

**Ms. Anita Ramasastry, Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises**

**Mr. Baskut Tuncak, Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes**

**c/o Ms. Beatriz Balbin**  
**Office of the United Nations High Commissioner for Human Rights**  
**Special Procedures Branch**  
**Email: [registry@ohchr.org](mailto:registry@ohchr.org)**

**Response to joint communication from special procedures**

Date 20 March 2018  
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**Dear Ms. Ramasastry and Mr. Tuncak**

I hereby have the pleasure of responding to your joint communication dated 7 February 2018 regarding the sale in 2016 of the North Sea Producer by the North Sea Production Company Limited and regarding the issue of ship recycling in general.

As CEO of A.P. Moller - Maersk I give you my assurances that the matters raised in your communication are of the utmost concern to our company. I trust that the response provided in the attached will demonstrate our unwavering commitment to responsible ship recycling practices in full alignment with international standards including the United Nations Guiding Principles on Business and Human Rights.

I wish to express my sincere regard for the work done by your respective mandates to advance these standards and I confirm that A.P. Moller - Maersk remains at your disposal for further dialogue.

Yours sincerely



Søren Skou  
Chief Executive Officer

**A.P. Møller – Mærsk A/S**

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# North Sea Production Company Limited

The Maersk Company Limited &  
Odebrecht Oil Services Limited

As Shareholders of North Sea Production Company Limited  
(the Company)

9<sup>th</sup> March 2018

By e-mail

Dear Sirs,

## UNHR – JOINT COMMUNICATION FROM SPECIAL PROCEDURES

We would refer to the letter from Beatrice Balbin, Chief of the UN Special Procedures Branch, which you have passed to us for comment.

At the outset we would state that the Company, incorporated on 13<sup>th</sup> March 1995, is a limited company incorporated under the laws of England & Wales, not a ‘partnership’ as stated. As a limited company it is a legal person in its own right, with the capability and capacity to exercise full decision-making powers in accordance with its constitution.

In considering the letter, we believe it is appropriate that we respond in connection with matters 1-5 (on page 4) and our response also captures the allegations raised by the UN on pages 2 and 3 in so much as they relate, in whole or at least in the main, to matters within the ownership of the Company.

Herewith our response

### **(1) Please provide any additional information and any comment you may have on the above mentioned allegations.**

We note that the allegations made in the letter relate to “*information received*” however we have no knowledge of what information the allegations are based nor from where it was received. It is understood Mr Tuncak visited the Maersk Offices in Copenhagen in October 2017, and during the meeting raised this issue. He was provided with the contact details for the Company directors at that time, however Mr Tuncak did not contact either of the contacts to obtain information directly. This is clearly an opportunity which was missed, had Mr Tuncak contacted the Company it is possible that many of the misunderstandings, inaccuracies and errors contained in the letter would have been clarified. That serious allegations are now being made without the Company having had the opportunity to provide information is both disappointing and somewhat concerning.

However, turning to the content of the letter, we comment here on the mentioned allegations. We have extensive contemporaneous correspondence which supports and evidences the comments we make, our offer to meet with Mr Tuncak to explain in detail the circumstances surrounding this matter, to go through the documentation which supports everything we state herein and to answer any questions which may then arise remains open.

Dagmar Maersk was purchased in 1995 by the Company, converted into a floating production storage and offloading unit (FPSO) before commencing operations for ConocoPhillips (UK) Limited in 1997. She remained on station until May 2015. At that point it is not correct to characterise North Sea Producer as being at the end of her useful life.

The Company commissioned studies through Dundas Consultants in the UK for the potential of the vessel's continued operating profile which, amongst other findings assessed a further 15/20 years of useful operation from future oil and gas fields remained feasible for it following upgrade for redeployment.

The Dundas Consultants screening criteria identified over 200 potential opportunities, the results of the study indicated that redeployment opportunities existed for 11 North Sea projects, in addition 30 further opportunities were identified globally.

Furthermore, a number of similar aged FPSO units have been removed from existing UKCS oil and gas fields, upgraded, refurbished and redeployed. We would therefore confirm that North Sea Producer was independently scrutinized and assessed by competent persons and deemed entirely suitable as a reusable and re-deployable FPSO. For clarity the vessel did not transport or extract oil, rather it received oil from subsea wells, extracted gas from it, then stored it as necessary before transferring the oil through a pipeline owned by ConocoPhillips (UK) Limited.

On completion of operations in May 2015 the unit was brought to Middlesbrough, and the Company considered various options as to its future, including stacking the unit, recycling or selling for redeployment. The Company undertook extensive data gathering exercises, including discussing with the UK Environment Agency (UKEA) as to what would be required in each case to comply with applicable national and international legislation. In addition, a number of experts were instructed, including an independent specialist radiation protection adviser, it being known that there was NORM on board the vessel. International reputable ship brokers were also appointed to assist in understanding the market options available.

Following completion of these activities a decision was made by the Company to sell it for redeployment, where it was subsequently sold under a Memorandum of Agreement (MOA) dated 1st March 2016 to a foreign buyer for further redeployment, with delivery to that buyer on 13<sup>th</sup> April 2016. Prior to delivery the vessel had been cleaned and prepared in accordance with all UKEA requirements for sale for redeployment, including in relation to hazardous materials on board.

