



General Assembly

Distr.
GENERAL

A/HRC/7/21/Add.1
5 March 2008

ENGLISH/FRENCH/SPANISH
ONLY

HUMAN RIGHTS COUNCIL
Seventh session
Agenda item 3

**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL,
ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO
DEVELOPMENT**

**Report of the Special Rapporteur on the adverse effects of the illicit movement and dumping
of toxic and dangerous products and wastes on the enjoyment of human rights**

Addendum

**Summary of communications sent and replies received from Governments
and other actors***

* The present report is submitted after the deadline in order to reflect the most recent information received. It is being circulated as received in the languages of submission only.

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Introduction

1. In accordance with Commission on Human Rights resolution 2005/15, the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights was mandated by the Commission (mandate assumed by the Human Rights Council, pursuant to its resolution 5/1) to receive communications from individuals or groups who allege that their human rights have been violated by the illicit movement and dumping of toxic and dangerous products and wastes.

2. The present addendum contains a summary of communications sent by the Special Rapporteur – either independently or jointly with other special procedure mandate-holders of the Human Rights Council. The report also contains government replies to letters of allegations and summaries of information from United Nations agencies and non-government organizations on issues of relevance for the mandate of the Special Rapporteur. The communications sent are from the period of 1 January 2006 to 4 December 2007 and government replies for the period of 1 January 2006 to 21 January 2008.

3. The Special Rapporteur would like to thank all Governments that have responded to his communications and for their collaboration. He would also like to request Governments that have not responded, to do so and to address all concerns raised in each communication.

4. It is important to recall that communications sent to Governments address not only allegations that raise concerns, but also very frequently situations in which information regarding certain facts and actions needs clarification. The establishment of constructive dialogue with Governments is a crucial element to provide this necessary clarification, as Governments have the primary responsibility for the protection of all persons under their jurisdiction and for the implementation of human rights in their countries.

I. CASES SUBMITTED TO THE ATTENTION OF THE SPECIAL RAPPORTEUR

China

Communication sent

5. On 12 January 2007, the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal regarding the situation of Mr Sun Xiaodi, a Gansu-based activist who has spent more than a decade petitioning the central authorities over radioactive contamination from the No. 792 Uranium Mine in the Gannan Tibetan Autonomous Prefecture in Gansu Province. On 1 December 2006, Mr Sun had also received the Nuclear-Free Future Award delivered by a jury of international environmentalists, activists, scholars and journalists.

6. According to the information received, since receiving the award, Mr Sun Xiaodi's home had been reportedly raided at night by unknown persons throwing stones at his door and windows. Moreover, since being detained briefly in early 2006, Mr Sun Xiaodi had reportedly faced interrupted water and electricity supply and was under unofficial residential surveillance for an unspecified period. Although he was no longer officially under surveillance, in practice each of his movements was allegedly monitored, and if he left the area for any reason, he was followed and interviewed by security personnel upon his return. Furthermore, due to limited local medical facilities, Mr Sun Xiaodi had put in a request with local public security officials for permission to seek medical treatment in Beijing for a tumor, a potentially life-threatening health condition. However, he had received no reply. It was reported that residents living in the area suffer an unusually high rate of cancer and other health conditions which may have been associated with radioactive contamination. Mr Sun Xiaodi was reportedly currently experiencing physical discomfort and has difficulty sleeping. It is further reported that in addition to the tumor, he suffers from gall stones and coronary heart disease.

7. Concerns were expressed by the Special Procedure mandate holders on the harassment against Mr Sun Xiaodi and the absence of response from local authorities to allow him to seek medical treatment in Beijing that may have been seen as a retaliation for his legitimate activities in the defence of human rights ie. his work denouncing radioactive contamination in Gansu province, and for his acceptance of an international environmental award.

Communication received

8. By letter received 26 February 2007, the Chinese Government reported that the Gansu public security authorities took Mr Sun into criminal detention on 29 April 2005, in accordance with the law on suspicion of commission of the offence of providing State secrets to bodies outside the country. On 4 June, Mr Sun's arrest warrant was approved by the procuratorial authorities and, on 19 September, the measure of restraint implemented against him was amended to residential surveillance. On 9 March 2003, he was released from residential surveillance. At the current time, the public security authorities are not applying any restraint measures against Mr Sun. The receipt also acknowledged about the treatment of the former nuclear plant 792 which was a medium-scale uranium extraction and smelting plant under the responsibility of the China National Nuclear Corporation. In 1967, the construction work of the plant began and officially started production in 1982. The plant stopped operating in 1994. In 2002, nuclear plant 792 went bankrupt and was closed. In its place, the Gansu Longjiang Nuclear Company Ltd. was set up with a specific responsibility for decommissioning and treatment projects and for the recovery of disused ore.

9. It also included that in compliance with the relevant State model regulations and design criteria, plant 792 carried out sorting, treatment and disposal procedures for its polluting equipment and installations. Seriously polluting equipment was buried deep inside the mineshaft; as for less seriously polluting equipment, after cleaning and testing, some of it was retained for use in the mine, while the rest - the greater part - was transported to a specialized radioactive metals smelting facility in the Hunan nuclear energy plant to be melted down. Moreover, it said that there were no instances of the organized or unauthorized sale to individual enterprises of decommissioned equipment and

steel products which had been contaminated with radioactivity. Furthermore, the total weight of both such equipment and steel products did not exceed 1,000 tons. It is reported that the waste rock and tailings from uranium mining activities and hydro-metallurgical processing contain the low-level radioactive materials found in naturally occurring radioactive nuclides and these wastes are treated on site under the decommissioning and treatment project.

