

CONSULTATION FOR STATES ON TREATY BODY STRENGTHENING New York, 2 and 3 April 2012

Introduction

1. Following the call of the High Commissioner for Human Rights in 2009 to all stakeholders to reflect on ways and means to strengthen the treaty body system, several consultations were organized, including for States in Sion (Switzerland) on 12 and 13 May 2011, and in Geneva on 7 and 8 February 2012. A similar event was also organized in New York on 2 and 3 April 2012 which was opened by the Secretary-General, Mr Ban Ki-moon, the President of the General Assembly, Mr Nassir Abdulaziz Al-Nasser, the High Commissioner for Human Rights, Ms Navi Pillay, and Mr Shaaban M. Shaaban, Under-Secretary-General, Department for General Assembly and Conference Management.

2. The Secretary-General commended the High Commissioner for launching this crucial initiative in 2009 and for seeking the views of all stakeholders in an open and transparent process. Referring to the rapid growth in the number of international human rights treaties and corresponding expansion of rights holders protected under international law, the Secretary-General stressed that the systemic growth of the treaty body system has also created increasing structural difficulties for the treaty bodies themselves, most notably a heavy backlog of reports and individual communications. Acknowledging the profound consequences of the global financial crisis for countries' economies and budgets, he underscored however that for future generations to benefit from an efficient, robust and protective human rights system, current efforts to strengthen and harmonize the treaty body system need to be supported by a substantial increase in resources. Addressing States as the creators of the UN human rights system, the Secretary-General restated their responsibility to the populations under their jurisdictions -- and under the Charter -- to ensure that this framework for protection survives. In closing, he recalled that human rights are at the heart of the UN system, and treaty bodies at the heart of the UN human rights machinery.

3. Participants also heard an address from Mr Nassir Abdulaziz Al-Nasser, President of the General Assembly. Mr Al-Nasser praised the High Commissioner for organizing this consultation in New York to engage the full UN membership in the treaty body strengthening process, especially the Member States without a permanent representation in Geneva. Referring to the upcoming report of the High Commissioner, he trusted that the Assembly will give it the utmost attention and the consideration that it deserves following resolution 66/254 creating "the inter-governmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system". Mr Al-Nasser indicated that he intends to proceed by appointing two co-facilitators to support the process in this regard. He affirmed that his main objective will be to build unity for this process to improve the impact of the human rights treaty bodies on rights-holders and duty-bearers at the national level by strengthening their work, while fully respecting their

independence. Mr Al-Nasser indicated that he will work out separate informal arrangements, after consultation with Member States, as requested by the resolution to allow national human rights institutions, human rights treaty bodies and relevant non-governmental organizations to provide input and expertise.

4. Ms Pillay recalled that the ultimate goal of the treaty body strengthening process is to improve the impact of treaty bodies on rights-holders and duty-bearers at the national level by strengthening their work while fully respecting their independence. She highlighted that it also aims at securing the necessary resources to support the work of the treaty bodies, while seeking to identify cost saving possibilities in the face of the current financial challenges. In this context, she underscored that the approach of “absorbing new mandates within existing resources is simply not sustainable and impacts negatively on human rights protection”. Ms Pillay stressed the fundamental role of States in the current process as the creators of the treaty body system and the primary beneficiaries of its work. She reminded participants of the framework of the strengthening process which does not foresee altering the legal parameters of the treaty body system. The High Commissioner acknowledged the Office’s expectation that towards the end of the process there would 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. She expressed the hope that this process to be led by the President of the General Assembly will reach positive conclusions this year, based on all inputs and suggestions developed and debated during the past two and a half years, including her comprehensive report, to be released in June 2012. The High Commissioner referred to one of the main emerging proposals, namely the comprehensive reporting calendar based on 100 per cent compliance to be presented by OHCHR during the first session.

5. In his opening address Mr Shaaban M. Shaaban recalled that the human rights machinery constitutes 60 per cent of conference services documentation workload, with the treaty bodies as their biggest client in Geneva. He emphasized that the treaty body system has reached its limits from a conference servicing standpoint after it almost doubled in size, the relocation of certain bodies from New York to Geneva, and the establishment of the Human Rights Council. Mr Shaaban suggested that the treaty bodies should seek innovative ways to save costs in light of the constraints they are facing. He referred to the example of the Committee on the Elimination of Discrimination against Women (CEDAW) which reviewed its entitlement to conference services and decided that the English language originals of its summary records fully met its needs, relinquishing their translation in other languages. Turning to the challenges faced by the Division of Conference Management (DCM) in Geneva, Mr Shaaban indicated that documentation capacity is around 30 per cent lower than demand, resulting in a growing translation backlog and many documents not issued in accordance with the six-week rule. He highlighted that the Division's overall issuance compliance remains poor at a mere 23% of documents being issued six weeks or more before the date of consideration. Stressing the need to use the limited resources available for the highest priority entitlements to the treaty bodies, Mr Shaaban suggested that since each treaty body determines its own working methods, the body could decide to follow the Council’s approach and replace summary records with webcasting.

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

6. The first day of the consultation was entirely dedicated to resourcing the treaty body system. Mr Le Hoai Trung, Permanent Representative of the Socialist Republic of Viet Nam, facilitated the morning session, while Mr Md. Mustafizur Rahman, Deputy Permanent Representative of the People's Republic of Bangladesh, moderated the afternoon session. Three treaty body members acted as resource persons namely, Ms Christine Chanet, Mr Gerald Neuman and Mr Walter Kaelin, all of them from the Human Rights Committee.

7. Mr Paulo David (OHCHR) made a presentation 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 by Ms Wan Hea Lee from OHCHR on the comprehensive reporting calendar proposal.

8. 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 States parties' reports annually, as opposed to the 118 reports reviewed in 2011. With regard to backlogs, Mr David indicated that 625 States 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.

9. 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 States parties' reports: inequitable States parties' reviews (barely 33% timely compliance with reporting obligations with a one year grace), 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. Both presentations are available on the following OHCHR Webpage

<http://www2.ohchr.org/english/bodies/HRTD/NewYorkConsultation2012.htm>

10. In the afternoon, 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 Universal Periodic Review (UPR) with 93% rate of timely submission of reports which are kept within self-imposed word limits.

11. The dialogue begun with a statement on behalf of a cross-regional group of 20 States that co-sponsored resolution 66/254 of the General Assembly. The group welcomed the consultation held in New York and noted that it will be the last meeting before the conclusion of the current process and the report of the High Commissioner. The group looked forward to continuing the process of treaty body strengthening in the intergovernmental process, including through a discussion of the proposals in the High Commissioners report as well as the two reports of the Secretary General (A/66/344 and A/HRC/19/28). Members of the group also noted that they looked forward to the appointment of facilitators for the intergovernmental process as soon as possible.

12. Many States expressed appreciation to the High Commissioner for leading a process which was found to be inclusive, based on well researched information and which had led to a greater awareness of the crisis of the treaty body system. Many States stated that the upcoming High Commissioner's report would form a basis for the continued work in the inter-governmental process which should also allow for the participation of many stakeholders. Some States noted that as main duty bearers, States parties should take the lead of the process and that an actionable outcome based on consensus should be the end result. Several States encouraged the High Commissioner to include a cost analysis for all proposals in her upcoming report and expressed the hope that the ideas put forward during the present consultation would be included in the report.

13. Some States noted that as creators of the system, States have an obligation to work to strengthen the human rights treaty body system, while others underscored that the ultimate purpose of the treaty body strengthening process should be the universal respect for and observance of human rights.

14. Some States emphasized that it is imperative to preserve the integrity and respect for the international instruments establishing the treaty bodies and not reopen these instruments for any amendments. It was noted that the international human rights treaties have undergone careful and time-consuming negotiations as they were developed. It was therefore noted that proposals must be in line with the provisions of the treaties.

15. The need for respect of each stakeholder's competencies was emphasized, including those of Member States through the General Assembly, States parties to the treaties, treaty bodies and the OHCHR. Some States stressed that treaty bodies have the competency under the treaties to decide on their working methods.

16. It was recommended that emerging recommendations on treaty body strengthening should ensure respect for the principles of transparency, objectivity, non-selectivity, enhance States parties' dialogue with the treaty bodies, and provide treaty bodies with the necessary resources to carry out

their mandates. It was further suggested that focus be given to developing proposals and recommendations that aim at strengthening and increasing effectiveness and efficiency of the working methods of treaty bodies in accordance with their mandates, and provide the objective enabling environment for States parties to efficiently interact with the relevant treaty bodies.

17. Participants discussed in-depth the two main proposals of the report of the Secretary-General (A/66/344). The proposed comprehensive reporting calendar received support from many States, in particular for providing predictability, equal consideration of all States parties and enhancement of effectiveness. However, concern was also raised over its resources implications, changing the periodicity of reporting and the capacity of States to adhere to the schedule. It was proposed that OHCHR consider the different parameters of the comprehensive reporting calendar to provide alternatives with full costing, as well as other cost saving measures.

18. Many delegations also took the opportunity to indicate which of the proposals in the “non-exhaustive list of emerging proposals” they considered positively, negatively or required further reflection in their view. Such positions have also been submitted by many States parties in writing, in response to the invitation by the High Commissioner, and compiled by the OHCHR. Many specific questions on these proposals, aiming for clarity and information on full implications, were asked by the participants and answered by OHCHR staff and treaty body members. While several States urged for a greater alignment and synchronization between treaty body examinations and the UPR, the need to avoid duplication between the systems was also raised.

19. Many States acknowledged the expansion of the treaty body system over the years and the need to allocate adequate resources to enable the latter to function effectively. Some spoke in support of increasing budget allocations. However, it was also noted that the current economic situation requires the system to find the most efficient use of the financial resources allocated to it. It was suggested that resourcing the treaty body system should not be seen in isolation and that the process should develop a solution to the backlog of reports as well as design a sustainable solution for the system in the long term. This would require a combination of measures which are not limited to the question of resources.

20. There was overall agreement amongst States that the treaty body system should be funded from the regular budget, and that any increase in funding should be channeled through an increase in regular budget rather than extra budgetary allocations. In this regard, it was noted that an increase in budget would have to be negotiated in the context of the Fifth Committee of the General Assembly. Some participants suggested that OHCHR should have flexibility in allocating existing resources, depending on the need of each treaty body.

21. It was suggested that the starting point for discussion should be to maximize the use of existing resources and that OHCHR should conduct an extensive cost-saving analysis before identifying areas which require additional resources. Several States noted that cost-saving measures must not compromise the quality or content of the reporting process.

22. Participants discussed several proposals with a significant cost saving effect for the treaty body system, including reducing number of languages for translation of documents, keeping summary records in English only and possibly replacing summary records with searchable audio records, reducing the number of working languages of the treaty bodies, holding meetings and sessions in

Geneva only, imposing strict page limitations to States parties' reports, reducing paper distribution of documents and increased use of new technology such as webcasting and videoconferencing.

23. While many States expressed support to the treaty bodies limiting the number of working languages to reduce costs and harmonizing such practices across the system, some also stated that all UN languages must be treated equally and that official documents should be available in all six UN official languages. Several States supported the proposal whereby summary records could be limited to one or two languages , or replaced with audio recordings. Several States found that reducing paper documentation was a priority in reducing costs.

24. Several States supported adherence to strict page limitations to States parties' reports, while some noted that States parties of different population size or with a complexity of issues may require different page limitations. It was also noted that treaty bodies in their requests for information should also be mindful of the page limitations and set a limit to the number of questions in the list of issues prior to reporting (LOIPR) to enable States parties to fulfill this requirement.

25. Some States recommended that treaty bodies should focus exclusively on the consideration of State parties' reports rather than on developing general comments and other tasks. A treaty body member clarified that such other tasks were often conducted outside of formal meeting time, for example during weekends or in between sessions.

26. Three members of the Human Rights Committee provided comments and answers to questions raised. Ms Christine Chanet clarified that the LOIPR is an optional procedure and is bound to benefit States as it avoids repetition and encourages progress over time. Ms Chanet noted the importance of the question of languages and that any reduction of languages must be discussed with treaty body members. In her view documents should be translated in other languages and not only available in one. She stressed the importance of the independence of treaty body members, and the fact that treaty bodies should determine their own methods of work. In reply to the suggestion made by some States that treaty bodies should work in parallel chambers, Ms Chanet explained that such practice would substantially increase the need for resources in respect of documentation, staffing and interpretation.

27. Mr Gerald Neuman highlighted that general comments enhance the efficiency of the work of the Human Rights Committee by providing guidance on its consistent jurisprudence, which he considered time-saving in reviewing the large number of individual communications and also in keeping consistency and improving the Committee's responses and new concluding observations. He clarified that the work of developing general comments is often done by the rapporteurs on their own time, as treaty body members devote large amounts of time outside sessions to treaty body work. In relation to the LOIPR, he clarified that the Human Rights Committee provides an opportunity for the State party to present any additional developments which may be relevant for the consideration of its report. He also stated that there are resource implications of parallel chambers for the consideration of State parties' reports, specifically that while it is a savings to have half the committee working on a report, in terms of the time of committee members and travel expenses, this methodology produces more documentation, more translation needs, and more meeting room costs. He considered that it is substituting one method for another, when those methods are funded out of different pools. In his view, it is very important to have the authority and funding to work

efficiently. He noted that the Human Rights Committee is open to proposals which are cost efficient and aims at improving human rights on the ground.

28. Mr Walter Kalin was encouraged that many States had stressed the participation of stakeholders in the inter-governmental process including treaty body members, NHRIs and NGOs, and that treaties should not be amended. Regarding work in parallel chambers, he noted that the treaties provide for quorum and that, while chambers can be used to prepare decisions, the outcome would still need to be adopted by the full Committee in plenary. Mr Kalin found that reducing meeting time for the consideration of State parties' reports would not be possible while maintaining the quality of the treaty body reviews, as the experts need time to understand and discuss issues before adopting recommendations. If condensing observations are to be focused, the experts need time to hold a meaningful dialogue. Shortening the dialogue would also imply more work for the State party, as it may have to respond by sending additional information in writing. Therefore, reducing time for dialogue would not result in less work.

29. Mr Kalin also stressed that treaty body members consider general comments to be a core function – the ICCPR makes specific reference to General Comments in art. 40 – and that one cannot claim this is not covered by the treaty. While there is a potential for saving in regard to summary records, it is important in his view to ensure that savings do not mean that resources are taken away from the treaty bodies, but that they are properly reallocated. He flagged that cutting summary records does not necessarily imply that more resources are available.

Strengthening the membership of treaty bodies

30. The segment on strengthening the membership of treaty bodies was moderated by Mr Bertin Babadoudou, First Counselor, Permanent Mission of the Republic of Benin to the United Nations. Ms Fatimata-Binta Victoria Dah (Committee on the Elimination of Racial Discrimination) and Mr Michael O'Flaherty (Human Rights Committee) acted as resource persons. Mr David from OHCHR informed participants that the Annual Meeting of Chairpersons will discuss draft guidelines on independence and impartiality of treaty body members with a view to adopting them in June 2012. He added that the draft is based on similar guidelines elaborated by the Human Rights Committee as well as on existing rules of procedure of treaty bodies, and that it will serve as a self-regulatory document for members in the exercise of their functions.

31. Many States welcomed the initiative of the Chairpersons to adopt the above mentioned guidelines. Others underscored however that the document should not touch upon the issue of eligibility of members to treaty bodies which is the sole prerogative of States parties. Some States made concrete proposals to strengthen the membership of treaty bodies through for example the wide publicity of vacant positions by OHCHR, a compilation of good practices also prepared by OHCHR, a transparent national process for nominations where other actors such as national human rights institutions or non-governmental organizations could be involved, and the sharing of information with candidates on the nature of the work and related requirements.

32. A number of States recalled that when nominating candidates States parties should bear in mind the principles of expertise in the area covered by the treaty concerned, independence and availability, and believed that States should abstain from nominating serving government officials. On the other hand, some States were of the view that the inclusion of the latter in treaty bodies' membership should not be perceived negatively but rather as a means to strengthen their expertise, notably in the context of constructive dialogues with States parties. A suggestion was made whereby government officials could be nominated if they were deemed to be the best candidates but that once appointed they should resign from public service. Some States expressed the view that members should represent all regions and legal systems of the world in the light of the universality of human rights. A few States referred to the idea of introducing quotas to ensure better geographic representation in treaty body membership. Other States indicated that gender balance is an important factor to be taken into account during the election process and that it was the responsibility of State parties to ensure that these criteria are applied. One State called for the promotion of persons with disabilities in all treaty bodies.

33. While a few States supported the idea of a code of conduct elaborated by States to regulate the behaviour of treaty body members, many found it inappropriate taking into account the independence of treaty bodies which should be preserved, and the collegial nature of their work with a built-in self-regulatory feature, as well as the fact that it would be in their view in contradiction with the spirit and provisions of the treaties. Some States were of the view that there should be a limit to the number of terms members could serve in treaty bodies, while others were not supportive of that idea if such limitation is not stipulated in the concerned treaty. A number of States expressed a preference for a limit of two to three terms.

34. Some States were of the view that strengthening treaty bodies' membership is an integral part of the current process and should also be at the heart of the intergovernmental process as the principles of independence and expertise are essential for an efficient functioning of the treaty body system. Some States supported the establishment of a platform in the Conference of States parties for candidates to share their views and priorities on their expected assignment, with access to video conferencing. This was deemed highly important for States parties when voting for candidates. One State presented a national practice consisting in the establishment of an independent panel tasked with the pre-screening of candidates and making recommendations to the Government in respect of the candidate to be nominated. References were also made to the procedure of election of regional human rights mechanisms among good practices to be considered. Some States called for more meetings and round-table discussions with candidates at the international level, also involving civil society organizations, so that States parties would be more acquainted with their profiles and expertise.

35. Some States called on OHCHR to assist States parties in the nomination process. A suggestion was made whereby the Office could propose a common format for CVs of candidates which would be helpful for comparing their qualifications; share practical information addressed to candidates particularly on workload expectations; and compile good practices, as well as feedback received from former treaty body members on the type of information which may be helpful for candidates.

36. The moderator then invited the treaty body members acting as resource persons to take the floor. Mr Michael O’Flaherty reaffirmed that diversity and expertise are crucial elements in the membership of a treaty body. While the presence of academic lawyers and practitioners is important in his view, it is equally important to count on the expertise of non-lawyers and members with a civil society or NHRI background. He also referred to the need for diversity of legal systems (common and civil law) and social systems, as well as for more gender balance across the treaty bodies. In his view, it is crucial to identify candidates that are willing and available to attend treaty body sessions. He underscored the need to ensure that candidates are aware of the workload requirements as early as possible. Regarding the election process, Mr O’Flaherty referred to the importance of sharing good practices worldwide as this was not sufficiently being done. On the number of terms for which members could be nominated, he was of the view that a balance should be found as there was also a richness of having some members in a treaty body for a longer period. Turning to the code of conduct, Mr O’Flaherty indicated that treaty bodies already self-regulate themselves, and in that context referred to the guidelines on independence of the Human Rights Committee. He clarified that the draft guidelines which the Chairpersons are elaborating focus only on independence and impartiality and not on eligibility. He also referred to the Dublin II Outcome Document which encapsulates many of the proposals mentioned in the course of the discussion.

37. Ms Fatimata-Binta Victoria Dah stated that the selection and election of experts is the sole prerogative of States. Referring to the limitation of terms, she acknowledged that many treaties did not contain such provision but that this was a new trend in the more recent treaties. In her view a balance needs to be found between a change in membership and preserving the institutional memory of a committee. Ms Dah provided some figures regarding the current overall composition of the treaty bodies which are reflected below and were prepared by the Secretariat for the upcoming meeting of Chairpersons in June 2012.

| <i>All Committees</i> | | | | |
|-----------------------------------|------------------------------------|--|-------------------|--|
| Distribution of members by gender | Distribution of members per region | States parties to all treaties by region | Working languages | Current position |
| Female: 65 | Africa: 43 (25%) | Africa: 362 (28%) | Arabic: 21 | Academic: 51 (30%) |
| Male: 107 | Asia: 29 (17%) | Asia: 306 (24%) | Chinese: 5 | Consultant/Advisor: 19 (11 %) |
| | Eastern Europe: 22 (12%) | Eastern Europe: 171 (13%) | English: 152 | Diplomat/Government official: 31 (18%) |
| | GRULAC: 34 (20%) | GRULAC: 240 (19%) | French: 82 | Judge/Lawyer: 25 (14%) |
| | WEOG: 44 (26%) | WEOG: 202 (16%) | Russian: 15 | Member of Parliament (MP): 3 (2%) |
| | | | Spanish: 52 | Non-governmental organization |

All Committees

(NGO): 15 (9%)

National Human Rights
Institution (NHRI): 13 (7%)

Retired United Nations staff: 1
(1%)

Retired diplomat/Government
official: 11 (6%)

Retired judge/lawyer: 3 (2%)

38. Ms Dah expressed the view that, while the trend is now to work in one language, committees should function with at least two working languages. She underscored the dire need for States parties to increase the participation of women in treaty bodies which she believes would bring more balance in the views expressed and recommendations adopted. Referring to the independence of members, Ms Dah reaffirmed the existence of rules of procedure within each treaty body regulating the behaviour of experts when their countries are under examination, either in the case a State party's report or an individual communication. In her view, independence depends entirely on each expert who should be independent not only from his government, but also from other governments, civil society organizations and OHCHR. She referred to the guidelines on independence and impartiality currently prepared by the Chairpersons, which would also regulate conflict of interest. Ms Dah emphasised that neither the treaty bodies nor the OHCHR should elaborate guidelines on eligibility which is for States to develop.

39. Mr Claudio Grossman (CAT) expressed the view that it is a well-known fact that experts with backgrounds as lawyers or prior memberships in civil society are insufficiently represented in Treaty Bodies. He believed that respect for the independence of members is always relevant for the performance of the experts' duties (examination of reports, communications, working methods) and this independence is key for the treaty bodies' legitimacy and their ability to comply with their obligations. Mr Grossman stated that treaty body legitimacy had resulted in legislative changes, ratification of treaties, formulation of public policies, and compliance with decisions. In his view the treaty body strengthening process should reflect on how to develop compliance even further. Mr Grossman supported the idea of adopting good practices on the nomination process. He added that gender balance and equitable geographic representation are important elements in the membership of treaty bodies which contribute to enhancing their legitimacy.

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

40. The segment on strengthening the preparation of States parties' reports and the dialogue between States parties and the treaty bodies was opened by Mr Paul R. Seger, Permanent Representative of Switzerland to the United Nations who acted as moderator. Ms Barbara Bailey

(Committee on the Elimination of Discrimination against Women), Ms Felice Gaer (Committee against Torture), Sir Nigel Rodley (Human Rights Committee), and Mr Claudio Grossman (Committee against Torture) acted as resource persons.

Reporting

41. Many States welcomed the efforts undertaken by treaty bodies to harmonize their methods of work and find creative solutions to facilitate the preparation of States parties' reports. In this regard, many supported the optional procedure of list of issues prior to reporting (LOIPR) which in their view accelerates the drafting process, allows for more focused reports and a more structured dialogue resulting in more focused concluding observations. In the view of some States, LOIPR should not apply to initial reports, while others underscored that the agreement of the State concerned should be obtained before the list is prepared. A suggestion was made whereby the LOIPR should be combined with page limitations as a cost saving measure and that there should be a limit to the number of questions in the LOIPR if States are expected to produce focused reports and respect page limitations. Some States suggested that an assessment of the procedure be undertaken and expressed the hope that this optional procedure would be adopted by more treaty bodies in the future. In the view of some States however, the LOIPR did not seem to be compatible with the provisions of the treaties establishing the State reporting obligations. Others emphasized that questions should be limited to the scope of the treaty.

42. Some States were of the view that a regular update of the Common Core Document (CCD) would prevent lengthy reports and should be encouraged. The value of the CCD was emphasized particularly in the context of the LOIPR, as it would allow for complementary information to the focused report. Questions were asked however regarding the frequency by which the CCD should be updated.

43. Some States expressed support for a predictable reporting cycle synchronized with the UPR but which should also take into account the periodicity provided for in the respective treaties. In the opinion of a number of States, an aligned reporting process and constructive dialogue should be encouraged.

44. With respect to the preparation of States parties' reports, many States called for a more consultative process at the national level. The role of NHRIs and civil society organizations was deemed important by many States not only in the preparation phase but throughout the reporting process. In the view of some the participation of these stakeholders in the consultation phase should be reflected in the State party's report.

45. Turning to the issue of non-reporting States and their examination in the absence of a report, a number of delegations referred to the lack of capacity of some States to fulfil their reporting obligations and underscored the need for technical cooperation and capacity building that should be made available to them by OHCHR. They favoured cooperation with the States parties concerned and did not support reviews *in absentia*.

46. A suggestion was made to consider establishing a General Assembly working group to look into cases of consistent non-compliance of States Parties with their legally binding reporting obligations. With respect to reservations made by States when acceding to human rights treaties, the view was expressed that the meetings of States Parties should address this issue with a view to reducing them in number and substance.

47. Some States supported the practice of a few treaty bodies requesting follow-up reports on the implementation of a few urgent recommendations within one to two years and encouraged other committees to adopt this procedure.

Dialogue

48. In the view of many States, the constructive dialogue needs to be more focused, with shorter time allocation for interventions by both treaty body members and States parties' representatives, and sustained efforts by members to avoid duplication of questions posed. Some States suggested that treaty bodies send delegations their questions in advance of the dialogue to allow for a better preparation and a more structured discussion during the examination of the State party's report. Some States considered the idea of country task forces a good practice to be introduced across treaty bodies which they preferred to the appointment of one or two rapporteurs. Concluding observations in turn should also be more focused in order to facilitate implementation by the State party, and follow-up of the recommendations. Shorter concluding observations would also allow for shorter States parties reports in the view of some States. Several States stressed that concluding observations should be based on the dialogue and not include issues that were not discussed with the State party.

49. Many States expressed strong support for video conferencing and webcasting, provided that the costs are bearable, and invited the OHCHR to undertake an analysis of cost implications to that effect. Some States also highlighted that the support of UN country teams for technical facilities would be needed in the case of States with limited financial and technical capacity. In the view of some States treaty bodies could hold sessions in the regions which would result in important savings for States with limited financial capacity.

50. The resource persons were invited to take the floor. Mr Grossman (CAT) emphasised that in order to ensure a rich interactive dialogue, delegations need to be well prepared in advance. He stressed the need for treaty bodies to consider facts and not only normative texts when examining States parties reports, particularly when facing persistent violations of a treaty. Facts and their verification are critical. Referring to the use of technology, he acknowledged that it will impact the functioning of the treaty bodies and required constant evaluation. Turning to the LOIPR which CAT was the first committee to adopt, Mr Grossman concluded that it is a valuable optional procedure well received by numerous States allowing for a more focused interactive dialogue. As a new procedure, CAT will continue to evaluate it.

51. Ms Barbara Bailey (CEDAW) emphasized the need for more focused States parties' reports, dialogue and concluding observations. In her view, the latter should be the starting point for the next periodic report. She also underscored the importance of an inclusive process in the preparation of reports, and called for the creation of a mechanism with an institutional base at national level that would facilitate the dialogue between the States party and treaty bodies during the reporting process. She suggested that in the case of non-reporting States, in situ visits could be undertaken. Referring to the constructive dialogue, Ms Bailey shared the practice of CEDAW in respect of country task forces with limited number of interventions and follow-up questions by other members. Ms Bailey also highlighted the preparation by State parties as extremely important, as in her view a lot of time could be better used during the constructive dialogue. In closing she called for more precise concluding observations which should contain measurable indicators and would facilitate implementation by States parties

52. Ms Felice Gaer (CAT) expressed the view that the fixed calendar may be a helpful tool to improve States' compliance with their reporting obligations, as the UPR process has demonstrated that all States can report and be present during the review if they know well in advance when their report will be considered. In her view, it is easier to endorse than to enforce the treaties. Referring to the LOIPR, she indicated that CAT is currently trying to make the process more succinct and more effective. She considered that the key to strengthen the treaty body system is greater compliance by States of their treaty obligations which will result in less need for information and shorter dialogues.

53. Ms Gaer also indicated that State parties and treaty bodies need to keep a focus on ratifications, reporting, and results. In her view what will help the most in terms of increasing the strength of the system is more compliance – if States enforced their obligations more consistently, the treaty bodies would have less to do. She stated that it is not only the promises we make, but the promises we keep, that matter. She considered that other procedures – such as visits and inquiries – will be key to treaty body strengthening,

54. Referring to page limits, Sir Nigel Rodley (Human Rights Committee) was of the view that while this may be a good proposal, it needs to take into account the situation of Federal States, large States, as well as the complexity and range of issues covered by some treaties', and should therefore be applied with some degree of flexibility. In respect of the LOIPR which is an idea of the Human Rights Committee in the context of the previous treaty body reform under former High Commissioner Louise Arbour, he reaffirmed the need of having the agreement of the State before the list is prepared, but stated that it was up to the committee to determine its content. Regarding the fixed calendar, Sir Nigel Rodley argued that it may pose a problem of periodicity for those committees who have it established in their respective treaties, and that it may have to be adapted. In his view what one would lose with the calendar system is higher periodicity for States facing major difficulties and lower periodicity for States with fewer problems. He also raised reservations regarding the review in the absence of a report which the calendar may institutionalize while it is currently the exception and only happens as a matter of last resort, after several reminders have been sent and based on criteria about the due date of a report.

55. The meeting was closed by Mr Ivan Šimonović, Assistant Secretary-General for Human Rights, on behalf of the High Commissioner. Mr Šimonović thanked participants for the rich, frank, and constructive exchange of views over the two days of the consultation which he believed was essential in bringing together the High Commissioner's process of reflection that will culminate in her report, with the process of action by States, through the intergovernmental process led by the President of the General Assembly. He invited participants to reflect on two possible scenarios; one where nothing is done to strengthen the treaty body system which will continue to face increasing backlogs, a high number of overdue reports, an increasing waiting time for the consideration of a report; and one scenario in which the treaty bodies are strengthened along the many suggestions that have emerged to date. While acknowledging that treaty bodies and the UN Secretariat must be solution-oriented and responsible in the use of scarce resources, explain and justify their costs, Mr Šimonović underscored that it is quite clear that the treaty body system will constantly deteriorate without additional investment by Member States due to the constant increase in ratifications to human rights treaties. He concluded by expressing his confidence that the President of the General Assembly will put in place an inter-governmental process which embraces the multi-stakeholder approach, respects the powers and importance of all treaty bodies, and builds on the work of the last two years.

Treaty body strengthening
Consultation for States parties to international human rights treaties
New York, 2-3 April 2012

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 builds on consultations held in Geneva on 7 and 8 February 2012 and will feed into the High Commissioner's report to be launched in June 2012.

Monday, 2 April 2012 - North Lawn ECOSOC chamber

10:00-10:45 Opening

Opening address by Ms. Navi Pillay, High Commissioner for Human Rights, OHCHR

Opening address by Mr. Shaaban M. Shaaban, Under-Secretary-General, Department for General Assembly and Conference Management

10:45-12:00 Resourcing the treaty body system: Efficient and Effective Functioning of the Treaty Body System

Moderator: H.E Le Hoai Trung,

Permanent Representative of the Socialist Republic of Viet Nam

Resource Persons/Treaty body experts: Ms. Christine Chanet, Mr. Gerald Neuman and Mr. Walter Kaelin (members of the HR Committee)

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, HRTD, OHCHR, on a comprehensive reporting calendar

12:00-12:15 Address by H.E. Mr. Nassir Abdulaziz Al-Nasser, President of the 66th Session of the United Nations General Assembly

Address by the United Nations Secretary-General, Mr. Ban Ki-moon

12:15-13:00 Resourcing the treaty body system: Efficient and Effective Functioning of the Treaty Body System (continued)

14:15-15:00 Projection of a video: "The Treaty Bodies: Bringing Human Rights Home"

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

Moderator: H.E. Md. Mustafizur Rahman,

Deputy Permanent Representative, of the People's Republic of Bangladesh

Resource Persons/Treaty body experts: Ms. Christine Chanet, Mr. Gerald Neuman and Mr. Walter Kaelin (members of the HR Committee)

Presentation by Ms. Kira Glover Kruglikova Executive Officer and Ms. Shivona Tavares-Walsh, Chief Document Management Section, Division of Conference Management via video link, 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

Tuesday, 3 April 2012 - North Lawn Building, Conference Room 3

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

Moderator: M. Bertin Babadoudou, First Counselor, Permanent Mission of the Republic of Benin to the United Nations

Resource Persons/Treaty body experts: Ms. Fatima-Binta Victoira Dah (CERD) and Mr. Michael O'Flaherty (HR 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

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

Moderator: H.E Paul R. Seger, Permanent Representative of Switzerland to the United Nations

Resource Persons/Treaty body experts: Ms. Barbara Bailey (CEDAW), Ms. Felice Gaer (CAT), Sir Nigel Rodley (HR Committee), Mr. Claudio Grossman (CAT)

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

17:15-17:30 High Commissioner for Human Rights closing remarks by Mr. Ivan Šimonović, Assistant Secretary-General for Human Rights, OHCHR

List of participants

Afghanistan

Albania

Algeria

Andorra

Angola

Antigua and Barbuda

Argentina

Armenia

Australia

Austria

Azerbaijan

Bahamas

Bahrain

Bangladesh

Barbados

Belarus

Belgium

Belize

Benin

Bhutan

(Plurinational State of) Bolivia

Bosnia and Herzegovina

Botswana

Brazil

Brunei Darussalam

Bulgaria
Burkina Faso
Burundi
Cambodia
Cameroon
Canada
Cape Verde
Central African Republic
Chad
Chile
People's Republic of China
Colombia
Comoros
Congo
Costa Rica
Côte d'Ivoire
Croatia
Cuba
Cyprus
Czech Republic
Democratic People's Republic of Korea
Democratic Republic of the Congo
Denmark
Djibouti
Dominica
Dominican Republic
Ecuador

Egypt
El Salvador
Equatorial Guinea
Eritrea
Estonia
Ethiopia
European Union
Fiji
Finland
France
Gabon
Gambia
Georgia
Germany
Ghana
Greece
Grenada
Guatemala
Guinea
Guinea-Bissau
Guyana
Haiti
Holy See
Honduras
Hungary
Iceland
India

Indonesia
(Islamic Republic of) Iran
Iraq
Ireland
Israel
Italy
Jamaica
Japan
Jordan
Kazakhstan
Kenya
Kiribati
Kuwait
Kyrgyzstan
Lao People's Democratic Republic
Latvia
Lebanon
Lesotho
Liberia
Libya
Liechtenstein
Lithuania
Luxembourg
Madagascar
Malawi
Malaysia
Maldives

Mali
Malta
Marshall Islands
Mauritania
Mauritius
Mexico
Micronesia
Monaco
Mongolia
Montenegro
Morocco
Mozambique
Myanmar
Namibia
Nauru
Nepal
Netherlands
New Zealand
Nicaragua
Niger
Nigeria
Norway
Oman
Pakistan
Palau
Panama
Papua New Guinea

Paraguay
Peru
Philippines
Poland
Portugal
Qatar
Republic of Korea
Moldova
Romania
Russian Federation
Rwanda
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Samoa
San Marino
Sao Tome and Principe
Saudi Arabia
Senegal
Serbia
Seychelles
Sierra Leone
Singapore
Slovakia
Slovenia
Solomon Islands
Somalia

South Africa
Spain
Sri Lanka
Sudan
Suriname
Swaziland
Sweden
Switzerland
Syrian Arab Republic
Tajikistan
Thailand
The former Yugoslav Republic of Macedonia
Timor-Leste
Togo
Tonga
Trinidad and Tobago
Tunisia
Turkey
Turkmenistan
Tuvalu
Uganda
Ukraine
United Arab Emirates
United Kingdom of Great Britain and Northern Ireland
Tanzania
United States of America
Uruguay

Uzbekistan

Vanuatu

(Bolivarian Republic of) Venezuela

Socialist Republic of Viet Nam

Yemen

Zambia

Zimbabwe