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## مجلس حقوق الإنسان

الدورة التاسعة عشرة

البند ٣ من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان المدنية، والسياسية والاقتصادية والاجتماعية، بما في ذلك الحق في التنمية

### تقرير المقرر الخاص المعني بالحق في الغذاء، أوليفيه دي شوتير

إضافة

البعثة إلى المكسيك\*

موجز

قام المقرر الخاص المعني بالحق في الغذاء بزيارة إلى المكسيك خلال الفترة من ١٣ إلى ٢٠ حزيران/يونيه ٢٠١١. ويستعرض المقرر الخاص في الفرعين الثاني والثالث من هذا التقرير الحالة الراهنة لانعدام الأمن الغذائي، والإطار القانوني والسياسي. ويبين في الفرع الرابع (توافر الأغذية) ضرورة استهداف برامج الدعم الزراعي لاحتياجات صغار المزارعين في المناطق المحرومة، ثم يبحث في الفصل الخامس (الحصول على الأغذية) الجهود المبذولة لتعزيز البرامج الاجتماعية؛ ولضمان حياة كريمة للعمال بمن فيهم العمال الزراعيون المياومون؛ وضمان الحماية الكافية من آثار مشروعات التنمية الرئيسية؛ وتحسين وصول المجتمعات الريفية النائية إلى الخدمات عن طريق "المدن القروية المستدامة". ويتناول في الفرع السادس (ملاءمة الأغذية) تنامي مشكلة الوزن الزائد والسمنة، وعلاقة هذه المشكلة بالسياسات الغذائية والتغذوية. ويعلق في الفرع السابع (الاستدامة) على الأخذ بزراعة الذرة المحورة وراثياً وضرورة استخدام الموارد المائية استخداماً أكثر استدامة. ويختتم المقرر الخاص تقريره بتوصيات (الفرع الثامن) موجهة إلى حكومة المكسيك.

\* يُعمم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير نفسه الوارد في مرفق بالموجز، فيُعمم باللغة التي قدم بها وباللغة الإسبانية فقط.

## Annex

### Report of the Special Rapporteur on the right to food on his mission to Mexico (13 – 20 June 2011)

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## I. Introduction

1. The Special Rapporteur on the right to food, Olivier De Schutter, conducted a mission to Mexico from 13 to 20 June 2011, at the invitation of the Government. The Special Rapporteur would like to express his appreciation for the high degree of cooperation of the Government and the remarkable degree of preparation of the authorities, thanks to the dedication of the Directorate of Human Rights and Democracy of the Ministry of External Relations and of the Subsecretary on multilateral affairs and human rights, Ambassador Juan Manuel Gomez Robledo.

2. During his mission, the Special Rapporteur met with a wide range of authorities, including the Office of the Presidency of the Republic, the Ministry of Social Development, the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food, the Ministry of Agrarian Reform, the Ministry of the Environment and Natural Resources, the Ministry of Labour and Social Welfare, the Ministry of the Economy, the Ministry of Health, the National Agency for Family Development and the Ministry of Public Education. He expresses his thanks in particular to the Minister for Agrarian Reform, Abelardo Escobar Prieto; the Minister for Labour, Javier Lozano; the Minister for Agriculture, Francisco Mayorga Castañeda; and the Coordinator of the Office of the Presidency of the Republic, Sofia French Lopez Barro.

3. The Special Rapporteur also met with members of the Senate and of the Chamber of Deputies of the Federal Congress, under the chairmanship of Senator Zoreda Novelo, and with presidents of State Congresses. He visited the Fideicomisos Instituidos en Relación con la Agricultura, which guarantees loans to agricultural producers. Lastly, he met with representatives of the United Nations agencies present in Mexico, of a number of non-governmental organizations and of indigenous peoples, and with academic experts.

4. The mission included visits to the States of Chiapas and Jalisco. In Chiapas, the Special Rapporteur held meetings in the rural sustainable towns of Nuevo Juan de Grijalva and Santiago el Pinar and in San Cristóbal de Las Casas. He met with members of the Government of Chiapas, as well as with Governor Juan Sabines Guerrero, and with a wide range of civil society organizations from the States of Chiapas, Guerrero and Oaxaca. In Jalisco, the Special Rapporteur met with members of the Government, as well as with representatives of civil society organizations from Jalisco, Nayarit and San Luis Potosi. He held a meeting at the newly established National Centre for Genetic Resources. He also visited the village of Temacapulín and the neighbouring town of Talicoyunque, which included meetings both with the communities concerned by the building of the dam of El Zapatillo and with a representative of the State Water Commission (CONAGUA).

## II. Food insecurity

5. Mexico has made significant progress in improving a key indicator for the realization of the right to food, namely, achieving the Millennium Development Goal of reducing the national average of children under 5 years who are underweight (target 1.8) from 14.2 per cent in 1988 to 5 per cent in 2006. Progress has, however, been uneven and deprivation levels in enjoyment of the right to food remain dramatic for a large part of the population. The National Council on the Evaluation of Social Development Policy (CONEVAL) estimates that 18.2 per cent of the population (19.5 million people) lived in “food poverty” in 2008, up from 13.8 per cent (14.4 million people) in 2006. The situation has remained largely unchanged since 1992, with a drastic deterioration in 1996, when the number of people living in food poverty almost doubled to reach 37.4 per cent and a short-lived drop in food poverty in 2006. According to the most recent official figures, in 2010, a

total of 52 million people (46.2 per cent of the population) lived in poverty while 28 million (24.9 per cent) had insufficient access to food.

6. These national averages cover significant disparities between deprivations in access to adequate food between urban and rural areas as well as between States in North, South and Central Mexico. Of the 18.1 million people living in municipalities considered to have a high or very high degree of marginalization, 80.6 per cent live in rural areas.

7. There are also marked differences in relevant right to food indicators between indigenous and non-indigenous populations. For both groups, child malnutrition rates have gradually decreased. Nevertheless, one in three (33.2 per cent) indigenous children under the age of 5 years suffered from chronic malnutrition in 2006, compared with one in 10 (10.6 per cent) non-indigenous children. National statistics also show that women and the elderly are particularly vulnerable to deprivations in access to adequate food.

### III. Legal and policy framework

8. As a party to all nine core international human rights treaties, Mexico has the legal obligation to respect, protect and fulfil the right to adequate food, as set out in the International Covenant on Economic, Social and Cultural Rights and other human rights treaties. Recent reforms of the Constitution underline the commitment of Mexico to strengthen the protection of right to food. On 13 October 2011, a constitutional reform process was completed, involving the inclusion of the right to food in articles 4 and 27 of the Constitution. In addition, article 1 of the Constitution now stipulates that all persons enjoy the human rights recognized in the international treaties to which Mexico is a party. Prior to these amendments, the Constitution already referred to the right of children to satisfy their dietary needs (art. 4) and to the obligation of States to support the nutrition of indigenous peoples through food programmes (art. 2 (B) (III and VIII)).

