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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Report submitted by the Special Rapporteur on the right to food, Olivier De Schutter

Addendum

Preliminary note on the mission to China (15-23 December 2010)* **

* Late submission.

** The present document does not reflect the comments of the Government of China insofar as no comments were received before the deadline for submission of the note to the Human Rights Council.

I. Introduction

1. The Special Rapporteur on the right to food, Olivier De Schutter, conducted an official mission to China, at the invitation of the Government, from 15 to 23 December 2010. The mission included meetings in Beijing, as well as field trips to the districts of Tongzhou and Changping, and to the areas of Jinan and Laiwu in the province of Shandong.

2. The Special Rapporteur expresses his sincere appreciation to the Government for the high level of cooperation he benefited from and thanks, in particular, the Permanent Mission to the United Nations Office at Geneva and the Ministry of Foreign Affairs for their professionalism and dedication in organizing the programme. He also thanks all the persons with whom he met during his visit, including high-level representatives and experts from the Ministry of Foreign Affairs, the Ministry of Agriculture, the State Administration of Grain, the Ministry of Land and Resources, the Ministry of Environmental Protection, the Ministry of Human Resources and Social Security, the General Administration of Quality Supervision, Inspection and Quarantine, and representatives of a range of research institutions, civil society organizations and international agencies.

3. In the present note, the Special Rapporteur sets out the main issues he explored during the mission. He examines the efforts made by China in realizing the right to adequate food and the obstacles faced, using a framework reflecting the main components of the right to adequate food. Increasing food availability, while important, is not enough to ensure the realization of the right to food. Accessibility also needs to be addressed, by policies aimed at the areas and populations that are still vulnerable to food insecurity. Adequacy requires that appropriate attention be paid to the nutritional dimensions of the right to food. And the food systems must be sustainable: satisfying current needs should not be at the expense of the country's ability to meet future needs.

II. Food availability

4. China has made remarkable progress in raising its levels of agricultural production. Domestic food availability has increased from 1,500 calories per capita per day at the start of the 1960s to 3,000 calories per capita per day in 2000.¹ With a population of 1.3 billion and a surface of arable land of 121.7 million hectares, China has 21 per cent of the world's population, 8.5 per cent of the world's total arable land and 6.5 per cent of the world's water reserves. Yet, thanks to the impressive progress of agricultural production, it has moved since 2005 from being a beneficiary of food aid to being a food aid donor. Following a series of bumper harvests in recent years (530.8 million tons of grain were produced in 2009 – an increase of approximately 13.1 per cent compared to that in 2004 – and 546 million tons in 2010), China has achieved a grain self-sufficiency rate of at least 95 per cent, and its grain reserves are estimated to be more than the double the 17 per cent safety level recommended by the Food and Agriculture Organization of the United Nations.

5. This success is a testimony to the potential of small-scale farming, which can be very productive if it is effectively supported, and if farmers are encouraged to organize in order to achieve certain economies of scale in the acquisition of small machinery and in the processing, transport and marketing of their produce. Indeed, the increases in agricultural production in China are primarily attributable to some 200 million small-scale farmers with

¹ Jenifer Huang McBeath and Jerry McBeath, *Environmental Change and Food Security in China*, Advances in Global Change Research, vol. 35 (Springer, 2010), p. 38.

an average holding of 0.65 hectares. A guaranteed minimum procurement price system for the main grain sorts and agricultural input subsidies, facilitating the flow of resources from industry to agriculture, have been the most important factors in this success.

6. Because the amount of land attributed to each household is very small, contract farming may also play a role, and it is rapidly expanding in certain provinces in rural China. Contract farming can help raise small-farm income, and it may be particularly well suited to the characteristics of the Chinese organization of small-scale farmers into collectives, since this communal mode of organization may strengthen their bargaining position vis-à-vis the buyer. During his mission, the Special Rapporteur witnessed first hand the advantages of contract farming for farming families in the province of Shandong. At the same time, the lessons from this province are not necessarily transposable to other provinces with a less well-developed agricultural sector, and it certainly should not be seen as a substitute for policies that support the production of food crops to meet local consumption needs. However, where contract farming is an attractive option, the Government could support it, for instance by mediating conflicts between buyers and farmers, by providing extension services in coordination with the technical support provided by buyers, and by ensuring that the legal framework protects farmers from any abuse by the buyer. It could also encourage that a certain percentage of the total cultivated area of each collective be reserved for the production of food crops, in order to ensure that the population will not be excessively dependent on the evolution of the prices paid for the crops they cultivate for the buyer, and to limit the risks from occasional bad harvests. Finally, the Government could encourage farming families joining contract farming schemes to form cooperatives in order to move up in the value chain.

