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**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**Mandate of the Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

REFERENCE: UA Toxic waste (1995-14)  
IND 11/2011

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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 9/1.

In this connection, I would like to draw the attention of your Excellency's Government to information I have received regarding **the potential adverse impact that the dismantling of the "Gulf Jash" vessel may have on the enjoyment of human rights of countless individuals working in the shipbreaking yards of Alang Beach, Gujarat State, or living close to the facilities where end-of-life ships are dismantled.**

According to the information received:

"Gulf Jash" (formerly named "Probo Koala"), IMO number 8309816, is a 182 meter long, 47'980 tons deadweight vessel, currently operating under the flag of Panama. Reportedly, the vessel is currently owned by the American company Global Market Systems (GMS).

Between 19 and 20 August 2006, the "Probo Koala", chartered by the commodity trading company Trafigura, was involved in the dumping of hazardous waste of unknown nature in various sites in the district of Abidjan, Côte d'Ivoire. According to official estimates, 15 people died, 69 were hospitalized and there were more than 108,000 medical consultations resulting from the incident (see A/HRC/12/26/Add.2, para. 31).

The current location of the "Gulf Jash" is unclear. The last port the vessel has docked was Abu Dhabi. Reportedly, the vessel was refused permission to enter Bangladeshi territorial waters on environmental grounds and has since turned towards Indian waters. It is alleged that the vessel will be deviated to Alang Beach, Gujarat State, in order to be dismantled in this area.

The “Gulf Jash” allegedly contains a considerable amount of hazardous substances and materials, such as asbestos, polychlorinated biphenyls (PCBs), oil and fuel residues, toxic paints and chemical residues that, if discharged into the environment, may adversely affect the rights to life and health of persons who work in the shipbreaking yards or live in their proximity, and generate high levels of pollution of coastal soil, air, sea and groundwater resources. According to research conducted by the United Nations Environment Programme (UNEP) in 2009 (“Marine Litter: A Global Challenge”), the fragile coastal environment of Alang Beach, including sea water and groundwater resources, has been seriously affected by shipbreaking activities, which have been taking place on this coastal area since the early 1980s.

According to the information received, the “Gulf Jash” has not been pre-cleaned before been sent to South Asia for dismantling. Its dismantling in India may therefore be in breach of the Supreme Court order of 6 September 2007. According to this order, ships should, insofar as possible, be properly decontaminated by the owner prior to the breaking. Furthermore, wastes generated during the dismantling process should be disposed of in a proper manner, and special care must be taken in the handling of hazardous substances, such as asbestos.

At this stage, I do not wish to prejudice the accuracy of the above described allegations. Yet, I wish to draw the attention of your Excellency’s Government to article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by your Excellency’s Government on 10 April 1979, which enshrines the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. General Comment No. 14 (2000) of the Committee on Economic, Social and Cultural Rights describes the normative content of article 12 and the legal obligations undertaken by the States parties to the Covenant to respect, protect and fulfill the right to health. In paragraph 11 of General Comment No. 14, the Committee interprets the right to health as “an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information.”

I would also like to draw your Excellency’s Government’s attention to article 7 of the ICESCR, enshrining the right of everyone to the enjoyment of just and favourable conditions of work, including safe and healthy working conditions. As has been noted by my predecessor in the report on his visit to India (A/HRC/15/22/Add.3), “regular exercises in emergency prevention, access to training opportunities, preparedness and response procedures and proper personal protection equipments (PPEs), constitute essential preconditions for the enjoyment of safe and healthy working conditions, set out in article 7 of the Covenant.” The above-mentioned General Comment No.14 holds that the improvement of all aspects of environmental and industrial hygiene comprises, inter

alia, “preventive measures in respect of occupational accidents and diseases [and] the prevention and reduction of the population’s exposure to harmful substances such as radiation and harmful chemicals or other detrimental environmental conditions that directly or indirectly impact upon human health.” (para.15)

I would also like to stress that the right to work is a fundamental right, recognized in the ICESCR. As specified in General Comment No. 18 (2005) on article 6 of the Covenant, work must be “decent work”, that is, “work that respects the fundamental rights of the human person as well as the rights of workers in terms of conditions of work safety and remuneration.”

Furthermore, I would like to draw your Excellency’s Government’s attention to article 11 on the right to an adequate standard of living, including food and water. General Comment No. 12 (1999) on the right to adequate food specifies that adequate food should be “free from adverse substances.” It furthermore notes the need for “public and private means to prevent contamination of foodstuffs through adulteration and/or through bad environmental hygiene or inappropriate handling at different stages throughout the food chain.” General Comment No. 15 (2002) on the right to water indicates that “the water required for each personal or domestic use must be safe, therefore free from micro-organisms, chemical substances and radiological hazards that constitute a threat to a person’s health.” (para. 12)

In addition, I would like to draw your Excellency’s Government’s attention to further specific instruments on hazardous wastes, to which India is party, including the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal and the Stockholm Convention on Persistent Organic Pollutants. The Basel Convention explicitly affirms that States parties have to take appropriate measures to ensure that the generation of hazardous wastes is reduced to a minimum, and that adequate disposal facilities for the environmentally sound management of hazardous wastes are available.

The previous Special Rapporteur has noted in his annual report to the Human Rights Council in 2009 (A/HRC/12/26) that shipbreaking activities expose workers to a wide range of workplace activities or conditions which may cause death, permanent or temporary disabilities, injuries, ill-health and occupational diseases. Some hazardous work-related activities are closely linked to the unsafe management or handling of hazardous substances. These include entry into confined, enclosed or other dangerous atmospheres, paint removal, bilge and ballast water removal, oil/fuel removal and tank cleaning. Persons living in residential areas close to the yards also risk developing diseases related to the exposure to toxic and dangerous substances produced during shipbreaking activities. The previous Special Rapporteur also submitted to the HRC a report on the incident concerning dumping of waste from this ship (A/HRC/12/26/Add.2)

As it is my responsibility to clarify all allegations brought to my attention in accordance with the mandate entrusted to me by the Human Rights Council, I would be most grateful if your Excellency’s Government could provide additional information on

the matters referred to and the allegations contained in the present letter, particularly regarding the following issues:

1. To what extent are the facts summarized above accurate?
2. Please provide information on the exact location of “Gulf Jash”.
3. Please also provide information on the measures that your Excellency’s Government has adopted, or intends to adopt, to ensure, that only pre-cleaned vessels enter Indian waters.
4. According to existing international standards on ship recycling, all ships are required to have on board an inventory of hazardous materials, to be updated throughout the ship’s life. Please provide information on whether such a list exists on board of the “Gulf Jash”.
5. In case the entrance of “Gulf Jash” into Indian waters is granted, please provide information on the measures your Excellency’s Government intends to adopt to protect the right to health of workers and individuals living in the area where the ship is to be dismantled.
6. Please provide detailed information on any study carried out to assess the level of contamination caused by shipbreaking activities in the area of Alang Beach. Have specific studies been carried out to collect and analyze data regarding reported health concerns related to environmental pollution by shipbreaking? If so, please provide me with the conclusions of these studies.

I would be most grateful to receive an urgent answer and undertake to ensure that your Excellency’s Government’s response to each of these questions is accurately reflected in the report that I will submit to the Human Rights Council for its consideration.

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

Calin Georgescu  
Special Rapporteur on the adverse effects of the movement and dumping of toxic  
and dangerous products and wastes