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**Поощрение и защита всех прав человека,
гражданских, политических, экономических,
социальных и культурных прав,
включая право на развитие**

Доклад Специального докладчика по вопросу о праве на питание Оливье де Шуттера

Добавление

Миссия в Китай*

Резюме

В настоящем докладе излагаются выводы и рекомендации Специального докладчика по вопросу о праве на питание по итогам его поездки в Китай с 15 по 23 декабря 2010 года.

В докладе Специальный докладчик рассматривает достигнутые успехи, уделяя при этом особое внимание сохраняющимся вызовам, затрагивающим право человека на достаточное питание. В разделе II (об обеспеченности продовольствием) дано описание прогресса в деле достижения самообеспеченности основными продуктами питания и сохраняющихся проблем устойчивости сельскохозяйственного производства. В разделе III (о доступе к достаточному питанию) рассказывается о том, что, несмотря на значительное продвижение вперед в сокращении бедности и уменьшении продовольственной небезопасности, многие малообеспеченные семьи в сельских районах и городах все еще продолжают сталкиваться с отсутствием продовольственной безопасности, равно как и об усилиях по решению этой проблемы, в том числе посредством постепенного создания системы социальной защиты, охватывающей всех городских и сельских жителей, и мер по защите трудящихся-мигрантов. В разделе IV (об адекватности продовольственного снабжения) говорится о том, что Китай значительно сократил масштабы недоедания и теперь сталкивается с новыми

* Резюме настоящего доклада распространяется на всех официальных языках. Сам доклад, содержащийся в приложении к резюме, распространяется только на том языке, на котором он был представлен, и на китайском языке.

вызовами, связанными с изменением рациона питания (так называемый "переход питания") и безопасностью пищевых продуктов. В разделе V (об устойчивости) рассматриваются проблемы, связанные с растущей деградацией земель, загрязнением пахотных земель и изменением климата. В разделе VI (об обеспечении гарантий владения жильем и доступа к земле) обсуждаются вопросы, связанные с обеспечением гарантий владения жильем в сельской местности, где земля является источником средств существования населения, а также конкретные угрозы, с которыми сталкиваются животноводы-кочевники и сельские жители, затронутые политикой переселения. Специальный докладчик завершает доклад рекомендациями, адресованными правительству.

Annex

Report of the Special Rapporteur on the right to food on his mission to China (15–23 December 2010)

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I. Introduction

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

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

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

II. Food availability

4. China has made remarkable progress in raising its levels of agricultural production. Domestic food availability has increased from 1,500 calories per capita per day at the start of the 1960s to 3,000 calories per capita per day in 2000.¹ With a population of 1.3 billion and a surface of arable land of 121.7 million hectares, China has 21 per cent of the world's population, 8.5 per cent of the world's total arable land and 6.5 per cent of the world's water reserves. Yet, thanks to the impressive progress of agricultural production, it has moved since 2005 from being a beneficiary of food aid to being a food aid donor. While annual demographic growth was only 1.07 per cent, agricultural gross domestic product (GDP) grew by 4.6 per cent and farmers' incomes by 7 per cent on an annual average during the period 1978–2008. Following a series of bumper harvests in recent years (530.8 million tons of grain were produced in 2009—an increase of approximately 13.1 per cent compared to 2004 totals—and 546 million tons in 2010), China has achieved a grain self-sufficiency rate of at least 95 per cent, and its grain reserves are estimated to be more than the double the 17 per cent safety level recommended by the Food and Agriculture Organization of the United Nations.

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

5. This success is a testimony to the potential of small-scale farming, which can be very productive if it is effectively supported, and if farmers are encouraged to organize in order to achieve certain economies of scale in the acquisition of small machinery and in the processing, transport and marketing of their produce. Indeed, the increases in agricultural production in China are primarily attributable to some 200 million small-scale farmers with an average holding of 0.65 hectares. A guaranteed minimum procurement price system for the main grain sorts and agricultural input subsidies, facilitating the flow of resources from industry to agriculture, have been the most important factors in this success. Public funding for agriculture is required by law to exceed the expansion of overall public expenditures: in 2008, \$51.8 billion (at 2005 constant prices) went to agriculture, forestry and water conservancy, representing 7.3 per cent of the total public budget.²

6. Because the amount of land attributed to each household is very small, contract farming may also play a role, and it is rapidly expanding in certain provinces in rural China. Contract farming can help raise small-farm income, and it may be particularly well suited to the characteristics of the Chinese organization of small-scale farmers into collectives, since this communal mode of organization may strengthen their bargaining position vis-à-vis the buyer. During his mission, the Special Rapporteur witnessed first-hand the advantages of contract farming for farming families in the province of Shandong. At the same time, the lessons from this province are not necessarily transposable to other provinces with a less well-developed agricultural sector, and such a system certainly should not be seen as a substitute for policies that support the production of food crops to meet local consumption needs. However, where contract farming is an attractive option, the Government could support it, for instance by mediating conflicts between buyers and farmers, by providing extension services in coordination with the technical support provided by buyers, and by ensuring that the legal framework protects farmers from any abuse by the buyer. It could also encourage the reservation of a certain percentage of the total cultivated area of each collective for the production of food crops, in order to ensure that the population will not be excessively dependent on the evolution of the prices paid for the crops they cultivate for the buyer, and to limit the risks from occasional bad harvests. Finally, the Government could encourage farming families joining contract farming schemes to form cooperatives in order to move up in the value chain.³

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

8. Industrialization and urbanization increase pressure on farmland. Since 1997, China has lost 8.2 million hectares of arable land due to urbanization, forest and grassland replanting programmes, and to damage caused by natural disasters; the country's per capita available land is now at 0.092 hectares – 40 per cent of the world average. This shrinking of arable land represents a major threat to the ability of China to maintain its current self-sufficiency in grain, which would require a grain output of 545 million tonnes by 2020,⁴ corresponding to at least the current levels of

² National Bureau of Statistics of China, *China Energy Statistical Yearbook 2009* (Beijing, China Statistics Press, 2009).