7. At the same time, apart from these successes in raising production, the massive transition of the Chinese economy and society over the past generation, and the threats represented by land degradation and climate change, have brought about their own challenges.

8. Industrialization and urbanization increase pressure on farmland. Since 1997, China has lost 8.2 million hectares of arable land due to urbanization, forest and grassland replanting programmes, and damage caused by natural disasters, and the country's per capita available land is now at 0.092 hectares, 40 per cent of the world average. This shrinking of arable land represents a major threat to the ability of China to maintain its current self-sufficiency in grain. China has adopted the principle according to which any cultivated land lost for other purposes should be reclaimed elsewhere, and it has set a "red line" at 1.8 billion mu (120 million hectares) beyond which arable land will not be allowed to shrink further. But China is already dangerously close to this limit.

III. Access to adequate food

9. In order to guarantee accessibility of food, special attention must be given to those in society whose ability to either produce or purchase food for an adequate diet may be impeded by a lack of resources, such as access to land and an adequate income. Food insecurity may stem from a deprivation of resources – for example resulting from the loss of land or of employment – or from a sudden increase in the price of food, in the absence of measures that protect those whose purchasing power may be insufficient. Indeed, the mission took place at a time when China was facing a sharp rise in the prices of food. The annual inflation of food prices was estimated to be 11.7 per cent in 2010,² primarily as the

² Xinhua, "China's Nov CPI up 5.1%, a 28-month high", *China Daily*, 11 December 2010.

result of higher prices for meat, fruits and vegetables, as the rise in the prices of basic cereals, including rice, remained limited.

10. Improved access to adequate food has been facilitated by strong economic and social progress over the past three decades, lifting several hundred millions out of poverty. Measured in terms of the World Bank poverty standard (of 888 yuan per person per year at 2003 rural prices), the absolute number of poor fell from 652 million to 135 million between 1981 and 2004. Using the current international measure of poverty of \$1.25 per day in 2005 purchasing power parity dollars, the number of poor was 254 million in 2005, the latest year for which direct survey-based estimates are available.³ This overall progress in reducing poverty led to significant improvements in food security. The number of undernourished people went down from 1 in 3 30 years ago to 1 in 10, and the prevalence of underweight among children under 5 years old decreased from 19.1 per cent in 1990 to 6.9 per cent in 2005 (stunting rates went from 33.4 per cent to 10.5 per cent in the same period).

11. However, in parallel with the overall economic and social progress, disparities in living standards between regions and between rural and urban areas have become more marked. The urban-rural income gap widened, up from 2.79 to 1 in 2000 to 3.33 to 1 in 2007, and if the distribution of spending on public services is taken into account, the urban-rural ratio reaches 5-6 to 1.⁴ One aspect of this situation is that overall progress in food availability coexists with the persistence of food insecurity in certain areas for some groups. Thus, according to a recent report on food security in China, situations of food insecurity are still common in some of the poor rural counties, particularly in the western mountainous areas.⁵

12. An important pillar of efforts to ensure effective access to adequate food consists of efforts to put in place an effective social security scheme, so that those whose living standards fall below a certain threshold and those who face food insecurity are entitled to various forms of assistance.

13. The Special Rapporteur commends the Government of China for its efforts and stated policy objective to establish a social protection system covering all urban and rural residents, including basic old-age pension, basic medical care and the minimum living standard guarantee (*di bao*) scheme. Progress has been faster, however, for the urban residents, and important gaps subsist between them and the rural populations. For instance, with regard to the *di bao*, rural residents receive on average only a fraction of what goes to urban residents.⁶ While this is explained in part by the fact that rural residents have access to land under the household responsibility system, differences also exist in access to basic health care and to old-age pension.

