

**Human Rights Council****Fifteenth 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 movement and dumping of toxic and dangerous products
and wastes on the enjoyment of human rights, Okechukwu
Ibeanu***Summary*

The present report provides a critical review of the work and activities of the second Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, Okechukwu Ibeanu. It consists of three substantive parts.

The first part reviews the scope of the mandate vis-à-vis the norms, standards and principles developed in the field of environmental law to regulate the production, management, trade and disposal of toxic and dangerous products and wastes. It also identifies several areas of continued focus for the mandate, as well as two emerging issues that would need to be carefully studied from a human rights perspective.

The second part provides a critical analysis of the current methods of work of the mandate holder in order to assess to what extent the structure of the mandate is appropriate to enable the Special Rapporteur to carry out the functions described in Human Rights Council resolution 9/1.

The final part contains a set of concrete recommendations to the Human Rights Council and the new mandate holder on how to strengthen the mandate of the Special Rapporteur in order to maximize the protection of those individuals and communities that may be adversely affected by the movement and disposal of hazardous products and wastes.

In particular, the mandate holder recommends that the Council expand the mandate of the Special Rapporteur, so as to request him/her to monitor the adverse effects of hazardous products and wastes during the whole life cycle, from their production to their disposal. He also suggests that the Council request the new mandate holder to develop a set of guidelines on human rights-based approaches to the sound management and disposal of toxic and dangerous products and wastes.

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I. Introduction

1. The present report is submitted in accordance with Human Rights Council resolution 9/1, which requested the Special Rapporteur “to continue to undertake, in consultation with the relevant United Nations bodies, organizations and the secretariats of relevant international conventions, a global, multidisciplinary and comprehensive study of existing problems and new trends in, and solutions to, the adverse effects of the trafficking and dumping of toxic and dangerous products and wastes on human rights, (...) with a view to making concrete recommendations and proposals on adequate measures to control, reduce and eradicate these phenomena” (para. 4).

2. The report seeks to provide a critical review of the work and activities undertaken by the current Special Rapporteur since his appointment in July 2004. It consists of three substantive parts: the first part reviews the scope of the mandate vis-à-vis the norms, standards and principles developed in the field of international environmental law to regulate the management and disposal of hazardous products and wastes. It also identifies several areas of continued focus for the mandate, as well as two emerging issues that would need to be carefully studied from a human rights perspective. The second part provides a critical analysis of the current methods of work of the mandate holder, in order to assess to what extent the structure of the mandate is appropriate to enable the Special Rapporteur to carry out the functions described in resolution 9/1. The final part contains a set of concrete recommendations to the Council and the new mandate holder on how to strengthen the mandate of the Special Rapporteur.

3. Since this is his final annual report to the Human Rights Council, the Special Rapporteur would like to take this chance to express his gratitude for the opportunity to serve as an independent expert. He would also like to express his sincere appreciation to the Office of the United Nations High Commissioner for Human Rights (OHCHR) for the assistance and support received.

II. Update on the activities of the Special Rapporteur

A. Country missions

4. During the reporting period, the Special Rapporteur carried out country visits to Kyrgyzstan (A/HRC/15/22/Add.2) and India (A/HRC/15/22/Add.3). He wishes to express his gratitude for the invitations extended to him. The purpose of the mission to Kyrgyzstan (30 September–9 October 2009) was to examine steps undertaken by the country to eliminate the serious transboundary threats that uranium tailings, obsolete or banned pesticides and mercury waste pose to the health and the environment of countless individuals and communities living in Central Asia. The aim of the official visit to India (from 11 to 21 January 2010) was to gather first-hand information on the adverse effects that hazardous activities, such as shipbreaking and the recycling of electrical and electronic wastes (e-waste), have on the enjoyment of human rights of individuals working in these sectors or living close to the places where these activities take place.

B. Statements and interventions

5. The Special Rapporteur conveyed a statement to the High Level Expert Meeting on the New Future of Human Rights and Environment, held in Nairobi, Kenya, from 30 November to 1 December 2009. The statement focused on the added value of the mandate entrusted to the Special Rapporteur vis-à-vis the treaties, guidelines, mechanisms and procedures adopted in the field of environmental law to regulate the sound management and disposal of toxic and dangerous products and wastes. It also analysed the adverse effects that hazardous products and wastes may have on the enjoyment of human rights, and highlighted the advantages of a human rights-based approach to the management and disposal of such products and wastes.

6. On 4 December 2009, the Special Rapporteur conveyed, along with other special procedures mandate holders, a message on the occasion of the United Nations Climate Change Conference, which took place in Copenhagen, Denmark, from 7 to 18 December 2009. The joint statement highlighted the serious threats that global warming posed to the full enjoyment of a broad range of human rights, and urged participants in the Conference to step up their efforts to achieve a new agreement to prevent further climate change, protect affected individuals from its adverse impact and lead to the formulation of global and national mitigation and adaptation responses based on internationally recognized human rights norms and standards.

7. The Special Rapporteur regrets that he was unable to participate in the panel discussion organized by the Human Rights Council on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights.¹ The aim of the debate, which took place in Geneva on 8 June 2010, was to discuss existing problems, current trends, good practices and possible solutions, with a view to informing the future work of the Special Rapporteur. The mandate holder contributed to the discussion with a statement that was delivered on his behalf. The statement focused on the progress made and the difficulties encountered by the Special Rapporteur in carrying out his mandate, and recommended that the mandate be reviewed and extended in order to strengthen the protection of the victims of the unsound management and disposal of hazardous products and wastes.

III. Review of the mandate of the Special Rapporteur

A. Added value of the mandate

8. In the last two decades, an emerging body of norms, standards and principles of international environmental law has been developed to regulate the production, management, use, trade and disposal of toxic and dangerous products and wastes. This extensive international legal framework seeks to eliminate, or reduce to a minimum, the risks that these hazardous products and wastes pose to human health and the environment, and includes:

¹ Human Rights Council resolution 12/18, para. 5.

- The Basel Convention,² the Waigani Convention³ and the Bamako Convention,⁴ which establish an international regime for the control of the transboundary movement and sound disposal of hazardous and other wastes
- The Rio Declaration on Environment and Development, adopted by the United Nations Conference on Environment and Development, held in Rio de Janeiro, Brazil, in June 1992, which contains several principles on the protection of human health and the environment from the adverse effects caused by the unsound management and disposal of toxic and dangerous products and wastes⁵
- The Rotterdam Convention, which regulates the international trade in certain hazardous chemicals and pesticides⁶
- The Stockholm Convention, which seeks to protect human health and the environment from the harmful impacts of persistent organic pollutants (POPs)⁷

² The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal is the first global instrument that seeks to protect human health and the environment against the threats posed by hazardous wastes and other wastes. The Convention, which entered into force in 1992, establishes rules aimed at regulating trade in waste, rather than prohibiting it. It has 173 parties as of 30 June 2010.

