

**Mandate of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes**

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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes pursuant to Human Rights Council resolution 27/23.

I am deeply saddened by the loss of life and injuries to scores of victims as a result of the chemical disaster in Tianjin, China, and offer my condolences to their families and friends.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the chemical disaster.

According to the information received:

On 12 August 2015, two massive explosions in the port city of Tianjin, China killed more than 100 victims, including dozens of firefighters and other emergency personnel, and reportedly injured over 700 people. Numerous victims remain unaccounted for, mostly emergency personnel. The origin of the explosions appears to be a warehouse storing large quantities of hazardous substances. It is reported that several thousand have had to leave their homes. As of 17 August, fires were still burning at the site.

It is alleged that the company Tianjin Dongjiang Port Ruihai (or Rui Hai) International Logistics was illegally storing hazardous chemicals at the warehouse in close proximity to thousands of residents and that information about the ownership and management structure of the company has not been made publicly available.

It is also alleged that nearby residents and emergency personnel did not know which chemicals were being stored at the facility. It is also alleged that the government still does not completely know what chemicals were stored, and in which quantities. It has been alleged that the water sprayed on a certain chemical by contract firefighters may have triggered the largest explosions or exacerbated contamination concerns. It is unclear what training these contract firefighters received.

Calcium carbide, allegedly at the site, reacts with water to create acetylene, which is explosive and could have detonated other chemicals, such as nitrates used to produce dynamite and fertilizer. Sodium cyanide, 700 tons of which was stored in the warehouse according to news reports citing government authorities, can release highly hazardous hydrogen cyanide when burned or dissolved, and is suspected of contaminating local water supplies.

It is further alleged that in the aftermath potentially affected communities have not received adequate information about the safety of their environment. In particular, it is alleged that the fifteen million people who reside in and around Tianjin have not been told what substances may have been produced or released by the disaster, or adequate information regarding the safety of the air they breathe and water they drink.

Grave concern is expressed about the lack of information about hazardous substances in order to protect and respect the rights to life and health. Serious concern is also expressed in relation to the reported restrictions on public access to health and safety information and the freedom of the press in reporting the incident and its aftermath.

While I do not wish to prejudge the accuracy of these allegations, I would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to these issues brought forth by the situation described above.

Under article 6 of the International Covenant on Civil and Political Rights (ICCPR), "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life." The right to information is a right in and of itself and one of the rights upon which free and democratic societies depend (see E/CN.4/2000/63, para. 42). The right to information derives from the right to freedom of expression and the right to take part in public affairs stipulated in articles 19 and 25 respectively of the ICCPR.

In addition, the right of children to the highest attainable standard of health is provided for in the Convention on the Rights of the Child (CRC), which also requires

States to take into consideration the risks of environmental pollution (article 24). The CRC also recognizes the right to information. Furthermore, the International Covenant on Economic, Social and Cultural Rights (ICESC) also provides for the both the right to health, including safe and healthy working conditions.

The Universal Declaration of Human Rights proclaims that every organ of society shall strive to promote respect for human rights and fundamental freedoms and to secure their universal and effective recognition and observance. Following years of consultations that involved Governments, civil society and the business community, the Human Rights Council unanimously adopted in June 2011 the Guiding Principles on Business and Human Rights (contained in A/HRC/17/31).

The Guiding Principles have been established as the authoritative global standard for all States and business enterprises with regard to preventing and addressing adverse business-related human rights impacts. These Guiding Principles are grounded in recognition of:

(a) “States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms;

(b) “The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights;

(c) “The need for rights and obligations to be matched to appropriate and effective remedies when breached.”

The corporate responsibility to respect human rights covers the full range of rights listed in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. It also includes the respect of the eight International Labour Organization core conventions also envisaged in Principle 4 of the UN Global Compact, which states that business enterprises should uphold the elimination of all forms of forced and compulsory labour. The Guiding Principles 11 to 24 and 29 to 31 provide guidance to business enterprises on how to meet their responsibility to respect human rights and to provide for remedies when they have caused or contributed to adverse impacts.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the urgency of the matter, I would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned persons in compliance with international instruments.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Are the facts summarized accurately?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please indicate any remedial action taken vis à vis the victim or his/her family.
6. Please explain what the Government of the People's Republic of China is doing specifically to implement the Guiding Principles on Business and Human Rights in the hazardous chemicals industry, and other business sectors, in China.
7. What steps is the Government taking to ensure that victims have access to effective remedy in cases of alleged human rights abuses concerning State and privately owned enterprises in the People's Republic of China?
8. Please indicate if the Government of the People's Republic of China has provided any guidance to business enterprises operating in the People's Republic of China on their expected human rights due diligence process? Such a process allows companies to identify, prevent, mitigate and account for how they address their impacts on human rights (as per the Guiding Principles on Business and Human Rights, Principles 17-21).

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations. I urge the Chinese Government to

ensure complete transparency in the investigation, including both causes and effects of the explosion, and to assess whether China's laws for hazardous substances and wastes are consistent with international human rights standards, including the right to information

I am intending to publicly express my concerns in the near future as I am of the view that the information upon which the press release is going to be based is sufficiently reliable to indicate a matter warranting immediate attention.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of my highest consideration.

Baskut Tuncak

Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes