

ToxicsWatch Alliance (TWA)

To

Hon'ble
Union Defence Minister

Government of India

New Delhi

June 22, 2012

Subject- Post Exxon Valdez Entry, Imminent Security Threats from Hazardous US ship, Delaware Trader on the way to Indian waters

Sir,

I wish to draw your urgent attention towards possible connivance of some officials in the Ministries of Shipping, Commerce and Finance in allowing entry of end of life vessels of US origin in Indian waters to facilitate the work of US Maritime Administration (US MARAD) which is burdened with hundreds of dead hazardous ships. This raises serious concerns about maritime security and environmental security in particular and national security in general as has been outlined in the Ministry of Defence documents mentioned below.

I submit that encouraged by past connivance in the matter of other US vessels like Exxon Valdez (now renamed MV Oriental N) and Platinum II (ex-SS Independence, MV Oceanic) another US flagged ship called Delaware Trader (IMO No. 8008929) is due to arrive in India anytime now. It was last reported at the Port of Maputo, Mozambique on 13 June, 2012 carrying a load of wheat, presumably to drop cargo and head to India for beaching and breaking. This vessel was built in the U.S. at the same yard as that of the Exxon Valdez. The Delaware Trader was built a couple years earlier in 1982.

I submit that these dead and hazardous US ships are repeatedly attempting to enter Indian waters in the aftermath of lifting of moratorium of transfer of hazardous ships to developing countries by the Government of USA.

I seek your urgent intervention to ensure that another US flagged ship called Delaware Trader (IMO No. 8008929) is prevented from entering Indian waters.

I have learnt from a reliable environmental group in USA that US MARAD has authorized the transfer and foreign scrapping of the vessels in India, but without approval from US Environmental Protection Agency (USEPA) about compliance with its own US Toxics Substances Control Act that regulates persistent organic pollutants like PCBs with which this ship is laden. In the matter of Platinum II (SS Independence, MV

Oceanic) although USEPA had convicted and fined the ship still US MARAD allowed it to leave US waters and get dumped in Indian waters despite categorical denial of permission for beaching by Union Ministry of Environment & Forests.

I submit that the dead US ship Exxon Valdez has been rejected by all other countries but it is currently in Indian waters. Directorate General of Shipping, Mumbai is wondering why is this illegal dead ship which is currently located off Mumbai coast not leaving Indian waters despite non-compliance with the Supreme Court order of May 3, 2012. It was renamed Oriental Nicety. The ship was responsible for the disastrous March 1989 oil spill that dumped 11 million gallons of oil into Alaska's Prince William Sound.

I have moved an application in the Supreme Court against the designs of US MARAD to transfer their dead and hazardous ships to India. The court has sought compliance with the Basel Convention on Transboundary Movement of Hazardous Wastes and Their Disposal. Exxon Valdez (now renamed MV Oriental N). This dead US ship has not complied with the Court order and the Convention. In fact while India is a party to Basel Convention, US is not a party. USA has always been for free trade in hazardous waste.

I wish to also to draw your attention towards the Supreme Court's orders of 3rd May, 11th May and 14th May read along with the attached two applications. It becomes clearer from the orders that the court has banned entry of the dead US ship Exxon Valdez (currently named MV Oriental Nicety) due to its failure to comply with UN's Basel Convention on Transboundary Movement of Hazardous to which India is a party. This dead and hazardous vessel has been renamed again as MV Oriental N. All the 3 orders in the Writ Petition (Civil) 657 of 1995 are available on imowatch.blogspot.com ([Supreme Court orders of 3rd-11th, & 14th May on Exxon Valdez \(MV Oriental Nicety, MV Oriental N\) Case](http://imowatch.blogspot.com))

I submit that it is indeed quite shocking that despite non-compliance of the Basel Convention (and Supreme Court order of 14th October 2003 and 3rd May 2012) the dead US ship is still in Indian waters, off Mumbai.

I submit that it is attempting to set a bad precedent for hundreds of such ships to be dumped in Indian waters in connivance by US MARAD and some gullible Indian officials.

