

6 December 2021

Madame Minister Svenja Schulze

Federal Minister of Environment, Nature Conservation, and Nuclear Safety and Consumer Protection

Madame Minister Steffi Lemke

[New] Federal Minister of Environment, Nature conservation, Nuclear Safety and Consumer Protection

Basel Convention Competent Authority

Umweltbundesamt (Federal Environment) Agency
<noti.fpbca@uba.de>

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Dear Madame Ministers Svenje Schultz, Steffi Lemke and authorities at the Federal Environment Agency:

Need to return plastic waste shipments to Germany immediately

Last year at least 114 container loads of plastic waste was exported from Germany to Turkey for recycling but were never recycled. The containers were, after export, apprehended by the Turkish authorities and determined to be illegal. The Turkish government tried to have the shipments returned to Germany. German authorities in various federal States (Bundesländer) refused to assist in their return. As a result of this situation, the Turkish government has begun

to allow the containers to be re-exported to third countries. Already we have data which leads us to believe that 16 of the German containers have been exported to Vietnam, 1 to Croatia, 3 to UK and 1 to the USA (see data sheet attached).

Last week we learned of the imminent departure of 37 containers of German plastic waste which had been shipped from Turkey to Piraeus, Greece en route to Vietnam. We were able to alert the competent Authority of Greece which was able to prevent the containers from being loaded onto the ship COSCO PRIDE. These containers are now set aside by the Greek authorities, pending action by Germany to rectify the matter.

Ethical matters

Germany is called upon to take these containers back to Germany. Germany is called upon to do the ethically correct thing in this instance regardless of the many legal questions and legal "gray areas" in the law that may be raised. This problem will not be solved by lawyers looking for reasons not to take responsibility. This problem will be solved by political leadership on the part of Germany looking to take responsibility. We are calling upon Germany to take this moral and political leadership in this case.

The fact of the matter is that today the export of such wastes from Germany to Vietnam is illegal. The fact that they got moved to Turkey as part of an old deal that could not be fulfilled and now they are being rerouted to Vietnam should not make them legally or morally correct.

Legal Matters

The wastes in these containers are reported to be largely consisting of post-consumer plastic fractions derived from Material Recovery Facilities (MRFs). Such wastes are notoriously mixed and contaminated. In citing the rationale in part for the return, the Turkish government is reported to have concluded that the wastes that were inspected were contaminated.

The exports of these wastes all began in Germany throughout 2020. However, some of these were en route during 2021 and thus subject to the new Basel Convention Plastics Amendments (e.g. controlling mixed and dirty plastics under new Basel listing Y48) which entered into force on January 1, 2021. Further, the wastes have never been unloaded and are still in their original containers. It was not until many months into 2021 that a decision was finally taken to re-export the wastes in their original German containers. This then, should be seen as a shipment still in progress during the time Y48 has entered into force. Germany should react accordingly.

Even if Germany leans on the argument that these were not controlled wastes at the moment of departure, the very fact that they are in large part wastes collected from households, indicates that these would, in any case, be a Y46 listed wastes (wastes collected from households) and the appropriate control instrument between Germany and Turkey would have been OECD Council Decision OECD/LEGAL/0266. In that decision Y46 is listed as an Amber listed waste.

If the waste shipments commenced without being designated Y46 or Y48 and without being notified and consented to, in accordance with either the Waste Shipment Regulation (in the case of Y48) or the OECD regime in the case of Y46, they should be considered as illegal shipments necessitating Germany's immediate action to repatriate these in accordance with Article 23 of the Waste Shipment Regulation or under the OECD accord as stipulated in the Amber Control Procedure D (3) if Y46.

In the case of the shipments perhaps not being illegal but nevertheless could not be completed in accordance with the contract, the repatriation would still be the responsibility of Germany under the same OECD section or by Article 22 of the Waste Shipment Regulation.

This takeback required by Articles 22 and 23 obviously did not happen and as has been reported in the media, in fact certain federal State (Bundesländer) authorities in Germany actually refused to take these actions, when asked by Turkey to do so. Instead, Turkey was forced to find a pathway for these wastes themselves and have allowed these to now be exported. 16 of such containers have already gone to Vietnam. It is currently not known if these re-exports which remain the exact same containers as those leaving Germany were notified and consented to by Vietnam. Again, a direct export to Vietnam from Germany of Y48 or Y46 would have been clearly illegal under Article 36 of the Waste Shipment Regulation.

It is our conclusion that these exports from Germany to Turkey were never unloaded and never completed in accordance with the contract. Whether the original shipments are ever deemed illegal or not, Germany has the duty to reimport this waste. If Germany does not take responsibility for them, they may end up causing pollution and harm wherever they end up.

A call to action

It is imperative then, that the Federal government of Germany take the following three actions:

1. Contact the Greek competent Authority, Mr. Alexandros A. Mouzakis <a.mouzakis@prv.ypeka.gr> copied here and let him know that Germany will make arrangements to repatriate the 37 containers sitting in the container port in Piraeus.
2. Contact the Competent Authority of Turkey, Mr. Ali Durak, Head of Permit and License Department, General Directorate of Environmental Impact Assessment, Permit and Inspection, Ministry of Environment and Urbanization <ali.durak@csb.gov.tr> and urgently let them know that you will repatriate what is believed to be 61 German containers that have yet to be exported. You must act quickly as some of these may be re-exported just as the ones we were able to stop in Greece were.
3. Contact the Vietnamese competent authority, Mr. Dat Vu, <vudatkson@gmail.com> and explain that these shipments sent to Vietnam also need to be repatriated to Germany if this is possible.

Attached we have provided a spreadsheet of 141 of the containers in question. We remain uncertain whether this spreadsheet includes all of the German plastic waste exports. Also attached are three news stories from WirtschaftsWoche magazine, as well as the NGO press release we released last week providing the further background on the case.

Please be assured that we stand ready to assist the federal German government in any way we can, to facilitate steps 1-3 above.

Sincerely yours,

Jim Puckett, Basel Action Network, and
Manfred Santen, Greenpeace e.V. Germany

On behalf of signatory organizations

Basel Action Network

Greenpeace e.V., Germany

Nexus 3 Foundation

Greenpeace Mediterranean

Microplastic Research Group

Zero Waste Europe

Environmental Investigation Agency

Consumers' Association of Penang & Sahabat Alam Malaysia

GAIA

Gündoğdu-Microplastic Research Group

cc.

OLAF

European Commission

Basel Convention Secretariat

Links:

[NGO Press Release](#)

[18 May Story from WirtschaftsWoche](#)

[17 November Story from WirtschaftsWoche](#)

[2 December Story from WirtschaftsWoche](#)

Attached:

Spreadsheet of Known German Wastes Exported to Turkey