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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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 situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

REFERENCE: UA G/SO 218/2 G/SO 214 (67-17) Health (2002-7) G/SO 214 (107-9) G/SO 214 (3-3-16) G/SO 214 (53-24)
VNM 5/2013

7 August 2013

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 15/18, 16/4, 15/22, 16/5, 17/2, and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the alleged arbitrary detention and torture of Mr. **Nguyen Van Hai**, also known as Dieu Cay and Mr. **Cu Huy Ha Vu**. We would also like to draw the attention of your Excellency's Government to information we have received regarding ill-treatment of Mr. **Nguyen Xuan Nghia**.

Mr. Nguyen Van Hai, born on 23 September 1952, is an independent journalist and blogger, a founding member of the Club of Free Journalists in 2006, and recipient of the 2009 Hellman Mammet Award. Mr. Nguyen Van Hai was the subject of previous communications. On 15 August 2011, the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent a communication to your Excellency's Government regarding Mr. Nguyen Van Hai's poor prison conditions, alleged hard labour and torture. The communication alleged that Mr. Nguyen Van Hai

lost an arm in prison, was being tortured, and arbitrarily detained for exercising his right of freedom of expression. By letter dated 12 January 2012, your Excellency's Government replied that all proceedings against Mr. Nguyen Van Hai were carried out in strict compliance with Vietnamese laws and in line with international standards and practices, and that allegations that Mr. Nguyen Van Hai was tortured or forced to work are not true. On 14 June 2012, the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the independence of judges and lawyers sent a communication to your Excellency's Government. The communication alleged that Mr. Nguyen Van Hai's detention was in violation of the Criminal Procedures Code of Viet Nam and that his families, as well as his lawyer, were repeatedly denied prison visits. It was also alleged that Mr. Nguyen Van Hai was in urgent need of medical attention due to his deteriorating health condition. By a letter dated 14 September 2012, your Excellency's Government replied that Mr. Nguyen Van Hai's arrest, provisional detention and proceedings were carried out in strict compliance with Vietnamese laws and in line with international standards and practices.

Mr. Nguyen Van Hai was also the subject of an Opinion of the Working Group on Arbitrary Detention (Opinion No. 1/2009 (Viet Nam) adopted on 5 May 2009. In its Opinion, the Working Group on Arbitrary Detention determined that the detention of Mr. Nguyen Van Hai was arbitrary between the date of his arrest on 12 May 2008, until his release following his criminal sentence to "re-education without detention" on 15 October 2008, being in contravention of articles 9 and 19 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 19 of the International Covenant on Civil and Political Rights (ICCPR).

Mr. Cu Huy Ha Vu, born in 1957, is a doctor of law and a prominent human rights activist. Mr. Cu Huy Ha Vu has been a peaceful defender of cultural, environmental and civil and political rights and consistently used the courts to seek justice for those whose rights have been violated by State and non-State actors. Mr. Cu Huy Ha Vu was the subject of a previous communication sent by the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders on 21 April 2011. By a letter dated 6 June 2011, your Excellency's Government replied that the arrest and criminal proceedings against Mr. Cu Huy Ha Vu were carried out in strict compliance with Vietnamese laws and with international standards on human rights. Mr. Cu Huy Ha Vu was also subject of a previous opinion of the Working Group on Arbitrary Detention (No. 24/2011 Viet Nam) adopted at its 61st session (29 August – 2 September 2011; A/HRC/WGAD/2011/24). In its opinion, the Working Group on Arbitrary Detention has determined that the detention of Mr. Cu Huy Ha Vu is arbitrary and in violation of articles 9 and 19 of the ICCPR.

Mr. Cu Huy Ha Vu was also subject of an Opinion of the Working Group on Arbitrary Detention (Opinion No. 24/2011 Viet Nam) adopted on 29 August 2011; A/HRC/WGAD/2011/24). In its Opinion, the Working Group on Arbitrary Detention determined that the deprivation of liberty of Mr. Cu Huy Ha Vu was arbitrary, being in contravention of articles 9 and 19 of the ICCPR.