³ For more details about the contribution of contract farming to the right to food and potential risks, see A/66/262.

⁴ China, Ministry of Foreign Affairs and the United Nations system in China, *China's Progress Towards the Millennium Development Goals, 2010 Report* (Beijing, 2010), p. 17.

production. China has adopted the principle according to which any cultivated land lost for other purposes should be reclaimed elsewhere, and it has set a "red line" at 1.8 billion mu (120 million hectares) beyond which arable land will not be allowed to shrink further. But China is already dangerously close to this limit. It had 121.7 million hectares of farmland available at the end of 2009, according to the Ministry of Land and Resources, and the enforcement of the rules on land planning remains highly uneven. Moreover, persistent high rates of rural-to-urban migration,⁵ despite the attempt to improve rural areas under the "new socialist countryside" concept, may run counter to the objective of maintaining current levels of agricultural production. The objectives set in the Long-term Plan Outline for National Food Security (2008-2020),⁶ including to stabilize the acreage of cultivated land, to maintain the food self-sufficiency rate at 95 per cent, and to maintain a reasonable level of food reserves, will represent a serious challenge.

III. Access to adequate food

9. In order to guarantee accessibility of food, special attention must be given to those in society whose ability to either produce or purchase food for an adequate diet may be impeded by a lack of resources, such as access to land and an adequate income. Food insecurity may stem from a deprivation of resources – for example resulting from the loss of land or of employment – or from a sudden increase in the price of food, in the absence of measures that protect those whose purchasing power may be insufficient. Indeed, the mission took place at a time when China was facing a sharp rise in the prices of food. The annual inflation of food prices was estimated to be 11.7 per cent in 2010,⁷ primarily as the result of higher prices for meat, fruits and vegetables; the rise in the prices of basic cereals, including rice, remained limited. The impacts of these price increases on families can be measured by considering that food represents a large proportion of a typical household budget in China: rural families devote about 41 per cent of their earnings to food, while urban households spend around 36 per cent. The rising prices for food have become a major problem for rural and urban poor households; such increases topped the list of social problems about which urban citizens are concerned, according to a recent survey in seven mainland cities.⁸ This is worrying, since the 2010 surge in prices is due in part to structural factors, including the loss of farmland and human resources to industrial development, water pollution and soil erosion, and increasing costs of fertilizers and agricultural input.⁹

In 2020, the total grain consumption in China will reach 572.5 million tonnes, according to current estimates.

⁵ It is estimated that by 2030, 400 million more rural residents will have migrated to the cities.

⁶ 国家粮食安全中长期规划纲要 (2008-2020).

⁷ Xinhua, "China's Nov CPI up 5.1%, a 28-month high", *China Daily*, 11 December 2010.

⁸ Chen Jia, "Inflation, prices top list of public concerns", *China Daily*, 16 December 2010.

⁹ Wing Lam, "Assistance doing more harm than good? The case of food security in PRC" (2008), NGO Forum on ADB, available from www.forum-adb.org/inner.php?sec=13&ref=extras&id=174. Speculation in farm products and food supplies, however, may also have played a role, worsening the impacts of price volatility.

10. This recent setback should not lead to underestimations of the considerable progress that has been made over the past three decades, lifting several hundred millions out of poverty. This was made possible through a series of economic reforms that led China to achieve impressive levels of economic growth: between 1979 and 2007, the absolute GDP in China increased on average 9.8 per cent and the per capita GDP 8.6 per cent each year. Among the most important economic reforms are the introduction of the Household Responsibility System in agriculture after 1978, the development of Township and Village Enterprises in rural areas and, especially after 1987, an export-led type of growth stimulated by the opening up of the economy to global trade and investment. The impacts on poverty alleviation were real and measurable. Assessed in terms of the World Bank poverty standard (of 888 yuan per person per year at 2003 rural prices), the absolute number of poor fell from 652 million to 135 million between 1981 and 2004. Using the current international measure of poverty of \$1.25 per day in 2005 purchasing power parity dollars, the number of poor was 254 million in 2005, the latest year for which direct survey-based estimates are available.¹⁰ This overall progress in reducing poverty led to significant improvements in food security. The number of undernourished people went down from 1 in 3 30 years ago to 1 in 10, and the prevalence of underweight among children under 5 years old decreased from 19.1 per cent in 1990 to 6.9 per cent in 2005 (stunting rates went from 33.4 per cent to 10.5 per cent in the same period).

11. However, in parallel with the overall economic and social progress, disparities in living standards between regions and between rural and urban areas have become more marked. The Gini measure of inequality increased from 0.329 in 1990 to 0.443 in 2005, even adjusting for rural-urban cost of living differentials, and could be over 0.5 today, according to a 2010 study on unreported incomes by the economist Wang Xiaolu at the China Reform Foundation.¹¹ The urban-rural income gap widened, up from 2.79 to 1 in 2000 to 3.33 to 1 in 2007, and if the distribution of spending on public services is taken into account, the urban-rural ratio reaches 5-6 to 1.¹² Overall progress in food availability coexists with the persistence of food insecurity in certain areas for some groups. Thus, according to a recent report on food security in China, situations of food insecurity are still common in some of the poor rural counties, particularly in the 592 nationally identified poor counties concentrated in the western mountainous areas.¹³ It is also estimated that 270 million people are without access to an adequate supply of safe drinking water.¹⁴

¹⁰ World Bank, "From poor areas to poor people: China's evolving poverty reduction agenda. An assessment of poverty and inequality in China", March 2009, pp. iii and v.