10. According to the receipt, the radioactive waste and contaminated soil resulting from demolition work on the hydro-metallurgy buildings and structures as well as from the clearing of the site are collected and disposed of in the tailings dump; the areas where the waste rock is dumped are left to harden. However, in July 2003, 70 percent of these earth works washed away. Currently, the restoration work is going on and a pilot research project has been developed for the restoration of the plant to cover in high-altitude and very cold areas with fragile environments and the decommissioning and treatment work for the closure of the mine. This is expected to be completed in 2007. It is expected that the natural environmental system of this area will be gradually restored. The Government also added that during the shut down of the former nuclear plant 792, a certain quantity of disused ore was left behind in the mineshafts. The recycling of this uranium ore would make a big difference in preventing the environmental pollution caused by unlawful mining activities; it would also be conducive to the definitive decommissioning of the entire mine. Currently, this project is carrying out the relevant preparatory work pursuant to the requirement for the conduct of environmental protection measures and for the final testing and approval of the environmental protection arrangements upon completion of the project.

Observations

11. The Special Rapporteur would like to thank the Government of China for responding to his letter.

Communication sent

12. On 23 August 2007, the Special Rapporteur, jointly with the Special Representative of the Secretary-General on the situation of Human Rights Defenders sent an urgent appeal regarding Mr Wu Lihong, an environmental activist and human rights defender from the Zhoutie Township, Yixing City, in the province of Jiangsu. Mr Wu Lihong regularly reports to the authorities on cases of environmental violations in the form of illegal dumping of industrial waste into the Tai Hu (Tai Lake).

13. According to 10 August 2007, the Yixing City Court sentenced Mr Wu Lihong to three years' imprisonment and a fine of 500 RMB for the crime of extortion. Moreover it is alleged that only four of his family members were allowed entry to the courtroom to be present during the trial while other supporters and members of the press were denied entry. Mr Wu Lihong has reportedly stated his intention to appeal this sentence. Further information received allege that Mr Wu Lihong was arrested on 13 April 2007 by the Yixing City police on suspicion of extortion and was transferred to a detention centre in Yixing where he was allegedly subject to violent treatment, resulting in injury. His lawyer requested for him a physical examination to be conducted by a

doctor. Concern was expressed that the aforementioned sentence imposed upon Mr Wu Lihong may be related to his peaceful and legitimate activities in the defence of human rights, in particular his work on reporting environmental violations in the form of illegal dumping of industrial waste. Further concern is expressed for the physical and psychological integrity of Mr Wu Lihong while imprisoned.

Observation

14. The Special Rapporteur regrets that he had not received a response to the communication sent at the time of finalizing the report.

Ecuador

Comunicaciones enviadas

15. El 10 de noviembre de 2006, el Relator Especial sobre los efectos nocivos para el goce de los derechos humanos del traslado y vertimiento ilícitos de productos y desechos tóxicos y peligrosos juntamente con el Relator Especial sobre la promoción del derecho a la libertad de opinión y de expresión, el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y el Representante Especial del Secretario-General para los defensores de los derechos humanos señalaron a la atención urgente del Gobierno la información recibida en relación con supuestos actos de intimidación y agresión perpetrados en contra de la Sra. Guadalupe de Heredia, responsable de prensa de la organización Frente de Defensa de la Amazonía. De acuerdo con la información recibida, durante la noche del 23 de octubre de 2006 un grupo de cinco desconocidos habría intentado irrumpir en el domicilio de la Sra. de Heredia, en Quito, supuestamente en respuesta a sus actividades en defensa de los pueblos indígenas y, en particular, con su trabajo en el grupo de abogados de las comunidades indígenas peticionarias en el proceso judicial en curso en contra de la compañía Chevron-Texaco. Fue reportado que en el día anterior, la Sra. de Heredia habría participado en el Foro Internacional de Petróleo, Derechos Humanos y Remediación Integral para debatir asuntos relativos a la contaminación medioambiental y la violación de derechos humanos producidos en el contexto de las actividades extractivas. En el curso de dicha actividad, así como en diversas entrevistas a los medios de comunicación, la Sra. de Heredia habría supuestamente denunciado las actividades de la compañía Chevron-Texaco por sus efectos en la vida de las comunidades indígenas de la región de Sucumbios. También ha sido reportado que la Sra. de Heredia fue objeto de medidas cautelares otorgadas por la Comisión Interamericana de Derechos Humanos el 28 de abril de 2006.

Comunicaciones enviadas

16. El 14 de noviembre de 2007, juntamente con el Relator Especial sobre los efectos nocivos para el goce de los derechos humanos del traslado y vertimiento ilícitos de productos y desechos tóxicos y peligrosos y el Presidente del Grupo de Trabajo sobre la utilización de mercenarios como medio de violar los derechos humanos y obstaculizar el ejercicio del derecho de los pueblos a la libre determinación, el Relator Especial sobre la situación de los derechos humanos y las libertades

