



Canadian
Environmental Law
Association

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a toxics-free future



April 15, 2019

The Right Honourable Justin Trudeau, P.C., M.P.
Prime Minister of Canada
Langevin Block Ottawa
Ontario K1A 0A2

Dear Prime Minister Trudeau:

On [January 30, 2019](#) and on [February 11, 2019](#), we wrote to you requesting that you ensure the expeditious return to Canada of thousands of tons of wastes that were illegally exported from Canada and dumped in the Philippines in 2013 and 2014, in contravention of Canada's obligations under the Basel Convention.

The government has not responded to either letter and has taken no action to have the wastes returned. Instead, the government issued media statements claiming that Canada did not act improperly in 2013-2014 and is not acting improperly now.

The view that Canada acted illegally in violation of the Basel Convention in 2013-2014 and is continuing to act illegally now is outlined in a recent legal opinion from the Pacific Centre for Environmental Law and Litigation Law Corporation (attached).

The legal opinion notes:

- The shipments of the wastes were “illegal traffic” under Article 9 of the Basel Convention, since the wastes were falsely declared to contain homogeneous plastic

scrap material when in fact these shipments contained mixed waste including household garbage and since the wastes were deemed to be hazardous under Philippine law.

- Article 9 of the Convention imposes an obligation on the State of export to ensure the return of wastes within 30 days from the time the State of export was notified of the illegal traffic.
- Philippine authorities notified Canada of the illegal traffic of these wastes as early as March 2014 and have sought Canada's assistance in returning the wastes. To date, Canada has refused to take back any of the wastes. This refusal violates Article 9, paragraph 2 of the Basel Convention.
- In 2016, a court in the Philippines ordered that 50 containers of the wastes be returned to Canada, as required by Philippine law. The judge stated: "Our country should not be made a trash bin by other country. This should not be made a precedent for other countries to follow. If our country allows [sic] the disposal of the wastes from other countries to be locally disposed, we will become the place of disposing other countries' wastes and garbage."
- For more than 5 years, Canada has failed to take responsibility to properly manage the wastes in question, which were generated in Canada, and has left the Philippine government with the burden and costs of dealing with the wastes, contrary to Article 4, paragraph 10 of the Convention.
- Canada's current statutory regime governing the transboundary movement of hazardous wastes fails to properly implement and enforce Article 4, paragraph 4 of the Basel Convention, which imposes a 30-day time limit for the State of export to ensure the return of wastes back to the State of export in the case of illegal traffic. Canada's amended regulations permit a 90-day time limit.

We respectfully request the Canadian government to act on this legal opinion and its Basel Convention obligations and provide a clear and definite date by which it will repatriate its garbage so that this protracted ordeal can finally be promptly ended. Canada should meet the standard set by the Republic of Korea which has acted to promptly arrange the return of its wastes illegally dumped in the Philippines, citing Convention obligations. Further, while Canada was not legally obliged to obey the 2016 Philippine court order, it certainly had a moral responsibility to do so. The Canadian government should not ignore the court order.

The United Nations (UN) conference of the 187 countries who have ratified the Basel Convention, which takes place every two years, will take place in Geneva starting April 29, 2019. The meeting will be the 30th anniversary of the treaty and it provides Canada an opportunity to demonstrate its commitment to the treaty by announcing the takeback of the wastes illegally exported to the Philippines.

This is much more than a legal or technical matter. It is also a moral issue that demonstrates Canada's level of respect for the citizens of developing countries and how the nation demonstrates proper conduct. Leaving Canada's garbage in another country for five years reveals values that clash with moral responsibility.

As noted in our letter of February 11, 2019, we applauded your earlier statements that Canada is back as a responsible global citizen and intends to provide strong, positive leadership at the United Nations, particularly on environmental issues. Part of this leadership must include upholding Canada's commitments to the treaties it has ratified and demonstrating responsible values internationally.

We look forward to receiving a positive response.

With hope,



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