Although this was not a sale for recycling, the MOA imposed very clear obligations on the buyer such that, if the redeployment options we understood they were working on did not materialise, any recycling would have to be carried out in compliance with any applicable environmental law, the 2009 Hong Kong convention or EU ship recycling regulations.

We would refute in the strongest possible terms the entirely unfounded allegation on page 2 of the letter that we *"must have been aware that the tanker would not be further operationally used"*. This is simply untrue. The Company was introduced to the buyer by its broker, we were absolutely clear in all correspondence with that buyer that this was a sale for redeployment, and it was understood the buyer was looking at a number of projects for redeployment of the vessel. We have detailed correspondence which clearly demonstrates this was the factual situation, rather than an allegation based on an entirely unsubstantiated assumption.

We cannot comment on the actions and decisions of the buyer post-delivery of the vessel, which left the UK on 17<sup>th</sup> May 2016, neither would it be appropriate to speculate, rather the buyer should be given the opportunity to speak for itself regarding this.

It is however noted that there is reference to redeployment in Tin Can Port in Nigeria. This is not something which originated from the Company, rather we received an e-mail from the UKEA on 31<sup>st</sup> May 2016, around 6 weeks after delivery by ourselves to the buyers, making reference to this location based on a report in a local newspaper in Middlesbrough, UK. We confirmed to the UKEA at this time that we had no definite information as to the intentions of the buyers in terms of final destination of the vessel, but again co-operated fully with the UKEA in providing details of the buyer, including contact details, to enable the UKEA to contact them and undertake whatever discussions or investigations with the buyer it considered necessary.

It must be noted again that it was the buyer, not the Company, which applied for and was granted the required permissions to take the vessel from the UK.

As soon as the Company was alerted to the imminent beaching of the vessel in Bangladesh, Maersk FPSO's wrote to the buyer on 17<sup>th</sup> August 2017, reminding them of the MOA requirements for recycling, advising that a high court injunction would be sought if there was no response from them, and strongly urging them to delay any further recycling action. The buyer responded on the same day stating that in its view the recycling was being carried out in accordance with the laws of Bangladesh and the Hong Kong Convention, hence they were in compliance with the contract, we understand this remains their stated position. Before any further action could be taken against the buyer the vessel was beached and recycling commenced.

It must be noted in connection with the sale that full documentation as would be required to enable upgrade and redeployment was provided by the Company, including a complete electronic record of all produced data comprising many thousands of documents, all of the technical details for the vessel, all operating manuals and drawings, the total maintenance record, full operating system manuals, mechanical and electrical condition reports and an Inventory of Hazardous Materials (the IHM). In particular this latter document clearly recorded the hazardous materials which were on board at delivery on 13<sup>th</sup> April 2016, thus this was in the full knowledge of the buyers. Any false claims regarding the presence or otherwise of hazardous materials to the Authorities in Bangladesh was not made by the Company which was very open regarding levels of such materials on board, including with the UKEA prior to sale as described above.

In summary we firmly believe, and have evidence to support the contention, that in this transaction the Company acted at all times as a responsible seller, and assumed it was dealing with a reputable buyer which would (i) honour the terms of the sale contract and (ii) in particular would fulfil its contractual obligations as regards responsible recycling.

After delivery to the buyer the Company was not involved in any decisions as to what was done with the vessel nor its final destination. The Company is very concerned that the buyer placed the vessel in a facility that, based on the advice of the UN in their letter and despite the buyer's assertion to the contrary, may not be capable of meeting the terms set out in the sale agreement.

- (2) Please provide information on the details provided to authorities in the United Kingdom, Denmark and Brazil on the sale of the North Sea Producer to Global Marketing Systems, on the situation of the ship, including an overview of the hazardous materials within its structure, and on its claimed future use at the Tin Can Port in Nigeria. Please explain why A.P.Moller-Maersk refused to provide the precise identity of the buyers of the ship in 2016 .**

As we have stated above, prior to the sale and delivery of the vessel to the buyers, the Company was in communication with the UKEA, directly and through its instructed subject matter experts, to understand precisely what was required in order to comply with all applicable laws and regulations regarding the extent of NORM decontamination required to enable a buyer to export the vessel from the UK for redeployment. This included providing details of the hazardous materials on board, in particular the NORM, in terms of both its nature and location. As the vessel was in the UK and owned by an English company at that time, the advice and requirements of the UKEA were paramount as regards compliance.

On those UKEA advices the vessel was extensively cleaned in order to remove all traces of NORM from its storage tanks in full satisfaction of the requirements set by the UKEA. Once the NORM removal had been completed the Company was able to sell North Sea Producer to the buyer in the knowledge that the Company had fully complied with the stated requirements of the UKEA for redeployment. The total process was documented with the buyer including the steps that had been completed in terms of the actual cleaning and decontamination to enable the sale process, along with all required documentation required by the MOA to be provided to the buyer prior to the vessel departing the UK.

Following the beaching for recycling of the vessel, the Company received a Notice Requesting Information under the Transfrontier Shipment of Waste Regulations 2007, dated 30<sup>th</sup> November 2016 from the UKEA. A full and extremely detail response, including with supporting documents, was made to the UKEA on 23<sup>rd</sup> December 2016, with a supplemental submission, which contained further details of the buyer, following the UKEA review of the first bundle, provided on 20<sup>th</sup> February 2017. We have maintained contact with the UKEA throughout, and have offered to meet with them at any time if that would help in this matter to explain any issues arising, and we continue to stand ready to provide whatever assistance we can possibly deliver to the UKEA.

