



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 8 1994

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

A. J. Herberger
Maritime Administrator
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, DC 20509

Dear Mr. Herberger,

This letter is in response to your letter of May 24, 1994, regarding the sale of National Defense Reserve Fleet ships for foreign disposal and recycling of the vessels' material. In particular, your letter addresses the effect of the regulations at 40 CFR 761 upon the sale of three specific vessels, the PNS MOAWIN, the PNS HARBAH, and the PNS SIQQAT.

According to your letter, the Maritime Administration (MARAD) has made a commitment to the U.S. Navy for the disposal of these three ships. These vessels were leased to the Pakistani Navy by the U.S. Navy and are now being returned to the U.S. Navy. The ships are in the process of being towed to Singapore for the stripping of useable and sensitive equipment, after which title will be transferred to MARAD for subsequent resale to foreign parties for scrapping abroad. In your letter you express the opinion that these three vessels have already been exported, in that they have been on lease to the government of Pakistan, and have been operated under the Pakistani flag by non-U.S. citizens.

As you are aware, under the Environmental Protection Agency's (EPA) Closed Border Policy (45 FR 29115, May 1, 1980), the export of Polychlorinated Biphenyls (PCBs) for purposes of disposal at concentrations of 50 ppm or greater is prohibited. In general, this prohibition would apply to the sale of obsolete Navy vessels that contain 50 ppm PCBs or greater for scrapping in foreign countries. Export for use is not prohibited if the PCB items meet the specific requirements of 40 CFR 761.

With respect to these three ships, EPA believes that their export occurred when they were transferred outside the customs territory of the United States (as defined in General Headnote 2 of the Harmonized Tariff Schedule of the United States), under lease to Pakistan. If these ships were exported for use several years ago, then this latest action would merely be a sale of



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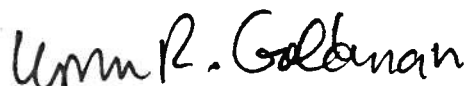
previously exported ships for foreign disposal, and not an export for disposal. Thus, a present sale of these vessels for scrapping abroad would not be a violation of the regulations at 40 CFR 761.

EPA is confident that MARAD will take all necessary and appropriate steps to ensure that the disposal of any PCB wastes from these and any other MARAD vessels is conducted in an environmentally sound manner. With respect to future vessel sales, EPA requests that MARAD notify prospective purchasers that the export for disposal of PCBs on these vessels in concentrations greater than 50 ppm is a violation of the Toxic Substances Control Act and its implementing regulations.

MARAD may want to consider negotiating a Federal Facilities Compliance Agreement with EPA that will properly address situations which fall outside of this specific scenario. Barry Breen, the Director of the Federal Facilities Enforcement Office is the appropriate contact point to initiate compliance discussions. He can be reached at (202) 260-9801.

Should further questions concerning this issue arise, John Melone, Director, Chemical Management Division can provide assistance. He may be reached at (202) 260-1866.

Sincerely,



Lynn R. Goldman, M.D.
Assistant Administrator

cc: Mark Greenwood
John Melone
Roz Elliott
Sharon Stahl
Barry Breen