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**Promotion et protection de tous les droits de l'homme,
civils, politiques, économiques, sociaux et culturels,
y compris le droit au développement**

Note verbale datée du 4 mars 2010, adressée au Haut-Commissariat des Nations Unies aux droits de l'homme par la Mission permanente du Brésil

La Mission permanente du Brésil auprès de l'Office des Nations Unies à Genève et des autres organisations internationales à Genève présente ses compliments au Haut-Commissariat aux droits de l'homme et a l'honneur de lui communiquer ci-joint les observations formulées par le Gouvernement brésilien* au sujet du rapport établi par le Rapporteur spécial sur le droit à l'alimentation concernant sa mission au Brésil du 12 au 18 octobre 2009 (A/HRC/13/33/Add.6), pour qu'elles soient distribuées en tant que document de la treizième session du Conseil des droits de l'homme.

* Reproduites dans l'annexe telles qu'elles ont été reçues, dans la langue originale seulement.

Annexe

1. The Brazilian Senate has approved, on February the 4th 2010, an amendment to the Constitution of the Federative Republic of Brazil in order to include the right to food among social and economic rights. According to the President of the “Conselho Nacional de Segurança Alimentar e Nutricional” (National Council of Food and Nutritional Security), Mr. Renato Maluf, access to food has now become a matter of state in Brazil due to the approval of the referred amendment to the Brazilian Constitution.
2. It is worth mentioning social participation as an important pillar of the design and success of “Fome Zero” (“Zero Hunger”) strategy. Regarding his recommendations, it is of paramount importance to underscore that public policies aiming at protecting and promoting the right to food depend on the social participation to its legitimate construction, coordination and implementation.
3. In regards to the issue of bioenergy, the Special Rapporteur contradicts the current terminology used in discussions held at several multilateral fora, such as the UN and its many agencies, by using the term “agrofuels” (instead of “biofuels” or the even more accurate “bioenergy”).
4. The special rapporteur argues that “sugarcane production remains based upon a monocropping agricultural model that has deep environmental and social negative externalities, such as the loss of biodiversity; indirect deforestation; and, as indicated above, concentration of land”. As they are spelled out, such conclusions seem only to replicate a passionate, misinformed and unbalanced view on the Brazilian bioenergy production.
5. His exposé should acknowledge that by replacing some of the gasoline used in the country transportation sector with ethanol since 1974, Brazil avoided the emission of some 600 million tons of carbon dioxide. Satellite imaging reveals that more than 90% of sugarcane expansion in the last five years has been over degraded pastures – what indicates that sugarcane crops are actually improving soil conditions and generating much more positive than negative environmental and social externalities. Furthermore, sugarcane mills are co-generating decentralised, renewable, low-carbon electricity through the burning of sugarcane bagass, bringing, in many instances, affordable electricity to rural population.
6. The special rapporteur also states that “working conditions on the sugarcane plantations remain very poor (...) and that wages remain low”. However, recent researches led by Brazilian universities came to different findings: the sugarcane sector has the second highest average wage in the national agriculture economy (for a synthesis, please see Goldemberg, J, Coelho, ST, Guardabassi, P. “The sustainability of ethanol production from sugarcane”. Energy Policy 36 (2008) pp. 2086–2097). In the State of São Paulo 92% of sugarcane workers are formally employed, and the number has been raising each year.
7. The special rapporteur mentions the need for “stronger monitoring of compliance with labour legislation”, which indicates that he is probably unaware that the Ministry of Labor of Brazil has a well structured national policy to combat forced labor, holds several fact finding missions in rural areas, and publishes a list of farms and enterprises that do not comply with the very advanced national laws on the subject, with severe consequences for the infractors. These initiatives have been recognized in several reports of the International Labor Organization (ILO).
8. The Brazilian Government agrees with the Special Rapporteur on the need to promote an international consensus on the sustainability of the production and use of bioenergy that takes into consideration local realities and is based on the three pillars of sustainable development. This is one of the reasons why Brazil is currently co-chairing the

Global Bioenergy Partnership (GBEP – www.globalbioenergy.org) and taking an active role in the discussions on bioenergy sustainability in other fora, including UN agencies and conventions.

9. The Brazilian Government believes that accurate scientific-based information is essential to achieve such a consensus, and the strong conclusions made in this report on the right to food in Brazil does not contribute to this debate. It is also worth noting that by December 2009, 93% of biodiesel producers held the Social Fuel Seal (a certificate issued to biodiesel producers that purchase raw materials from family farmers within minimum limits that vary according to the region), which is, to our knowledge, the only energy-related initiative in the world that promotes small holding family farming. It is also important to remark that Brazilian soy producers agreed with an international and transparent moratorium on the expansion of crops into preserved areas and forests.

10. The special rapporteur report does not mention either that biodiesel producers that acquire raw material from family farmers, anywhere in Brazil, are eligible to reduction of up to 68% in federal taxes. If these purchases are made from family-based producers of palm oil in the North Region, or of castor oil in the Northeast and in the Semi-Arid Region, the reduction may reach 100%. Since 2005, the Social Fuel Seal is issued by the Ministry of Agrarian Development (MDA) to biodiesel producers authorized by the Brazilian legislation to produce and sell this new fuel provided that they meet the following requirements:

(a) To purchase minimum percentages of raw materials from family farmers, 10% from regions North and Mid-West; 30% from the South and Southeast and 50% from the Northeast and the Semi-Arid Region; and

(b) To enter into contracts with family farmers establishing deadlines and conditions of delivery of the raw material and the respective prices, and to provide them with technical assistance.

11. On the role of trade and export-led agriculture in Brazil, it must be highlighted that the agricultural sector as a whole has been essential to overall growth, poverty reduction, and food security, as well as fundamental for the overall positive performance of the Brazilian economy amidst the financial crisis.

12. When dealing with the agricultural sector, Mr. De Schutter seems to express his preference for inefficient models of production in developed countries, where subsidies and trade barriers are the rule. Instead of defending protectionist policies, Mr. De Schutter should target the distortions caused by high trade barriers and subsidies in rich countries. Rich countries need to reform distorting agricultural policies which depress prices for smallholders in developing countries. International trade is part of the solution to food security, not part of the problem.

13. In 2008 alone, countries of the Organisation for Economic Co-operation and Development (OECD) spent \$267 billion on agricultural subsidies alone. These numbers represent 20% of Africa's GDP or, even more disturbing, ten times the GDP of Cotton 4 countries, the most negatively affected economies in sub-Saharan Africa by distorting practices in the developed world.

14. As it seems to be a pattern in his work, Mr. De Schutter's analysis implicitly constitutes a defence of the "status quo", in which developing countries and least developed countries are in a vulnerable position when not depending on the "charity" from rich nations. Brazil understands that access to production and fair trade constitutes "sine qua non" conditions to encouraging agricultural production in the developing world. This is how we will break the cycle of dependence on food aid and create wealth and resources necessary to the realization of the human right to food.

15. Finally, in order to further assist the special rapporteur in conducting his activities, particularly regarding his mandate on the right to food, the Brazilian Government avails itself of this opportunity to transmit herewith a copy of the report prepared by the Food and Agriculture Organization of the United Nations (FAO) on Lessons Learned in Brazil with regard to the right to food. This report provides a useful tool and source of information for all those interested in further promoting and protecting the right to food worldwide.
