

Rotterdam, 23 June 2022

ISRA's position towards the evaluation of the EU Ship Recycling Regulation 1257/2013 (EU SRR)

The European Commission (EC) has started the process of the first evaluation of the EU SSR after coming into force. The EC has requested from stakeholders to provide an input about the way EU SSR is functioning: where does the EU SRR fail and where does it achieve its goals?

In this memo, ISRA stipulates the main issues concerning the EU SRR to develop improvements at a later stage.

A summary of the main “deficiencies”:

- The context of this evaluation
- Aspects regarding level playing field,
- The EU List of ship recycling facilities and its technical requirements
- Inventory of Hazardous Materials (IHM)
- Enforcement of the EU SRR
 - Figures of illegal exports
- Conclusion
- Attachments

Introduction

Yearly hundreds of ships are dismantled in poor environmental and social conditions. Workers, who are usually low-paid, often have inadequate tools and equipment, are forced to work long hours having low-standard protection, both physically and legally. This has caused many injuries, including fatalities, and resulted in pollution of the environment.

International regulatory frameworks were developed from various sources. The IMO Guidelines, the Hong Kong Convention (HKC), the Basel Convention and the EU Waste Shipment Regulation (EU WSR) -concerning transboundary movements of waste- were to give an answer to these unwanted practices.

The EU SRR can be placed in that context: on the one hand designed with the recognition of the technical requirements of the HKC; at the same time to speed up the ratification of this convention.

The context and evaluation of the EU Regulation

The evaluation of the EU SSR has been proposed in the context of the Green Deal. The Green Deal has other goals than the EU SRR and is highly oriented towards the EU member states.

In various articles of the EU SRR reference is made to the IMO guidelines (global), the Hong Kong Convention (global), OECD countries and relevant third countries amongst them:

Preamble (5): “This Regulation is aimed at facilitating early ratification of the Hong Kong Convention both within the Union and in third countries by applying proportionate controls to ships and ship recycling facilities on the basis of that Convention”.

Preamble (12): “When interpreting the requirements of this Regulation, consideration should be given to the guidelines developed by the IMO (‘IMO guidelines’) to support the Hong Kong Convention.”

ISRA’s opinion

ISRA is of the opinion, in line with various articles in the preamble, that the EU SRR should be placed in an international, global framework of regulations which aim to improve the standards of the ship recycling industry as a whole. Reference to the goals of the Green Deal is no part of this evaluation.

Level playing field

Preamble (7): “The purpose of this Regulation is also to reduce disparities between operators in the Union, in OECD countries and in relevant third countries in terms of health and safety at the workplace and environmental standards and to direct ships flying the flag of a Member State to ship recycling facilities that practice safe and environmentally sound methods of dismantling ships instead of directing them to substandard sites as is currently the practice”.

ISRA’s opinion

The meant disparities between operators in non-OECD countries and outside them are not less than before the EU SSR’s coming into force. Still a substantial volume of end-of-life ships end up on beaches where substandard practises are common. Obviously, shipowners, brokers and cash byers find their way to beaches in stead of selecting appropriate yards frustrating the level playing field of operators who have invested in high standards. The evaluation should focus on how to deal with these disparities to end irresponsible practices.

The EU List of Ship recycling facilities, its technical requirements and the legal debate concerning third non-OECD countries' yards

Preamble (7): “The competitiveness of safe and environmentally sound recycling and treatment of ships in ship recycling facilities located in a Member State would thereby also be increased. The establishment of a European List of ship recycling facilities (‘the European List’) fulfilling the requirements set out in this Regulation would contribute to those objectives as well as to better enforcement by facilitating the control of ships going for recycling by the Member State whose flag the ship is flying.”

Articles 13 and 15 set out the requirements for ship recycling facilities to be included in the European List of ship recycling facilities.

