



turn back the toxic tide

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## **THE SS BLUE LADY (ex Norway, France): INDIA'S INTERNATIONAL AND NATIONAL OBLIGATIONS TO PROHIBIT THE ILLEGAL TRAFFIC IN TOXIC WASTE VESSELS**

Prepared by the **Basel Action Network**

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### **Introduction**

On May 6, 2006, the SS BLUE LADY (ex Norway, France), bearing tonnes of toxic wastes, including as much as 1,200 tonnes of asbestos in its structure, was towed out of Port Klang, Malaysia by two tugboats heading towards the Indian Ocean. Her owners reported to the Malaysian authorities that the vessel was headed to Dubai in the United Arab Emirates.<sup>1</sup>

Human rights and environmental groups, however, fear that this was a ruse by the owners of the SS BLUE LADY to evade compliance with international environmental laws, and avoid tremendous public outcry from the illegal disposal of the vessel.

14 days after the vessel left Malaysia, the concerns became true. The new Indian owner, Mr. Rajiv Reniwal, appears before the Technical Committee on Ship-Breaking set up by the Indian Supreme Court and pleaded before the Committee to allow the vessel to enter India. No decision has yet been taken. As the vessel steadily makes its way towards India, international legal violations lie in its wake.

At the center of this international controversy is the SS BLUE LADY. Standing 11 stories high and stretching 315 meters (1,035 feet) in length, it is claimed to be the third largest in the world (after the SS Queen Elizabeth 2 and the ill-fated Titanic). She was built in 1960 for the French government, and was christened the SS France, aptly becoming the maritime showpiece of French culture and cuisine.

In 1979, the SS France was sold to Norwegian Cruise Lines (NCL), and was renamed SS Norway. The vessel underwent a major reconversion and countless remodeling during its service with NCL as a luxury cruise ship. After a major and costly accident in 2003, which killed seven of her crewmen, the SS Norway was towed to Bremerhaven, Germany where she was docked for two years, and then sold off to Indian scrappers for breaking. The vessel never reached India in 2003, and eventually ended up in Port Klang in October 14, 2005. In 2006, the SS Norway was renamed the SS BLUE LADY.

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<sup>1</sup> "SS Norway Quietly Sails Away", The Star, May 15, 2006.

The SS BLUE LADY is one of many vessels that have found its way to Indian waters, under the same circumstance - illegally exported by its owners usually coming from developed nations.

Vessels contain toxic materials in their structure, and the disposal of these wastes across national boundaries is subject to international regulations as it raises serious environmental, human health, and human rights concerns. Until the international community exerts its collective will, the misfortune of dealing with end-of-life vessel will often fall on the shoulders of those who are least capable of addressing the crisis, the shipbreaking nations.

As the target for these wastes, countries like India have international obligations it can exercise and protections it can lean to prevent the wastes from entering its territory. We discuss how these protections are triggered and what the outstanding legal commitments exists for States who are the unfortunate recipient of these wastes. We will cover the following areas in this paper:

- I. Hazardous wastes in end-of-life vessels;
- II. Basel Convention on the Transboundary Movement of Hazardous Wastes and Their Disposal (Basel Convention);
  - A. Jurisdiction of the Convention
  - B. Protective Measures and India's Obligations under Basel
  - C. Environmentally Sound Management of PCBs Not Possible in Alang
- III. Stockholm Convention on Persistent Organic Pollutants (Stockholm Convention); and
- IV. Indian Supreme Court Order.

## **I. Hazardous Waste in End-of-Life Vessels**

It is globally acknowledged that end-of-life vessels contain hazardous wastes. The Basel Convention's Technical Guidelines for the Environmentally Sound Management of the Full and Partial Dismantling of Ships (Basel Guidelines) recognizes this fact, when it states:

*"Various materials historically used in the construction and operation of ships will become hazardous wastes under the [Basel] Convention. These materials include, amongst others, asbestos, PCB's and substrates derived from the normal operation of ships, such as oil residues and products containing heavy metals. These materials are released during the extraction phase of the dismantling process. The need for an Environmentally Sound Management of the ship - recycling industry is therefore apparent."*<sup>2</sup>

(See Annex 1 of this paper for a listing of Basel covered hazardous wastes.)

The Parties to the Basel Convention in their landmark Decision VII/26 corroborated the hazardous waste character of obsolete ships, further eliminating any uncertainty as to the application of the Basel Convention:

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<sup>2</sup> Technical Guidelines for the Environmentally Sound Management of the Full and Partial Dismantling of Ships, p. 23, available at: <http://www.basel.int/ships/techguid.html>. [hereinafter Technical Guidelines].

*“Recognizing that many ships and other floating structures are known to contain hazardous materials and that such hazardous materials may become hazardous wastes as listed in the annexes to the Basel Convention,…”*

Two of the most immediate toxins of concern in end-of-life vessels are asbestos and the man-made chemical, *polychlorinated biphenyls*:

### **Asbestos**

Asbestos refers to a group of minerals that occur naturally as masses of long silky fibers that are strong and flexible enough to be spun and woven and are heat resistant.<sup>3</sup> In the last 25 years asbestos has been revealed to be a serious killer as it attacks and damages lung tissue. It is a very significant contaminant in vessels due to its quantity.

The main exposure pathway from asbestos is through inhalation. When an asbestos containing material is disturbed this causes the asbestos particles to float through the air, and inhaled. Asbestos particles are so small they cannot be seen by the naked eye. Chronic human exposure to asbestos may increase the risk of lung cancer, mesothelioma, and nonmalignant lung and pleural disorders.

Asbestos in ships can be found in many types of materials, including, but not limited to:

- Bulkhead and pipe thermal insulation
- Bulkhead fire shields/fireproofing
- Uptake space insulation
- Exhaust duct insulation
- Electrical cable materials
- Brake linings
- Floor tiles and deck underlay
- Steam, water, and vent flange gaskets
- Adhesives and adhesive-like glues (e.g., mastics) and fillers
- Sound damping
- Molded plastic products (e.g., switch handles, clutch facings)
- Sealing putty
- Packing in shafts and valves
- Packing in electrical bulkhead penetrations
- Asbestos arc chutes in circuit breakers
- Pipe hanger inserts
- Weld shop protectors and burn covers, blankets, and any fire fighting clothing or equipment
- Any other type of thermal insulating material

### ***Polychlorinated biphenyls or PCBs***

PCBs are man-made chemical compounds that were widely used for industrial and other applications before the 1980's. They are part of a dangerous class of chemicals known as “persistent organic pollutants” or POPs. PCBs have been shown to cause a variety of adverse health effects, such as cancer in animals, as well as a number of serious non-cancer health effects in animals (e.g., effects on the immune system, reproductive system, nervous system, and endocrine system). Studies in humans provide supportive evidence that PCBs are probable human carcinogens.<sup>4</sup> PCBs can be ingested,

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<sup>3</sup> US Agency for Toxic Substances and Disease Registry fact file. Available at <http://www.atsdr.cdc.gov/tfacts61.html>

<sup>4</sup> *A Guide for Shipscrapppers: Tips for Regulatory Compliance*, Summer 2000, USEPA. Found at: <http://www.ban.org/Library/scrap.pdf>

inhaled, or absorbed through the skin. They circulate throughout the body and are stored in the body's fatty tissue.

Environmental agencies, such as the US Environmental Protection Agency (EPA) are also very concerned about the toxicity of the chemicals produced when PCBs are heated in fire-related incidents. The chemicals produced include *polychlorinated dibenzofurans* and polychlorinated *dibenzo-p-dioxins*, both of which are believed to be much more toxic than PCBs themselves.

PCBs can be ingested, inhaled, or absorbed through the skin. They circulate throughout the body and are stored in the body's fatty tissue.

PCBs were used and manufactured in many countries throughout the developed world. Manufacturing stopped in the United States in 1979 but continued in many other countries well into the 1980s.<sup>5</sup> PCBs are slated for global elimination under the Stockholm Convention (see below).

PCBs in vessels are found in solid (waxy) and liquid (oily) forms in equipment and materials, which include, but are not limited to the following:

- Cable insulation
- Rubber and felt gaskets
- Thermal insulation material including fiberglass, felt, foam, and cork
- Transformers, capacitors, and electronic equipment with capacitor/transformers inside
- Voltage regulators, switches, reclosers, bushings, and electromagnets
- Adhesives and tapes
- Any plasticizers
- Oil including electrical equipment and motors, anchor windlasses, hydraulic systems, and leaks and spills
- Surface contamination of machinery and other solid surfaces
- Oil-based paint
- Caulking
- Rubber isolation mounts
- Foundation mounts
- Pipe hangers
- Light ballasts

### **Hazardous Waste Onboard the SS BLUE LADY**

The SS BLUE LADY is known to contain asbestos, and is likely to also contain PCBs and other contaminants. Unfortunately, the ship owner failed to produce the required inventory of all the toxic wastes onboard the vessel, before exporting the vessel making it difficult for regulators to ascertain the quantity and type of toxins onboard the vessel.

Experts, however, have estimated that as much as 1,200 tonnes of asbestos remain in the SS BLUE LADY. As for the other toxins on board no estimates are readily available.

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<sup>5</sup> "POPS Profile Information Reporting Form," Slovak Republic, UNEP Chemicals.

In spite of the absence of a full hazard inventory, the previous cases of the American “Ghost Fleet”<sup>6</sup> and the French aircraft carrier “Clemenceau”<sup>7</sup> have provided BAN some data on the toxins and quantity carried by vessels of pre-1979 vintage. Table 1, below, compares the asbestos and PCB containing materials of several vessels of the “Ghost Fleet”, “Clemenceau”, and the SS BLUE LADY. Note that it is immediately noticeable that the asbestos load of the SS BLUE LADY outweighs the two military aircraft carriers. Considering this fact, it is likely that there may also be more PCB contaminated materials and other toxins on board the SS BLUE LADY due to its size.

**Table 1**  
**Comparative Table of Vessels**  
**with their Asbestos and**  
**Materials Containing non-liquid PCBs**

Name of Vessel	Vessel Type	Year Launched/ Commissioned	Lightweight (Tonnes)	Asbestos (Tonnes)	Non-Liquid PCBs (Tonnes)
Blue Lady	Cruise Ship	1962	13,960 (dwt)	1,200	?
Clemenceau	Aircraft Carrier	1957	24,772	Over 500	783
Oriskany	Aircraft Carrier	1950	25,129	Over 500	795
Canisteo	Oiler	1945	14,705	61	34
Donner	Landing Ship Dock	1945	5,910	75	14
Protector	Radar Station Ship	1957	6,194	85	24
Compass Island	Auxiliary Ship	1953	15,057	252	47
Canopus	Submarine Tender	1965	12,618	252	286

While there have been some reports that “interior stripping” occurred while at Port Klang, Malaysia in early 2006, there is still no proof that any hazardous materials were removed. Moreover, the vast majority of PCBs and asbestos on board the vessel will be located in between panels, walls, and other hard to reach areas such that “interior stripping” would be inadequate to access and remove all of these hazardous components.

With the presence of tonnes of toxic wastes, end-of-life vessels (EOL vessels) such as the SS BLUE LADY, presents a grave threat to human health and the environment, particularly of those in the developing world where shipbreaking takes place.

## II. Basel Convention

The Basel Convention on the Control of the Transboundary Movement of Hazardous Wastes and their Disposal was the international response to the blatant and rampant toxic waste dumping scandals in the mid to late '80's. The Convention was adopted in 1989, and came into full force of international law in May 5, 1992. It enjoys the overwhelming ratification of 168 countries; India is a party to the Basel Convention.<sup>8</sup>

The Basel Convention covers the transboundary movement of hazardous wastes, making it the primary international agreement having jurisdiction over toxic wastes contained in end-of-life vessels. We discuss

<sup>6</sup> See BAN's Report on the US Ghost Fleet, entitled “Needless Risk: The Bush Administration's Scheme to Export Toxic Wastes to Europe”, at: <http://www.ban.org/Library/Needless%20Risk%20Final.pdf>.

<sup>7</sup> See BAN's Report on the French aircraft carrier Clemenceau, entitled “The French Deception: PCBs and the Clemenceau”, at: [http://www.ban.org/Library/the\\_french\\_deception.pdf](http://www.ban.org/Library/the_french_deception.pdf).

<sup>8</sup> India ratified the Basel Convention on July 24, 1992.

below the legal and factual elements which gives the Basel Convention competency over end-of-life vessels that triggers India’s legal commitments to prohibit the importation of the SS BLUE LADY into Alang.

**A. Jurisdiction of the Convention**

**1. End-of-Life vessels can be a waste and ship at the same time under the Basel Convention.**

Article 2.1 of the Basel Convention defines “wastes” as “substances or objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law....”<sup>9</sup>

“Disposal” is the operative term in the Basel waste definition that determines when an object passes the stage of being a “product” to becoming a “waste”. The Convention defines “disposal” in Annex IV by creating two categories, final disposal and recycling, and within these categories the Convention lists specific operations it considers to be “disposal”. One of these operations listed under Recycling is R4 - “recycling/reclamation of metals and metal compounds”, considerably the main operation conducted in the Alang shipbreaking yards.

The SS BLUE LADY’s final destination has consistently been for disposal. Table 2 below, lists various trade journal reports establishing the ship owner’s, then Norwegian Cruise Lines, intent to dispose of the SS Norway.

**Table 2  
Trade Reports Establishing Intent to Dispose**

<p>The shipping weekly 'TradeWinds' reports that:</p> <p><i>'Malaysian-owned [...] NCL will hand over the [...] SS Norway to cash buyers on Monday, report French Media). Sources in Bremerhaven tell TradeWinds that maintenance crew have begun stripping the vessel of furnishings and loose equipment and have been told to be expect to be gone within two weeks. Unless the Star Cruises subsidiary receives a check for EUR 20m (\$26.4m) before Monday, the historical ship is history, confirms NCL spokesman Niels North to the daily newspaper Ouest-France. French businessman Isaac Dahan had insisted as recently as this week that a project to buy the ship and anchor it at Honfleur was still alive.[...] A scrap sale has been on hold for many months pending projects to save the vessel as a boatel in France or Germany. [...]</i></p>	<p>TradeWinds of 25-Feb-2005</p>
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<sup>9</sup> Basel Convention on the Transboundary Movement of Hazardous Wastes and their Disposal, available at [www.ban.int](http://www.ban.int).

**Table 2 continuation  
Trade Reports Establishing Intent to Dispose**

<p>The shipping weekly 'TradeWinds' reports that:</p> <p><i>'[...]preparations for a demolition sale are well underway. [...]Lloyd-Werft is expecting an order to remove auxiliary engines and equipment before the [...]SS Norway[...] leaves for a breakers' beach.</i></p> <p><i>The French government offered yesterday to give the cruise ship a "partial classification as a historical monument" entailing tax breaks to offset the expenses of investors who would purchase and restore the [...] ship and bring it home to France. Secretary of state of transport and maritime affairs Francois Goulard said his counterparts in the ministry of culture had given the plan their nod. However, the move may be too little too late. A sale of the vessel to French interests ran out of steam last week reportedly over the cost of removing asbestos from the SS Norway. Investors would have made a boatel of the ship at Calvados off Le Havre.</i></p> <p><i>[...] eight Norwegian, US, UK and Indian cash buyers have inspected the SS Norway[...] and made their offers.'</i></p>	<p>TradeWinds of 01-Mar-2005</p>
<p>The Lloyd's Shipping Website SeaSearcher announces that the SS Norway has been sold to 'Indian Breakers'.</p>	<p><a href="http://www.seasearcher.com">http://www.seasearcher.com</a> SS - Vessel Overview – Ownership history</p>
<p>Indian Scrapper reportedly signed a purchase promise of \$15m</p>	<p><a href="Http://mers.france3.fr/dossiers/6441436-fr.php">Http://mers.france3.fr/dossiers/6441436-fr.php</a></p>
<p>The French NGO 'Pour le Paquebot France' (for the Passenger ship France) declares during a press conference that the decontamination costs of the SS Norway (asbestos removal costs between EUR 8 and 22million).</p>	<p><a href="Http://mers.france3.fr/dossiers/6441436-fr.php">Http://mers.france3.fr/dossiers/6441436-fr.php</a></p>

In early 2006, reports continued to indicate that the SS BLUE LADY was headed for disposal. As recent as May 25, 2006, reports coming out of India have confirmed that the SS BLUE LADY is a few days from Alang.<sup>10</sup> Certainly the vessel is headed there for one reason alone - disposal.

In addition to the media reports, the SS BLUE LADY's case history strongly indicates that it will soon end up for disposal:

- The vessel has reached the end of its useful life. Experts peg the useful life of a cruise ship to be approximately 40 years. The SS BLUE LADY reached this critical age in 2002.
- The vessel has already been sold for scrap once before, clearly establishing the owner's intent to dispose of the vessel. (See Table 2 above)
- The cost of repairing the vessel and preparing it for reuse is reportedly more than its resale value. Unless the owners of the vessel encounter a very generous buyer who can offer more for the vessel for reuse, the only way the vessel's owner can turn a profit is to sell it for scrap.

In spite of the unequivocal waste definition of Basel, some shipping industry interests, even India in the past, has claimed that a ship can not be a ship and a waste at the same time. This issue, however, has

<sup>10</sup>“Unlike Clemenceau, Blue Lady set to get permission to dock”, The Indian Express, May 26, 2006.

been decisively put to rest by the Basel Convention's Parties and legal experts in October 2004, at the Seventh Conference of the Parties, when in Decision VII/26 they stated as follows:

*"Noting that a ship may become 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..."*

Decision VII/26, thus functions to eliminate the seeming conflict of jurisdiction and recognizes the authority exercised by other international entities such as the International Maritime Organization (IMO) over vessels.

Based on the facts and clarifications made by the Basel Parties, the SS BLUE LADY can therefore be legally considered a waste under Basel.

**2. End-of-life vessels are hazardous wastes if they contain hazardous materials and are destined for disposal or recycling.**

Basel defines hazardous wastes under Art. 1.1 as follows:

- (a) Wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex III; and*
- (b) Wastes that are not covered under paragraph (a) but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the Party of export, import or transit.*

Annex I of the Basel Convention provides that any material containing constituents such as, but not limited to, asbestos (Y36), PCBs (Y39), mercury (Y29), cadmium (Y26) is a hazardous waste *"unless they do not possess any of the hazardous characteristics listed in Annex III."*

In 1997 the Basel Convention adopted Annex VIII containing the "A" list of waste streams that are presumed to be hazardous (i.e. possessing a hazardous characteristic). On this list are included for example the following listings:

*A2050 Waste asbestos (dusts and fibres);  
A3180 Wastes, substances and articles containing, consisting of or contaminated with polychlorinated biphenyl (PCB), polychlorinated terphenyl (PCT), polychlorinated naphthalene (PCN) or polybrominated biphenyl (PBB), or any other polybrominated analogues of these compounds, at a concentration level of 50 mg/kg or more.*

It is important to note that the Basel Convention has in only one instance established a threshold concentration level with respect to the hazardous characteristics. The Convention sets a level of 50 parts per million for PCBs below which they are presumed to be non-hazardous. Asbestos and all other Annex I listed materials however are presumed to be hazardous unless it can be demonstrated that they do not possess a hazardous characteristic.

As discussed in Section 1 of this paper, expert opinion and factual comparison to vessels built before 1979 indicate the likelihood of the presence of toxic wastes in the SS BLUE LADY, the very same toxic wastes

that are controlled and considered hazardous under the Basel Convention. Thus, the SS BLUE LADY can be legally considered hazardous waste, and subject to the jurisdiction of the Basel Convention.

