

Ministry of the Environment, Water Resources and the Legal Amazon
National Environmental Council

Resolution No. 23 of 12 December 1996

The National Environmental Council (CONAMA), by virtue of the authority and jurisdiction vested therein by Laws No. 6.938 1 of 31 August 1981, 8.028 2 of 12 April 1990 and 8.490 3 of 19 November 1992, and Decree No. 99.274 4 of 6 June 1990, and in view of the provisions contained in its internal regulations; and

In consideration of the real and potential risks that the handling of waste may have on health and the environment;

In consideration of the need to control and, in some cases, prohibit the entry of waste into our country, particularly waste considered hazardous;

In consideration that the Basil Agreement on the Control of Cross-Border Movement and Storage of Hazardous Waste, adopted under the auspices of the United Nations Organization, which was signed in Basil, Switzerland on 22 March 1989, was promulgated by the Brazilian Government through Decree No. 875 5 of 19 July 1993, published in the "Diario Oficial da Uniao" [Official Daily Government Newspaper] on the following day and provides that the cross-border movement of hazardous and other waste be reduced to the minimum levels consistent with environmentally sound and efficient administration of such waste, and that this be carried out in such fashion as to protect human health and the environment from potential adverse consequences of such movement;

In consideration that the aforementioned agreement fully recognizes that any country party thereto retains the sovereign right to prohibit the entry or storage of hazardous waste and other foreign waste on its territory;

In consideration also of decision II-12 of the 2nd meeting of the Parties to the Basil Agreement, which prohibited, as of 25 March 1994, the cross-border movement of hazardous waste for final disposal and prohibits, as of 31 December 1997, cross-border movements of such waste from Member States of the Organization for Economic Cooperation and Development (OECD) to non-member states (Annex 4), for recycling or recovering activities, hereby resolves the following:

Article 1. For purposes of this resolution, the following definitions shall apply:

- a) Hazardous waste -- Class I: waste classified in any category listed in Annexes 1-A to 1-C, unless it has none of the characteristics described in Annex 2, as well as waste which, although not listed in the aforementioned Annexes, has any of the characteristics described in Annex 2;
- b) Non-inert waste -- Class II: waste not classified as hazardous waste, inert waste or other waste, as defined in paragraphs "a," "c" and "d," respectively;
- c) Inert waste -- Class III: waste which, when subjected to solubilization testing pursuant to NBR 10.006, contains no solubilized constituents in concentrations greater than the levels specified in Annex 3;
- d) Other waste -- household waste or waste resulting from the incineration of household waste.

Article 2. The importation of Class I hazardous waste to any part of the national territory, in any form and for any purpose, is prohibited.

Paragraph 1. In the event of unavoidable situations involving the importation of hazardous waste, such exceptions shall be conditional upon the prior decision and resolution of CONAMA, through an evaluation by its Technical Environmental Control Department.

Paragraph 2. The lists of wastes and hazard specifications provided in Annexes 1 and 2 of this resolution may be expanded, by resolution of CONAMA.

Article 3. Importation of the waste defined in paragraph "d" of Article 1 as "Other Waste" shall be prohibited under any form and for any purpose.

Article 4. Class III -- Inert waste shall not be subject to import restrictions, with the exception of used tires, the importation of which is prohibited.

Sole Paragraph. CONAMA may expand the list of Class III -- Inert Waste subject to import restrictions.

