

**Questionnaire on the interpretation of requirements found in
Regulation 1257/2013 (Ship Recycling Regulation)**

Abbreviations

HKC	Hong Kong International Convention on the Safe and Environmentally-sound Recycling of Ships
SRR	Regulation No 1257/2013 of the European Parliament and of the Council of 20 November 2013 (EU Ship Recycling Regulation)

Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013, also known as the European Ship Recycling Regulation (SRR), has entered into force on 30 December 2013. The SRR sets a number of requirements for shipowners, ship recyclers, competent national authorities and various market players such as independent verifiers. Proper implementation of the SRR will depend in good part on the shared, precise understanding of the requirements it sets. With the publication of the European List of ship recycling facilities foreseen for the second half of 2015, a first priority is to clarify the requirements related to the ship recycling facilities.

The European Commission services are currently preparing a guidance document to assist the ship recycling community with the application of these requirements.

Answers to the following questionnaire will inform the drafting of the first part of the guidance document which will address matters related to the establishment of the European List of ship recycling facilities. Additional questions may be addressed to stakeholders at a later stage in order to inform the preparation of the second part of the guidance document addressing other aspects of the SRR.

*The questionnaire is addressed to relevant stakeholders and Member States' experts. We kindly invite you to fill in the questionnaire and send your contribution to ENV-SHIP-RECYCLING@ec.europa.eu by **Friday 21 February 2014**. Please note that we will only consider responses from clearly-identified contributors (see section 1 of the questionnaire).*

Section 1 – Your profile

1.1 Name of your organisation:

NGO Shipbreaking Platform & European Environmental Bureau (EEB) on behalf of their members

1.2 Legal address (street, city, country):

NGO Shipbreaking Platform - Rue de la Liniere 11, 1060 Brussels, Belgium

European Environmental Bureau (EEB) - Bd. de Waterloo 34, 1000 Brussels, Belgium

1.3 Main activity with regards to ship recycling (tick a box):

Member State administration/competent authority		Financial institution	
Administration of a 3 rd country/International body		Waste recycling facility/Ship recycling yard	
Shipowners		Commercial port	
NGOs	X	Ship recycling/Hazardous Waste/IHM consultancy	
Cash buyers/Ship brokers/other intermediaries		Classification Society	
Other (please specify)			

1.4 [if applicable] Secondary activity with regards to ship recycling (tick a box): N/A

Member State administration/competent authority		Financial institution	
Administration of a 3 rd country/International body		Waste recycling facility/Ship recycling yard	
Shipowners		Commercial port	
NGOs		Ship recycling/Hazardous Waste/IHM consultancy	
Cash buyers/Ship brokers/other intermediaries		Classification Society	
Other (please specify)			

1.5 Contact person (name, email, phone number):

Ingvild JENSSEN, ingvild@shipbreakingplatform.org, +32 (0)2 6094 420

1.6 [if applicable] [For ship recycling facilities] Potential ship recycling capacity (in LDT/year): N/A

1.7 [if applicable] [For ship recycling facilities] Main recycling method used: N/A

1.8 [if applicable] [For ship recycling facilities] Past activity: N/A

Year	Number of ships recycled	Total annual recycling (in LDT/year)
2009		
2010		
2011		
2012		
2013		



EUROPEAN ENVIRONMENTAL BUREAU

The European Environmental Bureau (EEB) is the environmental voice of European citizens, standing for environmental justice, sustainable development and participatory democracy. We want the EU to ensure all people a healthy environment and rich

biodiversity. The EEB is Europe's largest federation of environmental NGOs with 140+ member organisations who gain their membership from the general public. Because of this, we are guided by the voices of 15 million European citizens, and act as the ears and voice of its members towards the EU decision makers and beyond.



