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DANISH MINISTRY
OF THE ENVIRONMENT

Department

MINISTER FOR THE
ENVIRONMENT

J.no. D 3034-0036
Date

21 NOV 2005

To Ms. Madhumita Dutta

Dear Ms. Madhumita Dutta,

Thank you for your letter to which I stand favourable in answering the questions posed.

I would like to start by summarising what Denmark has done and said regarding the Kong Frederik and I believe that it will answer your question 2 and 3.

In mid-February 2005, when I received clear information that the Kong Frederik was on its way to India, I immediately sent a letter to my Indian colleague Mr. A Raja, stating clearly that the ship was exported illegally as waste, and that the export was in violation of the Basel Convention as the ship contained hazardous substances.

I also discussed the matter with Mr. Raja, when I met him shortly afterwards at the CSD meeting in New York in April 2005.

Furthermore, my letter was followed-up by meetings between the Danish ambassador in Delhi and the Permanent Secretary Mr. Gosh at the Indian Ministry of Environment and Forests.

On the day after I received the Indian minister's reply, I wrote back stressing the Danish views in the specific case, including an emphasis on the decision taken at the 7th meeting of the Conference of the Parties to the Basel Convention stating that although a ship is capable of sailing under its own steam, it may still be waste in accordance with the Basel Convention. A decision which India as a Party to the Convention took part in drafting and adopting.

Similarly, the Danish Minister for Foreign Affairs also wrote to the Indian Foreign Minister almost at the same time as a follow-up to the letter from

Miljøministeriet
Departementet
Højbro Plads 4
DK-1200 København K
Denmark

Phone: +45 33 92 76 00
Fax: +45 33 32 22 27
CVR-no.: 12-85-43-58
EAN-no.: 5798000862005
mim@mim.dk
www.mim.dk

the Indian Environment Minister and stated the Danish views in the Basel Convention and on the Kong Frederik matter.

The government's letters in April and May were followed over the summer by a large number of conversations between the Danish ambassador in Delhi and the Indian environment and foreign ministries in order to keep the matter under control and in order to maintain pressure.

From the very start we have utilised every possible occasion, where representatives of the Indian government have been present, to reiterate the Danish views on the matter.

This also applies to Danish government officials taking every opportunity to stress the Danish view of the matter, especially in connection with this summer's meetings under the Basel Convention and the IMO. Therefore, two bilateral meetings were held between Indian and Danish officials, and one of the Indian officials, in addition to representing India in the context of the Basel Convention, is also a member of the Indian Supreme Court Monitoring Committee (SCMC).

With regard to your question on the press release from the Indian government on September 15, I can inform you that right upon issuance of the press release the Danish ambassador again took contact with the Indian environment and foreign ministries.

On this occasion the Danish ambassador expressed his disappointment with the incorrect description of the involvement of the Danish government in the matter.

India reported at this occasion that the specific matter regarding the dismantling of Kong Frederik had caused much debate and criticism of the Indian government in the national press. The press release, to which I would like to make a few remarks, was therefore issued as a response to this criticism.

Overall the form and content of the press release confirm my perception that the Indian authorities from the outset were quite firm in their interpretation of the Basel Convention, which was unequivocally communicated in the responses received by the Danish government.

The Indian Minister points out very briefly in his letter that in the Indian understanding the ship was not covered by the international regulations, and that the ship could not be regarded as hazardous waste in any other respect. The Indian minister's other remarks described that, as a sovereign state India could not see why Denmark should interfere in internal Indian affairs and Indian legislation.

From a Danish perspective, the press release suffers from many misconceptions:

It claims that there is a disparity between the 3 guidelines regarding breaking of ships prepared by the IMO, ILO and the Basel Convention, as each has a different focus on ship breaking.

The different focuses do not lead to conflict, but of course there is some overlap and gaps between the 3 guidelines. Therefore the 3 organisations have set up a joint working group with representatives from all three organisations, which is to make recommendations on revising the guidelines in order to achieve as much cohesion as possible. However, this does not mean that there is no international consensus on these guidelines, as the Indian authority claim. On the contrary, all three guidelines have been adopted with agreement from the respective competent bodies, and it should be emphasised that the Indians themselves have been part of the adoption of these decisions.

At the last Conference of the Parties to the Basel Convention in October 2004, it was agreed that a ship can be considered waste as it sails for breaking, even though it is also regulated by other international regulation. Thus, ships in this situation can be subject to the regulations in the Basel Convention. It is therefore news to me that now the Indians claim that only a few countries support this interpretation. No, there were 160 parties to the Convention, and all endorsed this decision, including the Indian delegation.

A final detail regarding the Indian press release is the information that only a minority of EU countries is working to establish new binding regulations under the IMO. This is mistaken. At the behest of Denmark, at a meeting of the Council of Ministers in June 2005, EU Environment Ministers decided that the EU member states should work together to set up a legally binding set of regulations to stop cases such as the Kong Frederik. On the basis of this decision the EU worked collectively as one in relation to ship dismantling.

In the hope that this information provides answers to your questions regarding the press release and the actions undertaken by the Danish government, I can also offer some elaboration on the situation with regard to possible prosecution as a result of the illegal transport.

I have contacted the Danish Environmental Protection Agency (DEPA) for information regarding any criminal case filed against the owner of Kong Frederik IX. They informed me that when Kong Frederik IX (RICKY) reached the Indian coast, and the Danish authorities hereby got the final confirmation, that the owner intended to scrap the ship, DEPA asked the Danish Police to start an investigation. The request to the Danish Police was filed April 25, 2005 with a view to prosecuting the responsible companies and persons involved for violation

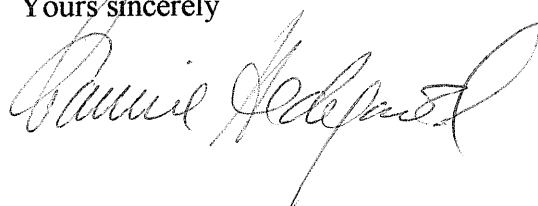
of the EU Shipment regulation, the Danish Act on Protection of the Environment as well as violation of the Danish Criminal Act.

The reason why DEPA asked the police to extend the investigation to an investigation of a possible violation of the Danish Criminal Act, is that in the view of DEPA, it is clear that the Danish authorities have been deliberately misled in this case. The buyers of the ship originally claimed that it would go as a ro-ro cargo ship in the Persian Gulf, after being rebuilt at a shipyard. Instead, the ship went straight through the Suez to Alang Beach, Gujarat.

Finally, I can convey to you, that DEPA has been asked for information or inventory of toxic substances on board Kong Frederik/Ricky. DEPA informed me that they do not have at hand an inventory of the ferry, but that they will go through all their information and make available as soon as possible information on toxic substances in the construction of the ferry.

In the sincere hope the information provided proves useful to you, please be assured that the Danish Ministry for the Environment remains at your disposal for any further clarification you may need in this matter.

Yours sincerely

A handwritten signature in cursive script, appearing to read "Rasmus Helmer".