

**Contribution from the European Commission Directorate-General for Environment (Unit B.3 - Waste Management & Secondary Materials) in response to the letter and questions received from the UN Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Mr. Baskut Tuncak**

**25 Avril 2018**

Question 1. Please provide the existing national laws and regulations that protect workers from hazardous substances and establish the right of workers to safe and healthy working conditions. (These may include as per definition proposed by ILO and WHO norms aiming at: the promotion and maintenance of the highest degree of physical, mental and social well-being of workers in all occupations; the prevention amongst workers of departures from health caused by their working conditions; the protection of workers in their employment from risks resulting from factors adverse to health; and the placing and maintenance of the worker in an occupational environment adapted to his physiological and ' psychological capabilities).

a) Please indicate if there are specific standards in place for the protection of health and safety in particular sectors of economic activity.

b) Please indicate if there are specific standards in place for protecting workers against specific risks such as the exposure to radiation, toxic substances (including industrial chemicals, pesticides and building materials), and air pollution, among others.

c) Please provide specific information on permissible exposure levels of Workers to such risks, including URL links (or other documentation) on established levels, and information regarding procedures for the establishment of such levels.

**1) Regulation (EU) No 1257/2013 on ship recycling**

a) Regulation (EU) No 1257/2013 on ship recycling sets specific standards for the protection of human health and the environment in the sector of ship recycling. See recital (7): "*The purpose of this Regulation is also to reduce disparities between operators in the Union, in OECD countries and in relevant third countries in terms of health and safety at the workplace and environmental standards and to direct ships flying the flag of a Member State to ship recycling facilities that practice safe and environmentally sound methods of dismantling ships instead of directing them to substandard sites as is currently the practice.*"

b) Regulation (EU) No 1257/2013 on ship recycling includes specific standards to protect workers in ports, on board ships and in recycling yards against specific risks stemming from a range of hazardous materials.

c) See articles 4, 5 and 13(g) for specific requirements on the management of hazardous materials in ships. See also:

- April 2016 European Commission Technical Guidance<sup>1</sup> note supporting the Regulation, in particular section 2.
- November 2016 best practice guidelines compiled by the European Maritime Safety Agency<sup>2</sup> to support practitioners involved in the compilation of Inventories of Hazardous Materials under the Regulation.

## **2) Directive 2011/65/EU on the restriction of the use of certain hazardous substances in electrical and electronic equipment (RoHS)**

a)/b) The objective of the RoHS Directive, as set in Article 1, is: "*This Directive lays down rules on the restriction of the use of hazardous substances in electrical and electronic equipment (EEE) with a view to contributing to the protection of human health and the environment, including the environmentally sound recovery and disposal of waste EEE*".

Specific references to worker's health in the waste treatment sector are given in Recital (8): "*Restricting the use of those hazardous substances is likely to enhance the possibilities and economic profitability of recycling of waste EEE and decrease the negative impact on the health of workers in recycling plants.*"; and Article 6 (1)(c), where "*unacceptable exposure of workers involved in the waste EEE collection or treatment processes*" is one of the criterion in regard to restriction of further hazardous substances under RoHS.

## **3) Directive 2012/19/EU on waste electrical and electronic equipment (WEEE Directive)**

a)/b) The objective of the WEEE Directive, as set out in its Article 1, is "*This Directive lays down measures to protect the environment and human health by preventing or reducing the adverse impacts of the generation and management of waste from electrical and electronic equipment (WEEE) and by reducing overall impacts of resource use and improving the efficiency of such use in accordance with Articles 1 and 4 of Directive 2008/98/EC, thereby contributing to sustainable development.*"

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<sup>1</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016XC0412%2801%29>

<sup>2</sup> <http://www.emsa.europa.eu/emsa-documents/latest/item/2874-emsa-s-best-practice-guidance-on-the-inventory-of-hazardous-materials.html>

More specific references to the safety of workers are:

- Article 5(2)(e) "*having regard to national and Union health and safety standards, WEEE that presents a health and safety risk to personnel because of contamination may be refused for return under points (a), (b) and (c). Member States shall make specific arrangements for such WEEE.* "
- Article 9(1) "*Member States shall ensure that any establishment or undertaking carrying out treatment operations obtains a permit from the competent authorities in compliance with Article 23 of Directive 2008/98/EC*". See Article 23 of Directive 2008/98/EC under which the permit shall specify among others the "*safety and precautionary measures to be taken*"
- Article 15(1) "*... information shall identify, as far as it is needed by centres which prepare for re-use and treatment and recycling facilities in order to comply with the provisions of this Directive, the different EEE components and materials, as well as the location of dangerous substances and mixtures in EEE.* "
- Annex VII on selective treatment for materials and components of WEEE that have to be removed from any separately collected WEEE includes a list of substances, mixtures and components that can have negative impacts on the environment or human health and therefore have to be removed (e.g. components containing radioactive substances- reference to threshold set in Article 3 of and Annex I to Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation).

Question 2. Please indicate the main authorities tasked with overseeing the implementation of occupational health norms and a description on their mandate.

### **Ship Recycling Regulation:**

Member States of the European Union as far as EU-flagged ships and ship recycling yards located in the EU are concerned. The European Commission reviews applications to the European List of ship recycling facilities received from ship recycling yards located outside the EU.

### **WEEE and RoHS Directive:**

Member States of the European Union and their competent authorities.

Question 3. Please provide the national laws establishing the right to information and the instruments establishing the specific rights of workers to information on issues relating to their occupational health and safety.

### **Ship Recycling Regulation:**

See article 13(1) of Regulation (EU) No 1257/2013. See also section 2 of the April 2016 European Commission Technical Guidance<sup>3</sup> note supporting the Regulation, in particular point 2.1.4.

### **WEEE Directive:**

See Article 15(1) regarding information to treatment centres to allow localisation of dangerous substances: "... *information shall identify, as far as it is needed by centres which prepare for re-use and treatment and recycling facilities in order to comply with the provisions of this Directive, the different EEE components and materials, as well as the **location of dangerous substances and mixtures in EEE**. It shall be made available to centres which prepare for re-use and treatment and recycling facilities by producers of EEE in the form of manuals or by means of electronic media (e.g. CD-ROM, online services).*"

Question 4. Please provide the national laws and regulations providing protection to whistleblowers sharing information on their work activity and environment, particularly concerning disclosures on harms to the environment and public health.

### **Ship Recycling Regulation:**

See section 2 of the April 2016 European Commission Technical Guidance<sup>4</sup> note supporting the Regulation, in particular point 2.1.4(b).

Question 5. Please provide information on the existing national laws ensuring workers can realize their right to justice and an effective remedy for occupational exposures to hazardous substances.

### **Ship Recycling Regulation:**

See section 2 of the April 2016 European Commission Technical Guidance<sup>5</sup> note supporting the Regulation, in particular point 2.1.4(b).

Question 6. Please indicate if public officials periodically analyse the situation of occupational safety and health and how these assessments are publicized.

### **Ship Recycling Regulation:**

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<sup>3</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016XC0412%2801%29>

<sup>4</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016XC0412%2801%29>

<sup>5</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016XC0412%2801%29>

Regulation (EU) No 1257/2013 on ship recycling regulates regime of regular surveys of inventories of hazardous materials on board ships, as well as the permitting of ship recycling yards located in the EU. The Regulation also regulates the desk assessment and site inspections of ship recycling facilities located outside the EU. Inclusion on the European List being valid for a maximum of five years, such assessments (and possibly inspections) will be carried out on a regular basis.

Question 7. Please indicate if your Government considers revising its existing norms for occupational health and safety and the reasons for this possible revision.
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**Ship Recycling Regulation:**

Regulation (EU) No 1257/2013 on ship recycling includes 'Review' provisions (article 30). Article 30(2) specifically hints at the possibility of eventually including ship recycling facilities authorised under the Hong Kong Convention in the European List. This could entail that either these facilities have reached the standards of the EU Regulation, or that the requirements of the EU Regulation have been downgraded to these of the Hong Kong Convention.