

# **CONSULTATION FOR STATES ON TREATY BODY STRENGTHENING Geneva, 7 and 8 February 2012**

## **Introduction**

1. On 7 and 8 February 2012 the Office of the High Commissioner for Human Rights (OHCHR) organized a consultation on the treaty body strengthening process at the request of a large number of States who were of the view that more time was required to continue the discussions initiated during the previous consultation with States in Sion (Switzerland), in May 2011. A similar event is scheduled on 2 and 3 April 2012 in New York. The meeting was opened by the Deputy High Commissioner for Human Rights, Ms Kyung-wha Kang, following a video message of the Secretary-General, Mr Ban Ki-Moon highlighting the considerable contribution of human rights treaty bodies to the promotion and protection of human rights across the world and at the national level. To this end, the Secretary-General recalled that the treaty bodies could only be an efficient, solid and protective system if properly funded and that no amount of harmonization of working methods would suffice if appropriate resources were not made available to meet its expansion.

2. The Deputy High Commissioner recalled the fundamental role of States in this process, not only because they are the creators of the treaty body system and the primary beneficiaries of its outputs, but also because they bear the responsibility of implementing treaty bodies' recommendations. She also stressed that the independence of the treaty bodies guarantees a non-selective approach to countries and an equal emphasis on all human rights. Referring to the financial constraints which the treaty body system is facing today, the Deputy High Commissioner stated that the fundamental principle of States accountability under international human rights law must not be compromised because of lack of resources. She recalled that the High Commissioner's initiative to strengthen the treaty bodies is based on the mandate given to her by General Assembly resolution 48/141 to "rationalize, adapt, strengthen and streamline the United Nations machinery in the field of human rights with a view to improving its efficiency and effectiveness". The Deputy High Commissioner reminded participants of the framework of the strengthening process which does not foresee altering the legal parameters of the treaty body system. She acknowledged the Office's expectation that towards the end of the process there will be an intergovernmental discussion and decision-making process, and that such a process would need to embrace the multi-stakeholder approach of treaty body strengthening, respect the powers of the treaty bodies to decide for themselves their own working methods and rules of procedures, and uphold their independence. In closing, the Deputy High Commissioner paid tribute to Mr Abdelfatah Amor, former member of the Human Rights Committee, who passed away in January 2012, and who in her view "embodied the very essence of the treaty body system as a melting pot of the expertise and the universality of human rights".

3. Mr Vladimir Gratchev, Director, Division of Conference Management of the United Nations Office at Geneva delivered an introductory statement stressing that the treaty body system has

reached its limits from a conference servicing standpoint, noting that the growth in the treaty body system occurred at the same time as the creation and growth of the Human Rights Council (HRC). He recalled that the Division received only \$874,000 upon the creation of the Universal Periodic Review (UPR), although the actual costs are well over \$10 million. To support the UPR, the decision was taken to discontinue the summary records to which the Council and its Advisory Committee were entitled and reallocate those resources. This decision was only possible through the host country's contribution of funding for webcasting, which forms the official record of Council meetings.

4. Mr Gratchev explained that at the request of the Council in its resolution 8/1 and spearheaded by the Deputy High Commissioner, the Secretariat, including the OHCHR, the Division, and the Department of Public Information, put forward a report in 2008, which outlined the resources required to properly support the Council and UPR, including provision of funding for webcasting and additional translation and documentation capacity. The Third Committee did not endorse the Council's report, but only took note, and the corresponding request for resources was withdrawn. Mr Gratchev indicated that the situation nevertheless provides a precedent on how to move forward when there are no adequate resources to address every element of a body's entitlement. The body itself can review and reshape its mandate to focus resources on priority needs. Another precedent he cited is the Committee on the Elimination of Discrimination against Women (CEDAW), which reviewed some of its entitlements to conference services and decided that the English language originals of its summary records fully met its needs and did not require translation. During its review, CEDAW also ensured that translation of replies to lists of issues was formally added to its entitlements.

#### **Resourcing the treaty body system: Efficient and Effective Functioning of the Treaty Body System**

5. The first session was moderated by Mr Subhas Gujadhur, Deputy Permanent Representative and First Secretary of Mauritius. Two treaty body members acted as resource persons namely, Ms Yanghee Lee (Committee on the Rights of the Child) and Mr Alessio Bruni (Committee against Torture).

6. A presentation was made by Mr Paulo David (OHCHR) on facts and figures regarding the growth and financing of the treaty body system and the proposals contained in the report of the Secretary-General to the General Assembly (A/66/344) on "Measures to improve further the effectiveness, harmonization and reform of the treaty body system", followed by a presentation on a comprehensive reporting calendar by Ms Wan Hea Lee (OHCHR).

