



Submission No 14

**Inquiry into Australia's Human Rights Dialogues with China  
and Vietnam**

**Name:** Marc Purcell  
Executive Director

**Organisation:** Australian Council for International Development

**acfid**



**PARLIAMENTARY INQUIRY INTO  
Australia's Human Rights  
Dialogue With China and Vietnam**

**SUBMISSION TO  
THE HUMAN RIGHTS SUB-COMMITTEE,  
THE JOINT STANDING COMMITTEE ON FOREIGN  
AFFAIRS, DEFENCE AND TRADE**

**August 2011**

Australian Council for International Development  
14 Napier Close  
Deakin ACT 2600  
☎ 02 6285 1816  
📠 02 6285 1720  
✉ main@acfid.asn.au  
[www.acfid.asn.au](http://www.acfid.asn.au)

## Summary of Recommendations:

### **Recommendation 1:**

*Australia should take the opportunity offered by the signing of the agreement with Malaysia on transfer and resettlement of asylum seekers and refugees to initiate a bilateral dialogue on human rights.*

*The dialogue should be guided by clear and publically available objectives designed in consultation, including with civil society, to assist Australia in measuring the impact of these dialogues in terms of human rights outcomes for the most vulnerable.*

### **Recommendation 2:**

*Australia should undertake to initiate a regular, bi-lateral human rights dialogue with Cambodia in recognition of its relationship with Australia, the need to insulate fragile human rights outcomes for the most vulnerable and the regional move for ASEAN countries to become a more integrated economic bloc, including the free movement of peoples by 2015.*

*This dialogue should be underpinned by clear objectives, developed in consultation, including with civil society, and publically available.*

The Australian Council for International Development (ACFID) has made submissions to previous inquiries on Australia's Human Rights Dialogues to which we refer the committee and which appear as Annex 1 to this document. Further, ACFID supports the principles of humanitarian dialogues which were submitted to the 2005 Parliamentary Inquiry on this topic by the Australian Forum of Human Rights Organisations and which are presented in Annex 2. It is these principles that we believe should underpin any bilateral human rights dialogues.

ACFID is the peak body for Australian not-for-profit and development organisations. ACFID has 70 member organisations working in over 100 countries. ACFID administers a self-regulatory Code of Conduct for the not-for-profit sector and agencies are dedicated to the principles of accountability and transparency in all their undertakings through the Code.

## **Terms of Reference 6: Whether this dialogue mechanism should be adopted with other countries:**

ACFID continues to raise as an area of concern the apparent lack of accountability within the Human Rights Dialogues as they are currently undertaken. This is characterized by a lack of publicly available objectives and criteria for measuring the effectiveness and impact of these dialogues.

Despite this concern, ACFID recognizes the progress that can be made within these confidential, bilateral discussions and that maturation and deepening of Australia's relationships with our neighbours through frank exchanges is of great value, as well as itself being a stepping stone for progress in human rights outcomes.

With that in mind, ACFID recommends that the Australian Government consider initiating human rights dialogues with the following countries:

1. Malaysia
2. Cambodia

### Rationale for a Malaysia-Australia Human Rights Dialogue:

Australia and Malaysia have recently signed an agreement for the transfer and resettlement of asylum seekers and refugees. An annex to the agreement includes optional guidelines to support the realisation of human rights for the transferees once they arrive in Malaysia. As Malaysia is a non-signatory to the 1951 Convention and with a history of human rights abuses detailed by groups such as Amnesty International and Human Rights Watch, it is increasingly important that Australia engage the Malaysian Government in a broad discussion on human rights. At a minimum, such bilateral discussions can serve as a high-level arena in which the Australian Government and the Australian Parliament are able to raise questions about the adherence to the human rights protections written into the optional guidelines for the agreement on transfers and resettlement of asylum seekers and refugees.

While the implementation of the human rights protections enumerated in the agreement on the transfer and resettlement of asylum seekers and refugees is a specific concern for the Australian Government in the short-term, such regular bilateral dialogues can open up avenues for pursuing a much broader agenda on human rights covering not only the domestic human rights situations of both countries but also the international areas of human rights concerns, as well. Developing accountability measures and objectives for the discussion could be done in consultation with civil-society organisations to ensure that the Australian Government is able to measure the impact of these discussions on human rights outcomes.

### Rationale for a Cambodia-Australia Human Rights Dialogue:

As Cambodia continues to move past its violent and authoritarian history of the late 1970s, it remains of critical importance to insulate and protect fragile conceptions of human rights. With recent attention to areas of concern, including border skirmishes with Thailand, the forced eviction of residents living around the Boeung Kak Lake and a growing disinterest in pursuing vigorously suspects being tried through the Extraordinary Chambers of the Courts of Cambodia, it is important that Australia have an established avenue for frank exchange about human rights in the domestic context of both countries.

In 2009, ASEAN established an Intergovernmental Commission on Human Rights which works to increase awareness and discussions of human rights in the region.<sup>1</sup> As Australia's ASEAN neighbours continue to move to a more integrated economic bloc, it remains a critical diplomatic undertaking to work bilaterally to discuss the human rights situation in our region and its realisation by the most vulnerable.

---

<sup>1</sup> Working Group for an ASEAN Human Rights Mechanism. <http://www.aseanhrmech.org/news/working-group-meets-aichr-engagements-and-activities.htm> last accessed 2 August 2011

**ANNEX 1**



**AUSTRALIAN COUNCIL  
FOR INTERNATIONAL  
DEVELOPMENT**

Submission for the Parliamentary Inquiry Into Australia's Human Rights Dialogues with China and Vietnam

June 2004

## Summary of Recommendations

### Recommendation 1

*That the Australian Government provides an annual report to parliament on the progress and outcomes of each human rights dialogue session.*

*That Australian Parliamentarians participate in all Australian delegations to human rights dialogue sessions.*

### Recommendation 2

**That Australian delegates to human rights dialogues provide specific briefings to Australian NGOs prior to and at the conclusion of each dialogue session.**

*That the Australian Government invites greater participation of Australian civil society representatives in human rights dialogue meetings, including their involvement in setting dialogue objectives and participation in post-dialogue evaluation.*

*That the Australian Government use its good offices to promote the involvement of civil society from China, Iran and Viet Nam in human rights dialogue processes.*

### Recommendation 3

**That the role and obligations of Australian Government agencies participating in the human rights dialogue processes should be expanded to include:**

- *Close communication with the Australian Agency for International Development*
- *Liaison with other States engaged in human rights dialogues*
- *Identification and completion of specific follow-up activities after each dialogue session*
- *Public disclosure of issues raised pertaining to Australia's human rights record*

### Recommendation 4

*That Australia's approach to human rights dialogues is substantially revised to incorporate:*

- *A clear vision that articulates the purpose and intent of Australia's human rights dialogues*
- *Focused and timely objectives*
- *Strategies to reach the identified objectives*
- *Clearly identified timeframe to fulfil activities*
- *Clear benchmarks to evaluate objectives*

# Parliamentary Inquiry Into Australia's Human Rights Dialogue Process

## EXECUTIVE SUMMARY

The Australian Council for International Development (ACFID) is an independent association of over 80 Australian non-government organisations (NGOs) working in the field of international aid and development. ACFID members are committed to achieving sustainable human development in which people are able to enjoy a full range of human rights, fulfil their needs free from poverty and live in dignity.

ACFID supports an integrated bilateral and multilateral approach to promoting human rights. As one component of a comprehensive strategy to address human rights concerns, Australia's three human rights dialogues can offer an opportunity to pursue commitments to international human rights standards in China, Iran and Viet Nam. However bilateral dialogues should be integrated into multilateral processes, such as the United Nations Commission on Human Rights, to more effectively promote human rights.

