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OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the right to food and the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights.

REFERENCE: OL Food (2000-9) Debt (2000-9)
OTH 3/2013

28 March 2013

Dear Ms. Leroy,

Thank you for your emails dated 11 and 19 March 2013 in response to our previous correspondence about alleged human rights impacts of the ongoing process of privatizing the coffee industry in Burundi.

In our earlier correspondence, we noted with interest references made in your letters of 9 October 2012 and 16 January 2013 to the efforts made by the World Bank to study the impacts of the privatization process through an ex ante Poverty and Social Impact Analysis (PSIA) carried out in 2006. In this regard, we thank you for your recent emails to clarify the nature of this PSIA. Having had an opportunity to carefully review the material sent to us on 19 March 2013, however, we note a number of apparent contradictions in the information provided, on which we would appreciate further clarification.

We were surprised to learn that the 2006 PSIA referenced in previous correspondence was to be found in two annexes of the 2006 Economic Reform Grant's Program Document (Report No. 36723-BI), respectively annex 5 "Coffee Sector Reforms: The Point of View of Producers" and 7 "Poverty and Priorities of the Poor in Burundi", and that the information contained therein does not substantiate information provided in earlier replies. In particular, we note the following discrepancies or lack of answers to specific allegations presented in our letter of 10 August 2012.

Allegations that the privatization process of the coffee industry in Burundi (a) is increasing the vulnerability of poor farmers to changes in payments for coffee; (b) has not adequately prepared for or addressed its potential impacts on the realization of the right to food; and (c) has failed to explore pro-poor alternatives to the privatization, notably supporting cooperatives.

Your reply of 9 October 2012 states that the 2006 PSIA was carried out with the objective "to study the possibly distributional impacts of the specific country policies supported by the Bank, especially on poor and vulnerable groups" and that it "concluded that liberalization of the coffee sector would increase farmers' income by ensuring that they receive a higher share of the international coffee price." Yet, according to the information provided, the PSIA does not reach such conclusion.

Annex 7 "Poverty and Priorities of the Poor in Burundi" contains no reference to the process of liberalizing the coffee sector. Rather, it provides a general overview of levels of poverty in Burundi, estimating the population living in poverty at the national level to be at 81 percent and presenting the results of a survey of perceptions of poverty. The only reference to coffee is in the listing of contributing factors to the high level of poverty, where "a declining trend in world coffee prices and a fall in the level of production of coffee" is mentioned alongside factors related to the armed conflict (destruction of infrastructure, a reduction of aid, high inflation, decrease in exports, etc.)

Annex 5 "Coffee Sector Reforms: The Point of View of Producers" presents a perceptions survey implemented in July 2004 in order to inform the preparation of Burundi's Poverty Reduction Strategy Paper (PRSP). This document also does not assess distributional impacts of the privatisation process or substantiate the conclusions mentioned in the letter of 9 October 2012. Rather, the annex presents the findings of a survey carried out in 2004 "in order to understand the point of view of producers regarding past and future reforms of the sector." Rather than support for the privatization process, the survey found that a majority of respondents had "concerns about what might happen under the privatization. Among potential negative consequences, the three most cited are a reduction in producer prices (31 percent), a more complicated system of marketing harvested coffee (27 percent), and concerns that small scale producers [i.e. most Burundian coffee growers] would be at an disadvantage (17 percent) … Some respondents also see some potentially positive effects … Yet the number of respondents concerned about negative consequences outnumbers those who expect a positive outcome from privatization" (p. 90).

With regard to the privatization of the 117 washing stations, managed by five regional companies "Sociétés de Gestion des Stations de Lavage" (SOGESTALs), the survey of the views of coffee producers also did not indicate support for the recommendations for liberalization. According to the survey, "[m]ost respondents said there were no negative consequences from the creation of the SOGESTALs" and "results indicate that a very large majority (78 percent) of respondents at the national level had a positive view of these institutions" (p. 89).

In the PSIA (Annex 5), the World Bank also highlights a number of negative impacts of the privatization process. Notably, removing State guarantees for the repayment of loans taken to finance coffee purchases and processing for export was expected to negatively affect producers in two ways:

"First, commercial banks would be forced to take additional steps to ensure that loan applicants are following proper business practices and have adequate collateral to secure advances" (p. 86). At the same time, the subsequent analysis of survey results ¨shows that it is already extremely difficult for farmers to obtain credit from banks because of collateral requirements. As explained, the situation is such that "private financial institutions which could be a good source of credit may be discouraged from participating in the credit market or may require strong guarantees that then disqualify most credit seekers, especially the poor and economically vulnerable" (p. 89).

"Second, without state guarantees, coffee processors and exporters would have to protect themselves against price risk, stemming from the volatility of coffee prices. Inadequate coverage against price risk would mean that processors and exporters would not be eligible for reasonably priced credit which may force them to increase their margins, with adverse effects on farmgate prices" (p. 86).

