

**Canada's statement in response to the Report by the Working Group on
Arbitrary Detention on its Mission to Canada
Wednesday, 20 September 2006 (pm)**

Thank you Mr. President,

Canada would like to take this opportunity to thank Madam Leila Zerrougui, Chairperson of the Working Group on Arbitrary Detention, and the other members of the Working Group – Ms. Soledad Villagra de Biedermann and Mr. Mohammad Hashemi - for their visit to Canada in June 2005. We were pleased that they were able to meet with federal, provincial and territorial government officials, in all the cities they visited: the federal capital Ottawa, Iqaluit, Toronto, Edmonton, Vancouver and Montreal. They were also able to meet with members of Canada's judiciary, from the Supreme Court of Canada to the Federal Court, to the Provincial Courts of appeal and trial courts, with representatives of Canadian civil society, including members of the criminal and immigration bar, representatives of non-governmental organizations active in the fields of the correctional system, of refugees, women's rights, aboriginal people and other vulnerable groups in the criminal justice system, with representatives of academia and with detainees. The visit was also an occasion for the Working Group to experience how the issue of detentions is addressed in a federal system like ours.

Canada would also like to thank the Working Group for the extensive report they prepared on their Mission to Canada. We will take Ms. Zerrougui's report into account in any measures we may take to further strengthen our national and international efforts to combat arbitrary detention.

We are pleased that the report confirms that Canada is a country governed by the rule of law, in which a strong and independent judiciary strives to ensure that trials are fair and exercises a generally vigorous control over the lawfulness of all forms of deprivation of liberty. The report does, however, highlight some areas of concern to the Working Group. We will use the opportunity offered to us today to discuss some of these concerns. For example, the report addresses the issue of the disproportionate representation of Aboriginal Peoples in federal correctional institutions. Canada is expending considerable efforts to remedy this situation, as part of a government-wide strategy focusing on Aboriginal peoples and the issues they face in Canada today. The Government of Canada, through the Correctional Service of Canada, is developing strategies to enhance the capacity to provide effective interventions for First Nations, Métis and Inuit offenders.

These strategies, instigated in the course of the past year, focus on the development of culturally appropriate and spiritually significant initiatives and interventions at every stage of an offender's sentence, from intake through to warrant expiry. They encourage the Aboriginal community's involvement and their active participation in the development of culturally-specific community corrections models. They also provide for the improvement of collaboration between existing and future partnerships and opportunities with governmental and non-governmental organizations to reinforce and sustain the renewed initiatives.

The increase of Aboriginal professionals in correctional settings is proving itself fruitful in this regard, but also promotes a balance between the respect for Aboriginal culture and the preservation of public safety. The Correctional Service of Canada takes pride in its high recruitment and representation of Aboriginal people, second highest in all federal government departments after the Department of Indian and Northern Affairs.

In its report, the Working Group has made a recommendation regarding the use of security certificate processes. You may be aware that the constitutionality of the security certificate process, including its detention scheme, is currently under review by the Supreme Court of Canada, as a result of an exercise by several of the subjects of such certificates to their right to judicial review of the certificates and the lawfulness of their detention. It should be noted, moreover, that an individual named in a security certificate can always exercise his or her right to terminate the detention by voluntarily leaving Canada.

Canada maintains that any State has the right to remove from its territory persons who have no legal right to be there, and when their release in Canada represents a threat to our national security or the security of other countries, Canada has a right to detain them pending removal.

Your report also raises concerns about several aspects of the immigration law, in particular the detention of asylum seekers. The Canada Border Services Agency (CBSA) detention process occurs within the legislative framework of the Immigration and Refugee Protection Act (IRPA) and its Regulations (IRPR) with a view to the removal of persons from Canada who pose a threat or risk to public safety and security. Independent bodies such as the Canadian Red Cross can and do monitor detention centres, and detainees have access to free legal aid, legal counsel and non-governmental organisations (NGOs)-including through onsite visits by NGOs, interpreters, phone cards and phone books. Children are bussed to school and all detainees are provided access to on-site recreational facilities.

En ce qui a trait à la question plus large de l'accès à l'aide juridique, mis en lumière par le rapport du Groupe de travail, le Canada prête son soutien financier à des initiatives visant à améliorer l'accès au système de justice pour toute personne à faible revenu inculpé pour des offenses criminelles. Le Canada continue de travailler de près avec les provinces et territoires afin d'améliorer l'accès à la justice dans le cadre de leurs domaines de juridiction pour les groupes jugés comme étant prioritaires, notamment les populations autochtones. Ces contributions constituent une augmentation supplémentaire de 20%, au-delà du financement de base pour l'aide juridique fournie par le Canada.

Au niveau provincial, certaines mesures ont aussi été entreprises. Par exemple, le gouvernement du Québec a, en janvier 2006, haussé les seuils d'admissibilités à l'aide juridique mise en place depuis une trentaine d'années pour favoriser l'accès aux services d'un avocat, soit gratuitement, soit à des tarifs réduits. Les nouveaux seuils d'admissibilité accroîtront progressivement la clientèle potentielle de nouveaux bénéficiaires à l'aide juridique de 52% d'ici 2011, soit à près de 2 590 000 personnes.

Le Canada est d'avis que les visites et les rapports des Procédures spéciales de la Commission des droits humains aident les états dans la mise en œuvre efficace de leurs obligations relatives aux droits de la personne. Le Canada a émis une invitation permanente à tous les Rapporteurs spéciaux de la Commission des droits humains afin de signaler sa volonté de soumettre notre bilan en matière des droits de la personne à l'examen de la communauté internationale. En conséquence, le Canada a reçu la visite de nombreux mécanismes au cours des dernières années. Nous encourageons les états membres qui ne l'auraient pas encore fait, d'émettre une telle invitation permanente aux procédures afin que la communauté internationale puisse progresser collectivement dans la mise en œuvre des droits de la personne pour tous.

Merci Monsieur le président.