

COMMITTEE ON PETITIONS

(FOURTEENTH LOK SABHA)

TWENTY NINTH REPORT

MINISTRY OF ENVIRONMENT AND FORESTS



LOK SABHA SECRETARIAT
NEW DELHI

August, 2007/Sravana, 1929 (Saka)

TWENTY NINTH REPORT
COMMITTEE ON PETITIONS
(FOURTEENTH LOK SABHA)

MINISTRY OF ENVIRONMENT AND
FORESTS

(Presented to Lok Sabha on 22-8-2007)



LOK SABHA SECRETARIAT
NEW DELHI

August, 2007/Sravana, 1929 (Saka)

CB-1. No. 335 Vol. XXIX

Price: Rs. 30.00

© 2007 BY LOK SABHA SECRETARIAT

Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Twelfth Edition) and printed by the Manager, Government of India Press, Minto Road, New Delhi.

CONTENTS

	PAGES
COMPOSITION OF THE COMMITTEE ON PETITIONS	(iii)
1. INTRODUCTION	(v)
2. REPORT	
Petition regarding entry of ships carrying hazardous waste in Indian Territorial Waters	1
3. ANNEXURES	
I. Petition requesting to enquire about the role of Authorities in permitting the entry of SS Blue Lady Ship Carrying hazardous waste in Indian Territorial waters by violating Supreme Court Orders	17
II. Minutes of the Fiftieth Sitting of the Committee held on 12-01-2007	20
III. Minutes of the Sixty-Fourth sitting of the Committee held on 17-08-2007	22

COMPOSITION OF THE COMMITTEE ON PETITIONS

Shri Prabhunath Singh — *Chairman*

MEMBERS

2. Shri Shingada Damodar Barku
3. Shri Nandkumar Singh Chauhan
4. Shri N. S. V. Chitthan
5. Shri Anant Gangaram Geete
6. Shri Mohan Jena
7. Shri Wangyuh W. Konyak
8. Shri C. Kuppusami
9. Adv. Suresh Kurup
10. Shri Dharmendra Pradhan
11. Kunwar Jitin Prasada
12. Shri Kishan Singh Sangwan
13. Shri Jyotiraditya M. Scindia
14. Shri Mansukhbai Dhanjibhai Vasava
15. Shri Paras Nath Yadav

SECRETARIAT

1. Shri M. Rajagopalan Nair — *Additional Secretary*
2. Shri J.P. Sharma — *Joint Secretary*
3. Shri A. K. Singh — *Director*
4. Shri U. B. S. Negi — *Deputy Secretary*
5. Shri V.P. Gupta — *Under Secretary*

TWENTY-NINTH REPORT OF THE COMMITTEE ON PETITIONS

(FOURTEENTH LOK SABHA)

INTRODUCTION

I, the Chairman, Committee on Petitions, having been authorized by the Committee to present the Report on their behalf, present this Twenty-ninth Report (Fourteenth Lok Sabha) of the Committee to the House on the Petition regarding entry of ships carrying hazardous waste in Indian Territorial Waters.

2. The Committee considered and adopted the draft Twenty-ninth Report at their sitting held on 17th August, 2007.

3. The observations/recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;
17 August, 2007

26 Sravana, 1929 (Saka)

PRABHUNATH SINGH,
Chairman,
Committee on Petitions.

REPORT

PETITION REGARDING ENTRY OF SHIPS CARRYING HAZARDOUS WASTE IN INDIAN TERRITORIAL WATERS

On 25th August, 2006 Shri Basudeb Acharia, MP presented to Lok Sabha a petition signed by Shri Gopal Krishna, r/o A-1/125, Safdarjung Enclave, New Delhi requesting to examine about the role of the authorities in permitting the entry of S S Blue Lady Ship carrying hazardous waste in Indian Territorial Waters by violating Supreme Court Orders (Annexure-I).

2. In his petition, the petitioner stated that a ship named S S Blue Lady had beached at Alang Coast, Gujarat though it should have remained in the territorial waters as per the Supreme Court order dated 5th June, 2006. According to the petitioner, the ship was laden with 1250 MT of asbestos and estimated 783 MT of Polychlorinated Byphenyl (PCBs). Asbestos is banned in more than 40 countries because of its carcinogenic nature. International Labour Organisation's resolution dated 14th June, 2006 called for global ban on this killer fiber, which claims the lives of 1,00,000 workers annually. PCBs are Persistent Organic Pollutants (POPs) and causes cancer. It has been listed to be phased out as per Stockholm Convention on POPs of which India is a signatory. The petitioner also stated that India is a party to the Basel Convention Treaty on Trans-boundary Movement of Hazardous Wastes adopted in 1989. This Convention decided that any ship from OECD country with hazardous substances, which include Asbestos and PCBs etc. must be decontaminated at the port origin before it proceeds to any OECD country for breaking. The petitioner alleged that the Ministry of Environment and Forests gave (beaching) permission to SS Blue Lady to beach at Alang in violation of the said convention/treaty. According to the petitioner, the ship owned by Malaysia based Star Cruise Limited managed to escape decontamination cost of the ship which was mandatory as per Supreme Court's order dated 14.10.2003 and Basel Convention. The recommendations of the High Power Committee (HPC) on Hazardous Wastes headed by Prof. M.G.K. Menon, formed the basis of the October 2003 orders of the Supreme Court. The HPC Report and the court order clearly indicated that India is used as a dumping ground by the developed countries. Huge quantities of hazardous wastes are still dumped and the relevant Hazardous Waste Rules are not implemented. According to the petitioner, Star Cruise's Blue Lady was not decontaminated as envisaged in the Supreme Court order and occupational safety for workers handling asbestos and hazardous substances has not been ensured as is necessary as per Factories Act, 1948.

The petitioner, therefore, requested to examine the issue regarding the entry of Blue Lady and the role of authorities in permitting this ship without prior decontamination of the ship allegedly on humanitarian grounds into the Indian Territorial Waters. The petitioner also sought the direction to the effect that if the ship is to be dismantled, then it should be first decontaminated in an OECD/EU country at a facility capable of managing all toxic wastes according to Basel Convention guidelines.