In this connection, it can be noted that in late 2016 the Danish Secretary of State for Environment and Food, Esben Lunde Larsen communicated the Danish Governments findings to the United Kingdom Secretary of State for the Environment, Food and Rural Affairs, the Rt Hon Andrea Leadsom, stating



*“From the information available to us, it is our preliminary conclusion that Maersk most likely did not violate the Regulation on shipment of waste ..... The buyer however, may have acted in violation of the Regulation if the decision to scrap the FPSO was taken while the vessel was still in a British port”*

To further corroborate the full co-operation and openness rendered by the Company to the UKEA in its investigations, in late December 2016 the United Kingdom Secretary of State for the Environment, Food and Rural Affairs stated in a ministerial communication to her counterpart in Denmark

*“At the present time we believe the vessel left the UK as a working vessel... .. The Environment Agency is in contact with lawyers from Maersk who are co-operating fully with their enquiries”*

At all times therefore the Company has been entirely transparent and honest in its dealings with the UKEA and will continue to conduct itself accordingly.

With reference to the query regarding media requests for identification of the buyer, the sale contract contained specific confidentiality provisions, wherefore we were not prepared to break our contractual obligations to tell the media who the buyer was (as opposed to the UKEA which had full knowledge of the buyer). Subsequently it became relatively public knowledge, and not through the Company's release of the information, at which point we were then prepared to confirm the buyer's details.

Finally, we confirm that we have not communicated with any Brazilian authorities, since it was not necessary to do so.

**(3) Please explain, the specific measures taken by A.P.Moller-MaerskOdebrecht to ensure that the North Sea Producer's dismantling would be conducted in accordance with relevant International standards.**

For clarity it was the Company which conducted the sale of North Sea Producer to the buyers, rather than either of its shareholders as noted above, therefore this response is drafted accordingly. We would further confirm that the Company, nor indeed either of its shareholders, was aware that the buyer had made a decision to sell the vessel for recycling until Maersk learnt of its intent to do so on or around 17<sup>th</sup> August 2017.

However, to cater for the eventual end of life obligations and/or in the event that none of the projects we were advised the buyer was working on came to fruition, a clause was included in the MOA which placed obligations on the buyer to comply with all applicable national and international laws, international conventions and in accordance with good international standards.

As previously stated the vessel had extensive decontamination and cleaning works carried out prior to the sale, in accordance with directions given by the UKEA, entirely based on sale for redeployment. It was the buyer who applied for and was granted permission by the UK Authorities to sail the vessel from UK waters. The Company had previously provided the buyer a fully documented IHM that made the condition of the vessel and its hazardous material status very clear along with NORM clearance certification and gas free tank certificates. It was after the sale process and without the Company's prior knowledge, that the vessel was delivered to the recycling facility in Bangladesh.

**(4) Please provide information on the collaboration extended by A.P.Moller-Maersk/Odebrecht with authorities in the United Kingdom and in Bangladesh who are investigating the beaching and dismantling of the North Sea Producer**

The UKEA are dealing solely with the Company concerning its investigation into the sale process of North Sea Producer. In this respect the UKEA requested a significant amount of information from the Company to ascertain and corroborate the factual circumstances in relation to the sale process, and the Company has co-operated in full with these requests in an entirely open and honest manner. As noted above, the UKEA have commented both at UKEA and UK HM Government ministerial level that full and open co-operation has been provided by the Company.

We would therefore restate our position that the Company was not involved, whatsoever and at any time both prior to and post-sale of the vessel, in any of the decision making of the buyer or the process entered into with the recycling facility or others when beaching the vessel for dismantling.

In respect to Bangladesh the Company was not a party to, nor was it involved in any aspect of, the vessel being delivered to that country. However, again in the spirit of full and open co-operation, we have confirmed that all requested documentation which has been provided to the UKEA can be shared with the Bangladeshi authorities if the UKEA wishes to do so.

The obligations in the sale contract covering recycling were clear on what type of facility was to be used and how any recycling was to be conducted, it was the buyer who made the decision to recycle the vessel in Bangladesh, the Company was simply not involved in any of the events that unfolded save to provide immediate assistance to the UKEA when requested.

The buyer has stated in correspondence that the facility in Chittagong meets the Hong Kong convention and that as a result of the buyer's expertise (they were providing "*one of their green specialists to be in attendance during the vessel's recycling*") the vessel would be dismantled in accordance with the contractual provisions of the MOA.

**(5) Please indicate if the sale process of the North Sea Producer was submitted to internal independent audit and if these assessments indicated relevant standards utilized by A.P. Moller-Maersk/Odebrecht were observed.**

It is not clear what is meant by an '*internal independent audit*', however we have explained the process followed in response to the various answers above. Whilst the Company, as a single ship operator, did not have specific procedures for the sale of the vessel, it was, and remains, a good corporate citizen, committed to compliance with applicable laws, and operated with the highest standards of business ethics. This is indeed a prerequisite to operate in the market in which the Company was active, being minimum levels which the oil majors require when considering who they use as their business partner.

As noted above the Company sold North Sea Producer for re-deployment, following a process which involved detailed market intelligence, use of external experts, extensive correspondence with the UKEA, significant work in removal of contaminants from the vessel, and use of reputable brokers and legal advisers, all leading to full transparency with the relevant authorities prior to and since the transaction was concluded

We therefore believe and understand that the process for the sale followed usual processes in the prevailing circumstances in that we have always acted with transparency using our best endeavours.

