

**IMO**

**INTERNATIONAL MARITIME LAW INSTITUTE**

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**A LAW TO INCORPORATE THE HONG KONG  
INTERNATIONAL CONVENTION FOR THE SAFE AND  
ENVIRONMENTALLY SOUND RECYCLING OF SHIPS,  
2009**

**INTO THE LAWS OF THE UNITED MEXICAN STATES  
AND TO PROVIDE FOR THE EFFECTIVE  
IMPLEMENTATION THEREOF**

A Legislation Drafting Project submitted in partial fulfilment of the requirements for the award of the Degree of Master of Laws (LL.M.) in International Maritime Law at the IMO International Maritime Law Institute

**Submitted By: Lt. Alvaro Martín Aguilar Segura (Mexico)**

**Supervisor: Ms. Catherine Panaguiton**

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## TABLE OF INTERNATIONAL LEGISLATION

Montreal Protocol on Substances that Deplete the Ozone Layer, 1987;

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1989;

Convention on the Control of Harmful Anti-Fouling systems on Ships, 2001;

The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009;

2011 Guidelines for the Development of the Ship Recycling Plan, adopted by resolution MEPC.196(62);

2012 Guidelines for Safe and Environmentally Sound Ship Recycling, adopted by resolution MEPC.210(63);

2012 Guidelines for the Authorization of Ship Recycling Facilities, adopted by resolution MEPC.211(63);

2012 Guidelines for the survey and certification of ships under the Hong Kong Convention, adopted by resolution MEPC.222(64);

2012 Guidelines for the inspection of ships under the Hong Kong Convention, adopted by resolution MEPC.223(64); and

2015 Guidelines for the development of the Inventory of the Hazardous Materials, adopted by resolution MEPC.269(68).

## **TABLE OF NATIONAL LEGISLATION**

Political Constitution of the United Mexican States;

Navigation and Maritime Commerce Law;

Regulations for the Navigation and Maritime Commerce Law;

Regulation for the Interior Government of the General Congress of the United Mexican States

General Law of Ecological Balance and Environmental Protection;

General Law for the Prevention and Integral Management of Waste;

Regulation of the General Law of Ecological Balance and Environmental Protection;

Regulation of the General Law for the Prevention and Integral Management of Waste.

## ANNEXES

1. Decree Promulgating the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009;
2. Appendices of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009.

## I. EXPLANATORY NOTE

### Introduction

The purpose of this drafting project is for implementation of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 (hereafter referred to as “Convention”) into Mexican law. The Explanatory Note will clarify the rationale behind the adoption of the Convention, providing the details behind its creation. Furthermore, this note will discuss the provisions of the Convention and its Annex and the reasons for the necessity to implement it.

The final part of the Explanatory Note will cover all the necessary legislative requirements for the Mexican state to become a party to the Convention, including the status of treaties in relation to the domestic law and the processes that need to be undertaken to validly implement it in the United Mexican States.

### 1. HONGKONG CONVENTION

#### 1.1. Historical Background and Development of the Hong Kong Convention

The environmental problems regarding ship recycling were first raised in the International Maritime Organization (IMO) on its forty-fourth (44<sup>th</sup>) Session of the Marine Environment Protection Committee (MEPC), held in March 2000.<sup>1</sup>

The attention garnered by the problems of shipbreaking<sup>2</sup> led to the establishment of a working group which later on cast attention specifically on ship recycling. The discussions on ship recycling highlighted a need for elaborate rules governing this industry and which role will IMO play in the development of them.<sup>3</sup>

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<sup>1</sup> <http://www.imo.org/en/OurWork/Environment/ShipRecycling/Pages/Default.aspx>, 20 January 2018

<sup>2</sup> Shipbreaking is used to describe disposal of obsolete ships. This phrase is used synonymously with ship recycling, ship scrapping or ship scrapping. (Information provided from: Karim, Md. S., Shipbreaking in developing countries: A requiem for environmental justice from the perspective of Bangladesh. IMLI Studies in International Maritime Law, Routledge, 2018, 1).

<sup>3</sup> <http://www.imo.org/en/OurWork/Environment/ShipRecycling/Pages/Default.aspx>,>

IMO developed the first Guidelines on the Ship Recycling<sup>4</sup>, which provided the initial guidance to all parties involved in the ship recycling process. The importance of following certain rules in the process of ship recycling was highlighted, stating that if they are followed almost nothing is wasted in the disposal of a ship within its materials and equipment.<sup>5</sup> These Guidelines introduced the concept of "green passport" of ships, which was meant to be carried throughout the lifetime of a ship. This document would contain an inventory of all materials used in its construction that were potentially dangerous to human health or the environment.

At the fifty-third (53<sup>rd</sup>) session of the MEPC held in July 2005, it was held that IMO should develop a new instrument on Ship Recycling, to provide rules for the recycling of ships that could be legally binding and applicable to international maritime transport and to recycling facilities throughout the world. This instrument would provide rules on the design, construction, operation and preparation of ships, in order to facilitate safe and environmentally sound recycling without compromising the safety or operational efficiency of ships. Moreover, it would contemplate the exploitation of recycling facilities in a safe and environmentally sound manner and the establishment of an appropriate enforcement mechanism for ship recycling.<sup>6</sup>

Finally, the Convention itself was adopted at a diplomatic conference held in Hong Kong, China on 15 May 2009, with the contribution of IMO Member States and non-governmental organizations. After the adoption of the Convention, IMO developed six Guidelines to complement the provisions and regulations of the Convention.

## **1.2.Purpose**

The Convention has three main purposes, firstly, to regulate the design, construction, operation and preparation of ships to be recycled, in order to ensure that when they reach the end of their useful life, they can be recycled without producing unnecessary risks to the safety of human beings and the environment. Furthermore, the Convention aims to create the legal framework for the creation and authorization of duly authorized Ship Recycling Facilities,

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<sup>4</sup> MEPC Resolution A.962(23) para 1.

<sup>5</sup> Ibid. para 3.

<sup>6</sup> <http://www.imo.org/en/OurWork/Environment/ShipRecycling/Pages/Default.aspx>

regulating that all the procedures are made in a safe and environmentally sound manner. The last main purpose, is to establish a mechanism for the recycling of ships by the creation of a Ship Recycling Plan, establishing provisions to regulate the use and management of potential hazardous substances that can be found in vessels that are to be recycled.

The Convention is not yet in force, and any state that wants to become a party to it, is empowered to do so since September 1<sup>st</sup> 2010,<sup>7</sup> and it will enter into force 24 months after 15 or more states become officially parties to it, and their combined merchant fleets constitute 40 percent or more of the Gross Tonnage (GT) of the world's merchant shipping. It also establish that the combined maximum annual ship recycling volume of State Parties (SP) constitutes not less than 3 per cent of the GT during the ten preceding years.<sup>8</sup>

To date, Belgium, Finland, France, Norway, Panama and Republic of Congo are parties to the Convention.<sup>9</sup> The combined merchant fleets of these states parties constitute approximately 21.23% of the gross tonnage of the world's merchant fleet. Additionally, Italy, Netherlands, Saint Kitts and Nevis and Turkey have signed it and their current status is subject to ratification.<sup>10</sup>

### **1.3.Overview of the Hong Kong Convention**

The Convention contains Articles that state the main obligations that a Party will have upon ratification. Furthermore, when reference is made to the Convention this constitutes a reference to the regulations contained in the Annex.<sup>11</sup> These Regulations are a technical addition to the Convention, which specifies what the Administration<sup>12</sup> is to ensure ships and ship recycling facilities must establish, utilize and contain as well as particular provisions on hazardous materials. In order to provide a concise and accurate analysis of the Convention,

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<sup>7</sup> Date the Convention opened for accession by any state.

<sup>8</sup> Article 17.

<sup>9</sup> <http://unctadstat.unctad.org/wds/TableViewer/tableView.aspx>.

<sup>10</sup> Status of multilateral Conventions and instruments in respect of which the International Maritime Organization or its Secretary-General performs depositary or other functions, 13 september 2017. <http://www.imo.org/en/About/Conventions/StatusOfConventions/Pages/Default.aspx>.

<sup>11</sup> Article 1(5).

<sup>12</sup> Article 2(2) defines "Administration" as the Government of the State whose flag the ship is entitled to fly, or under whose authority it is operating.

the following overview is divided into 9 sections which establish the obligations required from both the Articles and Regulations.

### **1.3.1 General Obligations**

The Convention binds State parties to give full compliance to the measures and dispositions contained in it, with the purpose of improving and safeguarding the general conditions of the Ship Recycling industry. This is to be done in cooperation with other State Parties and with the Organization. Furthermore, it encourages Parties to cooperate between them and with the IMO, seeking its effective implementation by working and supporting the development of new technologies and practices on the matter.

For the settlement of disputes, Parties will be obliged to settle them in a peaceful manner and the Convention establishes different ways to carry out settlement, however, it will be at the discretion of the States Parties how to accomplish the same.<sup>13</sup>

### **1.3.2 Scope of Application**

The Convention will apply to ships entitled to fly the flag of a State Party or to those operating under its authority, as well as to the Ship Recycling Facilities operating under the jurisdiction of a Party.<sup>14</sup> It shall also apply the requirements of the convention to the ships flying the flag of non-state parties, with the purpose of eliminating any favourable treatment of such ships.<sup>15</sup>

#### **Outside the scope of application**

State parties war ships, naval auxiliary and other ships owned by the state parties use for government non-commercial service, will not be bound to the measures and dispositions contained in Convention. In addition to those, the Convention will not apply to ships that are less of 500 GT and those who throughout their operational life only sail in the waters subject

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<sup>13</sup> Article 14.

<sup>14</sup> Article 3(1).

<sup>15</sup> Article 3(4).

to the sovereignty or jurisdiction of the Flag State<sup>16</sup>. Nevertheless, these ships are also be invited to stick as much as possible with the provisions contained in this convention<sup>17</sup>.

### 1.3.3 Control and Recycling Requirements of Ships

The Convention grants to the State Parties the bases of a legal framework to regulate its compliance by ships flying their flag or operating under its authority, and to ensure compliance, those ships, will be subject to surveys and certification.<sup>18</sup>

Furthermore, Convention provides that when a ship reaches to the end of its useful life and it wants to be recycled, ships will have to be certified as ready for recycling by the corresponding authority. Prior to this, as much effort as possible must be made to minimize the amount of cargo residues, remaining fuel oil and wastes on board before getting into the Facilities for Recycling.<sup>19</sup>

Ship Recycling process shall be carried out on duly authorized Ship Recycling Facilities that undertake the procedure according to the Ship Recycling Plan,<sup>20</sup> which will have to be done rather in English, French or Spanish (or if it is in another language shall be translated when is required).<sup>21</sup>

The Convention establishes that the Ship Recycling Plan must comply with the following requirements:

- 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.

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<sup>16</sup> *The sovereignty of a coastal State extends, beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea, United Nations Convention on the Law of the Sea, 1982, article 2*

<sup>17</sup> Article 3(2).

<sup>18</sup> Article 5.

<sup>19</sup> Regulation 8 (2) -(6).

<sup>20</sup> Regulation 8.1.

<sup>21</sup> Regulation 9.2.

- Declaration in written of the approval of the Competent Authority (upon declaration of the State Party the approval will be explicit or tacit).
- Available for inspection once the precedent point is fulfilled.
- Identify the recycling activities that will take place on each Ship Recycling Facilities (when use more than one).
- In relation to the workers, all authorized facilities must submit a policy ensuring workers safety and the protection of human health and the environment; identification of roles and responsibilities; a program for providing information and training.
- An emergency preparedness and response plan.
- Monitoring systems.<sup>22</sup>

All state parties of the Convention shall prevent adverse effects to human health and the environment,<sup>23</sup> and in the relation to the management of Hazardous materials, each Ship Recycling Facility shall identify waste managements and disposal sites.<sup>24</sup>

### **1.3.4 Surveys, Certification and Inspections of Ships**

The certification will be issued by the Administration or by any organization or person authorized by it. The types of certification are the following:

- a) International Certificate on Inventory of Hazardous Materials:
  - It applies for initial, additional and renewal surveys.
  - Validity period shall not exceed 5 years.<sup>25</sup>
- b) Ready for Recycling Certificate:
  - Issue after successful completion of a final survey
  - Validity period shall not exceed three months<sup>26</sup> and it can be extended for a single point to point voyage.<sup>27</sup>

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<sup>22</sup> Regulation 18.

<sup>23</sup> Regulation 19.

<sup>24</sup> Regulation 20(3).

<sup>25</sup> Regulation 14(2).

<sup>26</sup> Regulation 14(3).

<sup>27</sup> Regulation 14(5).

On ships that will engage in voyages outside the jurisdiction of the issuing state or that will be recycled outside its jurisdiction, the Certificates for them shall be issued in an official language of the issuing party with a translation to the English, French or Spanish.<sup>28</sup> State Parties shall not issue a certificate to a ship entitled to fly the flag of a non-state party.<sup>29</sup>

A number of surveys will be carried out on the ships in different stages, the initial survey will take place before the ship is put in service or before the issue of the International Certificate on Inventory of Hazardous Materials. The second type is the renewal survey which will be done in intervals not exceeding 5 years. Thirdly, an additional survey requested by the ship-owner, and the last one is the final survey that will take place prior to the ship being taken out of service and before the ship recycling process begins.<sup>30</sup>

Every ship under the scope of application of this Convention can be subject to an inspection by duly authorized officers to verify that there is on board an International Certificate on Inventory of Hazardous Materials or an International Ready to Recycling Certificate. This could be done in any port or offshore terminal of another Party of this Convention.<sup>31</sup> This inspection could be extended to a detailed inspection where a ship does not carry a valid certificate or there are clear grounds for believing that the current conditions of the ship do not correspond substantially with the particular certificate. The inspection may also be detailed if there is no procedure implemented on board for the maintenance of the Inventory of Hazardous Materials.<sup>32</sup>

In cases that a ship is found to be in violation of the Convention, the party carrying out the inspection will have the power to warn, detain, dismiss, or exclude the ship from its ports, informing immediately to the Flag State of the ship and the Organization.<sup>33</sup>

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<sup>28</sup> Regulation 13.

<sup>29</sup> Regulation 12(4).

<sup>30</sup> Regulation 10.

<sup>31</sup> Article 8(1).

<sup>32</sup> Article 8(2).

<sup>33</sup> Article 9(3).

When a violation is detected in an inspection carried out by a State Party, any delay or detention of a ship has to be duly performed. Otherwise, the ship shall be entitled to compensation for any loss or damage suffered.<sup>34</sup>

### **1.3.5 Controls and Authorization of Ship Recycling Facilities**

This Convention gives State Parties the legal framework to regulate Ship Recycling Facilities. The Parties will have the power to require the full compliance of the Convention and they shall ensure that those facilities are duly authorized and designed, constructed, and operated in a safe and environmentally sound manner.<sup>35</sup> Additionally, States Parties that ratify the Convention will have to establish the necessary legislation, regulations and standards to ensure compliance.<sup>36</sup> Parties shall also establish a mechanism that includes inspection, monitoring and enforcement provision.<sup>37</sup>

The authorization of a Ship Recycling Facility on a State Party shall not exceed a period of five years and it will be done by the Administration or by any organization or person authorize by it.<sup>38</sup>

### **1.3.6. Requirements for Ship Recycling Facilities**

The Parties to the Convention must ensure that Ship Recycling Facilities under its jurisdiction comply with the requirements, moreover, the SP must take effective measures in order to ensure compliance.<sup>39</sup> To this end, the Party ensure that the Ship Recycling Facilities which they are authorizing has established management systems, procedures and techniques which do not pose health risks to the workers... population in the vicinity... and which prevent, reduce or minimize adverse effects on the environment....<sup>40</sup> Furthermore, the Ship Recycling

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<sup>34</sup> Article 11.

<sup>35</sup> Article 6.

<sup>36</sup> Regulation 15(1).

<sup>37</sup> Regulation 15(4).

<sup>38</sup> Regulation 16.

<sup>39</sup> Article 4.

<sup>40</sup> Taking into account guidelines developed by the Organization. See Regulation 17.