9. With the recent constitutional reforms, Mexico has joined a small but rapidly growing group of States that are making the right to adequate food explicit in their national Constitution, thus empowering courts to ensure that this right is fulfilled with. The legal framework could be further improved, however, by the adoption on a framework legislation on the right to food, as has been done in a number of other countries in the region and as recommended by the Committee on Economic, Social and Cultural Rights and under the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security of the Food and Agriculture Organization of the United Nations.<sup>1</sup> In this regard, the Special Rapporteur notes with interest the draft bill on planning for agricultural, food and nutritional sovereignty and security (Proyecto de Ley de Planeación para la Seguridad y la Soberanía Agroalimentaria y Nutricional) initially introduced in Congress on 11 November 2005 and still under discussion.

10. While considering that the current bill could be improved in the light of recommendations made in the present report, the Special Rapporteur welcomes the fact that it seeks to improve consistency between various national institutions and programmes aimed at protecting the right to food. Building on the work of CONEVAL, a framework law on the right to food could define how emerging threats to the right to adequate food will be identified at the earliest possible stage by adequate monitoring systems and how the data collected by CONEVAL will feed into public policies to make them more evidence-based. The framework law could also create a forum in which civil society organizations, including farmers' organizations and representatives of indigenous peoples, could have a regular dialogue with the representatives of the Government, allowing a permanent

<sup>1</sup> E/C.12/1999/5, para. 21.

evaluation of the policies in place by those whom these policies are intended to benefit. It could provide a proper legislative foundation for existing social programmes, including the programmes providing food aid, as well as for programmes that support agricultural producers. This can significantly enhance the effectiveness of such programmes; the clear definition of beneficiaries in legislation – making access to programmes a right for the beneficiaries – could limit the risk of resources being diverted as a result of corruption or clientelism, and improve accountability of the administration responsible for implementation, particularly if courts are empowered to monitor implementation.<sup>2</sup>

11. Most importantly, such framework legislation should lead to the adoption of a national strategy for the realization of the right to food. Such a national strategy would have four major advantages:

(a) First, it could improve coordination between the different relevant ministries and between national and subnational levels of government. At present, there are inconsistencies across the various sectoral policies. For instance, some programmes in support of agricultural production disproportionately benefit the wealthiest producers in the wealthiest part of the country, increasing inequality in the rural areas, which social programmes in turn are supposed to address. Trade policies provide another example. The liberalization of agricultural trade, launched in the mid-1980s and completed in 2008 under the North American Free Trade Agreement, created opportunities for some agricultural producers oriented towards exporting commodities, while the import of certain low-cost products benefited the livestock industry and poor consumers. The gradual liberalization of agricultural trade also had, however, a severe negative impact on some of the most vulnerable producers as a result of the dumping in local markets of often heavily subsidized products from the United States of America. It also encouraged the development of export-led agriculture, which is generally less pro-poor and contributes less to rural development. A third example is the impact of agricultural and trade policies on the adequacy of diets. As detailed below, the overweight and obesity emergency that Mexico is facing could have been avoided, or largely mitigated, if the health concerns linked to shifting diets had been integrated into the design of those policies. A national strategy coordinating the action of various ministries and aligning sectoral policies with the realization of the right to food should serve to avoid such inconsistencies;

(b) Second, a national strategy could help to identify complementarities between different instruments that currently serve to improve food security, in order to achieve multiplier effects. In particular, measures aimed at supporting food producers and measures aimed at improving the accessibility of adequate food to consumers should be made mutually supportive rather than designed in isolation from each other. For instance, such food aid programmes as Diconsa and Liconsa could be encouraged to source more of their food supplies from small-scale local producers in order to improve access to markets for these producers and ensure a certain stability of income, while ensuring that consumers are provided with fresh and nutritious foods ;

(c) Third, owing to their multi-year nature, national strategies can help to address the tension between short-term objectives (such as ensuring the supply of low-priced products to urban populations or boosting levels of agricultural production) and long-term objectives (such as increasing the incomes of small-scale farmers and inclusive rural development, or encouraging the sustainable use of natural resources) because they define not only a set of benchmarks to be achieved (the “what”) but also a pathway (the “how”). National strategies can help to make transitions and to avoid the trap of path-dependency in public policies;

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<sup>2</sup> See also A/HRC/12/31, para. 28.

(d) Fourth, a national strategy would improve accountability by clearly allocating responsibilities across various branches of government and by setting precise time frames for the adoption of measures that will ensure the progressive realization of the right to food. An independent body, such as the National Commission of Human Rights, could contribute to the monitoring of strategy implementation by using appropriate indicators. Alternatively, CONEVAL could play this role, building on its existing methodology to measure the effectiveness of poverty-reduction strategies.

12. A range of national policies and programmes, including the National Development Plan 2007-2012 and the Sectoral Programme for Social Development 2007-2012, set out objectives relevant to the right to food. Mexico does not, however, currently have a comprehensive national strategy for the realization of the right to food. In the remainder of the present report, based on his assessment of the challenges facing the country, the Special Rapporteur identifies the issues that such a national strategy could address under the four dimensions of the human right to adequate food.

#### **IV. Food availability: supporting agricultural production**

13. Different models of farming coexist in Mexico. The challenge for the country is to ensure a coexistence of these models through policies that reduce poverty in rural areas, where 23.2 per cent of the population currently resides.

14. Between 1991 and 1996, Mexico implemented what could be called a “second agrarian reform” in order to prepare its agricultural sector for the liberalization of agriculture markets envisaged by the North American Free Trade Agreement. The three programmes that formed the basis of this reform remain the backbone of the country’s agricultural policies: the Programa de Apoyos a la Comercialización, an output-based subsidy programme, the main instrument of which is Ingreso Objetivo; the Programa de Apoyos Directos al Campo (Procampo), a per hectare direct transfer programme decoupled from production and commercialization established by the Decree regulating (21 July 1994); and the Alianza para el Campo, which includes a range of investment support programmes (including the Programa de Desarrollo Rural, the Programa de Fomento Agrícola and the Programa de Fomento Ganadero).

15. The 2001 Ley de Desarrollo Social Sustentable, an umbrella law for rural development, created the Programa Especial Concurrente para el Desarrollo Rural Sustentable (PEC), a coordinating framework for agricultural research and development expenditures. However, while they are important steps in improving rural policies, neither the law itself nor the Programa Especial have had a major impact on the allocation of resources for research and development. The Special Rapporteur believes that a review of how these resources are spent would be warranted.

16. The resources allocated to the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food significantly increased throughout the 2000s, rising from 47.9 billion pesos to an estimated 73.9 billion pesos in the 2011 budget. New and promising programmes have been introduced, such as the MasAgro, Promaf and Tropic humedo programmes, as well as the Proyecto Estratégico de Seguridad Alimentaria (PESA). Agricultural production, including fisheries, increased at an average annual rate of 2.4 per cent during the period 2000-2010, improving food availability in Mexico.

