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**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251
OF 15 MARCH 2006 ENTITLED "HUMAN RIGHTS COUNCIL"**

Report of the Special Rapporteur on the right to food, Jean Ziegler

Addendum

Communications sent to Governments and other actors and replies received**

* The present document, which carries the symbol number of the fourth session of the Human Rights Council, is scheduled for consideration by the fifth session of the Council.

** The present document is being circulated as received, in the languages of submission only, as it greatly exceeds the word limitations currently imposed by the relevant General Assembly resolutions.

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I. INTRODUCTION

1. In the context of his mandate, the Special Rapporteur on the right to food receives a large number of communications alleging violations of the right to food and related rights worldwide. Such communications are received from national, regional and international non-governmental organizations, as well as intergovernmental organizations and other United Nations procedures concerned with the protection of human rights. This addendum to the report of the Special Rapporteur contains, on a country-by-country basis, summaries of communications, including urgent appeals, allegation letters, government replies and follow-up relating to the Special Rapporteur's mandate for the period 16 December 2005 to 1 December 2006. The Special Rapporteur urges all Governments and other actors who have not yet done so to respond promptly to his communications and, in appropriate cases, to investigate allegations of the violation of the right to food and related rights and to take all steps necessary to redress the situation.

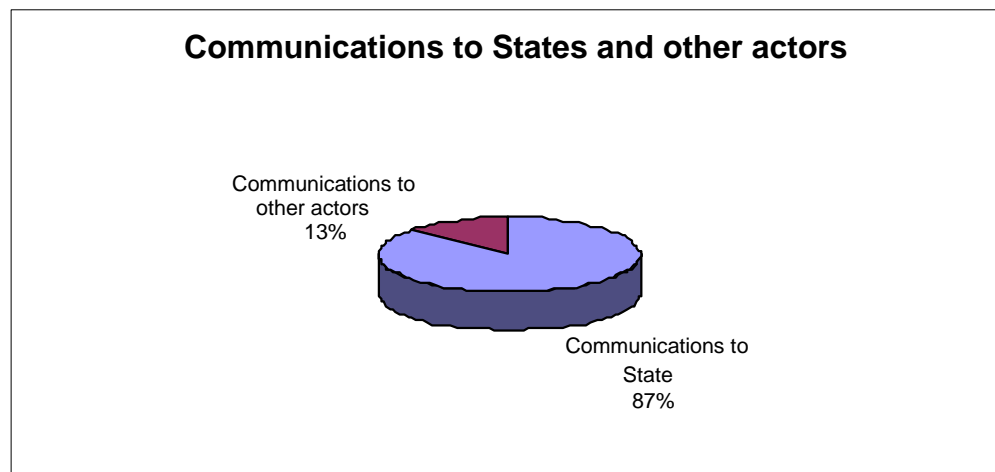
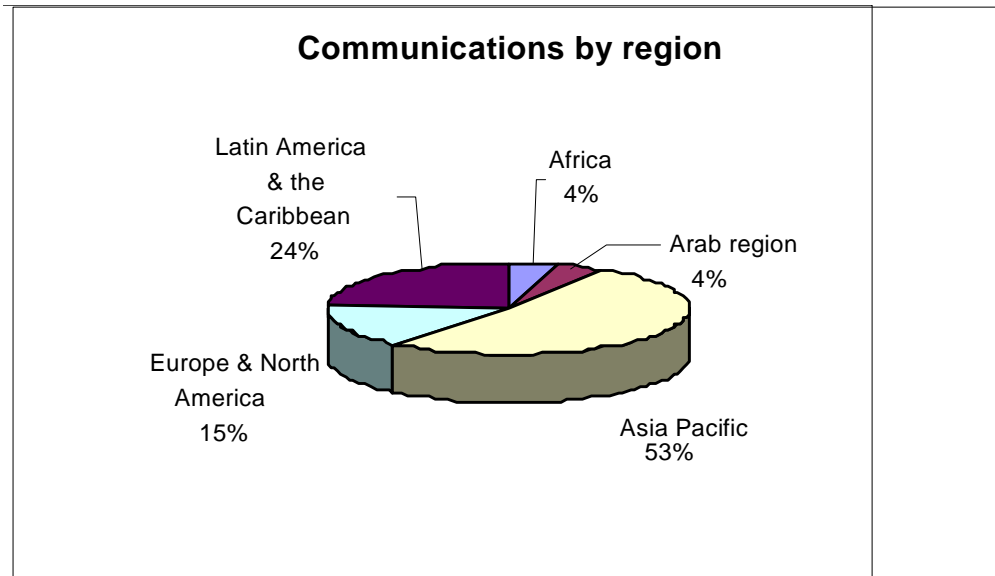
2. The Special Rapporteur has sought to condense details of communications sent and received. To the extent that his resources permit, the Special Rapporteur continues to follow up on communications sent and monitors the situation where no reply has been received or where questions remain outstanding.

3. During the period under review, the Special Rapporteur sent a total of 46 communications concerning the right to food to 22 Member States as well as 7 communications to other actors including international and regional financial institutions (the World Bank and the Asian Development Bank), national development agencies (the Agence française de développement) and transnational corporations (the Coca Cola Company). Where appropriate, the Special Rapporteur has sent joint urgent appeals or letters with one or more special procedures of the Human Rights Council where the allegations raised relate to the right to food as well as to rights addressed under other mandates. Approximately half of the communications reflected in this report deal with cases related to allegations of violations of the obligation to respect the right to food on the part of State agents, such as, for example, forced land evictions that affected peoples' access to food. The remaining half of the communications related to allegations that relevant authorities failed to protect or fulfil the right to food.

4. Out of the 46 communications sent, 16 replies from 12 Governments were received along with 1 reply from the Coca Cola Company. The Special Rapporteur welcomes these replies as he considers them a useful way to engage in constructive dialogues in relation to specific cases, issues or situations. The Special Rapporteur regrets, however, that almost half of the Governments he corresponded with have failed to respond at all. The Special Rapporteur considers these communications as still outstanding, and encourages Governments to respond to them and to address all concerns raised in each of them.

5. The Special Rapporteur has included a heading called "Follow-up" in which he provides further substantive comments to the Governments' replies.

6. The Special Rapporteur includes below some graphics to help in visualizing pattern and trends:



II. GOVERNMENTS

Australia

Communication sent

7. On 8 May 2006 the Special Rapporteur wrote to the Government regarding allegations of violations and threats to the right to food of many asylum-seekers awaiting a decision on their applications for Protection Visas. According to the information received asylum-seekers are granted a Bridging Visa E (BVE) whilst they await the outcome of their Protection Visa application, a visa that requires the determination of the refugee status of the applicant under section 36 of the Migration Act 1958. BVEs do not provide for the asylum-seekers' right to work and access to sufficient financial means which would enable them to have access to quantitatively and qualitatively adequate and sufficient food. The information brought to the Special Rapporteur's attention indicated that asylum-seekers often do not have access to adequate food nor to means of purchasing it and that they and particularly children suffered from

malnutrition and hunger-related illnesses for which they cannot seek medical assistance. For example, an asylum-seeker from Myanmar, in Australia on a BVE, was living in poor conditions with her 3-year-old daughter who had scabies as a result of the mother's lack of income and financial resources to buy food and washing powder. A 6-year-old girl, whose mother is an asylum-seeker from Russia on a BVE, reportedly suffered chest and ear infections, was lethargic and underweight and her iron levels were borderline because her mother allegedly could not afford to buy sufficient food, including meat and fresh vegetables. A 10-year-old girl living with her parents and sister, all asylum-seekers from Sri Lanka on a BVE, reportedly suffered from stomach problems and had no appetite. She was reportedly underweight and had intestinal worms. Her family had no financial resources for worm treatment and could not purchase sufficient food and food of good quality, so the girl had to eat rice on most days.

Communication received

8. The Government replied on 29 May 2006 explaining the Bridging Visas (BV) system and that holders of BV who are also Protection Visa applicants are eligible to work if they have been in the country for less than 45 days in the 12 months before lodging their application. The Government added that financial and other supporting assistance is available under the Asylum Seeker Assistance Scheme which is administered by the Australian Red Cross. Direct funds payment is available to eligible Protection Visa applicants living in the community who are otherwise unable to meet their basic needs for food, accommodation and health care. This scheme supplements financial assistance with referral and counselling programmes and a range of humanitarian services. In 2004-2005, some 1,276 clients were assisted under this scheme at a cost of AUD 3.4 million. In addition, special payments can be authorized for persons otherwise not eligible for payments under this scheme. Special payments have been authorized, for example, for compelling cases being considered for ministerial intervention. The Government also stated that the Department of Immigration and Multicultural Affairs had begun a community care pilot project as part of a case management framework for people with complex immigration, health and welfare issues. The pilot aims to ensure that appropriate support is available to those people who are in particularly vulnerable circumstances, which may include some BV holders. The Department has also undertaken a review of Bridging Visa arrangements which was expected to be finalized in mid-2006.

Follow-up

9. The Special Rapporteur acknowledged the comprehensive reply prepared by the Government. However, whilst noting the financial and other supporting assistance available under the Asylum Seeker Assistance Scheme (ASAS) administered by the Australian Red Cross, on 17 July 2006 he wrote back to the Government concerning the significant gaps which remain in assisting people on Bridging Visas (BV). It appears that, on the one hand, those eligible under ASAS include mostly people who have a valid Protection Visa application to be finalized by the Department of Immigration and Multicultural Affairs (DIMA). On the other hand, "some BVE holders may be Protection Visa applicants; however, the overwhelming majority of people holding BVEs are people who are in Australia without a visa and are making arrangements to depart Australia; are having a further visa application considered (including at judicial review); are seeking ministerial intervention after a decision to refuse a visa; are non-citizens in criminal detention or are seeking a review of a decision to cancel a visa or revoke Australian citizenship

other than on character grounds. These people have either never applied for protection or have been found conclusively not to be owed protection". Whilst welcoming the intended goal of the "Community Care Pilot" currently being carried out in Melbourne and Sydney to assist people who have not applied for Protection Visas and are in need, the Special Rapporteur remains concerned that this project may be developing at a slow pace taking into consideration its one-year time frame. The Special Rapporteur further congratulated the Government on the initiative it has taken to undertake a review of Bridging Visa arrangements with a view to achieving a regime that is simpler and provides greater consistency and flexibility. The Special Rapporteur awaits the outcome of such review.

Austria

Communication sent

10. On 16 October 2006 the Special Rapporteur wrote to the Government regarding allegations that the enterprise Andritz has submitted an application to the Austrian Control Bank for an export credit guarantee of around €200 million for the Ilisu Dam on the River Tigris in south-eastern Turkey. An international consortium led by this enterprise is in charge of carrying out the construction work for the dam. The information received claimed that in November 2005 the consortium submitted a revised environmental impact assessment and a new resettlement plan. Nevertheless, it appears that the dam could displace between 50,000 and 80,000 people, mostly Kurds, affecting the human rights, including the right to food, of these populations and the environment. According to this information, the region has a large number of internally displaced persons (IDPs) and has been affected by widespread marginalization. Many families are already reported to lack access to food, clean and accessible water, sanitation and housing. The Special Rapporteur is of the view that the alleged facts could lead to a violation of the obligation to cooperate in respecting the right to food and water of the people who could be displaced by the dam construction if the authorities examining the export credit guarantee application do not cooperate with the Turkish authorities in providing appropriate safeguards to ensure that the displacement of these people without adequate resettlement and compensation plans does not interfere with their livelihoods and access to sufficient and adequate food.

Brazil

Communications sent

11. On 7 April 2006 the Special Rapporteur together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people wrote to the Government concerning allegations of the violation of the right to food of the Tupinikim and Guarani indigenous communities in Aracruz County, State of Espírito Santo. The allegations received claim that Aracruz Cellulose Corporation, founded in the 1960s, has been illegally occupying indigenous land which it has been exploiting in order to establish eucalyptus plantations for the large-scale production of cellulose. It is alleged that the expansion of eucalyptus monoculture has destroyed the usual access to livelihoods, based on small-scale agriculture as well as hunting and fishing, of the above-mentioned indigenous communities and other communities, such as the descendants of African slaves and smallholders, in the area.

According to the Brazilian Constitution, indigenous land should be allotted to the indigenous communities that have traditionally inhabited such land. To this end, 18,070 hectares of land in the area had reportedly been identified by the Government's indigenous institute (FUNAI) as belonging to the indigenous communities. However, in 1998, the then Minister of Justice allocated only 7,061 hectares to the indigenous communities. As a result, in 2005, the Tupinikim and Guaranis indigenous communities self-demarcated the rest of the land and are still waiting for the regularization of this demarcation. The reports received also allege that on 20 January 2006, 120 troopers of the federal police, including a detachment of COT (Brazilian Command for Tactical Operations), entered the indigenous villages of Corrego D'Ouro and Olho D'Agua located on the land which the indigenous communities had demarcated as belonging to them (according to the Constitution and the assessment of FUNAI), with the purpose of forcibly evicting the indigenous communities. Some people were threatened, some were wounded, and tractors belonging to the Aracruz Cellulose Corporation destroyed houses. The Special Rapporteur believes that these facts appear to constitute a violation of the Government's obligation to respect the right to food as actions have been taken to forcibly evict the indigenous communities (Tupinikim) from their villages and the land which they demarcated as belonging to them and to deprive them of their usual access to food and subsistence activities. In addition, these actions would appear to violate the obligation to protect the right to food as the authorities have failed to take all necessary measures to regulate the activities of third parties to prevent them from interfering with the right to food and water of the indigenous communities concerned. Federal police agents appear to have been complicit with the private corporation in this case.

12. On 14 August 2006 the Special Rapporteur wrote to the Government concerning allegations of threats against the livelihoods of 90 peasant families of the Lagoa Nova community in the State of Sergipe whose land ownership has been disputed since 1994. According to the allegations, these families have been living on this land for many generations. This land belonged to a large estate, SANAGRO (Santana Agroindustrial Ltda.). In 1994 an area of 2,812 ha was expropriated by the Brazilian State in order to transfer it to the families in accordance with the agrarian reform programme. However, SANAGRO continued to use 573 ha of the land for cultivating sugar cane and even after the decision on the expropriation was issued, it built an irrigation system which has reportedly contaminated a lake in this area. SANAGRO delayed the transfer of the land until the year 2000. When the transfer of the land took place, SANAGRO allegedly appealed in court against the measure and Judge Francisco Falcão of the Superior Court of Justice ruled in favour of the company. In the meantime, gunmen contracted by SANAGRO threatened the families of Lagoa Nova. The reports received claim that in 2005, the First Chamber of the Supreme Court of Justice ruled twice against SANAGRO, confirming the decision on the expropriation. In November 2005, in contrast to the previous two rulings, Judge Falcão reportedly issued a temporary injunction in favour of SANAGRO. It appears that injunctions can be issued by judges without approval by the First Chamber of the Court. As a result of the impasse in the judicial proceedings, the families of Lagoa Nova stopped the pumps of SANAGRO's irrigation system. This reportedly led to an agreement whereby SANAGRO could continue using water from the lake for irrigation purposes and in accordance with environmental protection standards, but would withdraw from the disputed land, abandon its sugar cane cultivation in the area and end all judicial proceedings. It appears, however, that SANAGRO has not yet fulfilled the terms of this agreement and has tried again to cultivate the

land. This has been opposed by the peasant families, which have been taken to court by SANAGRO. It is alleged that Mario Jambo, the judge of the competent local court, has been under pressure to rule in favour of SANAGRO. The Special Rapporteur is of the view that in this case the authorities, including the judiciary, have failed to take the necessary measures to prevent third parties from interfering with the access to land, livelihood and food of the peasant families of Lagoa Nova.

Chile

Communication sent

13. El 11 de mayo de 2006 un número de Relatores Especiales del Consejo de Derechos Humanos escribió al Gobierno respecto a la situación de Patricia Troncoso, Patricio Marileo Saravia, Jaime Marileo Saravia y Juan Carlos Huenulao Lienmil, líderes y simpatizantes mapuches condenados a más de diez años de prisión bajo la acusación de "incendio terrorista". Según la información recibida, en agosto de 2004 Patricia Troncoso, Patricio Marileo Saravia, Jaime Marileo Saravia y Juan Carlos Huenulao Lienmil habrían sido condenados a penas de diez años y un día de prisión después de haber sido acusados del delito de "incendio terrorista", bajo la Ley antiterrorista N° 18314, por un incendio causado en el predio conocido como Poluco Podenco. De acuerdo con la información recibida, el juicio habría presentado irregularidades y las declaraciones de los testigos habrían presentado contradicciones. Actualmente, Patricia Troncoso, Patricio Marileo Saravia, Jaime Marileo Saravia y Juan Carlos Huenulao Lienmil se encontrarían en la ciudad del Angol y desde el 13 de marzo de 2006 mantendrían una huelga de hambre en protesta por las fuertes condenas recibidas y por la aplicación de la ley antiterrorista (que se utiliza con frecuencia en relación con las reclamaciones agrarias y las reclamaciones para pedir un nivel de vida adecuado de los mapuches), se habría deteriorado gravemente su estado de salud tras más de 55 días de huelga de hambre. Se observa con mucha preocupación que los jueces habrían aplicado la ley de manera discriminatoria; mientras que por los delitos contra la propiedad se aplican generalmente multas o penas de prisión muy cortas, en el caso de los mapuches los jueces calificarían estos mismos delitos como actos de terrorismo y aplicarían penas de prisión muy severas, de por lo menos diez años.

