

Orica Applications for Export [SEC=UNCLASSIFIED]

Side 1 af 3

**Fra:** Hall, Damien [Damien.Hall@environment.gov.au]  
**Sendt:** 25. november 2008 09:53  
**Til:** Schou, Lone  
**Cc:** Rothenfluh, Daniel; Jakobsen, Dorte Skjøtt  
**Emne:** RE: Orica Applications for Export [SEC=UNCLASSIFIED]

**Prioritet:** Høj

**Vedhæftede filer:** Draft additional info DK II V1.doc  
Dear Lone,

I hope the attached provides you with the responses you require.

I have sent the original documents to you by international courier and they should be with you in the coming days.

Warm regards  
Damien

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**From:** Schou, Lone [mailto:LOS@MST.DK]  
**Sent:** Tuesday, 25 November 2008 2:27 AM  
**To:** Hall, Damien  
**Cc:** Rothenfluh, Daniel; Jakobsen, Dorte Skjøtt  
**Subject:** SV: Orica Applications for Export [SEC=UNCLASSIFIED]

Dear Damien,

Thank you very much. I have this morning received 9 mails all dealing with the export of HCB waste from Australia to Denmark. These include 6 mails with notifications and 3 mails dealing with the duly reasoned request.

The Danish EPA reserves the right to suspend the processing of the notification, until the duly reasoned request has been assessed. The suspension includes among other the 3 day rule in art. 7 and the 30 day rule in art. 11. The suspension is called upon, to ensure a correct handling of the case under the rules of Regulation (EC) No. 1013/2006.

This is due to the fact that The Australian Government is obliged by Regulation (EC) No. 1013/2006 art. 41, 4 to send a duly reasoned request prior to the notification, when it, as a Party to the Basel Convention, export waste destined for disposal inside the EU.

We will inform you when we have finalised our assessment of the duly reasoned request and will begin processing the notification, and thereby activating the different rules.

A first look through the notifications shows that a few information's are missing:

1. The original notification has to be send to the Danish EPA
2. a copy of the notification has to be send to the transit country (e.g. South Africa)
3. Information regarding the carrier (box 8 in annex 1A))
4. Information regarding way of transport (box 8 in Annex 1B)
5. information on the intended routing (point 14 in annex II)
6. and the financial guarantee

If you have any questions to the "missing information" in the notification please contact Dorte Jakobsen for more information.

Best regards

Lone

Lone Schou  
 Danish Environmental Protection Agency  
 Strandgade 29, 1401 Copenhagen  
 Denmark

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 direct tel: + 45 72 54 43 21  
 mail: los@mst.dk

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**Fra:** Hall, Damien [mailto:Damien.Hall@environment.gov.au]  
**Sendt:** 24. november 2008 02:56  
**Til:** Schou, Lone  
**Cc:** Rothenfluh, Daniel  
**Emne:** Orica Applications for Export [SEC=UNCLASSIFIED]  
**Prioritet:** Høj

Dear Lone,  
 Following our recent discussions please find attached the relevant documents for Orica's three applications to export up to 6,100 tonnes of HCB waste for final disposal over a 12 month period at the Kommunekemi high temperature incineration (HTI) facility in Nyborg, Denmark.

The attached documents include:

- (i) Basel Notification documents for the transboundary movements/shipments of waste (Annex IA);
- (ii) Basel Movement documents for the transboundary movements/shipments of waste (Annex IB);
- (iii) The Duly Reasoned Request; and
- (iv) Sustainable Infrastructure Australia Pty Ltd's (SIA) independent report into Australia's capacity to treat the HCB stockpile.

The application numbers are AUH 082037T, AUH 0866370, and AUH 086937R.  
 These applications will be *Gazetted* and thereby made public in Australia on Thursday, 27 November 2008.

Please do not hesitate to contact me if there are any questions or problems with the attached documents.

Best regards  
 Damien

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Due to the limits of our e-mail system I will have to send the attachments through to you in separate e-mails.

Please find attached to this e-mail:

(i) the SIA Report

Damien

Outlook File Attachment

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**Australian Government**

**Department of the Environment, Water, Heritage and the Arts**

Ms Lone Schou  
Deputy Head of Division  
Danish Environmental Protection Agency  
Strandgade 29  
Copenhagen 1401  
DENMARK  
**Facsimile: +49 (32) 660 0230**

Dear Ms Schou

***Transboundary Movement of Hazardous Waste***

***Application Numbers AUH 082037T, AUH 086637O, and AUH 086937R***

I refer to your electronic correspondence received 25 November 2008 by the Department of the Environment, Water, Heritage and the Arts (the department).

The attached documentation addresses the 6 (six) requests for additional information.

**Attachment I**

Copy of all documentation sent to the Competent Authority of South Africa as the transit state for the applications.

**Attachment II**

Extracts from the Orica application regarding the carrier (box 8 in annex 1A, notification form) and the way of transport (box 8 in Annex 1B).

Please note that due to the nature of the waste and Orica's intention to charter a ship for the movements of the waste, the shipping company and charter ship will be identified 6 weeks before shipping date. Orica has advised that it is impractical to contract shipping charters until 6-8 weeks in advance and a firm time window for loading in Australia is confirmed. This information will be provided to the department as a condition of permits should such permits be granted under the *Hazardous Waste (Regulations of Exports and Imports) Act 1989* (the Act). The department will then provide the details to the Competent Authorities of the country of Import (Denmark) and transit state (South Africa).