### **3. *Illegal traffic in hazardous wastes is an international criminal offense.***

Art. 4.3 of the Convention mandates that Parties consider the illegal traffic in hazardous wastes or other wastes as criminal. "Illegal traffic" is defined in Art. 9 of the Convention to include the following transboundary movement scenarios:

*"(a) without notification pursuant to the provisions of this Convention to all States concerned;*  
*(b) without the consent pursuant to the provisions of this Convention of a State Concerned; or*  
*(c) with consent obtained from States concerned through falsification, misrepresentation or fraud; or*  
*(d) that does not conform in a material way with the documents; or*  
*(e) that results in deliberate disposal (e.g. dumping) of hazardous wastes or other wastes in contravention of this Convention and of general principles of international law..."*

The SS BLUE LADY was determined as waste when it left Port Klang, Malaysia, making Malaysia the State of export, as it is here where the movement of the waste was initiated. Malaysia therefore had the duty to notify all States concerned, states of transit and import, that hazardous wastes will be moving through or ending up in these states.

Malaysia has committed Article 9 violations as it failed to issue the required notification and receive the consent from the importing and transit states before allowing the SS BLUE LADY to depart. Any subsequent movement of the vessel from Malaysia, given the prevailing circumstances, would be illegal traffic under Art. 9.

Malaysia cannot rely on the initial claim by the owners that the vessel is be headed for Dubai for refurbishment in allowing the vessel to depart because misrepresentation or fraud in obtaining consent is still illegal traffic under Art. 9.1.c of the Convention. In fact, it appears that this is the case with the SS BLUE LADY. Recent reports indicate that the vessel is only a few days away from India, and that India may be allowing the vessel to enter its territory.<sup>11</sup>

If by chance there was no misrepresentation, the export of the SS BLUE LADY would still be considered illegal traffic considering that at the end of the day there results in a deliberate dumping of hazardous wastes that contravenes Basel and other general principles of international law.

In light of the foregoing, the export of the SS BLUE LADY from Malaysia to India is illegal traffic under several Basel Art. 9 scenarios, prompting India to exercise its duties under Basel to prohibit the SS BLUE LADY.

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<sup>11</sup> Supra note 11.

## **B. Protective Measures and India's Obligations under the Basel Convention**

India can lean on the protective measures supplied by the Convention, and at the same time comply with its international commitments to stem the flow of illegal traffic in EOL vessels to its shores.

### **1. Protective Measures**

Article 9.1 of the Basel Convention states that if the illegal traffic was the result of the conduct of the State of export, it must ensure that the exporter or generator takes back the hazardous waste, and if necessary the State of export must perform this task. Article 9.1 further provides that if the re-importation is impracticable to accomplish, the hazardous waste must be disposed in accordance with Basel.

As the State of export, Malaysia must recall the SS BLUE LADY to its territory and ensure the environmentally sound disposal of the vessel. This legal remedy is by no means unusual in the case of EOL vessels. In fact, just recently the case of the *Clemenceau* involving France exemplifies the application of the take back obligation by the States of export.

In the case of the *Clemenceau*, the French military exported the vessel laden with at least 500 tonnes of asbestos to India for breaking. The French courts ruled that the export of the *Clemenceau* violated French laws, and issued an order taking back the vessel from India. French President Jacques Chirac heeded the court's decision and re-called the *Clemenceau* back to France. The vessel arrived back last May 17, 2006.

In addition to Article 9, the Basel Convention under Art. 8 also recognizes that if there was a contract for the disposal of the waste and such contract cannot be completed, the State of export must ensure that the exporter re-imports the waste back into the State of export, if alternative arrangements for the disposal could not be made for the disposal of the waste in environmentally sound manner.

On the hypothetical scenario that the export of the SS BLUE LADY was done properly, Malaysia still has the obligation under Art. 8 of Basel to re-import the vessel back to its territory, because the contract to dispose of the vessel in an environmentally sound manner can not be accomplished in India, which will be discussed in the succeeding sections.

Based on the foregoing, India can assert the Art. 9(2) and 8 protections erected by Basel against Malaysia in rejecting the entry of the SS BLUE LADY.

### **2. India's Basel Obligations**

Decision VII/26 reaffirms the application of the Basel obligations to ship disposal, when it reminds Basel Parties:

*"...to fulfill their obligations under the Basel Convention, where applicable, in particular their obligations with respect to prior informed consent, minimization of transboundary movements of hazardous wastes and the principles of environmentally sound management...."*

Under Basel India must fulfill the following obligations to combat illegal traffic of EOL vessels:

- ✓ Inform other Parties of their decision to prohibit the import of hazardous wastes and other wastes pursuant to the Convention (Art. 4.1.a).
- ✓ Prohibit 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 (Art. 4.2.g);

The obligation to prohibit the SS BLUE LADY is paramount given the situation in India where the wastes, particularly PCBs, will not be managed in an environmentally sound manner. We discuss this in the following sub-section on ESM.

- ✓ Take appropriate legal, administrative and other measures, including measures to prevent and punish conduct in contravention of the Convention (Art. 4.4).

India needs to follow through with this obligation and proceed to hold criminally accountable those Indian ship owners who import contaminated vessels, such as the SS BLUE LADY, into India illegally.

- ✓ Take further action against hazardous wastes, provided that any additional requirements are consistent with the provisions of the Convention, and is in accordance with the rules of international law, in order better to protect human health and the environment (Art. 4.11).

Obligations under Articles 4.4 and .11 allows Parties to add on to the Convention requirements in national law, proactively implement the Convention and take other appropriate measures to enforce the Basel Convention obligations. Given this leeway, Parties have the opportunity to regulate all persons subject to their jurisdiction, particularly ship owners, charterers, brokers, and shipping agents and hold these entities accountable for the illegal exports of EOL vessels.

- ✓ Ensure the availability of adequate disposal facilities, for the environmentally sound management of hazardous wastes and other wastes, within the country of generation to the extent possible (Art. 4.2.b).

India can not play a passive role in addressing the shipbreaking crisis, it needs to muster up its political will and comply with its Basel obligations. In fact, India may wish to follow Bangladesh's lead with respect to preventing toxic wastes, such the SS BLUE LADY. In February 5, 2006, a month before the SS BLUE LADY departed for Malaysia, an inter-ministerial order was issued by the Bangladeshi government prohibiting the import of the SS BLUE LADY citing environmental dangers:

*"According to the Basel Convention... countries have the right to refuse any material or carrier that can cause harm to the environment.... In the circumstances stated, it is being requested under instruction to take necessary measures to ensure that the ship SS Norway (even if it has changed the name) does not enter Bangladesh." (See Annex 2 for the translation of the Inter-ministerial decision)*

Bangladesh invoked its right under Basel and decided to follow the precautionary approach in dealing with the SS BLUE LADY, a timely example which India could very well emulate.