With regard to the allegation that no follow-up was made to the request by producers' organization to support and/or strengthen farmers' cooperatives to enable them to acquire SOGESTALs, no response was provided in earlier letters. However, we note that the PSIA (Annex 5) shows that most coffee growers (58 percent of respondents) "would support attempts by their respective cooperatives to purchase shares in the SOGESTALs," irrespective of their concerns about possible adverse effects of privatization. As it is explained, "[t]hese responses suggest a strong desire to participate in the decision-making process of these institutions [the SOGESTALs], as well as in some respects a vote of confidence in the management of these institutions, as only 14 percent of respondents saw their potential investment as a means of gaining access and influencing the decision-making process of the SOGESTALs. The data also suggests that 62 percent of those who would support such investments would be willing, if necessary, to make financial contributions to facilitate the purchase of shares" (p. 90). On the basis of information made available to us, it would indeed seem that supporting farmers' cooperatives would be an obvious means to assist coffee growers improve their livelihoods by having a direct stake in the transformation process, rather than seeing the largest fraction of the value chain captured by corporate actors.

(2) Allegation that the World Bank exerted undue pressure on the Government and made its yearly financial support to the Burundi national budget in 2008/09 dependent upon the privatization.

In your reply of 9 October 2012, it is underlined that, "[a]s with all Bank-financed operations, the Bank is providing support to the coffee sector reform at the Government's own request." At the same time the Program Document and the annexed PSIA show that the Government of Burundi expressed certain concerns while adopting the reform/liberalization strategy. In particular, the Government raised concerns "relative to the crop financing following the suppression of Government guarantees to banks operating in the sector and the possible negative impact on farmers in a case of continuing price fall on the world market" (p. 40). Equally it is noted in Annex 5 that "[c]onsidering that coffee is the mainstay of the economy, the concern of the Government is the fact that destabilization of the industry, caused by external factors, could reverberate throughout the economy with serious adverse consequences to other sectors. As much as donors sympathize with this concern, it is argued, however, that maintaining the status quo could result in even greater economic and social costs to the country" (p. 86).

This information and information received from other sources seem to indicate that the Government and donors were not in agreement on the reform process. We note in this regard, the lack of a response from the World Bank to the allegation that despite concerns raised by the Government and coffee growers, through the Confederation Nationale des Associations des Caféiculteurs du Burundi (CNAC), the World Bank allegedly decided to make its 2008-2009 financial support to the Burundi national budget and several specific programmes conditional upon the privatization of the coffee industry.

(3) Allegation concerning the exclusion of affected communities, in particular coffee growers, from decision making regarding the design of the privatization process.

In your reply of 9 October 2012, it is stated that "[o]ur understanding is that the overall necessity for reforms to the coffee sector in Burundi was agreed to by all actors, including coffee growers." However, apart from a reference to "a workshop attended by a cross section of stakeholders" to discuss the results of the 2006 PSIA, no information is provided as to specific measures taken to ensure meaningful prior consultation with affected communities. We also note that the PSIA (Program Document, Annexes 5 and 7) does not indicate any consultations held with a view to informing the coffee sector reform strategy that was prepared by the Government with the assistance of the World Bank and published in March 2004. Rather, a key finding of the perception survey carried out in July 2004 (described in Annex 5) was that most respondents (85 percent) at the national level were not aware of suggestions by the Burundian Government and donors to privatize the Coffee Marketing Boards (OCIBU) and sell its shares in the SOGESTALs. Moreover, when respondents were informed about these plans, through the survey, most saw it as something negative rather than positive (pp. 89-90).

From a reading of the Program Document we understand that a national workshop was held in March 2005 "with all stakeholders to validate the coffee sector reform strategy" (p. 40). The Program Document also refers to the preparation of studies in 2006, including concerning the privatization of washing stations, which would "be reviewed by the Reform Steering Committee (with stakeholders represented)" established in 2006 and "help to generate full consensus as to the best strategies to adopt" (p. 42).

In order to better understand the nature of consultations held, we would be grateful if the Bank could provide us with more specific information in this regard. Given its close involvement in the reform process, we believe the Bank has a special responsibility to ensure meaningful, prior, informed consultations with poor, small-scale farmers and coffee growers, whom the privatization process is exposing to increased risks, and to ensure that their voices are heard and taken into account in assessing impacts and lessons learned.

In conclusion, we wish to reiterate our concern about these apparent contradictions in the information received and we are particularly puzzled by the information presented in previous correspondence that the conclusion of the 2006 PSIA was that “liberalization of the coffee sector would increase farmers’ income.”

We should be grateful for your early reply to clarify these apparent contradictions and would expect an answer by no later than Friday 12 April 2013.

With regard to the suggestion made in our earlier letters to explore jointly with the Government of Burundi and the World Bank the possibility of conducting a mission to Burundi, we note the reply of 11 March 2013 that the World Bank does not believe that such a mission is needed at this time. Still, we would like to repeat this request. Given the contradictory information received about the on-going reform process, we consider that our mandates could play a useful role in facilitating a discussion with various stakeholders about possible human rights concerns and how they can be addressed.

We look forward to our continued collaboration and remain at your disposal to discuss these matters further.

Sincerely,

Olivier de Schutter
Special Rapporteur on the right to food

Cephas Lumina
Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights