Coordinación FIAN Spain

Compliance with the Right to Adequate Food by the Spanish State

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I. THE RESPONSIBILITY OF THE SPANISH GOVERNMENT IN THE FULFILMENT OF THE HUMAN RIGHT TO ADEQUATE FOOD.

The lack of social awareness regarding the content of the economic, social and, cultural rights and especially the right to adequate food, recognized in art.11 of the International Covenant on Economic, Social and Cultural Rights, makes a brief introduction necessary in order to lay out some of the basic elements that have been accepted by the signatory states

to the International Covenant on Economic, Social and Cultural Rights (henceforth the ICESCR), and which have been ratified subsequent to the acceptance of General Comment 12 as the authorized legal interpretation.

General Comment 12 synthesizes the content of this right declaring that *"the right to adequate food is the right to have regular permanent and free access, be it directly or through the purchase, to food which is quantitatively and qualitatively adequate and sufficient, which corresponds to the cultural traditions of the population the consumer belongs to, and that guarantees a physical and mental well being, individually and collectively, free from anxiety, that is satisfying and decent"*[1]

If we analyze the text of the General Comment 12 we can find some **constitutive elements** of this right to adequate food. The Committee on Economic, Social and Cultural Rights considers that the right to adequate food is " indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfillment of other human rights enshrined in the International Bill of Human Rights and is also inseparable from social justice." Food must be sufficient, adequate, sustainable, free from adverse substances and respect the cultural traditions of each country or people. At the same time adequate food should be materially and economically available to the most vulnerable sectors of society.

Paragraph 15 of GC 12 reminds us of the three **obligations of states** parties to the ICESCR, in this case with respect to the right to adequate food[2]: The obligation to **respect** existing access to adequate food requires States parties not to take any measures that result in preventing such access. The obligation to **protect** requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to ***fulfil*** (*facilitate)* means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to *fulfil (provide)* that right directly. This obligation also applies for persons who are victims of natural or other disasters.

In addition to States obligations, General Comment 12 also covers violations of the right to adequate food. Violations of the right to food can occur through the direct action of States or other entities insufficiently regulated by States[3]. Violations of the right to adequate food occur when a State fails to ensure the satisfaction of, at the very least, the minimum essential level required to be free from hunger. In determining which actions or omissions amount to a violation of the right to food, it is important to distinguish the inability from the unwillingness of a State party to comply. Should a State party argue that resource constraints make it impossible to provide access to food for those who are unable by themselves to secure such access, the State has to demonstrate that every effort has been made to use all the resources at its disposal in an effort to satisfy, as a matter of priority, those minimum obligations.

[1] Report prepared by Jean Ziegler, Special rapporteur on the right to adequate food, in accordance with the UNHuman rights commission resolution 2000/10 . E/CN.4/2001/53, February 7, 2001. This is referred to as the legal actionability (subjection to legal review) of the right to adequate food. We now have General Commnet 15 available which addresses the right to water and which was taken into consideration during the first working session of the working group on the right to adequate food for future reports.

[2] For more detailed information see General Comment 12.

[3] General Comment 12, par.19.

Furthermore, any discrimination in access to food, as well as to means and entitlements for its procurement, on the grounds of race, colour, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status with the purpose or effect of nullifying or impairing the equal enjoyment or exercise of economic, social and cultural rights constitutes a violation of the Covenant.[4].

II. THE LEVEL OF COMPLIANCE OF THE RIGHT TO ADEQUATE FOOD IN SPAIN.

1. The need to construct our position in the world based on respect and the defense of human rights.

The goal of this report is to analyze the level of recognition and compliance of the human right to adequate food in Spain through an analysis of the existing legal framework, highlighting those situations, cases and processes which reveal either legal lacunae or insufficient application of existing regulations, that generate violations of this human right. Spain is a developed and democratic state that therefore has the means and the institutional mechanisms necessary to guarantee the full exercise of the human right to adequate food to all those people who reside in the State. Therefore, while we recognize the advances that have been made, we cannot fail to be call attention to certain realities which call for a decisive will to generate a situation of full recognition and compliance of this right in the State, given that there is no justification for the situation to be otherwise.

2. Constitutional recognition of the right to adequate food.

Art.10.2. of the Constitution declares that the norms relative to the fundamental rights and liberties that the Constitution recognizes will be interpreted in conformance with the Universal Declaration on human Rights and the corresponding international treaties and Agreements. In this way the Spanish Constitution establishes the preeminence of international treaties on human rights over national norms, and any legislation should be interpreted in light of these principles.

Art 9.2 establishes the obligation of public authorities to promote the necessary conditions and remove obstacles for the following rights to be real and effective; freedom, equality and participation, as well as recognized human rights and fundamental liberties.
Using the obligation of the state as the starting point, the constitution establishes some distinctions which determine the definition of the subjects of concrete rights in each case. These distinctions are crucial to the content of this report. With regard to certain rights the constitution makes reference to "Spaniards" or "nationals" or "citizens" so that the recognition of this right is limited to those people who hold this legal status, whereas with regard to other rights the constitution makes reference to "all persons", which introduces an element of universality to the recognition of these rights.