### 3. Environmentally Sound Management of PCBs Not Possible in Alang

As mentioned in the preceding sub-section, the Basel Convention under Art. 4.2.e requires that no transboundary movement occur without assurances that the destination facility is engaged in environmentally sound management as defined in the Convention. This is the precise rationale why the Basel Guidelines were developed to provide steps by which the existing yards found in India and in other developing countries are to undertake in order to fulfill the objective of environmentally sound management.

Unfortunately, the measures delineated in the Basel Guidelines have not been accomplished in full, and the beach shipbreaking yards of South Asia are still viewed to fall below the ESM requirements under the Convention. ESM is broadly defined by Basel as:

*“...taking all practicable steps to ensure that hazardous wastes or other wastes are managed in a manner which will protect human health and the environment against the adverse effects which may result from such wastes.”*

By any environmental and occupational health accounting, it cannot be seen that the yards in Alang are taking all practical steps to ensure protection of human health and the environment from the PCBs likely to be onboard the SS BLUE LADY.

The Basel Guidelines acknowledges the current gap in the environmentally sound management of EOL vessels, when it stated:

*“All ship dismantling should comply with the principles of ESM. It has become evident that current practice does not. The gap between current practice and ESM-compliance requires measures at many levels.”*<sup>12</sup> (Emphasis supplied)

The Basel Guidelines made the following critical observation regarding India's shipbreaking operations:

*“Insufficiencies relating to workers' health and safety and protection of the environment have been affirmed by several independent assessments at both Alang and other ship-breaking sites. Soil and sediment samples from the investigations undertaken, have revealed high concentrations of heavy metals, asbestos, PAH, and tributyl tin (TBT). A lack of waste reception and disposal capability have been revealed and particular focus has been drawn to the careless handling of hazardous substances such as ACM [asbestos containing materials]. Workers at the dismantling sites in Alang are exposed to these contaminants 24 hours a day, living as they do within the immediate vicinity of their workplace.”*<sup>13</sup> (Emphasis supplied)

The gap or deficiency can be further highlighted if we compare some of the requirements that exist in the United States for dealing with PCBs to what now takes place at Alang. According to the US EPA's Guide for Ship Scrappers, citing US law, the following mandatory requirements for dealing with the significant risk posed PCBs are summarized as follows:

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<sup>12</sup> Basel Guidelines, p.12.

<sup>13</sup> Basel Guidelines, p. 34.

**Table 3**  
**Comparison of US EPA Requirements for PCB Handling in EOL Vessels<sup>14</sup> and Indian Practice**

US EPA Requirements	Indian Practice
<p>✓ Facilities must ensure that workers are protected from exposure to airborne PCB concentrations. Occupational Safety and Health Administration (OSHA) regulations governing exposure to PCBs in the workplace include two time-weighted averages for chlorodiphenyl. These are:</p> <ul style="list-style-type: none"> <li>• 1.0 mg/m<sup>3</sup> of workplace air over an 8-hour work shift for chlorodiphenyl containing 42 percent chlorine.</li> <li>• 0.5 mg/m<sup>3</sup> of workplace air over an 8-hour work shift for chlorodiphenyl containing 54 percent chlorine.</li> </ul> <p>A worker's exposure to PCBs in any 8-hour work shift of a 40-hour week cannot exceed these concentrations. National Institute for Occupational Safety and Health (NIOSH) recommends a more stringent air standard for worker exposure of 1.0 mg/m<sup>3</sup>.</p>	<p>India is not known to be applying this safeguard.</p>
<p>✓ Facilities are required to ensure workers removing and disposing of liquid or solid PCB articles wear or use appropriate personal protective clothing or equipment. These may include, but are not limited to, coveralls or similar full-body clothing, head coverings, gloves, and foot covering; face shields; or vented goggles. This equipment/clothing must be disposed of as PCB remediation waste. Facilities are responsible for establishing an effective respiratory program and workers are responsible for wearing their respirators and complying with the program. An effective respirator program must cover the following factors: written standard operating procedures; selection; training; fit test; inspection, cleaning, maintenance, and storage; medical examination; work area surveillance; and program evaluation.</p>	<p>India is not known to be applying this safeguard.</p>
<p>✓ Facilities are required to conduct medical surveillance for all workers who, for a combined total of 30 or more days per year, are performing PCB removal work or are exposed at or above the exposure limit. This includes medical examination and consultation prior to beginning work, at least annually, and upon termination of employment.</p>	<p>India is not known to be applying this safeguard.</p>
<p>✓ Facilities must provide, at no cost, a training program for all workers performing PCB removal work during ship scrapping. Training must be provided prior to or at the time of beginning work and at least once a year afterwards, and it must be conducted in a manner which the worker is able to understand.</p>	<p>India is not known to be applying this safeguard.</p>
<p>✓ Facilities are required to test, in accordance with EPA policies to determine whether PCBs are present and must be removed from a ship. This policy, entitled <i>Sampling Ships for PCBs Regulated for Disposal (Interim Final Policy, November 30, 1995)</i>, presents a sampling protocol, which is a statistically based random selection process, to analyze for the presence of PCBs in ship materials to determine whether regulated concentrations of PCBs are present. To be compliant, your facility can choose to either: (1) assume the equipment contains regulated concentrations of PCBs (&gt;50ppm), or (2) can sample to determine the actual PCB concentration of the electrical equipment at the time of disposal or storage-for-disposal.</p>	<p>India is not known to be applying this safeguard.</p>
<p>✓ Facilities must maintain the sampling and analysis results for all samples taken to verify the PCB concentration of items that have been removed from a ship. The results should be listed two ways: by individual sample and by sampling scheme stage (that is, how the</p>	<p>India is not known to be applying this safeguard.</p>

<sup>14</sup> EPA Guide for Shipscrapppers: Tips for Regulatory Compliance, available at: <http://www.epa.gov/oecaerth/resources/publications/civil/federal/shipscrapguide.pdf>.

sample was selected in the sampling plan).	
<p>✓ Facilities must follow stringent rules for PCB storage units maintained onsite and establish proper storage facilities for PCBs; use proper containers for PCB storage; manage PCB storage in accordance with marking, recordkeeping, and inspection requirements; within the 1-year disposal time limit, remove from storage and dispose of PCBs and PCB items. If facilities stores PCBs or PCB items for disposal, it must have a “PCB storage facility” which meets the following requirements: Adequate roof and walls to prevent rainwater from reaching PCBs and PCB items; adequate floor which has continuous curbing with a minimum 6-inch high curb; the floor and curbing must provide a containment volume equal to at least two times the internal volume of the largest PCB article or container stored inside or 25 percent of the total internal volume of all PCB articles and containers stored inside, whichever is greater; floors and curbing constructed of Portland cement, concrete, or a continuous, smooth, non-porous surface which prevents or minimizes penetration of PCBs; no drain valves, floor drains, expansion joints, sewer lines, or other openings that would permit liquids to flow from the curbed area. An inspector may check the floor and curb for cracks, measure to verify that the curb is at least 6 inches high, and check the capacity of the containment storage area against the total volume of PCBs in storage. He/she may also determine the 100-year floodplain location with respect to any storage area. Many ship scrapers are located within the 100-year floodplain and cannot have storage areas.</p>	India is not known to be applying this safeguard.
<p>✓ Facilities are required to properly label all PCB materials. The large PCB mark must be used to mark all PCB items and areas where PCBs are being stored. All PCB storage areas, including your PCB storage facility, 30-day temporary storage, and pallet storage, must be clearly marked. Marks must be placed on the exterior of the storage areas so that they can be easily read by any person inspecting or servicing the storage areas.</p>	India is not known to be applying this safeguard.
<p>✓ Facilities are required to use special designated containers for the storage of PCBs that comply with the U.S. Department of Transportation (DOT) Hazardous Materials Regulations.</p>	India is not known to be applying this safeguard.
<p>✓ Facilities must manage PCB storage so that PCB articles and PCB containers can be located by the date they were removed from service for disposal. Therefore, all PCB articles and containers must be dated when they were removed from service for disposal, including 30-day temporary storage and pallet storage. You must also develop and maintain records that document it is following all of the PCB storage and disposal requirements. These records will form the basis for the required “Annual Records” to be prepared by the facility.</p>	India is not known to be applying this safeguard.
<p>✓ Facilities must follow regulations regarding both accidental and intentional releases of PCBs to the environment. In the event of improper disposal of PCBs in concentrations of 50 ppm or greater (or when material with concentrations now less than 50 ppm became that way through dilution), EPA has the authority to compel persons to take action to rectify any damage or clean up the resulting contamination. Spills of liquids containing <i>any amount</i> of PCBs are subject to regulations. Under the spill policy, your facility is required to report the following PCB spills to the appropriate EPA Regional Office of Pesticides and Toxic Substances in the shortest possible time after discovery, but in no case later than 24 hours after discovery:</p> <ul style="list-style-type: none"> <li>• All PCB spills, 50 ppm or greater, which contaminate surface waters, sewers and sewer treatment plants, private or public drinking water sources, animal grazing lands, and vegetable gardens.</li> <li>• All PCB spills, 50 ppm or greater, involving 1 lb. or more pure PCBs (by weight) (e.g., approximately 1 pound of Askarel).</li> </ul>	India is not known to be applying this safeguard.

The above is provided in some detail to summarize the types of controls that are necessary to safely manage the serious risks imposed by PCBs and to make it very clear that India remains very far away from

being able to provide this type of waste management rigor that will be required for the PCBs expected to be found on board the SS BLUE LADY.

In addition to the above concerns on PCB handling, the Stockholm Convention as will be discussed immediately hereafter now requires that POPs, such as PCBs, must not be dumped or burned, recycled or deposited in landfill. Parties to the Stockholm Convention must now “dispose[d] of in such a way that the persistent organic pollutant content is destroyed or irreversibly transformed so that they do not exhibit the characteristics of persistent organic pollutants.” India as a party to Stockholm does not possess such destruction technology anywhere in the country.

Despite the lack of testing by the owners of the SS BLUE LADY for PCBs, BAN is certain that the presence of PCBs and other toxic contaminants in the vessel raise significant legal and technical questions regarding the ability of India to manage such materials in an environmentally sound manner as required by the Basel Convention. For this reason, the possible transfer to India of the PCBs onboard the SS BLUE LADY poses an undeniable threat to the environment and communities in and around the breaking yards in Gujarat state.

### III. Stockholm Convention

The Stockholm Convention on Persistent Organic Pollutants currently has 125 parties. India ratified and became a party to Stockholm on January 13, 2006.

As previously noted, older vessels, particularly those built before 1979, have a high-probability that they will contain very significant quantities of PCBs or polychlorinated biphenyls. Most of these PCBs are in solid matrix form and found in paints, gaskets, insulation materials, wiring, etc.

PCBs are listed in Annex A of the Stockholm Convention, and are targeted for global phase-out and strict trade and destruction criteria. The disposal of the PCBs in the SS BLUE LADY is thus, strictly controlled under Stockholm.

Article 3 of the Stockholm Convention severely restricts export and import of Persistent Organic Pollutants (POPs).

*Each Party shall:*

*(a) Prohibit and/or take the legal and administrative measures necessary to eliminate:*

x            x            x

*(ii) Its import and export of the chemicals listed in Annex A in accordance with the provisions of paragraph 2; and*

Paragraph 2 of Article 3 states:

x            x            x

*(b) That a chemical listed in Annex A for which any production or use specific exemption is in effect or a chemical listed in Annex B for which any production or use specific exemption or acceptable purpose is in effect, taking into account any relevant provisions in existing international prior informed consent instruments, is exported only:*

- (i) For the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6;*
- (ii) To a Party which is permitted to use that chemical under Annex A or Annex B; or*
- (iii) To a State not Party to this Convention which has provided an annual certification to the exporting Party. Such certification shall specify the intended use of the chemical and include a statement that, with respect to that chemical, the importing State is committed to.*

As mentioned previously, the main reason for the arrival of the SS BLUE LADY in India is for disposal, thus, only (i) above can apply. Below we proceed to examine the applicable provisions of Article 6:

x        x        x

*(d) Take appropriate measures so that such wastes, including products and articles upon becoming wastes, are:*

- (i) Handled, collected, transported and stored in an environmentally sound manner;*
- (ii) Disposed of in such a way that the persistent organic pollutant content is destroyed or irreversibly transformed so that they do not exhibit the characteristics of persistent organic pollutants or otherwise disposed of in an environmentally sound manner when destruction or irreversible transformation does not represent the environmentally preferable option or the persistent organic pollutant content is low, taking into account international rules, standards, and guidelines, including those that may be developed pursuant to paragraph 2, and relevant global and regional regimes governing the management of hazardous wastes;*
- (iii) Not permitted to be subjected to disposal operations that may lead to recovery, recycling, reclamation, direct reuse or alternative uses of persistent organic pollutants; and*
- (iv) Not transported across international boundaries without taking into account relevant international rules, standards and guidelines;*

x        x        x

In this case, it must be noted that the shipbreaking yards of Alang, India, the most likely destination of the SS BLUE LADY, nor any other breaking yard in South Asia, do not possess the technological means to dispose of PCBs in “*such a way that the persistent organic pollutant content is destroyed or irreversibly transformed so that they do not exhibit the characteristics of persistent organic pollutants*”.