3. The Ministry of Shipping, Road Transport & Highways (MOSRTH) and Ministry of Environment & Forests (MOEF) were requested to furnish their comments on the issues raised in the petition. The MOSRTH *vide* their communication dated 6th September, 2006, informed that the petition under reference pertains to MOEF.

4. In their response, the Ministry of Environment and Forests *vide* their communication dated 15th September, 2006 furnished their comments as under:—

- “(i) The inspection Committee constituted by the Gujarat Pollution Control Board after inspection of the ship ‘Blue Lady’ on 11.07.2006 and verification of the inventory made by the ship breakers, recommended that the hazardous wastes likely to be generated by dismantling of this ship can be handled in an environmentally sound manner at Alang.
- (ii) A Joint Working Group of the Basel Convention, ILO and IMO is still working to develop uniform guidelines for ship dismantling. Presently there are no mandatory guidelines at international level for dismantling of ships.
- (iii) The ship breaking activity is allowed in India since the ships destined for breaking contain about 95% of steel and only about 5% of other materials. Recovery of steel from ship breaking activity is more environment friendly than producing the same quantity of steel through iron ore. This way we can conserve our natural resources of iron as well as energy and water resources, besides minimizing adverse environmental impacts.
- (iv) The issue of ship breaking was also considered by the High Power Committee headed by Professor M.G.K. Menon which was constituted as per the recommendations of the Supreme Court of India. After detailed examination, the Menon Committee had recommended continuation of ship breaking activities, suggesting certain safeguard conditions in its report submitted to the Supreme Court. The Supreme Court accepted the recommendations of the Menon Committee and passed certain directions on 14.10.2003 in Writ Petition (Civil) No. 657 of 1995 allowing ship breaking activity subject to strict compliance of the conditions suggested by the Menon Committee. The Central Pollution Control Board (CPCB) also developed certain guidelines for ship breaking. The Gujarat Maritime Board (GMB) has also notified Rules for regulating ship breaking activities. An Inter-Ministerial Committee constituted by the Union Ministry of Steel and the Supreme Court Monitoring Committee constituted by the Union Ministry of Environment and Forests as per the directions of the Supreme Court, are also monitoring the ship breaking activities at Alang.
- (v) The Supreme Court considered the matter of ship breaking again in view of the controversy due to French Aircraft Carrier ‘Clemenceau’, which was proposed to arrive in India for breaking purposes and passed an order on 17.02.2006, directing the Union of India to constitute a Technical Committee of Experts to look into all aspects of the problems relating to arrival of such ships into India for breaking purpose. The Government of India took

its 8th meeting held on 29.07.2006. The Chairman, Gujarat Pollution Control Board and Vice- Chairman, Gujarat Maritime Board (GMB) were also invited to this meeting to assist the Committee. The Committee after detailed deliberations and after taking into consideration the views of Gujarat Pollution Control Board and Gujarat Maritime Board made the following recommendations with regard to beaching and dismantling of the ship:

“The Committee was of the view that all the hazardous waste likely to be generated in recycling of the ship ‘Blue Lady’ can be handled in an environmentally sound manner at Alang and that the ship ‘Blue Lady’ can be accorded beaching permission. Procedure to be followed after beaching would have to be in accordance with the recommendations to be made by this Committee in its final report which would be subject to approval of the Hon’ble Supreme Court. The Vice-Chairman of GMB who was present during the discussions was in agreement with the decision of the Committee. The Committee accordingly decided that Gujarat Maritime Board may be authorized to accord beaching permission.”

- (xvii) In accordance with the recommendations made by the Committee of Technical Experts in its meeting held on 29.07.2006, the Gujarat Maritime Board was requested by the Ministry of Environment and Forests on 01.08.2006 to proceed further for allowing beaching of the ship ‘Blue Lady’. It is submitted that the said communication was in consonance with the order dated 05.06.2006 of the Apex Court. It was also made clear in the communication of the Ministry that the procedure to be followed after beaching would have to be in accordance with the recommendations made by the Committee in its Report which would be subject to the final consideration of the Hon’ble Supreme Court.
- (xviii) As per the norm being followed by the Government, hazardous waste contained in any ship as cargo is not allowed to bring for disposal into our country. The shipmeant for dismantling is considered as a material for recycling and not considered as a waste. Only the waste generated while recycling the ship is considered as a waste. Therefore, the Basel Convention on trans-boundary movement of hazardous waste is not applicable in respect of ships destined for dismantling. Moreover, since no hazardous waste is allowed on board the ship as cargo, there is no violations of Hazardous Waste Rules or the Supreme Court directions. Only the hazardous waste such as Asbestos and PCBs which are present in the ship as inbuilt materials as part of the structure of the ship and which can be removed only at the time of dismantling of the ship are allowed. These are required to be safely removed at the time of dismantling of the ship and disposed of in an environmentally sound manner.”
5. The Committee, thereafter, took oral evidence of the representatives of the Ministry of Environment and Forests on 12th January, 2007.
6. During the course of evidence, the Committee wanted to know about the guidelines of the Supreme Court with regard to S S Blue Lady Ship and whether the

Ministry is following those guidelines or not? Replying to this, the witness, Additional Secretary, MOEF stated as under:—

“The Supreme Court *vide* their order dated 17th February directed to constitute a Technical Committee for Blue Lady or any ship entering into our water territory. The Technical Committee may give their reports as well as the proposed action after examining the matter. This Committee was formed last year on 24th March under the Chairmanship of the Secretary, Ministry of Environment and Forests. Some Naval Officers are also included therein. The Committee presented their final report on 30th August, 2006. This report has been presented before the Court. First hearing on this report was on 4th December, 2006 and the Court adjourned the matter. The final hearing is fixed for third week of March. Meantime, the Technical Committee is requested to present various views regarding anchoring and beaching of Blue Lady Ship after due consideration. The Technical Committee has presented an interim report before Supreme Court. This report is presented before Supreme Court. The Supreme Court has stated that the opinion of Technical Committee in respect of anchoring, beaching and dismantling sounds reasonable. Therefore, the action may be taken according to the suggestions of Technical Committee. Accordingly, the permission for beaching to Blue Lady Ship is given after anchorage. So far as the dismantling is concerned Hon’ble Supreme Court has issued order on 4th December, 2006 to Gujarat State Pollution Control Board wherein the board has been directed to present a report before Supreme Court within four weeks after examining dismantling plan of the Company. The Board has not presented any report so far as has asked additional time for it. Whether the dismantling will take place or not, it will be decided after the decision of the Supreme Court. So, there is no question of the violation of the orders of the Supreme Court”.

