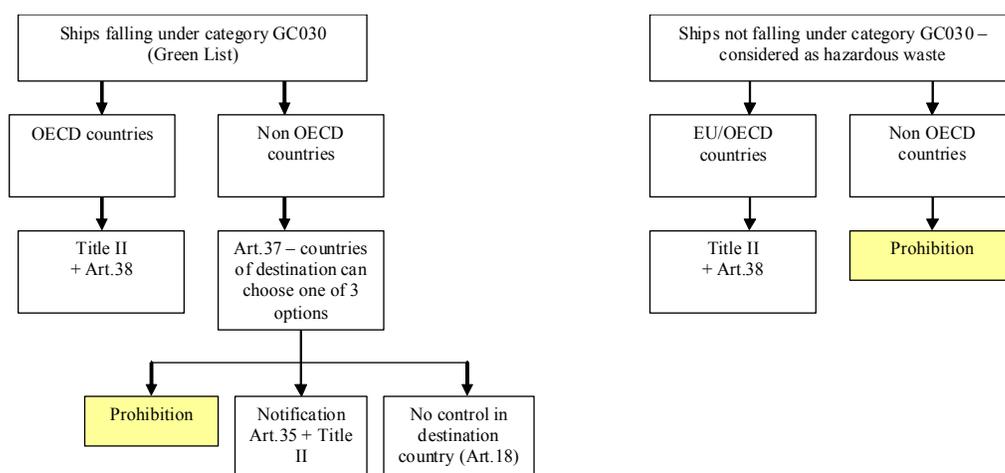
be explained by the very fact that the Convention covers the whole life cycle of a ship, adopting a ‘cradle to grave’ approach. On the other hand, existing EC legislation is more limited in scope focusing only on part of the life cycle. Consequently, the vessel would be defined within the context of the part of the life cycle covered by the relevant legislation. However, although this difference in temporal scope rationalizes the problem to a certain extent, the possibility of conflicting classification of a vessel as a ‘ship’ or ‘waste’ remains for those parts of the life cycle where an overlap exists.

It should be noted at the outset that even though certain requirements of the Convention seem to be adequately covered at EU level,³ the Convention, once it enters into force, will apply internationally whereas the requirements of EC legislation are regional in scope. Therefore, requirements such as those on control of Ship Recycling Facilities cannot be established at EU level for facilities located outside the territory of EU Member States although they could be given effect to by virtue of obligations imposed on shipowners to have their ships dismantled only in certified (‘green’) recycling facilities or through the application of the Waste Shipment Regulation (WSR) and the Basel Convention.

It should be noted that the WSR prohibits the export for recovery or disposal of hazardous wastes (not included in the Green List), while Green List waste can be exported for recovery in both OECD and non-OECD countries, subject to conditions. Vessels and other floating structures for breaking up, properly emptied of any cargo and other materials arising from the operation of the vessel which may have been classified as a dangerous substance or waste (GC030 ex 890800) are included in Annex III of the WSR (the Green List waste). In principle, once a ship is emptied of all materials arising from its operation, which may have been classified as a dangerous substance or waste, it is highly unlikely that the ship can sail on its own and, in order to be exported to a third country for recycling, it would have to be towed. Such a solution would not be economically viable.⁴ Therefore, if the WSR is strictly applied, waste ships could only be exported to OECD countries (e.g. Turkey) for recovery.

Considering that waste ships are nevertheless exported to third countries for recycling, even without being stripped of all hazardous materials, and taking into account the issue of the classification of ‘waste’ versus ‘ship’, this report reviews correspondence between reporting requirements in the Ship Recycling Convention and those set up by the WSR, in the context of the notification procedure for transport of ships for recycling to third countries.

The figure below summarises conditions and requirements applicable to such transport operations:



³ Mainly by the Waste Shipment Regulation and the Basel Convention which is internationally applicable.

⁴ COWI/DHI/DG ENV: ‘Ship Dismantling and Pre-cleaning of Ships’ (2007)

Certain requirements of the Convention are indirectly covered by existing EC legislation which although not aimed specifically at ship dismantling operations could, in fact, cover such activity. By way of example, reference may be made to Directive 99/92/EC laying down minimum requirements for the safety and health protection of workers potentially at risk from explosive atmospheres. This Directive does not specifically mention that employers shall ensure that gas free for hot work conditions are maintained in order to prevent explosions as provided by Regulation 19 of the Convention. However, Article 3 and Article 4 of the Directive provide that employers shall take necessary preventive measures in order to avoid explosions. Therefore, indirectly, the requirement in the Convention could be deemed to be provided for.

Other requirements are either partially or very partially covered, for example, existing requirements under EC legislation should be in line with Regulation 21 of the Convention on emergency preparedness and response but only insofar as workers on site are concerned. However, the Convention focuses specifically on emergency preparedness and response plans. Such requirements are only partially covered under the Seveso II Directive.⁵

Finally, since the Convention contains novel requirements with respect to the environmentally safe and sound dismantling of ships, these are not covered at all by current legislation. Examples include the requirement for the Inventory of Hazardous Materials and the notification and reporting requirements stipulated respectively in Regulations 5 and 24 of the Convention. In the case of the Inventory of Hazardous Materials, it should be underlined that the so-called 'Green Passport', provided for in the IMO Guidelines on Ship Recycling, includes an inventory of hazardous materials and is meant to accompany the ship throughout its life. Successive owners are responsible for updating the Green Passport and incorporating all relevant design and equipment changes. The Passport is delivered by the final owner to the recycling facility. However, this is a voluntary mechanism and does not constitute a legal obligation. With regard to reporting requirements, current EU legislation includes provisions on traceability of waste. Whereas with respect to other requirements, amendments to existing legislation could result in adequate coverage, a specific legislative instrument would be needed to cover these key requirements at EU level.

At this point, reference may be made to the Impact Assessment for an EU Strategy for better ship dismantling.⁶ In assessing the baseline option whereby almost all initiative in implementing the Ship Recycling Convention would be left to Member States, the possibility of minimal amendments to current EU legislation is considered. This would take place mainly through the inclusion of references to the Ship Recycling Convention in the existing EU maritime directives, namely, Directive 95/21/EC on port State control and Directive 94/57/EC on classification societies. Such amendments making reference to the Ship Recycling Convention would allow for the integration of the new certificates, particularly, the Inventory of Hazardous Materials (IHM), into the 'harmonised control systems within the EU'. However, as underlined in the Impact Assessment 'amendments to the control-related EU Directives would not as such transpose the substantial elements of the Convention into EU law and make the IHM and the Ready for Recycling certificate mandatory for shipowners. This would still depend on Member States' legislation.'⁷

With this in mind, the Table of Correspondence includes recommendations for the wording of possible EU legislation to transpose the Convention's key requirements that are not covered by existing EU legislation. These recommendations should be regarded as an overview of possible solutions to be further discussed. Many aspects should be further refined once key decisions will be made concerning

⁵ Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances

⁶ COM(2008) 767 final

⁷ COM(2008) 767 final, p. 25

the objectives, the structure, the content and the timing of the transposing instrument. In addition, these suggestions have been developed based on a number of assumptions, which reflect the recommendations made throughout the Study and, in particular, in the notes on pros and cons of early transposition:

- The EU instrument ensuring an early transposition of the SRC should be a Regulation as it would establish a consistent approach across Member States ensuring a level playing field and uniform enforcement.
- The key requirements of the Convention which should be covered by early transposition include the inventory of hazardous materials and associated additional surveys and certificates, the recycling facility management plan and ship recycling plan.
- Early transposition of specific requirements, in particular, reporting requirements for shipowners and facilities or other requirements where compatibility issues have been identified in relation to the WSR, should be carefully considered in combination with the question of applicability of the WSR and the future decision on the equivalent level of control. In recommending wording for a possible instrument transposing the SRC, it is being assumed that such instrument will set up an alternative regime to the WSR applicable to ships. This is in line with the Declaration of the Parties to the Basel Convention, that requirements should not be duplicated.
- The Regulation is seen as setting up rules for covering the interim period until the entry into force of the Convention. Therefore, it is recommended that a review clause should be included in order to facilitate future amendments to the Regulation to reflect changes such as the adoption of new guidelines at international level, as well as changes necessary at EU level, should the SRC not enter into force. Therefore, in addition to the provisions proposed in the table itself, the following provisions, which are similar to provisions found in Regulation EC (No) 782/2003 on the prohibition of organotin compounds on ships,⁸ should be included in the transposing Regulation:

1. Article [...]

In order to take account of developments at international level and in particular in the International Maritime Organisation (IMO), or to improve the effectiveness of this Regulation in the light of experience, the references to the Ship Recycling Convention, to the IHM-Certificate, to the Ready for Recycling Certificate and to the Statement of Completion and/or the Annexes to this Regulation, including relevant IMO, may be amended in accordance with the procedure referred to in Article [..].

2. Article [..]

By [date to be decided upon], the Commission shall report to the European Parliament and the Council on the state of ratification of the Ship Recycling Convention. In the light of this report, the Commission will make such legislative proposals, as appropriate, with respect to this Regulation [further specifications should added once the details of the Regulation are determined].

⁸ Regulation 782/2003 transposes the IMO International Convention on the control of harmful anti-fouling systems on ships (AFS-Convention)

Table of Correspondence

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
A. Key Definitions				
1.	<p>‘Ship’ (Article 2.7)</p> <p>‘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), including a vessel stripped of equipment or being towed.</p>	<p>Article 2(3) of Council Directive 95/21/EC of 19 June 1995 on port State control of shipping (the Port State Control Directive) provides a definition of ship:</p> <p>‘Ship’ means any seagoing vessel to which one or more of the Conventions apply, flying a flag other than that of the port State.</p> <p>Article 2 of Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (Classification Societies Directive) defines ‘ships’ as ‘a ship falling within the scope of the international conventions’.</p> <p>‘Ship’ is also defined in other legislation, e.g., Regulation (EC) 782/2003 on the prohibition of organotin compounds on ships defines ‘ship’ as a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft, fixed or floating platforms, floating storage units (FSUs) and floating production storage and off-loading units (FPSOs).</p>	<p>The definition of ‘ship’ used by the Convention is specific to the subject matter at hand. Therefore, it would not be appropriate to rely on definitions developed to regulate a different context.</p> <p>It is worth noting that the definition provided by Regulation 782/2003 corresponds to that found in the IMO Convention on anti-fouling systems which it transposes.</p> <p>The main issue remains the last part of the definition ‘including a vessel stripped of equipment or being towed’ which under EC legislation could lead such vessels to be classified as ‘waste’.</p> <p>Directive 2008/98/EC on waste and repealing certain Directives defines ‘waste’ as any substance or object which the holder discards or intends or is required to discard.</p> <p>However, a vessel stripped of equipment or being towed could simultaneously be defined as ‘waste’ under EC legislation and as a ‘ship’ under the Ship Recycling Convention. This issue may be explained by the very fact that the Convention covers the whole life cycle of a ship, adopting a ‘cradle to grave’ approach. On the other hand, existing EC legislation is more limited in scope focusing only on part of the life cycle. Consequently, the vessel would be defined within the context of the part of the life cycle covered by the relevant legislation. However, although this difference in temporal scope</p>	<p>Compatibility issues</p>

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
			<p>rationalizes the problem to a certain extent, the possibility of conflicting classification of a vessel as a 'ship' or 'waste' remains for those parts of the life cycle where an overlap exists.</p> <p>With regard to the Classification Societies Directive, if it is amended to include the Ship Recycling Convention under the list of international conventions (Article 2(d)), ships covered by the Ship Recycling Convention will fall under the scope of the Directive. The same can be said in relation to the Port State Control Directive although in this case, it would apply only to ships flying the flag other than that of the port State. Port State control is applicable to all foreign ships.</p> <p>Note that such amendments are to be adopted under a committee procedure with regard to Port State Control Directive (Article 19, first paragraph, (c). However, this is not the case for the Classification Societies Directive.</p>	
<p><i>Proposed wording</i></p> <p>1. Article [...] Definitions</p> <p>For the purposes of this Regulation:</p> <p>[..]. '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), including a vessel stripped of equipment or being towed.</p> <p>Note: such a provision is subject to a decision on the equivalent level of control of the SRC to that of the Basel Convention.</p> <p>2. Amendments to existing legislation and the procedure for their adoption are commented upon above.</p>				
2.	<p>'Shipowner' (Regulation 1.8)</p> <p>'Shipowner' means the person or persons or company registered as the owner of the ship or, in the absence of registration, the person or persons or</p>	<p>There is no specific definition of shipowner in EC legislation.</p>	<p>There is no definition of shipowner in EC legislation.</p>	<p>Not covered</p>

