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LOS DERECHOS ECONÓMICOS, SOCIALES Y CULTURALES

Efectos nocivos para el goce de los derechos humanos del traslado y vertimiento ilícitos de productos y desechos tóxicos y peligrosos

Informe de la Relatora Especial, Sra. Fatma-Zohra Ouhachi-Vesely

Adición

MISIÓN A LOS ESTADOS UNIDOS DE AMÉRICA (13 Y 14 DE DICIEMBRE DE 2001)*

* El resumen del presente informe se distribuye en todos los idiomas. El informe completo, que figura anexo al resumen, se distribuye solamente en el idioma en que fue presentado.

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RESUMEN

La Relatora Especial realizó en diciembre de 2001 una misión de dos semanas de duración a los Estados Unidos de América por invitación del Gobierno. La finalidad principal de la misión consistía en conocer mejor la legislación, la política y la práctica de los Estados Unidos en lo referente al tráfico ilícito de productos y desechos tóxicos y peligrosos y el goce de los derechos humanos. Durante la misión la Relatora Especial se reunió con un gran número de agentes interesados, inclusive organismos federales y estatales, representantes de la legislatura federal, organizaciones no gubernamentales e institutos de investigación científica.

Aun cuando expresó su satisfacción por el hecho de que la legislación federal y estatal sobre los productos y desechos tóxicos y peligrosos es muy avanzada (lo que pone de manifiesto la importancia que atribuye el Gobierno a las cuestiones objeto de su mandato), la Relatora Especial determinó y planteó al Gobierno seis motivos de preocupación, a saber: la ratificación de instrumentos internacionales relativos al mandato; la rotura de buques; la exportación de plaguicidas cuyo uso está prohibido en los Estados Unidos; las exportaciones de desechos tóxicos a maquiladoras; la exportación de acumuladores de plomo agotados; y los efectos de los esfuerzos regionales a favor de la liberalización del comercio. Durante la misión se señalaron a su atención otros tres asuntos, a saber: las cuestiones relacionadas con los trabajadores migrantes, las denuncias de racismo medioambiental y la vulnerabilidad particular de las poblaciones indígenas.

Como resultado de su misión, la Relatora Especial ha dirigido varias recomendaciones al Gobierno alentándole (aunque no en orden de prioridad) a que:

a) Ratifique el Convenio de Basilea y su enmienda sobre la prohibición, el Convenio de Estocolmo sobre los contaminantes orgánicos persistentes y el Convenio PIC;

b) Modifique su clasificación en categorías de los productos y desechos tóxicos y peligrosos a fin de armonizarla con el Convenio de Basilea;

c) Incremente los recursos facilitados al Organismo Federal de Protección del Medio Ambiente para que éste pueda cumplir mejor su mandato en esta esfera, permitiéndole en particular aplicar las recomendaciones formuladas en el presente informe;

d) Aborde las cuestiones de la impunidad recurriendo en mayor grado al procesamiento penal por contravención de la ley;

e) Facilite el procesamiento de las sociedades estadounidenses cuyas filiales en las maquiladoras mexicanas son responsables por no solucionar la cuestión de las importaciones de productos y desechos tóxicos y peligrosos, así como de los desechos generados en el procedimiento de acabado, de conformidad con la legislación estadounidense, mexicana o internacional;

f) Trate de introducir procedimientos innovadores para garantizar la repatriación de los productos y desechos tóxicos y peligrosos exportados, ya sea obligando al exportador

a repatriarlos o (cuando eso no sea posible) estableciendo un fondo público para sufragar los gastos de la repatriación;

g) Redoble sus esfuerzos y coordine su acción institucional para velar por que el material pertinente exportado de los Estados Unidos se envíe al destino designado para la finalidad designada;

h) Prohíba la exportación de plaguicidas no registrados para la venta o el uso dentro de los Estados Unidos;

i) Someta las exportaciones de acumuladores de plomo agotados que han de ser reciclados a los reglamentos de exportación;

j) Confiera carácter permanente a la moratoria respecto del desguace en el extranjero de buques pertenecientes al Gobierno estadounidense, y haga extensivo el plan de recuperación de los costos a las compañías navieras privadas, sufragando los costos los propietarios de los buques;

k) Vigile más de cerca el movimiento de los buques privados inactivos en el extranjero a fin de velar por que se apliquen los reglamentos de exportación a los productos y desechos tóxicos y peligrosos, y

l) Vele por que la reducción de las barreras comerciales no se interprete en el sentido de que autoriza el tráfico ilícito de productos y desechos tóxicos y peligrosos.

Annex

REPORT OF THE SPECIAL RAPPORTEUR ON THE ADVERSE EFFECTS OF THE ILLICIT MOVEMENT AND DUMPING OF TOXIC AND DANGEROUS PRODUCTS AND WASTES ON THE ENJOYMENT OF HUMAN RIGHTS ON HER MISSION TO THE UNITED STATES OF AMERICA (3-14 December 2001)

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Introduction

1. In accordance with the mandate given to her by the Commission on Human Rights in resolution 1995/81 and subsequent resolutions, the Special Rapporteur undertook a mission to the United States of America from 3 to 14 December 2001. The mission was the result of an invitation extended by the Government of the United States, and followed previous missions to Africa in 1997, to Central and South America in 1998, and to Europe in 1999.

2. The aim of the mission was to consider issues arising in the United States with regard to the illicit traffic in toxic and dangerous products and wastes and the enjoyment of human rights. In particular, the purpose of this mission was:

(a) To hold consultations with representatives of governmental (both federal and State), and non-governmental organizations;

(b) To study the laws in force at both federal and State level;

(c) To learn more about governmental policy;

(d) To exchange views with the authorities regarding specific allegations of illicit exports of toxic and dangerous products to developing countries;

(e) To consider trends in the transboundary movement of toxic waste and hazardous materials;

(f) To study national and regional measures to prevent and punish illicit activities;

(g) To learn about technical cooperation in the area undertaken by the United States; and

(h) To sensitize the United States authorities to the importance of her mandate from the human rights perspective, and to the complementarity of her work with that of the secretariat of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention), as well as with other United Nations bodies.

3. The Special Rapporteur is grateful to the federal Government of the United States and its agencies for the full cooperation and the assistance they extended to her during her mission. She also wishes to thank State authorities in Texas and the large number of non-governmental organizations (NGOs) who made themselves available for consultations and who supplied her with a large amount of information. She would also like to thank the staff of the United Nations Information Centre in Washington, D.C. for the logistical support given to her mission.

4. The Special Rapporteur's visit was characterized by the high number of consultations she held and the breadth of the range of people and organizations with whom she met. In total, she met with over 120 individuals. Among the federal agencies, she met with representatives of: the Environmental Protection Agency (EPA); the Department of Labor; the Federal Bureau of Investigations (FBI); the Department of State; Naval Sea Systems Command; the Department of Defense; the United States Maritime Administration (MARAD); and the Department of Justice.

She also held talks with representatives of the United States Congress (Energy and Commerce Committee) and the United States Senate (Subcommittee on Superfund Toxics, Risk and Waste Management). At the State level, she met with representatives of the Texas National Resource Conservation Commission. She held meetings with almost 50 NGOs from across the United States, including human rights and environmental groups, research centres, academics and representatives of indigenous peoples. In addition to individual meetings, consultations with large groups of NGOs were held in Washington, D.C., El Paso, Texas, and San Francisco, California.

5. The Special Rapporteur visited Washington, Austin, El Paso and San Francisco. At the end of the mission she returned to Washington for the purpose of debriefing the Government on issues which arose during her visit. The mission took place shortly after the terrorist attacks of 11 September 2001, as a result of which the Special Rapporteur was unable to undertake a planned visit to an export facility on the United States-Mexico border. Additionally, measures taken in the face of anthrax attacks via the postal system resulted in the documentation of the mission being delayed by a number of months. Consequently, the report of the mission was not available in time for the fifty-eighth session of the Commission on Human Rights.

I. THE LEGAL AND INSTITUTIONAL CONTEXT

6. The United States legal and institutional framework relating to toxic and dangerous products and wastes is highly complex. Although primary responsibility in many areas rests with the federal Government, the individual States continue to have important roles in regulating the generation, storage and disposal of these substances. The import and export of such substances is, however, a federal responsibility. In addition, a growing number of bilateral and multilateral initiatives at the regional level (particularly involving Canada and Mexico) are having an effect on the national law and practice of the United States in this area.

A. Institutions

7. Institutional responsibility is spread across a number of actors including:

(a) The Council on Environmental Quality;

(b) The Departments of Agriculture, Commerce, Defense, Energy, Health and Human Services, Housing and Urban Development, Justice, Labor, State and Transportation;

(c) The Environmental Protection Agency (EPA); and

(d) State departments and agencies.

Of these, the most relevant to the mandate of the Special Rapporteur is the EPA, which has responsibility (among other things) in the area of air and water pollution, solid and hazardous waste, radiation, pesticides, toxic substances, and environmental education. The agency is specifically mandated under the most important federal legislation outlined below.

B. Law and practice

8. The regulation of toxic and dangerous products and wastes is largely within the sphere of competence of the federal Government. Although the principal pieces of legislation in the area are federal, State agencies may be involved in their application. At the federal level, regulation of the movement of toxic and dangerous products depends upon their categorization. Most solid and hazardous waste is regulated by the Resource Conservation and Recovery Act (1976) (RCRA), which provides a "cradle to grave" programme for its management. Important exceptions to RCRA's definition of hazardous waste are household waste, nuclear waste, and wastes discharged to water. Each of these is dealt with by other legislation. Additionally, some hazardous wastes are not considered as such after having been recycled or if en route to a recycling facility. In addition to RCRA itself, the EPA has developed a number of regulations relating to the law's application. The agency issues guidance documents and policy directives provide further advice to transporters, stowers and exporters. The movement of toxic substances is dealt with by a number of pieces of legislation such as the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) concerning the generation, use and export of, inter alia, pesticides, and the Toxic Substances Control Act (TSCA).

9. Regulation of the export of toxic and dangerous products and wastes is part of a wider framework dealing with the movement and storage of these substances. The laws and regulations are complex and depend upon the type of substance involved. The categorization of toxic and dangerous products and wastes under United States laws differs in important respects from categorizations both at the international level (for example, under the Basel Convention) and in other countries (for example, Mexico). The authorities say that these differences hamper efforts to harmonize action in the area of toxic and dangerous products and wastes between the United States and other countries, and underlie the failure of the United States to ratify core international agreements in the area.

10. In general terms, the regulation of the export of toxic and dangerous products and wastes in the United States is based on two broad principles: those of tracking and of prior consent.

11. In respect of tracking, the Government has set in place a number of systems which allow shipments to be tracked from their source until they leave the United States, including periods of storage. Components of this tracking system include: the obligation to have a written manifest accompany the shipment at all times; requirements that the transporter within the United States be registered; submitting notices of intent to export to the EPA; and storage and compilation of the collected data by the EPA into annual and biennial reports. Tracking of shipments ends at the point of departure from the United States.[a] It is thus impossible to know whether a shipment ever reaches its nominated recipient. This is important in a number of respects. First, because the identification and consent of the recipient is central to the system of regulation (see below). Second, because some export requirements are based on the end-use of the shipment. For example, if hazardous waste is being exported for the sole purpose of being recycled, less stringent regulations can apply to it depending on whether or not it has been specifically identified in legislation. An inability to verify whether recycling occurs renders this system of regulation less effective.

12. Beyond the border, the system relies on the prior consent of the recipient. An exporter's notice of intention to export is sent to the receiving country.[b] If consent is received from that country, then the export is allowed, otherwise it is prohibited. The authorities state that they carefully compare the description of the shipment in the consent notice with that in the manifest deposited when the shipment leaves the United States. If the shipment is bound for a country that has ratified the Basel Convention, then the exporter is made aware of that Convention's requirements. Modifications to this general position apply in respect of a number of countries with whom bilateral agreements have been signed (for example, Canada and Mexico) or multilateral cooperation exists (for example, in respect of members of the Organization for Economic Cooperation and Development (OECD)). The Special Rapporteur notes that bilateral agreements with non-OECD developing countries (Costa Rica, Malaysia and the Philippines) provide only for the import of hazardous waste into the United States, and not for its export.

C. Bilateral and regional frameworks

13. Bilateral and regional frameworks play an increasingly important role. A number of bilateral agreements have been negotiated by the Government which impact on the export of toxics and waste. The Special Rapporteur notes that such agreements with developing countries only permit the import of toxic and dangerous products and wastes into the United States.[c] In addition the United States is a member of the OECD and has participated in that organization's Control System for Transboundary Movements of Wastes since 1992.[d] The United States is not, however, a party to the principal international agreements relating to transboundary movements of hazardous and dangerous substances, in particular the Basel Convention (see below).