NGO SHIPBREAKING PLATFORM

The NGO Platform on Shipbreaking is a global coalition of environmental, human and labour rights organisations working to reverse the environmental and human rights abuses of current shipbreaking practices and to ensure the safe and

environmentally sound dismantling of end-of-life ships worldwide. More than 100 non-governmental organisations and federations around the world have voiced their support to the Platform human rights and environmental objective to end the dangerous and polluting practice of breaking ships on tidal beaches, and Ms Rizwana Hasan, member of the Platform Executive Board has received the prestigious Goldman Prize 2009 and the Ramon Magsaysay Award 2012 for her work on the shipbreaking issue in Bangladesh. The current members of the Platform include:



Section 2 – Requirements for Ship Recycling facilities

According to Article 13 of the SRR, in order to be included in the European List, a ship recycling facility shall comply with the following requirements:

- (a) it is authorised by its competent authorities to conduct ship recycling operations;*
- (b) it is designed, constructed and operated in a safe and environmentally sound manner;*
- (c) it operates from built structures;*
- (d) it establishes management and monitoring systems, procedures and techniques which have the purpose of preventing, reducing, minimising and to the extent practicable eliminating:
 - (i) health risks to the workers concerned and to the population in the vicinity of the ship recycling facility, and*
 - (ii) adverse effects on the environment caused by ship recycling;**
- (e) it prepares a ship recycling facility plan;*
- (f) it prevents adverse effects on human health and the environment, including the demonstration of the control of any leakage, in particular in intertidal zones;*
- (g) it ensures safe and environmentally sound management and storage of hazardous materials and waste, including:
 - (i) the containment of all hazardous materials present on board during the entire ship recycling process so as to prevent any release of those materials into the environment; and in addition, the handling of hazardous materials, and of waste generated during the ship recycling process, only on impermeable floors with effective drainage systems;*
 - (ii) that all waste generated from the ship recycling activity and their quantities are documented and are only transferred to waste management facilities, including waste recycling facilities, authorised to deal with their treatment without endangering human health and in an environmentally sound manner;**
- (h) it establishes and maintain an emergency preparedness and response plan; ensures rapid access for emergency response equipment, such as fire-fighting equipment and vehicles, ambulances and cranes, to the ship and all areas of the ship recycling facility;*
- (i) it provides for worker safety and training, including ensuring the use of personal protective equipment for operations requiring such use;*
- (j) it establishes records on incidents, accidents, occupational diseases and chronic effects and, if requested by its competent authorities, reports any incidents, accidents, occupational*

diseases or chronic effects causing, or with the potential for causing, risks to workers' safety, human health and the environment;

(k) it agrees to comply with the requirements of paragraph 2, i.e.:

2. The operator of a ship recycling facility shall:

(a) send the ship recycling plan, once approved in accordance with Article 7(3), to the ship owner and the administration or a recognised organisation authorised by it;

(b) report to the administration that the ship recycling facility is ready in every respect to start the recycling of the ship;

(c) when the total or partial recycling of a ship is completed in accordance with this Regulation, within 14 days of the date of the total or partial recycling in accordance with the ship recycling plan, send a statement of completion to the administration which issued the ready for recycling certificate for the ship. The statement of completion shall include a report on incidents and accidents damaging human health and/or the environment, if any.

Question 1:

In your view, are there aspects of the requirements laid down in Article 13 which would require further clarification? Please specify which and why, and how you would propose to clarify these aspects. Where applicable and to the best of your knowledge, please refer to the existing/planned solutions which in your view may constitute useful models or references.

The Guidance note for ship recycling facilities that wish to be EU listed should clearly distinguish between the operational/performance requirements the facilities need to meet on the one hand and the modalities related to documentation requested to prove compliance with the requirements of the Regulation when applying to be listed on the other hand. Guidance on the requirements for ship recycling facilities as outlined in article 13 of the Regulation would benefit from a performance-based standard that defines specific operational requirements while also providing procedural guidance on how facilities can best manage changes and document performance in a consistent manner.