Mr. Nguyen Xuan Nghia, 64 years old, is a poet, journalist, essayist and novelist, a member of the Hai Phong Association of Writers and a founding member of the banned democracy movement known as Bloc 8406. He is the editor of the underground democracy journal To Quoc (Fatherland) Review. Mr. Nguyen Xuan Nghia was the subject of an Opinion of the Working Group on Arbitrary Detention (Opinion No. 1/2009 (Viet Nam) adopted on 5 May 2009. In its Opinion the Working Group on Arbitrary Detention determined that the detention of Mr. Nguyen Xuan Nghia was in contravention of articles 9, 19 and 20 of the UDHR and articles 9, 19 and 21 of the ICCPR.

According to the information received:

On 18 October 2010, upon completion of a previous sentence, Mr. Nguyen Van Hai was charged with conducting propaganda against the Socialist Republic of Viet Nam under article 88 of the Vietnamese Criminal Code and reportedly transferred to a public security detention camp in Ho Chi Minh City. He was held incommunicado for several months. Reportedly, the charges were based on his online writings for the “Free Journalist Network” in Viet Nam, published prior to his arrest in 2008. Allegedly in September 2012, Mr. Nguyen Van Hai was sentenced to 12 years imprisonment and five years’ probation. It is also reported that Mr. Nguyen Van Hai’s family and lawyer have been repeatedly denied prison visits, and that Mr. Nguyen Van Hai is in urgent need of medical attention due to his deteriorating health condition. It is reported that Mr. Nguyen Van Hai is currently detained in Prison 6 in Thanh Chuong District, province of Nghe An in Central Viet Nam.

Reportedly, in February 2011, Mr. Nguyen Van Hai began his first hunger strike and continued for 28 days to protest his arbitrary detention and the denial of his right to family visits.

In June 2013, Mr. Nguyen Van Hai was placed in solitary confinement, reportedly as punishment for refusing to admit his alleged crimes. It is reported that on 23 June 2013, Mr. Nguyen Van Hai began his second and on-going hunger strike in response to being placed in solitary confinement despite the fact that he reportedly almost died during his previous hunger strike. It is furthermore alleged that Prison Camp No. 6 has no adequate medical facilities, and that it is located in a remote and mountainous region at around 70 kilometers from Vinh, the nearest town. It is therefore alleged that should Mr. Nguyen Van Hai’s health suffers as a result of a

prolonged hunger strike, he would not have access to urgent medical treatment. According to the information received, Mr. Nguyen Van Hai's family has been discouraged from visiting him and it was stated that he was being punished for being uncooperative. It is also reported that Mr. Nguyen Van Hai has been held at 10 different prisons and camps since his arrest in October 2008, and that he is currently 1,500 km away from his family's house rendering it nearly impossible for them to visit.

Mr. Nguyen Van Hai's family was reportedly denied permission to visit him on 16 July 2013 and then allowed a five-minute meeting on 20 July 2013 in the presence of guards. The family was allegedly forced to wait outside in the hot sun for half a day before being allowed to visit, and was reportedly limited to a mere five minutes. During the visit, Mr. Nguyen Van Hai reportedly appeared very weak and could not hold up his head without resting it on his hand. He is reported to be seriously ill as a result of the hunger strike, poor treatment and lack of medical care in detention.

Mr. Nguyen Xuan Nghia, a well-known writer and blogger and cell mate of Mr. Mr. Nguyen Van Hai, was reportedly arrested on 18 September 2008 in connection with the planning of a demonstration for 14 September 2008 against China's presence on Paracel and Spratly Islands outside the Embassy of the People's Republic of China in Hanoi. On 9 October 2009, after a trial that reportedly lasted just a few hours, Mr. Nguyen Xuan Nghia was convicted of conducting anti-government propaganda under Article 88 of the Vietnamese Criminal Code and sentenced to six years in prison. It is reported that as a journalist, he wrote for all the main government newspapers until 2003, when the government reportedly banned him because of his pro-democracy activities.

On 21 January 2010, an appeals court in the northern port city of Haiphong reportedly upheld Mr. Nguyen Xuan Nghia's sentence. Foreign journalists were allegedly not permitted to attend the proceedings, which lasted a day. It is reported that Mr. Nguyen Xuan Nghia is currently also detained in Prison 6 in Thanh Chuong District, province of Nghe An in Central Viet Nam, which is 400 km from his family's home, making his wife's visits reportedly even more difficult and costly. It is also reported that Mr. Nguyen Xuan Nghia is in poor health and is suffering from a number of ailments that may be exacerbated by prison conditions

Reportedly, the only reason Mr. Nguyen Van Hai's family was able to understand why he was on a hunger strike, held in solitary confinement and denied medical care, was because Mr. Nguyen Xuan Nghia, yelled out to his wife, who then informed the family of Mr. Nguyen Van Hai about the ongoing hunger strike. It is reported that prison guards subsequently beat Mr. Nguyen Xuan Nghia, brutally to make him shut-up.

According to the information received, Mr. Cu Huy Ha Vu was allegedly also arbitrarily detained. Mr. Cu Huy Ha Vu is a doctor of law and an outspoken legal activist. It is reported that he is currently detained in Prison 5, Yen Dinh, Thanh Hoa.

On 5 November 2010, Mr. Cu Huy Ha Vu was reportedly arrested by Vietnamese authorities in Ho Chi Minh City. It is reported that on 2 October 2010, Mr. Cu Huy Ha Vu had reportedly filed a lawsuit against the Prime Minister for signing in 2006, Decree 136, which prohibits class-action petitions. He had initiated another lawsuit against the Prime Minister in July 2009 for signing in November 2007, Decision 167, which allowed controversial bauxite mining operations in Vietnam's Central Highlands. It is also reported that on 16 October 2010, he defended Catholics who were dispersed and arrested during a funeral procession on disputed territory.

On 17 December 2010, Mr. Cu Huy Ha Vu was allegedly indicted by the Hanoi People's Procuracy for propaganda and slandering the Government in alleged violation of article 88 of the Viet Nam Penal Code for posting a large number of articles and interviews against the Socialist Republic of Viet Nam on the internet between 2009 and October 2010. He was brought to the Ministry of Public Security detention centre at 238 Nguyen Van Cu, District 1, Ho Chi Minh City. It was alleged that he colluded with foreign groups to instigate riots and social instability and that the defamation of the Government was meant to divide communities and incite inter-communal hatred. On 4 April 2011, Mr. Cu Huy Ha Vu was reportedly convicted by Hanoi People's Court, following a trial during which he was allegedly denied his right to a fair and public hearing by a competent, independent and impartial tribunal. He was sentenced to seven years' imprisonment and three years' house arrest. It is reported that on 2 August 2011, the Supreme People's Court upheld the sentence. It is alleged that the Mr. Cu Huy Ha Vu's deprivation of liberty is linked to the two lawsuits that he had filed against the Prime Minister of Viet Nam.

Furthermore, it is reported that Mr. Cu Huy Ha Vu has a congenital heart problem, high blood pressure, and pain in the joints. Reportedly, his family visits have been severely restricted because according to the prison authorities, he has not admitted his guilt, and "poor assessment of his compliance in past evaluation periods." It is reported that from 27 May to 21 June 2013, Mr. Cu Huy Ha Vu conducted a hunger strike in order to denounce the fact that the prison authorities did not reply to his complaint regarding the allegations that a prison guard is allegedly conducting "deliberated acts aiming to kill him", that the visits of his wife are not conducted according to the law, that he is banned from sending letters to family members and that he is banned from receiving basic necessities, including legal documents.

It is reported that on 1 June 2013, Mr. Cu Huy Ha Vu's wife was able to visit her husband. Mr. Cu Huy Ha Vu expressed serious concerns regarding his deteriorating health condition due to the hunger strike and the poor conditions of detention, as well as regarding the fact that he felt seriously threatened by one prison guard who was allegedly trying to kill him without the prison authorities granting him protection.

