

Mandates of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, pursuant to Human Rights Council resolutions 36/15, 37/8, 34/18 and 33/9.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **alleged ineffective action to address persistent and widespread open burning of waste including toxic waste in Lebanon and inadequate monitoring of the effects of the burning on the public health and the environment.**

According to the information received:

In 1990, the Lebanese civil war ended. With regard to waste management, the Central Government has over the years since then focused on Beirut and the Mount Lebanon governorate, while other municipalities and governorates enjoyed relative autonomy, without adequate oversight or financial support. Dumpsites used from before the war continued to be used, there was limited waste sorting or treatment, and mixing household waste with hazardous waste was characteristic.

In 1994, waste collection resumed under the National Emergency Recovery Program (NERP), involving contracting to private companies in Beirut and Mount Lebanon. In 2015, following a tender process reportedly marred with irregularities and civil protests against the tendering, waste services in Beirut and Mount Lebanon were paralyzed for 8 months and a crisis ensued with waste piling up on streets, and widespread open dumping and burning taking place. In March 2016, the Government created two temporary coastal landfills and called for the exploration of waste-to-energy solutions in the longer term. However, it is reported that some of the waste, including toxic substances, was shifted to coastal dumps, which pose a threat of contamination of water, soil and air. While the

measures taken by the Government in 2016 have largely removed waste from the streets in Beirut and Mount Lebanon, the new temporary landfills designated in 2016 will reportedly reach capacity this year, in 2018 — two years before the Government’s initial estimate of 2020. In January 2018, the cabinet announced plans to expand one of the coastal landfills.

Lebanon reportedly produces more than 2 million tons of solid waste, including industrial waste, hazardous chemicals and electronic waste. Despite the Government’s efforts to address waste management, it is alleged that due to a lack of oversight and an inadequate waste management system, hazardous waste is mixed into the municipal solid waste stream and openly burned in various dumps, raising concern as to the impact of burning waste on the health of nearby workers and residents including children and older people living near open burning sites.

Open burning of solid waste can produce harmful quantities of dioxins, a group of highly toxic chemicals that settle on crops and in waterways where they may eventually end up in food and affect our health. Livestock that eat contaminated crops can in turn expose humans to dioxins through bioaccumulation. Exposure to emissions from open burning including fine particles, dioxins, volatile organic compounds (VOCs), polycyclic aromatic hydrocarbon (PAHs), and polychlorinated biphenyls (PCBs), has been linked to heart disease, cancer, skin diseases, asthma, and respiratory illnesses.

It is alleged that the persistence of open burning of municipal waste including toxic waste near densely populated areas in various parts of Lebanon have led to an array of health problems consistent with the frequent and sustained inhalation of smoke from the open burning of toxic waste, including chronic obstructive pulmonary disease, coughing, throat irritation, skin conditions, and asthma. Some residents developed these negative health impacts after the burning started or they moved to an area where burning was taking place, while others had symptoms subside after a municipality stopped burning or they moved away from an open burning site.

Open burning of toxic waste poses significant risks to children’s health and safety. Children are particularly vulnerable to the adverse health effects of exposures to toxic chemicals. Not only is a child’s developing body more sensitive and vulnerable to toxic exposures, but children also ingest higher concentrations of toxic chemicals into their bodies than adults.

Several complaints have reportedly been addressed to the Government and statements made by district doctors and inspectors concerning open burning of waste in Lebanon. In November 2015, the Minister of Health sent a communication to the Ministry of Interior and Municipalities asking municipalities to cease burning waste, which the Ministry of Interior and Municipalities forwarded to municipalities. In February 2016, the health minister accused 85 municipalities of burning waste, referred them to the judiciary, and

called on the Minister of Interior and Municipalities, and the General Prosecutor, to have municipalities sign a pledge not to burn waste. Despite this, it is reported that as of 2017 there were 941 open dumps in Lebanon, including 617 municipal solid waste dumps. More than 150 of these dumps are allegedly openly burned at least once a week on average. It is alleged that the open burning of waste is taking place primarily in poorer parts of the country, outside central Beirut and Mount Lebanon.