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
	<p>company owning the ship or any other organization 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. However, in the case of a ship owned by a State and operated by a company which in that State is registered as the ship's operator, owner shall mean such company. This term also includes those who have ownership of the ship for a limited period pending its sale or handing over to a Ship Recycling Facility.</p>	<p>The Proposal for a Directive on the civil liability and financial securities of ship-owners defines shipowner as 'the owner of the ship or any other organisation or person, such as the manager or the agent or bareboat charterer, on whom the shipowner has conferred responsibility for operation of the ship and who, on assuming such responsibility has agreed to take over all the duties and responsibilities'.</p> <p>Reference should also be made to the definition of the 'notifier' included in the Waste Shipment Regulation, where 'notifier' means:</p> <p>(a) in the case of a shipment originating from a Member State, any natural or legal person under the jurisdiction of that Member State who intends to carry out a shipment of waste or intends to have a shipment of waste carried out and to whom the duty to notify is assigned. The notifier is one of the persons or bodies listed below, selected in accordance with the ranking established in this listing:</p> <p>(i) the original producer, or</p> <p>(ii) the licensed new producer who carries out operations prior to shipment, or</p> <p>(iii) a licensed collector who, from various small quantities of the same type of waste collected from a variety of sources, has assembled the shipment which is to start from a single notified location, or</p> <p>(iv) a registered dealer who has been authorised in writing by the original producer, new producer or licensed collector to act on his/her behalf as notifier,</p> <p>(v) a registered broker who has been authorised in writing by the original producer, new producer or licensed collector to act on his/her behalf as notifier,</p> <p>(vi) where all of the persons are unknown or insolvent, the holder.</p> <p>Should a notifier specified in (iv) or (v) fail to fulfil any of the take-back obligations set out in Articles</p>	<p>The definition provided for in the proposal for a Directive on civil liability and financial securities only partly covers the definition as set up by the Ship Recycling Convention. In particular, it does not mention the person or persons or company registered as the owner of the ship. It does not provide specific rules for ships owned by a State and operated by a company registered as the ship's operator. More importantly it does not consider the ownership pending the ship sale or handing over to a Ship Recycling Facility. This could be considered as covering the last part of the definition; however this interpretation is still subject to ambiguity raised by the definition of 'waste' versus 'ship'.</p>	

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
		<p>22 to 25, the original producer, new producer or licensed collector specified in (i), (ii) or (iii) respectively who authorised that dealer or broker to act on his/her behalf shall be deemed to be the notifier for the purposes of the said take-back obligations. In circumstances of illegal shipment notified by a dealer or broker specified in (iv) or (v), the person specified in (i), (ii) or (iii) who authorised that dealer or broker to act on his/her behalf shall be deemed to be the notifier for the purposes of this Regulation;</p> <p>(b) in the case of import into, or transit through, the Community of waste that does not originate in a Member State, any of the following natural or legal persons under the jurisdiction of the country of dispatch who intends to carry out a shipment of waste or intends to have, or who has had, a shipment of waste carried out, being either:</p> <p>(i) the person designated by the law of the country of dispatch;</p> <p>or, in the absence of any such designation,</p> <p>(ii) the holder at the time the export took place;</p>		
<p><i>Proposed wording</i></p> <p>1. Article [...] Definitions</p> <p>For the purposes of this Regulation:</p> <p>[..]. ‘Shipowner means the person or persons or company registered as the owner of the ship or, in the absence of registration, the person or persons or company owning the ship or any other organization 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. However, in the case of a ship owned by a Member State and operated by a company which in that Member State is registered as the ship’s operator, “owner” shall mean such company. This term also includes those who have ownership of the ship for a limited period pending its sale or handing over to a Ship Recycling Facility</p>				
3.	<p>‘Hazardous Material’ (Article 2.9)</p> <p>Hazardous Material means any material or substance which is liable to create hazards to human health and/or the environment.</p>	<p>Article 2 of Directive 67/548/EEC defines dangerous substances very precisely in a long list. Substances which are liable to create hazards to human health and or to the environment are</p>	<p>Article 2 of Directive 67/548/EEC concerning the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous</p>	<p>Adequate</p>

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
		<p>encompassed within that list.</p> <p>Directives, which regulate specific waste streams e.g. the End-of-Life Vehicles Directive, define hazardous substances by cross-reference to Directive 67/548/EEC.</p> <p>It should be noted that the list of Hazardous Materials the use of which shall be restricted or prohibited on ships, as provided by Appendix 1 to the Ship Recycling Convention (see rows 7, 8, 9 and 10) includes substances the use of which is already restricted or prohibited under EU legislation under specific Directives and Regulations.</p>	<p>substances provides a definition of dangerous substances which is in line with the definition of hazardous materials under the Ship Recycling Convention. However it only refers to substances and not to materials. This is not considered as a correspondence issue as the 'materials' regulated under the Convention are already covered under EU legislation (please see also rows 7, 8, 9 and 10)</p>	
4.	<p>'Gross Tonnage' (Article 2.8)</p> <p>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.</p>	<p>Article 2 of Regulation 782/2003 defines gross tonnage as 'the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention.'</p>	<p>The definitions of gross tonnage in EC legislation and in the Convention are identical.</p>	Adequate
5.	<p>'Worker' (Regulation 1.12)</p> <p>Worker means any person who performs work, either regularly or temporarily, in the context of an employment relationship including contractor personnel.</p>	<p>There is no specific definition of 'worker' in the EC Treaties. The European Court of Justice defined 'worker' in the context of the freedom of movement for workers.</p> <p>In <i>Lawrie-Blum versus Land Baden-Warttemberg</i> (Judgment of 3 July 1986) the Court mentions that a worker is a person who performs economic services for and under the direction of another person in return for which he receives remuneration.</p> <p>Under Article 3(a) of Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work, a worker is defined as any person</p>	<p>The definitions of worker set up under EC legislation and jurisprudence is worded differently to the definition provided by the Ship Recycling Convention. However, although not fully corresponding, there is no incompatibility between EC legislation and the Convention with respect to the definition of 'worker'. The term 'employed' used by EC legislation implies an 'employment relationship', including under contract.</p>	Adequate

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
		employed by an employer, including trainees and apprentices but excluding domestic servants.		
	<p>Ship Recycling, Ship Recycling Facility, Recycling Company (Articles 2.10, 11 and 12)</p> <p>2.10 “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.</p> <p>2.11 “Ship Recycling Facility” means a defined area that is a site, yard or facility used for the recycling of ships.</p> <p>2.12 “Recycling Company” means the owner of the Ship Recycling Facility or any other organization or person who has assumed the responsibility for operation of the Ship Recycling activity from the owner of the Ship Recycling Facility and who on assuming such responsibility has agreed to take over all duties and responsibilities imposed by this Convention.</p>	<p>Under Article 3(17) of Directive 2008/98/EC on waste, ‘recycling’ is defined as ‘any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations’.</p> <p>Pursuant to Article 3(13), ‘re-use’ means any operation by which products or components that are not waste are used again for the same purpose for which they were conceived;</p>	<p>The terms ‘ship recycling’, ‘ship recycling facility’ and ‘recycling company’ are not defined as such in EU legislation. The definition of recycling provided by Directive 2008/98/EC covers reprocessing. The Directive also requires that hazardous materials are taken care of. It should also be noted that further processing or disposal in separate facilities is regulated under EU legislation. However, re-use operations are considered separately.</p> <p>The definitions of ship recycling facility and recycling company are defined for the specific context. Although not defined in EU legislation, no compatibility issue has been identified.</p>	Very partially covered
<p><i>Proposed wording</i></p> <p>1. Article [...] Definitions</p> <p>For the purposes of this Regulation:</p> <p>[..]“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.</p> <p>[..] “Ship Recycling Facility” means a defined area that is a site, yard or facility used for the recycling of ships.</p>				

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
<p>[...] "Recycling Company" means, without prejudice to Directive 2006/12/EC*, the owner of the Ship Recycling Facility or any other organization or person who has assumed the responsibility for operation of the Ship Recycling activity from the owner of the Ship Recycling Facility and who on assuming such responsibility has agreed to take over all duties and responsibilities imposed by this Regulation.</p> <p>*This reference should be replaced by a reference to Directive 2008/98/EC if the Regulation is adopted after 12 December 2010.</p>				
B. Requirements for ships				
6.	<p>Controls of ships hazardous materials (Regulation 4)</p> <p>In accordance with the requirements specified in Appendix 1 to the Ship Recycling Convention each Party shall prohibit and/or restrict the installation or use of Hazardous Materials listed in Appendix 1 on ships entitled to fly its flag or operating under its authority.</p> <p>It shall also prohibit and/or restrict the installation or use of such materials on ships, whilst in its ports, shipyards, ship repair yards, or offshore terminals.</p> <p>The Party shall take effective measures to ensure that such ships comply with those requirements.</p>	<p>EC legislation on the restriction or prohibition of installation of hazardous materials on ships is assessed below.(rows 7, 8, 9 and 10)</p> <p><i>Effective measures to ensure that such ships comply with those requirements</i></p> <p>Until now effective measures that ensure that hazardous materials are prohibited or restricted are taken by Member States, by implementing EU requirements.</p>	<p>See rows 7, 8, 9 and 10.</p> <p>As a general remark, it should be underlined that EU <i>acquis</i> includes prohibitions and restrictions applicable to additional hazardous substances, which can be found on ships. Of particular relevance is the proposal made by Norway to include an additional three hazardous substances in the Convention: Perfluorooctane sulfonates (PFOS) and PFOS-related substances, Brominated Flame Retardant (HBCDD) and Trichlorobenzene. The PFOSs and HBCDD are already covered by prohibitions and restrictions under EU legislation. Although it is not possible in the context of this table to review all substances regulated at EU level and which could be found in ships, in this instance, the EU <i>acquis</i> goes beyond the Convention requirements.</p>	Adequate
7.	<p>Appendix 1 of Convention provides a list of hazardous materials the use of which shall be restricted or prohibited on ships:</p> <p>Asbestos</p> <p>Under the Convention new installations of materials which contain asbestos shall be prohibited (Appendix one).</p>	<p>Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations, prohibits the placing on the market and use of asbestos fibre in the Member States. Annex 1 point 6.1 of Directive 76/769 underlines that the placing on the market and use of [asbestos] fibres and of products containing these fibres added intentionally shall be prohibited.</p> <p>However, Member States still have the option to</p>	<p>EC legislation on asbestos is compatible with Regulation 4 of the Convention.</p>	Adequate

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
		exempt from this ban chrysotile asbestos used in existing electrolysis installations until those installations reach the end of their service life.		
8.	<p>Ozone Depleting Substances</p> <p>The Ship Recycling Convention defines ozone-depleting substances as defined in the Montreal Protocol on substances that deplete the Ozone Layer. It provides an open list of ozone-depleting substances that may be found on board. New installations which contain ozone-depleting substances shall be prohibited on all ships, except that new installations containing hydrochlorofluorocarbons (HCFCs) are permitted until 1 January 2020.</p>	<p>At the EC level, Regulation (EC) No 2037/2000 on substances that deplete the ozone layer is the corresponding legal instrument of the Montreal Protocol. The provisions of this regulation are even stricter than the Montreal Protocol.</p> <p>HFCFCs are the last ozone depleting substances whose use has not yet been phased-out under Regulation No 2037/2000. However, Article 5 provides that all hydrochlorofluorocarbons shall be prohibited from 1 January 2015.</p>	EC Regulation 2037/2000 imposes even stricter requirements with respect to ozone depleting substances than the Ship Recycling Convention. Under the Convention, new installations containing hydrochlorofluorocarbons (HCFCs) on ships are permitted until 1 January 2020 while Article 5 of EC Regulation 2037/2000 provides that all hydrochlorofluorocarbons shall be prohibited from 1 January 2015.	Adequate
9.	<p>Polychlorinated biphenyls (PCB)</p> <p>The Convention provides that new installation of materials which contain PCBs shall be prohibited</p>	Regulation (EC) No 850/2004 on persistent organic pollutants covers PCBs. Article 3 of this Regulation states that the production, placing on the market and use of PCBs, whether on their own, in preparations or as constituents of articles, shall be prohibited.	EC legislation on PCBs is in line with Regulation 4 of the Convention.	Adequate
10.	<p>Organotin compounds</p> <p>Appendix 1 of the Convention provides that all ships shall not apply or re-apply such compounds.</p> <p>All ships (except fixed and floating platforms, FSUs, and FPSOs that have been constructed prior to 1 January 2003 and that have not been in dry-dock on or after 1 January 2003):</p> <p>(1) shall not bear such compounds on their hulls or external parts or surface or</p> <p>(2) shall bear a coating that forms a barrier to such compounds leaching from the underlying non-compliant anti-fouling systems.</p>	<p>Regulation (EC) 782/2003 aims to prohibit organotin compounds on all ships entering port in the Community in order to reduce or eliminate the adverse effects of these products on the marine environment and human health.</p> <p>It applies to ships flying the flag of a Member State, ships not flying the flag of a Member State but operating under the authority of a Member State, and ships entering port in a Member State but not covered by the two previous points.</p> <p>Under Regulation (EC) 782/2003, as from 1 July 2003, organotin compounds which act as biocides in anti-fouling systems may no longer be applied on ships flying the flag of a Member State. As from 1 January 2008 ships entering port in a Member State must either bear no coating of organotin compounds which act as biocides or must bear a second topcoat forming a barrier to prevent organotin compounds</p>	EC legislation on organotin compounds is in line with Regulation 4 of the Convention.	Adequate

