

ADVANCE QUESTIONS TO CHINA-Addendum

CANADA

- Could China indicate how many death sentences were carried out in 2008? If not, could it explain why statistics related to the death penalty are deemed to be state secrets?
- There have been serious allegations that in the past Chinese officials have tortured human rights activists and lawyers, including Mr. GAO Zhisheng. There are concerns that, following his arrest prior to January 23, 2009, he may be subjected to torture again. Will China, in a manner consistent with international law, conduct an independent and impartial investigation into these allegations and ensure that it acts in accordance with international legal standards regarding arbitrary detention and the prohibition of torture?
- Could China elaborate on the grounds invoked by Chinese government ministries to maintain the re-education through labour program in China?
- Could China provide more information on the current legal recourses afforded to individuals committed, by administrative decision, to psychiatric institutions?
- Could China provide statistics on how many individuals were arrested, tried and convicted on charges related to endangering state security in 2007 and 2008?
- Could China provide an update on the implementation of its National Plan of Action on Combating Trafficking in Women and Children since it was launched on January 1, 2008?

DENMARK

- When does China intend to ratify the International Covenant on Civil and Political Rights?
- It is a positive step that foreign journalist now travel freely and have the possibility to interview in principle anybody agreeing to answer questions in all of China except Tibet. In light of this, will China also consider enacting laws protecting Chinese journalists and their sources who provide information in the public interest? In this connection will China work to clarify the legal definition of “state secrets” in accordance with the ICCPR provisions in order to protect journalists and their sources and thereby ensure useful reporting and freedom of expression?
- At the examination of China in 2008, CAT expressed concern regarding continued allegations of routine and widespread use of torture and ill-treatment of suspects in police custody, especially to extract confessions or

information to be used in criminal proceedings and CAT was deeply concerned that these allegations were seldom investigated and prosecuted. CAT was also greatly concerned by the allegations of targeted torture, ill-treatment and disappearances directed against national, ethnic, religious minorities and other vulnerable groups in China, among them Tibetans and Uighurs. How will China implement the recommendations of CAT and the Special Rapporteur on Torture after his visit in 2006? When will China ratify the OPCAT and establish an effective and independent national preventive mechanism?

GERMANY

- The judiciary in China is reported to lack independence from the government and the Communist Party of China.

Is China intending to take further steps to increase the independence of the judiciary in general, and of judges in particular, with the aim of furthering legal certainty for the Chinese society and economy? Does the government of China require assistance in reforming the judiciary and in the training of judicial staff for that purpose?

LITHUANIA

- Lithuania would like to ask what priority directions China is envisaging to tackle in promoting rights of women and in particular fighting domestic violence in rural areas.

NETHERLANDS

- The national report refers to a *Human Rights Action Plan 2009-2010* (paragraph 90) that has also been announced in Chinese media since early November 2008.

When is the publication of this plan scheduled?

- The goals that are put forward in the report include ‘to continue advancing the rule of law, and to deepen the reform of the judicial system.’

Could you indicate in which respect the rule of law needs to be further advanced, and which reforms of the judicial system are proposed to achieve that goal?

Will the *Human Rights Action Plan 2009-2010* contain more elaborate measures to this effect?

- Part 5 of your Report (*Future Work and Goals*) is specific when it comes to formulating strategies to advance economic and social human rights, thereby largely addressing the *Difficulties and Challenges Ahead* as formulated in Part 4. However, no specific challenges or goals are identified as far as civil and political human rights are concerned.

Could you elaborate what you consider goals and challenges in the field of civil and political rights?

- Having signed the ICCPR over a decade ago, what is holding back ratification of the ICCPR and what measures is the Chinese government taking to expedite the ratification process?

NORWAY

- Is the government of China planning to reduce the scope of crimes subject to the death penalty, including elimination of all non-violent crimes?
- What steps could be taken to by China to publish national statistics on death sentences imposed and executions carried out?
- The PRC's Constitution guarantees the rights to freedom of expression, association and assembly. We appreciate recent legal reform in this area, including the "Regulations on Public Access to Government Information" and the granting of greater freedoms to foreign journalists. However, several laws and regulations, such as the "Regulations of the Administration of Internet News Reports", the "Regulations for Registration and Management of Social Organizations" and the "Law of the PRC on Assemblies, Processions and Demonstrations" seem to make disproportionate restrictions on citizens' rights to freedom of expression, association and assembly. For instance, the latter law is frequently used to bar gatherings and demonstrations and to punish individuals who apply for official permit to demonstrate. A wide range of peaceful acts of expression by petitioners and human rights defenders are also subsumed under Article 105(2) of the Chinese Criminal Code as "incitement of subversion of state power". Would the government see merit in conducting constitutional reviews of these regulations and how they are implemented?
- Are there any plans to review the State Secrets Laws to ensure that all state secrets provisions are clearly and narrowly defined to conform to international norms and constitutional provisions guaranteeing rights protection?
- The revised Lawyers Law has improved the lawyers' position in accessing and collecting evidence in criminal cases and meeting their clients. However, its implementation is challenging in light of contradictory provisions in the Criminal Procedure Law and the State Secrets Law. Article 37 of the Lawyers Law stipulates that lawyers are subject to criminal liability for comments made in court that are considered to endanger national security, defame others or seriously disrupt the order of the court. This provision, and Article 306 of the Criminal Code, can be seen as threats to lawyers wishing to defend people in politically-sensitive cases, as well as for criminal defence lawyers in general. In cases involving state secrets, there are restrictions on lawyers' access to their clients and on lawyers' consultation with clients without the presence of police or guards. Could you tell us what measures China is taking to revise these provisions to enhance the role of lawyers and the rule of law in China?

- What measures are taken to prevent and halt torture and ill-treatment in all known types of detention facilities and to prosecute those responsible for such violence?
- While recognizing that the Criminal Procedure Law articles 18 and 43, as well as article 247 of the Criminal Law specifically prohibit the use of torture for the purpose of coercing a confession, the use of confessions obtained through coercion is not specifically prohibited. When do you envisage a revision of the Criminal Procedure Law to include an explicit prohibition of the use of coerced confessions (i.e. obtained under torture) as evidence?
- What specific measures is China planning in 2009 for improving the rights of juvenile offenders? (Persons under the age of 18 years)
- What is the timetable for the review process of various national laws and their compatibility with ICCPR? Are there any areas where other countries or actors could provide information that could be of assistance to China's efforts to ratify ICCPR?
- What is the current number and type of Re-Education Through Labour (RETL) facilities and the number of detainees presently subject to RETL?
- What is the government doing to ensure that all individuals that are deprived of their liberty have the right to prompt access to legal assistance at the time of apprehension, and the right to challenge the legality of their deprivation of liberty? What measures are taken to investigate allegations of the existence of secret detention facilities, including so-called "black jails", where detainees allegedly are deprived fundamental legal safeguards?
- Respect for human rights and the rule of law is fundamental in the fight against terrorism. What measures is the Chinese government taking in this regard?
- Chinese law prohibits the employment of children under the age of 16. What is the Chinese government's policy on combating child labour, including child trafficking, and how is this policy implemented?
- What guarantees are in place to ensure that children attending "work and study programmes" are not subject to forms of labour that are either harmful in any way, or that poses a risk to the proper education of children subject to the programme?
- Chinese authorities have recognized the importance of protecting labour rights, including the labour rights of migrant workers. Does the Chinese government have plans to ratify ILO Conventions Nos. 87 and 98, as well as withdrawing its reservation to ICESCR art. 8?
- What is the Chinese government's view on the document "Charter 08" and how does it respond to reports of harassment of many of its signatories?

- Will the government respond positively to outstanding visit requests from the UN special procedures, including granting access to Tibet Autonomous Region?
- What is the number of people detained in Tibet Autonomous Region after the incidents there in mid-March 2008 and the status of the proceedings against them?
- The PRC's Constitution guarantees freedom of religious belief. Could you tell us the content and basis for legal restrictions on religious activities for the Uighur population and Muslim minorities in Xinjiang, including restrictions on parents' rights to give their children religious education, prohibition on children's rights to engage in religious activities and restrictions on the freedom to make overseas pilgrimages? Are there plans to conduct a constitutional review of these regulations and how they are implemented?

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

- Could you please tell us more about civil society involvement in the preparation of your national report, including whether any grassroots, non-government affiliated civil society organisations played a role in this process?
- We understand the Ministry of Foreign Affairs has conducted a detailed assessment of the reforms necessary to allow China to ratify ICCPR. Could you tell us what work you will need to do, and when you plan to carry it out?
- The Committee Against Torture made a number of recommendations in its Concluding Observations on China's fourth Periodic Report on the implementation of the Convention Against Torture. We would be grateful if you could tell us how you plan to implement these recommendations, and when.
- The Committee Against Torture specifically raised the issue of Re-education through Labour, which it recommended should be immediately abolished. The current system of administrative detention presents serious obstacles to compliance with ICCPR article 9. Does China plan to abolish the system?
- We believe it is important that minority religious, cultural and language rights are properly protected, including in Tibet and Xinjiang. Can you please tell us what steps you plan to take to remove restrictions on religious practice, and protect minority rights?
- We welcome statements by the Supreme People's Court (SPC) that the reintroduction of final review of all immediate death sentences by the SPC has reduced the number of executions by 30% this year. Please could you release statistics to demonstrate this trend? Are there plans to reduce the number of criminal offences which can incur the death penalty, in line with ICCPR article 6?

- We noted with concern the harassment and detention of Human Rights Defenders during the Olympic period, and following the publication of Charter 08. Could you please tell us whether you will put in place protections for individuals who work to promote human rights?
- We welcome the introduction of permanently relaxed rules on reporting by foreign correspondents in China following the Olympics. We note that domestic journalists are still subject to non-formal restrictions on reporting, such as censorship and intimidation. Could you tell us whether you plan to take steps to protect Chinese reporters' right to freedom of expression?
- Could you tell us whether you plan to establish a National Human Rights Institution in China, in accordance with the Paris Principles?
