



## THE SEA BEIRUT CASE

### The Facts

On April 16<sup>th</sup> 2002, the SEA BEIRUT, an abandoned ship, was towed out of the Dunkirk harbour in France for the shipbreaking yards in Aliaga, Turkey, after having been auctioned by the Dunkirk autonomous port and customs to the German company MSK, a front for a Turkish shipbreaking company, CEMSAN.

Asbestos was found on board the ship, and investigations conducted by Greenpeace showed that various relevant authorities knew about this, except the Nord-Pas-de-Calais DRIRE (the relevant French authority at the environmental level). The presence of asbestos in the ship, under EU regulations and the Basel Convention, requires all who have rights over the ship and the State of export, respectively, to inform the environmental authorities in France and Turkey of the existence of the hazardous material. The Dunkirk autonomous port asked the VERITAS certification office to estimate the costs of an asbestos assessment, which was provided by VERITAS, however, the Dunkirk autonomous port did not take action on the assessment after receiving it. This confirms the presence of asbestos was well known to the authorities in charge.

The intention to dispose of the SEA BEIRUT through its abandonment at Dunkirk establishes the vessel as a “waste”. The presence of asbestos on board makes this waste a “hazardous waste listed on the red list” according to the European regulation and also under the Basel Convention. This classification requires numerous notifications to national and to importing country’s environment authorities, in accordance with articles 3 to 11, and 16 and 17 of the Community 259/93 Regulation of February 1<sup>st</sup> 1993 (directly applicable in France), and article 6 of Basel. **The notification process under the EU regulation nor Basel was not followed by the French authorities.**

The cargo manifest of the tugboat which took the SEA BEIRUT to Turkey clearly states CEMSAN in Aliaga as final consignee. CEMSAN owns no REPAIRING site but a SHIPBREAKING site, which is well known to Greenpeace (see the Greenpeace report). These facts are further evidence of the intent to dispose of the waste, thus, the sale of the SEA BEIRUT is actually an export, with a view to scrap, and not a sale for repairing as the French port authorities believe to be. The Dunkirk port lawyer, Maître Carlier, also acted on behalf of the Turkish purchaser, which tends to confirm the French authorities could not have been unaware of the true nature of the sale.

### Who Exported the SEA BEIRUT?

The SEA BEIRUT sailed under Liberian flag before its engine broke down in December 1999 off the port of Dunkirk. According to the cargo manifest of the SALUS tugboat which towed the SEA BEIRUT to Turkey, it is still under this flag. The Liberian registered owner, LANE HOLDING SA, abandoned the vessel through a “formal letter of abandonment” to the Dunkirk harbour authorities.

Under the Basel Convention, a State of Export is “a Party from which a transboundary movement of hazardous waste or other wastes is planned to be initiated or initiated.” Further, article 6 of the Basel Convention requires the State of export to notify the State of import of the proposed transboundary movement of hazardous wastes.

Following the sequence of events, the SEA BEIRUT became a waste when its Liberian registered owner decided to dispose of the vessel by abandoning it in Dunkirk, France – a fact the French authorities were aware of. France, thus, becomes the State of Export when it sent the SEA BEIRUT for scrapping to Turkey. As a State of Export, it should have followed the prior notification requirements of the Basel Convention and the applicable EU regulations.

### **A most interesting case**

The SEA BEIRUT case is a quadruple breach of national, European Community and international law:

- Breach of the French national case law on asbestos liability.
- Breach of the European Community 259/93 Regulation on waste exports.
- Breach of the Turkish law prohibiting hazardous waste imports.
- Breach of the Basel Convention prior notification responsibilities.

### **Greenpeace’s action**

Between late April and early May, after having been warned, Greenpeace began investigating the SEA BEIRUT case, and contacted all players involved, *inter alia* the Basel Convention Focal Point in Paris.

On Saturday 4<sup>th</sup> of May, Greenpeace Turkey went on board of the SEA BEIRUT and denounced the illegal hazardous waste import. Following this action, the Turkish Environment Minister took samples of suspected hazardous materials on board the ship. The tests results came out on the 8<sup>th</sup> of May and proved positive for asbestos. Tests conducted by Greenpeace revealed similar results.

On the 9<sup>th</sup> of May, the Turkish Environment Minister declared that his country refuses to accept the waste-ship on the basis of the Turkish law prohibiting hazardous waste imports, itself based (just like the European law) on the Basel Convention. On the same day, as Turkey had in no way been notified of the toxic properties of the import, Turkey expressed the wish to have the SEA BEIRUT returned to France.

On May 14, Greenpeace, to help hasten the return process, officially urged the French government to take the necessary actions under relevant international and European law for the urgent return of the SEA BEIRUT to the French territory. Greenpeace would like to see France honor the demanded return action; consider the 30-day legal period for organising the return to have begun (Art. 26 of Regulation 259/93) on Tuesday 14<sup>th</sup> of May; and not “*oppose the return of this waste at the duly motivated request of the competent authority of destination and with an explanation of the reason.*” (Art. 26.2.(b) of Regulation 259/93/EEC )

### **Other sources:**

Documentary evidence on the SEA BEIRUT case available on demand, and after the meeting available at the Greenpeace International web page on shipbreaking:

<http://www.greenpeaceweb.org/shipbreak/>

Document on shipbreaking in Turkey, “Shipbreaking in Asia”:

<http://www.greenpeace.nl/transfer/turkije2.pdf>