CONFIRMED CASES OF ILLEGAL TRAFFIC

A. TRANSMITTING AUTHORITY

Name: Head of the Division of Environmental Policy and Sustainable Development.

Ministry of External Relations

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Party X

Competent Authority
National Authority
Focal Point X

Date of transmission:

B. REPORTING BODY

Name: Ministry of Environment

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Party X

Observer State
NGO
Company
Individual

C. DESCRIPTION OF THE ILLEGAL ACT

CL. Act(s) found to be illegal traffic (please include information on which Basel Convention provisions has (have) been contravened).

Description:

Basel Convention text

Article 4 - General Obligations

1 - (b) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes to the Parties which have prohibited the import of such wastes, when notified pursuant to subparagraph (a) above.

2 - (e) Not allow the export of hazardous wastes or other wastes to a State or group of States belonging to an economic and/or political integration organization that are Parties, particularly developing countries, which have prohibited by their legislation all imports.

Article 6 - Transboundary Movement between Parties

1 - The State of export shall notify, or shall require the generator or exporter to notify, in writing, through the channel of the competent authority of the State of export, the competent authority of the States concerned of any proposed transboundary movement of hazardous wastes or other wastes.

Article 9 - Illegal Traffic

Fax D

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1. For the purpose of this Convention, any transboundary movement of hazardous wastes or other wastes:
   (a) without notification pursuant to the provisions of this Convention to all States concerned; or
   (b) without the consent pursuant to the provisions of this Convention of a State concerned; or
   (c) with consent obtained from States concerned through falsification, misrepresentation or fraud; or
   (d) that does not conform in a material way with the documents; or
   (e) that results in deliberate disposal (e.g. dumping) of hazardous wastes or other wastes in contravention of this Convention and of general principles of international law, shall be deemed to be illegal traffic.
2. In case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the exporter or generator, the State of export shall ensure that the wastes in question are:
   (a) taken back by the exporter or the generator or, if necessary, by itself into the State of export, or, if impracticable,
   (b) are otherwise disposed of in accordance with the provisions of this Convention, within 30 days from the time the State of export has been informed about the illegal traffic or such other period of time as States concerned may agree. To this end the Parties concerned shall not oppose, hinder or prevent the return of those wastes to the State of export.
5. Each Party shall introduce appropriate national/domestic legislation to prevent and punish illegal traffic. The Parties shall co-operate with a view to achieving the objects of this Article

Brazil National Legislation

1. Environmental Crime Law nº 9,605 from 12/02/1998;
2. Federal Decree 6,514 from 22/07/2008;
4. Federal Decree nº 4,581 from 27/01/2003 - ratifies the Amendment to Annexes I, III, VII and IX of the Basel Convention text;
5. Law nº 12.305 from 02/08/2010 - publicize the National Policy on Solid Waste and prohibits the import of hazardous wastes and other wastes;
6. CONAMA Resolution nº 23/1996 - classifies wastes and lists hazardous wastes and prohibits the import of hazardous wastes and other wastes;

CII. Name of States affected by the illegal traffic (i.e. country of origin, transit or destination):

Country of Origin: Canada (city of Montreal)
Country of Loading/Transit: United States of America (Port of New York)
Country of Destination: Brazil (Port of Itajai)

CIII. Brief description of the waste(s) subject to the illegal act, including modes of transport, place of discovery, environmental conditions of the location:

Waste classified as other waste.
Waste that belong to the category Y40 Wastes collected from households contained in
Annex II.

Major constituents may be classified as used bags of plastic film and scrap, contaminated with organic matter in decomposition process.

The case of illegal traffic was discovered in the Port of Itajaí - Santa Catarina - Brazil, by the Custom Office.

Date when the waste was unload in Brazil: 06/02/2012;
Date when the importer registered the importation: 17/02/2012;
Date of discovery of the waste, by the Custom Authority: 24/02/2012;
Date of first inspection by the Competent Authority (IBAMA): 39/02/2012;
Date of the the first infraction: 29/02/12.

D

WASTE IDENTIFICATION

D.1 Description of the waste:

Name of the waste: used bags of plastic film and scrap, contaminated with organic matter in decomposition process. The load was declared as "Grocery Bag Scrape", as described in the invoice;
Origin of waste: Récupération Maurice S.E.N.C., 247, Ste-Anne, Yamachiche, Québec, Canada.
Physical form: solid
Major constituents: plastic bags
Typical contaminants: the cargo presented an advanced degree of decomposition of organic matter.

Volume/Quantity of waste: 02 (two) containers, approximately 41 tones.

Waste code: IWIC;
R number(s): Y46
H number(s): H6.2, H12.

D.2 Sampling and testing:

Since the plastic load was mixed with organic matter, the cargo was in an advanced degree of decomposition and so cannot be classified in B3010 position. The potential hazards posed by this type of waste are not yet fully documented; tests to define quantitatively these hazards do not exist.

Results:

D.3 Other relevant information (e.g. containment appearance, etc.):

E

DETECTION OF ILLEGAL TRAFFIC, TYPES OF DAMAGES, REMEDIAL ACTIONS AND DISPOSAL

E.1 Detection of illegal traffic
By whom: Customs authority
Where: Port of Itajai (Santa Catarina State)
When: The case occurred in primary zone at Port of Itajai.

E.2 Damages
Details of type and extent of known damages:

E.3 Remedial actions
Type of action(s):
Date:
Cost:
Allocation:

E.4 Final disposal of wastes subject to illegal traffic (i.e. measures taken, State of disposal, etc.):

F PUNISHMENT

F.1. States of conviction: Brazil (Santa Catarina State).

F.2. Date of conviction: Notification to return and fine.

F.3. Description of punishment by the authority in the State of conviction:

The Brazilian Institute of Environment and Renewable Resources – IBAMA, will notify the importer to proceed the returning of the waste to the State of export (Canada). According to the Brazilian legislation, the fine to be applied may vary between R$500,00 or R$10,000,000,00 (five hundred up to ten million Reais).

If more space required, please use additional sheet(s)
Authority completing the Form shall forward a copy to all Competent Authorities or Focal Points in the State(s) concerned as appropriate.

Adapted by the fourth meeting of the
Conference of the Parties to the Basel Convention
February 1998