



Panel discussion on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights

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**Statement by Mr. Okechukwu Ibeanu,
Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights**

Mr. President, distinguished panellists, Excellencies, ladies and gentlemen,

I appreciate this final chance to address the Human Rights Council in my capacity as Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights. It has been a great honour to serve as a Special Rapporteur on such an important and often neglected issue, and I would like to use this opportunity to offer you some remarks on the existing problems, and new trends, in the movement and dumping of hazardous products and wastes and their adverse effects on the enjoyment of human rights, based on my experiences in the past six years.

Mr. President,

Since the 1970s, increased generation of hazardous wastes and growing public awareness on the potential threat they pose to human health and the environment resulted, in many industrialised countries, in the introduction of stringent legislation regulating the treatment of such wastes. The tightening of environmental legislation in the developed world led to a dramatic rise in the cost of hazardous waste disposal, and generated, in turn, a steady increase in the movement of wastes across national borders, especially from industrialised countries – where they could no longer be economically disposed of – to

developing countries, which needed the money from accepting such waste, but had neither technical capacity to dispose them soundly nor effective regulatory mechanisms to prevent abuses.

The mandate of the Special Rapporteur was created by the Commission on Human Rights in 1995, in a political climate characterised by strong tensions between industrialised countries, which desired to keep open their waste disposal options, and developing countries, particularly in Africa, which advocated for an international ban of the international trade in wastes. The aim of the mandate was to investigate the adverse effects of the illicit movement and dumping of hazardous products and wastes on the enjoyment of human rights.

The political climate in 1995, and the rhetorical language used in the first resolutions, which focused primarily on dumping of hazardous wastes in African and other developing countries by transnational corporations and other enterprises based in industrialised countries, reinforced a stereotype of a mandate established by developing countries to defend themselves against the abuses perpetrated by transnational corporations from industrialised countries. This stereotype, I am afraid, has sometimes hampered the efforts made by the mandate holder to propose ways to eliminate, or reduce to a minimum, the risks that hazardous products and toxic wastes pose to the enjoyment of human rights. Some people even questioned whether the mandate was a legitimate human rights mandate, rather than an environmental one.

Today, the situation is more complex. Certainly, hazardous wastes generated in the northern hemisphere continue to be illegally dumped in developing countries by unscrupulous companies, as the Probo Koala case proved. However, we need to acknowledge that toxic and dangerous products and wastes know no boundaries, and are transferred not only from the “north” to the “south”, but also – and increasingly – between developing countries and between developed countries themselves. While the amount of wastes generated and being shipped across borders is increasing in all regions, the majority of transboundary movements occur nowadays within the same region, and involve OECD countries. The amounts of wastes transferred either from one region to another or involving non-OECD Parties are small in comparison, although they are also increasing.

The Council itself has recognised that the management and disposal of toxic and dangerous products and wastes has now become a global problem, which requires a global solution. I am delighted to note that resolution 9/1, which extended the mandate for a further period of three years, was for the first time adopted by consensus. This shows the serious commitment undertaken by the Human Rights Council to address the human rights impact of the transboundary movement and dumping of toxic and dangerous products and wastes and the growing recognition of the global nature of this phenomenon.

Resolution 9/1 also strengthened the mandate so as to cover all movements and dumping of toxic and dangerous products and wastes, regardless of their transboundary or illicit nature. In view of the fact that many violations of human rights falling within the scope of the mandate also derive from the unsound management and use of toxic and dangerous products and wastes, and not only from their “movement” and “disposal”, I would like to suggest that the Human Rights Council consider requesting the mandate holder to focus on the overall management of toxic and dangerous products and wastes on human rights (cradle-to-grave approach). The Special Rapporteur would then be mandated to examine not only the way in which hazardous products and wastes are transported, trafficked or disposed of, but also the way they are produced and used, thereby providing protection to individuals and communities that, at present, are not explicitly covered by the mandate (e.g. researchers and workers handling toxic chemicals, farmers using hazardous pesticides...).

Mr. President,

Over the years, my predecessor and I have gained a considerable expertise on the adverse impact that the movement and dumping of specific hazardous substances, like uranium tailings or persistent organic pollutants (POPs), or dangerous activities, like shipbreaking or small-scale gold mining, may have on the enjoyment of the right to life, the right to health and other rights enshrined in the Universal Declaration and in the core international human rights treaties. Some of these issues are not new, but will continue to deserve the attention of the mandate in view of their scale, their potential or actual adverse impact on human rights and/or the lack of an adequate regulatory framework.