³ The Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region (the Waigani Convention) has a scope similar to that of the Basel Convention. It entered into force in 2001, and has 13 parties as of June 2008.

⁴ The Convention on the Ban of Imports into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa (the Bamako Convention) addresses certain problems relating to the movement and disposal of hazardous waste that the Basel Convention did not cover. In particular, it bans the importation of any hazardous waste, including types of waste that are excluded from the Basel regime, into African States from non-parties to the Convention. It entered into force in 1998, and has been ratified by 24 countries as of 3 February 2010.

⁵ See in particular Principle 14, according to which “States should effectively cooperate to discourage or prevent the relocation and transfer to other States of any activities and substances that cause severe environmental degradation or are found to be harmful to human health.” The Rio Declaration also contains a number of provisions that reflect customary international law or emerging rules, including Principle 10 (access to information, participation in decision-making and access to justice in environmental matters), Principle 15 (precautionary approach), Principle 16 (polluter-pays principle) and Principle 17 (environmental impact assessment).

⁶ The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade aims to provide an efficient method for exchanging information and control the international trade of certain hazardous industrial chemicals and pesticides that have been banned or severely restricted for health or environmental reasons. It entered into force in 2004, and has 132 parties as of 30 June 2010.

⁷ The Stockholm Convention on Persistent Organic Pollutants (POPs) aims to eliminate, reduce and restrict the production and use of POPs. POPs are chemicals that possess toxic properties, remain intact in the environment for long periods, become widely distributed geographically and accumulate in ecosystems, including in the fatty tissue of humans and wildlife. Exposure to POPs can lead to serious health effects including certain cancers, birth defects, dysfunctional immune and reproductive systems, greater susceptibility to disease and even diminished intelligence. The Convention entered into force in 2004, and has 170 parties as of 30 June 2010.

- The Aarhus Convention, which recognizes the right to have access to environmental information held by public authorities, to participate in decision-making processes and to have access to justice in environmental matters⁸
- The Strategic Approach to International Chemicals Management (SAICM), which provides a policy framework to guide global efforts to achieve the Johannesburg Plan of Implementation goal that, by 2020, chemicals will be produced and used in ways that minimize significant adverse impacts on the environment and human health⁹

9. While it is now widely accepted that hazardous products (e.g. chemicals and pesticides) and wastes may pose serious threats to human health and the environment, their potentially adverse impact on the enjoyment of human rights has not yet been fully recognized. This is partly due to the fact that despite the obvious relationship between the goals of environmental protection and the promotion of human rights, human rights law and international environmental law have until recently developed in isolation from one another. Environmental degradation and human rights abuses have been treated as unrelated issues, even in cases where the links between environmental degradation and violation of specific human rights were evident, and distinct mechanisms and procedures have been put in place to address these phenomena.

10. The mandate of the Special Rapporteur was established to draw the attention of the international community to the adverse effects that the illicit movement and dumping of toxic and dangerous products and wastes have not only on the environment, but also on the human rights of individuals and communities that are exposed to them.¹⁰

11. In his preliminary report to the Commission on Human Rights (E/CN.4/2005/45), the Special Rapporteur noted that although several environmental treaties, mechanisms and procedures on chemicals and waste management aim to protect human health, the scope of their respective mandates — focusing largely on the technical and procedural aspects of the management, movement and disposal of hazardous products and wastes — does not extend to considerations of the adverse effects of illicit movement and disposal on the full range of existing human rights.

12. Thus, the Special Rapporteur considers that the added value of his mandate arises from its human rights focus. Its aim is to raise awareness of the threats that the movement and dumping of hazardous products and wastes pose to the enjoyment of internationally protected human rights, with a view to eliminating, or reducing to a minimum, such threats and to ensuring effective redress for victims of human rights violations related to the unsound management or disposal of toxic and dangerous products and wastes. By focusing on the human rights of the victims, the mandate complements, rather than duplicates, the protection afforded by the international legal framework adopted in the field of international environmental law.

⁸ The Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention) is the first legally binding instrument linking environmental rights and human rights. It entered into force in 2001, and has 44 parties as of 30 June 2010.

⁹ The Strategic Approach was adopted by the International Conference on Chemicals Management in Dubai (United Arab Emirates) on 6 February 2006, on the basis of a consultative process that involved representatives of Governments, intergovernmental organizations, NGOs and the private sector.

¹⁰ See Commission on Human Rights resolution 1995/81.

B. Scope of the mandate

13. Another advantage the mandate has vis-à-vis existing international environmental mechanisms and procedures comes from its comprehensive scope. Multilateral environmental treaties contain very precise definitions to delimit their scope of application, and are only applicable when a particular situation matches one described in their provisions. For instance, the applicability of the Basel Convention presupposes that a substance or object (1) is a waste pursuant to article 1.1 of the Convention,¹¹ and (2) presents either the hazardous characteristics referred to in article 1.1 or is considered as “other wastes” as defined in article 1.2 of the Convention. Moreover, some categories of wastes — such as radioactive wastes and wastes deriving from the normal operations of a ship — are excluded from the scope of the Convention (articles 1.3 and 1.4).

14. The Special Rapporteur, on the contrary, is not bound by any specific definition, since neither the resolution which established the mandate nor the resolutions adopted thereafter provide a definition of “toxic and dangerous products and wastes” or explain the meaning of the words “movement” or “dumping”. In order to maximize the protection of the individuals and communities whose rights may be adversely affected by these phenomena, the Special Rapporteur has, since the establishment of the mandate, interpreted the expression “toxic and dangerous products and wastes” extensively.

15. Accordingly, any object which contains hazardous substances and/or has intrinsic hazardous qualities (e.g. flammable, toxic, radioactive or explosive nature) likely to threaten the enjoyment of human rights has been taken as falling within the scope of the mandate, without the need to ascertain whether it constitutes “waste” (i.e. something that has been or is being discarded) or a “product” (i.e. something that is being traded or exchanged). This focus on the potential adverse effects on the enjoyment of human rights thus allows the Special Rapporteur to overcome the legal difficulties commonly associated with the definition of “hazardous products” and “toxic wastes” under international environmental law, and to provide greater protection to the victims of the unsound management or disposal of hazardous products and wastes.

16. An example of the usefulness of this comprehensive approach is provided by end-of-life ships. Under the Basel Convention, a ship may become waste as defined in article 2 whilst continuing to be defined as a ship under other international rules. There is thus uncertainty as to whether a ship containing asbestos, polychlorinated biphenyls (PCBs) or heavy metals can be classified as hazardous waste when destined for recycling or disposal. In accordance with the broad interpretation of the expression “toxic and dangerous products and wastes”, the Special Rapporteur considers that in view of the hazardous substances and materials aboard, end-of-life vessels fall within the scope of his mandate without the need to establish whether they represent a “product” that is being traded or “waste” that is being disposed of.

17. Transboundary movement and illicit disposal of hazardous products and wastes are also narrowly defined in international environmental treaties. According to the Basel Convention, a transboundary movement of wastes presupposes that at least two States are involved in the movement (art. 2.3). Article 2 defines “disposal” as any operation specified in annex IV to this Convention, and “illegal traffic” as any transboundary movement of hazardous wastes or other wastes as specified in article 9. In the absence of a specific definition, the mandate holder has interpreted these terms extensively.

¹¹ Article 2.1 of the Basel Convention defines wastes as “substances or objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law”.

18. The Special Rapporteur has always considered that a movement from an area under the national jurisdiction of a State to or through an area under the national jurisdiction of another State is not necessary for an issue to fall within the scope of the mandate. An example of transboundary movement not involving an international trade in hazardous wastes is the transfer of industries generating hazardous products and/or wastes to developing countries. Over the years, the Special Rapporteur has considered several cases where transnational corporations had moved their plants to developing countries to continue the production of pesticides and pharmaceuticals that had been banned or severely restricted in industrialized countries for environmental or health reasons.

19. With regard to the “illicit” nature of activities concerning the movement and disposal of hazardous products and wastes, the Special Rapporteur considers that the adjective “illicit” does not only encompass activities carried out in violation of national or international norms and standards on the sound management and disposal of toxic and dangerous products and wastes. In his view, any movement or dumping of hazardous products and wastes that has, or may have, a harmful impact on the enjoyment of human rights may be considered “illicit”, even if it appears to be officially legal (e.g. transboundary movement of hazardous wastes in accordance with the provisions of the Basel Convention causing adverse effects on the enjoyment of the right to life or health of individuals handling or being exposed to them, for instance as a result of non-deliberate disposal).

20. The Special Rapporteur is pleased to note that at its ninth session, the Human Rights Council decided to strengthen the mandate so as to include all types of movement and dumping of toxic and dangerous products and wastes, as recommended by the mandate holder (see A/HRC/9/22, para. 36). In accordance with resolution 9/1, the Special Rapporteur now has the task of investigating the adverse effects that both transboundary and national movements and dumping of hazardous products and wastes have on the enjoyment of human rights. Furthermore, the Special Rapporteur is now mandated to study the potential adverse effects of any movement or dumping of hazardous products and wastes, whether illicit or not.

C. Existing problems, and new trends, in the movement and dumping of toxic and dangerous products and wastes

21. Since the establishment of the mandate, significant changes have taken place in the transboundary movement and disposal of hazardous products and wastes. In 1995, the majority of transboundary movements of toxic wastes took place between industrialized countries, where these wastes could no longer be economically disposed of following the introduction of stringent legislation regulating hazardous waste disposal, and developing countries, in particular in Africa, which needed hard currency, but had no or limited technical capacity to dispose of these wastes in an environmentally sound manner. Indeed, the establishment of the mandate represented a response to a number of serious incidents involving the illicit dumping in developing countries of hazardous wastes produced in industrialized countries.

22. At present, the situation is more complex. Certainly, hazardous wastes generated in the northern hemisphere continue to be illegally dumped in developing countries when they cannot be disposed of in the country of origin, as the Probo Koala incident proved.¹² However, hazardous wastes are transferred not only from the “north” to the “south”, but

¹² The Probo Koala, a ship flying the Panamanian flag chartered by a Dutch transnational corporation, allegedly disposed of 500 tonnes of toxic wastes in Abidjan, Côte d’Ivoire. See A/HRC/12/26/Add.2.

also — and increasingly — between developing countries and between developed countries themselves. Although very limited statistical data on this issue exist, it appears from the information reported by States parties to the secretariat of the Basel Convention that the majority of transboundary movements occur nowadays within the same region, and involve industrialized countries. The amounts of wastes transferred either from one region to another or involving developing countries are small in comparison, although they are also increasing.

23. The Council itself has recognized that the management and disposal of toxic and dangerous products and wastes has now become a global problem. The Special Rapporteur is delighted to note that resolution 9/1, which extended the mandate for a further period of three years, was for the first time adopted by consensus. Resolution 12/18, which called for the organization of a panel discussion on toxic waste, was also adopted without a vote. This shows the serious commitment of the Human Rights Council to address the global challenges posed by the transboundary movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights.

24. In this section, the Special Rapporteur would like to highlight some issues which will continue to deserve the attention of the mandate in view of their scale, their potential or actual adverse impact on human rights and/or the lack of an adequate legal framework. He would also like to draw the attention of the Council to two emerging issues that would need to be carefully studied from a human rights perspective.

1. Suggested areas of continued focus

Shipbreaking

25. Every year, on average, about 600 end-of-life ships containing large amounts of toxic and hazardous substances and materials, including asbestos, polychlorinated biphenyls, heavy metals, oils and fuels, are sent to the beaches of South Asia, where they are dismantled without concrete covering or any containment other than the hull of the ship itself.¹³ This method of ship dismantling, commonly referred to as “beaching”, generates significant levels of pollution of coastal soil, air, sea and groundwater resources, and adversely affects local communities, which often rely on agriculture and fishing for their subsistence. Furthermore, a great number of workers die or are seriously injured because of work-related accidents, or develop occupational diseases related to long-term exposure to hazardous materials present on end-of-life ships.

26. The adverse impact of shipbreaking on the enjoyment of human rights has been considered in a number of thematic and mission reports. In last year’s annual report (A/HRC/12/26), the Special Rapporteur provided a comprehensive analysis of this phenomenon and its adverse effects on the human rights of the workers in shipbreaking yards and those living in proximity of the yards. The report described the efforts undertaken by the international community to develop a legal framework to address these serious concerns, and focused, in particular, on the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, adopted under the auspices of the International Maritime Organization (IMO) in May 2009.