¹¹ Xiaolu Wang and Wing Thye Woo, "The size and distribution of hidden household income in China", Research project of the Chinese Research Society for Economic System Reform (2010), p. 19.

¹² Human Development Report China 2007/08: Access for All - Basic Public Services for 1.3 Billion People, commissioned by the United Nations Development Programme (UNDP), China, and coordinated by the China Institute for Reform and Development (Beijing, China Translation and Publishing Corporation, 2008), p. 33.

¹³ Xiao Yunlai and Nie Fengying, A Report on the Status of China's Food Security, commissioned by the Food and Agriculture Organization of the United Nations, the International Fund for Agriculture Development and the World Food Programme (Beijing, China Agricultural Science and Technology Press, 2009), pp. 62 and 63. The key poverty counties were initially identified in 1994 by the Government of China as counties whose annual per capita net income in 1992 was below RMB 400. The 592 which were identified then were located in 27 provinces, autonomous regions and municipalities, and concentrated mostly in 18 provinces, autonomous regions and municipalities. In 2006, the list of poor counties was adapted: while counties located in the coastal provinces were removed

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

13. The Special Rapporteur commends the Government of China for its efforts and stated policy objective to establish a social protection system covering all urban and rural residents, including basic old-age pension, basic medical care and the minimum living standard guarantee (*di bao*) scheme. Progress has been faster, however, for the urban residents, and important gaps exist between them and the rural populations. Important reforms are being made, such as the new rural social pension insurance policy launched as a pilot project in December 2009. By 2011, the project had been extended to 838 counties, covering 27 provinces/autonomous regions/cities, and 135 million people have now joined. But still more will need to be done to close the gap. For instance, with regard to the *di bao*, rural residents receive on average only a fraction of what goes to urban residents.¹⁵ While this is explained in part by the fact that rural residents have access to land under the household responsibility system, differences also exist in access to basic health care and to old-age pension.

14. One major reason for the widening of the rural-urban gap resides in the fact that local governments have insufficient revenues to fulfil all the tasks assigned to them. A large number of essential services, including education, health care and old-age pensions, are provided at the local level,¹⁶ and it is estimated that local governments finance 80 per cent or more of basic health and education expenditures.¹⁷ While levels of subsidies from the central Government are significant—fiscal transfers (excluding tax rebates) from the centre to local governments increased from 435 billion yuan in 2002 to 2.4 trillion yuan in 2009¹⁸—there remains a high inequality in the distribution of medical and health resources. It is estimated that in 2005, only

(including Guangdong, Shandong, Zhejiang, Liaoning and Fujian, as well as Tibet), other counties were added, keeping the total number of poor counties at 592 (approximately one fifth of the total number of counties), now in 21 provinces, autonomous regions and municipalities. Two thirds of the poor counties are in the Western region. Together, they included a population of 232.9 million in 2006 (17.7 per cent of the total population).

¹⁴ *Human Development Report China 2009/10: Towards a Low Carbon Economy and Sustainable Society. Key findings* (December 2009), analysis by Renmin University, based on the report commissioned by UNDP and coordinated by Renmin University and UNDP China (China Publishing Group Corporation, 2010), p. 2. A recent Organization for Economic Cooperation and Development (OECD) report states that 312 million rural people do not have access to safe drinking water. See OECD, *OECD Rural Policy Reviews: China* (March 2009), p. 2.

¹⁵ World Bank, "From poor areas" (footnote 10 above), p. 124.

¹⁶ Ye Xingqing, "China's urban-rural integration policies", *Journal of Current Chinese Affairs*, vol. 38, No. 4 (2009).

¹⁷ Christine Wong, "Paying for the harmonious society", *China Economic Quarterly*, vol. 14, No. 2 (June 2010), p. 21. Other research has shown that in 2008, the expenditures of the central and local governments accounted for 4.09 per cent and 95.91 per cent, respectively, of the spending on social protection and public health, while for the same year, the ratio of the fiscal spending to the revenue at the provincial level reached 130 per cent, 232 per cent and 276 per cent in the eastern, central and western regions, respectively. This illustrates that allocating responsibility for the provision of these social goods to the local level is not sustainable.

¹⁸ *Ibid.*, p. 20.

25 per cent of public health resources were devoted to rural residents, although they make up close to 60 per cent of the total population.¹⁹

15. The introduction at the local level of user fees—in effect the marketization of basic services delivery—has introduced more insecurity, precisely at a time of deep social transformation when security in most highly valued. And for the poorest citizens, it has meant less real disposable income. For instance, poor farmers in rural areas in China may need to use their produce to raise cash to pay for medical bills, making illness the leading cause of rural poverty in China. According to a 2003 Chinese National Health Survey, 62 per cent of ill people in rural areas of China's western regions needed treatment but could not afford it due to economic difficulties, triggering a vicious circle of illness leading to poverty, and the proportion of the poor population who fell into poverty due to illness or fell back into poverty due to illness rose from 22 per cent to 33 per cent between 1998 to 2003.²⁰ A recent World Bank report further found that, apart from access to health care, education was of critical importance in determining better welfare outcomes for the population of China.²¹ Indeed, according to the *China Human Development Report 2007-2008*, in some areas, education expenses had become one of the most important causes of poverty.²² Thus, despite considerable progress in overall economic growth and reduction of income poverty, vulnerability to poverty remains widespread: almost a third of China's rural population was consumption poor in at least one year between 2001 and 2004.²³

