

FNGO LAW PRESS CONFERENCE TRANSCRIPT:

***China Daily* reporter:**

Why are there are so many changes between the version of the foreign NGO law just passed and the draft released during the second revision period? Also, what is the main substance of these changes, and are there any key highlights? Thank you.

ZHANG Yong (Vice-chairman of the Legislative Affairs Commission of the NPC Standing Committee):

Indeed, there were some relatively large changes between the version of the FNGO law just passed and the draft released during the second revision. I want to say here that these changes are not merely modifications to the legal articles or language in the clauses, but more importantly, [the changes] reflect the legislative principles and the desired legislative objectives of the legislative organs responsible for drafting the law.

First, in the drafting process itself, an open and democratic lawmaking process was implemented, and a whole range of opinions were fully heard. As everyone knows, the draft for the second reading of the law was released in April 2015, so it's taken a full year to revise and pass this law. In this process, the legislative and other relevant organs conducted thorough investigation and research, listening to a broad range of opinions from the public and all social areas, holding many conferences throughout the country, and in particular, going to listen to the opinions and suggestions of many foreign NGOs conducting activities in China.

These foreign NGOs included the International Union of Geological Sciences; the Beijing office of the Energy Foundation, an American organization; the Beijing representative office of Save the Children, an international British organization; the German Chamber of Commerce and Industry; the China-Britain Business Council; and others. In the course of listening to these opinions, a number of foreign NGOs expressed their hope that China might have laws that would clearly give them a legal position in China, and at the same time expressed hope that such laws would both safeguard and make more convenient the processes of hiring employees and obtaining tax benefits.

In addressing the substance of the law, [we] strove to implement scientific legislative methods, and were pragmatic and open, in order to facilitate the activities of foreign NGOs in China. In comparison with the draft of the FNGO law released during the second reading, everyone can see, the body of the law changed from being nine chapters and 67 articles to seven chapters and 54 articles. There was also a relatively large substantive edit, including many important systemic changes. We trust that everyone has noticed that the media performed detailed reporting on the important changes of the law on April 25. From here I won't do any more specific introductions [of the changes].

At the same time, this law also made some requirements of the work of relevant organs, for example, requiring registration management organs to, with all speed, draft a directory of subject areas and programs foreign NGOs work in, a name list of professional supervisory units, and for online publication the processes for foreign NGOs to follow when registering a representative office and applying for the filing of temporary activities. These are all lawful requirements, and the law further requires relevant organs to provide policy consultations and activity guidance to foreign NGOs, and prohibits any fees from being collected in the course of annual investigations, etc. These are all examples of how the law makes it convenient for foreign NGOs to lawfully and in an orderly fashion conduct activities in China.

Third, in the implementation of the law, there will be a resolute strengthening of standardized guidance, with particular attention to be paid to practical effects. The law reserves a completely sufficient period for the preparation of implementation. As everyone can see, this law will begin to be implemented on 1 January 2017, eight months from now. There are several rationales for providing this preparatory period. First is in order to give enough time for foreign NGOs to learn about the law and become familiar with the law's content, to understand their own rights and responsibilities. The second is to urge the relevant organs responsible for implementing this law, including the registration management organs and professional supervisory units and other relevant organs, to draft detailed and comprehensive implementing guidelines, and at the same time conduct the necessary trainings of relevant staff, to make them better understand their responsibilities, provide better services, to achieve better implementation effects. Thank you, everyone.

***Financial Times* reporter:**

On the subject of this law, foreign media have focused primarily on funding from foreign sources being channeled to domestic NGOs. I want to ask, can you speak in detail about what the public security organs are concerned about with regards to this foreign money and its relationship to Chinese NGOs? Thank you.