Serious concern is expressed about the physical and mental integrity of Mr. Nguyen Van Hai amid allegations that Mr. Nguyen Van Hai has been subjected to torture, ill-treatment and hard labour while in detention and that he lost his hand in unknown circumstances. Concern is also expressed about the recent placement in solitary confinement and the subsequent hunger strike and deteriorating health condition of Mr. Nguyen Van Hai. Similar concern is also expressed about the physical and mental integrity of Mr. Cu Huy Ha Vu. Similar concern is also expressed about the the physical and mental integrity of Mr. Nguyen Xuan Nghia. Finally, concern is expressed that the situation of Mr. Nguyen Van Hai, Mr. Cu Huy Ha Vu and Mr. Nguyen Xuan Nghia may be linked to their legitimate exercise of the right to freedom of opinion and expression.

Without in any way implying any conclusion as to the facts of the case, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the cases of the persons named above. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the UDHR and the ICCPR.

Concerning the detention of Mr. Nguyen Van Ha, Mr. Nguyen Xuan Nghia, and Mr. Cu Huy Ha Vu, we would like to be informed of the measures adopted by your Excellency's Government concerning the implementation of the recommendations from the Working Group on Arbitrary Detention contained in its Opinion No. 1/2009 (Viet Nam) of 5 May 2009 and No. 24/2011 (Viet Nam) of 29 August 2011.

In this context, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

With regard to the allegations that Mr. Nguyen Van Hai has recently been placed in solitary confinement, we would like to draw the attention of your Excellency's Government to paragraph 6 of General Comment No. 20 of the Human Rights Committee. It states that prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7 [on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment] of the ICCPR (adopted at the 44th

session of the Human Rights Committee, 1992). In this regard, we would also like to draw your attention to article 7 of the Basic Principles for the Treatment of Prisoners, which provides that “efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged” (adopted by the General Assembly by resolution 45/111 of 14 December 1990).

In addition, we would like to draw the attention of your Excellency’s Government to Special Rapporteur on torture’s interim report to the General Assembly of 5 August 2011 (A/66/268) stating that where the physical conditions and the prison regime of solitary confinement cause severe mental and physical pain or suffering, when used as a punishment, during pre-trial detention, indefinitely, prolonged, on juveniles or persons with mental disabilities, it can amount to cruel, inhuman or degrading treatment or punishment and even torture. Paragraph 26 of the report states that, “of particular concern to the Special Rapporteur is prolonged solitary confinement, which he defines as any period of solitary confinement in excess of 15 days. He is aware of the arbitrary nature of the effort to establish a moment in time which an already harmful regime becomes prolonged and therefore unacceptably painful. He concludes that 15 days is the limit between “solitary confinement” and “prolonged solitary confinement” because at that point, according to the literature surveyed, some of the harmful psychological effects of isolation can become irreversible.”

With respect to the allegation that Mr. Nguyen Van Hai has previously been held in incommunicado detention for several months, we would like to of your Excellency’s Government to paragraph 8b of Human Rights Council Resolution 16/23, which reminds States that “Prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.”

In this context, we would also like to draw your Excellency’s Government’s attention to paragraph 7b of Human Rights Council Resolution 16/23, which urges States “(t)o take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note, in this respect, of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updated set of principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture.”

With regard to the alleged frequent denial of family visits, we would like to draw the attention of your Excellency's Government to Principle 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly on 9 December 1988 which states that, "A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world [...]". We would also like to draw your Excellency's Government's attention to rule 37 of the Standard Minimum Rules for the Treatment of Prisoners adopted on 30 August 1955 by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, which provides that "Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits."

With regard to the right to the highest attainable standard of health, we would like to recall that this right is reflected, *inter alia*, in article 12 of the International Covenant on Economic, Social and Cultural Rights (acceded by Viet Nam on 24 September 1982), which provides for the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. This includes an obligation on the part of all State parties to ensure that health facilities, goods and services are accessible to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination.

We also wish to refer your Excellency's Government to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, which provides that States are under the obligation to respect the right to health by, *inter alia*, refraining from interfering directly or indirectly with the enjoyment of the right to health, from denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum seekers and illegal migrants, to preventative, curative and palliative health services, and from enforcing discriminatory practices as a State policy (para.34).

