

To,  
The Chairman and Members of the Group of Ministers on Bhopal  
Room No. 104, North Block  
New Delhi-110002  
Resolution of  
Fax-011-23094221

May 21 2012

**Sub: Just and scientific resolution of the problem Hazardous Waste and toxic contamination in relation to Union Carbide factory in Bhopal**

Dear Madam & Sirs,

We are happy to know that the Group of Ministers on Bhopal is deliberating on the issue on the hazardous waste and toxic contamination in and around the Union Carbide factory in Bhopal today. As organizations active in the welfare of the Bhopal survivors for the last 28 years and as people that have been involved with the issues of hazardous waste and contamination for the last 22 years, we would like to present the following for consideration during your meeting today.

1. **Take a comprehensive and long term view of issues of hazardous waste and toxic contamination.** The response of the state and central governments to the issue of toxic waste contamination has lacked coherence, continuity and planning. Their approach has not been informed by long term technological considerations. For the problem to be meaningfully resolved, it is important to develop a perspective that is informed by the unprecedented magnitude and complexity. Developing such a perspective would entail:
  - a. **Recognizing that the problem has not received the required attention and is getting worse with time:** Union Carbide documents show that the problem of toxic contamination originated sometime in 1982. The first official study of contamination was done in 1991 by the State Research Laboratory of the Public Health Engineering department, Government of Madhya Pradesh. The first practical step, of collecting the scattered hazwaste in one warehouse, was done in 2005, more than a decade after the disaster.
  - b. **Recognizing that the resolution of the problem is likely to take decades:** As suggested by technical consultants who have examined the issue of ground water contamination, its remediation may take well over 20 years involving the pumping of ground water for treatment.
  - c. **Recognizing the fact that the 350 metric tones, which is the preoccupation of courts and the Government, is merely fraction of the problem:** Government records show that 27,000 metric tonnes of hazardous waste and contaminated soil are buried in the solar evaporation ponds 400m north of the factory. Besides this, thousands of tonnes of hazardous waste are buried in 21 unlined pits located inside the factory premises. Government efforts to resolve the problem

should prioritise the recovery and disposal of these above-ground and buried wastes.

- d. **Recognizing that the problems are technically complex and challenging:** Over dozen scientific studies carried out so far show that the contamination is caused by toxic ingredients, by products, wastes and their degradation products. They are present up to 3.5 km and at depths greater than 30m in an area that has rather complex geology. The problem is also technically challenging as the contaminated area is in middle of dense human settlements.
  - e. **Recognizing that NEERI and other government agencies have demonstrated lack of competence in the matter of scientific assessment and remediation:** In 2010, the GoM constituted a five member oversight committee which was subsequently notified by the Minister of Environment & Forests. The Oversight Committee appointed a Peer Review Committee. The PRC studied the NEERI/NGRI reports, and the comments on the same from 31 technical experts from around the world, and concluded that the findings of the Rs 2.5 crore study by NEERI and NGRI on the depth and spread of contamination was not to be relied upon. The competence of these and other scientific agencies are also evident in their earlier reports.
  - f. **Recognizing that the problems potentially require more than \$1 billion US dollars for proper resolution:** A number of consultants with long experience in the field have suggested that a proper scientific assessment and thorough remediation would require more than \$1 billion.
2. **Consider the Road Map for Justice and Remediation presented by the survivors' organizations.:** We once again draw your attention to the proposed plans for ensuring justice in this matter along with remediation of the local environment and public health. (Annexure 1) The roadmap is focused on following three actions that need to be initiated by the government.
- a. **Scientifically assess the depth and spread of the contamination through competent agencies:** In this regard national and international agencies that have experience of handling situation comparable in magnitude and complexity need to be invited to give their proposal and budgets.
  - b. **Establish liability of Union Carbide and Dow Chemical on scientific and medical basis:** The technological and financial resources for meaningful resolution of the issues of hazwaste and contamination are available with Dow Chemical that has inherited the toxic legacy from Union Carbide. This is in line with the view held by Law Ministry, Govt of India.
  - c. **Explore best options for resolution of the hazwaste and contamination problems to international environmental standards and get a fix on the best technological option.**

3. **Amend the curative petition** to exclude compensation claims for environmental damages that are unrelated to the disaster: The curative petition for enhancement of compensation submitted by the Government of India in Dec 2010 erroneously includes a claim for environmental damages arising from the contamination caused by reckless dumping of hazardous wastes. The Bhopal Act, 1985, is related only to claims arising from the gas disaster, and does not cover the problem of toxic contamination that predates the disaster.
4. **Join the ongoing litigation in the US Federal Court on the issue of hazardous waste and contamination:** A civil suit by plaintiffs from Bhopal for environmental and health damages caused by hazardous waste is ongoing against Union Carbide Corporation and Warren Anderson in the federal court of New York in USA. In 2004, the Government of India informed the court that it would assist the process of remediation if the court directs Union Carbide to clean up the Bhopal site. The American court has highlighted the fact that the area sought to be remediated is in the custody of the government. In this context it is imperative that the Government of India joins the ongoing litigation and contributes to the efforts to remediate the area, and secure adequate compensation for environmental and health damages.

We thank you for your time and await your positive response.

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