A**rt. 15** says *"All persons have the right to life and to physical and moral integrity…"* Interpreting this article in light of the international treaties subscribed to by Spain we need to say that the right to life includes the right to adequate food, water, clothing and housing,

[4] General Comment nº 12, par. 18. Enumerated examples of the violation of the right to adequate food can be found here.

given that these rights are considered inherent to the right to a decent life, in accordance with art. 25 of the Universal Declaration of Human Rights and with art.11 of ICESCR. Without the right to adequate food or water, it is impossible to exercise the right to a decent life.

In addition article 15 incorporates another element which is important in the analysis of the current reality. When it says "all persons", it is saying that the right to life and therefore to its prerequisite, the right to adequate food, is recognized for all people whether they are Spanish or not, and whether or not they are recognized citizens. By the mere fact of residing in Spanish territory, the State has the obligation to promote and remove obstacles in order to respect, protect and fulfil these rights. Therefore when article 15 speaks of "all persons" it is speaking of a right that transcends national borders to acquire a universal character. The actions of the State should promote the respect to the right to life in the national territory, but should also base its actions on the international framework as well as satisfy its extraterritorial obligations.

3. Social exclusion, poverty and the right to adequate food. Social Analysis.

As a member of the European Union, Spain took on the obligation, in the Nice Summit, of developing a **National Plan to combat exclusion** in cooperation with interested social sectors and actors. At this time **the "Plan de Inclusión del Reino de España 2003 – 2005", (Inclusion Plan of the Kingdom of Spain)** is in effect, which establishes " *a fundamental framework in the fight against exclusion and which is a reference for policies which seek to guarantee all economic, social and cultural rights…*" (preamble to the plan).

3.1 Social vulnerability, exclusion vulnerability and the right to adequate food in Spain.

In analyzing the causes that generate poverty in Spain and the living conditions of those households which find themselves in this situation, we find a series of concrete cases that affect certain social groups in which the right to adequate food is infringed upon or runs the risk of infringement.

a. General data on poverty in Spain

Using data from the Household Budget Survey and the European Household panel Survey, both published by the National Institute of Statistics, and the report on living conditions among the poor in Spain carried out by Cáritas Española (EDIS, *et al*., 1998), henceforth FOESSA, we can discover a reality that is hidden from the view of the ordinary citizen.

In Spain 18,4 % of the population live below the relative poverty line [5], established at 4,512 euros a year by EUROESTAT. If in absolute terms the percentage of people who live in relative poverty is higher in the cities than in the country, in relative terms the percentage of people who live in poverty is higher in rural areas. Whereas 23.5% of the total population

[5] Poverty line: is 60% of the median income for 1998 per unit of consumption (OECD modified scale) taking the distribution of people.Income per unit of consumption is calculated by dividing the total household income by the number of units of consumption. The number of units of consumption is calculated by totaling the number of household members using a series of coefficients. The coefficients vary depending on whether the member is a primary provider, over 14 years old, or under 14.

live in municipalities with less than 10,000 people, 28.5% of poor people live in these same municipalities. These proportions are inverted in municipalities with more than 50,000 people, as the following table shows. In fact the level of poverty in municipalities with less than 10,00 inhabitants is double that of cities with more than 50,000 inhabitants. However, studies of the development of poverty in the last few years show that whereas poverty in the rural areas is decreasing, it is increasing in the cities.

Another important factor to take into consideration when analyzing poverty and exclusion in Spain is its geographical distribution, which continues to demonstrate structural inequalities that do not diminish. Autonomous Communities with historical delays continue to have the highest concentrations of excluded populations. Extremadura, with 40,8%, (followed by Andalucía and Castilla La Mancha with 28,8 and 28,2%) continue to be the regions with the highest levels of poverty.

Another significant fact relative to the age and sex of those people living in poverty tells us that in the entire state there are more young people living in poverty (25,7% under age 15 and 20,7% between 15 and 30 years), than old people, whose levels drop to 16,2 %. There is also a slight inequality between sexes and there are more poor women (19,3% versus 18,5%). The distribution of poverty by age and sex is the following:

b. Severe and Extreme Poverty.

The gradation of the situations of poverty offer us a typology of situations that run from greater to lesser severity and which have a decisive influence on the exercise of human rights and concretely on the right to adequate food. Commonly understood there are four levels of poverty: Extreme Poverty: Less than 15% of the RDN. Less than 1,353.6 euros/year. Severe poverty: Between 16% and 25% of the RDN. Less than 2,256 euros/year. Moderate Poverty. Between 26% and 35% of the RDN. Less than 3,158.4 euros/year. Social Insecurity: Between 36% and 50% of the RDN. Up to 4,512 euros.

Those households and people living in extreme and severe poverty have greater problems in exercising their basic human rights such as the right to adequate food, not only for lack of economic means but also due to the confluence of multiple factors that severely influence the cycle of exclusion. 6.2% of poor households are in situations of extreme poverty and 13.8% in severe poverty. Ceuta and Melilla are the communities with the greatest percentage of households in extreme and severe poverty, 28.4% and 30.1% respectively. These are followed by Cataluña , Andalucía and Galicia. At the other extreme are the Communities of Navarra, La Rioja, and País Vasco where the percentage of people and households in extreme and severe poverty is lower..

c. Extreme Poverty, Malnutrition, Hunger and Associated problems.