ACFID is concerned at the lack of measurable progress in Australia's human rights dialogues with China, Iran and Viet Nam. Without clear objectives, timelines for desired outcomes and benchmarks for evaluation, countries may participate in a bilateral dialogue process as a means to avoid public condemnation of their human rights record. Australia risks compliance in a dialogue process that offers only an illusion of progress on human rights issues, rather than contributing to authentic improvements in human rights.

ACFID recommends greater public and parliamentary scrutiny of all human rights dialogues processes. This will build public confidence in the bilateral dialogues as one mechanism to promote human rights. ACFID also calls for the development of aims and strategies to achieve desired objectives and measurable benchmarks for each dialogue session on a case-by-case basis. The work of the European Union (EU) and international NGOs in this area is commended to the Human Rights Sub-Committee.

## **Term of Reference 1: Parliamentary participation and oversight**

ACFID recommends enhanced parliamentary oversight of Australia's bilateral human rights dialogues. As a mechanism of public scrutiny to build community confidence in Australia's bilateral human rights dialogue process, ACFID calls for a written report of proceedings of all human rights dialogue meetings to be annually tabled in Parliament.

Noting that parliamentarians have previously participated in only some human rights dialogue meetings, ACFID recommends the involvement of parliamentarians as regular participants in all dialogue sessions. As participants and active observers to the dialogues, parliamentarians should be requested to provide an independent report to the Human Rights Sub-committee of the Joint Standing Committee of Foreign Affairs, Defence and Trade. The report should focus on outcomes, follow-up activities and recommended objectives for future dialogue sessions. ACFID considers that this report should be in addition to any departmental de-briefing of the dialogue sessions.

### Recommendation 1

*That the Australian Government provides an annual report to parliament on the progress and outcomes of each human rights dialogue session.*

*That Australian Parliamentarians participate in all Australian delegations to human rights dialogue sessions.*

## **Term of Reference 2: Involvement of non-government organisations**

The changing regional and global contexts have led governments across the world to rethink their approach to human rights and security in important ways. Governments are increasingly diverting additional resources to defence, law and order and other means of safeguarding state security. By comparison international development programs, NGOs and aspects of multilateral programs have called for a greater focus on protecting human security and human rights. This has included a call for a greater focus on strengthening the capacity of civil society to be active in human rights initiatives.

ACFID believes it is very important to involve civil society in government initiatives to promote human rights. As one component of a comprehensive approach to promoting human rights and building human security, bilateral dialogues must contribute to enhancing the capability of civil society to hold their own government accountable to international human rights standards. Australia's human rights dialogue process can further this objective in two key areas.

First, Australia must seek the active involvement of civil society representatives from Australia and dialogue-partner countries in the actual dialogue processes. Second, good governance activities implemented through Australia's aid program should focus on assisting civil society to engage in decision-making processes on government policy.

Finally ACFID believes that the link between civil society and human rights dialogues should include, but not be limited to NGOs. In Australia and in dialogue-partner countries there exists a range of religious assemblies, trade unions, industry bodies, and community groups eager to play an active role in the preparations, implementation and evaluation of human rights dialogue meetings.



## **Involvement of Australian civil society**

ACFID welcomes the opportunity the Australian Government offers Australian NGOs to provide submissions prior to human rights dialogues with China, Iran and Viet Nam. A range of Department of Foreign Affairs and Trade (DFAT) officers have reported the detailed information provided by human rights and development NGOs as 'valuable' to their analysis of human rights situations prior to undertaking a dialogue session<sup>2</sup>. ACFID recommends this invitation for Australian NGOs to raise human rights issues for specific dialogue preparations remains open.

ACFID also appreciates that discussion on Australia's human rights dialogues are included as an agenda item for the twice-yearly DFAT-NGO Consultations on Human Rights. However, limitations on time at these general consultations prevent a detailed report and analysis of the outcomes of each human rights dialogue. Furthermore, the timing of DFAT-NGO Consultations on Human Rights can mean specific dialogues may not be discussed until six months after meetings were held. ACFID supports previous requests made to DFAT for specific briefings to be conducted prior to and at the conclusion of Australia-China, -Iran or -Viet Nam Human Rights Dialogues. ACFID's Human Rights and Governance Policy Officer is available to assist with the NGO coordination role for these recommended briefings.

ACFID also urges the Human Rights Sub-Committee to recommend greater participation of Australian civil society representatives in human rights dialogue meetings. As official participants engaged in the dialogue sessions, civil society representatives would be active in providing background information, establishing dialogue objectives and participating in post-dialogue evaluation. There is a high level of interest across the Australian community in China, Iran and Viet Nam. In addition Australian academics, NGOs, human rights activists, private sector and community workers would bring valuable skills, expertise and insight to the dialogue sessions. The inclusion of Australian civil society representatives as independent participants of an Australian delegation would also demonstrate to China, Iran and Viet Nam the pluralistic, democratic and inclusive systems of Australian life that we as a society value and respect.

## **Involvement of civil society from dialogue-partner States**

ACFID notes concerns by Amnesty International that in the three countries with whom Australia has a human rights dialogue the suppression of civil and political freedoms of individuals and groups amounts to a grave violation of human rights<sup>3</sup>. Australia should continue to condemn in the strongest terms any oppression of civil society and dissident groups, both in bilateral dialogues and through multilateral mechanisms.

ACFID urges Australia to invite and support processes to hear the voice of communities from China, Iran and Viet Nam on their human rights concerns. These communities should be provided the opportunity to present Australian delegates with observations on human rights issues.

The involvement of civil society from the three dialogue-partner countries would bring greater transparency and credibility to the discussions and may lead to the delivery of more effective outcomes. ACFID notes the challenges for Australian representatives with the expression and assembly of civil society heavily restricted in China, Iran and Viet Nam. However there are numerous opportunities for engagement with diaspora community groups, NGOs outside dialogue-partner countries and international organisations addressing human rights in these three countries. Australia should also highlight with all countries involved in human rights dialogues its expectations that civil society will be consulted and actively involved in the dialogue processes.

---

<sup>2</sup> Comments provided to NGOs at DFAT-NGO Consultations on Human Rights, held twice yearly.

<sup>3</sup> Amnesty International Annual Report 2004.

In pursuing greater liaison with civil society from China, Iran or Viet Nam, ACFID appreciates that many representatives may place themselves at great personal risk when speaking out on human rights violations occurring in their country of origin. While endorsing communication processes that are as transparent and open as possible, ACFID recommends that safeguards be established to ensure that at all times the personal safety of participants is paramount.

ACFID recommends that Australia's interaction with any civil society organisation or group representing China, Iran or Viet Nam be conducted in a manner that is non-political and impartial.

Finally, ACFID believes that Australia should not only request greater involvement of civil society by China, Iran and Viet Nam, but should also exhibit in the human rights dialogue meetings its willingness to expand its own engagement with Australian civil society.

### **Good governance development programs**

The effective involvement of civil society in any human rights dialogue process is greatly dependent on civil society having the capacity and capability to participate in the organisation and affairs of their country. Good governance development activities in the Australian aid program offer an opportunity to build the capacity of civil society to contribute to and influence human rights dialogue discussions.

#### Recommendation 2

**That Australian delegates to human rights dialogues provide specific briefings to Australian NGOs prior to and at the conclusion of each dialogue session.**

**That the Australian Government invites greater participation of Australian civil society representatives in human rights dialogue meetings, including their involvement in setting dialogue objectives and participation in post-dialogue evaluation.**

*That the Australian Government use its good offices to promote the involvement of civil society from China, Iran and Viet Nam in human rights dialogue processes.*

### **Term of Reference 3: The roles and obligations of participating agencies**

Currently Australian delegations in human rights dialogue processes involve almost exclusively Australian Government representatives. ACFID believes the role and obligations of Australian Government agencies participating in the human rights dialogue processes should be expanded to include:

- Close communication with the Australian Agency for International Development (AusAID)
- Liaison with other States engaged in human rights dialogues
- Identification and completion of specific follow-up activities after each dialogue session
- Public disclosure of issues raised pertaining to Australia's human rights record

It is currently unclear as to the level of involvement of government agencies outside of DFAT in the human rights dialogue processes. ACFID recommends AusAID becomes intimately involved in all stages of human rights dialogue processes. This will assist Australia's development programs to better reflect and address human rights issues raised in dialogue discussions, particularly those issues raised by civil society representatives.

A further obligation of participating agencies is to liaise with representatives of other States involved in human rights dialogue processes. ACFID notes that on some issues of concern, particularly in regards to identifying unambiguous objectives, the EU has made some initial progress. As a means to learn lessons from European associates, Australian agencies should play an active role in requesting information from EU colleagues on human rights matters and dialogue outcomes regarding China, Iran and Viet Nam.

The completion of follow-up activities after human rights dialogue meetings is a key obligation of government agencies participating in dialogues sessions. To date ACFID considers post-dialogue activities to be underutilised by Australian Government agencies. For example ACFID is unaware of a dialogue report from Australia that is made available to Chinese, Iranian or Vietnamese delegates following each meeting. This would be important to record progress of specific items and would assist in avoiding repetition in future meetings.

Finally, Australian Government agencies participating in the human rights dialogue processes are obligated to publicly report on human rights concerns that delegates from partner countries may raise. While acknowledging our overall positive human rights record, some in Australia continue to be marginalised and excluded from enjoying their full human rights. ACFID understands that in the past questions regarding Indigenous Australian rights, asylum seeker and refugee policies have been raised. In the spirit of open acknowledgement of the challenges before us, participating government agencies must be obliged to provide full and complete disclosure of any discussion on issues pertaining to human rights in Australia.

#### Recommendation 3

**That the role and obligations of Australian Government agencies participating in the human rights dialogue processes should be expanded to include:**

- **Close communication with the Australian Agency for International Development**
- **Liaison with other States engaged in human rights dialogues**
- **Identification and completion of specific follow-up activities after each dialogue session**
- **Public disclosure of issues raised pertaining to Australia's human rights record**



## Terms of Reference 4 & 5: Reporting requirements and mechanisms, the monitoring and evaluation of outcomes

Australia's human rights dialogue processes currently lack any public disclosure or discussion on objectives for dialogue outcomes, strategies to achieve established objectives or benchmarks for monitoring progress towards the protection of international human rights standards. In the absence of clear aims, strategies or minimum benchmarks, it is impossible to directly link any positive progress in human rights in China, Iran or Viet Nam with Australia's bilateral dialogues. It remains unclear as to how the Australian Government ascertains the success, or lack thereof, of its bilateral approach to human rights. This has made evaluation of the outcomes of Australia's human rights dialogue processes extremely difficult. ACFID recommends formal, public reporting requirements for all human rights dialogues through the Australian Parliament, in conjunction with the development of transparent mechanisms for monitoring and evaluating dialogue outcomes.

DFAT currently provides a scant summary of the history and background of Australia's human rights dialogues on its web page: [http://www.dfat.gov.au/hr/dialogue\\_general.html](http://www.dfat.gov.au/hr/dialogue_general.html). Regarding the Australia-China dialogue, DFAT believes the dialogues have

*...matured to a point where no subjects are off limits. We were able to raise all our concerns about the human rights situation in China, as well as examine those areas in which progress had been made*<sup>4</sup>

Human rights dialogues with Viet Nam have also been noted as 'mature'. Overall the DFAT summary is unflinching in its praise for Australia's human rights dialogue process. A more sincere and realistic summary would provide an honest appraisal of the challenges of human rights dialogues, an outline of the expectations of engaging States and a clear articulation of the benchmarks by which Australia will monitor progress.

Australia is not the only country to engage in bilateral human rights dialogues. By and large all States have struggled to identify key human rights objectives and demonstrable indicators of any positive progress. The EU General Affairs Council (GAC) has made some attempt to benchmark the progress of its human rights dialogues through the EU Guidelines on Human Rights Dialogues, adopted in December 2001<sup>5</sup>. The guidelines require the EU to 'on a case-by-case basis, establish criteria for measuring the progress achieved in relation to the benchmarks and also criteria for a possible exit strategy'. International NGOs including Human Rights Watch and the International Federation for Human Rights have suggested meaningful and realistic indicators for human rights dialogues that would demonstrate a commitment to achieving human rights outcomes. In summary these include:

1. Ratification and implementation of all UN human rights instruments
2. Promotion of civil and political and economic, social and cultural rights at a community, regional and national level
3. Unhindered access by UN human rights and humanitarian agencies and independent monitors
4. Compliance with the UN safeguards guaranteeing the rights of those facing the death penalty<sup>6</sup> as a first step towards abolition of the death penalty

ACFID urges the Australian Government to adopt similar guidelines for its human rights dialogue processes. To assist in measuring progress, Australia should, among other criteria, rely on first-hand observations of EU delegations, reports of UN special rapporteurs and

---

<sup>4</sup> Dept of Foreign Affairs and Trade, Human Rights website  
[http://www.dfat.gov.au/hr/achrd/aus\\_proc\\_dialogue.html](http://www.dfat.gov.au/hr/achrd/aus_proc_dialogue.html) accessed 7 June 2004

<sup>5</sup> The E.U. Guidelines on Human Rights Dialogues, agreed upon by the GAC on December 13, 2001 [http://europa.eu.int/comm/external\\_relations/human\\_rights/doc/ghd12\\_01.htm](http://europa.eu.int/comm/external_relations/human_rights/doc/ghd12_01.htm)

<sup>6</sup> Adopted by the Economic and Social Council resolution 1984/50, 25 May 1984.

working group delegations, NGO reports, and reports from civil society in each dialogue-partner country. ACFID is also convinced that if human rights concerns are to be positively addressed through Australia's bilateral dialogues, mechanisms for public and parliamentary scrutiny must be incorporated into any credible dialogue guidelines.

Finally, as noted above, greater transparency of discussion on human rights issues in Australia is required. The Australian delegation should outline the concerns raised by dialogue-partner countries and identify how and where it will respond to specific items.

Recommendation 4

*That Australia's approach to human rights dialogues is substantially revised to incorporate:*

- *A clear vision that articulates the purpose and intent of Australia's human rights dialogues*
- *Focused and timely objectives*
- *Strategies to reach the identified objectives*
- *Clearly identified timeframe to fulfil activities*
- *Clear benchmarks to evaluate objectives*

## ACFID MEMBER AGENCIES

Action Aid Australia (For Those Who Have Less)  
Adventist Development and Relief Agency  
AESOP Business Volunteers Limited  
African Enterprise Australia  
AID/WATCH  
Amnesty International Australia  
Anglican Board of Mission - Australia Limited  
ANGLICORD  
Archbishop of Sydney's Overseas Relief & Aid Fund  
Assisi Aid Projects  
AUSTCARE: Australians Caring for Refugees  
Australian Conservation Foundation  
Australian Cranio Maxillo Facial Foundation  
Australian Education Union  
Australian Federation of AIDS Organisations  
Australian Foundation for the Peoples of Asia and the Pacific  
Australian Legal Resources International  
Australian Lutheran World Service  
Australian National Committee on Refugee Women, The  
Australian Red Cross  
Australian Relief and Mercy Services  
Australian Reproductive Health Alliance  
Australian Volunteers International  
Baptist World Aid Australia  
Burnet Institute  
CARE Australia  
Caritas Australia  
CCF Australia  
Child Wise  
Christian Blind Mission International (Australia)  
Christian World Service/National Council of Churches in Australia  
Community Health and Tuberculosis Australia  
Credit Union Foundation Australia  
Diplomacy Training Program Ltd  
Foresight (Overseas Aid and Prevention of Blindness)  
Foundation for Development Cooperation  
Fred Hollows Foundation  
Friends of the Earth (Australia)  
Habitat for Humanity Australia  
International Centre for Eyecare Education  
International Christian Aid Relief Enterprises Limited  
International Nepal Fellowship (Aust) Ltd  
International Women's Development Agency  
Interserve Australia  
Leprosy Mission Australia  
Live & Learn Environmental Education  
Marist Mission Centre  
Melbourne Overseas Mission Fund  
Mercy Works Inc.  
Mineral Policy Institute  
Mission World Aid Inc.  
Muslim Aid Australia  
Nusatenggara Association Inc.  
Opportunity International Australia  
Overseas Pharmaceutical Aid for Life

Oxfam-Community Aid Abroad  
Oz GREEN - Global Rivers Environmental Education Network Australia Inc.  
PALMS-Volunteering for a Global Mission  
PLAN International Australia  
Project Vietnam  
Quaker Service Australia  
RedR Australia  
Refugee Council of Australia  
RESULTS Australia  
Salesian Society Incorporated  
Samaritan's Purse Australia Limited  
Save the Children Australia  
Sexual Health & Family Planning Australia  
SIMAID  
TEAR Australia  
Transparency International Aust.  
UNICEF Australia  
Union Aid Abroad-APHEDA  
United Nations Association of Australia  
Uniting Church Overseas Aid  
Victorian Foundation for Survivors of Torture Incorporated  
Vinacare  
World Vision Australia  
World Wide Fund for Nature Australia  
YWCA of Australia



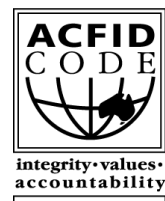


AUSTRALIAN COUNCIL  
FOR INTERNATIONAL  
DEVELOPMENT

# **PARLIAMENTARY INQUIRY INTO Australia's Human Rights Dialogue Process**

**SUPPLEMENTARY SUBMISSION TO  
THE HUMAN RIGHTS SUB-COMMITTEE,  
THE JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS,  
DEFENCE AND TRADE**

March 2005



## Meeting of Australian NGOs with Chinese Government Delegation

1. A brief meeting of Australian Non Government Organisations (NGOs) and Chinese Government officials took place on Wednesday 20 October 2004 in a prelude to the Australian Government's 8<sup>th</sup> Australia-China Human Rights Dialogue. The meeting was a first, and followed numerous requests from many Australian NGOs for greater transparency of the Australia-China Human Rights dialogues, including opening the process to the involvement of NGOs.
2. The primary aim of the meeting was to formally request that the Chinese Government permit Australian NGOs to hold independent human rights meetings with Chinese civil society.
3. The Chinese delegation included around 12 officials, led by the Assistant Foreign Minister Mr Shen Guofang and including the Chinese Ambassador Madame Fu. At the insistence of the Department of Foreign Affairs and Trade (DFAT), the numbers in the NGO delegation were to be limited, and consisted of only five persons:
  - Kathy Richards (Australian Forum of Human Rights Organisations / Australia Council For International Development),
  - Mary Edmunds (Human Rights Council of Australia),
  - Michael Curtotti (National Committee on Human Rights Education),
  - Peter Jennings (Australian Council of Trade Unions) and
  - David Purnell (United Nations Association of Australia).
4. The meeting took the form of an opening statement by each group. The NGO delegation indicated that they would report back on the dialogue to a wider NGO sector that was interested in the human rights dialogue process. The NGO delegation also stressed that their meeting with the Chinese was an independent meeting and did not, and was not to be interpreted as, endorsing the Australian Government's Human Rights Dialogues. This important point was accepted DFAT prior to the meeting, and appeared to be accepted by the Chinese delegation.

Mr Shen indicated that he was expecting to meet with greater numbers of Australian NGOs than the five present (there were actually more NGOs interested in meeting with the Chinese delegation but numbers were restricted by DFAT).
5. By pre-arrangement, questions were divided amongst NGOs, covering the following broad themes:
  - a. the role of the United Nations in promoting human rights (especially through the United Nations Commission on Human Rights),
  - b. the impact of the technical support given by the Australian aid program through HREOC to Chinese departments and agencies in relation to human rights,
  - c. labour rights and trade unions in China,
  - d. human rights education in schools and beyond,
  - e. law reform,
  - f. the International Covenant on Civil and Political Rights (ICCPR), and
  - g. human rights action plans.

It was notable that the visiting Chinese delegation was fully engaged in this process, and extended the meeting time to answer questions raised by the NGO delegates. Detailed responses were given to each question, and in several cases the visitors agreed to provide additional information after the meeting.

6. It was noted by the Chinese delegation that a significant development in China has been the amendment of the Chinese constitution to include a specific provision to protect human rights. The Chinese delegation told of greater democratisation of unions and of their more open court system. They underlined the need for more improvement in the awareness of the Chinese people about human rights, and in the government's efforts to protect these rights. They acknowledged that in many areas Chinese domestic law was still not in line with the ICCPR provisions.
7. In relation to United Nations Commission on Human Rights, the Chinese delegation expressed confidence that the Commission is an important vehicle for countries to share their understanding of human rights, and to learn from each other's experiences. They saw a useful role for the Secretariat of the Office High Commissioner for Human Rights in summarising different experiences and arranging seminars on human rights themes. They opposed confrontation and accusations (no doubt because of the China resolutions that have been before the Commission on many occasions). They affirmed Australian Mike Smith's role as chair of the Commission in that year (2004), and indicated a wish to work more closely with him during his tenure as president.
8. Discussion followed on the quality and attributes of civil society in China. Foreign Minister Mr Shen indicated that there were many NGOs in China – claiming 260,000 – and he affirmed an NGO role in promoting human rights.
9. Mr Shen invited Australian NGOs to visit China in 2005 and continue human rights dialogues. The Australian NGO delegation indicated interest in following up on this inaugural meeting. A formal request was made for permission to have an Australian NGO – Chinese NGO human rights dialogue process, independent of the Government-level dialogues. Mr Shen welcomed this idea, and invited the Australian NGOs to follow up on this proposition. Mr Shen repeated these comments during the formal reception and the press briefing following the government-level dialogues.
10. The meeting was followed by a formal reception at which other NGOs were present along with members of the official Australian Government Delegation, DFAT staff and academics.
11. It should be noted that there continues to be wide debate in the Australian NGO sector on the risk that this meeting was seen by the Australian Government as a way of giving greater legitimacy to the Government's Human Rights Dialogues, possibly making it more difficult for NGOs to independently raise concerns about the processes of the dialogues. Those NGOs involved in the meeting welcome and actively contribute to this debate. There has been widespread concern that the careful selection of NGOs by DFAT for the meeting restricted some NGOs from involved and indicated some 'nervousness' that there would be difficult issues raised in the meeting.

12. Overall the experience of the NGOs involved in the meeting was very positive, and indicated potential for more robust discussions in the future. The Chinese group showed great interest in the issues raised. Many NGOs are eager to pursue this type of meeting in the Iranian and Vietnamese Human Rights Dialogues. Unfortunately there was not time for the Chinese delegation to ask Australian NGOs more about the human rights situation in Australia.

## **Australian Council for INTERNATIONAL DEVELOPMENT**

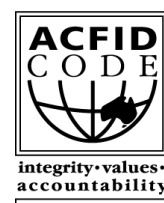
Private Bag 3 Deakin ACT 2600  
Telephone: 02 6285 1816 Facsimile: 02 6285 1720  
Email: [main@acfid.asn.au](mailto:main@acfid.asn.au)  
[www.acfid.asn.au](http://www.acfid.asn.au)  
ARBN: 091 918 704

ACFID is an independent association of Australian non government organisations working in the field of international aid and development.

**PARLIAMENTARY INQUIRY INTO  
Australia's Human Rights Dialogue  
Process**

**SUPPLEMENTARY SUBMISSION TO  
THE HUMAN RIGHTS SUB-COMMITTEE,  
THE JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS,  
DEFENCE AND TRADE**

April 2005



## 13. European Union Human Rights Dialogue Processes

### 1.1 Further information on the European Union Guidelines in Human Rights Dialogues

The Council of the European Union (EU) adopted the 'European Union Guidelines on Human Rights Dialogues' on 13 December 2001. These guidelines are available in full at [http://europa.eu.int/comm/external\\_relations/human\\_rights/doc/ghd12\\_01.htm](http://europa.eu.int/comm/external_relations/human_rights/doc/ghd12_01.htm) and are attached to this submission as Appendix One.

In December 2004 the Council of the EU approved a report on the implementation of the EU guidelines on human rights dialogues with third countries. The report

presents an overview of the different types of EU dialogue on human rights and draws a list of key areas of concern aimed at helping the Union whenever a new human rights dialogue is initiated with a third country<sup>7</sup>.

ACFID has been informed by the Council of the EU this report is an internal EU document and is not publicly available<sup>8</sup>. ACFID recommends the JSCFADT Human Rights Sub-Committee request a confidential copy of the Council of EU's report into the implementation of the EU guidelines on Human Rights Dialogues in order to inform the decisions and outcomes of its inquiry into Australia's Human Rights Dialogue Processes.

### 1.2 EU-China Dialogue Seminars

ACFID highlights for the Human Rights Sub-Committee the EU-China Human Rights Dialogue Seminars, coordinated twice yearly by the 'EU-China Human Rights Network' on behalf of the European Commission, the Chinese Ministry of Foreign Affairs and the Presidency of the European Union.

Topics of discussion at the seminars have included 'Right to Health', 'Right to Social Security', 'Gender and Law', 'Prevention of Torture, and National Human Rights Institutions' and 'Capacity-building of NGOs, and 'Judicial Guarantees of Human Rights'. The outcomes and recommendations of the Dialogue Seminars aim towards 'contributing to a more practical and concrete focus in the formal dialogue process'<sup>9</sup>.

---

<sup>7</sup> [http://europa.eu.int/comm/external\\_relations/human\\_rights/gac.htm#hr131204](http://europa.eu.int/comm/external_relations/human_rights/gac.htm#hr131204) accessed Tuesday 26 April 2005.

<sup>8</sup> Communicated via contact with Sandra Dedecker  
External Relations  
Human Rights & Democratisation Unit (B/1)  
European Commission

<sup>9</sup> EU-China Human Rights Network, <http://www.eu-china-humanrights.org/news/page0.php> accessed Tuesday 26 April 2005.

Reports and findings of seminars are published in full and further information is available at <http://www.eu-china-humanrights.org/welcome/page0.php>

ACFID recommends that Australia draw on the outcomes of the EU-China seminars in order to better inform the topics and discussions of its own human rights dialogues with China. ACFID also recommends Australia consider feasibility of holding similar seminars with its other dialogue partner countries Iran and Viet Nam

### **1.3 Benchmarks used by the European Union in their human rights dialogues**

#### **1.4**

In January 2001 the European Council made public the benchmarks for assessment of the EU-China Human Rights Dialogues. These are<sup>10</sup>:

- a. Ratification and implementation of the International Covenants on Civil and Political Rights, and Economic, Social and Cultural Rights.
- b. Cooperation with human rights mechanisms (including accepting visits from the Special Rapporteur on Torture, providing invitations to other Special Rapporteurs, following up recommendations from human rights mechanisms and rapporteurs and implementing the agreement with the Office of the High Commission for Human Rights)
- c. Compliance with the Economic and Social Council guarantees for the protection of those sentenced to death and provision of statistics on the use of the death penalty
- d. Reform of administrative detention, introduction of judicial supervision of procedures, respect for the right to a fair trial and the right of the defence
- e. Respect for fundamental rights of all prisoners, progress on access to prisoners and constructive response to individual cases raised by the EU
- f. Freedom of religion and belief, both public and private
- g. Respect for the right to organise
- h. Respect for cultural rights and religious freedoms in Tibet and Xinjian, taking account of the recommendations of the UN treaty bodies, halt 'patriotic education' campaign in Tibet, access for an independent delegation to the young Panchen Lama who has been recognised by the Dalai Lama

In a contribution to the EU's own assessment of its human rights dialogues with China, the International Federation of Human Rights (FIDH) and Human Rights in China (HRIC) recently provided the EU with an independent assessment of the EU-China Human Rights Dialogue<sup>11</sup>.

As part of their report to the EU, FIDH and HRIC identified corresponding human rights indicators for each EU-China Human Rights Dialogue benchmark, to be used in assessing progress in human rights standards in China (Appendix Two). These indicators include universally accepted UN tools such as the Human Development Indicator (UNDP), and Gender Related Development Index (UNDP), as well as other indicators such as the Worldwide Press Freedom Index (Reporters Without Borders).

---

<sup>10</sup> FIDH/Human Rights in China Preliminary Assessment of EU-China Human Rights Dialogue, February 2004, <http://www.fidh.org/IMG/pdf/cn2502a.pdf>

<sup>11</sup> FIDH/Human Rights in China Preliminary Assessment of EU-China Human Rights Dialogue, February 2004, <http://www.fidh.org/IMG/pdf/cn2502a.pdf>

ACFID recommends Australia's Bilateral Human Rights Dialogues adopt a similar range of benchmarks and assessment indicators as those laid out by the FIDH and HRIC in order to monitor progress in the improvement of human rights in each of Australia's human rights dialogue partner countries.

Preliminary assessments of the human rights situation in China, Iran and Viet Nam should be established before each Australia Bilateral Human Rights Dialogue commences. Following dialogues, an assessment of human rights issues based on the application of indicators such as those suggested by FIDH and HRIC would provide insight into the progress, or lack thereof, towards greater protection of human rights standards in the respect countries.

There are numerous factors that will contribute to the enhancement of human rights in any given country, and ACFID recognises the complexities in linking human rights dialogues with tangible outcomes. Establishing benchmarks and indicators for Australia's human rights dialogues is an area where ACFID recommends close coordination with other states engaged in human rights dialogues. Similarly, more effective coordination and information sharing should be developed with the UN and its human rights mechanisms.

## **2 ACFID engagement with NGOs in Iran in order to provide feedback or reflection on the first [Australia-Iran Human Rights] Dialogue**

The ACFID secretariat does not have direct contact with NGOs or civil society in Iran. Relatively few (less than five) ACFID member agencies have direct development programs in Iran. It has not been possible for ACFID to obtain a view from NGOs in Iran on the value of Australia's Human Rights Dialogue with Iran.

ACFID does note the widely accepted view from governments and NGOs observing Iran that the general human rights situation in Iran is now worse than in recent years<sup>12</sup>. Civil society and NGO activists have been increasingly targeted when speaking out on human rights issues. There are serious restrictions on freedom of expression in Iran that make will difficult for any NGO in Iran to publicly express a view on bilateral human rights dialogues. Iranian organisations that have been involved in human rights advocacy (and would be in a position to comment and reflect on perceived value of Australia's human rights dialogues with Iran) have increasingly found work conditions in Iran untenable. For example, the International Consortium for Refugees in Iran (ICRI), operating since 1993 in Iran was forced to cease operations in August 2004 due to obstacles in securing permits for their operations. The ICRI had assisted in capacity building and advocacy for local organisations.

---

<sup>12</sup> Refer to sources such as US State Department Country Report on Human Rights Practices in Iran, released on 28 February 2005 (<http://www.state.gov/g/drl/rls/hrrpt/2004/41721.htm>), Amnesty International Annual Report 2004.



# European Union guidelines on Human rights dialogues

## Council of the EU - 13 December 2001

### 1. Introduction

In its conclusions of 25 June 2001 the Council welcomed the Commission communication of 8 May 2001 on the European Union's role in promoting human rights and democratisation in third countries, which represents an invaluable contribution towards strengthening the coherence and consistency of the EU's policy on human rights and democratisation. In its conclusions the Council reaffirmed its commitment to the principles of coherence and consistency, integration of human rights into all its actions, openness of its policies and identification of priority areas. As part of the process of implementing those Council conclusions, the Working Party on Human Rights (COHOM) undertook to establish guidelines on human rights dialogues in consultation with the geographical working parties, the Working Party on Development Cooperation (CODEV) and the Committee on measures for the development and consolidation of democracy and the rule of law, and for the respect of human rights and fundamental freedoms.

### 2. Current situation

The European Union is engaged in human rights dialogues with a number of countries. Those dialogues are in themselves an instrument of the Union's external policy. That instrument is one of a range of measures which the EU may use to implement its policy on human rights, and constitutes an essential part of the European Union's overall strategy aimed at promoting sustainable development, peace and stability. However, there are at present no rules to determine at what point it should be applied. It should also be said that there is room for greater consistency in the EU's current approach towards dialogues, which at present employs several different types:

2.1. dialogues or discussions of a rather general nature based on regional or bilateral treaties, agreements or conventions dealing systematically with the issue of human rights. These include in particular:

2.1.1. relations with candidate countries;

2.1.2. the Cotonou Agreement with the ACP States and the Trade, Development and Cooperation Agreement with South Africa;

2.1.3. relations between the EU and Latin America;

2.1.4. the Barcelona process (Mediterranean countries);

2.1.5. political dialogue with Asian countries in the context of ASEAN and ASEM;

2.1.6. relations with the Western Balkans;

2.1.7. bilateral relations in the framework of association and cooperation agreements.

2.2. dialogues focusing exclusively on human rights. At present there is only one regular, institutionalised dialogue devoted solely to human rights between the European Union and a third country, namely that with China. This is a highly structured dialogue held at the level of senior human rights officials. At one time the European Union also maintained a human rights dialogue with the Islamic Republic of Iran. This type of dialogue, focusing solely on human rights, has so far only been used with countries with which the European Community had no agreement and/or where the agreement contained no "human rights" clause. The fact that

such dialogue exists does not preclude discussion of the human rights issue at any level of the political dialogue;

2.3. *ad hoc* dialogues extending to CFSP-related topics such as that of human rights. For instance, the EU currently maintains dialogues with Cuba and Sudan at the level of heads of mission;

2.4. dialogues in the context of special relations with certain third countries, on the basis of broadly converging views. With the United States, Canada and the associated countries these take the form of six-monthly meetings of experts, with the Troika representing the EU, before the Commission on Human Rights and the annual United Nations General Assembly. The main objective of these dialogues is to discuss issues of common interest and the possibilities for cooperation within multilateral human rights bodies.

In addition to dialogues at EU level, a number of Member States also maintain dialogues with various third countries at national level.

The guidelines on human rights dialogues would have several aims, namely to:

- identify the role played by this instrument in the global framework of the CFSP and the EU's policy on human rights;
- strengthen the coherence and consistency of the European Union's approach towards human rights dialogues;
- facilitate use of that instrument by defining the conditions in which it is to be applied and made effective;
- notify third parties (international organisations, non-governmental organisations, the academic world, the European Parliament, third countries) of this approach.

Political dialogues with the ACP countries under the Cotonou Agreement have their own detailed arrangements and procedures as laid down in Article 8 of the Agreement. However, for consistency's sake, exchanges of news and experience will be held on a regular basis in the COHOM Working Party framework.

### **3. Basic principles**

3.1. The European Union undertakes to intensify the process of integrating human rights and democratisation objectives ("mainstreaming") into all aspects of its external policies. Accordingly, the EU will ensure that the issue of human rights, democracy and the rule of law will be included in all future meetings and discussions with third countries and at all levels, whether ministerial talks, joint committee meetings or formal dialogues led by the Presidency of the Council, the Troika, heads of mission or the Commission. It will further ensure that the issue of human rights, democracy and the rule of law is included in programming discussions and in country strategy papers.

3.2. However, in order to examine human rights issues in greater depth, the European Union may decide to initiate a human rights-specific dialogue with a particular third country. Decisions of that kind will be taken in accordance with certain criteria, while maintaining the degree of pragmatism and flexibility required for such a task. Either the EU itself will take the initiative of suggesting a dialogue with a third country, or it will respond to a request by a third country.

### **4. Objectives of human rights dialogues**

The objectives of human rights dialogues will vary from one country to another and will be defined on a case-by-case basis. These objectives may include:

(a) discussing questions of mutual interest and enhancing cooperation on human rights *inter alia*, in multinational fora such as the United Nations;

(b) registering the concern felt by the EU at the human rights situation in the country concerned, information gathering and endeavouring to improve the human rights situation in that country.

Moreover, human rights dialogues can identify at an early stage problems likely to lead to conflict in the future.

## **5. Issues covered in human rights dialogues**

The issues to be discussed during human rights dialogues will be determined on a case-by-case basis. However, the European Union is committed to dealing with those priority issues which should be included on the agenda for every dialogue. These include the signing, ratification and implementation of international human rights instruments, cooperation with international human rights procedures and mechanisms, combating the death penalty, combating torture, combating all forms of discrimination, children's rights, women's rights, freedom of expression, the role of civil society, international cooperation in the field of justice, promotion of the processes of democratisation and good governance, and the prevention of conflict. The dialogues aimed at enhancing human rights cooperation could also include – according to the circumstances – some of the priority issues referred to above, (in particular the implementation of the main international human rights instruments ratified by the other party), as well as preparing and following up the work of the Commission on Human Rights in Geneva, of the Third Committee of the UN General Assembly in New York and of international and/or regional conferences.

## **6. Procedure for the initiation of human rights dialogues**

6.1. Any decision to initiate a human rights dialogue will first require an assessment of the human rights situation in the country concerned. The decision to embark on a preliminary assessment will be made by the Working Party on Human Rights (COHOM), together with the geographical working parties, the Working Party on Development Cooperation (CODEV) and the Committee on measures for the development and consolidation of democracy and the rule of law, and for the respect of human rights and fundamental freedoms. The assessment itself will be made by COHOM in coordination with the other Working Parties. Amongst other things the assessment will look at developments in the human rights situation, the extent to which the government is willing to improve the situation, the degree of commitment shown by the government in respect of international human rights conventions, the government's readiness to cooperate with United Nations human rights procedures and mechanisms as well as the government's attitude towards civil society. The assessment will be based, *inter alia*, on the following sources: reports by heads of mission, reports by the UN and other international or regional organisations, reports by the European Parliament and by the various non-governmental organisations working in the field of human rights, and Commission strategy papers for the countries concerned.

6.2. Any decision to initiate a human rights dialogue will first require the defining of the practical aims which the Union seeks to achieve by initiating dialogue with the country concerned, as well as an assessment of the added value to be gained from such dialogue.

The European Union will also, on a case-by-case basis, establish criteria for measuring the progress achieved in relation to the benchmarks and also criteria for a possible exit strategy.

6.3. Exploratory talks will be held before a human rights dialogue with the country concerned is initiated. The aim of those talks will be twofold: first to define the objectives to be pursued by any country accepting or requesting a human rights dialogue with the EU and to determine possible ways of increasing that country's commitment towards international human rights instruments, international human rights procedures and mechanisms and the promotion and protection of human rights and democratisation in general; and subsequently to update the information in the reports following the preliminary assessment. The talks will also provide an opportunity to explain to the country concerned the principles underlying the EU's action, as well as the Union's aims in proposing or accepting a human rights-specific dialogue. The exploratory talks will preferably be led by an EU Troika team of human rights experts representing the capitals, in close consultation with the Heads of Mission accredited in the country concerned. An assessment of the exploratory talks will then be carried out. The European Union will decide in the light of that assessment whether or not it wishes to continue on a more structured and institutionalised basis.

6.4. Any decision to initiate a human rights-specific dialogue will require discussion within the Working Party on Human Rights and its prior agreement. The final decision to initiate a human rights dialogue lies with the Council of Ministers.

6.5. The geographical working parties, the Working Party on Development Cooperation (CODEV) and the Committee on measures for the development and consolidation of democracy and the rule of law, and for the respect of human rights and fundamental freedoms should also be involved in this decision-making process.

6.6. Should the assessment be a negative one and/or the European Union decide not to initiate a human rights dialogue, the European Union will consider whether other approaches might be appropriate, such as emphasis on the human rights aspect of the political dialogue with the country concerned, *inter alia* by including specialist human rights knowledge in the political dialogue team.

6.7. The Working Party on Human Rights (COHOM) will be responsible for following up the dialogue, where necessary together with the other bodies concerned, viz. the geographical working parties, the Heads of Mission, the Working Party on Development Cooperation (CODEV) and the Committee on measures for the development and consolidation of democracy and the rule of law, and for the respect of human rights and fundamental freedoms.

## **7. Practical arrangements for human rights dialogues**

Flexibility and pragmatism are the keywords in the context of the practical arrangements for human rights dialogues, which should thus be determined on a case-by-case basis, by joint agreement with the country concerned. The arrangements will cover aspects such as where and how often the dialogue is to be held and the level of representation required.

To ensure that the discussions are as fruitful as possible, the dialogues should, as far as feasible, be held at the level of government representatives responsible for human rights. For the sake of continuity, the European Union should be represented by the Troika – at the level either of representatives from the capitals or of Heads of Mission.

The European Union will ensure that dialogue meetings are regularly held in the country concerned. This approach has the advantage of giving the EU delegation a better opportunity to gauge for itself the situation on the spot and, subject to the agreement of the country's authorities, to contact the people and institutions in which it is interested. Traditionally, dialogues whose primary purpose is to discuss issues of mutual interest and to strengthen human rights cooperation are held in Brussels. That tradition should preferably be maintained.

As far as possible, the European Union will ask the authorities of countries involved in the human rights dialogue to include in their delegations representatives of the various institutions

and Ministries responsible for human rights matters, such as the Justice and Interior Ministries, the police, prison administration etc. Likewise, civil society could become involved under the most suitable arrangement in the preliminary assessment of the human rights situation, in the conduct of the dialogue itself (particularly by organising meetings with civil society at local level in parallel with the formal dialogue), and in following up and assessing the dialogue. The European Union could thus signify its support for defenders of human rights in countries with which it maintains exchanges of this kind.

The EU will as far as possible give the human rights dialogues a degree of genuine transparency vis-à-vis civil society.

## **8. Consistency between Member States' bilateral dialogues and EU dialogues**

Information exchange is essential if maximum consistency between Member States' bilateral dialogues and EU dialogues is to be ensured. Exchanges of this kind, particularly on the issues discussed and the outcome of discussions, could be conducted by COREU or the Working Party on Human Rights (COHOM). The diplomatic post of the current Presidency in the country concerned could also gather relevant information on the spot. Where appropriate, informal *ad hoc* meetings between the members of the Working Party on Human Rights (COHOM), the relevant geographical working parties, and the European Parliament could be considered. It would also be possible to consider holding informal *ad hoc* meetings with other countries which maintain human rights dialogues with the country concerned (as in the case of the current dialogue with China). Such meetings should involve the COHOM Working Party, and the geographical working parties or study groups.

The technical assistance afforded by the European Union in the area of human rights and democratisation in the countries with which it maintains a dialogue should take into account developments in the dialogue and its outcome.

## **9. Consistency between human rights dialogues and EU Resolutions to the UNGA and the CHR.**

Human rights dialogues and Resolutions submitted by the European Union to the UNGA or the CHR on the human rights situations in certain countries are two entirely separate forms of action. Accordingly, the fact that there is a human rights dialogue between the EU and a third country will not prevent the EU either from submitting a Resolution on the human rights situation in that country or from providing support for an initiative by the third country. Nor will the fact that there is a human rights dialogue between the EU and a third country prevent the European Union from denouncing breaches of human rights in that country, inter alia in the appropriate international fora, or from raising the matter in meetings with the third countries concerned at every level.

## **10. Assessing human rights dialogues**

All human rights dialogues will be assessed on a regular basis, preferably every year.

The assessment will be made by the current Presidency, assisted by the Council Secretariat, and be submitted for discussion and decision to the Working Party on Human Rights (COHOM) in cooperation with the geographical working parties, the Working Party on Development Cooperation (CODEV) and the Committee on measures for the development and consolidation of democracy and the rule of law, and for the respect of human rights and fundamental freedom.

Civil society will be involved in this assessment exercise. The task will involve assessing the situation in relation to the objectives which the Union set itself before initiating the dialogue, and will examine how much added value has been provided by the dialogue. The examination

will look particularly closely at the progress made on the priority areas of the dialogue. If progress has indeed been made, the assessment should, if possible, analyse how far the European Union's activities have contributed to that progress. If no progress has been made, the European Union should either adjust its aims, or consider whether or not to continue the human rights dialogue with the country concerned. Indeed, a dialogue assessment must allow for the possibility of a decision to terminate the exercise if the requirements given in these guidelines are no longer met, or the conditions under which the dialogue is conducted are unsatisfactory, or if the outcome is not up to the EU's expectations. Likewise, a decision may be taken to suspend a dialogue which has proved successful and has therefore become redundant. Such matters will be dealt with by the Working Party on Human Rights (COHOM) as a matter of priority.

As for dialogues aimed at strengthening human rights cooperation, particularly those held within international and regional bodies, the assessment will focus on those areas in which cooperation could be further improved.

### **11. Managing human rights dialogues**

Given the prospect of increasing numbers of dialogues, the Working Party on Human Rights (COHOM) will have to consider the problem of how these should be managed. Continuity is a very important factor, as is the strengthening of the structures supporting the current Council Presidency in the preparations for the dialogues and their follow-up. To prepare each dialogue properly will also require input from the geographical working parties, the Working Party on Development Cooperation (CODEV) and the Committee on measures for the development and consolidation of democracy and the rule of law, and for the respect of human rights and fundamental freedoms. The Council Secretariat's support is essential in terms of centralising all the data, preparing both the content and the logistics, and following up the dialogues. The European Union could also consider, on a case-by-case basis, the possibility of associating a private foundation or organisation specialised in the field of human rights with one or more dialogues. In this connection, Sweden's experience (the Wallenberg Institute) in the context of the exploratory talks with North Korea (Brussels, June 2001) could be assessed.

### **12. The human rights position in political dialogues**

As indicated in paragraph 3, the European Union will ensure that the issue of human rights, democracy and the rule of law is incorporated into all meetings and discussions it has with third countries, at every level, including political dialogue. The European Union undertakes to include human rights experts in the EU delegations. The decision on who will provide the expert knowledge will be taken on a case-by-case basis, but with an eye to continuity. Although this type of discussion does not afford the possibility of dealing with human rights issues in any great depth, the European Union will endeavour to raise the priority issues referred to in paragraph 5 with the country concerned.

**Appendix Two:**

**FIDH / HRIC: Integrating EU-China Dialogue Benchmarks and Human Rights Indicators**

<http://www.fidh.org/IMG/pdf/cn2502a.pdf>, page 22.

EU Benchmarks	Area of Progress	Indicator of Progress
1. Ratification and implementation of the ICCPR and ICESCR	<p>ICCPR</p> <ul style="list-style-type: none"> <li>• right to life, to be free from torture and slavery,</li> <li>and to liberty and security,</li> <li>• right to freedom of movement, association, thought, religion and expression,</li> <li>• right to equality before the law, to privacy, to equality within marriage, and to the enjoyment of culture.</li> <li>• prohibiting all forms of discrimination</li> </ul> <p>ICESCR</p> <ul style="list-style-type: none"> <li>• right to self-determination,</li> <li>• right to gender equality,</li> <li>• right to fair wages and safe working conditions,</li> <li>• right to form or join trade unions,</li> <li>• right to social security,</li> <li>• protection of family,</li> <li>• right to adequate standard of living,</li> <li>• right to housing,</li> <li>• right to health,</li> <li>• right to education, and</li> <li>• right to cultural life</li> </ul>	<ul style="list-style-type: none"> <li>• Reporters Without Borders: World Press Freedom Ranking</li> <li>• Journalists/ Internet activists imprisoned</li> <li>• People imprisoned for their religious beliefs</li> <li>• Imprisoned labor activists</li> <li>• World Bank: Governance Matters III</li> <li>• UNDP <b>Human</b> Development Indicators <ul style="list-style-type: none"> <li>• HDI, GDI, GEM, HPI-1, Gini</li> </ul> </li> <li>• Number of people suffering from HIV/AIDS</li> <li>• Access to essential drugs</li> <li>• Illiteracy and primary education enrolment rates (women &amp; migrant children)</li> </ul>
2. Cooperation with HR mechanisms	<ul style="list-style-type: none"> <li>• Implementation of MOU</li> <li>• Visits by Special Rapporteurs</li> <li>• Recommendations and Working Group visits</li> </ul>	<ul style="list-style-type: none"> <li>• Individual cases responses</li> <li>• Follow-up and implementation of recommendations and working group visits</li> </ul>
3. Compliance with ECOSOC guarantees for the protection of those sentenced to death and provision of statistics on use of the death penalty	<ul style="list-style-type: none"> <li>• Right to a Fair Trial</li> <li>• Provision of Death Penalty Statistics</li> </ul>	<ul style="list-style-type: none"> <li>• Number of people executed per year</li> <li>• Extensive use of death penalty</li> </ul>
4. Reform of administrative detention, introduction of judicial supervision of procedures, respect for the right to a fair trial and the right of the defence	<ul style="list-style-type: none"> <li>• Elimination of administrative detention</li> <li>• Introduction of due process protections</li> </ul>	<ul style="list-style-type: none"> <li>• Implementing recommendations of UN Working Group on Arbitrary Detention</li> <li>• Government responses to individual cases</li> <li>• Number of RTL camps</li> <li>• Number of people in RTL camps</li> </ul>
5. Respect for fundamental rights of all prisoners, progress on access to prisoners and constructive response to individual cases raised by the EU	<ul style="list-style-type: none"> <li>• Introduction of due process protections</li> <li>• Access to prisoners</li> <li>• Responses to individual cases that provide specific and relevant information</li> </ul>	<ul style="list-style-type: none"> <li>• Assessing regulations</li> <li>• Number of political prisoners</li> <li>• Government responses to individual cases</li> </ul>
6. Freedom of religion and belief, both public and private	<ul style="list-style-type: none"> <li>• Allowing space for independent churches and civil society groups</li> </ul>	<ul style="list-style-type: none"> <li>• Number imprisoned for religious beliefs</li> <li>• Number of Falungong practitioners' deaths related to police custody, torture and beatings</li> </ul>
7. Respect for the right to organise	<ul style="list-style-type: none"> <li>• Allowing the existence of independent unions while reversing <b>China's</b> declaration regarding the ICESCR 8.1(a)</li> </ul>	<ul style="list-style-type: none"> <li>• Allowing independent trade unions</li> <li>• Number of imprisoned labor activists</li> <li>• Assessing labor union regulations</li> </ul>
8. Respect for cultural <b>rights</b> and religious freedoms in Tibet and Xinjiang, taking account of the recommendations of the UN treaty bodies, halt "patriotic education" campaign in Tibet, access for an independent delegation to young Panchen lama who has been recognized by the Dalai Lama	<ul style="list-style-type: none"> <li>• Ending patriotic education in Tibet</li> <li>• Allowing education in Uigher and Tibetan language</li> <li>• Access for an independent delegation to the young Panchen lama who has been recognised by the Dalai Lama</li> </ul>	<ul style="list-style-type: none"> <li>• Education reform</li> <li>• Access to Panchen Lama</li> <li>• Number of Han Chinese in Tibet and Xinjiang</li> </ul>

## ANNEX 2:

### **Australian Forum of Human Rights Organisations Principles for Human Rights Dialogues**

- We support human rights dialogue as a means for advancing human rights internationally.
- We regard human rights dialogue as only one of the avenues for advancing human rights. Other approaches, such as international monitoring through United Nations bodies, are equally if not more effective.
- We urge Australia to ensure its commitment to the human rights dialogue process does not result in the preclusion of the option of pursuing UN resolutions on human rights or the use of other mechanisms.
- We are concerned that human rights dialogue may become an end in itself. Human rights dialogue is the means to an end; it should be results oriented to ensure real progress in the observation of international human rights standards.
- We believe that transparency and accountability are generally desirable in human rights matters and both are necessary in the human rights dialogue process.
- We recommend that the human rights dialogue process be more accountable to parliamentary agencies, such as the Human Rights Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade.
- We believe that civil society, including non-government organisations (NGOs), has a positive role to play in the human rights dialogue process. The involvement of independent NGOs would bring greater transparency and credibility to the process and lead to more effective outcomes.
- We see a need for clear reporting on human rights dialogues, with particular attention to the outcomes. All interested parties should have access to such reports.
- We recommend the establishment of clear and measurable benchmarks for all human rights dialogues to ensure the most effective outcomes.
- We believe that the human rights dialogue process should specifically address the rights of women, children and minorities.