It is clear from just the above summary analysis that if India accepts the entry of the SS BLUE LADY and allows the breaking of the vessel, it would be in danger of violating Stockholm’s requirements for:

- ✘ Importing PCBs for purposes other than destruction.
- ✘ Allowing PCBs to be subjected to recovery, recycling, operations.
- ✘ Transporting PCBs without taking into account relevant international rules.

#### IV. Indian Supreme Court Ruling

In its “Directions of the Supreme Court on Ship Breaking No. 657/95” the Indian Supreme Court delineated the following relevant provisions that must be followed in India:

1. *Before a ship arrives at port, it should have proper consent from the concerned authority or the State Maritime Board, stating that it does not contain any hazardous waste or radioactive substances. AERB should be consulted in the matter in appropriate cases.*
2. *The ship should be properly decontaminated by the ship owner prior to the breaking. This should be ensured by the SPCBs.*  
[...]
13. *A complete inventory of hazardous waste on board of ship should be made mandatory for the ship owner. And no breaking permission should be granted without such an inventory. The inventory should also be submitted by the GMB to concerned SPCBs to ensure safe disposal of hazardous and toxics waste.*  
[...]
16. *At the international level, India should participate in international meetings on ship breaking at the level of the International Maritime Organization and the Basel Convention’s Technical Working Group with a clear mandate for the decontamination of ships of their hazardous substances such as asbestos, waste oil, gas and PCBs prior to exports to India for breaking. Participation should include from Central and State level.*

It is clear that the exporters of the SS BLUE LADY are very close in violating the Supreme Court orders considering:

- ✘ No proper consent has yet been obtained;
- ✘ The vessel has not been properly decontaminated; and
- ✘ No complete inventory of hazardous waste on board has yet been provided.

Unfortunately, we have seen in the past where the Ministry of Environment and Forests of India is willing to play fast and loose not only with the Basel Convention but with its own Supreme Court rules, as in the case of the *Riky*. The *Riky* was a former Danish ferry, and India claimed that the ship was not a waste under the Basel Convention despite Denmark’s assertion that as exporting state they believed it was a waste. Thus, India flouted Denmark’s right to determine whether a material was a waste under Basel Article 1.1.b.

Further, and most unbelievably, in order to skirt the Supreme Court of India the MOEF made the outlandish claim that “waste on board” only means cargo and not the structural material waste that is clearly the issue of concern for all with respect to ship scrapping. BAN’s comments on the *Riky* violations by India are available at: [http://www.ban.org/Library/BAN\\_analysis\\_Ricky.pdf](http://www.ban.org/Library/BAN_analysis_Ricky.pdf)

India appears to be at odds with itself, with the Supreme Court able to provide a correct reading of India’s Basel Convention obligations on the one hand, and the MOEF on the other hand, seemingly blinded by the power of the shipbreaking industry and all too willing to pretend its Basel Convention obligations do not exist.

## **Recommended Actions**

From the foregoing analysis, it is apparent that the SS BLUE LADY poses a great and imminent threat to the environment and health of the workers and communities in Alang. India therefore must enforce the legal commitments it has undertaken to prevent this environmental and human health danger. In so doing India must:

1. Prohibit the entry of the SS BLUE LADY into India until it has been decontaminated of all toxic wastes on board. Decontamination must take place in a developed country facility. After decontamination the exporter must obtain the consent of India for the import of the vessel and simultaneous to this application must present a fully developed independent survey and inventory of the presence and amount of solid PCBs, asbestos, and other contaminants onboard the vessel that was removed, and those toxic contaminants remaining.
2. India must not allow itself to be swayed by wealthy ship owners into accepting what is clearly an affront to international law and human rights. They have a long list of legal reasons to deny the shipment. If they fail to do so, they reveal themselves to be corrupted by an industry with a dismal track record for concern over human health and the environment or international law.

END

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## Annex I

### (Taken from the Basel Technical Guidelines for Environmentally Sound Management of the Full and Partial Dismantling of Ships)

List of hazardous wastes and substances under the Basel Convention that are on board or inherent in the ships' structure when the vessel arrives at a dismantling site

The following list (Table 12) includes wastes and substances that may be inherent in the structure of the vessel when the vessel arrives at the dismantling site as well as an indication as to where on the vessel the wastes and substances may be found. The list is based on List A in the Basel Convention which contains wastes that are characterised as hazardous under Article 1, paragraph 1 (a), of the Convention. Their designation to Annex VIII in the Basel Convention does not preclude the use of Annex III to demonstrate that a waste is not hazardous. Wastes specifically listed on List B in the Convention are excluded.

Some of the entries in List A in the Basel Convention overlap so that some wastes are present in several ship components and vice versa. All entries in List A that may possibly be present in the ship structure are therefore not included. Electrical appliances, batteries, etc. are included on the list of wastes and substances that may be inherent in the structure of the vessel.

**Table 11 Wastes and substances that may be inherent in the vessel structure**

Wastes	Waste-location on the ship
<i>A1 Metal and metal-bearing wastes</i>	
A1010 Metal wastes and waste consisting of alloys of any of the following:	
Antimony *	alloys with lead in lead-acid storage batteries, solder
Beryllium *	hardening agent in alloys, fuel containers, navigational systems
Cadmium *	bearings
Lead	connectors, couplings, bearings
Mercury	thermometers, bearing pressure sensors
Tellurium *	in alloys
A1020 Waste having as constituents or contaminants, excluding metal waste in massive form, any of the following:	
Antimony; antimony compounds *	fire retardation in plastics, textiles, rubber, etc.
Cadmium; cadmium compounds	batteries, anodes, bolts and nuts
Lead; lead compounds	batteries, paint coatings, cable insulation
A1030 Wastes having as constituents or contaminants any of the following:	
Arsenic; arsenic compound	Paints on the ships' structure
Mercury; mercury compounds	thermometers, light fittings, level switches
A1040 Wastes having as constituents any of the following:	
Hexavalent chromium compounds	paints (lead chromate) on the ships' structure