ISRA's opinion

ISRA repeatedly has embraced the instrument of an EU List selecting yards based on clear and objective technical high requirements for the recycling facilities, resulting up to now in a number of responsible ship recycling facilities available for the demanding market. The technical criteria are clear and sufficient for responsible operations in the field of ship recycling. They are stricter than the requirements of the HKC and can be an example for future requirements.

The listing however fails where it concerns the admission of non-OECD yards which meet the EU SSR requirements.

Although ISRA fully supports the European Commission's practice not to admit substandard beaches to the List -which would clearly be an irresponsible development- the admission of well equipped yards for example in China, the Middle East and the like would be more than welcome.

Inventory of Hazardous Materials (IHM)

The EU SRR stipulates in article 5 various elements on the IHM.

ISRA's opinion

In the guidelines MEPC 269(68), the materials listed in part I, table B, include Mercury and Radioactive substances. The descriptions, however, do not include the potential wall bound Mercury contamination and presence of NORM on board of vessels (or rigs) that have been in contact with hydrocarbon products, such as FPSO's, Drilling platforms, tankers etcetera.

NORM and Mercury could be considered as operationally generated waste(s), i.e. part 2 of the IHM, but if you look in table C of the MEPC Guidelines, it is unclear if NORM and Mercury should be included in part 2, and if so, under which number of table C.

To avoid any doubt and to ensure the presence of these substances is identified in the IHM for recycling, it is adamant they are included specifically in the Guidelines.

Besides the above, the surveys performed by the SRF upon arrival should be more stringent than is the current practice.

Enforcement of the EU SRR and the practice of reflagging

Article 22: “(...) Member States shall cooperate, bilaterally or multilaterally, with one another to facilitate the prevention and detection of potential circumvention and breach of this Regulation”.

ISRA’s opinion

One of the backbones of this Regulation is the prevention of EU-flagged end-of-life ships being brought to beaches or the like. Enforcement is the cornerstone of this Regulation. Enforcement is delegated to the Member States, actively stimulated and supported by the European Commission.

The legislator has foreseen with Article 22 that circumvention and breach of the EU SRR -by reflagging or otherwise- could frustrate a good functioning of the Regulation. As reflagging is more or less standard practice for shipowners flying the EU flag, the prescribed cooperation has not been affected whatsoever.

It is disappointing and highly undesirable that in 2022 still 70 to 80% of the EU- flagged phased out fleet ends up on beaches.

Absence of multilateral cooperation and lack of enforcement make the Regulation extremely weak. EU-listed facilities depend on the preparedness and willingness of the shipowners and sellers to sell their obsolete ships to compliant recyclers. The role of the shipowners (and their obligations) in this respect requires full attention of the legislator to improve the functioning of the EU SRR.

Figures of illegal exports

ISRA has been very active in observing illegal exports of end-of-life ships and has carried out numerous analyses concerning these illegalities. Although there are improvements, the general picture is that over the period this Regulation is in place, the number of illegal transactions remains irresponsibly high.

Over the period concerned, ISRA concluded that about 65% of the ships flying the EU flag have been scrapped on the beaches and this figure is more or less constant. The number of EU-flagged ships finding its way to the beaches in South East Asia remains extraordinarily high. The uncomfortable figures demonstrate that progress in this field is hardly significant.

Due to persistent action by, amongst others, ISRA over the past three years undoubtedly progress has been made by a few Member States concerning the illegal exports of end-of-life ships. These actions vary from investigations to a more “hands on” position in concrete cases. ISRA also observed that the services of the European Commission are -behind the scene- active in pursuing Member States to act in accordance with legislation in the field of enforcement. Even these indisputable positive developments are, when we look at the figures, insufficient to stop the illegalities.

Figures for

- Percentage of compliant recycling that has been decreased 5% in 2021
- Reflagging that has almost doubled in 3 years’ time

Yours faithfully,
International Ship Recycling Association

A handwritten signature in black ink, appearing to be 'B. Veldhoven', is written over a horizontal line. The signature is stylized and somewhat abstract.

Mr Bernard Veldhoven,
Secretary General