It is reported that the Government has failed to monitor, and publicize, the health and environmental effects of the solid waste sector, including widespread open burning of waste. On 9 January 2018, regional district physicians were requested to inspect municipal garbage dumps and take appropriate measures if any violation is found, including with regard to open burning. Still, it is reported that various municipalities have not provided their residents with any information about the risks of open burning or safety precautions to take. As a result, many residents have expressed fear about the unknown risks, and concern about the potential impact of the burning on their health and the health of their children. Also, residents of various municipalities have expressed frustration that, despite repeated complaints to the municipalities where open burning is taking place, no one is being held to account.

Lebanon has reportedly not implemented a national solid waste management plan that covers the entire country. As at April 2018, a draft law on integrated solid waste management was reportedly before the Parliament. The draft law, which would have been the first legislation dealing with integrated management of waste has not been passed yet. A summary policy for the integrated management of solid waste has reportedly been finalized and approved by the Council of Ministers. The policy is envisioned to adopt administrative decentralization in waste management on the basis that local administrations are responsible for managing their waste within economically and environmentally feasible projects at the municipal or governorate level, and to supplement these local projects with central projects if they arise. In February, the Cabinet allocated USD 20 million for the Environment Ministry to begin closing or rehabilitating the 941 open landfills across Lebanon.

While we do not wish to prejudge the accuracy of these allegations, we are deeply concerned about the alleged ineffective action to address persistent and widespread open burning of waste including toxic waste and inadequate monitoring of the effects on the public health and the environment, which appear to constitute an infringement on and violation of fundamental human rights to life, to the highest attainable standard of physical and mental health, and to access to information.

Serious concern is addressed to reports that your Excellency's Government is failing to meet its international human rights obligations to respect and protect the rights of workers in and residents including children and older persons living near sites of open dumping and burning of waste including toxic chemicals and other hazardous waste.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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

1. Please provide any additional information and/or comment(s) you may have on the allegations.
2. Please indicate specific steps your Excellency's Government has put in place to collect and monitor information on open burning of waste including toxic waste. Please provide information on measures your Excellency's Government has taken to publicize results of any such data collection and/or analysis at the local level.
3. Please indicate any steps your Excellency's Government plans to take to fulfil its obligation to respect human rights in a way that complies with international human rights standards especially the right to the highest attainable standard of health. Please provide any data collected by your Excellency's Government on the health conditions of communities near open burning sites, including any data on socio-economic comparison of these communities. Please also highlight steps taken to ensure residents of areas near open burning sites have adequate access to diagnostic health services and treatment and overall healthcare.
4. Please provide information on measures your Excellency's Government has taken to ensure proper disposal of toxic chemicals and other hazardous waste, so that such waste does not enter the regular solid municipal waste stream unless properly treated.
5. Please provide information on the existing initiatives to ensure residents including children and older persons living near waste management sites are fully informed on the health risks of open burning of waste including toxic chemicals and other hazardous substances they could potentially be exposed to and on the required precautions to avoid and respond to exposure.
6. Please indicate specific initiatives taken to ensure the protection of workers exposed to hazardous substances. Please also indicate specific regulations if any, relating to the handling and exposure of toxic chemicals and other hazardous substances in relation to workers in the waste management system.
7. Please provide information on existing measures, including legislation, policies, and regulations your Excellency's Government has put in place to

ensure integrated waste management in Lebanon with particular concern for hazardous wastes and the protection of workers in and residents near open burning sites. Please highlight safeguards put in place by your Excellency's Government to allow affected communities the opportunity for informed input and engagement in solid waste management planning prior to the adoption of particular approaches or decisions.

8. Please provide information on any measures, including policies, legislation, regulations and adjudication, your Excellency's Government has put in place to prevent, investigate, punish and redress alleged human rights abuses by individuals or entities perpetrating indiscriminate open burning of waste, including toxic chemicals and other hazardous waste.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release would be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release would indicate that we have been in contact with your company to clarify the issue/s in question.

