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The Honorable Eric H. Holder, Jr.  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001  
United States of America

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**AMNESTY  
INTERNATIONAL**



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Dear Attorney General Holder,

**Re: BHOPAL DISASTER: US GOVERNMENT OBLIGATION TO EFFECT SERVICE OF INDIAN COURT SUMMONS TO THE DOW CHEMICAL COMPANY BASED IN MICHIGAN**

For a number of years, Amnesty International has been advocating for the rights to justice and remedy for the survivors of the 1984 toxic leak disaster in Bhopal, and its aftermath. Some 100,000 people continue to suffer health problems linked disaster and ongoing contamination issues. Research conducted by Amnesty International in December 2012 found that, since the gas leak, women in Bhopal have reported ongoing serious issues including gynecological and reproductive health disorders. Almost three decades after the Bhopal disaster, survivors and the families of the victims have yet to receive adequate compensation. We are aware that the US Government is deeply familiar with various aspects of this case.

At this time, we write with respect to the summons issued by the Chief Judicial Magistrate of Bhopal, India (CJM) to The Dow Chemical Company (Dow) on 23 July 2013. We expect that this summons will be honored by US-based Dow and its service executed by the US Government.

The summons requires Dow to appear before the court to explain why it has failed to produce to the CJM its wholly-owned subsidiary, Union Carbide Corporation (UCC), in the ongoing criminal case concerning the Bhopal disaster. Charges of culpable homicide not amounting to murder were originally filed against UCC and its former Chairman, Warren Anderson, in 1987. Despite various summons, both have failed to appear before the Indian courts to face these charges. As a result, they have been declared by the CJM as absconders from justice.

Process-wise, we expect the Indian Ministry of Home Affairs to request your assistance in issuing CJM's summons to Dow. Such requests for assistance in criminal matters are subject to the *Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Republic of India and the Government of the United States of America* (MLA), brought into force on July 1, 2005. Provided the request is made in accordance with the MLA and none of the limitations in that treaty apply, the US Attorney General has an obligation under Article 5(1) of the MLA to promptly execute any such request or, when appropriate, transmit it to the authority having jurisdiction to do so. Under Article 14 of the MLA, the Government of the United States of America has an obligation to use best efforts to effect service of the summons on Dow. Our local partners in India advise that the summons will be sent to the Ministry of Home Affairs next month, after which point it is expected to be sent to the US Attorney General for prompt execution in accordance with the treaty.

**Background information:**

Dow was originally summoned to appear before the CJM in January 2005, in response to an application by the Bhopal Group for Information and Action (BGIA). That order was stayed upon the appeal of Dow Chemical International Private Limited (DCIPL). This stay was removed by the High Court of Judicature of Madhya Pradesh in October 2012, including on the basis that DCIPL had no standing before the court to apply for the original order to be stayed. The current summons has been issued following an application by the BGIA asking that the original order of January 2005 now be put into effect.

The issuing of the summons to Dow represents an important step for the survivors and residents of Bhopal, who continue to suffer from health problems nearly three decades after the disaster. The survivors of the Bhopal disaster have yet to receive adequate compensation from Dow, UCC or the Indian Government, and the pollution found at the former plant site and surrounding area has yet to be cleaned up.

Dow has denied responsibility for any liability of UCC with respect to Bhopal and various damages claims have been brought against UCC in the United States without success. Despite this, Dow is one of the defendants named in the Indian legal action currently seeking damages of US\$3.3 billion for the environmental pollution and environmental remediation of the Bhopal site and free and proper provision of medical assistance to survivors. In 2010, Dow was also named in a curative petition for enhanced compensation filed by the Indian government.

**Concluding remarks:**

It is unacceptable that UCC has failed for over 25 years to respond to the charges against it. Dow must respect the legal summons that has been issued to it by the Indian court and fulfill its role in ensuring justice for the survivors of Bhopal.

It is vital that US companies such as Dow and UCC respect legitimate orders to appear before foreign courts and that the US Government supports these efforts. This would be in-line with the US Government's expectations should the situation be reversed and a summons issued by a US criminal court to a foreign company's headquarters in connection with a major disaster on US soil.

We urge the US Attorney General and the US Government to comply promptly with their obligations under the MLA and to support efforts to ensure that Dow and UCC comply with the summons issued by the CJM.

Yours sincerely,

Frank Jannuzi  
Deputy Executive Director  
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