Deficient nutrition is one of the characteristic features of severe poverty. The cause is always scarcity of resources. This affirmation is drawn from the same report on poverty conditions in Spain based on one of the questions asked. According to the results of this survey.[6] 35 % of poor households have been in dire situations to the point of not being able to adequately satisfy their need for food.

[6] Condiciones de vida de la población pobre en España (Living conditions of the poor in Spain). EDIS-Cäritas Report. 2000. Fundación FOESSA

The following table shows the results of the survey disaggregated by type of habitat and frequency of situation.

Situation/ Habitat	Rural	Semi-rural	Urban	Mega-urban
Never	71,1	65,4	61,7	62,7
Sometimes	21,1	23,2	22,6	23,4
Frequently	6,0	6,9	7,6	6,2
Currently	1,9	4,5	8,1	7,7
Total	100%	100%	100%	100%

Source: Survey on living conditions of the poor population (EDDIS-Cáritas 1998)

Based on the available facts we can extract a series of elements that will facilitate the exposure of a parallel reality that infringes on the right to adequate food. The facts indicated above remain hidden to the Spanish population and are also hidden from public administrations and institutions that are barely aware of them.

- A primary consideration relates to the influence of **the type of habitat on the incidence of the infringement of the right to adequate food.** The greater the size of the population, the greater percentage of households that have been in this situation. But what is more is that within the cities the distribution of the phenomenon is not constant. The survey reveals another important fact: in more deteriorated neighborhoods the percentage of households that have been in this situation increases. If we classify by neighborhood based on the available data and classifying by four types; ancient or historic centers, old deteriorated neighborhoods (from the 50s) ; working class deteriorated neighborhoods (from the 70s); and suburbs and shantytowns (which still exist in many cities), the following table shows this:

Situation/Habitat	Historic center	Old deteriorated	Working class deteriorated	Suburban shantytown
Never	70,8	58,3	62,0	40,3
Sometimes	21,1	27,9	22,3	26,6
Frequently	3,8	6,7	9,1	14,2
Currently	4,4	7,0	6,5	18,9

Source: Survey on living conditions of the poor population (EDDIS-Cáritas 1998

A second consideration is that households in vulnerable situations have **other associated problems**: Alcoholism in 25%, Other addictions and drug dependencies (18%), Problems with the law (12,2%) Chronic illness (20%).

- Third, these situations are reproduced most frequently among the following three populations: **Spaniards with gypsy ethnicity** (31.8%) **Undocumented (illegal) immigrants** (45.4%) and **Dependent elderly and elderly who live alone** (21%). Throughout this report we will detail how the data relative to the undocumented (illegal) immigrant population has increased dramatically in the past four years, although we have very little data to base this allegation on.

- It is also important to highlight that although **the percentage of household expenses devoted to non-alcoholic food and beverages** has been decreasing in recent years, in the case of families living above the poverty line it represents 18,2% of household

income, whereas in families living below the poverty line this expense is equal to between 38% and 45% of household income.

3.2 Effective guarantee of the right to adequate food for the socially excluded sectors in Spain.

A social protection system that covers all situations of need, vulnerability or deficiency to guarantee the fulfillment of the right to adequate food should fulfil a number of requirements: universality, income guarantee, unconditionality and social initiative and participation.

The construction of the welfare state in Spain and the universality of social services during the past thirty years have been produced at the cost of a progressive transfer of competencies towards the non-state sectors. We understand that the guarantee of this right is given by the state as laid out in the ICESCR. As we shall see, in the cases of the violation of the human right to adequate food, those people finding themselves in situations of severe or extreme poverty are at the margins of the state social protection system and find themselves instead ending up in the volunteer and solidarity action circuit. Welfare benefits have gone from 8% of the total budget for social protection in 1990 to 25% in 1998.

a. Minimum incomes in Spain. The obligation to protect.

We understand basic income to be a right that safeguards and protects the most vulnerable social sectors or those with special or related difficulties which infringe upon the exercise of basic rights like the right to adequate food or clothing, all of these prerequisites for the right to a decent life.

An analysis of existing basic income programs in Autonomous Communities offer a sufficient picture to evaluate the coverage of rights that are intended to be assured through these programs. As we shall see they do not fulfil the prerequisites of universality, sufficiency and guarantee of income, which considerably limits their impact.

Non-Universality of the programs.

The laws regulating basic income programs stipulate a series of conditions that must be met in order to access them, which we can classify in various types:

- Residency requirements: Obligatory Residency in the autonomous community. There is a minimum period of residency, which on average is two years and which reaches five years in the case of Galicia or 10 years in the case of the Community of Navarra. In some Autonomous Communities Spanish nationality is expressly required.

- Age requirements. in some Autonomous Communities the minimum age to receive the basic income is 25 years, which excludes an important collective of unemployed youth or youth with special problems.

- Restrictive nature of the definition of the family unit. The consideration of the household unit as the beneficiary of the basic income presupposes an egalitarian intrafamily distribution of the benefit, which contrasts with the reality of many women who are marginalized from the benefit in favor of the figure perceived to be the "primary provider."

