

Decree No. 1.197 of 16 July 1990

The President of the Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis (IBAMA -- Brazilian Institute of the Environment and of Renewable Natural Resources), in accordance with the powers and responsibilities conferred on him by Law No. 7735 of 22 February 1989, as published in the *Diário Oficial da União* (Official Gazette),

In view of the extensive and indiscriminate transfer of toxic industrial wastes of whatever nature to Third-World countries, including Brazil;

In view of the fact that life, the quality of life and the environment may be threatened as a result of the importation of such wastes;

In view of the need to introduce measures to regulate the importation of these wastes to correct the current lack of checks and regulations;

In view of Resolution No. 158 passed on 28 June 1988 by the Conselho Nacional do Comércio Exterior (CONCEX -- National Council of Foreign Trade) and of CACEX Memorandum No. 204 of 2 September 1988, which governs the issuing of permits for the importation of wastes that may, in the opinion of the environmental organization concerned, pose an ecological risk associated with the technical capability of the importer to handle and treat the wastes concerned,

hereby resolves:

Article 1: Materials included in the list contained in Annex I hereto can be imported only on the prior authorization of the Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis (IBAMA).

Sole Paragraph: The list contained in Annex I hereto may be altered at the discretion of IBAMA.

Article 2: Pedidos de Guia de Importação (PGI -- import permits) and Pedidos de Aditivos de Guia de Importação (PAGI -- special import permits) for the materials covered by this Decree, except as regards aspects of a commercial nature, can be issued by the Carteira de Comércio Exterior (CACEX -- Foreign Trade Department) of the Banco do Brasil only on the prior written authorization of IBAMA.

Article 3: Any enterprise that imports materials covered by this Decree, either on a regular or occasional basis,

must:

I. register with IBAMA, using the appropriate form, an example of which is contained in Annex II hereto;

II. use of appropriate techniques, comply with national and international regulations on packaging and transportation, and observe special precautions in handling the materials while in transit or storage, as well as making provision for the emergency measures to be taken with respect to each material by completing the appropriate form, an example of which is contained in Annex III hereto.

III. comply with the conditions laid down by federal, state and municipal environmental legislation with respect to the storage, handling, use and processing of the material in question, and of any wastes generated during these operations, including final disposal of such wastes, in accordance with the provisions of Article 6 of this Decree.

Sole paragraph: The information to be included in the Cadastro de Importadores e Processadores de Material Perigoso Importado (Register of Importers and Processors of Imported Hazardous Materials -- Annex II) and in the Notificacao Prvia para Importacao de Material Perigoso (Prior Notification of the Importation of Hazardous Materials -- Annex III) may be altered at the discretion of IBAMA.

Article 4: Enterprises that are not direct usufructuaries but who intend simply to import any of the materials covered by this Decree, may do so provided that they:

I. comply with subparagraphs I and II of Article 3 of this Decree;

II. notify IBAMA of the processing enterprise which, in accordance with subparagraphs I and III of Article 3 of this Decree, is to accept responsibility, formally and in writing, for processing the material to be imported.

Article 5: Every importing enterprise must, by 31 November, submit to IBAMA its programme for the importation of each material for the following year, by completing the appropriate form, an example of which is contained in Annex IV hereto.

Article 6: IBAMA shall consult the environmental organization of the State in which the material is to be

processed on the environmental record of the enterprise that is to process the material.

Paragraph 1: The consultation referred to in the introductory paragraph to this Article must cover the following points:

I. whether the processing enterprise has a Licença de Operação (operating licence) for the industrial plant at which the material is to be handled;

II. whether the processing enterprise is authorized to work with the materials listed in the register contained in Annex II hereto;

III. whether environmental monitoring systems and equipment are adequate and functioning properly;

IV. whether adequate provisions have been made for disposing of any by-products generated in the processing of any of the materials listed in the register contained in Annex I hereto.

Paragraph 2: Consultations shall take place every six months, or at the time of importation if a period of more than six months has elapsed since the previous importation.