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

Baskut Tuncak

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

John H. Knox

Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

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Annex
Reference to international human rights law

In connection with the alleged facts and concerns, we would like to draw your Excellency's Government's attention to the applicable international human rights norms and standards, as well as authoritative guidance on their interpretation. These include:

- The Universal Declaration of Human Rights;
- The International Covenant on Economic, Social and Cultural Rights;
- The International Covenant on Civil and Political Rights;
- The Convention on the Rights of the Child; and
- The International Labour Organization Conventions
- The World Health Organization Framework Convention on Tobacco Control
- The Strategic Approach to International Chemicals Management Comprising the Dubai Declaration on International Chemicals Management, the Overarching Policy Strategy and the Global Plan of Action
- The UN Guiding Principles on Business and Human Rights.

We wish to draw attention to your Excellency's Government's obligations under international human rights instruments to guarantee the right of every individual to life, liberty and security and not to be arbitrarily deprived of life, recalling Article 3 of the Universal Declaration of Human Rights (UDHR) and Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), to which Lebanon acceded to on 3 November 1972.

In addition, Article 6 of the Convention on the Rights of the Child (CRC), which your Excellency's Government ratified on 14 May 1991, recognizes that every child has the inherent right to life and requires States parties ensure to the maximum extent possible, the survival and development of the child. It further requires State parties to take all effective and appropriate measures to diminish infant and child mortality.

We would like to draw the attention of your Excellency's Government attention to Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), acceded to on 3 November 1972, which enshrines the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Also, Article 24 of the CRC recognizes the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health, and further mandates that States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures to among other objectives, "ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care".

Reference is made to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights (CESCR) which describes the normative content of Article 12 and the legal obligations undertaken by the States parties to the ICESCR to respect,

protect and fulfil the right to health. In paragraph 11 of General Comment No. 14, the CESCR 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”.

Also, the CESCR in General Comment No. 14 indicates that States are required to adopt measures against environmental and occupational health hazards and against any other threat as demonstrated by epidemiological data. For this purpose, they should formulate and implement national policies aimed at reducing and eliminating pollution of air, water and soil (para. 36). In relation to the right to healthy natural and workplace environments, General Comment No. 14 provides that 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).

In addition, the CESCR notes that “violations of the obligation to protect follow from the failure of a State to take all necessary measures to safeguard persons within their jurisdiction from infringements of the right to health by third parties. This category includes such omissions as the failure to regulate the activities of individuals, groups or corporations so as to prevent them from violating the right to health of others; the failure to protect consumers and workers from practices detrimental to health ...” (para 51).

We wish 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. General Comment No.14 of the CESCR provides 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”.

We wish to appeal to your Excellency’s government to take all necessary steps to secure the right to information. We would like to refer your Excellency’s Government to the fundamental principles laid down in Article 19 of the UDHR, and Article 19(2) of the ICCPR which guarantee the right to “seek, receive and impart information” as part of the right to freedom of expression. Also, Articles 13 and 24(d) of the CRC provide respectively that “the child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice” and create an obligation for State Parties to “ensure that ... parents and children, are informed, have access to education and are supported in the use

of basic knowledge of ... hygiene and environmental sanitation and the prevention of accidents”.

The right to information derives from the right to freedom of expression. However, the right to information is a right in and of itself and one of the rights upon which free and democratic societies depend (E/CN.4/2000/63, para. 42). Access to information is a prerequisite to public participation in decision-making and monitoring governmental and private-sector activities. Public participation in decision-making is based on the right of those who may be affected to speak and influence the decision that will impact their basic human rights.

We would like to call the attention of your Excellency’s Government to the importance of the right to information about hazardous substances to the general public, as emphasized in the Human Rights Committee’s (HRC) Report of the Special Rapporteur (A/HRC/30/40) in paragraphs 7, 8 and 48, as well as in the HRC’s General Comment No. 34 concerning Freedoms of Opinion and Expression (para.19). Paragraphs 18 and 19 of General Comment No. 34 indicate that the right to access to information includes “access to information held by public bodies. Such information includes records held by a public body, regardless of the form in which the information is stored, its source and the date of production.”

