

**Security Council**

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Letter dated 11 July 2014 from the Permanent Representatives of Australia, France and the United States of America to the United Nations addressed to the President of the Security Council

We refer to our letter to which is annexed the report of the Human Rights Council commission of inquiry on human rights in the Democratic People's Republic of Korea, which has been issued as a document of the Security Council (S/2014/276).

Together, we co-hosted a meeting, on 17 April 2014, of Security Council members, under the Arria Formula, to discuss the commission's report, and have the honour to transmit a non-paper summarizing the informative discussion that took place during that meeting (see annex).

We believe that the Security Council should formally discuss the commission's findings of widespread and systematic human rights violations in the Democratic People's Republic of Korea and its recommendations to the Council, and consider appropriate action. In particular, the Council should consider how those responsible for such violations should be held accountable.

We kindly ask you to circulate the present letter and its annex to the members of the Security Council and to issue it as a document of the Council.

(Signed) **Gary Quinlan**
Ambassador

Permanent Representative of Australia to the United Nations

(Signed) **Gérard Araud**
Ambassador

Permanent Representative of France to the United Nations

(Signed) **Samantha Power**
Ambassador

Permanent Representative of the United States to the United Nations



Annex to the letter dated 11 July 2014 from the Permanent Representatives of Australia, France and the United States of America to the United Nations addressed to the President of the Security Council

Non-paper

Arria Formula meeting of the Security Council with the commission of inquiry on the human rights situation in the Democratic People's Republic of Korea

On 17 April 2014, Australia, France and the United States of America organized an Arria Formula meeting of the Security Council to discuss the report of the Human Rights Council commission of inquiry on human rights in the Democratic People's Republic of Korea.^a The report has been issued as a document of the Council (S/2014/276).

The report presents a detailed and sobering account of widespread and systematic gross human rights violations, which have been and are being committed in the Democratic People's Republic of Korea. The report's findings are based on a collection of first-hand accounts from victims and witnesses. It contains a series of recommendations to take immediate steps to end the human rights violations and address the human rights concerns identified by the commission of inquiry, including specific recommendations directed to the Security Council.

The purpose of the Arria Formula meeting was to gather various stakeholders (members of the commission of inquiry, witnesses who participated in the commission process, Member States and members of civil society), in an informal fashion, in order to be briefed on the findings and recommendations of the commission of inquiry and to exchange views on how the international community and, in particular, the Security Council, should respond.

The meeting was chaired by the Permanent Representative of Australia, Ambassador Gary Quinlan, the Permanent Representative of France, Ambassador Gérard Araud, and the Permanent Representative of the United States, Ambassador Samantha Power. The following panellists addressed the Security Council: the three members of the commission, Michael Kirby (Chair), Marzuki Darusman and Sonja Biserko, and two witnesses who had participated in the inquiry, Shin Donghyuk and Hyongseo Lee.

The present non-paper, compiled by the Permanent Missions of Australia, France and the United States, is a co-conveners' summary of the comments by the participants during the meeting. It does not prejudge endorsement of their content by Australia, France, the United States or any other Member State. The non-paper is addressed to various stakeholders for further consideration.

Discussion

The members of the commission of inquiry explained that they had approached their task with independence, impartiality and without preconceptions, with a view

^a A/HRC/25/63. The detailed findings of the commission of inquiry are available in conference room paper A/HRC/25/CRP.1.

to ensuring full accountability, in particular for human rights violations that might amount to crimes against humanity. The members of the commission advised that the gravity, scale, duration and nature of human rights violations that it found revealed a totalitarian State without parallel in the contemporary world.

An estimated 80,000 to 120,000 people were imprisoned, without trial, in four large political prison camps in the Democratic People's Republic of Korea, and others languished in other prisons and interrogation detention centres where torture was a standard practice. Women who tried to flee the Democratic People's Republic of Korea and were forcibly repatriated faced sexual humiliation and violence. In addition to physically controlling its citizens, the authorities of the Democratic People's Republic of Korea also sought to control their minds by systematically indoctrinating the population from childhood and violently suppressing freedom of thought or opinion. The commission also noted that the Democratic People's Republic of Korea had abducted, or otherwise forcibly caused to disappear, well over 200,000 persons from China, Japan, the Republic of Korea and other countries, including after the end of the Korean War.

Although the Democratic People's Republic of Korea had denied the commission's many requests for access to the country and contact with its authorities, more than 200 victims, eyewitnesses and former officials gave confidential evidence before the commission, and 80 witnesses participated in the commission's open public hearings. The commission carefully assessed the credibility of each witness and the information presented and did not rely solely on witness testimony.

The members of the commission concluded that there were reasonable grounds to establish that crimes against humanity had been and were being committed in the Democratic People's Republic of Korea as a matter of State policy. The list of crimes against humanity included: arbitrary imprisonment, enslavement and torture; extermination and murder; rape, forced abortions and infanticide; persecution of political, religious, racial and gender groups; enforced disappearances; and the inhumane act of knowingly causing prolonged starvation.

The members of the commission highlighted that history showed that States that committed such heinous crimes against their own people were a perpetual source of instability and insecurity for their neighbours. The members of the commission emphasized that the perpetrators of such crimes must be held accountable under international criminal law. The commission recommended that the Security Council refer the situation in the Democratic People's Republic of Korea to the International Criminal Court and adopt targeted sanctions against those individuals most responsible for crimes against humanity.

The two witnesses who had participated in the Inquiry, Mr. Donghyuk and Ms. Lee, spoke of their personal experiences in the Democratic People's Republic of Korea before they had escaped as refugees. Mr. Shin described his harrowing childhood within a political prison camp in the Democratic People's Republic of Korea, where he was born, and recalled the public execution of his mother and his brother in front of him. Mr. Shin recalled the torture he had endured within the camp and explained that prisoners were viewed as less than animals by the guards. Ms. Lee also recalled witnessing public executions during her childhood and being taught from kindergarten that Americans were the enemies of the people of the Democratic People's Republic of Korea and were killing them. Both strongly urged

the international community and the United Nations to act to address the human rights violations in the Democratic People's Republic of Korea.

In the ensuing discussion, Security Council members congratulated the commission for a compelling report of exceptional quality and commended the courage of the two witnesses. Council members expressed grave concern at the horrific human rights violations and crimes against humanity outlined in the report. Most Council members urged the Democratic People's Republic of Korea to comply with the commission's recommendations and to engage with the United Nations human rights system, including at its forthcoming universal periodic review. Council members emphasized the importance of accountability of the Democratic People's Republic of Korea in the human rights context, and many Council members supported the commission's recommendation that the Council refer the situation in the Democratic People's Republic of Korea to the International Criminal Court, or indicated that this recommendation deserved the Council's consideration. The recommendation to adopt targeted sanctions against those individuals most responsible for crimes against humanity was also supported by some Council members. Some Council members also suggested adding a new item to the Council's agenda to deal with human rights issues in the Democratic People's Republic of Korea and holding regular briefings by the United Nations High Commissioner for Human Rights for the Council on the human rights situation in the Democratic People's Republic of Korea. They expressed support for the Human Rights Council's decision to extend the mandate of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea and the commission's request to the Office of the United Nations High Commissioner for Human Rights to provide the Special Rapporteur with increased support. Council members also endorsed the recommendation to establish a field-based structure to strengthen monitoring and documentation of the situation of human rights in the Democratic People's Republic of Korea to promote accountability. Several non-Council members also voiced support for the aforementioned accountability efforts.