Communication received

14. El 23 de mayo de 2006 el Gobierno informó a la Alta Comisionada de las Naciones Unidas para los Derechos Humanos de que los afectados depusieron temporalmente la huelga de hambre, en cuanto los senadores Alejandro Navarro y Jaime Naranjo presentaron un proyecto de ley con el objeto de modificar el Decreto-ley N° 321 sobre libertad condicional. El Gobierno había asignado "suma urgencia" a la tramitación de este proyecto de ley. El Gobierno también indicó que más allá del caso específico de estas personas, esta situación no responde a una persecución política hacia el movimiento indígena mapuche. El Gobierno ha reconocido como legítima la demanda de los pueblos indígenas, en especial del mapuche, y estas demandas han sido encauzadas por mecanismos y canales institucionales. El Gobierno pidió a la Alta Comisionada que transmitiera esta información a los Relatores Especiales que mandaron comunicaciones sobre este caso.

Colombia

Communication sent

15. El 10 de febrero de 2006 el Relator Especial, junto con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, señaló al Gobierno la información en relación con las fumigaciones llevadas a cabo en la zona fronteriza entre el Ecuador y Colombia en el contexto del Plan Colombia. Según las informaciones recibidas, a pesar de las informaciones sobre la suspensión de estas fumigaciones, son preocupantes los efectos de las mismas en ambos países. Como consecuencia de las fumigaciones efectuadas en el contexto del Plan Colombia se habría producido, entre otras, la destrucción de los cultivos de subsistencia, el empobrecimiento de la calidad del suelo y la reducción de la capacidad de producción de las poblaciones fronterizas mayoritariamente habitadas por poblaciones indígenas y campesinas. Estas poblaciones, en su mayoría de origen indígena y campesino, habrían observado un gran deterioro en su ya de por sí difícil situación socioeconómica. Además, los informes afirman que los efectos de las fumigaciones han afectado gravemente a los incentivos privados de producción y comercialización de alimentos como la fábrica de harina de plátano de Santa Marianita o el proyecto agroindustrial en Puerto Mestaza en el Ecuador. En varias comunidades se han dado pérdidas de ganado y se denuncia un incremento en las malformaciones y abortos del ganado cerca de la frontera durante las fumigaciones y después de ellas. Todo esto parece que haya ocasionado un fuerte estado de inseguridad alimentaria en las poblaciones fronterizas y, en consecuencia, ha desencadenado una ola de migración al interior del país. Según los informes, la desnutrición, siendo una constante en comunidades empobrecidas, estaría alcanzando niveles preocupantes. En otras comunidades se observó como desaparecían los cultivos de ciclo corto en menos de 15 días tras las fumigaciones. Se informa también de que cuatro años después del comienzo de las fumigaciones algunos cultivos de plátanos, guineos, oritos, yuca, maíz, frutales y determinadas hierbas aromáticas habrían desaparecido o habrían sufrido un impacto negativo importante, al reducirse su calidad y cantidad en comparación con los periodos previos a las fumigaciones. Se alega que las fumigaciones han tenido además un efecto negativo en la salud de las poblaciones fronterizas al contaminar sus fuentes de agua y la vida acuática. En muchos ríos, entre ellos el río Mira, que fluye dentro del territorio del Ecuador, se habría observado un gran porcentaje de restos del producto químico utilizado en estas fumigaciones. El Relator Especial cree que los hechos alegados parecen indicar una violación del derecho a la alimentación de las poblaciones fronterizas entre el Ecuador y Colombia. Las fumigaciones parecen producir la destrucción de los cultivos de subsistencia, el empobrecimiento de la calidad del suelo, y la reducción de la capacidad productiva de las cosechas, lo cual no sólo repercute en las actividades económicas de las comunidades sino también en el acceso de la población a una alimentación adecuada. Además, los grupos más vulnerables, y en particular, los derechos fundamentales de las poblaciones indígenas awas, han sido particularmente afectados por los efectos del desplazamiento que, sucesivamente, ha tenido consecuencias negativas sobre los medios de vida de estos grupos de la población. Además la contaminación del agua de los ríos amenaza el derecho a la salud de las comunidades.

Communication received

16. El 22 de marzo de 2006 el Gobierno contestó a los Relatores Especiales sobre el asunto de las fumigaciones indicando que la erradicación de los cultivos ilícitos mediante la aspersión aérea con glifosato no produce inseguridad alimentaria, no produce efectos nocivos sobre los cultivos, los animales ni agua, y tampoco produce riesgos para la salud de los pobladores de las zonas aledañas. El Gobierno en su respuesta habla de manera muy completa del funcionamiento del Programa de Erradicación de los Cultivos Ilícitos mediante aspersión aérea con herbicida Glifosato (PECIG) incluso el manejo de las operaciones de aspersión, la detección y la aspersión. La carta del Gobierno también explica muy en detalle las medidas especiales tomadas en relación con la erradicación de los cultivos ilícitos mediante la aspersión aérea con glifosato, como las medidas legislativas, ejecutivas y reglamentarias.

Follow-up

17. Los Relatores Especiales agradecen mucho los detalles que el Gobierno proporcionó. Los Relatores Especiales reaccionaron el 20 de junio de 2006 diciendo que hasta el momento no hay claridad de cuál es la formulación con la que se producen las aspersiones aéreas. Existen denuncias de que se han utilizado diferentes tipos de químicos como el Fusarium Oxisporum, el Imazapir y el 2-4-D y el Paraquat. Además parece que no se sepa en qué proporción el glifosato es usado y cuál es la composición real del producto finalmente utilizado. Respecto al proceso de aspersión, se alega que las aspersiones aéreas se realizan a una altura tal (de 15 a 60 m) que se hacen incontrolables, y afectan a casas, escuelas, cultivos lícitos, animales, selvas, fuentes de agua y ríos. Esta imprecisión ha permitido la contaminación de la frontera del Ecuador, afectando, como se alega, a las personas que viven en ella. En lo que respecta al derecho a la alimentación, la preocupación de los Relatores Especiales no se limita sólo al riesgo sobre la seguridad alimentaria sino también al derecho a que los alimentos no contengan sustancias nocivas. Un informe de la policía del Valle de Guamuez reconoce que tras las fumigaciones de enero y febrero de 2001 sobre 29.000 ha de coca, se produjeron afectaciones de más de 4.430 ha de cultivos de alimentos, denuncias de más de 1.791 personas afectadas y más de 96.222 animales muertos o muy enfermos. Una denuncia presentada ante la Defensoría del Pueblo de Ecuador, en diciembre de 2001, recoge que tras las fumigaciones de principios de año, fueron afectadas 2.560 ha de cultivos legales y más de 11.828 animales resultaron enfermos o muertos por las fumigaciones. Se alega que la situación de hambruna que generó esta situación ha provocado que en el año 2005 haya comunidades con niveles de migración del 50 al 80% del total de la población. Incluso la Cruz Roja Ecuatoriana reconoce que la segunda causa de desplazamiento de la población colombiana al Ecuador, en un 54%, se debe a las fumigaciones que afectan a sus productos. Las nacionalidades y pueblos indígenas han sido particularmente vulnerables, pues las fumigaciones afectan las bases de su cultura agrícola. La destrucción de la yuca, por ejemplo, les ha impedido la elaboración de la chicha, alimento fundamental de su dieta. A pesar de la declarada suspensión de estas fumigaciones, los Relatores Especiales también señalaron informaciones sobre informaciones que el 20 de mayo de 2006 las comunidades de El Charco, Mataco y San Miguel del Río fueron afectadas por fumigaciones desde 4 avionetas y 5 helicópteros que duraron aproximadamente una hora. Parece que estas fumigaciones afectaron también importantes cultivos de pancoger como papachina, chivo, banano, yuca y plátano.

Communication sent

18. El 21 de marzo 2006 el Relator Especial con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas escribieron al Gobierno sobre la información en relación con la situación de varias comunidades indígenas asentadas en la cuenca del río Atrato que se están viendo afectadas por la lucha entre las Fuerzas Armadas colombianas y los grupos insurgentes y paramilitares. Según la información recibida, estas comunidades están sufriendo un bloqueo económico por parte de la fuerza pública colombiana con el fin de evitar que los alimentos comprados por los indígenas puedan ser utilizados por la guerrilla. Para ayudar a estas familias, se informa de que el ejército ha llevado a cabo algunas acciones encaminadas a abastecer de alimentos a algunas comunidades urbanas de la región, alimentos que, sin embargo, no llegan a las comunidades rurales más alejadas. La escasez de alimentos estaría provocando el aumento de los precios de los productos de primera necesidad y hambrunas en ciertas localidades. Asimismo, se informa de que a esta precariedad se añade el minado de campos de cultivo por parte de la guerrilla, lo que amenaza las vidas de los indígenas y les impide cultivar la tierra, obtener alimentos de su medio ambiente y moverse libremente por su territorio. A esta situación general de dificultad, se añaden las informaciones de que supuestamente el 12 de marzo se produjo un tiroteo en la comunidad indígena de Conondo entre militares del Ejército Nacional y guerrilleros de las Fuerzas Armadas Revolucionarias de Colombia (FARC) con el resultado de la muerte de un niño (Wallington Arce Vitucay) y heridas a otros seis indígenas. El Relator Especial cree que los hechos alegados parecen indicar una violación de la obligación de respetar el derecho a la alimentación de las comunidades indígenas como los bloqueos económicos por parte de la fuerza pública tienen el efecto de impedir el acceso de las comunidades a una alimentación adecuada. También el Relator Especial cree que los hechos alegados parecen indicar una violación de la obligación de proteger el derecho a la alimentación de estas comunidades en cuanto las autoridades no han tomado todas las medidas necesarias para que la guerrilla no ponga minas en los campos utilizados para la cultivación.

Communication received

19. El 18 de julio de 2006 el Gobierno indicó en su respuesta que se inició investigación previa por parte de la Fiscalía 100 Especializada de Quibdó el 17 de marzo de 2006 bajo el radicado N° 153570 con testimonios de Aureliano Arce Mamundía y David Vitucay Manugama. Como resultado, el 27 de marzo se ordenó por competencia remitir las diligencias a la justicia penal militar, Batallón de Infantería Alfonso Manosalva Florez. El Gobierno continúa diciendo que seguirá atento al resultado de estas investigaciones respecto de lo cual informará oportunamente a los Relatores Especiales.

Follow-up

20. Los Relatores Especiales quisieran agradecer al Gobierno la información enviada sobre las investigaciones que se estaban llevando a cabo sobre la muerte del niño Wallington Arce Vitucay y quisieran expresar su reconocimiento de la importancia que esta medida tiene para el esclarecimiento de las responsabilidades en la muerte del menor antes mencionado. Sin embargo, los Relatores Especiales recordaron el 15 de agosto de 2006 que la comunicación precedente solicitaba asimismo información sobre la situación en la que se encontraban las comunidades

indígenas asentadas en la cuenca del río Atrato, las que, de acuerdo con la información recibida, estaban sufriendo un bloqueo económico. Este bloqueo tendría como fin dificultar el acceso a alimentos a miembros de la guerrilla, aunque estaba afectando igualmente a las comunidades indígenas de la región. Los Relatores Especiales permanecen interesados en recibir información sobre la situación y los efectos que el presunto bloqueo económico habría tenido para los derechos humanos de las comunidades indígenas anteriormente mencionadas.

Democratic People's Republic of Korea

Communication sent

21. On 17 May 2006 the Special Rapporteur together with the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea wrote to the Government concerning reports of recent governmental decisions to restrict emergency food assistance by international organizations, ban the private sale of grain and fully reinstate the Public Distribution System (PDS), which could lead to violations of the right to food particularly for the poor and destitute communities. The allegations received claim that in October 2005, the Government returned to banning the private buying and selling of grain, the main source of nutrition for most of the population. In addition, it was also reportedly announced that the PDS, which provided coupons for food and consumer goods to the population through their places of work or study, was to be fully reinstated. During the food crisis of the 1990s, a large number of people who depended on their PDS rations died from starvation and many suffered severe malnutrition and hunger as the system broke down. The Special Rapporteur believes that these facts indicate a possible violation of the obligation to respect the right to food as relevant authorities have not refrained from reverting to food policies which may impinge on people's access to adequate and sufficient food, including banning the private sale of grain, reinstating the PDS and restricting international food assistance operations. In addition, the alleged facts would appear to indicate a violation of the obligation to fulfil the right to food as relevant authorities have failed to provide adequate access to food to the people who are unable to do so themselves.

Communication received

22. On 7 July 2006 the Government replied, rejecting the communication on the basis that it was another attempt to spread fabricated information to defame, disintegrate and overthrow the State and social system of the country on the pretext of human rights. According to the Government, this communication has no relevance to genuine human rights.

Ecuador

Communications sent

23. El 10 de febrero de 2006 el Relator Especial, juntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, señaló a la atención del Gobierno la información que habían recibido en relación con las fumigaciones llevadas a cabo en la zona fronteriza del Ecuador con Colombia en el contexto del Plan Colombia. A pesar de las informaciones sobre la suspensión de las fumigaciones en la zona, eran muy preocupantes las alegaciones sobre los efectos de las mismas. Según las informaciones

llevadas a su atención, como consecuencia de las fumigaciones efectuadas en el contexto del Plan Colombia, se habría producido, entre otras, la destrucción de los cultivos de subsistencia, el empobrecimiento de la calidad del suelo y la reducción de la capacidad de producción de las poblaciones fronterizas. Estas poblaciones, en su mayoría de origen indígena y campesino, habrían observado un gran deterioro en su ya de por sí difícil situación socioeconómica. Además, los informes afirmaban que los efectos de las fumigaciones habían afectado gravemente a las iniciativas privadas de producción y comercialización de alimentos como la fábrica de harina de plátano de Santa Marianita o el proyecto agroindustrial en Puerto Mestaza. En varias comunidades se habían dado pérdidas de ganado y se denunciaba un incremento en las malformaciones y abortos del ganado cerca de la frontera durante las fumigaciones y después de ellas. Todo esto parecía que hubiera ocasionado un fuerte estado de inseguridad alimentaria en las poblaciones fronterizas y, en consecuencia, había desencadenado una ola de migración al interior del país. Según los informes, la desnutrición, que es una constante en comunidades empobrecidas, estaría alcanzando niveles preocupantes. En algunas de las comunidades de Sucumbios, como por ejemplo en Unión Lojana, Chone II, Santa Marianita y Monterrey, se observó cómo desaparecían los cultivos de ciclo corto en menos de 15 días tras las fumigaciones. Varios estudios parecerían demostrar que la concentración de fósforo en las plantas a 3 km de la frontera es muy superior a la concentración en el suelo. Se informaba que cuatro años después del comienzo de las fumigaciones algunos cultivos de plátanos, guineos, oritos, yuca, maíz, frutales y determinadas hierbas aromáticas habrían desaparecido o habrían sufrido un impacto negativo importante reduciéndose su calidad y cantidad en comparación con los períodos previos a las fumigaciones. Se alegaba que las fumigaciones habían tenido además un efecto negativo en la salud de las poblaciones fronterizas al contaminar sus fuentes de agua y la vida acuática. En muchos ríos, entre ellos el río Mira, que fluye dentro del territorio del Ecuador, se habría observado un gran porcentaje de restos del producto químico utilizado en las fumigaciones que se llevan a cabo en territorio de Colombia. La situación de las comunidades que se asientan en el río Mira, en la provincia de Esmeraldas, parecía ser preocupante debido al hecho de que el río es utilizado para el uso personal y doméstico de estas comunidades. En particular el Relator Especial llamó la atención sobre la situación de vulnerabilidad de ciertas comunidades indígenas que viven en la zona como las comunidades awas que además de los impactos de las fumigaciones denunciaban ser objeto de un número de abusos contra sus derechos y libertades fundamentales. La reforma agraria presuntamente despojó de importantes territorios a los indígenas para el desarrollo de actividades petrolíferas y extractivas en sus territorios. Como consecuencia sus derechos a la alimentación y a la salud se habrían visto afectados. Se había denunciado que tras las fumigaciones se produjo el desplazamiento de toda la comunidad de Sumac Pamba que no volvió a su lugar de origen. Se denunciaba también que las empresas palmicultoras han causado grave contaminación del agua potable por el uso de 18 tipos de químicos. En consecuencia, parecía que la biofauna, que servía para el consumo diario, doméstico y de recreo, ha muerto. Diversas actividades se habían visto afectadas por la imposibilidad de utilizar el agua contaminada que, además de presentar coloración y grasas que son detectables a simple vista, tenía olores que afectaban a la población. El Relator cree que estos hechos alegados parecen indicar una violación del derecho a la alimentación de las poblaciones fronterizas del Ecuador con Colombia. Las fumigaciones parecen producir la destrucción de los cultivos de subsistencia, el empobrecimiento de la calidad del suelo, y la reducción de la capacidad productiva de las cosechas lo cual no sólo repercute en las actividades económicas de las comunidades sino también en el acceso de la población a una alimentación

adecuada. Además, los grupos más vulnerables, y en particular, los derechos fundamentales de las poblaciones indígenas awas, han sido particularmente afectados por los efectos del desplazamiento que, sucesivamente, ha tenido consecuencias negativas sobre los medios de vida de estos grupos de la población. A todo esto se debe agregar la falta de acceso a servicios públicos y la constante militarización de la zona fronteriza que acentúan directa o indirectamente las violaciones del derecho a la alimentación. Además la contaminación del agua de los ríos amenaza el derecho a la salud de las comunidades.

