

Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; and the Special Rapporteur on the human right to safe drinking water and sanitation

REFERENCE: AL
BRA 1/2015:

24 July 2015

Excellency,

We have the honour to address you in our capacities as Chairperson of the Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; and Special Rapporteur on the human right to safe drinking water and sanitation pursuant to Human Rights Council resolutions 26/22, 24/6, 27/23, and 24/18.

We would like to thank you for your Excellency's Government's response to our communication dated 9 January 2014 concerning the alleged on-going contamination and poisoning in Piquiá de Baixo (Açailândia, Maranhão State, Amazon Region), the serious negative health effects that certain iron and steel industries are alleged to be causing to the environment and to citizens, and citizens' alleged lack of access to health services and recourse despite attempts at judicial resolutions.

We appreciate the acknowledgement sent by your Government and were pleased to learn that the planning and financing for the resettlement of the affected citizens has been approved and that the Caixa Econômica Federal and the Ministry of Cities made "a commitment of disbursing the resources as soon as possible". Your Government also informed us that the steel companies installed the filters to reduce the passage of air laden with particles and that the State of Maranhão is responsible for the inspection of the companies through the Environment and Renewable Natural Resources Secretariat.

In this connection, we wish to bring to the attention of your Excellency's Government further information we received on this case.

According to information we have received:

The Caixa Econômica Federal submitted the budget for the resettlement project on 17 December 2014, however, the budget has not been disbursed by the Ministry of Cities. The Public Prosecutor's Officer (Procuradora-Geral de Justiça do Estado do Maranhão) sent a letter, dated 19 March 2015, to the Ministry of Cities emphasizing the urgency of the situation and acknowledging the need for prompt disbursement of the funds. Additionally, the site for resettlement - Sítio São João - has been identified and that at a general meeting of the Piquiá residents held on 13 June 2015, the current Mayor of Açailândia signed the document that gives the land title of Sítio São João to the Community Association of Residents of Piquiá de Baixo (ACMP). The construction of the planned resettlement site, once started, will take at least two years.

The residents continue to suffer from pollution despite the installment of the filters, as explained by your Government. Moreover, despite the explanation by your Government that two healthcare base units are providing healthcare to the local people in Piquiá de Baixo, it is alleged that access to healthcare facilities for the affected victims continue to remain inadequate, with only one doctor visiting once a week to see 25 persons per week for a population of 1,100.

While we do not wish to prejudge the accuracy of these allegations, we express concern at the delayed disbursement of the budget for the resettlement project and of the resettlement of the affected victims with the purpose of preventing any aggravation and future impact on their health. We also express concern over continued health impact of pollution on the affected victims and the inadequacy of the health services.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. When will the Ministry of Cities disburse the budget for the resettlement project?
3. When will the resettlement of the affected victims take place?
4. Please provide details of additional measures your Government has been taking to provide redress to the affected victims, including the reduced emission of pollutants and the provision of necessary health services.
5. Please provide the terms of reference and the objective of the programme, "Minha Casa, Minha Vida", which will be financing the new household units as indicated by your Government's response.

6. Please provide the information on whether the remediation facility, which has been or will be put in place in Piquiá de Baixo, will employ best environmental technologies and practices as part of the guarantee of non-repetition, and whether the assessment of the potential for long-term alleged adverse impact, including for the health of over 22,000 people living around the area, has taken into consideration free, prior and informed consultation with the affected individuals and community.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Margaret Jungk

Chairperson of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Dainius Puras

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Baskut Tuncak

Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes

Léo Heller

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