7. When asked about the report of the Technical Committee, the witness stated as under:—

“Sir, final report has now been presented before the Supreme Court.”

8. Another witness from the MOEF added as under:—

“.....the Supreme Court had issued orders for setting up a Technical Committee. Ministry has set up that Committee on 24th March. Technical Committee has completed its report and has been presented to the Supreme Court on 30th August. In this report infrastructure regarding ship dismantling, its requirements, the process of dismantling and precautions to be taken in this regard has been described at large. Once the approval of the Supreme Court is obtained in regard to this report, there is a provision for issuing directions for the compliance of the comments or orders of the Supreme Court.”

9. As regards the status of dismantling of the ship, the witness stated that no ship was being dismantled and the orders of the Supreme Court were awaited in the matter.

10. On being enquired about the past cases of ship breaking or pending for breaking in such categories, the witness responded as under:—

“Sir, ship breaking industry is running for quite some time. A Committee was constituted in 2003 which gave 18 directions under which ship breaking would be carried out as per these provisions and these directions are approved by Supreme Court.”

The witness also clarified as under:—

“Sir, this Blue Lady Ship came from outside for dismantling and is pending. In addition, there is normal ship breaking but they have no information about that as to number of ships and their fate.”

11. To a specific query as to whether 18 points guidelines of Supreme Court are applicable to all ship breaking units or it is applicable to few specific categories, the witness responded as under:

“Sir, it is for all.”

12. In their written comments on the issues/points raised by the petitioner in his representation, the MOEF stated as under :—

“As per the norm being followed by the Government, hazardous waste contained in any ship as cargo is not allowed to bring for disposal into our country. The ship meant for dismantling is considered as a material for recycling and not considered as a waste. Only the waste generated while recycling the ship is considered as a waste. Therefore, the Basel Convention on trans-boundary movement of hazardous waste is not applicable in respect of ships destined for dismantling. Moreover, since no hazardous waste is allowed on board the ship as cargo, there is no violation of Hazardous Waste Rules or the Supreme Court directions. Only the hazardous waste such as Asbestos and PCBs which are present in the ship as in-built materials as part of the structure of the ship and which can be removed only at the time of dismantling of the ship are allowed. These are required to be safely removed at the time of dismantling of the ship and disposed of in an environmentally sound manner.”

13. In response to a question about the orders of Supreme Court in the matter, the MOEF in their written replies stated as under:—

“(i) The Supreme Court considered the matter of ship breaking in its order on 14th October, 2003 and stipulated 18 conditions subject to which the ship breaking activity is allowed in the country. The 18 conditions are follows:

- ‘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 State Pollution Control Board (SPCBs).

3. Waste generated by the ship breaking process should be classified into hazardous and non-hazardous categories, and their quantity should be made known to the concerned authority or the State Maritime Board.
4. Disposal of waste materials, viz., oil, cotton, dead cargo of inorganic materials like hydrated/solidified elements, thermocol pieces, glass wool, broken tiles, etc. should be done in a proper manner, utilizing technologies that meet the criteria of an effective destruction efficiency of 99.9 percent, with no generation of persistent organic pollutants, and complete containment of all gaseous, liquid and solid residues for analysis and, if needed, reprocessing. Such disposable materials should be kept at a specified place earmarked for this purpose. Special care must be taken in the handling of asbestos wastes, and total quantities of such waste should be made known to the concerned authorities. The Gujarat Pollution Control Board should authorize appropriate final disposal of asbestos waste.
5. The ship breaking industries should be given authorization under Rule 5 of the H.W. Rules, 2003, only if they have provisions for disposal of the waste in environmentally sound manner. All authorizations should be renewed only if an industry has facilities for disposal of waste in environmentally sound manner.
6. The State Maritime Board should insist that all quantities of waste oil, sludge and other similar mineral oils and paints chips are carefully removed from the ship and taken immediately to areas outside the beach, for safe disposal.
7. There should be immediate ban of burning of any material whether hazardous or non-hazardous on the beach.
8. The State Pollution Control Board (of Gujarat and other coastal States where the ship breaking activity is done) be directed to close all units which are not authorized under the H.W. Rule.
9. That the plots where no activities are being currently conducted should not be allowed to commence any fresh ship breaking activity unless they have necessary authorization.
10. The Gujarat SPCB should ensure continuous monitoring of ambient air and noise level as per the standards fixed. The Gujarat PCB be further directed to install proper equipment and infrastructure for analysis to enable it to conduct first level inspection of hazardous material, radioactive substances (wherever applicable). AERB shall be consulted in such cases.
11. The Gujarat SPCB will ensure compliance of the new Gujarat Maritime Board (Prevention of Fire and Accidents for Safety and Welfare of Workers and Protection of Environment during Ship Breaking Activities)

Regulations, 2000, notified by Gujarat Maritime Board (GMB) and should submit a compliance report to the Court within one year of the coming into force of the said regulations.

