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Kim Sung-Hwan
Minister of Foreign Affairs
Ministry of Foreign Affairs and Trade
37 Sejongno (Doryeom-dong) Jongno-gu
Seoul 110-787
Republic of Korea

19 October 2012

Dear Minister,

OPEN LETTER: REPUBLIC OF KOREA'S CANDIDACY FOR ELECTION TO THE UN HUMAN RIGHTS COUNCIL

We write on the occasion of your country's candidacy for membership to the UN Human Rights Council in the elections scheduled on 12 November 2012. We welcome your election pledges to promote and protect human rights at the national and international levels, as indicated in the Annex to the *note verbale* dated 4 September 2012 from the Permanent Mission of the Republic of Korea to the United Nations addressed to the President of the General Assembly.¹

We recall that, according to General Assembly resolution 60/251, members of the Council shall uphold the highest standards in the promotion and protection of human rights and fully cooperate with the Council.² Following your candidacy to the Human Rights Council, we take the opportunity to comment on the Republic of Korea's election pledges and to note additional opportunities for your government to promote and protect human rights. In doing so, we refer to the guidance of the Office of the High Commissioner for Human Rights on presenting voluntary human rights pledges and commitments, including that such pledges and commitments should be specific, measurable and verifiable.³

Commitments at the international level

Ratification of international human rights instruments

We welcome your commitments to ratify the UN Convention against Transnational Organized Crime; the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption; and the ILO Maritime Labour Convention. We also welcome your commitment to consider withdrawal of reservations made to the Convention on the Rights of Persons with Disabilities; to pursue feasibility studies towards becoming a party to the International Convention for the Protection of All Persons from Enforced Disappearance; and to consider accession to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

We wish to take this opportunity to also encourage you to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty; the Optional Protocols to the International Covenant on Economic, Social and Cultural Rights and the

¹ A/67/355.

² A/RES/60/251, para 9.

³ Office of the High Commissioner for Human Rights, *Suggested Elements for Voluntary Pledges and Commitments by Candidates for Election to the Human Rights Council*, available at <http://www2.ohchr.org/english/bodies/hrcouncil/docs/pledges.pdf>.

Convention on the Rights of Persons with Disabilities; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Cooperation with the Special Procedures

We welcome your commitment to cooperate fully with all the Human Rights Council's Special Procedures, by rendering the full support necessary for any visits. In this regard, we regret that the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression was unable to meet with the President, the Prime Minister, any government ministers, the Prosecutor General, or officials of the National Intelligence Service during his visit to the Republic of Korea in 2010, despite the fact that he came to the country on an official invitation, and furthermore that he was unable to meet collectively with Commissioners of the National Human Rights Commission of Korea despite numerous requests.⁴ We also encourage you to implement his recommendations, including to abolish Article 7 of the National Security Act.⁵

Cooperation with the treaty monitoring bodies

We welcome your commitment to cooperate fully with the treaty monitoring bodies through the timely submission of periodic reports and prompt actions, in good faith, on their concluding observations and recommendations. In this spirit, we urge you to promptly submit the periodic reports that are due to the Human Rights Committee and the Committee against Torture.

Engagement with the Universal Periodic Review

We note your commitment to participate in the second cycle of the Universal Periodic Review (UPR) in an open and constructive manner, and to strengthen efforts to further improve the effectiveness of the UPR. In this regard, we urge you to consult in an effective and meaningful manner with civil society organizations throughout the UPR process, including regarding the national report for the review.

The second review of the Republic of Korea is taking place on 25 October 2012. In our submission for the review, we have highlighted concerns regarding the National Security Law, which is used to intimidate or imprison individuals for exercising their right to freedom of expression and association,⁶ and documented a range of human rights abuses against regular and irregular migrant workers.⁷ We also expressed concern about the imprisonment of individuals raising a conscientious objection to military service⁸ and about the continued retention of the death penalty in the Republic of Korea's legal system.⁹ We urge you to address these issues in the course of the review and to be open to supporting and implementing recommendations pertaining to those concerns.

Participation in the deliberations of the Human Rights Council

We note your commitments to remain constructively engaged in the activities of the Human Rights Council and to support the fulfilment of its mandate and functions; to continue close collaboration with other Member States to make it a fair and efficient body; and to foster a culture of cross-regional cooperation within the Council by taking initiatives on constructive inter-group dialogue and compromise.

In this regard, we urge your government to work with delegations from all regions to ensure that the Council addresses situations of human rights violations, including gross and systematic human rights violations and human rights emergencies, without selectivity or double-standards. We also urge your

⁴ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, Addendum, Mission to the Republic of Korea, 21 March 2011 (A/HRC/17/27/Add.2), para 5.

⁵ A/HRC/17/27/Add.2, para 97.

⁶ Republic of Korea: Amnesty International Submission to the UN Universal Periodic Review, April 2012 (AI Index: ASA 25/001/2012), p 4.

⁷ ASA 25/001/2012, pp 6-7.

⁸ ASA 25/001/2012, pp 5-6.

⁹ ASA 25/001/2012, p 5.

government to support efforts to ensure that all credible allegations of reprisals or intimidation against persons and groups who have engaged or have sought to engage with the UN human rights machinery are brought to the urgent attention of the Council; that the Council demands the government concerned to ensure that any alleged reprisals are investigated in a prompt, impartial, transparent and effective manner and that perpetrators are held to account; and that the Council requests the government concerned to inform it of measures taken in this regard.

Commitments at the national level

We welcome your commitment to strengthen the implementation of the second national action plan on human rights for the period 2012-2016, in a transparent and accountable manner, and to enhance cooperation and partnership with civil society. In this regard, we urge you to ensure the independence and impartiality of the National Human Rights Commission of Korea, noting with concern that Commissioners with little experience of human rights have been appointed to the Commission without broad consultation with civil society groups and other relevant stakeholders.

We also call on you to abolish the National Security Law or else to amend it to bring it into line with international human rights standards on the peaceful exercise of the rights to freedom of expression and association, and to immediately release all individuals imprisoned for the peaceful exercise of these rights. We also call on you to take all necessary steps to secure the abolition of the death penalty in national legislation.

We further recommend that national legislation be brought into line with international standards by introducing provisions for conscientious objection to military service, including ensuring that alternative service is of a genuinely civilian character, non-punitive, under civilian control, and of a length comparable to that of military service.

Finally, we urge you to eliminate the restrictions on labour mobility of migrant workers, including by amending Article 25 of the Employment Permit System Act; to take particular measures to respect, protect and promote the rights of all women migrant workers, to ensure that they are not subjected to human rights abuses at their places of work; and to immediately remove obstacles to migrant workers forming and participating in trade unions, including the Migrants Trade Union, and to recognize the Migrants Trade Union as a legal union in the Republic of Korea.

We welcome the pledges and commitments already made by the Republic of Korea, and we call on your government to use this opportunity to further strengthen its election pledges by including the additional recommendations listed above. We also encourage your government to announce the steps it will take to fulfil its electoral pledges and to regularly inform the General Assembly and the Human Rights Council of progress in implementing these commitments. This could be done, for example, in the form of an oral or written statement to these bodies.

We would be pleased to receive your comments and responses to the issues raised in this letter.

A copy of this letter has been sent to your country's permanent missions in Geneva and New York.

Yours sincerely,

Isabelle Arradon
Deputy Programme Director
Asia-Pacific Regional Programme
Amnesty International