14. Regional efforts at trade liberalization have important ramifications for the ability of States in the region to export and import these substances (see below.)

D. Enforcement

15. Enforcement of laws and regulations relating to the export of toxic and dangerous products and wastes is the responsibility of a number of agencies and relies on their acting in cooperation.[e] The principal agencies in this respect are the EPA, the Department of Justice, the United States Customs Service, the FBI, the State Department, the Department of Transportation, the Federal Drug Enforcement Agency and the United States Coast Guard. State agencies, and authorities in the importing country may be involved. As noted above, states can and do play a role in enforcement. For example, RCRA can be enforced by individual states in cases where the EPA has delegated the RCRA programme to those States.

16. Enforcement actions may be criminal or civil/administrative or both. The primary criminal provision under RCRA states that anyone who knowingly exports a hazardous waste without the consent of the receiving country (or where there is an international agreement, not in conformity with that agreement), is liable to two years' prison or a fine of US$ 50,000 per day of violation. Prosecutions under RCRA are handled by the Department of Justice (DOJ) and the United States Attorney with background work provided largely by the EPA. The DOJ's Environment and Natural Resources Division includes the Environmental Crimes Section, which is responsible for prosecuting individuals and corporations that have violated RCRA (among

other laws). Although there remain a number of serious cases in which only a financial fine was levied, there appears to be an increased readiness on the part of prosecutors and courts to impose custodial sentences in serious cases, particularly in sending directors of delinquent corporations to prison.

17. Civil or administrative cases arising from the illegal export of toxic and dangerous products and wastes are handled by both the DOJ and EPA directly. The DOJ's Environmental Enforcement Section is responsible for bringing civil judicial actions under RCRA (among other laws), usually on the referral of the EPA. The EPA itself brings administrative actions. Some enforcement in this area is carried out by State agencies. In parallel with judicial enforcement, the EPA has a broad range of "compliance assistance", "compliance incentives" and "compliance monitoring" programmes. Problems in this area arise when the defendant is a corporation which has declared itself insolvent and thus unable to pay any remedy or restitution ordered against it. This is particularly acute where the remedy involves the costly repatriation to the United States of illegally exported substances. The Special Rapporteur notes that ratification of the Basel Convention would reinforce the authorities' ability to order such repatriation.

18. Particular difficulties arise in the case of United States corporations with manufacturing facilities in the "*maquiladoras*" along the United States-Mexico border. Toxic products and wastes move across the border in each direction. Where there is a failure of a United States owned entity operating in a *maquiladora* to repatriate this material under the terms of the *maquiladora* programme it remains difficult to bring the United States parent corporation to account (for example, by the enforcement of Mexican judgements in the United States or through involvement of United States authorities in Mexican investigations).[f] On the other hand, where these products move illicitly from the United States into Mexico (often to *maquiladoras*), similar problems arise in ensuring the products are repatriated to the United States. In this case it is the control of cross-border movements and enforcement of United States laws which is at issue.

II. ASSESSMENT OF LAW, POLICY AND PRACTICE

A. Overall assessment

19. The United States' regime governing the traffic in toxic and dangerous products and wastes seems to be very complex and sophisticated. NGOs with whom the Special Rapporteur met expressed their concern that this complexity does not benefit those adversely effected by these substances. For their part, the officials expressed their genuine desire to ensure the safe management of toxic substances and wastes. They underlined the fact that the vast majority of toxic substances and wastes remains within the United States and is processed there. In addition, the United States imports a large amount of toxic waste from abroad, including from developing countries. They reiterated the intention of the Government to pursue bilateral agreements that allow only imports of such substances from developing countries, rather than exports to developing countries.

20. The Special Rapporteur was also briefed about the technical assistance offered by the United States to other countries, particularly in the area of hazardous solid waste. The Government's policy of information sharing has resulted in a wide array of publications, training

programmes, and Internet sites designed to assist importing countries in handling toxic and hazardous materials. In addition the United States financially supports initiatives in this area by multilateral organizations such as the OECD and the Food and Agriculture Organization of the United Nations (FAO).

21. During her mission, a number of issues of concern were brought to her attention. The scope of the mission and of this report does not allow the presentation of every laudable aspect of the law and practice of the United States in areas relevant to her mandate. Nor does the Special Rapporteur aim to identify every shortcoming. However she would like to underline nine areas of concern drawn to her attention.

B. Ratification of international instruments

22. All the representatives of civil society with whom the Special Rapporteur met expressed their deep concern about the fact that the United States has not ratified the main international instruments governing the issue of wastes and toxics. Government officials explained that the Government's policy is only to accept international obligations when it has already amended its law and practice in order to conform with new international obligations. They also explained the domestic political process through which accession to international texts must pass.

23. The Special Rapporteur emphasized the importance to proceed to ratification of the three principal conventions in the field, none of which to date counts the United States as a party:

(a) The Basel Convention with its Ban Amendment;

(b) The Stockholm Convention on Persistent Organic Pollutants; and

(c) The Rotterdam Convention on the Prior Informed Consent procedure for Certain Hazardous Chemicals and Pesticides in International Trade ("the PIC Convention").

The Special Rapporteur believes that ratification of these treaties would make a positive impact on many issues of concern raised in this report.

24. A number of officials indicated that the procedure for ratification of all three conventions was well under way. However, the Government has indicated its intention to seek ratification of the Basel Convention without the Ban Amendment.[g] NGOs for their part expressed their strong disagreement with this " regressive and minimalist" position, considering that ratification of the Basel Convention without the Ban Amendment "does more to legitimize international waste dumping than it does to prevent it".

C. Shipbreaking

25. The global shipbreaking industry has been a matter of concern for some time.[h] While the aims of shipbreaking are to dismantle the vessel and recover valuable metals (principally steel), the procedure must also deal with the large amounts of hazardous materials contained in each vessel. As the cost of safely dealing with these materials is very high, and the overall procedure

highly labour-intensive, it has been attractive for shipowners to send their ships to developing countries to be scrapped. The effect of unregulated shipbreaking on the health of workers and on the environment in these developing countries has been documented.[i] When such ships destined for shipbreaking perform a transboundary movement of a Basel Convention-regulated hazardous waste, they are subject to the Basel Convention.

26. United States Navy and government ships have been scrapped abroad in the past. An example is that of the U.S.S. Bennington, a World War II-era aircraft carrier decommissioned in 1970. Although sold for scrapping in the United States, the purchaser obtained permission to export the vessel. It was then sold through an intermediary in the United Kingdom before being resold to an Indian shipbreaking company in 1994. It was then scrapped on a beach in Alang, India.[j]

27. The Special Rapporteur met with representatives of the Department of Defense (DOD) and of the United States Maritime Administration (MARAD). The DOD outlined its Ship Disposal Project for the disposal of inactive United States warships, while MARAD outlined its Ship Disposal Program for non-retention government ships over 1,500 gross tons including navy non-combatants. Each programme is relatively new.[k] The Special Rapporteur noted the high level of attention paid to the scrapping of ships in the United States.

28. While it was asserted that naval vessels were not "normally" exported for scrapping owing to military reasons, other government ships were, until 1994, routinely sold abroad for scrapping. Since that time there has been a suspension of scrapping abroad, but this suspension is not permanent. While this suspension would prohibit the sale of a Government-owned ship for the explicit purpose of shipbreaking, it still appears possible under current American law for a government ship in active service on leaving the United States to be scrapped abroad.

29. The regimes of the DOD and MARAD governing shipbreaking do not apply to privately owned vessels, government vessels under 1,500 gross tons or non-United States flagged vessels, all of which can still be sent abroad for shipbreaking. Even normal export regulations governing hazardous waste do not strictly apply to obsolete vessels destined for scrapping. The Special Rapporteur notes that normal export regulations (including those in respect of solid hazardous wastes) would apply to the export of a private ship for shipbreaking. However experience has shown (as documented in the past reports of the Special Rapporteur) that fraud is often involved in the export of ships for shipbreaking: be it a pretence that the ship is being sold for active service, or is on routine scheduled voyage.

30. The enormous costs associated with the scrapping of a ship under the DOD and MARAD programmes (as impressed on the Special Rapporteur by officials) clearly indicate that it would be almost impossible for many importing countries to be able to scrap a ship to the same standards as these programmes[l].

31. The Special Rapporteur encourages the Government to focus more closely on the export of privately owned United States-flag ships abroad for scrapping, in particular with a view to enforcing currently laws and detecting fraudulent schemes.

D. The export of pesticides banned from use within the United States

32. Pesticides for use within the United States must be registered in accordance with FIFRA. Registration is dependent upon a determination that the product does not have unreasonable adverse effects on the environment or human health, although the EPA undertakes no independent testing of substances and relies on information supplied by the manufacturer. Pesticides that are not registered (either because they have failed the registration process or because they have never been submitted for registration) cannot be used or sold in the United States. They can, however, be produced in and exported from the United States to other countries.[m]

33. The conditions governing the export of pesticides not registered for use within the United States are laid down by FIFRA as:

(a) The substance be labelled as being unregistered for use within the United States; and

(b) The exporter submit to the EPA a "signed statement acknowledging that the purchaser understands that such pesticide is not registered for use in the United States and cannot be sold in the United States". A copy of this statement is to be sent by the EPA "to an appropriate official of the government of the importing country" (section 17 (a) (2), FIFRA), though this notice is not required to be sent before the shipment leaves the United States. Furthermore, United States law does not appear to regulate the situation where the purchaser of the pesticide is the subsidiary of the exporting party. This opens the possibility of consent not being made at arms-length, and of exports on a fraudulent basis.[n]

34. The Government supports its policy of allowing the export of banned or non-registered pesticides using a number of arguments:[o]

(a) That it is not for the United States to decide what is unsuitable for other countries;

(b) That unilateral United States action in prohibiting the export of these pesticides would be of little effect without similar action by other exporting countries; and

(c) That the reasons for a pesticide being unregistered may be relevant: for example it may only be harmful in conditions relevant to the United States, or the producer has never sought registration because of a particular pesticide has no use in the United States.

35. The law and practice of the United States on pesticides explicitly favours education and provision of information to users over the banning of exports. Such an approach was said by officials to coincide with the "overall" trade policy of the United States which favours means other than bans of exports to deal with problems related to trade in goods. To this end, the EPA has developed programmes to disseminate information on the safe use of banned pesticides. Their purpose is to complement the few obligations on exporters imposed by FIFRA. These programmes include the provision of information on the Internet targeted at importing countries, a joint programme with the United Nations Environmental Programme (UNEP) aimed at

providing training via the Internet on safety with pesticides, assistance to importing countries with legislation regulating the use of pesticides and other chemicals, and a conference involving the Organization for Economic Cooperation and Development, the Food and Agriculture Organization of the United Nations and UNEP on destruction of stockpiles of obsolete pesticides. The attention of the Special Rapporteur was also drawn to the work of the North American Free Trade Agreement (NAFTA) Technical Working Group on Pesticides. This Working Group's goals, however, seem to be focused on regulatory harmonization to facilitate the trade of pesticides between the United States, Canada and Mexico.[p]

36. According to a report:

> United States Customs records reveal that 3.2 billion pounds of pesticide products were exported in 1997-2000, an average rate of 45 tons per hour. Nearly 65 million pounds of the exported pesticides were either forbidden or severely restricted in the United States […]. In the 1997-1999 period, shipments of banned products were found in Customs records […] 57 per cent of these products were shipped to a destination in the developing world. Nearly half of the remaining 43 per cent were shipped to ports in Belgium and the Netherlands. Though it is not possible to make a final determination from available data, it is likely that the final destinations of a large number of these shipments were also developing countries.[q]

In the same report, it is noted that:

> [B]etween 1996-2000, the United States exported nearly 1.1 billion pounds of pesticides that have been identified as known or suspected carcinogens, an average rate of almost 16 tons per hour […] these figures have particular import in regard to children in developing countries. According to the International Labour Organization, 65 to 90 per cent of the children estimated to be working in Africa (80 million), Asia (152 million) and Latin America (17 million) are working in agriculture. Evidence that children have heightened susceptibility to the carcinogenic effects of pesticides has even greater significance for developing countries. There, children live and work in conditions that involve almost continuous exposure, ranging from contact in fields to contaminated water, pesticide-contaminated clothing, and storage of pesticides in homes.[r]

37. While the United States has signed the PIC Convention, it has not yet ratified it.[s] Application of the PIC Convention would in effect allow Governments to notify the United States that they are not prepared to accept imports of certain chemicals without the need for a shipment-by-shipment approach as laid down in FIFRA. Although the list of substances to which PIC currently applies does not contain all banned or non-registered pesticides exported from the United States, ratification and implementation of the PIC by the United States would see the halt in exports of some of the most dangerous pesticides.

38. According to officials at the EPA, the United States pesticide industry now voluntarily applies the principles of the PIC Convention by agreeing not to export a pesticide to a country which has supplied a "no consent to export" decision to the PIC secretariat. It also appears that some industry groups also encourage compliance with the PIC Convention among their

members. The sole manufacturer of one unregistered pesticide (chlordane) has voluntarily decided to halt production even though an export market continues to exist. While these measures are voluntary, unenforceable and thus of limited use when compared to the obligations assumed by ratifying the PIC Convention, they do indicate that there is a growing realization that the current policy of allowing the export of banned or non-registered pesticides is not acceptable. Further evidence of this might be found in reports that according to United States Customs records, for the year 2000, no banned pesticide export was recorded and exports of pesticides subject to the PIC treaty decreased 97 per cent from the 1997 total of nearly 3 million pounds.[t]

39. Despite these reports of positive progress, the export of hazardous pesticides remains intolerably high from the public health, human rights and environmental protection perspectives. On the other hand, the export of domestically banned pesticides from the United States to developing countries remains a matter of serious concern to the Special Rapporteur. The scope for such pesticides adversely effecting the human rights of individuals in importing countries has been illustrated by a number of specific cases appearing in the Special Rapporteur's annual report to the Commission on Human Rights under the mandate, and reported widely in the media.[u] In particular, the right to life, the right to health, the right to found a family, the right to a private life are most commonly violated by the effects of pesticide use.

40. Despite the technical assistance programmes run in parallel, the defects in the United States policy in allowing the export of such substances are quite apparent. In particular the policy:

(a) Places the burden on the importing country of deciding whether or not use of the pesticide should be allowed in that country. This makes a series of assumptions about various capacities of the importing country. In particular it assumes that the importing country has:

(i) the technological capacity to assess the dangers of the pesticide; and

(ii) the regulatory capacity to ensure that the pesticide is used in make accordance with the safety measures prescribed.

In relation to many developing countries, these assumptions are false;

(b) Focuses in the first instance on the importer of the pesticide rather than addressing appropriate warning to a public authority in the importing country. As the potential dangers of such toxic substances lie not only for the purchaser but for the community as a whole, the notice of import should be directed to the Government in the first instance;

(c) Makes a series of assumptions about the ultimate user of the pesticide, particularly the individual's literacy, language, access to equipment necessary for the safe use of the pesticide, and access to the Internet. A number of documented cases brought to the Special Rapporteur's attention involving the injury or even death of residents in importing countries attest to the fragility of these assumptions; and

(d) Is based upon an untenable premise that pesticides deemed unacceptable for the residents and environment of the United States are somehow acceptable in other countries. Clearly, countries often choose to offer their citizens a higher degree of protection than others in many areas. One of the most common reasons for doing so is to acknowledge different levels of economic and social development among States. However this disparity is difficult to justify in respect of pesticides found to be so dangerous that they are banned from sale or use.

E. *Maquiladoras*

41. In November 1998 the Special Rapporteur undertook a mission to Mexico during which she visited the *maquiladoras* in the export-processing zones along the United States-Mexico border, in particular in the State of Chihuahua.[v] In that report the Special Rapporteur raised the issue of repatriation to the United States of waste generated in the *maquiladoras*. During her mission to the United States the Special Rapporteur visited the same border from the United States side, around the city of El Paso, in the state of Texas.

42. *Maquiladoras* are manufacturing plants established by transnational corporations in Mexico under that country's Border Industrialization Programme. Initiated in 1965, the Programme now counts over 3,700 *maquiladoras*. The Programme allows foreign-owned manufacturers to benefit from Mexico's comparatively low wage rates while avoiding customs duties levied on raw materials imported into Mexico. Waste generated in the "finishing" process in the *maquiladoras* must be repatriated to the country from where the raw materials were imported. This is overwhelmingly the United States. Statistics provided by the United States authorities and comments by observers suggest that only a percentage of this waste is actually repatriated.[w]

43. A number of issues identified by the Special Rapporteur in this report impact on the *maquiladoras*. Beyond these specific issues (spent lead acid batteries (SLABs), banned pesticides and enforcement issues), the *maquiladoras* are an issue of concern for the Special Rapporteur because of (a) the illegal movement of toxic and dangerous products and wastes from the United States to the *maquiladoras*; and (b) the role of United States companies in the *maquiladoras* and the question of repatriation of waste outlined earlier.

44. The volumes of vehicles and goods crossing the United States-Mexico border each day are enormous. One official spoke of around 8,000 truck-crossings each day at just the Laredo border crossing in Texas. Total tracked hazardous waste exported to Mexico has averaged around 250,000 tons over the past five years.[x] The Special Rapporteur learnt of the large number of programmes designed to monitor these cross-border flows, and the difficulties caused by the enormity of the situation. The Special Rapporteur was briefed on the initiatives taken by the authorities (the EPA and United States Customs in particular, and most recently the State of California) to enhance monitoring of cross-border movements. While encouraging these initiatives (especially those in cooperation with Mexican authorities), she notes that some of the problems relate to the partial regulation of certain hazardous wastes by the United States (an example are SLABs).

45. The majority of *maquiladoras* are connected to foreign companies, usually through a parent-subsidiary status. According to many NGOs, in the years during which *maquiladoras* have grown strongly, it has become apparent that a number of their operators have fled Mexico for the United States to escape prosecution for environmental offences.[y] Some of these offences relate to the failure to adequately deal with materials imported from the United States. In some cases, contaminated sites in Mexico are abandoned by the operator, posing a threat to workers in other neighbouring *maquiladoras* and adjacent communities.

46. The Special Rapporteur places a high priority on examining questions of impunity. This priority is shared by the Commission on Human Rights which, in renewing the Special Rapporteur's mandate in 2001, invited her to:

> include in her report to the Commission […] comprehensive information on […] [t]he question of the impunity of the perpetrators of these heinous crimes, including racially motivated discriminatory practices, and to recommend measures to bring them to an end.[z]

47. Individuals and corporations which export toxic and dangerous products and wastes from the United States and fail to deal with the substances in a manner provided for by United States or international law should be held accountable within the United States for their actions. The Special Rapporteur thus encourages the Government to explore means of ensuring accountability in this area.

