**Reply from the Republic of Mauritius**

**United Nations General Assembly Resolution 73/304 - Towards torture-free trade: examining the feasibility, scope and parameters for possible common international standards.**

1. The State of Mauritius does not trade in goods for capital punishment. Capital punishment was abolished in 1995 by virtue of the Abolition of Death Penalty Act 1995.

However, Section 7 (b) of the Police Act 1974 provides that every police officer shall be provided with the staves, arms, ammunition and other equipment necessary for the effective discharge of his duties.

Moreover, the Criminal Code was amended in 2003 to include a provision on torture by public official defending as a safeguard to police using the weapons for torture of public.

1. The State of Mauritius imports protective equipments such as Tonfa/Expandable batons, handcuffs/foot cuffs and federal streamers, among others, which are issued to police officers for the performance of their duties. These weapons are meant exclusively to protect/defend themselves in the exercise of their duties or other persons when they are being violently attacked.

The importation of such equipment is subjected to strict control by the Aviation Security Directive made under the Civil Aviation (Security) Regulations 2008 and regulated by Merchant Shipping Act 2007. The Customs Act regulates the importation of Prohibited Goods and Section 24 of the Firearms Act, prohibits the manufacturing, selling, transfer, purchase, acquisition or possession of weapons designed or adapted for the discharge of noxious liquid, gas or another thing, without the authority of the Commissioner of Police. The term “other thing” includes injurious pulses such as electric ones.

In Mauritius, the monitoring of imports and exports is carried out by officers of Customs, falling under the purview of Mauritius Revenue Authority, together with members of the Police.

1. **The feasibility of common International Standards**

Common International Standards are considered necessary to prohibit exports and imports of goods which have no practical use other than for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment.

However, there should be a clear, explicit and exhaustive definition of the terms “no practical use”. Using the term “reasonable” instead of practical might be more accurate and closer to the objective of the prohibition.

1. **Scope of goods**

The State of Mauritius proposes the following categories of goods used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, namely:

1. goods which have no practical use other than for the purpose of capital punishment, torture and other cruel, inhuman or degrading treatment or punishment; and

(ii) goods that could be used not only for the purpose of torture or other cruel, inhuman or degrading treatment or punishment, but also for legitimate purposes.

The list of goods mentioned above should be as exhaustive as possible in order to respond quickly when new goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, are developed.

A standard and uniform list is essential to ensure a common and consistent interpretation and effectiveness. This will not only benefit States or Law Enforcement Agencies but will also serve to inform the public at large. There should also be an active mechanism responsible for updating the list regularly, where there is a clear and immediate risk that those goods will be used for purposes that entail such human rights abuses.

1. **Draft parameters for a range of options to establish common International Standards on the matter**

The proposed common International Standards should definitely provide for strict control of trade in goods that could be used for the purpose of torture or other cruel, inhuman or degrading treatment or punishment and goods that could be used the purpose of capital punishment.

It is also necessary to impose controls on exports of certain goods which could be used not only for the purpose of torture and other cruel, inhuman or degrading treatment or punishment, but also for legitimate purposes. Those controls are instrumental in promoting respect for human dignity and for fundamental human rights.

Additionally, all activities ancillary to the “import, export or transfer” should be envisaged to ensure effectiveness and meaningfulness. These will naturally include transit, promotion, technical assistance and training, brokering, sharing technology, manufacturing, production and commercial marketing. However, the group of activities should include any assistance (as opposed to just technical assistance). It should equally target the act of ordering, coercing, encouraging or inducing anyone to engage in any of the linked activities.

The proposed International Regulatory Framework could also include activities linked to import, export and transfer such as brokering services, technical assistance, training in the use of the regulated goods, promotion in trade fairs or exhibitions, and advertising.

Inspiration for the drafting language should be sought from the various conventions banning weapons such as the Convention on Cluster Munitions or the Treaty on the Non-Proliferation of Nuclear Weapons. These activities should hold both natural and legal persons criminally accountable. It could also draw inspiration from the rules, principles and mechanisms established in the Regulation (EU) 2019/125 of 16 Jan 2019 concerning trade in certain goods, which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment or the Rome Statute, which is a good example of a treaty used to not only create the International Criminal Court but also to cement the Crimes against Humanity of Torture or other Inhumane acts causing great suffering or serious injury to body or to mental or physical health (please refer to article 7(f) or 7(k) of the Rome Statute which can be accessed on <https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf> ).

The most suitable type of international Instrument to establish common International Standards for regulating goods used for capital punishment or torture or other cruel, inhuman or degrading treatment or punishment would be a legally binding Instrument establishing measures to control and restrict trade in such goods.

**6. Risk Assessment Mechanism**

Periodic and updated guidelines will have to be elaborated for the import, export and transfer of goods that could be used for the purpose of torture or other cruel, inhuman or degrading treatment or punishment and for the purpose of capital punishment. These guidelines will outline best practices and flag key trends. For instance, these could be a watchlist of persons, suppliers or countries known to manufacture, sell, buy, transfer, transport, broker items. The guidelines could also classify geographical regions by number of victims of torture or capital punishment and also indicate the means or items used to torture or kill them. The main aim of these guidelines would be to raise red flags.

**29.11.2021**