As stated earlier, we are available, at any time, to take face to face discussions here in the UK with the UN in respect of this matter if it serves a useful purpose to the UN process in Special Procedures.

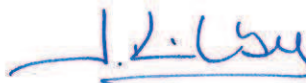
Yours faithfully,  
For and on behalf of

**NORTH SEA PRODUCTION COMPANY LIMITED**



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**A.P. MOLLER – MAERSK RESPONSE TO JOINT COMMUNICATION FROM SPECIAL PROCEDURES (AL OTH 6/2018)**

20/03/2018

***Question 1. Please provide any additional information and any comment you may have on the above-mentioned allegations.***

In October 2017, the UN Special Rapporteur on Human Rights and Toxics, Mr Baskut Tuncak, made an official visit to Denmark and Greenland, during which he held a meeting with A.P. Moller-Maersk (APMM) on 11 October on the issue of ship recycling. During this meeting, the Special Rapporteur requested information about the sale of the North Sea Producer (NSP).

The NSP was owned by a separate legal entity, North Sea Production Company Limited (hereinafter NSPCL), jointly held by APMM (through its subsidiary The Maersk Company Limited) and Odebrecht. The sale of the NSP was conducted by NSPCL in accordance with the principles of the two shareholders.

**As a joint venture partner in NSPCL, APMM understands and acknowledges its responsibility, as defined in the UN Guiding Principles on Business and Human Rights, in relation to potential adverse human rights impacts connected with NSPCL's activities. As a shareholder in NSPCL, APMM is satisfied that NSPCL has acted in accordance with the corporate responsibility to respect human rights as set out in the UN Guiding Principles on Business and Human Rights.** However, because NSPCL as a separate entity was solely responsible for the sale of NSP, the questions pertaining to its due diligence in relation to the sale should be answered by NSPCL itself.

Hence, following our meeting with the Special Rapporteur, APMM provided the Special Rapporteur with the contact details of NSPCL, in order that the Special Rapporteur could engage in dialogue with NSPCL directly. However, according to our information, NSPCL has to date not been contacted by the Special Rapporteur. Neither has NSPCL received the joint communication.

In light of this, the two shareholders have forwarded the communication to NSPCL and asked it to respond to the allegations made as well as those questions that relate to matters within the ownership of NSPCL. **The response from NSPCL is provided in annex A to this document.** As such the response to the allegations made in the joint communication and the answers to questions 2-5 are in the main addressed in Annex A with minor additions by APMM in the present document, while the remaining questions (6-10) related to APMM practices regarding responsible ship recycling are addressed in the present document.

**We also wish to point out that the buyer of the NSP appear not to be listed among the recipients of the communication.** Given the centrality of the buyer in regards to the allegations and questions raised in the joint communication and

given the universal nature of the UN Guiding Principles on Business and Human Rights on which the communication is based, we believe it is important that the communication is directed at all private entities connected with the case.

***Question 2. Please provide information on the details provided to authorities in United Kingdom and Denmark on the sale of the North Sea Producer to Global Marketing Systems, on the situation of the ship, including an overview of the hazardous materials within its structure, and on its claimed future use at the Tin Can Port in Nigeria. Please explain why A.P. Moeller-Maersk refused to provide the precise identity of the buyers of the ship in 2016.***

All contact with authorities in the United Kingdom has been with NSPCL and is described in the response by NSPCL in annex A. APMM was approached by the Danish authorities in 2016 and 2017 and requested to provide information on the North Sea Producer. APMM have cooperated in full with these requests and have provided information to the Danish authorities in accordance with input from NSPCL. The background for the approach from the Danish authorities was that questions had been raised in the Danish Parliament to the Minister for Environment and Food. The questions and answers are publicly available via the website of the Danish Parliament.

In late 2016 the Danish Minister for Environment and Food, Esben Lunde Larsen communicated the Danish Government's findings to the United Kingdom Secretary of State for the Environment, Food and Rural Affairs, the Rt Hon Andrea Leadsom, stating that:

***"From the information available to us, it is our preliminary conclusion that Maersk most likely did not violate the Regulation on shipment of waste ... The buyer however, may have acted in violation of the Regulation if the decision to scrap the FPSO was taken while the vessel was still in a British port."***

With reference to the query regarding identification of the buyer, it is important to be clear that the UK environmental authorities had full knowledge of the identity of the buyer. However, confidentiality provisions in the sale contract between NSPCL and the buyer prevented NSPCL from publicly disclosing the buyer's identity. Subsequently it became relatively public knowledge, and not through NSPCL's release of the information, at which point NSPCL were then prepared to confirm the buyer's details.



***Question 3. Please explain, the specific measures taken by A.P. Moeller-Maersk to ensure that the North Sea Producer's dismantling would be conducted in accordance with relevant international standards.***

The sale of the NSP was conducted by NSPCL in accordance with the principles of the two shareholders. Therefore, please kindly refer to the response by NSPCL in annex A.

***Question 4. Please provide information on the collaboration extended by A.P. Moeller-Maersk with authorities in United Kingdom and in Bangladesh who are investigating the beaching and dismantling of the North Sea Producer.***

Because the sale of NSP was conducted by NSPCL, the UK authorities are dealing solely with NSPCL and not with APMM or Odebrecht concerning its investigation into the sale process of North Sea Producer. Therefore, please kindly refer to the response by NSPCL in annex A. In respect to Bangladesh neither APMM nor NSPCL was a party to or involved in any aspect of the vessel being delivered to Bangladesh. However, NSPCL has confirmed that all documentation, which it has provided to the UK environmental authorities can be shared with the Bangladeshi authorities if the UK authorities wishes to do so.