I submit that even in the case of Platinum II, a dead and hazardous US ship, the real owners had taken Indian law enforcement agencies for a ride due to lack of coordination and cooperation between concerned ministries. In an Office Memorandum No.29-3/2009-HSMD, Government of India, Ministry of Environment & Forests, (HSM Division) dated 9th May, 2011, relating to implementation of Supreme Court directions in respect of ship breaking activities, the previous dead and convicted US ship, Platinum II (Ex SS Oceanic, MV Oceanic) was denied beaching permission but it remained in Indian waters without beaching. It had left US waters despite indictment by US Environment

Protection Agency with the apparent connivance of MARAD. It had entered Indian waters on proven fake documents.

I submit that your urgent attention is required in the matter of environmental security concerns from the entry of dead US vessel, MV Oriental N (formerly Exxon Valdez, Oriental Nicety, Exxon Mediterranean, Sea River Mediterranean, S/R Mediterranean, Mediterranean, and Dong Fang Ocean) to ensure that the dead and toxic US vessel is sent away from the Indian waters.

I submit that USA's regulations and European Union regulations prohibit the entry of such vessels.

I am attaching my application seeking enforcement of Basel Convention, recommendations of Inter-Ministerial Committee on shipbreaking and the Supreme Court orders and the application filed by Best Oasis company, subsidiary of Priya Blue company seeking permission to dismantle the dead and hazardous US ship in Indian waters.

I submit that [Basel Convention Technical Guidelines for the Environmentally Sound Management of the Full and Partial Dismantling of Ships](#) was adopted at the sixth meeting of the Conference of the Parties has to be followed. This 112 page guidelines provide information and recommendations on procedures, processes and practices that should be implemented to achieve Environmentally Sound Management at ship dismantling facilities. It identifies different environmental hazards and recommends specific measures to prevent it or reduce them. It also contains a list of wastes that may be inherent in the vessel structure or on board a ship. Finally, the guidelines provide advice on monitoring and verification of environmental performance. For details regarding Basel Convention visit: <http://www.basel.int>

I submit that is clear from the order that compliance with UN's on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal which is part of Supreme Court's order dated October 14, 2003 is required. In the order dated May 3, 2012, Supreme Court had asked Union of India, Ministry of Shipping and Ministry of Environment & Forests "to inform this Court as to the steps being taken to prevent the ship berthing in any of the ports in India, without following the conditions indicated in the Basel Convention."

I submit that strict compliance is required of the CPCB's 'Environmental Guidelines for Shipbreaking industries' as well It reads: "Old vessels containing or contaminated with substances such as PCBs, waste asbestos dust and fibre, lead and lead compounds are accordingly classified as hazardous materials. The customs authority and /or the concerned State Maritime Board should ensure this and issue a certificate to this effect that the vessel is free from prohibited materials."

I submit that a 2004 report of the Directorate of Naval Intelligence, Union Ministry of Defence records:"some ships arriving at the breaking yards...may be involved in

nefarious activities". It noted that a large number of cash buyers are Pakistani nationals based in London and the UAE. "Due to large profit margins, the Dawood group appears to have invested heavily in cash buyers thus having a stake in most deals". It was recorded in a letter of the Standing Monitoring Committee on Ship breaking, Union Ministry of Environment & Forests in May 2011 that the Gujarat Maritime Board (GMB) and Customs were unable to verify the records of some of the ships. It was suggested that the DG shipping be authorized to first verify records before the ships are allowed to dock at the Alang yards. But the GMB officials said this would be acceptable to them only if the DG shipping was able to carry out such verification within 48 hours or it would presume that the records provided by the ship are authentic. This matter has not been resolved as yet.

I submit that the Minutes of the Supreme Court constituted Inter-ministerial committee (IMC) and a sensitive document of Union Ministry of Defence has been filed in the court that reveal how security concerns that emanate from ship breaking activity have been expressed. The relevant excerpts from the fourteen minutes dated February 5, 2004, June 11, 2004, January 19, 2005, June 28, 2005, February 1, 2006, September 21, 2006, January 1, 2007, August 9, 2007, February 28, 2008, February 4, 2009, October 5, 2009, October 5, 2010, September 17, 2010, July 8, 2011 and February 28, 2012 are given below.