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
		<p>leaching from the non-compliant anti-fouling undercoat.</p> <p>Regulation (EC) 782/2003 similarly to the Ship Recycling Convention does not apply to fixed and floating platforms, FSUs and FPSOs constructed prior to 1 July 2003 that have not been in dry-dock on or after that date and to any warship, naval auxiliary or other ship owned by a State and used on government service. The enforcement measures to be taken in order to ensure that ships comply with the requirements on hazardous materials mentioned above are taken at Member State level.</p>		
11.	<p>Inventory of Hazardous Materials (Regulation 5)</p> <p>Each new ship shall have onboard an Inventory of Hazardous Materials. The Inventory shall be verified either by the Administration or by any person or organization authorized by it taking into account guidelines developed by the IMO. The Inventory of Hazardous Materials shall be specific to each ship [...]</p>	<p><i>Inventory of hazardous materials verified by the Administration</i></p> <p>The list of certificates and documents that have to be verified by inspectors onboard of ships under Directive 95/21/EC do not cover an inventory of Hazardous Materials.</p> <p><i>Inventory of hazardous materials verified by any person or organization authorized by it</i> Directive 94/57/EC establishes measures to be followed by the Member States and organizations concerned with the inspection, survey and certification of ships for compliance with the international conventions on safety at sea and prevention of marine pollution, while furthering the objective of freedom to provide services. This</p>	<p><i>Inventory of hazardous materials verified by the Administration</i></p> <p>There is no requirement under EU legislation relating to Inventory of Hazardous Materials on board ships.</p> <p>Directive 95/21/EC could be amended in order to contain the inventory of hazardous materials in the list of documents that have to be verified by inspectors on board of ships. Another possibility would be to develop separate legislation on ship recycling that provides for control by port State authorities that each ship has an inventory of hazardous materials on board as required under the Convention.</p> <p><i>Inventory of hazardous materials verified by any person or organization authorized by it</i></p> <p>Directive 94/57/EC could be amended in order to apply to the classification societies that shall verify that new ships shall have on board an inventory of hazardous materials. Another possibility would be to develop separate legislation enabling classification societies that fulfil the requirements of</p>	Not covered

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
		<p>process includes the development and implementation of safety requirements for hull, machinery and electrical and control installations of ships falling under the scope of the international conventions.</p> <p>Article 2 of Directive 94/57/EC defines international conventions as follows:</p> <p>‘international conventions’ means the 1974 International Convention for the Safety of Life at Sea (SOLAS), the 1966 International Convention on Load Lines and the 1973/1978 International Convention for the Prevention of Pollution from Ships, together with the protocols and amendments thereto, and related codes of mandatory status in all Member States in their up-to-date version.</p> <p>The Ship Recycling Convention is not listed in Article 2 (d) of Directive 94/57/EC as it has not yet been adopted.</p>	<p>Directive 94/57/EC to verify that new ships shall have on board an inventory of hazardous materials.</p>	

Proposed wording

1. Article [...] Definitions

For the purposes of this Regulation:

[...] ‘Administration’ means the Government of the Member State whose flag the ship is entitled to fly, or under whose authority it is operating

[...] “Existing ship” means a ship which is not a new ship.

[...] ‘New ship’ means a ship:

- (a) for which the building contract is placed on or after the entry into force of this Regulation; or
- (b) in the absence of a building contract, the keel of which is laid or which is at a similar stage of construction on or after six months after the entry into force of this Regulation; or
- (c) the delivery of which is on or after thirty months after the entry into force of this Regulation.

2. Article [...]

1 Each new ship shall have on board an Inventory of Hazardous Materials. The Inventory shall be verified either by the Administration or by any recognized organization by it taking into

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
	<p>account guidelines, including any threshold values and exemptions contained in those guidelines, developed by the Commission. The Inventory of Hazardous Materials shall be specific to each ship and shall at least:</p> <p>(a) Identify as Part I, Hazardous Materials listed in Annexes [...] (1) and [...] (2) to this Regulation and contained in the ship's structure or equipment, their location and approximate quantities; and</p> <p>(b) Demonstrate that the ship complies with the requirements of Article [insert cross-reference to relevant provisions on the control of ships hazardous materials – prohibitions and restrictions]</p> <p>2 Existing ships shall comply as far as practicable with paragraph 1 not later than 5 years after the entry into force of this Regulation, or before going for recycling if this is earlier, taking into account the guidelines developed by the IMO* or the Commission and the IMO Harmonised System of Surveys and Certification. The Hazardous Materials listed in Annex [...] (1), at least, shall be identified when the Inventory is developed. For existing ships a plan shall be prepared describing the visual/sampling check by which the Inventory of Hazardous Materials is developed, taking into account the guidelines developed by the Commission and the IMO</p> <p>3 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 Hazardous Materials listed in Annex [...] (2) and relevant changes in ship structure and equipment, taking into account the guidelines developed by the Commission and the IMO.</p> <p>4 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 either by the Administration or by any recognized organization*, taking into account the guidelines developed by the Commission and the IMO.</p> <p>3. Amendments to existing legislation and the procedure for their adoption are commented upon above.</p> <p>*Alternatively, guidelines could be transposed through comitology procedure.</p>			
12.	<p>Surveys (Regulation 10)</p> <p>Ships to which this Convention applies shall be subject to the surveys specified below:</p> <p>.1 an initial survey before the ship is put in service or before the International Certificate on Inventory of Hazardous Materials is issued. [...]</p> <p>.2 a renewal survey at intervals specified by the Administration, but not exceeding [...]</p> <p>.3 an additional survey, either general or partial, according to the circumstances, may be made at the request of the ship-owner after a change, replacement, or significant repair of the structure, equipment, systems, fittings, arrangements and material. [...]</p> <p>.4 a final survey prior to the ship being taken out of service and before the recycling of the ship has started. [...]</p> <p>2 Surveys of ships for the purpose of enforcement of the provisions of this Convention shall be carried out by officers of the Administration, taking into account the guidelines developed by the IMO. The</p>	<p>Article 2(c) of Directive 94/57/EC defines inspections and surveys as 'inspections and surveys that it is mandatory to carry out under the international conventions'</p> <p>Article 3 of Council Directive 94/57/EC provides that :</p> <p>'In assuming their responsibilities and obligations under the international conventions, Member States shall ensure that their competent administrations can assure an appropriate enforcement of the provisions of the international conventions, in particular with regard to the inspection and survey of ships and the issue of certificates and exemption certificates'.</p>	<p>There is no requirement under EU legislation relating to Inventory of Hazardous Materials on board ships.</p> <p>The definition of international conventions under Directive 94/57/EC shall be amended in order to extend the role of classification societies to survey compliance with the Convention and to issue certificates. The other option would be to develop separate legislation that requires Member States to ensure that their authorities are applying the provisions of the Ship Recycling Convention regarding the inspection and survey of ships.</p> <p>It should be noted that this would not constitute in itself a requirement to have an IHM. Such a requirement should be set up for EU ships through a specific instrument if early transposition is to be ensured. Besides, flag States will remain responsible for controlling compliance with the requirements by</p>	Not covered

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
	<p>Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it.</p> <p>3 An Administration nominating surveyors or recognizing organizations to conduct surveys, as described in paragraph 2 shall, as a minimum, empower such nominated surveyors or recognized organizations to:</p> <p>.1 require a ship that they survey to comply with the provisions of this Convention;</p> <p>and</p> <p>.2 carry out surveys and inspections if requested by the appropriate authorities of a port State that is a Party.</p> <p>4 In every case, the Administration concerned shall be responsible to ensure the completeness and efficiency of the survey and shall undertake to ensure the necessary arrangements to satisfy this obligation.</p> <p>5 The initial and renewal surveys should be harmonized with the surveys required by other applicable statutory instruments of the IMO.</p>		their own ships.	
<p><i>Proposed wording</i></p> <p>1. Article [...]</p> <p>1 Ships to which this Regulation applies shall be subject to the following surveys:</p> <p>(a) an initial survey before the ship is put in service, or before the IHM-Certificate is issued. This survey shall verify that Part I of the Inventory required by Article [insert number of the article transposing Regulation 5] is in accordance with the requirements of this Regulation;</p> <p>(b) a renewal survey every [insert the intervals selected for renewal surveys which should not exceed 5 years in accordance with the SRC but should be stipulated by the Regulation in order to ensure uniformity across the Member States] years. This survey shall verify that Part I of the Inventory of Hazardous Materials required by Article [insert number of the article transposing Regulation 5] complies with the requirements of this Regulation;</p> <p>(c) an additional survey, either general or partial, according to the circumstances, may be made at the request of the shipowner after a change, replacement, or significant repair of the structure, equipment, systems, fittings, arrangements and material. The survey shall be such as to ensure that any such change, replacement, or significant repair has been made in the way that the ship continues to comply with the requirements of this Regulation, and that Part I of the Inventory is amended as necessary; and</p> <p>(d) a final survey prior to the ship being taken out of service and before the recycling of the ship has started. This survey shall verify:</p> <p>(i) that the Inventory of Hazardous Materials as required by Article [insert number of the article transposing regulation 5.4] is in accordance with the requirements of this Regulation taking into account the guidelines developed by the Commission and the IMO;</p> <p>(ii) that the Ship Recycling Plan, as required by [insert number of the article transposing regulation 9], properly reflects the information contained in the Inventory of Hazardous</p>				

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
	<p>Materials as required by [insert number of the article transposing regulation 5.4] and contains information concerning the establishment, maintenance and monitoring of Safe-for-entry and Safe-for-hot work conditions; and</p> <p>(iii) that the Ship Recycling Facility(ies) where the ship is to be recycled holds a valid authorization corresponding to that required by this Regulation.</p> <p>2 Surveys of ships for the purpose of enforcement of the provisions of this Regulation shall be carried out by officers of the Administration, taking into account the guidelines developed by the Commission and the IMO. The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to recognised organisations.</p> <p>3 The Administration nominating surveyors or recognising organisations to conduct surveys, as described in paragraph 2 shall, as a minimum, empower such nominated surveyors or recognised organisations to:</p> <p>(a) require a ship that they survey to comply with the provisions of this Regulation;</p> <p>and</p> <p>(b) carry out surveys and inspections if requested by the appropriate authorities of a Member State, which is the competent port State</p> <p>4 In every case, the Administration concerned shall be responsible to ensure the completeness and efficiency of the survey and shall undertake to ensure the necessary arrangements to satisfy this obligation.</p> <p>5 The initial and renewal surveys should be harmonized with the surveys required by other applicable international conventions*.</p> <p>* The Regulation should include a definition of ‘[international] conventions’ in line with the definition included in Directive 94/57/EC and Directive 95/21/EC.</p> <p>** Note: a definition of ‘recognised organisation’ should be included in the Regulation as described below.</p> <p>2. Article [...] Definitions</p> <p>For the purpose of this Regulation:</p> <p>[...] ‘recognised organisation’ means a body recognised in accordance with the provisions of Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations.</p>			
13.	<p>Issuance and endorsement of certificates (Regulation 11)</p> <p>1 An International Certificate on Inventory of Hazardous Materials shall be issued either by the Administration or by any person or organization authorized by it after successful completion of an initial or renewal survey conducted in accordance with regulation 10, to any ships to which regulation 10 applies, except for existing ships for which both an initial survey and a final survey are conducted at the same time, taking into account the guidelines developed by the IMO.</p> <p>2 The International Certificate on Inventory of</p>	<p>Article 2(h) of Directive 94/57/EC defines certificates as ‘certificates issued by or on behalf of a Member State in accordance with the international conventions’.</p> <p>Article 3 of Directive 94/57/EC provides that ‘in assuming their responsibilities and obligations under the international conventions, Member States shall ensure that their competent administrations can assure an appropriate enforcement of the provisions of the international conventions, in particular with</p>	<p>There is no requirement under EU legislation relating to Inventory of Hazardous Materials on board ships.</p> <p>The definition of international conventions under Directive 94/57/EC could be amended in order to extend the role of classification societies to survey compliance with the Convention and to issue certificates.. The other option, as mentioned above, would be to develop separate legislation that ensures that Member States authorities apply the</p>	Not covered

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
	Hazardous Materials issued under paragraph 1, at the request of the ship-owner, shall be endorsed either by the Administration or by any person or organization authorized by it after successful completion of an additional survey conducted in accordance with regulation 10. [...]	regard [...] to the issue of certificates and exemption of certificates’.	Convention’s requirements on certificates.	
<p><i>Proposed wording</i></p> <p>1. Article [...]</p> <p>1 An IHM-Certificate* shall be issued either by the Administration or by any person or organization authorized by it after successful completion of an initial or renewal survey conducted in accordance with Article [insert number of the article transposing regulation 10], to any ships to which Article [insert number of the article transposing regulation 10] applies, except for existing ships for which both an initial survey and a final survey are conducted at the same time, taking into account the guidelines developed by the Commission and the IMO.</p> <p>2 The IHM-Certificate issued under paragraph 1, at the request of the shipowner, shall be endorsed either by the Administration or by any person or organization authorized by it after successful completion of an additional survey conducted in accordance with Article [insert number of the article transposing regulation 10].</p> <p>Note: the remaining provisions of Regulation 11 of the SRC relating to the period of validity and renewal of Certificates can be literally reproduced from the Convention without major changes. The last provision (regulation 11(12) is not relevant as, under an EU interim regime, the Certificate on Inventory of Hazardous Materials would have the same validity throughout the EU.</p> <p>2. Article [...] Definitions</p> <p>* Add the following definition:</p> <p>For the purposes of this Regulation:</p> <p>[..]. ‘IHM-Certificate’ means the certificate issued to ships in conformity with the provisions of Regulation 11 and Appendix 3 of the Ship Recycling Convention or, during the interim period, a certificate issued in accordance with the format laid down in Annex [...] to this Regulation, when it is issued by the competent authority of any Member State or by a recognised organisation acting on its behalf;</p>				
C. Requirements for ship recycling facilities				
	<p>Ship Recycling Plan (Regulation 9)</p> <p>A ship-specific Ship Recycling Plan shall be developed by the Ship Recycling Facility(ies) prior to any recycling of a ship, taking into account the guidelines developed by the Organization. The Ship Recycling Plan shall:</p> <p>1 be developed taking into account information provided by the shipowner;</p>	<p>No equivalent provisions.</p> <p>The treatment operation may also be undertaken outside the respective Member State or the Community provided that the shipment of WEEE is in compliance with Council Regulation (EEC) No 259/93 of 1 February 1993 on the supervision and</p>	<p>There is no requirement under EU legislation to prepare a ship-specific Ship Recycling Plan. EU legislation provides only for general requirements linked to the authorisation/registration procedure for waste treatment facilities, and general requirements on safety, health and environment protection (see next rows).</p>	<p>Not covered</p>

