

**Legislative Council Panel on Home Affairs
Meeting on 13 December 2002**

Reporting under the United Nations Human Rights Treaties

The Panel has asked us to -

- (a) advise it of the position regarding our reports under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the Convention on the Rights of the Child (CRC), and other human rights treaties, including the timetable for their submission; and
- (b) explain whether the HKSAR can submit its own reports to the United Nations (UN), rather than as part of China's metropolitan report.

ICERD

2. The position remains as explained to the Panel Secretariat in our letter of 1 November. That is, we will initiate the drafting process (including the pre-drafting consultations) when the Central People's Government (CPG) calls for our contribution to China's metropolitan report, of which our second report under the Convention will form a part. Hong Kong is not - and cannot be - a State Party to either Convention or, indeed, to any of the other UN human rights treaties. This is because we are not a sovereign state and the treaties apply to us by extension of China's ratifications¹. There is therefore no question of Hong Kong submitting reports in its own right.

3. This was affirmed by the Chair and Rapporteur of the UN Committee on the Elimination of Racial Discrimination (CERD) during their recent visit to Hong Kong, when they unequivocally stated that the CERD would not accept direct reports from the HKSAR. Thus, our reports will continue to form part of China's metropolitan report and we will

¹ The remaining exception is the International Covenant on Civil and Political Rights (ICCPR), which China has signed but not yet ratified. Pending such ratification, the HKSAR will continue to submit its own reports by special arrangement between the Central People's Government and the Secretary-General of the United Nations. That arrangement will cease when China ratifies the Covenant.

initiate the pre-drafting consultations when we receive the CPG's request for our contribution.

CRC

4. Again, the position is as explained in our letter of 1 November. That is, the HKSAR's initial report under the Convention will form part of China's second report, which the Central People's Government expects to submit to the United Nations by the end of this year

5. We will publish our report after its submission to the UN Secretariat as part of China's report. For the reasons in paragraphs 2 and 3, there is no question of the HKSAR reporting separately.

Procedure and timetable for UN reporting (all treaties)

6. The timing for the submission of reports is prescribed in, and varies between, the individual treaties. Treaties usually require initial reports to be submitted within one or two years of the treaty coming into effect in a particular jurisdiction. Thus, for example, China ratified the ICESCR in March 2001; the Treaty came into effect in June that year; and China's initial report is therefore due in mid-2003.

7. Thereafter, the timing of subsequent reports is determined by a period prescribed in the particular treaty: for example, every two years in respect of the ICERD, five in respect of the ICCPR. For this reason, they are referred to as 'periodic reports'. Additionally, the Treaty Bodies can call for additional or supplementary reports at any time: clearly, the due dates for such reports cannot be predicted until they are actually requested.

8. The UN Secretariat does not normally remind Parties that reports under particular treaties are due. It is up to Parties to monitor the timing and to take action accordingly. Because most submissions are late and, in any case, the Treaty Bodies are heavily burdened, they do not become concerned about late submissions except in extreme cases.

9. The forward timetable for the submission of reports is at **Annex A**. This reflects the requirements of the individual treaties. We will continue to submit reports when the CPG instructs us to do so.

Hong Kong to submit reports on its own?

10. The position is as explained in paragraphs 2 and 3 above. That is,

there is no question of Hong Kong submitting reports independently with the single and special exception of the ICCPR pending China's ratification of that treaty (footnote 1 refers).

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Human rights treaties: reporting cycle

	ICCPR	ICESCR	CRC	ICERD	CAT	CEDAW
Last hearing	Nov 1999	Apr/May 2001	Oct 1996	July/Aug 2001	May 2000	Feb 1999
Current reporting status	Second report due Oct 2003. Drafting to commence in late-2002.	Second report due for submission to the UN in mid-2003 as part of China's initial report. Pre-drafting consultations are in progress.	The CPG aims to submit to the UN by the end of 2002.	Second report due Jan 2003. We will initiate drafting when the CPG calls for our contribution to its metropolitan report.	Second report technically due in Nov-2001. But, given that the most recent hearing was held in 2000, we would expect to submit our second report in about 2004.	Second report technically due in 1998 as part of China's fifth report under the Convention. But the most recent hearing was held in 1999 and the CPG hopes to submit its next report in 2003. Pre-drafting consultations are in progress.
China's ratification	Not yet ratified	Mar 2001	Mar 1992	Dec 1981	Oct 1988	Nov 1980

Entry into force		June 2001	Apr 1992	Jan 1982	Nov 1988	Sep 1981
Reporting cycle	5 years	5 years	5 years	2 years	Initial: one year from entry into force. Thereafter, every 4 years	4 years

● Treaty names in full-

1. International Covenant on Civil and Political Rights (ICCPR) 《公民權利和政治權利國際公約》
2. International Covenant on Economic, Social and Cultural Rights (ICESCR) 《經濟、社會與文化權利的國際公約》
3. Convention on the Rights of the Child (CRC) 《兒童權利公約》
4. International Covenant on the Elimination of All Forms of Racial Discrimination (ICERD) 《消除一切形式種族歧視國際公約》
5. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 《禁止酷刑和其他殘忍、不人道或有辱人格的待遇或處罰公約》
6. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 《消除對婦女一切形式歧視公約》

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