



**International
Human Rights
Instruments**

Distr.
GENERAL

HRI/MC/2005/4
25 May 2005

Original: ENGLISH

Fourth Inter-Committee Meeting
of the human rights treaty bodies
Geneva, 20-22 June 2005

Seventeenth meeting of chairpersons
of the human rights treaty bodies
Geneva, 23-24 June 2005

**REPORT ON THE WORKING METHODS OF THE HUMAN RIGHTS
TREATY BODIES RELATING TO THE STATE PARTY REPORTING
PROCESS**

Note by the secretariat

The third Inter-Committee Meeting requested the Office of the United Nations High Commissioner for Human Rights (OHCHR), in collaboration with the Division for the Advancement of Women (DAW), to produce a comparative report on the working methods of all committees, to be updated on a regular basis. The sixteenth meeting of the chairpersons of the human rights treaty bodies endorsed this recommendation and also recommended that modalities for participation of non-governmental organizations (NGOs) in the work of the treaty bodies be considered at the seventeenth meeting, and requested the secretariat to prepare a background report on the practices of the treaty bodies in this regard. The chairpersons also decided to include an item on the agenda of their seventeenth meeting on the approach to be taken by treaty bodies when States parties submit a last-minute request for postponement of the consideration of their reports, as well as when delegations do not attend to present reports as scheduled (report of the sixteenth meeting of human rights treaty bodies, A/59/254 and annex). The present report is submitted in accordance with those requests.

The report is complemented by the report on implementation of the recommendations of the third Inter-Committee Meeting and sixteenth meeting of chairpersons of human rights treaty bodies (HRI/MC/2005/2), which also contains proposals on the standardization of terminology used by treaty bodies relating to the technical elements of their work.

CONTENTS

| | <i>Paragraphs</i> | <i>Page</i> |
|--|-------------------|-------------|
| I. INTRODUCTION | 1 - 2 | 3 |
| II. OVERVIEW OF THE COMMITTEES | 3 - 16 | 3 |
| III. CONSIDERATION OF STATE PARTY REPORTS | 17 - 104 | 7 |
| A. Reporting guidelines | 18 - 29 | 7 |
| B. Submission of State reports | 30 - 35 | 9 |
| C. Pre-session preparation: the drafting of lists of issues and questions | 36 - 49 | 11 |
| D. Constructive dialogue with States parties | 50 - 66 | 14 |
| E. Concluding observations/comments | 67 - 71 | 18 |
| F. Follow-up to concluding observations | 72 - 76 | 20 |
| G. Strategies to encourage reporting by States parties | 77 - 80 | 21 |
| H. Early warning and urgent action procedures | 81 - 83 | 22 |
| I. Participation of United Nations agencies, funds and programmes | 84 - 91 | 23 |
| J. Interaction with special procedures of the Commission on Human Rights | 92 - 93 | 25 |
| K. Participation of national human rights institutions (NHRIs) | 94 - 95 | 25 |
| L. Participation of non-governmental organizations | 96 - 104 | 26 |
| IV. OTHER ACTIVITIES RELATED TO THE REPORTING PROCESS | 105 - 114 | 28 |
| A. General comments/recommendations | 105 - 109 | 28 |
| B. Days of general discussion and thematic debates/discussions | 110 - 111 | 29 |
| C. Country visits by treaty body members | 112 | 30 |
| D. Committee statements | 113 - 114 | 30 |
| V. OTHER MATTERS | 115 - 119 | 31 |
| A. Meetings with States parties | 115 | 31 |
| B. Sources of additional information concerning the treaty bodies | 116 - 119 | 31 |
| Annex. Guidelines on country visits endorsed by the United Nations High Commissioner for Human Rights | | 32 |

I. INTRODUCTION

1. The present report provides an overview of the current working methods of the seven human rights treaty bodies: the Committee on the Elimination of Racial Discrimination (CERD); the Committee on Economic, Social and Cultural Rights (CESCR); the Human Rights Committee (HRC); the Committee on the Elimination of Discrimination against Women (CEDAW); the Committee against Torture (CAT); the Committee on the Rights of the Child (CRC) and the Committee on the Protection of All Migrant Workers and Members of Their Families (CMW). The report is confined to the working methods of those bodies with respect to the reporting process. In this context, it should be noted that CMW has not yet begun to consider reports, although at its second session, held from 25 to 29 April 2005, it outlined the procedures, modelled on the practices of the other treaty bodies, that it expects to adopt for the consideration of reports.

2. The report, which will be updated in order to reflect the evolving practices of treaty bodies, is presented against the background of the Secretary-General's report "Strengthening of the United Nations: an agenda for further change" (A/57/387 and Corr.1), in which he proposed inter alia, that the treaty bodies "should craft a more coordinated approach to their activities and standardize their varied reporting requirements". In his last report, "In Larger Freedom: towards development, security and human rights for all" (A/59/2005), he also called for the finalization and implementation of harmonized guidelines on reporting to all treaty bodies so that these bodies can function as a unified system.

II. OVERVIEW OF THE COMMITTEES

3. Six of the seven core United Nations human rights treaties provide for the establishment of a committee of independent experts to monitor implementation of the treaty provisions by States parties. CERD, the first treaty body to be established, monitors implementation of the International Convention on the Elimination of All Forms of Racial Discrimination; HRC monitors implementation of the International Covenant on Civil and Political Rights; CEDAW monitors implementation of the Convention on the Elimination of All Forms of Discrimination against Women; CAT monitors implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; CRC monitors implementation of the Convention on the Rights of the Child; and CMW, which held its first session in March 2004, monitors implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

4. The International Covenant on Economic, Social and Cultural Rights (ICESCR) does not explicitly provide for the creation of a treaty body, but gives the Economic and Social Council (ECOSOC) a general mandate to monitor implementation of the Covenant by States parties and United Nations specialized agencies through consideration of regular reports. In 1985, a sessional working group established by ECOSOC to assist it in the consideration of States parties' reports (ECOSOC decision 1978/10 of 3 May 1978), was reconstituted on the model of the treaty bodies and renamed the "Committee on Economic, Social and Cultural Rights" (CESCR) (ECOSOC resolution 1985/17). The Committee, which first met in 1987, is regarded as a treaty body.

Membership

5. Each committee is composed of independent experts, ranging in number from 10 to 23 members (see table 1), who are nominated by States parties and elected by them for fixed, renewable terms of four years. Elections for half of the membership take place every two years. The treaties impose no limit on the number of times a member's term may be renewed, and some members have served for a considerable unbroken period.

Table 1

Composition of the treaty bodies

| | | | |
|-------|------------|-------------|--------------------|
| CERD | 18 members | | |
| HRC | 18 members | | |
| CESCR | 18 members | | |
| CEDAW | 23 members | | |
| CAT | 10 members | | |
| CRC | 10 members | 18 members* | |
| CMW | 10 members | 14 members | 41 States parties+ |

* Amendment to article 43 (2) of the Convention, approved by General Assembly resolution 50/155 of 21 December 1995, which entered into force on 18 November 2002 upon acceptance by two thirds of States parties.

+ The membership of the CMW will increase on the entry into force of the Convention for its 41st State party.

Mandates

6. Each treaty body is mandated to consider the reports which States parties are obliged to submit periodically on steps they have taken to implement the provisions of the relevant treaty. Five of the treaty bodies (CERD, HRC, CAT, CEDAW and CMW) are entitled to consider individual communications where States parties have accepted this procedure, and two may conduct inquiries into alleged violations of their treaty's terms (CAT, CEDAW), again where this procedure has been accepted by the State party. As reporting is concerned, there are variations in the wording in the treaties in relation to the content of States parties' reports, but the content required is similar, and all committees have adopted guidelines on the form and content of reports to assist States parties with the preparation of their reports. It is to be noted that the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families contains a specific provision which entitles the CMW to adopt additional reporting guidelines (art. 73, para. 3).

7. The treaties do not set out in detail how the various treaty bodies are to treat the reports that they receive, but each (except ICESCR) establishes the same basic framework for "consideration", "study" or "examination" of reports by its committee and the adoption of such "general comments" (HRC and CAT), "suggestions and general recommendations" (CERD, CEDAW and CRC) or "comments" (CMW) as the relevant committee may consider appropriate. The International Convention on the Elimination of All Forms of Racial

Discrimination, the Convention against Torture, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families contain express provision for its committee to request additional information from States parties. All treaties allow States parties to respond to a treaty body's comments, recommendations or suggestions with their own observations.

8. Under ECOSOC resolution 1985/17, CESCR “shall make suggestions and recommendations of a general nature on the basis of its consideration of those reports and of the reports submitted by the specialized agencies, in order to assist the Council to fulfil, in particular, its responsibilities under articles 21 and 22 of the Covenant”.

9. Three treaties state a wider purpose for which its committee is created: CEDAW is established “for the purpose of considering the progress made in the implementation of the [...] Convention” (art. 17); the CRC has a general purpose “of examining the progress made by States parties in achieving the realization of the obligations undertaken” in the Convention (art. 43); and CMW the purpose of “reviewing the application of the [...] Convention” (art. 72).

States parties

10. Although universal ratification has yet to be achieved, progress in this regard has been steady. Table 2 sets out the number of States that have ratified or acceded to the treaties, and their compliance with the corresponding reporting obligations under those instruments. This table indicates that more than two thirds of States parties have submitted at least one report to a treaty body, but only a minority are in full compliance with all of their reporting obligations.

Table 2

States parties' compliance with reporting obligations

| | No. of States parties | No. of initial reports submitted | No. of States parties with no overdue reports | Total reports received |
|----------|-----------------------|----------------------------------|---|------------------------|
| ICERD | 170 (88%) | 152 (89%) | 48 (28%) | 205 |
| ICCPR | 154 (80%) | 129 (84%) | 26 (17%) | 235 |
| ICESCR | 151 (77%) | 110 (75%) | 65 (43%) | 212 |
| CEDAW | 180 (93%)* | 144 (79%) | 59 (33%) | 543 |
| CAT | 139 (72%) | 97 (70%) | 37 (27%) | 215 |
| CRC | 192 (99%) | 180 (94%) | 102 (53%) | 292 |
| CRC-OPAC | 97 (50%) | 11 (11%) | 54 (56%) | 11 |
| CRC-OPSC | 95 (49%) | 8 (8%) | 50 (53%) | 8 |
| ICRMW | 29 (15%) | 0 (0%) | 4 (14%) | 0 |

Note: Percentages indicate level of compliance (actual total against total required for full compliance).

* Does not include Niue or the Cook Islands, which are full States parties to the Convention on the Rights of the Child, but have stated that they wish to be covered by New Zealand's ratification of the Convention on the Elimination of All Forms of Discrimination against Women.

Rules of procedure

11. All treaties, and in the case of CESCR, ECOSOC resolution 1985/17, empower committees to formulate their own rules of procedure. ICCPR and CAT provide that specific rules relating to the quorum and adoption of decisions by majority vote should be included in the rules of procedure of each of their committees. All committees have adopted rules of procedure, compiled in the document HRI/GEN/3, which is revised regularly.

12. Each committee's rules of procedure are divided into two sections. The first section sets out the basic procedural rules governing decision-making within the committee. In most cases, these are based on the ECOSOC standard rules of procedure and contain detailed provisions for the resolution of deadlock within political bodies, which are rarely used by the treaty bodies. CEDAW and CMW have adopted a shorter set of procedural rules adapted in each case to the requirements of a body that functions on the basis of consensus. The second section elaborates certain procedures related to substantive work of the committee, including consideration of State party reports and, where appropriate, consideration of individual communications and conduct of inquiries.

13. Not all of the working methods of the treaty bodies are set out in their rules of procedure. Working methods included in the rules of procedure of some committees are compiled in working methods reports (normally included in the annual report) by other committees. Committees with competence to consider individual complaints or conduct inquiries have also set out procedures related to these activities in their rules of procedure.

Officers

14. All treaties contain provisions for the election of officers by the members of its committee for a term of two years. The International Covenant on Civil and Political Rights and the Convention against Torture specify that officers may be re-elected, and other committees provide for re-election in their rules of procedure. Rule 17 of the rules of procedure of CEDAW provides that officers may be re-elected, provided that the principle of rotation is upheld.

Official and working languages

15. The official languages of the United Nations are Arabic, Chinese, English, French, Russian and Spanish. All treaty bodies, except CERD and CAT, have adopted these languages as their official languages. Arabic is included de facto as an official language of CERD, and Arabic and Chinese are not included as the official languages of CAT.

16. Five of the committees have adopted working languages: the working languages of CAT, CERD, CESCR are Chinese, English, French, Russian and Spanish; and those of HRC and CRC English, French and Spanish. The pre-sessional working group of CEDAW uses English, French and/or Spanish as needed.

III. CONSIDERATION OF STATE PARTY REPORTS

17. The treaties do not indicate how treaty bodies should approach the task of considering States parties' reports. However, all treaty bodies have adopted broadly the same approach, the main features of which are the "constructive dialogue" in which all committees engage with a delegation from the State party whose report they are considering, and the adoption of "concluding observations/comments", acknowledging progress made and indicating to the State party where further action is required. There is however considerable variation in the practice of each treaty body with respect to report consideration.

A. Reporting guidelines

18. All committees have issued guidelines on reporting to provide guidance to States parties on the preparation of their reports. These are compiled in document HRI/GEN/2, which is revised regularly. The guidelines are designed to ensure that reports are presented in a uniform manner so that treaty bodies and States parties can obtain a complete picture of the situation of each State party with respect to the implementation of the relevant treaty. Some committees recommend that States take an article-by-article approach, whereas others require reporting on clusters of related articles. Some committees elaborate detailed questions to be answered with respect to each article, whereas others allow the State party to decide what information is relevant under each article. A number of committees have separate guidelines for initial and periodic reports.

19. The HRC guidelines call for comprehensive initial reports, prepared on an article-by-article basis. Although they do not set out specific information required under each article, States parties are required to take into account the Committee's general comments which cover specific articles. States parties are not required to report on every article of the Covenant in their periodic reports, but only on those provisions identified by the Committee in its concluding observations on the previous report and those articles in respect of which there have been significant developments since the submission of the previous report (A/56/40, paras. 50-54).

20. The reporting guidelines of CESCR contain detailed and specific requests for information relating to each substantive article of the Covenant, effectively constituting a questionnaire for States parties to use to structure their reports. No distinction is drawn between initial and periodic reports.

21. The reporting guidelines of CERD detail the information that should be provided under each of the substantive articles of the Convention. The guidelines emphasize the importance the Committee attaches to information related to the de facto implementation of the Convention. The Committee requests that States parties ensure that reports strictly correspond with the provisions of the Convention and the reporting guidelines, and are as succinct and concise as possible (see A/58/18, annex IV).

22. CEDAW reporting guidelines provide general guidance for States parties in preparing their initial and periodic reports under the Convention. They call for reports to be as concise as possible, and impose page limits: initial reports should be no more than 100 pages long and

periodic reports should not exceed 70 pages. Additional essential information may be included in annexes, but will not be translated (A/57/38, annex X). Both initial and periodic reports should address each substantive article of the Convention specifically, but periodic reports should focus on the period between the consideration of the previous report and the current report, using the concluding comments on the previous report as the starting point and highlighting new developments. The guidelines also request a broad range of relevant information, including the situation of non-governmental organizations (NGOs) and women's associations and their participation in the implementation of the Convention and the preparation of the report, measures to implement outcomes of United Nations conferences, summits and reviews, and follow-up to procedures related to the State party under the Optional Protocol.