14. One major reason for the widening of the rural-urban gap resides in the fact that local governments have insufficient revenues to fulfil all the tasks assigned to them. A large

³ World Bank, "From poor areas to poor people: China's evolving poverty reduction agenda. An assessment of poverty and inequality in China", March 2009, pp. iii and v.

⁴ *Human Development Report China 2007-2008: Access for All - Basic Public Services for 1.3 Billion People*, commissioned by the United Nations Development Programme, China, and coordinated by the China Institute for Reform and Development (Beijing, China Translation and Publishing Corporation, 2008), p. 33.

⁵ Xiao Yunlai and Nie Fengying, *A Report on the Status of China's Food Security*, commissioned by the Food and Agriculture Organization of the United Nations, the International Fund for Agriculture Development and the World Food Programme (Beijing, China Agricultural Science and Technology Press, 2009), pp. 62 and 63.

⁶ World Bank, "From poor areas", p. 124.

number of essential services, including education, healthcare and old-age pensions, are provided at the local level,⁷ and it is estimated that local governments finance 80 per cent or more of basic health and education expenditures.⁸ While levels of subsidies from the central Government are significant – fiscal transfers (excluding tax rebates) from the centre to local governments increased from 435 billion yuan in 2002 to 2.4 trillion yuan in 2009⁹ – there remains a high inequality in the distribution of medical and health resources. It is estimated that in 2005, only 25 per cent of public health resources were devoted to rural residents, although they make up close to 60 per cent of the total population.¹⁰

15. Although necessary, further transfers may not be the most efficient way to address this problem, because of the difficulties in monitoring the use made of earmarked funds by the local-level authorities. Rather, consideration could be given to recentralizing the provision of certain public services, for instance the payment of old-age pensions and of the salaries of teachers, or basic health-care costs, to ensure that the local governments will not be obliged to compensate for the gap between their revenues and their expenditures by relying on user fees; user fees of course disproportionately affect the poorest households and may lead to a retrogression in the level of enjoyment of certain basic rights.

16. Rural migrant workers are also affected by the gap between the rural and the urban levels of public services. Over the past decades, some 144 million people have migrated from rural areas all over China to work in urban areas, particularly in the eastern provinces. Since an estimated 20 per cent of all rural migrant workers move with their family,¹¹ the total number of rural-urban migrants can be estimated to around 170 million. These migrants are often excluded from social services and social security benefits, including the *di bao* guaranteed to urban residents. In part, this stems from the fact that the vast majority of rural migrants (probably around 85 per cent) work in the informal sector, which increases their vulnerability to abusive labour conditions, including non-payment of wages.¹² Another source of exclusion is the household registration system (*hukou*), the result of which is that, depending on their place of registration, individuals have different entitlements to basic services in the areas of health, education and basic income guarantees.

17. A key challenge is to integrate the fast-growing population of rural migrants into the urban social security schemes through programmes which are tailored to the specific situation and needs of this population group. A number of provinces or municipalities, most recently Shanghai as regards health care, have taken steps in this direction by launching pilot programmes to abolish or limit the impact of the *hukou* system and to include migrant rural workers in the basic public service system. This often benefits only rural migrant workers engaged in formal employment, however, which are a minority amongst the migrants. In addition, for this to be fiscally sustainable – for the public services of the concerned cities to be able to cope with the increased demands imposed on them – it should be ensured that the revenues at their disposal will be sufficient. This again illustrates the importance of fiscal reform.

⁷ Ye Xingqing, “China’s urban-rural integration policies”, *Journal of Current Chinese Affairs*, vol. 38, No. 4 (2009).

⁸ Christine Wong, “Paying for the harmonious society”, *China Economic Quarterly*, vol. 14, No. 2 (June 2010), p. 21.

⁹ *Ibid.*, p. 20.

¹⁰ *Human Development Report 2007-2008* (see note 4 above), pp. 52-53.

