

Trafigura found guilty in Ivory Coast waste-dumping case

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Last month the Amsterdam Central Criminal Court found the Trafigura corporation guilty of offloading waste from the ship *Probo Koala*, despite knowing it to be dangerous, after having illegally exported it from the Netherlands. The court imposed a €1 million fine on the company.

The waste was eventually dumped in Ivory Coast in West Africa. Trafigura have consistently denied responsibility for the dumping and have claimed that the waste was not hazardous to human health. The case has highlighted yet again the problem of toxic waste dumping in Africa and other developing countries.

Trafigura is a London-based company trading in metals and energy, oil trading being a major part of its activity. Last year the company made \$1 billion in profits on a \$40 billion turnover. Speaking to the BBC *Newsnight* programme, the Dutch public prosecutor said the verdict sent out a message to other companies: “Be careful what you do”.

In addition to the fine imposed on the company, Trafigura employee Naeem Ahmed was fined €25,000, and ship’s captain Sergiy Chertov was given a 5-year suspended jail sentence.

In 2006 Trafigura had bought a consignment of low grade coker naphtha oil in Texas. The low grade oil contained high levels of sulphur. The company’s plan was to treat the oil at sea using caustic soda which concentrates the sulphur impurities leaving cleaned oil which the company could sell on at a profit.

Internal emails obtained last year by the British Broadcasting Corporation showed the company knew the consequences of the cleaning operation. One email from Naeem Ahmed to other Trafigura executives stated: “This operation is no longer allowed in the European Union, the United States or Singapore...it is banned in most countries due to the hazardous nature of

the waste.”

The company tried to dispose of the waste using Amsterdam Port Services, describing it as routine ship’s slops. As the waste began to be pumped ashore, the obnoxious smell triggered an emergency services response. The offloading was suspended and the waste analysed. The company was told it would cost €400,000 to treat the waste safely. Rather than pay this, the company pumped the waste back on board and looked for an alternative method of disposal.

The alternative the company came up with was to use the services of a local company, Tommy, to dump the waste at 14 dump sites around the port city of Abidjan, in the West African country of Ivory Coast. Following the dumping of the waste in September 2006, the city was overwhelmed by a terrible stench, and tens of thousands of people began reporting medical problems, such as breathing difficulties and running eyes. The health emergency led to the resignation of the Ivorian government cabinet.

Official estimates show 15 people died, 69 were hospitalized, and over 100,000 had to seek medical help following the dumping of the waste in Abidjan. Speaking in September 2009, the United Nations Special Rapporteur on toxic waste, Okechukwu Ibeanu, stated: “We don’t know...the full effect of the dumping...But there seems to be strong prima facie evidence that the reported deaths and adverse health consequences are related to the dumping of the waste.”

In 2007 Trafigura made an out-of-court payment of \$160 million to the Ivorian government. Last year in London, the company made another out-of-court settlement of \$50 million to Abidjan inhabitants who had suffered health problems after the dumping of the waste. This was the result of a class action brought by the solicitors Leigh Day.

In spite of these payments, Trafigura has always denied the waste could have caused death or injury. They have vigorously defended this position. Last year Trafigura used prominent libel lawyers, Carter-Ruck, to sue the BBC after a *Newsnight* programme on the dumping of the waste. The BBC had to agree to apologise and withdraw allegations that the waste could have caused deaths, miscarriages or any long term injury.

However, an attempt in October last year by Carter-Ruck to use a super-injunction to prevent the *Guardian* newspaper from reporting a question tabled by the Labour Member of Parliament Paul Farrelly, eventually failed. Trafigura obtained an injunction to prevent the publication of a report commissioned by them on the dumping of the waste in Abidjan. Farrelly tried to use parliamentary privilege to circumvent the injunction, only to find that a super-injunction could prevent the reporting of parliamentary proceedings and even discussion of the injunction itself. The injunction was lifted after details of the question were widely spread, using the social networking site Twitter.

A lawyer for Trafigura speaking after the Amsterdam court verdict said the company was considering an appeal and believed the judge's ruling against the company to be incorrect: "[I]t is important that the court noted that there was limited risk to human health from these slops, and indeed no damage occurred in Amsterdam."

The verdict is important, in that it is the first time the company has been judged criminally accountable since the whole episode began. But Yao Pipira Denis, president of the National Federation of Victims, which represents over 70 different organisations totalling more than 200,000 people, told Radio Nederlands: "we are satisfied that—for the very first time—there is a ruling. But it isn't a total satisfaction, €1 million is a symbolic amount of money. What we are especially concerned about is the victims and beside a fine we need a civil judgment that will compensate the victims of the *Probo Koala*."

The African continent continues to be used as a dumping ground for hazardous waste from the West. It is estimated that over six million tonnes of electronic waste are illegally exported from the EU each year. Much of this material ends up in West Africa. Old computers junked by the NHS in the UK were found on

a waste tip in Ghana. Children were reclaiming metal from them with fire, exposing themselves in the process to fumes with dangerous levels of lead, cadmium and dioxins.

A recent log, amongst many, posted by the Basel Action Network (BAN) a US-based non-governmental organization that monitors the movement of hazardous waste, shows what is taking place. Dated April 16 this year, it was of a ship detained by security forces at Tin Can Island in the Nigerian port of Lagos. Amongst the waste were old lead storage batteries and broken televisions. This kind of waste contains mercury, lead, cadmium and polychlorinated biphenyl, exposure to which, according to BAN can induce heart disease, cancer and leukaemia.



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