***Question 5. Please indicate if the sales process of the North Sea Producer was submitted to internal or independent audit and if these assessments indicated that relevant standards utilized by A.P. Moeller-Maersk we observed?***

The sale of NSP was conducted by NSPCL in accordance with the principles of the two shareholders. Therefore, please kindly refer to the response by NSPCL in annex A.

***Question 6. Please indicate if A.P. Moller-Maersk adopted plans to adopt new measures to prevent the recurrence of similar incidents.***

The response provided by NSPCL demonstrates the extensive measures in place to ensure the responsible sale of NSP for redeployment following all relevant standards. This included studies by independent experts of the vessel's continued operating profile, which assessed a further 15-20 years of useful operation following upgrade for redeployment and identified redeployment opportunities for 11 North Sea projects and 30 further redeployment opportunities globally. The sale agreement even imposed obligations on the buyer such that, if the redeployment options the buyer was working on did not materialise, any recycling would have to be carried out in compliance with any applicable environmental law, the 2009 Hong Kong convention or EU ship recycling regulations.



**It is our assessment that NSPCL exercised extensive due diligence to ensure it did not in any way enable, encourage or facilitate the decision by the buyer to beach the NSP.** Nevertheless, in accordance with principle 13 of the UN Guiding Principles on Business and Human Rights, APMM, as a shareholder in NSPCL, considers itself directly linked to such impacts that may arise due to the actions of the buyer through the business relationship with the buyer. As such, and as is described in the NSPCL response, urgent and extensive steps were taken by NSPCL and its shareholders to prevent and mitigate potential adverse human rights impacts.

As is clear from the NSPCL response, immediate action was taken to seek to prevent the beaching of NSP as soon as the buyer's decision became known. When it became clear that all leverage had been exhausted to reverse the buyer's decision and thereby prevent the beaching of NSP, APMM publicly announced its decision to cease all business relations with the buyer. The response provided by NSPCL further demonstrates the full collaboration extended by NSPCL to the relevant authorities in their ongoing efforts to mitigate any further harm, as well as its commitment to extend such collaboration going forward. As NSPCL was a single vessel company it has not been relevant for it to take steps to prevent the recurrence of similar incidents.

**As a shareholder in NSPCL, APMM is therefore satisfied that NSPCL has acted in accordance with the corporate responsibility to respect human rights as set out in the UN Guiding Principles on Business and Human Rights.**

***Question 7. Please provide monitoring data for water pollution, food contamination, air pollution and occupational exposures arising from dismantling of A.P Moeller-Maersk ships on beaches since 2000.***

APMM began sending vessels for recycling at beaching facilities in Alang, India in 2016. We have explained the reasons for this decision in our annual sustainability report and on our website here: <https://maersk.com/business/sustainability/shared-value/leading-change-in-ship-recycling-industry/breaking-the-stale-mate>.

At the time of writing, a total of six APMM vessels have been sold for recycling at facilities in Alang since 2016. This includes Maersk Georgia, Maersk Wyoming, SeaLand Eagle, and SeaLand Racer which have all been completed and SeaLand Charger and SeaLand Meteor, which are currently in the process of being recycled.

All recycling facilities used for APMM vessels are subject to the due diligence prescribed by the A.P. Moller - Maersk Responsible Ship Recycling Standard (RSRS) available here: <https://www.maersk.com/-/media/business/sustainability/pdf/publications/responsible-ship-recycling-standard-20180305.ashx?la=en> (Please find further details on the RSRS in our response to question 8 below). This means that to qualify for recycling of APMM vessels, the recycling facilities have to

undertake environmental assessments. This includes third party audits to achieve a Statement of Compliance against the Hong Kong Convention. In addition, independent environmental assessments have also been conducted by the facilities during the recycling of the vessels Maersk Wyoming, Maersk Georgia, SeaLand Eagle and SeaLand Racer.

**On completion of recycling of each vessel an assessment is made based on third-party audits of how the recycling process has performed against our standard. This assessment also includes occupational health and safety exposures. The results of each assessment are publicly available on our website here: <https://maersk.com/business/sustainability/shared-value/leading-change-in-ship-recycling-industry/india>.**

**In addition to this, APMM in 2017 commissioned a separate environmental study at the Shree Ram Yard (plot 78) in Alang, where Maersk Georgia and Maersk Wyoming were recycled.** The purpose of this study was threefold: i) to gain insight into the substances present on a normal transect of the Alang industrial beach; ii) to determine if APMM related operations at the plot could be identified as polluting the environment; and iii) to develop APMM's and yard owners' understanding of the environmental issues present including any substances, which should be explored further.