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

17. Rural migrant workers are also affected by the gap between the rural and the urban levels of public services. Over the past decades, some 153 million people have migrated from rural areas all over China to work in urban areas, particularly in the eastern provinces. An estimated 20 per cent of all rural migrant workers move with their family;²⁴ given that this proportion currently represents about 30 million such workers, the total number of rural-urban migrants can be estimated at around 200 million. Despite efforts to gradually align the situation of migrant workers with that of urban residents, these migrants still are often excluded from social services and social security benefits, including the *di bao* guaranteed to urban residents. In part, this stems from the fact that the vast majority of rural migrants (likely about 85 per cent) work in the informal sector, which increases their vulnerability to abusive la-

¹⁹ Human Development Report China 2007/08 (footnote 12 above), pp. 52-53.

²⁰ Ye Xingqing, "China's urban-rural integration policies", *Journal of Current Chinese Affairs*, vol. 38, No. 4 (2009), p. 136.

²¹ World Bank, "From poor areas" (footnote 10 above), p. xxiv.

²² *Human Development Report China 2007/08* (footnote 12 above), p. 33.

²³ World Bank, "From poor areas" (footnote 10 above), p. vi.

²⁴ Shi Li, "Rural migrant workers in China: scenario, challenges and public policy", International Labour Office, Policy Integration and Statistics Department, working paper No. 89 (Geneva, ILO, 2008), p. 5.

bour conditions, including non-payment of wages.²⁵ Another source of exclusion is the household registration system (*hukou*), the result of which is that, depending on their place of registration, individuals have different entitlements to basic services in the areas of health, education and basic income guarantees. The *hukou* system also leads to restrictions to the right to respect for family life, as the parent (or parents) migrating to the city often are obliged to leave the children behind in the rural areas, as they fear that these would not have access to education.²⁶

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

19. As the right to social security gets strengthened by the further extension of the *di bao* and a gradual phasing out of the *hukou* system, it should also be affirmed as a human right. In particular, the clear definition of beneficiaries in legislation and improved information for the beneficiaries about their rights may limit the risk of resources being diverted as a result of corruption or clientelism, and can improve the accountability of the administration responsible for implementation, particularly if courts are empowered to monitor implementation. The definition of the programme benefit as deriving from a right held by all citizens (even where the programme is needs-based or benefits only people meeting certain conditions) can reduce the element of stigma attached to participating in the programme, which could otherwise reduce significantly the participation of eligible persons. The participation of beneficiaries in the design and implementation of programmes can improve their effectiveness. Consideration could also be given to making women the direct beneficiaries of the cash transfer system, rather than the men as heads of households, as is done successfully in some other countries. This would help ensure that the resources will be used in the best interest of the children and of the household as a whole, and it would contribute to rebalancing power relationships within the family.

²⁵ Ibid., p. 14, referring to a survey conducted in 40 cities by the Ministry of Labour and Social Security in 2004 which found that only 12.5 per cent of migrant workers had written job contracts.

²⁶ According to information received from the Government, 80 per cent of the children migrating with one parent to the cities have received free compulsory education at primary and secondary level. However the calculation is made, it remains true that many children are left behind; sometimes both parents have left, and the children are taken care of by the extended family. Projects such as the "Share the Blue Sky" initiative aim to support those children. Such a separation is a very high price to pay for families in search of better employment opportunities.

IV. Adequacy of available food

20. As noted above, the achievements of China in combating malnutrition are remarkable. However, important challenges remain concerning nutrition and the adequacy of diets of both the rural and urban population. In 2009, the prevalence of anaemia among children under 5 years old was 28.6 per cent in general rural areas and 41.2 per cent in poorer rural areas, while 22.7 per cent of children aged 12 months in the poorer rural areas were stunted.²⁷ According to official data provided by the Government, the low-weight rate among children under 5 years in rural areas was 4.6 per cent in 2009, while the rate of moderate-to-severe anaemia among children under 5 years in rural areas was 21.9 per cent in 2005, about twice that among urban children. Despite great increases in fruit and vegetables consumption for most households, a significant proportion of households in poor counties eat vegetables only one or two days per week. At the same time, obesity is appearing: in 2002, 9.2 per cent of Chinese children were overweight for their age, a figure only slightly under the percentage of Chinese underweight (11 per cent).²⁸ Surveys by the World Health Organization also found overconsumption of salt, leading to hypertension and related diseases, a threat for an ageing population. China thus is meeting the same challenges as other countries undergoing nutrition transition.

21. A comprehensive approach to address these problems could be based upon four complementary strategies. First, the promotion of diverse and balanced diets, including through agricultural policies or other adequate schemes aiming at cheaper vegetable prices for poor urban and rural consumers, could both decrease malnutrition and prevent a further aggravation of obesity levels. Second, the promotion of exclusive breastfeeding during the first six months after birth and complementary feeding after six months are the most effective strategies to avoid malnutrition during the first 22 months and to strengthen the immune system of children. According to some national-level data received by the Special Rapporteur, the opportunity for improvements in this area is relatively large: only 27 per cent of Chinese children under 6 months are currently exclusively breastfed, and the World Health Organization estimates that the percentage is even lower (at 10 per cent) in rural areas. However, according to data provided by the Government, 92.24 per cent of children under 6 months of age were breastfed (an increase of 22 per cent compared to the 71.6 per cent of the 2002 National Nutrition and Health Survey, according to the same Government source). However, the Special Rapporteur understands this to refer to children who are breastfed, but not exclusively breastfed. Third, the promotion of mandatory biofortification of staple foods, including wheat flour—as done today in 56 countries across the world—could complement the first two preventive strategies. Finally, a stronger regulation of the marketing efforts of the food industry to sell unbalanced processed products and ready-to-serve meals too rich in fat and sugars is certainly needed to curb obesity levels.