fundamentales de los indígenas, el Representante Especial del Secretario-General para los defensores de los derechos humanos señalaron a la atención urgente del Gobierno la información recibida sobre la supuesta ejecución sumaria del Sr. Segundo Francisco Loor Intriago y los supuestos malos tratos inflingidos al Sr. Juan Carlos Esmeraldas Alcívar, hechos supuestamente ocurridos en las instalaciones de la empresa Petrobell, en la Parroquia de Tigüino. De acuerdo con las informaciones recibidas, desde 2002 la referida compañía lleva a cabo actividades de explotación petrolífera en el área conocida como Campo Marginal Tigüino (Amazonía ecuatoriana) gracias a una concesión otorgada por el Gobierno. El día 28 de septiembre de 2007, se habría producido una fuga en la plataforma Tigüino 3, conduciendo al derrame accidental de grandes cantidades de petróleo y agua de formación en el río Cristal, hechos que afectaron a las comunidades indígenas de Cristalino, Loma del Tigre y Tigüino. En consecuencia del accidente, tales comunidades se vieron privadas del acceso al agua de la que dependen para su subsistencia y de la de su ganado. Las comunidades habrían presentado diversas denuncias ante la Dirección Nacional de Protección Ambiental y ante las autoridades locales. Ante la supuesta negativa por parte de la empresa de proceder a la reparación del daño causado al medioambiente y a las comunidades referidas, éstas habrían decidido bloquear la carretera de ingreso a la plataforma Tigüino 3 como forma de protesta pacífica. En respuesta, el Ejército habría procedido al levantamiento forzoso del bloqueo, generando el confronto entre comuneros y fuerzas del orden. Según las informaciones, en dicho operativo habrían actuado también guardias privados contratados por la compañía Petrobell. A causa de un disparo de arma de fuego durante el operativo de retirada de los manifestantes, el Sr. Segundo Francisco Loor Intriago habría fallecido. Asimismo, durante el operativo, el Sr. Juan Carlos Esmeraldas Alcívar habría sido detenido por el Ejército, bajo la acusación de haber disparado una pistola, siendo posteriormente trasladado a la Comisaría de Policía, donde supuestamente habría sido objeto de malos tratos por parte de los miembros del Ejército y de los guardias privados. Se alegó que estos sucesos habrían ocurrido en consecuencia del uso excesivo de la fuerza por parte de las Fuerzas Armadas, reacción que, según las informaciones, sería habitual en casos de conflicto entre empresas petroleras transnacionales y comunidades afectadas por la explotación petrolera.

Observación

17. El Relator Especial lamenta no haber recibido, a la finalización de su informe respuesta del Gobierno a sus comunicaciones.

France

Communication envoyées

18. Le 30 novembre 2007, le Rapporteur spécial sur les effets néfastes des mouvements et les déversements illicites des produits toxiques et dangereux et les déchets, sur la jouissance des droits de l'homme, le Rapporteur spécial sur le droit à l'alimentation, la Représentante spéciale du Secrétaire général sur la situation des défenseurs des droits de l'homme et le Rapporteur spécial sur la situation des droits de l'homme et des libertés fondamentales des populations autochtones ont envoyé une lettre se réfère à l'impact des activités illégales des orpailleurs sur la situation des

autochtones Wayanas et Emerillons des villages Kayodé et Elahé, sur les rives de la rivière Waki-Tampok, dans la commune de Maripasoula en Guyane française.

19. Selon les allégations, les activités des chercheurs d'or pollueraient les eaux de la rivière causant la migration des poissons vers des zones moins polluées ce qui affecterait grandement ces populations pour qui la pêche constitue la principale activité traditionnelle de subsistance et une source importante pour leur alimentation.

20. Par ailleurs, le gibier qui est aussi vital pour ces populations se ferait de plus en plus rare en raison de la pratique de la chasse par les orpailleurs. Les membres de ces communautés seraient également intoxiqués par la consommation des poissons infectés au mercure. Des études réalisées dans les villages de Kayodé et Elahé auraient mis en évidence un niveau d'imprégnation de quelques familles qui se situerait entre 17 et 20 microgrammes par gramme, très au-dessus des seuils tolérables fixés par l'Organisation Mondiale de la Santé. Les conséquences chez les jeunes enfants ont été mises en lumière par des études menées par les instances de santé des pouvoirs publics qui auraient révélé des retards psychomoteurs dans la marche et l'acquisition du langage chez les enfants ainsi que des altérations des fonctions visuelles et motrices. Un nombre anormal de malformations natales et de grossesses non abouties aurait également été observé dans ces villages.

21. Selon les informations que reçues, le 25 septembre 2007, la chef coutumier du village de Kayodé, Mélanie Aliman He, avec des membres du village, aurait tenté d'empêcher la montée des pirogues d'orpailleurs sur le haut de la rivière Waki-Tampok. Les orpailleurs auraient alors tiré en leur direction blessant ainsi un membre de la communauté.

22. Par ailleurs, il est rapporté qu'un membre du même village aurait reçu des coups de fusil alors qu'il pêchait.

23. Le 27 février 2007, un Décret n°2007-266 aurait officialisé la création d'un parc national en Guyane dénommé « Parc amazonien de Guyane ». Ce Parc comprendrait cinq des 22 communes de la Guyane, parmi celles-ci, Maripasoula. Le centre du Parc viserait à protéger les sources des fleuves de la Guyane et à permettre aux communautés d'habitants de maintenir et valoriser leurs cultures sous leurs aspects matériels et immatériels, à garantir la pérennité de leurs pratiques de subsistance et à associer les autorités coutumières à la gestion du territoire. Les villages de Kayodé et Elahé n'auraient pas été retenus pour faire partie de ce centre du Parc malgré les requêtes de ces peuples autochtones ainsi que les conclusions de la Commission d'Enquête Publique. Cette exclusion laisserait ainsi ces populations vulnérables face à l'activité minière qui ne serait interdite que dans le centre du Parc.