HAO Yunhong (head of the Foreign NGO Management Office from the Ministry of Public Security):

I am very glad to be attending today's press conference, and very glad to be able to answer related questions. The FNGO law has provisions concerning the supervision and management of funds. Foreign NGO activities primarily go through funding domestic social organizations to implement program activities and carry out exchange and cooperation. It should be said, in these last few years, especially since the Reform and Opening, foreign NGOs have come to China for development, and in fields such as the economy, education, culture, technology, public health, sports, environmental protection, etc. have performed a great amount of exchange and cooperation, bringing new ideas, new technology, funds, and experience, promoting our country's economic and

social development, including the development of the public welfare and made many active contributions. The Chinese government praises the activism of foreign NGOs, so ours is a very welcoming attitude. However we have noticed there are an extremely small number of foreign NGOs that have used various funding channels and methods to undertake some actions that have harmed China's national security and interests, and other illegal actions. As a result management has been strengthened, including the handling of illegal activities. This is something that needs to be done.

People's Daily reporter:

My question also has to do with the FNGO law. The process of drafting this law has attracted a great deal of attention from outside China, and some concerns. My question is what is the purpose of China's creation of this law? Does the drafting of this law mean that China will be tightening restrictions in the policies regarding foreign NGOs' activities in China?

ZHANG Yong (Vice-chairman of the Legislative Affairs Commission of the NPC Standing Committee): There is absolutely no need to worry about this. Actually, as everyone can see, since Reform and Opening over 30 years ago, the activities of foreign NGOs conducted in China have gone from none to some, from some to many, up until today, when according to incomplete statistics there are nearly 10,000 foreign NGOs organizing activities in China. It should be said, the absolute majority of foreign NGOs have made many active contributions to the promotion of people-to-people exchanges, communication, and cooperation between China and the rest of the world, and to the promotion of China's several decades of reform and social development. It cannot be disputed that China has always maintained an active, open, and welcoming attitude to foreign NGOs seeking to come to China to carry out friendly exchanges, communication, and cooperation. However, and I do not want to mince words, there are indeed an extremely small number of foreign NGOs that have or are attempting to endanger Chinese social stability and national security. Thus, putting foreign NGOs onto a path towards legal governance, this is part of a general push to govern China in accordance with the law, and a necessary part of building a rule of law society. This journalist's question is very good, and I can say here, I believe that by passing this law, it is definitely possible to make carrying out foreign NGO activities in China more convenient and more orderly. Foreign NGOs' lawful rights and interests will also receive more comprehensive and powerful protections under the standardized guidance of this law. Thank you.

Agence France-Presse (AFP) reporter:

This question is for the Ministry of Public Security leader. Regarding the concerns that have been identified justifying the FNGO law, [such as] harming national security, harming national interests, inciting separatist activities - these are all very vague, and there has not been a relatively detailed description of them. You've said that there have already been foreign NGOs that have undertaken activities that harm the Chinese national interest, could you please offer a more detailed introduction? What NGOs are these? What have they done? Also, is harming national security and harming national interests considered to be the same thing as harming the security of the Chinese Communist Party?

HAO Yunhong (head of the Foreign NGO Management Office from the Ministry of Public Security):

I already responded to this question in my previous answer to another reporter's inquiry. Actually, I want to say more in response to your question. We welcome and support foreign NGOs coming to China to carry out friendly exchange and cooperation, and as the NPC Vice-chairman Zhang already mentioned, there are increasingly more foreign NGOs coming to China to cooperate, bringing many good things, demonstrating vigorous activism, and we maintain an open, proactive, and tolerant attitude to realize mutually profitable objectives. This law will provide powerful legal protections to the lawful rights and interests of an absolute majority of foreign NGOs in China. We, the Ministry of Public Security, will follow the regulations in law, and after this promulgation of the law, conscientiously perform preparatory work, to provide necessary service and convenience measures to foreign NGOs carrying out activities in China, earnestly safeguard the orderly implementation of lawful activities, and earnestly safeguard the lawful rights and interests of the foreign NGOs [themselves].

China is a country of rule of law, and activities conducted by foreign NGOs in China must implement activities within the scope of law. We have also noticed, police departments are responsible for some national registration, and managed from within the government. So each and every incident of harm to the national security, harm to the national interest, harm to the social public good, and harm to the interest of other organizations and legal persons, are all not permitted. There is no country that allows any organization or individual to undertake activities that harm the national security.

Beijing Youth Daily reporter:

My question also has to do with the FNGO law. The registration management organ for domestic Chinese social groups is the Ministry of Civil Affairs, and we are uncertain about why the Ministry of Public Security is responsible for the establishment of foreign NGO representative offices. Thank you.

GUO Linmao (representative of the Social Law office of the Legislative Affairs Commission):

I'd like to respond to this question. After the draft FNGO law was opened up to social public commentary, everyone focused on this point, namely, why China's Ministry of Public Security became the registration organ for foreign NGOs? Whereas the Ministry of Civil Affairs handled registration for Chinese social organizations. I'll speak to three points on this issue:

First, every country has a different management system for handling the management of foreign NGOs. For example French law stipulates that foreign NGOs coming to France to implement activities should submit an application to the French police station, to obtain French internal government permission. Our management system has Chinese characteristics, and also complies

with the Chinese national situation. One is dual management, the second is that the Ministry of Public Security is the registration management organ, and the third is that the Ministry of Public Security is primarily responsible, to supervise and manage foreign NGOs.

Second, China's Ministry of Public Security is responsible for protecting national security, protecting social order, stopping and punishing illegal behavior. At the same time China's Ministry of Public Security is also responsible for managing the household registration, nationality registration, entry and exit procedures, and other related processes for foreign individuals conducting activities or business in China. They have extensive experience in handling foreign organizations and individuals conducting activities in China. We drafted the FNGO law to give this authority to the public security to facilitate their provision of fast and convenient services to foreign NGOs conducting activities in China. Our starting point was good.

Third, the naming of the Ministry of Public Security as the registration management organ has sparked different responses internationally and domestically. We did not draft this law to prohibit or restrict foreign NGOs from implementing activities in China. We also have recently seen that some foreign media have reported that this law is bestowing "three powers" upon the Ministry of Public Security, namely, [the power to] conduct interviews, to halt temporary activities, and promulgate an unwelcome list, seemingly in order to restrict the activities of foreign NGOs in China, which is actually not the case. Public security organs must execute their duties of supervising, managing, and providing services to foreign NGOs in accordance with the law. There are provisions in the FNGO law to ensure the public security organs lawfully execute their duties. Concerning what the foreign media has said, conferring them [the Ministry of Public Security] with these three powers has preconditions, namely, that only when the public security bureau suspects illegal behavior may it apply related measures. Also there are provisions on legal responsibility, that should the public security organs and relevant organs, in the course of performing their supervision and management functions, be derelict in their duties or engage in bribery and fraud or abuse their powers, they bear legal responsibility. So everyone need not worry about our public security bureau as though it were some tiger. To put it in the common vernacular, 'If there's a problem, find the police; if you're not breaking the law, what are you afraid of?'"

Hong Kong South China Morning Post reporter:

You've just mentioned that the registration management organs will with all speed draft a directory of the activities and programs of foreign NGO activities conducted in China, and I want to ask Bureau Chief Hao, does this mean that the public security bureau will quickly create some kind of directory, and this directory will stipulate whether or not the programs on this directory may not apply [for registration]? In other words, will this [directory] let some programs enter China, and some programs not enter China? Previously some Public Security University professor mentioned in an interview some examples, and the public security ministry also published some so-called illegal items, for example that some labor organizations in Guangdong had been incited by foreign labor organizations, and also mentioned some gender equality organizations. I want to ask, is it possible that these organizations will become "unwelcome" NGOs? Thank you.

