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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement* submitted by the Dominicans for Justice and Peace (Order for Preachers), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[27 February 2004]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

The situation of the victims of toxic wastes in the former U.S. military bases of Clark Air Force Base and Subic Naval Bases, in the Philippines

Dominicans for Justice and Peace brings to the attention of the UN Commission on Human Rights that, for almost half a century (1947-1992), the Philippines played host to two of the most valuable military bases in the world, namely, Clark Airforce Base and Subic Naval Base. These bases were located in four provinces of Central Luzon -- Zambales, Pampanga, Bataan and Tarlac). With 185,709 combined acres of prime land and water reservations, these bases were heavily utilized for the U.S. military intervention in the Asian Region and the Middle East and as such had operations that generated tons of toxic and hazardous waste and contain sites that are highly contaminated. After their closure in 1992, damage to environment now increasingly bears witness to a case of over hundreds of thousands of Filipinos, most especially children who are affected and continuously threatened by the presence of toxic and hazardous waste in the former U.S. military bases in the Philippines.

Serious contamination in said bases is recognized in U.S. government documents, the clean-up cost of which is characterized as "of Superfund proportions" if ever cleaned up under U.S. standards (U.S. General Accounting Office Report of 1992). The World Health Organization in its 1992 Mission Report confirmed these findings with the identification of areas in Subic with considerable pollution potential. With forty-six contaminated sites identified in Clark and Subic based on U.S. government documents and studies by U.S. consulting firms commissioned by Philippine government, experts (Weston) raised concern over groundwater contamination at Clark and imminent and substantial endangerment to human health and the environment at Subic (Clear Water Revival Company).

Several contaminants that have been identified in the bases belong to the category of persistent organic pollutants, which are subject for phase-out and elimination under the Stockholm Convention on Persistent Organic Pollutants. They are highly toxic, persistent in the environment, do not degrade naturally, migrate long distances, are passed on to offspring, and enter the food chain. They constitute a grave threat to the people and the environment for even decades after the base closure.

Among studies citing association of base contamination to illnesses was a health survey that found elevated cases of reproductive, kidney and nervous system disorders in six perimeter communities close to identified contaminated sites of Clark (Dr. Rosalie Bertell, Canada-based International Institute for Public Health). The Philippines' Department of Health found high levels of lead in the blood of children and pregnant women in an evacuation center at the former Clark motor pool, CABCOM. *Anemia* and other toxic-related illnesses are prevalent among CABCOM evacuees with 35,000 families having been accommodated therein in different batches for a period of 10 years. Water tests revealed the drinking water was positive for mercury, nitrate, oil and grease. The Philippine Commission on Human Rights found an unusual concentration of children afflicted with cerebral palsy, deformities and congenital heart diseases, given that the average Filipino rural community's prevalent illnesses are associated with poverty and not to toxic waste exposure.

Monitoring initiatives by a non-governmental organization in Subic yielded 385 *leukemia* victims, 282 of whom are children within in a 10-year period and 12 leukemia cases in Clark

areas (People's Task Force for Bases Clean-up). Eight thousand workers in the Subic Ship Repair Facility alone have been exposed to asbestos, radioactivity and other toxic chemicals. Also, 43,000 workforce in Subic have been exposed to highly toxic chemicals in the naval shipyard and in handling ammunitions. Majority of the workers tested positive for asbestosis, a lung disease that eventually leads to *mesothelioma* or cancer. Many have been rendered unproductive and have died from debilitating disease and various types of cancer.

Deaths are also reported from among scavengers and fisher folks from unexploded ordnance in the practice ranges. Bases conversion into industrial enclaves and tourism, without taking into consideration the problem of contamination, continues to pave the way for toxic exposure by investors, workers, employees, and visitors to the former bases. In fact, in areas where contamination has been identified farmers in Clark continue to till the land, the indigenous people in Subic, residents and tourists continue to swim gather fish from mangroves and the bay. The number of affected people could be more than the figures cited since monitoring is being done with limited resources of people's organizations that also sustain advocacy under the Alliance for Bases Clean-up.

