



NGO
SHIPBREAKING
PLATFORM

ATTN: INTERPOL Patricia Grollet, Coordinator Lionel Try p.grollet@interpol.int; L.TRY@interpol.int

RE: Transboundary Movement of Hazardous Waste Vessel SÃO PAULO from Brazil to Turkey out of Compliance /
Defiance of Injunction

Brussels, 16 August 2022

Dear Patricia Grollet and Lionel Try:

The NGO Shipbreaking Platform and the Basel Action Network (BAN) take this opportunity to alert INTERPOL about the likely illegal export of the aircraft carrier SÃO PAULO from Brazil to SOK DENIZCILIK VE TIC LTD ship recycling yard in Aliaga, Turkey, via the Strait of Gibraltar. Our concerns are the following:

1. SÃO PAULO Under Injunction

There is an "ORDER TO RETURN THE EX-NAE SÃO PAULO TO RIO DE JANEIRO" that has been issued by the Brazilian Federal Court of Justice in Rio De Janeiro (See Attached). In our view, IBAMA, as the entity that has authorized the shipment, has clear authority and responsibility to abide by the injunction and to immediately take steps to rescind the authorization, as the ship is moving in defiance of Brazilian law. Article 4, 7, a of the Convention calls for each Party to: "Prohibit all persons under its national jurisdiction from transporting or disposing of hazardous wastes or other wastes unless such persons are authorized or allowed to perform such types of operations". Clearly, the exporter under Brazilian jurisdiction is no longer authorized to undertake the export due to the injunction.

2. SÃO PAULO's Insurance has Apparently Elapsed

According to the insurance documents filed by IBAMA before the ship's departure (see attached), the insurance has elapsed. And yet the insurance was supposed to be in place before export. Can you confirm that the ship has been insured consistently between August 4th and today? If the ship is still not insured, this is not a legal export, and moreover, the insurance company is not likely to grant a renewal of the policy as the ship is now under an Injunction.

3. Export without Notification and Consent of Transit States

The Transboundary Movement of the SÃO PAULO from Brazil to Turkey is not possible without moving through transit states. Under the Basel Convention Article 6, 4, all transit states must be notified prior to export. In our

correspondence with IBAMA, it was asserted by IBAMA that this was not needed if the ship did not stop in a port; however, this is not correct. The definitions of “transboundary movement,” “transit state,” and “area under the national jurisdiction” make it clear that transit includes passage through territorial waters. Therefore, at least Spain, Morocco, the UK, Malta, Italy, and Tunisia should all be notified, and their consent should precede any movement.

4. Export to a Party that has Prohibited the Import

As we have made clear in past letters, Turkey has a national ban on importing hazardous wastes of all kinds. This prohibition has been notified to the Basel Secretariat. Furthermore, Turkey is Party to the Izmir Protocol, which also signifies that Turkey must ban all imports of hazardous wastes. The Izmir Protocol (an Article 11 Basel Agreement) was also notified to the Basel Secretariat (see attached). As an exporting state Party, Brazil must, by virtue of Article 4, 1, b, prohibit all exports to Turkey. Yet Brazil allowed this export – a clear violation of the Convention.

5. Toxic Waste Quantification Discrepancies

We have expressed our concerns that the Inventory of Hazardous Materials (IHM) is highly suspect with respect to predicted levels of asbestos, toxic paints, radioactive substances, and PCBs. We attach the letter from Grieg Green, admitting that their figures could be far off the mark for asbestos and that they hardly sampled PCBs. We attach the comparisons between the Clemenceau (sister ship) IHM and the one performed by Grieg Green. The Convention in Article 9, 1, d stipulates that a shipment that does not conform in a material way to the documentation is illegal traffic. Further, it is impossible to have confidence in the Ship Recycling Plan submitted to IBAMA by SOK DENIZCILIK VE TIC LTD, if the quantification is not correct. There are too many questions and uncertainties, and this led to the injunction cited in paragraph 1 above.

As Brazil does not seem to be willing to act to recall the ship, and until such time we can expect a legal transboundary movement, we alert INTERPOL to address the matter as appropriate. Please let us know what actions you can take in this regard and should you require more information. There is still time to recall the ship to ensure compliance with international law.

Yours sincerely,



Ingvild Jenssen
Executive Director
NGO Shipbreaking Platform



Jim Puckett
Executive Director
Basel Action Network

Enclosed: Copy of Injunction, copy of lapsed insurance record, copy of Izmir Protocol, letter by Grieg Green, comparison of IHM of CLEMENCEAU and SAO PAULO