23. CAT has adopted separate reporting guidelines for initial and periodic reports, and revised guidelines for initial reports were adopted in May 2005. Initial reports are to be structured in two parts, the first providing general background information and the second addressing each substantive article of the Convention in turn. Periodic reports should be presented in three parts, the first dealing with new measures and developments on the substantive articles since the previous report, the second covering any additional information requested by the Committee, and the third describing compliance with the Committee's concluding observations and recommendations on the previous report. The Committee emphasizes the importance of information related to the de facto implementation of the Convention.

24. CRC has adopted four sets of reporting guidelines regarding the form and content of initial reports and of periodic reports under the Convention and of initial reports under each of the optional protocols to the Convention. The CRC guidelines on periodic reports amount to 47 pages, compared to 6 pages for initial reports, and periodic reports submitted by States parties are frequently much longer than initial reports. The Committee is currently considering more concise revised guidelines on periodic reporting and has requested all States parties to the Convention to submit periodic reports that are concise, analytical and focusing on key implementation issues, the length of which not exceeding 120 regular-size pages (Decision, 5/2002: CRC/C/148).

25. The CRC guidelines on initial and periodic reports request relevant legislative, judicial, administrative and other information, including statistical data, as well as information about "factors and difficulties encountered", "progress achieved", "implementation priorities" and "specific goals" for the future. To facilitate a more structured discussion during the consideration of the report by the Committee, the guidelines group the articles according to content into eight clusters: (a) general measures of implementation; (b) definition of the child; (c) general principles; (d) civil rights and freedoms; (e) family environment and alternative care; (f) basic health and welfare; (g) education, leisure and cultural activities; and (h) special protection measures, including (i) children in situations of emergency; (ii) children in conflict with the law; (iii) children in situations of exploitation, including physical and psychological recovery and social reintegration; and (iv) children belonging to a minority or an indigenous group. The guidelines on reports under the Optional Protocols to the Convention are brief; the guidelines on Optional Protocol to the Convention on the involvement of children in armed

conflicts call for information on an article-by-article basis, whereas those on the Optional Protocol on the sale of children, child prostitution and child pornography require information to be clustered under wider headings.

26. The CMW guidelines, adopted during the Committee's second session in April 2005, request that States parties provide general information relating to the framework for implementation of the Convention, followed by information on the implementation of each substantive article, which may be arranged according to a series of clusters, respecting the distinction in the Convention between all migrant workers and documented migrant workers.

27. There is wide variation in the size and quality of reports submitted by States parties. Both the HRC and CERD allow States parties to complement the information in their reports with additional information. The HRC imposes a specified deadline, whereas CERD accepts additional information at any time, even if it cannot be translated in time for the relevant session. The practice adopted by most treaty bodies of submitting lists of issues and questions to a State party once the report has been submitted also provides an additional opportunity for States parties to supplement the information contained in the report.

28. Since 1991, States that are parties to one or more of the international human rights treaties have been able to submit a "core document" containing basic, largely unchanging information about the State party concerned. The objective of the core document, intended to be a common "initial part of the State party report" (HRI/CORE/1), is to facilitate the implementation by States parties of their reporting obligations by reducing repetition and overlap in the information submitted to several treaty bodies.

29. Following a request from the Secretary-General in his report "Agenda for further change", the treaty bodies are currently considering a draft set of harmonized guidelines on reporting for all seven of the human rights treaties in an effort to streamline the treaty reporting process and to encourage the treaty bodies to function as a more unified system. The draft guidelines include proposals for an expanded version of the core document, which would incorporate a broader range of general information relevant to all or several of the treaty bodies. This document would be submitted in tandem with more targeted treaty-specific reports.