12. The Notification issued by GMB in 2001 on Gas Free for Hot Work, should be made mandatory and no ship should be given a beaching permission unless this certificate is shown. Any explosions irrespective of the possession of certification should be dealt sternly and the license of the plot holder should be cancelled and Explosive Inspector should be prosecuted accordingly for giving false certificates.
 13. A complete inventory of hazardous waste on board of ship should be made mandatory for the ship owner. And no breaking permissions should be granted without such an inventory. The inventory should also be submitted by the GMB to the concerned SPCB to ensure safe disposal of hazardous and toxic wastes.
 14. Gujarat Maritime Board and Gujarat SPCB officers should visit site at regular intervals so that the plot owner knows that these institutions are serious about improvement in operational standards. An Inter-Ministerial Committee comprising Ministry of Surface Transport, Ministry of Steel, Ministry of Labour and Ministry of Environment should be constituted with the involvement of labour and environment organizations and representatives of the ship breaking industry.
 15. The SPCBs along with the State Maritime Board should prepare landfill sites and incinerators as per the CPCB guidelines and only after prior approval of CPCB. This action should be taken in a time bound manner. The maximum time allowed should be one year.
 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 levels.
 17. The continuation or expansion of the Alang ship breaking operations should be permitted subject to compliance with the above recommendations by the plot holders.
 18. That the above conditions also apply to other ship breaking activities in other Coastal States.'
- (ii) The Court has considered the matter of ship breaking again in view of the controversy due to French Aircraft Carrier 'Clemenceau', which was proposed to arrive in India for breaking purposes and passed an order on 17.02.2006, directing the Union of India to constitute a Committee of

Technical Experts to look into all aspects of the problems relating to arrival of such ships into India for breaking purpose. The Government of India took necessary action in this regard and constituted the Committee of Technical Experts on ships breaking on 24.03.2006, involving some retired Naval Officers. The Committee has already completed its work and submitted its report dated 30th August, 2006 to the Hon'ble Supreme Court, which is yet to be considered by the Court. After a brief hearing on 4th December, 2006 the matter has been adjourned for next hearing scheduled in the 3rd week of March, 2007.

- (iii) While considering an application filed by an NGO in the Supreme Court of India against the ship "Blue Lady", the Court has passed an order on 15.05.2006 mentioning that the grievances made in the application shall be examined by the Committee of Technical Experts constituted by the Supreme Court in the matter of ship breaking and submit the report on such examination.
- (iv) The technical Committee on ship breaking examined the matter relating to the entry of the ship 'SS Norway – Blue Lady' into India for breaking purposes in its meeting held on 20.05.2006 and made the following recommendations:

(a) Anchorage

This Committee recommended that, in view of the upcoming monsoon which is likely to cause difficult weather conditions in the high seas and that provision on board were limited, that the ship may be permitted to anchor safely in Indian territorial waters, off the Alang coast. That the anchorage designation and the procedure for safe anchorage and other necessary conditions including manning of the ship, communication facilities, etc. should be prescribed by Gujarat Maritime Board in consultation with Director General of Shipping (DGS). And that the owner of the ship would have to follow the procedure for safe anchorage as stipulated by the Gujarat Maritime Board in consultation with Director General of Shipping (DGS) and also abide by other conditions necessary for safe anchorage.

(b) Beaching

With regard to beaching, the Committee recommended that the Customs may complete their inspection as soon as safe anchorage of the ship is accomplished. Thereafter, Gujarat Pollution Control Board (GPCB) may undertake verification of all hazardous materials on board including verification of the assessment submitted by M/s. Gujarat Enviro Protection & Infrastructure Limited (GEPIL). For this purpose, GPCB may take the help of other organizations such as Metallurgical and Engineering Consultancy Limited (MECON), National Institute of Occupational Health (NIOH) and Central Pollution Control Board (CPCB), if necessary. In the event that M/s. GEPIL's report is validated and the vessel is not found to contain any other hazardous materials of a kind or quantity which cannot be safely removed, handled, and disposed of at Alang, beaching permission may be given.

(c) Dismantling

The question of permission for dismantling of the ship would be considered subsequently on the basis of a dismantling plan to be submitted by M/s. Hariyana Ship Demolition Pvt. Ltd. (HSDPL). The plan should ensure that the dismantling schedule is matched to the capacity of the ship breaking yard and available infrastructure for safe handling, removal and disposal of all hazardous materials on board the ship.

(v) The above recommendations of the Committee were filed in the Court as interim report. Considering the interim report of the Committee, the Hon'ble Supreme Court was pleased to pass an order in the following terms on 5th June, 2006:

“We have perused the recommendations of the Committee appointed by this Court. The Committee has made three recommendations in respect of anchorage, beaching and dismantling. The conditions stipulated by the Committee appear to be *prima facie* reasonable. Let action in terms of said recommendations be taken. This shall, however, not confer any equity on the owners of the ship which is sought to be put on anchorage, beaching and dismantling. The I.A. is disposed of accordingly”.

- (vi) In compliance with the above-said order, the Ministry of Environment and Forests *vide* its communication dated 10.06.2006 and 12.06.2006 requested the concerned agencies to allow entry of the ship into Indian Territorial waters for anchorage off the Alang Coast.
- (vii) Subsequently, the Gujarat Pollution Control Board constituted a Committee to inspect the ship. The Committee inspected the ship on 11.07.2006 and submitted its report on 27.07.2006.
- (viii) The inspection report of the Committee constituted by Gujarat Pollution Control Board was considered by the Committee of Technical Experts in its 8th meeting held on 29.07.2006. The Chairman, Gujarat Pollution Control Board and *Vice-Chairman*, Gujarat Maritime Board (GMB) were also invited to this meeting to assist the committee. The Committee after detailed deliberations and after taking into consideration the views of Gujarat Pollution Control Board and Gujarat Maritime Board made the following recommendations with regard to beaching and dismantling of the ship:
- “The Committee was of the view that all the hazardous wastes likely to be generated in recycling of the ship ‘Blue Lady’ can be handled in an environmentally sound manner at Alang and that the ship ‘Blue Lady’ can be accorded beaching permission. Procedure to be followed after beaching would have to be in accordance with the recommendations to be made by this Committee in its final report which would be subject to approval of the Hon'ble Supreme Court. The *Vice-Chairman* of GMB who was present during the discussions was in agreement with the decision of the Committee. The Committee accordingly decided that Gujarat Maritime Board may be authorized to accord beaching permission.”