F. Export of spent lead acid batteries

48. The United States exports a large number of spent lead acid batteries (SLABs) for reclamation. As they are destined for recycling, such exports are not subject to the general export requirements imposed by RCRA on the export of other hazardous or toxic waste to countries including OECD member States.[aa] Shipments within the United States do not even require a manifest to accompany the SLABs for export.

49. SLABs are hazardous waste under the Basel Convention,[bb] and their export for recycling to non-Annex VII States would be halted were the United States to ratify the Ban Amendment to the Convention.[cc]

50. While most exports of SLABs from the United States are to Canada, a large number are bound for Mexico. Of such exports to Mexico, EPA officials say that the vast majority of SLABs go to a single modern reclamation facility at Monterrey. Other exports, however, are destined for smaller, unregulated and less modern facilities set up within the *maquiladoras*. Because the exports of SLABs are not subject to RCRA export regulation, it is impossible to know what quantity of SLABs is leaving the United States, nor its destination. Most importantly, officials are unable to say what proportion of exported SLABs end up in the *maquiladoras*.

51. The toxicity of SLABs arises from both their lead and corrosive acid components. The dangers posed to human health by the recovery of lead in unregulated environments is widely accepted. As the Executive Director of UNEP said at the launch of the Basel Technical Guidelines for the Environmentally Sound Management of Waste Lead-Acid Batteries in May 2002:

> The recycling of lead-acid batteries is one of the greatest potential sources of risk, especially for exposed workers in the informal sector in many developing countries. The safe recycling of these batteries requires strict environmental and occupational standards that can only be ensured by specialized firms, of which only a few are found in developing countries.[dd]

52. The possible effects of SLABs exports to *maquiladoras* were highlighted by the case of Metales y Derivados, a United States-owned *maquiladora* established in Tijuana in the late 1980s. The company imported SLABs from the United States and exported new batteries in return. It is widely believed that Metales y Derivados obtained its Mexican environmental operating permits with false statements in its application, and possibly by bribing local environmental officials. At the time, Mexican legislation required foreign companies to return to the country of origin any hazardous waste created from or by materials imported. Instead Metales y Derivados deposited hazardous waste on the company property, much of it leaking through the barrels contaminating the area. Metales y Derivados was closed by Mexican authorities in 1995. The owner abandoned the company, returning to the United States where he declared bankruptcy.[ee]

53. The Special Rapporteur is concerned that the United States system does not impose export regulations on SLABs destined for recycling. This is particularly perplexing when SLABs are considered hazardous waste *within* the United States. While the export of SLABs for recycling in modern facilities may pose few problems, the lack of export regulation makes it less possible for United States authorities to ensure that shipments of SLABs do not ultimately end up in unregulated environments in which they pose a risk to the health of workers and communities.

G. Trade liberalization

54. As noted earlier, regional trade liberalization initiatives are having an increasingly profound impact on the export policies of the United States. These regional initiatives follow a worldwide trend towards the lowering of barriers to trade in goods and services. Regional initiatives appear to be gaining in importance with current proposal for the Free Trade Area for the Americas.

55. The North American regime is to be lauded for attempting to foster cooperation on environmental issues in parallel with trade liberalization measures through the North American Agreement on Environmental Cooperation (NAEEC). In addition, NAFTA itself accepts the precedence of the Basel Convention and bilateral agreements over its own provisions.[ff]

56. Concern has been expressed however that there exists a danger that the drive to reduce barriers to trade in goods might lead to a pressure on countries to relax their export and import regulations on toxic and dangerous products and wastes. While the NAFTA Agreement expressly allows its States parties to adopt and enforce measures aimed at protecting the environment,[gg] the attention of the Special Rapporteur has been drawn to developments which cause concern. A number of "investors' rights" cases pursued under chapter 11 of NAFTA increasingly challenge States parties ability to restrict the import or export of substances believed to be harmful to human health.[hh] The developing jurisprudence under chapter 11 appears to suggest that domestic environmental regulations can be considered "trade-restrictive" in the context of NAFTA.

57. Considering its leading role in these trade liberalization initiatives, the Special Rapporteur impresses on the Government the need to ensure that the reduction of trade barriers will not be construed as allowing the illicit traffic in toxic and dangerous products and wastes.

III. OTHER ISSUES

A. Migrant workers

58. The mandate of the Special Rapporteur focuses on the impact of exported toxic and dangerous products and wastes on the human rights of individuals living and working in the importing countries. During her mission to the United States, the Special Rapporteur became aware of a parallel to this trend, in which foreign nationals brought into the United States to work were having their health endangered by the illegal use of toxic and dangerous products, in particular pesticides, within the United States. Two specific instances of this practice were brought to the Special Rapporteur's attention.

59. The first is the seasonal Mexican farm workers employed in the agricultural industries along the United States-Mexico border. Often brought into the United States illegally, and with no healthcare or protection of workplace health and safety legislation, these workers are prone to injury arising from the unregulated use of pesticides in the fields in which they work. The second involves reports that Mexican nationals working illegally in the shipbreaking industries of Brownsville, Texas are similarly exposed to toxic and dangerous products with no protection.

60. The Special Rapporteur was briefed about the efforts of the Government to address these problems.[ii] However, it seems that the root of the problem lies in the status of these workers within the United States: status that denies them health and safety protection afforded to other workers in the United States. The migrant workers with whom the Special Rapporteur met underlined the fact that they were not able to enjoy existing legal protection for obvious reasons such as the threat of losing their jobs, their inability to understand the complicated rules of procedure and the impossibility of accessing information establishing the link between the illegal use of pesticides and dangerous products and the damage they suffered. The Special Rapporteur encourages the Government to focus on improving the access of these workers to occupational health and safety protection and to health care as well as to efficient ways of recourse.

B. Environmental racism

61. The Special Rapporteur was intensively briefed by representatives of NGOs, members of civil society and academia on issues relating to "environmental racism" within the United States. Allegations of the citing of polluting industries or waste dumps near Afro-American and Latino communities within the United States were drawn to her attention. Two international ramifications of this internal problem were identified. First, the fact that some products prohibited for use within the United States continue to be produced in that country for export, with all the risks associated for the workers in the United States, the populations living in the vicinity of the factories, and the users in the importing countries. Second, that foreign companies were taking advantage of the United States legislation (which permits the production for export of products prohibited of use within the United States) in order to operate factories producing prohibited substances near communities of marginalized groups. The Special Rapporteur, who was briefed by the officials on the efforts made in order to face the internal problem of environmental justice,[jj] encourages the Government to look also at the international ramifications mentioned here.