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
	<p>2 be developed in the language accepted by the Party authorizing the Ship Recycling Facility[...];</p> <p>3 include information concerning <i>inter alia</i>, the establishment, maintenance, and monitoring of Safe-for-entry and Safe-for-hot work conditions and how the type and amount of materials including those identified in the Inventory of Hazardous Materials will be managed;</p> <p>.4 in accordance with the declaration deposited pursuant to Article 16.6, be either explicitly or tacitly approved by the Competent Authority authorizing the Ship Recycling Facility. [...]</p> <p>.5 once approved in accordance with paragraph 4, be made available for inspection by the Administration, or any nominated surveyors or organization recognized by it; and</p> <p>.6 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 authorized Ship Recycling Facility.</p>	<p>control of shipments of waste within, into and out of the European Community (1).</p> <p>WEEE exported out of the Community in line with Council Regulation (EEC) No 259/93, Council Regulation (EC) No 1420/1999 (2) of 29 April 1999 establishing common rules and procedures to apply to shipments to certain non-OECD countries of certain types of waste and Commission Regulation (EC) No 1547/1999 (1) of 12 July 1999 determining the control procedures under Council Regulation (EEC) No 259/93 to apply to shipments of certain types of waste to certain countries to which OECD Decision C(92)39 final does not apply, shall only count for the fulfilment of obligations and targets of Article 7(1) and (2) of this Directive if the exporter can prove that the recovery, reuse and/or recycling operation took place under conditions that are equivalent to the requirements of this Directive.</p>	<p>If waste is shipped outside the EU it should always comply with WSR requirements. In the case of producer responsibility legislation, in addition it is requested to ensure that facilities outside the EU also respect the minimum treatment criteria set up in EU Directives for EU facilities.</p>	

Proposed wording

1. Article [...]

A ship-specific Ship Recycling Plan shall be developed by the Ship Recycling Facility(ies) prior to any recycling of a ship, taking into account the guidelines developed by the Commission or relevant international organizations. The Ship Recycling Plan shall:

- (a) be developed taking into account information provided by the shipowner;
- (b) include information concerning *inter alia*, the establishment, maintenance, and monitoring of Safe-for-entry and Safe-for-hot work conditions and how the type and amount of materials including those identified in the Inventory of Hazardous Materials will be managed;
- (c) be [either explicitly or tacitly –the Commission must make a choice as to whether Member State approval should be explicit or tacit] approved by the Competent Authority authorizing the Ship Recycling Facility. The Competent Authority shall send written acknowledgement of receipt of the Ship Recycling Plan to the Ship Recycling Facility, Ship Owner and the Administration within three (3) working days of its receipt in accordance with Article [insert number of the article transposing regulation 24]. Thereafter:
- (d) [Depending on the choice made by the Commission as to whether or not the approval shall be explicit or tacit – point 4(1) or point 4(2) of regulation 9 should be transposed.]
- (e) once approved, be made available for inspection by the Administration, or any nominated surveyors or recognised organisation; and
- (f) 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 authorized Ship Recycling Facility.

Note: this obligation would be only applicable to EU SRF.

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
14.	<p>Prevention of adverse effects on human health and the environment (Regulation 19)</p> <p>Ship Recycling Facilities authorized by a Party, , taking into account guidelines developed by the IMO, shall establish and utilize procedures to: .1 prevent explosions and other unsafe conditions by ensuring that gas free for hot work conditions are established, maintained and monitored throughout Ship Recycling;</p>	<p><i>Procedures for prevention of explosions</i></p> <p>Directive 99/92/EC lays down minimum requirements for the safety and health protection of workers potentially at risk from explosive atmospheres. The ship dismantling activity falls within the scope of this Directive, which only excludes few activities (Article 1).</p> <p>Under Article 3 of Directive 99/92/EC ‘the employer shall take technical and/or organisational measures appropriate to the nature of the operation, in order of priority and in accordance with the following basic principles: — the prevention of the formation of explosive atmospheres, or where the nature of the activity does not allow that, — the avoidance of the ignition of explosive atmospheres, and — the mitigation of the detrimental effects of an explosion so as to ensure the health and safety of workers. These measures shall where necessary be combined and/or supplemented with measures against the propagation of explosions and shall be reviewed regularly and, in any event, whenever significant changes occur.’</p> <p>Under Article 4 of Directive 99/92/EC ‘the employer shall assess the specific risks arising from explosive atmospheres, taking account at least of: — the likelihood that explosive atmospheres will occur and their persistence, — the likelihood that ignition sources, including electrostatic discharges, will be present and become active and effective, — the installations, substances used, processes, and</p>	<p><i>Procedures for prevention of explosions</i></p> <p>Directive 99/92/EC does not specifically mention that employers shall ensure that gas free for hot work conditions are maintained in order to prevent explosions as provided by Regulation 19 of the Ship Recycling Convention. However, Article 3 and Article 4 of Directive 99/92/EC provide that employers shall take necessary preventive measures in order to avoid explosions.</p> <p>However, the main focus of the provisions of the Convention is the prevention of adverse effects on human health and the environment which is not limited to the obligations of the employer. Article 13 of Directive 2008/98/EC on waste places a general obligation on Member States to take the necessary measures to ensure that waste management is carried out without endangering human health and without harming the environment. Therefore, it may be recommendable to have similar ship recycling-specific provisions inserted in the EU legislation.</p>	Indirectly covered

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
		<p>their possible interactions, — the scale of the anticipated effects. [...]</p> <p>Directive 2008/98/EC on waste requires Member States to take the necessary measures to ensure that waste management is carried out without endangering human health, without harming the environment and, in particular:</p> <p>(a) without risk to water, air, soil, plants or animals; (b) without causing a nuisance through noise or odours; and (c) without adversely affecting the countryside or places of special interest.</p> <p>As regards responsibility for waste management, Article 15 states:</p> <p>1. Member States shall take the necessary measures to ensure that any original waste producer or other holder carries out the treatment of waste himself or has the treatment handled by a dealer or an establishment or undertaking which carries out waste treatment operations or arranged by a private or public waste collector in accordance with Articles 4 and 13.</p> <p>2. When the waste is transferred from the original producer or holder to one of the natural or legal persons referred to in paragraph 1 for preliminary treatment, the responsibility for carrying out a complete recovery or disposal operation shall not be discharged as a general rule.</p> <p>Without prejudice to Regulation (EC) No 1013/2006, Member States may specify the conditions of responsibility and decide in which cases the original producer is to retain responsibility for the whole treatment chain or in which cases the responsibility of the producer and the holder can be shared or delegated among the actors of the treatment chain.</p> <p>3. Member States may decide, in accordance with</p>		

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
		<p>Article 8, that the responsibility for arranging waste management is to be borne partly or wholly by the producer of the product from which the waste came and that distributors of such product may share this responsibility.</p> <p>4. Member States shall take the necessary measures to ensure that, within their territory, the establishments or undertakings which collect or transport waste on a professional basis deliver the waste collected and transported to appropriate treatment installations respecting the provisions of Article 13.</p>		
15.	.2 prevent harm from dangerous atmospheres and other unsafe conditions by ensuring that Safe-for-entry conditions and procedures are established, maintained, and monitored in ship spaces, including confined spaces and enclosed spaces throughout Ship Recycling;	<p><i>Ensure safe entry procedures for enclosed and spaces</i></p> <p>Directive 89/654/EEC, lays down minimum requirements for safety and health at the workplace.</p> <p>Annex I point 6 contains requirements for the ventilation of enclosed workplaces used for the first time. It states:</p> <p>‘6.1. Steps shall be taken to see to if there is sufficient fresh air in enclosed workplaces, having regard to the working methods used and the physical demands placed on the workers. If a forced ventilation system is used, it shall be maintained in working order.</p> <p>Any breakdown must be indicated by a control system where this is necessary for workers' health.</p> <p>6.2. If air-conditioning or mechanical ventilation installations are used, they must operate in such a way that workers are not exposed to draughts which cause discomfort.</p> <p>Any deposit or dirt likely to create an immediate danger to the health of workers by polluting the atmosphere must be removed without delay.’</p> <p>Annex II point 6 contains requirements for the Ventilation of enclosed workplaces already in use. It</p>	<p><i>Ensure safe entry procedures</i></p> <p>Annex I point 6 and Annex II point 6 of Directive 89/654/EEC are compatible with Regulation 19.2 of the Ship Recycling Convention.</p> <p>However, under Directive 89/654/EC there is no mention of ‘monitoring of atmospheric conditions’ but these requirements are considered as covered by Annex I point 6 that states that: ‘Steps shall be taken to see to if there is sufficient fresh air in enclosed workplaces, having regard to the working methods used and the physical demands placed on the workers.’</p>	Adequate

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
		<p>reads as follow: ‘Steps shall be taken to see to it that there is sufficient fresh air in enclosed workplaces, having regard to the working methods used and the physical demands placed on the workers. If a forced ventilation system is used, it shall be maintained in working order. Any breakdown must be indicated by a control system where this is necessary for the workers’ health.’</p>		
16.	<p>.3 prevent other accidents, occupational diseases and injuries or other adverse effects on human health and the environment; and</p>	<p><i>Prevent other accidents, occupational disease and injuries</i></p> <p>Article 6 of Directive 89/391/EEC provides that ‘employer shall take the measures necessary for the safety and health protection of workers, including prevention of occupational risks and provision of information and training, as well as provision of the necessary organization and means. The employer shall be alert to the need to adjust these measures to take account of changing circumstances and aim to improve existing situations. The employer shall implement the measures referred to in the first subparagraph of paragraph 1 on the basis of the following general principles of prevention: (a) avoiding risks; (b) evaluating the risks which cannot be avoided; (c) combating the risks at source; (d) adapting the work to the individual, especially as regards the design of work places, the choice of work equipment and the choice of working and production methods, with a view, in particular, to alleviating monotonous work and work at a predetermined work-rate and to reducing their effect on health. (e) adapting to technical progress; (f) replacing the dangerous by the non-dangerous or</p>	<p><i>Prevent other accidents, occupational diseases and injuries or other accidents, occupational diseases and injuries or other adverse effects on human health and the environment</i></p> <p>Directive 89/391/EEC obliges employers to take necessary measures for the safety and health protection of workers which should include measures in order to prevent accidents, occupational diseases and injuries or other accidents, occupational diseases and injuries or other adverse effects on human health. However, Directive 89/391/EEC does not specifically provide that employers shall take necessary measures in order to prevent adverse effects on the environment.</p>	Partially covered

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
		<p>the less dangerous;</p> <p>(g) developing a coherent overall prevention policy which covers technology, organization of work, working conditions, social relationships and the influence of factors related to the working environment;</p> <p>(h) giving collective protective measures priority over individual protective measures;</p> <p>(i) giving appropriate instructions to the workers.’</p>		
17.	<p>.4 prevent spills or emissions throughout Ship Recycling which may cause harm to human health and/or the environment</p>	<p><i>Prevent spills or emissions that may cause harm to human health.</i></p> <p>Such procedure of prevention should be covered by Article 6 of Directive 89/391/EEC that provides that the ‘employer shall take the measures necessary for the safety and health protection of workers, <u>including prevention of occupational risks.</u>’</p> <p>Indeed, spills or emissions that may cause harm to human health could be considered as occupational risks.</p> <p><i>Prevent spills or emissions that may cause harm to the environment</i></p> <p>Directive 2008/1/EC concerning integrated pollution prevention and control lays down measures designed to prevent or, where that is not practicable, to reduce emissions in the air, water and land from [specific] activities, including measures concerning waste, in order to achieve a high level of protection of the environment taken as a whole.</p> <p>Article 3 of the Directive states that: ‘Member States shall take the necessary measures to provide that the competent authorities ensure that installations are operated in such a way that: (a) all the appropriate preventive measures are taken against pollution, in particular through application of</p>	<p><i>Procedures to prevent spills or emissions that may cause harm to human health</i></p> <p>Article 6 of Directive 89/391/EEC covers all measures necessary for the safety and health protection of workers, which include the procedures for the prevention of spills or emission that may cause harm to human health.</p> <p><i>Prevent spills or emissions that may cause harm to the environment</i></p> <p>Directive 2008/1/EC provides some procedures to prevent spills or emissions that may cause harm to the environment in certain installations. However, the list of installations that must respect this procedure does not refer to ship recycling activities. The only installations listed in Directive 2008/1/EC that might relate to the ship recycling activity are the installations for the disposal or recovery of hazardous waste.</p>	Partially covered