Paragraph 3: Should any enterprise registered in accordance with Article 3 of this Decree be involved in any incident or breach of current environmental legislation, the State environmental body shall immediately inform IBAMA of that incident or breach.

a. For the purposes of the provisions of this paragraph, State environmental bodies shall take into consideration any enterprise that has been the subject of at least one consultation with IBAMA.

Article 7: IBAMA shall inform the environmental body of any State(s) in or through which materials are to be unloaded or transported, where such State(s) is/are not that in which the material is to be processed, of the date of arrival and of the itinerary to be followed.

Article 8: Any enterprise that imports and/or processes any of the materials listed in Annex I to this Decree without being registered with IBAMA for this purpose shall be refused authorization to import and/or process the aforementioned materials for a period of six months, from the date on which the enterprise is found to be so in breach of the regulations. The enterprise may also be

subject to the restrictions laid down in Articles 14 and 15 of Law No. 6938 of 31 August 1981, as amended by Law No. 7804 of 18 July 1989.

Article 9: This Decree shall come into force sixty days after this publication, until which time current procedures shall remain valid.

Tania Maria Tonelli Munhoz

Annex I List of waste materials covered by this Decree

1) NBM/SH* Product

2524.00.0200 Asbestos scrap and wastes
2620.19.0000 Ashes and wastes containing mainly zinc
2620.20.0000 Ashes and wastes containing mainly lead
2620.30.0000 Ashes and wastes containing mainly copper
2620.40.0000 Ashes and wastes containing mainly aluminum
2620.50.0000 Ashes and wastes containing mainly vanadium
2620.90.0100 Ashes and wastes containing mainly titanium
2620.90.9900 Other ashes and wastes containing metals or metal compounds
2621.00.0000 Other slag and ashes, including algal wastes
7112.90.0000 Silver scrap, wastes and filings
7404.00.0000 Copper scrap and wastes
7503.00.0000 Nickel scrap and wastes
7602.00.0000 Aluminum scrap and wastes
7802.00.0000 Lead scrap and wastes
7902.00.0000 Zinc scrap and wastes
8002.00.0000 Tin scrap and wastes
8101.91.0300 Tungsten scrap and wastes
8102.91.0200 Molybdenum scrap and wastes
8103.10.0100 Tantalum scrap, wastes and filings
8104.20.0000 Magnesium scrap and wastes
8104.30.0000 Lathe wastes and calibrated granules; magnesium dusts
8105.10.0300 Cobalt scrap, wastes and filings
8106.00.0300 Bismuth scrap, wastes and filings
8107.10.0200 Cadmium scrap, wastes and filings
8108.10.0200 Titanium scrap and wastes
8109.10.0200 Zirconium scrap, wastes and filings
8110.00.0200 Antimony scrap, wastes and filings
8111.00.0300 Manganese scrap, wastes and filings
8112.11.0200 Beryllium scrap, wastes and filings
8112.20.0200 Chromium scrap and wastes
8112.30.0200 Germanium scrap and wastes
8112.40.0200 Vanadium scrap, wastes and filings
8112.91.0100 Other scrap and wastes of common metals
8113.00.0200 Scrap, wastes and filings of ceramics

2) Materials containing one or more of the following elements

Arsenic
Barium
Cyanides
Fluorine
Mercury
Selenium
Thallium
Tellurium

* Numerical code of the Nomenclatura Brasileira de Mercadorias (NBM -- Brazilian Merchandise Nomenclature), based on the Sistema Harmonizado de Designacao e Codificacao de Mercadorias (SH -- Harmonized System for the Designation and Codification of Merchandise).

Annex II

ENFLEX Note: For a copy of the form, REGISTER OF IMPORTERS AND PROCESSORS OF IMPORTED HAZARDOUS MATERIALS, please call the ENFLEX Hotline at (800)544-3118.

Annex III

ENFLEX Note: For a copy of the form, PRIOR NOTIFICATION OF THE IMPORTATION OF HAZARDOUS MATERIALS, please call the ENFLEX Hotline at (800)544-3118.

EFFECTIVE-DATE: 07/16/1990