Follow-up

24. El Gobierno todavía no ha contestado a esta comunicación. Sin embargo el Relator Especial dio seguimiento a esta comunicación el 30 de agosto de 2006 expresando que seguía preocupado por la situación de las comunidades afectadas por las fumigaciones. El Relator Especial, tras ser informado de la reciente finalización de un informe realizado por las Naciones Unidas tras una misión conjunta llevada a cabo en el mes de febrero de 2006 en seguimiento a la solicitud del Gobierno para evaluar el impacto potencial de las fumigaciones en las comunidades afectadas, también pidió una copia de este informe. El Relator Especial quisiera agradecer al Gobierno por su diligencia en enviar el informe, el 18 de septiembre de 2006.

Communication sent

25. El 21 de julio de 2006 el Relator Especial junto con el Relator Especial sobre la vivienda adecuada señalaron a la atención del Gobierno la información en relación con la situación de cerca de 120 familias campesinas, que fueron víctimas de un desalojo en hechos ocurridos en La Yuca, en el cantón de Palenque. De acuerdo con esta información, existía seria preocupación por la situación general, en particular por la seguridad y la integridad física y psicológica de estas familias que fueron desalojadas de manera violenta el 18 de junio de 2006, tras de una masiva operación policial en el Cantón de Palenque. Ese día, la policía obligó a hombres, mujeres y niños a abandonar sus viviendas y a que se suspendieran abruptamente las clases en la escuela del recinto La Yuca, en Palenque y en Los Ríos, en donde la policía también obligó a decenas de niños a desalojar las aulas. Además, según las denuncias, al menos 12 viviendas incluyendo la escuela habrían sido destruidas. Se afirma que la orden del desalojo fue dada por el intendente de policía, Mario del Rosario Moreno, luego de que, según el Gobernador de Los Ríos, Néstor Orlando Coello, la orden fuera emitida por el Director del Instituto Nacional de Desarrollo Agrario (INDA), Carlos Aguirre. Se alega también que durante el desalojo la policía utilizó excavadoras para destruir las viviendas, así como tanquetas antidisturbios y bombas lacrimógenas para impedir cualquier concentración de los moradores. Además, no se permitió la entrada de personas, defensores o abogados que pudieran ser testigos de estas actuaciones policiales. Además, se afirma que las tierras en disputa involucran a decenas de familias asentadas en La Yuca, Artillería, Los Mosquitos, La Victoria, Aguacatal y otros recintos. Actualmente unas 120 familias residen en la Yuca y poseen el título de propiedad de las tierras otorgado por el antiguo Instituto de Reforma Agraria y Colonización (IERAC) -institución ahora reemplazada por el INDA-, además de que pagan los respectivos impuestos en el municipio de Palenque. Los terrenos en litigio son reclamados por los herederos de una persona apellidada Pimentel Delgado, quienes han estado reclamando esas tierras, con el argumento que son una herencia de sus ancestros. Sin embargo, las familias desalojadas parece que tienen escrituras otorgadas por el IERAC, el cual no reconoce los documentos anteriores sobre esas tierras. Parece

que este conflicto de tierras se inició hace nueve años cuando el IERAC fue sustituido por el INDA, el cual legalizó a favor de los herederos de Pimentel y de la Sra. Martha Delgado Coello, viuda de Pimentel, una extensión de 4.600 ha de tierra que corresponde a los recintos La Yuca, Artillería de Arriba, Artillería de Abajo, Pampas de Arriba, Pampas de Maculillo, Bombón, La Delia, parte de Los Mosquitos, y otros lugares cuyos moradores se encuentran en la misma situación que los de La Yuca. Según los agricultores esas tierras fueron denunciadas anteriormente ante el IERAC y ahora ante el INDA y les fueron adjudicadas en Quito. Los campesinos pagaron por ellas al banco y obtuvieron las escrituras que les han servido por años para la obtención de créditos con el Banco Nacional de Fomento. El Relator Especial cree que los hechos alegados parecen indicar una posible violación del derecho a la alimentación y a la vivienda adecuada de estas familias que se quedan desalojadas, sin vivienda, sin tierra para el trabajo y de consecuencia sin acceso a sus recursos de subsistencia habituales.

Communication received

26. El 31 de agosto de 2006 el Gobierno contestó indicando que el ministerio público de la provincia de Los Ríos está conduciendo investigaciones sobre este caso. El Gobierno informó de que dentro de estas investigaciones, se realizó el 13 de julio de 2006 una inspección ocular *in situ* que constató la destrucción, incendio y saqueo de 48 viviendas de los moradores de ese predio. El Gobierno también señaló que esta información tiene el carácter de temporal hasta que finalicen las investigaciones que tienen carácter reservado.

Communication sent

27. El 30 de noviembre de 2006 el Relator Especial señaló a la atención del Gobierno información en relación con los efectos negativos sobre el derecho a la alimentación y al agua que el proyecto Multipropósito Quevedo-Vinces en la subcuenca del río Vinces conformada por el sistema hidrográfico de los ríos Baba, Quevedo y Vinces podría causar a las comunidades cercanas. Según estas informaciones, este proyecto, que ha sido declarado obra de prioridad nacional en un contexto de crisis energética, está compuesto por la presa Baba, la central hidroeléctrica de Baba y el trasvase Baba-Daule Peripe y tiene entre sus propósitos regular sustancialmente los caudales, desarrollar un buen control de las inundaciones en el ciclo de la lluvia, almacenar el agua para proveerla en la estación seca con fines de consumo humano como agua potable y para riego, y generar energía eléctrica. La cuenca hidrográfica del río Guayas donde se situaría el megaproyecto es por su extensión y recursos naturales renovables la más importante del océano Pacífico de América del Sur y es considerada como la fuente más importante de abastecimiento agrícola del Ecuador. Las autoridades competentes calculan que el cultivo del 50% de la superficie de esta región alimenta a más de 10 millones de habitantes y que de cada 2,3 ha sembradas en el país, 1 ha pertenece a esta cuenca. Los informes recibidos afirman que la represa de Baba inundaría una superficie de 3.550 ha desplazando a aproximadamente 1.490 familias de 15 comunidades e inundando a otras 1.350 familias de 14 recintos de campesinos que incluyen comunidades afroecuatorianas. De llevarse a cabo este proyecto, estos informes denuncian que se destruiría no solamente la infraestructura de estas comunidades sino también significaría la inundación de más de 3.500 ha de tierra de alta fertilidad en donde se producen múltiples productos agrícolas de consumo interno. Las informaciones recibidas mencionan que ya la construcción de la represa Daule Peripa en 1999 tuvo como efecto el desplazamiento de 40 comunidades de sus tierras o de quedarlas

aisladas e incomunicadas. Según estas informaciones, estas comunidades tuvieron que confrontar la pérdida de fertilidad en las áreas aledañas a la represa que se dio por la sedimentación y eutrofización de los ríos y debido a que la represa obstaculizó los medios tradicionales de subsistencia de las poblaciones como la agricultura y la pesca y condujo a una situación de pobreza en donde se reporta un alto riesgo de desnutrición y mortalidad. Además se afirma que esta represa ha disminuido la calidad y disponibilidad de agua de los ríos y pozos que las comunidades aledañas utilizan para su abastecimiento. En el cantón Pichincha en la provincia de Manabí, aledaño a la represa, se observa que el color del agua es oscuro, su olor es fétido y su composición ya no es apta ni para el consumo de los animales. A pesar de esto se sigue utilizando ese agua para consumo humano. Las informaciones recibidas indican también que el relleno del embalse inundó el río y destruyó la única vía de comunicación que tenían los campesinos para transportar sus productos. Según los informes recibidos estos efectos podrían reproducirse en el caso del megaproyecto Quevedo-Vinces. El Relator Especial cree que, en relación con la represa Daule-Peripa, los hechos alegados parecen indicar una posible violación de la obligación de respetar el derecho a la alimentación de las comunidades afectadas en cuanto las autoridades competentes llevaron a cabo este proyecto sin una compensación y indemnización adecuadas, a consecuencia de lo cual, para la gran mayoría de los afectados no ha sido posible restaurar sus accesos anteriores a un abastecimiento de alimentación y agua suficiente y adecuado. En relación con el proyecto Quevedo-Vinces los hechos alegados podrían conducir a una posible violación de la obligación de respetar el derecho a la alimentación de las comunidades aledañas si las autoridades competentes no realizan un plan para mitigar los posibles efectos negativos sobre el derecho a la alimentación y al agua de estas comunidades.

Germany

Communication sent

28. On 16 October 2006 the Special Rapporteur wrote to the Government regarding allegations that the Züblin company has submitted an application to the relevant authorities for an export risk guarantee of approximately €100 million for the Ilisu Dam on the River Tigris in south-eastern Turkey. According to this information, an international consortium led by the Austrian enterprise Andritz (see above), which has sought support from the Austrian Control Bank for an export credit guarantee of around €200 million, is in charge of carrying out construction work for the dam. The information received claims that in November 2005 the consortium submitted a revised environmental impact assessment and a new resettlement plan. Nevertheless, it appears that the dam could displace between 50,000 and 80,000 people, mostly Kurds, affecting the human rights, including the right to food, of these populations and the environment. According to this information, the region has a large number of IDPs and has been affected by widespread marginalization. Many families are already reported to lack access to food, clean and accessible water, sanitation and housing. The Special Rapporteur believes that the alleged facts could lead to a violation of the obligation to cooperate in respecting the right to food and water of the people who could be displaced by the dam construction if the authorities examining the export credit guarantee application do not cooperate with the Turkish authorities in providing appropriate safeguards to ensure that the displacement of these people without adequate resettlement and compensation plans does not interfere with their livelihoods and access to sufficient and adequate food.

India

Communications sent

29. On 7 April 2006 the Special Rapporteur together with a number of other special procedures of the Human Rights Council brought to the Government's attention information received concerning environmental activists and human rights defenders involved with Narmada Bachao Andolan (NBA - Save Narmada Movement) and in particular the NBA leader, Ms. Medha Patkar, and Jamsing Nargave (from Amlali village, Badwani District) and Bhagwatibai Jatpuria (from Nissarpur village, Dhar District). In addition to earlier concerns expressed regarding the impact of increasing water levels in the Sardar Sarovar Dam on the Narmada River, the special procedures expressed concern about developments in this respect. According to information received on 8 March 2006, the Narmada Control Authority took a decision to raise the height of the Sardar Sarovar Dam from the present 110.64 metres to 121.92 metres. The implementation of this decision, apart from contravening the judgement of the Supreme Court of India in 2000 according to which any further increase in the height of the dam was to be linked to the implementation of resettlement and rehabilitation measures, would allegedly result in the further violation of a range of human rights of those affected. They were aware of the indefinite sit-in (*dharna*) undertaken by the over 300 dam-affected persons and NBA activists in New Delhi since 17 March to demand a halt to construction of the dam, as well as of the situation of the three NBA activists who had begun an indefinite fast on 29 March 2006. According to information received, adequate rehabilitation has not been provided for those affected by the dam, many of whom are indigenous peoples and farmers. Furthermore, alternative agricultural land is not being provided and where land has been allotted, as in Maharashtra and Gujarat, it is allegedly uncultivable and inadequate. Official estimates say that an additional 24,421 families in 177 villages of Madhya Pradesh are to be displaced should the dam height be raised to 121.92 metres. According to estimates from civil society organizations, at least 10,000 families were affected when the height of dam water level was previously raised to 110 metres who are still awaiting rehabilitation. Women and children are the worst affected by displacement and the lack of adequate rehabilitation.

30. On 12 April 2006 the Special Rapporteur together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people wrote to the Government about allegations of deaths from starvation. In particular, the information received claims that on 24 January 2006 Ms. Bisni Mal, and a few days later her husband, Joyram Mal, members of one of the 13 indigenous families from Pakurdiar village in Jalangi, Murshidabad, died due to ill-health resulting from lack of food. In addition, on 6 March 2006, 8-year-old Deepali Singh, daughter of Kalipada Singh and resident of the same village, died of starvation. Allegedly, her medical report indicates that she was suffering from anaemia and hepatomegalia. The allegations received claim that because of river erosion in the Jalangi area, most people have lost their homes and lands. In this area there are reportedly no industries and the usual means of livelihoods of local communities used to be agriculture. However, erosion has affected most of the cultivated land, thus depriving the local communities of their usual access to food. In Jalangi villagers were promised ration cards that would enable them to obtain access to food grains, sugar, kerosene, oil and other items at subsidized rates. Reportedly, the majority of the villagers have not been able to access these items as either the shops which sell the subsidized food are closed or shopkeepers refuse to sell to the cardholders, claiming that the cards are counterfeit. It

is claimed that local authorities have not yet adequately intervened to address these problems. In addition, Murshidabad District has been identified as one of the places where the National Employment Guarantee Act, 2005 will be implemented. This legislation stipulates that 100 days of work at the minimum wage should be provided to a majority of the residents. It is claimed that in Jalangi this welfare scheme has not yet been implemented and most of the villagers have not had access to jobs or alternative land to cultivate. Bisni Mal and Joyram Mal were not given ration cards and had been unable to eat for days before they died. Allegedly, when their son left the house in search of employment, he gave his parents some grain on which they managed to survive for a few days. The Special Rapporteur believes that these facts appear to indicate a violation of the Government's obligation to respect the right to food, as omissions by the relevant authorities contributed to the violation of the right to life of Bisni Mal, Joyram Mal and Deepali Singh. In addition, the alleged facts would appear to violate the obligation to fulfil the right to food, as relevant authorities have failed to provide adequate food to Bisni Mal, Joyram Mal, Deepali Singh and the villagers in Jalangi, given their inability to do so themselves.

31. On 12 April 2006 the Special Rapporteur together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people raised with the Government further allegations of deaths from starvation. In particular the information received by the Special Rapporteur claims that on 7 February 2006 Katraju Lakshmi, a Chenchu tribal woman working as a bonded labourer in the State of Meghalaya, died due to ill-health resulting from lack of food. The Chenchu tribe is mostly found in the Nallamalai hills of Andhra Pradesh and used to depend on the forest for their food. Forest products used to enable them to feed themselves and survive. This situation has reportedly changed in recent years due to the reduction in forest cover and the subsequent depletion of forest produce which has reportedly forced Chenchu to look for alternative employment opportunities. The allegations received claim that 600 Chenchu tribal people from Marredmandinne village in Pedakottapally Division, Mahabubnagar District, Andhra Pradesh, work as bonded labourers on construction sites in the State of Meghalaya. In addition, most of the Chenchu do not possess ration cards which would enable them to receive subsidized grain. It is reported that, following the tribe's displacement from their original habitations to nearby villages, village heads and village secretaries could not refer their names to the local administration for issuing ration cards because they were not original residents of these villages. It also appears that the Chenchu are generally not aware of their entitlements and authorities have so far failed to inform and educate them. It is alleged that perennial drought, lack of alternative employment, abject poverty and the absolute absence of other means to feed their families forced the illiterate Chenchu to search for employment in far-off places. Taking advantage of their situation, middlemen allegedly promised to provide them with employment in nearby cities such as Warangal and Hyderabad, but instead took them to places as far away as Meghalaya, which is almost 1,700 km from their home. The Chenchu reportedly covered the costs of living and transport through loans from the labour contractors. Unable to pay back the loans, they were forced to become bonded labourers. It is also claimed that tribal women are doubly affected due to the wage discrimination they suffer and the threats to their physical security they receive. When food is scarce, tribal women are often the ones who suffer most from hunger and malnutrition. The allegations received claim that Katraju Lakshmi was among the group of Chenchu that migrated to Meghalaya in September 2005. She worked as a construction labourer for the Lekhya power plant near Shillong in the State of Meghalaya. She was reportedly paid an advance of 1,000 rupees by middlemen and then forced into bonded

labour. During pregnancy Katraju Lakshmi did not receive any assistance from the local Integrated Child Development Scheme Department, which is supposed to supply nutritious food to pregnant women. As a result she suffered from post-childbirth weakness and ill-health and faced acute poverty and lack of food. During her last days, Katraju Lakshmi survived on a small quantity of rice and mixed vegetable juice. As per agreement, middlemen have to provide cooked meals to all labourers during their stay at the workplace. However, it is alleged that the meals they supplied were insufficient and inadequate. Katraju Lakshmi's health was already precarious when she started working at the site. This coupled with insufficient and inadequate food and hard labour led to further deterioration of her health, leading to her death. The Special Rapporteur believes that these facts appear to indicate a violation of the Government's obligation to respect the right to food, as omissions by the relevant authorities contributed to the violation of the right to life of Katraju Lakshmi and to the violation of the right to food of the Chenchu tribe in their places of residence by displacing them and thus depriving them of their usual access to food. In addition, the alleged facts would appear to violate the obligation to protect the right to food of Katraju Lakshmi as the relevant authorities failed to take measures to ensure that companies and individuals did not deprive Katraju Lakshmi and the Chenchu of their access to adequate food. Finally, the alleged facts would appear to violate the obligation to fulfil the right to food, as relevant authorities have failed to provide adequate food to Katraju Lakshmi and the Chenchu tribe given their inability to do so themselves.