¹³ Due to the IMO phase-out of single-hull tankers and the global economic downturn, a greater number of ships are expected to be sent for scrapping in the coming years. In 2009, the total number of ships scrapped was over 1,200 (see N. Cotzias Shipping, Economic Outlook Report, February 2010), and it is expected that this figure will be matched, or exceeded, in 2010.

27. The Special Rapporteur considers that the extremely poor working practices and environmental conditions prevailing in most shipbreaking yards would continue to require the attention of the mandate holder. Although the Hong Kong Convention represents a positive step towards creating an enforceable regulatory regime to minimize the risks that shipbreaking poses to human health and the environment, the Special Rapporteur is of the view that the Convention alone is not sufficient to bring about significant improvements in the working practices prevailing in shipbreaking yards or in the elimination of the serious environmental pollution that the yards generate.

28. In May 2010, the seventh session of the Open-ended Working Group of the Basel Convention developed criteria to be used to determine whether the Hong Kong Convention establishes a level of control and enforcement equivalent to that established under the Basel Convention, and invited States and other relevant stakeholders to submit their preliminary assessments to the secretariat of the Basel Convention by 15 April 2011.¹⁴ The tenth meeting of the Conference of the Parties to the Basel Convention (COP-10), to be held in October 2011, is expected to consider these preliminary assessments. It is not yet certain whether parties will finalize their deliberations on the matter of equivalency at COP-10, or whether this issue will be referred to a later meeting.

E-waste

29. Electrical and electronic wastes, commonly referred to as e-waste, encompass a broad and growing list of loosely discarded, obsolete or broken electrical and electronic equipment, such as old mobile phones, computers, refrigerators and television sets. Because of the rapid changes in technology, people are upgrading their electrical and electronic equipment more frequently than ever before. The number of electrical and electronic products discarded globally has increased dramatically recently, with 20–50 million tonnes generated every year, i.e. roughly 5 per cent of all municipal solid waste produced worldwide.¹⁵ It is estimated that in Europe e-waste is increasing at 3 to 5 per cent a year, and that developing countries are also expected to triple their e-waste production over the next five years.

30. Mobile phones and computing equipment are causing the biggest problem, since they are replaced most often. 314.7 million mobile phones were sold worldwide in the first quarter of 2010, a 17 per cent increase on the same period in 2009.¹⁶ According to recent statistics, mobile phones now have a life cycle of less than two years in developed countries. A total of 366.1 million computers are expected to be sold in 2010, a 19.7 per cent increase on the 305.8 million units shipped in 2009¹⁷ and their average lifespan in developed countries has dropped from six years in 1997 to two to five years in 2010.

31. Electronic and electrical appliances contain hundreds of different substances, many of which are highly toxic and pose significant risks to human health and the environment if they are not managed and disposed of in an environmentally sound manner. In developing countries, the vast majority of obsolete electrical and electronic equipment is dismantled in small-scale, informal workshops that separate their various components (i.e. plastic, ferrous metals, non-ferrous metals, glass) for recycling or reuse. During the process of breaking down old computers and other high-tech devices, workers are exposed to hazardous

¹⁴ UNEP/CHW/OEWG/7/21.

¹⁵ <http://www.greenpeace.org/international/en/campaigns/toxics/electronics/the-e-waste-problem/>.

¹⁶ "Gartner says worldwide mobile phone sales grew 17 per cent in first quarter 2010", 19 May 2010, <http://www.gartner.com/it/page.jsp?id=1372013>.

¹⁷ PC sales to grow 20 per cent in 2010: Gartner, 4 March 2010, <http://www.physorg.com/news186937327.html>.

substances, including toxic heavy metals such as lead, cadmium, beryllium and mercury, hazardous chemicals, such as brominated flame retardants, and other toxic plastic additives. Furthermore, unusable parts are usually disposed of in landfills or burned, causing widespread and long-lasting contamination of soil, air and surface and groundwater resources.

32. The Special Rapporteur has considered on a number of occasions the adverse effects that the unsound management and disposal of e-waste may have on the enjoyment of human rights (see most recently A/HRC/15/22/Add.3). In particular, he has documented the practice of circumventing the application of the Basel Convention by means of the label “used” for the export of second-hand electrical and electronic products that have almost reached their end of life to developing countries. In many cases brought to his attention, developing countries received large quantities of products that were either not working or ceased to work shortly after their arrival at destination under the guise of donations or to address the “digital divide”.

33. The Special Rapporteur wishes to acknowledge the efforts undertaken under the umbrella of the Basel Convention to promote the environmentally sound management and disposal of e-waste, which include the launching of the Mobile Phone Partnership Initiative,¹⁸ the adoption of the Nairobi Ministerial Declaration on the environmentally sound management of e-waste¹⁹ and the Partnership for Action on Computing Equipment (PACE).²⁰ Nevertheless, he is of the view that the gaps and ambiguities in the existing international legal framework, and in particular the lack of a common definition and classification of e-waste, will not allow any significant improvement in the reduction of the adverse human rights impact of the transboundary movement of e-waste, and would therefore continue to require the attention of the mandate holder.

Hazardous chemicals, including pesticides

34. Chemicals have become an integral part of people’s everyday lives around the world. Virtually every man-made product, from air fresheners to electrical appliances, from cosmetics to children’s toys, contains chemical substances. When produced and used in an environmentally sound way, chemicals bring great benefits to modern societies. They contribute to the eradication of poverty and diseases, the improvement of human health, the protection of the environment and the elevation of standards of living in countries at all levels of development. However, chemicals can also have a significant adverse impact on human health and the environment when their production and use are not managed responsibly.

35. Hazardous chemicals constitute a serious threat to human health and the environment. According to the World Bank, 355,000 people worldwide die each year from acute pesticide poisoning.²¹ Nevertheless, the problems posed by pesticides are more acute in developing countries, due to the large number of persons employed in the agricultural sector, weak or non-existent regulatory regimes and little public awareness of the potential health and environmental harm caused by pesticide exposure. It is reported that as many as 25 million agricultural workers suffer serious or irreversible work-related diseases, including several forms of cancer, endocrine system disruption and reproductive and

¹⁸ UNEP/CHW.6/40, Decision VI/31.

¹⁹ UNEP/CHW.8/16, Annex IV.

²⁰ UNEP/CHW.9/39, Decision IX/9.

²¹ World Bank, *World Development Report: Agriculture for Development 2008*, p. 10.

neurological disorders, linked to long-term exposure to hazardous pesticides.²² According to an authoritative British medical journal, in many parts of the developing world pesticide poisoning is a serious public health problem, which causes more deaths than infectious diseases.²³

36. The Special Rapporteur has on a number of occasions considered the adverse human rights impact of hazardous chemicals, including pesticides. In his report to the sixty-second session of the Commission on Human Rights (E/CN.4/2006/42), the Special Rapporteur focused on the risks that chronic, low-level exposure to toxic chemicals, including pesticides, pose to the enjoyment of the right to life, the right to health, the right of access to information and participation in decision-making processes. The Special Rapporteur has also dealt with a number of communications concerning transnational corporations based in industrialized countries that continue exporting to developing countries hazardous chemicals that are banned in their countries of origin in view of their serious adverse effects on human health and the environment.

37. The Special Rapporteur welcomes the progress made at the international level in the field of international chemicals management. At its fourth meeting, held in Geneva from 4 to 8 May 2009, the Conference of the Parties to the Stockholm Convention decided to extend the scope of the Convention to include nine new chemicals, many of which are still widely used.²⁴ The second session of the International Conference on Chemicals Management (ICCM-2) reviewed progress in the implementation of SAICM since its adoption in 2006, and adopted a resolution calling for appropriate action on four emerging policy issues that have not been generally recognized, or sufficiently addressed.²⁵ Such progress, although encouraging, is not sufficient to address the main weaknesses of the existing international legal framework for chemical safety, and particularly the legal loopholes that continue to allow the transfer of polluting industries or the export to developing countries of hazardous chemicals that are banned or severely restricted in industrialized countries. Such weaknesses and the increase in the global production, trade and use of chemicals would continue to require the consideration of the mandate in the next years to come.

2. New areas requiring attention

Mercury

38. Mercury is a heavy metal that is widespread and persistent in the environment. It is a naturally occurring element and can be released into the air as vapour during natural processes, such as volcanic activity or forest fires, or as a result of anthropogenic activities such as industrial processes, mining, deforestation, waste incineration and burning of fossil fuels. Coal-fired power production is today deemed the single largest global source of atmospheric mercury emissions. Mercury in the air eventually settles into water or onto land where it can be washed into water. Once deposited in water, mercury bio-accumulates in the aquatic food chain, which may lead to high concentrations in fish, shellfish, and marine mammals.

²² International POPs Elimination Network, *An NGO Guide to Hazardous Pesticides and SAICM*, 2009, p. 11.

²³ M. Eddleston et al., "Pesticide Poisoning in the Developing World – A Minimum Pesticides List", *The Lancet*, vol. 360, No. 9340, 12 October 2002, pp. 1163–1167.

²⁴ See UNEP/POPS/COP.4/SC-4/10 to SC-4/18.

²⁵ Resolution II/4 on Emerging policy issues.

39. Mercury has traditionally been used to manufacture several products, including laboratory and medical instruments (e.g. clinical thermometers and barometers), electrical applications (e.g. switches and fluorescent lamps), batteries and dental amalgam. Due to its adverse effects on human health and the environment, many industrial and commercial uses of mercury are now banned, or severely restricted, in many developed countries. Nevertheless, mercury continues to be used in many developing countries. In particular, mercury is extensively used by small-scale or artisanal miners to extract gold from certain types of ores, as the mandate holder verified during his visit to Tanzania (A/HRC/9/22/Add.2).

40. Mercury poses significant threats to the enjoyment of the right to health. It can have several adverse effects on the central nervous system in adults, increase risk of cardiovascular disease, and cause kidney problems, miscarriages, respiratory failure, and even death. There is no known safe level of exposure, and effects can be seen even at very low levels. Mercury and its compounds cause severe irreversible damage to the brain and nervous system of fetuses and infants. The major source of human exposure is ingestion of contaminated fish and seafood. People are also exposed through inhalation of mercury vapour, in particular as a result of their work or for living close to a facility/industry that releases mercury.

41. At its twenty-fifth session, held in Nairobi, Kenya, from 16 to 20 February 2009, the Governing Council of the United Nations Environment Programme (UNEP) agreed to develop a legally-binding instrument on mercury, and requested UNEP to convene an intergovernmental negotiating committee with the mandate to prepare the instrument.²⁶ The Committee held its first session from 7 to 11 June 2010 in Stockholm, Sweden, with the goal of completing its work by the twenty-seventh session of the Governing Council in 2013.

42. The Special Rapporteur welcomes the decision of the UNEP Governing Council. The new instrument should aim at phasing out and eventually eliminating the use of mercury in products, reducing atmospheric mercury emissions from human sources and ensuring that mercury-containing waste is disposed of in an environmentally sound way, in accordance with the Basel Convention. It should also address the remediation of existing contaminated sites affecting public and environmental health, and contain specific provisions to raise awareness among affected individuals and communities of the risks associated with mercury exposure and the measures to adopt in order to minimize such risks.

Lead in paint

43. Lead is a toxic heavy metal that was used for many years in products found in and around our homes, including gasoline additives, batteries and plumbing materials. Lead poisoning is known to cause decreases in intelligence quotient levels, retarded physical development, behavioural disorders, reduced attention spans and learning disabilities in children, even at extremely low levels of exposure. In adults, lead is linked to increased blood pressure, hypertension and higher risk of cardiovascular disease, as well as to reproductive problems, anaemia and reduced renal functions. Women exposed to lead during pregnancy report higher rates of miscarriages, stillbirths and preterm deliveries.

44. The concern about the adverse effects of lead on children's intellectual abilities and behaviour has brought about widespread reduction in its use. In particular, global international efforts to phase out leaded gasoline resulted in the elimination of lead from

²⁶ See Decision 25/5, in A/64/25.

fuels in many countries. In contrast, there has been less concerted international action to phase out lead in lead-based paints, which are still manufactured in many developing countries and used to paint the interiors and exteriors of homes or schools, as well as toys, furniture, playground equipment and other articles with which children come in contact.

45. Lead in paint represents one of the largest sources of lead exposure. Inhalation of house dust is the most common exposure pathway to lead-based paint for children and adults alike. Lead from exterior house paint can flake off and contaminate the air and the soil outside the house, including children's play areas. Ingestion of contaminated soil, dust and lead-based paint chips due to hand-to-mouth activities are the most common sources of lead exposure in infants and young children. However, contaminated food and water also represent significant exposure pathways. In addition to exposure to lead-contaminated dust, adults are exposed to lead used in lead-based paint during the manufacture, processing and application of lead paint. Residential renovation and paint removal can be significant sources of lead exposure for workers as well as residents. Dry sanding, abrasive blasting, and burning, welding, or heating surfaces covered with lead paint typically generate highly dangerous airborne lead levels.