- (ix) In accordance with the recommendations made by the Committee of Technical experts in its meeting held on 29.07.2006, the Gujarat Maritime Board was requested by the Ministry of Environment and Forests on 01.08.2006 to proceed further for allowing beaching of the ship 'Blue Lady'. It is submitted that the said communication was in consonance with the order dated 05.06.2006 of the Apex Court. It was also made clear in the communication of the Ministry that the procedure to be followed after beaching would have to be in accordance with the recommendations made by the Committee in its final Report on ship breaking which would be subject to the final consideration of the Hon'ble Supreme Court.
- (x) The final report submitted by the Technical Committee on ship breaking as well as the final report submitted in respect of the ship "Blue Lady" came up for hearing on the 4th December, 2006 in the Hon'ble Supreme Court. The Court after a brief discussion passed an interim order directing the GPCB to examine the matter and submit its report within four weeks. The matter is still pending in the Supreme Court and the matter has been adjourned for the 3rd week of March, 2007."

14. As regards the estimated quantum of asbestos and PCBs on the "SS Blue Lady" Ship and whether the waste being carried by the ship is hazardous to human beings, the MOEF in their written reply stated as under:—

" M/s. Gujarat Enviro Protection and Infrastructure Limited (GEPIL), Surat, who were engaged by the owner of the ship "SS Blue Lady" for inventorisation of the hazardous wastes contained in the ship, estimated about 1240 Metric Tonnes (MT) of Asbestos Containing Materials (ACMs) in the ship. The Gujarat Pollution Control Board (GPCB) constituted a Committee to inspect the ship " SS Blue Lady" and submit its report. As per the report submitted by the Committee constituted by GPCB, the quantum of Asbestos and ACMs of about 1240 MT, estimated by GEPIL, was also verified and validated by the Committee. The quantum of PCBs as estimated by the Committee of Technical Experts on Ship Breaking is less than 10 MT. However, as per the Committee's inspection report, there is no cargo loaded on the ship in terms of hazardous waste. The hazardous waste contained in the ship as inbuilt material and as a part of its structure. The hazardous waste present in the structure of the ship not hazardous as such for human beings. However, in case the asbestos fibers are inhaled or the PCBs are consumed by human beings, the same may cause cancer. But, in case proper precautions are taken for safe handling of these materials by the workers by using proper Personal Protective Equipments (PPEs), the adverse effects to the workers can be prevented."

15. The Committee were informed that M/s. Priya Blue Industries Pvt. Ltd., Bhavnagar (Gujarat) is the owner of the ship "SS Blue Lady".

16. Regarding the recommendations made by the High Powered Committee (HPC) on hazardous waste formed in 2003 and in response to another question as to whether

carrying hazardous waste and PCBs in the Ship is not the violation of the recommendations of the Committee, the MOEF stated in their written comments as under:—

“The recommendations of the High Powered Committee (HPC) on hazardous wastes headed by Prof. M.G.K. Menon relating to ship breaking activities were accepted by the Supreme Court and stipulated 18 conditions for continuation of the ship breaking activities in the country in its order October 14, 2003 in the Writ Petition No.657 of 1995. Carrying of hazardous wastes like asbestos and PCBs which are present in the ship as a part of its structure is not a violation of the recommendations of the HPC, since the ship is not carrying any hazardous wastes as cargo on its board. Every ship coming to the country for dismantling purpose contain some amount of asbestos and PCBs as part of its structure which can be removed only at the time of its dismantling. Therefore, carrying of hazardous wastes as a part of it’s in-built structure by a ship is not in violation of the recommendations of the Committee.”

17. On being asked as to whether occupational safety for workers handling asbestos and hazardous substances was ensured as per rules, the MOEF commented as under:—

“The Department of Labour, Government of Gujarat, makes surprise checks to the ship breaking yards and those yard owners violating the rules are penalized. The Committee of Technical Experts on ship breaking during their examination of the matter, also made several observations in this regard and given their recommendations in its report to the Hon’ble Supreme Court to ensure strict occupational safety for workers handling asbestos and other hazardous substances for its consideration.”

18. In response to a question about justification for granting of permission for breaking “S S Blue Lady” ship in violations of the orders of Supreme Court, the MOEF in their written reply stated as under:—

“(i) As per the recommendations of the Committee of Technical Experts, the question of permission for dismantling of the ship “SS Blue Lady” would be considered on the basis of a dismantling plan to be submitted by the ship owner. The plan should ensure that the dismantling schedule is matched to the capacity of the ship breaking yard and available infrastructure for safe handling, removal and disposal of all hazardous materials on board the ship. Procedure to be followed for dismantling after beaching would have to be in accordance with the recommendations made by the Committee in its final report which would be subject to approval of the Hon’ble Supreme Court. The Vice-Chairman of GMB who was present during the discussions was in agreement with the decision of the Committee.

(ii) The final reports on Ship Breaking and also in respect of the ship “SS Blue Lady” submitted by the Technical Committee came up for hearing on the 4th December, 2006 in the Hon’ble Supreme Court. The Court after a brief discussion passed an interim order directing the Gujarat Pollution Control

Board to examine the dismantling plan of the ship “SS Blue Lady” and submit its report within four weeks. Thereafter, the matter has been adjourned and the same will come up for hearing in the 3rd week of March, 2007.

- (iii) From the above facts it is evident that so far no permission has been granted by any agency for breaking of the ship “SS Blue Lady” and hence the question of violation of the orders of Supreme Court does not arise.”

Observations/Recommendations

19. The Committee note from the submission of the petitioner that a ship “S S Blue Lady” owned by Malaysian based Star Cruise Limited was allowed to enter into Indian Territorial waters and beached at Alang , Gujarat. According to the petitioner, the permission was given by authorities in violation of Supreme Court Orders dated 05.06.2006 and the Basel Convention Treaty on Trans-Boundary Movements of Hazardous Wastes and their disposal adopted by India. The case of “SS Blue Lady” Ship illustrates that the recommendations of High Powered Committee (HPC) and the orders of the Supreme Court were not complied with and the country was used as a dumping ground by the developed countries. The ship was not de-contaminated and the occupational safety for workers handling asbestos and hazardous substances were not ensured as per Factories Act, 1948. According to the petitioner, the sovereignty of the country is being infringed as a result of dumping of lethal hazardous waste from the developed countries. The petitioner, therefore, prayed that the entry of “S S Blue Lady” Ship and the role of the authorities in permitting the ship in Indian territorial waters may be examined.