17. Mexican agricultural policies could, however, be improved in two ways in order to make a more significant contribution to the realization of the right to food. Firstly, the beneficiaries of the various support programmes listed above should be identified, and they should have access to recourse mechanisms to claim their rights. The current instruments

still leave too much room for political pressure from various interest groups to capture State resources. Secondly, most agricultural programmes fail to target the poor: taken as a whole, agricultural public expenditures are highly regressive. The Special Rapporteur is struck by the contrast between the absence of adequate targeting of agricultural policies and the very high targeting of social policies: more than 95 per cent of expenditure of social programmes included in the PEC target the poor, while less than 8 per cent of expenditure in agricultural programmes are similarly targeted. Some of the latter programmes are particularly promising in this regard: the PESA in particular focuses on capacity-building in rural areas of high to very high deprivation.<sup>3</sup> Yet, in a country made up by 80 per cent of farmers with less than 5 hectares, it would appear desirable to consider allocating more resources to supporting small-scale farmers in disadvantaged areas, as the programmes in place currently fail to address rural poverty effectively.<sup>4</sup>

18. Although non-targeted programmes may partly benefit the poor, recent studies would indeed indicate that agricultural policies favour the wealthiest States, municipalities and producers/households.<sup>5</sup> In 2005, the six poorest States received only 7 per cent of total agricultural public expenditures despite the fact that they were home to 55 per cent of the extreme poor. Poor States such as Chiapas or Oaxaca obtain only just a tenth of the per capita support that the large agricultural States of Tamaulipas, Sinaloa, Chihuahua and Sonora receive. In 2006, the poorest 70 per cent of municipalities received only 40 per cent of Procampo expenditures and only 6 per cent of Ingreso Objetivo. The impact of agricultural policies on producers and households is as regressive as that at the State and municipality level. In 2005, the poorest 10 per cent of producers (in terms of land) received a tenth of a percentage point of Ingreso Objetivo, while the richest 10 per cent received 45 per cent of Procampo aid, 55 per cent of Alianza PDR, 60 per cent of energy and hydrological subsidies and 80 per cent of Ingreso Objetivo transfers.

19. The above pattern of agricultural spending stands in sharp contrast with rural development policies, which are clearly redistributive, with the poorest 20 per cent of rural households obtaining 33 per cent of transfers. The World Bank noted the contradiction between the two policies: “agricultural spending is so regressive that it cancels out about half the redistributive impact of rural development spending. Rural development programmes decrease the Gini coefficient (reduce inequality) by about 14.2 per cent, while agricultural spending increases the Gini coefficient (raises inequality) by about 6.7 per cent”.<sup>6</sup>

20. Under articles 2(1) and 11 of the International Covenant on Economic, Social and Cultural Rights, Mexico should dedicate the maximum of available resources to the progressive realization of the right to food. This requires focusing efforts on the most vulnerable segments of the population.<sup>7</sup> In its general comment No. 20, the Committee on Economic, Social and Cultural Rights also has noted that the requirement of non-discrimination under article 2 (2) of the Covenant may require devoting greater resources to traditionally neglected groups.<sup>8</sup> In addition to more equitable distribution of support, small-

<sup>3</sup> The programme reaches 1.7 million beneficiaries, 46.4 per cent of them indigenous and 51 per cent women.

<sup>4</sup> SAGARPA, *The right to food: policies and actions in rural development*, June 2011.

<sup>5</sup> See World Bank, *Agricultural and Rural Development Public Expenditures Review (Mexico)*, 2009; and John Scott, “Agricultural subsidies in Mexico: Who gets what?”, in *Subsidizing Inequality, Mexican Corn Policy Since NAFTA*, J. Fox and L. Haight, eds. (Woodrow Wilson International Center for Scholars, Washington, D.C., 2010), pp. 67-118.

<sup>6</sup> World Bank, *Agricultural and Rural Development Public Expenditures* (see footnote 5), p. x.

<sup>7</sup> E/C.12/1999/5, paras. 13 and 28.

<sup>8</sup> E/C.12/GC/20, para. 39.

scale farmers can be the primary beneficiaries of investments in certain public goods that allow them to overcome the disadvantages that result from the lack of economies of scale.<sup>9</sup>

## V. Food accessibility: fighting rural and urban poverty

### A. Social programmes

21. Mexico has been a pioneer in conditional cash-transfer programmes. In 1997, it established Progresa, which was renamed Oportunidades in 2002 when it was extended to urban households. Oportunidades currently covers 5.85 million households throughout the country, and the coverage is particularly impressive in the poorest States, such as Chiapas (where 61.3 per cent of the population benefits from the programme), Oaxaca (52.6 per cent) and Guerrero (51.5 per cent). It helps poor families in rural and urban communities to improve the education, health and nutrition of their children by cash transfers (generally delivered to women and mothers), educational grants, basic health-care services and food supplements. These advantages are linked to certain conditionalities, in particular regular school attendance and health clinic visits.

22. The independent expert on human rights and extreme poverty noted that “prior to attaching conditionalities to cash transfers, States and policymakers must undertake in-depth analyses of the programmes’ capacity to properly monitor compliance and simultaneously provide social services that correspond to the needs of the population living in extreme poverty.”<sup>10</sup> Indeed, because conditional cash-transfer programmes by definition cannot reach families who are unable to comply with the conditions attached for reasons beyond their control, they should not be seen as a substitute for unconditional forms of social protection, in accordance with the human right to social security. Since 2008, in order to provide support for families who could not comply with the conditionalities of Oportunidades, Mexico has introduced the Programa de Apoyo Alimentario (PAL). This food-aid programme benefited 677,027 families in 2010. In June 2008, in order to protect the poorest families covered under Oportunidades and PAL (representing in total 6.4 million families) from food price increases, the Government decided to provide these beneficiaries with an additional cash transfer. In addition, the social milk programme Liconsa provides milk fortified with iron, zinc, folic acid and vitamins at below market prices for children aged from 6 months to 12 years, adolescent girls from 13 to 15 years, pregnant or nursing women, women aged between 45 and 59 years, chronically ill and disabled persons older than 12 years, and adults over 60 years of age. As at September 2011, the programme covered almost 5.9 million individuals. Moreover, programmes under the Sistema Nacional para el Desarrollo Integral de la Familia and the Estrategia Integral de Asistencia Social Alimentaria provide vulnerable groups with food aid, benefitting, in 2011, 6,030,996 children of school age, 384,818 children under 5 years of age, 644,672 families in extreme poverty or emergency conditions caused by a natural disaster, and 772,983 pregnant or breastfeeding women, older persons and people with a disability.