The study was conducted by Class NK and tested for the presence of 18 substances listed by the IMO, the Basel Convention, the Hong Kong Convention and NGO's. The results are based on water samples, which were benchmarked against PNEC levels. PNEC is a scientific term for the concentration of a chemical, which marks the limit below which no adverse effect on an ecosystem will occur. PNEC limits are usually lower than the criteria used for environmental regulation and quality standards. Class NK used accredited labs to perform sampling and analysis. **We will publish the environmental study by Class NK when the report is finalized.** In the meantime, please find below a summary of the results also available on our website:

- 1. For the vast majority of substances, the amounts detected were below PNEC levels, with the exception of traces in oil, metals and TBT** (a substance widely used in anti-fouling paints in the past) for the reasons described below.
- 2. Oil:** The analysis **concludes that the oil does not stem from the beaching and cutting of the APMM vessels** – rather it would have been spilled or dumped in the intertidal zone when moving blocks or engines during past historical recycling activities unrelated to APMM vessels. The yards APMM uses have by now successfully eliminated all contact with the intertidal zone when recycling APMM vessels, and oil discharges would then only occur as a result of an accidental spill of which there has been none during recycling of APMM vessels at these yards.
- 3. TBT:** all APMM vessels, including the ones recycled at Alang, are verified as fully compliant with the International Convention on the Control of Harmful Anti-



Fouling Systems on Ships, meaning they are TBT-free. An analysis of the anti-fouling paint used confirmed that our tested vessel was indeed TBT-free and it can therefore be concluded that **the traces present in the environment originate from other sources and not from the APMM vessels.**

4. **Metals:** The analysis also determined that, based on the sampling method used, it is not possible to conclude if and to what extent APMM's activities have contributed to the levels of metals measured. **However, both discharge issues and problems with isolating potential metals pollution stemming from current and historical pollution will be similar in yards in China and Turkey.** We will continue work to understand this impact better in all three locations. Meanwhile, as a precautionary measure we have asked the yards we use in Alang to employ metal slag collectors to further prevent cutting slag from dropping in the intertidal zone.

In conclusion, more than one year after the arrival of the first two APMM vessels to Alang the observed health, safety and environmental impacts are: i) possible metals pollution at the same level as in yards in Turkey and China; ii) one twisted ankle due to a 1-meter fall from a ladder; and iii) one minor gas leak. Noting that none of these impacts are specific to the beaching method for ship recycling we will continue work to address these observations going forward. **However, our environmental assessments confirm that at the yards we use in Alang, a vessel can be recycled using the beaching method with minimal health, safety and environmental impact at the same level or better than at non-beaching facilities in China and Turkey.**

***Question 8. Please indicate measures taken by A. P. Moeller-Maersk to identify and close protection gaps created by the Hong Kong Convention, especially with regards to (i) the minimisation of export of hazardous wastes to developing countries, (ii) the containment of pollutants, including paints, during the cutting of the ship, and (iii) the environmentally sound management and disposal of hazardous wastes.***

All APMM vessels are recycled in accordance with the A.P. Moller - Maersk Responsible Ship Recycling Standard (RSRS) available here: <https://www.maersk.com/-/media/business/sustainability/pdf/publications/responsible-ship-recycling-standard-20180305.ashx?la=en>. The RSRS reflects APMM's commitment to comply with the Hong Kong Convention and uphold the principles of the United Nations Global Compact and the United Nations Guiding Principles on Business and Human Rights, in the recycling of APMM vessels.

This RSRS describes the conditions under which APMM vessels can be recycled, regardless of the recycling method applied. It consists of a total of 230 auditable requirements that recycling facilities must comply with. The RSRS closes a number of significant protection gaps that APPM and other stakeholders have identified in the Hong Kong Convention (HKC), as illustrated by the below table.

Issue area	Hong Kong Convention	A.P. Moller - Maersk Responsible Ship Recycling Standard
General management processes	▪ Covered	▪ 11 requirements based on the HKC
Occupational health and safety	▪ Covered	▪ 31 requirements based on the HKC
Environmental protection	▪ Partially covered	<ul style="list-style-type: none"> <li>▪ 21 requirements based on the HKC, and in addition:</li> <li>▪ Requirement for impermeable floors in primary and secondary cutting zone; elimination of all contact of blocks with intertidal zone;</li> <li>▪ Downstream waste management</li> </ul>
Human rights and labour standards	▪ Not covered	<ul style="list-style-type: none"> <li>▪ 149 requirements based directly on relevant ILO and UN instruments covering the following issues: working and employment conditions; respectful treatment; security arrangements; equal opportunity rights; child Labour and young workers; freely chosen employment; use of recruitment agencies; freedom of association and collective bargaining; working hours; compensation and leave; worker health and working environment; canteen facilities; worker dormitory or housing facilities; grievance mechanism.</li> </ul>
Anti-corruption	▪ Not covered	<ul style="list-style-type: none"> <li>▪ 13 requirements including: policies; compliance process; risk assessment; guidelines; training; reporting; investigation; facilitation payments; and requirements for suppliers.</li> </ul>
Management of sub-contractors	▪ Not covered	<ul style="list-style-type: none"> <li>▪ 5 requirements including screening, monitoring, and training of suppliers and sub-contractors according to the principles of the UN Global Compact.</li> </ul>

The process of implementing the RSRS happens in several steps. This includes: pre-qualification audits of recycling facilities; development and implementation of improvement plans to close gaps identified; and completion audits once the recycling process is finished. **Crucially, a team of APMM specialists are permanently present at the ship recycling facility during the entire recycling process.** At the time

of writing we have 2 APMM QHSE Superintendents and 4 third-party supervisors (2 Naval architects and 2 Bosuns). This makes a team of 6 people supervising RSRS compliance at the two ship-recycling yards where we currently recycle our vessels. **The supervisors have a contractual authority to stop work at the yards in case they observe unsafe acts or other RSRS violations.** We have exercised this stop-work clause several times since beginning work at Alang so that adverse impacts are prevented.