HAO Yunhong (head of the Foreign NGO Management Office from the Ministry of Public Security): Following [today's] promulgation of the law, there is still some time before implementation, and as the registration management organ of foreign NGOs, we will faithfully execute our lawful duty and all of the large amount of work necessary, including the duty you mentioned, which is only one part of this work. First, we will quickly work to research the formulation of applications for foreign NGOs to establish representative offices, including the processes and procedures for carrying out temporary activities. We will promptly release a guide to procedures and management, to provide them [foreign NGOs] with guidance and make things convenient. Second, we will with all speed work to coordinate with relevant organs to draft in accordance with review of the law a directory of program work areas and a name list of professional supervisory units, which will be published following a review within a reasonable period. These will all be provided to foreign NGOs before the law comes into effect.

You also just mentioned some other issues. Although there are legal provisions specifically listing areas [foreign NGOs may work in], there is an "etc." written in the wording of the law. The scope of activities of foreign NGOs is very broad, and we will reasonably list many of these activities in the relevant name list, there is no need to worry. At the same time you brought up some examples, and I want to emphasize, although we are very open, accepting, proactive, and supportive of foreign NGOs coming to China to implement activities, we will in every case handle in accordance with the law any instances of supporting or operationalizing incidents that endanger Chinese law [sic]. Thank you for your question.

BBC reporter:

I still am unclear, which NGOs are the ones that have harmed China's interests? Can you give an example? According to the FNGO law, helping to fund environmental NGOs is acceptable, or helping impoverished people is acceptable, but but can groups that do work related to China's human rights issues be NGOs in China?

GUO Linmao (representative of the Social Law office of the Legislative Affairs Commission):

I'll answer this question. What is "harming China's interests"? I've seen that France has a provision that for any social group, if their objectives include destroying France's territorial integrity, opposing the republic system of government, or violating laws or social customs, those groups will not be given permission to be established. So harming the national interest may include [violating] territorial integrity or the national regime that protects the broader society's interests, this is national interest. Specifically, in our laws, in determining what 'harm' is, our criminal code and laws on managing law and order and punishing crimes, etc., spell out specifically what is harming the national interest.

Just now the comrade from the public security bureau mentioned, we welcome foreign NGOs that come to China, and when we drafted the law we included economic, educational, scientific,

public health, cultural, athletic fields and poverty alleviation and humanitarian assistance, which in the many years of foreign NGOs coming to China are the work areas that most NGOs engage in, so we clearly listed them. But there is an “etc.” added to the end of this [list of work areas], so you ask if foreign human rights NGOs can come to China. Of course they can. We welcome and support all foreign NGOs coming to China to implement friendly exchange and cooperation, we will make things convenient for them, and their rights and interests will be safeguarded in accordance with the law. However illegal behavior will definitely be punished in accordance with the law. Only foreign NGOs that respect China’s laws can implement activities in China with peace of mind. Thank you.

Oriental Outlook reporter:

We also know that in the past, if foreign NGOs registered in China, they were managed primarily by the Ministry of Social Affairs and the State Administration for Industry and Commerce, so for those foreign NGOs that have already registered a representative office, will they need to renew their registration through the Ministry of Public Security? Thank you.

HAO Yunhong (head of the Foreign NGO Management Office from the Ministry of Public Security):

First, I want to say that for the past several years, in accordance with *Regulations on the Management of Foundations* and other related laws and policies, the lawful rights and interests of representative organizations that have already registered shall receive the protection of law. Second, with the promulgation and implementation of the FNGO law, we focused on the concepts of convenience and service, and earnestly looked into interim measures along with the Ministry of Civil Affairs, the State Administration of Industry and Commerce, and other relevant departments, to ensure that before the law takes effect, will guarantee their [foreign NGOs’] activities will continue to be carried out. After the implementation of the law, so long as they [foreign NGOs] provide supplementary and relevant materials in accordance with the law, we will continue to give them lawful registration.

Cable TV Hong Kong reporter:

I want to ask about Article 5 in the FNGO law, which stipulates that [foreign NGOs] “may not illegally undertake or perform religious activities.” Why are religious activities specifically prohibited? Also, by not permitting them to raise funds within the mainland, will this influence their operations? Thank you.

GUO Linmao (representative of the Social Law office of the Legislative Affairs Commission):

Thank you, I’ll answer this question. First, why prohibit illegal undertaking and funding of religious activities. According to China’s administrative laws and regulations, all organizations performing legal religious activities in China are permitted to do so. Of course, if religious activities are illegally undertaken or funded, it is not just China that would not agree, any other country would also not agree.

Second, concerning the question about foreign NGOs’ fundraising activities in China. This year the NPC recently passed the Charity Law, and according to the Charity Law, only charitable organizations have the qualifications to raise funds. Charitable organizations seeking to fundraise must seek qualifications to raise funds from the Ministry of Civil Affairs. Foreign NGO representative offices are not legal persons, and foreign NGOs implementing temporary activities are all short-term [entities], so these NGOs do not meet the requirements of the Charity Law in raising funds. So you [foreign NGOs] are not permitted to raise funds. Thank you.

Xinhua reporter:

My question is still about the FNGO law, and I want to ask a question of the Ministry of Public Security. Previous discussion led me to understand that a unifying concept running through this law is ‘housing management within service,’ and in your previous response to a question you mentioned a bit about how to provide foreign NGOs with convenience, so I want you to please more specifically and systematically respond to this question. We know that the law provides for this, for example that foreign NGO representative offices may enjoy tax benefits, but as we also know, domestic non-profit social organizations that want to enjoy tax benefits have difficulty in receiving them, so if we are drafting law to give more convenience to foreign NGOs, and protecting their rights and interests, how will these details be achieved in practice? Thank you.

HAO Yunhong (head of the Foreign NGO Management Office from the Ministry of Public Security):

Let me reaffirm that what foreign NGOs care most about, applying to establish a representative office and carrying out temporary activities and the specific procedures and measures they need to follow, our office will be quickly putting together a set of measures, which will be posted online within a reasonable period, to provide guidance. Second, we will coordinate with relevant organizations to earnestly research, draft, and publish a guide for foreign NGOs to follow in applying for establishing a representative office and the areas they work in, a program directory, and a name list of the professional supervisory units, which is a key question. Because some foreign NGOs work specifically in one area, or have activities across several areas, even to the point that some activities may themselves cover several different areas, so providing ahead of time a published program directory, activity areas, and professional supervisory units, is a very good convenience and service measure provided to groups carrying out activities.

Third, the Ministry of Public Security has many regulations to manage entry and exit of the country, and will provide much convenience and service to foreign NGO representative offices’ foreign personnel and procedures related to their work. Fourth, concerning the issue of preexisting registration with the Ministry of Civil Affairs or the State Administration on Industry and Commerce,

etc., we will have a set of interim measures, to combine them under the new law. In summary, the public security organ will exhibit the benefit of our experience in managing household registration, nationality registration, entry and exit procedures, and managing foreigners conducting activities in China, to earnestly fulfill our obligations assigned by the law. We will also exhibit our advantage in our work responsibilities, to provide effective service and protection to the implementation of normal exchanges and cooperation conducted by foreign NGOs in China, protecting their lawful rights and interests, for the sake of our economic and social development, and our proper contributions to the work of Reform and Opening.

Wall Street Journal reporter:

My first question is what is the status of the implementation of this law? When will implementing regulations come out? Will that also happen on January 1, 2017? My second question is that some foreign NGOs have stated that China has a “blacklist” of groups that are not permitted to implement activities inside of China. After this law is implemented, how will this blacklist be managed?

GUO Linmao (representative of the Social Law office of the Legislative Affairs Commission):

Let me answer your question. First, the FNGO law was ratified today, and will be implemented starting from January 1, 2017. Second, the blacklist that you are referring to, we don’t know what you’re talking about. But I did want to mention one particular point, which is that our purpose in drafting [this] law is not to *not* let you come [to China].

As Vice-chairman Zhang just mentioned, in the past year from last April to this April, we’ve spent an entire year perfecting and amending this law. We’ve hosted conferences, done research, solicited the opinions of relevant experts, coordinated with the PSB and other relevant organs. What have we been coordinating about? The resolution of two questions, namely, management and service.