A1080 Waste zinc residues not included on list B, containing lead and cadmium in concentrations sufficient to exhibit Annex III characteristics	anodes (Cu, Cd, Pb, Zn)
A1160 Waste lead-acid batteries, whole or crushed	batteries: emergency, radio, fire alarm, start up, lifeboats
A1180 ** Waste electrical and electronic assemblies or scrap containing components such as accumulators and other batteries included on list A, mercury-switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or contaminated with Annex I constituents (e.g., cadmium, mercury, lead, polychlorinated biphenyl) to an extent that they possess any of the characteristics contained in Annex III (note the related entry on list B B1110)	level switches, light tubes and fittings (capacitors), electrical cables
<i>A2 Wastes containing principally inorganic constituents, which may contain metals and organic materials</i>	
A2010 Glass waste from cathode-ray tubes and other activated glasses	tv and computer screens
A2050 Waste asbestos (dusts and fibres)	thermal insulation, surfacing material, sound insulation
<i>A3 Wastes containing principally organic constituents, which may contain metals and inorganic materials</i>	
A3020 Waste mineral oils unfit for their originally intended use	hydraulic fluids, oil sump (engine, lub. oil, gear, separator, etc.), oil tank residuals (cargo residues)
A3140 Waste non-halogenated organic solvents but excluding such wastes specified on list B	antifreeze fluids
A3180 Wastes, substances and articles containing, consisting of or contaminated with polychlorinated biphenyl (PCB), polychlorinated terphenyl (PCT), polychlorinated naphthalene (PCN) or polybrominated biphenyl (PBB), or any other polybrominated analogues of these compounds, at a concentration level of 50 mg/kg or more	capacitors in light fittings, PCB in oil residuals, gaskets, couplings, wiring (plastics inherent in the ships' structure)
<i>A4 Wastes which may contain either inorganic or organic constituents</i>	
A4030 Wastes from the production, formulation and use of biocides and phytopharmaceuticals, including waste pesticides and herbicides which are off-specification, outdated, or unfit for their originally intended use	paints and rust stabilizers, tin-based anti-fouling coatings on ships' bottoms
A4060 Waste oils/water, hydrocarbons/water mixtures, emulsions	sludge, chemicals in water, tank residuals, bilge water
A4070 Wastes from the production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish excluding any such waste specified on list B (note the related entry on list B B4010)	paints and coatings on the ships' structure
A4080 Wastes of an explosive nature (but excluding such wastes specified on list B)	compressed gases (acetylene, propane, butane), cargo residues (cargo tanks)
A4130 Waste packages and containers containing Annex I substances in concentrations sufficient to exhibit Annex III hazard characteristics	cargo residues

**Footnotes:**

\* If the component is present it is most likely bound in an alloy or present at a very low concentration

\*\* The ship components are also covered by other List A entries (overlapping)

Table 13 includes wastes and substances that may be on board the vessel when the vessel arrives at the dismantling site as well as an indication as to where on the vessel the wastes and substances may be found.

**Table 12 Wastes and substances that may be on board the vessel**

Wastes	Product where waste may be found
A1170 Unsorted waste batteries excluding mixtures of only list B batteries. Waste batteries not specified on list B containing Annex I constituents to an extent to render them hazardous.	portable radios, torches
A3140 Waste non-halogenated organic solvents but excluding such wastes specified on list B	solvents and thinners
A3150 Waste halogenated organic solvents	solvents and thinners
A4010 Wastes from the production, preparation and use of pharmaceutical products but excluding such wastes specified on list B	miscellaneous medicines
A4030 Wastes from the production, formulation and use of biocides and phytopharmaceuticals, including waste pesticides and herbicides which are off-specification, outdated, or unfit for their originally intended use	insecticide sprays
A4070 Wastes from the production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish excluding any such waste specified on list B (note the related entry on list B B4010)	paints and coatings
A4140 Waste consisting of or containing off specification or outdated chemicals corresponding to Annex I categories and exhibiting Annex III hazard characteristics	consumables

Certain waste components that are relevant to ship dismantling are not included in List A in the Basel Convention, but may be covered by other regulations. These waste components are listed in Table 14, together with an indication as to where on the vessel such wastes may be present.

**Table 13 Waste components that are relevant to ship dismantling and which are not included in List A in the Basel Convention**

Potentially hazardous materials not covered by List A in the Basel Convention:	Ship component
CFC (R12 - dichlorodifluoromethane, or R22 - chlorodifluoromethane)	refrigerants, styrofoam
Halons	fire fighting equipment
Radioactive material	Liquid-level indicators, smoke detectors, emergency signs
Microorganisms/ sediments	ballast water systems (incl tanks)
Fuel oil, diesel oil, gas oil	

## Annex 2

### ENGLISH VERSION OF THE BANGLADESHI INTER-MINISTERIAL MEETING

Government of Peoples Republic of Bangladesh Ministry of Environment and Forest  
Branch-7

No. pabama/sha-6/paper clipping-2/2005/51

Subject: Regarding Entry of Carrier of Hazardous Materials SS Norway

With reference to the above subject it is noted that being attracted by the news item titled "Floating SS Norway- the carrier of hazardous material is proceeding towards Bangladesh for scrapping", the environmentalists and others protested the entry of the ship into Bangladesh and in that backdrop an inter-ministerial meeting was held on 15-02-06 at the Ministry of Environment and Forest. The meeting took the following decisions. The Hon'ble Minister for Environment and Forest has approved the decisions:

(a) The Bangladesh Bank shall be requested to give necessary directions to the commercial banks not to open L/C to import the ship called SS Norway.

(b) The Navy, Chittagong Port Authority and the Coast Guard Authority shall be requested to take necessary steps not to allow the entry of the ship into Bangladesh.

(c) National Board of Revenue shall be requested to take necessary measures regarding non-entry of the ship into Bangladesh.

2. According to the Basel Convention, ILO Convention and the rules of WTO signatory countries have the right to refuse any material or carrier that can cause harm to the environment. Section 6 (a) of the Environment Conservation Act, 1995 has this provision.

3. In the circumstances stated, it is being requested under instruction to take necessary measures to ensure that the ship SS Norway (even if it has changed the name) does not enter Bangladesh.

Tahmina Akhter  
Senior Assistant Secretary  
Phone: 7162072

copy:

1. The Governor, Bangladesh Bank, Main Office, Dhaka
2. The Chief of Navy, Navy Head Office, Banani, Dhaka
3. The Secretary, Ministry of Home Affairs, Bangladesh Secretariat, Dhaka
4. The Chairman, National Board of Revenue, Segenbagicha, Dhaka
5. The Chairman, Chittagong Port Authority, Chittagong
6. The Director, Coast Guard, Head Office, DOHS, Baridhara, Dhaka-1206

Copy to necessary information:

1. PS to the Hon'ble Minister, Ministry of Environment and Forest 2. PS to the Hon'ble State Minister, Ministry of Environment and Forest 3. PS to the Secretary, Ministry of Environment and Forest 4. The Joint Secretary (Development) Ministry of Environment and Forest 5. The Joint Secretary (Environment) Ministry of Environment and Forest.