The U.S. government's denial of any responsibility simply forwards the argument that the 1947 U.S. - Philippines Military Bases Agreement does not provide for U.S. clean-up responsibility. While first bearing in mind that negotiations for the Treaty occurred long before the advent of environmental awareness, it must be noted that in reality the U.S. has provided clean-up funds for rich major allies in Europe and Asia. The double standard becomes notable since the U.S. spent \$100 M fund to Canada although its military agreement with the U.S. does not also provide for clean up, as in the case of the Philippines. The U.S. also argues that the Philippines waived its right to have the U.S. return what was to be left in the bases upon closure in their original state while in reality what was being referred to were infrastructures and not the environment.

This unjust claim of the U.S. has been rejected by the Philippines citing that *"Nothing in the agreement or amendments thereto authorized the U.S. to unduly pollute the territorial waters with contaminants, destroy the environment by dumping toxic wastes within the bases and endanger lives of residents in the vicinity. The tortuous act of inflicting damage to the environment or the lives of people could not have been authorized on contemplated under the agreement or any of its amendments"* (Philippine Senate's Joint Committees on Environment and Natural Resources, Health and Demography, and Foreign Relations). The U.S. denial of responsibility is contrary to customary international law with respect to due care and diligence in preventing environmental damage required of it being the state exercising authority and full control of the former bases in the Philippines.

The Philippine government lacks technical capacity, funds and expertise to determine the full scale and extent of contamination and its effects on the health and lives of the people. The Philippine Task Force of Hazardous Waste in the former U.S. installations created three years ago by the Philippine government to coordinate and direct cleanup activities in Clark and Subic does not have funding and refuses to be forthcoming in its recognition of the contamination problem and the need for the U.S. to assume responsibility. The public hospitals accommodating the victims are inaccessible, ill-equipped and require substantial funds to effect appropriate diagnosis and treatment.

The Philippine Senate and Congress have called for a firm negotiation with the U.S. for investigation and clean-up, funds and information on the extent of contamination.

The Philippine Commission on Human Rights has recommended the immediate removal of the residents from the contaminated sites, a thorough diagnostic work up and treatment of the patients, and that the Philippine Government persuade the U.S. Government to conduct a massive cleanup of the contaminated areas and to compensate those suffering from the effects of toxic waste.

The U.S. government's evasion of responsibility impinges on the human rights of the affected Filipinos, a majority of whom live way below the poverty line. Struggling families of jobless, seasonal workers, or underemployed fall victims to new burdens of paying for high cost of diagnosis, medicines, doctors' fees and hospital expenses.

The U.S. government's denial of responsibility seriously disregards Principle 1 of the Stockholm Declaration which established a foundation linking human rights and environmental protection, declaring that *"Man has fundamental rights to freedom, equality, and adequate conditions of life, in an environment of quality that provides a life of dignity and well-being of people."*

The U.S. violated international law regarding the protection of human health and safety e.g. UN World Charter for Nature, Principle 21 of the Stockholm Declaration, Principle 2 of the Rio Declaration, the Convention on Environmental Impact in a Transboundary Context, the International Covenant on Civil and Political Rights and Article 24, Section 1 of the UN Convention on the Rights of the Child.

We therefore would like to recommend that the Commission on Human Rights:

1. requests the Special Rapporteur on toxic waste to examine and investigate the aforementioned human rights violation in Subic and Clark;
2. urges the government of the U.S. to provide immediate medical assistance and compensation directly to the victims through their organization, the Alliance for Bases Clean-up, International;
3. urges the government of the U.S. to accept responsibility and provide immediate preliminary assessment and site inspection then eventually comprehensive investigation and cleanup;
4. calls on relevant UN agencies and other member-states to extend medical, technical and other forms of humanitarian assistance directly to the victims through their representative organization, the Alliance for Bases Clean-up, International.