20. The Committee were informed that the Basel Convention on the Control of Trans-Boundary Movements of Hazardous Wastes and their Disposal was adopted in Basel, Switzerland on 22nd March, 1989. One of the guiding principles of the Basel Convention is that, in order to minimize the potential threat to human health and the environment, hazardous wastes should be dealt with as close to as possible where they are produced. Therefore, under the Convention, trans-boundary movements of hazardous wastes or other wastes can take place only upon prior written notification by the State of export to the competent authorities of the States of import and transit. Trans-boundary movements can take place, however, if the state of export does not have the capability of managing or disposing of the hazardous waste in an environmentally sound manner.

21. According to the Ministry, the beaching of the ship “SS Blue Lady” at Alang is not considered as violation of the Basel Convention. As per the Hazardous Waste Rules formed by the Government, hazardous waste contained in any ship as cargo is not allowed to bring for disposal into our country. The ship as such meant for dismantling is considered as a material for recycling and the same is not considered as a waste. Only the waste generated while recycling/dismantling the ship is considered as a waste. Therefore, the Basel Convention on the control of trans-boundary movements of hazardous wastes is not applicable in respect of ships destined

for dismantling. According to the Ministry since no hazardous waste is allowed on board the ship as cargo, there is no violation of Hazardous Waste Rules or the Supreme Court directions. Only the hazardous wastes such as Asbestos and Poly-Chlorinated Biphenyls (PCBs) which are present in the ship as in-built materials and as part of the structure of the ship and which can be removed only at the time of dismantling of the ship are allowed. The in-built materials are required to be safely removed at the time of dismantling of the ship and disposed of in an environmentally sound manner. Moreover, as per the International Maritime Organisation (IMO) Regulations also a ship is not considered as a waste. The Committee were informed there are no uniform mandatory guidelines with regard to ship breaking activities under various international conventions. Presently, Marine Environment Protection Committee (MEPC) of IMO is working to develop an International Convention on Environmentally Sound Dismantling of Ships.

22. The Committee note that the ship breaking activity an environmental friendly way of recovering of steel, is allowed in India since the ships destined for breaking contain about 95% of steel and only about 5% of other materials. The issue of ship breaking was also considered by a High Powered Committee headed by Prof. M.G.K. Menon which was constituted on the recommendations of the Hon'ble Supreme Court. The Committee were informed that the Hon'ble Supreme Court considered the matter of ship breaking again in view of the controversy due to French Aircraft Carrier 'Clemenceau', which was proposed to arrive in India for breaking purposes, and passed an order on 17.02.2006, directing the Union of India to constitute a Technical Committee of Experts to look into all aspects of the problems relating to arrival of such ships into India for breaking purpose. The Union Government constituted the Technical Committee of Experts on Ships Breaking on 24.03.2006. While considering an application filed by an NGO in the Hon'ble Supreme Court of India against the ship "SS Blue Lady", the Court passed an order on 15.05.2006 mentioning that the grievances made in the application shall be examined by the Technical Committee of Experts on Ship Breaking. The Technical Committee examined the matter relating to the entry of the ship 'SS Blue Lady' into India for breaking purposes at its meeting held on 20.05.2006 and made recommendations in respect of anchorage, beaching and dismantling, which were filed in the Hon'ble Supreme Court as interim report. The Court accepted the recommendations of the Technical Committee and ordered that the action may be taken thereon. In compliance with the said order, the MOEF *vide* its communications dated 10.06.2006 and 12.06.2006 requested the cornered agencies to allow entry of the ship into Indian Territorial Waters for anchorage off the Alang coast, in view of the upcoming monsoon which was likely to cause difficult weather conditions in the high seas and that provisions on board were limited. The Technical Committee was of the view that all the hazardous waste likely to be generated in recycling of the ship "SS Blue Lady" can be handled in an environmentally sound manner at Alang and that the ship can be accorded beaching permission. The final report submitted by the Technical Committee on ship breaking as well as in respect of the ship 'SS Blue Lady' came up for hearing on the 4th December, 2006 in the Hon'ble Supreme Court. The Court after a brief discussion passed an interim order directing the GPCB to examine the matter and submit its report within

four weeks. The matter is still pending in the Hon'ble Supreme Court for final adjudication in the matter.

23. The Committee were also informed that the ship 'SS Blue Lady' contained about 1240 Metric Tones (MT) of Asbestos Containing Materials (ACMs). The quantum of Asbestos and ACMs estimated by GEPIL, was also verified and validated by GPCB. The quantum of PCBs as estimated by the Technical Committee of Experts on Ship Breaking is less than 10 MT and there was no cargo loaded on the ship in terms of hazardous waste. The hazardous waste contained in the ship is as in-built material and as a part of its structure. The hazardous waste present in the structure of the ship is not hazardous as such for human beings. However, in case the asbestos fibers are inhaled or the PCBs are consumed by human beings, the same may cause cancer. But, in case proper precautions are taken for safe handling of these materials by the workers by using proper Personal Protective Equipments (PPEs), the adverse effects to the workers can be prevented.

24. It was also informed that the Department of Labour, Government of Gujarat, makes surprise checks of the ship breaking yards and those yard owners violating the rules are penalized. The Technical Committee of Experts on ship breaking during their examination of the matter, also made several observations in this regard and given their recommendations in its report to the Hon'ble Supreme Court to ensure strict occupational safety for workers handling asbestos and other hazardous substances for its consideration.

25. During the course of evidence, the Committee were also informed that the court ordered on 4.12.2006 to GSPCB to present a report after examining the dismantling plan of the company. The GSPCB has yet to present a report before the Court and, therefore, the question of dismantling of the ship as such would take place only after the receipt of the decision of the Court, which is still awaited.

