

[SEC=UNCLASSIFIED]

Side 1 af 2

Hej Dorte

Kan jeg lokke dig til, at ligge den her på australien sagen?

Med venlig hilsen

Søren Madsen

Fuldmægtig, cand.merc.jur.

Jord & Affald

Dir. tlf. : (+45) 72 54 41 40

Miljøministeriet

Miljøstyrelsen

Strandgade 29

DK-1401 København K

Tlf.: (+45) 72 54 40 00

www.mst.dk

Fra: Reville, Barry [mailto:Barry.Reville@environment.gov.au]

Sendt: 1. april 2010 23:44

Til: Madsen, Søren R. N.; Hall, Damien

Cc: Rothenfluh, Daniel; Hermansen, Dorte; Schou, Lone

Emne: RE: [SEC=UNCLASSIFIED]

Følsomhed: Fortrolig

Dear Søren

Attached is our response to your questions about insurance. Please let us know if further information is required.

Best regards

Barry

Dr Barry Reville
Assistant Secretary
Environment Protection Branch
Department of the Environment, Water, Heritage and the Arts
GPO Box 787
CANBERRA ACT 2601
AUSTRALIA

Ph +61 2 6274 1622
Fax +61 2 6274 1164
Mob +61 411 132 608
barry.reville@environment.gov.au

From: Madsen, Søren R. N. [mailto:sornm@mst.dk]

Sent: Wednesday, 24 March 2010 3:31 AM

To: Reville, Barry; Hall, Damien

Cc: Rothenfluh, Daniel; Hermansen, Dorte; Schou, Lone
Subject: SV: [SEC=UNCLASSIFIED]
Sensitivity: Confidential

Dear Barry and Damien

In the process of informing our new minister of the Danish EPA decision regarding the duly reasoned request, some questions and concerns have surfaced from our Ministry of the environment. The questions is about the safety of the transport and insurance in case somethings goes wrong during the journey.

Does Australia have national law, that binds such transport under an obligation of signing a insurance covering the cost in case somethings goes wrong during the journey? If there isn't such an obligation, do you know whether Orica intends to sign such an insurance or similar?

Best regards

Søren Madsen
Head of Section, legal advisor.
Soil & Waste
Mail: sornm@mst.dk
Dir. tf. : (+45) 72 54 41 40

Danish Environmental Protection Agency
Strandgade 29
DK-1401 København K
Tlf.: (+45) 72 54 40 00
www.mst.dk

If you have received this transmission in error please notify us immediately by return e-mail and delete all copies. If this e-mail or any attachments have been sent to you in error, that error does not constitute waiver of any confidentiality, privilege or copyright in respect of information in the e-mail or attachments.

Please consider the environment before printing this email.

Transport

The Department can confirm that Orica has undertaken extensive emergency response plans and risk assessments on the proposed transport, packaging and shipping of the HCB wastes.

The intended packaging will meet all national and international statutory requirements including the International Maritime Dangerous Goods Code (IMDG, reviewed in 2008). A full marine survey is to be carried out by a third party accreditation organisation before ship loading can proceed.

The shipping and land transport arrangements proposed by Orica are designed to meet all international requirements for safe handling and transport. Orica proposes to charter individual ships that will be certified to the International Safety Management Code (ISMC 2002) to carry only HCB waste to Denmark.

Orica has provided documentation to the Department indicating the safety precautions and comprehensive emergency management plans proposed for the port handling and sea voyage. Contracts have been entered into between Orica and transport logistics companies to handle the movement of the appropriately packaged HCB waste in Australia and in Denmark.

These contracts and plans are designed to meet all relevant international, national and state regulatory requirements for the transport and handling of Dangerous Goods.

The Department also can confirm that it has received a certificate of exemption from the Australian Maritime Safety Authority (AMSA) certifying Orica's packaging of the HCB waste. This approval is subject to conditions that Orica must adhere to for the shipment of the waste to Denmark.

The Department has prepared detailed permit conditions relating to the transport of the hazardous waste, should a permit be granted. These conditions include, but are not limited to, the packaging of the waste, transport, specifications of the ships to be chartered, retention of documentation, country of transit conditions and country of import conditions.

In addition, and as previously advised, the Department of Environmental Affairs and Tourism (DEAT), on behalf of the South Africa Government, has approved the transiting of the Orica HCB waste through South African waters.

Insurance

As you are aware, the Basel Convention requires that any transboundary movement of hazardous wastes or other wastes shall be covered by insurance, bond or other guarantee as may be required by the State of import or any State of transit which is a Party.

The Basel Convention's requirements are mirrored in Australia's *Hazardous Waste (Regulation of Exports and Imports) Act 1989* (the Act).

Section 17 of the Act states the Minister must grant the permit sought by a permit application if the Minister is satisfied that the applicant has appropriate insurance.

Section 18 of the Act specifies circumstances in which the applicant has appropriate insurance.

An applicant for a Basel permit has appropriate insurance for the purposes of section 17 or 17A if:

- (a) the applicant is reasonably insured against risks that might arise in relation to the hazardous waste concerned if the permit were granted;
or
- (b) the applicant, whether because of arrangements made by the applicant or otherwise, will be able to discharge any liability of the applicant that might arise in relation to the hazardous waste concerned if the permit were granted.

With regards to Orica's application we can confirm:

Orica has provided the Department with details of its proposed insurance that covers transportation of the HCB waste and HCB contaminated materials from Botany Bay, New South Wales, Australia to the destruction facility in Denmark.

Orica will have two insurance policies relating to marine liabilities and pollution which will address liability that Orica may occur as a ship charterer and liability for pollution of land, air or water as a result of the packaging, loading, unloading and transportation of the HCB wastes.

As a condition of any permit granted, copies of the appropriate insurance covering the movement of the HCB waste must be provided to the competent authority of Denmark at least ten working days prior to any shipments.

Orica also would be required to ensure that the insurance policies be renewed if the expiry date is earlier than the end of the permit period. Renewed insurances, based on the same terms and conditions as the policies submitted with Orica's application, must be submitted to the Department and the competent authority of Denmark before any further shipments could occur.