23. Lastly, the Rural Food Support Programme (Abasto Rural Programme, implemented through Diconsa) has 23,301 stores across the country. The stores sell basic food products at affordable prices (approximately 5.5 per cent below the market price), benefiting an estimated 29 million people. In 2,164 localities, the Diconsa store is the only store where food supplies can be bought. The localities where the Diconsa stores are present (and where

<sup>9</sup> A/HRC/16/49, para. 37.

<sup>10</sup> A/HRC/11/9, para. 99 (c).



the Abasto Rural Programme is thus implemented) are disadvantaged rural localities with between 200 and 2,500 inhabitants. These marginalized localities are identified by the National Council of Population (CONAPO) and which lack basic social infrastructure (inter alia, drinking water, sewerage and electricity) and are poorly connected to urban centres, thus affecting the inhabitants' access to goods and basic services. The Diconsa stores sell foods at subsidized rates to all, not only to households below the poverty threshold; the targeting is therefore exclusively geographical.

24. These programmes demonstrate the commitment of Mexico to ensure economic accessibility for the population. According to Government estimates that, without these social programmes, 2.6 million additional people would be in poverty representing 13.5 per cent of the population. Oportunidades alone protects 9.6 per cent of the population from the risk of falling beneath the poverty line. Assessments of Oportunidades demonstrate that the programme has had a significant impact on the growth, health and development outcomes of children living in extreme poverty, in part because of the increased use of the preventive services mandated by the programme,<sup>11</sup> and in part because the additional income for the family allows parents to purchase more or higher quality food or medicines when necessary. In addition, the improved psychological well-being of the family may in turn improve the care, support and nurture provided to the children in the household.<sup>12</sup>

25. In their sourcing policies, the above-mentioned programmes should be seen as an opportunity to contribute to rural development and to increase the incomes of the poorest farmers: by buying a minimum proportion of their food from local small-scale farmers, to whom a minimum price could be guaranteed, these programmes could reduce the volatility of prices for all local producers (including but not limited to those supplying the programmes), possibly resulting in significant multiplier effects. Liconsa thus supports small and medium-sized producers in the country from whom it purchased 700 million litres in 2011, a significant increase over previous years. Through the Abasto Rural Programme, Diconsa supports small producers: in 2011, 31.5 per cent of purchases were from such suppliers, exceeding the target of 25 per cent set by the Federal Government.

26. Certain improvements could be made, however. First, the definition of the beneficiaries of the programmes targeting the poorest households (Oportunidades, PAL and Liconsa) should be more clearly provided for in relevant legislation, thus making it easier for households who are unjustifiably excluded to file claims against such exclusion, as provided for under article 10 of the 2004 General Social Development Law. Defining beneficiaries as rights-holders – and strengthening accountability mechanisms, as suggested below – would improve the quality of targeting and reduce the risk of under-inclusiveness. Currently, the beneficiaries are households located in certain areas considered to be disadvantaged on the basis of mapping established by CONEVAL, and that qualify as deprived based on a questionnaire (the Cuestionario Único de Información Socioeconómica) that they are asked to fill in, providing information about their socio-economic status. While the Special Rapporteur was impressed by the high quality of the work of CONEVAL, he notes that its geographical targeting is not consistent with a rights-based approach. A social support programme grounded in human rights would either provide for universal coverage or define for the country as a whole, in legislation, the conditions of socio-economic deprivation that make a household or an individual eligible

<sup>11</sup> See P.J. Gertler, “Do conditional cash transfers improve child health? Evidence from Progresa’s controlled randomized experiment” in *American Economic Review*, vol. 94 (2004), 331–336; and L.B. Rawlings, “Evaluating the impact of conditional cash transfer programs” in *World Bank Research Observer*, vol. 20 (2005), 29–55.

<sup>12</sup> L.C. Fernald et al., “Role of cash in conditional cash transfer programmes for child health, growth, and development: an analysis of Mexico’s Oportunidades” in *The Lancet*, vol. 371, no. 9615 (2008), 828–837.

for support as a matter of right. The Government of Mexico informed the Special Rapporteur that 31.26 per cent of the 140,659 applications for Oportunidades in 2010 were the result of households applying for inclusion in the programme because they considered themselves eligible. While those unable to receive support under Oportunidades or PAL may file claims either with the instances in charge of implementing the programmes or with the Secretariat for Social Development or the Presidency of the Republic, no effective remedy before courts or quasi-judicial bodies – independent and having the power to order the granting of benefits – is available.

27. Second, it is important that these programmes pay greater attention to the adequacy of the food provided. Families benefiting from Oportunidades spend an average of 70 per cent of the cash transfer on so-called “better quality” calories, including greater expenditure on meat, fruit and vegetables, which reduced the risks of children becoming overweight or obese in families benefiting from this support.<sup>13</sup> Doubts have more recently been expressed, however, about the benefits of the papilla (Nutrisano) for infants of 6 to 23 months of age included in Oportunidades,<sup>14</sup> although this seems to be attributable to the fact that the iron contained in the supplement was not easily fixed by the organism. More importantly, for families depending on Diconsa stores, it is essential that these stores – particularly in localities where they are the only way for families to have access to food – provide a wide range of fresh foods, including fruit and vegetables, for healthy diets. Raising awareness of the importance of exclusive breastfeeding during the first six months and continued breastfeeding up to 24 months is also essential.

## B. Workers’ rights

28. The programmes cited above are not substitutes, of course, for ensuring a living wage to the working population of Mexico. The Special Rapporteur is concerned in this regard that the constitutional mandate according to which the minimum wage should be aligned with the cost of the *canasta básica* is not complied with: the cross-regional average minimum wage is currently 58 pesos per day, which is less than half what is required to rise above the poverty line and is well below what would represent a living wage. A living wage should provide an income “allowing workers to support themselves and their families”, as required under articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights.<sup>15</sup> The Special Rapporteur fully acknowledges that raising the minimum wage could encourage employers not to register the workers they hire. Nonetheless, he concludes that the tripartite national commission on minimum wages in charge of setting the minimum wage for various levels of qualification is in violation of both of its constitutional duties and of international human rights, for which the failure of the Ministry of Labour and Social Welfare to ensure an adequate compliance with the requirements of the labour legislation cannot be a justification.

29. The situation of day labourers (*jornaleros*) raises specific concerns. According to a survey conducted in 2009, there were 2.4 million agricultural day workers employed on large agricultural plantations. At least one fifth of the *jornaleros* are migrant workers, travelling from the poor States of Guerrero, Chiapas and Oaxaca, or from Puebla, Hidalgo and Veracruz in search of employment in the richest agricultural regions of the northern

<sup>13</sup> Ibid.

<sup>14</sup> Jorge L. Rosado et al., “Effectiveness of the nutritional supplement used in the Mexican Oportunidades programme on growth, anaemia, morbidity and cognitive development in children aged 12-24 months” in *Public Health Nutrition*, 14(5) (2010), 931-937.