¹¹ Shi Li, “Rural migrant workers in China: scenario, challenges and public policy”, International Labour Office, Policy Integration and Statistics Department, working paper No. 89 (Geneva, ILO, 2008), p. 5.

¹² *Ibid.*, p. 14, referring to a survey conducted in 40 cities by the Ministry of Labour and Social Security in 2004 which found that only 12.5 per cent of migrant workers had written job contracts.

IV. Adequacy of available food

18. As noted above, the achievements of China in combating malnutrition are remarkable. However, important challenges remain concerning nutrition and the adequacy of diets of both the rural and urban population. The prevalence of anaemia among children under 5 years old was 21.9 per cent in 2006 but up to 80 per cent in the poorest counties, and 35 per cent of children aged 12 months in the poorest counties are stunted. Despite great increases in fruit and vegetables consumption for most households, a significant proportion of households in poor counties eat vegetables only one or two days per week. At the same time, obesity is appearing: in 2002, 9.2 per cent of Chinese children were overweight for their age, a figure only slightly under the percentage of Chinese underweight (11 per cent).¹³ Surveys by the World Health Organization also found overconsumption of salt, leading to hypertension and related diseases, a threat for an ageing population. China thus is meeting the same challenges as other countries undergoing nutrition transition.

19. A comprehensive approach to address these problems could be based upon four complementary strategies. First, the promotion of diverse and balanced diets, including through agricultural policies or other adequate schemes aiming at cheaper vegetable prices for poor urban and rural consumers, could decrease both malnutrition and certainly prevent a further aggravation of obesity levels. Second, the promotion of exclusive breastfeeding during the first six months after birth and complementary feeding after six months are the most effective strategies to avoid malnutrition during the first 22 months and to strengthen the immunity system of children. The opportunity for improvements in this area is relatively large: only 27 per cent of Chinese children under 6 months are currently exclusively breastfed according to data at the national level, and surveys in rural areas indicate a lower percentage (10 per cent). Third, the promotion of mandatory biofortification of staple foods, including wheat flour – as done today in 56 countries across the world – could complement the first two preventive strategies. Finally, a stronger regulation of the marketing efforts of the food industry to sell unbalanced processed products and ready-to-serve meals too rich in fat and sugars is certainly needed to curb obesity levels.

20. Food safety represents another important challenge. Following the 2008 incident of melamine-contaminated infant milk powder, a series of important measures to strengthen food safety supervision has been taken and a Food Safety Law was adopted in March 2009. The authorities should be commended for their efforts in this domain, despite the difficulties they face in a fast-developing agrifood processing and retailing industry. Against this background, the Special Rapporteur is, however, concerned that, according to information received, individuals alerting the public about food safety risks may risk legal sanctions. This not only creates a chilling effect on all those who would like to rely on article 10 of the Food Safety Law in order to report about violations of the requirements set by this legislation, it also seems to underestimate the contribution that the exercise of freedoms of expression and association can make to the right to adequate food.

21. The Special Rapporteur is convinced that transparency and access to information are essential to the effective realization of the right to food. It is through the exercise of basic freedoms that authorities can be held accountable and policies improved in the light of their impacts; that corruption and misuse of power by public officials, particularly at the local

¹³ Jikun Huang and Scott Rozelle. "Agricultural development and nutrition: the policies behind China's success", World Food Programme Occasional Paper No.19, 2009, p. 3.

level, can be combated; and that the laws that are adopted in order to protect various aspects of the right to food are complied with.

V. Sustainability

22. A 2008 Chinese Academy of Sciences report calculated that the cost of the exploitation of natural resources, ecological degradation and environmental pollution in 2005 was 13.9 per cent of gross domestic product (GDP), while growth in that year was 11.3 per cent. This illustrates the considerable ecological threats and challenges that China faces, with deep potential consequences for both food security at the national level and the realization of the right to food of vulnerable groups. An estimated 37 per cent of the total territory of China suffers from land degradation.¹⁴ Soil erosion has become a large problem in northwest China, raising concerns about the country's future grain security. Water scarcity is a huge problem: per capita water availability is less than one third the world average. According to one estimate, climate change may cause agricultural productivity to drop by 5 to 10 per cent by 2030 in the absence of mitigation actions, affecting principally wheat, rice and maize.¹⁵ Indeed, already today, droughts affect between 200 and 600 million mu of farmland in China every year. The modernization of agriculture has also relied on important use of inputs, the production of which is based on fossil fuels such as oil and natural gas, which China increasingly imports.