32. On 21 August 2006 the Special Rapporteur wrote to the Government regarding the following:

- Allegations of the acute food crisis and failure of the Public Distribution System (PDS) in Nindura Block, Barabanki District, Uttar Pradesh. In particular, these allegations claim that on 5 May 2006, a group of nearly 200 villagers gathered at the district headquarters under the banner of the Rozi Roti Sammittee, a community-based organization which provides a forum for villagers to raise their concerns. The 200 villagers from Nindura congregated in response to a promise made by local block officials to resolve the problems of the PDS shop and its functionality by 19 April 2006. The group reportedly also called on the local authorities not only to provide ration cards to those who had not received any assistance, but also to allot new ration shops in Dadera and Odoria villages (*gram panchayat*). It is also reported that the local village council leaders (*gram pradhan*) and secretary were demanding bribes for the distribution of Anntoyoda, Annapurna and Below Poverty Line ration cards in those villages, as well as in Munimpur, even though villagers are entitled to them. The Special Rapporteur believes that the relevant authorities have failed to provide ration cards to those who are entitled to them and adequate access to food and financial means to purchase it, including by failing to improve the functionality of existing ration card shops, open new ration card shops in the areas concerned and implement the relevant welfare schemes approved for this district;
- Allegations of deaths by starvation. It is reported that 9-month-old Seema Musahar, daughter of Laxmi Musahar (35) and Chotelal Musahar (40), died as a result of lack of food on 28 July 2006; Laxmi's father, Mr. Phoolchand, from Belwa village, Badagaon Block, Varanasi District, Uttar Pradesh, similarly died on 18 June 2006. It appears that Seema's death occurred following attempts by her mother to receive help from a

primary health centre approximately 9 km from her village. The allegations received claim that Seema's parents had worked for some time at a brick kiln for which they received small amounts of low-quality grain and chaff as payment. Since they left that job, they have been unemployed and unable to have access to adequate and sufficient food for themselves and their family. As a result, Laxmi Musahar was unable to produce sufficient milk for her child. Following Mr. Phoolchand's death, the Musahar family met with the District Magistrate, Block Development Officer and Sub-Divisional Magistrate to request their support through relevant government welfare schemes. The District Magistrate gave them a note to admit them to the district hospital in Varanasi. Seema was reportedly admitted to hospital on 26 June 2006 but discharged on 1 July 2006, allegedly without receiving adequate treatment. In addition, on 11 July 2006 Laxmi wrote to the District Magistrate requesting 1,000 rupees from emergency funds to help her family, but received no reply. The information received also reports the death on 29 May 2006 of Muneeb Musahar, a 3-year-old boy from Belwa village, allegedly due to lack of food. On 26 May 2006 the primary health centre at Baragaon reportedly recorded that he weighed 10 kg and was suffering from severe malnutrition. Muneeb was taken for medical attention just before his death and was found to be in a critical condition. The Special Rapporteur believes that omissions by the relevant authorities have contributed to the violation of the right to life of Seema Musahar, Mr. Phoolchand and Muneeb Musahar, while relevant authorities failed in their obligation to fulfil as they did not provide adequate food to Seema Musahar, Mr. Phoolchand and Muneeb Musahar, given their inability to do so themselves;

- Allegations that the residents of Jai Bheem Nagar (JBN), in Meerut City, Uttar Pradesh, do not have access to safe drinking water and are therefore compelled to consume contaminated water. JBN is a slum located on the banks of the Kali Ganga River in Meerut City, which has a population of approximately 10,000 people, mostly Dalits. As there is no provision for municipal water available to JBN residents, they are compelled to consume water from private and government hand pumps. The water that comes from these pumps as well as from the river is polluted, discoloured and has a foul odour. In addition, this water appears to be contaminated with heavy metals like chromium, cadmium, lead, iron and mercury at levels many times over the accepted limits. The JBN residents claim that the consumption and use of the polluted drinking water has caused cases of diarrhoea and skin diseases, and that children are often subject to waterborne infections. In addition, it appears that women suffer the most as they have to travel several kilometres to fetch safe drinking water. It appears that there are several distilleries, paper and sugar mills, as well as chemical plants on the banks of the Kali Ganga River in Meerut City which have contaminated the river and the groundwater. This contamination is reportedly due to the discharge of hazardous effluents from the chemical industries, the leaching of pesticides from the nearby agricultural fields and biomedical waste. It is reported that these industries do not have operational Common Effluent Treatment Plants (CEPTs) and Sewage Treatment Plants (STPs) to control the pollutants, resulting in the contamination of the water. CEPTs are reportedly mandatory for hazardous industries and industries which pollute, whereas STPs are not. The Special Rapporteur believes that the facts in this case indicate a violation of the obligation to protect the right to water as the relevant authorities have

not taken the necessary measures to protect the access to safe drinking water by the JBN residents from interference by third parties, namely the industries contaminating the water. There appears also to be a violation of the obligation to fulfil the right to water as the authorities have not yet taken the necessary measures to provide access to safe drinking water to the JBN residents, considering their inability to do so themselves;

- Allegations of threats of imminent eviction for thousands of peasants and their families in West Bengal. In particular, these allegations claim that, in order to acquire the land from the peasants in Singur, Hooghly, to make way for a car manufacturing plant owned by Tata, the Government of West Bengal has ordered the peasants to immediately stop sowing paddy on their land and accept the Government's decision to acquire the land and evict the peasants. It is reported that there have been no efforts by the authorities to identify other non-agricultural land for the car manufacturing plant and to protect the peasants' livelihoods and access to food. It appears that approximately 15,000 peasants, including agricultural labourers, unregistered sharecroppers, cottage industry workers and local small business people, who depend on the agricultural land for their livelihoods and access to food, will be directly and indirectly affected by the land acquisition. It is alleged that the compensation offered so far has been in terms of a one-time monetary payment which peasants do not consider adequate. In addition, reports indicate that the whole process for designing the compensation package has not been transparent and has not included meaningful participation of the affected groups. It is also feared that peasant women will be most severely affected by the eviction as in most cases land is not registered in their names. In the view of the Special Rapporteur the alleged facts could lead to a violation of the obligation to respect the right to food if the relevant authorities do not refrain from taking measures to evict the peasants and their families from their land, thereby interfering with their livelihoods and access to sufficient and adequate food.

Indonesia

Communication sent

33. On 27 March 2006 the Special Rapporteur together with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living brought to the Government's attention allegations that Presidential Regulation 36/2005 on the Provision of Land for the Implementation of Public Interest Development threatened the access to land and livelihoods of more than 500,000 informal landowners in urban and rural areas in different parts of Indonesia, including in those areas affected by the East Jakarta Canal project, the Pluit Dam project in Muara Baru and the Manggarai-Jatinegara-Cakung-Bekasi project. According to information received the implementation of Presidential Regulation 36/2005 may lead to mass forced evictions in connection with these projects. The allegations claim that the Regulation widens the scope for revoking land titles and acquiring land for public projects. It also provides for compensatory programmes for those affected by these measures, but allegedly only for those landowners who possess land certificates, have complete documentation and agree to the proposed compensation package. The compensation offered by the authorities is based on the selling price of taxed properties, which is reportedly below the market price. In addition, according to this Regulation, landowners shall have the right to complain within a set time frame

if they do not agree to the proposed compensation. It appears, though, that whilst the case is pending in court, the relevant authorities retain the power to evict people immediately. The information received alleges that the implementation of the Regulation could result in eviction without compensation of those landowners without valid land titles, impacting on their access to a livelihood. The majority of landowners are said to be in this category, particularly in rural areas where access to land and natural resources is often regulated by customary law. The land of those people likely to be affected by the implementation of Regulation 36/2005 guarantees their access to an adequate standard of living as well as to a livelihood, as they use the land to grow products for personal consumption or for sale at markets. The potential negative impact of Regulation 36/2005 on the access to land and livelihood of more than 500,000 landowners in urban and rural areas could lead to a violation of the obligation of the Government to respect the right to food.

Communication received

34. On 4 May 2006 the Special Rapporteurs received a reply from the Government explaining that Presidential Regulation 36/2005, on “Land Acquisition for Public Interests”, was issued on 3 May 2005 and listing 21 types of public development that fall into the category of “public interests”. It was issued to resolve the problems linked to the acquisition of land by the State, specifically for improving infrastructure. This Regulation has four main principles: certainty of the implementation of the process of development; openness of the process of development for the public interest; respect of the ownership of the land; justice in the surrendering of the land for the public interest. The new Regulation replaces former Presidential Decree 55/1993 on Land Procurement for Public Developments, which was deemed problematic, and to ensure that development projects, whether national or international, obtained government approval before they received authorization to proceed. The Government added that the new Regulation 36/2005 only allows for the compulsory acquisition of land when certain criteria are met. Apart from the four principles already mentioned, there are several procedures that apply, which include the following: prior to the approval of any land appropriation, public consultation must take place, offering the owners and members of the community a chance to voice their concerns. In the same vein, it is important to note that before a plot of land can be acquired by the Government it must be included in its regional spatial planning and also must be approved by the administrator in charge of that region. Several steps must be taken before an official authorization for the appropriation and use of the land by the Government can be accepted. Generally, an appropriation cannot take place until a majority of the local residents approve. Compensation is normally offered to landowners when this appropriation is deemed necessary. Similarly, in acquiring land for these purposes, the land must be valued at its taxable rate and compensation offered on that basis. On the matter of the land owned by individuals who do not possess a valid land certificate or title being denied their rights, such persons are not officially recognized landowners but are regulated by the district head or mayor, whose authorization is needed. If there is to be a change in ownership, written permission from the district head/mayor or governor is required. Before this, the value of the land in question is determined by an independent Price Valuation Institution or team who will calculate the basic compensation. If owners do not agree with the proposal, they have the right to submit their objection to the local district head within 90 days. If an agreement is not reached, the Government has the right to surrender the money intended as compensation for the appropriation of the land to the State court. The provisos of the new Regulation also leave room to protect the rights of the owners as they can appeal if they do

not agree with the development or the compensation. The Government assured the Special Rapporteur that the measures to develop the land and its corresponding infrastructure do not have an overarching priority over the fundamental human rights of the people that live on the land.

Communication sent

35. On 19 September 2006 the Special Rapporteur brought to the Government's attention allegations that approximately 340 peasant families in Ompo, Lapajung, Bila and Matabulu villages, Lalabata Subregency, South Celebes, have been deprived of their access to a livelihood and sufficient and adequate food. According to these allegations the peasant families in these locations have been traditionally dependent on land and forest for their access to food. They planted rice and used the forest for hunting, fishing and collecting fruits. Although during colonial rule the vast majority of land was taken away from native communities, the peasants in Ompo, Lapajung, Bila and Matabulu villages were reportedly allowed to cultivate their land following an agreement with the colonial rulers and the local officials. The allegations received claim that in 1982, Ministerial Decision No. 760/kpts/Um/10/1982 made an area of 3,615,164 hectares in South Celebes Province a State Forest Zone. Following this decision, the peasants were reportedly banned from cultivating their land on the ground that it is located within the State Forest Zone and belongs to the State. It appears that many migrated to cities in search of other employment opportunities, while others stayed and eked out a living by planting food crops in their yard. The information received indicates that the peasants have attempted to claim their land back through the Matoa Peasants Alliance since 2000. Although in 2003 an agreement was reached between the peasants and the mayor of Soppeng whereby peasants were permitted to cultivate this land, in September/October 2004, 11 peasant leaders were reportedly arrested for illegal logging. Although they have now been released, it is claimed that whilst in detention the peasant leaders did not have prompt access to their lawyers, and had restricted and irregular access to family members and medical care. This information also claims that a new agreement concluded in August 2005 between the peasants and the new mayor allows only some of the peasant families to cultivate the land. Further, it is claimed that due to harassment by the police and local authorities, including the mayor and forestry officers, the peasants are afraid to cultivate their land. They reportedly go to the fields before sunrise, work for around two hours and sometimes go back at night. The Special Rapporteur believes that these facts appear to violate the obligation to respect the right to food as the relevant authorities have failed to refrain from taking measures to ban the peasants and their families from their land, thus interfering with their livelihoods and access to sufficient and adequate food.

Iraq

Communication sent

36. On 17 October 2006 the Special Rapporteur wrote to the Government about allegations that access to subsidized food for the residents of Camp Ashraf is no longer available, thus affecting people's right to sufficient food and means for its procurement. According to these allegations, more than a year ago the relevant authorities introduced the practice of denying on a discriminatory basis to current and former family members and associates of the Mujahideen-e Khalq residing at Camp Ashraf food allocations at a level and price commensurate

with what is supplied to other citizens living in Diyala Province, to which they were formerly entitled. As a result, the people concerned have to buy at the market those food items which they cannot produce or grow locally, including sugar, which is very important in their diet, at prices which continue to increase due to inflation. In addition, when traders cannot reach Camp Ashraf to bring in the necessary food items, its residents have to go to Baghdad to buy food, a journey that carries great security risks despite being escorted by the Multinational Force. On 17 July 2006 the water pipeline that stretches 26 km from the pumping station near the Tigris River to Camp Ashraf was damaged by a series of explosions. This allegedly affected the access of the residents and nearby villages to water for drinking, cooking and hygiene purposes for around two weeks. Irrigation was also reportedly disrupted by the explosions. On 22 July 2006 the relevant authorities decided to suspend all fuel and oil supplies to Camp Ashraf, including hospitals, which could potentially affect the diet of its residents due to limited fuel for cooking and access to water. In the Special Rapporteur's view, these facts could lead to a violation of the obligation to respect the right to food and water in a non-discriminatory manner if the relevant authorities do not take appropriate measures to restore the food and fuel allocations for the residents of Camp Ashraf.

Israel

Communication sent

37. On 5 April 2006 the Special Rapporteur wrote to the Government concerning allegations of a looming humanitarian crisis which the Palestinian residents of the Gaza Strip were facing as a result of the Israeli authorities' prolonged closure of the Karni/al Muntar crossing between the Gaza Strip and Israel, which is the commercial crossing for goods imported and exported from Israel. The information received claimed that the closure of the Karni crossing for most of the time since the beginning of 2006 has resulted in shortages of food and other necessities and required rationing of bread, and threatened to have serious effects on access to the right to food and a livelihood of the 1.3 million Palestinians who live in the Gaza Strip. The Karni crossing was partially opened for only eight days since 22 February 2006 and, despite the partial reopening of the crossing for imports on 20 March 2006, which allowed supplies of wheat, flour, oil, rice, dairy produce, cattle and certain types of fresh fruit to enter the Gaza Strip, there were increasing shortages of basic essential supplies, such as flour, and food reserves were gradually being depleted. It was reported that most of the bakeries across the Gaza Strip had to close down. As of 23 March 2006, the Karni crossing had been closed for 46 days since the beginning of the year. In addition, no Palestinian exports were permitted, which continued to have a detrimental impact on the local Palestinian economy. The inability to export local agricultural products at the height of the harvest season reportedly led to hundreds of tonnes of tomatoes, peppers, cucumbers and strawberries going to waste. The Palestine Economic Development Company operating the greenhouses in the former settlement areas estimated that the total amount of crops donated/destroyed due to the closures of the Karni crossing reached approximately 973 tonnes, with a value of some US\$ 5.2 million. Total export losses for both agricultural and non-perishable items were estimated at US\$ 500,000 per day, or more than US\$ 23 million in 2006. Israeli producers were also negatively affected by the Karni closures, citing losses of NIS 15 million per day. Kerem Shalom had been declared open since 21 March 2006 for the receipt of humanitarian supplies from Egypt and six truckloads of humanitarian assistance had reportedly arrived in the Gaza Strip as of 23 March 2006. But the much smaller capacity of the

Kerem Shalom crossing gave rise to concerns that it would not be able to deal with the large quantities and volumes of relief supplies expected at the border. Notwithstanding the entitlement of the Government to take measures to protect the lives of its citizens, the Special Rapporteur believes that the protracted closures of the Karni crossing have contributed to depriving Palestinian residents of the Gaza Strip of their usual access to food and a livelihood, thus contributing to a violation of the governmental obligation to respect the right to food. In addition, as the relevant authorities have failed to facilitate the provision of that right directly by, inter alia, ensuring the passage and delivery of relief supplies, the Government appears to be in violation of its obligation to fulfil the right to food.