Article 5. Items from the Class II -- Non-Inert Waste category may only be imported for purposes of recycling or re-use after environmental authorization by IBAMA, preceded

by the consent and technical opinion of the State Environmental Agency, and subject to satisfaction of the following requirements:

- a) registration with IBAMA, in accordance with the forms contained in Annex 5 of this Resolution;
- b) presentation by the State Environmental Agency in the location of the company, at the explicit request of IBAMA, of a document (Annex 6) attesting to the interested party's conformance with the environmental laws and its capacity to recycle or re-use the respective waste in an environmentally safe fashion;
- c) technical opinion attesting to the composition of the waste shipment being imported, when required by IBAMA;
- d) conformance to best practices and to domestic and international packaging and transport standards, as well as compliance with the special precautions for handling in transit, including domestic transit, in addition to the anticipation of emergency measures for each type of waste;
- e) fulfillment of the conditions established by the relevant federal, state and municipal environmental control laws with respect to the storage, handling, use and reprocessing of imported waste, as well as any waste generated in this activity, including the final disposal thereof;
- f) remittance to IBAMA, on a semi-annual basis, of the import notification form or forms, listing cross-border movements of waste occurring during the period, and the declarations and information specified in Annex 7;
- g) submission to IBAMA, by 30 November of each year, of the form providing for the import of waste for the following year, according to the data contained in Annex 8.

Paragraph 1. The consent and technical opinion mentioned in the main body of this article refer to each type of waste intended to be imported.

Paragraph 2. Companies intending to import waste for recycling or re-use by third parties may do so, provided that they satisfy paragraphs "a," "f" and "g" of this article and notify IBAMA of the reprocessing companies that are to assume formal responsibility for the recycling or re-use of the imported waste, submitting a copy of the signed contract.

Paragraph 3. The forms contained in Annexes 5, 6, 7 and 8 of this Resolution may be amended at the discretion of the Ministry of the Environment, Water Resources and the Legal Amazon (MMA).

Paragraph 4. The registration to which paragraph "a" of this article refers for each company that imports or reprocesses imported waste shall be valid for a period of 12 (twelve) months. Non-renewal shall imply automatic cancellation of the registration.

Paragraph 5. In the event of any changes to the information provided in the registry on the waste to be imported, the company must re-register.

Article 6. The importation of waste, authorized upon satisfaction of the aforementioned requirements, must also satisfy the prior notification procedures as specified in Article 6, Annexes V-A and V-B of the Basil Agreement (Annex 9), when the exporting or importing country is a party thereto.

Sole Paragraph. For cases of countries not party to the aforementioned agreement, cross-border movements of waste shall only be possible through bilateral, multilateral or regional accords or arrangements.

Article 7. IBAMA shall send an updated semi-annual report of companies registered and qualified to import waste to the Secretariat of Foreign Trade under the Ministry of Industry, Trade and Tourism (SECEX/MICT).

Article 8. The list of waste products ordered in accordance with the Common Nomenclature of MERCOSUL [Common Market of the South], based on the Harmonized Merchandise Naming and Coding System (NCM-SH) is set forth in Annex 10, and approvals for importation by SECEX/MICT shall be conditional upon prior authorization by IBAMA, pursuant to Article 2 of this Resolution.

Sole Paragraph. The Technical Environmental Control Department shall be responsible for preparing a study and proposal for CONAMA within a period not to exceed 120 (one hundred twenty) days, for re-evaluating and structuring the list appearing in Annex 10.

Article 9. In the event of a violation of any of the requirements established in Article 5 of this resolution, the company's registration shall be automatically canceled

and its disqualification for new imports of waste shall be communicated to SECEX/MICT.

Article 10. The MMA and the MICT may establish complimentary standards providing for the control and monitoring procedures to be adopted for the importation of waste, pursuant to the terms provided for in this Resolution and in accordance with the guidelines decreed by the Basil Agreement.

Article 11. Failure to comply with the provisions contained in this resolution shall subject violators to the penalties provided for in Articles 14 and 15 of Law No. 6.938 of 31 August 1981, amended by Laws No. 7.804 6 of 18 July 1989 and 8.028 of 12 April 1990.

Article 12. This Resolution shall enter into force on the date of its publication, revoking CONAMA Resolution No. 37 of 30 December 1994 and other provisions contrary thereto.