The combination of performance and procedural standards as outlined above provides ship recycling facilities with the management tools and administrative guidance to document performance that can be audited and certified by an accredited certifying body.

Precise and practical details on what is expected to qualify for being EU listed can be given by referring to guidelines on best available techniques (BAT) and guidance on best environmental practices (BEP) as consolidated in relevant BREF documents such as the EU Reference Document on Best Available Techniques for the Waste Treatment Industries. It should be noted that for example article 8.3 of the EU WEEE Directive clearly requires that systems set up for the recovery of WEEE must use best available techniques. The [Danish EPA Pocket Book Manual](#); the [UK National Strategy and UK Guidance](#); and the [US EPA Guide for Ship Scrappers](#), in addition to existing technical Guidelines provided by the ILO, UNEP and IMO as already pointed out in article 13, also provide useful guidance for the identification of relevant operational requirements.

The Guidance note should thus help interpret the legislation in more precise and practical terms. It must further be made clear that the Guidance note will be regularly revised and updated according to experience and progress with regards to BAT and BEP, and especially taking into account the latest versions of relevant EU Reference Documents on Best Available Techniques.

In addition to article 13 of the Regulation, some operational/performance requirements for ship recycling facilities are also outlined in article 15 (especially art 15.2(d) on safe-for-hot-work/safe-for-entry criteria and art 15.5 on downstream waste management). These requirements should be included in a Guidance note for ship recycling facilities.

It should be made clear that the EU will not list facilities that do not meet European standards. Only operations that would be approved if conducted in an EU Member State will be accepted – ship recycling facilities in non-EU Member States will thus need to satisfy the standards acceptable within the EU in order to qualify for EU flagged vessels.

The EU would therefore best serve the Regulation by stating clearly in its Guidance note that the shipbreaking facilities employing the beaching method will fail to meet approval. Unless the guidance note sets a clear direction there will be inconsistencies and misinterpretations, and possible ineffective use of funds.

Following are more detailed comments related to the requirements for ship recycling facilities set out in art 13 of the Ship Recycling Regulation:

(a) it is authorised by its competent authorities to conduct ship recycling operations;

The ship recycling facility is also required to only use fully licensed facilities for downstream waste management to handle all known solid and hazardous wastes on board the vessel(s) including facilities for managing and disposing of asbestos, toxic metal paints, PCBs, residual fuels and oils. Authorisation can only be given to ship recycling facilities and downstream waste management facilities that operate in compliance with all applicable national environmental, occupational health and labour laws.

The risk that authorities in the non-EU shipbreaking countries may license yards despite their remaining in an inadequate state emphasizes however the need for independent verification/auditing.

(b) it is designed, constructed and operated in a safe and environmentally sound manner;

It should be made clear here that “safe and environmentally sound” is a crosscutting issue that encompasses also basic international conventions on human rights, e.g. UN convention on the rights of the child (child labour), International Covenant on Economic, Social and Cultural Rights (basic workers’ right), Rio Declaration on Environment and Development and subsequent declarations/documents, as well as the EU Charter of Fundamental Rights. When regulating the export of EU flagged ships and approving ship recycling facilities globally, the EU must make sure that the principle of environmental justice is upheld and not encourage the operation of ship recycling facilities within a context where it remains a competitive advantage to for example underpay, or not pay at all the workers; ignore rights of workers suffering from occupational diseases; or exploit child labour. The EU cannot risk listing and giving its approval to a yard that might fully comply with technical operational requirements, but does not guarantee the implementation of fundamental labour rights – reference to the abovementioned international and EU standards on fundamental rights, that also are at the heart of the reasoning for the Basel Ban

Amendment, needs thus to be explicit. Only in this way can the EU ensure that everyone enjoys the same degree of protection from environmental and health hazards and risks that the recycling of a ship which contains hazardous materials involves. Environmental *injustice* implies that environmental burdens, risks and hazards are disproportionately borne by groups such as racial minorities, women, residents of economically disadvantaged areas, or citizens of developing countries – and that these groups suffer disproportionately from violations of fundamental human rights as a result of environmental factors and are denied access to justice in environment-related matters.