<sup>15</sup> E/C.12/GC/18, para. 7. See also the Minimum Wage Fixing Convention, 1979 (No. 131) of the International Labour Organization (ratified by Mexico on 18 April 1973), particularly article 3.

part of the country, particularly Sinaloa and Sonora. A majority of them move with their families.<sup>16</sup> This situation raises a number of challenges, linked to the need to provide continued education to the children and to ensure that they will not be employed on the plantations;<sup>17</sup> to ensure access to basic health services in the region to which the *jornaleros* migrate; and, of course, in the absence of unionization and in a context where about 90 per cent of day labourers have no formal contract of employment, to the protection of the basic rights of the *jornaleros*, including their right to a living wage and to health and safe conditions of work. These challenges are compounded by the fact that, among migrant workers, between one third and one half are members of indigenous groups, often with no or little knowledge of Spanish.

30. The Ministry of Health has sought to improve the housing conditions of day labourers and to enable them to use the national health card. The Ministry of Labour and Social Prevention has also made an impressive series of efforts to address this issue over the past few years. On 22 November 2007, an interdepartmental coordination body was established to address the various issues raised by the situation of the *jornaleros*, involving a range of governmental agencies. A number of good practices have since been developed. Although labour inspectorates are clearly understaffed and lack capacity (there are 376 labour inspectors for the whole country), the number of plantations inspected has been rising over the years, from 102 in 2008 to 139 in 2009, and the objective of the Ministry is to arrive at 255 in 2011. Although the law in principle requires prior notification of 48 hours to be given to the employer, the labour inspectorates have actually developed a practice of unannounced visits, although these may be opposed by the employer. Day labourers are also delivered certificates allowing them to prove their qualifications, which improve their ability to have access to employment and obtain a more decent wage; the amount of evaluations that were carried out under this scheme tripled between 2009 and 2011. The number of registered workers has risen significantly since the new strategy was put in place: in 2010, a record number of 170,276 *jornaleros* were registered for social security. In order to favour continued education of children, a scorecard (*boleta única*) following them from school to school has been created. In order to overcome the barrier language or the obstacles resulting from the poor literacy rate of day labourers, specific information brochures are prepared to inform them about their rights.

31. Even more could be done. The labour inspectorates should be strengthened, and the existing legal restrictions to the conduct of unannounced visits on plantations should be abolished immediately. Day labourers and the unions active in the agricultural sector should be informed about their right to report abuses anonymously to the Ministry of Labour and Social Prevention; to provide an incentive to report such abuses, the employer found in violation of their obligation to register the workers employed should be subjected to both fines and the obligation to pay salaries back to the workers employed.

### C. Large-scale development projects and the right to food

32. During his visit, the Special Rapporteur heard testimonies from people from different regions of the country who faced the threat of expropriation of land or resettlement because of major development projects, such as the construction of dams (for example, La Parota and the Paso de la Reyna) large-scale infrastructure projects (for

<sup>16</sup> According to SEDESOL, the number of agricultural day labourers (including their family members) amounted to more than 9 million in 2009. Some 40 per cent of day labourers were indigenous peoples, while 21.3 per cent (434,000) were migrants.

<sup>17</sup> According to UNICEF, 44 per cent of agriculture worker households having at least one child working: see [www.unicef.org/mexico/spanish/17044\\_17516.htm](http://www.unicef.org/mexico/spanish/17044_17516.htm) (in Spanish).

example highways, as in the case of the Proyecto Carretero de Huejuquilla El Alto) and mining, as in Cerro de San Pedro, San Luis Potosi.

33. International human rights law establishes safeguards that protect people against arbitrary displacement from their homes or provide certain guarantees in the resettlement phase; these safeguards are restated in particular in the Guiding Principles on Internal Displacement<sup>18</sup> and in the basic principles and guidelines on development-based evictions and displacement.<sup>19</sup> While the full set of norms applicable to evictions or displacements cannot be repeated here, the basic requirements may be briefly summarized.

34. First, in assessing whether or not displacement can be justified, States must assess adequately the impact on affected communities and bear the burden of demonstrating that evictions have been undertaken solely for the purpose of promoting the general welfare after the full range of alternatives has been explored with the communities concerned and on the basis of all information available, and after taking all necessary measures that could minimize any negative impact on the persons displaced.

35. Second, States must ensure that all potentially affected persons are fully consulted. In order for such consultations to be effective, the persons concerned must receive all information available; indeed, the Inter-American Court of Human Rights has noted that the right of access to information in such circumstances was implied by article 13 of the American Convention on Human Rights, which guarantees the right to freedom of thought and expression.<sup>20</sup> Consultation should not simply serve to discuss the modalities of evictions or compensation with the communities concerned; it must also allow discussion about whether or not evictions should take place, and whether the planned project should indeed go ahead. In addition, the right of the people affected to be consulted will ensure that, consistent with the right to development, development projects will “aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom”.<sup>21</sup>

36. With regard to indigenous peoples, the right to full and prior informed consent regarding relocation is explicitly provided for in the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization (ILO), which Mexico has ratified, as well as in the United Nations Declaration on the Rights of Indigenous Peoples, which provides that “States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.”<sup>22</sup> Although the right to free, prior and informed consent is specific to the case of indigenous peoples, the principle is increasingly seen as central to all local populations.

37. Third, where resettlement is unavoidable, the people concerned must be provided with fair compensation and not be deprived of their sources of livelihood. People who are resettled should be compensated with land commensurate in quality, size and value, or better.

<sup>18</sup> E/CN.4/1998/53/Add.2, annex.

<sup>19</sup> A/HRC/4/18, annex I.

<sup>20</sup> *Claude Reyes et al. v. Chile*, Inter-American Court of Human Rights, judgement of 19 September 2006, para. 71.

<sup>21</sup> Declaration on the Right to Development (General Assembly resolution 41/128, annex), art. 2 (3).

<sup>22</sup> General Assembly resolution 61/295.

38. In the testimonies presented to the Special Rapporteur by communities affected by large-scale development projects, a common concern expressed was the lack of both adequate consultation and efforts to ensure free and prior informed consent by the relevant authorities. Another common concern was the lack of fair compensation and excessive delays in its provision. The testimonies showed that courts and administrative tribunals can protect communities against arbitrary resettlement that would have an adverse impact on their right to food and other human rights. At the same time, the Special Rapporteur received information according to which court orders were in some cases not complied with. The Special Rapporteur visited the community of Temacapulín, where, since 2006, inhabitants have tried to stop the construction of El Zapatillo Dam, a project worth 10 billion pesos that would inundate their town of about 400 inhabitants, but that is designed to improve the supply of water to the Guadalajara metropolitan area and to serve the development of Los Altos de Jalisco and the city of León, Guanajuato. Following his discussions with a representative of the State Water Commission and people living in Temacapulín, he noted the strong opposition to the resettlement expressed by the community and expressed his concern that the land offered as compensation was dry and arid, and would not allow the inhabitants of Temacapulín to continue growing the crops on which the livelihood of many depended.