B. Submission of State reports

30. Each of the human rights treaties establishes a framework for regular reporting by States parties on implementation of their obligations under those treaties. In most cases, the treaty explicitly sets out a timetable for the submission of initial and periodic reports, commonly referred to as the reporting "periodicity", based on the date of entry into force of the treaty for the specific State party. In the case of the two Covenants, the periodicity for submission of reports is not fixed in the provisions. The HRC is given discretion to decide when periodic reports should be submitted, and so is the Economic and Social Council to establish its own reporting programme; ECOSOC resolution 1988/4 consequently sets the periodicity for submission of periodic reports to CESCR. Table 3 outlines the periodicity for the submission of reports.

Table 3
Reporting periodicities under the treaties

| | Initial reports within | Periodic reports every |
|----------|------------------------|--|
| ICERD | 1 year | 2 years |
| ICCPR | 1 year | 4 years [†] |
| ICESCR* | 2 years | 5 years |
| CEDAW | 1 year | 4 years |
| CAT | 1 year | 4 years |
| CRC | 2 years | 5 years |
| CRC-OPAC | 2 years | integrated in next CRC report, every five years; every five years for States not party to the CRC |
| CRC-OPSC | 2 years | integrated in next CRC report, every five years; every five years for States not party to the CRC |
| ICRMW | 1 year | 5 years |

* Article 17 of the Covenant gives ECOSOC discretion to establish its own reporting programme.

† Average periodicity. Committee may vary the date the next report is due in accordance with its follow-up procedure.

Flexible application of reporting periodicities

31. Late submission of reports by States parties, as well as the time lag between the submission and the consideration of a report can result in a State party's next periodic report falling due in the same year that the Committee considers the State's preceding report. The discretion given to HRC and CESCR to determine when periodic reports should be submitted has allowed these committees greater flexibility in this context, but other treaty bodies have also developed modalities to address this issue.

32. CESCR requires that, after submission of a State party's initial report, subsequent periodic reports should be submitted at five-year intervals (rule 58 of the rules of procedure). Since 2000, CESCR has, as a general rule, applied the five-year rule, but has reduced this period in light of the timeliness of submission of reports, the quality of information provided, the quality of the constructive dialogue between the Committee and the State party, the adequacy of the State party's response to the Committee's concluding observations, and its implementation of the Covenant (E/C.12/2001/17, para. 1024). The due date of the next periodic report is indicated in the concluding observations. Since 2002, HRC has delegated the task of determining when a State should present its next periodic report to its Bureau. In general, subsequent reports are due four years after the submission of the previous report, but the Bureau may call for a report earlier or later, depending on the State party's level of compliance with the Covenant's provisions, including their reporting record (rules 66 and 70A of the rules of procedure). Neither CESCR nor HRC allow an accumulation of overdue reports: for any State party, only one report is due at any one time, regardless of how long that report has been overdue.

33. Despite the fixed periodicities set in their treaties, other committees have taken a flexible approach to the submission of reports. CERD allows States parties to submit “combined reports” (the combination of several reporting obligations in a single document), and since 1984 has automatically accepted the submission of an unlimited number of reports in one document. In 1988, CERD decided that States parties should submit a comprehensive report every four years and a brief updating report in the two-year interim. Since 2001, in cases where the period between the date of examination of the last periodic report and the scheduled date for the submission of the next periodic report is less than two years, CERD can suggest in its concluding observations that the State party submit the latter report jointly with its subsequent periodic report (A/56/18, para. 477), thereby allowing the State to return to conformity with the reporting schedule set by the Convention.

34. There is an average time lag of two years between the submission of a report and its consideration by CRC, and the Committee allows for the submission of combined reports. Thus, a second (or third) periodic report may be submitted combined with the third (or fourth) periodic report at the time when the latter report is due, when the former is due within the year following the dialogue with the Committee or when it is already due at the time of the dialogue and the third (or fourth) report is due two years or more after the dialogue with the Committee. States are not entitled to submit combined reports automatically: the Committee must invite the State party to submit such a report in its concluding observations. The Committee has described the procedure as exceptional and does not apply it beyond fourth periodic reports (CRC/C/144).