In order to fully realize the right to information for transparent public institutions, implementation through frameworks for measuring, monitoring, reporting and verification of information are necessary for Governments to ensure accountability on their obligations. States should ensure collection and proper management of information on working conditions, exposure levels, contamination, and long-term health implications of exposure to chemicals including toxic pesticides, especially with regard to workers and communities living near areas of use. In this connection, we wish to refer your Excellency’s Government to General Comment No. 14 of the CESCR provides that States should establish and maintain mechanisms to monitor implementation of policies and plans towards achieving the right to health (para 56), and further should provide “education and access to information concerning the main health problems in the community, including methods of preventing and controlling them” (para 44). General Comment No. 15 of the Committee on the Rights of the Child provides that States should regulate and monitor the environmental impact of business activities that may compromise children’s right to health. Maintaining disaggregated information is necessary to understand specific events in the realization of the impact of particular actions on various groups including workers and children. The CESCR has in relation to various country evaluations recommended States to improve national statistics and data collection and disaggregation.

We wish to draw the attention of your Excellency’s Government to the Strategic Approach to International Chemicals Management comprising the Dubai Declaration on International Chemicals Management, the Overarching Policy Strategy and the Global Plan of Action, to which your Excellency’s Government nominated a focal point, under which parties state that they are “determined to implement the applicable chemicals

management agreements to which we are Party, strengthen the coherence and synergies that exist between them and work to address, as appropriate, existing gaps in the framework of international chemicals policy” (clause 8, Dubai Declaration) and “commit ... to respecting human rights and fundamental freedoms, understanding and respecting ecosystem integrity and addressing the gap between the current reality and our ambition to elevate global efforts to achieve the sound management of chemicals” (clause 10, Dubai Declaration). Paragraph 10 of the Global Action Plan identifies measures to strengthening knowledge and information, and in so doing promote achievement of the right to information in relation to chemicals, to include “stepped-up monitoring of the impacts of chemicals on health and the environment, harmonized risk assessments, efforts to implement the Globally Harmonized System of the Classification and Labelling of Chemicals, and the development and publication of national pollutant release and transfer registers”.

We would like to refer your Excellency’s Government to Article 10 of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, ratified by your Excellency’s Government on 21 December 1994, which requires States to cooperate in monitoring the effects of the management of hazardous waste on human health and the environment; and to Articles 9 to 11 of the Stockholm Convention on Persistent Organic Pollutants, ratified by your Excellency’s Government on 3 January 2003, which provides for collection and dissemination of information on persistent organic pollutants and their effect on human health and the environment, as well as implementation of public awareness programmes for various categories of society including workers in general and children in particular.

We wish to draw the attention of your Excellency’s Government to Article 11 of the ICESCR which recognizes the right of everyone to an adequate standard of living for themselves and their families, including food and housing, and to the continuous improvement of living conditions. This article must be read in conjunction with article 2.2 of the Covenant which provides for the exercise of any right under the Covenant without discrimination of any kind. The CESCR in its General Comment No.4 has stressed that the right to adequate housing should not be interpreted in a narrow r restrictive sense such as merely having a roof over one’s head; rather, it should be seen as the right to live somewhere in security, peace and dignity. This General Comment outlines the following aspects of the right to housing: (a) legal security of tenure; (b) availability of services, materials and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; (g) cultural adequacy. In this regard, the right to housing is not fulfilled if the area is contaminated thereby especially diminishing the aspects of habitability and location.

We would like to underline that the obligations of States to respect human rights, to protect the enjoyment of human rights from harmful interference, and to fulfil human rights by working towards their full realization apply in the environmental context. In that context, we refer to the Framework Principles on human rights and the environment of the Special Rapporteur on human rights and the environment (A/HRC/37/59, annex), which summarize the main human rights obligations relating to the enjoyment of a safe,

clean, healthy and sustainable environment. Namely, the Framework Principle 1 provides that States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights. In the same vein, Principle 2 reiterates that States should respect, protect and fulfil human rights in order to ensure a safe, clean, healthy and sustainable environment. Finally, Principle 7 reaffirms that States should provide public access to environmental information by collecting and disseminating information and by providing affordable, effective and timely access to information to any person upon request.

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