39. The above-mentioned case illustrates what appears to be a larger problem. The attention of the Special Rapporteur was drawn to the consultations that took place, in Temacapulín and in other localities affected by large-scale development projects, in accordance with section VI of the Reglamento de la Ley General del Equilibrio Ecológico y la Protección al Ambiente en Materia de evaluación del Impacto Ambiental that concerns “public participation and the right to information”. He also noted how article 27 of the Constitution, which allows for expropriation in the public interest, was implemented. It is not up to the Special Rapporteur, in the context of the mission, to assess whether an adequate balance was made between the public interest and the rights and interests of the communities affected, either for the construction of El Zapatillo Dam or in other projects; however, it appears from all the information collected or provided that a comprehensive review of the procedures in place, and followed by bodies such as the State Water Commission, should take place without delay. This review should ensure that the procedures comply fully with international treaties that are binding on Mexico and with international standards.

40. The Special Rapporteur is especially concerned by three issues, which such a comprehensive review should serve to examine in detail. First, the consultations that are organized with the population who may have to be resettled in the implementation of development projects should take place at the initial stage of the feasibility study of the project, not during the final phases where only issues of compensation or relocation remain to be discussed. The communities concerned must be given a real possibility to influence the decision of the authorities on whether to implement the project in the light of all alternatives to displacement that the consultations may have served to identify. In the case of Temacapulín, while one consultation did take place early in the project (on 21 April 2006), most meetings were organized in March and April 2011, when the project was far too advanced for these meetings to be meaningful.

41. Second, contrary to what seems the purpose of articles 40 to 43 of the Reglamento de la Ley General del Equilibrio Ecológico y la Protección al Ambiente en Materia de evaluación del Impacto Ambiental, the consultations should not serve only to identify which measures could be taken to mitigate the negative environmental impact on the communities affected. They should be comprehensive in scope, and cover all the issues relevant to the communities affected by the project, including livelihood options.

42. Third, the identified relocation sites must fulfil the criteria for adequate housing. Such criteria include, in particular, access to employment options, health-care services, schools, childcare centres and other social facilities, whether in urban or rural areas, and culturally appropriate housing.<sup>23</sup>

43. The Special Rapporteur emphasizes the need for a comprehensive review of the procedures in place, which do not appear adequate in practice. Such procedures should serve to build trust, when in fact he could witness a high level of mistrust. Consultations should allow for solutions to be identified with the communities concerned, when in fact they appear more as a means to inform communities about the solutions proposed to them. And where, following a fair, inclusive and well-informed consultation, resettlement appears unavoidable, it must not infringe on the right of the communities to the continuous improvement of their living conditions.<sup>24</sup>

44. Finally, it was brought to the attention of the Special Rapporteur that, in a number of cases, people engaged in social protests related to the expropriation of land and loss of livelihoods were subject to threats or prosecuted. In this regard, the Special Rapporteur recalls the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,<sup>25</sup> and underlines the importance of ensuring adequate protection of human rights defenders, including those who seek to defend the right to a clean and healthy environment and the right not to be deprived of their livelihoods.

#### D. “Sustainable rural towns”

45. The relatively high degree of dispersion of the rural population, in part attributable to the policy of agrarian reform dating from the 1917 Constitution, makes it difficult to provide rural households with adequate basic services, including, in particular, health care and education, and to promote off-farm rural employment. The concept of “sustainable rural towns” (*ciudades rurales sostenibles*) is seen as an answer to this challenge. This concept is being tested in the State of Chiapas with support of a number of United Nations agencies, including in particular the United Nations Development Programme. The Special Rapporteur visited the two existing “sustainable rural towns” of Nuevo Juan de Grijalva and Santiago el Pinar. Nuevo Juan de Grijalva was established after a flood accompanied by a landslide destroyed a number of properties in the region in December 2007.

46. In principle, sustainable rural towns should improve access to health care, including sexual health counselling, and to education, as women and children will not have to travel to centres in order to visit health-care centres and attend school. In addition, it should allow the development of small processing facilities and permit rural communities, including women, to have access to employment outside agriculture.

47. Nevertheless, the Special Rapporteur calls for a thorough assessment of the experiments of Nuevo Juan de Grijalva and Santiago el Pinar prior to the establishment of any more such towns. At least at present, the cooperatives he found operating in the localities he visited are hardly viable, owing to the absence of adequate training on marketing and of adequate support in the negotiation of contracts with potential buyers. While important investments were made by the authorities, with the support of the international community, to support production, this has not been matched by appropriate capacity-building to improve access to markets on equitable terms. Furthermore, while

<sup>23</sup> A/HRC/4/18, annex I, para. 55.

<sup>24</sup> Ibid., para. 56 (d).

<sup>25</sup> General Assembly resolution 53/144.

subsistence farming may represent an essential safety net for the poorest rural households – which are otherwise fully dependent on market prices for their access to food – and may contribute to the diversity of diets, some residents of the newly established rural sustainable towns may not be able to continue to farm their land, because of either the geographical distance separating them from their new homes or the absence of support for the rehabilitation of their land. Lastly, the costs and benefits of establishing sustainable rural towns should be assessed against any other ways in which access to schools and health care, as well as new forms of off-farm employment, could be ensured for the rural households concerned, including through the improvement of transport infrastructures and the provision of school buses and itinerant health-care centres.

## VI. Food adequacy: healthy diets

48. Since April 2010, the General Law on Health (Ley General de Salud) refers to “the promotion of a balanced diet low in fats and sugar, which allows for healthy development” (art. 65, II) and seeks to ensure that “food provided in schools has a higher nutritional value and does not include processed foods high in fats and sugars” (art. 66, IV). This demonstrates a growing awareness about the state of emergency that Mexico is facing with regard to overweight and obesity. Some 35 million adult Mexicans (7 out of 10) are overweight or obese; these people will live ill, on average, for 18.5 years during their lifetime. Overweight and obesity are increasing at all income levels, although even faster within the poorest quintile, which remains comparatively less affected (the obesity rate in the lowest quintile is 28 per cent). The consequences are considerable. Overweight and obesity lead to type 2 diabetes, different forms of cancer and cardiovascular disease. The Ministry of Health has calculated that this phenomenon cost Mexico 42,246 billion pesos (\$1.822 billion) in medical care in 2008, representing 0.3 per cent of GDP, and 25,099 billion pesos (\$3.067 billion), or 0.2 per cent of GDP, in premature deaths. By 2017, the direct costs of obesity will rise to 78 billion pesos (\$5.65 billion); already today, 15 per cent of total health-care expenses in Mexico are for the treatment of diabetes.<sup>26</sup>

49. Mexico has not been inactive in this area. In January 2010, a national agreement for nutritional health was reached between a large number of ministerial departments and other public authorities, non-governmental organizations, unions, the media and the agri-food sector, in order to address the problem. The aim of the agreement is to bring the prevalence of overweight and obesity in infants aged from 2 to 5 years to levels lower than those of 2006; to stop the increase of overweight and obesity in children and adolescents (ages 5 to 19 years); and to slow the growth of overweight and obesity prevalence in adults. A range of 117 actions are listed to achieve these objectives, ranging from the promotion of more physical activity in schools and in workplaces to increasing accessibility, availability and consumption of water, and from influencing diets to promoting breastfeeding during the first six months of life. The adoption of binding guidelines for the distribution of food and beverages in schools, published in the Official Journal on 23 August 2010, is a step in this direction.