Facilities is required to accept only ships which comply and meet the requirements of the ‘Convention’, they must only accept ships they are authorized to recycle and have the documentation of such authorization.<sup>41</sup> The Ship Recycling Facilities also must prepare a Ship Recycling Facilities Plan (‘Plan’).

Moreover, the Ship Recycling Facilities must have and use procedures to ensure that safe-for-hot work as well as safe-for- entry conditions and procedures are established, maintained and monitored throughout Ship Recycling. The Ship Recycling Facilities also must establish and use procedures which result in the prevention of other accidents, diseases and injuries and prevent spills or emissions, all of which may cause adverse effects to human health and/or the environment.<sup>42</sup>In consideration of an emergency preparedness and response required to be established in the ‘Plan’ must take into consideration location and environment of Ship Recycling Facilities. It must further ensure that equipment and procedures are in place and drills are performed and provide communication internally and with the Competent Authority, neighborhood and the emergency response services.<sup>43</sup>

Ship Recycling Facilities also must ensure availability and use of personal protective equipment and clothing<sup>44</sup>, that there are training programs<sup>45</sup> and familiarization in general as well as that specific for the ship recycling which is to be undertaken.<sup>46</sup> Furthermore, it must report any incidents, accidents, diseased or those with the potential of causing risks to workers safety, human health and the environment.<sup>47</sup>

### **1.3.7 Provisions on Hazardous Materials**

Ships under the scope of application of the Convention have to prohibit and restrict the installation or use of Hazardous Materials<sup>48</sup> as listed in regulation 20 of the Annex and Appendix 1 and 2 of the Convention, as follows<sup>49</sup>:

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<sup>41</sup> Regulation 17(2).

<sup>42</sup> Regulation 19.

<sup>43</sup> Regulation 21.

<sup>44</sup> Regulation 22(2).

<sup>45</sup> Regulation 22(3).

<sup>46</sup> Regulation 22 (1).

<sup>47</sup> Regulation 23 (1).

<sup>48</sup> Article 4(1).

<sup>49</sup> Appendix 1.

- Asbestos
- Ozone-depleting Substances<sup>50</sup>
- Polychlorinated biphenyls (PCB)<sup>51</sup>
- Anti-fouling compounds and systems (Organotin compounds which act as biocides in anti-fouling systems).<sup>52</sup>
- Cadmium, Hexavalent, Lead, Mercury and their compounds.
- Radioactive Substances
- Chlorinated, Paraffins such as Alkanes, C10 and chloro.

The installation or use on ships of such listed materials shall be prohibited and/or restricted whilst in its ports, shipyards, ship repair yards and offshore terminals.

In addition to the above and in order to control the use of the cited hazardous materials, every *new ship*<sup>53</sup> is obliged to have an inventory of hazardous materials on board. This will not exempt the existing ships for compliance with this regulation, and they will have to comply with this provision as far as practicable in two hypothesis, (1) when they reach to the end of their useful life before the recycling process, or (2) not later than 5 years after the convention enter into force<sup>54</sup>. This inventory shall be properly maintained and update and it is mandatory to be completed for ships that wants to initiate the Ship Recycling process<sup>55</sup>.

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<sup>50</sup> Montreal Protocol on Substances that Deplete the Ozone Layer define these substances under Article 1(4) and listed on Annexes A, B, C or E of that protocol.

<sup>51</sup> As define in Appendix 1 they are aromatic compounds formed in such a manner that the hydrogen atoms on the biphenyl molecule (two benzene rings bonded together by a single carbon-carbon bond) may be replaced by up to ten chlorine atoms).

<sup>52</sup> Annex 1 of the Convention on the Control of Harmful Anti-Fouling systems on Ships, 2001.

<sup>53</sup> Regulation 1(4) defines “New Ship” to mean: (1) for which the building contract is placed on or after the entry into force of this Convention, (2) 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 Convention, (3) the delivery of which is on or after 30 months after the entry into force of this Convention.

<sup>54</sup> Regulation 5.

<sup>55</sup> Regulation 8(5).

### **1.3.8 Violations**

The Convention provides State Parties may request or to be requested by another Party to make an investigation to a Ship or to a Ship Recycling Facility that is believed, with clear grounds, to be operating in violation of the Convention.<sup>56</sup>

Furthermore, the Convention states that national laws shall regulate the sanctions for violations of the obligations provided in this convention. Those domestic laws will be the ones that will give the State party the power to enforce their *jurisdiction*<sup>57</sup> over the Ships and the Ship Recycling Facilities that do not comply with their duties.<sup>58</sup>

### **1.3.9 Other obligations for State Parties**

A SP must provide relevant information, to the Organization and the Party which requests it, in a swift and timely manner.<sup>59</sup> Furthermore, the Organization, with the help of the parties, will disseminate the information related to the authorized Ship Recycling Facilities operating under the jurisdiction of a Party.<sup>60</sup> Parties also undertake to provide technical assistance and co-operation between them.<sup>61</sup>

## **1.4. Appendices and Guidelines of the Convention**

The convention includes the following 7 Appendices:

1. Establish the types, definitions and the control measures of the hazardous materials.
2. Minimum List of Items for the inventory of hazardous materials
3. Forms related to the International Certificate on inventory of hazardous materials, its extension, renewal and surveys.
4. Form for the International Ready for Recycling Certificate.
5. Form of authorization of Ship Recycling Facilities.

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<sup>56</sup> Article 9.

<sup>57</sup> 'Power of a sovereign to affect the right of persons, whether by legislation, executive decree or by a judgement of court' JH Beale, "The Jurisdiction of a sovereign State", (1923) 36 Harv L Rev. 241.

<sup>58</sup> Regulation 8.3

<sup>59</sup> Article 7.

<sup>60</sup> Article 12.

<sup>61</sup> Article 13.

6. Form of Report of Planned Start of Ship Recycling
7. Form of the Statement of Completion of Ship Recycling

There are 6 guidelines that have been developed by the IMO in order to facilitate for the proper enforcement of the requirements set in the Convention. The first Guidelines issued by the IMO are the “2011 Guidelines for the Development Of The Ship Recycling Plan”.<sup>62</sup> They provide stakeholders (particularly Ship Recycling Facilities) recommendations for the development of a Ship Recycling Plan in accordance with the requirements of the Convention.<sup>63</sup> The “2012 Guidelines for Safe and Environmentally Sound Ship Recycling”<sup>64</sup> provides stakeholders (particularly Ship Recycling Facilities), recommendations for the safe and environmentally sound recycling of ships and for the implementation of the Convention.<sup>65</sup>

The “2012 Guidelines for the Authorization of Ship Recycling Facilities”<sup>66</sup> provided recommendations for Parties to the Convention on establishing mechanisms for authorizing Ship Recycling Facilities. The “2012 Guidelines for the Survey and Certification of Ships under the Hong Kong Convention”<sup>67</sup> provide guidelines for the survey and certification of ships under the Convention that will assist Administrations and recognized organizations in the uniform application of these procedures and to help interested parties to understand the process of conducting surveys and issuing and endorsing certificates.<sup>68</sup> The “2012 Guidelines for the Inspection of Ships Under the Hong Kong Convention”<sup>69</sup> they provide the basic guidance for conducting port State control inspections in compliance with the Convention and to afford consistency in conducting these inspections, recognizing deficiencies and applying control procedures.<sup>70</sup>

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<sup>62</sup> Adopted on July 15 2011 by Resolution MEPC.196(62).

<sup>63</sup> Article 1.1.

<sup>64</sup> Adopted on march 2 2012 by Resolution MEPC.210(63).

<sup>65</sup> Article 1.1.

<sup>66</sup> Adopted on 2 March 2012 by Resolution MEPC.211(63).

<sup>67</sup> Adopted on October 5 2012, by RESOLUTION MEPC.222(64).

<sup>68</sup> Article 1.1.

<sup>69</sup> Adopted on October 5 2012 by resolution MEPC.223(64).

<sup>70</sup> Article 1.1.

The last Guideline adopted by IMO on relation to the Convention are the “2015 Guidelines for the Development of the Inventory of Hazardous Materials”<sup>71</sup> which provides recommendations for developing the Inventory of Hazardous Materials to assist to comply with the Inventory of Hazardous Materials establish under regulation 5 of the Convention.<sup>72</sup>

## **2. REASONS FOR THE RATIFICATION AND IMPLEMENTATION IN MEXICO**

As it can be gleaned from the previous Chapter, it is submitted that the Convention significantly focuses on the impacts of the Ship Recycling Industry to the environment. Currently, the Mexican State has legislation created specifically with the purpose to protect the environment. For instance, the “General Law of Ecological Balance and Environmental Protection”, has the objective to regulate the preservation and restoration of the ecological balance, as well as the protection of the environment, in the national territory and the areas over which the Mexican State exercises its sovereignty and jurisdiction. It defines the principles of the general ecological policy and regulate the instruments for its application; the ecological framework; the preservation, restoration and improvement of the environment; the protection of natural areas and wild and aquatic flora and fauna; the rational use of natural elements in a way that is compatible obtaining economic benefits with the balance of ecosystems; the prevention and control of air, water and soil pollution.<sup>73</sup>

In addition to the above, Mexico also has another law called “General Law for the Prevention and Integral Management of Waste”, which has the purpose of guaranteeing the right of all people to the healthy environment and promote sustainable development through the prevention of generation, valorisation and integral management of hazardous waste, solid waste urban and special management; prevent the contamination of sites with this waste and carry out its remediation.<sup>74</sup>

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<sup>71</sup> Adopted on May 15 2015 by resolution MEPC.269(68).

<sup>72</sup> Article 1.1.

<sup>73</sup> Mexican General Law of Ecological Balance and Environmental Protection, Article 1.

<sup>74</sup> Mexican General Law for the Prevention and Integral Management of Waste, Article .

These two Laws regulate a wide area for environmental protection. Nevertheless, it must be noted that neither of them have regulations for the recycle of ships. On the other hand, The Navigation and Maritime Commerce Law, which has as purpose to regulate the general means of communication by water, the navigation, its protection and the services provided therein, have a specific provision on shipbreaking. This Law in its *Chapter IV Mooring, Abandonment and Disposal of Ships*, has a provision contained in Article 90 that regulate the scrapping of ships. This article establishes that the scrapping of a ship will be authorized by the port state control, with the favourable opinion of the competent environmental authority, provided that it does not have to harm the navigation and port services. The foregoing, upon cancellation of registration and, where appropriate, provides sufficient guarantee provision to cover expenses that may arise from damages to navigable waterways, port facilities and the marine environment. Furthermore, the law establishes that this guarantee should cover expenses for damage derived from cleaning the area where the operation is carried out.<sup>75</sup>

Overall, it can be notice that the current national law is not enough to meet the requirements established under the Convention to fulfil a Ship Recycling process in a safe and environmentally sound manner. Moreover, Article 90 of the Navigation and Maritime Commerce Law just includes a very general provision for the authorization of the shipbreaking process. Therefore, the ratification of Mexico to this Convention is necessary to have the basis for creating an internal legal framework that meets the International standards developed by IMO.

Apart from the foregoing legal considerations, it is extremely important to likewise consider the practical effects that the ratification of this Convention will signify.<sup>76</sup> According to a document prepared by the Mexican Secretariat of Communications and Transportation, the total number of ships flying the Mexican Flag up to 2015 is 164,026 which constitutes 3,516,228.040 GT.<sup>77</sup>

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<sup>75</sup> Mexican Navigation and Maritime Commerce Law, Article 90.

<sup>76</sup> Mexico had a scrapping industry until the 1990's and this industry was partly based on vessels exported from the United States. European Commission, Directorate General Environment, Ship Dismantling and Pre-cleaning of Ships: Final Report (2007).

<sup>77</sup> Estadística de flota nacional, Secretaría de Comunicaciones y Transportes, 2015. Please read more at: [https://www.gob.mx/cms/uploads/attachment/file/212338/Embarcaciones\\_Matriculadas.pdf](https://www.gob.mx/cms/uploads/attachment/file/212338/Embarcaciones_Matriculadas.pdf).

Mexico counts 35 ports distributed by coast, of which 20 correspond to the Pacific littoral and the other 15 to the Gulf of Mexico.<sup>78</sup> It has more than 11,000 kilometres of coasts, and is located in an excellent position in the Pacific and Atlantic Oceans, which makes it a highly competitive country in the maritime sector.<sup>79</sup> Mexican maritime heritage is highly attractive, since it is 2,926,252 square kilometres of maritime surface that is used for the extraction of diverse natural resources; among these, is the extraction of oil from the marine subsoil by means of the offshore industry in the Gulf of Mexico, and the capture of live species in the Pacific Ocean through one of the most important tuna fleets in the world.

For all the foregoing reasons, Mexico has a considerable number of vessels (whether national or foreign flag) working on its coasts, which sooner or later will reach to the end of their useful life. For these reasons, *inter alia*, Mexico needs to develop a plan that does not affect the environment or human health to sufficiently address all the environmental concerns that may arise when these ships are ready to be disposed. The adoption of this Convention will give to shipowners a practical and environmentally friendly manner to dispose from their ships and to recover as much as possible of their initial investment when they bought the ship. This will be possible by the recycling process, in which the steel and many of all the components of a ship are subject to be re-used and later on be used into new ships, in agriculture, hospitals, among others.<sup>80</sup> Therefore, one can argue that the ratification of the Convention will not only avoid negative impacts to the environment, but it will also contribute to the economic growth of the country.

In Mexico, there are already some companies in the shipping industry that are currently engaged as well in the recycling of ships. "Infraestructura y Servicios Portuarios" (ISP), is a company located in Ensenada, Baja California, that mainly works for shipowners and vessels on the Pacific Ocean in Mexico, United States and Canada.<sup>81</sup> Among other maritime services, it engages the recycling of ships with final disposal of hazardous materials. However, is important to note that on November 2013, the ship *Bairing Star* which was about to be

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<sup>78</sup> Presentacion Anuario Estadístico del Transporte Marítimo 2016, Dirección General de Marina Mercante. Please see at: <[https://www.gob.mx/cms/uploads/attachment/file/313224/02\\_Presentaci\\_n.pdf](https://www.gob.mx/cms/uploads/attachment/file/313224/02_Presentaci_n.pdf).

<sup>79</sup> <https://aduaenmexico.wordpress.com/2011/03/15/puertos-de-cabotaje-y-altura-mexicanos/>.

<sup>80</sup> IMO and the Environment (2011)

<sup>81</sup> Ortiz, Silvia. "Navios en Desuso: Chatarra Millonaria".Expansion.mx.CNN, 29 January 2018. [https://expansion.mx/obras/pulso-de-la-construccion/navios-en-desuso-chatarra-millonaria?internal\\_source=PLAYLIST](https://expansion.mx/obras/pulso-de-la-construccion/navios-en-desuso-chatarra-millonaria?internal_source=PLAYLIST).

recycled in their facilities, caused a big explosion and a fire for more than three hours that had to be contained by personnel from the Navy, Civil Protection, Coast Guard and other volunteers.<sup>82</sup> It can be said that even though that a company in Mexico comply with the current requirements to work in shipbreaking process, it is extremely necessary to upgrade these regulations that covers all the process.

Another company is "Promotora Ambiental" in collaboration with ECOMAR (Reciclajes Ecológicos Marítimos SA de CV), which at the end of 2006 won the concession to build and operate for 20 years a terminal in Lázaro Cárdenas, Michoacán, to dismantle and recycle ships, with the possibility to extend this term for 10 more years.<sup>83</sup> In 2010, the company started with the ship recycling process of the warship, DHL PRAT in the *Shipbreaking Terminal of Lazaro Cárdenas*.<sup>84</sup>

Petroleos Mexicanos (PEMEX)<sup>85</sup>. According to documents from the General Directorate of the Merchant Navy, the antiquity of PEMEX's fleet in 2008 oscillated between the 23 and 28 years of antiquity<sup>86</sup>, meaning that a lot of them by this moment are over the 30 years old and they reached or are about reach the end of its useful life. So taking this into account, with the ratification of the Convention, the ship recycling industry in Mexico could experience a big boost even just with the domestic fleet. Furthermore, looking at a regional level, up to 2008, the Strategic Reserve of the United States had 110 vessels that needed to be dismantled, and to be able to offer them a quality service at a competitive price could attract this kind of

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<sup>82</sup> Llamas, Lorena, Milenio Noticias Baja California, 02/11/2013, please read more at: <[http://www.milenio.com/bajacalifornia/incendia-barco-Ensenada-lesionados\\_0\\_182981927.html](http://www.milenio.com/bajacalifornia/incendia-barco-Ensenada-lesionados_0_182981927.html)>

<sup>83</sup> Ortiz, Silvia. "Navios en Desuso: Chatarra Millonaria".Expansion.mx.CNN, 29 January 2018. [https://expansion.mx/obras/pulso-de-la-construccion/navios-en-desuso-chatarra-millonaria?internal\\_source=PLAYLIST](https://expansion.mx/obras/pulso-de-la-construccion/navios-en-desuso-chatarra-millonaria?internal_source=PLAYLIST).