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		<p>the best available techniques; (b) no significant pollution is caused; (c) waste production is avoided in accordance with Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste; where waste is produced, it is recovered or, where that is technically and economically impossible, it is disposed of while avoiding or reducing any impact on the environment; (d) energy is used efficiently; (e) the necessary measures are taken to prevent accidents and limit their consequences; (f) the necessary measures are taken upon definitive cessation of activities to avoid any pollution risk and return the site of operation to a satisfactory state.’</p> <p>Article2(3) defines installation as a stationary technical unit where one or more activities listed in Annex I are carried out, and any other directly associated activities which have a technical connection with the activities carried out on that site and which could have an effect on emissions and pollution;</p> <p>However, Annex I does not explicitly refer to ship-recycling activities but refer for example to related installations such as installations for the disposal or recovery of hazardous waste.</p>		
18.	<p>Safe and environmentally sound management of hazardous materials (Regulation 20)</p> <p>1 Ship Recycling Facilities authorized by a Party shall ensure safe and environmentally sound <u>removal of any Hazardous Material</u> contained in a ship certified in accordance with regulation 11 or 12. The person(s) in charge of the recycling operations and the workers shall be familiar with the requirements of this Convention relevant to their tasks and in particular actively use the Inventory of</p>	<p><i>Safe and environmentally sound removal of any hazardous Material.</i></p> <p>- <i>Asbestos</i></p> <p>Article 7, indent 2, of Directive 87/217/EC on the prevention and reduction of environmental pollution by asbestos provides that:</p> <p>‘Member States shall take the measures necessary to</p>	<p>1) EC legislation dealing with the safe and environmentally sound removal of specific hazardous substances.</p> <p>- <i>Safe and environmentally sound removal of asbestos</i></p> <p>Directive 87/217/EC on asbestos is compatible with Regulation 20 of the Ship Recycling Convention</p> <p>- <i>Safe and environmentally sound removal of PCB</i></p>	Indirectly covered

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
	<p>Hazardous Materials and the Ship Recycling Plan, prior to and during the removal of Hazardous Materials.</p>	<p>ensure that, the demolition of buildings, structures and installations containing asbestos and the removal there from of asbestos or materials containing asbestos involving the release of asbestos fibres or dust do not cause significant asbestos environmental pollution; to that end they shall satisfy themselves that the plan of work provided for in Article 12 of Directive 83/477/EEC prescribes the introduction of all the necessary preventive measures to this end.'</p> <p>Article 12 of Directive 83/477/EEC reads as follow: 'plan of work shall be drawn up before demolition work or work on removing asbestos and/or asbestos-containing products from buildings, structures, plant or installations or from ships is started.</p> <p>2. The plan referred to in paragraph 1 must prescribe the measures necessary to ensure the safety and health of workers at the place of work.</p> <p>The plan must in particular specify that:</p> <ul style="list-style-type: none"> — asbestos and/or asbestos-containing products are to be removed before demolition techniques are applied, except where this would cause a greater risk to workers than if the asbestos and/or asbestos containing products had been left in place; — the personal protective equipment referred to in Article 11(1)(a) shall be provided, where necessary; — when the asbestos demolition or removal work has been completed, the absence of asbestos exposure risks in the workplace shall be verified in compliance with national legislation and practices. <p>At the request of the competent authorities, the plan shall include information on the following:</p> <ul style="list-style-type: none"> — the nature and probable duration of the work, — the place where the work is carried out, — the methods applied where the work involves the handling of asbestos or of materials containing asbestos, 	<p>There is no provision under Directive 96/59/EC, explaining how PCBs shall be safely and environmentally removed from equipment.</p> <p>- <i>Safe and environmental sound removal of ozone depleting substance</i></p> <p>Regulation (EC) 2037/2000 does not really explain how ozone depleting substances shall be removed from equipment.</p> <p>- <i>Safe and environmentally sound removal of organotin compounds</i></p> <p>Regulation (EC) 782/2003 does not contain provisions regarding safe and environmentally sound removal of organotin compounds.</p> <p>2) Directive 98/24/EC dealing with the protection of workers from risk to their safety and health arising, or likely to arise, from the effects of chemical agents.</p> <p>Directive 98/24/EC covers the safe and environmentally sound removal of hazardous materials.</p> <p>However, it is important to assess whether the definition of hazardous chemical agents is in line with the definition of hazardous materials under the Convention.</p> <p>For the definition of hazardous chemical agents, Directive 98/24/EC refers to any chemical agent meeting the criteria for classification as a dangerous substance according to the criteria in Annex VI to Directive 67/548/EEC.</p>	

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
		<p>— the characteristics of the equipment used for: — protection and decontamination of those carrying out the work, — protection of other persons present on or near the worksite. [...]</p> <p>- PCBs</p> <p>As mentioned above, under Article 3 of Directive 96/59/EC, Member States shall take the necessary measures to ensure that used PCBs are disposed of and PCB's and equipment containing PCBs are decontaminated or disposed of as soon as possible. It is also worth noting that under Article 9(2) of Directive 96/59/EC incineration of PCBs from ships is prohibited.</p> <p>- <i>Substances that deplete the ozone layer</i></p> <p>Article 16 of Regulation (EC) 2037/2000 deals with the recovery of used substances that deplete the ozone layer. The term controlled substance refers to substances that deplete the ozone layer. Article 16 of Regulation (EC) 2037/2000 states: '1. Controlled substances contained in: — refrigeration, air-conditioning and heat pump equipment, except domestic refrigerators and freezers, — equipment containing solvents, — fire protection systems and fire extinguishers, shall be recovered for destruction by technologies approved by the Parties or by any other environmentally acceptable destruction technology, or for recycling or reclamation during the servicing and maintenance of equipment or before the dismantling or disposal of equipment. 2. Controlled substances contained in domestic refrigerators and freezers shall be recovered and dealt with as provided for in paragraph 1 after 31</p>	<p>Annex VI of Directive 67/548/EEC provides a classification of substances according to their effect on health and on the environment. This approach is in line with the definition of hazardous materials provided by the Ship Recycling Convention.</p> <p>Since EU legislation in force does not provide for such documents, none of the Directives mentioned refers to the use of the Inventory of Hazardous Materials and the Ship Recycling Plan, prior to and during the removal of Hazardous Materials. It is however noted that the main principles of the EU legislation correspond in this instance to the spirit of the Ship Recycling Convention.</p> <p>3) EC legislation dealing with waste management.</p> <p>Finally, although the IMO Convention uses the term 'hazardous materials', it should be noted that the 'hazardous materials' contained in the structure of the ship are clearly hazardous waste. It is therefore necessary to compare the provisions of the Convention with existing texts applicable to waste like the Waste Shipment Regulation and the new Directive 2008/98/EC on waste which now includes the provisions of the previous hazardous waste directive (see relevant provisions in the next row).</p>	

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		<p>December 2001.</p> <p>3. Controlled substances contained in products, installations and equipment other than those mentioned in paragraphs 1 and 2 shall be recovered, if practicable, and dealt with as provided in paragraph 1.</p> <p>4. Controlled substances shall not be placed on the market in disposable containers, except for essential uses.</p> <p>5. Member States shall take steps to promote the recovery, recycling, reclamation and destruction of controlled substances [...]</p> <p><i>- Organotin compound</i></p> <p>Regulation (EC) 782/2003 aims to prohibit organotin compounds on all ships entering port in the Community in order to reduce or eliminate the adverse effects of these products on the marine environment and human health.</p> <p>However, Regulation (EC) 782/2003 does not provide safe and environmentally sound removal of organotin compounds.</p> <p>Directive 98/24/EC lays down minimum requirements for the protection of workers from risk to their safety and health arising, or likely to arise, from the effects of chemical agents that are present at the workplace or as a result of any activity involving chemical agents.</p> <p>Article 2 (a) of Directive 98/24/EC defines chemical agent as ‘any chemical element or compound, on its own or admixed, as it occurs in the natural state or as produced, used or released, including <u>release as waste, by any work activity, whether or not produced intentionally</u> and whether or not placed on the market;</p>		

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		<p>Article 2 (b) of Directive 98/24/EC defines hazardous chemical agent as any chemical agent which meets the criteria for classification as a dangerous substance according to the criteria in Annex VI to Directive 67/548/EEC, whether or not that substance is classified under that Directive, other than those substances which only meet the criteria for classification as dangerous for the environment;</p> <p>Article 5.2 of Directive 98/24/EC provides that 'risks to the health and safety of workers at work involving hazardous chemical agents shall be eliminated or reduced to a minimum by:</p> <ul style="list-style-type: none"> - the design and organisation of systems of work at the workplace, - the provision of suitable equipment for work with chemical agents and maintenance procedures which ensure the health and safety of workers at work, - reducing to a minimum the number of workers exposed or likely to be exposed, - reducing to a minimum the duration and intensity of exposure, - appropriate hygiene measures, - reducing the quantity of chemical agents present at the workplace to the minimum required for the type of work concerned, - <u>suitable working procedures including arrangements for the safe handling, storage and transport within the workplace of hazardous chemical agents and waste containing such chemical agents.</u> 		
19.	2 Ship Recycling Facilities authorized by a Party shall ensure that all Hazardous Materials detailed in the Inventory are identified, labelled, packaged and removed to the maximum extent possible prior to cutting by properly trained and equipped workers, taking into account the guidelines developed by the	<p><i>All hazardous materials detailed in the inventory shall be identified, labelled, packaged and removed to the maximum extent possible prior to cutting.</i></p> <p>Article 19 of Directive 2008/98/EC deals with the labelling of hazardous waste. Member States must</p>	<p><i>All hazardous materials detailed in the inventory shall be identified, labelled, packaged and removed to the maximum extent possible prior to cutting.</i></p> <p>There is no EU legislation that specifically requires the fulfilment of this obligation prior to the cutting</p>	Indirectly covered

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	<p>IMO, in particular:</p> <p>.1 hazardous liquids, residues and sediments;</p> <p>.2 substances or objects containing heavy metals such as lead, mercury, cadmium and hexavalent chromium;</p> <p>.3 paints and coatings that are highly flammable and/or lead to toxic releases;</p> <p>.4 asbestos and materials containing asbestos;</p> <p>.5 PCB and materials containing PCBs, ensuring that heat inducing equipment is avoided during such operations;</p> <p>.6 CFCs and halons; and</p> <p>.7 other Hazardous Materials not listed above and that are not a part of the ship structure</p>	<p>ensure that, in the course of collection, transport and temporary storage, hazardous waste is packaged and labelled in accordance with the international and Community standards in force. Whenever hazardous waste is transferred within a Member State, it must be accompanied by an identification document containing the appropriate data specified in Annex IB to Regulation (EC) No 1013/2006.</p> <p>Moreover, as mentioned above under Article 5(2) of Directive 98/24/EC, risks to the health and safety of workers at work involving hazardous chemical agents shall be eliminated or reduced to a minimum by [...] suitable working procedures including arrangements for the safe handling, storage and transport within the workplace of hazardous chemical agents and waste containing such chemical agents.</p>	<p>of ships. However, these obligations are in line with the principles and requirements set up by Article 19 of Directive 2008/98/EC and Article 5(2) of Directive 98/24/EC.</p>	
20.	<p>3 Ship Recycling Facilities authorized by a Party shall provide for and ensure safe and environmentally sound management of all Hazardous Materials and wastes removed from the ship recycled at that Ship Recycling Facility. Waste management and disposal sites shall be identified to provide for the further safe and environmentally sound management of materials.</p>	<p><i>Safe and environmentally sound management of all hazardous materials and wastes removed from the ships.</i></p> <p>Article 5.2 of Directive 98/24/EC as mentioned above shall also cover the 'safe and environmentally sound management of all hazardous materials and wastes removed from the ships recycled at that Ship recycling facilities'</p> <p><i>Identification of waste management and disposal sites</i></p> <p>Article 49 of the WSR requires the producer, the notifier and other undertakings involved in a shipment of waste and/or its recovery or disposal to take the necessary steps to ensure that any waste they ship is managed without endangering human health and in an environmentally sound manner throughout the period of shipment and during its recovery and disposal.</p>	<p>Article 5(2) of Directive 98/24/EC covers the first provision of Regulation 20.3 of the Convention.</p> <p>Articles 12 and 13 of Directive 2008/98/EC indirectly cover the second part of Regulation 20.3 of the Convention, since there are no specific provisions under EC legislation regarding the identification by recycling facilities of waste management and disposal sites.</p> <p>However, in the case of waste shipment, Article 15 of the Waste Shipment Regulation covers this obligation, as it requires identification and notification of all facilities where subsequent interim and non-interim recovery or disposal operations are envisaged. This requirement ensures a good traceability of the waste resulting from an interim operation. In the case of the IMO Convention only the main Ship Recycling Facility is covered, along with waste management and disposal sites which would undertake further management of materials.</p>	Indirectly covered