It should further be made clear that equivalent measures and mechanisms as described in the EU Environmental Liability Directive need to be in place.

(c) it operates from built structures;

The Guidance note should clearly state that the shipbreaking facilities employing the beaching method will fail to meet approval. Built structures should prevent pieces and debris removed from the ship coming in contact with water and/or permeable surfaces, and also allow for the safe use of cranes and winches – thus excluding resorting to sheer gravity – on a quay or concrete slipway to remove the separated pieces and debris from the ship. It would further make sense to exemplify some of the challenges of especially the floating method as outlined below.

(d) it establishes management and monitoring systems, procedures and techniques which have the purpose of preventing, reducing, minimising and to the extent practicable eliminating:

- (i) health risks to the workers concerned and to the population in the vicinity of the ship recycling facility, and*
- (ii) adverse effects on the environment caused by ship recycling;*

Here there is room for much more detail with regards to what the EU considers appropriate management and monitoring systems and procedures and techniques from an operational/performance point of view. Both existing BATs and BEPs can be referred to, as well as Guidelines developed specifically on ship recycling by not only the IMO, but also the Basel Convention, the ILO as well as the Danish, UK and US EPA documents mentioned above.

Population in the vicinity means populations directly or indirectly exposed to pollution from the recycling facility (be it through air, water or soil pollution), irrespective of any particular kilometeric distance.

(e) it prepares a ship recycling facility plan;

The ship recycling plan should be made available upon request.

(f) it prevents adverse effects on human health and the environment, including the demonstration of the control of any leakage, in particular in intertidal zones;

Leakages to the environment should be made impossible by the design of the facility, thus an explicit disqualification of shipbreaking that takes place directly on tidal beaches is appropriate. In cases where leakages do occur as a result of accident / unforeseen event methods should be in place to guarantee the entire recovery of the leaked substance from the environment. Necessary procedures for immediate emergency shut-down in case of risk of leakage and which prevents any further leakage should also be in place.

The following two methods can be mentioned as examples of existing best practice and used to outline specific precautions that need to be taken depending on the method used:

Dry or Graving Docks Method:

The entire ship can be moved into a dock consisting of a fully contained and controllable impermeable floored area. Dry-dock or graving dock floors will be drained and then washed daily and the waters and cleaning residues managed as potential hazardous wastewater. Before flooding, floors must be thoroughly cleaned.

Floating Method:

In comparison with the docking methods the floating method offers less expense and greater stability. However, far greater precautions must be taken to achieve containment of contaminants. The following containment procedures can be practiced for floating methods such as dockside, or slip recycling: a) hull sealing and integrity testing to ensure that the hull will provide complete containment of operations inside the ship; b) cutting slag containment using methods that will catch 99% of such slag and prevent them from entering the water, external cuts over water should thus be done so that the slag falls within the vessel; c) secondary oily residue containment must be provided by oil booms at all times; d) proper and careful collection and management of materials contained by (b) and (c) above to ensure they are managed in an environmentally sound manner; e) lifting of blocks by crane to controlled cutting areas with impermeable floors or on “cutting pads” that provide rain run-off collection systems; and f) concrete ramps should be fitted with an oil/residue collection system.