During the recycling process, the ship recycling facility will show continuous progress, ultimately achieving full compliance with the RSRS. **Conformity with the RSRS and the agreed improvement plan is continuously checked and verified through on-site supervision, and follow-up audits. Workers participate in the audits. On completion of recycling of each vessel an assessment is made based on third-party audits of how the recycling process has performed against the RSRS. These results are publicly available on our website here:**

<https://maersk.com/business/sustainability/shared-value/leading-change-in-ship-recycling-industry/india>.

In summary, the main experiences from the recycling of the initial two vessels are as follows:

1. The number of non-conformances against the RSRS fell from 66 in February 2016 to just one in May 2017. This is noteworthy for two reasons: First, the fact that the initial audit uncovers a high number of non-conformances is a positive sign, which confirms that the audits provide a true picture of the situation at the yard. Second, the speed with which these non-conformances have been addressed by the yards relies primarily on two factors: i) the yards have a commercial incentive to improve because they can then attract other business, and ii) APMM is permanently present at the yard throughout the recycling process.
2. The remaining non-compliance issue is related to excessive monthly overtime, which is an issue commonly faced in other workplaces with migrant workers, including China, and which we continue to address.
3. We have seen an increase of reported near-misses to 120 in 2017 against a target of 40. Also, unsafe acts led to 72 stop-work instructions issued by APMM's onsite team, and the number of training sessions and drills conducted increased by 30%. These numbers point to an important cultural change at the shipyard: workers proactively report safety hazards and near misses. This enabled us to insert risk mitigation measures in a timely manner before things went wrong.
4. Nevertheless, the recycling of the two vessels did reveal two incidents of the 22 health, safety and environmental KPIs that were monitored: one lost-time injury as a safety officer fell from a one-meter ladder twisting his ankle, and one minor gas leakage in the intertidal zone.
5. Contact between parts cut from the vessels and the intertidal zone has been fully eliminated in that blocks, including bow and stern, are crane-lifted off the



vessel during the cutting process and moved to the yard's impermeable floor without coming into contact with the intertidal zone.

6. Impermeable floors have been extended and all cutting of parts takes place only on these surfaces.
7. Employment of metal slag collectors to prevent cutting slag from dropping in the intertidal zone.
8. Although nil intertidal zone spills were recorded in 2017 and all rain water, irrespective of contamination levels is sent to the downstream waste management facility for processing and onward disposal, a rescue boat and oil spill response equipment are kept in readiness to handle an emergency.
9. All workers received relevant safety training and were provided with the appropriate personal protective equipment and required to use it. They are also paid the minimum wage plus 200% overtime payment and have a contract.
10. ILO-compliant housing facilities with access to potable drinking water has been provided to all workers at no additional cost.

For a more detailed account of the environmental performance of APMM recycling at Alang to date, please refer to our response to question 7 above.

As we continue to send vessels to Alang, we are seeing that as a result of the momentum created, all non-conformances against the RSRS are already resolved before the vessels arrive at the yards. Prior to signing contracts, the yards we use have invested in heavy-duty cranes to lift steel blocks directly from the vessels onto an impermeable surface, also from the bow and stern. **Therefore, steel blocks are no longer coming into contact with the intertidal zone, and nor is tidal water entering the hull of the vessel. These are two impacts of the beaching method which are most often criticised.** Based on these results, we feel confident in stating that our activities in Alang are expanding the range of options available for the responsible recycling of ships.

**Summing up, after 20 months, three recycling yards in Alang, India, are now performing at the same level or better than yards in China and Turkey, which used to be the only options for economically viable and responsible ship recycling.**

We are seeing increased investments in upgrades in many other yards, and when we sold our second batch of vessels, we saw yards competing on higher standards and not just on price. Some 60 of the approximately 100 yards operating at Alang now have statements of compliance with the provisions of the Hong Kong Convention. We believe these developments indicate that with this approach and the collaboration of all stakeholders, all ship recycling operations in the entire Alang area could become responsible. **APMM continues to sell retired vessels to shipyards in Alang at prices considerably below the market rate, but over time we expect that this difference will be reduced as responsible ship recycling becomes the norm in Alang.**



***Question 9. Please provide information as to what human rights due diligence has been undertaken by Maersk to identify, prevent, mitigate and address adverse human rights impacts related to this case, in accordance with the United Nations Guiding Principles on Business and Human Rights.***

As described in our response to question 6 above, APMM, as a shareholder in NSPCL, is satisfied that NSPCL has acted in accordance with APMM's commitment to respect human rights. **APMM's human rights due diligence in relation to ship recycling includes the following elements in accordance the UN Guiding Principles on Business and Human Rights:**

***Statement of policy on respect for human rights (UNGP 16)***

As a signatory to the UN Global Compact APMM is committed to respecting human rights throughout its operations in accordance with the UN Guiding Principles on Business and Human Rights. This commitment is stated in our annual sustainability reports. **In the specific context of ship recycling our commitment to respect human rights is codified in the A.P. Moller - Maersk Responsible Ship Recycling Standard (RSRS) available here: <https://www.maersk.com/-/media/business/sustainability/pdf/publications/responsible-ship-recycling-standard-20180305.ashx?la=en>.**

***Assessment of potential human rights impacts (UNGP 18)***

Further to the RSRS, detailed assessments of potential impacts on human rights and labour rights are conducted prior to, during and after the recycling process for each vessel. **These assessments include 149 indicators based directly on international human rights and labour rights instruments.** Assessments include third-party audits with worker participation as well as the permanent onsite presence of an APMM supervisors during the recycling process. Please refer to our response to question 8 above for a detailed account of the assessment and monitoring process.