7. Mr David described the significant increase of the treaty body system which grew from six core treaties, 97 treaty body members and 51 weeks of meeting time in 2000 to nine core treaties, 172 treaty body members and 73 weeks of meeting time in 2012. He indicated that with the current level of ratifications, and if every State party were to fulfil its reporting obligations, treaty bodies would review in average 320 State parties' reports annually, as opposed to the 118 reports reviewed in 2011. With regard to backlogs, Mr David indicated that 625 State parties' reports and 478 individual communications were pending consideration as of February 2012. He then presented the two

proposals contained in the report of the Secretary-General. He indicated that the first proposal aims at giving a short-term solution to reduce backlogs through a biennial adjustment of meeting time in accordance with existing backlogs and workloads whereas the second proposal offered a long term solution: a comprehensive reporting calendar based on 100% compliance rate.

8. Ms Lee presented in details the second proposal of the Secretary-General mentioned above. She highlighted the shortcomings of the current schedule of examination of State parties' reports: inequitable State Parties' reviews (barely 33% timely compliance with reporting obligations), large backlogs of reports pending examination, wasted resources at international and national level due to the long delays in examination, documentation problems, and continuous requests for additional resources from treaty bodies. The proposal would instead allow for a five-year cycle of reporting under the nine treaties with a reporting procedure. The reporting calendar would be published well in advance and each State party would need to submit up to two reports per year and engage in up to two dialogues per year on previously submitted reports. The calendar would be based on strict universal adherence, ensure predictability and timeliness.

9. Participants noted the great value of the treaty body system and its centrality in the promotion and protection of human rights. However, many commented that the resource constraints have had a direct negative impact on this value, for example as the backlog of reports results in significant time laps between submission and consideration where the report may be outdated by the time of the dialogue.

10. A large number of States expressed their appreciation of the High Commissioner for having initiated the process of treaty body strengthening and commended in particular its participatory nature and the preparation and presentation of factual information and analysis. Some States noted the value of the specific expertise of OHCHR on treaty bodies through its role as Secretariat. Several States supported the High Commissioners approach on strengthening the system rather than reforming it.

11. Several States highlighted the need for a leading role of State parties in the process and submitted that State parties were not on par with civil society and national human rights institutions as State parties are signatories and duty bearers and therefore have particular responsibilities. It was asserted that the outcome of the process will rely on State parties to be legally valid and meaningful.

12. The Permanent Representative of the Russian Federation informed the meeting of its draft resolution on treaty body strengthening, proposing an open-ended intergovernmental working group to the General Assembly. The draft resolution has gone through consultations in New York and has been updated. Several states expressed their support for the draft resolution. It was clarified that the draft resolution aims to systematically take into account State parties' views and stresses the independence of experts and the need to provide adequate resources to the treaty body system. The draft resolution proposes a working group to be established after April 2012 and to be led by two co-facilitators. The process should consider the reports of the Secretary General and the High Commissioner in relation to treaty body strengthening. The Permanent Representative highlighted that the process would be open to all UN Member States and benefit input from treaty body members, national human rights institutions, and relevant civil society representatives.

13. Several States stressed the need for an approach where final decision should be adopted by broad consensus. Many States expressed the need for a continued participatory process, with the inclusion/participation/input of treaty body members, civil society and national human rights institutions. A State noted that State parties have responsibilities through the legal obligations in the treaties to provide funding to the UN system whereas treaty body members have the mandate to decide on their working methods. Therefore, the process should be a two-way street with continued cooperation and consultation as agreements reached by both sets of actors are required to ensure a realistic and implementable outcome.

14. States also discussed whether the process should continue in Geneva or New York, noting the expertise of a variety of actors on the treaty body system in Geneva. Several States noted the need to avoid duplication between the proposed intergovernmental process and the process initiated by the OHCHR to ensure that information and contributions made in one process are inserted and dovetailed into the next. It was noted as important to establish the parameters of the continued process and clarify the aim as strengthening support to treaty bodies to improve their work. If any additional objectives are identified, they should be clearly articulated.

15. Many States asserted that the strengthening process must occur within existing treaty body law and should not infringe on such provisions or open up the treaties for revision. States also noted that the process must not jeopardize the treaty body system and that it must strengthen and not undermine the capacity of the system to promote and protect human rights. Several States emphasized the need to ensure the continued independence of treaty body members and stressed that treaty bodies have the mandate to decide on their working methods.

16. Several States noted that they were looking forward to the High Commissioner's report/compilation of proposals on treaty body strengthening and requested that this report specifies the budget implications of the proposal.