Italy

Communication sent

38. On 17 August 2006 the Special Rapporteur wrote to the Government concerning allegations that the relevant provincial and regional authorities plan to privatize the management of the integrated water system (Servizio Idrico Integrato, SII) of Messina, Sicily, despite opposition from most of the affected municipalities and large sectors of civil society. These allegations claim that, in those provinces where the SII has been privatized, there has been a considerable price increase for clients and the provision of water to those who are unable to pay has been interrupted, thus affecting in particular vulnerable groups such as students, the elderly, migrant workers and their families, etc. It is also claimed that there have been shortcomings with respect to certain aspects of the process for contracting out the water provision services. The information brought to the attention of the Special Rapporteur indicates that Act No. 36 of 5 January 1994, the so-called Galli Act, aims at the structural reform of the water system in Italy. In Sicily this act was reportedly incorporated into regional law No. 10/99 and in May 2000 nine Optimal Territorial Zones (Ambito Territoriale Ottimale, ATO) were identified by presidential decree, one for each province. According to this information, ATOs are the framework for managing all phases of the SII, from collection to distribution, to sewage removal and purification. They are supposed to define the workplan for managing the SII, including determining the price of the water provision services and the modalities for contracting out the management of these services to a single provider. The organs of the ATO are the president, the technical secretariat and the Zonal Conference, also called the Mayors' Assembly. The reports received allege that ATO Messina (ATO No. 3), established in July 2002, is composed of 108 municipalities and has its own workplan for managing the SII in the Messina area. Although at the outset this ATO opted to contract the water provision services to a private provider, on 24 June 2005 the Mayors' Assembly decided by consensus to revert to "in-house provision" (*gestione pubblica*), which is allegedly permitted by the legislation. This decision was then reportedly ratified by 74 Municipal Councils, representing almost 80 per cent of the population of the province. The Councils also ratified the decision to establish a public company called Messina Acque S.p.A to manage the water provision services. A decision was also reportedly taken to purchase "provisionally" the shares of those municipalities that did not agree to the establishment of such a public company, for the amount of approximately €40,000. It is also alleged that the Presidency of Messina Province called for an urgent meeting of the Mayors' Assembly to propose the repeal of the decisions on the ground that the management of the water provision services by a public provider would prevent the province from accessing some €122 million in European funds. It appears that this proposal was rejected and as a result, the

President of the Sicily Region decided to nominate, by decree of 3 April 2006, a special administrator (*commissario ad acta*) to manage the Messina ATO; to repeal the 25 June 2005 decision of the Mayors' Assembly; and to issue a call for bids for the management of the water provision services (as published on 1 June 2006) from outside contractors. The last appears to indicate that a decision will be taken even if only one bid is received. According to the Special Rapporteur, the alleged facts could lead to a violation of the obligation to protect the right to water if the relevant authorities do not take the necessary measures to protect the access to safe and affordable water of the residents of Messina Province. The alleged facts could also lead to a violation of the obligation to fulfil the right to water if the authorities do not take the necessary measures to facilitate access to safe and affordable water for the residents of the province in accordance with the wishes of those representing them at the local level.

Lao People's Democratic Republic

Communication sent

39. On 3 April 2006 the Special Rapporteur together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people wrote to the Government concerning plans to build or to participate in building Nam Theun 2, a hydropower project which would be situated in Khammouane Province in central Laos, approximately 40 km upstream from the already completed Nam Theun Hinboun hydropower project. The information received claims that the Government signed a concession agreement with the Nam Theun 2 Power Company Limited (NTPC) for the construction, operation and ownership of the power plant and its transfer back to the Government on the expiry date of the agreement. According to this information, in November 2003 the NTPC signed a power purchase agreement with the Electricity Generating Authority of Thailand, paving the way for the project's development, and in June 2005 the World Bank announced its financial help in the form of grants and guarantees for the construction of Nam Theun 2. The reports received allege that the terms of the concession agreement may make it difficult for the relevant authorities to take an impartial position when it comes to balancing commercial returns against social concerns and protecting the rights of the affected communities. The allegations also claim that the construction of Nam Theun 2 could displace 6,200 indigenous people living on the Nakai Plateau and affect another 100,000 people living downstream of the project along the Xe Bang Fai and Nam Theun, who rely on these rivers for fish, drinking water and agriculture. The construction of this dam could allegedly affect the right to food of the affected communities whose members are subsistence farmers dependent upon natural resources for their livelihoods. It is reported that the villagers living downstream of the project rank their fishing and other aquaculture activities for income and food supply second or third in terms of household food security after rice and vegetable cultivation. The reports received indicate that the project developers have estimated that at least 1,500 families living along the lower Nam Phao may experience 60 per cent declines in their fish catches as a result of the reduction in the river flow that could be expected from the project. In addition, experience from other hydropower projects and resettlement programmes in Laos has reportedly indicated that replacing subsistence livelihoods at a level which guarantees people's right to an adequate standard of living may be difficult. There are plans for giving villagers on the Nakai Plateau small plots of land whose soil is not suited to crop production as it is allegedly heavily leached and infertile. It appears that high inputs of organic and inorganic fertilizer will be required to grow food, but the company reportedly plans to help pay for fertilizers for only

five years. In addition, there may not be sufficient land for grazing villagers' livestock, particularly their buffalo herds. According to the reported plans, villagers may be able to derive some income from logging in a community forestry area, but it appears that the high-quality timber has already been logged. There are plans to replace freshwater fisheries with aquaculture for downstream communities. Experiences in Laos to date suggest that the adoption of aquaculture has been a slow and gradual process and that the poorest people lack the necessary land and capital resources to switch to this type of livelihood. The information received also claims that there is not yet a resettlement site for two villages living closest to the dam site as the original site was found to be unsuitable due to water pollution upstream.

Communication received

40. On 15 May 2006 the Government replied, indicating that the Concession Agreement (CA) had been validated and endorsed by the multiple shareholders and lenders to the NTCP, including international financing institutions (IFIs), and aims at protecting the interests of local communities affected by the project. The Government stated that the implementation of the project is carefully monitored by a mix of project lenders' advisers and independent agencies. Non-compliance would trigger delays and impose a heavy financial burden on both parties. In particular, the project is monitored by an Independent Environmental and Social Panel of Experts who have the right to impose modifications under the CA in order to correct a situation on site, should it be necessary. In this context, the Government and NTCP, in cooperation with IFIs, have taken and will continue to take all measures necessary to both properly mitigate the physical impact of all construction activities on people's current livelihoods and improve their conditions by offering them outstanding development opportunities in the region. The CA and the monitoring mechanisms are in place to ensure that NTCP and its contractors adequately implement the project, including its social development dimension. The Government attached additional background information on the project.

Follow-up

41. On 3 November 2006 the Special Rapporteurs thanked the Government for its detailed and comprehensive reply, including the additional background information. Whilst noting the important monitoring mechanisms already in place for protecting the interests of the affected local communities, they added that, with regard to the CA between the Government and NTCP, they had not yet received any details concerning the mechanisms that would be responsible for investigating alleged human rights violations and violations of the CA provisions and for holding accountable those found to be responsible for such violations. They also remain concerned that the terms of the CA may make it difficult for the relevant authorities to take an impartial position when it came to balancing commercial returns against social concerns and protecting the rights of the affected communities. With regard to the additional background information on the possible impact of the dam construction on the affected population, the additional reports received indicate that provisional cash compensation for loss of rice fields and common property resources, such as fisheries, vegetable gardens, fruit trees, access to bamboo forests and non-timber forest products, paid to the villagers along the upper part of the downstream channel had been inconsistent and uneven and inadequate to compensate for the lost production values of their land. The lack of adequate compensation had reportedly led to rice shortages in some families. These reports also indicate that, although some villagers used to practise double

cropping on their rice fields, they were compensated for the lost production value of only one crop. The reports received claim that the communities living in the Xe Bang Fai river basin will be affected by increased water flows as a result of the dam construction. The Special Rapporteurs understood that a study on the measures to be taken during the downstream livelihood and asset restoration programme was due to be completed by early 2006 but had not yet been released; the Special Rapporteurs were interested in receiving a copy of this study when it became available. Concerning the Nakai Plateau resettlement, the information received alleges that the NTCP decided to transitionally resettle people at the beginning of the rainy season before the new infrastructure was in place. This may have resulted in impeded access to the transitional villages during the rainy season, making food and water deliveries difficult. In addition, the Special Rapporteurs had not yet received any information as to whether the villagers of Nakai Plateau will be able to keep their buffalo when they are resettled, due to a shortage of land and forage, and whether they will be able to grow rice in their new plots. It appears that the relevant authorities have experimented with varieties of rice and agroforestry systems and additional details in this regard would be appreciated. If villagers have to switch from rice cultivation to planting vegetables during the dry season, there should be markets for their produce. The information received claims that there are no markets nearby and the transportation costs at the moment are too high for the villagers to transport the goods themselves. Additional market options seem to be neighbouring Thailand and Viet Nam but the tariffs on vegetables and increased competition reportedly make these difficult. The reports received also indicate that if most of the biomass is not cleared from the reservoir before impoundment, the decomposing vegetation may cause water quality problems in the new reservoir, thus resulting in fish kills in both the reservoir area and downstream.

Mexico

Communication sent

42. El 30 de marzo de 2006 el Relator Especial, junto con el Relator Especial sobre una vivienda adecuada como elemento integrante del derecho a un nivel de vida adecuado, señaló al Gobierno nuevas informaciones que recibieron en relación con el proyecto hidroeléctrico conocido como “La Parota” que consiste en construir una central hidroeléctrica en unas 17.000 ha de bienes mayoritariamente comunales y ejidales. Según la información recibida, este proyecto pretende explotar las aguas de los ríos Papagayo y Omitlán y afecta a cinco municipios del Estado de Guerrero, inundando 21 territorios y desplazando a más de 25.000 personas. La cortina de la presa está programada para ser de 162 m de altura, generando un promedio de 1.349 gigawatios-hora al año, con una capacidad para 6.790 millones de metros cúbicos. Se afirma que de los 21 territorios que se verían afectados, 17 de ellos son ejidos, 3 son bienes comunales y 1 es propiedad privada, implicando unas 17.000 ha. Las principales comunidades que serían afectadas son Papagayo, Omitlán, Tlalchocohuite y Tejería en el municipio de Juan R. Escudero (Tierra Colorada); Plan Grande, La Unión y El Chamizal en el municipio de San Marcos y La Venta Vieja, Colonia Guerrero, Los Huajes, El Guayabal, Arroyo Verde, Pochotlaxco y San José Cacahuatpec en el municipio de Acapulco. Sin embargo, en el Manifiesto de Impacto Ambiental (MIA), aprobado en forma condicionada por la SEMARNAT en diciembre de 2004, se señalan como afectadas directas e indirectas 24 localidades, entre ellas 3 escasamente pobladas. Parece que la construcción del proyecto se viene planeando desde el año 1976, cuando se realizaron los primeros estudios técnicos. Entre 1983 y 1984 se llevó a

cabo un estudio socioambiental, y en 1988 el estudio sobre la viabilidad geológica del proyecto. Dichos estudios fueron actualizados en 1993 y 1994, y para el año 2002 ya se contaba adicionalmente con el estudio de viabilidad económica y se estaban realizando estudios de preconstrucción para concluir con el diseño de la obra. Se alega que el proyecto “La Parota”, si se llevara a cabo, causaría violaciones de los derechos económicos y sociales de las comunidades. Se afirma que el proyecto privaría del uso del agua a las personas que históricamente han aprovechado los recursos del río Papagayo y en su lugar se le daría a las grandes ciudades. Adicionalmente se estaría contribuyendo a la pérdida a largo plazo del agua potable que proviene del río, contraviniendo el derecho al agua no sólo de las personas que actualmente viven cercanas al río, sino también el de la población en general. Además, los informes recibidos afirman que el proyecto tendría efectos negativos sobre el acceso a una alimentación adecuada a causa de la expropiación de la tierra de los afectados y especialmente de los que viven en las localidades rurales que se abastecen de aguas abajo de donde se construirá la cortina de la presa. Parece que la Comisión Federal de Electricidad, encargada de esta obra, no ha presentado todavía un plan de reubicación ni ha especificado el lugar de reasentamiento de los afectados, ni el número de personas considerados como tales ni los montos de indemnización por las tierras que se pretende expropiar. Según los propios datos oficiales, el proyecto causaría también un serio daño ambiental. La Comisión Nacional de Biodiversidad (CONABIO) ha establecido que el proyecto está propuesto en la zona del Trópico Seco de Guerrero, particularmente rica en biodiversidad, con predominio de selva baja caducifolia, poco representada en los programas de conservación *in situ* del país. La región es un área de gran importancia para la conservación de su biodiversidad, al estar incluida en su totalidad dentro de la RHP 029 Río Papagayo-Acapulco y la RMP 032 Coyuca-Tres Palos. Según datos oficiales, hay más de 30 especies en la zona clasificadas como en peligro de extinción, según la propia norma oficial mexicana. Se alega también que el proceso para realizar el proyecto “La Parota” no ha respetado el derecho a la consulta, puesto que parece que muchas de las personas que serían directamente afectadas no cuentan con información esencial sobre el proyecto, tales como qué significa la expropiación, a dónde y bajo qué condiciones serán movidos, cuánto se les indemnizará por la pérdida de sus tierras, o cuáles serán sus condiciones de subsistencia en el futuro. Se afirma que todas las asambleas se han realizado en medio de serias irregularidades que han incluido el pago por el voto en favor del proyecto. A pesar de una medida cautelar, emitida por el Tribunal Agrario, estableciendo que no se podrán llevar a cabo más asambleas en el distrito de Cacahuatpec, uno de los principales ejidos afectados, en tanto no se dé una sentencia definitiva sobre la primera impugnación de la primera asamblea, los Gobiernos federal y estatal han seguido convocando a asambleas con el fin de imponer el proyecto. La información recibida menciona también que durante los últimos meses de 2005 el conflicto entre las comunidades afectadas y las autoridades se ha agudizado. Se afirma que el 16 de diciembre de 2005, 9 opositores, 3 policías y 1 periodista resultaron heridos en un choque entre las partes. Según esta información, entre los lesionados se encontraría uno de los voceros del Consejo de Ejidos y Comunidades Opositoras a la Parota (CECOP), Marco Antonio Suastegui Muñoz, quien resultó lesionado en una pierna al recibir un proyectil. Otros enfrentamientos similares parecen haberse registrado el 27 de noviembre y el 18 de agosto pasado, y dejaron cada uno más de diez heridos.

Communication received

43. El 13 de julio de 2006 el Gobierno contestó enviando información adicional muy detallada y útil. En su respuesta el Gobierno explica los antecedentes a la presa La Parota y sus especificaciones. La carta del Gobierno sigue presentando algunas observaciones sobre las alegaciones de las violaciones de los derechos económicos y sociales vertidas en la comunicación. También el Gobierno proporciona informaciones sobre el proceso para realizar este proyecto y al derecho a la consulta. El Gobierno indica que la elaboración de este proyecto ha sido particularmente cuidadosa de respetar los derechos humanos de todos los afectados de acuerdo con lo establecido en la legislación mexicana.

Moldova**Communication sent**

44. On 10 May 2006 the Special Rapporteur together with other special procedures of the Human Rights Council brought to the Government's attention information received concerning Vitalii Kolibaba, previously held at the remand centre (IVS) in Chisinau central police station and at the time of sending the communication held at the remand centre (IVS) at 6 Tighina Street in Chisinau. According to the information received Vitalii Kolibaba was arrested at his home early on 21 April 2006 and taken to Buiucani district police station. On 25 April 2006, at Buiucani police station, three police officers tied his arms to his legs, stuck a crowbar under his elbows and hung him in this position from the crowbar for 40 minutes, beating him on the head and neck with a stool while he was suspended until he passed out from the pain. This was allegedly done to force him to confess to having injured a policeman, an act which he denies. After he was taken back to his cell, Vitalii Kolibaba tried to commit suicide by cutting his wrists. An ambulance was called and his wounds were stitched, but the medics left him in the police station. On 27 April Vitalii Kolibaba was allowed to see a lawyer for the first time since his arrest. He told the lawyer that he had been tortured, following which the lawyer filed a complaint with the prosecutor's office. When the police officers from Buiucani district police station who had tortured him found out that he had complained, they beat him again. This time the three police officers beat him on the head with a plastic bottle full of water, so as to leave no marks, and punched him in the kidney area. His lawyer is allowed to meet him only in the presence of the procurator or of the police officers. On 29 April 2006, Vitalii Kolibaba was taken for a forensic medical examination. The examination was carried out superficially in the presence of the three officers who had tortured him. The forensic expert reported that there was no evidence of torture. Vitalii Kolibaba was taken to Buiucani district police station every day for questioning. There are no facilities for providing food at Buiucani district police station, which means that he was forced to beg food from other prisoners. In the remand centre where he was held prisoners are provided with hot water and bread, but this food is inedible. The utensils are filthy and the bread is of very poor quality. All prisoners rely on packages brought by relatives. As he is not allowed to receive packages from his mother he does not have access to adequate and sufficient food. The Special Rapporteur believes that these facts indicate a violation of the obligation to fulfil the right to food to prisoners who are unable to have access to food by their own means. Follow-up information reported that Vitalii Kolibaba was released on bail on 15 May 2006 by the appeal court in Chisinau and that the Procuracy was intending to conduct investigations into the allegations of torture.