22. Food safety represents another important challenge. Following the 2008 incident of melamine-contaminated infant milk powder, a series of important measures to strengthen food safety supervision has been taken and a Food Safety Law was adopted in March 2009. The authorities should be commended for their efforts in this

²⁷ Chen ChunMing, and others, Chinese Centre for Disease Control and Prevention, "Nutritional status of children during and post-global economic crisis in China", *Biomedical and Environmental Sciences*, vol. 24, No. 4 (2011), p. 325.

²⁸ Jikun Huang and Scott Rozelle, "Agricultural development and nutrition: the policies behind China's success", *World Food Programme Occasional Paper No. 19*, 2009, p. 3.

domain, despite the difficulties they face in a fast-developing agrifood processing and retailing industry. Against this background, the Special Rapporteur is, however, concerned that, according to information received, individuals organizing those affected by food safety risks may face legal sanctions, as illustrated by the case of Zhao Lianhai who was reportedly convicted for causing a public disturbance for seeking to organize parents whose children, like his own, had been affected by the melamine-contaminated infant milk powder. This creates a chilling effect on all those who would like to rely on article 10 of the Food Safety Law in order to report violations of the requirements set by this legislation. It also seems to underestimate the contribution that the exercise of freedoms of expression and association can make to the right to adequate food.

23. The Special Rapporteur is convinced that transparency and access to information are essential to the effective realization of the right to food. It is through the exercise of basic freedoms that authorities can be held accountable and policies improved in the light of their impacts; that corruption and misuse of power by public officials, particularly at the local level, can be combated; and that the laws that are adopted in order to protect various aspects of the right to food are complied with.

V. Sustainability

24. A 2008 Chinese Academy of Sciences report calculated that the cost of the exploitation of natural resources, ecological degradation and environmental pollution in 2005 was 13.9 per cent of GDP, while growth in that year was 11.3 per cent. This illustrates the considerable ecological threats and challenges that China faces, with deep potential consequences for both food security at the national level and the realization of the right to food by vulnerable groups. An estimated 37 per cent of the total territory of China suffers from land degradation.²⁹ According to the Ministry of Land and Resources, about 12.3 million hectares—more than 10 per cent of the arable land in China—are contaminated by pollution.³⁰ Soil erosion has become a large problem in northwest China, raising concerns about the country's future grain security. Water scarcity is a huge problem: per capita water availability is less than one third the world average. According to one estimate, climate change may cause agricultural productivity to drop by 5 to 10 per cent by 2030 in the absence of mitigation actions, affecting principally wheat, rice and maize.³¹ Already today, droughts affect between 200 million and 600 million mu of farmland in China every year. Indeed, while the Special Rapporteur was on mission in China, an unprecedented drought developed, affecting 35.1 per cent of wheat crops (to be harvested in June 2011) on a surface of 96.11 million mu (6.4 million hectares). This represents 21.7 per cent of total farmland in the eight provinces concerned, including Shandong, Jiangsu, Henan, Hebei and Shanxi, which together account for more than 80 per cent of the wheat production of China. Lastly, the modernization of agriculture has also relied on an important use of inputs dependent on fossil fuels such as oil and natural gas, which China imports in volumes that increase each year. The message is clear: while the agricultural system has achieved impressive results over the past 30 years, it must now focus on becoming more resilient to climate-related shocks, and on making a more efficient use of scarce resources.

²⁹ McBeath and McBeath, *Environmental Change* (footnote 1 above), pp. 53-54, citing estimates made by the Ministry of Water Resources.

³⁰ *Ibid.*, p. 58.

³¹ *Human Development Report China 2009/10* (footnote 14 above), p. 19.

25. The Chinese authorities are keeping this issue under close scrutiny, and they should be commended for a number of initiatives that they have taken to mitigate and adapt to ecological damage, including climate change. But more could be done. The social impacts of certain policies, such as *tuigeng huanlin* ("returning farmland to forest"), which covers more than 32 million farmers' households in 25 provinces, may have been underestimated. The scale of the programmes is considerable: 3.64 million mu of farmland have been afforested between 1999 and 2006. The impacts have been felt by an important number of farmers, who must find new ways to make a living and realize their right to food. In addition, the authorities could further explore the potential of sustainable modes of agricultural production based on the principles of agroecology, in order to increase agricultural productivity in a sustainable manner. Encouraging smallholders to use less inputs, particularly synthetic fertilizers, would reduce their costs of production and improve overall profitability, while preventing further increases in food prices and reducing the country's import bills and CO₂ emissions at the same time. The experience of China with agroecology has proven that this approach is viable and leads to very significant successes. In Yunnan Province for instance, after disease-susceptible rice varieties were planted in mixtures with varieties resistant to rice blast disease on 3,000 hectares of rice fields, yields improved by 89 per cent and rice blast was 94 per cent less severe than when the varieties were grown in monoculture, leading farmers to abandon the use of fungicidal sprays.

