

**Informal Technical Consultation for States parties on  
Treaty Body Strengthening  
Sion, Switzerland, 12 – 13 May 2011**

## Introduction

On 14 September 2009, the United Nations High Commissioner for Human Rights in her statement to the Human Rights Council underscored the importance of the treaty bodies, both through their reporting and individual complaints mechanisms, as well as through the universal periodic review process. She highlighted that the overall success of the human rights protection system, marked by the increase in the number of human rights instruments and corresponding monitoring bodies, together with greater compliance by States parties with reporting obligations, posed greater demands on the treaty bodies and her Office. She called on States parties as well as on other stakeholders to initiate a process of reflection on how to streamline and strengthen the treaty body system to achieve better coordination among these mechanisms and in their interaction with special procedures and the universal periodic review. The High Commissioner made a similar appeal before the General Assembly on 21 October 2009.

A number of consultations organized by stakeholders as a direct response to the High Commissioner's call have taken place and resulted in the adoption of statements which include various proposals to strengthen and streamline the treaty body system. These meetings were organized in Dublin in November 2009, for treaty body members, at the initiative of the University of Nottingham, United Kingdom of Great Britain and Northern Ireland; in Marrakesh in June 2010, for national human rights institutions, at the initiative of the Advisory Council on Human Rights of Morocco, and in Poznan, Poland, in September 2010, for treaty bodies chairs, hosted by the University of Poznan and attended by five chairs. Furthermore, 20 non-governmental organizations have made a written submission to the High Commissioner, in November 2010, including several proposals to strengthen the treaty body system. A consultation for non-governmental organizations was organized in Seoul on 19 and 20 April 2011 by the National Human Rights Commission of Korea and the Korea Foundation.

In the context of the treaty body strengthening process, a technical consultation for States parties was organized on 12 and 13 May 2011 by the Office of the High Commissioner for Human Rights and the nine Chairpersons of the human rights treaty bodies, in partnership with the International Institute for the Rights of the Child/University Kurt Bösch (IIRC/IUKB). The event was supported financially by the Swiss authorities.

The meeting was opened by the High Commissioner for Human Rights following a video message of the Secretary-General, Mr Ban Ki-Moon where he highlighted 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.

The High Commissioner thanked the International Institute for the Rights of the Child for hosting the event, as well as the Swiss authorities for their financial support. She recalled in her statement that the treaty body system, with the upcoming establishment of a tenth treaty body, has reached its limits both in terms of coherence and sustainable functioning within currently available resources, and that the significant growth in volume and workloads has not been matched with adequate

funding of the system especially in terms of treaty body activities that are necessary to fulfil their mandates, staffing and documentation. The High Commissioner also indicated that after the Sion meeting, the consultation process will continue with more events foreseen for academics in Luzern, Switzerland, civil society in Pretoria, United Nations entities and other mechanisms again in Luzern, and a final wrap-up meeting in Dublin, after which she intends to prepare a compilation of proposals in early 2012.

After the key note address of the High Commissioner, Mr Jürg Lindenmann, Deputy Director of the Directorate of International Law of the Swiss Federal Department of Foreign Affairs, delivered his opening statement. Mr Lindenmann welcomed participants on behalf of Federal Councillor Ms Calmy-Rey, President of the Swiss Confederation. He highlighted the uniqueness of the Sion meeting as it allows for an exchange between representatives of States parties and treaty body experts. Mr Lindenmann recalled that since its inception some 40 years ago, the treaty body system has become the bedrock of the international system for the promotion and protection of human rights, while acknowledging that for several years now, it has been confronted with a number of challenges that risk undermining its present and future capacities and its efficiency. Mr Lindenmann highlighted that in the framework of the debates on reform, two different but, in his view, not necessarily incompatible approaches have emerged through the years: the first assumes that reform should focus on making the present system more efficient while adapting existing mechanisms to enable them to carry out their mandate more effectively; the second, more ambitious approach aims at a more sweeping reform of the treaty body system. In this context, he referred namely to the proposal of the former High Commissioner for Human Rights, Ms Louise Arbour, for the establishment of a unified standing treaty body, and thus for institutional rather than functional change.

Mr Jean Zermatten, Director of the International Institute for the Rights of the Child and Vice-Chairperson of the Committee on the Rights of the Child, delivered a statement on the historical perspective on reform proposals of the treaty body system. Mr Zermatten recalled the various initiatives aimed at strengthening the treaty body system in 1997, 2002 and 2005 and stressed that the challenges identified then are not only valid today, but have significantly increased and become more complex, particularly the lack of capacity of treaty bodies to cope with the backlog of States parties' reports and the insufficient resources available for them to perform their work efficiently. These challenges, in his view, undermine the credibility, performance and impact of the treaty body system.

Ms Yanghee Lee, Chairperson of the Meeting of Chairpersons of the Human Rights Treaty Bodies, addressed participants on the current and future challenges of the treaty body system. In her statement, Ms Lee recalled that assessing periodically progress achieved and future challenges in implementing human rights treaties remains an indispensable function of treaty bodies, as well as the basis for providing sound guidance to States parties for improved rights-based policies, laws, and programmes. Ms Lee acknowledged that the treaty body system had become a victim of its own success with over 250 State parties' reports waiting consideration and over 500 individual complaints pending consideration. In her view, the efforts of harmonization and enhancement of methods of work undertaken by the inter-committee meetings and Annual Meeting of Chairpersons do not suffice to ensure a solid, effective and protective system in the long term. She considered that the segments which form the structure of the meeting's programme, strengthening the preparation of

States parties' reports, enhancing the constructive dialogue between States parties and treaty bodies, ensuring the implementation of treaty body outputs, the independence and expertise of treaty body members, and the resourcing the treaty body system, are all crucial elements that should be further improved in order to adequately respond to the challenges that the system is facing and will continue to face in the future.

At the end of the opening segment, a short video on the treaty body system was projected to participants.

### **Strengthening the preparation of States parties' reports**

Moderator: Mr Anwar Kemal (Chairperson of CERD)

Panellists:

- Ms Zonke Zanele Majodina (Chairperson of the Human Rights Committee)
- Mr Fernando Bielza Díaz-Caneja (Deputy Director, Human Rights Office, Ministry of Foreign Affairs, Spain)
- Mr Christoph Spenlé (Chief of the Human Rights Section, Swiss Federal Department of Foreign Affairs)
- Mr Junichiro Otani (First Secretary, Permanent Mission of Japan to the United Nations)

Mr Anwar Kemal opened the discussion by explaining the modalities of the session and recalled the elements included in the programme, namely (1) how to strengthen inter-ministerial coordination for the preparation of treaty body reports, (2) how to improve national consultations during the preparation of States parties' reports (using also UPR experience), (3) how to attain more focused States parties' reports, (4) how to ensure that the States parties' periodic reports provide systematic information on the implementation of previous recommendations, and (5) alternatives to standard reporting procedures (such as lists of issues prior to reporting). In his opening remarks, Mr Kemal highlighted the importance of including civil society actors and national human rights institutions in the preparation of States parties' reports. He proceeded to introduce the panellists.

Ms Zonke Zanele Majodina opened by underscoring the importance of the consultation on treaty body strengthening for purposes of enhancing protection of the human rights of individuals at the domestic level. She emphasized the importance of focused reports and the use of the harmonized guidelines on reporting under the international human rights treaties including guidelines on an expanded core document and treaty-specific targeted reports, to achieve this goal. She noted that careful consideration of these guidelines was valuable when preparing a State party report for a number of reasons, including the provision of a more coherent, coordinated and effective reporting procedure across all treaty bodies. In this respect, she emphasized that the reporting cycle consisted of the preparation of a common core document and a treaty-specific document, and that the information required in the latter largely related to how a treaty was being implemented in law and in practice. She also noted that the process of preparing such reports provided an opportunity to take stock of human rights protection at the national level and to make

use of this opportunity for policy planning and implementation. She further emphasized that State reporting could also be an opportunity to subject government policies to public scrutiny and engagement with civil society actors.

Ms Majodina also highlighted two important procedural measures in order to produce quality and precise reports: (1) the establishment of an appropriate institutional structure for the preparation of the report, and (2) the development of an efficient system for the collection of statistical and other data. It was also mentioned that States parties should provide for the participation of other stakeholders, including civil society, from the early stages of preparation of a report, and that the reporting process must be inclusive and consultative. National consultations must be an integral part of the reporting process.

Reference was also made to the new Lists of Issues Prior to Reporting procedure (LoIPR). It was mentioned that the Human Rights Committee was currently implementing this procedure which it considered as an opportunity to streamline and enhance the reporting procedure with the strategic aim of making reports more focused. This pilot project would be for a period of five years, at which point it would be assessed and reviewed by a working group for its practicability, effectiveness and capacity to improve examination of reports. Ms Majodina noted that the Human Rights Committee had taken a number of factors into consideration, including how to alleviate the reporting burden for States parties. The LoIPR would provide detailed guidance on the expected content of reports, States parties would no longer be requested to submit both a report and written replies to lists of issues and, finally, it would be a speedier process as reports drafted on the basis of LoIPR would be considered within a year. Ms Majodina also highlighted that while the new procedure did entail more work for the Committee and the Secretariat in its initial phase, both time and resources would be saved in the long run.

The next speaker was Mr Fernando Bielza Diaz-Caneja who focused his intervention on the reporting experience of Spain. At the outset, he explained that Spain had made an important effort to be fully up to date with its reporting obligations. He emphasized that proper coordination among the relevant ministries was key, with the Human Rights Office (HRO) of the Ministry of Foreign Affairs (MOFA) having a centralising and coordinating role in this respect. He also emphasized that the role of the HRO would have to be complemented by a politically strong counterpart in the competent ministry as well as a strong personality from the Office of the Attorney General who had the technical and legal knowledge to give the needed impulse to the whole process. He mentioned that consultations with civil society took place and that these consultations included both an open meeting with NGOs and some one-to-one meetings with the most relevant NGOs and the Office of the Ombudsman. Mr Diaz-Caneja also highlighted the importance of focused reports, indicating that the competence of the drafting team and the availability of systematic sources of information were the most relevant for the quality of the report. The existence of a Human Rights Plan had proven useful to ensure a precise and systematic approach. Mr Diaz-Caneja explained that the reporting process was coordinated by a centralised Unit comprised of representatives of the Office of the Attorney-General, the responsible substantive ministry and the HRO. This Unit assisted in giving reports the proper focus, and also provided support to the head of delegation to give proper responses during the constructive dialogue. In addition, continuous feedback on the implementation of recommendations was stressed.

The third speaker, Mr Christoph Spenlé, agreed that the LoIPR procedure could provide an important opportunity to streamline the reporting procedure. He mentioned that a technical solution developed in Switzerland could be combined with this to facilitate reporting to the treaty bodies. Mr Spenlé mentioned that Switzerland was party to the most important human rights treaties which meant that it had to prepare a great number of reports. In addition, Switzerland had the added challenge of federalism. In order to have a more efficient and coordinated approach for the reporting procedures, Switzerland had developed and implemented a web-based solution (“reporting on demand”) to simplify preparation of reports and improve inter-ministerial coordination. He explained that the system took into consideration existing guidelines for reporting. It was also flexible in that it could be adapted to new or modified guidelines. Most importantly, it facilitated the reporting process and also ensured that recommendations in concluding observations were taken into account for follow-up on their implementation

The last speaker for this segment was Mr Junichiro Otani who highlighted the particular importance of the preparation of reports as it was the basis for the review by the treaty bodies. In his view, a successful review started with a successful report. Mr Otani noted that his comments were based on the recent experience of Japan regarding the submission and review of State party reports. He recognized that the formulation of comprehensive national reports for numerous treaty bodies, in addition to conducting follow-up on concluding observations, placed a heavy burden on States parties and he made some suggestions to relieve this burden. He welcomed the LoIPR procedure of the Human Rights Committee and CAT. Japan had accepted this new procedure and he asserted that the new procedure took less time to prepare as the structure was already essentially provided. He also felt that the new procedure would lead to more effective and constructive dialogues. He referred to the issue of page limitations but noted that it was often very difficult for States parties to keep within the page limitations due to consultations, including with civil society. Again, he stressed that this situation would probably improve with the LoIPR system, especially if treaty bodies would limit the number of questions to the extent possible.

Following the presentations by the panel, there were numerous interventions by the State party representatives. They were in broad agreement that the fundamental purpose of the treaty body system was the protection of human rights and that the purpose of the Sion consultation was to discuss how to further strengthen this system which was at present overburdened. A number of States noted that the States parties themselves had created the treaties – and thus the treaty bodies – and that they were the primary beneficiaries of the treaty body strengthening process and the protection of human rights. A number of States, including the representative speaking on behalf of the 53 countries in the African group, highlighted that States parties should be more widely consulted as they were responsible for implementing the treaties. They urged that importance be given to views and opinions of States parties. Some States emphasized the need for reform in that the system continued to expand which placed too much pressure on States parties.

Some States mentioned that the treaty body system must be dealt with in a comprehensive manner. To this effect, a number of States noted that the consultations should also include issues such as individual complaints, methods of work and rules of procedure of the treaty bodies. Some States also pointed to the fact that there was a need to address the problem of backlog of reports as well as the number of reports that had been submitted to the treaty bodies but not yet considered.

A number of States mentioned that treaty bodies should focus on the treaties and what they considered their core functions, namely reporting vis-à-vis other activities, including general comments/recommendations and follow-up activities. In this respect, the point was made that treaty bodies should focus more on catching up with their backlog rather than adopting general comments and any other activities. Some States noted that general comments imposed obligations that had not been taken on by the States parties while others mentioned that treaties were living instruments and that interpretation through general comments was lawful and beneficial. Treaty bodies needed to be efficient and allowed to be creative within the framework of the Conventions.

The State representatives present exchanged various national experiences and good practices with regard to national consultations for the preparation of States parties' reports. Most States agreed that there was a need for a coordinated reporting mechanism/methodology at the national level as well as the conduct of a national consultation process, involving relevant ministries, national human rights institutions and civil society, but some States noted that it was the decision of the States, not the treaty bodies, as to how and when such consultation should be conducted. Some States also referred to the need to seek the views of the Parliament, the legislature and the judiciary in the preparation of reports. There was a suggestion that OHCHR compile good practices on reporting, including institutional structures and the use of new technologies.

In relation to the State party reporting process, a number of States noted that the cycle of reporting was a burden on the States parties, especially when several reports are due the same year, and they called for the need to rationalise and focus the reporting obligation as much as possible. The need to ensure compliance with the harmonized guidelines on reporting was highlighted in this respect.

In general, most States expressed broad support for the LoIPR procedure adopted by CAT, the Human Rights Committee and, more recently, CMW as a way to assist in having more focused reports and also alleviating some of the burden on the States parties in preparing these. The point was made that a good list of issues would translate into a more succinct and focused response which would constitute the State party's report. The need for clear criteria and modalities of LOIPR was also mentioned. The treaty body members present highlighted that the new procedure was optional and related to periodic reports and not to initial reports, and the point was made by States that the committees should refrain from drafting a LoIPR in respect of a given State before that State had clearly indicated its acceptance of this procedure. Some States parties noted that they had refused the new procedure. Some also expressed concern that reports drafted on the basis of LoIPR would be given priority for consideration.

Some States emphasized the importance of ensuring the reliability of sources upon which LoIPR could be established. They also questioned the accuracy of information from certain sources stating that the credentials of such sources, specifically NGOs, must be checked. They further expressed concern that the treaty bodies might be more selective in picking up the issues that the States parties should report on and reference was made to the need to have clear guidelines and criteria. Other States highlighted that it was up to the treaty bodies to decide which issues they considered to be essential in a given country situation and also to use what they believed to be the most appropriate sources of information. It was also mentioned that States parties would have the opportunity to

make additional comments aside from replying to the questions posed. Some States highlighted that it was crucial to ensure timely review of the reports submitted under the LoIPR procedure so that no additional updates would be necessary and that the LoIPRs should reflect the main issues in a given country, rather than the expertise on a committee.

Some States mentioned that they would withhold their comments pending evaluation and further fine-tuning of the procedure. In this respect, the Chairperson of CAT mentioned that the Committee would evaluate the procedure on the basis of criteria, such as time, expense, quality, involvement of relevant stakeholders, types of information and length of the LoIPR. Several States noted that they were looking forward to seeing whether the LoIPR procedure would also ensure a more focused and concise examination of reports.

A number of States raised the issue of page limitations of States parties' reports and how such limitations were applied in practice. Reference was made to the note verbale sent to all States parties in September 2010, inviting States to apply the existing page limitations in practice and conveying the concerns expressed by the United Nations Conference Services in this respect. Several States supported the idea of having page limitations in order to enhance efficiency and save costs but at the same time, some States pointed to the need to show flexibility with regard to their reporting obligations. A few States referred to the UPR experience which had showed that page limitations could be an option.

A number of States noted with interest the "reporting on demand" tool developed by Switzerland as well as other technological solutions for consultations and reporting and they asked for a possible future demonstration of this system by the Swiss authorities. The issue of non-reporting States was also brought up. Some States had not produced initial reports for a very long time. The suggestion was made that treaty bodies should have a coordinated approach to address the situation of non-reporting States with a view to supporting such States parties in complying with their reporting obligations, including through technical cooperation and capacity-building.

Some States supported the recommendation contained in the non-exhaustive list of proposals received so far by the High Commissioner that OHCHR develop a "master calendar" related to treaty body sessions which should include information on all steps in the reporting process at least two years in advance of the consideration of a State party's report. This would also facilitate the participation of civil society in the reporting process. The suggestion to have a predictable treaty body reporting cycle synchronized with the UPR was also briefly discussed. Some States found this proposal interesting but also acknowledged the burden on the system today and questioned the feasibility of the proposal, given the number of States parties to the treaties.

### **Enhancing the constructive dialogue between Treaty Bodies and States parties**

Moderator: Mr Abdelhamid El Jamri (Chairperson of CMW)

Panellist: Ms Dubravka Simonovic (Chairperson of the CEDAW Optional Protocol Working Group)

The segment on enhancing the constructive dialogue between treaty bodies and States parties was opened by the Chairperson of the Committee on Migrant Workers (CMW) who acted as moderator. Before giving the floor to the panellist, the Chairperson of CMW recalled the main points



to be discussed under this segment, namely (1) ways to maximize the quality of the dialogue between treaty bodies and States parties, (2) means to enhance the visibility of the dialogue, and (3) whether alternatives to a face-to-face dialogue could be sought. He underscored in particular the need to improve the constructive dialogue with a view to increasing its impact.

The introductory statement was followed by a presentation by Ms Dubravka Simonovic, Chairperson of the Committee on the Elimination of Discrimination against Women Optional Protocol Working Group (OP-CEDAW WG). In her view, the constructive dialogue should be regarded as part of the whole process, highlighting its importance to identify issues relevant to the implementation of the treaties, exchange views, seek clarifications and, in the end, assist delegations to 'bring human rights home'.

Ms Simonovic shared the experience of the CEDAW with regard to limiting the speaking time of experts. She explained that the Committee set up a strict system to improve the quality of the constructive dialogue whereby each expert can speak up to six minutes. She further explained the modalities applied by CEDAW when working in two chambers with regard to organizing the questions posed by the experts. At the time, in order to enhance the efficiency of the Committee, task forces were set up to organize the dialogue and take the lead in posing questions to the delegation. Considering the heavy workload of Committee members and with a view to facilitating their work, CEDAW further decided that country rapporteurs should prepare, prior to the meeting, a note highlighting the main issues to be addressed during the constructive dialogue. Ms Simonovic explained that CEDAW makes continuous efforts to have more focused constructive dialogue and draft more precise and concise concluding observations. She believed the treaty bodies should draw upon the Universal Periodic Review's experience to increase the visibility of the system. Ms Simonovic referred to the possibility of using video conferencing facilities to facilitate participation of delegations in the constructive dialogue and shared the experience of CEDAW and the United Kingdom in this regard. Finally, Ms Simonovic called upon States parties to fully involve Parliaments throughout the reporting cycle so as to achieve better results with regard to effective implementation of the treaty body concluding observations at country level.

The panellist's statement was followed by numerous interventions by State representatives. Most States shared the view that the constructive dialogue should be seen as an opportunity to seek guidance so as to improve the level of implementation of the treaties' obligations at the national level. The importance of ensuring the quality of the constructive dialogue and the drafting of recommendations that are useful and implementable by States parties was highlighted. Several States expressed concern at the fact that concluding observations do not always truly reflect the constructive dialogue. In this regard, the CRC Chairperson noted that the Committee takes into consideration all information made available throughout the whole reporting cycle to draft its concluding observations, and not only issues raised during the constructive dialogue. Some States also noted that some of the questions seem to be driven by the area of expertise of the Committee member rather than the treaty provisions and the situation in the country. The suggestion was made to take into consideration the country specificities when posing questions and drafting concluding observations. A number of States shared their disappointment with regard to the conduct of some treaty body experts, including their apparent lack of preparation and their absence during the consideration of the report. The need to ensure mutual trust and respect was underscored.

Several States regretted the length of some interventions made by Committee members and the duplication of questions or issues raised previously by other treaty bodies. Some believed there was scope for shortening the length of the constructive dialogue through increased discipline, stronger chairing, as well as a strict limitation on the number and length of interventions. Some States referred to the setting up of country task forces as a way of ensuring that the constructive dialogue focuses on the main issues. A treaty body member agreed on the need to focus the constructive dialogue on priority issues.

While discussing the time allocated for the consideration of States parties' reports, a number of States suggested that Committees align their practices in this regard and allocate two meetings for such consideration. A treaty body member underscored the need for treaty bodies to have some flexibility in this regard so as to take into consideration the specificities of States parties and the reporting cycle. Several States suggested standardizing the practice of making a short break between clusters of questions in order for the delegation to prepare its responses. Many States believed it would be useful if the treaty bodies could send their questions to States parties a few days in advance of the dialogue so as to ensure a proper composition of the delegation and increase the quality of the dialogue.

Several States expressed the view that treaty bodies should focus their questions on the implementation of previous concluding observations as well as on new or emerging issues. Reference was made to the LOIPR as a tool to ensure a focused dialogue. Several States raised concerns about the fact that questions posed by Committee members are sometimes not directly relevant to the treaty's obligations and underscored the need for treaty bodies to focus the constructive dialogue, as well as their concluding observations, on the obligations set out in their respective treaty.

Some States expressed the opinion that some questions posed were too technical. Concerns were also expressed about the number and complexity of data and indicators requested.

A number of States noted the need to better explain the role and place of non-governmental organizations (NGOs) and national human rights institutions (NHRIs) in the reporting process and in particular during the constructive dialogue, and seek harmonization across the treaty bodies. A Committee member explained that treaty bodies usually recommend to States parties to ensure a broad consultation with NGOs during the preparation of the report but that NGOs should submit separate reports. With regard to the cooperation with NHRIs, a treaty body member noted the trend among all treaty bodies to ask NHRIs to prepare a separate report and to address the Committee prior to the consideration of the State party report, except in the case of CERD where NHRIs may take the floor during the consideration of the State party. The Committee member wondered whether it would be possible to align the procedures of all treaty bodies with regard to their interaction with NHRIs.

States agreed on the usefulness of webcasting to enhance the visibility of the dialogue, raise awareness about treaty bodies and disseminate their output at the national level. A treaty body member added that, if made available, the possibility to view the webcast of treaty bodies' sessions should be widely publicized at country level. Caution about the use of press releases by national media prior to the publication of the concluding observations was recommended in view of potential inaccuracy of the information contained therein. The important role played by OHCHR regional

offices in increasing the visibility of the treaty bodies and disseminating their outputs at national level was also highlighted. Some States believed that a summary of the constructive dialogue should be made available in the Committees' annual reports.

While highlighting the added-value and importance of the face-to-face dialogue, some States believed that it could be complemented by the use of communication technologies. Many States made reference to the positive experience of a State party making use of video conferencing facilities as a way to expand the size of its delegation through the virtual participation of experts in the capital. Some believed that the use of video conferencing could considerably reduce the cost related to the participation of a delegation in the constructive dialogue and increase the quality and comprehension of responses thanks to the virtual participation of experts at national level.

While a number of States believed that follow-up visits could assist treaty bodies to take stock of efforts and improvements made at country level, others position themselves against the idea of conducting country visits. In order to facilitate the follow-up to treaty bodies' recommendations by United Nations agencies, the proposal to align the periodicity of the reports with the United Nations Development Assistance Framework (UNDAF) was put forward.

A number of States made general comments about the functioning of the treaty body system. Some expressed the view that the crisis of the system was not only due to objective reasons but also to the fact that treaty bodies perform tasks which they considered are not foreseen in their respective treaty and might be carried out at the expense of their core functions. The need to take into consideration the sustainability of the system when drafting new treaties was also noted. Some States expressed the opinion that the selection of country rapporteurs should be transparent and that their identity should be revealed by all Committees.

Finally, some States believed that States parties should have the opportunity to share their opinion on the rules of procedures and general comments/recommendations adopted by the treaty bodies. The Chairperson of CAT indicated that the Committee's working methods were discussed once a year, on the occasion of the General Assembly's meeting with States parties. He added that such dialogue has resulted in the incorporation of new rules of procedures, in light of discussions with States parties. Other treaty body members noted that the prerogatives of drafting general comments/recommendations and rules of procedures were part of the mandate of the treaty bodies.

In her final comments, Ms Simonovic noted that some issues related to the constructive dialogue needed further discussion, namely the composition of the delegation, and the involvement of the NGOs and NHRIs, and suggested that the Committees focus on these, possibly in the context of the inter-committee meeting, and prepare a joint recommendation. While noting that many suggestions were made during the meeting, she stressed the need to achieve concrete results so as to enhance the constructive dialogue and strengthen the system as a whole.

## **Day 2 - Implementation of treaty bodies' outputs and impact on the protection of rights holders**

Moderator: Mr Ariranga Govindasamy Pillay (Chairperson of CESCR)

Panellists:

- Mr Zdenek Hajek (Vice-Chairperson of SPT)
- Mr Gerard Corr (Permanent Representative of Ireland)
- Mr Christian Guillermet-Fernandez (Deputy Permanent Representative, Permanent Mission of Costa Rica to the United Nations)

Mr Ariranga Govindasamy Pillay recalled the main elements of the programme upon which the discussion could be based, notably (1) how to improve dissemination of treaty bodies' outputs, including with regard to concluding observations and decisions/views on individual communications, (2) how to bring treaty bodies closer to the implementation level, (3) how to reinforce implementation of treaty bodies' jurisprudence and recommendations at domestic level, (4) how to ensure a coordinated process for the implementation of recommendations and jurisprudence at country level by the various treaty bodies, and (5) how to ensure an integrated implementation of all recommendations emanating from the main international human rights mechanisms (treaty bodies, special procedures and UPR)

Mr Hajek addressed the audience on behalf of the Chairperson of the SPT and explained the main functions of the Subcommittee which essentially focuses on strengthening the protection of persons deprived of liberty through visits, and operates mostly at the implementation level. He indicated that the SPT formulates recommendations on the basis of information gathered during the visits. Mr Hajek stressed that quality recommendations are key to their effective implementation. Indeed recommendations need to be clear, credible, realistic, concrete, implementable, time bound and disseminated in local languages. Enhanced cooperation and dialogue with the State parties were also indispensable, in his view, to a successful implementation. He added that treaty bodies should take into account the concrete situations of the State party considered, establish priorities and offer advice on how recommendations should be implemented.

Mr Corr highlighted that public opinion was now more aware about human rights issues and that, at country level, the recommendations of the treaty bodies, special procedures and UPR were looked at. Accordingly, broader dissemination of treaty body outputs was required. In this regard, he welcomed treaty bodies meeting outside Geneva, at regional level and closer to the implementation level. Mr Corr further encouraged webcasting of treaty body sessions and intersessional video conferencing. In his view, follow-up visits undertaken by a delegation of experts from various committees, as suggested in the Poznan statement, deserved to be explored. Mr Corr valued the written follow-up procedures which he qualified as valuable tools for implementation also for the capitals. In this respect he recommended the creation at national level of focal points for all matters concerning treaty bodies' work, as well as of a coordination mechanism with which treaty bodies could liaise in the context of their follow-up activities. Finally, Mr Corr recommended the establishment of a dedicated follow-up unit within OHCHR which would help facilitate implementation of treaty body, Special Procedures and UPR recommendations.

In his presentation, Mr Christian Guillermet-Fernandez stressed that treaty bodies should be seen as a system. He highlighted the principles which in his view were indispensable to an effective implementation of treaty body outputs, namely the quality of the State party's report, a good constructive dialogue, solid recommendations and a broad dissemination of these. He also referred to a wider involvement of civil society in the preparatory phase of States parties' reports, as well as during the implementation phase. In his view, the regional offices of OHCHR have a crucial role to play to facilitate the implementation of treaty bodies' recommendations, as they are in contact with

the national authorities. Mr Guillermet-Fernandez also highlighted the need to sensitize parliamentarians to treaty body outputs. He suggested that the concluding observations should be brought to the attention of Parliaments to make them aware of those recommendations which required legislative changes. He stressed the key role which national human rights institutions in line with the Paris Principles should play in respect of follow-up, and recommended the webcasting of treaty body sessions as a tool for dissemination of treaty bodies' work and human rights education. He further suggested that recommendations be time bound and that all treaty bodies should establish follow-up procedures. In order to make such procedures more effective one could envisage, for instance, the appointment of follow-up rapporteurs by regions.

A number of States recalled that implementation is linked to the proceedings and the outcome of treaty body deliberations. In this regard, some States reiterated the need for delegations to receive a list of questions in advance of the dialogue. Reference was also made to an optional template for reporting based on previous recommendations.

Many States welcomed the suggestion whereby treaty bodies would hold some of their sessions at regional level, as this would bring them closer to local NGOs and media and save cost for the States parties' delegations that have to travel to Geneva or New York. On the contrary, other States were of the view that meetings away from Headquarters may in fact be more costly for the treaty body system. The use of new technologies, in particular webcasting, as well as video conferencing facilitated by OHCHR regional offices, was referred to as a means to enhance the visibility of treaty bodies, disseminate their outputs and facilitate the implementation of their recommendations. In this regard, many States also stressed the need to maintain the treaty body OHCHR webpages updated. Reference was made to the Universal Human Rights Index as a very useful tool for follow-up on treaty bodies recommendations. There was a suggestion that treaty body recommendations be compiled in a consolidated document and disseminated to parliaments, NGOs, and NHRIs and that a formal cooperation with IPU established to facilitate implementation of recommendations by parliamentarians.

Many States acknowledged that, while it was the responsibility of the States to implement recommendations, it is the responsibility of each committee to engage in their follow-up. In the view of some States, concluding observations based on lists of issues prior to reporting and set around priorities could facilitate implementation as well as follow-up by treaty bodies. In this context, a number of States stressed that concluding observations should be shorter and more precise. There was also a suggestion that the format of concluding observations be harmonized across treaty bodies in order to avoid confusion on the part of States parties. Some indicated that the issues identified in concluding observations for reporting under the follow-up procedure should be limited to three or four.

Regarding the idea of establishing time bound recommendations, some States found that it would be difficult for treaty bodies to know what is feasible for a State party at national level in the time frame considered and that this should be left to States parties to determine.

A number of States stressed the need for enhanced interactions with United Nations entities as capacity building was seen as an essential element of the implementation phase. However, some States flagged that this could not be done systematically as it was the prerogative of the State to

solicit technical assistance. Regarding integrated follow-up, a number of States called for caution and highlighted the different nature of the various human rights mechanisms which recommendations should not be pooled together in their view. With respect to follow-up visits, some States also questioned the fact that treaty obligations did not provide for in situ visits. Others thought on the contrary that this would be a good initiative and would allow treaty body members to follow national debates with regard to the implementation of their recommendations.

Some States suggested that in order to improve implementation and follow-up of treaty bodies recommendations, there was a need for clear and specific concluding observations followed by the adoption of a national action plan; greater involvement of all stakeholders; wide dissemination of treaty body outputs; and solid national coordination mechanisms tasked with the coordination of the implementation of treaty body recommendations. Dissemination of treaty body outputs in local languages was also highlighted as an important vehicle for implementation. Some States also suggested stronger linkages between treaty bodies and regional as well as sub-regional organizations.

A number of States suggested that when drafting concluding observations treaty bodies should take into account the cultural, religious or economic specificities of the country concerned. Moreover, in their view recommendations should focus strictly on the provisions of the concerned treaty.

Some participants, including treaty body members, stressed that follow-up on treaty body recommendations should be systematically included in the United Nations Development Assistance Framework (UNDAF) which would help the UN to be perceived as one. Country visits by treaty body experts was also mentioned as a useful tool for implementation which would not necessarily involve high costs. Some stressed the importance of treaty bodies' jurisprudence as a source of inspiration for national entities and expressed the need to reinforce it. A number of States were of the view that follow-up seminars where treaty body members would be invited as resource persons would help facilitate implementation and should be encouraged. Some States were however concerned at the costs that these activities might entail, while others indicated that treaty bodies should not interfere too much in implementation which was the responsibility of States parties and that follow-up workshops should respond to specific requests from governments.

For some States improved and coordinated planning could enhance implementation. In this regard, support was expressed by some for a time table for the consideration of States parties' report synchronized with UPR which would allow for more streamlined and efficient work.

A number of States indicated that recommendations should reflect the constructive dialogue, which in their view was not always the case, and adjust to the capacity of the country concerned to implement these, depending on the difficulties encountered on the ground which may hamper immediate implementation. Some also called on treaty bodies to consult States parties in the drafting of their working methods, particularly in respect of individual communications. Some suggested that treaty bodies draw the attention of States to best practices regarding implementation, as well as better use of treaty body recommendations within the UPR framework.

## **Independence and expertise of treaty body members**

Moderator: Mr Ronald McCallum (Chairperson of CRPD)

Panellists:

- Ms Yanghee Lee (Chairperson of CRC)
- Mr Bob Last (Senior Human Rights Advisor, Permanent Mission of United Kingdom to the United Nations)
- Mr Jens Faerkel (Minister Counsellor, Human Rights Unit, Ministry for Foreign Affairs, Denmark)

Before giving the floor to the panellists, Mr McCallum recalled the main points to be discussed in the course of the segment: (1) how to better clarify nomination requirement, (2) how to maintain and increase expertise, (3) how to improve national nomination processes, and (4) how to guarantee the independence of experts. He noted that the issue of treaty body membership had been referred to in a number of instances in the treaty body strengthening process so far, including in the Poznan Statement (paras. 19 and 20), as endorsed by the Seoul Statement (para. 2). He also reminded participants that the objective should be to ensure a transparent and open nomination and election process in relation to treaty body membership to ensure that the members have the required expertise and independence.

The first panellist, Ms Yanghee Lee, highlighted that one of the key ingredients to strengthening the treaty body system was the membership of treaty bodies. She referred to the fact that the importance of the independence of the experts of treaty bodies had been discussed since 1997 when the eighth meeting of chairpersons found the necessity to safeguard the independence of treaty body experts (A/52/507, paras. 67 and 68). This issue had been discussed again in recent years, including at the twenty-second meeting of chairpersons held in Brussels last year. She indicated that one might argue that by virtue of the current election process, no expert could be truly independent down to the last letter given that a State would have to nominate the person and actively campaign to get the person elected. She also informed the meeting about the demanding work of the committees, the fact that members were not paid, as well as their even more demanding working conditions, including decreasing Secretariat support, long working hours, lack of timely translation of documents etc.

At the end of her presentation, Ms Lee made some proposals addressed to States. She noted that States parties should consult widely, in a transparent manner, when nominating a candidate, carefully review the qualifications of each candidate, and select best candidates, giving consideration to gender, geography, professional fields, and legal systems in determining the final composition. While noting that attendance must be recognized as a basic requirement, Ms Lee also underlined that States parties must inform the candidates of the nature and quantity of work involved as a member of the respective treaty body, including the number of sessions, the length of the sessions, the importance of participation during pre-sessional working groups, country visits, follow-up activities etc. She also reported that the Committee had put in place an internal code of ethics to safeguard the independence of its members and to guarantee the quality of their work.

Mr Bob Last informed the participants about the background and experience of the United Kingdom with regard to selection of national candidates for treaty bodies. He noted that membership of a high quality was key to having an effective treaty body system and welcomed the fact that the issue was now receiving attention, in particular in the Poznan Statement. He underlined that the system could only be expected to meet its potential with properly qualified and suitably committed treaty body members and that this would have a beneficial impact on all aspects of treaty body work. Mr Last noted that States parties have direct control over the question of treaty body candidature and selection of candidates, and that States themselves could bring about significant improvements in this respect, including through an open process of selection.

He informed the meeting that the United Kingdom had moved towards a more open selection process about ten years ago where it actively sought nominations from a range of stakeholders, and five years ago, it decided to make the process completely open to anyone who was independent from Government. An advert was placed in one of the leading daily newspapers and on Government websites with a description of the key requirements and the best candidates were then shortlisted for an interview. The advert contained expectations for the position with some essential requirements as well as some additional desirable skills. Finally, Mr Last referred to some of the advantages of having an open process. It had provided an effective way to help ensure the selection of a range of strong candidates, it had been well appreciated by domestic stakeholders, and it had allowed the United Kingdom to say with confidence that it was only nominating the most suitable and qualified individuals to treaty bodies which had been beneficial for its reputation.

Mr Jens Faerkel noted from the outset that even if the treaty bodies were autonomous and that this should be respected to ensure their independence, they were too important to be left alone. He recognized that the system was not perfect and highlighted that not only must treaty body members be qualified and act independently, but they should also be seen to do so. Respect for treaty bodies and their observations would suffer greatly if the experts were not perceived as qualified and independent. He also reiterated the importance of explaining comprehensively the functioning of treaty body membership to potential candidates in advance, to ensure that they seriously consider these issues before accepting the nomination. All practical issues, including with regard to what is expected of committee members, should be explained in a note prepared by OHCHR, with a view to ensuring the availability and commitment of treaty body members.

Mr Faerkel noted that treaty body members were required by the relevant treaty to possess high professional qualifications and it was the responsibility of the nominating governments to ensure that they only nominated such candidates. He explained the nomination process in Denmark whereby informal consultations with civil society and other stakeholders were held before making a nomination and he noted that there would be both advantages and drawbacks in connection with a more formal nomination procedure. The idea of organizing initial information or training sessions for new treaty body experts was also put forward as well as a call for regular sessions with relevant sectors of the United Nations, such as relevant special procedures, and civil society, to exchange views on best and worst practices. He also referred to the establishment of an "Advisory Panel of Experts on Candidates for Election as Judge to the European Court on Human Rights" which was an independent high level panel mandated to advise Member States on the suitability of candidates to



the Court. This was a confidential procedure and a development that might also be interesting for the United Nations.

States generally agreed that the issue of treaty body membership was a sensitive but important one. With regard to the independence of experts, several States noted that the election system was central to the quality and sound functioning of the treaty body system. Any proposal for strengthening the treaty body system should not infringe on this principle. The proposal included in the Poznan Statement to have guidelines on eligibility and independence of treaty body members was seen by most States as a key tool to achieving this objective. Some States were of the view that it was a matter of drawing up recommendations rather than guidelines, as it would not be a binding document. The importance of establishing a transparent and participatory national process for the election of candidates was also stressed. Some States noted that it was the prerogative of States parties to develop such criteria, while others noted that it could be left to the treaty bodies themselves, with the assistance of OHCHR, to establish the proposed voluntary guidelines based on good practices and accumulated experience.

States exchanged good practices of national processes to nominate treaty body candidates in an open and transparent manner. Several States expressed support for the idea of organizing public hearings for candidates standing for elections and it was considered that the new model of the Advisory Panel for the election of judges on the European Court on Human Rights could also bring some suitable elements to the treaty body election process. Many States supported the model of the United Kingdom referred to above and they were also interested in the information provided by another State party which had set up an inter-governmental working group that would receive all candidates and would meet regularly and engage with civil society, with the aim of getting the strongest possible candidate. At the end of the day, emphasis should be on finding the most suitable individual.

With regard to the process of nominating and electing treaty body members, the point was made that States are the ones who nominate, campaign, and vote for the treaty body members. It was a question of “self-limitation of sovereignty”. It is thus the responsibility of States to ensure that the best candidate in terms of expertise, independence and availability are elected, and for this reason, the best solution would be to encourage self-discipline, exercise self-control and exchange best practices. Concerns were expressed by many States about the modalities of the electoral system itself devised by States, with agreements of mutual support being a necessity for posts within the United Nations bodies, which was seen by many as one of the main problems. Some States called for a realistic approach to this electoral system, given that bargaining cannot be prevented, and the reality is that votes or pledges are swapped to ensure the election of a national candidate. A few States referred to the election process as a market or a trade-off and noted that it was necessary to work within these parameters. The point was also made that one of the advantages for the treaty bodies (*vis-à-vis* other United Nations bodies) was that the nomination and election system was presented in the treaties themselves and that there was no fixed regional quota for the members.

Some States were of the view that diplomats, or even retired diplomats, should not become members of treaty bodies while other States noted that it would be beneficial to have retired diplomats as well as they might bring added-value on how to deal with States parties. A number of

States noted that in such cases issues relating to the independence of the members may arise but that this was more likely to occur where the members were holders of government positions. Thus, for many States present, former high level government officials as well as retired ambassadors could in principle become treaty body members, as long as they were not – and were also not seen – to be influenced by their governments. Other States disagreed, stating that one could be diplomatic, without being a diplomat. Many States agreed that a limit should at least be drawn when it came to active diplomats.

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 States expressed the view that committees should represent varied professional backgrounds and skills as well as all types of legal systems. A suggestion was made for OHCHR to compile disaggregated data on the composition of the various treaty bodies.

The State party representatives also discussed the issue of tenure of the treaty body members. Reference was made to the more recent international human rights treaties, including the Optional Protocol to the Convention against Torture and the Convention on the Rights of Persons with Disabilities which specifically limit terms, and it was mentioned that this issue would merit discussion with respect to the other older treaties. The point was made that the limitation of tenure could be included in any future guidelines on eligibility and independence as proposed by a number of States.

The issue of safeguarding independence in the professional behaviour of treaty body members was also discussed. Quite a number of States referred to the internal code of ethics, as mentioned by the CRC Chairperson in her opening intervention and encouraged other treaty bodies to follow this example. Reference was made to the code of conduct for the special procedures mandate holders. The question was whether such code of conduct/ethics should be developed by the committees themselves or States parties to ensure independence and accountability. In this respect, the point was made that expertise could be assessed when you had a potential candidate whereas independence could only often be assessed after the individual had taken up his or her function. Some of the treaty body members referred to the oath they took at the beginning of their treaty body membership. They also referred to their treaties and/or rules of procedure whereby they cannot participate in any aspect of the consideration of a report of a State party of which they are nationals (or if for any other reason there may be a conflict of interest).

Several States pointed to the principle of independence of the committees themselves. While some States suggested that they should be involved in the drawing up of rules of procedure of the treaty bodies, other States underlined that it was up to the treaty body members to decide on their own work, be it the questions to include in the LoIPR, the content of general comments, the rules of procedure, the concluding observations or their respective working methods. Many States were of the view that although they could give guidance to the treaty bodies, when it came to decisions on working methods, the independence of the treaty bodies as such is inherent in the international instruments that set up these committees.

## Resourcing the treaty body system

Moderator: Mr Claudio Grossman (Chairperson of CAT)

Presentations by:

- Ms Shivona Tavares Walsh (Chief, Documents Management Section)
- Ms Kira Kruglikova (Executive Officer, Division of Conference Management)
- Mr Eldon Pearce (Chief, Finance and Budget Section, PSMS, OHCHR)

Mr Grossman recalled the points to be discussed (1) How to maximize existing resources, and (2) How to ensure sufficient minimum resources to match recent increase of treaty bodies and related work?

In his presentation, Mr Eldon Pearce explained that in 2010 around US\$ 19 million were available from the human rights programme for travel of experts to sessions and for OHCHR staff costs, while some US\$ 30 million were estimated to have been used from the conference management side. He indicated that the amount available from the Human Rights Programme for the treaty bodies amounts to around 10 % of the overall budget for OHCHR which lies at around 200 million annually. Mr Pearce highlighted that one third of OHCHR staff working in support of the treaty bodies are funded from voluntary contributions.

Ms Kira Kruglikova from the Division of Conference Management (DCM) of the United Nations Office in Geneva (UNOG) explained that the Division provides conference services in the six official languages of the United Nations to a number of clients in Geneva and Bonn through provision of interpretation, meeting room attendants, and précis writing for meetings and processing of documentation, including translation, text processing, printing and distribution. She indicated that the Committee on Conferences (CoC), a subsidiary body of the Fifth Committee, provides the legislative framework for the provision of conference services, most recently in General Assembly resolution A/RES/65/245, paragraph 5 of Section III, which “*emphasizes* that the major goals of the Department for General Assembly and Conference Management are to provide **high-quality** documents in a **timely** manner in all official languages in accordance with established regulations, as well as **high-quality** conference services to Member States at all duty stations, and to achieve those aims as **efficiently** and **cost-effectively** as possible, in accordance with the relevant resolutions of the General Assembly.” (emphasis added). Ms Kruglikova further explained that the resolution also emphasizes the high quality of interpretation and translation, requests continued improvement of translation quality and increased use of contractual translation to achieve efficiencies while yielding comparable quality to in-house translation, and encourages a more cost-effective strategy for in-house processing of documents. Ms Kruglikova indicated that the Division uses a mix of modes between permanent capacity, freelance temporary staff and contractual staff while taking into account providing translation into the six UN languages requires 36 combinations and that the right combinations need to be found for each task.

Ms Kruglikova mentioned that of the 8,699 meetings (including meetings without interpretation) which DCM supported in 2010, 6.7% were treaty body meetings. Of this total, 2,694 meetings were with interpretation, of which 24.2% related to treaty bodies. Of the 177,982 pages of in-house translation/revision which the Division completed in 2010, treaty bodies accounted for 29.1%. Ms Kruglikova explained that a week of meeting time with four languages, 270 pages of documentation and summary records is costed at around USD 500,000. While acknowledging that

existing resources are already inadequate, she indicated that in the context of the 2012-2013 budget proposal discussion a reduction of USD 10 million resource would be put forward, assuming General Assembly approval of certain changes, such as abolishment of summary records and introduction of size limits on treaty body documents.

Ms Kruglikova made a number of suggestions as to what could be done to address current challenges.

- revisit summary records
  - o replace them completely with searchable sound files (under consideration for presentation to the Committee on Conferences)
  - o follow the CEDAW model and issue them only in English
- reduce the number of working languages for treaty bodies
- increase use of contractual translation (an increase in resources is in the budget proposal)
- follow the CEDAW model and schedule meetings by availability of documents
- strictly limit document length
- translation of portions of documents
- revisit issuance of compilations of previously published material, e.g. decisions, that are readily available elsewhere (one example – Volume II of the Annual Report of the Human Rights Committee)
- eliminating paper distribution of documents
- waive the 10-4-6 week processing timeline rule and adopt, where applicable, the 8-4-4 week rule.

The two papers presented to the meeting on “Resources in support of the human rights treaty body system- human rights programme’ and on “Resources in support of the human rights treaty body system- conference services’ provide more details on these issues.

In the ensuing discussion, the following issues were raised:

It was remarked that this panel would have deserved more time and should possibly have been held at the outset of the meeting. The background papers, while appreciated, had come in too late to be studied carefully in advance of the meeting. A request was made to organize a follow-up briefing in Geneva only on the issue of resources.

Some States highlighted that the system could not go on as is, addressing funding questions in an ad hoc manner, including with regard to requests for additional meeting time. The treaty body system should be seen as a whole, which was not yet the case. Many States called for saving costs and/or a better use of existing resources, including through ensuring more harmonized working methods while ensuring quality. The holding of treaty body sessions in New York and their resource implications were questioned.

At the same time, a number of States stressed that the treaty body system should not collapse due to a lack of resources. States should be aware that when they created new mechanisms, these would need to be adequately resourced. Many States emphasized that all funding to the treaty bodies should come from the regular budget (currently, support provided by OHCHR to support the treaty bodies is drawn 75% from the regular budget). One State indicated that the growth in ratifications and consequent reporting had never been taken into account in a global manner. Some States remarked that if the system were to fully function (i.e. every report would be submitted on time), this would certainly be problematic. One State representative questioned whether the objective should be merely a review of reports or a high-level review of reports. In case of the latter, States needed to ensure the availability of sufficient resources. He noted that even if working methods were streamlined, the system would reach a point where more resources would have to be added.

In addition to the suggestions made by conference services, a number of suggestions were made by States to address the issue of resources, including:

- Review the periodicity regarding State party reporting, with a view to possibly extend the time between the submission of two periodic reports;
- Consider the use of LoIPR which would reduce both the number and length of documents;
- Increase outsourcing of translation services;
- Review the use of meeting time: It was suggested that only every fourth report should have a full day discussion. The rest could be a focused half day discussion;
- Treaty bodies to only engage in their core activities and not take up additional activities, such as general days of discussion;
- There should be no treaty body sessions in New York;
- Treaty bodies should take a collective responsibility and act as a system and not each in a different way;
- OHCHR could get the authority over the total of the funds and apply them as needed, i.e. one treaty body would get another additional week of meeting time while others might have a week less;
- Regarding the overall human rights programme budget, treaty bodies needed to get a bigger slice of the cake.

The Chairpersons and treaty body members of CRC, CERD and CEDAW explained their working methods in relation to working languages in the respective Committees, the use of summary records and the use of additional meeting time. The member of CEDAW explained that prior to the Committee's move to Geneva, the needs of the Committee had been very clearly reviewed and costed and certain savings had been made. Holding meetings in New York or Geneva was not making a difference in terms of costs for conference services. Mr Pearce clarified that indeed in relation to conference services as well as the travel of experts there were no big financial differences. Having said this, staff travel from Geneva to New York to support the two sessions was costing the organization between USD 120,000 and 140,000 annually.

The Chairperson of the CRC noted that consideration could be given to the suggestion of having shorter, more focused examinations for fifth or sixth periodic reports and the member of CEDAW said that half day examinations could be a possibility in connection with non-reporting

States. The Chairperson of CRC also mentioned that the Committee was reviewing the length of its concluding observations.

While noting that there were competing needs for the system as a whole, the moderator suggested that a comparative analysis be undertaken with regard to resources available to the UPR process vis-à-vis the treaty bodies. A State flagged that as page limits were possible in the UPR process, it should also be possible in relation to the work of the treaty bodies. With reference to the above suggestion that OHCHR should be authorized to apply weeks of meeting time in a flexible manner, as needed, a number of States highlighted that all treaties should be treated equally. Even if a treaty had less ratifications, it did not necessarily mean less workload for that particular treaty body, and it would be dangerous to prioritise the work of one treaty body over the others. These States were thus not in favour of this proposal.

The member of CEDAW and the moderator suggested that a needs assessment be undertaken looking at what the system currently needed (reflecting the growth of the past years) and including projections as to what would happen in the future.

Ms Kruglikova advised that predictability, including both the timing and the length of documents, was another important element, which could save costs (e.g. like for UPR documentation, which is clear to everybody). She noted it would be very useful if each treaty body reviewed its needs as CEDAW had done as part of preparing to move to Geneva from New York and the Division is ready to assist in this endeavour. She also endorsed the idea of an overall needs assessment. She clarified that in 2010, the Division of Conference Management translated 39,000 pages contractually with the treaty body system, i.e. already outsourced 77% of the total documentation workload of the treaty bodies.

The moderator noted that the dialogue had been fruitful and suggested that it be continued. He questioned why the issue of resources was always leading to a debate on efficiency. In this regard, he referred to all the voluntary work that was being undertaken by treaty body experts and suggested that an analysis be done as to how much work treaty bodies undertake (e.g. on weekends) without using resources.

## Treaty body strengthening

### Informal technical consultation for States parties

Sion, Switzerland, 12 – 13 May 2011

#### Programme

Thursday 12 May 2011

8:00 – Meeting point at Avenue de la Paix between number 9 and 11 (100 m from Place des Nations on the right hand side in the direction of WMO and WTO)

8:15 - Departure from Geneva by bus

9:45 - Arrival at the International Child Rights Institute, Sion

10:15 – Opening Session

Chaired by Ms Navi Pillay, United Nations High Commissioner for Human Rights

- Video message by the United Nations Secretary-General, Mr Ban Ki-Moon
- Key note address by Ms Navi Pillay, United Nations High Commissioner for Human Rights
- Opening statement by Mr Jürg Lindenmann, Vice Director of the Directorate of International Law, Swiss Federal Department of Foreign Affairs
- Historical perspective on reform proposals of the treaty body system by Mr Jean Zermatten, Director of the International Institute for Children’s Rights and Vice-Chair of the Committee on the Rights of the Child
- Current and future challenges of the treaty body system by Ms Yanghee Lee, Chairperson of the Meeting of Chairpersons of Human Rights Treaty Bodies
- Short video on the treaty body system

11:15 - Strengthening the preparation of States parties’ reports

Moderator: Mr Anwar Kemal (Chairperson of CERD)

Panellists:

- Ms Zonke Zanele Majodina (Chairperson of the Human Rights Committee)
- Mr Fernando Bielza Díaz-Caneja (Deputy Director, Human Rights Office, Ministry of Foreign Affairs, Spain)
- Mr Christoph Spenlé (Chief of the Human Rights Section, Swiss Federal Department of Foreign Affairs)

- Mr Junichiro Otani (First Secretary, Permanent Mission of Japan to the United Nations)

Discussions will focus on 1) experiences 2) expectations 3) suggestions and will cover, inter alia, the following points:

- How to strengthen inter-ministerial coordination for the preparation of treaty body reports?
- How to improve national consultations during the preparation of States parties' reports (using also UPR experience)?
- How to attain more focused States parties' reports?
- How to ensure that States parties' periodic reports provide systematic information on the implementation of previous recommendations?
- Are there alternatives to standard reporting procedures (such as including lists of issues prior to reporting)?

13:00 - Lunch

14:00 - Strengthening the preparation of States parties' reports (continued)

16:00 - Coffee/tea break

16:30 - Enhancing the constructive dialogue between Treaty Bodies and States parties

Moderator: Mr Abdelhamid El Jamri (Chairperson of CMW)

Panellist: Ms Dubravka Simonovic (Chairperson of the CEDAW Optional Protocol Working Group)

Discussions will focus on 1) experiences 2) expectations 3) suggestions and will cover, inter alia, the following points:

- How to maximize the quality of the dialogue between treaty bodies and States parties?
- How to enhance the visibility of the dialogue?
- Can alternatives to a face-to-face dialogue be sought?

18:30 - End of programme Day 1 and departure by bus from meeting venue to the hotels

19:40 – Departure by bus from hotels to dinner venue

20:00 – Dinner (Caves Giroud, Route de Nendaz 1, Sion)

22:30 – Departure by bus from dinner venue to the hotels

Friday 13 May 2011

8:30 – Departure from the hotels to the meeting venue

9:00 - Wrap-up of Day 1 (Treaty Body Chair)



9:15 - Implementation of treaty bodies' outputs and impact on the protection of rights holders

Moderator: Mr Ariranga Govindasamy Pillay (Chairperson of CESCR)

Panellists:

- Mr Zdenek Hajek (Vice-Chairperson of SPT)
- H.E. Gerard Corr (Permanent Representative of Ireland)
- Mr Christian Guillermet-Fernandez (Deputy Ambassador, Permanent Mission of Costa Rica to the United Nations)
- Mr Pitso Montwedi (Councillor, Human Rights, Ministry for Foreign Affairs, South Africa)

Discussions will focus on 1) experiences 2) expectations 3) suggestions and will cover, inter alia, the following points:

- How to improve dissemination of treaty bodies' outputs, including with regard to concluding observations and decisions/views on individual communications?
- How to bring treaty bodies closer to the implementation level?
- How to reinforce implementation of treaty bodies' jurisprudence and recommendations at domestic level?
- How to ensure a coordinated process for the implementation of recommendations and jurisprudence at country level by the various treaty bodies?
- How to ensure an integrated implementation of all recommendations emanating from the main international human rights mechanisms (treaty bodies, special procedures and UPR)?

11:00 - Coffee/tea break

11:30 - Implementation of treaty bodies' outputs and impact on the protection of rights holders (continued)

13:00 - Lunch

14:00 - Independence and expertise of treaty body members

Moderator: Mr Ronald McCallum (Chairperson of CRPD)

Panellists:

- Ms Yanghee Lee (Chairperson of CRC)
- Mr Bob Last (Senior Human Rights Advisor, Permanent Mission of United Kingdom to the United Nations)

- Mr Jens Faerkel (Minister Counsellor, Human Rights Unit, Ministry for Foreign Affairs, Denmark)

Discussions will focus on 1) experiences 2) expectations 3) suggestions and will, inter alia, cover the following points:

- How to better clarify nomination requirements?
- How to maintain and increase expertise?
- How to improve national nomination processes?
- How to guarantee the independence of experts?

16:00 - Coffee/tea break

16:15 - Resourcing the treaty body system

Moderator: Mr Claudio Grossman (Chairperson of CAT)

Presentations by:

- Ms Shivona Tavares Walsh (Chief, Documents Management Section)
- Ms Kira Kruglikova (Executive Officer, Division of Conference Management)
- Mr Eldon Pearce (Chief, Finance and Budget Section, PSMS, OHCHR)
- How to maximize existing resources?
- How to ensure sufficient minimum resources to match recent increase of treaty bodies and related work?

17:30 - Closing ceremony: summary of the main points discussed

18:00 - Departure to Geneva by bus

20:00 – Estimated arrival in Geneva

List of participants

Ms	HENDEL	Selma	First Secretary	Algeria
Mr	CHEHIBI	Boualem	Deputy Permanent Representative	Algeria
Mr	SILVA	José	Counsellor	Angola
Ms	DAWKINS	Sally	Third Secretary	Australia
Ms	BICKFORD	Victoria Claire	Ministry of Foreign Affairs	Australia
Mr	GUSCHELBAUER	Peter	First Secretary	Austria
Ms	SAJAROVA	Samira	Attaché	Azerbaijan
Mr	TARANDA	Andrei	Counsellor	Belarus
Mr	MINSIER	Yannick	Secrétaire d'Ambassade	Belgium
Ms	JOOSTEN	Véronique	Ministry of Foreign Affairs	Belgium
Ms	URENA	Maysa	Minister Counsellor	Bolivia
Mr	HETANANG	O. Rhee	Minister Counsellor	Botswana
Mr	CHRISTOFOLLO	Joao Ernesto	First Secretary	Brazil
Ms	FOREST	Johanne	First Secretary	Canada
Mr	BIDIMA	Bertin Innocent	First Counsellor	Cameroon
Mr	ZERAN RUIZ- CLAVIJO	Hassan Vicente	Third Secretary Ministry of Foreign Affairs	Chile
Mr	HU	Bin	Ministry of Foreign Affairs	China
Mr	LIANG	Heng	Ministry of Foreign Affairs	China
Mr	YANG	Chuanhui	Attaché	China
Mr	AYALA MELENDEZ	Alvaro Enrique	Minister plenipotentiary	Colombia
Mr	MASSAMBA		Counsellor	Congo
Mr	LIZANO ORTIZ	Norman	Minister Counsellor	Costa Rica
Mr	GUILLEMET- FERNANDEZ	Christian	Deputy Permanent Representative	Costa Rica
Mr	BAMBA JUNIOR	Bakari	Attaché	Côte d'Ivoire
Ms	ROMANO	Lara	Third Secretary	Croatia
Mr	REYES RODRIGUEZ	Rodolfo	Ambassador	Cuba
Ms	JORGENSEN	Tanja Vestergaard	First Secretary	Denmark
Mr	FAERKEL	Jens	Ministry of Foreign Affairs	Denmark
Ms	VIVAR	Maria del Carmen	Third Secretary	Ecuador
Ms	MOSTAFA	Heba	Second Secretary	Egypt
Ms	JOGI	Merje	Ministry of Foreign Affairs	Estonia
Mr	AYEHU	Girma Kassaye	Counsellor	Ethiopia
Mr	MULUGETA ABEBE	Allehone	First Secretary	Ethiopia
Ms	RECKINGER	Nicole	First Counsellor	European Union
Ms	OINONEN	Krista	Counsellor	Finland
Mr	TRAPP	Raphael	First Secretary	France

Mr	NANG NANG	Samuel	Counsellor	Gabon
Mr	BAUER-SAVAGE	Timo	First Secretary	Germany
Ms	BONILLA GALVA DE QUEIROZ	Luisa	Counsellor	Guatemala
Mr	BAPTISTE	Jude	First Secretary	Haiti
Mr	BUONOMO	Vincenzo	Legal Advisor	Holy See
Mr	McKEEGAN	Terry	Counsellor	Holy See
Ms	ARRIAGA MEJIA	Valeria	Counsellor	Honduras
Mr	SINGLA	Sanjeev Kumar	Counsellor	India
Mr	ISNOMO	Kamapradipta	First Secretary	Indonesia
Mr	SAVITRI	Indah Nuria	Third Secretary	Indonesia
Mr	CORR	Gerard	Permanent Representative	Ireland
Mr	WRAFTER	Colin	Ministry of Foreign Affairs	Ireland
Mrs	GRUDINSKAS	Amanda	Adviser, Human Rights and Humanitarian Affairs	Israel
Mr	NOCELLA	Roberto	First Secretary	Italy
Ms	TURNER	Tyesha	First Secretary	Jamaica
Mr	MCCOOK	Wayne	Permanent Representative	Jamaica
Mr	OTANI	Junichiro	First Secretary	Japan
Mr	HYASSAT	Mutaz	First Secretary	Jordan
Ms	ALTYMYSHEVA	Almash	Counsellor	Kirghizstan
Ms	MOKADDEM	Rana	Counsellor,	Lebanon
Mr	RITTER	Patrick	Deputy Permanent Representative	Liechtenstein
Ms	GENIENE	Ruta	Counsellor	Lithuania
Ms	VYSNIAUSKAITE -RADINSKIENE	Kristina	Ministry of Social Security and Labour	Lithuania
Mr	DA CRUZ	Daniel	Deputy Permanent Representative	Luxembourg
Ms	ZAHIR	Liusha	Deputy Permanent Representative.	Maldives
Mr	ACHGALOU	Mohamed	Counsellor	Morocco
Ms	MOUTCHOU	Majda	First Secretary	Morocco
Mr	RABI	Omar	First Secretary	Morocco
Mme	FERNANDEZ	Gisele	Third Secretary	Mexico
Mrs	GARCIA	Martine	Third Secretary	Monaco
Mr	DHUNGANA	Bhriгу	Deputy Permanent Representative	Nepal
Mrs	LUCHTMEIJER	Marjolijn	Second Secretary	Netherlands
Mrs	TERSTAL	Susanna	Deputy Permanent Representative	Netherlands
Mr	CRUZ TORUNO	Nestor	Deputy Permanent Representative	Nicaragua
Mrs	MERCHANT	Anne	Ministry of Foreign Affairs	Norway
Mrs	HAVELAND	Juliet Namuli	Ministry of Foreign Affairs	Norway
Mrs	RICHARDSON	Lucy	Second Secretary	New Zealand
Mme	COULIBALY	Sandra	Observer Deputy Representative	O.I. Francophonie
MR	YEDDES	Samir	Chargé de mission	O.I. Francophonie
Mrs	AFTAB	Mariam	Counsellor	Pakistan

Mr	AKRAM	Zamir	Permanent Representative	Pakistan
Mr	ZAID	Lofti	Second Secretary	Palestine
Mme	ASFOUR	Deema	Attaché	Palestine
Ms	DEL CARMEN RODRIGUEZ RAMIREZ	Grisselle	Attaché	Panama
Mr	SIBILLE	Carlos	Second Secretary	Peru
Mlle	REYNANTE	Josephine	First Secretary	Philippines
Mme	ANGELES	Herminia	State Counsel from the Department of Justice	Philippines
Mr	LEWICKI	Marius	First Secretary	Poland
Mr	SERRADAS TAVARES	Luis	Counsellor	Portugal
Mr	FAHAD AL-HAJRI	Khalid	Deputy Permanent Representative	Qatar
Mr	LEE	Jaewan	Counsellor	Rep. of Korea
Mr	KONDRATIEV	Sergey	Second Secretary	Russian Federation
Mr	KARAKUTLY	Khalid	First Secretary	Saudi Arabia
Mr	ALRUWAILY	Fahad	Ministry of Foreign Affairs	Saudi Arabia
Mr	SECK	Fodé	Permanent Representative	Senegal
Mr	THIAW	Mohamed Lamine	Second Counsellor	Senegal
Mrs	TAN	Yee Woan	Permanent Representative	Singapore
Mr	HOCEVAR	Jadran	Ministry of Foreign Affairs	Slovenia
Mr	MONTWEDI	Pitso	Counsellor, Ministry of Foreign Affaires	South Africa South Africa
Mrs	RAHLAGA	Kgomotso	Counsellor	South Africa
Mr	KGOELENYA BIELDA DIAZ- CANEJA	Joseph Fernando	Counsellor Ministry of Foreign Affairs	Spain
Mr	ISMAIL	Mohamed	Minister plenipotentiary	Sudan
Ms	SCHOULGIN NYONI	Irina	Counsellor	Sweden
Mr	LINDEMANN	Jürg	Vice Director of the Directorate of International Law, Swiss Federal Department of Foreign Affairs	Switzerland
Mr	SPENLE	Christoph	Swiss Federal Department of Foreign Affairs	Switzerland
Mr	HAUETER	Thomas	Swiss Federal Department of Foreign Affairs	Switzerland
Mr	MEIER	Michael	Third Secretary	Switzerland
Ms	FONTANA	Barbara	First Secretary	Switzerland
Mr	NARTEH-MESSAN	Komlan	Second Secretary	Togo
Mr	TOBA	Sébadé	Chargé d'Affaires	Togo

Ms	UTKU	Mujde	Second Secretary	Turkey
Ms	ALZAABI	Sheikha Salmene	First Secretary	United Arab Emirates
Mr	AOUED	Ahmed	Legal Advisor	United Arab Emirates
Mr	LAST	Bob	Senior Human Rights Adviser	United Kingdom of Great Britain and Northern Ireland
Mr	BENTALL	Paul	Research Analyst	United Kingdom of Great Britain and Northern Ireland
Ms	KHANNA	Melanie Jean	Attaché	United States of America
Mr	KATEERA	Justinian	First Secretary	Uganda
Ms	BONE DADALT	Maria Lourdes	Second Secretary	Uruguay
Mlle	GONZALEZ	Suzany	Second Secretary	Venezuela (Bolivarian Republic)

## Closing remarks by the High Commissioner, 13 May 2011

Excellencies,

Dear treaty body Chairs,

Dear colleagues,

I am very pleased that the Chairpersons and I have organized this meeting, with the support of the International Institute of the Rights of the Child and the Swiss authorities.

During these two days this room seated 150 participants representing almost 90 countries. This clearly demonstrates the strong interest in the treaty body system.

I would like to conclude this meeting by summarizing some of the main points that I have heard during these two days.

I have heard from many speakers that the primary objective of the treaty body system and its strengthening is the protection of rights holders at the national level and for this purpose the implementation of relevant international human rights treaties by State parties. I entirely concur.

In relation to the States party reporting process, I sensed great support to rationalize and focus the reporting obligation as much as possible. The List of Issues Prior to Reporting seems to respond to this need bearing in mind that it will be further evaluated and possibly fine-tuned by those Committees which have engaged in this direction. It is of course of an optional nature and allows for flexibility on the part of States parties.

The question of pages limits has also been invoked by many of you and I heard some varied views on it. This issue typically reflects the inherent contradictions in discussing the strengthening of the treaty bodies. On the one hand States ask the treaty bodies to be more efficient and save costs and on the other they ask for flexibility in the way they report. A middle ground is required. The UPR experience shows that page limitations can be an option.

Another question that I found interesting and that I think merits further reflection is how the treaty bodies can provide advice to States parties upon their request outside of sessions.

Regarding the need for national consultation in the preparation of States parties reports, I believe there was a good exchange of various national experiences and it would be useful to compile a study on good practices on reporting including institutional structures and the use of new technologies.

As to the constructive dialogue the value of a face-to-face dialogue was emphasized and many supported the idea to complement this with video conferencing to broaden access to the process. Also, webcasting and audio-casting seem to gather broad support in all consultations that were held to date. The key issue here is that this costs money. Rough estimates for webcasting lie at over one million US dollars per year; but we will prepare a precise costing in my report of 2012.

During the discussions on the constructive dialogue but also during the discussion on the independence and expertise of treaty body members we heard the need for self-discipline, stronger chairing, and better time management, the need for focusing the work and the dialogue on treaty obligations, through possible explicitly linking questions to articles in the treaty. Suggestions were also made as to balancing the time when the Committee and the State party delegation take the floor. Limiting the dialogue to three hours with the provision of questions prior to the dialogue was proposed and several speakers requested that the identity of the country rapporteur be made public.

On implementation at the national level, I thank you for sharing with me your experiences in implementing recommendations of the treaty bodies. Many of you had quite specific suggestions that you encouraged including the holding of regional sessions, closer collaboration with regional mechanisms, strengthening follow-up procedures, establishing or using existing IT tools, such as the Universal Human Rights Index, for continued monitoring as well as encouraging my own Office and other UN entities to be actively engaged in assisting States with implementation.

Concluding observations were overall regarded as a crucial tool to guide the implementation of treaties at the national level. I also heard that there is room for improvement, including by better reflecting positive measures taken by State parties. Others wished to see the concluding observations more focused and limited in length. The format and quality of concluding observations will be discussed by all treaty bodies at their next Inter-Committee Meeting at the end of June.

After two days of discussions about all of the problems facing the treaty bodies, this exchange about national implementation reaffirmed that the treaty bodies are indeed a jewel of the international human rights protection system.

As to the independence of experts, we have heard that the election system is central to the quality and sound functioning of the treaty body system. Any proposal for strengthening the treaty body system should not infringe on this principle. The proposal to have guidelines on eligibility and independence of treaty body members was seen as a key tool to achieve this objective. We listened with great interest to the recent good practice of national processes to nominate a candidate in an open and transparent manner. The new model of the Advisory Panel for the election of judges on the European Court on Human Rights could also bring some suitable elements to the treaty body election process. The need to consider the principle of limiting terms, as spelled out in the most recent international human rights treaties, is also a principle that merits do be discussed in the frame of the other older treaties.

In addition to the principle of independence, I noted that participants also discussed expertise and gender balance as the other crucial principles. This indeed also merits close attention in the election process. In relation to these two last points, many participants have expressed the view that committees should represent varied professional backgrounds and skills as well as gender balance.

Generally speaking, I can only reiterate that the treaty bodies are independent expert bodies as enshrined in the treaties. They are mandated by the treaties to adopt their own rules of procedures. I also believe that they will benefit from carefully considering points made by States parties.



As to resources, we have for the first time, I believe, tried to give the full picture as to what the support to the treaty bodies entails: Around USD 19 million annually from the human rights programme and around USD 30 million annually from the conference management side.

The treaty body system currently struggles to operate under present resources with a 30% rate of compliance with reporting obligations. In other words, the present level of resourcing is insufficient even when presuming 70% of non-compliance. I find this is unacceptable, especially given the many sacrifices treaty body experts have agreed to in order to be more cost effective.

We need your support in preparing the submission of PBIs for all treaty bodies reflecting the actual costs of the system, if it were to function at 100% compliance and reflecting the growth of workloads in recent years, which has also never been reflected through commensurate resources for each treaty body. I also count on your support that staff working with the treaty bodies be funded from the regular budget. I would like to thank the Division for Conference Management for joining us today in the discussions and would like to invite them to continue their dialogue with the Committees to discuss possible savings in the area of conference services.

The debates were frank and rich though I have to admit none of the consultations, including this one in Sion, has really come-up with a full and satisfactory proposal to match the many challenges that the treaty bodies are facing on a daily basis. However, this process is an ongoing one.

It has brought a number of dilemmas to the forefront, namely specificity versus harmonization and efficiency/savings versus impact in a reality of continued expansion of the treaty body system. I will continue my reflection on how to capture this in my report. And as I mentioned in my opening remarks, consultations will proceed until the end of this year and I will continuously seek your contributions.

In closing, let me thank our wonderful hosts again, Jean Zermatten and his efficient team who secured a smooth running of proceedings and a highly enjoyable dinner. I would also like to thank the interpreters.

Most importantly, I thank you, respected Chairpersons for being here with me. I think we all learned a great deal during these two days and will transmit the participants' views to our respective constituencies. I thank my OHCHR and UNOG colleagues and now release you all into your well-deserved weekend.

Thank you.