Gustavo Krause Goncalves Sobrino, President

- 1 Federal Laws, 1981, page 381;
- 2 1990, page 539;
- 3 1992, page 832;
- 4 1990, page 754;
- 5 1993, page 582.
- 6 Federal Law, 1989, page 567.

Annexes Forming Part of Resolution No. 23 of 12 December 1996

Annex 1-A

Hazardous Waste -- Class I

(Annex I of the Basil Agreement)

Waste Flows

- Y1 1 Clinical waste originating from medical procedures in hospitals,
1 medical centers and clinics.
- Y2 1 Waste originating from the production and preparation of
1 pharmaceutical products.
- Y3 1 Waste from medications and pharmaceutical products.

- Y4 1 Waste originating from the production, formulation and use of
1 biocides and phytopharmaceutical products.
- Y5 1 Waste originating from the manufacture, formulation and use of
1 chemical products utilized in wood preservation.
- Y6 1 Waste originating from the production, formulation and use of
1 organic solvents.
- Y7 1 Waste originating from thermal and tempering treatment
1 activities containing cyanides.
- Y8 1 Waste originating from mineral oils not able to be used for the
1 purpose for which they were intended.
- Y9 1 Waste mixtures or emulsions from oils/water/hydrocarbides/water.
- Y10 1 Waste substances and articles containing or contaminated with
1 polychloride biphenyls and/or polychloride terphenyls and/or
1 polybromade biphenyls.
- Y11 1 Tar waste resulting from refining, distillation or any other
1 pyrolytic treatment.
- Y12 1 Waste originating from the production, formulation and use of
1 inks in general, colorants, pigments, lacquers or varnishes.
- Y13 1 Waste originating from the production, formulation and use of
1 latex resins, plastificants, tapes, glues/adhesives.
- Y14 1 Waste from chemical substances produced in activities involving
1 unidentified and/or new research and development or education
1 for which the effects on humans and/or the environment are
1 unknown.
- Y15 1 Waste of an explosive nature not subject to other laws.
- Y16 1 Waste originating from the production, preparation and use of
1 chemical products and materials for photographic processing.
- Y17 1 Waste resulting from the surface treatment of metals and
1 plastics.
- Y18 1 Waste resulting from industrial waste storage activities.

Waste Having the Following Constitutive Elements:

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- Y19 1 Metal carbonyls.
 - Y20 1 Beryllium, beryllium compounds.
 - Y21 1 Hexavalent chromium compounds.
 - Y22 1 Copper compounds.
 - Y23 1 Zinc compounds.
 - Y24 1 Arsenic, arsenic compounds.
 - Y25 1 Selenium, selenium compounds.
 - Y26 1 Cadmium, cadmium compounds.
 - Y27 1 Antimony, antimony compounds.
 - Y28 1 Tellurium, tellurium compounds.
 - Y29 1 Mercury, mercury compounds.
 - Y30 1 Thallium, thallium compounds.
 - Y31 1 Lead, lead compounds.
 - Y32 1 Inorganic fluoride compounds, excluding calcium fluoride.
 - Y33 1 Inorganic cyanides.

Y34 1 Acid solutions or acids in solid form.
Y35 1 Base solutions or bases in solid form.
Y36 1 Asbestos (powder and fiber).
Y37 1 Organic phosphorus compounds.
Y38 1 Organic cyanides.
Y39 1 Phenols, phenolic compounds, including chlorophenols.
Y40 1 Ethers.
Y41 1 Halogenated organic solvents.
Y42 1 Organic solvents, excluding halogenated solvents.
Y43 1 Any product similar to polychloride dibenzo furane.
Y44 1 Any product similar to dibenzo-p-dioxin.
Y45 1 Halogenated organic compounds other than the substances mentioned
1 in this annex (for example, Y39, Y41, Y42, Y43 and Y44).

Annex I-B

Hazardous Wastes -- Class I from Non-Specified Sources

(Annex A of NBR 10.004/87)

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EFFECTIVE-DATE: 12/12/1996