

2 August 2002

Mr Grant Harrison
Committee Secretary
Joint Standing Committee
Foreign Affairs, Defence and Trade
Parliament House
Canberra ACT 2600



Dear Mr Harrison

Re: Comments on the review of Australia's relations with the United Nations

Thank you for your letter dated 13 June 2002 and for providing UNICEF Australia with the opportunity to comment on Australia's relationship with the United Nations. Since the 2001 Committee Report, certain global circumstances have resulted in the creation of a new, more complex and uncertain international environment. As a result, the success of the United Nations will lie in its ability to be a flexible and dynamic structure to meet the demands of the international environment. In addition, the continued strong commitment, respect and support of the United Nations by States, is imperative in order to ensure the protection of basic human rights standards. UNICEF Australia wishes to reaffirm its position as stated in our previous submission to the Committee and elaborate on issues arising since the June 2001 Committee Report including:

1. War Against Terror

The September 11 terrorist attacks were the defining event of 2001, and the Security Council's Counter-Terrorism Committee is a significant new part of the UN's armoury in dealing with international peace and security, and in particular the War Against Terror. Australia is playing an important role in assisting in the international co-operation focusing on eliminating terrorism. Against this background, UNICEF Australia wishes to re-emphasise the acute vulnerabilities of children. The disproportionate effects of war and armed conflict on children require particular attention to be paid to children's needs, especially whilst "eliminating terrorism" activities and peacekeeping and peace-building processes continue.

UNICEF Australia believes that strategies directed at economic and political stability as well as improved social welfare enhance the effectiveness of the United Nations and its inter-agency system in responding to humanitarian crises¹ in ways that offer durable solutions. It is not acceptable for peace-building and humanitarian operations

¹ This conforms with the tenet of former Secretary-General Boutros Boutros-Ghali's *An Agenda for Peace: Preventative Diplomacy, Peacemaking and Peace-keeping, Report of the Secretary-General Pursuant to the Statement Adopted by the Summit Meeting of the Security Council on 31 January 1992. (A/47/277-S/24111)*, available at <http://www.un.org/DOCS/SG/agpeacd.html>.

to assume that programs aimed at the society as a whole are capable of helping children to overcome the trauma of armed conflict. It is critical that resources in humanitarian efforts be allocated to children-specific programs. Since September 2001, UNICEF has worked in partnership with the Afghan Interim Administration, the humanitarian community and the people of Afghanistan to make substantial progress in a number of areas. UNICEF believes that placing children, youth and women at the centre of the recovery process is the best investment for Afghanistan's future. UNICEF also believes that focusing Afghans on the welfare of their children can provide a national cause around which to rally. For these reasons, UNICEF's immediate priorities are to continue life-saving humanitarian aid, especially health supplies, safe water and clothing; providing ongoing support for the official return of school of at least 1.78 million children; support catch-up learning for girls and boys in home-based settings; and reduce child malnutrition through special supplementary feeding campaigns.

In the longer term, UNICEF is also working on improving the overall health care network, especially services for pregnant women and children; helping create programmes to address years of childhood trauma associated with war; contributing to national landmine awareness and other public safety campaigns; working closely with Afghan authorities to ensure a legal code that protects children and women from exploitation and building the capacity of the interim and transitional administrations and other national partners to ensure effective management and equitable resourcing of services to women and children.

It is UNICEF Australia's recommendation that the Australian Government should promote greater recognition of children's rights in peacekeeping and peace-building processes and recognition of the far-reaching effects of armed conflict on children and young people. UNICEF Australia is appreciative of the Australian Governments commitment to humanitarian relief for the children in Afghanistan. It is UNICEF Australia's recommendation that the Australian Government continue to actively promote and support the inclusion of child-centred actions in humanitarian relief operations.

2. UN Special Session on Children

The Special Session on Children was held on 8-10 May 2002, and was an unprecedented meeting of the UN General Assembly dedicated to the children and adolescents of the world. It brought together government leaders and Heads of State, NGOs, children's advocates and young people. The Minister for Children and Youth Affairs, the Hon. Larry Anthony MP, led the Australian delegation. The gathering presented a great opportunity to change the way the world views and treats children. The representatives from some 180 nations adopted the conference outcome document, entitled "A World Fit for Children," which focuses on four key priorities: promoting healthy lives; providing quality education; protecting children against abuse, exploitation and violence; and combating HIV/AIDS. In order to facilitate the implementation of actions committed in the document, a pledge was made by each country to develop an action plan by the end of 2003. UNICEF Australia strongly encourages the Australian Government to demonstrate its commitment by developing

a national action plan, within the specified timeframe, that is in every aspect in the best interests of the child².

3. Breaches of International Human Rights Standards in Australia

A fundamental criterion for judging Australia on its contribution and role in the United Nations lies in its adherence to the norms of international human rights instruments. In this regard, UNICEF Australia wishes to comment on the situation of asylum seeking children who are detained in Australian immigration detention centres, as asylum seeking and refugee children are amongst the most vulnerable children in the world.

Australia's policy of detaining "unlawful" asylum seeking children has been widely condemned³ as breaching a plethora of international human rights standards including the *Convention on the Rights of the Child* and the *International Covenant on Civil and Political Rights*. The Human Rights and Equal Opportunity Commission requested UNICEF Australia to prepare a submission in regard to their National Inquiry into Children in Immigration Detention Centres. UNICEF Australia found in its submission⁴ that the Australian Government had breached a multitude of articles of the *Convention on the Rights of the Child*, including Articles 2, 3, 6, 22, 37 (b), (c), (d) and Article 40. UNICEF Australia strongly opposes the detention of children, especially in circumstances such as those under the Australian policy and urges the Australian Government to implement an alternative to detention model, such as the system proposed by the Justice for Asylum Seekers (JAS) Alliance. Further, UNICEF Australia made a number of recommendations that could be implemented, in accordance with the *Convention on the Rights of the Child* and in the best interests of the child.

In May 2002, the United Nations Working Group on Arbitrary Detention led by Justice Louis Joinet examined the arbitrariness of detention. During the same period, the United Nations High Commissioner for Human Rights' Special Envoy, led by Justice Bhagwati visited Australia to examine the conditions in detention and the treatment of persons in immigration detention facilities. On 31 July 2002, Justice Bhagwati released his report, which noted issues of concern regarding the conditions in detention centres and recommendations to the High Commissioner. While media reports indicated the Government's initial response to Justice Bhagwati's report as "fundamentally flawed", it is hoped that in considering the spirit and principles behind such reports, that a broader view might be taken.

The role of the United Nations, its agencies and its committee system, while imperfect, is a valuable global tool in the international community's efforts to secure human rights and justice for all, and especially for its youngest global citizens. As such, strong democracies, such as Australia, can lead the way in allowing full and open access by the United Nations to any facility or institution. In our openness and willingness to be scrutinised by the international community, Australia demonstrates

² For further information see <http://www.unicef.org/specialsession/>

³ See Human Rights and Equal Opportunity Commission, National Inquiry into Children in Immigration Detention Centres, http://www.humanrights.gov.au/human_rights/children_detention.

⁴ Located at http://www.humanrights.gov.au/human_rights/children_detention/submissions/index.html#sydney

extraordinary leadership and maturity in its democratic endeavours towards continual improvement in its standards of human rights behaviour.

Australia's recent decision to side with China, Cuba, Libya and Sudan in objecting to the *Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, could be perceived as a weakening of our historic role and reputation as a leader, champion and protector of human rights.

The Optional Protocol establishes a system of regular visits to places of detention by an international body of experts, supplemented by sustained regular visits conducted by national visiting bodies. Such international instruments provide a minimum standard of ethical behaviour. The adoption by participating governments of this minimum standard and willingness to accept external scrutiny of their own places of detention also enables those adopting governments to leverage their right to ensure scrutiny of centres in foreign countries in which its own citizens may find themselves detained, from time to time.

UNICEF Australia urges the Government to acknowledge that ensuring Australia's compliance with international human rights norms is the proper function of the Federal Government. Further, the Government should take the necessary steps to ensure relevant officials are aware of pertinent international treaties in making decisions which affect children and that the best interests of the child are a primary consideration. As noted by the former Chief Justice of the High Court of Australia, Sir Anthony Mason:

"We have committed resources to the promotion and protection of human rights in other countries. Our actions in this respect are commendable. But we should remember that our energy in pursuing human rights goals on the international stage may provoke others to come knocking on our door. When we presume to tell the governments and peoples of other nations how they should run their affairs, we must expect that they will look more closely at how we manage our own affairs. In other words, we should not be surprised if we in turn are criticised on the ground that we have failed to meet desirable standards."⁵

4. Status Report on International Treaties

UNICEF Australia is committed to the promotion and protection of the rights of the child and reaffirms that the rights of children require special protection. UNICEF Australia congratulates the Australian Government on its signatory status in relation to the *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, however ratification is required. UNICEF Australia further urges the speedy signature and ratification by the Australian Government of the *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict*. Further, UNICEF Australia recommends that the Australian Government ratify the *Optional Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women*.

⁵ *Australia and the United Nations – After 50 Years*, speech made by Sir Anthony Mason at the 50th Anniversary Conference, available at: http://www.hreoc.gov.au/news_info/conference/n1_10.15.html

5. The International Criminal Court

UNICEF Australia welcomed the decision by the Australian Government to ratify the Statute of the International Criminal Court. It is a very significant international step in bringing to justice the perpetrators of atrocities inflicted upon women and children. The Preamble to the Rome Statute specifically recognizes that during the twentieth century, "millions of children...have been victims of unimaginable atrocities that deeply shock the conscience of humanity". The International Criminal Court has jurisdiction over genocide, crimes against humanity of trafficking in children and the recruitment and use of child soldiers in armed conflict. Through ratification of the Statute, Australia will play an important role in promoting greater recognition of children's rights in peacekeeping and peace-building processes and recognition of the far-reaching effects of armed conflict on children and young people.

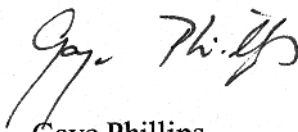
6. Funding

UNICEF has achieved many major successes in the areas of immunization, primary school enrolment, child rights promotion and child protection in the 1990s – all because a variety of partners agreed that sustainable development and a healthy world hinge on investment in children. Australia's Official Development Assistance, as measured against internationally agreed benchmarks, has been in decline for nearly 30 years from its high point of 0.5 per cent of GNP in the early 1970s. Australia's estimated ODA to gross national income ratio in 2002-03 will be 0.25 per cent. Out of the 22 countries on the OECD donor list, which measures official development assistance as a percentage of donor nations GNP, only five countries meet the UN-recommended target of 0.7 per cent - Denmark, Sweden, Luxembourg, Norway and the Netherlands. While acknowledging Australia's consistently strong financial contributions to the United Nations, UNICEF Australia urges the Australian Government to continue to make strong financial contributions to the United Nations, encourage other nations to do the same, and strive to reach the base target of 0.7 per cent of Gross National Product for Official Development Assistance.

Conclusion

As a member of the United Nations, the Australian Government should continue its efforts in promoting international human rights, and continue making financial contribution to the work of the UN and non-governmental organizations in delivering humanitarian relief. Further, the genuine commitment of the Australian Government to human rights is best demonstrated by ensuring that Australia's domestic laws do not breach the nature of international human rights instruments. If you require any further information, please do not hesitate to contact me.

Yours faithfully,



Gaye Phillips
Executive Director
UNICEF Australia