***Processes and actions to address potential human rights impacts (UNGP 19)***

At the level of the yards, improvement plans are put in place and implemented based on findings from the above assessments. The implementation of the improvements is monitored through the onsite presence of APMM supervisors during the recycling process and verified through third-party audits.

In addition to the due diligence action taken at the yard level, APMM has further due diligence measures in place governing the recycling of vessels. **In September 2016, our ship recycling policy was enhanced with a procedure, which to the best of our knowledge is unparalleled in our industry.** According to this procedure, APMM vessels can only be sold for redeployment if the value of the vessel is a least 25 % above the highest net recycling price. If the value is less, APMM will either continue using the vessel or recycle it ourselves in accordance with the A.P. Moller - Maersk Responsible Ship Recycling Standard. Please see further details on the procedure here: <https://maersk.com/stories/maersk-tightens-its-ship-recycling-procedures>.



Whereas this procedure applies to vessels owned by APMM, we have gone even further and are now also taking contractual steps to promote responsible recycling of vessels that we charter.

**We have thus increased our leverage with respect to APMM owned and chartered vessels that we sell or redeliver close to the end of their operational life. However, this only comprises a small percentage of the total number of vessels that we own or use.** We have far more limited leverage to promote responsible recycling of vessels that are redeployed earlier in their operational life and only recycled many years after we have sold or redelivered them. The same can be said for vessels that ship our cargo but are owned and operated by our alliance partners.

**By our estimates, 85% of all vessels globally are dismantled at sub-standard facilities in South Asia. This happens despite many large shipowners having a policy on responsible ship recycling.** In so far as this includes vessels previously owned, chartered or used by APMM, it follows from the UN Guiding Principles on Business and Human Rights that APMM, as will be the case with other ship owners, is directly linked, through our business relationships, to potential adverse human rights impacts that may arise from their eventual recycling. This is an industry-wide problem, which leads to widespread underpayments, unsafe working conditions and environmental pollution at ship recycling facilities as well as an uneven playing field within the shipping industry. No shipowner can solve this alone. It requires a transformation of the ship recycling industry.

**In accordance with our corporate responsibility to respect human rights, we have therefore worked extensively to use our leverage to facilitate such a transformation in three ways.** First, we take full custody, as described above, of APMM owned vessels sold close to the end of their operational life. **Second**, we take contractual steps to require responsible recycling of vessels that we charter. **Third**, by investing in upgrading of ship recycling facilities in Alang, India, as described in our response to question 8 above. Through this investment we help to develop a supply base of responsible and commercially competitive ship recycling facilities that our business partners can use when they recycle vessels formerly owned, chartered or used by APMM.

***Tracking effectiveness of our response to potential human rights impacts and reporting on actions taken (UNGP 20/21)***

As we describe in our response to question 8 above, on completion of recycling of each vessel at Alang, an assessment is made based on third party audits of how the recycling process has performed against the RSRS, including its provisions on human rights and labour rights. The results of these assessments are publicly available on our website here: <https://maersk.com/business/sustainability/shared-value/leading-change-in-ship-recycling-industry/india>. Please also see our response to question 8 above for a summary of the results.

***Remediation of impacts that APMM may cause or contribute to (UNGP 22/31)***

To date we have not experienced adverse human rights impacts related to the recycling of APMM vessels at Alang, with the exception of the overtime issues mentioned above.

**Formal and informal grievance mechanisms are an integral part of our standard for responsible ship recycling.** The A.P. Moller - Maersk Responsible Ship Recycling Standard contains a requirement that yards must have “a formal process for workers to communicate openly with each other and with management and voice/resolve their grievances on all labour issues.” All yards recycling APMM vessels at Alang are in compliance with this requirement.

In addition, APMM has a global whistleblower system accessible to anyone wishing to report concerns, including in Hindi, about the conduct and impact of our business. The APMM Whistleblower System is available here: <https://secure.ethicspoint.eu/domain/media/en/gui/102833/index.html>

***Question 10. Please indicate any measures taken by the company to ensure that workers and communities impacted by the contaminated vessels have access to effective remedies, in accordance with the United Nations Guiding Principles on Business and Human Rights.***

As described in our response to question 6 above, APMM, as a shareholder in NSPCL, is satisfied that NSPCL has acted in accordance with the responsibility to respect human rights as set out in the United Nations Guiding Principles on Business and Human Rights. As is clear from the NSPCL response, immediate action was taken to seek to prevent the beaching of NSP as soon as the buyer's decision became known. When it became clear that all leverage had been exhausted to reverse the buyer's decision and thereby prevent the beaching of NSP, APMM ceased all business relations with the buyer. The response provided by NSPCL further demonstrates the full collaboration extended by NSPCL to the relevant authorities in their ongoing efforts to mitigate any further harm, as well as its commitment to extend such collaboration going forward.

**ANNEX A.****NORTH SEA PRODUCTION COMPANY LIMITED RESPONSE TO JOINT COMMUNICATION FROM SPECIAL PROCEDURES (AL OTH 6/2018)**