Insufficiency and non-guarantee of income

One of the most important factors to consider when evaluating basic income programs is their economic effects on inequality, their capacity to raise the income of families living below the poverty line, and their capacity to guarantee the minimum resources necessary to cover their basic necessities. Therefore we pay special attention to horizontal equity, that is the fairness of economic treatment given to all households with the right to basic income, regardless of their territory of residence. An initial analysis shows substantial differences between aid given in some communities and others.
The second important element of evaluation of the protection of basic human rights is the level of economic aid given as households increase their number of members, and the level of aid given above the poverty line established for each type of household.
Measuring these two elements offers us a clear view of the actual protection offered and its efficacy in guaranteeing the right to adequate food, among others, and shows that it is far from covering the relative poverty levels existent in Spain.

b. Urgently needed aids. Obligations to fulfil (facilitate and provide).

When people , for whatever reason, cannot cover their need for food by themselves and the intervention of the state is necessary to make the right to adequate food effective, this obligation should be exercised to the last degree and with total coverage. Paragraph 17 of General Comment 12 states that "Violations of the Covenant occur when a State fails to ensure the satisfaction of, at the very least, the minimum essential level required to be free from hunger...". In a general way, all the Autonomous Communities recognize the right to urgently needed aid; either as part of the general system of non-contributive social services, or as one of the types of aid established in the decrees that regulate the basic income programs or insertion incomes (*Rentas Mínimas* or *Ingresos de Inserción*). These urgent need or 'emergency aids' as they are called in other Autonomous Communities, are intended to cover those situations where an urgent need exists for food, housing or some other need, and where, if aid were not provided, people would be left in dire situations. The current existing exclusion and the invisible reality of 1 million undocumented (illegal) immigrants in Spain make a special mention and analysis of these measures necessary.

As an example we'll look at the regulation through which the Autonomous Community of La **Rioja (Decree 24/2001, April 20)** regulates social insertion aid. Emergency social aid is of an economic nature, destined for situations of urgent and severe need, that cannot be met with any other measures, with the goal of preventing, avoiding or ameliorating situations of social exclusion. This aid has a subsidiary character and in all cases is a complement to the resources of the household unit. It is a subsidy. The basic insertion income (Ingreso Mínimo de Inserción) and social inclusion aid are mutually incompatible: if any household member receives one type of aid they automatically disqualify any other household member from receiving the other type. Social Emergency Aid is compatible with the basic insertion income (Ingreso Mínimo de Inserción) and the Social Inclusion Aid. It is processed within a three-month period following the evaluation of the social worker.

The legislation regulating these types of aid prevent the effective resolution of situations of infringement of those rights (in this case the right to adequate food) they are trying to protect. In sum, we can cite some of the most glaring difficulties that persons trying to avail themselves of these types of aid face:

Residency requirements (which run from 4 months to a year or 18 months) before being eligible to apply for the aid excludes new residents from availing themselves of this aid.
The same requirement applied in general terms also excludes from this aid those of the 800,000 temporary agricultural workers in Spain who work from season to season and who find themselves in situations of extreme need.
-the three month processing period established for these types of aid counters the urgent nature of the need for which they were created.

- The determining factor that prevents these programs from fulfilling their objectives is the lack of resources and their subjection to the discretionary administrative budgetary process which annuls their character as rights and converts them into beneficent acts on the part of the administration.
- General Comment 12, paragraph 19, states that violations of the right to food can occur through the direct action of States or other entities insufficiently regulated by States. Paragraph 17 states that violations of the Covenant occur when a State fails to ensure the satisfaction of, at the very least, the minimum essential level required to be free from hunger

3.3. A productive model that does not guarantee the right to information and the right of citizens to choose healthy, quality food. The advance of genetically modified crops in Spain.

General Comment 12 , in defining the right to adequate food, introduces two important definitions, which are "food which is free from adverse substances and acceptable within a given culture". Throughout the text, the comment stresses in different ways the need for complete and truthful information about food and the capacity of the public to freely decide to exercise their right to choose one or another type of food.

Spain is the only country in the European Union that allows genetically modified crops to be grown at a commercial level for human consumption. Since 1998 the planting of a variety of corn seed (Bt), which is resistant to insects and is commercially known as Compa CB and is marketed by Syngenta Seeds, has been authorized. This corn has a genetic modification, which consists of a gene extracted form a soil bacterium, *bacillus thuringiensis*, which contains information to produce a toxin capable of killing insects like the taladro. It also contains a gene that confers the plant tolerance to glufosinate ammonium, and a gene that confers resistance to the antibiotic ampicillin.

On February 27, 2003, authorization was given through an order published in the BOE(Official State Bulletin) March 11, 2003, for the inscription of five new varieties with the modifications Bt 176 and Mon 810. The Spanish government continues its *fait accomplis* policy regarding the introduction of these crops, despite the existing de facto moratorium approved by the European Union.
In this report we focus on **the infringement of the right to information in relation to the right to adequate food** as a consequence of the non-fulfillment and lack of compliance with existing laws on the part of the Spanish authorities.
Law 9/2003 5 April, which establishes the legal framework for the confined utilization, voluntary release and commercialization of GMOs. which is transposed from Directive 2001/18/EC on voluntary release into the environment of GMOs, has failed to correctly regulate certain aspects like the registration of commercial and experimental fields, and the evaluation and follow up plans. This has left consumers and farmers defenseless.