50. The Special Rapporteur believes, however, that more structural actions are needed. Owing to the pressure of the agri-food industry, represented by Conmexico, some important tools to influence consumer behaviour, including the raising of taxes on soda drinks and foods rich in trans fats or in sugars, were not made part of the national agreement, despite the fact that, between 1999 and 2006, consumption of sugar-sweetened beverage doubled and that, today, about 10 per cent of Mexicans’ total energy intake comes from these

<sup>26</sup> P. Zhang et al., “Global healthcare expenditure on diabetes for 2010 and 2030” in *Diabetes Research and Clinical Practice*, vol. 87 (2010), 293–301.

beverages.<sup>27</sup> The agreement itself is a soft-policy instrument, without binding targets being set out in legislation. It locates the problem of overweight and obesity in consumers' behaviour, when in fact this problem stems from the food system as a whole. Agricultural policies currently encourage the production of grains, rich in carbohydrates but relatively poor in micronutrients, at the expense of the production of fruit and vegetables; the result is that, for many Mexicans, particularly in urban areas or in the States of the northern part of the country, switching to more healthy diets is becoming increasingly difficult. The trade policies currently in place also favour greater reliance on heavily processed and refined foods with a long shelf life rather than on the consumption of fresh and more perishable foods, particularly fruit and vegetables.

## VII. Sustainability: the future of food in Mexico

51. Any national strategy for the realization of the right to food should take into account the long-term consequences of responses to short-term needs. Mexico is indeed highly vulnerable to such natural disasters as earthquakes, flooding and hurricanes as well as drought or other climate shocks.

### A. Transgenic crops and biodiversity

52. During his mission, the Special Rapporteur studied the latest scientific evidence on possible ecological risks of cultivating transgenic corn in Mexico, as well as the legal and policy developments since the Law on the Biosecurity of Genetically Modified Organisms of 2005. It is unclear whether the transgenic corn cultivars currently being tested in the field trials permitted between 2009 and 2011 are relevant to the country's main agronomical problems, as these cultivars do little to address the main problems, such as resistance to drought or the ability to flourish on poor soils. A number of other points seem, however, established.

53. The Special Rapporteur notes first that the cultivation of transgenic maize in Mexico poses acute risks to the diversity of native maize landraces, given the unknown effects of genetically modified maize coexisting with non-genetically modified maize in the country's complex environmental conditions.<sup>28</sup> These risks are largely due to the gene flow characteristics of maize, the pollen of which is able to travel over long distances, but also from the seed exchange habits of Mexican farmers. Indeed, the exchange of seeds from one farmer to another accounts for more than 85 per cent of the sources of maize seed at the national level (the seed industry accounting for 5.2 per cent).<sup>29</sup> The combination of natural gene flow and human seed exchange practices mean that it would be close to impossible to maintain the coexistence of native landraces of maize with transgenic maize being planted on a commercial scale. The potential loss of agro-biodiversity that would result from this is a serious liability, as diversity is a crucial asset in the face of future threats and unpredictable changes brought about by climate change. In the long term, the continuous improvement of landraces by farmers' practices of saving, resowing and exchanging seeds

<sup>27</sup> S. Barquera et al., "Energy intake from beverages is increasing among Mexican adolescents and adults" in *The Journal of Nutrition*, vol. 138 (2008): 2454–2461.

<sup>28</sup> The same conclusion was arrived at by the National Commission for the Knowledge and Use of Biodiversity (CONABIO) in its study "Organismos vivos modificados en la agricultura mexicana: desarrollo biotecnológico y conservación de la diversidad biológica", April 1999.

<sup>29</sup> G.A. Dyer et al., "Dispersal of transgenes through maize seed systems in Mexico", *PLoS ONE*, vol. 4(5) (2009), e5734. The remainder of the distribution of seeds is through farmers' markets (0.1 per cent), Government programmes (0.4 per cent) and other institutions (3.4 per cent).



best suited to specific environments is crucial to ensure adaptation to unpredictable climate disruptions.<sup>30</sup> Even the remarkable initiative of establishing the National Centre for Genetic Resources in the State of Jalisco, ensuring the preservation *ex situ* of genetic resources, is not a substitute for the permanent enhancement of agrobiodiversity.

54. Second, if the current field trials are to lead to the commercialization of transgenic maize on a large scale, this could further increase their concentration in the seeds market. Monsanto's recent investment in the Centro Internacional de Mejoramiento de Maíz y Sorgo in El Tizate (Nayarit State) highlights the fact that field trials are not merely a scientific venture, but a component in a strategy to gain market shares in Mexico. The expansion of transgenic maize crops on a commercial scale and the potential resulting gradual disappearance of landraces could increase the dependency of farmers on a technology that would transfer resources to the seed companies holding the patents on these varieties, and thus increase the risks of small-scale farmers falling in debt. Furthermore, farmers cultivating native landraces of maize may find that their crops contain genes from transgenic plants, which could result in liability for infringing property rights of patent holders.<sup>31</sup>

55. In sum, the Special Rapporteur considers that the introduction of transgenic maize in Mexico may not be in the country's best interest, and that indeed it diverts the attention of policymakers away from more vital issues, such as soil erosion or resilience to climate change. The real question to be asked is whether this agricultural development path can reduce rural poverty and inequality, and whether it is sustainable in the long term. The answer is far from clear for the moment.

## B. Water use, soil erosion and resilience to climate change

56. Access to water is vital in Mexico for those who rely directly on agricultural production for their right to food. The country's "water crisis" is characterized by the overexploitation of key aquifers in the country, which is fuelled by *Tarifa 9*, an important subsidy on electricity use for agriculture (as groundwater is mainly pumped from wells) that leads to farmers paying only 23 per cent of the cost of pumping and utilizing.<sup>32</sup> The Special Rapporteur also notes that the public authorities devote significant resources to hydrological infrastructure (3.3 billion pesos in 2006) and to irrigation (the area covered by modern irrigation increased from 1.3 million hectares in 2006 to an estimated 1.8 million hectares in 2011). At the same time, programmes to develop soil and water conservation techniques as well water collecting and storage constructions have been launched more recently, such as the Programme for the Sustainability of Natural Resources (COUSSA), the Cross Project for the Development of Arid Zones or the Catastrophic Agricultural Insurance scheme (on 8.115 billion hectares).