35. CEDAW adopted a similar procedure on an exceptional basis and as a temporary measure, and has invited States parties with overdue reports to combine all outstanding reports in a single document (Decision 23/II). CAT has accepted combined reports, but exceptionally, and has not adopted a formal position in this context.

C. Pre-session preparation: the drafting of lists of issues and questions

36. All committees prepare lists of issues and questions for State parties whose reports are due to be considered, but the practice on how these lists are produced and their role in enhancing the work of the committees vary. Lists of issues provide an opportunity for States parties to supplement the information contained in their report and also provides a guide to States parties on the line of questioning they are likely to face when their report is formally considered.

37. CESC, HRC, CEDAW and CRC adopt lists of issues with respect to both initial and periodic reports, while currently, CAT adopts them only with respect to periodic reports. CERD leaves the decision of whether a list of issues and questions will be formulated with respect to a State party’s report to the discretion of the designated country rapporteur. All committees appoint one or more of their members to act as country rapporteur for a specific country whose report is under consideration, and the rapporteur frequently takes the lead in drafting the list of issues (see section D below).

Pre-sessional working group/country taskforce

38. Lists of issues are drafted prior to the session at which the report will be considered, either in a pre-sessional working group convened immediately after the previous session, immediately before the session at which the report will be considered, or during the plenary session.

39. CEDAW, CESCR and CRC convene a one-week pre-sessional working group to prepare lists of issues or questions with respect to the reports of States parties that are due to be considered by the Committee. CEDAW and CRC convene the working group immediately after the session, prior to the session at which the reports will be considered. The CESCR pre-sessional working group prepares lists of issues and questions up to two sessions or 18 months prior to the consideration of reports.

40. The pre-sessional working groups usually consist of four to five members of the respective committee, and in the case of CEDAW, include the country rapporteurs wherever possible. The CRC working group consists of all members of the Committee, and from September 2005 onward, will work in two groups to prepare the reports that will be considered by the Committee, which will be meeting in two parallel chambers in accordance with General Assembly resolution 59/261. Pre-sessional working groups meet in private, although the CESCR one meets with NGOs in public meetings.

41. Although both HRC and CAT convene pre-sessional working groups, these deal with individual communications and have no role in the preparation of lists of issues and questions relating to reports. HRC assigns the preparation of its lists of issues to country report task forces, composed of the relevant country rapporteur and between four and six other members of the Committee nominated by the Chairperson on the basis of a balanced geographical distribution and other relevant factors. The task forces meet during the session prior to which the report is examined. The country rapporteur, who has overall responsibility for the list of issues, presents a draft to the task force for discussion. Once the members have made their observations, the list of issues is adopted by the task force as a whole, and principal responsibility for certain questions included in the list of issues is allocated, based in part on the areas of particular expertise of the member concerned. The list of issues is then transmitted to the State party (A/56/40, paras. 50 to 54).

42. For CAT, the lists of issues and questions are prepared by the two country rapporteurs and submitted to Committee members for written comments during the session prior to that at which the report will be considered and are not formally adopted by the Committee. CMW has indicated that it will formally adopt lists of issues for each State party report, drawn up by two country rapporteurs, when it begins to consider reports. Although CERD discussed this possibility during its sixty-third session in 2003, it currently does not convene a pre-sessional working group; lists of issues are elaborated by the country rapporteur, at his or her discretion, and transmitted to the State party in advance of its dialogue with the Committee. Lists of issues were drawn up for all States parties whose reports were considered at its sixty-sixth session held from 21 February to 11 March 2005.

The form of the lists of issues

43. Lists of issues produced by CERD and CAT are generally formulated on an article-by-article basis, drawing on the information contained in the State party's report. CEDAW adopts an article-by-article approach for lists of issues for initial reports (except in the case of articles 1 and 2; 7 and 8; and 15 and 16, which are considered together), whereas lists of issues for periodic reports are arranged in clusters. HRC formulates its lists of issues on a thematic basis, arranged by sequence of the substantive provisions of the Covenant, and grouped in clusters. Committees may include a number of standard questions, so that CAT, for example, routinely asks States parties about their counter-terrorism measures and about their intention to ratify the Optional Protocol.