I submit that the minutes of 14th meeting of February 28, 2012 refers to "Security concerns" but does not reveal what has been the response to the several recommendations of IMC in the earlier meetings. The relevant part of the minutes of its 13th meeting reads: "Security concerns: The representative of Coast Guard brought to the notice of IMC that various foreign made communication equipment like emergency beacons brought on board of the ships and taken to breaking yards are not properly deactivated before dismantling the ships. The Coast Guard expressed concern from security angle as there were a few incidents of false alarms emanating from such equipments...." The issue of "false flag certification" was also raised.

I submit that "It was also clarified by GMB that the requisite information would also be sent to MOD" in the minutes. Subsequent to this the minutes of the 14th meeting does not reveal whether Ministry of Defence has been sent information that was promised.

I wish to draw your attention towards the minutes of the 12th meeting. It reads: "Security Concerns – In the last meeting, it had been decided that the Ministry of Shipping would organize a meeting on security matters with GMB, Naval HQ and Coast Guard HQ, Customs etc. to ensure that issues linked to gaps in the security frame-work are addressed on a priority basis. The representative of Naval HQ informed that they have already taken up the matter with the DG Shipping on 3 September 2009 highlighting the necessary precautionary security steps, including a monthly security meeting to be conducted by the Yard/Port Authority. The representative of the DG Shipping informed that the suggestions of the Naval HQ have been conveyed to the Gujarat Maritime Board." It is not clear whether the suggestions of the Naval Headquarters have been acted upon.

I submit that the minutes of 11th meeting of IMC reads: “Security Concerns – The Coast Guard representative brought out some security concerns and incidents of communication sets from ships reportedly finding their way to the local fisherman.”

I submit that these concerns cannot be taken lightly. The minutes of the IMC meeting reads: “Security Concerns – Both the representative of the Coast Guard and the representative from Naval HQ raised concerns over the entry of ships carrying hazardous cargo to Alang for ship breaking and how no information is made available to them regarding the movement of ships to Alang. Besides this there was no information regarding whether the Alang Port is compliant with the International Ship and Port Facility Security (ISPS) Code. In the context of the present security concerns in the country, the Chairman advised the representative of the Ministry of Shipping, the GMB officials, the Coast Guard representative and the Naval HQs to address the issue expeditiously so that the security gaps are taken care of and also to verify whether the port at Alang has implemented the ISPS codes.” The entry of dead ships in Indian waters with fake documents reveals that security gaps have not been addressed.

I submit that IMC minutes reads: “Security concerns 16. Representatives of Naval Headquarter pointed out that because of large floating population at Alang it has become a breeding ground for mafia and other anti national elements who are indulging in nefarious activities. He further pointed out that sometimes vessels moving to Alang for breaking do not carry sufficient fuel and may also be not sea worthy. This may cause serious accidents at sea if such vessels are drifting in areas closer to oil field development areas. He therefore requested that there should be strict enforcement of account ability of ships reporting at Alang and the port authorities must share information with intelligence agencies. Further Naval Headquarters should also be informed about war ships and ships with sensitive cargo coming to Alang for ship breaking.” The radioactive wastes laden dead ships and war ships are indeed a matter of huge security concern.

I submit that the minutes of the another IMC meeting reads: “The Coast Guard representative and the Naval HQ representative also expressed apprehensions that the vessels coming in for beaching sometimes ply very close to the oil rigs, which could be a potential for accidents. Though the representative of the DG, Shipping clarified that the ships are to ply on pre-determined chartered routes, it was emphasized that the preventive measures on such matters need to be strengthened and ensure due compliance by all. The Chairman directed that the Ministry of Shipping may organize a meeting on the matter with GMB, Naval HQ and Coast Guard HQ, Custom etc. immediately and ensure that gaps in the security frame-work issues are addressed immediately.” There is a need to examine whether gaps in the security frame-work issues have been addressed as recently as during 2011-12 when 415 dead ships were dumped at Alang beach.