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		<p>Art.49(2) applies to exports from the Community and requires the competent authority of dispatch in the Community to require and endeavour to secure that any waste exported is managed in an environmentally sound manner throughout the period of shipment in the third country of destination.</p> <p>Environmentally sound management may, <i>inter alia</i>, be assumed as regards the waste recovery or disposal operation concerned, if the notifier or the competent authority in the country of destination can demonstrate that the facility which receives the waste will be operated in accordance with human health and environmental protection standards that are broadly equivalent to standards established in Community legislation; and this without prejudice to the overall assessment of environmentally sound management.</p> <p>For the purposes of seeking guidance on environmentally sound management, the guidelines listed in Annex VIII may be considered.</p> <p>With regard to identification of waste management and disposal sites, the prior written notification and movement documents to be submitted by the notifier under Article 4, shall identify, in accordance with Annexes IA and IB, II and III, all disposal and recovery facilities details, including technologies employed and possible status as pre-consented.</p> <p>Finally, pursuant to Article 15, if the waste is destined for an interim recovery or disposal operation, similar information regarding all facilities where subsequent interim and non-interim recovery or disposal operations are envisaged shall be indicated in the notification document in addition to the initial interim recovery or disposal operation.</p> <p>It should be noted that interim operations are limited</p>	<p>However, interim recovery operations are not covered.</p>	

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
		<p>to the following:</p> <p>R 12 Exchange of wastes for submission to recovery operations</p> <p>R 13 Storage of wastes pending recovery operations, including exchange of wastes (excluding temporary storage, pending collection, on the site where it is produced)</p> <p>Article 13 of Directive 2008/98/EC, generally mentions that Member States shall take the necessary measures to ensure that waste management is carried out without endangering human health, without harming the environment and, in particular:</p> <p>(a) without risk to water, air, soil, plants or animals;</p> <p>(b) without causing a nuisance through noise or odours; and</p> <p>(c) without adversely affecting the countryside or places of special interest.</p> <p>On disposal sites, Article 12 of Directive 2008/98/EC, states that Member States shall ensure, that waste undergoes safe disposal operations which meet the provisions of Article 13 on the protection of human health and the environment.</p> <p>Article 35 of Directive 2008/98/EC on record keeping requires establishments or undertakings intending to carry out waste treatment, the producers of hazardous waste and the establishments and undertakings which collect or transport hazardous waste on a professional basis, or act as dealers and brokers of hazardous waste, to keep a chronological record of the quantity, nature and origin of the waste, and, where relevant, the destination, frequency of collection, mode of transport and treatment method foreseen in respect of the waste, and to make that information available, on request, to the competent authorities.</p>		

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
21.	<p>4 All wastes generated from the recycling activity shall be kept separate from recyclable materials and equipment, labelled, stored in appropriate conditions that do not pose a risk to the workers, human health or the environment and only transferred to a waste management facility authorized to deal with their treatment and disposal in a safe and environmentally sound manner.</p>	<p>Article 13 of Directive 2008/98/EC on waste provides that:</p> <p>‘Member States shall take the necessary measures to ensure that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment, and in particular:</p> <p>(a) without risk to water, air or soil, or to plants or animals;</p> <p>(b) without causing a nuisance through noise or odours;</p> <p>(c) without adversely affecting the countryside or places of special interest.</p> <p>2. Member States shall take the necessary measures to prohibit the abandonment, dumping or uncontrolled disposal of waste.’</p> <p>Article 17 of Directive 2008/98/EC on waste provides that ‘Member States shall take the necessary action to ensure that the production, collection and transportation of hazardous waste, as well as its storage and treatment, are carried out in conditions providing protection for the environment and human health in order to meet the provisions of Article 13, including action to ensure traceability from production to final destination and control of hazardous waste in order to meet the requirements of Articles 35 and 36.’</p> <p>Article 18 of Directive 2008/98/EC bans the mixing of hazardous waste. Member States must ensure that hazardous waste is not mixed, either with other categories of hazardous waste or with other waste, substances or materials. Mixing includes the dilution of hazardous substances.</p> <p>By way of derogation, Member States may allow mixing provided that:</p>	<p>There is no provision in EC legislation that specifically covers Regulation 20.4 of the Ship Recycling Convention. However, Regulation 20.4 might be indirectly covered by Directive 2008/98/EC on waste.</p> <p>Regulation 20 of the Convention, even though dealing only specifically with the recycling of ships, is in line with the spirit and main principles of EC legislation on waste. In particular, reference is made to Articles 13, 18, 19 and 21 of Directive 2008/98/EC.</p> <p>Such requirements are further detailed in EC legislation regulating specific waste streams to ensure that these wastes are treated in an environmentally sound manner. For example, Directive 2000/53/EC on end-of-life vehicles requires permit or registration of all facilities carrying out treatment operations (Article 6(2)). It also includes minimum technical requirements for end-of-life vehicles treatment (Article 6(3) and Annex I).</p>	Indirectly covered

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		<p>(a) the mixing operation is carried out by an establishment or undertaking which has obtained a permit;</p> <p>(b) the provisions of Article 13 are complied with and the adverse impact of the waste management on human health and the environment is not increased; and</p> <p>(c) the mixing operation conforms to best available techniques.</p> <p>Article 19 provides the labelling and identification requirements for hazardous waste.</p> <p>In accordance with Article 21, without prejudice to the obligations related to the management of hazardous waste in Articles 18 and 19, Members must ensure that:</p> <ul style="list-style-type: none"> - waste oils are collected separately, where this is technically feasible - waste oils are treated in accordance with Articles 4 (waste hierarchy) and 13 (protection of human health and the environment). - where technically feasible and economically viable, waste oils of different characteristics are not mixed and waste oils are not mixed with other kinds of waste or substances, if such mixing impedes their treatment. <p>If waste oils, according to national legislation, are subject to requirements of regeneration, Member States may prescribe that such waste oils be regenerated if technically feasible and, where Articles 11 or 12 of Regulation (EC) No 1013/2006 apply, restrict the transboundary shipment of waste oils from their territory to incineration or co-incineration facilities in order to give priority to the regeneration of waste oils.</p>		
22.	Emergency preparedness and response (Regulation 21)			

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
	<p>Ship Recycling Facilities authorized by a Party shall establish and maintain an emergency preparedness and response plan. The plan shall be made having regard to the location and environment of the Ship Recycling Facility, and shall take into account the size and nature of activities associated with each Ship Recycling operation. The plan shall furthermore:</p> <p>.1 ensure that the necessary equipment and procedures to be followed in the case of an emergency are in place, and that drills are conducted on a regular basis;</p> <p>.2 ensure that the necessary information, internal communication and co-ordination are provided to protect all people and the environment in the event of an emergency at the Ship Recycling Facility;</p> <p>.3 provide for communication with, and information to, the relevant Competent Authority(ies), the neighbourhood and emergency response services;</p> <p>4 provide for first-aid and medical assistance, fire-fighting and evacuation of all people at the Ship Recycling Facility, pollution prevention; and</p> <p>.5 provide for relevant information and training to all workers of the Ship Recycling Facility, at all levels and according to their competence, including regular exercises in emergency prevention, preparedness and response procedures.</p>	<p>Directive 89/391/EEC applies to all sectors of activity, both public and private (industrial, agricultural, commercial, administrative, service, educational, cultural, leisure, etc.). It thus applies also to the ship dismantling operations.</p> <p>Article 8 of Directive 89/391/EEC provides that:</p> <p>‘The employer shall:</p> <p>— take the necessary measures for first aid, fire-fighting and evacuation of workers, adapted to the nature of the activities and the size of the undertaking and/ or establishment and taking into account other persons present,</p> <p>— arrange any necessary contacts with external services, particularly as regards first aid, emergency medical care, rescue work and fire fighting.</p> <p>[...].</p> <p>3. The employer shall:</p> <p>(a) as soon as possible, inform all workers who are, or may be, exposed to serious and imminent danger of the risk involved and of the steps taken or to be taken as regards protection;</p> <p>(b) take action and give instructions to enable workers in the event of serious, imminent and unavoidable danger to stop work and/ or immediately to leave the work place and proceed to a place of safety;</p> <p>(c) save in exceptional cases for reasons duly substantiated; refrain from asking workers to resume work in a working situation where there is still a serious and imminent danger. [...].’</p> <p>Directive 89/654/EEC lays down minimum safety and health requirements for the workplace. Annex I of Directive 89/654/EEC reads as follow:</p> <p>‘emergency routes and exits must remain clear and</p>	<p>Existing requirements under EC legislation should be in line with Regulation 21 of the Ship Recycling Convention but only insofar as workers on site are concerned. However, the Convention focuses specifically on emergency preparedness and response plans. Such requirements are partly covered under the Seveso II Directive and by the general obligation to protect human health and the environment under Article 13 of Directive 2008/98/EC.</p>	<p>Very partially covered</p>

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
		<p>lead as directly as possible to the open air or to a safe area.</p> <p>4.2. In the event of danger, it must be possible for workers to evacuate all workstations quickly and as safely as possible.</p> <p>4.3. The number, distribution and dimensions of the emergency routes and exits depend on the use, equipment and dimensions of the workplaces and the maximum number of persons that may be present.</p> <p>4.4. Emergency doors must open outwards. Sliding or revolving doors are not permitted if they are specifically intended as emergency exits. Emergency doors should not be so locked or fastened that they cannot be easily and immediately opened by any person who may need to use them in an emergency.</p> <p>4.5. Specific emergency routes and exits must be indicated by signs in accordance with the national regulations transposing Directive 77/576/EEC (1) into law. Such signs must be placed at appropriate points and be made to last.</p> <p>4.6. Emergency doors must not be locked. The emergency routes and exits, and the traffic routes and doors giving access to them, must be free from obstruction so that they can be used at any time without hindrance.</p> <p>4.7. Emergency routes and exits requiring illumination must be provided with emergency lighting of adequate intensity in case the lighting fails.'</p> <p>Directive 96/82/EC on the control of major-accident hazards involving dangerous substances (Seveso II Directive) requires operators to develop internal emergency plans and supply information to enable an external plan to be drawn up. The scope of the Seveso II Directive is defined by reference to the</p>		

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		presence of dangerous substances at establishments in excess of threshold quantities, hence recycling sites could fall under the Directive requirements.		
23.	<p>Worker safety and training (Regulation 22)</p> <p>1. Ship Recycling Facilities authorized by a Party shall provide for worker safety by measures including:</p> <p>(i) ensuring the availability, maintenance and use of personal protective equipment and clothing needed for all Ship Recycling operations;</p> <p>(ii) ensuring that training programmes are provided to enable workers to safely undertake all Ship Recycling operations they are tasked to do; and ensuring that all workers at the Ship Recycling Facility have been provided with appropriate training and familiarization prior to performing any Ship Recycling operation.</p> <p>2 Ship Recycling Facilities authorized by a Party shall provide and ensure the use of personal protective equipment for operations requiring such use, including:</p> <p>(i) head protection;</p> <p>(ii) face and eye protection;</p> <p>(iii) hand and foot protection;</p> <p>(iv) respiratory protective equipment;</p> <p>(v) hearing protection;</p> <p>(vi) protectors against radioactive contamination;</p> <p>(vii) protection from falls; and</p> <p>(viii) appropriate clothing.</p> <p>3 Ship Recycling Facilities authorized by a Party may co-operate in providing for training of workers. Taking into account the guidelines developed by the IMO, the training programmes set forth in paragraph 1.2 of this regulation shall:</p> <p>1. cover all workers including contractor personnel and employees in the Ship Recycling Facility;</p> <p>2. be conducted by competent persons;</p>	<p><i>The use of personal protective equipment</i></p> <p>Directive 89/655/EEC lays down minimum requirements for personal protective equipments used by workers at work.</p> <p>Article 3 of Directive 89/655/EEC provides that personal protective equipment shall be used when the risks cannot be avoided or sufficiently limited by technical means of collective protection or by measures, methods or procedures of work organization.</p> <p>Article 4 of Directive 89/655/EEC sets several employers obligations:</p> <p>‘Employers are obliged to provide personal protective equipment that must comply with the relevant Community provisions on design and manufacture with respect to safety and health. Furthermore all personal protective equipment must, be appropriate for the risks involved, without itself leading to any increased risk, correspond to existing conditions at the workplace; take account of ergonomic requirements and the worker's state of health; and fit the wearer correctly after any necessary adjustment.’</p> <p>Annex II of Directive 89/655/EEC provides a non-exhaustive guide list of items of personal protective equipment that mostly covers the list of personal protective requirements under Regulation 22. Annex II of the Directive does not mention protectors against radioactive contamination.</p> <p>Annex III of Directive 89/655/EEC provides a non-exhaustive guide list of activities and sectors of</p>	<p><i>The use of personal protective equipment</i></p> <p>Directive 89/656/EEC covers all the protective equipment requirements under the Ship Recycling Convention except on the use of protectors against radioactive contamination.</p> <p>However, the requirement to use protectors against radioactive contamination is covered by Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation</p>	Adequate