46. A recent study found out that 83.8 per cent of oil-based decorative paints sold in India contained more than 600 parts per million (ppm) of lead (which is the maximum allowable percentage of lead in paints to be used for residential uses or for children's products), and 61.3 per cent of samples had more than 5,000 ppm.²⁷ A similar study carried out in China showed that 50 per cent of new paint samples contained lead at levels equal to or exceeding 600 ppm.²⁸ Although the problem is more serious in developing countries and economies in transition, lead-based paints remain a significant source of lead exposure and poisoning even in countries that have long since phased out its use. For example, in the United States an estimated 38 million housing units built before 1978, the year in which legislation banning the use of lead-based paints was adopted, have paint that contains lead.²⁹

47. ICCM-2 decided to establish a global partnership to promote phasing out the use of lead in paints.³⁰ The Special Rapporteur endorses this important decision, and encourages the new mandate holder to work closely with the Chemicals Branch of UNEP and the World Health Organization (WHO), which serve as the joint secretariat for this global partnership, to raise awareness on the adverse effects that lead-based paints may have on the enjoyment of the right to health of affected individuals and communities who are exposed to them.

D. Guidelines on human rights-based approaches to the sound management and disposal of toxic and dangerous products and wastes

48. It was the intention of the Special Rapporteur to terminate his mandate by developing a set of guidelines on human rights-based approaches to the sound management and disposal of toxic and dangerous products and wastes. Their purpose is to give States and the international community practical tools to prevent human rights violations

²⁷ Kumar, A., *A Brush with Toxics: An Investigation on Lead in Household Paints in India* (Toxics Link, September 2007).

²⁸ Lin G.Z. et al., "Lead in housing paints: An exposure source still not taken seriously for children lead poisoning in China", *Environmental Research*, vol. 109, No. 1, January 2009, pp. 1-5.

²⁹ Jacobs D.E. et al., "The Prevalence of Lead-Based Paint Hazards in U.S. Housing", *Environmental Health Perspectives*, vol. 110, October 2002.

³⁰ Omnibus resolution II/4.

associated with hazardous products and wastes. The guidelines should be normatively based on international human rights norms and standards, and consistent with international environmental law. They should identify the rights and fundamental freedoms that may be adversely affected by the movement and dumping of hazardous products and wastes and the corresponding responsibilities of States and other actors.

49. During the twelfth session of the Council, the Special Rapporteur held a number of bilateral meetings with interested delegations to explore the possibility of receiving a specific mandate in this regard. Although some delegations expressly supported the development of such guidelines during the interactive dialogue, resolution 12/18 only called for the organization of a panel discussion on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, with a view to informing the future work of the Special Rapporteur.³¹

50. The Special Rapporteur welcomes the organization of this panel discussion, and encourages the Council to request the new mandate holder to develop such guidelines with a view to clarifying the content of the obligations that States have undertaken under existing human rights treaties to eliminate, or reduce to a minimum, the adverse human rights impact caused by the unsound management and disposal of toxic and dangerous products and wastes.

IV. Review of the work of the Special Rapporteur

A. Reports to the Human Rights Council

51. In previous annual reports to the Council, the Special Rapporteur provided an in-depth analysis of selected thematic issues, chosen on the basis of such criteria as the scale of the phenomenon, its potential or actual adverse impact on human rights and/or the lack of an adequate legal framework to regulate it. At times, these reports led to controversial discussions. For example, a number of States challenged the Special Rapporteur in relation to his analysis of the shortcomings of the Hong Kong Convention on ship recycling, contained in last year's report (A/HRC/12/26), while other States and NGOs welcomed his conclusions and recommendations on issues such as the pre-cleaning of ships and the gradual phasing-out of the "beaching" method.

52. Thematic reports contribute to clarifying the adverse human rights impact of hazardous products or activities unknown to most human rights practitioners, and to identifying measures that States and other actors should adopt to eliminate, or reduce to a minimum, the threats that such products or activities pose to the enjoyment of human rights. Nevertheless, the Special Rapporteur believes that better use could be made of the extensive research carried out by the mandate holder.

B. Country missions

53. During his six-year tenure, the Special Rapporteur carried out country visits to Ukraine, Tanzania, Côte d'Ivoire, the Netherlands, Kyrgyzstan and India. He is grateful to all Governments that responded positively to his requests for invitations. At the same time, he regrets that several countries have not responded to his requests or have denied him access to their territories, despite the repeated calls made by the Council, and previously by

³¹ See *supra*, paragraph 7.

the Commission, to extend him an invitation.³² The lack of cooperation from the Governments on this issue, which is shown by the limited number of visits he has been able to undertake during his tenure, has seriously undermined the capacity of the Special Rapporteur to carry out his mandate.

54. The Special Rapporteur would like to reiterate that in situ visits offer a unique opportunity to gather first-hand information and establish a constructive and genuine dialogue between the relevant Government, civil society and the Special Rapporteur on the progress made, and difficulties encountered, in the implementation of international human rights standards relating to the sound management and disposal of hazardous products and wastes.

55. Unlike other special procedure mechanisms, the mandate has not yet developed any formal mechanism for following up on country visits. The lack of such a mechanism is the result of a variety of factors, including the scarce financial and human resources available to the mandate holder and the difficulty of identifying the government agency or body responsible for implementing the recommendations made. Nonetheless, the Special Rapporteur believes that it would be desirable to develop a mechanism — which could take the form of a follow-up report — to assess the extent to which recommendations have been implemented.

C. Individual communications

56. Like most special procedures, the Special Rapporteur can receive and consider communications alleging human rights violations relating to movement and dumping of hazardous products and wastes, and intervene with Governments on behalf of the alleged victims. The intervention can relate to situations in which a human rights violation has already occurred, is ongoing, or has a likelihood of occurring.

57. The process, in general, involves the sending of a letter to the Government inviting comments on the allegations, seeking clarifications, reminding the Government of its obligations under international law and requesting information, where relevant, on steps being taken by the authorities to redress the situation in question. The text of communications sent and responses received thereon are confidential until such time as they are published in the communication report that the Special Rapporteur submits to the Council on an annual basis along with the annual report.

58. In line with recent developments in the field of corporate responsibility and accountability for transnational corporations and other business enterprises with regard to human rights, the Special Rapporteur has on some occasions entered into a direct dialogue with private enterprises, for example mining companies, to request information about human rights violations allegedly caused as a result of their acts or omissions and the measures adopted to eliminate or mitigate the adverse effects of their activities, including any compensation provided to the affected individuals and communities.

59. The Special Rapporteur attaches great importance to information he receives directly from communities or individuals allegedly affected by movement and dumping of hazardous wastes and products, or from credible organizations acting on their behalf. Although it is difficult to assess its actual impact, the individual communication mechanism represents a powerful tool to strengthen the protection of the human rights of these individuals and communities. Such a procedure also constitutes an essential element of the

³² See most recently Human Rights Council resolution 9/1, para. 6.

added value of the mandate, since similar mechanisms have not been established by international environmental treaties on chemicals or waste management.

60. The communication procedure also presents some advantages vis-à-vis judicial and quasi-judicial procedures established in the field of human rights law. In the first place, its use does not require the previous exhaustion of domestic remedies, as is the case for individual communications or complaints to human rights courts or treaty bodies. Secondly, the alleged victim(s) only need(s) to provide prima facie evidence of a human rights violation, and does not need to be assisted by a lawyer at any stage of the procedure. Thirdly, information on alleged human rights violations can be provided not only by the victim, as is the practice in the judicial or quasi-judicial procedures referred to above, but also by domestic and international NGOs acting on their behalf.

61. Follow-up to communications is essential to ensure the effectiveness of this procedure. The Special Rapporteur attaches great importance to maintaining a constructive dialogue with Governments concerned and the sources of communications on any developments in the situation referred to in the communication. In order to ensure that the procedure goes beyond a mere exchange of letters between the Special Rapporteur and the Government, it is particularly important that sources of information provide the mandate holder with updates on the cases they had brought to his attention. This enhances the quality of the dialogue, since the Special Rapporteur can follow up on replies provided by Governments in order to request further clarification or information.

62. The Special Rapporteur regrets that the potential of this procedure has not been fully exploited. As of June 2010, the Special Rapporteur has sent, either independently or jointly with other special procedure mandate holders, a total of 15 allegation letters and 12 urgent appeals. The mandate holder believes that the limited number of communications sent partly depends on the fact that many human rights and environmental NGOs are not familiar with his mandate, and that much more needs to be done to raise awareness of the mandate, as well as on the communication procedure and its potential.

D. Collaboration with the United Nations system

63. The Special Rapporteur has established solid working relations with the secretariats of relevant environmental treaties. He regularly exchanges information and meets with the secretariats of the chemicals and waste management conventions, as well as with the SAICM secretariat and the secretariat of the Aarhus Convention. The Special Rapporteur would like to take this opportunity to thank all of them for their continuous support to the mandate.

64. During his tenure, the Special Rapporteur participated in, or conveyed statements to, several sessions of the governing bodies of environmental conventions, such as the Meetings of the Parties to the Aarhus Convention and the Conference of the Parties to the Basel Convention, as well as in meetings of technical committees or bodies established by the Conferences/Meetings of Parties to environmental treaties, such as the Joint Working Group established by the IMO, the International Labour Organization (ILO) and the Conference of the Parties to the Basel Convention on Ship Scrapping. He also participated actively in the development and implementation of the SAICM.

65. The Special Rapporteur considers that the collaboration with the secretariats of environmental conventions and their political bodies is of vital importance for the mandate. It provides a useful opportunity to establish or strengthen synergies with these organizations and to mainstream a human rights-based approach in their work by raising awareness on the adverse impact that the movement and dumping of hazardous products and wastes may have on the enjoyment of human rights.

66. The Special Rapporteur believes that closer and more coordinated collaboration is needed between his mandate, UNEP and relevant United Nations specialized agencies, such as ILO and WHO. Their organizations have developed significant expertise on issues falling within the scope of the mandate, such as the management of hazardous chemicals and pesticides, and the Special Rapporteur would greatly benefit from strengthened collaboration. This collaboration would also facilitate the mainstreaming of human rights in the work of these organizations, and result in better coordination and response to human rights violations related to the movement and dumping of hazardous products and wastes.

67. Similarly, the mandate holder is of the view that collaboration with other mandate holders and treaty bodies could be strengthened. The Special Rapporteur has sent a number of joint urgent appeals and allegation letters with other mandate holders, but would welcome a more coordinated approach with other relevant human rights mechanisms, such as the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Committee on Economic, Social and Cultural Rights. Enhanced cooperation would result in better follow-up on recommendations of these mechanisms and greater support for countries in their efforts to consider these recommendations.

E. Collaboration with civil society

68. Civil society is one of the most important sources of information about the factual situation existing at the country level with regard to the management and disposal of hazardous products and wastes. In almost all the countries visited by the mandate holder, NGOs provided an essential contribution before, during and after the official mission, both with regard to providing information on the human rights impact of toxic and dangerous products and wastes and facilitating access to relevant sites. The Special Rapporteur wishes to take this opportunity to express once again his deepest gratitude to all NGOs which contributed to the organization of his country visits.

69. Nevertheless, the Special Rapporteur believes that there is room for strengthened collaboration between the mandate and civil society organizations. In particular, he considers that more regular exchanges of information with environmental NGOs, in particular those working on chemicals and waste management, would allow the Special Rapporteur to be better informed about recent trends and new developments in the management and disposal of hazardous products and wastes. As noted elsewhere in this report, the Special Rapporteur is of the view that NGOs have not made full use of the individual communication procedure to seek redress for human rights violations related to chemicals and waste management.

V. Conclusions and recommendations

70. In the last six years as mandate holder, the Special Rapporteur witnessed significant changes in the transboundary movement and disposal of hazardous products and wastes. Although hazardous wastes generated in industrialized countries continue to be moved across borders and illegally dumped in developing countries, and in spite of the lack of complete and reliable information in this respect, it appears that the majority of transboundary movements occur nowadays within the same region, and generally involve industrialized countries.

71. The Human Rights Council itself has recognized that the movement and disposal of toxic and dangerous products and wastes have now become global problems, which require global solutions. Resolution 9/1, which strengthened the

mandate of the Special Rapporteur so as to include all types of movement and dumping of toxic and dangerous products and wastes, is the first response to these changes.

72. In view of the fact that the many human rights violations related to toxic and dangerous products and wastes derive from their inappropriate generation, management or use, rather than from their “movement” or “disposal”, the Special Rapporteur recommends that the Human Rights Council consider requesting the mandate holder to monitor the adverse effects of hazardous products and wastes during the whole life cycle, from their production to their disposal. Accordingly, the new title of the mandate would be “Special Rapporteur on the adverse effects of the unsound management and disposal of toxic and dangerous products and wastes on human rights”. The expression “unsound management and disposal” is to be interpreted extensively, so as to encompass the whole life cycle of hazardous products and wastes (cradle-to-grave approach).

73. The Special Rapporteur intended to complete his term by developing a set of guidelines on human rights-based approaches to the sound production, management and disposal of hazardous products and wastes. He discussed this issue informally with a number of delegations, some of which expressly supported the development of such guidelines during the interactive dialogue. Nevertheless, Human Rights Council resolution 12/18 only called for the organization of a panel discussion to inform the future work of the Special Rapporteur.

74. Based on the impetus created by this debate, the Special Rapporteur recommends that the Council request the new mandate holder to develop such guidelines, prior to the renewal of the mandate, due in September 2011. The guidelines should be developed in close consultation with relevant stakeholders, including States, relevant human rights bodies and mechanisms, United Nations specialized agencies, programmes and bodies, the secretariats of multilateral environmental treaties, national human rights institutions, NGOs and representatives of the private sector.

75. The present report identifies some issues that, although not new, would nevertheless continue to deserve the attention of the mandate in view of their scale, their potential or actual adverse impact on human rights and/or the lack of an adequate legal framework.

76. With regard to the human rights impact of ship-breaking, the Special Rapporteur wishes to reiterate the recommendations addressed to States and other relevant stakeholders to consider adopting and implementing voluntary measures to address the negative impacts of ship-breaking that are not covered by the Hong Kong Convention on ship recycling (see A/HRC/12/26, paras. 64–65). He also encourages the new mandate holder to submit his/her preliminary assessment on whether the IMO Convention establishes a level of control and enforcement equivalent to that established under the Basel Convention to the secretariat of the Basel Convention, and to consider attending COP-10 in order to share with the parties to the Basel Convention the views expressed by the mandate with regard to the shortcomings of the Hong Kong Convention.

77. In view of the gaps and ambiguities in the existing international legal framework on the sound production, management and disposal of e-waste, and taking into account the significant increase in the amount of e-waste generated worldwide, the Special Rapporteur encourages the new mandate holder to continue studying this phenomenon, with a view to making appropriate recommendations to the Human Rights Council on adequate measures to control the transfer of obsolete or broken

electrical and electronic products to countries that do not possess the capacity to dispose of them in an environmentally sound manner.

78. As far as hazardous chemicals and pesticides are concerned, the Special Rapporteur encourages the new mandate holder to continue participating in international efforts aimed at achieving the sound management of chemicals at all stages of their life cycle. More specifically, he recommends that the new Special Rapporteur continue to work closely with the SAICM secretariat and the secretariats of the Stockholm and Rotterdam Conventions in order to advocate for the inclusion of a human rights-based approach in any initiative to promote chemicals safety.

79. The present report also drew the attention of the Human Rights Council to two emerging issues that in the view of the Special Rapporteur would need to be studied from a human rights perspective.

80. The Special Rapporteur welcomes the initiative undertaken by the UNEP Governing Council to develop a legally-binding instrument on mercury, and calls on States to support the adoption of such an instrument. He also encourages the new mandate holder to consider participating in the negotiating process, in order to ensure that a human rights-based approach to the sound management of mercury throughout its life cycle be included in the new instrument.

81. The Special Rapporteur calls on States, United Nations specialized agencies, programmes and bodies, the secretariats of multilateral environmental treaties, NGOs and representatives of the private sector to take all necessary steps to phase out the use of lead in lead-based paints. Such steps should include: the adoption of national legal frameworks to prohibit the use of lead in household paints; the development of prevention programmes to reduce exposure; allocation of adequate human, technical and financial resources to estimate the prevalence of lead in paints used at the national level and its adverse impact on the health of affected communities; and the organization of awareness-raising campaigns on the toxicity of lead-based paints. The Special Rapporteur also encourages the new mandate holder to assist the Council in clarifying the adverse impact that lead in paint can have on the enjoyment of human rights of affected individuals and communities.

82. The present report reviewed the current methods of work of the mandate holder in order to assess to what extent the structure of the mandate is appropriate to enable the Special Rapporteur to carry out the functions described in resolution 9/1.

83. The Special Rapporteur is of the view that it is useful to continue to devote annual reports to an in-depth analysis of selected thematic issues, chosen on the basis of the criteria identified in his preliminary report to the Commission (E/CN.4/2005/45). Nevertheless, he would encourage human rights treaty bodies, and in particular the Committee on Economic, Social and Cultural Rights, to make better use of the extensive research carried out by the mandate holder, for example during the interactive dialogue with States parties.

84. With regard to country visits, the Special Rapporteur regrets that while certain States have seriously engaged with the mandate, others have shown less commitment, as demonstrated by the limited number of visits that he has been able to undertake during his tenure. He therefore recommends that the Council reiterate its call on States to facilitate the work of the mandate holder by extending him/her an invitation to undertake country visits.

85. The Special Rapporteur also recommends that the new mandate holder consider establishing a formal mechanism to follow up on country visits. He requests that treaty bodies and the Human Rights Council during the Universal Periodic

Review pay more attention to the recommendations made by the Special Rapporteur in mission reports, and encourages NGOs to provide information on the measures adopted by the State to implement these recommendations.

86. As is the case for follow up to mission reports, the Special Rapporteur notes that the Human Rights Council and the treaty bodies have only paid limited attention to the information generated by the communication procedure. The Special Rapporteur believes that the review of the country situation during the Universal Periodic Review or in connection with the interactive dialogue with treaty bodies would offer a valuable opportunity to follow up on the effectiveness of the measures adopted by the country to eliminate the human rights violations addressed in the communication procedure.

87. The Special Rapporteur considers that the collaboration with UNEP, relevant United Nations specialized agencies and the secretariats of environmental conventions is of vital importance for the mandate. He therefore encourages the new mandate holder to continue the established cooperation with the secretariats of environmental conventions, in particular the secretariat of the Basel Convention, and to seek ways to establish a closer and more coordinated collaboration with UNEP, ILO and WHO.

88. The Human Rights Council should consider transmitting thematic reports of the Special Rapporteur to the Governing Council of UNEP, and request that the latter extend an invitation to the Special Rapporteur to address its annual sessions.

89. Finally, the Special Rapporteur believes that there is room for strengthened collaboration between the mandate and NGOs. He is aware that the mandate deals with borderline issues that neither human rights NGOs nor their environmental counterparts may be fully familiar with. In order to strengthen the links between the mandate and national and international NGOs working in the field of human rights, environmental protection and chemicals or waste management, the new Special Rapporteur should, in consultation with OHCHR, identify ways and strategies to make civil society organizations more familiar with the mandate in general, and more specifically with the individual communication procedure.