Let me take the opportunity to inform you that the May 3, 2012 order of Justice Altamas Kabir and Justice J. Chelameswar bench of Supreme Court in the matter of a US hazardous dead vessel named 'Oriental Nicety' (formerly Exxon Valdez, Exxon

Mediterranean, Sea River Mediterranean, S/R Mediterranean, Mediterranean, and Dong Fang Ocean) that was trying to enter Indian waters at Alang beach Bhavnagar has sought compliance with UN's Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal to which India is a party. This vessel has been renamed as MV Oriental N, Gujarat.

I submit that The Washington Post news report, "The many lives of the Exxon Valdez", March 29, 2012 disclosed that the vessel is on the way to Alang beach. It may be noted that in the year 2000-2001, the buyer of the vessel and the owner of Priya Blue Industries Pvt Ltd, Shri Sanjay P Mehta has been in the ship recycling business as he was engaged with "MARUTI METALS, LLC" in the US as a advisor at the recycling Site at Brownsville, Texas. It was involved in the dismantling of United States Adventure, a US Navy vessel as per the requirements of US Maritime Administration [MARAD] an agency within the US Department of Transportation. After the entrepreneurs of the "MARUTI METALS LLC" decided to close their business in US, Shri Mehta moved to India to further continue his recycling business in Alang-Sosiya, Gujarat India. Its 100% subsidiary, Best Oasis Limited, a newly formed company and a part of "Priya Blue Group" which is a "CASH BUYER" that purchases vessels on "As is Where is basis" to deliver the same for ship dismantling at Alang beach at the convenience of ship owners from developed countries. Hongkong based Best Oasis Limited is a purchaser, seller and financier of end-of-life ships.

I submit that the end-of-life ship 'Oriental Nicety' was purchased in March 2012 by a US based company Global Marketing Systems (GMS), which is one of the biggest, cash buyers for dead ships. It was sold to Best Oasis Company for about \$16 million. The Bill of Sale of the ship alone can reveal its true or latent value. This 301 meters long tanker is 50 meters wide, 26 meters depth, weighing 30,000 tons empty and powered by a 23.60 MW diesel engine. US based National Steel and Shipbuilding Company built this tanker for Exxon Mobil Corporation, a US multinational oil and gas corporation and a direct descendant of John D. Rockefeller's Standard Oil Company. It was built in San Diego, California in 1986.

I submit that the GMS was involved in the purchase of controversial radioactive and hazardous waste laden European ship SS Blue Lady (ex-SS Norway, SS France) and was also involved in the Blue Lady case and the dead hazardous US ship Platinum II (ex-MV Oceanic, SS Independence). Platinum II was indicted by US Environmental Protection Agency. This ship was denied beaching permission by Union Ministry of Environment & Forests but the Ministry's intent was outwitted as the dead ship remained in Indian waters and was illegally scrapped at Gopnath anchorage point in Bhavnagar Gujarat.

In the past 23 years, the dead US vessel MV Oriental N (formerly Exxon Valdez, Oriental Nicety, Exxon Mediterranean, Sea River Mediterranean, S/R Mediterranean, Mediterranean, and Dong Fang Ocean) has been renamed several times. It has worked in at least three areas of the world since it ran aground on Bligh Reef in Alaska's Prince William Sound in March 1989. The 30,000-ton tanker ruptured eight of its 11 oil-storage

tanks and spilled nearly 11 million gallons of crude oil into the ecologically rich area. Exxon Mobil spent \$30 million to repair the single-hulled ship and moved it to its Mediterranean routes after the US banned the ship from Alaskan waters and a law was passed requiring double hulls on oil tankers.

I submit that the USA which is a non-party to Basel Convention appears to be testing the robustness to the regulatory regime. If a bad precedent is set by allowing this dead US ship, Indian waters will be flooded with hundreds of dead ships both of military and military origin in the aftermath of the lifting of moratorium on transfer of toxic ships to developing countries by US Government.

I submit that a letter to Parliamentary Standing Committee on Transport, Tourism & Culture informing it about a letter of Shri Rajgopal Sharma, Advisor, Indian Embassy, Brussels dated December 20, 2011 wherein it has been revealed that most of the dead and hazardous ships that are currently at Alang beach are in illegal traffic. The letter was based on Shri Sharma's conversation with Shri Julio Garcia Burgues, Head of the Waste Management Unit, European Commission – DG Environment. This reveals that even EU is trying to transfer its dead ships to India.