26. The Committee observe that the entry of the "SS Blue Lady" ship into Indian territorial waters for anchorage off the Alang coast and for beaching by the Ministry was in accordance and compliance of the orders of the Hon'ble Supreme Court. So far as the matter regarding dismantling of "SS Blue Lady" ship is concerned, the same is still before the Hon'ble Supreme Court for final adjudication in the matter. The Committee, therefore, would like to refrain from any comment on this issue. However, the very fact that the Hon'ble Supreme Court had to intervene in the matter, underlines the failure of the Government to formulate till now any policy to regulate environmentally safe ship breaking activity in the country. The Committee are extremely concerned that the ship contain an estimated 1240 MT of ACM and about 10 MT of PCBs as in-built material and as a part of its structure. In case the asbestos fibres are inhaled or the PCBs are consumed by human being, the same may cause cancer unless proper precautions are taken for safe handling of these materials by the workers. The Committee strongly deprecate the repeated stand taken by the Ministry that since no hazardous wastes has been allowed on board as cargo, there is no violation of the Hon'ble Supreme Court directions. The Committee need not emphasize that the hazardous wastes whether as cargo or in-built material are equally detrimental to the environment and human health. The Committee feel that

considering environmental hazardous pollution generated during the dismantling of the ship having adverse impact on environment as well as human beings, the ship breaking activity in the country must adhere to stringent conditions laid down by the Hon'ble Supreme Court. The Committee strongly feel that in no case, the ship breaking activities should be permitted at the cost of environment or safe and healthy life of workers. The Committee, therefore, recommend that a National policy should be framed by the Government to regulate ship breaking activities and dumping all toxic waste in the country. The policy should also cover establishment of facilities of international level for managing and disposal of hazardous materials such as asbestos, PCBs and other residues, apart from defining the maximum permissible limit of in-built hazardous wastes before permitting any ship breaking activity in the country. The Government should also endeavour to assist IMO for early framing of the International Convention of Environmentally Sound dismantling of ships. The Committee also desire the Ministry to strongly campaign to create awareness amongst the people about the ill affects of asbestos and possible carcinogenic affects from the wreckage of the ship.

NEW DELHI;
17th August, 2007
26 Sravana, 1929 (Saka)

PRABHUNATH SINGH,
Chairman,
Committee on Petitions.

ANNEXURE I
(See Para 1 of the Report)

LOK SABHA
PETITION NO. 13

(Presented to Lok Sabha on 25.08.2006)

To

Lok Sabha,
New Delhi

The humble petition of Shri Gopal Krishna, Indian Platform on Ship-breaking, A-1/125, Safdarjung Enclave, New Delhi - 110029.

Sheweth

Attention is drawn towards the issue of hazardous waste with specific reference to a ship named Blue Lady. The position of SS Blue Lady (also called SS Norway, SS France) is that though it should have remained in the territorial waters, as per the Supreme Court order dated 5th June, 2006, it has beached at Alang (Gujarat).

The petitioner has submitted on behalf of Indian Platform on Ship-breaking on which NGOs like Greenpeace, Ban Asbestos Network of India (BANI), Corporate Accountability Desk and Trade Unions like CITU and AITUC are members.

The ship is laden with 1250 MT of asbestos and estimated 783 MT of PCBs. Asbestos is banned in more than 40 countries because of its carcinogenic nature. International Labour Organisation's resolution dated 14th June 2006 called for a global ban on this killer fiber, which claims the lives of 1,00,000 workers annually. Polychlorinated Byphenyl (PCBs) are Persistent Organic Pollutants (POPs) and cancer causing. It is listed for phasing out as per Stockholm Convention on POPs of which India is a signatory.

India is a party to the Basel Convention Treaty on Trans-boundary Movements of Hazardous Wastes adopted in 1989. This Convention decided that any ship from OECD country with hazardous substances, which include Asbestos and PCBs etc. must be decontaminated at the port origin before it proceeds to any OECD country for breaking.

Unmindful of these global developments, in shocking instance of utter disregard for rule of law, the Technical Committee on Ship-breaking headed by Dr. Prodipto Ghosh, Secretary, Union Ministry of Environment and Forests has given beaching permission to SS Blue Lady. Subsequently, the ship beached at Alang in the morning of Independence Day.

The Business Standard newspaper reported on 6th August, 2006 that the ship which was earlier stated to be in the ownership of Haryana Ship Demolitions Pvt. Ltd., has now sold it to another company named Priya Blue Shipping Ltd. The ship in fact is owned by Malaysia based Star Cruise Limited which has managed these entities to escape decontamination cost of the ship as is mandatory as per Supreme Court's order dated 14.10.2003 and Basel Convention as stated above.

The High Powered Committee (HPC) on Hazardous Wastes headed by Prof. M.G.K. Menon, whose recommendations formed the basis of the October 2003 order noted: As far as handling of asbestos is concerned, there can be no excuse for having different standards for handling asbestos in India and OECD countries. The migrant workers (from the States of Orissa, UP and Bihar) who work in Alang are human beings even if they are from the poor strata of society and are entitled to the same rights as workers from other countries.

It should be noted that about 40 fatal accidents occur annually and about 50 accidents per day at Alang during ship-breaking.

The recommendation made by HPC were accepted by the Supreme Court in its order dated 14th October, 2003. All these recommendations are extremely important. They *inter alia* provide for—

- Prior decontamination of the ship.
- Complete inventory of hazardous and non-hazardous waste be mandatory for the ship owner.
- Proper infrastructure and facilities for inspection of hazardous waste and radioactive substances.
- At the International level, India should participate with clear mandate for decontamination of ships of their hazardous waste substances such as asbestos, waste oil, gas and PCBs, prior to export to India for breaking.

It was subject to compliance of all these directions and continuation of ship breaking operations was permitted. The HPC Report and court order clearly indicated that India is used as a dumping ground by the developed countries. Huge quantities of hazardous wastes are still dumped and the relevant Hazardous Waste Rules not implemented. The case Blue Lady illustrates the same. The HPC was of the view that our country can have norms, which are more stringent than those provided by the International Law.

After the order of 2003, at the international level there were two further developments under Sixth and Seventh Conference of Parties (COP-6 & COP-7) of Basel Convention. It was recognized in COP-7 that a ship can be a ship and waste at the same time and the prior informed consent should be invoked with regard to ship-breaking. This was done especially keeping in mind the handling of asbestos and PCB waste, which does affect the health of the workers and therefore availability of facilities for testing the hazardous waste at the port, is a necessary condition along with prior decontamination.

If these parameters are applied, it has to be considered whether the Star Cruise's Blue Lady can be accepted in law. The answer is "No" because of the following reasons:—

- (1) It is not decontaminated as envisaged in the Supreme Court order.
- (2) Supreme Court Monitoring Committee on Hazardous Wastes had imposed certain conditions in its meeting dated March, 2005 *inter alia* that there should be 98% decontamination, but that has not been fulfilled.
- (3) Occupational safety for workers handling asbestos and hazardous substances has so far not been ensured as is necessary as per Factories Act, 1948.
- (4) On the basis of precautionary principle, the ship should not be allowed.

Besides the fact that the ship is in illegal traffic and has hoodwinked government authorities of Germany, Malaysia and United Arab Emirates cannot be overlooked. There is documentary evidence, which proves that the ship owner has indulged in fraudulent misrepresentation to escape decontamination, which it is required to undertake as per established law.

Therefore, the petitioner has prayed to examine the issue regarding the entry of Blue Lady and the role of authorities in permitting the ship allegedly on humanitarian grounds in the Indian territorial waters. Also whether our sovereignty can be infringed by the dumping of lethal hazardous wastes from the developed countries. Furthermore whether ship-breaking is allowed by the Government without prior decontamination of the ship notwithstanding the environmental considerations, effect on human life, in particular, on the workers of Alang and commitment of our country to the Basel Convention. The petitioner seeks a direction to the effect that if the ship owners desire to bring the ship into India for dismantling, then it should be first decontaminated in an OECD/EU country at a facility capable of managing all toxic wastes in line Basel Convention guidelines. The petitioner wishes to take cognizance of the occupational and environmental health disaster on the horizon.

And your petitioner as in duty bound shall ever pray.

Name of Petitioner	Address	Signature or thumb impression
Shri Gopal Krishna	A-1/125, Safdarjung Enclave, New Delhi-110029	Sd/-

Countersigned by Shri Basudeb Acharia, MP.

ANNEXURE II

MINUTES OF THE FIFTIETH SITTING OF THE COMMITTEE ON PETITIONS
(FOURTEENTH LOK SABHA)

The Committee on Petitions sat on Friday, 12th January, 2007 from 1500 hrs. to 1600 hrs. in Committee Room 'B', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

Shri Prabhunath Singh — *Chairman*

MEMBERS

2. Shri N.S.V. Chitthan
3. Shri Anant Gangaram Geete
4. Adv. Suresh Kurup
5. Shri Dharmendra Pradhan
6. Kunwar Jitin Prasada
7. Shri Kishan Singh Sangwan
8. Shri Mansukhbhai Dhanjibhai Vasava
9. Shri Paras Nath Yadav

SECRETARIAT

1. Shri J.P. Sharma — *Joint Secretary*
2. Shri A.K. Singh — *Director*
3. Shri U.B.S. Negi — *Under Secretary*

WITNESSES

Ministry of Environment and Forests

1. Shri Sidhartha Behura — Additional Secretary
2. Shri R.K. Vaish — Joint Secretary
3. Dr. Nalini Bhat — Director
4. Dr. B. Sengupta — Member Secretary, CPCB
5. Shri M. Subha Rao — Additional Director
6. Dr. Manju Raina — Additional Director

2. At the outset, Chairman welcomed the representatives of the Ministry of Environment and Forests and drew their attention to Direction 55(1) of the Directions by the Speaker, Lok Sabha regarding confidentiality of the proceedings. The Chairman also drew attention to Direction 95 which clearly stipulates that the Committee shall also meet as often as necessary to consider representations, letter, telegrams from

various individuals, associations etc. which are not covered by the rules relating to petitions and give directions for their disposals.

3. Thereafter, the Committee took oral evidence of the representatives of the Ministry of Environment and Forests on the following petitions:—

* * * * *

- (ii) Petition requesting to enquire about the role of authorities in permitting the entry of SS Blue Lady Ship carrying hazardous waste in Indian Territorial waters by violating Supreme Court Orders.

* * * * *

II. Petition to enquire about the role of authorities in permitting the entry of SS Blue Lady Ship carrying hazardous waste in Indian Territorial waters by violating Supreme Court Orders.

The following issues/points were discussed by the Committee:—

- (i) Details about dismantling and anchoring of S.S. Blue Lady Ship in Indian territorial waters;
- (ii) Directions of Supreme Court of India in this matter;
- (iii) Report of the Technical Committee appointed under the orders of the Supreme Court in the matter; and
- (iv) Number of ships dismantled on the basis of norms of 2003.

5. The Committee decided to keep the issue pending but the same would be taken up again for consideration after the Supreme Court delivers its judgement in the matter.

6. The Committee directed the witness to supply the detailed information on the issues as raised during the discussion before the next sitting of the Committee.

7. A copy of the verbatim proceedings of the sitting of the Committee was kept on record.

The witnesses then withdrew.

The Committee then adjourned.

ANNEXURE III

MINUTES OF THE SIXTY FOURTH SITTING OF THE COMMITTEE ON PETITIONS
(FOURTEENTH LOK SABHA)

The Committee on Petitions sat on Friday, the 17th August 2007 from 1500 hours to 1530 hours in Chairman's Room No. 45(II) Ground Floor, Parliament House, New Delhi.

PRESENT

Shri Prabhunath Singh — *Chairman*

MEMBERS

2. Shri N.S.V. Chitthan
3. Shri Anant Gangaram Geete
4. Shri Mohan Jena
5. Shri C. Kuppusami
6. Adv. Suresh Kurup
7. Shri Kishan Singh Sangwan
8. Shri Jyotiraditya M. Scindia
9. Shri Paras Nath Yadav

SECRETARIAT

1. Shri P.K. Grover — *Joint Secretary*
2. Shri U.B.S. Negi — *Deputy Secretary*
3. Shri H.R. Kamboj — *Deputy Secretary-II*
4. Shri V.P. Gupta — *Under Secretary*
5. Smt. Jagriti Tewatia — *Committee Officer*

2. The Committee considered the draft Twenty Ninth, Thirtieth and Thirty First Reports and adopted the same without any modification.

3. The Committee also authorised the Chairman to finalise and present the Reports to the House.

The Committee then adjourned.