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

VI. Ensuring security of tenure and access to land

A. Threats resulting from land takings

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

28. First, despite the almost complete prohibition of "readjustments" in the 2002 Rural Land Contracting Law (confirmed in the 2007 Property [Real Rights] Law), which allows readjustments only in exceptional cases and under strict procedural conditions, this option appears to be often abused in practice. For instance, it appears from a survey of 1,773 rural households in 1,657 villages of 17 agricultural provinces in China that one third of the villages have conducted readjustments after the

second round of contracting, although the pace has slowed since 2005.³² Second, land takings seem to be facilitated by the absence of a strict legal definition of the "public interest" that the authorities may invoke in order to justify such takings. The Rural Development Institute estimates that between 22.9 and 40 per cent of the takings served commercial purposes (the interests of private investors, rather than the public interest), based on the survey it conducted in 2008.³³ Third, in a number of regions, cultivated land has reportedly been ceded to developers, in violation of existing legal procedures. According to one report, the number of such illegal land takings has been declining (from 48.5 per cent of new developments in 2006 to 11.7 per cent of new developments in 2009).³⁴ Yet, it remains significant.

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

30. Ensuring the issuance of land certificates and improving the quality of the information available to land users about their rights, as well as their access to legal aid, would go a long way towards improving their protection against such practices. The rights of land users could also be strengthened through changes in the existing legal framework. For example, contracted land use rights could be automatically extended beyond the current 30-year term, unless no member of the household to whom the land has been contracted still lives on the land. The possibility for the collective to impose readjustments, and the possibility for the State to evict land users in the public interest, could be better circumscribed, in order to allow courts to apply a much stricter scrutiny on the authorities' reliance on these exceptions to the security of tenure of the land user.

31. The security of tenure of Chinese women relying on agriculture for their subsistence raises specific concerns. These women account for between 60 and 70 per cent of all farm labour. They contribute more to agricultural production than ever before, partly as a consequence of a higher rate of rural-urban migration among men. Yet, a significant proportion of women have lost their land shares since the 1990s through government redistribution, widowhood or other reasons. Furthermore, women's land rights were seldom reflected in the land certificates issued to households. According to one study, only 7 per cent of certificates were in the name of the woman, while 5 per cent of the certificates were issued to a man and a woman jointly; the remaining 86 per cent of land-use certificates were in the name of the husband, father or father-in-law.³⁵ This must be addressed. As additional land certificates are issued, the name of both the husband and the wife should be recorded sys-

³² Roy Prosterman et al., *Secure Land Rights as a Foundation for Broad-based Rural Development in China: Results and Recommendations from a Seventeen-Province Survey*, National Bureau of Asian Research Special Report No. 18 (Seattle, 2009), p. 33.

³³ *Ibid.*, p. 16.

³⁴ Qian Wang, "Officials feeling pressure over illegal land use", *China Daily*, 17 December 2010, p. 5.

³⁵ Zongmin Li and John Bruce, "Gender, landlessness and equity in rural China", in *Development Dilemmas: Land Reform and Institutional Change in China*, Peter Ho, ed. (London and New York, Routledge, 2005), pp. 271-272, 276.

tematically, and it should be understood that existing certificates written in the name of the husband only should be protecting the wife on an equal basis.³⁶

32. Improved security of tenure and the resulting development of a market for land rental rights should be seen not as ends in themselves, but as part of a broader programme of rural development. They should be combined with support for small-scale farming, in order to ensure that farmers do not cede their use rights over land in conditions that amount to distress sales. For the large number of small-scale farmers in the Chinese countryside, access to land still represents a basic social safety net. Secure access to land insures rural households in China only moderately against shocks, but it is considered to provide "almost complete insurance" against malnutrition.³⁷ Unless their levels of education improve and they are given real employment opportunities in the urban areas in decent conditions, an acceleration of land concentration through market mechanisms could result in more food insecurity, because of the increased poverty that would follow.

33. Small-scale farmers therefore need to be supported. The best insurance against being forced to exit agriculture is to become more productive. This is not only because the right to food, for small-scale farmers, means having guaranteed access to the means of producing food, both to feed themselves and as source of income to buy food. It is also because the small, family-owned plots are generally highly productive per hectare. While the further development of the market for land rental rights would accelerate exit from agriculture for small-scale farmers and the development of larger estates, this would only be justified if migration to the cities is of a "pull" type, rather than small farmers being "pushed" away from the countryside, and if the growth of larger productive units allows for the same levels of production, with a comparable degree of diversity, as those of the currently existing small farms. While extreme fragmentation may create problems of its own, these problems may in most cases be overcome by encouraging the establishment of farmers' cooperatives and by developing alternative off-farm employment in the rural areas.

B. Threats to resettled nomadic herders and other former rural residents

34. Since 1985, the Chinese authorities have implemented a range of policies in the western provinces and autonomous regions—Tibet Autonomous Region, Sichuan, Qinghai, Inner Mongolia and Xinjiang—ostensibly aiming at modernizing the animal husbandry industry towards commodification, while at the same time addressing the degradation of pasture lands and preventing natural disasters in the lowlands of China. In time, these policies have been expanded to include other objectives, such as providing more comfortable housing and better access to electricity, water, transportation, schooling and health care, as well as bringing ethnic minorities considered economically "backward" into the modernization and economic development experienced by other regions.³⁸ In fact, these policies result in the settlement of herdsmen and their abandonment of nomadic life. The Grassland Law adopted in

³⁶ See the report of the Special Rapporteur on the right to food (A/65/281), paras. 31-32.

³⁷ Klaus Deininger and Hans Binswanger, "The evolution of the World Bank's land policy: principles, experiences and future challenges", *The World Bank Research Observer*, vol. 14, No. 2 (1999), pp. 247-276, at p. 256.