Observations

24. Le Rapporteur Spécial regrette qu'au moment de la finalisation du report, le Gouvernement n'ait pas encore répondu à sa communication.

Germany

Communication sent

25. On 17 July 2006, the Special Rapporteur sent an urgent appeal regarding allegations relating to the *SS Blue Lady* (ex-Norway) bearing tonnes of toxic wastes such as asbestos, polychlorinated biphenyls (PCBs) and other contaminants in its structure, and which was reportedly waiting to be dismantled in Alang, state of Gujarat, India. On 5 June 2006, the Indian Supreme Court ruled that the ship was allowed to anchor in the Indian territorial waters, on the basis of an interim report submitted by the Technical Committee on Ship-Breaking. The ship was reportedly denied entry to ship breaking yards in Bangladesh in February 2006 based on its toxic waste content. It is further alleged that the ship-breaking yards in Alang lack the possibility of environmentally sound management and protection of workers from PCBs. According to reports from experts, as much as 1,200 tonnes of asbestos remain in the *SS Blue Lady*. It was alleged that the presence of the ship in Alang will pollute the sea-side, soil and water, hence putting the life and health of its inhabitants of the region at stake. The information received on 6 May 2006 stated that the *SS Blue Lady* towed out of Port Klang, Malaysia, before heading towards the Indian Ocean.

26. It is also alleged that the vessel initially left from the Port of Bremerhaven in Germany after obtaining permission from the port authorities to depart for Asia for repairs. Some months before the departure of the ship, civil society groups raised concerns that the true intent of the owners of the *SS Blue Lady* was to bring the vessel, with its toxic wastes contained in its structure, to an Asian ship-breaking yard for disposal.

Communication received

27. By letter received on 29 August 2006, the German Government stated that it condemns the dismantling of ships with hazardous substances that do not satisfy the minimum international standards of occupational safety and environmental protection. The Government argued that the case of the *SS Blue Lady* (ex-Norway) once again illustrated that the European and universal provisions on the transboundary shipment and environmentally sound management of waste do not provide a sufficient regulatory framework for ships, due to their worldwide mobility. The Government argued that the German authorities could only prevent the departure of the ship, if the *SS Blue Lady* (ex-Norway) was categorized as hazardous waste at the time of departure from Bremerhaven port on the basis of the provisions of the Basel Convention of 22 March 1989 and their implementation in European law through Regulation (EEC) No.259/93.

28. On 12 April 2005, the authority responsible for the transboundary shipment of wastes in Bremen, the Senate Building, Environment and Transport, obtained a comprehensive impression of the ship during a joint discussion with the representatives of the water police, the port captain as the representative of the port authority and the captain of *SS Blue Lady* (ex-Norway). The checks included an inspection of the ship. During the discussion, the captain of the *SS Blue Lady* (ex-Norway) stated that the ship was to depart from Bremerhaven with a tugboat chartered by the

shipping company destined for Port Klang, Malaysia, and was to be used by the shipping company as a hotel or training ship following corresponding conversion work.

29. The inspection of the ship gave further credible impression that the ship was going to be further used and not scrapped. There was no apparent intention on the part of the owner to dispose of the ship after departing from Bremerhaven port was identified by the authorities concerned during the discussion on 12 April 2005 or in the period following it. The German Government concluded that the decision taken by the owner of the ship, to neither repair the ship nor to convert it into a hotel ship, could not have been predicted at the time the assessment was made.

Observations

30. The Special Rapporteur thanks the Government of Germany for its reply.

India

Communication sent

31. On 6 July 2006, the Special Rapporteur sent an urgent appeal regarding allegations relating to the *SS Blue Lady* (ex-Norway). According to the information received, on 6 May 2006, the *SS Blue Lady*, bearing tonnes of toxic wastes and was likely also to contain Polychlorinated biphenyls (PCBs), including asbestos in its structure, was towed out of Port Klang, Malaysia by two tugboats heading towards the Indian Ocean. It was further alleged that the ship had been allowed to anchor in Indian territorial waters on the basis of an interim report submitted by the Technical Committee on Ship-Breaking set up by the Indian Supreme Court. Reportedly, this Technical Committee does not include representatives from public interest groups and non-governmental organizations representing civil society. It was further reported that on 5 June 2006, the Indian Supreme Court allowed the *SS Blue Lady* to enter Indian waters. The *SS Blue Lady* has been reportedly denied entry to ship breaking yards in Bangladesh in February 2006 based on its toxic waste content.

32. Allegedly, the ship owner has failed to produce the required inventory of all toxic wastes onboard the vessel before exporting the vessel, making it difficult to ascertain the quantity and type of toxic waste onboard. Experts, have estimated that as much as 1,200 tonnes of asbestos remain in the *SS Blue Lady*. It is further alleged that the ship-breaking yards in Alang lack the possibility of environmentally sound management and protection of workers from PCBs. Reportedly, the presence of the ship in Alang will pollute the sea-side, soil and water, hence putting the life and health of the inhabitants of the region at stake. The Special Rapporteur was concerned with the potential human rights violations that could have occurred if the allegations mentioned in this communication were correct and the dismantling of the ship did indeed take place.

Observations

33. The Special Rapporteur regrets that he had not received a response to the communication sent at the time of finalizing the report.

Malaysia

Communication sent

34. On 6 July 2006, the Special Rapporteur sent an urgent appeal regarding allegations relating to the *SS Blue Lady* (ex-Norway). According to the information received, on 6 May 2006, the *SS Blue Lady*, bearing tonnes of toxic wastes and was likely also to contain Polychlorinated biphenyls (PCBs), including asbestos in its structure, was towed out of Port Klang, Malaysia by two tugboats heading towards the Indian Ocean. It was further alleged that the ship had been allowed to anchor in the Indian territorial waters on the basis of an interim report submitted by the Technical Committee on Ship-Breaking set up by the Indian Supreme Court. It was reported that on 5 June 2006, the Indian Supreme Court allowed the *SS Blue Lady* to enter Indian waters. The *SS Blue Lady* has been reportedly denied entry to ship breaking yards in Bangladesh in February 2006 based on its toxic waste content.

35. It is further alleged that the ship-breaking yards in Alang lack the possibility of environmentally sound management and protection of workers from PCBs. Reportedly, the presence of the ship in Alang will pollute the sea-side, soil and water, hence putting the life and health of the inhabitants of the region at stake. The information received on 6 May 2006 said that before heading towards the Indian Ocean, the *SS Blue Lady* was towed out of Port Klang, Malaysia which would allegedly make Malaysia the State of export of toxic wastes that may affect the enjoyment of human rights of the workers and populations in contact with the vessel and its dismantlement.

Communication received

36. By letter received on 1 March 2007, the Government of Malaysia responded that the allegation against Malaysia of the haphazard handling of toxic materials affecting the enjoyment of human rights of workers and population in contact with the vessel *SS Blue Lady* (formerly named *SS Norway*) and its dismantlement was without basis. A through investigation was carried out by the Malaysian Department of Environment in conformity with Section 37 of the Environment Quality Act 1974.

37. According to the response of the Government, Malaysia was not the originating port of the vessel *SS Blue Lady*. The vessel had sailed out of Germany through Port Klang, Malaysia. The shipping agent reported that the next port of call was Dubai, United Arab Emirates. The owner of the vessel was Bridgend Shipping Limited, based in Monrovia, Liberia. The Government informed the Special Rapporteur that the shipping agent in Malaysia, Summit Agencies Sdn.Bhd. had reported that the vessel was to be utilized for ship repairs work. The Government further explained that on the question of whether Bridgend Shipping Limited intended to carry out scrap/dismantling activities, the shipping agent declared that Bridgend Shipping Limited is a company involved in shipping activities. Following Summit Agencies Sdn.Bhd.'s declaration that the vessel was not due for scrapping, the Department of Environment could not invoke the provisions of the Basel Convention over any suspicions it or any others had in relation to the *SS Blue Lady*. Therefore, the

Government argues that it was thus inaccurate for the Special Rapporteur to allege that Malaysia was the State of export of toxic waste.

Observations

38. The Special Rapporteur would like to thank the Government of Malaysia for responding to his letter.

México

Comunicaciones enviadas

39. El 30 de agosto de 2007, el Relator Especial sobre el derecho a la alimentación, el Relator Especial sobre los efectos nocivos para el goce de los derechos humanos del traslado y vertimiento ilícitos de productos y desechos tóxicos y peligrosos y el Representante Especial del Secretario-General para los defensores de los derechos humanos señalaron a la atención urgente del Gobierno su preocupación respecto a la seguridad e integridad física del Sr. Jair Pineda y del Sr. Armando Mendoza Ponce, miembros del Frente Amplio Opositor (FAO) – una agrupación de organizaciones ecologistas locales que hace frente al proyecto minero en el Cerro San Pedro, estado de San Luís Potosí. El mencionado proyecto estaría contaminando el agua local y destruyendo la montaña de San Pedro por el uso de explosivos. Según las informaciones, el día 5 de agosto de 2007, el Sr. Jair Pineda habría hablado con dos empleados de la empresa minera del Cerro San Pedro y, al salir en su automóvil, habría sido seguido por los empleados y ordenado a salir del automóvil. Negándose a dejar el coche, logró escapar. En la misma noche, un grupo de hombres armados habría llegado a la casa del Sr. Mendoza Ponce y disparado al vehículo aparcado delante de la casa. El Sr. Mendoza Ponce habría denunciado el ataque a las autoridades e informado que los responsables eran los mismos que habrían disparado contra los vehículos de otros activistas unos meses antes. Los sucesos supuestamente estarían relacionados con la actividad de los sujetos en la defensa de los derechos humanos y la protección de los recursos naturales de la comunidad de Cero San Pedro.

Observaciones

40. El Relator Especial calienta no haber recibido, a la finalización de su informe respuesta del Gobierno a su comunicacion.

Niger

Communication envoyées

41. Le 10 octobre 2007, le Rapporteur spécial sur les effets néfastes des mouvements et les déversements illicites des produits toxiques et dangereux et les déchets, sur la jouissance des droits de l'homme, le Rapporteur spécial sur le droit à l'alimentation, le Rapporteur spécial sur la situation des droits de l'homme et des libertés fondamentales des populations autochtones, le Rapporteur spécial sur le droit de toute personne de jouir du meilleur état de santé physique et mentale

susceptible d'être atteint et l'Expert indépendant sur les questions relatives aux minorités ont envoyé une lettre concerne l'impact des activités minières réalisées sur les territoires habités ancestralement par les populations nomades Touarègues du nord Niger dans la région d'Agadez ainsi que sur l'environnement de ces populations. Selon les informations reçues, le groupe français Areva (anciennement Cogema) exploiterait des mines d'uranium dans la région d'Agadez par l'intermédiaire de ses filiales nigériennes, la Société des Mines de l'Aïr (SOMAIR) et la Compagnie Minière d'Akouta (COMINAK). La société SOMAIR exploiterait la mine d'Arlit à ciel ouvert depuis 1969, quant à la COMINAK, elle exploiterait la mine d'Akokan depuis 1974. Les concessions à Arlit et Akokan affecteraient une aire totale de 375 Km², couvrant en grande partie les territoires de chefferies Touarègues du Nord Niger.

42. Selon les allégations, l'exploitation minière aurait comme conséquence immédiate la destruction par les rejets radioactifs des espaces forestiers et pastoraux, desquels les communautés Touarègues ont traditionnellement dépendu pour leurs activités de subsistance. Les nappes phréatiques et les puits seraient également pollués par le rejet de l'eau de nettoyage de minerai.

43. La main d'œuvre dans ces mines qui serait presque exclusivement constituée des nomades Touaregs n'aurait pas été informée des questions de sécurité et des risques liés à la radioactivité. Il est également rapporté que faute de sensibilisation, les travailleurs descendaient dans les mines avec leurs propres vêtements et en regagnant leur domicile avec ces mêmes vêtements exposaient ainsi leurs familles. Selon un rapport publié en 2005 par la Commission de Recherche et d'Information indépendante sur la Radioactivité, la charge en uranium dans les villes d'Arlit et Akokan dépasserait de 7 à 78 fois les normes internationales de potabilité. De nombreux cas de maladie et de décès auraient été recensés depuis les années 1970.

44. Selon les informations reçues, en mai 2007 de nouvelles concessions minières auraient été accordées à des sociétés étrangères dans le bassin de Tim Mersoï, région d'Agadez. La superficie de l'ensemble de ces concessions serait d'environ 90.000km² et affecterait aussi les terres traditionnelles des communautés Touarègues qui n'auraient été ni informées ni consultées au sujet de ces nouvelles implantations minières sur leurs territoires. Il y aurait eu des tentatives de les expulser de ces territoires et aucune mesure n'aurait été prévue pour compenser les communautés affectées par l'impact de ces nouvelles activités minières.

Observations

45. Le Rapporteur Spécial regrette qu'au moment de la finalisation du report, le Gouvernement n'ait pas encore répondu à sa communication en date du 10 octobre 2007.

United Nations Interim Administration Mission in Kosovo (UNMIK)

Communications sent

46. On 27 March 2006, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, the Representative of the Secretary-General on human rights of internally displaced persons (IDPs) and the independent expert on minority issues, concerning the situation of the internally displaced persons belonging to the Roma, Ashkali and Egyptian minority groups affected by severe lead contamination in the Zhitkovc, Cesmin Lug and Kablare camps located near Mitrovica, northern Kosovo. Attention was drawn to a previous correspondence sent to UNMIK on 13 October 2005 (UA G/SO 214 (42-3) KSV 2/2005), regarding the relocation of Roma, Ashkali and Egyptian internally displaced persons affected by severe lead contamination in camps located in Mitrovica, northern Kosovo. According to information received, a lack of trust by affected persons in the United Nations Interim Mission in Kosovo (UNMIK) had led to reluctance to voluntarily relocate to Camp Osterode. Due to its proximity to the contaminated areas, this camp had been designated as only a temporary measure to resolve the health crisis. It was understood that affected persons doubted whether the new facilities would be substantially safer, and whether they would in fact constitute a temporary measure pending provision of a longer-term durable solution. Concern was expressed about reported threats against persons belonging to the minorities in question and further information was requested regarding the efforts that UNMIK had taken to resolve this long-term problem and ensure a permanent return of IDPs to their homes.

Communications received

47. By letter dated 11 April 2006, UNMIK replied to the communication sent on 27 March 2006. UNMIK informed the Special Rapporteur that, in concert with other agencies, a comprehensive plan had been developed to assist the affected families living in the IDP camps. UNMIK noted that over 50 per cent of the camps' total population had been voluntarily relocated to Camp Osterode, and further stated that treatment for children suffering from high blood lead levels would begin within the week. UNMIK also committed to complete the construction of a permanent resettlement camp for the Roma people within 18 months.

Observations

48. The Special Rapporteur thanks UNMIK for its reply.

Communication sent

49. On 10 January 2007, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health, the Independent Expert on Minority Issues, the Special Rapporteur on adequate housing as a

component of the right to an adequate standard of living, concerning the issue of the camps for internally displaced persons affected by lead contamination in northern Mitrovica/Mitrovicë. The Special Rapporteurs thanked for the reply dated 11 April 2006 concerning a previous communication (dated 27 March 2006) and which indicated certain positive measures and developments. However, requests for information in the letter of 27 March 2006 on the provision of emergency medical treatment to affected persons were only briefly addressed in the Government's response. In the meantime according to the information received the Žitkovac/Zhikovc and Kablare/Kablar camps have been closed after their inhabitants voluntarily moved to the Osterode camp (mainly between March and July 2006), but that up to 150 individuals still remain in the Česmin Lug/Çesmin Llugë camp. Furthermore it is reported specialized medical treatment for some of the residents of the Osterode camp commenced at the end of August. The medical evidence revealing widespread lead poisoning among persons belonging to Roma, Ashkali and Egyptian minority groups who lived in or still live in the Žitkovac/Zhikovc, Česmin Lug/Çesmin Llugë and Kablare/Kablar camps, appears to be both unanimous and overwhelming. The Special Rapporteurs appreciate the work of UNMIK with respect to closing down these three contaminated camps, and relocating the majority of IDPs to the Osterode camp. However, it is alleged that Osterode camp is also located on contaminated soil. Furthermore, it is alleged that with the exception of members of the Mustafa family who have received treatment in Germany with the assistance of several NGOs, children affected by lead poisoning did not start to receive medical treatment until late August and that many remain to be treated.

Communication received

50. By letter dated 16 April 2007, the UNMIK replied to the urgent appeal transmitted on 10 January 2007 by the Special Procedure mandate holders concerning the camps for internally displaced persons affected by lead contamination in northern Mitrovica/Mitrovicë. The UNMIK informed the Special Rapporteurs that the construction of two apartment blocks at Roma Mahala able to accommodate 24 families had been completed and that two similar apartments' blocks would have been completed by 31 July 2007 for a total of 48 families. 12 of these apartments are earmarked for Česmin Lug/Llugë residents. At the time of sending this communication 170 Roma, Ashkalis or Egyptians persons had moved to Roma Mahala from camp Osterode and Česmin Lug/Llugë, as well as 130 Roma, Ashkalis or Egyptians from Montenegro and the Republic of Serbia. This left 395 Roma, Ashkalis or Egyptians individuals living at Camps Osterode and 100 living at Česmin Lug/Llugë. Camp Osterode remains a Mitrovicë/Mitrovica Municipality. Česmin Lig/Llugë is managed by UNMIK Administration Mitrovica (UAM) which provides the services of a full time nurse who operates a clinic that provides primary health care services to the remaining RAE community. UNMIK also informed that due to the prevailing political situation in the northern part of Mitrovicë/Mitrovica, Serbian politicians have clearly reiterated that they will not accept forced relocation under any circumstances. The UNMIK stated that the force closure of Česmin Lug/Llugë is impractical at this time but every effort is made by UNMIK to convince the remaining occupants to move voluntarily to Roma Mahala. 37 private houses have been constructed/reconstructed under the patronage of Danish Refugee Council with funds provided by the Swedish Government and the European Agency for Reconstruction. 20 more houses would have been occupied on 30 June 2007 as more Roma, Ashkalis and Egyptians households will occupy their

former houses. Out of the 130 mentioned above, 49 individuals have moved into private housing and 81 into completed two apartment blocks; all from Montenegro and the Republic of Serbia. UNMIK also informed that the United Nations Development program would have taken over the Roma Mahala project from the UNMIK Department of Civil Administration, effective 01 June 2007. The UNDP will be responsible for the planning, execution and canvassing of potential donors in the second phase of the Roma Mahala project. On health issues, the UNMIK affirmed that the Camp Osterode is monitored periodically for lead contamination by the World Health Organization and UAM technical experts. Camp Osterode is a former Serbian Logistic Base occupying premises that are covered in concrete or asphalts. The WHO Chelation Therapy Clinic has been in operation since March 2006 and out of a population of 100 children, has treated 37 children with 12 children needing second phase therapy. The other children were able to recover through additional food supplements. The clinic will be removed to Roma Mahala on completion of the ambulanta presently completing construction. Public health services are being offered to the Roma, Ashkalis and Egyptian communities at health clinics and public hospitals located in the southern and northern parts of Mitrovicë/Mitrovica Municipality. The aim is to provide integrated health services and improved living conditions at Roma Mahala. UNMIK plans to hand over Camps Osterode to a successor organization by the end of 2007.

Observations

51. The Special Rapporteur thanks the UNMIK for its reply.

II. UPDATES ON CASES CONTAINED IN PREVIOUS REPORTS OF THE SPECIAL RAPPORTEUR

Mexico

Comunicaciones recibidas

52. Mediante carta de fecha de 13 de enero de 2006, el Gobierno contestó a la nota del 14 de octubre de 2005 en la que se señaló al Gobierno las informaciones recibidas acerca del uso de pesticidas en la región del Yaqui, estado de Sonora. El Gobierno proporcionó al Relator Especial información de las Secretarías de Trabajo y Previsión Social; de Salud; y de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación (SAGARPA) en torno al manejo y uso de materiales peligrosos en la región del Yaqui. Se informó que durante los días 9 al 11 de noviembre de 2005, la SAGARPA celebró un “Curso de Capacitación a Capacitadores” en la ciudad de Obregón, estado de Sonora, bajo el esquema del Programa Nacional Contra los Riesgos por el Uso de Plaguicidas para atender a la región del Yaqui. Cuatro de los capacitadores formados actuarían en la comunidad Yaqui y tendrían la tarea de capacitar e informar sobre los riesgos por a la salud por el uso de plaguicidas de la población expuesta directa o indirectamente a estos insumos. Además, la Secretaría de Salud, a través de la Comisión Federal para la Protección Contra Riesgos Sanitarios (COFEPRIS) impartió diversos cursos de capacitación para diferentes colectivos en el año de 2005 sobre el buen uso y manejo de plaguicidas, el riesgo por su uso inadecuado y las medidas preventivas y de protección para evitar la exposición a los agroquímicos. Asimismo, se proporcionó capacitación

especializada a médicos y personal paramédico sobre el diagnóstico y atención de pacientes intoxicados por plaguicidas. En lo que respecta a la vigilancia sanitaria, en abril de 2005 se llevó a cabo un curso regional en materia sanitaria de comercialización de plaguicidas y nutrientes vegetales. El Gobierno también afirmó que se estaría realizando la construcción de un centro de acopio temporal de envases vacíos de plaguicidas con el fin de disminuir el riesgo de la población de intoxicarse por la reutilización de envases. En materia de difusión, se estaría transmitiendo un onuncio de tres minutos en radiodifusoras en la cual se estaría advirtiendo a la población expuesta sobre el riesgo a la salud por la compra de plaguicidas ilegales, la importancia de prestar atención a las instrucciones y advertencias, los peligros del uso inadecuado de los mismos, así como la forma correcta de almacenaje y de disposición de los envases vacíos. El Gobierno señaló que la Secretaría del Trabajo y Previsión Social emitió la Norma Oficial Mexicana NOM-003-STPS-1999, Actividades agrícolas – Uso de insumos fitosanitarios o plaguicidas e insumos de nutrición vegetal o fertilizantes – condiciones de seguridad e higiene, que es de obligatorio cumplimiento en los centros de trabajo donde se almacenen, trasladen o manejen tales productos. Por último, el Gobierno informó sobre la futura implementación de un programa de capacitación dirigido a propietarios y responsables agrónomos de las empresas comercializadoras de plaguicidas agrícolas en el Valle del Yaqui y un programa de verificación para este tipo de establecimientos.

53. El día 16 de enero de 2006, el Gobierno remitió la misma carta al Relator Especial sobre los efectos nocivos para el goce de los derechos humanos del traslado y vertimiento ilícitos de productos y desechos tóxicos y peligrosos y al Relator Especial sobre la situación de derechos humanos y libertades fundamentales de los indígenas en respuesta al llamamiento conjunto hecho a través de la comunicación del 14 de octubre de 2005 respecto al manejo y uso de materiales peligrosos, entre ellos los plaguicidas, en la región del Yaqui, Sonora.

III. SUMMARY OF GENERAL OBSERVATIONS AND INFORMATION RECEIVED FROM GOVERNMENTS AND OTHER ACTORS

A. Governments

Ecuador

54. El 9 de octubre de 2007, el Gobierno remitió una carta al Relator Especial sobre los efectos nocivos para el goce de los derechos humanos del traslado y vertimiento ilícitos de productos y desechos tóxicos y peligrosos respecto al proyecto de la empresa de geoingeniería Plankots Inc., con sede en los Estados Unidos de América, que consistiría en verter 100 toneladas de nano partículas de hierro en las aguas oceánicas del Pacífico Ecuatorial con el fin de estimular un incremento en la producción de fitoplancton para secuestrar importantes cantidades de CO₂ de la atmósfera y minimizar el impacto del efecto invernadero. El Gobierno informó que había llevado a cabo un intenso proceso de consultas con las principales instituciones en materia de control y conservación del medio marino con el propósito de intercambiar información y adoptar una posición nacional sobre el mencionado proyecto. Tras un atento análisis, el Instituto Oceanográfico de la Armada Ecuatoriana (INOCAR), señaló que el proyecto carecía de una evaluación científica completa que garantizase que los impactos de la fertilización con hierro en el mar no serían nocivos para el medio

y ecosistemas marinos. En recientes reuniones, científicos y expertos manifestaron su preocupación por la realización de dicho proyecto y, en particular, por la falta de conocimiento suficiente sobre los potenciales impactos ambientales de la fertilización con hierro, inquietudes que han sido reiteradas por diversas organizaciones internacionales. Considerando el posible impacto negativo que podría tener el experimento mencionado sobre el ecosistema del Archipiélago de Galápagos, el Gobierno emitió una Declaración y un Boletín de Prensa en rechazo al proyecto de Planktos Inc, en los cuales señaló que el Parque Nacional Galápagos y la Reserva Marina de Galápagos constan en la Lista de Patrimonio Mundial Natural de la UNESCO y advirtió la responsabilidad de la referida empresa y de todas las personas naturales y jurídicas vinculadas, de conformidad con el Derecho Internacional y las normas nacionales en vigor, por todos los daños y perjuicios derivados de este o cualquier experimento similar en el Océano Pacífico Ecuatorial. Habiendo presentado estos antecedentes, el Gobierno cordialmente solicitó al Relator Especial que emitiera comentarios acerca del mencionado proyecto de la empresa Planktos Inc.

Canada

55. On 27 September 2006, the Office of the Auditor General of Canada brought to the attention of the Special Rapporteur two petitions (Petition 163 and 170) that were addressed to the attention of federal ministers and their departments on issues about the environment and sustainable development. In Petition 163A, the petitioner argues that every Canadian has a right to clean water, clean air and a healthy environment. The petitioner requests that the Government affirms this right and to make it explicit in the Canadian Charter of Rights and Freedoms. The petitioner also asks the government to explain why it is not participating fully in certain international conventions on access to information, public participation and human rights. The petitioner also questioned the Government of Canada on its reason for not recognizing the right to water in international forums.

56. In Petition 170, the petitioner seeks details of the financial, diplomatic and policy support that the Federal Government offers to Canadian mining companies operating abroad. The petitioner asks the Federal Government to provide information on its position on enforcement of Canadian ratified codes, conventions, and laws that pertain to the activities of Canadian companies mining abroad, and on the issues of sustainable development and environmental protection.

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