Communication received

45. On 26 June 2006 the Government replied that following careful examination of the applications submitted by Mr. Kolibaba's lawyer in accordance with article 274 of the Code of Criminal Procedure, the procurators of the Buiucani district procurator's office concluded that the arguments put forward were irrelevant, and declined to initiate criminal proceedings on the grounds that no offence had been committed by the police officers. The facts as established by the procurators are as follows: Mr. Kolibaba came to the attention of the authorities in 2002, when he was registered as an opium user. On 18 April 2006, at around 2.30 a.m., while being pursued by the police for having committed an offence, Mr. Kolibaba, acting out of contempt for law enforcement officials and endeavouring to escape arrest, unexpectedly struck police officer Dmitrii Bobeico with a sharp object on his face and neck causing him moderate bodily harm. Mr. Kolibaba thereupon disappeared from the scene of the incident, without providing any medical assistance or calling an ambulance. On the basis of this evidence, on 26 April 2006, criminal proceedings were initiated against Mr. Kolibaba under article 350, paragraph 1, of the Criminal Code for an attempt on the life of a police officer. On 21 April 2006, Mr. Kolibaba was arrested for an administrative offence committed prior to the criminal offence mentioned above and appeared before a judge, who sentenced him to five days' administrative detention. Subsequently, during the criminal proceedings against him, Mr. Kolibaba was held in preventive detention and was released on bail on 15 May 2006. It should be noted that when Mr. Kolibaba was examined by doctors in the emergency department at the hospital, and subsequently by the court medical expert, no internal or external injuries were found apart from a cut on his right forearm, which he had himself inflicted with a piece of metal while he was being held in custody in order to mislead the procurator and avoid criminal prosecution. The Buiucani district procurator's office submitted a report to the chief of police concerning the breach of conduct by the officers responsible, who had allowed Mr. Kolibaba to get hold of a piece of metal while he was being held in custody. In view of the foregoing, the Office of the Procurator-General considers that the circumstances and manner in which the injuries were sustained were correctly established by the procurators in the Buiucani district procurator's office, in Chisinau. No evidence was found of the use of torture or ill-treatment against Mr. Kolibaba. Spreading reports in this way of alleged gross violations of the human rights and freedoms of the citizens of the Republic of Moldova when there is no substance to these allegations harms the image of the country and of its law enforcement authorities in their efforts to fight crime. At the same time, the increasingly frequent use of such methods by the parties concerned, before the criminal cases in question have been dealt with by the national authorities, is a cause of concern. It is a dishonourable means of promoting private or collective interests, which entails the evasion of criminal responsibility and the exertion of influence on legal authorities, involving them in futile exercises and diverting them from their core functions. In the light of the problem, the Office of the Procurator-General has submitted a report to the Bar Association so as to ensure that such conduct will not be tolerated in future.

Myanmar

Communication sent

46. On 6 February 2006 the Special Rapporteur together with the Special Rapporteur on the situation of human rights in Myanmar wrote about allegations that the authorities continue to use

food and agricultural policies as a method of political control, thereby affecting the livelihoods of the people concerned. In particular, he received reports of how these policies have affected rice production in Mong Nai township, Shan State. The reports received claimed that many farmers in Mong Nai township have been prohibited from selling their rice and bran to anyone other than the military at depressed prices (about one quarter of the normal market price) based on the acreage of land they customarily tended and regardless of actual crop yields. This system allegedly disrupted farmers' access to their own rice harvests and drove many into debt. Despite the announcement of the abolishment of this system, it was reported that new practices ensured that the military maintains its own stores of rice at the expense of the local population's livelihoods. The allegations received also claimed that an extensive relocation programme aimed at fighting insurgency in Shan State had a negative impact in Mong Nai township. Reports estimate that two thirds of villages in the hills have been relocated to lowland areas to date, starting in 1996, and as a consequence mountain rice production has decreased by 80 per cent. These reports also claim that restrictions on freedom of movement have prevented farmers from returning to fields at any distance from Mong Nai, further limiting agricultural activity. Restrictions have reportedly also impeded trade across township borders. It is alleged that, following a national army directive abolishing central food supplies for all foot soldiers and instructing them to find local food sources, land confiscation by two Light Infantry Battalions based in Mong Nai increased. Reportedly, nearly 10,000 acres have been confiscated to date without any compensation. It appears that in order to grow their own fields, farmers must now rent the land from the military for 3.5 baskets of rice per acre. It was reported that initiatives to promote the double cropping of rice have been implemented by the township authorities of Mong Nai since 2003. In this context, it appears that 155 acres of the most prime paddy fields have been designated by the military for summer paddy production. Under orders from the district office, all village headmen in the town of Mong Nai must organize work crews to plant, maintain and harvest the crop for the benefit of the military. It was alleged that summer paddy crops disrupt the traditional wet season crop cycle, thus rendering further acreage useless. The Special Rapporteur believes that forced sale of crops at reduced prices, forced displacement of the population, forcible confiscation of land and forced labour contribute to the violation by the Government of its obligation to respect the right to food.

Communication received

47. The Government replied to this communication on 7 July 2006 indicating that there is no Mong Nai township but rather Mo Nae township in Shan State where the alleged facts did not occur and the farmers are free to sell their rice without any restrictions. According to the Government's investigations there was no forced relocation and no land was confiscated in this township.

Communications sent

48. On 8 March 2006 the Special Rapporteur together with the Special Rapporteur on the situation of human rights in Myanmar brought to the attention of the Government information regarding plans to build or to participate in building five dams along the Salween River to provide electricity. The Salween River, which originates in the Himalayas, is the longest river on mainland South-East Asia that flows freely and uninterrupted by dams, playing a vitally important role in sustaining the livelihoods of various local ethnic groups. It appears that at least

13 different groups live in and derive their livelihood from the valleys and floodplain areas along the river and its tributaries. The most populous section of the river basin seems to be the fertile floodplain in the delta where most people tend paddy fields in the rainy season and vegetable gardens on the riverbank in the dry season. In addition, the Salween River Basin area is reportedly ecologically and culturally rich. Local communities living along the river fish all year round. There are reportedly an estimated 100 species of fish that migrate upstream and to the Salween's tributaries for spawning. The information received claimed that construction of dams on the Salween River could have a negative impact on agricultural practices and on fish migration which, in turn, could undermine the access of families who depend on the river to their usual livelihood. It is claimed that the construction of dams could affect in particular 35 species important to the local economy as these fish are caught and sold at local markets. These species include Pla Moo, Pla Kod Kang, Pla Kae, Pla Vien and Pla Sa Ngae or Borbeo Feather Back. The Special Rapporteur believes that the negative impact of the planned construction of dams on the Salween on livelihoods, including fishing, could potentially violate the obligation of the Government to respect the right to food.

49. On 16 May 2006 the Special Rapporteur together with the Special Rapporteur on the situation of human rights in Myanmar brought to the Government's attention allegations that the authorities continue to use food and agricultural policies as a method of political control which have been affecting the livelihoods of the people concerned. In particular, since the end of 2005, these policies have affected rice procurement in various townships across Shan State. The reports received claim that, although the authorities no longer set up governmental rice purchasing centres at different locations every year following rice harvest, farmers are required to sell their rice at fixed quotas to certain teams of traders before they can sell the remainder elsewhere, should they have any rice left. It is reported that these traders pay prices that are lower than the market rate and the measuring equipment used varies according to whether rice is being bought from the farmers or sold to the authorities. For example, in Kaeng-Tung township farmers were allegedly required to sell 13 baskets of rice for each acre of land they cultivated at the rate of 2,000 kyat per basket, whereas the market rate at that time was 3,500/4,000 kyat per basket. Reportedly, farmers who did not have enough rice to fill their quotas had to borrow or buy rice from other farmers and sell it to the traders. It is reported that failing to meet the quotas could result in land confiscation. In addition, it is claimed that during the rice procurement period, farmers who had not yet sold their full quota of rice to the traders were not allowed to sell or take the rice elsewhere. The information received indicates that similarly in Murng-Yawng township farmers were required to sell to the traders 13 baskets of rice for each acre of land they grew at 1,100 kyat per basket whereas the market value at that time was 2,000 kyat per basket. Also in Murng-Khark township farmers were allegedly forced to sell seven baskets of rice for each acre of the land on which they had grown rice. They received payment of a mere 800 kyat per basket when the market price at that time was 3,500 kyat per basket. The allegations received also claim that in some places military troops themselves went to the villages and forcibly bought rice directly from the farmers at prices lower than the market rate. For example, farmers in Me Ken village tract in Murng-Ton township were allegedly forced to sell their rice to the troops of IB 277 at lower than the market price. It is reported that on 2 February 2006, a contingent of troops from Murng-Ton base IB 277 stationed at Me Ken village and headed by Major Mya Oo ordered farmers in the Me Ken village tract to sell them 200 baskets of rice. The military allegedly paid the farmers only 1,000 kyat per basket while the market price at that time was

2,500/3,000 kyat per basket. Similarly, in January 2006, farmers in Murng Naang and Murng Nawng village tracts in Kae-See township were allegedly required to sell overall 400 baskets of their rice to the troops of IB 286 for 1,000 kyat per basket when the market price at that time was 2,500/3,000 kyat per basket. The information received also alleges that troops from IB 246 confiscated rice from farmers, asserting that they had to pay taxes for the land located on the slopes of a hill called Loi Kong, about one mile south of Kun-Hing town, where the farmers had grown their rice. The military reportedly designated the area as military property and as a result farmers were required to pay 30 per cent of their farm produce as taxes for using the land. The reports brought to the Special Rapporteurs' attention indicate that in 2005 farmers in Nawng Wawn village tract in Ho-Pong township were forced to buy a certain kind of rice grain known as "Shwe Pyi Aye" to be used as seeds and grown on their land. Allegedly, troops brought 80 baskets of this rice grain on a military truck and ordered farmers to buy them, claiming that the grain was of good quality and would provide a higher yield. Farmers claim that the rice grain was the same kind they had been requested to grow in previous years but with a new name. They were given strict instructions on how to grow it, including when to sow and plant. The Special Rapporteur believes that the policies of forced sale of rice at reduced prices, forced sale of rice grain, and forced collection of taxes for the use of land appear to violate the obligation to respect the right to food.

50. On 17 July 2006 the Special Rapporteur together with the Special Rapporteur on the situation of human rights in Myanmar transmitted to the Government allegations that the right to food of people in northern Arakan State may be again at risk. The allegations claim that during the dry season forced labour for paddy cultivation in the military and NaSaKa fields, for brick baking, construction of roads and bridges, the transportation under guard of crops procured by compulsion, daily camp maintenance and portering continues at a time when farmers are busy with their own cultivation. This, combined with the high price of rice, may contribute to the increased food insecurity of villagers and could have the potential to trigger a new refugee outflow. During the 2005 monsoon season, increased forced labour, arbitrary taxation and high rice prices reportedly prompted a food crisis which was alleviated thanks to international emergency food relief. The reports brought to the attention of the Special Rapporteurs also claim that in January 2006 the authorities announced a new national project exhorting people throughout the country to grow physic nuts on a wide scale to produce an alternative to diesel fuel that could save money in foreign exchange in the wake of rising crude oil prices. The physic nut plant is a small tree often planted as fences to protect gardens or fields and can grow from seedlings or be propagated from cuttings. According to these reports, in northern Arakan State, authorities have started confiscating small plots of fertile land in every village tract in order to establish physic nut nurseries. Reportedly, villagers are made to provide cuttings for the nurseries or pay a fine. At the same time villagers have allegedly been forced to fence, plough and prepare the plot of land for the nurseries as well as to plant the cuttings, whereas others have been forced to water the seedlings, guard the nursery, repair the fence and report daily growth progress to the authorities. Further reports indicate that similarly, in other areas of the country such as Mudon and Thanbyuzayat townships, inhabitants were forced to plant physic nuts in May 2006. In addition the information indicates that some villagers, mainly from tribal communities, have already been facing food shortages in the border areas of Buthidaung township. According to this information, the tribal people in these areas did not receive permission from the local military authorities to cultivate rice on the hillsides early enough,

resulting in food shortages. In markets in Buthidaung township the price of rice has been increasing to a level which people cannot afford. Reports also indicate that hundreds of sacks of rice are being smuggled through the Bangladesh border and that the army authorities have prohibited the transport of rice from one township to another within Arakan State to control the price of rice and exact illegal taxes from rice traders. The information also alleges that farmers in northern Buthidaung township have been compelled to sell pulses to the Bagali Army camp at less than half the market price. Farmers usually grow pulses as a substitute crop to cope with rice shortages during the monsoon season. It is alleged that in March 2006, farmers were ordered to supply up to 80 kg of pulses each. Those with not enough pulses in reserve had to buy from other farmers or from the market at the full price. It also appears that many villagers were recruited as porters to collect the pulses from the farms, carry them to the local store, weigh them, carry the sacks to the riverbank and load them onto rafts for their transport to the army store in Buthidaung. The Special Rapporteur believes that the forced labour policies for various activities described above, which distract farmers from their occupation of tending the land, contribute to a violation of the obligation to respect the right to food.

51. On 19 July 2006 the Special Rapporteur together with the Special Rapporteur on the situation of human rights in Myanmar transmitted to the Government allegations of confiscation of land in various parts of the country which was affecting the livelihoods of local communities and the realization of their right to food. According to these allegations, in northern Wekali, Thanphyzayart township, Mon State, the army has been confiscating rubber plantations belonging to the local people whose livelihoods have, as a result, been considerably affected. The information received also claims that more than 5,000 acres of paddy fields were confiscated by the local Pinma Arsenal Battalion from villagers of Thebyu, Myaukthabyepin, situated along the Pynmana-Taungngyo highway, around 15 miles south-east of Taungdwingyi, Magwe Division, central Myanmar. It is reported that this battalion confiscated the paddy fields in order to have new army bases built. Similarly, 200 farmers from Hmawbi township, Rangoon Division, have reported that more than 2,000 acres of their farmlands have been confiscated. According to the reports received, 1,700 acres of paddy fields in Myaungtaka, Kankalay and Kalakone hamlets in Hmawbi township were confiscated by Master Major General Tin Hla without any compensation paid to the farmers. Reportedly, the land was confiscated to build a steel factory and parts of the land were subsequently sold to property developers. The Special Rapporteur is of the view that by continuing to confiscate land from farmers, authorities affect farmers' usual means of livelihood and the realization of their right to food.

52. On 30 August 2006 the Special Rapporteur together with the Special Rapporteur on the situation of human rights in Myanmar wrote to the Government regarding further allegations of confiscation of land in various parts of the country, which affects the livelihoods of local communities and the realization of their right to food. According to these allegations, military authorities managing the cotton and textile factory in Meikhtila, Mandalay Division, have confiscated land from local residents with the complicity of local authorities. It was reported that the 40 households living on this land were ordered to move out by 25 August by the township chief administrator, Aung Myint. It appears that neither compensation nor new plots of land are foreseen for those evicted. There were claims that approximately 500 acres of agricultural land had been confiscated to make way for a new military camp near Myitkyina, Kachin State. It is reported that the camp, near Pa-La-Na village, approximately 16 km north of Myitkyina, plans to accommodate the newly formed Light Infantry Battalion 29. It appears that no compensation has

so far been paid following the confiscation. This information also claims that south of Myitkyina, a military unit, with the complicity with the authorities, has seized villagers' land in order to grow nuts and rubber, while villagers living along the road from Myitkyina to Sumpra Bum have reportedly been ordered to move out to make way for highway construction. A considerable number of farmers from several townships in Arakan State, including Kyauktaw, Mrauk U, Rathidaung, Buthidaung, Munbya, Ponna Kyunt, Ann and Tangup, have been forced to plough with their own cattle land confiscated by the army. Neither wages nor food has reportedly been provided by the military authorities. At a time when farmers are busy with their own cultivation, they are required to put aside their primary work to till army land, affecting their own livelihoods and access to sufficient and adequate food. The allegations received also indicate that yields were poor from the last cold-season harvest due to bad weather. As a result, the price of rice, the staple diet, has reportedly increased to unusual levels during the present rainy season. In addition, it is reported that, due to restrictions on the transportation of rice from one region to another and from rural to urban areas in some states, the sale of rice has slowed in rice-producing regions, such as Irrawaddy and Pegu Divisions, whilst consumers in other areas, such as Mandalay and Sagaing Divisions, face rice shortages and high prices. The Special Rapporteur finds that these facts represent violations of the obligation to respect the right to food, as authorities continue to confiscate land from farmers, thereby affecting their usual means of livelihood and the realization of their right to food.