<sup>84</sup> <http://www.puertolazarocardenas.com.mx/plc25/component/content/article?id=215:desmantelamiento-prat>.

<sup>85</sup> PEMEX is the Mexican state-owned petroleum company, created in 1938 by nationalization or expropriation of all private, foreign, and domestic oil companies at that time. Pemex had a total asset worth of \$415.75 billion, and was the world's second-largest non-publicly listed company by total market value (in 2006), and Latin America's second-largest enterprise by annual revenue as of 2009. The majority of its shares are not listed publicly and are under control of the Mexican government, with the value of its publicly listed shares totaling \$202 billion in 2010, representing approximately one quarter of the company's total net worth. < [https://es.wikipedia.org/wiki/Petr%C3%B3leos\\_Mexicanos](https://es.wikipedia.org/wiki/Petr%C3%B3leos_Mexicanos)>.

<sup>86</sup> Ortiz, Silvia. "Navios en Desuso: Chatarra Millonaria".Expansion.mx.CNN, 29 January 2018. [https://expansion.mx/obras/pulso-de-la-construccion/navios-en-desuso-chatarra-millonaria?internal\\_source=PLAYLIST](https://expansion.mx/obras/pulso-de-la-construccion/navios-en-desuso-chatarra-millonaria?internal_source=PLAYLIST).

vessels into Mexican ship recycling facilities.<sup>87</sup> Although there are costs that will accompany the entry of the Convention, doing the same would put Mexico's ship recycling industry in Mexico in total conformity with international standards. This ascription would redound to Mexico's benefit in this industry.

It is for the above mention, that is of utmost importance not only to provide a legal framework to stakeholders that are currently engaged on the ship recycling industry on Mexico, but would also entice those who want to do it in the future. This legal certainty will not only for the benefit of companies that may benefit from the streamlined process that prevents wastage in scrapping, but also in consonance with ensuring the well being of workers and the protection to the environment.

Furthermore, due to its geographic location to the United States of America and South America, all of which have burgeoning shipping industries, the ship scrapping industry in Mexico is a viable choice. It is not practical or financially feasible to take old ships for dismantling to certified shipyards in the European Union, which counts with EU Regulation No. 1257/2013 on Ship Recycling, that secure an environmentally and sound recycling of ships.<sup>88</sup> Taking old ships in far flung areas is not the right choice in environmental terms, besides being very expensive, transporting non-self-propelled vessels from the coasts of Mexico to Europe, can generate high levels of carbon emissions that it is simply an unacceptable alternative. Mexico ought to take advantage of its geographical location in terms of this industry and best practices promoted in the Convention. Should Mexico continue on developing this industry, incorporating the Convention would ensure that it spur business but at the same time, would promote still the well-being of workers and its environment, that are of paramount importance.

In conclusion, the ratification of the Convention and its effective implementation will give the Mexican State the power to regulate the Ship Recycling Industry under its jurisdiction.

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<sup>87</sup> Ortiz, Silvia. "Navios en Desuso: Chatarra Millonaria".Expansion.mx.CNN, 29 January 2008. [https://expansion.mx/obras/pulso-de-la-construccion/navios-en-desuso-chatarra-millonaria?internal\\_source=PLAYLIST](https://expansion.mx/obras/pulso-de-la-construccion/navios-en-desuso-chatarra-millonaria?internal_source=PLAYLIST).

<sup>88</sup> Article 1 of the EU Regulation No. 1257/2013 on Ship Recycling

Giving certainty to national and international shipowners that when taking their old ships to be recycled in Mexico, it will be done under these international standards.

### **3. PROCEDURE FOR THE RATIFICATION AND IMPLEMENTATION OF THE CONVENTION INTO MEXICAN LAW**

According to Article 16 of the Convention, the ways to become a party is by the means of signature, ratification, acceptance, approval and accession. Mexico will have to ratify the Convention to become a party to it.

The process of adoption of a Convention and implementation in Mexico is governed by the Political Constitution of the United Mexican States. First of all, Mexican Constitution recognizes under its article 133 the following:

The Constitution, the laws of the Congress of the Union that emanate from it and all Treaties that are in accordance with it, done and held by the President of the Republic, with the approval of the Senate, will be the Supreme Law of the entire Union...<sup>89</sup>.

In accordance with this article, treaties have to be signed by the President of the Republic. Article 89 (X) of Mexican Constitution grants the power to the President to sign international treaties, as well as terminate, denounce, suspend, modify, amend, withdraw reservations and make interpretative declarations on them.<sup>90</sup> In the last part of Article 89, it is pointed out the as in the cite Article 133, that treaties have to be done with the approval of the senate. Article 76 of the Mexican Constitution grant the power to the Senate to approve international treaties and diplomatic conventions that are signed by the President, as well as its decision to terminate, denounce, suspend, modify, amend, withdraw reservations and make interpretative declarations.<sup>91</sup>

It is important to mention that according to the provisions of the Article 133 of the Mexican Constitution, all International Treaties of which the Mexican state is a party to are consider to be the supreme law of the state alongside with the Constitution. However, it clarifies that these treaties shall not being in contravention with the constitutional text since in case of conflict between them the Constitution will prevail.

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<sup>89</sup> Political Constitution of the United Mexican States, Article 133.

<sup>90</sup> Political Constitution of the United Mexican States, Article 89(x).

<sup>91</sup> Political Constitution of the United Mexican States, Article 76.

Coupled with the above and by virtue of the fact that the Mexican state is party to Vienna Convention on the Law of Treaties, wherein Articles 26 and 27 therein refer to the principle of *pacta sunt servanda*<sup>92</sup>. This principle states that a party (Mexico) may not invoke the provisions of its internal law as justification for its failure to perform a treaty. This confirms Mexico's commitment to comply with international provisions prevailing over those of an internal nature.

Therefore, when an international treaty is ratified by the authorised Mexican authorities, the international treaty automatically acquires a mandatory nature within the jurisdiction of the Mexican state and the hierarchy of those is the same as the Mexican Constitution, with the only exception mention in the aforementioned paragraph. It has been stated that Mexico has a monist system where international law takes precedence.<sup>93</sup>

Notwithstanding that Mexico is automatically bound by an International Treaty which is party to, the creation of a new Law for the effective implementation of the provisions of the Convention into the Mexican Law is proposed in this work.

To create this law, it will have to be done through an *initiative of law*, which is a proposal that can be made by the President or by any of both Chambers of the Union Congress (Deputies and Senators). Then it will go through a *Discussion*, which is the deliberation of the proposal by both Chambers. After that, if this Initiative is approved by them, the President will have the power of *Sanction*, in which either approve it or make a reservation to it. Finally, it will have to be *published* in the Official Gazette of the Federation, directed to those responsible for complying with its provisions establishing the *date of entry into force* of the law.<sup>94</sup>

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<sup>92</sup> Means agreements must be kept. It is the principle in international law which says that international treaties should be upheld by all the signatories. The rule of *pacta sunt servanda* is based upon the principle of good faith. The basis of good faith indicates that a party to the treaty cannot invoke provisions of its domestic law as a justification for a failure to perform. The only limit to *pacta sunt servanda* is the peremptory norms of general international law known as "jus cogens" which means compelling law.

<sup>93</sup> Aguilar, Adrian Cisneros. The Position of International Treaties in PRC and Mexican Law: Using the Chinese "Dialectical Model" to Implement and Enforce a Hypothetical Mexico-China FTA, As Related to Foreign Investment. <https://arellanolaw.edu/alpr/v13n1b.pdf>.

<sup>94</sup> Constitucion Política De Los Estados Unidos Mexicano Article 71 and 72.

## OVERVIEW OF THE LAW

The propose of a Ship Recycling Law is a proposal to implement the provisions of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009, into the Mexican legislation to dully implement its provisions in the national level. This Law seek to prevent, reduce, minimize and, to the extent practicable, eliminate accidents, injuries and other adverse effects on human health and the environment caused by the ship recycling activities done under the Mexican jurisdiction. This law establishes the scope of application under the same basis as the Convention. Obligation on Ship owners and Ship Recycling facilities are provide, as well as a system of surveys and inspections for the verification of its compliance by the Mexican authorities. Establishing the parameters of violations to this law, the sanctions that will be applicable and the responsible authority.

Regardless that the sole ratification of the Convention introduces and bind the Mexican State to its compliance, it will not be sufficient and effective implement it, due to the fact that for the enforcement of the provisions of Convention it would a legal gap regarding the obligations on the stakeholders including the authorities in charge of its compliance.

The way to introduce this law into the Mexican legislation upon the ratification of the Mexican State of the Convention couple with the needed declaration of article 16 (6) of the Convention, and after sending the document of accession to the Secretary General of the IMO. It will be necessary to start the legislative process throughout an initiative of law, which will follow the steps provided in the past chapter until it is duly *published* in the Official Gazette of the Federation with a date to entry into force.

**II. A Law to Incorporate the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009, into the Laws of the United Mexican States and to Provide for the Effective Implementation Thereof**

**To be deposited with the Secretary-General of IMO, London**

**1. INSTRUMENT OF ACCESSION BY THE UNITED MEXICAN STATES TO THE HONG KONG INTERNATIONAL CONVENTION FOR THE SAFE AND ENVIRONMENTALLY SOUND RECYCLING OF SHIPS, 2009**

WHEREAS the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 was adopted at Hong Kong, China at 15 May 2009 by the International Conference on the Safe and Environmentally Sound Recycling of Ships

AND WHEREAS the United Mexican States, being a State entitled to become a party to the said Convention by virtue of Article 16, thereof,

NOW THEREFORE the Government of the United Mexican States having considered and approved the said Convention, hereby formally declares its accession to the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009.

IN WITNESS WHEREOF I, Enrique Peña Nieto President of the United Mexican States, having signed this Instrument of Accession and affixed the official seal.

DONE at ....., this..... day of ..... two thousand and.....

(Seal)

(Signature)

President of the United Mexican States

Enrique Peña Nieto

## **2. DECLARATION ON THE ACCESSION OF MEXICO TO THE CONVENTION**

Once the Mexican State sends the document of accession to the Convention, it shall be accompanied by the following declaration related to the provision stated in Article 16, paragraph 6 of the Convention as follow:

*“In accordance with article 16, paragraph 6 of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009, the United Mexican States declares that it will require explicit approval of the Ship Recycling Plan before a ship may be recycled in its authorized Ship Recycling Facility(ies).”*



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### **3. SHIP RECYCLING LAW**

On the margin, a seal with the National Coat of Arms, which reads: United Mexican States. -  
Presidency of the Republic.

ENRIQUE PEÑA NIETO, President of the United Mexican States, its inhabitants know:

That the Honourable Congress of the Union, has served to direct me the following

#### **DECREE**

"THE GENERAL CONGRESS OF THE UNITED MEXICAN STATES, D E C R E E:

#### **SHIP RECYCLING LAW IS ISSUED**

Sole Article. - The Ship Recycling Law

#### **CHAPTER ONE**

#### **GENERAL PROVISIONS**

##### **Article 1**

##### **Objective**

This law is of public order and its purpose is to prevent, reduce, minimize and, to the extent practicable, eliminate accidents, injuries and other adverse effects on human health and the environment caused by the ship recycling activities done under the Mexican jurisdiction. Unless expressly provided otherwise, the design, construction, survey, certification, operation and recycling of ships shall be conducted in accordance with the provisions of this Law.

##### **Article 2**

##### **Definitions**

For the purposes of this Law, unless expressly provided otherwise:

- I. "SEMAR" Secretariat of the Navy



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- II. “Hong Kong Convention” means the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009.
- III. “Basel Convention” Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their disposal, 1989.
- IV. “IMO” International Maritime Organization
- V. “ILO” International Labour Organization
- VI. “Competent person” means a person with suitable qualifications, training, and sufficient knowledge, experience and skill, for the performance of the specific work. Specifically, a Competent person may be a trained worker or a managerial employee capable of recognizing and evaluating occupational hazards, risks, and employee exposure to potentially Hazardous Materials or unsafe conditions in a Ship Recycling Facility, and who is capable of specifying the necessary protection and precautions to be taken to eliminate or reduce those hazards, risks, or exposures.
- VII. “Employer” means a natural or legal person that employs one or more workers engaged in Ship Recycling.
- VIII. “Existing ship” means a ship which is not a new ship.
- IX. “New ship” means a ship:
  - 1 for which the building contract is placed on or after the entry into force of this Law; or
  - 2 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 Law; or
  - 3 the delivery of which is on or after 30 months after the entry into force of this Law.
- X. “New installation” means the installation of systems, equipment, insulation, or other material on a ship after the date on which this Law enters into force.
- XI. “Safe-for-entry” means a space that meets the following criteria:
  - 1 the oxygen content of the atmosphere and the concentration of flammable vapours are within safe limits;



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- 2 any toxic materials in the atmosphere are within permissible concentrations; and
  - 3 any residues or materials associated with the work authorized by the Competent person will not produce uncontrolled release of toxic materials or an unsafe concentration of flammable vapours under existing atmospheric conditions while maintained as directed.
- XII. "Safe-for-hot work" means a space that meets the following criteria:
- 1 a safe, non-explosive condition, including gas-free status, exists for the use of electric arc or gas welding equipment, cutting or burning equipment or other forms of naked flame, as well as heating, grinding, or spark generating operations;
  - 2 Safe-for-entry requirements of article 2 (VI) of this law are met;
  - 3 existing atmospheric conditions will not change as a result of the hot work; and
  - 4 all adjacent spaces have been cleaned, or inerted, or treated sufficiently to prevent the start or spread of fire.
- XIII. "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 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.
- XIV. "Site inspection" means an inspection of the Ship Recycling Facility confirming the condition described by the verified documentation.
- XV. "Statement of Completion" means a confirmatory statement issued by the Ship Recycling Facility that the Ship Recycling has been completed in accordance with this Law.
- XVI. "Tanker" means an oil tanker as defined in MARPOL Annex I or an NLS tanker as defined in MARPOL Annex II.
- XVII. "Worker" means any person who performs work, either regularly or temporarily, in the context of an employment relationship including contractor personnel.



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- XVIII. “Administration” means the Government of the State whose flag the ship is entitled to fly, or under whose authority it is operating.
- XIX. “Competent Authority(ies)” means a governmental authority or authorities designated by a State as responsible, within specified geographical area(s) or area(s) of expertise, for duties related to Ship Recycling Facilities operating within the jurisdiction of that State.
- XX. “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.
- XXI. “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.
- XXII. “Hazardous Material” means any material or substance which is liable to create hazards to human health and/or the environment.
- XXIII. “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.
- XXIV. “Ship Recycling Facility” means a defined area that is a site, yard or facility used for the recycling of ships.
- XXV. “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 Law.

### Article 3



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### Scope of Application

1. Unless expressly provided otherwise, this Law will apply to:
  - a) Ships entitled to fly the Mexican flag or operating under its authority;
  - b) Ships calling at the ports of Mexico or anchorage on them.
  - c) Ship Recycling Facilities operating under the Mexican jurisdiction.
2. This Law shall not apply to:
  - a) Any warships or naval auxiliary.
  - b) Ships owned or operated by a State and used, for the time being, only on government non-commercial service.
  - c) Ships of less than 500 GT
  - d) Ships operating throughout their life only in waters subject to the Mexican jurisdiction.

