

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.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the alleged transboundary movement of an end-of-life ship containing hazardous substances and wastes, en route to India for dismantling.

According to information received:

An end-of-life ship, Clipper Concord (IMO No. 9232319), previously owned by a company registered in Denmark, currently operating under the flag of the Bahamas, is bound for Alang beach, Bhavnagar, Gujarat, India, for dismantling.

This end-of-life ship has reportedly not been decontaminated in the country of export. The ship contains hazardous substances and wastes such as asbestos, Polychlorinated biphenyls (PCBs), oil fuels, and heavy metals which are expected to be exported to India.

The above listed substances are highly dangerous and may impose critical and irreversible adverse health effects on workers and nearby community members, as well as adverse impacts on the environment:

Asbestos is a highly toxic substance that can cause lung cancer, mesothelioma, cancer of the larynx and ovary, and asbestosis (fibrosis of the lungs).. PCBs are persistent organic pollutants. They remain in the environment for long periods,

gradually accumulate in the fatty tissue of living organisms and can also cause cancer, birth defects and reproductive and neurological damage.

As a result of shipbreaking, oil, fuel, sludge and associated residues may be leaked, mixing with soil and water on the beach. This, in turn, may lead to poisoning of marine organisms and other forms of life (birds, fish, plants, etc.). Further, the primary danger to workers handling oil and fuel on ships is that of fire and explosions.

Heavy metals such as lead, mercury, arsenic or cadmium are found in paints, coatings and electrical equipment of end-of-life vessels. These substances are often dumped or burnt on the beaches where ships are dismantled, adversely affecting both human health and the environment. Heavy metals build up inside living organisms, and exposure to large amounts of these metals may lead to severe long-term effects, including cancer and damage to the nervous, digestive, reproductive and respiratory systems.

While I do not wish to prejudge the accuracy of these allegations, I am deeply concerned about the potential human rights violations that the dismantling of the ship may impose, without timely intervention. According to my predecessor Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, shipbreaking may have an adverse impact on “the enjoyment of several human rights, including the right to life, the right to the highest attainable standard of physical and mental health, and the right to safe and healthy working conditions” (A/HRC/12/26, para. 20). I would also refer you to the country visit report of my predecessor Special Rapporteur to India, undertaken between 11 and 21 January 2010, in which he extensively focused on the issue of shipbreaking (A/HRC/15/22/Add.3).

In connection with the adverse impact on the enjoyment of human rights, I would like to draw your attention to your Excellency’s Government’s obligations under international human rights laws, recalling article 6.1 of the International Covenant on Civil and Political Rights, stipulating the right to life (accessed by India on 10 April 1979); and articles 12 and 7 of the International Covenant on Economic, Social and Cultural Rights, stating the right to health and the right to safe and healthy working conditions, respectively (accessed by India on 10 April 1979). In addition, I would like to draw your attention to Article 24 of the Convention on the Rights of the Child, regarding your Excellency’s Government’s obligations to “recognize the right of the child to the enjoyment of the highest attainable standard of health ... taking into account the dangers and risks of environmental pollution.”

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

I would also like to recall that the seventh Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal noted that “a ship may become a waste as defined in article 2 of the Basel Convention and that at the same time it may be defined as a ship under other international rules”. This means that a ship containing asbestos, PCBs or other hazardous substances may be considered as hazardous waste when destined for recycling or disposal. It should be noted that the Government of India ratified the Basel Convention on 24 June 1992. Under the Basel Convention, your Excellency’s Government has a legal obligation to “[p]revent the import of hazardous wastes and other wastes if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner.”

In view of the urgency of this matter, I would appreciate response on the initial steps taken by your Excellency’s Government to prevent all potential human rights violations of workers and community members, including measures taken to protect workers and community members, especially children, from exposure to toxic chemicals that may be released from the dismantling of this ship.

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. Please provide information on the arrival of the end-of-life ship to Alang beach, India, including the time and date of arrival, as well as any inspections that may have been carried out on the vessel.
3. Please explain, in detail, if the Government of India has taken any measures to ensure decontamination of the ship before entering Indian waters.
4. Please explain, in detail, how the hazardous substances and wastes derived from shipbreaking will be managed, including plans to minimize their adverse effects on human rights and the environment.
5. Please explain why the import of this ship containing hazardous wastes is not in violation of the Basel Convention, to which the Government of India is Party.
6. Please provide, in detail, the measures taken by the Government in training workers to minimize the risks and health implications of hazardous materials used in and released by shipbreaking. Please also provide, in

detail, information given to potentially affected communities in this regard.

7. Please provide information on the benefits and/or compensation the workers receive in the likely event of injury, sickness, temporary or permanent disability caused by occupational accidents or diseases.
8. Please provide comprehensive statistical data on persons who died or became disabled as a result of occupational accidents in the shipbreaking industry.
9. Please provide information on the plans of the Government to ban importation of end-of-life vessels containing hazardous substances and wastes to be beached for dismantling in India.

While awaiting a reply, I urge that your Excellency's Government prevents any dismantling of the ship, and takes all necessary measures to prevent re-occurrence. In the event that the investigations support or suggest the allegations to be correct, international law requires the accountability of any person responsible of the alleged violations.

I also wanted to bring to your attention that I may share this letter with the Governments of Denmark and the Bahamas, as well as the owner of the vessel, in due course.

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