Let us take the example of e-waste. There seems to be growing awareness on the adverse effects that obsolete or broken electronic products such as old computers or mobile phones can have on human health and the environment due to the dangerous substances they contain (heavy metals, hazardous chemicals like brominated flame retardants, etc.). Nevertheless, an ever-increasing amount of such products continue to be sent to developing countries, sometimes under the guise of donations to fill the digital divide, where they are dismantled in small-scale laboratories by untrained workers who do not know the risks associated with handling such products or the safety measures to adopt in order to break these equipment and dispose of their parts in an environmentally sound way.

In light of the sheer amount of e-waste being generated worldwide, I encourage members of the Council, UN agencies, programmes and bodies and civil society organisations to continue paying attention to this phenomenon, with a view to minimising the adverse impact that the unsound management and disposal of obsolete electronic equipments may have on the human health and the environment.

Hazardous chemicals, including pesticides, are another issue that will continue to deserve our attention in the years to come. In modern societies, chemicals have become an integral part of our lives. However, every year some 47,000 persons die as a result of acute poisoning from hazardous chemicals, but many more develop serious, life-threatening diseases like various forms of cancer associated with chronic, low-level exposure to hazardous chemicals, particularly pesticides. Many of these deaths could be prevented with appropriate training opportunities for individuals who are exposed to hazardous substances, such as agricultural workers or persons employed in the industrial or chemical sectors. Others could be avoided with targeted information campaigns aimed at educating the general public on measures to adopt to minimise the risks associated with handling commonly-used chemicals, such as household products or lithium batteries.

Mr. President,

Contamination and poisoning resulting from heavy metals such as lead and mercury remain a major concern for this mandate. Lead-based paints are still widely manufactured and used in many developing countries to paint the interiors and exteriors of homes or schools, as well as toys, furniture, playground equipment and other articles with which

children come in contact. Lead is known to have far-reaching adverse effects on human health, particularly in children, pregnant women and fetuses in the womb, even at low levels of exposure. Mercury also merits a specific mention because of the serious adverse effects it has on humans. Unfortunately, it is still widely used for personal and household purposes, as well as for extraction of gold, particularly in developing countries. In some countries, for instance, I found a growing exposure of people to situations that are highly likely to result in mercury poisoning, including exposure of surface water, farmlands and domestic animals. As we speak, an intergovernmental negotiating committee established by UNEP is meeting in Stockholm to elaborate a legally binding instrument on mercury. In view of the widespread concerns over the serious adverse effects of mercury on human health and the environment and the urgent need for international action, I call on States to support the adoption of a new treaty on mercury. Such a treaty should phase out and eventually eliminate the use of mercury in products, and ensure that mercury-containing waste is disposed of in an environmentally sound way.

Mr. President,

Permit me now to summarize what I think are the factors that have sustained the global movement and dumping of hazardous products and wastes and their adverse effects on human rights with the hope that they will help structure this panel discussion:

- a) The “osmotic” effect of movement of hazardous products and wastes created by disparate regulatory standards between countries and regions of the world.
- b) Development aid and the morality that charity should not be questioned.
- c) Low level of information and public participation, particularly in many developing countries. For instance, product labels indicating toxicity are not written in local languages, instead they are in foreign languages often not understood by the vast majority of the population.
- d) Political authoritarianism that limits public discourse, information and participation.
- e) Weak regulatory capacity domestically to establish and enforce rules on sound management of hazardous products and wastes. Sometimes, this is justified on the grounds that strict regulation is anti-development since it scares away foreign partners.

- f) Inadequate coordination between environmental mechanisms and between them and human rights mechanism.
- g) Inadequate framework for remedy available to victims of human rights abuses resulting from the movement and dumping of toxic and dangerous products and wastes.

Finally, Mr. President,

It was my intention to terminate my mandate by developing a set of guidelines on human rights-based approaches to the sound management and disposal of toxic and dangerous products and wastes. Last September, I discussed this issue informally with some permanent missions, which welcomed this idea. I am of the view that this panel discussion could represent a first step in this direction, and call on the Council to give the new Special Rapporteur a clear mandate to develop such guidelines, based on the impetus created by this very important panel discussion. The guidelines, which should be elaborated in closed consultation with relevant stakeholders, including UN agencies, the secretariat of multilateral environmental treaties, and NGOs, would contribute to clarify the responsibilities that States and other actors have undertaken under existing human rights treaties to eliminate, or reduce to a minimum, the adverse human rights impact caused by the unsound management and disposal of toxic and dangerous products and wastes.

Thank you for your attention.