(Alvaro, please review the law and change “WILL” to shall for mandatory and stronger language)

## CHAPTER TWO

### SURVEYS AND CERTIFICATION

#### Article 4

#### Surveys

Surveys of ships for the purpose of enforcement of the provisions of this Law will be carried out by the personnel appointed by the SEMAR, who shall perform the surveys to verify the compliance of the provisions establish in this Law taking into account the guidelines developed by the IMO.

Ships under the scope of this Law will be subject to the surveys specified below:

1. an initial survey before the ship is put in service, or before the International Certificate on Inventory of Hazardous Materials is issued. This survey shall verify that Part I of the Inventory required by article 8 is in accordance with the requirements of this Law;
2. a renewal survey every five years that will verify that Part I of the Inventory of Hazardous



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Materials required by article 8 complies with the requirements of this Law;

3. 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 will be done 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 Law, and that Part I of the Inventory is amended as necessary; and
4. a final survey prior to the ship being taken out of service and before the recycling of the ship has started. This survey will verify:
  - a) that the Inventory of Hazardous Materials as required by article 8.5 is in accordance with the requirements of this Law taking into account the guidelines developed by the IMO;
  - b) that the Ship Recycling Plan, as required by article 10, properly reflects the information contained in the Inventory of Hazardous Materials as required by article 8.5 and contains information concerning the establishment, maintenance and monitoring of Safe-for-entry and Safe-for-hot work conditions; and
  - c) that the Ship Recycling Facility(ies) where the ship is to be recycled holds a valid authorization in accordance with this Law.

The initial and renewal surveys should be harmonized with the surveys required by other applicable statutory instruments of the IMO.

### Article 5

#### Issuance and endorsement of certificates

1. The International Certificate on Inventory of Hazardous Materials will be issued by the SEMAR after successful completion of an initial or renewal survey conducted in accordance with article 4, to any ships to which the same article 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.
2. The International Certificate on Inventory of Hazardous Materials issued under



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- paragraph 1, at the request of the shipowner, will be endorsed by the SEMAR after successful completion of an additional survey conducted in accordance with article 4.
3. Notwithstanding the requirements of 4.2, when the renewal survey is completed within three months before the expiry date of the existing certificate, the new certificate will be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing certificate.
  4. When the renewal survey is completed after the expiry date of the existing certificate, the new certificate will be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing certificate.
  5. When the renewal survey is completed more than three months before the expiry date of the existing certificate, the new certificate will be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of completion of the renewal survey.
  6. If a certificate is issued for a period of less than five years, the SEMAR may extend the validity of the certificate beyond the expiry date to the maximum period of five years.
  7. If a renewal survey has been completed and a new certificate cannot be issued or placed on board the ship before the expiry date of the existing certificate, the SEMAR may endorse the existing certificate and such a certificate shall be accepted as valid for a further period which shall not exceed five months from the expiry date.
  8. If a ship at the time when a certificate expires is not in a port in which it is to be surveyed, the SEMAR may extend the period of validity of the certificate but this extension will be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed and then only in cases where it appears proper and reasonable to do so. No certificate will be extended for a period longer than three months, and a ship to which an extension is granted shall not, on its arrival in the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port without having a new certificate. When the renewal survey is completed, the new certificate will be valid to a date not exceeding five years from the date of expiry of the existing certificate before the extension was granted.
  9. A certificate issued to a ship engaged on short voyages which has not been extended



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- under the foregoing provisions of this article may be extended by the SEMAR for a period of grace of up to one month from the date of expiry stated on it. When the renewal survey is completed, the new certificate will be valid to a date not exceeding five years from the date of expiry of the existing certificate before the extension was granted.
10. In special circumstances, as determined by the SEMAR, a new certificate need not be dated from the date of expiry of the existing certificate as required by paragraph 4, 8 or 9 of this article. In these special circumstances, the new certificate will be valid to a date not exceeding five years from the date of completion of the renewal survey.
  11. An International Ready for Recycling Certificate will be issued by the SEMAR, after successful completion of a final survey in accordance with the provisions of article 4, to any ships to which that article applies, taking into account the authorization of the Ship Recycling Facility and the guidelines developed by the IMO.
  12. No certificate will be issued to a ship entitled to fly the flag of a State which is not a Party to the Hong Kong Convention.

### Article 6

#### Duration and validity of the certificates

1. An International Certificate on Inventory of Hazardous Materials issued under article 5 will cease to be valid in any of the following cases:
  - a) if the condition of the ship does not correspond substantially with the particulars of the certificate, including where Part I of the Inventory of Hazardous Materials is not properly maintained and updated, reflecting changes in ship structure and equipment, in accordance with the guidelines developed by the IMO;
  - b) if the renewal survey is not completed within the periods specified under articles 4 and 5; or
  - c) if the certificate is not endorsed in accordance with article 5.
2. An International Certificate on Inventory of Hazardous Materials will be issued for a period specified by the SEMAR, which will not exceed five years.
3. An International Ready for Recycling Certificate will be issued for a period specified by



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the SEMAR and will not exceed three months.

4. An International Ready for Recycling Certificate issued under article 5 will cease to be valid if the condition of the ship does not correspond substantially with the particulars of the certificate.
5. The International Ready for Recycling Certificate at the request of the shipowner may be extended by the SEMAR for a single point to point voyage to the Ship Recycling Facility.

### **CHAPTER THREE**

#### **REQUIREMENTS FOR SHIPS**

##### **PART A**

#### **DESIGN, CONSTRUCTION, OPERATION AND MAINTENANCE OF SHIPS**

##### **Article 7**

The installation and use of hazardous materials listed in Appendix 1 of the Hong Kong Convention on ships under the scope of application of this Law are subject to the prohibitions and restrictions specified in that Appendix.

The installation and use of hazardous materials on ships, whilst in its ports, shipyards, ship repair yards, or offshore terminals, are subject to the prohibitions and restrictions specified in Appendix 1 of the Hong Kong Convention.

##### **Article 8**

#### **Inventory of Hazardous Materials**

Each new ship shall have on board an Inventory of Hazardous Materials. This Inventory will be verified by the personnel appointed by the SEMAR taking into account the applicable guidelines developed by the IMO.

The Inventory of Hazardous Materials shall be specific to each ship and shall at least:



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1. identify as Part I, Hazardous Materials listed in Appendices 1 and 2 of the Hong Kong Convention and contained in ship's structure or equipment, their location and approximate quantities; and
2. clarify that the ship complies with article 7.
3. Existing ships shall comply as far as practicable with paragraph 1 not later than 5 years after the entry into force of this Law, or before going for recycling if this is earlier, taking into account the guidelines developed by the IMO. The Hazardous Materials listed in Appendix 1 of the Hong Kong Convention, 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 IMO.
4. 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 Appendix 2 of the Hong Kong Convention and relevant changes in ship structure and equipment, taking into account the guidelines developed by the IMO.
5. 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.

### **PART B**

#### **PREPARATION FOR SHIP RECYCLING**

##### **Article 9**

##### **General Requirements**

Ships destined to be recycled shall:

1. Only be recycled at Ship Recycling Facilities that are:
  - a) authorized in accordance with the provisions of this Law; and
  - b) fully authorized to undertake all the ship recycling which the Ship Recycling Plan specifies to be conducted by the identified Ship Recycling Facility(ies);



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2. conduct operations in the period prior to entering the Ship Recycling Facility in order to minimize the amount of cargo residues, remaining fuel oil, and wastes remaining on board;
3. in the case of a tanker, arrive at the Ship Recycling Facility with cargo tanks and pump room(s) in a condition that is ready for certification as Safe-for-entry and Safe-for-hot work;
4. provide to the Ship Recycling Facility all available information relating to the ship for the development of the Ship Recycling Plan required by article 10;
5. complete the Inventory required by article 8; and
6. be certified as ready for recycling by the SEMAR, prior to any recycling activity taking place.

A shipowner shall notify the SEMAR in due time and in writing of the intention to recycle a ship in order to enable the it to prepare for the survey and certification required by this Law

No Ship flying Mexican flag can be taken to be recycled to a state non-party to the Hong Kong Convention.

### **Article 10**

#### **Ship Recycling Plan**

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 IMO. The Ship Recycling Plan shall:

1. be developed taking into account information provided by the shipowner;
2. be developed in Spanish;
3. 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;
4. be explicitly approved by the SEMAR;



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5. once approved in accordance with paragraph 4, be made available for inspection by the personnel appointed by the SEMAR to do so; and
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.

### **CHAPTER FOUR**

#### **AUTHORIZATION AND REQUIREMENTS FOR SHIP RECYCLING FACILITIES**

##### **Article 11**

###### **Authorisation of Ship Recycling Facilities**

The authorization of a Ship Recycling Facilities which recycle ships under the scope of application of this Law will be issued by the SEMAR, prior to a verification of documentation required by this Law and a site inspection. The authorization will be valid for a period specified by the SEMAR but this period will not exceed five years.

##### **Article 12**

###### **Requirements for Ship Recycling Facilities**

A ship recycling facility shall comply with the following requirements, in accordance with the relevant provisions establish on the Hong Kong Convention and taking into account the relevant guidelines of the IMO, the ILO, the Basel Convention and other applicable international guidelines:

1. it is authorised by the SEMAR to conduct ship recycling operations;
2. it is designed, constructed and operated in a safe and environmentally sound manner;
3. it operates from built structures;



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4. it establishes management and monitoring systems, procedures and techniques which have the purpose of preventing, reducing, minimising and to the extent practicable eliminating:
  - a) health risks to the workers concerned and to the population in the vicinity of the ship recycling facility, and
  - b) adverse effects on the environment caused by ship recycling;
5. it prepares a ship recycling facility plan;
6. it prevents adverse effects on human health and the environment, including the demonstration of the control of any leakage, in particular in intertidal zones;
7. it ensures safe and environmentally sound management and storage of hazardous materials and waste, including:
  - a) 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;
  - b) 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;
8. 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;
9. it provides for worker safety and training, including ensuring the use of personal protective equipment for operations requiring such use;
10. it establishes records on incidents, accidents, occupational diseases and chronic effects and, if requested by its competent authorities, reports any incidents, accidents,



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

Beside the above provisions, the operator of a ship recycling facility shall:

1. Once approved the ship recycling plan, send it to the ship owner and to the SEMAR;
2. report to the SEMAR that the ship recycling facility is ready in every respect to start the recycling of the ship;

Ship Recycling Facilities shall only accept ships that comply and meet the requirements of this Law and of any other international instruments applicable.

The noncompliance with these provisions will entitle the SEMAR to suspended or withdrawn the authorization given to a Ship Recycling Facility.

### **Article 13**

#### **Ship Recycling Facility Plan**

Ship Recycling Facilities shall prepare a Ship Recycling Facility Plan. The Plan shall be adopted by the board or the appropriate governing body of the Recycling Company, and shall include:

1. policy ensuring workers' safety and the protection of human health and the environment, including the establishment of objectives that lead to the minimization and elimination to the extent practicable of the adverse effects on human health and the environment caused by Ship Recycling;
2. a system for ensuring implementation of the requirements set out in this Law and in the Hong Kong Convention, the achievement of the goals set out in the policy of the Recycling Company, and the continuous improvement of the procedures and standards used in the Ship Recycling operations;
3. identification of roles and responsibilities for employers and workers when conducting Ship Recycling operations;



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4. a programme for providing appropriate information and training of workers for the safe and environmentally sound operation of the Ship Recycling Facility;
5. an emergency preparedness and response plan;
6. a system for monitoring the performance of Ship Recycling;
7. a record-keeping system showing how Ship Recycling is carried out;
8. a system for reporting discharges, emissions, incidents and accidents causing damage, or with the potential of causing damage, to workers' safety, human health and the environment; and
9. a system for reporting occupational diseases, accidents, injuries and other adverse effects on workers' safety and human health,

This shall be done taking into account the applicable guidelines developed by the IMO.

### **Article 14**

#### **Prevention of Adverse Effects to Human Health and the Environment**

Ship Recycling Facilities shall establish and utilize procedures to:

1. prevent explosions, fires, and other unsafe conditions by ensuring that Safe-for-hot work conditions and procedures are established, maintained and monitored throughout Ship Recycling;
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;
3. prevent other accidents, occupational diseases and injuries or other adverse effects on human health and the environment; and
4. prevent spills or emissions throughout Ship Recycling which may cause harm to human health and/or the environment,

This will have to be done taking into account the applicable guidelines developed by the IMO.



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### Article 15

#### **Safe and Environmentally Sound Management of Hazardous Materials**

Ship Recycling Facilities shall ensure safe and environmentally sound removal of any Hazardous Material contained in a ship certified in accordance with the provisions establish under this Law and any other International Instruments applicable. The person(s) in charge of the recycling operations and the workers shall be familiar with the requirements of this Law and any other International Instruments applicable, relevant to their tasks and, in particular, actively use the Inventory of Hazardous Materials and the Ship Recycling Plan, prior to and during the removal of Hazardous Materials.

Ship Recycling Facilities 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 applicable guidelines developed by the IMO, in particular:

1. hazardous liquids, residues and sediments;
2. substances or objects containing heavy metals such as lead, mercury, cadmium and hexavalent chromium;
3. paints and coatings that are highly flammable and/or lead to toxic releases;
4. asbestos and materials containing asbestos;
5. PCB and materials containing PCBs, ensuring that heat inducing equipment is avoided during such operations;
6. CFCs and halons; and
7. other Hazardous Materials not listed above and that are not a part of the ship structure.

Ship Recycling Facilities 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.

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



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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.

### **Article 16**

#### **Emergency preparedness and response**

Ship Recycling Facilities 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:

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;
2. ensure that the necessary information, internal communication and coordination are provided to protect all people and the environment in the event of an emergency at the Ship Recycling Facility;
3. provide for communication with, and information to, the relevant Competent Authorities, the neighbourhood and emergency response services;
4. provide for first-aid and medical assistance, fire-fighting and evacuation of all people at the Ship Recycling Facility, pollution prevention; and
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.

### **Article 17**

#### **Worker safety and training**

1. Ship Recycling Facilities shall provide for worker safety by measures including:



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- a) ensuring the availability, maintenance and use of personal protective equipment and clothing needed for all Ship Recycling operations;
  - b) ensuring that training programmes are provided to enable workers to safely undertake all Ship Recycling operations they are tasked to do; and
  - c) ensuring that all workers at the Ship Recycling Facility have been provided with appropriate training and familiarization prior to performing any Ship Recycling operation.
2. Ship Recycling Facilities shall provide and ensure the use of personal protective equipment for operations requiring such use, including:
- a) head protection;
  - b) face and eye protection;
  - c) hand and foot protection;
  - d) respiratory protective equipment;
  - e) hearing protection;
  - f) protectors against radioactive contamination;
  - g) protection from falls; and
  - h) appropriate clothing.

### **Article 18**

#### **Reporting on incidents, accidents, occupational diseases and chronic effects**

Ship Recycling Facilities shall report to the SEMAR any incident, accident, occupational diseases, or chronic effects causing, or with the potential of causing, risks to workers safety, human health and the environment.

Reports shall contain a description of the incident, accident, occupational disease, or chronic effect, its cause, the response action taken and the consequences and corrective actions to be taken.

### **Article 19**



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### **Initial notification and reporting requirements**

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

1. name of the State whose flag the ship is entitled to fly;
2. date on which the ship was registered with that State;
3. ship's identification number (IMO number);
4. hull number on new-building delivery;
5. name and type of the ship;
6. port at which the ship is registered;
7. name and address of the shipowner as well as the IMO registered owner identification number;
8. name and address of the company as well as the IMO company identification number;
9. name of all classification society(ies) with which the ship is classed;
10. ship's main particulars (Length overall (LOA), Breadth (Moulded), Depth (Moulded), Lightweight, Gross and Net tonnage, and engine type and rating);
11. Inventory of Hazardous Materials; and
12. Draft ship recycling plan for approval pursuant to regulation 9.

When the ship destined to be recycled has acquired the International Ready for Recycling Certificate, the Ship Recycling Facility shall report to the SEMAR the planned start of the Ship Recycling. The report shall be in accordance with the reporting format in Appendix 6 of the Hong Kong Convention, 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.