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
	<p>A ship to which this Convention applies may, in any port or offshore terminal of another Party, be subject to inspection by officers duly authorized by that Party for the purpose of determining whether the ship is in compliance with this Convention. Except as provided in paragraph 2, any such inspection is limited to verifying that there is onboard either an International Certificate on Inventory of Hazardous Materials, or an International Ready for Recycling Certificate, which, if valid, shall be accepted.</p> <p>Where a ship does not carry a valid certificate or there are clear grounds for believing that:</p> <ol style="list-style-type: none"> 1. the condition of the ship or its equipment does not correspond substantially with the particulars of the certificate, and/or the Inventory of Hazardous Materials Part I; or 2. There is no procedure implemented on board the ship for the maintenance of the inventory of Hazardous Materials Part I, <p>a detailed inspection may be carried out taking into account guidelines developed by the IMO.</p>	<p>The EC legislation that deals with inspections of ships is Directive 95/21/EC. However, as mentioned above, Directive 95/21/EC does not require inspectors to control either an International Certificate on Inventory of Hazardous Materials, or an International Ready for Recycling Certificate on board ships as these are novel elements specific to the Ship Recycling Convention. Besides, Directive 95/21/EC provides for the control of compliance with obligations set up by international conventions and not obligations established under EU legislation (see in particular Recitals 3, 5, 6 and 7, and Article 1 'Purpose').</p>	<p>Directive 95/21/EC could be amended in order to include in the list of certificates and documents that have to be verified by inspectors on board of ships, a list of an inventory of hazardous materials as defined under the Convention.</p> <p>Issue of scope:</p> <p>The Port State Control Directive applies to any ships whatever their flag while the Ship Recycling Convention applies to ships entitled to fly the flag of the Parties to the Convention. However, Parties to the Convention must apply the requirements to ships entitled to fly the flag of non Parties as may be necessary to ensure that no more favourable treatment is given to such ships.</p> <p>Thus, Directive 95/21/EC has the same scope as the Ship Recycling Convention. However, categories of ships that are exempted from the Convention and Directive 95/21/EC are not exactly the same.</p> <p>Directive 95/21/EC excludes from its scope fishing vessels, ships of war, naval auxiliaries, wooden ships of a primitive build, government ships used for non-commercial purposes and pleasure yachts not engaged in trade. It is also noted that in the case of ships of a gross tonnage below 500, Member States must apply those requirements of a relevant Convention which are applicable and shall, to the extent that a Convention does not apply, take such action as may be necessary to ensure that the ships concerned are not clearly hazardous to safety, health or the environment.</p> <p>The Convention excludes from its scope warships, naval auxiliary, other ships owned or operated by a Party and used only on government non-commercial service, ships of less than 500 GT, ships operating</p>	<p>Compatibility issues (scope)</p>

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
			<p>only in waters subject to sovereignty and jurisdiction of flag State.</p> <p>Differences in scope between the Ship Recycling Convention and the Directive on Port State control could give rise to compatibility issues, especially in view of the fact that Port State control will play a major role in the enforcement of its requirements.</p>	
<p><i>Proposed wording</i></p> <p>1. Article [...] Port State Control</p> <p>During the interim period* Member States shall apply control provisions equivalent to those laid down in Directive 95/21/EC to ships flying the flag of a Member State. With regard to the inspections and detection of breaches, Member States shall be guided by the provisions of Article 8 of the Ship Recycling Convention.</p> <p>If the Ship Recycling Convention has not entered into force by [insert date to be decided by the Commission] the Commission shall establish appropriate procedures for these controls. Those measures, designed to amend non-essential elements of this Regulation shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article [insert the number of the article setting up the relevant procedure]</p> <p>* Should be defined as the period between entry into force of the Regulation and the entry into force of the SRC.</p>				
25.	<p>Control on Ship Recycling Facilities (Regulation 15)</p> <p>1 Each Party shall establish legislation, regulations, and standards that are necessary to ensure that Ship Recycling Facilities are designed, constructed, and operated in a safe and environmentally sound manner in accordance with the regulations of this Convention.</p> <p>2 Each Party shall establish a mechanism for authorizing Ship Recycling Facilities with appropriate conditions to ensure that such Ship Recycling Facilities meet the requirements of this Convention.</p> <p>3 Each Party shall establish a mechanism for ensuring that Ship Recycling Facilities comply with the requirements of this chapter including the establishment and effective use of inspection, monitoring and enforcement provisions, including</p>	<p><i>Regulation and standards ensuring that Ship Recycling Facilities are designed, constructed, and operated in a safe and environmentally sound manner</i></p> <p>Directive 89/654/EEC concerning the minimum safety and health requirements for the workplace</p>	<p>At the outset, it should be noted that requirements on control of Ship Recycling Facilities cannot be established at EU level for facilities located outside the territory of EU Member States. However, these requirements could be given effect to by virtue of obligations imposed on shipowners to have their ships dismantled only in certified ('green') recycling facilities. Nevertheless, EU legislation partially covers the Convention requirements and is assessed below.</p> <p><i>Regulation and standards ensuring that Ship Recycling Facilities are designed, constructed, and operated in a safe and environmentally sound manner</i></p> <p>Directive 89/654/EEC concerning the minimum safety and health requirements for the workplace might be too general to cover Regulation 15.1 of the</p>	Partially covered

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
	<p>powers of entry and sampling. Such a mechanism may include an audit scheme to be carried out by the Competent Authority(ies) or an organization recognized by the Party, taking into account guidelines developed by the IMO, and the results of these audits should be communicated to the IMO. [...]</p>	<p><i>Establishment of a mechanism authorising Ship Recycling Facilities</i></p> <p>Article 23 of Directive 2008/98/EC obliges Member States to require any establishment or undertaking intending to carry out waste treatment to obtain a permit from the competent authority. It must however be noted that Article 24 allows Member States to exempt establishments or undertakings from this requirement for the following operations: (a) disposal of their own non-hazardous waste at the place of production; or (b) recovery of waste.</p> <p>Article 25 deals with the conditions for exemptions and Article 26 provides for registration where the permit requirement is dispensed with.</p> <p><i>Establishment of effective use of inspection, monitoring and enforcement procedures</i></p> <p>Directive 95/21/EEC on port State control of shipping, and Directive 94/57/EC on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administration do not apply to Ship Recycling Facilities.</p>	<p>Ship Recycling Convention.</p> <p><i>Establishment of a mechanism authorising Ship Recycling Facilities</i></p> <p>The requirement of a mechanism authorising Ship Recycling Facilities under Regulation 15 of the Ship Recycling Convention is covered by Article 23 of Directive 2008/98/EC on waste. Whereas exemptions from the permit requirement under Directive 2008/98/EC are possible, this is not the case under the Ship Recycling Convention which requires an authorisation for Ship Recycling Facilities in all cases.</p> <p><i>Establishment of effective use of inspection, monitoring and enforcement procedures</i></p> <p>Directive 95/21/EC on port state control of shipping, and Directive 94/57/EC could be amended in order to apply to Ship Recycling Facilities. Or the other option, as mentioned above would be to develop separate legislation that requires Member States to ensure that Ship Recycling Facilities are controlled and inspected as required under Regulation 15.3 of the Convention.</p>	
26.	<p>Authorization of Ship Recycling Facilities (Regulation 16)</p> <p>Ship Recycling Facilities which recycle ships to which this Convention applies, or ships treated similarly pursuant to Article 3.4, shall be authorized by a Party taking into account the guidelines developed by the Organization.</p>	<p>Article 23 of Directive 2008/98/EC obliges Member States to require any establishment or undertaking intending to carry out waste treatment to obtain a permit from the competent authority.</p>	<p>The authorisation under Regulation 16 corresponds to requirements set up by Article 23 of Directive 2008/98/EC.</p>	Adequate

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
E. Reporting Requirements				
27.	<p>Initial notification and reporting requirements (Regulation 24)</p> <p>1. The shipowner must notify the Administration in due time and in writing of the intention to recycle a ship in order to enable the Administration to prepare for the survey and certification required by this Convention.</p> <p>2 A Ship Recycling Facility when preparing to receive a ship for recycling must notify in due time and in writing its Competent Authority(ies) of the intent. The notification shall include at least the following ship details [...] Inventory of Hazardous Materials; and draft ship recycling plan for approval pursuant to Regulation 9.</p> <p>3 When the ship destined to be recycled has acquired the International Ready for Recycling Certificate, the Ship Recycling Facility shall report to its Competent Authority(ies) the planned start of the Ship Recycling. The report shall be in accordance with the reporting format in Appendix 6, and shall at least include a copy of the International Ready for Recycling Certificate. Recycling of the ship shall not start prior to the submission of the report.</p>	<p>There is no EC legislation that contains reporting requirements with specific reference to the recycling of ships. However, notification, reporting, and prior informed consent under Regulation (EC) 1013/2006 on shipments of waste are relevant here.</p> <p><i>Notification and Prior Informed Consent</i></p> <p>Under the WSR all waste shipments if destined for disposal operation and certain waste shipments if destined for recovery operation are subject to the prior written notification and consent (Article 3). The person intending to ship waste (the notifier) must submit a prior written notification to and through the competent authority of dispatch. He shall include a contract with the consignee for the recovery of disposal of the notified waste.</p> <p>This contract shall include some particular obligations such as the take-back of waste when a shipment cannot be completed, and a financial guarantee or equivalent insurance.</p> <p>Once the notification has been properly carried out, the competent authority of dispatch shall transmit the notification to the competent authority of destination. The competent authorities of destination, dispatch and transit can consent without conditions or consent with conditions in accordance with Article 10. They may also not consent in accordance with Article 11 or 12. Their reasoned objections shall be based on the Treaty and on the grounds listed in Articles 11 and 12.</p>	<p>Differences between Regulation (EC) 1013/2006 on shipments of waste and the Ship Recycling Convention:</p> <p>The Ship Recycling Convention adopts a different approach to that of the WSR. Its enforcement system is based on the following elements</p> <ul style="list-style-type: none"> - inventory of hazardous materials/international certificate for a ship inventory of hazardous materials. - surveying regime - ship recycling plan developed by the recycling yards - international ready for recycling certificate - authorisation of recycling facilities by the competent authorities - statement of completion of ship recycling <p>However, it is not based on the prior informed consent of the State authority that receives waste shipments.</p> <p>Since Recital 35 of the WSR recalls that a ship may become waste as defined in Article 2 of the Basel Convention and that at the same time it might be defined as a ship under other international rules, the WSR and the Ship Recycling Convention would, thus, both apply to European end-of life ships sent for scrapping. The question here is whether there are compatibility issues between the reporting and notification requirements of the Convention and the notification and prior informed consent requirements of the WSR.</p> <p>The notification provided under the WSR (Article 4) does not conflict with the obligation under the</p>	<p>Partially covered. Issues of compatibility</p>

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			<p>Convention, of the shipowner to notify the administration in due time, in order to enable the Administration to prepare for the survey and certification required.</p> <p>Under the WSR, the notifier must include a contract with the consignee for the recovery or disposal of the notified waste. Such a requirement is not found in the Convention. The competent authority of dispatch must transmit the notification to the competent authority of destination. This transboundary procedure does not exist under the Convention.</p> <p>Under the WSR, the competent authorities of destination can consent without conditions or consent with conditions in accordance with Article 10 or provide some objections in accordance with Article 11 when waste is destined for disposal or Article 12 when waste is destined for recovery. Ships sent for recycling might fall within the category of shipments of waste destined for recovery. Therefore, authorities of dispatch and authorities of destination, when not consenting that the end-of life ships shall be recovered in the destination country, will have to raise reasoned objections on the grounds listed in Article 12. This would include for example, cases where:</p> <ul style="list-style-type: none"> - the planned shipment or recovery is not in accordance with the Waste Framework Directive, - the planned shipment or recovery is not in accordance with national legislation relating to environmental protection, public order, public safety or health protection concerning actions taking place in the objecting country, or - the notifier or the consignee has previously been convicted of illegal 	

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			<p>shipment or some other illegal act in relation to environmental protection.</p> <p>This prior consent requirement is not exactly covered in the Convention, where requirements for reporting between the State of export and the State of destination, and between the shipowner and the State of destination (recycling States) are very limited.</p> <p>Under the Convention there are two main procedures of control before the ship is sent to be recycled:</p> <ul style="list-style-type: none"> - The approval of the Ship Recycling Plan by the Authority where the Ship Recycling Facility is situated: Ship Recycling Plan is subject to the Competent Authority's approval (tacit or explicit) before a ship may be recycled in the authorised Ship Recycling Facility(ies) (Article 16(6)). Regulation 9 requires the Competent Authority to send written acknowledgement of receipt of the Ship Recycling Plan to the Ship Recycling Facility, Shipowner and Administration. The Competent Authority should also send written notification of its decision to approve or deny the Ship Recycling Plan in case a Party requires explicit approval. Similarly, it shall notify any written objection to the Ship Recycling Plan under a procedure of tacit approval. - The issue of an International Ready for Recycling Certificate by the administration of the flag of the ships. This certificate is issued after a final survey of the ship verifying that: <ul style="list-style-type: none"> • the Inventory of Hazardous Materials is in accordance with the Convention requirements • the Ship Recycling Plan properly reflects the information contained in the Inventory of Hazardous Materials as required by Regulation 5.4 and contains information 	

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
			<p>concerning the establishment, maintenance and monitoring of Safe-for-entry and Safe-for-hot work conditions; and</p> <ul style="list-style-type: none"> the Ship Recycling Facility(ies) where the ship is to be recycled holds a valid authorization in accordance with the Convention. <p>These compatibility issues could not be addressed through amendments to the WSR, as this instrument transposes international obligations of the EU. The only solution would be that the Basel Convention parties recognise that the SRC has an equivalent level of control to that of the Basel Convention.</p>	

Proposed wording

1. Article [...]

1. A shipowner shall notify the Administration in due time and in writing of the intention to recycle a ship in order to enable the Administration to prepare for the survey and certification required by this Regulation.