³⁸ As early as 1998, the vice-minister of agriculture, Qi Jingfa, was reported as saying that all herdsmen were expected to end the nomadic life by the end of the century. "Herdsmen in China to end nomadic life", Xinhua News Agency, 18 March 1998. Available from www.highbeam.com/doc/1P2-18157255.html

1985 has been complemented by a range of policies and programmes, including *tuimu huancao* ("removing animals to grow grass") and *tuigeng huanlin* ("returning farmland to forest"), which are part of the 1999 Western Development Strategy (*xibu da kaifa*). These programmes include measures such as grazing bans on severely degraded pastures and grazing moratoria on medium-degraded pastures, combined with reseeded for the upgrading of degraded pastures. While herders affected by pasture closures receive subsidies to buy grain feed (the amount of which was increased most recently in August 2011), the programmes in fact led to the slaughter or sale of animal livestock and the abandonment of seasonal migrations. The resettlement policy conducted in the Tibet Autonomous Region has expanded to non-herders, and is aimed at resettling, relocating or rehousing a majority of the Tibetan rural population into newly built concentrated settlements, under a "Comfortable Housing" policy that calls for the destruction and reconstruction of "unsuitable" dwellings.

35. Sometimes portrayed as "environmental migrations", these programmes are advancing at a rapid pace. Assessing the precise number of resettled herders and rural residents is difficult, both because local authorities are encouraged to overestimate their achievements compared to official targets, and because a number of resettled herders move back to their pastures after recognizing the impossibility of sustaining a decent livelihood in resettlement camps, while others migrate to cities in the hope of finding better livelihood opportunities. However, it was reported in 2010 that between 50 and 80 per cent of the 2.25 million nomads on the Tibetan plateau were being progressively relocated. In Sichuan, the provincial government notes that about 80 per cent of the objective of its October 2008 "Plan for the settlement of herders" (Document No. 42) has been met; it was aimed at resettling all nomads in the province—about 470,000 people—by the end of 2012. In the Tibet Autonomous Region, the government reports that it has provided "comfortable housing" for 1.43 million people (300,000 families), as targeted in its 2006-2010 Five-Year Plan, and announced that another 185,500 families (about 880,000 people) are expected to move into new homes by 2013 as part of the continuation of its sedentarization and rehousing of the Tibetan rural population.³⁹ The authorities in Qinghai province reported in March 2011 that they had built 46,000 settlements between 2009 and 2010, and planned to build 25,000 more for 134,000 families.⁴⁰

36. While the situation is far from being uniform across regions, the Special Rapporteur is concerned that resettlement in the "new socialist" villages means giving up herding and farming revenues, and consequently losing economic independence. Food security issues for relocated or rehoused rural residents include loss of land, limited ability to keep livestock, relocation in areas unsuitable to agriculture, and generally a disruption of traditional patterns of livelihood. In some peri-urban areas, farmers were pressured to replace grain crops by vegetables, which could generate cash but were difficult to sell on local markets due to competition from better-organized actors. In the resettlement villages, job opportunities have not materialized on the necessary scale, or have been filled by new migrant labourers moving in, while social assistance allowances are insufficient to make up for the increase in the cost of living that followed resettlement near urban centres. It appears that herders may sometimes be put in a situation where they have no other option than to accept the standing offer from the State to buy out their remaining herd, after being affected

³⁹ "Figures tell Tibet's development in five years", Xinhuanet, 16 January 2011. Available from http://news.xinhuanet.com/english2010/china/2011-01/16/c_13693159.htm.

⁴⁰ "Qinghai to build more settlements for herding families in 2011", China Radio International, 27 March 2011. Available from <http://english.cri.cn/6909/2011/03/27/2021s628788.htm>.

by natural disasters or when debts accumulate. Moreover, the theoretical foundation of the programme *tuimu huancao*—the existence of a fundamental contradiction between grass and animals—puts much more emphasis on the role of overgrazing than do the internationally accepted standards in grasslands science. Indeed, the land degradation phenomenon on the Tibetan plateau most probably has several causes. For instance, while climate change is most probably the main driver of environmental changes on the Tibetan plateau, mining is another driver of land degradation in some areas.

37. The International Covenant on Economic, Social and Cultural Rights prohibits depriving any people from its means of subsistence, and the Convention on Biological Diversity (1992) acknowledges the importance of indigenous communities as guarantors and protectors of biodiversity (art. 8 (j)). China has ratified both of these instruments. The Special Rapporteur urges the Chinese authorities to take all appropriate measures to immediately halt non-voluntary resettlement of nomadic herders from their traditional lands and non-voluntary relocation or rehousing programmes of other rural residents. The local authorities should not be pressured to accelerate the implementation of resettlement policies.⁴¹ He calls on the Chinese authorities to engage in meaningful consultations with herding communities, including in order to assess the results of past and current policies on the realization of the right to food, and to examine all available options, including recent strategies of sustainable management of marginal pastures such as New Rangeland Management, in order to combine the knowledge of the nomadic herders of their territories with the information that can be drawn from modern science. The Special Rapporteur also encourages the Chinese authorities to invest in rehabilitating pasture, and to support the remaining nomads with rural extension. The potential of livestock insurance programmes should also be explored, as tested successfully in Mongolia. Such programmes, which pay nomads to restock and recover after a major disaster, encourage nomads to keep herds at a much smaller scale, in effect replacing the "insurance" against disaster traditionally provided by the sheer size of larger herds.