### **Article 20**

#### **Reporting upon completion**

When the partial or complete recycling of a ship is completed in accordance with the



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requirements of this Law, a Statement of Completion shall be issued by the Ship Recycling Facility and reported to the SEMAR. This report must be compiled as shown in Appendix 7 of the Hong Kong Convention.

### **CHAPTER FIVE**

#### **INSPECTIONS, VIOLATIONS AND SANCTIONS**

##### **Article 21**

###### **Inspection of ships**

The inspection of ships may be performed by the personnel appointed by the SEMAR in order to verify that there is on board either an International Certificate on Inventory of Hazardous Materials or an International Ready for Recycling Certificate.

Where a ship does not carry a valid certificate or there are clear grounds for believing that:

1. the condition of the ship or its equipment does not correspond substantially with the particulars of the certificate, and/or Part I of the Inventory of Hazardous Materials; or
2. there is no procedure implemented on board the ship for the maintenance of Part I of the Inventory of Hazardous Materials;

the personnel appointed by the SEMAR may carry out a detailed inspection taking into account the applicable guidelines developed by the IMO.

##### **Article 22**

###### **Inspection of Ship Recycling Facilities**

The SEMAR through the appointed personnel, will ensure the compliance of this law by conducting annual inspections to the Ship Recycling Facilities.

At the request of the SEMAR the Ship Recycling Facilities must provide:

1. All the documentation related to the activities carried on in those Facilities.
2. Allow the Inspectors appointed by SEMAR to carry out physical inspections on their



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Facilities, and if consider necessary by them, to take sampling for that purpose.

### Article 23

#### Violations and Sanctions

If the ship is detected to be in violation of any of the provisions establish in this Law, the SEMAR may take steps to warn, detain, dismiss, or exclude the ship from its ports. This action will be reported to the Administration of the ship concerned and the IMO.

In addition to the above in the case of the detection of any violation to this Law, the SEMAR may impose a fine up to the equivalent to the amount of ten thousand to fifty thousand times the value of the Unit of Measurement at the moment of determining the sanction, taking into consideration the risk or damage caused, the recidivism and the subsequent fulfilment of the obligation, to:

- a) Shipowners
- b) Owners of Ship Recycling Facilities.

#### TRANSITORIES ARTICLES

**FIRST.** - This Decree will come into force on the day following its publication in the Official Gazette of the Federation.

**SECOND.** - As long as the Federal Executive issues the modifications to the regulatory and administrative provisions that are necessary to execute this Decree, the provisions issued prior to the entry into force of this ordinance will continue to be applied, as far as they are not opposed.

**THIRD.** - All other provisions that are contrary to this Decree are repealed.

Mexico City, at ..... of 20..... - Senator....., President. -  
Deputy ....., President. - ....., Secretary. - Deputy  
....., Rubrics. "

In compliance with the provisions of Section I of Article 89 of the Political Constitution of the United Mexican States, and for its due publication and observance, I issue this Decree in the Residence of the Federal Executive Power, in Mexico City, at ..... of two thousand ..... - Enrique Peña Nieto. - Signature. - The Ministry of Foreign Affairs, Luis Videgaray Caso. - Rubric.



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# Annex 1



**Decree whereby the Ship Recycling Law is issued.**

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**Decree Promulgation the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 adopted in Hong Kong, China from at 15 of May 2009.**

On the margin, a seal with the National Coat of Arms, which reads: United Mexican States.  
- Presidency of the Republic.

ENRIQUE PEÑA NIETO, PRESIDENT OF THE UNITED MEXICAN STATES, to all those who are present, know:

From at 15 of May 2009 it was adopted on Hong Kong, China, the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009, which text in Spanish is included in the attached certified copy.

The mentioned Convention was approved by the Chamber of Senators of the Honourable Congress of the Union, on ..... of..... two thousand and....., According to a decree published in the Official Gazette of the Federation on ..... of..... two thousand and.....

The instrument of accession, signed by the Federal Executive on ..... of..... two thousand and....., was deposit with the Secretary General of the International Maritime Organization, on ..... of..... two thousand and....., according with the establish on article 16 (3), of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships.

Therefore, for its due observance, in compliance with the provisions of Section I of Article 89 of the Political Constitution of the United Mexican States, I promulgate this Decree, in the residence of the Federal Executive Power, in Mexico City, on ..... of..... two thousand and.....

**TRANSITORY**

**Unique.** - This Decree will come into force on the day of its publication in the Official Gazette of the Federation.

**Enrique Peña Nieto.** - Rubric. - The Ministry of Foreign Affairs, Luis Videgaray Caso. - Rubric.



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\_\_\_\_\_, LEGAL CONSULTANT, IN CHARGE OF THE LEGAL CONSULTANCY OF THE MINISTRY OF FOREIGN AFFAIRS WITH A BASIS IN ARTICLE 55 OF THE INTERIOR REGULATIONS OF THE SECRETARIAT OF FOREIGN AFFAIRS IN FORCE,

### CERTIFY:

That in the archives of this Secretariat there is a certified copy of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009, adopted at Hong Kong at 15 of May 2009, which text is as follows:

### **The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009**

#### **THE PARTIES TO THIS CONVENTION,**

**NOTING** the growing concerns about safety, health, the environment and welfare matters in the ship recycling industry,

**RECOGNIZING** that recycling of ships contributes to sustainable development and, as such, is the best option for ships that have reached the end of their operating life,

**RECALLING** resolution [A.962\(23\)](#), adopted by the Assembly of the International Maritime Organization (Guidelines on Ship Recycling); amendments to the Guidelines adopted by resolution [A.980\(24\)](#); Decision VI/24 of the Sixth Meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, which adopted Technical Guidelines for the Environmentally Sound Management of the Full and Partial Dismantling of Ships; and the Guidelines approved by the 289th session of the Governing Body of the International Labour Office (Safety and Health in Shipbreaking: Guidelines for Asian countries and Turkey),

**RECALLING ALSO** resolution [A.981\(24\)](#), by which the Assembly of the International Maritime Organization requested the Organization's Marine Environment Protection Committee to develop a legally-binding instrument on ship recycling,



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**NOTING ALSO** the role of the International Labour Organization in protecting the occupational safety and health of workers involved in ship recycling,

**NOTING FURTHER** the role of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal in protecting human health and the environment against the adverse effects which may result from such wastes,

**MINDFUL** of the precautionary approach set out in Principle 15 of the Rio Declaration on Environment and Development and referred to in resolution MEPC.67(37), adopted by the Organization's Marine Environment Protection Committee on 15 September 1995,

**MINDFUL ALSO** of the need to promote the substitution of hazardous materials in the construction and maintenance of ships by less hazardous, or preferably, non-hazardous materials, without compromising the ships' safety, the safety and health of seafarers and the ships' operational efficiency,

**RESOLVED** to effectively address, 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,

**CONSIDERING** that these objectives may best be achieved by the conclusion of an International Convention for the Safe and Environmentally Sound Recycling of Ships,

**HAVE AGREED** as follows:

### **ARTICLE 1**

#### **General obligations**

1 Each Party to this Convention undertakes to give full and complete effect to its provisions in order to prevent, reduce, minimize and, to the extent practicable, eliminate accidents, injuries and other adverse effects on human health and the environment caused by Ship Recycling, and enhance ship safety, protection of human health and the environment throughout a ship's operating life.



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2 No provision of this Convention shall be interpreted as preventing a Party from taking, individually or jointly, more stringent measures consistent with international law, with respect to the safe and environmentally sound recycling of ships, in order to prevent, reduce or minimize any adverse effects on human health and the environment.

3 Parties shall endeavour to co-operate for the purpose of effective implementation of, compliance with and enforcement of this Convention.

4 The Parties undertake to encourage the continued development of technologies and practices which contribute to safe and environmentally sound Ship Recycling.

5 The Annex to this Convention forms an integral part of it. Unless expressly provided for otherwise, a reference to this Convention constitutes at the same time a reference to its Annex.

## **ARTICLE 2**

### **Definitions**

For the purposes of this Convention, unless expressly provided otherwise:

1 “*Convention*” means the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009.

2 “*Administration*” means the Government of the State whose flag the ship is entitled to fly, or under whose authority it is operating.

3 “*Competent Authority(ies)*” means a governmental authority or authorities designated by a Party as responsible, within specified geographical area(s) or area(s) of expertise, for duties related to Ship Recycling Facilities operating within the jurisdiction of that Party as specified in this Convention.

4 “*Organization*” means the International Maritime Organization.



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5 “*Secretary-General*” means the Secretary-General of the Organization.

6 “*Committee*” means the Marine Environment Protection Committee of the Organization.

7 “*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.

8 “*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.

9 “*Hazardous Material*” means any material or substance which is liable to create hazards to human health and/or the environment.

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.

11 “*Ship Recycling Facility*” means a defined area that is a site, yard or facility used for the recycling of ships.

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.

### ARTICLE 3

#### Application



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1 Unless expressly provided otherwise in this Convention, this Convention shall apply to:

- .1 ships entitled to fly the flag of a Party or operating under its authority;
- .2 Ship Recycling Facilities operating under the jurisdiction of a Party.

2 This Convention shall not apply to any warships, naval auxiliary, or other ships owned or operated by a Party and used, for the time being, only on government non-commercial service. However, each Party shall ensure, by the adoption of appropriate measures not impairing operations or operational capabilities of such ships owned or operated by it, that such ships act in a manner consistent with this Convention, so far as is reasonable and practicable.

3 This Convention shall not apply to ships of less than 500 GT or to ships operating throughout their life only in waters subject to the sovereignty or jurisdiction of the State whose flag the ship is entitled to fly. However, each Party shall ensure, by the adoption of appropriate measures, that such ships act in a manner consistent with this Convention, so far as is reasonable and practicable.

4 With respect to ships entitled to fly the flag of non-Parties to this Convention, Parties shall apply the requirements of this Convention as may be necessary to ensure that no more favourable treatment is given to such ships.

### **ARTICLE 4**

#### **Controls related to Ship Recycling**

1 Each Party shall require that ships entitled to fly its flag or operating under its authority comply with the requirements set forth in this Convention and shall take effective measures



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to ensure such compliance.

2 Each Party shall require that Ship Recycling Facilities under its jurisdiction comply with the requirements set forth in this Convention and shall take effective measures to ensure such compliance.

### **ARTICLE 5**

#### **Survey and certification of ships**

Each Party shall ensure that ships flying its flag or operating under its authority and subject to survey and certification are surveyed and certified in accordance with the regulations in the Annex.

### **ARTICLE 6**

#### **Authorization of Ship Recycling Facilities**

Each Party shall ensure that Ship Recycling Facilities that operate under its jurisdiction and that recycle ships to which this Convention applies, or ships treated similarly pursuant to [Article 3.4](#) of this Convention, are authorized in accordance with the regulations in the Annex.

### **ARTICLE 7**

#### **Exchange of information**

For the Ship Recycling Facilities authorized by a Party, such Party shall provide to the Organization, if requested, and to those Parties which request it, relevant information, in regard to this Convention, on which its decision for authorization was based. The information



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shall be exchanged in a swift and timely manner.

### ARTICLE 8

#### Inspection of ships

1 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 on board either an International [Certificate](#) on Inventory of Hazardous Materials or an International Ready for Recycling [Certificate](#), which, if valid, shall be accepted.

2 Where a ship does not carry a valid certificate or there are clear grounds for believing that:

.1 the condition of the ship or its equipment does not correspond substantially with the particulars of the certificate, and/or Part I of the Inventory of Hazardous Materials; or

.2 there is no procedure implemented on board the ship for the maintenance of Part I of the Inventory of Hazardous Materials;

a detailed inspection may be carried out taking into account guidelines developed by the Organization.

### ARTICLE 9

#### Detection of violations

1 Parties shall co-operate in the detection of violations and the enforcement of the provisions of this Convention.



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2 When there is sufficient evidence that a ship is operating, has operated or is about to operate in violation of any provision in this Convention, a Party holding the evidence may request an investigation of this ship when it enters the ports or offshore terminals under the jurisdiction of another Party. The report of such an investigation shall be sent to the Party requesting it, to the Administration of the ship concerned and to the Organization, so that action may be taken as appropriate.

3 If the ship is detected to be in violation of this Convention, the Party carrying out the inspection may take steps to warn, detain, dismiss, or exclude the ship from its ports. A Party taking such action shall immediately inform the Administration of the ship concerned and the Organization.

4 If a request for an investigation is received from any Party, together with sufficient evidence that a Ship Recycling Facility is operating, has operated or is about to operate in violation of any provision of this Convention, a Party should investigate this Ship Recycling Facility operating under its jurisdiction and make a report. The report of any such investigation shall be sent to the Party requesting it, including information on action taken or to be taken, if any, and to the Organization for appropriate action.

### **ARTICLE 10**

#### **Violations**

1 Any violation of the requirements of this Convention shall be prohibited by national laws and:

.1 in the case of a ship, sanctions shall be established under the law of the Administration, wherever the violation occurs. If the Administration is informed of such a violation by a Party, it shall investigate the matter and may request the reporting Party to furnish additional evidence of the alleged violation. If the Administration is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, it shall cause



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such proceedings to be taken as soon as possible, in accordance with its law. The Administration shall promptly inform the Party that reported the alleged violation, as well as the Organization, of any action taken. If the Administration has not taken any action within one year after receiving the information, it shall inform the Party which reported the alleged violation, and the Organization, of the reasons why no action has been taken;

.2 in the case of a Ship Recycling Facility, sanctions shall be established under the law of the Party having jurisdiction over the Ship Recycling Facility.

If the Party is informed of such a violation by another Party, it shall investigate the matter and may request the reporting Party to furnish additional evidence of the alleged violation. If the Party is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, it shall cause such proceedings to be taken as soon as possible, in accordance with its law. The Party shall promptly inform the Party that reported the alleged violation, as well as the Organization, of any action taken. If the Party has not taken any action within one year after receiving the information, it shall inform the Party which reported the alleged violation, and the Organization, of the reasons why no action has been taken.

2 Any violation of the requirements of this Convention within the jurisdiction of any Party shall be prohibited and sanctions shall be established under the law of that Party. Whenever such a violation occurs, that Party shall either:

.1 cause proceedings to be taken in accordance with its law; or

.2 furnish to the Administration of the ship such information and evidence as may be in its possession that a violation has occurred.

3 The sanctions provided for by the laws of a Party pursuant to this Article shall be adequate in severity to discourage violations of this Convention wherever they occur.

## **ARTICLE 11**

### **Undue delay or detention of ships**



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1 All possible efforts shall be made to avoid a ship being unduly detained or delayed under Article [8](#), [9](#) or [10](#) of this Convention.

2 When a ship is unduly detained or delayed under Article 8, 9 or 10 of this Convention, it shall be entitled to compensation for any loss or damage suffered.

### **ARTICLE 12**

#### **Communication of information**

Each Party shall report to the Organization and the Organization shall disseminate, as appropriate, the following information:

.1 a list of Ship Recycling Facilities authorized in accordance with this Convention and operating under the jurisdiction of that Party;

.2 contact details for the Competent Authority(ies), including a single contact point, for that Party;

.3 a list of the recognized organizations and nominated surveyors which are authorized 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 recognized organizations or nominated surveyors;

.4 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 on the certificate;

.5 an annual list of ships recycled within the jurisdiction of that Party;

.6 information concerning violations of this Convention; and

.7 actions taken towards ships and Ship Recycling Facilities under the jurisdiction of that Party.



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### **ARTICLE 13**

#### **Technical assistance and co-operation**

1 Parties undertake, directly or through the Organization and other international bodies, as appropriate, in respect of the safe and environmentally sound recycling of ships, to provide support for those Parties which request technical assistance:

- .1 to train personnel;
- .2 to ensure the availability of relevant technology, equipment and facilities;
- .3 to initiate joint research and development programmes; and
- .4 to undertake other actions aimed at the effective implementation of this Convention and of guidelines developed by the Organization related thereto.

2 Parties undertake to co-operate actively, subject to their national laws, regulations and policies, in the transfer of management systems and technology in respect of the safe and environmentally sound recycling of ships.

### **ARTICLE 14**

#### **Dispute settlement**

Parties shall settle any dispute between them concerning the interpretation or application of this Convention by negotiation or any other peaceful means agreed upon by them, which may include enquiry, mediation, conciliation, arbitration, judicial settlement, or resort to regional agencies or arrangements.



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### ARTICLE 15

#### **Relationship with international law and other international agreements**

1 Nothing in this Convention shall prejudice the rights and obligations of any State under the United Nations [Convention](#) on the Law of the Sea, 1982, and under the customary international law of the sea.

2 Nothing in this Convention shall prejudice the rights and obligations of Parties under other relevant and applicable international agreements.

### ARTICLE 16

#### **Signature, ratification, acceptance, approval and accession**

1 This Convention shall be open for signature by any State at the Headquarters of the Organization from 1 September 2009 to 31 August 2010 and shall thereafter remain open for accession by any State.

2 States may become Parties to this Convention by:

.1 signature not subject to ratification, acceptance, or approval; or

.2 signature subject to ratification, acceptance, or approval, followed by ratification, acceptance or approval; or

.3 accession.

3 Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

4 If a State comprises two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval, or accession declare that this Convention shall extend to all



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its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

5 A declaration under paragraph 4 shall be notified to the Secretary-General in writing and shall state expressly the territorial unit or units to which this Convention applies.

6 A State at the time it expresses its consent to be bound by this Convention shall declare whether it requires explicit or tacit approval of the Ship Recycling Plan before a ship may be recycled in its authorized Ship Recycling Facility(ies). This declaration may be revised thereafter by notification to the Secretary-General. Such revision shall specify the effective date of the revision.

### **ARTICLE 17**

#### **Entry into force**

1 This Convention shall enter into force 24 months after the date on which the following conditions are met:

.1 not less than 15 States have either signed it without reservation as to ratification, acceptance or approval, or have deposited the requisite instrument of ratification, acceptance, approval or accession in accordance with [Article 16](#);

.2 the combined merchant fleets of the States mentioned in paragraph 1.1 constitute not less than 40 per cent of the gross tonnage of the world's merchant shipping; and

.3 the combined maximum annual ship recycling volume of the States mentioned in paragraph 1.1 during the preceding 10 years constitutes not less than 3 per cent of the gross tonnage of the combined merchant shipping of the same States.

2 For States which have deposited an instrument of ratification, acceptance, approval or accession in respect of this Convention after the requirements for entry into force thereof have been met, but prior to the date of entry into force, the ratification, acceptance, approval or



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accession shall take effect on the date of entry into force of this Convention, or three months after the date of deposit of the instrument, whichever is the later date.

3 Any instrument of ratification, acceptance, approval or accession deposited after the date on which this Convention enters into force shall take effect three months after the date of deposit.

4 After the date on which an amendment to this Convention is deemed to have been accepted under [Article 18](#), any instrument of ratification, acceptance, approval or accession deposited shall apply to the Convention, as amended.

### **ARTICLE 18**

#### **Amendments**

1 This Convention may be amended by either of the procedures specified in the following paragraphs.

2 Amendments after consideration within the Organization:

.1 Any Party may propose an amendment to this Convention. A proposed amendment shall be submitted to the Secretary-General, who shall then circulate it to the Parties and Members of the Organization at least six months prior to its consideration.

.2 An amendment proposed and circulated as above shall be referred to the Committee for consideration. Parties, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Committee for consideration and adoption of the amendment.

.3 Amendments shall be adopted by a two-thirds majority of the Parties present and voting in the Committee, on condition that at least one-third of the Parties shall be present at the time of voting.

.4 Amendments adopted in accordance with subparagraph 3 shall be communicated by



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the Secretary-General to the Parties for acceptance.

.5 An amendment shall be deemed to have been accepted in the following circumstances:

.5.1 An amendment to an article of this Convention shall be deemed to have been accepted on the date on which two-thirds of the Parties have notified the Secretary-General of their acceptance of it.

.5.2 An amendment to the Annex shall be deemed to have been accepted at the end of a period to be determined by the Committee at the time of its adoption, which period shall not be less than ten months after the date of adoption. However, if by that date more than one-third of the Parties notify the Secretary-General that they object to the amendment, it shall be deemed not to have been accepted.

.6 An amendment shall enter into force under the following conditions:

.6.1 An amendment to an article of this Convention shall enter into force, for those Parties that have declared that they have accepted it, six months after the date on which it is deemed to have been accepted in accordance with subparagraph .5.1.

.6.2 An amendment to the Annex shall enter into force with respect to all Parties six months after the date on which it is deemed to have been accepted, except for any Party that has:

.6.2.1 notified its objection to the amendment in accordance with subparagraph .5.2 and that has not withdrawn such objection; or

.6.2.2 notified the Secretary-General, prior to the entry into force of such amendment, that the amendment shall enter into force for it only after a subsequent notification of its acceptance.

.6.3 A Party that has notified an objection under subparagraph .6.2.1 may subsequently notify the Secretary-General that it accepts the amendment. Such amendment shall enter into force for such Party six months after the date of its notification of acceptance, or the date on which the amendment enters into force, whichever is the later date.

.6.4 If a Party that has made a notification referred to in subparagraph .6.2.2 notifies the Secretary-General of its acceptance with respect to an amendment, such amendment shall



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enter into force for such Party six months after the date of its notification of acceptance, or the date on which the amendment enters into force, whichever is the later date.

### **3 Amendment by a Conference:**

.1 Upon the request of a Party concurred in by at least one-third of the Parties, the Organization shall convene a Conference of Parties to consider amendments to this Convention.

.2 An amendment adopted by such a Conference by a two-thirds majority of the Parties present and voting shall be communicated by the Secretary-General to all Parties for acceptance.

.3 Unless the Conference decides otherwise, the amendment shall be deemed to have been accepted and shall enter into force in accordance with the procedures specified in paragraphs 2.5 and 2.6 respectively.

4 Any Party that has declined to accept an amendment to the Annex shall be treated as a non-Party only for the purpose of application of that amendment.

5 Any notification under this Article shall be made in writing to the Secretary-General.

6 The Secretary-General shall inform the Parties and Members of the Organization of:

.1 any amendment that enters into force and the date of its entry into force generally and for each Party; and

.2 any notification made under this Article.

## **ARTICLE 19**

### **Denunciation**

1 This Convention may be denounced by any Party at any time after the expiry of two years from the date on which this Convention enters into force for that Party.



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2 Denunciation shall be effected by written notification to the Secretary-General, to take effect one year after receipt or such longer period as may be specified in that notification.

### **ARTICLE 20**

#### **Depositary**

1 This Convention shall be deposited with the Secretary-General, who shall transmit certified copies of this Convention to all States which have signed this Convention or acceded thereto.

2 In addition to the functions specified elsewhere in this Convention, the Secretary-General shall:

.1 inform all States that have signed this Convention, or acceded thereto, of:

.1.1 each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

.1.2 the date of entry into force of this Convention;

.1.3 the deposit of any instrument of denunciation from this Convention, together with the date on which it was received and the date on which the denunciation takes effect; and

.1.4 other declarations and notifications received pursuant to this Convention; and

.2 as soon as this Convention enters into force, transmit the text thereof to the Secretariat of the United Nations, for registration and publication in accordance with Article 102 of the Charter of the United Nations.

### **ARTICLE 21**

#### **Languages**



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This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT HONG KONG, CHINA, this fifteenth day of May, two thousand and nine.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Convention.

### **REGULATIONS FOR SAFE AND ENVIRONMENTALLY SOUND RECYCLING OF SHIPS**

#### **CHAPTER 1 – GENERAL PROVISIONS**

##### **Regulation 1 – Definitions**

For the purposes of this Annex:

1 “*Competent person*” means a person with suitable qualifications, training, and sufficient knowledge, experience and skill, for the performance of the specific work. Specifically, a Competent person may be a trained worker or a managerial employee capable of recognizing and evaluating occupational hazards, risks, and employee exposure to potentially Hazardous Materials or unsafe conditions in a Ship Recycling Facility, and who is capable of specifying the necessary protection and precautions to be taken to eliminate or reduce those hazards, risks, or exposures. The Competent Authority may define appropriate criteria for the designation of such persons and may determine the duties to be assigned to them.

2 “*Employer*” means a natural or legal person that employs one or more workers engaged



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in Ship Recycling.

3 “*Existing ship*” means a ship which is not a new ship.

4 “*New ship*” means a ship:

.1 for which the building contract is placed on or after the entry into force of this Convention; or

.2 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 Convention; or

.3 the delivery of which is on or after 30 months after the entry into force of this Convention.

5 “*New installation*” means the installation of systems, equipment, insulation, or other material on a ship after the date on which this Convention enters into force.

6 “*Safe-for-entry*” means a space that meets the following criteria:

.1 the oxygen content of the atmosphere and the concentration of flammable vapours are within safe limits;

.2 any toxic materials in the atmosphere are within permissible concentrations; and

.3 any residues or materials associated with the work authorized by the Competent person will not produce uncontrolled release of toxic materials or an unsafe concentration of flammable vapours under existing atmospheric conditions while maintained as directed.

7 “*Safe-for-hot work*” means a space that meets the following criteria:

.1 a safe, non-explosive condition, including gas-free status, exists for the use of electric arc or gas welding equipment, cutting or burning equipment or other forms of naked flame, as well as heating, grinding, or spark generating operations;

.2 Safe-for-entry requirements of regulation 1.6 are met;

.3 existing atmospheric conditions will not change as a result of the hot work; and

.4 all adjacent spaces have been cleaned, or inerted, or treated sufficiently to prevent the



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start or spread of fire.

8 “*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 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.

9 “*Site inspection*” means an inspection of the Ship Recycling Facility confirming the condition described by the verified documentation.

10 “*Statement of Completion*” means a confirmatory statement issued by the Ship Recycling Facility that the Ship Recycling has been completed in accordance with this Convention.

11 “*Tanker*” means an oil tanker as defined in MARPOL Annex I or an NLS tanker as defined in MARPOL Annex II.

12 “*Worker*” means any person who performs work, either regularly or temporarily, in the context of an employment relationship including contractor personnel.

### CHAPTER 1 – GENERAL PROVISIONS

#### Regulation 2 – General applicability

Unless expressly provided otherwise, the design, construction, survey, certification, operation and recycling of ships shall be conducted in accordance with the provisions of this Annex.



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### **Regulation 3 – Relationship with other standards, recommendations and guidance**

Parties shall take measures to implement the requirements of the regulations of this Annex, taking into account relevant and applicable standards, recommendations and guidance developed by the International Labour Organization and the relevant and applicable technical standards, recommendations and guidance developed under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

## **CHAPTER 2 – REQUIREMENTS FOR SHIPS**

### **Part A – Design, construction, operation and maintenance of ships**

#### **Regulation 4 – Controls of ships' Hazardous Materials**

In accordance with the requirements specified in [Appendix 1](#) to this Convention each Party:

- .1 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; and
  - .2 shall prohibit and/or restrict the installation or use of such materials on ships, whilst in its ports, shipyards, ship repair yards, or offshore terminals,
- and shall take effective measures to ensure that such ships comply with those requirements.

#### **Regulation 5 – Inventory of Hazardous Materials**

- 1 Each new ship shall have on board an Inventory of Hazardous Materials. The Inventory



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shall be verified either by the Administration or by any person or organization authorized by it taking into account guidelines, including any threshold values and exemptions contained in those guidelines, developed by the Organization. The Inventory of Hazardous Materials shall be specific to each ship and shall at least:

.1 identify as Part I, Hazardous Materials listed in Appendices [1](#) and [2](#) to this Convention and contained in ship's structure or equipment, their location and approximate quantities; and

.2 clarify that the ship complies with regulation [4](#).

2 Existing ships shall comply as far as practicable with paragraph 1 not later than 5 years after the entry into force of this Convention, or before going for recycling if this is earlier, taking into account the guidelines developed by the Organization and the Organization's Harmonized System of Survey and Certification. The Hazardous Materials listed in Appendix 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 Organization.

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 Appendix 2 and relevant changes in ship structure and equipment, taking into account the guidelines developed by the Organization.

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 person or organization authorized by it, taking into account the guidelines developed by the Organization.

### **Regulation 6 – Procedure for proposing amendments to Appendices 1 and 2**

1 Any Party may propose an amendment to [Appendix 1](#) and/or [Appendix 2](#) in accordance



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with this regulation. The proposed amendment shall be considered within the Organization under [Article 18](#) paragraph 2 and this regulation.

2 When the Organization receives a proposal, it shall also bring the proposal to the attention of the United Nations and its Specialized Agencies, intergovernmental organizations having agreements with the Organization and non-governmental organizations in consultative status with the Organization and shall make it available to them.

3 The Committee shall establish a technical group in accordance with [regulation 7](#) to review proposals submitted in accordance with paragraph 1 of this regulation.

4 The technical group shall review the proposal along with any additional data, including decisions adopted by other international bodies regarding their lists of materials or hazardous substances, submitted by any interested entity, and shall evaluate and report to the Committee whether the Hazardous Material in question is likely, in the context of this Convention, to lead to significant adverse effects on human health or the environment such that the amendment of Appendix 1 or Appendix 2 is warranted. In this regard:

.1 The technical group's review shall include:

.1.1 an evaluation of the association between the Hazardous Material in question and the likelihood, in the context of this Convention, that it will lead to significant adverse effects on human health or the environment based on the submitted data or other relevant data brought to the attention of the group;

.1.2 an evaluation of the potential risk reduction attributable to the proposed control measures and any other control measures that may be considered by the technical group;

.1.3 consideration of available information on the technical feasibility of control measures;

.1.4 consideration of available information on other effects arising from the introduction of such control measures relating to:

- the environment;
- human health and safety including that of seafarers and workers; and



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- the cost to international shipping and other relevant sectors.
- .1.5 consideration of the availability of suitable alternatives to the Hazardous Material to be controlled, including a consideration of the potential risks of alternatives;
- .1.6 consideration of the risks posed by the Hazardous Material during the recycling process; and
- .1.7 consideration of suitable threshold values and any useful or necessary exemptions.
- .2 If the technical group finds that the Hazardous Material in question is likely, in the context of this Convention, to lead to significant adverse effects on human health or the environment, lack of full scientific certainty shall not be used as a reason to prevent the group from proceeding with an evaluation of the proposal.
- .3 The technical group's report shall be in writing and shall take into account each of the evaluations and considerations referred to in subparagraph .1, except that the technical group may decide not to proceed with the evaluations and considerations described in subparagraphs .1.2 to .1.7 if it determines after the evaluation in subparagraph .1.1 that the proposal does not warrant further consideration.
- .4 The technical group's report shall include, *inter alia*, a recommendation on whether international controls pursuant to this Convention are warranted on the Hazardous Material in question, on the suitability of the specific control measures suggested in the comprehensive proposal, or on other control measures which it believes to be more suitable.
- 5 The Committee shall decide whether to approve any proposal to amend Appendix 1 or Appendix 2, and any modifications thereto, if appropriate, taking into account the technical group's report. Any proposed amendment shall specify the application of the amendment for ships certified in accordance with this Convention before the entry into force of the amendment. If the report finds that the Hazardous Material in question is likely, in the context of this Convention, to lead to significant adverse effects on human health or the environment, lack of full scientific certainty shall not be used as a reason to prevent a decision from being taken to list a Hazardous Material in Appendix 1 or Appendix 2. A decision not to approve the proposal shall not preclude future submission of a new proposal with respect to a particular



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Hazardous Material if new information comes to light.

### **Regulation 7 – Technical Groups**

1 The Committee may establish one or more technical groups pursuant to [regulation 6](#) as needed. The technical group may comprise representatives of the Parties, Members of the Organization, the United Nations and its Specialized Agencies, intergovernmental organizations having agreements with the Organization, and non-governmental organizations in consultative status with the Organization, which should preferably include representatives of institutions and laboratories with expertise in environmental fate and effects of substances, toxicological effects, marine biology, human health, economic analysis, risk management, shipbuilding, international shipping, occupational health and safety or other fields of expertise necessary to objectively review the technical merits of a proposal.

2 The Committee shall decide on the terms of reference, organization, participation and operation of the technical groups. Such terms shall provide for protection of any confidential information that may be submitted. Technical groups may hold such meetings as required, but shall endeavour to conduct their work through written or electronic correspondence or other media as appropriate.

3 Only the representatives of Parties may participate in formulating any recommendation to the Committee pursuant to regulation 6. A technical group shall endeavour to achieve unanimity among the representatives of the Parties. If unanimity is not possible, the technical group shall communicate any minority views of such representatives.

### **Part B – Preparation for Ship Recycling**

#### **Regulation 8 – General requirements**



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Ships destined to be recycled shall:

- .1 only be recycled at Ship Recycling Facilities that are:
  - .1 authorized in accordance with this Convention; and
  - .2 fully authorized to undertake all the ship recycling which the Ship Recycling Plan specifies to be conducted by the identified Ship Recycling Facility(ies);
  - .2 conduct operations in the period prior to entering the Ship Recycling Facility in order to minimize the amount of cargo residues, remaining fuel oil, and wastes remaining on board;
  - .3 in the case of a tanker, arrive at the Ship Recycling Facility with cargo tanks and pump room(s) in a condition that is ready for certification as Safe-for-entry, or Safe-for-hot work, or both, according to national laws, regulations and policies of the Party under whose jurisdiction the Ship Recycling Facility operates;
  - .4 provide to the Ship Recycling Facility all available information relating to the ship for the development of the Ship Recycling Plan required by [regulation 9](#);
  - .5 complete the Inventory required by [regulation 5](#); and
  - .6 be certified as ready for recycling by the Administration or organization recognized by it, prior to any recycling activity taking place.

### Regulation 9 – Ship Recycling Plan

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:

- .1 be developed taking into account information provided by the shipowner;
- .2 be developed in the language accepted by the Party authorizing the Ship Recycling



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Facility, and if the language used is not English, French or Spanish, the Ship Recycling Plan shall be translated into one of these languages, except where the Administration is satisfied that this is not necessary;

.3 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;

.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. The Competent Authority shall send written acknowledgement of receipt of the Ship Recycling Plan to the Ship Recycling Facility, Ship Owner and Administration within three (3) working days of its receipt in accordance with regulation 24. Thereafter:

.1 where a Party requires explicit approval of the Ship Recycling Plan, the Competent Authority shall send written notification of its decision to approve or deny the Ship Recycling Plan to the Ship Recycling Facility, Ship Owner and Administration; and

.2 where a Party requires tacit approval of the Ship Recycling Plan, the acknowledgment of receipt shall specify the end date of a 14-day review period. The Competent Authority shall notify any written objection to the Ship Recycling Plan to the Ship Recycling Facility, Ship Owner and Administration within this 14-day review period. Where no such written objection has been notified, the Ship Recycling Plan shall be deemed to be approved.

.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

.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.

### Part C – Surveys and certification



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### Regulation 10 – Surveys

1 Ships to which this Convention applies shall be subject to the surveys specified below:

.1 an initial survey before the ship is put in service, or before the International [Certificate](#) on Inventory of Hazardous Materials is issued. This survey shall verify that Part I of the Inventory required by regulation 5 is in accordance with the requirements of this Convention;

.2 a renewal survey at intervals specified by the Administration, but not exceeding five years. This survey shall verify that Part I of the Inventory of Hazardous Materials required by [regulation 5](#) complies with the requirements of this Convention;

.3 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 Convention, and that Part I of the Inventory is amended as necessary; and

.4 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:

.1 that the Inventory of Hazardous Materials as required by regulation 5.4 is in accordance with the requirements of this Convention taking into account the guidelines developed by the Organization;

.2 that the Ship Recycling Plan, as required by [regulation 9](#), properly reflects the information contained in the Inventory of Hazardous Materials as required by regulation 5.4 and contains information concerning the establishment, maintenance and monitoring of Safe-for-entry and Safe-for-hot work conditions; and

.3 that the Ship Recycling Facility(ies) where the ship is to be recycled holds a valid authorization in accordance with this Convention

2 Surveys of ships for the purpose of enforcement of the provisions of this Convention



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shall be carried out by officers of the Administration, taking into account the guidelines developed by the Organization. The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it.

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:

- .1 require a ship that they survey to comply with the provisions of this Convention; and
- .2 carry out surveys and inspections if requested by the appropriate authorities of a port State that is a Party.

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.

5 The initial and renewal surveys should be harmonized with the surveys required by other applicable statutory instruments of the Organization.

### **Regulation 11 – Issuance and endorsement of certificates**

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 Organization.

2 The International Certificate on Inventory of Hazardous Materials issued under paragraph 1, at the request of the shipowner, shall be endorsed either by the Administration



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or by any person or organization authorized by it after successful completion of an additional survey conducted in accordance with regulation 10.

3 Notwithstanding [regulation 14.2](#) and the requirements of regulation 10.1.2, when the renewal survey is completed within three months before the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing certificate.

4 When the renewal survey is completed after the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing certificate.

5 When the renewal survey is completed more than three months before the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of completion of the renewal survey.

6 If a certificate is issued for a period of less than five years, the Administration may extend the validity of the certificate beyond the expiry date to the maximum period specified in regulation 10.1.2.

7 If a renewal survey has been completed and a new certificate cannot be issued or placed on board the ship before the expiry date of the existing certificate, the person or organization authorized by the Administration may endorse the existing certificate and such a certificate shall be accepted as valid for a further period which shall not exceed five months from the expiry date.

8 If a ship at the time when a certificate expires is not in a port in which it is to be surveyed, the Administration may extend the period of validity of the certificate but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed and then only in cases where it appears proper and reasonable to do so. No certificate shall be extended for a period longer than three months, and a ship to which an extension is granted shall not, on its arrival in the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port without having a new



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certificate. When the renewal survey is completed, the new certificate shall be valid to a date not exceeding five years from the date of expiry of the existing certificate before the extension was granted.

9 A certificate issued to a ship engaged on short voyages which has not been extended under the foregoing provisions of this regulation may be extended by the Administration for a period of grace of up to one month from the date of expiry stated on it. When the renewal survey is completed, the new certificate shall be valid to a date not exceeding five years from the date of expiry of the existing certificate before the extension was granted.

10 In special circumstances, as determined by the Administration, a new certificate need not be dated from the date of expiry of the existing certificate as required by paragraph 4, 8 or 9 of this regulation. In these special circumstances, the new certificate shall be valid to a date not exceeding five years from the date of completion of the renewal survey.

11 An International Ready for Recycling [Certificate](#) shall be issued either by the Administration or by any person or organization authorized by it, after successful completion of a final survey in accordance with the provisions of regulation 10, to any ships to which regulation 10 applies, taking into account the authorization of the Ship Recycling Facility and the guidelines developed by the Organization.

12 A certificate issued under the authority of a Party shall be accepted by the other Parties and regarded for all purposes covered by this Convention as having the same validity as a certificate issued by them. Certificates shall be issued or endorsed either by the Administration or by any person or organization duly authorized by it. In every case, the Administration assumes full responsibility for the certificate.

### **Regulation 12 – Issuance or endorsement of a certificate by another Party**

1 At the request of the Administration, another Party may cause a ship to be surveyed and, if satisfied that the provisions of this Convention are complied with, shall issue or



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authorize the issuance of a certificate to the ship, and where appropriate, endorse or authorize the endorsement of that certificate on the ship, in accordance with this Annex.

2 A copy of the certificate and a copy of the survey report shall be transmitted as soon as possible to the requesting Administration.

3 A certificate so issued shall contain a statement to the effect that it has been issued at the request of the Administration and it shall have the same force and receive the same recognition as a certificate issued by the Administration.

4 No certificate shall be issued to a ship entitled to fly the flag of a State which is not a Party.

### **Regulation 13 – Form of the certificates**

The certificates shall be drawn up in an official language of the issuing Party, in the form set forth in Appendices

[3](#) and [4](#). If the language used is not English, French or Spanish, the text shall include a translation into one of these languages. The Administration may, however, issue the International Certificate on Inventory of Hazardous Materials drawn up only in an official language of the issuing Party to ships not engaged in voyages to ports or offshore terminals under the jurisdiction of other Parties to this Convention and the International Ready for Recycling Certificate drawn up only in an official language of the issuing Party to ships recycled in Ship Recycling Facilities under the jurisdiction of the issuing Party.

### **Regulation 14 – Duration and validity of the certificates**

1 An International [Certificate](#) on Inventory of Hazardous Materials issued under regulation [11](#) or [12](#) shall cease to be valid in any of the following cases:



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.1 if the condition of the ship does not correspond substantially with the particulars of the certificate, including where Part I of the Inventory of Hazardous Materials is not properly maintained and updated, reflecting changes in ship structure and equipment, in accordance with the guidelines developed by the Organization;

.2 upon transfer of the ship to the flag of another State. A new certificate shall only be issued when the Party issuing the new certificate is fully satisfied that the ship is in compliance with the requirements of regulation [10](#). In the case of a transfer between Parties, if requested within three months after the transfer has taken place, the Party whose flag the ship was formerly entitled to fly shall, as soon as possible, transmit to the Administration copies of the certificates carried by the ship before the transfer and, if available, copies of the relevant survey reports;

.3 if the renewal survey is not completed within the periods specified under regulations 10.1 and 11; or

.4 if the certificate is not endorsed in accordance with regulation 11 or 12.

2 An International Certificate on Inventory of Hazardous Materials shall be issued for a period specified by the Administration, which shall not exceed five years.

3 An International Ready for Recycling [Certificate](#) shall be issued for a period specified by the Administration that shall not exceed three months.

4 An International Ready for Recycling Certificate issued under regulation 11 or 12 shall cease to be valid if the condition of the ship does not correspond substantially with the particulars of the certificate.

5 The International Ready for Recycling Certificate may be extended by the Administration or by any person or organization authorized by it for a single point to point voyage to the Ship Recycling Facility.

### Regulation 15 – Controls on Ship Recycling Facilities



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- 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.
- 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.
- 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 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 Organization, and the results of these audits should be communicated to the Organization.
- 4 Each Party shall designate one or more Competent Authorities and the single contact point to be used by the Organization, Parties to this Convention and other interested entities, for matters related to Ship Recycling Facilities operating within the jurisdiction of that Party.

### CHAPTER 3 – REQUIREMENTS FOR SHIP RECYCLING FACILITIES

#### Regulation 16 – Authorization of Ship Recycling Facilities

- 1 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.
- 2 The authorization shall be carried out by the Competent Authority(ies) and shall include verification of documentation required by this Convention and a site inspection. The Competent Authority(ies) may however entrust the authorization of Ship Recycling Facilities



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to organizations recognized by it.

3 The Party shall notify the Organization of the specific responsibilities and conditions of the authority delegated to the recognized organizations, for circulation to Parties. In every case, the Competent Authority(ies) retains full responsibility for the authorization issued.

4 The authorization shall be drawn up in the form set forth in [Appendix 5](#). If the language used is not English, French or Spanish, the text shall include a translation into one of these languages.

5 The authorization shall be valid for a period specified by the Party but not exceeding five years. The Party shall identify the terms for which the authorization will be issued, withdrawn, suspended, amended and renewed, and communicate these terms to the Ship Recycling Facilities. If a Ship Recycling Facility refuses inspection by the Competent Authority(ies) or the recognized organization operating on its/their behalf, the authorization shall be suspended or withdrawn.

6 If incidents or actions taken at the Ship Recycling Facility have the effect that the conditions for the authorization are no longer fulfilled, the Ship Recycling Facility shall inform the Competent Authority(ies). The Competent Authority(ies) may accordingly decide to suspend or withdraw the authorization, or require corrective actions by the Ship Recycling Facility.

### **Regulation 17 – General requirements**

1 Ship Recycling Facilities authorized by a Party shall establish management systems, procedures and techniques which do not pose health risks to the workers concerned or to the population in the vicinity of the Ship Recycling Facility and which will prevent, reduce, minimize and to the extent practicable eliminate adverse effects on the environment caused by Ship Recycling, taking into account guidelines developed by the Organization.

2 Ship Recycling Facilities authorized by a Party shall, for ships to which this Convention



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applies, or ships treated similarly pursuant to [Article 3.4](#):

- .1 only accept ships that:
  - .1 comply with this Convention; or
  - .2 meet the requirements of this Convention;
  - .2 only accept ships which they are authorized to recycle; and
  - .3 have the documentation of its authorization available if such documentation is requested by a shipowner that is considering recycling a ship at that Ship Recycling Facility.

### Regulation 18 – Ship Recycling Facility Plan

Ship Recycling Facilities authorized by a Party shall prepare a Ship Recycling Facility Plan. The Plan shall be adopted by the board or the appropriate governing body of the Recycling Company, and shall include:

- .1 a policy ensuring workers' safety and the protection of human health and the environment, including the establishment of objectives that lead to the minimization and elimination to the extent practicable of the adverse effects on human health and the environment caused by Ship Recycling;
- .2 a system for ensuring implementation of the requirements set out in this Convention, the achievement of the goals set out in the policy of the Recycling Company, and the continuous improvement of the procedures and standards used in the Ship Recycling operations;
- .3 identification of roles and responsibilities for employers and workers when conducting Ship Recycling operations;
- .4 a programme for providing appropriate information and training of workers for the safe and environmentally sound operation of the Ship Recycling Facility;



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- .5 an emergency preparedness and response plan;
  - .6 a system for monitoring the performance of Ship Recycling;
  - .7 a record-keeping system showing how Ship Recycling is carried out;
  - .8 a system for reporting discharges, emissions, incidents and accidents causing damage, or with the potential of causing damage, to workers' safety, human health and the environment; and
  - .9 a system for reporting occupational diseases, accidents, injuries and other adverse effects on workers' safety and human health,
- taking into account guidelines developed by the Organization.

### **Regulation 19 – Prevention of adverse effects to human health and the environment**

Ship Recycling Facilities authorized by a Party shall establish and utilize procedures to:

- .1 prevent explosions, fires, and other unsafe conditions by ensuring that Safe-for-hot work conditions and procedures are established, maintained and monitored throughout Ship Recycling;
- .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;
- .3 prevent other accidents, occupational diseases and injuries or other adverse effects on human health and the environment; and
- .4 prevent spills or emissions throughout Ship Recycling which may cause harm to human health and/or the environment,

taking into account guidelines developed by the Organization.



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### Regulation 20 – Safe and environmentally sound management of Hazardous Materials

1 Ship Recycling Facilities authorized by a Party shall ensure safe and environmentally sound removal of any Hazardous Material 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 Hazardous Materials and the Ship Recycling Plan, prior to and during the removal of Hazardous Materials.

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 Organization, in particular:

- .1 hazardous liquids, residues and sediments;
- .2 substances or objects containing heavy metals such as lead, mercury, cadmium and hexavalent chromium;
- .3 paints and coatings that are highly flammable and/or lead to toxic releases;
- .4 asbestos and materials containing asbestos;
- .5 PCB and materials containing PCBs, ensuring that heat inducing equipment is avoided during such operations;
- .6 CFCs and halons; and
- .7 other Hazardous Materials not listed above and that are not a part of the ship structure.

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.

4 All wastes generated from the recycling activity shall be kept separate from recyclable



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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.

### **Regulation 21 – Emergency preparedness and response**

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:

- .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;
- .2 ensure that the necessary information, internal communication and coordination are provided to protect all people and the environment in the event of an emergency at the Ship Recycling Facility;
- .3 provide for communication with, and information to, the relevant Competent Authority(ies), the neighbourhood and emergency response services;
- .4 provide for first-aid and medical assistance, fire-fighting and evacuation of all people at the Ship Recycling Facility, pollution prevention; and
- .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.



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**This is a faithful and complete copy of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009, adopted at Hong Kong, China at 15 May 2009 by the International Conference on the Safe and Environmentally Sound Recycling of Ships.**

**I extend the present, in twelve useful pages, in Mexico City, on ..... of two thousand ....., in order to incorporate it into the respective Decree of Promulgation. - Rubric.**



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# Annex 2



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**APPENDIX 1**

**CONTROLS OF HAZARDOUS MATERIALS**

<b>Hazardous Material</b>	<b>Definitions</b>	<b>Control measures</b>
Asbestos	Materials containing asbestos	For all ships, new installation of materials which contain asbestos shall be prohibited.
Ozone-depleting substances	<p>Ozone-depleting substances means controlled substances defined in paragraph 4 of article 1 of the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987, listed in Annexes A,B,C or E to the said Protocol in force at the time of application or interpretation of this Annex.</p> <p>Ozone-depleting substances that may be found on board ship include, but are not limited to:</p> <p>Halon 1211 Bromochlorodifluoromethane</p> <p>Halon 1301 Bromotrifluoromethane</p> <p>Halon 2402 1,2-Dibromo-1,1,2,2-tetrafluoroethane (also known as Halon 114B2)</p> <p>CFC-11 Trichlorofluoromethane</p> <p>CFC-12 Dichlorodifluoromethane</p> <p>CFC-113 1,1,2-Trichloro-1,1,2,2-trifluoroethane</p>	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.



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	<p>CFC-114 1,2-Dichloro-1,1,2,2-tetrafluoroethane</p> <p>CFC-115 Chloropentafluoroethane</p>	
Polychlorinated biphenyls (PCB)	<p>“Polychlorinated biphenyls” means aromatic compounds formed in such a manner that the hydrogen atoms on the biphenyl molecule (two benzene rings bonded together by a single carbon-carbon bond) may be replaced by up to ten chlorine atoms</p>	<p>For all ships, new installation of materials which contain Polychlorinated biphenyls shall be prohibited.</p>
Anti-fouling compounds and systems	<p>Anti-fouling compounds and systems regulated under <a href="#">Annex I</a> to the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001 (<a href="#">AFS Convention</a>) in force at the time of application or interpretation of this Annex.</p>	<p>1. No ship may apply anti-fouling systems containing organotin compounds as a biocide or any other anti-fouling system whose application or use is prohibited by the AFS Convention.</p> <p>2. No new ships or new installations on ships shall apply or employ anti-fouling compounds or systems in a manner inconsistent with the AFS Convention.</p>



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### APPENDIX 2

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

Any Hazardous Materials listed in <a href="#">Annex 1</a>
Cadmium and Cadmium Compounds
Hexavalent Chromium and Hexavalent Chromium Compounds
Lead and Lead Compounds
Mercury and Mercury Compounds
Polybrominated Biphenyl (PBBs)
Polybrominated Diphenyl Ethers (PBDEs)
Polychlorinated Naphthalenes (more than 3 chlorine atoms)
Radioactive Substances
Certain Shortchain Chlorinated Paraffins (Alkanes, C10-C13, chloro)



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**APPENDIX 3**

**FORM OF THE INTERNATIONAL CERTIFICATE ON INVENTORY OF HAZARDOUS MATERIALS**

INTERNATIONAL CERTIFICATE ON INVENTORY OF HAZARDOUS MATERIALS

(Note: This certificate shall be supplemented by Part I of the Inventory of Hazardous Materials)

*(Official seal)*

*(State)*

Issued under the provisions of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 (hereinafter referred to as “the Convention”) under the authority of the Government of

.....  
*(Name of State)*

by .....

*(Full designation of the person or organization authorized under the provisions of the Convention)*

***Particulars of the Ship***

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



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***Particulars of Part I of the Inventory of Hazardous Materials***

Part I of the Inventory of Hazardous Materials identification/verification number:

*Note:* Part I of the Inventory of Hazardous Materials, as required by [regulation 5](#) of the Annex to the Convention, is an essential part of the International Certificate on Inventory of Hazardous Materials and must always accompany the International Certificate on Inventory of Hazardous Materials. Part I of the Inventory of Hazardous Materials should be compiled on the basis of the standard format shown in the guidelines developed by the Organization.

THIS IS TO CERTIFY:

- 1 that the ship has been surveyed in accordance with [regulation 10](#) of the Annex to the Convention;  
and
- 2 that the survey shows that Part I of the Inventory of Hazardous Materials fully complies with the applicable requirements of the Convention.

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

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

Issued at  
.....  
.....

*(Place of issue of certificate)*

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

*(Date of issue)*

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

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



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**ENDORSEMENT TO EXTEND THE CERTIFICATE IF VALID FOR LESS THAN FIVE YEARS WHERE REGULATION 11.6 APPLIES\***

\_\_\_\_\_

\* This page of the endorsement at survey shall be reproduced and added to the certificate as considered necessary by the Administration.

The ship complies with the relevant provisions of the Convention, and this certificate shall, in accordance with regulation 11.6 of the Annex to the Convention, be accepted as valid until (dd/mm/yyyy):

.....

Signed:

.....

.....

*(Signature of duly authorized official)*

Place: .....

Date: (dd/mm/yyyy) .....

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

**ENDORSEMENT WHERE THE RENEWAL SURVEY HAS BEEN COMPLETED AND REGULATION 11.7 APPLIES\***

\_\_\_\_\_

\* This page of the endorsement at survey shall be reproduced and added to the certificate as considered necessary by the Administration.

The ship complies with the relevant provisions of the Convention, and this certificate shall, in



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accordance with regulation 11.7 of the Annex to the Convention, be accepted as valid until  
(dd/mm/yyyy): .....

Signed: .....

*(Signature of duly authorized official)*

Place: .....

Date: (dd/mm/yyyy) .....

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

**ENDORSEMENT TO EXTEND THE VALIDITY OF THE CERTIFICATE UNTIL  
REACHING THE PORT OF SURVEY OR FOR A PERIOD OF GRACE WHERE  
REGULATION 11.8 OR 11.9 APPLIES\***

\_\_\_\_\_

\* This page of the endorsement at survey shall be reproduced and added to the certificate as considered necessary by the Administration.

This certificate shall, in accordance with regulation 11.8 or 11.9\*\* of the Annex to the Convention, be accepted as valid until (dd/mm/yyyy):

\_\_\_\_\_

\*\* Delete as appropriate.

Signed:  
.....

*(Signature of duly authorized official)*

Place: .....

Date: (dd/mm/yyyy) .....

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



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**ENDORSEMENT FOR ADDITIONAL SURVEY\***

\_\_\_\_\_

\* This page of the endorsement at survey shall be reproduced and added to the certificate as considered necessary by the Administration.

At an additional survey in accordance with [regulation 10](#) of the Annex to the Convention, the ship was found to comply with the relevant provisions of the Convention.

Signed:

.....

*(Signature of duly authorized official)*

Place: .....

Date: (dd/mm/yyyy) .....

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



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**APPENDIX 4**

**FORM OF THE INTERNATIONAL READY FOR RECYCLING CERTIFICATE**

INTERNATIONAL READY FOR RECYCLING CERTIFICATE

(Note: This certificate shall be supplemented by the Inventory of Hazardous Materials and the Ship Recycling Plan)

(Official seal)

(State)

Issued under the provisions of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 (hereinafter referred to as “the Convention”) under the authority of the Government of

.....  
.....

(Name of State)

by

.....  
.....

(Full designation of the person or organization authorized

under the provisions of the Convention)

**Particulars of the Ship**

Name of Ship	
--------------	--



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

***Particulars of the Ship Recycling Facility(ies)***

Name of Ship Recycling Facility	
Distinctive Recycling Company identity number*	
Full address	
Date of expiry of DASR	
* This number is based on the Document of Authorization to conduct Ship Recycling (DASR).	

***Particulars of the Inventory of Hazardous Materials***

Inventory of Hazardous Materials identification/verification number: .....

*Note:* The Inventory of Hazardous Materials, as required by [regulation 5](#) of the Annex to the Convention, is an essential part of the International Ready for Recycling [Certificate](#) and must always accompany the International Ready for Recycling Certificate. The Inventory of Hazardous Materials should be compiled on the basis of the standard format shown in the guidelines developed by the





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.....  
.....

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

(Seal or stamp of the authority, as appropriate)

**ENDORSEMENT TO EXTEND THE VALIDITY OF THE CERTIFICATE UNTIL REACHING THE PORT OF THE SHIP RECYCLING FACILITY FOR A PERIOD OF GRACE WHERE REGULATION 14.5 APPLIES\***

\_\_\_\_\_

\* This page of the endorsement shall be reproduced and added to the certificate as considered necessary by the Administration.

This certificate shall, in accordance with regulation 14.5 of the Annex to the Convention, be accepted as valid for a single point to point voyage

from the port of: .....

to the port of: .....

Signed:

.....  
.....

(Signature of duly authorized official)

Place: .....

Date: (dd/mm/yyyy) .....

(Seal or stamp of the authority, as appropriate)



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---

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**APPENDIX 5**

**FORM OF THE AUTHORIZATION OF SHIP RECYCLING FACILITIES**

Document of Authorization to conduct Ship Recycling (DASR) in accordance with the requirements of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009

Issued under the provision of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 (hereinafter referred to as “the Convention”) under the authority of the Government of:

.....

*(Name of State)*

by.....

*(Full designation of the Competent Authority under the Convention)*

Name of Ship Recycling Facility	
Distinctive Recycling Company identity No.	
Full address of Ship Recycling Facility	
Primary contact person	
Phone number	
E-mail address	
Name, address, and contact information of ownership company	
Working language(s)	

This is to verify that the Ship Recycling Facility has implemented management systems, procedures and techniques in accordance with Chapters 3 and 4 to the Annex to the Convention.

This authorization is valid until ..... and is subject to the limitations identified in the attached supplement.

This authorization is subject to amendment, suspension, withdrawal, or periodic renewal in accordance with [regulation 16](#) of the Annex to the Convention.

Issued



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at .....

*(Place of issue of the authorization)*

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

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

.....  
.....

*(Typed name and title of duly authorized official issuing the authorization)*

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

**SUPPLEMENT TO:**

**Document of Authorization to undertake Ship Recycling (DASR) in accordance with the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009**

- Notes:*
- 1 This record shall be permanently attached to the DASR. The DASR shall be available at the Ship Recycling Facility at all times.
  - 2 All procedures, plans and other documents produced by the Ship Recycling Facility and required under the terms to which the DASR has been issued shall be available in the working language of the Ship Recycling Facility and in either English, French or Spanish.
  - 3 The authorization is subject to the limitations defined by this supplement.

**1 GENERAL TERMS**

**Requirements of the Convention**

The Ship Recycling Facility meets the requirements that it be designed, constructed, and operated in a safe and environmentally sound manner in accordance with the Convention, including meeting the relevant requirements of:

[Regulation 16](#) – Authorization of Ship Recycling Facilities



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- [Regulation 17](#) – General requirements
- [Regulation 18](#) – Ship Recycling Facility Plan
- [Regulation 19](#) – Prevention of adverse effects to human health and the environment
- [Regulation 20](#) – Safe and environmentally sound management of Hazardous Materials
- [Regulation 21](#) – Emergency preparedness and response
- [Regulation 22](#) – Worker safety and training
- [Regulation 23](#) – Reporting on incidents, accidents, occupational diseases and chronic effects
- [Regulation 24](#) – Initial notification and reporting requirements
- [Regulation 25](#) – Reporting upon completion

These requirements are imposed on the Ship Recycling Facility by way of

.....  
.....

*(Identify the permit, licence, authorization, legal standards, or other mechanism that applies)*

Ship      Recycling      Facility      Plan      identification/verification      number:  
.....

**1.2 Acceptance of ships**

For ships to which the Convention applies and ships treated similarly pursuant to [Article 3.4](#) of the Convention, the Ship Recycling Facility can only accept a ship for recycling in accordance with [regulation 17](#) of the Annex to the Convention.

**1.3 Safe-for-hot work and Safe-for-entry conditions**

The Ship Recycling Facility is capable of establishing, maintaining and monitoring Safe-for-hot work and Safe-for-entry conditions throughout the Ship Recycling process.

**1.4 Management of Hazardous Materials**

The Ship Recycling Facility is designed, constructed, operated, and required to ensure that all Hazardous Materials’ management shall be safe and environmentally sound in compliance with the



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Convention and with all relevant local or national regulations/requirements.

**1.5 Map and location of Ship Recycling operations**

A map of the boundary of the Ship Recycling Facility and the location of Ship Recycling operations within it, is attached.

**2 CAPABILITY OF SHIP RECYCLING FACILITY**

**2.1 Size of ships**

The Ship Recycling Facility is authorized to accept a ship for recycling subject to the following size limitations:

Maximum Size		Other Limitations
Length		
Breadth		
Lightweight		

**2.2 Safe and Environmentally Sound Management of Hazardous Materials**

The Ship Recycling Facility is authorized to accept a ship for recycling that contains Hazardous Materials as specified in the following table subject to the conditions noted below:

	Management of Hazardous Materials	



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<b>Hazardous Material(*4)</b>	<b>Removal Y/N (*2)</b>	<b>Storage Y/N</b>	<b>Process (*1) Y/N (*3)</b>	<b>Authorization /Limitations</b>
Asbestos				
Ozone-depleting substances				
Polychlorinated biphenyls (PCB)				
Anti-fouling compounds and systems				
Cadmium and Cadmium Compounds				
Hexavalent Chromium and Hexavalent Chromium Compounds				
Lead and Lead Compounds				
Mercury and Mercury Compounds				
Polybrominated Biphenyl (PBBs)				
Polybrominated Diphenyl Ethers (PBDEs)				
Polychlorinated Naphthalenes (more than 3 chlorine atoms)				
Radioactive substances				
Certain Shortchain Chlorinated Paraffins (Alkanes, C10-C13, chloro)				
Hazardous liquids, residues and sediments				
Paints and coatings that are highly flammable and/or lead to toxic release				
Other Hazardous Materials not listed above and that are not a part of the ship structure				



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(specify)				
<p><i>Notes:</i></p> <p>*1 Process means the processing of Hazardous Materials in the Ship Recycling Facility, such as:</p> <ul style="list-style-type: none"><li>a. incineration of Hazardous Materials;</li><li>b. reclamation of Hazardous Materials; and</li><li>c. treatment of oily residues.</li></ul> <p>*2 If Yes (Y), indicate in the Ship Recycling Facility Plan the responsible personnel authorized to carry out the removal, with the certificate number or other relevant information.</p> <p>*3 If No (N), describe in the Ship Recycling Plan where the Hazardous Materials are to be processed/disposed.</p> <p>*4 These Hazardous Materials are specified in Appendices <a href="#">1</a> and <a href="#">2</a> and regulation <a href="#">20</a> of the Convention.</p>				



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**APPENDIX 6**

**FORM OF REPORT OF PLANNED START OF SHIP RECYCLING**

The

.....  
.....

*(Name of Ship Recycling Facility)*

located at

.....  
.....

*(Full Ship Recycling Facility address)*

Authorized in accordance with the requirements of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 (hereinafter referred to as “the Convention”) to conduct Ship Recycling under the authority of the Government of:

.....  
.....

*(Name of State)*

as indicated in the Document of Authorization to conduct Ship Recycling issued at

.....  
.....

*(Place of authorization)*

by

.....  
.....

*(Full designation of the Competent Authority under the Convention)*

on (dd/mm/yyyy) .....



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*(Date of issue)*

Hereby reports that the Ship Recycling Facility is ready in every respect to start the recycling of the vessel .....

*(IMO number)*

The International Ready for Recycling Certificate issued under the provisions of the Convention under the authority of the Government of

.....  
.....

*(Name of State)*

by

.....  
.....

*(Full designation of the person or organization authorized under the provisions of the Convention)*

on (dd/mm/yyyy) .....

*(Date of issue)*

is enclosed.

Signed

.....  
.....



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**APPENDIX 7**

**FORM OF THE STATEMENT OF COMPLETION OF SHIP RECYCLING**

STATEMENT OF COMPLETION OF SHIP RECYCLING

This document is a statement of completion of Ship Recycling for

.....  
.....

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

***Particulars of the Ship as received for recycling***

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

THIS CONFIRMS THAT:

The ship has been recycled in accordance with the Ship Recycling Plan as part of the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 (hereinafter referred to as “the Convention”) at

.....  
.....

*(Name and location of the authorized Ship Recycling Facility)*

and the recycling of the ship as required by the Convention was completed on:

(dd/mm/yyyy)

.....

*(Date of completion)*



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Issued \_\_\_\_\_ at \_\_\_\_\_

.....  
.....

*(Place of issue of the Statement of Completion)*

*(dd/mm/yyyy)*

.....  
.....

*(Date of issue)      (Signature of the owner of the Ship Recycling Facility or  
a representative acting on behalf of the owner)*