C. Indigenous peoples

62. The Special Rapporteur received numerous testimonies from indigenous peoples, villages and tribes representatives who met with her at the International Indian Treaty Council headquarters in San Francisco, and in Washington, D.C. They explained to her their particular connection to and custodianship of their territories (both land and water) as the fundamental basis for their physical and cultural existence. They reaffirmed their rights to self-determination and to own, control and manage their ancestral lands and territories, waters and other resources. They expressed their concern over the activities of multinational corporations which have caused immense health problems for their people, affected the environment and undermined their culture. They presented several documented cases on the impact on indigenous peoples of: toxic dumping (including nuclear waste) and mining issues in the United States and Canada; the impact of persistent organic pollutants (POPs) and military toxics dumping in Alaska; the impact of banned pesticides use on health and child development, particularly in Mexico and Guatemala; and the export of banned pesticides from the United States. The Special Rapporteur feels that the concerns expressed by indigenous peoples should be taken into account by the concerned Governments and dealt with by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people recently nominated by the Commission on Human Rights.[kk]

IV. CONCLUSIONS AND RECOMMENDATIONS

63. **The mission to the United States allowed the Special Rapporteur to learn more about the policy, legislation and practice of that country concerning issues under her mandate. She had the opportunity to discuss openly with government officials and the representatives of civil society.**

64. **The Special Rapporteur notes with satisfaction that federal and State legislation relating to toxic and dangerous products and wastes is highly developed. The institutional framework is likewise very elaborate. This demonstrates the importance attached by the Government to the issues under the Special Rapporteur's mandate. However, it seems that efforts should be made for better coordination between the numerous institutions having a responsibility on the matter.**

65. **Bilateral and regional frameworks are playing an increasing role, a positive trend which should be encouraged while paying attention to the threats accompanying cooperation between countries which have different levels of development. In that regard, technical cooperation and assistance is vital.**

66. **The Special Rapporteur notes with interest that enforcement of laws relating to the export of toxic and dangerous products and waste may involve prosecution through civil, administrative and even criminal law. However, and despite the increased readiness of prosecutors to impose custodial sentences, it remains difficult for a victim to have access to information, and to pursue a legal remedy, particularly against private corporations. In addition, in many serious cases only financial fines are levied. According to a report, "over 90 per cent of all federal cases, including environmental cases, are settled by mutual agreement or otherwise or without a trial".**[ll]

67. **Without being exhaustive, the Special Rapporteur mentioned nine main areas of concern brought to her attention during the mission: ratification of international instruments; shipbreaking; export of domestically banned pesticides; *maquiladoras*; export of spent lead acid batteries; risks associated with trade liberalization; migrant workers; environmental racism; and indigenous peoples.**

68. **In light of the issues raised in this report, the Special Rapporteur presents the following comments and recommendations:**

69. **International treaties: the Special Rapporteur encourages the Government of the United States of America to ratify the Basel Convention and its Ban Amendment, the Stockholm Convention on Persistent Organic Pollutants, and the PIC Convention.**

70. **Legislation: the Government is encouraged to amend its categorization of toxic and dangerous products and wastes in order to harmonize it with the Basel Convention.**

71. **Institutions: the Special Rapporteur encourages the Government to increase resources to the EPA to allow it better to fulfil its mandate in this area, in particular to allow it to implement the recommendations set forth in this report. In this respect, the Special Rapporteur is disheartened to learn of a 4 per cent reduction in the agency's budget earlier in 2002.**

72. **Enforcement:**

(a) The Government is encouraged to continue its increased reliance on criminal prosecution together with civil or administrative actions in relation to breaches of the law

in the area of toxic and dangerous products and wastes; to improve the procedural rights of the victims and to pay particular attention to the issue of impunity;

(b) The Special Rapporteur is concerned at reports that the Government intends to reduce resources to the EPA's enforcement mechanisms;

(c) In relation to the *maquiladoras*, the Government is encouraged to facilitate the prosecution of United States corporations whose subsidiary entities in Mexico are responsible for failing to deal with imports of toxic and dangerous products and wastes in accordance with United States, Mexican or international law. To this end, the Government should:

(i) seek the cooperation of the Mexican authorities in investigations, and in representation in court proceedings;

(ii) facilitate the enforcement of Mexican judgements within the United States; and

(iii) consider extraterritorial jurisdiction in these matters; and

(d) Repatriation of illicitly exported toxic and dangerous products and wastes remains a problem. The Government is encouraged to seek innovative ways of ensuring repatriation of this material, either through obliging the exporter to repatriate, or (where the exporter cannot be pursued) by establishing a public fund to pay for repatriation.

73. **The Special Rapporteur encourages the Government to increase its efforts and to coordinate its institutional action to ensure that material exported from the United States is sent to the designated destination for the designated purpose.**

74. **Pesticides:**

(a) The Special Rapporteur recommends that the export of pesticides unregistered for sale or use within the United States be prohibited; and

(b) Until such export is prohibited, the EPA should ensure that the attention of the Government in the importing country is drawn to the export before the shipment leaves the United States.

75. **Spent lead acid batteries: SLABs should be, at least, fully regulated when exported for recycling, thus making them subject to manifesting and export requirements.**

76. **Shipbreaking:**

(a) The moratorium on the foreign scrapping of United States Government-owned ships should be made permanent;

(b) The laudable regimes established in respect of Navy and government shipping should be extended to private shipping, the cost being borne by the shipowners; and

(c) Closer scrutiny should be paid to the movement of inactive private ships abroad in order to ensure that export regulations on toxic and dangerous products and wastes are enforced.

77. **Trade liberalization: the Special Rapporteur reiterates the need to ensure that the reduction of trade barriers will not be construed as allowing the illicit traffic in toxic and dangerous products and wastes.**

78. **The Special Rapporteur invites the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on the human rights of migrant workers and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people to pay particular attention to the specific issues raised in this report related to their respective mandates.**

Notes

[a] A partial exception is the HAZTRAKS Programme, which allows (inter alia) the tracking of hazardous waste and hazardous material exported from the United States to Mexico through the sharing of information between Governments.

[b] Note that in respect of pesticides, the exporter must submit to the EPA a "signed statement acknowledging that the purchaser understands that such pesticide is not registered for use in the United States and cannot be sold in the United States". See the discussion below.

[c] Importantly, the agreement with Mexico allows for export to Mexico but only for the purposes of recycling.

[d] See OECD Council Decisions C(92)39 and C(2001)107.