53. On 12 October 2006 the Special Rapporteur together with the Special Rapporteur on the situation of human rights in Myanmar drew the Government's attention to further allegations of confiscation of land by military authorities in various parts of the country, including Kaeng-Ting, Mu-Se, Larng-Khur and Kun-Hing townships in Shan State, which contributes to depriving local communities of their livelihoods and the realization of their right to food and forces them to flee elsewhere. According to these allegations, land surrounding or in the vicinity of military bases is confiscated to ensure access for the troops to farm produce, wood, bamboo, firewood, etc., or merely for security reasons. It also appears that large areas of land continue to be confiscated for various State-run projects such as coal and mineral mines, road construction, rubber and physic nut plantations, etc. The information received also indicates grave violations of the right to food of IDPs in the eastern part of the country where over the past year most families had part or all of their food supply, including fields, rice and livestock, taken or destroyed by the military in an attempt to force villagers out of the hills and into areas and villages under the control of the military. The information received alleges that farmers' livelihoods in Saku township, Magwe Division, are at risk following the military order that they must harvest their crops before they prepare to grow monsoon rice. This will reportedly ruin the crops. In addition, the reports received indicate that the authorities have harassed and brought complaints against farmers who have complained about the impositions and the negative impact on their crops and livelihoods of State development projects. These reports claim, for example, that on 8 July 2006 local administration officials together with some workers destroyed irrigation embankments works in Set-hsan village, Bogalay tract, that had been in use since 1995. This reportedly resulted in the flooding of 86 acres of rainy-season paddy crops out of a total of 463 acres being cultivated by 13 farmers. It was reported that on 30 June 2006 the fisheries department ordered the demolition of embankments to make use of the water for fisheries, where it would not cause damage to the paddy crops but without consulting the farmers concerned. According to the reports received, on 31 July 2006 farmer Ko Tin Aung, on behalf of himself and 12 other farmers, submitted

letters of complaint to the agriculture and fisheries departments. It is also reported that after Ko Tin Aung had repaired the embankments on his land and replanted the 30 acres which had been flooded due to the destruction, a team of officials took photographs and threatened to take him to court for submitting the complaint. Similarly, it is alleged that U Tin Kyi, a 65-year-old villager in Kyaung Gone township, was arrested for insulting officials who had been sent on 10 April 2006 by the chairman of the Kyaungsu village area council to clear land to implement the castor oil agricultural policy. The Special Rapporteur believes that by continuing to confiscate land from farmers and destroying their crops and livestock, authorities continue to affect farmers' usual means of livelihood and the realization of their right to food.

Philippines

Communication sent

54. On 5 April 2006 the Special Rapporteur wrote to the Government concerning allegations of threats to evict several families from their land in San Andres, Quezon, thus depriving family members of their usual access to livelihoods. According to the information received, San Andres is a town on the Bondoc Peninsula, where vast tracts of land extending to the municipality of San Narciso are owned by the Uy family. In 1995 and 1996, parcels of the land were distributed under the Comprehensive Agrarian Reform Program (CARP) to San Andres farmers. The allegations received claim that several families are being threatened with eviction from the land that they thus acquired. Marcela Muñoz, her husband, Juanito Muñoz, Sr., and their children are agrarian reform beneficiaries in Barangay Camflora, San Andres. Since 1971, brothers Juanito Muñoz and Osias Muñoz, along with their families, have been cultivating parcels of land previously owned by Manuel Uy Ek Liong, Sr. The Department of Agrarian Reform (DAR) had declared that land to be covered by CARP. As a result, certificates of land ownership and transfer certificates of title were awarded to the Muñoz families. On 30 March 2003 an unidentified surveyor claiming that he was from the Department of Environment and Natural Resources surveyed the parcels of land belonging to Marcela Muñoz and her relatives. The survey allegedly revealed that the parcels were outside the boundaries of the property awarded to them by DAR. The Uy family apparently also claims that the farmers conspired to steal coconuts from the coconut plantation allegedly owned by the family. A series of charges have been filed against the Muñoz families by the Uy family. Charges of qualified theft have also been reportedly filed against the farmers and similar charges are filed every time they harvest coconuts from the coconut plantation whose ownership is claimed by the Uy family. Although the farmers are not currently being detained, as they have posted bail, some of these farmers have previously been arrested and detained. Their case files are reportedly still pending at the Regional Trial Court Branch 61 and 62 in Gumaca, Quezon. The Special Rapporteur believes that the Government may have violated its obligation to protect the right to food in this case as the relevant authorities have failed to adequately protect the Muñoz family from threats and harassment by third parties with the purpose of depriving them of their access to land to which they are officially entitled, and to their usual means of livelihood.

Communication received

55. On 31 May 2006 the Government replied that surveys were conducted again in 2006 by the authorities and the results showed that the contested land is within the boundaries of the property of the Uy family. The charges against the farmers for theft were still pending in court.

Communication sent

56. On 8 May 2006 the Special Rapporteur wrote to the Government concerning allegations of threats to the right to food of the people of the island of Rapu-Rapu, situated in Albay Province. The island of Rapu-Rapu has a total land area of 5,589 hectares. It reportedly has very rich fishing grounds and fishing is the primary source of livelihood for its inhabitants. According to the information received, mining has been carried out on Rapu-Rapu since the Second World War when the Japanese Imperial Army mined in Barangay village, Sta. Barbara. Republic Act No. 7942, also known as the Mining Act, adopted in 1995, reportedly opened up all public and private land to mining operations. It appears that this legislation also provides economic incentives and rights to foreign as well as national mining corporations, to the detriment of the local population. In addition, it is reported that the Mining Act encourages open-pit mining, which is allegedly more damaging to the environment than any other form of mining operation. The allegations received claim that in 1998 Lafayette Philippines Incorporated (LPI), a subsidiary of the Lafayette Mining Company of Australia, entered the area after its multimillion-dollar Polymetallic Project was approved on 18 November 1998. The project expects to yield around 50,000 ounces of gold, 60,000 ounces of silver, 10,000 metric tons of copper concentrate and 14,000 metric tons of zinc concentrate per year. The project was also reportedly granted an Environmental Compliance Certificate on 12 July 2001, which indicated that the project would not have an unacceptable environmental impact. LPI mining operations allegedly pose a threat to the right to food of the inhabitants of Rapu-Rapu and the island's fragile ecosystem has also been affected. In October 2005, two tailing spills allegedly contaminated with cyanide, caused by heavy rains, occurred at the LPI mine. The spills allegedly reached the sea, resulting in the death of fish and other marine life in the affected areas. It is alleged that fish catches declined drastically after the spill, affecting the livelihoods of the local population. Many people reportedly refused to buy fish caught in Rapu-Rapu for fear of contamination, affecting the local economy and the ability of local people to buy food. It appears that the livelihoods of the local population in adjacent towns in the provinces of Albay and Sorsogon, mostly poor fisher families, have also been affected. It is reported that in response to the spills the Department of Environment and Natural Resources temporarily suspended the LPI mining operations and fined the company. Reports indicate, however, that LPI has continued its operations. The Special Rapporteur believes that the Government may have violated its obligation to protect the right to food in this case, as the relevant authorities have failed to protect the inhabitants of Rapu-Rapu adequately from the threats to which they have allegedly been subjected by a third party, the LPI mining project, which have resulted in depriving them of their usual means of livelihood.

Communication received

57. On 20 July 2006 the Government responded with some clarifications on issues related to the Mining Act and its provisions. The Government also informed the Special Rapporteur that with regard to the tailing spill incidents, the Department of Environment and Natural Resources (DENR) has made every effort to assure the affected people that there was no cyanide or mercury contamination of the marine waters in the area. In addition, a series of investigations conducted by DENR immediately after the incident led to the temporary suspension of LPI operations and to a fine of PHP 10.4 million as well as to the institution of remedial measures to prevent similar incidents in the future. The President has created the Rapu-Rapu Fact-Finding

Commission to investigate the effects of LPI mining operations on people's health and on environmental safety. The Government also presented information on some recent developments, including the decision to approve the start of a 30-day test run of the LPI base metal plant at the Rapu-Rapu mine. The decision was based on the validation reports of DENR regional offices, the Multipartite Monitoring Team, the Mine Rehabilitation Fund Committee, the recommendations of third-party experts and the endorsement of local government and host communities. The Government's reply also contained the DENR plan of action, a list of measures aimed at improving DENR monitoring and regulatory functions and at resolving pending issues vis-à-vis the report of the Rapu-Rapu Fact-Finding Commission.

Follow-up

58. The Special Rapporteur warmly welcomes the comprehensive information sent by the Government. He replied on 23 October 2006, stating that, with regard to the presence of toxic substances in the water following the tailing spill incident, the reports received, including that of the Fact-Finding Commission on the Mining Operations in Rapu-Rapu Island of 19 May 2006, indicate that, due to lack of adequate capability to fully analyse the presence of toxic heavy metals, the tests have been inconclusive. This means that the presence of toxic substances and their effects on the marine system may become fully apparent only at a later stage. According to these reports, different studies have shown the presence of toxic heavy metals in the soil, water and sediment samples. It has also been reported that on 18 July 2006, fish deaths occurred in Mirikpitik Creek, leading out of the mine. It appears that lower stretches of the creek were found to be affected by acid mine drainage and the water to be acidic, with the presence of yellow solid precipitate. Concerning the alleged benefits of the LPI mining project to the host communities, the information that the Special Rapporteur continues to receive claims that, from 2000 to 2005, this project mobilized a workforce of 948 persons of whom only 32 per cent came from Rapu-Rapu. In addition, so far there have been no indications of increased demand for and supply of local goods and services in Rapu-Rapu. It appears that the mining facility is a self-contained facility to which goods and services are provided from the outside through contractors and suppliers. The total expected benefits to the island over seven years would be around PHP 176.6 million. This represents a total theoretical per capita benefit of PHP 2 per day, which appears insufficient to compensate for the permanent loss of resources and its effects on people's livelihoods. It is reported that the inhabitants of Rapu-Rapu rely mainly on fishing and farming for their livelihoods and sources of income. The Special Rapporteur welcomes the details that the Government provided about the measures that DENR intends to adopt in order to improve its monitoring and regulatory functions and to resolve outstanding issues. In particular, he was pleased to note the important plan to conduct a feasibility study for the creation of a People's Health and Environmental Protection Fund in every region, mandated to offer compensation for damage to health and livelihood brought about by tailing spills and other mine-related incidents. The Special Rapporteur hopes that such a fund can be established speedily so that victims can receive compensation for the losses they have suffered. The Special Rapporteur would be most grateful if the Government could keep him informed about developments to implement this and the other action points.

Communication sent

59. On 27 September 2006 the Special Rapporteur wrote to the Government regarding allegations that union members on strike at Chong Won Fashion, Inc. in Rosario, Cavite, were being denied access to food. According to these allegations, the police of the Philippine Economic Zone Authority and Jantro security guards had set up checkpoints to isolate the picket line, thus preventing the entry of food and water. It appears that more than 70 union members were on the picket line. The police reportedly blocked the road leading to the picket line and striking workers who left the picket line to get food were prevented from going back. The police and guards also allegedly seized some of the identification passes of the striking workers in order to deny them entry into the area. It was reported that these actions followed attempts to violently disperse the workers on 25 and 27 September 2006 when at least 10 workers were injured.

Follow-up

60. On 11 October 2006 the Special Rapporteur sent a follow-up communication on this case as, according to the information received, the food blockade remained in effect despite an agreement between the strikers, the company management and the officials of the Cavite Export Processing Zone to allow workers on strike to leave and return to the picket line in order to replenish their stocks of food and other supplies, and provided they had ID and zone passes. This agreement was reportedly not being implemented by the police and security guards who had previously withheld the IDs of the striking workers. The new information received also claimed that in the evening of 28 September eight workers, namely Gemma Lape, Lorna Reli, Ivy Villasan, Ana Lou Estrimos, Glaysa Layesi, Josephine Bahar, Pablito Sapata and Rodelito Amo, who had been supporting those on strike, were arrested and detained for facilitating entry of food supplies to the picket line. A sack of rice was allegedly confiscated from them. It was reported that on 29 September they were charged with trespass and sedition and whilst in detention at the Rosario Municipal Police Station for around eight days they were not provided with sufficient food, medicines or access to legal representation. According to additional reports, on 5 October 2006 security forces confiscated a donation of food which one of the workers hired by the management to replace the strikers had tried to bring in for those on strike. The Special Rapporteur believes that these facts indicate a violation of the obligation to respect the right to food and water, as the police had taken action that interfered with the striking workers' access to food and water.

Communication received

61. On 6 November 2006 the Government informed the Special Rapporteur that this case was also being taken up under the 1503 procedure and that the Government's reply had been sent to the secretariat of the 1503 procedure.

Sudan

Communications sent

62. On 10 February 2006 the Special Rapporteur wrote to the Government concerning allegations of deliberate destruction of land, homes, communities and community structures, as well as the disruption of all means of sustaining livelihoods and procuring basic necessities of

the civilian population of Darfur, and in particular of the African tribes, in and around Furawiya (North Darfur), Terbeba and Bendisi villages (West Darfur). These allegations indicated that the attacks were carried out as part of a plan to permanently expel the African tribes of Darfur from their homes. The allegations claim that over a period of almost two years (2004-2006) army and Janjaweed forces repeatedly swept into the above-mentioned villages and neighbouring ones early in the morning and either stole or killed thousands of camels, horses, cattle, donkeys, sheep, goats and chickens. The attackers also stole thousands of sacks of sorghum, millet, ground nuts and other food stocks, torched prime farmland, burned the villagers' compounds and looted personal documents, household items and basic farming and other agricultural equipment including hoes and flour mills. It was alleged that many villagers died during the attacks and many died afterwards of starvation, disease and exposure as people were forced to flee into inhospitable terrain. These attacks were part of a systematic attempt to subvert or dismantle the traditional land tenure system, known as the *hakura*, in order to destroy the livelihoods of villagers of Darfur. The *hakura* has reportedly long enabled villagers to have a stable and guaranteed livelihood. Livestock, the other primary source and measure of wealth in these villages, were also attacked and stolen. Villagers who were able to escape with some of their livestock often died of hunger, thirst or attack by Janjaweed during their flight. Local markets in Darfur were reportedly flooded with stolen animals being sold by the Janjaweed. Given the long dry season and the paucity of rainfall in much of the Darfur region, ensuring adequate access to water has long been an essential component of livelihood strategies. According to allegations received, aerial bombardments in Furawija targeted the wells and livestock gathered around them. Some wells were poisoned in Bendisi and Furawija. Community life in villages in Darfur revolves around the market, which serves as the economic engine of the local economy, whereas the mosque is the spiritual centre of village life. Reports indicated that markets and mosques in Furawiya and Terbeba were sacked, looted and burned by attacking forces. Food stocks, normally stored to ensure an adequate supply of grains, nuts and other produce throughout the year, were also looted. The dispersal of villagers and family members throughout different camps following the attacks resulted in the collapse of community networks and the traditional system of proving ownership, which is directly linked to securing livelihoods. Many of the village tribal leaders were killed or were replaced by other people elected to take their place within the camps. Moreover, there were numerous reports of incidents where humanitarian aid was obstructed, trucks carrying humanitarian supplies were attacked and humanitarian workers were harassed and at times themselves attacked. These incidents created a climate of fear and impunity which added to the life-threatening lack of food security suffered by a large part of the population. The Special Rapporteur believes that the destruction of land, homes, and community infrastructure and the disruption of means of sustaining livelihoods, including livestock and land, contribute to a violation of the Government's obligation to respect the right to food, as these actions deprived villagers of their usual access to food.

63. On 5 July 2006 the Special Rapporteur together with other special procedures of the Human Rights Council wrote to the Government concerning reports that on 22 April 2006 villagers gathered in Amri school in Marawi to discuss how the building of a dam in the area had affected their livelihood. At 11 a.m., while the villagers were having breakfast in the school yard, security forces armed with machine guns and heavy artillery fired into the crowd, killing 3 men and injuring over 50 persons. The persons killed were Atta Al Sayed Al Khidir Al Mahi, aged 30, a farmer from Abu Haraze Village; Yassin Mohamed Al Khair, aged 20, a farmer

from Al Sor village; and Salah Al Faky Al Kheder, aged 27, a farmer from Alsweage village. Moreover, following the attack, the security officers arrested and detained three of the villagers, charging them with waging war against the State, criminal mischief and assault. It is reported that the incident is related to the construction of a dam that has resulted in the displacement of thousands of people living along the riverbanks. Among the groups reportedly affected are the Amri people, who have been in negotiation with the Government for the past two years regarding resettlement sites. It is further reported that the dam project was carried out with no prior consultation with the communities, and that no provisions for compensation have been made for the loss of houses and livelihoods. The Government is reportedly insisting that the Amri people be relocated to Bayouda desert, which they refuse.

Switzerland

Communication sent

64. On 18 October 2006 the Special Rapporteur wrote to the Government concerning allegations that the companies Alstom Schweiz, Va Tech Schweiz, Stucki and Colenco have submitted an application to the relevant authorities for an export credit guarantee of €100 million for the construction of the Ilisu Dam on the River Tigris, in south-eastern Turkey. An international consortium led by the Austrian enterprise Andritz is responsible for carrying out the construction of the dam (see above). The information received claims that in November 2005 the consortium submitted a revised environmental impact assessment and a new resettlement plan. Nevertheless, it appears that the dam could displace between 50,000 and 80,000 people, mostly Kurds, affecting their human rights, including the right to food, and the environment. According to this information, the region has a large number of IDPs and has been affected by widespread marginalization. Many families are already reported to lack access to food, clean and accessible water, sanitation and housing. The Special Rapporteur believes that the alleged facts could lead to a violation of the obligation to cooperate in respecting the right to food and water of the people who could be displaced by the dam if the authorities examining the export credit guarantee application do not cooperate with the Turkish authorities in providing appropriate safeguards to ensure that the displacement of the people concerned does not interfere with their livelihoods and access to sufficient and adequate food.