(g) it ensures safe and environmentally sound management and storage of hazardous materials and waste, including:

(i) the containment of all hazardous materials present on board during the entire ship recycling process so as to prevent any release of those materials into the environment; and in addition, the handling of hazardous materials, and of waste generated during the ship recycling process, only on impermeable floors with effective drainage systems;

(ii) that all waste generated from the ship recycling activity and their quantities are documented and are only transferred to waste management facilities, including waste recycling facilities, authorised to deal with their treatment without endangering human health and in an environmentally sound manner;

Hazardous materials must be dealt with on impermeable floors with drainage systems capable of recovering any leakage, including at times of major weather events such as heavy rain falls. Once the hazardous materials have been separated from the ship they need to be handled, treated and disposed of in a safe and environmentally sound manner. Article 15.2(f)(ii) and article 15.5 of the Regulation clearly state that downstream waste management needs to be conducted without endangering human health and in an environmentally sound manner in line with standards that are broadly equivalent to relevant international and EU standards – reference to the standards set out in the EU Waste Framework Directive, other relevant EU standards and relevant EU BREFs, as well as Basel and Stockholm Technical Guidelines on hazardous waste management is thus appropriate and relevant for all hazardous materials typically found within the structure of a ship. Examples include making it clear that under no circumstances can asbestos in any form be allowed to be directed toward reuse or recycling operations or destinations, but must be disposed of in a secure landfill designed for asbestos without possibility of airborne or other releases. Another example includes making it clear that steel and other metal material destined for recovery smelters and that contain

paints, coatings and plastics that in turn contain halogens or toxic metals, must only go to smelters with well maintained pollution control devices and high temperatures to prevent release of dioxins, toxic metals, and dangerous hydrocarbons.

(h) it establishes and maintain an emergency preparedness and response plan; ensures rapid access for emergency response equipment, such as fire-fighting equipment and vehicles, ambulances and cranes, to the ship and all areas of the ship recycling facility;

Emergency preparedness and response plans should exist in a written form and should be made available to all the workers on the facility/conducting operations, also day-workers. The workers must be made aware of the plans via trainings and regular drills. Facilities must in addition possess emergency eye-wash, showers and first aid equipment, and at all times of operation persons trained in such first aid assistance and equipment must be onsite, and when work on ships is taking place, located on the ship. Hospitals capable of managing severe injury must be located within 30 km of the ship recycling facility with a means of transport in emergency response vehicles along roads and highways at high speed available at all times.

(i) it provides for worker safety and training, including ensuring the use of personal protective equipment for operations requiring such use;

The use of appropriate personal protective equipment onsite and related to specific tasks is compulsory and the proper use of such equipment is the responsibility of the employer. Best practice should be referenced to. PPEs should be provided to all workers at the employer's expense. Workers should also be provided with clean lunch room and shower facilities and be able to change to clean clothes prior to eating and prior to going home. This is to reduce exposure to heavy metals and other contaminants during lunch and to ensure workers do not take such residues home.

Training must be consistent with and cover the main issues found in relevant guidelines including management of toxic materials and emergency response. No worker should be allowed to conduct operations at the ship recycling facility without having successfully completed relevant trainings. Safety information must further be made available by posting or other means in the workplace.

(j) it establishes records on incidents, accidents, occupational diseases and chronic effects and, if requested by its competent authorities, reports any incidents, accidents, occupational diseases or chronic effects causing, or with the potential for causing, risks to workers' safety, human health and the environment;

To ensure that there are complete records in the case of incidents, accidents, occupational diseases and chronic effects yards should record the identity of all the workers, including day workers, and a list of all workers on any given day should be made available upon request. Workplace worker and environmental monitoring must be conducted at least every year. This will include soil sampling, air sampling, blood and hair sampling and workplace dust sampling for heavy metals, asbestos and PCBs. If problems are discovered, all efforts will be made to abate the problem and the occupational health concern will be addressed as a matter of urgency. All such information must be made available to workers, trade unions, and officials at any time.

Question 2:

In your view, would it be appropriate to take into account guidance developed by international bodies? If yes, please specify which guidance and for which requirements it would be relevant in your opinion.