23. The Chinese authorities are keeping this issue under close scrutiny and they should be commended for a number of initiatives that they have taken to mitigate and adapt to ecological damage, including climate change. But more could be done. The social impacts of certain policies, such as *tuigeng huanlin* ("returning farmland to forest"), which covers more than 32 million farmers' households in 25 provinces, may have been underestimated. In addition, the authorities could further explore the potential of sustainable modes of agricultural production based on the principles of agroecology in order to increase agricultural productivity in a sustainable manner. Encouraging smallholders to use less inputs, particularly synthetic fertilizers, would reduce their costs of production and improve overall profitability, while preventing further increases in food prices and reducing the country's import bills and CO₂ emissions at the same time. The experience of China with agroecology has proven that this approach is viable and leads to very significant successes. In Yunnan Province for instance, after disease-susceptible rice varieties were planted in mixtures with varieties resistant to rice blast disease on 3,000 hectares of rice fields, yields improved by 89 per cent and rice blast was 94 per cent less severe than when the varieties were grown in monoculture, leading farmers to abandon the use of fungicidal sprays.

24. The Government could also improve the accountability of both local administrative authorities and private stakeholders. Local authorities and officials could be evaluated according to their environmental performance in addition to their purely economic performance (GDP), and incentivized to control the respect for environmental laws and regulations by private companies. Moreover, the role of courts in environmental matters could be further strengthened, for instance by allowing public interest litigation.

¹⁴ McBeath and McBeath, *Environmental Change* (see note 1 above), pp. 53-54, citing estimate made by the Ministry of Water Resources.

¹⁵ *Human Development Report China 2009/10: China and a Sustainable Future - Towards a Low Carbon Economy and Society*, commissioned by United Nations Development Programme, China, and coordinated by Renmin University of China (Beijing, Translation and Publishing Corporation, 2010), p. 19.

VI. Ensuring security of tenure and access to land

A. Threats resulting from land takings

25. Approximately 750 million people in China still reside in rural areas and rely significantly on agricultural land for their livelihood. For the large population of smallholders, which are at the heart of the success of the country's ability to achieve food security, security of tenure and the ability to make land-related investments are vital. The current land tenure regime seeks to achieve a delicate balance between guaranteeing security of tenure to the individual household, whose use rights have been strengthened over the years, while at the same time allowing for the development of a market for land rental rights and ensuring that ownership remains in the hands of the collective. However, this balance is sometimes disrupted at the level of implementation, which has been uneven across villages.

26. First, despite the almost complete prohibition of "readjustments" in the 2002 Rural Land Contracting Law (confirmed in the 2007 Property [Real Rights] Law), which only allows readjustments in exceptional cases and under strict procedural conditions, this possibility appears to be often abused in practice. Second, land takings seem to be facilitated by the absence of a strict legal definition of the "public interest" that the authorities may invoke in order to justify such takings. Third, in a number of regions, cultivated land has reportedly been ceded to developers in violation of existing legal procedures. According to one report, the number of such illegal land takings has been declining (from 48.5 per cent of new developments in 2006 to 11.7 per cent of new developments in 2009).¹⁶ Yet, it remains significant.

27. The pressure on land and on farmers threatens the ability of the country to maintain current levels of agricultural production and thus the desired level of food self-sufficiency. It also threatens the rights of land users, when they are obliged to cede their use rights under pressure from the local authorities, who in some cases transfer these rights to developers in exchange for bribes. Even when the procedural requirements have been respected, local cadres reportedly often capture a significant portion of the compensation paid to the collective, despite the requirement in the 2007 Property Law that the compensation be returned in full to the individual farmer losing his/her land.

