



UK Mission to the
United Nations
in Geneva

UK Mission Geneva
PO Box 6
Avenue Louis Casaf 58
1216 Cointrin GE

Tel: 022 918 2363

Note No 108

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to transmit the attached response to Allegation Letter AL GBR 1/2018 to Ms. Beatriz Balbin, Chief, Special Procedures Branch, OHCHR on behalf of the UK Government.

The Permanent Mission of the United Kingdom avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

20 April 2018



Office of the High Commissioner for Human Rights



UK Mission
Geneva

Your ref: AL GBR 1/2018

Date: 25/04/2018

AL GBR 1/2018: HMG Response

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

The United Kingdom Government is concerned about reports of the beaching of the North Sea Producer in Bangladesh. The Environment Agency (the competent authority for England) is aware of the allegation that the North Sea Producer was illegally exported as 'waste' from the UK to Bangladesh. The Agency takes its responsibilities under international and domestic legislation very seriously and is currently investigating the allegation. For this reason, we are unable to comment on the details of this investigation to avoid the risk of prejudicing any potential future legal action.

2. Please explain what actions, if any, the Government of the United Kingdom has taken to ensure the safe and environmentally sound recycling of the North Sea Producer, or the decontamination of the North Sea Producer before the vessel left the country and was sent to Bangladesh for dismantling.

The safe and environmentally sound disposal and/or recycling of waste, including ships, is governed by both international and domestic legislation as listed under our response to Question 3. The Environment Agency is investigating whether any legislation has been contravened in the case of the North Sea Producer. There is information to suggest the ship may have been "decommissioned" in UK and this is one of the lines of enquiry being pursued. We are unable to comment on the details of this investigation to avoid the risk of prejudicing any potential future legal action.

3. Please explain what measures, including policies, legislation, regulations and adjudication, the Government of the United Kingdom has taken to prevent, investigate, punish and redress human rights violations by business enterprises engaged in shipbreaking outside British territory, in accordance with international human rights laws, including Guiding Principles on Business and Human Rights in its overseas operations. Please indicate if investigations conducted so far produced results and if results of the investigations are available to the public.

As a member of the European Union, the United Kingdom is bound by the requirements of the Waste Shipments Regulation ((EC) No 1013/2006) prohibiting the export of hazardous waste to non-OECD countries. Where an end-of-life vessel

falls within the definition of waste, as set out in the Waste Framework Directive 2008/98/EC, such controls apply.

The Environment Agency is the competent authority for these controls in England, under the UK Transfrontier Shipment of Waste Regulations 2007. These Regulations transpose the requirements of EC Regulation 1013/2006 into UK Law.

In cases where we have evidence to suggest that a vessel in a UK port is intended for scrap, a preventative detention may be put in place to allow time for the environmental regulators to review the situation. At the present time there are three vessels detained in the UK pending such investigations.

As explained above, the Environment Agency's investigations are continuing. None of the findings so far are open to the public and we cannot comment on the details to avoid the risk of prejudicing any potential future legal action.

The United Kingdom Government takes its responsibilities and obligations in respect of the decommissioning of UK-flagged ships under international and domestic legislation, seriously. The United Kingdom played an active role in the negotiations on the Hong Kong Convention (for the safe and environmentally sound recycling of ships) and welcomed the Commission's initiative in bringing forward EC Regulation 1013/2006 to transpose key requirements of the Hong Kong Convention into EU law. The United Kingdom is also bound by the provisions which are in force to date of Regulation (EU) No 1257/2013 on ship recycling.

The United Kingdom Government has highlighted to UK ship operators, guidance issued by the International Maritime Organisation, International Labour Organisation and Basel Convention on the issue of ship recycling and has provided supplementary guidance to the shipping industry via UK accredited Classification Societies on the issue. We have also authorised Classification Societies to carry out the survey and certification requirements on our behalf on UK ships. Where UK ship operators advise us that they are planning ship recycling operations we advise them of the extant waste shipments regime and identify the legal requirements that arise from it.

4. Please explain why the export of this ship containing hazardous wastes would not be in violation of the Basel Convention and its Ban Amendment, both incorporated in the EU Waste Shipment Regulation.

The Environment Agency continues to investigate these circumstances but due to the multinational and multi-jurisdictional nature of this investigation, this is a lengthy process. In the meantime, the Agency is unable to comment on the detail to avoid the risk of prejudicing potential future legal action.

5. Please indicate other additional measures taken by the Government to ensure the implementation of the UN guiding Principles on Business and Human Rights, including requiring business enterprises domiciled in its territory or jurisdiction, such as North Sea Production Company, meet their responsibility to respect human rights throughout their operations, including any guidance provided to business enterprise on how to respect human rights throughout their operations.

In September 2013, the UK became the first State to publish a national action plan to implement the UN Guiding Principles on Business and Human Rights. This action plan was updated in May 2016 to reflect the broad range of activity and engagement which has taken place across a large number of government departments and which continues to take place.

The updated plan reaffirms the UK Government's commitment to business and human rights. It captures both the actions identified in the original plan (on which an update on progress is provided for each), activity that was not part of the original plan but which is covered by this agenda and future actions that Government is working on.

The actions that are particularly relevant are:

- UK chairing the Voluntary Principles on Security and Human Rights (March 2014-2015). During the UK's chairmanship, we worked to raise awareness of the Voluntary Principles (which are primarily aimed at the extractives industry), to support companies to use the VPs to manage security and human rights risks more effectively, and encourage greater transparency by companies in line with the UN Guiding Principles on Business and Human Rights. A more detailed account of the UK's activities in respect of the Voluntary Principles can be found in the 2014 annual report - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/413607/Public_UK_VPs_annual_report_2014.pdf
- Improving transparency of company reporting, including:
 - clarifying legislation so that eligible companies are required to report on human rights as part of their annual strategic reports;
 - transposing the EU non-financial reporting Directive 2014/95/EU to enable greater consistency and comparability of public information on the human rights policies and performance of listed companies in Europe;
 - supporting the development of the UN Guiding Principles Reporting Framework, a comprehensive tool including guidance for companies to report on human rights issues in line with their responsibility to respect human rights; and
 - supporting the development of the Corporate Human Rights Benchmark that seeks to rank the top 500 globally listed companies on their human rights policies, processes and performance, to harness the competitive nature of the markets to drive better corporate human rights performance.

- Producing Board level guidance to company directors on business and human rights through the UK's Equality and Human Rights Commission.