Paragraph 1 of article 13 already mentions that relevant Hong Kong Convention provisions and relevant Guidelines developed by the IMO, ILO, Basel Convention, Stockholm Convention and other international guidelines should be taken into account when interpreting the requirements for ship recycling facilities as outlined in article 13. In addition to guidance developed by international bodies, relevant EU and national guidance, BAT and BAP as mentioned above should be referred to in the Guidance note. It should further be emphasised that especially the Basel and Stockholm Convention guidelines on the management of various hazardous materials are relevant for complying with the requirements of the Regulation, as is meeting the standards of the following non-exhaustive list of ILO Recommendations and Conventions:

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- Forced Labour Convention, 1930 (No. 29)
- Abolition of Forced Labour Convention, 1957 (No. 105)
- Minimum Age Convention (No. 138) and Recommendation (No. 146), 1973
- Worst Forms of Child Labour Convention (No. 182) and Recommendation (No. 190), 1999
- Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111), 1958
- Equal Remuneration Convention (No. 100) and Recommendation (No. 90), 1951
- Radiation Protection Convention (No. 115) and Recommendation (No. 114), 1960
- Reduction of Hours of Work Recommendation, 1962 (No. 116)
- Guarding of Machinery Convention (No. 119) and Recommendation (No. 118), 1963
- Employment Injury Benefit Convention (No. 121) and Recommendation (No. 121), 1964
- Maximum Weight Convention (No. 127) and Recommendation (No. 128), 1967
- Workers' Representatives Convention, 1971 (No. 135)
- Benzene Convention (No. 136) and Recommendation (No. 144), 1971
- Occupational Cancer Convention (No. 139) and Recommendation (No. 147), 1974
- Working Environment (Air Pollution, Noise and Vibration) Convention (No. 148) and Recommendation (No. 156), 1977
- Occupational Safety and Health (Dock Work) Convention (No. 152) and Recommendation (No. 160), 1979
- Occupational Safety and Health Convention (No. 155) and Recommendation (No. 164), 1981
- Protocol of 2002 (recording and notification of occupational accidents and diseases) to the Occupational Safety and Health Convention, 1981 (No. 155)
- Occupational Health Services Convention (No. 161) and Recommendation (No. 171), 1985
- Asbestos Convention (No. 162) and Recommendation (No. 172), 1986
- Chemicals Convention (No. 170) and Recommendation (No. 177), 1990
- Night Work Convention (No. 171) and Recommendation (No. 178), 1990
- Prevention of Major Industrial Accidents Convention (No. 174) and Recommendation (No. 181), 1993
- Maternity Protection Convention (No. 183) and Recommendation (No. 191), 2000
- List of Occupational Diseases Recommendation, 2002 (No. 194)

Section 3 – Listing of Ship Recycling Facilities located in EU Member States

Article 14 of the SRR details the procedure related to the inclusion of Ship Recycling Facilities located in an EU Member State in the EU List:

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

Provided that the requirements of this Regulation are complied with, any permit produced pursuant to other relevant national or Union law provisions may be combined with the authorisation under this Article to form a single permit, where such a format obviates the unnecessary duplication of information and the duplication of work by the operator of the ship recycling facility or the ship recycling company or the competent authority. In those cases the authorisation may be extended in accordance with the permit regime referred to in the first subparagraph, but not exceeding a maximum period of five years.

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

3. The list referred to in paragraph 2 shall be communicated to the Commission without delay and not later than 31 March 2015.

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

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

Question 3:

In your view, is it necessary to provide additional guidance to the EU Member States as regards the permitting of Ship Recycling Facilities located on their territory? Why? If you consider that additional guidance is necessary, please indicate on which aspects of Article 14 and suggest the proposed clarifications.

Concerns have been raised that not all ship recycling facilities in the EU operate according to existing requirements and that there are unacceptable variations in which laws are implemented for ship recycling activities amongst, and also within, certain Member States. It seems that within this context, a clear Guidance note as described above in relations to the requirements of article 13 –

clearly cross referencing to relevant existing EU laws, BAT and BEP – would help Member States apply the new Regulation uniformly.