When I say “management,” what I mean is precise management, this is an important point. So everyone can see, in this draft of the law, we reduced [the scope] of management, to refer specifically to legally established foreign foundations, social organizations, and think tanks. Exchange and collaboration between hospitals, schools, etc., natural science and engineering technology research institutions and academic organizations was placed outside [the scope]. So it’s precise management, this is an important point. Also, another journalist just put forward, we have strengthened management of the finances of foreign NGOs, because our experience has been to strengthen management of the finances of domestic social organizations. Also, to provide extensive service and convenience to welcome foreign NGOs to come to China and carry out activities, we will perfect the facilitation measures for foreign NGOs. Everyone will have noted, we made many changes in this law, with the report of the legal committee’s initial consideration showing over 30 edits to the original nine chapters of content, and through this committee’s reading of the law, our draft was further edited, in nearly 20 places, and the report on these edits has six points, so you can say that this law and the second draft there has been an “earth-shattering” change. These changes are to resolve and better perform management, and to provide better facilitation services.

Here I want to say to everyone, please put yourselves at ease over the passage of this law, as from the beginning of this law we have had four fundamental determinations: First, we completely affirm the proactive function of foreign NGOs in China’s process of reform and opening, as the funds, technology, and management experience involved in this process has been actively useful. Second, we welcome and support all foreign NGOs to come to China, and President Xi has said, the great open door of the Reform and Opening period will not close, and since our open door will not close, we welcome everyone to come and undertake friendly exchanges and cooperation. Third, any foreign NGO coming to China engaging in friendly exchanges and cooperation in accordance with China’s lawful processes, we will protect all of your lawful rights, and we will provide every convenience. Fourth, if a very small number of foreign NGOs use the excuse of exchanges and cooperation to come to China and perform illegal or even criminal activities, we, the public security bureau, will absolutely stop the activities, and will punish those activities. So, in summary, we welcome foreign NGOs, our doors are open wide, so there is no need to fear either this law or the Ministry of Public Security.

Associated Press (Beijing Office) reporter:

If it is the case that China has a welcoming and open attitude towards foreign NGOs, and as was just affirmed that they have had a proactive effect on the 30 years of China’s Reform and Opening, why are they not allowed to establish branch offices, or to develop membership within China? In the law there is an example, that foreign NGOs may not do so ‘unless permitted by the State Council,’ could you speak a bit about which organizations will have this special permission to develop membership in China, and why this differentiated treatment exists? Thanks.

GUO Linmao (representative of the Social Law office of the Legislative Affairs Commission):

I’ll answer this question. First, why foreign NGOs may not establish branch organizations. In the second draft of the foreign NGO law you all saw, which stipulated that foreign NGOs may only have one representative organization, but after we amended that draft, foreign NGOs may establish any number of representative organizations, according to the work scope, activity region, or the needs of their activities. Since we opened up the policy on the number of representative offices, there is no need for provisions on branch offices to exist. And as to why the State Council may make exceptions to this, it is because there were originally some foreign natural science academic organizations and academic units that established branches, and we permit the establishment of these branch units.

Second, concerning the development of membership. First, foreign NGOs that come to China to do work that will develop the public welfare, and not to form a team, have no need to come here

and develop membership. Next, Chinese organizations, foundations, and social organizations may develop their membership in China, however, these Chinese organizations are legal persons under Chinese law, and foreign NGOs do not have the qualifications of a legal person, and temporary activities are short-term; after the activity ends, it goes away, developing membership does not meet Chinese laws and policies. Why is there another provision here allowing the State Council to make an exception? That is to say there were originally some foreign NGOs that developed membership in China previously, and these members primarily were foreign natural science academic associations, and Chinese experts, academics, scientists entering these academic associations is still a current trend. Further, the Chinese government supports scientists and academics entering foreign science institutions, so the State Council making exceptions, this means that later on some of our scientists, experts may become members in foreign organizations, after obtaining the State Council's approval. Thank you.