57. It is the view of the Special Rapporteur that the opportunity costs of large-scale hydrological infrastructure should be further investigated, given that the potential of

<sup>30</sup> Indeed, a \$1.5 million programme financed by the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food, the Ministry of the Environment and Natural Resources and the Inter-Ministerial Commission for Biosafety of Genetically Modified Organisms recently led to the discovery of new maize landraces, demonstrating that smallholder farmers (the plots of whom represent 86 per cent of maize cultivation land in Mexico) were actively contributing not only to maintaining maize diversity but also to improving it. It also led to the discovery of new populations of teocinte, the most probable progenitor of maize.

<sup>31</sup> F. Acevedo et al., "Is transgenic maize what Mexico really needs?" in *Nature Biotechnology* 29 (2011), pp 23–24.

<sup>32</sup> World Bank, 2009 (see footnote 5), p. 27.

programmes to scale up rainwater harvesting techniques has been insufficiently explored, despite recent programmes. Moreover, there are important drawbacks to large-scale hydrological infrastructure such as dams, which displace people, disrupt livelihoods and have a high cost for public authorities. Launching massive investments in rainwater harvesting techniques in dry-land areas would allow for the cultivation of formerly abandoned and degraded lands and recreate adequate conditions for agricultural production in semi-arid areas. These methods include permeable rock dams, zais, contour ridges, runoff strips and semi-circular bunds, which slow down runoff water, improving soil moisture that make the cultivation of trees, shrubs and herbs feasible in semi-arid areas and creates grazing areas in more arid ones.

58. Moreover, such systems halt land degradation and desertification. Soil erosion is a major issue in Mexico, with 60 per cent of the territory being affected by soil degradation, and 70 per cent of the 1.15 million livestock farms affected by overgrazing. The Special Rapporteur commends the Mexican authorities for the ambitious ProArbol Programme conducted by the Ministry of the Environment and Natural Resources, as reforestation is vital for Mexico. He encourages both the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food and the Ministry of the Environment and Natural Resources to launch a joint programme to develop agro-forestry systems and water harvesting techniques on the basis of the successful principles of the ProArbol programme, including participation of local communities and payments for ecological services in order to stop soil erosion and land degradation, to improve water retention and the replenishment of aquifers, and to increase the resilience of agricultural systems to climate change.

## VIII. Conclusions and recommendations

59. **Now that the right to food is recognized as a constitutional right in Mexico, it should strengthen its legislative and institutional framework by adopting a framework law on the right to food and, on the basis of a participatory dialogue with all stakeholders and a national strategy, move towards the full realization of the right to food. The Special Rapporteur makes the recommendations below, which could inform such a strategy.**

60. **The Special Rapporteur recommends that the Government of Mexico:**

**(a) Ensure that its agricultural policies make a more effective contribution to combating rural poverty, by:**

**(i) Identifying in a law the beneficiaries of all agricultural policies and programmes, in order to improve transparency and accountability in the allocation of resources;**

**(ii) Reorienting a significant fraction of agricultural public expenditures towards the poor via targeted programmes such as the Proyecto Estratégico de Seguridad Alimentaria and Alianza PDR, for example by adopting a rule according to which at least 50 per cent of the resources allocated to agricultural support go to the poorest 25 per cent of farmers or localities, as defined by the CONAPO marginality index;**

**(iii) Allocating a larger proportion of agricultural public expenditures to public goods, including access to credit and financial services, agricultural extension services, support for producers' organizations and cooperatives, measures to protect agricultural producers from price volatility, infrastructures such as communication routes and transport, and storage facilities;**

- (iv) Launching a joint programme by the Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food and the Ministry of the Environment and Natural Resources to develop agro-forestry systems and rainwater harvesting techniques on the basis of the successful principles of ProArbol programme, including participation of local communities and payments for ecological services, in order to stop soil erosion and land degradation, to improve water retention and the replenishment of aquifers, and to increase the resilience of agricultural systems to climate change;
- (v) Significantly reducing *Tarifa 9* subsidies in order to rapidly stop the overuse of aquifers, and reallocating an important proportion of the current expenses for large-scale dams and hydrological infrastructures to the promotion of drip-irrigation techniques, and crops that use less water and rainwater harvesting techniques, which have the additional advantage of being pro-poor, given that a number of food-insecure smallholders live in arid environments and depend on such programmes to regain decent options for their livelihoods;
- (b) Further improve the already impressive range of social programmes established to support the access of low-income families to food by adopting a rights-based approach to these programmes, as described in the present report;
- (c) Set the minimum wage at a level that guarantees all workers a living wage providing an income allowing workers to support themselves and their families, as required under articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights, and deepen the important efforts under way aimed at improving the situation of *jornaleros* in the agricultural sector, particularly migrant workers;
- (d) Provide without delay a comprehensive review of the procedures in place to ensure that large-scale development projects comply with international standards on the basis of the Guiding Principles on Internal Displacement and of the basic principles and guidelines on development-based evictions and displacement, and ensure compliance with ILO Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries and the United Nations Declaration on the Rights of Indigenous Peoples.
- (e) Commission an independent assessment of the experience of “rural sustainable towns” before the existing projects are expanded. The assessment should evaluate the opportunity costs involved, and be conducted in participatory ways in order to ensure an appropriate estimate of the disruptions created in livelihoods by the resettlement of the families concerned;
- (f) Revise and strengthen the 2010 national agreement for nutritional health, taking into account the Political Declaration adopted at the High-level Meeting of the General Assembly on the Prevention and Control of Non-communicable Diseases;<sup>33</sup> consider the use of taxation to discourage energy-rich diets, including in particular the consumption of soft drinks, and the subsidization of poor communities’ access to water, fruit and vegetables; and take into account the impact of agricultural and trade policies on peoples’ diets;
- (g) Commission an independent analysis of the ecological, agronomical, social and economic impact of genetically modified crops cultivated in existing field trials, improve access to information thereon, and consider declaring a return to the moratorium on field trials and on the commercial cultivation of transgenic maize, while allowing possible research programmes in strictly confined environments;

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<sup>33</sup> General Assembly resolution 66/2.

**(h) Take steps to regulate the growing concentration in the seed sector and to support smallholders in establishing community seed banks and other seed systems, including by:**

**(i) Further strengthening in situ maize diversity conservation programmes by increasing the incentives to farmers relying on landraces for their contribution to agro-biodiversity, as a complement to the ex situ conservation of genetic resources by the National Centre for Genetic Resources;**

**(ii) Increasing the funding of decentralized participatory plant cultivation programmes and community seed banks with the support of local farmer organizations, with the aim of improving the ability of smallholder farmers to adapt to climate change.**

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