38. In its resolution 16/27, the Human Rights Council encourages States and donors, both public and private, to examine and consider ways to integrate into policies and programmes the recommendations contained in the 2010 report of the Special Rapporteur on the right to food (A/HRC/16/49). In that report, the Special Rapporteur highlighted the importance of the participation of producers' organizations in the policies that affect them, and the relevance of the co-construction, by the State and producers' organizations, of food security policies. The Chinese authorities have led successful agroecological projects in several provinces, some of which were discussed in the report. The authorities now have a unique opportunity to show that they can engage with nomadic herders in order to improve their security of land tenure and combat climate change through participatory agroecological methods. Nomadic herders should be encouraged to contribute to adaptation strategies, rather than having to pay the price of changes they are not responsible for.

39. Finally, the Special Rapporteur urges the Chinese authorities to improve employment opportunities, education and health services in the "new socialist" villages, in order to enable the realization of the right to adequate food for all resettled rural habitants.

⁴¹ In August 2011, the State Council urged local authorities to "basically complete the relocation and settlement of nomads by the end of 2015". See "Govt urges action on grasslands", *China Daily*, 13 August 2011. Available from http://usa.chinadaily.com.cn/china/2011-08/13/content_13107898.htm.

VII. Recommendations

40. The Special Rapporteur on the right to food is encouraged by the impressive progress made in China in the achievement of food security. However, serious challenges remain. These challenges include improving the situation of people living in rural areas and the situation of rural migrant workers, improving security of land tenure and access to land, making a transition towards more sustainable agriculture, and addressing the areas of nutrition and food safety. In response to these challenges, the Special Rapporteur makes the following recommendations.

In support of small agricultural producers

41. The Special Rapporteur recommends that the Government of China consider adopting the following measures to strengthen the security of tenure of rural households who depend on agriculture for their livelihood:

a) Ensure a greater security of land use rights, including by automatically extending such rights beyond the current 30-year term, unless no member of the household to whom the land has been contracted still lives on the land;

b) Improve transparency and limit the risks of corruption of local officials in land deals, thus ensuring effective compliance with the 2007 Property Law, for example by creating a system whereby the buyers authorized to develop land would pay the compensation due into a trust fund, which in turn would compensate the land-losing farmer, without the amount transiting through the local public officials;

c) Better circumscribe the possibility for the collective to impose readjustments, as well as the possibility for the State to evict land users in the public interest, including by allowing courts to apply much stricter scrutiny to the authorities' reliance on these exceptions to the security of tenure of the land user;

d) Ensure the issuance of land certificates, which should be written in the name of both husband and wife, rather than (as has often been the case in the past) in that of the husband only.

42. The Special Rapporteur also urges the Government to effectively support farmers' participation in contract farming, where contract farming is considered an attractive option that can work for the benefit of farmers, by ensuring that the scheme is sustainable and equitable, and that local food and nutrition security is enhanced as a result, in accordance with the recommendations set out in the 2011 report (A/66/262) submitted to the General Assembly by the Special Rapporteur on the right to food.

In support of the right of all to achieve an adequate standard of living

43. The Special Rapporteur recommends that the Government:

a) Increase the monthly minimum subsistence allowance (*di bao*) to take into account the increases in the cost of living, particularly that of basic food commodities;

b) Pursue efforts to close the gaps between the social protection benefiting rural residents and the social protection benefiting the urban population. Since the introduction of user fees at the local level puts poor rural households at risk, the central Government may have to play a greater role in order to ensure that rural residents are provided with basic services in the areas of education and health care, and in order to ensure that the level of old-age pensions for this group increases;

c) Improve the monitoring of the use of transfers to local governments, and facilitate learning across provinces through the exchange of experiences;

d) Define the right to social security as a human right, which beneficiaries may claim before courts or administrative tribunals, and inform beneficiaries about their rights, which is essential to ensuring respect for the right to social security and reducing the risks of corruption or favouritism at the local level;

e) Address the discrimination currently faced by rural-to-urban migrant workers in their enjoyment of an adequate standard of living, due both to the relegation of many to employment in the informal sector, as well as to the household registration system (*hukou*). More efforts should be put into registering workers to ensure that they are protected from abuse and unfair dismissal, and the *hukou* should be gradually phased out, bearing in mind the need for support by the central Government for those local municipalities for which such a phase-out would not be fiscally sustainable.

In support of a transition to sustainable agriculture

44. The Special Rapporteur recommends that the Government further explore the potential of agroecological approaches to the modernization of agriculture, with a view to expanding sustainable land management practices in dry lands or land that is threatened by desertification, as encouraged under the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, and to decrease reliance on inputs, such as synthetic fertilizer, that depend on and are affected by the increasingly volatile and high prices of gas and oil prices.

In support of a strategy to address nutrition transition

45. The Special Rapporteur urges the Government to design and implement a national strategy to address problems relating to rapidly shifting diets in China and the resulting spread of non-communicable diseases, following the recommendations of the Global Strategy on Diet, Physical Activity and Health endorsed by the World Health Assembly in 2004.

In support of nomadic herders and rural residents facing resettlement or relocation

46. The Special Rapporteur recommends that the Government:

a) Suspend the non-voluntary resettlement of nomadic herders from their traditional lands and the non-voluntary relocation or rehousing programmes of other rural residents, in order to allow for meaningful consultations to take place with the affected communities, permitting parties to examine all available options, including recent strategies of sustainable management of marginal pastures;

b) Improve employment opportunities, education and health services in "new socialist" villages, in order to enable the realization of the right to adequate food of all resettled rural habitants.