28. Ensuring the issuance of land certificates and improving the quality of the information available to land users about their rights as well as their access to legal aid would already go a long way towards improving their protection against such practices. The rights of land users could also be strengthened through changes in the existing legal framework. For example, contracted land use rights could be automatically extended beyond the current 30-year term, unless no member of the household to whom the land has been contracted still lives on the land. The possibility for the collective to impose readjustments, and the possibility for the State to evict land users in the public interest, could be better circumscribed, in order to allow courts to exercise a much stricter scrutiny on the authorities' reliance on these exceptions to the security of tenure of the land user. Finally, since surveys show that the vast majority of land certificates do not refer to the name of the woman and are instead in the name of the husband (or in the name of her father or father-in-law), it could be provided that, as additional land certificates are issued, the name of both the husband and the wife are recorded systematically.

¹⁶ Qian Wang, "Officials feeling pressure over illegal land use", *China Daily*, 17 December 2010, p. 5.

29. Improved security of tenure and the resulting development of a market for land rental rights should be seen not as ends in themselves, but as part of a broader programme of rural development. They should be combined with support to small-scale farming, in order to ensure that farmers do not cede their use rights over land in conditions that amount to distress sales. For the large number of small-scale farmers in the Chinese countryside, access to land still represents a basic social safety net. Unless their levels of education improve and they are given real employment opportunities in the urban areas in decent conditions, an acceleration of land concentration through market mechanisms could result in more food insecurity, because of the increased poverty that would follow.

B. Threats to nomadic herders

30. Nomadic herders in the western provinces and autonomous regions, especially in the Tibet (Xizang) and Inner Mongolian Autonomous Regions, also face increasing pressure on their access to land. The Grassland Law adopted in 1985 both in order to protect grassland and in order to modernize the animal husbandry industry towards commodification has now been complemented by a range of policies and programmes, including *tuimu huancao* (“removing animals to grow grass”) and *tuigeng huanlin* (“returning farmland to forest”). These programmes, part of the 1999 Western Development Strategy (*xibu da kaifa*), seek to address the degradation of pasture lands and control disasters in the lowlands of China. They include measures such as grazing bans, grazing land non-use periods, rotational grazing and the accommodation of carrying capacity, limitations on pastures distribution, compulsory fencing, slaughter of animal livestock, and the planting of eucalyptus trees on marginal farmland to reduce the threat of soil erosion. While there is little doubt about the extent of the land degradation problem, the Special Rapporteur notes that herders should not, as a result of the measures adopted under the *tuimu huancao* policy, be put in a situation where they have no other options than to sell their herd and resettle.

31. The International Covenant on Economic, Social and Cultural Rights prohibits depriving any people from its means of subsistence, and the Convention on Biological Diversity (1992) acknowledges the importance of indigenous communities as guarantors and protectors of biodiversity (art. 8 (j)). China has ratified both of these instruments. The Special Rapporteur encourages the Chinese authorities to engage in meaningful consultations with herding communities, including in order to assess the results of past and current policies, and to examine all available options, including recent strategies of sustainable management of marginal pastures such as New Rangeland Management in order to combine the knowledge of the nomadic herders of their territories with the information that can be drawn from modern science. The Special Rapporteur also encourages the Chinese authorities to invest in rehabilitating pasture, and to support the remaining nomads with rural extension. The potential of livestock insurance programmes should also be explored, as tested successfully in Mongolia. Such programmes, which pay nomads to restock and recover after a major disaster, encourage nomads to keep herds at a much smaller scale, in effect replacing the “insurance” against disaster traditionally provided by the sheer size of larger herds.

VII. Conclusion

32. **In the present note, the Special Rapporteur on the right to food has highlighted the main issues examined during his mission. He is encouraged by the impressive progress made in China in the achievement of food security. However, serious challenges remain. These challenges include improving the situation of people living in rural areas and the situation of rural migrant workers, improving security of land**

tenure and access to land, making a transition towards more sustainable agriculture, and addressing the areas of nutrition and food safety. The Government is well aware of these challenges. The Special Rapporteur expresses his willingness to cooperate with the Chinese authorities to identify how to overcome the remaining obstacles, on the basis of the best international practices.

33. The Special Rapporteur will present a full report to the Human Rights Council when he next reports, and looks forward to continuing his dialogue with the Government of China.