Question 4:

In your view, is it necessary to provide additional guidance to the EU Member States as regards the notification to the European Commission of the national lists of authorised ship recycling facilities? Why? If you consider that additional guidance is necessary, please suggest the proposed clarifications.

The provisions seem clear, it would however be useful to have clarifications made regarding the implications of the application date of article 13 and 14 (31 December 2014) in conjunction with the application of the second paragraph of article 5(2) of the Regulation and the date of publication of the EU list.

Section 4 – Listing of Ship Recycling Facilities located outside the EU

Article 15 of the SRR details the procedure related to the listing of Ship Recycling Facilities located outside the EU in the European List:

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

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

In particular, the ship recycling company shall:

(a) identify the permit, license or authorisation granted by its competent authorities to conduct the ship recycling and, where relevant, the permit, license or authorisation granted by the competent authorities to all its contractors and sub-contractors directly involved in the process of ship recycling and specify all information referred to in Article 16(2);

(b) indicate whether the ship recycling plan will be approved by the competent authority through a tacit or explicit procedure, specifying the review period relating to tacit approval, in accordance with national requirements, where applicable;

(c) confirm that it will only accept a ship flying the flag of a Member State for recycling in accordance with this Regulation;

(d) provide evidence that the ship recycling facility is capable of establishing, maintaining and monitoring of the safe-for-hot work and safe-for-entry criteria throughout the ship recycling process;

(e) attach a map of the boundary of the ship recycling facility and the location of ship recycling operations within it;

(f) for each hazardous material referred to in Annex I and additional hazardous material which might be part of the structure of a ship, specify:

(i) whether the ship recycling facility is authorised to carry out the removal of the hazardous material. Where it is so authorised, the relevant personnel authorised to carry out the removal shall be identified and evidence of their competence shall be provided;

(ii) which waste management process will be applied within or outside the ship recycling facility such as incineration, landfilling or another waste treatment method, the name and address of the waste treatment facility if different from that of the ship recycling facility, and provide evidence that the applied process will be carried out without endangering human health and in an environmentally sound manner;

(g) confirm that the company adopted a ship recycling facility plan, taking into account the relevant IMO guidelines;

(h) provide the information necessary to identify the ship recycling facility.

3. The Commission shall be empowered to adopt implementing acts to specify the format of the information required to identify the ship recycling facility. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 25.

4. In order to be included in the European List, compliance by ship recycling facilities located in third countries with the requirements set out in Article 13 shall be certified following a site inspection by an independent verifier with appropriate qualifications. The certification shall be submitted to the Commission by the ship recycling company when applying for inclusion in the European List and, every five years thereafter, upon renewal of the inclusion in the European List. The initial inclusion on the list and the renewal thereof shall be supplemented by a mid-term review to confirm compliance with the requirements set out in Article 13.

By applying for inclusion in the European List, ship recycling companies accept the possibility of the ship recycling facility concerned being subject to site inspections by the Commission or agents acting on its behalf prior to or after their inclusion in the European List in order to verify compliance with the requirements set out in Article 13. The independent verifier, the Commission or agents acting on its behalf shall cooperate with the competent authorities of the third country where the ship recycling facility is located in order to carry out those site inspections.

The Commission may issue technical guidance notes in order to facilitate such certification.

5. For the purposes of Article 13, with regard to the waste recovery or disposal operation concerned, environmentally sound management may only be assumed to be in place provided the ship recycling company can demonstrate that the waste management facility which receives the waste will be operated in accordance with human health and environmental protection standards that are broadly equivalent to relevant international and Union standards.

6. *The ship recycling company shall provide updated evidence without delay in the event of any changes to the information provided to the Commission and shall, in any event, three months prior to expiry of each five year period of inclusion on the European List, declare that:*

- (a) the evidence that it has provided is complete and up-to-date;*
- (b) the ship recycling facility continues and will continue to comply with the requirements of Article 13.*

Question 5:

In your view, is it necessary to provide guidance on the evidence that applicant ship recycling facilities need to provide in order to demonstrate compliance with the requirements set in Article 13 of the SRR? If yes, please explain why and suggest the proposed clarifications.

