



To:

Carolina Fiorillo Mariani
Director, Department of Environmental Quality
Brazilian Institute of Environmental and Renewable Natural Resources (IBAMA)

Brussels, 12 August 2022

Dear Ms. Carolina Mariani / Basel Competent Authority of Brazil / IBAMA:

The NGO Ship Recycling Platform and the Basel Action Network continue to have great concerns over the questionable legality of the export of the SÃO PAULO from Brazil to Turkey under the Basel Convention as it continues to be towed across the Atlantic Ocean. 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 at Rio De Janeiro (See Attached). In our view, IBAMA has clear authority and responsibility, as the entity that has authorized the shipment, 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 Elapsed: According to the insurance documents filed by IBAMA prior to the ship's departure, the insurance has elapsed. And yet the insurance was supposed to be in place prior to 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 to it of hazardous wastes. The Izmir Protocol (an Article 11 Basel Agreement) was also notified to the Basel Secretariat. 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 at length 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 again, admitting that their figures could be far off the mark for asbestos and that they hardly sampled PCBs. We attach again the comparisons between the Clemenceau (sister ship) IHM and that 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, if the quantification is not correct. There are far too many questions and uncertainties, and this led to the injunction cited in paragraph 1 above.

We fully expect Brazil to legally and properly address how our concerns above are incorrect, or to recall the ship to Brazil until a legal export can be accomplished. Please let us know how Brazil considers each of the above very likely violations of international law. There is still plenty of time to recall the ship to Rio de Janeiro to redress these concerns.

Yours sincerely,



Ingvild Jenssen
Executive Director
NGO Shipbreaking Platform



Jim Puckett
Executive Director
Basel Action Network

Enclosed:

Copy of Injunction
IHM Comparison Between CLEMENCEAU and SÃO PAULO
Email from Grieg Green

cc: IBAMA officials