**Attachment III**

Extract from the Orica application regarding the intended shipping route (point 14, Annex II EC Reg's 1013/2006).

*14. Intended routing (point of exit from and entry into each country concerned, including customs offices of entry into and/or exit from and/or export from the Community) and intended route (route between points of exit and entry), including possible alternatives, also in case of unforeseen circumstances.*

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Please note that the states of Australia, South Africa and Denmark are detailed in box 15 of Annex 1A.

**Attachment IV**

Information relating to the Orica bank guarantee.  
Orica have advised the department that the guarantees will be issued in approximately 10 days for the three applications. Orica required the permit numbers to be issued by the department before any guarantee's could be finalised.

Attached is the bank instruction for one application. Note that the bank has been requested to use the exact wording provided by the Danish EPA. The amounts are based on DKK 3000 per gross tonne of packed waste for each application.

Should it be required, additional information and documents can be made available to assist in your assessment of the notification. These can be requested by email from [damien.hall@environment.gov.au](mailto:damien.hall@environment.gov.au).

Thank you for your help in this matter.

Yours sincerely

Damien Hall  
Director  
Hazardous Waste Section  
November 2008



**Australian Government**

**Department of the Environment, Water, Heritage and the Arts**

**ATTACHMENT I**

**Copies of documents sent to the Competent Authority of South Africa as the transit state for the applications.**



ORICA -

NOTIFICATION - /



ORICA -

NOTIFICATION - /



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Orica - notify

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Extracts from the Orica application documents relating to the carrier as required in box 8 of annex 1A and 1B.

Extract From the *Application for Basel Export Permit* Document, page 51

## 1 Contractual Arrangements

### 1.1 Requirement for Contractual Relationship

In order to obtain an export permit, Orica must demonstrate that it has a valid chain of contracts in place to demonstrate ownership and continuous control over the movement of the waste from Botany to facilities in Denmark, see Attachments 11, 13 and 14.

### 1.2 Outline of Contractual Relationship

Orica has direct contracts with the following parties:

- Kommunekemi, Nyborg, the treatment facility;
- Port of Nyborg, for stevedoring and transport to site (via sub-contract with Kommunekemi for each shipment to be arranged when shipping date is confirmed);
- **Charter Ship company (the shipping company and contract will be advised for approval prior to shipment);** and
- Patrick (Asciano), for transport from the Botany site to wharf and stevedoring.

Extract from *Attachment 16 – Risk Assessment* Document, page 22 – 23.

#### 4.6.2 Shipping

Orica have developed safety, Environmental and Quality Plans for the Export process<sup>13</sup>. These plans include particular controls for shipping such as:-

- Appropriate IMDG labelling of the waste;
- Marine Surveys;
- Appropriate documentation;
- Formal acceptance of product at destination port; and
- Quality Checks.

Previous safety management plans produced by AVR, who were engaged to plan the European leg of transport, but will now only be used sparingly, also included:-

- ISM certified vessels to be used (refer below);
- IMO Class 6.1 & 9 vessels to be used, which relates to the types of materials being transported;
- EmS schedules will be identified under the IMDG Code, which provide master and crew with specific instructions during emergency and fire;
- Appropriate PPE to be provided to staff including SCBA for fire fighting; and
- All staff to be appropriately trained in dealing with spills and fires, including the use of SCBA.

Orica have specified the types of vessels to be used for this activity, with the specifications included in Appendix III. The vessel to be used will be a Lloyds or



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appropriately registered vessel. The Lloyds register provides appropriate standard for the design, construction and ongoing maintenance of all vessels. By requiring a Lloyds classification Orca ensure the ship is maintained and operated in accordance with these standards.

As stated above, the vessel and crew will be required to be ISM certified. This certification requires the master and crew to be appropriately trained. It also requires a safety management system to be established by the shipowner/operator. In order to fulfil the requirements of the safety management system appropriate resources also need to be provided by the shipowner/operator. These resources will include any necessary on-board fire fighting or spill containment equipment, as well as having access to shore based support if necessary.





Extract From the *Application for Basel Export Permit* Document, page 53

## 2 Export Route & Shipment Arrangements

In order to obtain an export permit, Orica must obtain the consent of every nation through which the HCB waste is proposed to be transported.<sup>1</sup> In order to minimise potential problems in obtaining the consent of transit states, Orica has chosen a transport route which minimises the number of consents required and only transits through nations that have demonstrated a willingness to consent to such requests in the past.

Orica's strategy for transport of the HCB waste is to adapt modern approaches to logistics with the following objectives:

- (a) use of contractors who are experienced in transporting hazardous goods or waste;
- (b) minimisation of risk of deviation from planned transport;
- (c) minimisation of the number of permits required;
- (d) use of dedicated charter ships to ensure control of waste during the critical shipping period; and
- (e) use of an effective tracking system so the location of the waste is known at all times.

In Orica's planned transport routes, transit in South Africa may be required for bunkering, the ship will then sail to Nyborg, Denmark.

Extract from *Attachment 16 – Risk Assessment* Document, page 23.

The route for this shipment is proposed to be via South Africa, with the total journey likely to take 7 weeks. It is proposed that the ship will be bunkered in South Africa to take on fuel and supplies. Whilst the bunkering arrangement has yet to be confirmed, Orica are currently investigating whether refuelling can be conducted without the vessel needing to port in South Africa.

<sup>1</sup> Section 17 (1)(b)(a) Act



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**Draft Bank Guarantee from Orica.**

**ATTACHMENT IV**



Bank  
Guarantee\_Orica I