As already mentioned, the Guidance note for ship recycling facilities that wish to be EU listed should clearly distinguish between the operational/performance requirements the facilities need to meet on the one hand and the modalities related to documentation requested to prove compliance with the requirements of the Regulation when applying to be listed on the other hand. A performance-based standard that defines specific operational requirements as outlined above while also providing procedural guidance on how facilities can best manage changes and document performance in a consistent manner would provide ship recycling facilities with the management tools and administrative guidance to document performance that can be audited and certified by an accredited independent certifying body.

A standardised application form for non-EU facilities that wish to be EU listed will further not only ensure that the Commission receives the information which is needed to evaluate compliance with the Regulation's requirements, but it may also enhance the effective implementation of article 23 of the Regulation on request for action.

Question 6:

In your view, is it necessary to provide additional clarification on the status, role and/or qualifications of the independent verifier responsible for the certification of the applicant ship recycling facility? If yes, please explain why and suggest the proposed clarifications. Where applicable and to the best of your knowledge, please refer to the existing/planned solutions which in your view may constitute useful models or references.

Just as there is a risk that authorities in the non-EU shipbreaking countries may license yards despite their remaining in an inadequate state, there is also the risk that without clear indications on the qualifications needed to be recognised as an independent verifier the EU will receive incomplete and even erroneous information. The EU Timber Regulation and its implementing laws provide useful guidance on what conditions should be set for private certification schemes. Also, the ongoing consultation on the feasibility of introducing a certification scheme for Recycling Treatment Facilities and the related report prepared by Acradis and RPA for DG Enterprise and Industry should be taken into account. The Commission needs to ensure that the independent verifier has the technical competence to undertake the work, that correct and valid evaluation and quality control mechanisms are used and that the work is carried out impartially.

It should be noted with concern that several substandard beaching facilities have been ISO 30.000 certified by well established certifying bodies – not only does this highlight the problems of resorting

to merely procedural standards that do not contain performance measures, but it also emphasizes the need for independent onsite auditing by the Commission or agents acting on its behalf as referred to in article 15.4. The costs of a mandatory auditing scheme could be borne by the revenue a financial incentive based on the polluter pays principle would provide.

Question 7:

In your view, is it necessary to provide additional clarification on the procedure related to the site inspections by the Commission or agents acting on its behalf prior to or after inclusion of a ship recycling facility in the European List? If yes, please explain why and how you would clarify this aspect.

The site inspections should be made mandatory for the reasons mentioned above. Inspectors must have the right of entry to the recycling facility at any time without notice. It should be made clear whether the inspections will be conducted by a specialised unit within the Commission, EMSA or via the use of the IMPEL network. In all cases there should be clear procedures to be met and the outcome of the audit should be made public.

Question 8:

In your view, how could the cooperation between the independent verifier, the Commission or agents acting on its behalf and the competent authorities of the third country where the ship recycling facility is located be arranged? Where applicable and to the best of your knowledge, please refer to the existing/planned solutions which in your view may constitute useful models or references for such cooperation.

See answer to question 6 and 7 above.

Question 9:

In your view, is it necessary to provide any other additional guidance as regards the permitting of Ship Recycling Facilities located outside the EU? If you consider that additional guidance is necessary, please indicate on which aspects of Article 15 and suggest the proposed clarifications. Where applicable and to the best of your knowledge, please refer to the existing/planned solutions which in your view may constitute useful models or references.

See related answers above.

Section 5 – Open question

Question 10:

In your view, are there any other aspects in the SRR which would require additional guidance, and why? Please specify which and why, and how would you propose to clarify these aspects. When referring to external schemes, guidelines, regulations and/or other arrangements, please cite precise references.