Communication received

65. On 1 December 2006 the Government replied, stating that the three export risk guarantee offices have reviewed the environmental impact assessment reports and action plans submitted by the exporters and the buyer and have assessed the project against the OECD Recommendation on Common Approaches on Environment and Officially Supported Export Credits and the World Bank procedures and operational policies regarding environment, natural habitats, physical cultural resources, involuntary resettlement, safety of dams and international waterways. In addition, the export credit agencies have regularly insisted on those mitigation measures planned for quality of water, income restoration and forced resettlement that comply with the above-mentioned World Bank standards and guidelines. The Government stated that this project, if realized in the appropriate framework, will make a valuable contribution to employment in the three exporting countries as well as to economic and social development in

the project area and in Turkey. The decision to issue export credit guarantees falls within the Federal Council, which in this case will consider taking such a decision only when the material conditions for meeting the World Bank standards are substantially fulfilled. The Government asserted that the participatory approach, the joint efforts of export credit agencies and the Turkish buyer, and the broad and deep mitigation measures planned for this project meet the exporting country Government's international obligations.

Turkey

Communication sent

66. On 11 October 2006 the Special Rapporteur wrote to the Government concerning allegations that the plan for constructing the Ilisu Dam on the River Tigris, 65 km upstream of the border with the Syrian Arab Republic and part of the South-East Anatolia Regional Development Project, could displace between 50,000 and 80,000 people, mostly Kurds, affecting their human rights, including the right to food, and the environment. According to these allegations, the region has a large number of IDPs and has been affected by widespread marginalization. Many families are already reported to lack access to food, clean and accessible water, sanitation and housing. The information received claims that, for example, in the town of Batman, emergency food parcels are given out regularly to ensure access to food. These parcels are reportedly private donations as local authorities do not receive sufficient resources from the central Government to provide the required support to IDPs. The influx of people displaced by the construction of the dam could exacerbate this situation. The allegations claim that the unemployment rate in this region stands at 50 per cent or higher in all major cities and that agrarian reform measures have not been adequately implemented in order to allow poor people access to productive resources. It appears that almost 80 per cent of the population live on small plots of land, which only allow them to feed themselves, or have no land at all. The land is reportedly largely owned by agas (landlords) who would be the main beneficiaries of the compensation for land expropriation to be paid as part of the dam project. The information received also indicates that those families that rely on the river for fishing may lose physical access to food, either through eviction from their homes or expected massive fish deaths from the expected deterioration of the water quality in the reservoir as a result of the construction of the dam. Despite the opposition of the affected population to the project and the withdrawal from the project of the international consortium in 2002, in 2004 a new agreement for the construction of the dam was reached with the Austrian company VA Tech, Alstom Switzerland and the German company Zublin. VA Tech in the meantime has been taken over by Andritz. It appears that applications for export credit guarantees have been filed with the Governments of Austria, Germany and Switzerland in order to reduce the financial and political risk associated with the project. It was also reported that on 5 August 2006 a ground-breaking ceremony was held to demonstrate determination to proceed with and support for the project. The Special Rapporteur believes that these facts could lead to a violation of the obligation to respect the right to food and water if the relevant authorities, central and local, do not take appropriate measures to prevent the displacement of thousands of people without adequate resettlement and compensation plans, thus interfering with their livelihoods and access to sufficient and adequate food.

United States of America

Communication sent

67. On 28 February 2006 the Special Rapporteur together with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people wrote to the Government concerning allegations which suggested that the lands of the indigenous peoples of Northern California, including the Pit River Tribe, and the indigenous peoples of Alaska, particularly the Yupik community of Gambell, St. Lawrence Island, have been polluted to such an extent that fishing, the traditional means of securing food and a livelihood for these communities, was being threatened. The reports claimed that abandoned gold and mercury mines, coupled with gold-mining activity, have polluted rivers and waterways, lakes and streams in Northern California with an estimated 3 to 8 million pounds of mercury released into the environment. The toxic substances have allegedly entered the food chain and are affecting the health of the Pit River and many other Northern California tribes. In addition, the impact on the traditional practice of fishing as a means of survival for the Pit River Tribe has also had negative consequences on the tribe's livelihood, culture and identity. Fish is not only an important staple in the traditional diet of many California native peoples, it is also connected historically, spiritually and culturally to the identity of these peoples. It is claimed that the affected tribal communities have not had access to information related to the negative effects of mercury and about how to address health risks. Industrial mining and oil corporations have also contaminated the traditional lands, waters and food of the indigenous peoples of Alaska. As a result, their health has reportedly been affected by chemicals that have contaminated traditional sources of food such as fish, marine mammals and waterfowl. For example, the rate of hospitalization of indigenous children in the Yukon River delta for respiratory infections in their first year is reportedly 10 times the national average and the occurrence of cancer among indigenous peoples in Alaska has been rising at a rate that is 30 per cent higher than for other communities. The reports received claim that the Government's response to some of these concerns has to date been inadequate. The Special Rapporteur believes that the contamination of indigenous peoples' land and water affecting their livelihood (traditional fishing) may contribute to a violation of the Government's obligation to respect the right to food.

III. OTHER ACTORS

Agence française de développement

Communication sent

68. On 3 November 2006 the Special Rapporteur wrote to the Agence française de développement informing them that he had engaged in a dialogue with the Government of the Lao People's Democratic Republic in relation to the impact of the construction of the Nam Theun 2 hydropower project on the human rights, including the right to food, of the affected population (see above). In particular, whilst noting the important monitoring mechanisms already in place for protecting the interests of the affected local communities, he nevertheless expressed concern over the terms of the concession agreement between the Government and the Nam Theun 2 Power Company Limited, which make it difficult for the relevant authorities to take an impartial position when it comes to balancing commercial returns

against social concerns and protecting the rights of the affected communities. He also said that he had received reports indicating that provisional cash compensation for loss of rice fields and common property resources, such as fisheries, vegetable gardens, fruit trees, access to bamboo forests and non-timber forest products, paid to the villagers along the upper part of the downstream channel has been inconsistent and uneven and inadequate as compensation for the lost production values of their land. The lack of adequate compensation is reportedly leading to rice shortages in some families. The reports also indicate that although some villagers used to practise double cropping on their rice fields, they were compensated for the lost production value of only one crop. He also raised the issue of the Nakai Plateau resettlement which reportedly started at the beginning of the rainy season before the new infrastructure was in place, which may result in impeded access to the transitional villages during the rainy season making food and water deliveries difficult. In addition, he sought information about whether the villagers of Nakai Plateau will be able to keep their buffalo when they are resettled due to a shortage of land and forage, and whether they will be able to grow rice in their new plots. If villagers have to switch from rice cultivation to planting vegetables during the dry season, there should be markets for their produce. The reports claim that there are no markets nearby and that the transportation costs at the moment are too high for the villagers to transport the goods themselves. Additional market options seem to be neighbouring Thailand and Viet Nam, but the tariffs on vegetables and increased competition reportedly make these difficult. Finally, he expressed concern over the inadequacy of the plans for clearing the biomass from the reservoir before impoundment, which would mean that the decomposing vegetation could cause water quality problems in the new reservoir, killing fish in both the reservoir area and downstream.

Asian Development Bank

Communication sent

69. On 3 November 2006 the Special Rapporteur wrote to the Asian Development Bank Headquarters and its Country Office in the Lao People's Democratic Republic informing them that he had engaged in a dialogue with the Government of Laos in relation to the impact of the construction of the Nam Theun 2 hydropower project on the human rights, including the right to food, of the affected population (see above). In particular, whilst noting the important monitoring mechanisms already in place for protecting the interests of the affected local communities, he nevertheless expressed concern over the terms of the concession agreement between the Government and the Nam Theun 2 Power Company Limited, which make it difficult for the relevant authorities to take an impartial position when it comes to balancing commercial returns against social concerns and protecting the rights of the affected communities. He also said that he had received reports indicating that provisional cash compensation for loss of rice fields and common property resources, such as fisheries, vegetable gardens, fruit trees, access to bamboo forests and non-timber forest products, paid to the villagers along the upper part of the downstream channel has been inconsistent and uneven and inadequate as compensation for the lost production values of their land. The lack of adequate compensation is reportedly leading to rice shortages in some families. The reports also indicate that although some villagers used to practise double cropping on their rice fields, they were compensated for the lost production value of only one crop. He also raised the issue of the Nakai Plateau resettlement which reportedly started at the beginning of the rainy season before the new infrastructure was in place, which may result in impeded access to the transitional villages during the rainy season making food and

water deliveries difficult. In addition, he sought information about whether the villagers of Nakai Plateau will be able to keep their buffalo when they are resettled due to a shortage of land and forage, and whether they will be able to grow rice in their new plots. If villagers have to switch from rice cultivation to planting vegetables during the dry season, there should be markets for their produce. The reports claim that there are no markets nearby and that the transportation costs at the moment are too high for the villagers to transport the goods themselves. Additional market options seem to be neighbouring Thailand and Viet Nam, but the tariffs on vegetables and increased competition reportedly make these difficult. Finally, he expressed concern over the inadequacy of the plans for clearing the biomass from the reservoir before impoundment, which would mean that the decomposing vegetation could cause water quality problems in the new reservoir, killing fish in both the reservoir area and downstream.

World Bank

Communications sent

70. On 19 October 2006, following the approval on 31 January 2006 of loans for US\$ 125 million by the International Finance Corporation (IFC) for Newmont's Afaho South gold-mining project in Ghana, the Special Rapporteur wrote to the Bank to express concern over the negative impact of this project on people's right to food and access to livelihoods. Because of delays in the implementation of a land replacement programme, many farmers have been displaced as a result of the project and have missed this year's main planting season. This has created food insecurity because of a shortage of cropland and social tensions in the affected communities. Newmont's approach to the land issue fails to provide affected farmers with a long-term solution for the loss of arable land and livelihoods, offering instead only assistance to secure farmers' access to two acres of land for a period of two years. In addition, it appears that alternative livelihoods programmes have not so far been successful as no market studies were carried out and no credit is available for those who want to engage in alternative forms of employment. These reports also claim that the "vulnerable programme" in place since May 2006 and aimed at providing targeted short-term support to the neediest for food security and health care has not been able to cover the income shortfalls of all those people whose livelihoods have not been restored to their pre-project level. It is also reported that the project has not so far created sufficient formal sector employment opportunities and has not brought perceptible benefits to the communities in the project area. During the construction phase, not only have people been displaced and lost their usual access to their livelihoods and their food security, but the local population has also suffered from reduced water quality and supply. When the Bank was considering the IFC progress report on this project and reviewing IFC compliance with the conditions identified by the Board at the time of approval, as well as with IFC operational policies, the Special Rapporteur urged that the IFC ensure that livelihoods are, at a minimum, restored to their pre-project levels as soon as possible and in a sustainable manner, and that an independent, external and participatory system is put in place to monitor the impact of this project on the affected communities.

71. On 27 October 2006, following the examination by the Inspection Panel of the alleged negative impact of the Left Bank Out-fall Drain (LBOD) project in Pakistan that was financed by the Bank and other financial institutions, the Special Rapporteur raised his concern over allegations that the faulty design of this project has brought devastation and loss of life and

livelihood to the nearby communities. According to allegations he received, whilst the LBOD system supported agricultural productivity, this system, combined with the partial destruction of the Tidal Link (the 26-mile-long and 92-foot-wide drainage canal that connects the system to the sea, cutting through the dhands (wetlands)), has heightened the risks to local people from flooding which seems to become particularly bad when heavy rainfall inland and high tides and storms at sea coincide. It is also reported that increased salinity due to the project has affected large tracts of agricultural lands and that the Tidal Link failure has led to major harm to the dhands ecosystem and fisheries upon which many people depend for their livelihood and access to food. People in these areas reportedly also face problems of drinking water, and have lost grazing lands. The reports received indicate that the project has induced displacement of people who had to leave the area because of loss of livelihoods and usual access to food due to increased salinity of the groundwater following the intrusion of seawater and the increased effluent brought by the LBOD. It appears that in some villages the land has become so barren that villagers can no longer plant anything of value and are forced to find alternative sources of income, including making charcoal from brush. In addition, it appears that the water in many villages is no longer fit to drink or grow crops and villagers have to walk several kilometres to find safe drinking water. According to these reports, a drastic decline in fish species and number has also been attributed to the failure of the Tidal Link and the intrusion of seawater much further inland.

72. On 3 November 2006 the Special Rapporteur wrote to the World Bank Headquarters and its Country Office in the Lao People's Democratic Republic informing them that he had engaged in a dialogue with the Government of Laos in relation to the impact of the construction of the Nam Theun 2 hydropower project on the human rights, including the right to food, of the affected population (see above). In particular, whilst noting the important monitoring mechanisms already in place for protecting the interests of the affected local communities, he nevertheless expressed concern over the terms of the concession agreement between the Government and the Nam Theun 2 Power Company Limited, which make it difficult for the relevant authorities to take an impartial position when it comes to balancing commercial returns against social concerns and protecting the rights of the affected communities. He also said that he had received reports indicating that provisional cash compensation for loss of rice fields and common property resources, such as fisheries, vegetable gardens, fruit trees, access to bamboo forests and non-timber forest products, paid to the villagers along the upper part of the downstream channel has been inconsistent and uneven and inadequate as compensation for the lost production values of their land. The lack of adequate compensation is reportedly leading to rice shortages in some families. The reports also indicate that although some villagers used to practise double cropping on their rice fields, they were compensated for the lost production value of only one crop. He also raised the issue of the Nakai Plateau resettlement which reportedly started at the beginning of the rainy season before the new infrastructure was in place, which may result in impeded access to the transitional villages during the rainy season making food and water deliveries difficult. In addition, he sought information about whether the villagers of Nakai Plateau will be able to keep their buffalo when they are resettled due to a shortage of land and forage, and whether they will be able to grow rice in their new plots. If villagers have to switch from rice cultivation to planting vegetables during the dry season, there should be markets for their produce. The reports claim that there are no markets nearby and that the transportation costs at the moment are too high for the villagers to transport the goods themselves. Additional

market options seem to be neighbouring Thailand and Viet Nam, but the tariffs on vegetables and increased competition reportedly make these difficult. Finally, he expressed concern over the inadequacy of the plans for clearing the biomass from the reservoir before impoundment, which would mean that the decomposing vegetation could cause water quality problems in the new reservoir, killing fish in both the reservoir area and downstream.

Coca Cola Company

Communication sent

73. On 8 May 2006 the Special Rapporteur wrote to the Coca Cola Company about allegations of threats to access to water in some of the areas where the company has been operating, thus exacerbating water shortages in regions that already suffer from lack of water resources and rainfall and having a negative impact on the right to food of farmers and local communities. The allegations received indicate that Coca Cola's operations rely on access to vast supplies of water, not only for the beverage itself but also for industrial cleaning and other purposes. In order to meet its operating needs for water, the company is allegedly exploiting aquifers which can hold water resources collected over many hundreds of years by communities around the world. The information received claims that, for example, Coca Cola's arrival in the village of Kaladera in Rajasthan, India, in 1999 exacerbated an already precarious water situation as water levels allegedly fell dramatically once the plant began operating. This has allegedly left local farmers unable to irrigate their lands and sustain their crops, putting whole families at risk of losing their livelihoods. Rajasthan is well known as a desert state, and Kaladera is a small, impoverished village with semi-arid conditions. Farmers reportedly rely on groundwater for the cultivation of their crops. The rainwater-harvesting projects that the company has established in Kaladera appear to be insufficient or non-functioning. The allegations received also report that the company's exploitation of water resources near Varanasi in Uttar Pradesh, India, has taken a heavy toll on the local villagers' harvests and led to the drying up of wells. In addition, farmers in Varanasi have protested against having toxic sludge-like waste, which Coca Cola plants reportedly produce as a by-product, given out as "fertilizer" and dumped on their land, although the company maintains that this sludge is non-hazardous. In Plachimada, Kerala, India, contamination from this sludge-like waste allegedly spread to the water supply, with levels of lead recorded that are above those permitted by international standards.

Communication received

74. The Special Rapporteur received the Coca Cola Company's reply on 23 August 2006 wherein the company affirmed its genuine commitment to preserving the environment and promoting the economic and social development of local communities. It also stated that it has worked to reducing the amount of water used for its beverages and with local communities to restore aquifers. They mentioned that they take part in the Global Compact.

Follow-up

75. On 20 November 2006 the Special Rapporteur, whilst welcoming the company's reply, responded that further information received indicates that, for example, in the State of Tamil Nadu, India, the company management has made an arrangement with the sugar factory

Sakthi Sugars Limited whereby the Coca Cola Company can use the water of the Vagai River in the future. In addition, this information claims that the Coca Cola Company has started using the water of the Tamirabarani River, which is already scarce, thereby affecting the supply of drinking and irrigation water to surrounding villages. The Special Rapporteur also expressed his concern about reports alleging that soft drinks produced in India by Coca Cola and other companies contain pesticide residues at a higher level than permitted by the national standards. The Special Rapporteur also asked for additional details on the projects to restore aquifers through rainwater harvesting, including any assessment of the benefits they have brought to the local communities, which the company claims to have been carrying out with those communities.