I take the opportunity to also place on record that the 7th Annual Ship Recycling Conference held during 19 - 20 June 2012 in London and the Joint Seminar held in Mumbai on June 14, 2012 are attempts by European ship owners in particular to mutilate Basel Convention and facilitate free trade in hazardous wastes like end-of-life vessels through proposed International Maritime Organisation (IMO)'s Honkong Convention and amendments in the EU Waste Shipment Regulation. Under the Basel Convention end-of-life vessels are considered hazardous wastes and is sensitive to adverse impact of hazardous waste generating global shipping industry on coastal environmental health but the proposed IMO and EU legislations puts profit above gnawing environmental and occupational health concerns.

I submit that ship owning countries are attempting to green wash their sinful act of transferring harm to vulnerable countries like India, Bangladesh and Pakistan disregarding the fact that safe and environmentally responsible vessel dismantling cannot be achieved on a tidal beach as is currently being done amidst deafening and complicit silence of most of the environmental groups of the developed countries.

In view of the above facts, there is a compelling logic to intervene earnestly to set matters right by sending the dead US ship away from Indian waters and by ensuring that another US flagged ship called Delaware Trader (IMO No. 8008929) is not allowed to enter Indian waters.

Thanking You

Yours faithfully

Gopal Krishna

ToxicsWatch Alliance (TWA)

New Delhi

PIN. 110016

Phone: +91-11-26517814, Fax: +91-11-26517814

Mb: 08002263335, 09818089660

[E-mail:krishna1715@gmail.com](mailto:krishna1715@gmail.com)

[Web: toxicswatch.blogspot.com](http://toxicswatch.blogspot.com)

Cc

Shri Anand Sharma, Union Minister of Commerce & Industry

Shri G K Vasan, Union Minister of Shipping

Shri Beni Prasad Verma, Union Minister of Steel

Smt Jayanthi Natrajan, Union Minister of Environment & Forests

Shri Jyotiraditya Madhavrao Scindia, Union Minister of State, Ministry of Commerce & Industry

Chairman & Members, Parliamentary Standing Committee on Science, Technology, Environment & Forests

Shri A K Seth, Cabinet Secretary, Government of India

Secretary, Union Ministry of Commerce & Industry

Secretary, Union Ministry of Shipping

Secretary, Union Ministry of Environment & Forests

Secretary, Union Ministry of Defence

Secretary, Union Ministry of Steel

Smt. Vijay Laxmi Joshi, Additional Secretary , Union Ministry of Commerce & Industry

Ms Meera Mehrishi, Additional Secretary, HSMD, Union Minister of Environment & Forests

Shri Madhusudan Prasad, Additional Secretary, Union Ministry of Commerce & Industry

Shri Rajeev Kher, Additional Secretary, Union Ministry of Commerce & Industry

Ms Anita Agnihotri, Additional Secretary, Union Ministry of Commerce & Industry

Shri Mukesh Bhatnagar, Additional DGFT, Union Ministry of Commerce & Industry

Dr. Satish B. Agnihotri Director General of Shipping & Ex. Officio Additional Secretary
to the Govt. of India

Shri S.S. Bajaj, Chairman, Atomic Energy Regulatory Board, Mumbai

Ms Aditi Das Rout, Director, Union Ministry of Commerce & Industry

Dr. Saroj, Director, HSMD, Union Minister of Environment & Forests

Dr. Manoranjan Hota, Director, HSMD, Union Minister of Environment & Forests

Dr Claude Alvares, Member, Supreme Court Monitoring Committee on Hazardous
Wastes

Dr D B Boralkar, Member, Supreme Court Monitoring Committee on Hazardous Wastes

Shri Sanjay Parikh, Lawyer, Supreme Court

Miss Sunita Naraiian, Director General, Centre for Science and Environment

Member Secretary, Gujarat Pollution Control Board (GPCB)

Chairman, GPCB

Chairman, Gujarat Maritime Board

Shri S K Sharma, Atomic Energy Regulatory Board

Shri L S Singh, Union Ministry of Steel

ACB, Gandhinagar, CBI

Office of Commissioner, Customs, Ahmedabad