Neither the Ministry of Agriculture nor Syngenta itself have provided clear information about those fields where these genetically modified crops are being grown, despite their obligation to do so. These fields are concentrated above all in the provinces of Lérida, Huesca, Zaragoza, Navarra, Albacete, Badajoz, and Seville. They have also failed to fulfill the required follow-up monitoring plan which should be comprised of the facilitation of reports on sales per locality and cultivator; pollination contamination prevention plans; evaluation of the effectiveness of the insecticide introduced; appearance of resistance to the protein Cry 1A (b) in the taladro population; and effects on insect populations and on bacteria populations. Not only did the administration fail to require the company to comply with this plan, but in addition it hid the available data and failed in its responsibility regarding the right to adequate food.

III. NON-FULFILMENT OF EXTRATERRITORIAL OBLIGATIONS BY THE SPANISH STATE .

The debate surrounding the international obligations derived from the economic, social and cultural rights has been intense, due to the attempt of many governments to block this issue. As a result, social organizations have the ever-increasing responsibility of clearly expressing the senselessness of these divisions. Every government develops political and economic actions that have repercussions in other countries. In international negotiations government positions end up determining the content of the treaties, the commercial relations maintained, or the control or lack thereof exercised on the actions of national actors which have repercussions beyond their borders.
We believe that a state that fulfils its obligations in the area of human rights and especially the right to adequate food assumes the responsibilities derived from its actions.

The Common Agricultural Policy. Impacts on the right to adequate food in the countries of the South.

In June of 2003, and 6 months after the European Agricultural Commissioner made public his intermediate revision of Agenda 2000, the latest revisions of the Common Agricultural Policy (CAP) came to light. The new reforms have been amply contested by an increasing number sectors and organizations, from agricultural organizations concerned about the future of family farming, to Development NGOs who believe that the perpetual reforms of the agricultural model benefit the multinational corporations and large agricultural exploitations, thereby harming the peasants in the South and putting their agricultural sovereignty at risk.

We are facing an issue of extreme complexity that affects both the nutritional sovereignty of Europe as well as nations in the South. We believe that an agricultural policy which is based on solidarity, is fair, and defends small and medium family farming concerns, should be seen as a strategic means to develop the right to adequate food in the North and South. We believe states should be concerned with a productive sector that not only forms a fundamental part of the economic structure in many cases but that also produces the food necessary to guarantee the rights to which we refer in this report.
An analysis of human rights stems from the perspective of the victims and the most vulnerable groups. Therefore we must analyze the effects of the CAP on the peasants of the

south and on the right to adequate food, combine it with a critique of the existing agricultural policy, and at the same time develop alternatives. Therefore we believe it is necessary to reform it bearing in mind the following principles:

We want an agricultural policy that does not contribute to the violation of human rights and does not adversely impact the right to adequate food of the peasants of the South and which at the same time promotes socially and ecologically sustainable family farming, made up of small and medium sized family farms in Europe. This implies establishing positive discrimination in favor of small and medium farms over large-scale high-tech industrial farming, which has the greatest impact on the nations of the South. This would have number of consequences on the measures and instruments that are actually used in agricultural policy.

1. Measures to control the volume of production should be put into place in almost all sectors in order to decrease surpluses and production destined for export and to give priority to farms of a determined size. This implies the decrease of quotas.

2.Quotas and production rights should be redistributed so that they can be adjudicated to sustainable farms; those in areas with the greatest difficulties; or those with young farmers. Therefore it is urgently necessary to eliminate quota markets.
3. It is important that agricultural policy advance towards remunerative prices both in European and international markets, in this way slowing down the current situation of continual price collapses.

4. It is important to redirect aid toward sustainable farms , establishing maximum limits of size and completely eliminating export subsidies in all their forms. 4% of farms in Spain receive 30% of aid whereas 60% receive only 8% of aid.
5. The agricultural environmental measures of the CAP should have as their objective the de-intensification of certain sectors like fruits and vegetables which currently consume high levels of energy and inputs and which generate strong impacts on world markets.

Case study. The production of sugar in Spain, a paradigmatic case. Market concentration, Empresa Azúcar Ebro SA (Ebro Sugar Company), restitution for export and impacts on the right to adequate food in the nations of the South.

In Spain, as in the rest of Europe, sugar is extracted from sugar beets, with costs notably greater than extraction from sugar cane. Paradoxically, the European Union is a world leader in sugar exports. Additionally sugar is one of the three sectors, along with meat and milk, which receive the highest export subsidies. However, finding a solution to the sugar regime that would be beneficial to family farms in Europe and in the South is complicated in a sector dominated by processors world wide.

a. The COM of sugar reinforces the reality of the world sugar market.

The volume of sugar destined for the world market was 42.6 million tons in 2002, which is 25% of world production, estimated at 160 million tons. This amount has increased by 43 million tons since 1997, since in that year 38.3 million tons were sold on the world market. The paradox is that the value of these exports in the same period has gone from 12,491,172 million US dollars to 10,492,620 million US dollars. That is, in current prices the value has diminished by 6.5%, but in constant prices the reduction has been equal to 40%.

The main sugar producing nations are Brazil (24 million tons) followed by India (20) the European Union (18), China (9 millions) Thailand (7) Mexico (5), Australia (5) Cuba (4), Pakistan (4) and the rest in much smaller proportions.