17. With regard to funding, some States noted the responsibility of States to provide adequate resources to the system created by them. Some States noted that additional funds are required and that as States call for increased ratification through the UPR recommendations, they should also provide the resources. Several States emphasized the need to keep within existing resources, and stated that there should be room for further cost reduction. States also called for the efficient use of resources. States discussed the value in considering budget allocations to treaty bodies as a whole compared to separate requests by treaty bodies and noted the need to identify needs of each committee and ensure that these are considered equitably. Several States emphasized that the treaty body system should be financed through regular budget.

### **The comprehensive reporting calendar**

18. A large number of States showed interest in the comprehensive calendar and indicated that it could increase the predictability of the consideration of States parties' reports. Others raised questions or expressed reservations regarding the examination of the human rights situation in a

State party in the absence of a report. Some States were of the view that the calendar is not realistic and does not take into account the current backlog of reports pending consideration, or the lack of capacity of a majority of States to submit two reports per year, as would be required. Questions were also raised on the availability of treaty body members in light of the significant increase in meeting time which the calendar would imply. Some States stated that the latter could not be compared with the UPR process which only required a report on the implementation of all human rights every four years. Other suggested an alternative model based on a six-year cycle.

### **Cost saving measures**

19. One State suggested that savings could be made through the use of parallel chambers and country task forces to reduce the time needed to consider States parties reports. These, combined with savings made in the area of translation, documentation through the enforcement of page limitations, as well as interpretation by reducing the number of working languages, could be reinvested in additional meeting which may allow for the implementation of the comprehensive reporting calendar. Some States agreed that reduction of languages could be a priority area for savings, while others believed that all official languages should be treated equally. Some States were of the view that holding regional meetings or treaty body sessions in New York have higher cost implications and should not be encouraged. One State suggested that alternative measures to reporting should be sought. Some States advised that greening policies and the use of new technologies could also contribute to reducing costs.

20. Other States suggested that treaty bodies should limit their activities to the consideration of States parties' reports and individual communications which would result in savings. Activities such as coordination meetings of chairpersons, country visits and development of general comments should be discontinued in their view, while others suggested that additional activities be put on hold until backlogs are cleared. In addition, the list of issues prior (LOIPR) to reporting and the follow-up procedures were viewed by some as overburdening States parties.

21. With regards to non-reporting States some participants proposed a comprehensive analysis to the reasons for not reporting, and the need to consider ways to ease the burden of reporting on States and find cost efficient ways to ensure participation in dialogues.

22. Ms Yanghee Lee replied to the concerns raised by some States about a more efficient use of meeting time. She explained that the Committee on the Rights of the Child considers 12 reports per session in 15 working days, and that they meet outside meeting hours and during weekends to discuss working methods. General Comments are discussed during weekends. She referred to innovative modalities used by the Committee for a number of small Pacific islands. Regarding the consideration in the absence of a report, Ms Lee clarified that it only takes place as a measure of last resort after numerous contacts with the Permanent Mission of the State concerned in Geneva. She agreed that reducing the number of working languages would help in saving costs and that summary records should be issued in one language only.

23. Mr Bruni referred to the reduction of the number of pages and languages as the main cost saving measure to be explored. Furthermore he highlighted the fact that reports to the General

Assembly are composed to a large extent of existing documents and suggested that only reference be made to these documents instead. He explained that treaty body activities not expressly mandated by treaties should be seen as a support to the mandated activities, not to the detriment of the latter; that there was a long warning process put in place by treaty bodies before considering the implementation of a treaty without a State party report and that the lists of issues before reporting had the advantage of making States parties aware of the main subjects to be discussed with a treaty body beforehand and, thus, significantly facilitated the dialogue. He also underlined the different purpose of summary records vis-à-vis the webcast. As a saving measure, summary records could be issued in the original language in which they were drafted without translation. He expressed some reservation on the suggestion of reducing the time of consideration of a State party report by a treaty body to one meeting only.

24. In the afternoon, the second session on resources was moderated by Ms Virginia Bras Gomes, Senior Social Policy Adviser in the Ministry of Solidarity and Social Security of Portugal. A presentation was made by Ms Shivona Tavares-Walsh, Chief Document Management Section and Ms Kira Glover Kruglikova, Executive Officer, Division of Conference Management, on the challenges of supporting the treaty bodies and potential variations/ alternatives of conference servicing support. In this context reference was again made to CEDAW which proactively reviewed its entire conference servicing entitlements to focus on highest priorities, deciding to have summary records only in English and replies to lists of issues fully provisioned. Reference was also made to the UPR with 93% rate of timely submission of reports which are kept within self-imposed word limits.

25. Some States encouraged treaty bodies to follow the precedent set by CEDAW, enforce page limitations and reinvest the savings in additional meeting time. Some States added that reports exceeding limits should not be eligible for translation. Some called for the rationalization of the reporting procedure and welcomed the LOIPR procedure which in their view reduces documentation and the burden on States. One State suggested that the LOIPR should be shorter and more focused. A suggestion was made whereby periodic reports could be reviewed in only half a day. Some States were of the view that dialogues with the presence of a delegation in Geneva could alternate with dialogues through videoconference.

26. OHCHR clarified that working in chambers or increasing the number of reports considered would not save costs but rather have higher budgetary implications relating to an increase in documentation and staffing.

### **Strengthening the membership of treaty bodies**

27. The segment on strengthening the membership of treaty bodies was opened by Mr Kwon Haeryong, Deputy Permanent Representative of the Republic of Korea, who acted as moderator. Ms Fatimata-Binta Victoria (Committee on the Elimination of Racial Discrimination) and Mr Cornelis Flinterman (Human Rights Committee) acted as resource persons.

28. States generally agreed that the issue of treaty body membership was one of the key elements to strengthening the treaty body system. Several States referred to the need to nominate and elect

members that would fulfil the criteria of expertise, independence and availability. The point was made that the system could only be expected to meet its potential with properly qualified and committed treaty body members.

29. Many States stressed the importance of establishing a transparent and participatory national process for the election of candidates. At the end of the day, emphasis should be on finding the most suitable individual. States referred to the exchange in the context of the Sion technical consultation of good practices of national processes to nominate treaty body candidates in an open and transparent manner. Many States supported the model of the United Kingdom to widely publicize the positions with a description of key requirements and to shortlist the best candidates for an interview. A few States made reference to the new model of the Advisory Panel for the election of judges on the European Court on Human Rights and noted that this could also bring some suitable elements to the treaty body election process. OHCHR was requested to compile examples of good practices of the nomination of candidates to the treaty body system.

30. With regard to the process of nominating and electing treaty body members, the point was reiterated that States are the ones who nominate, campaign, and vote for the treaty body members. It is thus the responsibility of States to ensure that requirements are fulfilled and that the best candidate in terms of expertise, independence and availability is elected. It was also noted that although nominations and elections are both the duty and the prerogative of States, additional input from a variety of actors can play an important role in helping to provide increased transparency, information and recommendations to States.

31. A number of States stressed that the criteria and procedure for nomination and election of treaty body members are already established by the international treaties themselves and that any additional criteria for nominating or mechanism for selection would exceed the treaty body mandates. Concerns were expressed by some States about the modalities of the electoral system itself devised by States, including trading of votes, where a vote was in reality given to the State putting forward a national candidate rather than in support of the actual candidate.

32. With regard to independence, a number of States stressed that States should refrain from nominating serving government officials or diplomats, which in their view constitutes a conflict of interest. This was particularly evident in the case of officials working in the executive branch. Independence of a treaty body member was referred to by one State as the individual having no external attachment(s) that could affect his or her role. Other States noted that no one is completely independent and that former officials would be conducive to fulfilling the duties of a treaty body member. While it was recalled that some of the more recent treaties contain provisions on limitations of tenure, it was suggested that States parties should refrain from nominating individuals that have already concluded two terms.

33. In addition to the principle of independence, States also discussed expertise and gender balance as the other crucial principles meriting close attention in the election process. Many expressed the view that States should carefully review the qualifications of each candidate, and select candidates, giving consideration to gender, geography, professional fields, and legal systems in

determining the final composition. However, the point was made that experts in other fields than law would enrich the interpretative work of the treaties. In order to better assess the required level of expertise, a few States suggested that a standardized CV format be developed to reflect such elements.

34. A number of States were in favour of a regional quota system as this would facilitate the understanding of the diversity of legal systems, heritage and religious approaches. Other States did not support this proposal. They noted that at the end of the day, the election of members to a particular treaty body would depend on the States parties that have signed and ratified the treaty and this was not always regionally balanced. The composition of the Committee on the Rights of All Migrant Workers and Their Families (CMW) was mentioned as an example in this respect. Rather than geographical quotas, emphasis should thus be on ensuring that different legal systems are represented.

35. Given that attendance was recognized as a basic requirement, States generally agreed that candidates should be informed about the nature of work involved as a member of the respective treaty body. In this respect, the information note to be prepared by OHCHR on all practical issues, including with regard to what is expected of committee members, was seen as a useful tool. Some States suggested that attendance sheets of the treaty body members be made public.

36. While noting that the treaty body chairpersons had agreed to prepare and adopt a document providing guidance on enhancing the independence of treaty body members, several States expressed their support for such a document. The point was made however, that the aim should ultimately be to build confidence between the treaty bodies and the States, not to put a strain on treaty body members. Some States were of the view that the draft guidelines should be considered at Conferences of States parties.

37. A number of States suggested that a code of conduct for treaty body members be negotiated and concluded by States in order to prevent abuse of authority and misconduct and to ensure that the members do not manipulate or politicize the treaties. Reference was made to the code of conduct for the special procedures mandate holders in this regard and it was noted that such code would be a positive development that would not undermine the independence of the treaty bodies. Several other States, however, underlined that this proposal was undesirable, inappropriate or as some noted unacceptable as a code of conduct would be in contradiction with the independent nature of the treaty bodies. The point was also made that such code of conduct was superfluous as all decisions are taken collectively by a committee as a whole and that the diversity and collegial decisions of the treaty body system are in fact the elements that make the system independent. It was also noted that the focus should rather be on the legal obligations of States parties to cooperate with the treaty body system by submitting reports than on a code of conduct for its members. A few States mentioned that although they were open to an exchange about a possible code of conduct, they did not think that this would be the best solution as it might in fact limit the impartiality, independence and objectivity of treaty body members.

38. Ms Fatimata-Binta Victoria Dah underlined that the composition of the treaty bodies falls exclusively within the purview of States parties. In this regard, she expressed concern regarding the



recent holding of elections on the basis of a dean slate as it risks undermining the selection process. She also signalled a significant evolution in terms of equitable geographic balance. Recent figures provided by the OHCHR indicate that the Western European and Others Group (WEOG) accounts for 25 percent of the members, Africa for 23 percent, Asia for 21 percent, Latin-America and the Caribbean for 19 percent, and Eastern Europe for 12 percent. These figures also have to be looked at in relation to the number of ratifications of treaties by region. In terms of the professional background of treaty body members, in 2009, there were 36 percent academics, 28 percent public officials and active diplomats, 13 percent magistrates and lawyers, 8 percent from civil society, and 7 percent retired diplomats. In conclusion, Ms Dah urged the States parties to continue to give confidence to experts and not exercise pressure. Recalling the intention of the treaty body chairpersons to adopt a set of guidelines on independence, she was thus of the view that any document on moral ethical criteria for treaty body members should best be elaborated by the treaty bodies themselves.

39. Mr Cornelis Flinterman flagged that the treaties set out certain requirements for treaty body members such as being of high moral character and demonstrating an extensive track record in the field of human rights. He furthermore regretted the lack of equitable geographic distribution in certain treaty bodies, including the Human Rights Committee. Mr Flinterman stressed how demanding, intellectually and time-wise, the work of a treaty body is and therefore underlined the need for treaty body members to make sufficient time available to discharge their mandate. With regard to the proposal for a code of conduct, he expressed great hesitation in terms of its feasibility and desirability. He referred to a number of measures which treaty bodies are already implementing to ensure independence, objectivity and transparency, such as not participating in any aspect of the consideration of a country of which one is a national, the collective nature of decision-making, and the possibility of dissenting and concurring opinions in the area of individual communications. Lastly, Mr Flinterman agreed on the negative impact of dean slate elections as this implies a lack of independent screening. While it is for States parties to nominate and elect qualified human rights experts, he supported the decision of the treaty body chairpersons to draft guidelines on independence.

40. Mr Hatem Kotrane (Committee on the Rights of the Child) was in favour of identifying methods to improve the current system rather than inventing new rules. He therefore did not support a code of conduct for treaty body members as a number of internal rules and regulations are already in place. He underlined the need to make the selection process more transparent, for more capacity building in order to stimulate better-quality nominations, and for enhanced observation of the performance of treaty body members, for instance by rendering attendance sheets public. Lastly, while agreeing that the demands placed on treaty body members are high, Mr Kotrane flagged that the experience gained through working in a treaty body is often beneficial to the professional functions of treaty body members in their home countries.

## **Strengthening the preparation of States parties' reports and the dialogue between States parties and the treaty bodies**

41. The segment on strengthening the preparation of States parties' reports and the dialogue between States parties and the treaty bodies was opened by Mr Agustín Santos Maraver, Permanent Representative of Spain, acted as moderator. Mr Ahmad Amin Fathalla (Human Rights Committee) and Mr Hatem Kotrane (Committee on the Rights of the Child) acted as resource persons.

42. A number of general comments were made under this segment. It was generally acknowledged that treaty bodies' work is the bedrock of the international human rights' system and that all proposals should remain faithful to the parameters of the treaties. It was also requested that all cost effective proposals be put together so as to evaluate if they are sufficient to address the backlog or if additional measures are needed.

### **An improved alignment and rationalization of treaty bodies working methods**

43. With regard to the establishment of working methods by the treaty bodies, a State said that new innovative working methods should not create or change States parties' obligations and called on participants to analyse all new proposals from a financial and legal point of view. Other States expressed the view that working methods were falling under the scope of the treaty bodies' mandate and suggested further streamlining measures.

44. When discussing optional reporting procedures, many States welcomed the adoption by treaty bodies of new and innovative working methods, including lists of issues prior to reporting (LOIPR). They highlighted the potential of these lists to speed up and alleviate the reporting burden placed on States parties, especially small States, and lead to more precise and detailed national report and more focus constructive dialogue, which should in turn help reducing the length of the concluding observations. List of issues could also contribute to saving financial resources. The importance of stakeholders' inputs to lists of issues prior to reporting was underscored.

45. A number of States suggested that the number of questions be limited and that the maximum length of States parties' reports also apply to States opting for the optional reporting procedures. A State called on the Secretariat not to publish the lists of issues prior to reporting prior to the acceptance of this procedure by the State party concerned. *[Note by the Secretariat: This has been discontinued and no longer applies.]* Some States requested that clear criteria be elaborated for the drafting of the questions, that these questions be based on highly verifiable and substantiated facts and that references to sources be added. Few States also proposed that individual cases be excluded from the process.

46. A number of States expressed a note of caution and indicated they would only decide to opt-in or opt-out once a thorough evaluation of the list of issues prior to reporting would have been conducted and shared with States parties. Questions were posed with regard to the impact thus far

of this new procedure on the focus of the interactive dialogue and the length of the concluding observations. Some States underlined that new procedures should remain optional.

47. When discussing the use of Common Core Documents, States highlighted the opportunity it provides to streamline the reporting process, enhance its efficiency, and alleviate the burden placed on States parties. Its combination with lists of issues prior to reporting was also encouraged. A State highlighted the difficulty to provide precise information while complying with the page limit. Finally, questions were raised on the efficiency of the Common Core Document and on the regularity of the updates made.

48. Many States expressed their support with regard to capacity building activities aimed at assisting States parties in meeting their reporting obligations. A State suggested drawing on the experience of the technical assistance provided in the context of the UPR. The comprehensive calendar, and the predictability that it would bring in terms of reporting deadlines was also viewed by some States as a mean to assist States parties in complying with their reporting obligation. A question was posed with regard to the level of funding available for capacity building activities undertaken by the office.

49. When discussing steps towards a more inclusive process of national consultations, many States supported the important role played by National Human Rights Institutions and non-governmental organizations throughout the reporting cycle. Two States stressed that the first and pivotal role of the State party should be preserved and that minimum rules regarding the involvement of non-governmental organizations should be respected while another considered that clear procedures are already in place. A suggestion was made to open the meetings between non-governmental organizations and treaty bodies to the public.

50. Some States called on the OHCHR to increase the use of IT technologies. It was further suggested that OHCHR website be redesigned in order to further increase the visibility and accessibility to the treaty bodies' work, including for persons with disabilities. The recent use of social media by the OHCHR was welcome. Suggestion was made that pilot projects be undertaken to explore the use DVC technology.

### **Concrete measures to achieve a more structured and balanced constructive dialogue**

51. A number of States supported the harmonization of the length of the interactive dialogue and wished it to be more structured and focused. A clear division of labour between Committee members for the conduct of the dialogue was proposed, with country rapporteurs playing a key role. The idea to limit the consideration of State parties' reports to one session was put forward by several States. To reduce the length of the dialogue while keeping its focus and quality, questions should be concise, focused and based on the list of issues. To give the opportunity to States parties' delegations to better prepare for the dialogue, several States proposed that a list of questions be sent in advance of the dialogue. A State also suggested that a short break be given to State parties' delegations in order to prepare their responses. A number of States stressed that the issues raised by the treaty bodies should remain within the scope of the treaty obligations and that the dialogue should be conducted in a spirit of cooperation, avoiding politicized or selective attitudes and take into

consideration different cultures, political and legal systems In this regard, one State suggested that the country rapporteur could come from the same region as the State party considered or from a country having a similar legal system. It was further noted that the State party report and information provided by United Nations entities should be the main focus of the dialogue. In addition, a State requested that the dialogue be conducted in all United Nations official languages.

52. States largely agreed that the speaking time of both experts and States parties should be better managed. Some States suggested that this would lead to shorter and more focused interventions from the treaty bodies' members, limit repetitions, and consequently improve the overall quality of the concluding observations. Some States suggested that interventions by treaty body members and State representatives should be subject to time limits.

53. The use of videoconferencing technologies was viewed by many States as a cost-effective way to expand the size of the State party's delegation through the virtual participation of experts and bring greater efficiency and impact. In order for all States to benefit from such technology, thoughts should be given to cooperate with United Nations country offices. Some States said that videoconferencing and webcasting technologies should only be used with the consent of the concerned State party. A State said that it would support a pilot project for webcasting treaty bodies' sessions and another asked how to reconcile the use of these new technologies with summary records.

54. With regard to treaty bodies' concluding observations, States generally agreed that there was room for improvement. Many States said that concluding observations should be shorter and recommendations clear and concise as well as more focused on key issues raised in the lists of issues and tailored to the situation of the State party. Some States also noted that concluding observations should only reflect verifiable issues addressed during the dialogue and pertaining to the rights set forth in the relevant treaty. A State suggested that cases under individual complaint procedure should not be referred to. Several States put forward the idea that the treaty bodies structure their concluding observations around immediate, medium-term and long-term deliverables. More particularly, a State suggested that three to five recommendations be identified as requiring immediate measures of implementation and that up to fifteen recommendations be formulated for longer term implementation. An introduction describing the issues discussed during the dialogue could supplement the recommendations. Some States were of the view that better visibility should be given to the comments made by States parties during and after the dialogue both in the concluding observations and thereafter on the website or the report of the General Assembly.

55. In addition, some States suggested that the treaty bodies could conduct 'simplified' consideration or meet in parallel chambers to limit the length of the sessions, reduce their cost, and increase the number of reports considered by session.

56. While some States viewed treaty bodies' follow-up procedures and mechanisms as useful and necessary to ensure a continuous constructive dialogue towards an effective implementation of the recommendations, others were opposed to any follow-up mechanisms believing that this was beyond the scope of the treaties and further increasing the burden placed on States parties. A State noted that it was reflecting on the possibility to set up a unique entity that would review the

implementation of the recommendations coming from the treaty bodies, but also the special procedures and the Universal Periodic Review.

57. Mr Ahmad Amin Fathalla found that it is for States to decide on national consultation processes and noted that such consultation usually eases the work of the treaty bodies and reduces the number of NGO reports. He noted that new reporting procedures contribute to streamlining and enhancing the treaty body system. Reference was made to the Human Rights Committee's country task forces entrusted with the drafting of the lists of issues and the conduct of the dialogue. Mr Fathalla stressed that the follow-up was an important part of their working methods. He finally shared the experience of the Human Rights Committee with the use of videoconferencing technology and suggested that it be expanded to allow small States increase the size of their delegation through virtual participation so as to bring additional expertise.

58. Mr Hatem Kotrane stressed that the quality of the report informs the whole process. He regretted, however, that the preparation of the report sometimes does not build upon past experiments and that reports are often not based on the previous concluding observations. In reference to a 'simplified' consideration, Mr Kotrane said that the feasibility would depend on the reporting cycle and the country itself. As to the possibility to work in parallel chambers, he noted that this would not lead to a two-for-one cost split as some costs, such as interpretation, will indeed be doubled. Finally, the positive experience of the Committee on the Rights of the Child with regard to follow-up workshops on the implementation of the concluding observations was shared with the participants.

59. Ms Fatimata-Binta Victoria Dah underscored that treaty bodies should strive to master their own working methods and harmonize them when it helps fulfilling their respective mandate. In this regard she made reference to the list of theme adopted by her Committee as a tool to inform and guide the dialogue. Ms Dah did not support the suggestion to limit the length of the interactive dialogue to a half day, as she felt that this would considerably reduce the richness of the exchanges. She referred to the decision of her Committee to limit the length of their concluding observations and to identify some recommendations for the follow-up procedure. Finally Ms Dah noted that the relationship with national human rights institutions was institutionalized by the Committee and that they were also trying to foster interaction with civil society organizations.

60. In her closing remarks the Deputy High Commissioner emphasised some common understanding that have become clear during the discussions, such as the centrality of the treaty body system, the fact that the status quo is not viable, and that all proposals should remain faithful to the parameters of the treaties. It was encouraging, she continued, to hear the vast number and high quality of all the proposals brought forward by the States parties on issues of financing, membership, working methods and the dialogue between the treaty bodies and states parties. The Deputy High Commissioner also mentioned the proposal of a fixed reporting calendar, the suggestion that, in her view, had spurred the most debate. She highlighted that this calendar does not entail any new obligations for States parties but only translates the legal obligations of the treaties into a practical structure. To conclude, the Deputy High Commissioner expressed her hopes that the consultations in New York in April will be equally engaging.

## Provisional agenda

### **Treaty body strengthening** **Consultation for States parties to international human rights treaties**

Geneva, Switzerland, 7-8 February 2012

Palais des Nations, Room XXI

States are encouraged to provide their views and concrete suggestions with respect to the points below on which discussions will focus.

Each segment will be moderated by a State representative. Treaty body members will act as resource persons. The consultation will culminate in a report summarizing the discussions, to be continued in New York on 2-3 April 2012, and will feed into the High Commissioner's report to be launched in June 2012.

#### **Tuesday, 7 February 2012**

##### **10:00-10:30 Opening**

**Video message from the United Nations Secretary-General, Mr Ban Ki-Moon, to the Sion consultation**

**Opening address by Ms Kyung-wha Kang, Deputy High Commissioner for Human Rights, OHCHR**

**Opening address by Mr Vladimir Gratchev, Director, Division of Conference Management, United Nations Office Geneva**

**Projection of a short video: "The Treaty Bodies: Bringing Human Rights Home"**

##### **10:30-13:00 Resourcing the treaty body system: Efficient and Effective Functioning of the Treaty Body System**

**Moderator: Mr Subhas Gujadhur, Deputy Permanent Representative/First Secretary, Permanent Mission of Mauritius**

**Resource Persons/Treaty body experts: Ms Yanghee Lee (CRC)/Mr Alessio Bruni (CAT)**

Presentation by Mr Paulo David, HRTD, OHCHR, on facts and figures regarding the growth and financing of the treaty body system and the proposals contained in the report of the Secretary-General to the General Assembly (A/66/344) on "Measures to improve further the effectiveness, harmonization and reform of the treaty body system"

Presentation by Ms Wan-Hea Lee on a comprehensive reporting calendar

##### **15:00-18:00 Resourcing the treaty body system: Efficient and Effective Functioning of the Treaty Body System (continued)**

**Moderator: Ms Virginia Bras-Gomez, Senior Social Policy Adviser in the Ministry of Solidarity and Social Security, Portugal**

**Resource Persons/Treaty body experts: Ms Yanghee Lee (CRC)/Mr Alessio Bruni (CAT)**

Presentation by the Ms Shivona Tavares-Walsh, Chief Document Management Section and Ms Kira Glover Kurglikova, Executive Officer, Division of Conference Management on the challenges of supporting the treaty bodies and potential variations/ alternatives of conference servicing support

Issues for discussions including:

- Proposals for more-cost efficient working methods that do not compromise the quality of the reporting and implementation process
- Proposals for savings: limitation of pages for all treaty body documentation, rationalized reporting, adjusting summary record requirements

**Wednesday, 8 February 2012**

**10:00-13:00 Strengthening the membership of treaty bodies**

**Moderator: Mr Kwon Haeryong, Deputy Permanent Representative, Permanent Mission of the Republic of Korea**

**Resource Persons/Treaty body experts: Ms Fatima Dah (CERD)/Mr Cees Flinterman (Human Rights Committee)**

Issues for discussions including:

- Dissemination of information to candidates on the election process, practical information and required workload
- Good practices in the nomination of candidates to the treaty body system

**14:30-15:00 *Side event: Presentation of the Universal Human Rights Index***

**15:00-17:45 Strengthening the preparation of States parties' reports and the dialogue between States parties and the treaty bodies**

**Moderator: H.E. Agustín Santon Maraver, Permanent Representative, Permanent Mission of Spain**

**Resource Persons/Treaty body experts: Mr Hatem Kotrane(CRC)/Mr Ahmed Fathalla (Human Rights Committee)**

Issues for discussions including:

**Improved alignment and rationalization of treaty bodies working methods**

- Optional reporting procedures

- Common Core Document
- Proposed support to stimulate compliance with reporting obligations
- Steps towards a more inclusive process of national consultations as part of the preparation of State reports
- IT support

**Concrete measures to achieve a more structured and balanced constructive dialogue**

- Length and focus of the dialogue
- Improved time management
- Videoconferencing
- More focused and shorter Concluding Observations

**17:45-18:00 Closing by Ms Kyung-wha Kang, Deputy High Commissioner for Human Rights**



### **List of participants**

Afghanistan, Albania, Algeria, Andorra, Argentina, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Bosnia-Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Canada, Chile, China, Colombia, Congo, Costa Rica, Cote D'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Ecuador, Egypt, Estonia, European Union, Finland, France, Georgia, Germany, Greece, Guatemala, Holy See, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Japan, Jordan, Kenya, Kirgizstan, Latvia, Libya, Lichtenstein, Lithuania, Luxembourg, Malaysia, Malta, Mauritius, Mexico, Monaco, Morocco, Mozambique, New Zealand, Nepal, Norway, Pakistan, Palestine, Panama, Paraguay, Peru, Philippines, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sudan, Sweden, Switzerland, Syrian Arab Republic, Thailand, The Netherlands, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Arab Emirates, United Kingdom, Uruguay, USA, Uzbekistan, Venezuela(Bolivarian Republic of), Viet Nam, Yemen.