2. A Ship Recycling Facility when preparing to receive a ship for recycling shall notify the competent authorities of the intent in due time and in writing. The notification shall include at least the following ship details:

- (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 for approval pursuant to [insert number of Article transposing regulation 9].

3. When the ship destined to be recycled has acquired the Ready for Recycling Certificate, the Ship Recycling Facility shall report to its competent authorities the planned start of the Ship Recycling. The report shall be in accordance with the reporting format in Annex [...], and shall at least include a copy of the Ready for Recycling Certificate. Recycling of the ship shall not start prior to the submission of the report.

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
2. Article [...] Definitions				
For the purposes of this Regulation:				
[...]. ‘Ready for Recycling Certificate’ means the certificate issued to ships in conformity with the provisions of the Ship Recycling Convention or, during the interim period, a certificate issued in accordance with the format laid down in Annex [...] to this Regulation, when it is issued by the Administration of any Member State or by a recognised organisation acting on its behalf.				
	<p>Reporting upon completion (Regulation 25)</p> <p>When the partial or complete recycling of a ship is completed in accordance with the requirements of this Convention, a Statement of Completion shall be issued by the Ship Recycling Facility and reported to its Competent Authority(ies). This report must be compiled as shown in Appendix 7. The Competent Authority(ies) shall send a copy to the Administration which issued the International Ready for Recycling Certificate for the ship. The Statement shall be issued within 14 days of the date of partial or completed Ship Recycling in accordance with the Ship Recycling Plan and shall include a report on incidents and accidents damaging human health and/or the environment if any.</p>	<p><i>Interim operations</i></p> <p>As mentioned in row 20, Article 15 of the Waste Shipment Regulation requires identification and notification of all facilities where subsequent interim and non-interim recovery or disposal operations are envisaged. This requirement ensures a good traceability of the waste resulting from an interim operation.</p> <p><i>After Completion</i></p> <p>Article 16(e) of the WSR requires that as soon as possible but not later than 30 days after completion of the non-interim recovery or disposal operation, and no later than one calendar year following receipt of the waste, the facility certify that the non-interim recovery or disposal has been completed. This certificate is contained or annexed to the movement document. Copies of the movement document shall be sent to the notifier and to the competent authorities concerned.</p>	<p><i>Interim operations</i></p> <p>See comments in row 20</p> <p><i>After completion</i></p> <p>A “statement of completion” is to be issued by the recycling facility, when the recycling of a ship is completed in accordance with the Convention. This statement is reported to the facility's competent authority and communicated to the flag State Administration, within 14 days of the partial or complete recycling operation. Under the Waste Shipment Regulation, a similar document (the certificate), is to be reported to the notifier and to the competent authorities concerned (this would cover the facility’s competent authority and the flag State Administration). However, the deadline is longer as this should be done ‘no later than 30 days’ after completion. An additional deadline is set up by the Waste Shipment Regulation, that it takes place no later than one year following receipt of the waste.</p>	
<i>Proposed wording</i>				
1. Article [...]				

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
<p>When the partial or complete recycling of a ship is completed in accordance with the requirements of this Regulation, a Statement of Completion shall be issued by the Ship Recycling Facility and reported to its competent authorities. This report must be compiled as shown in Annex [...]. The competent authorities shall send a copy of the Statement to the Administration which issued the Ready for Recycling Certificate for the ship. The Statement shall be issued within 14 days of the date of partial or completed Ship Recycling in accordance with the Ship Recycling Plan and shall include a report on incidents and accidents damaging human health and/or the environment, if any.</p> <p>2. Article [...] Definitions</p> <p>For the purposes of this Regulation:</p> <p>[...]. ‘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 and compiled as shown in Appendix 7 of the Ship Recycling Convention or, during the interim period, a certificate issued in accordance with the format laid down in Annex [...] to this Regulation.</p>				
	<p>Communication of information (Article 12)</p> <p>Each Party shall report to the IMO:</p> <ol style="list-style-type: none"> 3. a list of Ship Recycling Facilities authorised in accordance with the Convention and operating under the jurisdiction of that Party; 4. contact details for the Competent Authority(ies), including a contact point, of the Party; 5. a list of the recognised organisations and nominated surveyors which are authorised to act on behalf of that Party in the administration of matters relating to the control of Ship Recycling in accordance with this Convention, and the specific responsibilities and conditions of the authority delegated to the recognised organisations or nominated surveyors; 6. an annual list of ships flying the flag of that Party to which an International Ready for Recycling Certificate has been issued, including the name of the Recycling Company and location of the Ship Recycling Facility as shown in the certificate; 7. an annual list of ships recycled within the jurisdiction of that Party; 8. information concerning violations of this Convention 	<p>Under Article 51 of the WSR, each Member State shall send to the Commission a copy of its report under Article 13(3) of the Basel Convention.</p> <p>Under Article 13(3) of the Basel Convention the Parties shall transmit to the Conference of the Parties a yearly report containing the following information:</p> <ol style="list-style-type: none"> (a) Competent authorities and focal points that have been designated by them; (b) Information regarding transboundary movements of hazardous wastes or other wastes in which they have been involved, including: <ol style="list-style-type: none"> (i) The amount of hazardous wastes and other wastes exported, their category, characteristics, destination, any transit country and disposal method as stated on the response to notification; (ii) The amount of hazardous wastes and other wastes imported, their category, characteristics, origin, and disposal methods; (iii) Disposals which did not proceed as intended; (iv) Efforts to achieve a reduction of the amount of hazardous wastes or other wastes 	<p>These are very specific obligations, which do not have an equivalent in the EU legislation as such. However, some of the information required is very partially covered under the WSR requirements as regards reporting by Member States.</p> <p>The requirement to provide a list of Ship Recycling Facilities authorised to proceed with ship recycling is not provided for by EU legislation. Other aspects which are not covered or only very partially covered include the list of the recognised organisations and nominated surveyors and associated information, the annual list of ships deregistered and associated information, and actions taken towards ships and Ship Recycling Facilities.</p>	<p>Very partially covered</p>

	OBLIGATIONS UNDER THE SHIP RECYCLING CONVENTION	CORRESPONDING OBLIGATIONS OF EU LEGAL SYSTEM	COMMENTS	EXTENT OF CORRESPONDENCE
	<p>9. actions taken towards ships and Ship Recycling Facilities under the jurisdiction of that Party.</p> <p>Enforcement Provisions</p> <p>Article 8 Inspection of ship</p> <p>Article 8 Ships may be subject to inspection by</p>	<p>subject to transboundary movement;</p> <p>(c) Information on the measures adopted by them in implementation of the Basel Convention;</p> <p>(d) Information on available qualified statistics which have been compiled by them on the effects on human health and the environment of the generation, transportation and disposal of hazardous wastes or other wastes;</p> <p>(e) Information concerning bilateral, multilateral and regional agreements and arrangements entered into pursuant to Article 11 of this Convention;</p> <p>(f) Information on accidents occurring during the transboundary movement and disposal of hazardous wastes and other wastes and on the measures undertaken to deal with them;</p> <p>(g) Information on disposal options operated within the area of their national jurisdiction;</p> <p>(h) Information on measures undertaken for development of technologies for the reduction and/or elimination of production of hazardous wastes and other wastes; and</p> <p>(i) Such other matters as the Conference of the Parties shall deem relevant.</p> <p>Under Article 56 of the WSR, Member States shall notify the Commission of designations of competent authorities i.e. those responsible for the implementation of the Regulation.</p> <p>Member States are to provide under the WSR (Article 51 and Annex IX) information on illegal shipments of waste and measures taken including possible penalties.</p> <p>Chapter 4 of the WSR deals with take-back obligations when the shipment cannot be completed or in case of illegal shipment (Articles 22 to 25).</p>	<p>The most relevant EU legislation with regards to enforcement is Directive 94/57/EC on common rules and standards for ship inspection and survey</p>	<p>Partially covered Issues of compatibility</p>

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	<p>officers authorised by the port State to determine compliance with the Convention. Inspection is limited to verifying that there is onboard either an International Certificate on Inventory of Hazardous Materials, or an International Ready for Recycling Certificate. In certain cases, a detailed inspection is allowed taking into account the IMO guidelines.</p> <p>Article 9 Detection of violations</p> <p>A Party holding evidence that a ship is violating the Convention may request an investigation of this ships when it enters the ports or offshore terminals under the jurisdiction of another Party. Report is to be sent to the Party requesting it and to the Administration of the ship concerned.</p> <p>If the ship is detected to be in violation of the Convention, the Party responsible for inspection may take steps to warn, detain, dismiss or exclude the ship from its ports, informing the flag State of the ship concerned.</p> <p>A similar procedure is set up in relation to Ship Recycling Facility</p> <p>Article 10 Violations</p> <p>Sets up an obligation to make violations of the Convention an offence under national legislation and establish relevant sanctions. Such sanctions should be adequate in severity to discourage violations.</p> <p>Article 11 – Undue delay or detention of ships</p> <p>Requires all possible efforts to be made to avoid undue delay.</p> <p>When a ship is unduly detained or delayed, it shall be entitled to compensation</p>	<p>Article 50 of the WSR provides for enforcement in Member States. It states that:</p> <p>1. Member States shall lay down the rules on penalties applicable for infringement of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify the Commission of their national legislation relating to prevention and detection of illegal shipments and penalties for such shipments.</p> <p>2. Member States shall, by way of measures for the enforcement of this Regulation, provide, <i>inter alia</i>, for inspections of establishments and undertakings in accordance with Article 13 of Directive 2006/12/EC, and for spot checks on shipments of waste or on the related recovery or disposal.</p> <p>3. Checks on shipments may take place in particular:</p> <p>(a) at the point of origin, carried out with the producer, holder or notifier;</p> <p>(b) at the destination, carried out with the consignee or the facility;</p> <p>(c) at the frontiers of the Community; and/or</p> <p>(d) during the shipment within the Community.</p> <p>4. Checks on shipments shall include the inspection of documents, the confirmation of identity and, where appropriate, physical checking of the waste.</p> <p>5. Member States shall cooperate, bilaterally or multilaterally, with one another in order to facilitate the prevention and detection of illegal shipments.</p> <p>6. Member States shall identify those members of their permanent staff responsible for the cooperation referred to in paragraph 5 and identify the focal point(s) for the physical checks referred to in paragraph 4. The information shall be sent to the Commission which shall distribute a compiled list to the correspondents referred to in Article 54.</p> <p>7. At the request of another Member State, a</p>	<p>organizations and for the relevant activities of maritime administrations and Directive 95/21/EC on Port State Control.</p> <p>The definition of international conventions under Directive 94/57/EC shall be amended in order to extend the role of classification societies to survey compliance with the Convention and to issue certificates. A similar change could be introduced in Directive 95/21/EC. The other option would be to develop separate legislation that requires Member States to ensure that their authorities apply the provisions of the Ship Recycling Convention regarding the inspection and survey of ships and Port State Control.</p> <p>With regard to inspections of Ship Recycling Facilities, Directive 2008/98/EC subjects to periodic inspections by the competent authorities establishments which carry out waste treatment operations. However, there is no procedure in place for cooperation between Member States for the detection of violations.</p> <p>As regards penalties (Article 10 of the Convention), the WSR provides for sanctions in case of violation of its requirements. Penalties must be effective, proportionate and dissuasive, which corresponds to the requirements set up in the Ship Recycling Convention provisions. In particular, the Basel Convention provides that illegal shipment in hazardous wastes or other wastes is criminal (Article 4(3)). Finally, in case of illegal traffic or if a shipment cannot be completed in accordance with the terms of the contract, the exporting State is subject to a take-back obligation. Such a mechanism is not provided for in the Convention and this may raise issues of compatibility.</p>	

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		<p>Member State may take enforcement action against persons suspected of being engaged in the illegal shipment of waste who are present in that Member State.</p> <p>Article 2(c) of Directive 94/57/EC defines inspections and surveys as ‘ inspections and surveys that it is mandatory to carry out under the international conventions’</p> <p>Article 3 of Council Directive 94/57/EC provides that :</p> <p>‘In assuming their responsibilities and obligations under the international conventions, Member States shall ensure that their competent administrations can assure an appropriate enforcement of the provisions of the international conventions, in particular with regard to the inspection and survey of ships and the issue of certificates and exemption certificates’.</p> <p>Article 8(7) further states that ‘When exercising port State control under this Directive, all possible efforts shall be made to avoid a ship being unduly detained or delayed. If a ship is unduly detained or delayed, the owner or operator shall be entitled to compensation for any loss or damage suffered. In any instance of alleged undue detention or delay the burden of proof shall lie with the owner or operator of the ship.’</p>	<p>Requirements to avoid undue delay or detention of ships are reflected in Directive 95/21/EC. However, as mentioned above, it does not currently refer to the Convention.</p>	