The composition of the list of main exporting nations is similar to the preceding list. The noticeable difference is that Brazil went from exporting 6.6 million tons in 1997 to 11.5 million tons in 2002. The European Union maintained its level of exports constant and the rest of the countries decreased their export volume with the exception of South Africa, which increased slightly from 1 million to 1.5 million tons.

The production structure and marketing of sugar is similar all over the world: cane or beet producers sell to processors as a function of predefined contracts for previously agreed amounts. If 30 years ago most of the processing companies were state owned, fulfilling the function of agglutinating the productive sector, and transforming and marketing the product, in the 1980s a process of privatization began both in the North and the South. British Sugar, which is the world's largest multinational and which today controls 100% of the British sugar market, was state owned until 1981. The same happened in all the large European sugar companies. 10 large companies currently control 70% of the world sugar market (Südzucker, Danisco, Eridania Beghin Say, British Sugar, Cargill ...) and the four largest control 50%. In Europe the degree of concentration is even greater: in eight countries (Austria, Ireland, Portugal, United Kingdom, Denmark, Greece, Sweden, and Norway) only one company controls 100% of production. In Spain one company, Azucar Ebro SA, controls 80% of production and marketing.
If there is one thing that is widely contested by social and agricultural organizations seeking a new model of the CAP it is the system of exports and export subsidies.

Export restitution was established to eliminate surplus production, but nevertheless it has become structural given that production is always surplus. While it is true that restitution payments have diminished by 25% they still reach 1,168.4 million euros of the 1,396 million euros total cost of the sugar regime. The European Union covers 800 million euros a year through assessments included in the price to the consumer and the remaining amount is paid for by the CAP budget.
The average restitution is 480 euros/ton and this is directly received by the sugar processors. Azúcar Ebro SA, receives some 123 million euros/ year from this source.

The fundamental criticism of the sugar regime is essentially directed to this aspect and its relation to the rest of the COM. The restitution payments for exports subsidize the large sugar multinationals twice, who, not being satisfied with having a guaranteed market price in the internal market and a margin of benefit from having a fixed price for the acquisition of sugar beet, also receive money for exporting surplus to the world market at the same price as the internal market, thereby collapsing international prices and ruining producers in developing countries.

c. Impacts on the farmers of Spain and the nations of the South.

- Inequality for the farmers of Spain.

Initially the sugar regime allowed for the sugar sector to be one of the highest income generators in the agricultural sector. In the case of Spain, beet producers have beet crops of an average size and find in this crop the security they need to be able to produce other crops, which do not provide them with income. Beet crops diversify agricultural cultivation. The quota system has allowed for the maintenance of production in all the Autonomous

Communities and in many areas where, had it not been for this, production would have been abandoned.
Nevertheless the process has been degenerating little by little. Sugar and beet prices have been frozen since the 1984-1985 campaign, which means that there has been a progressive loss of income. This has meant that production has been concentrated more and more in the hands of large producers and in more profitable and efficient farms, and abandoned in precisely those areas where it played a social and environmental role.
Finally, aid is distributed as a function of the volume and size of farm, so that large producers receive the greatest amount of aid. Subsidies equal 1,180 euros per cultivated hectare. In order to calculate the amount received you need to consider the quota rights available to each producer. Many farmers produce non-quota sugar, and therefore receive no type of subsidy, as is logical. The actual distribution however reveals that 65% of the smallest farms (less than 10 hectares) receive 22% of subsidies, whereas the 8% of producers with over 50 hectares receive 40% of production subsidies.

Impacts on the peasants of the South.

The impacts of the sugar regime on peasants in the south and on their right to adequate food proceed from the dumping generated by exports. We can specify four aspects of these impacts:

- Imports at a lower price than the internal price of the country in question, thanks to the fact that the sugar that the European Union sells on the world market is subsidized in order to be competitive.
- Exports of surplus sugar sold on the world market in quantities of some 6 million tons mean loss of opportunities for countries of these same regions. Europe exported around 770,000 tons of white sugar to Algeria in 2001, and 150,000 to Nigeria, countries that could have been natural markets for Ethiopia or Zambia.

- The system of preferences of the European Union permits the importation of sugar cane to be refined in Europe but nevertheless these sugar cane producing countries cannot develop their own industries to export the sugar already refined. The subsidy system to chocolates and sweets harms the sweets industries of these countries, like Swaziland, whose sweets industry is paralyzed for this reason.

- Falling of international prices. Europe subsidizes its exports to bridge the gap between its high prices and the low international prices even when these fall below sustainable levels. Non-quota sugar however has the greatest impact.

1. Analysis of Cooperation Policy in the Area of Agriculture and Food.

Article 11 of the ICESCR, at the end of paragraph 1, establishes in general terms that, " The States Parties will take appropriate steps to ensure the international co-operation based on free consent."

Paragraph 2 expressly states that:

The States Parties to present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programs, which are needed:

a. To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of

nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;
b. Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

In June of 2000, the FAO presented the Program to Combat Hunger to the Food Security Council. In that document the FAO asks countries to destine 20% of Development Aid to programs for food security and for rural and farming development. Nevertheless the tendency of the ODA within the OECD destined to this end diminishes year after year.
In the year 2002, the net volume of bilateral Official Development Aid paid out by Spanish International Cooperation (Cooperación Internacional Española) has been 1,059,188,889 euros. A quick analysis of the available data shows that the percentage of bilateral official development aid destined to agriculture and food is approximately 3.81% of the total. This is far from the 20% recommended by the FAO in the Program to Combat Hunger, approved by the member states. The majority of these funds are managed directly through NGOs. These quantities include cooperation proceeding from the state general administration, and that managed in a decentralized way through the Autonomous Communities and local administrative bodies.

Case. Analysis of development cooperation policy of Spain. The worsening of food crises in Africa as a consequence of a contradictory and incoherent development cooperation policy.

In 2001, 5 sub-Saharan African countries, the region with the greatest difficulties in reaching the goals of Millennium 2015, became net contributors of 10 million euros to Spain. Concretely, Ethiopia, Uganda, Lesotho, Malawi and Cameroon reimbursed Spain with a volume of 12.9 million euros as repayment for FAD credits, an amount five times greater than that which they received in donations, which totaled 2.6 million euros.
During the same period that this reimbursement of funds was made, four of the five countries were affected by severe food shortages, due to the drop in production caused by prolonged droughts , floods and interruptions to agricultural activities, according to the FAO.
Ethiopia, a country where 75% of the population live with less than 1$ a day, destined a net volume of 1.2 million euros to Spain in 2001, a year in which 6 million people needed to receive food aid due to the above mentioned causes. This situation was worsened by the problem of the foreign debt to Spain, which totals more than 15 million euros a year. Lesotho, Malawi and Uganda, with negative balances of 0.67, 0.25 and 2.6 million euros respectively, faced food emergencies due to drought, floods, or displacement of the population.

In the face of this grave situation, the Spanish government said nothing, nor did it adopt any measure in the bilateral arena. The response of the Spanish government cannot rest on the food aid given, because although it is necessary, it is insufficient. The Spanish government should have adopted measures to prevent this transfer of monetary resources from continuing to take place. All foreign debt of the least developed countries, and especially those who face severe deficiencies and food crises, should be cancelled immediately.

Source:. La realidad de la ayuda 2003-2004. Intermon-Oxfan

2. The responsibility of Spanish companies operating in foreign counties relating to violations of the right to adequate food. Non-fulfillment of the obligation to respect.

The CEPAL report "foreign investment in Latin America"[7] showed that despite the fact that the years 1998 and 1999 were difficult due to the international financial crisis, the region continued to receive increasing amounts of direct investment, which increased by 281%. Nevertheless, the data on direct investment show that this increase was due above all to the private acquisition of public companies. Brazil (34,7%) followed by Argentina, Chile and Mexico were the countries that received the greatest investment. International investors look for conditions of confidence and security in order to make their decisions. The participation of transnational companies in the sales of the 500 most important Latin American companies increased from 26 to 38.7% in the decade of the 90s. Although companies from the United States continued to have the greatest number among the transnational companies, various European companies, among them Spanish companies, achieved a significant presence, with 10% of total investment on the continent. Foreign investment, and Spanish investment in particular has centered on natural resources and energy under very favorable conditions, with barely any commitment to social or technological investment. The same CEPAL report shows that foreign investment, far from having been favorable to wealth distribution, employment, and the quality of available services, has increased social conflict in indigenous and peasant communities, increased the displacement of populations and the abandonment of productive activities in many of the communities where these companies have invested.

Case. Violation of the right to adequate food through the actions of the Spanish company Repsol YPF in Loma de Lata, Argentina. Support of the Spanish government for the expansion strategy of the company.

The infringement of the right to adequate food by companies with Spanish capital and the corresponding responsibility of the Spanish government can be illustrated through the example of the exploitation of hydrocarbons by REPSOL-YPF in Argentina.

The impact of petroleum exploitation on the Mapuche, Kaxipayiñ and Paynemil communities is exhaustively documented. According to Radovich, Balazote, s/f, 2, for the communities living on the plain next to the Neuquén river, 100 Km. from the capital Neuquen capital, the coexistence between the extractor on the Loma de Lata deposit and their basic livestock production is not viable. Extensive sheep and goat raising is their fundamental subsistence activity.
The report on the socio-environmental impact of Loma de la Lata[8] contains numerous extracts of interviews with residents of the area who movingly explain the relation between the hydrocarbon exploitation of Repsol YPF and the decrease in the quantity and quality of their livestock:

The report also reveals scientific data that supports the impressions of the Mapuche residents. In sum, there is sufficient concrete data to ascertain **the direct and indirect damage to livestock produced by the hydrocarbon exploitation:**

[7] La inversión extranjera in América Latina. Una década de despegue. CEPAL Report 2000.
[8] EVALUACION DEL IMPACTO SOCIO-AMBIENTAL DE LA ACTIVIDAD HIDROCARBURIFERA in LAS COMUNIDADES MAPUCHES and SUS TERRITORIOS.LOMA DE LA LATA, NEUQUEN, ARGENTINA. **-- INFORMES FILOSOFICO, JURIDICO and TECNICO --**Neuquén, 7 July, 2001. Equipo Mapuche - Equipo Jurídico - Equipo Técnico Neuquén, Argentina, July, 2001.

As a result of the contamination generated by the deliberate or accidental dumping of gasoline and other hydrocarbon derivatives on the surface layer, superficial water courses, and fields, in the last two decades the mortality of the animals has increased and the levels of production have decreased: size and weight of the animals, quantity and quality of wool and leather, and losses related to reproduction such as decreases in number of offspring, birth-weight, birth of offspring with deformities, decreases in the health of the animals and a greater level of diseases and new diseases in the animals. Given the scarcity of resources for foraging the animals have suffered an increase in susceptibility to infectious-contagious diseases and parasites.

CONCLUSIONS and RECOMMENDATIONS.

As a developed country, the level of exclusion in Spain is around 18.7% of the total population. Far from diminishing, this percentage has stabilized in the past decade, becoming a structural reality. 5.6% of the Spanish population live in conditions of extreme poverty and 20% of the poor population live in this situation. 35% of households in this situation have suffered hunger or lack of food at some point, and at least 15% face this situation frequently. These facts reveal a reality that is hidden from the view of the ordinary population, but we believe that the state cannot remain aloof from this reality. We understand its responsibility to be, above all, to those sectors of the population that face the most difficult or vulnerable situation, in accordance with the priorities defined in our constitution.
In this last section of this report we want to lay out the recommendations that we feel are most urgent in order to be able to consolidate a state that is founded on human rights:

1. We consider essential the **creation of studies, analyses and reports based on publicly available statistical data on the reality of social exclusion** in Spain that includes data relative to the exercise of economic, social and cultural rights, and especially the human right to adequate food. This action should be taken by the Spanish government as a prerequisite to the development and monitoring of the **National programs to Combat Exclusion** that the state has the obligation to present to the European Union. These programs should focus especially on existing severe and extreme poverty, where we find cases of persistent hunger and malnutrition.
2. The Spanish government should undertake a global reform of its **system of social protection** in order to harmonize and improve the different types of aid, strengthening the contributive type over the service type. In regard to the latter, we call attention to our concern over the diverse prerequisites and conditions which limit the universality of the aid, excluding certain groups who at this time do not receive aid sufficient to meet their basic needs. It is also necessary to update the amounts of aid so that it is able to improve the situation of economic insecurity of the receiving families. Concretely, we believe it is essential to harmonize the basic income schemes in Spain so that this is considered a basic, universal and unconditional human right. Given that **aid for urgent need or emergency need** is a last recourse to rectify situations of extreme privation and that the regulatory norms adjudicate them to cover food deficiencies, it is necessary to reform this aid to facilitate its availability to people in need, making it an inalienable right to cover basic human rights such as the right to adequate food. It is necessary to eliminate the barriers and requisites to the receiving of aid and to make public administrations facilitate access to this aid by people in need.
3. In this sense, but considering that we are facing a reality of great scope that has not been adequately addressed**, it is necessary to develop a policy of total integration**

of immigrants in Spain, based on the recognition and total access without restrictions of their human rights. This group, and especially those without legal documentation, are those that suffer the greatest number of violations of the human right to adequate food as a consequence of the social policies which restrict their rights.

4. We believe that the right to adequate food includes the ability to freely decide which foods we want to produce and consume, especially when there are doubts as to its healthfulness. At this time we believe that there is sufficient proof and data available to ask the Spanish government to stop its policy of the expansion of **genetically modified crops in Spain**. It is necessary to extend the existing moratorium in the European Union, but also urgently necessary to break through the lack of transparency with regard to such important issues as information on cultivated fields; proof and reports;and the demand for the monitoring and evaluation of the authorized crops and varieties. In sum, to clarify the existing situation.
5. Regarding international obligations we believe it is urgent to undertake a reform that definitively addresses the expansion of cooperation aid, which today reaches a paltry .21%. We need to redirect aid towards the poorest countries and give priority to the sectors of food and agriculture. We need to separate cooperation aid from commercial interests and from Spanish expansion. We need to seriously address debt cancellation programs in a flexible way, and reform the legislation regarding FAD credits. In sum, it is necessary to develop a cooperation policy that is consistent with the objectives of the Millennium and with the international agreements on economic, social, and cultural rights, respecting and promoting them throughout the world.

6. Finally, we consider it necessary for the government to commit **to a public debate regarding the social responsibility of Spanish companies,** developing and promoting concrete initiatives that involve Spanish companies on the one hand, but that on the other hand impose criteria of responsibility on public business promotion policies directed to this sector.

Notas del traductor: 1) el insecto **taladro** se puede traducir como house longicorn beetle, house longhorn beetle, blue gum borer, italian beetle, old-house borer, o eucalyptus borer. Debeis cambiar la palabra taladro por el adecuado.
2)pagina 8, seccion 3.2 parr.2: la palabra **asistencializacion**: si lo que quieren decir es que en general los servicios sociales en los ultimos 30 años han ido progressivamente hacia instituciones publicas (o sea del estado) **cambia** la palabra roja "non-state" a "state".
Si quieres decir lo contrario, dejalo como esta.
El problema es que no queda claro si lo que queries decir es que en general los servicios han ido hacia el estado,(y esto es lo que entiendo con la palabra asistencialización) pero que para los mas marginados y los immigrantes ha sido lo contrario porque no pueden acceder a los servicios del estado
O bien :que en general los servicios se han ido alejando del estado y los mas afectados de este alejamiento son los marginados e immigrantes.
Si teneis cualquier duda, contacten conmigo.