



*Permanent Mission of Brazil to the United Nations Office
and other International Organizations in Geneva*

Ms. Beatriz Balbin
Chief
Special Procedures Branch
Office of the United Nations High Commissioner for Human Rights

Geneva, April 4, 2018

Dear Ms. Balbin,

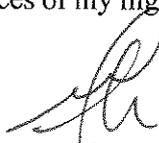
I refer to the joint communication AL BRA 1/2018, dated 31 January 2018, from the working group on the issue of human rights and transnational corporations and other business enterprises and the special rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances.

In attention to the aforementioned joint communication, I would appreciate if you could bring to the knowledge of the pertinent special procedures the attached information, based on comments received from the Brazilian Ministry of the Environment (MMA) and from the Institute of Environment and Renewable Natural Resources (IBAMA), a federal agency linked to the MMA responsible for implementing the National Environmental Policy (PNMA).

Finally, the Brazilian government reaffirms its commitment to the implementation of the United Nations Guiding Principles on Business and Human Rights, approved by the Human Rights Council in 2011, on national and regional levels. In 2017, the Ministry of Human Rights published in partnership with the Getúlio Vargas Foundation a basic document on current business and human rights policies in Brazil, as well as initiatives to be taken in the short, medium and long term. This publication

sheds light on the state of the art of this topic in the country and provides material for the development of new policies, legislation and regulation on this subject. The document is an initial assessment of the steps and measures to be taken, together with all stakeholders, including civil society, the private sector and academia, in order to implement the "protection, respect and remedy" framework of the UN Guiding Principles. A copy of the publication is attached hereto.

Please accept the assurances of my highest consideration.



Maria Nazareth Farani Azevêdo

Ambassador

Permanent Representative of Brazil to the UN in Geneva

ANNEX

- The North Sea Producer case was unknown to the Brazilian Ministry of the Environment (MMA) until receipt of the joint allegation letter from the working group on business and human rights and the special rapporteur on toxic substances and wastes. Following research, a single mention to the ship North Sea Producer was identified in the MMA archives, in a communication from the NGO Shipbreaking Platform, dated 29 June 2017, about the Brazilian ships Lobato and Guaporé. No link, however, has been mentioned between Brazil and the ship North Sea Producer in that communication. The following is an excerpt from the NGO communication: “There are several similar and recent cases where ship owners and cash buyers have provided authorities with false information about supposed repair work in Dubai or Oman and/or further operational use in order to circumvent the law. These include the North Sea Producer case in the United Kingdom which is currently investigated by Defra [Department for Environment Food & Rural Affairs]; the Tide Carrier which is currently under arrest in Norway; the Mineral Water case currently being investigated by Belgian federal police; and the City of Tokyo which left the port of Antwerp.” Thus, at the time, only the case of the Guaporé and Lobato ships was evaluated by MMA.
- According to the website Marine Traffic (<https://www.marinetraffic.com>), consulted on 14 March, the North Sea Producer, identified as “Producer”, had a United Kingdom flag and its last geographical location registered in that system was in Middlesbrough, in the United Kingdom, on 15 March 2016. The status of the ship in that system appeared then as “decommissioned or lost”.
- It should be noted that Brazil has not yet ratified the Ban Amendment to the Basel Convention and the Hong Kong Convention, which are also not yet in force as the number of ratifications/accessions have not been met.
- The Ministry of the Environment is currently assessing how to deal in the future through national regulation with cases similar to the North Sea Producer one.

IBAMA added the following comments:

- There is no IBAMA action that could “ensure safe and environmentally sound recycling of the North Sea Producer or its decontamination before the ship leaves the United Kingdom for dismantling”;
- According to Article 2 of the Interministerial Normative Instruction Nº 02/2016 MD-MMA, which deals with the export of ex-ship hulls and whose purpose is to enable compliance with the procedures established in the Basel Convention, exports for dismantling in a third country require previous authorization by IBAMA. There is no record of such request to IBAMA in the case of North Sea Producer.
- Due to the absence of more detailed information about the case, there is no basis to evaluate if there has been a violation of the provisions of the Basel Convention or the Brazilian legislation.