With respect to the allegations that Mr. Nguyen Van Hai and Mr. Mr. Cu Huy Ha Vu have no access to appropriate medical care we would also like to draw the attention of your Excellency's Government to the Standard Minimum Rules for the Treatment of Prisoners. Rule 22(2) provides that, "(s)ick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers. Furthermore, Rule 25(1) provides that, "(t)he medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed" (approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977). Furthermore, we would also like to refer to the Basic Principles for the Treatment of

Prisoners, adopted and proclaimed by General Assembly resolution 45/111, according to which “Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation” (Principle 9).

We would also like to appeal to your Excellency’s Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR, which provides that “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

In this connection, we would like to refer your Excellency's Government to the fundamental principles set forth in 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, and in particular articles 1 and 2 which state that “everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency’s Government the following provisions of the Declaration:

- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters; and

- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in

violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We would further like to refer your Excellency's Government to article 14(1) of the ICCPR, which states: "All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

In addition, the right to have access to a lawyer is set forth in the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, in particular in principle 1, which states: "All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings"; and principle 8, which states: "All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality. Such consultations may be within sight, but not within the hearing, of law enforcement officials."

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Mr. Nguyen Van Hai, Mr. Cu Huy Ha Vu and Mr. Nguyen Xuan Nghia in compliance with the above international instruments.

Moreover, it is our responsibility under the mandate provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the summary of the cases accurate?
2. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to these cases. If no inquiries have taken place, or if they have been inconclusive, please explain why. In particular, please respond to the allegation that Mr. Nguyen Van Hai was subjected to torture, ill-treatment and hard labour while in detention and that he lost his hand in unknown circumstances. If this is accurate, please provide information on the circumstances surrounding the loss of his hand.
3. Please provide the full details of any prosecutions which have been undertaken? Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

4. Please provide information on how article 88 of the Penal Code, which broadly and vaguely prohibits “disseminating information against the State of the Socialist Republic of Viet Nam”, is compatible with article 19 of the ICCPR and with other relevant provisions included in international treaties. In particular, please provide information on how this article is compatible with the principle that:

- a. laws restricting the right to freedom of expression must be “accessible, unambiguous, drawn narrowly and with precision so as to enable individuals to foresee whether a particular action is unlawful”; and
- b. any sanctions must be proportionate and the least intrusive means to attain a legitimate aim.

5. Please provide information concerning the reasons and legal grounds for the placement of Mr. Nguyen Van Hai in solitary confinement. Please inform whether disciplinary measures can be appealed and whether Mr. Nguyen Van Hai or his legal representative was allowed to do so.

6. Please provide information on the implementation of the recommendations of the Working Group on Arbitrary Detention contained in its Opinion No. 1/2009 (Viet Nam) concerning Mr. Nguyen Van Hai, and Mr. Nguyen Xuan Nghia, and Opinion No. 24/2011 (Viet Nam) concerning the detention of Mr. Cu Huy Ha Vu;

7. Please provide information on steps taken by your Excellency’s Government to ensure Mr. Nguyen Van Hai, Mr. Cu Huy Ha Vu, and Mr. Nguyen Xuan Nghia’s enjoyment of the right to the highest attainable standard of health, including access to appropriate medical care.

8. Please provide detailed information on the legal proceedings and decisions against Mr. Nguyen Van Hai, Mr. Cu Huy Ha Vu, and Mr. Nguyen Xuan Nghia and explain how these complied with international standards on fair trial and due process guarantees. Please also explain why Mr. Nguyen Van Hai and Mr. Cu Huy Ha Vu’s lawyers have difficulties in having access to their clients.

We undertake to ensure that your Excellency’s Government’s response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Nguyen Van Hai, Mr. Cu Huy Ha Vu, and Mr. Nguyen Xuan Nghia are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We

also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression

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

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

Gabriela Knaul
Special Rapporteur on the independence of judges and lawyers

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment