UNITED NATIONS

Press Release

GUANTANAMO BAY DETAINEES

UN human rights experts respond to US invitation

31 October 2005

The following statement was issued today by the following five independent experts of the United Nations Commission on Human Rights who are undertaking a joint study on the situation of detainees in Guantanamo Bay.

The independent experts are:

- Leandro Despouy, Special Rapporteur on the independence of judges and lawyers
- Paul Hunt, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health
- Asma Jahangir, Special Rapporteur on freedom of religion or belief
- Manfred Nowak, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
- Leila Zerrougui, Chairperson-Rapporteur of the Working Group on Arbitrary Detention

"We welcome the letters of invitation extended to three special procedures on 27 October 2005 by the United States Department of Defense to visit the Department's detention facilities at Guantanamo Bay Naval Station, Cuba.

This invitation is the first tangible result of almost four years of dialogue between the special procedures of the United Nations Commission on Human Rights and the US Government.

While we appreciate the willingness of the US Government to invite three of us, Asma Jahangir, Manfred Nowak and Leila Zerrougui, we deeply regret that similar invitations were not extended to Leandro Despouy and Paul Hunt, that the visit to Guantanamo Bay Naval Station is limited to one day and that private interviews or visits with detainees are explicitly excluded.

We have carefully considered the invitation and decided to accept it on the following basis. In a spirit of cooperation we accept the short duration of the visit and the fact that only three of us will be permitted to visit the facilities. However, we cannot accept the exclusion of private interviews with detainees as this would not only contravene the Terms of Reference for Fact-finding missions by Special Procedures but also undermine the purpose of an objective and fair assessment of the situation of detainees held at the

Guantanamo Bay.

We are confident that the US Government, which attaches great importance to the principles of independent and objective fact finding, will understand our position. We have decided that Asma Jahangir, Manfred Nowak and Leila Zerrougui will visit Guantanamo Bay provided that they will have free access to all detainees and the opportunity to carry out private interviews with them. The date envisaged for the visit is 6 December 2005.

Chronology of Requests for Visits regarding detainees at Guantanamo Bay and other locations

Since November 2001, a number of special procedures mandate holders have been engaged in a dialogue with the United States Government regarding the situation of detainees held in Guantanamo Bay. In June 2004, we joined our efforts and decided to continue the dialogue with the US Government as a group because the situation under consideration falls under the scope of more than one mandate. Accordingly, on 25 June 2004, we sent a letter requesting to visit "those persons arrested, detained or tried on grounds of alleged terrorism or other violations, in Iraq, Afghanistan, the Guantanamo Bay military base and elsewhere". Subsequent reminders focusing on a visit to Guantanamo Bay were sent on 22 November 2004, 21 April 2005 and 31 May 2005 respectively.

By letters dated 9 November 2004 and 20 May 2005 and in a briefing with the US delegation to the Commission on Human Rights, held on 4 April 2005 in Geneva, the United States of America responded by saying that the request "continued to be the subject of intense review and consideration" and that it "has received serious attention and is being discussed at the highest levels of the U.S. Government".

On 23 June 2005, we announced publicly at a joint press conference that, in the absence of a reply, we will join our efforts to undertake, within our capacities of our respective mandates, a study to determine the situation of detainees in Guantanamo Bay. We have subsequently embarked on a study on the applicability of international human rights law to detention in Guatanamo and on the legal aspects related to this situation. We have also begun gathering factual information by various means and we will be carrying out interviews with former detainees currently residing in a number of countries. By letter dated 21 October 2005, we received a detailed response from the US Government to the questionnaire that was submitted by us on 8 August 2005.

On 26 and 28 October, we had further meetings in New York City with US officials from the Defense and State Departments. At the second meeting, we were provided with the three letters of invitation and assurances that the US Government will continue its cooperation with the five independent experts involved in the joint study.