[e] For example, there is a Memorandum of Understanding between the EPA and the United States Customs Service.

[f] The case of Metales y Derividos, discussed below, is an example.

[g] See Decision III/1 of the Third Meeting of the Conference of the Parties (1995).

[h] See E/CN.4/2001/55 (paras. 30-31) and E/CN.4/2000/50 (para. 120).

[i] See papers presented to the Ship Recycling 2001 Conference held in Philadelphia, United States, 9-12 September 2001.

[j] Hazardous materials had been removed and the ship "demilitarized" in the United States.

[k] Until as recently as 1994 non-military government ships were routinely sold abroad for scrapping.

[l] The risks associated with shipbreaking are recognized in the Occupational Safety and Health Administration's National Emphasis Program on Shipbreaking which was adopted "because of the continuing high incidence of injuries and illnesses related to shipbreaking operations" (Directive CPL 2-0.129).

[m] Unregistered pesticides may also be imported into the United States if for eventual re-export. See Pesticide Registration Notice 99-1 (01.03.99) at *http://www.epa.gov/opppmsd1/PR Notices/pr99-1.html*.

[n] Export of unregistered pesticides may even take place without the purchaser's acknowledgement if for approved "research and development" purposes. See the EPA Pesticide Export Policy, vol. 58, Federal Register No. 31, 9062 (18 February 1993).

[o] The first-mentioned goal of the EPA in its international pesticide activities is "to ensure the safety of the American food supply". EPA Pesticide Export Policy, ibid.

[p] See the *Milestone Report of the NAFTA Technical Working Group on Pesticides* (September 2001) pp. 1-2.

[q] See Carl Smith, "Pesticide Exports from US ports, 1997-2000", vol. 7 *International Journal of Occupational and Environmental Health* (2001), 266-274.

[r] Smith (2001) ibid.

[s] Although it appears that the process for ratification has been under way since February 2000.

[t] Smith (2001) at p. 268.

[u] See E/CN.4/2001/55/Add.1, paras. 13-14, 23-24, 46-48, 83-84, 120-121, 123, 129-130.

[v] See E/CN.4/1999/46/Add.1, paras. 80-82.

[w] For example, figures provided by the Texas Natural Resource Conservation Commission (TNRCC).

[x] Figures provided by the TNRCC.

[y] The case of Metales y Derivados, discussed below, is but one example.

[z] Commission on Human Rights resolution 2001/35, para. 13.

[aa] 40 CFR Part 266.80.

[bb] Annex VIII list A.

[cc] Decision III/1.

[dd] UNEP Press Release, 17 May 2002. See also Section 3.2 of the Guidelines themselves (Environmental Risks Associated to the Improper Management of Spent Lead-Acid Batteries).

[ee] For an overview of the situation see: North American Commission for Environmental Cooperation, *Metales y Derivados*: *Final Factual Record prepared in accordance with article 15 of the North American Agreement on Environmental Cooperation* (SEM-98-007) (February 2002).

[ff] Article 104, although the precedence is couched in the following terms: … such obligations shall prevail [over the NAFTA Agreement] to the extent of the inconsistency, provided that where a Party has a choice among equally effective and reasonably available means of complying with such obligations, the Party chooses the alternative that is the least inconsistent with the other provisions of this Agreement.

[gg] Article 1114.

[hh] See the cases concerning Metalclad v. Mexico, Ethyl Corporation v. Canada, Methanex v. USA, S.D. Myers v. Canada and TECMED v. Mexico.

[ii] An example is the Bilateral Programme on Agricultural Worker Protection within the framework of the NAFTA Working Group on Pesticides.

[jj] See also the third report of the United States to the Committee on the Elimination of Racial Discrimination of 10 October 2000 (CERD/C/351/Add.1).

[kk] See also the report of the first session of the Permanent Forum on Indigenous Issues (E/2002/43).

[ll] OECD, *Environmental Performance Reviews: the United States* (1996), 17-39, at 31.

Appendix

ORGANIZATIONS WITH WHOSE REPRESENTATIVES THE SPECIAL RAPPORTEUR MET DURING HER MISSION TO THE UNITED STATES OF AMERICA

Federal Government of the United States of America

FBI

- Governmental Fraud Unit, Integrity in Government/Civil Rights Section, Criminal Investigative Division

Environmental Protection Agency

- Office of Prevention, Pesticides and Toxic Substances
- Office of Solid Waste (DC and San Francisco)
- Office of Enforcement and Compliance Assurance
- Office of International Activities
- Region IX, Waste Management Division
- Haztracks Regional Border Team
- United States-Mexico Hazardous and Solid Waste Workgroup

Department of State

- Bureau of International Organization Affairs
- Bureau of Democracy, Human Rights, and Labor
- Bureau of Oceans and International Environmental and Scientific Affairs

Department of Justice

- Environmental Enforcement
- Environment/Policy Section
- Environmental Crimes Section

Department of Labor

- Office of Occupational Safety and Health (OSHA)

Legislators

- Senator Barbara Boxer (Legislative Assistant Bettina Poirier)
- Committee on Energy and Commerce

United States Maritime Administration

- Ship Disposal Program Office

Department of Defense

- Naval Sea Systems Command, Inactive Ships Program Office

State government

Texas State government

- Border Office of the Texas National Resource Conservation Commission

Civil society

- Greenpeace
- Environmental Justice
- Amnesty USA
- Texas Environment Center
- Texas Center for Policy Studies
- Earthjustice
- Human Rights Advocates
- Environmental Forum of Marin
- Greenaction
- Jennifer Attmen Foundation
- As You Sow Foundation
- Nautilus Institute
- National Heritage Institute
- National Institute for Security and Sustainable Development
- Interamerican Association for Environmental Defense (AIDA)
- Pesticide Action Network North America

- Global Environmental Resources, Inc.
- W. Haywood Burns Environmental Education Center
- Arbor Hill Environmental Justice Inc.
- Northeast Environmental Justice Network
- International Possibilities Unlimited
- Sierra Club
- American Association for the Advancement of Science
- Essential Action
- Friends of the Earth US
- Alianza para el desarrollo comunitario
- Alianza internacional ecologista del Norte
- Indigenous Environmental Network
- Shanna Project Underground
- Yoementekia
- U'wa Defense Project
- Alaska Community Action on Toxics
- International Indian Treaty Council
- Gros Ventre Nation
- Comité Campesina del Altiplano
- Mujer Obrera
- Sin Fronteras Border Agricultural Workers Project

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