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CHAPTER II. METHODS OF WORK OF THE COMMITTEE UNDER ARTICLE 40 OF THE COVENANT: NEW DEVELOPMENTS

53. The present chapter summarizes and explains the modifications introduced by the Committee to its working methods under article 40 of the Covenant in recent years, as well as recent decisions adopted by the Committee on follow-up to its concluding observations on State party reports.

A. Recent developments and decisions on procedures

54. In March 1999, the Committee decided that the lists of issues for the examination of States parties' reports should henceforth be adopted at the session prior to the examination of the report, thereby allowing a period of at least two months for States parties to prepare for the discussion with the Committee. Central to the consideration of States parties' reports is the oral hearing, where the delegations of States parties have the opportunity to answer specific questions from Committee members. Thus, States parties are encouraged to use the list of issues to better prepare for a constructive discussion, but are not required to submit written answers. This practice was put into effect in mid-1999.

55. In October 1999, the Committee adopted new consolidated guidelines on State party reports, which replaced all previous guidelines and which are designed to facilitate the preparation of initial and periodic reports by States parties. The guidelines provide for comprehensive initial reports prepared on an article-by-article basis, and focused periodic reports geared primarily to the Committee's concluding observations on the previous report of the State party concerned. In their periodic reports, States parties need not report on every article of the Covenant, and should concentrate on those provisions identified by the Committee in its concluding observations and those articles in respect of which there have been significant developments since the submission of the previous report. The revised consolidated guidelines were issued as document CCPR/C/66/GUI/Rev.2 on 26 February 2001.¹

56. For several years, the Committee has expressed concern about the number of overdue reports and non-compliance by States parties with their obligations under article 40 of the Covenant.² Two working groups of the Committee which met during the sixty-eighth to seventy-first sessions proposed amendments to the rules of procedure, which are aimed at helping States parties to fulfil their reporting obligations and designed to simplify the procedure. These amendments were formally adopted during the seventy-first session, and the revised rules of procedure were issued as document CCPR/C/3/Rev.6 and Corr.1.³ All States parties were informed of the amendments to the rules of procedure, and the Committee has applied the revised rules since the end of the seventy-first session (April 2001). The Committee recalls that general comment No. 30, adopted at the seventy-fifth session, spells out the States parties' obligations under article 40 of the Covenant.⁴

57. The amendments introduce procedures for dealing with situations of States parties that have failed to honour their reporting obligations for a long time, or that have chosen

to request a postponement of their scheduled appearance before the Committee at short notice. In both situations, the Committee may henceforth serve notice on the States concerned that it intends to examine, from material available to it, the measures adopted by that State party with a view to giving effect to the provisions of the Covenant, even in the absence of a report. The amended rules of procedure further introduce a follow-up procedure to the concluding observations of the Committee: rather than fixing a set time limit for its next report in the last paragraph of the concluding observations, the State party will be requested to report back to the Committee within a specified period with responses to the Committee's recommendations, indicating what steps, if any, it has taken to give effect to the recommendations. Such responses will thereafter be examined by the Special Rapporteur for follow-up on concluding observations, and result in the determination of a definitive time limit for the presentation of the next report. Since the seventy-sixth session, the Committee has examined the progress reports submitted by the Special Rapporteur on a sessional basis.

58. The Committee first applied the new procedure to a non-reporting State at its seventy-fifth session. It examined the measures taken by the Gambia to give effect to the rights recognized in the Covenant without a report, and in the absence of a delegation from the State party. It adopted provisional concluding observations on the situation of civil and political rights in the Gambia, which were transmitted to the State party. At the seventy-eighth session, the Committee discussed the status of the provisional concluding observations on the Gambia and requested the State party to submit a periodic report by 1 July 2004 that should specifically address the concerns identified in the Committee's provisional concluding observations. Failure to submit such a report within the deadline set by the Committee would result in the conversion of the provisional concluding observations into final ones, and their general dissemination. On 8 August 2003, the Committee amended rule 69A of its rules of procedure to provide for the possibility of converting provisional concluding observations into final and public ones (see annex III). At its seventy-sixth session (October 2002), the Committee examined the situation of civil and political rights in Suriname, in the absence of a report but this time in the presence of a delegation. Provisional concluding observations were transmitted to the State party, which pledged to submit a full report which would take the Committee's concerns into consideration. At its seventy-fourth session, the Committee adopted decisions which spell out the modalities for following up on concluding observations.⁵ At the seventy-fifth session, the Committee designated Mr. Yalden as its new Special Rapporteur for follow-up on concluding observations.

59. Also at the seventy-fourth session, the Committee adopted a number of decisions on working methods designed to streamline the procedure for the examination of reports under article 40.⁶ The principal innovation consists in the establishment of country report task forces, consisting of no fewer than four and no more than six Committee members, who will have the main responsibility for the conduct of debates on a State party report. The Committee hopes that the establishment of these country report task forces will enhance the quality of the dialogue with delegations during the examination of State party reports. The first country report task forces were convened during the seventy-fifth session. The majority of State party representatives welcomed the establishment of

country report task forces during the second meeting with States parties to the Covenant on 24 October 2002 (see paragraph 28 above).

B. Concluding observations

60. Since its decision of 24 March 1992 (forty-fourth session),⁷ the Committee has been adopting concluding observations. The Committee takes the concluding observations as a starting point in the preparation of the list of issues for the examination of the subsequent State party report. In some cases, the Committee has received comments on its concluding observations and replies to the concerns identified by the Committee under rule 70, paragraph 5, of its rules of procedure from the States parties concerned, which are issued in document form. During the period under review such comments and replies were received from Azerbaijan, Georgia, the Czech Republic, the United Kingdom of Great Britain and Northern Ireland, Switzerland, Monaco, the Netherlands, Hungary, Croatia, Viet Nam and Guatemala. These State party replies have been issued as documents and are available from the Committee's secretariat, or may be consulted on the OHCHR web site (www.unhchr.ch, treaty body database, documents, category "concluding observations"). Chapter VII of the present report summarizes activities relating to follow-up to concluding observations and States parties' replies.

C. Links to other human rights treaties and treaty bodies

61. The Committee continues to find value in the meeting of persons chairing the human rights treaty bodies as a forum for the exchange of ideas and information on procedures and logistical problems, streamlining of working methods, improved cooperation among treaty bodies, and the necessity of obtaining adequate secretariat services to enable all treaty bodies to fulfil their mandates effectively.

62. The fifteenth meeting of treaty body chairpersons was convened in Geneva from 23 to 27 June 2003. The Committee was represented by the Chairperson, Mr. Amor. The chairpersons met with, among others, the Bureau of the Commission on Human Rights, special rapporteurs, independent experts and chairpersons of working groups of the Commission on Human Rights, and representatives of States parties to the six main United Nations human rights instruments. They discussed the outcome of the second inter-committee meeting (see paragraph 64 below) and adopted recommendations relating to the issue of treaty body reform and the Secretary-General's proposals (see chapter I, section G). In particular, they recommended that the third inter-committee meeting, to be held in 2004, should examine draft guidelines for an expanded core document to be submitted by all States parties to the principal United Nations human rights instruments.

63. The meeting also recommended that treaty bodies should harmonize their approaches to pre-sessional working groups and lists of issues; that the Office of the High Commissioner for Human Rights and the Division for the Advancement of Women should strengthen collaboration and coordination, especially with a view to strengthening capacity-building efforts; that the Commission on Human Rights consider including an interactive dialogue with treaty body chairpersons in the agenda of the sixtieth session of

the Commission in 2004; and that each treaty body should implement measures to enhance the accuracy of press releases.

64. The second inter-committee meeting was held in Geneva from 18 to 20 June 2003. It brought together representatives from each of the human rights treaty bodies. The Committee was represented by Mr. Amor, Mr. Solari-Yrigoyen and Mr. Yalden. Discussions focused on the Secretary-General's proposals for treaty body reform and the treaty bodies' reactions to those proposals.

65. The meeting shared the concerns and objectives of the Secretary-General contained in his report, in particular with regard to strengthening the implementation of human rights obligations at the domestic level. It agreed that the proposal that each State be allowed to produce a single report summarizing its adherence to the full range of international human rights instruments to which it is a party would not meet these overriding concerns and objectives. Rather, those objectives could be better met by requiring States parties to the various instruments to prepare an expanded core document, which would be updated regularly, as well as treaty-specific targeted periodic reports to each treaty body. The meeting recommended that the secretariat should prepare draft guidelines for an expanded core document, for consideration by each Committee and adoption by the third inter-committee meeting in 2004. Such guidelines should focus on substantive human rights issues relating to provisions contained in some or all human rights instruments. The meeting finally recommended that, having regard to the specificity of each treaty, the secretariat should study the possibilities for greater harmonization of the reporting guidelines for each of the treaty bodies.

D. Cooperation with other United Nations bodies

66. In 1999, the Committee considered its participation in the initiative emerging from the memorandum of understanding signed by the Office of the United Nations High Commissioner for Human Rights and the United Nations Development Programme (UNDP) on cooperation over a wide range of human rights issues and activities. The Committee welcomed the fact that, in its development programmes and, in particular, those relating to technical assistance, UNDP takes account of the Committee's conclusions arising from its consideration of State party reports. While the indicators, i.e. quantitative and qualitative criteria for assessing compliance by States parties with the provisions of human rights treaties and for a State party's capacity for good governance, do not as yet include many rights guaranteed by the International Covenant on Civil and Political Rights, the Committee intends to play its part in refining and developing these indicators so that United Nations resources may be more effectively targeted.

Notes

¹ The *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 40 (A/56/40)*, vol. I, annex III, sect. A.

² See *ibid.*, chap. III, sect. B and *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 40 (A/57/40)*, chap. III, sect. B.

³ See *ibid.*, *Fifty-sixth Session, Supplement No. 40 (A/56/40)*, vol. I, annex III, sect. B.

⁴ See *ibid.*, *Fifty-seventh Session, Supplement No. 40 (A/57/40)*, vol. I, annex VI.

⁵ See *ibid.*, vol. I, annex II, sect. A.

⁶ See *ibid.*, vol. I, annex III, sect. B.

⁷ See *ibid.*, *Forty-seventh Session, Supplement No. 40 (A/47/40)*, chap. I, sect. E, para. 18.

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CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

258. Over a period of some time, the Committee has given thought to means by which it may provide for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. This chapter provides, for the first time, an overview of the Committee's activities in this area.

Framework for follow-up activities

259. In its recently revised rules of procedure (CCPR/C/3/Rev.6 of 24 April 2001), the Committee set out two new rules dealing with the approach that may be taken. In rules 70, paragraph 5 and 70A, as corrected, the Committee provided that it "may request the State party to give priority to such aspects of its concluding observations as it may specify" and that in respect of such cases "it shall establish a procedure to consider replies by the State party on those aspects and to decide what consequent action, including the date set for the next periodic report, may be appropriate".

260. Similarly, in its general comment No. 30 on reporting obligations of States parties under article 40 of the Covenant, adopted on 16 July 2002, the Committee observed that:

"5. After the Committee has adopted concluding observations, a follow-up procedure shall be employed in order to establish, maintain or restore a dialogue with the State party. For this purpose and in order to enable the Committee to take further action, the Committee shall appoint a Special Rapporteur, who will report to the Committee.

"6. In the light of the report of the Special Rapporteur, the Committee shall assess the position adopted by the State party and, if necessary, set a new date for the State party to submit its next report."

261. So as to determine the practical methods of work implementing these provisions, the Committee, on 21 March 2002, took initial decisions on its working methods for follow-up on concluding observations. These decisions were published in annex III (vol. I) of the Committee's last annual report to the General Assembly.¹ In particular, the Committee foresaw the appointment of a Special Rapporteur for follow-up on concluding observations in order to administer these methods on behalf of the Committee.

Special Rapporteur for follow-up on concluding observations

262. At its seventy-fifth session, in July 2002, the Committee appointed Mr. Maxwell Yalden as its Special Rapporteur for follow-up on concluding observations. The Special Rapporteur presented the first report on his activities to the Committee at its seventy-sixth session, in October 2002, and has reported at each session since. At the Committee's seventy-sixth session, on the occasion of the Committee's second meeting with States parties, on 24 October 2002, the Special Rapporteur introduced to the States parties present the methods that had been adopted.

263. The Special Rapporteur for follow-up on concluding observations assesses the information provided by the State party in conjunction with such other relevant information as may be provided to him on the issues in question, and makes recommendations to the Committee on further steps it may wish to take with respect to the State party in question. In the event that the State party has only addressed some of the issues and concerns raised by the Committee, the Special Rapporteur requests the State party to respond on the outstanding issues before making a recommendation with respect to that State party to the Committee.

264. In the event that the one-year period elapses without a response from the State party, the Special Rapporteur contacts the State party in writing by way of reminder and, should there be no response, requests a personal meeting with representatives of the State party in order to solicit the information sought. If it is not received, the Committee notes this fact in its annual report to the General Assembly.

Overview of the application of the follow-up procedure

265. At its seventy-first session, in March 2001, the Committee began its routine practice of identifying, at the conclusion of each set of concluding observations, a limited number of priority concerns that had arisen in the course of the dialogue with the State party. The Committee has identified such priority concerns in all but one of the reports of States parties examined since the seventy-first session. Accordingly, it requested that State party to provide, within one year, the information sought. At the same time, the Committee provisionally fixed the date for the submission of the next periodic report.

266. As the Committee's mechanism for monitoring follow-up to concluding observations was only set up in July 2002, this chapter describes the results of this procedure from its initiation at the seventy-first session in March 2001 to the close of the seventy-eighth session in August 2003. These are described session by session, but in future reports this overview will limit itself to an annual assessment of the procedure.

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Assessment of the follow-up procedure

267. At this early point, any evaluation of the utility of the follow-up procedure established is necessarily of limited scope. Nevertheless, the Committee has been

encouraged by the degree of cooperation from States parties. All of the 17 States parties in respect of which requests for follow-up information had fallen due by the beginning of the Committee's seventy-eighth session have provided complete or partial responses.

268. In addition, the Committee participated in the first Pilot Workshop for Dialogue on the Concluding Observations of the Human Rights Committee, held in Quito, from 27 to 29 August 2002, which addressed a number of issues arising by way of follow-up to concluding observations. The Committee welcomes the agreement of the participants to take steps towards strengthening this aspect of the Committee's work (see chap. I, para. 23).

269. To date, the Committee has decided not to take further action, such as adjusting the date by which the next periodic report of the State party should be submitted, in respect of the States parties whose follow-up replies it has examined. The Committee regards the process of submission of further follow-up information, which information is made public on the web site of the Office of the High Commissioner for Human Rights along with the State party's report, the List of Issues and the Concluding Observations adopted by the Committee, as a valuable further step in enhancing the effectiveness of the Committee's dialogue with the State party. The Committee welcomes the efforts taken by States parties to respond to the issues identified in its concluding observations, and regards this step forming the foundation for the consideration of a State party's subsequent periodic report.

Notes

¹ *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 40 (A/57/40).*