

Statement of facts

In late 2012, the suspect (hereinafter: IPCO) bought a consignment of high sulphur naphtha (8,000 m³) from a refinery in the Russian federal republic of Tatarstan.

In January 2013, the consignment was shipped from Kaliningrad per tanker ship, the 'Franz Schulze', to the Netherlands on the instructions of IPCO.

The Franz Schulze anchored off the Scheveningen coast (inside Netherlands territorial waters), and a start was made with 'washing' the naphtha, a process used to reduce sulphur levels of naphtha by means of caustic soda dissolved in water.

When the ship entered the port of Rotterdam to take in a fresh cargo of caustic soda, the ILT went on board for inspection. The ILT obliged the ship to submit the waste from the desulphurisation process, i.e. the spent caustic soda, to a Netherlands licensed waste treatment company.

The National Police Central Unit Centre for Infrastructure was also informed. It started a further investigation into the processes performed on board the vessel.

The Franz Schulze submitted the waste ('spent caustic') to the licensed waste treatment company ATM situated in Moerdijk. Treatment costs totalled € 470,000.

After delivery of the waste the ship sailed on to Antwerp, where the remaining naphtha was unloaded on 22 February 2013.

Findings of the criminal investigation

From the police investigation it emerged that the consignment of naphtha should have been classified as waste when it was sold to IPCO:

- the naphtha was not produced intentionally, it was a residue;
- the naphtha could not have been used without further treatment.

Therefore, shipment of the naphtha from Russia to the Netherlands can only be regarded as an illegal shipment of waste within the meaning of the European Waste Shipment Regulation (EWSR), as the required notification and permission are absent.

Desulphurisation of the naphtha must be regarded as a recovery operation within the meaning of the Waste Framework Directive, as its intended purpose was to recycle the waste.

As this recovery operation occurred in the Netherlands (inside territorial waters), Article 10.54 of the Environmental Management Act provides that this is only allowed in a licensed establishment.

IPCO admits to the following criminal offences:

1. *That the suspect, in the Netherlands, in the period from 7 January 2013 up to and including 20 February 2013, knowingly performed acts referred to in Article 2, 35 sub a and/or b of the European Waste Shipment Regulation, by shipping waste (intended for disposal or recovery) namely (visbreaking) naphtha, from Russia to the Netherlands without notification to and/or permission of all/the authorities involved pursuant to the aforesaid Regulation;*

[Article 10.60 paragraph 2 of the Environmental Management Act in conjunction with Articles 1a, 2 and 6 of the Economic Offences Act]

2. *That the suspect, off the Scheveningen coast, in the period from 10 January 2013 up to and including 20 February 2013, knowingly recovered hazardous waste outside of a licensed establishment, or disposed of it by desulphuring a shipment of naphtha on board the vessel Franz Schulze.*

[Article 10.54 paragraph 1 of the Environmental Management Act in conjunction with Articles 1a, 2 and 6 of the Economic Offences Act]