44. CESCR has a self-imposed formal limit of 40 questions for initial reports and 25 questions for periodic reports (E/C.12/2001/17, paras. 1035-36). However, additional necessary questions may be asked, depending on the quality of the report. The Committee limits requests for written information to statistical data, information requested in the guidelines but missing in the report, points of clarification regarding the report, and information on key legal, structural, policy and institutional issues (for the initial report) or new developments (with regard to periodic reports). The CEDAW list of issues focuses on data and information that require updating since the report was submitted or supplementary information, as well as a number of standard questions relating to issues such as the implementation of the Beijing Declaration and Platform for Action and ratification of the Optional Protocol to the Convention. For periodic reports, particular attention is paid to the State party's follow-up to previous concluding observations/comments, and questions are clustered according to priority issues rather than addressing specific articles. CEDAW limits itself to a total of 30 clear and direct questions (CEDAW/C/2004/II/4).

45. The CRC lists of issues usually call for: (i) additional data, requested according to the capacity of the State party to provide such data; (ii) general measures of implementation; (iii) updated information since the report was submitted; and (iv) availability of the Convention in local languages. A final section highlights main issues to be raised during the dialogue, in order to assist the State party to constitute a delegation including experts in the appropriate fields.

46. Lists of issues for HRC, CESCR, CEDAW and CAT are official documents of general distribution. They are translated into the working languages of the relevant committee, and are publicly available on the United Nations Official Documents System (ODS). CRC lists of issues are translated into the Committee's working languages, but are as yet, not United Nations documents, although they are available on the OHCHR web site. Those adopted by CERD are informal documents, submitted by the country rapporteur to the State party, and are translated into the relevant language for the State party concerned, but are not publicly available.

Replies to lists of issues

47. CEDAW, CESCR and CRC require the State party to respond to the lists of issues and questions in writing. CEDAW requires replies to be short, precise and to the point, and under

a limit of 25 to 30 pages, although additional pages of statistical data may be included (A/59/38, paras. 418 to 440). CEDAW formally requests a response within six weeks in order to allow time for translation before the session, and forwards unedited versions of the lists to the State party immediately after their adoption to maximize the time available for response. Given the short period of time between the pre-sessional working group and the subsequent session of CRC, States parties normally have only six weeks in which to submit their written responses to the Committee. The inter-sessional delay for HRC is similar, but States parties are not required to submit written responses in time for translation. States parties have at least six months in which to prepare their responses to the lists of issues of CESCR.

48. Written responses submitted to CEDAW are published as official documents in the six United Nations languages and, together with the list of issues, are posted on the DAW web site. Those of CESCR and CRC are processed and translated into the working languages of the relevant committee as “fair copy”; they are not available on the ODS, although CRC does post the replies it receives on its web page. Any written responses submitted to HRC are not translated or processed. Some States parties, especially when they are familiar with the procedures of the other treaty bodies, may submit written replies to lists of issues to CERD and CAT in advance of or during the session at which their report will be considered, but this is not formally required by these committees.

The role of the list of issues in the constructive dialogue

49. The primary role of the list of issues in CEDAW, CESCR, and CRC is to elicit additional or updating information. The list also provides the State party delegation with advance notice of the issues with which the committee is likely to be concerned. HRC structures its constructive dialogue around the list of issues, and while the Committee requests that States parties provide full written responses to the questions for reference purposes, the members of the country task force pose additional questions based on the list of issues, and these may be followed up by other Committee members. In CAT, the delegation after its opening statement immediately proceeds to providing answers orally to the list of issues. This is the case even where the answers are provided in writing since, as in the case of the HRC, the responses are not official documents. As the elaboration of lists of issues is at the discretion of the rapporteur in the case of CERD, it appears that their primary role at this stage is to elicit information.

D. Constructive dialogue with States parties

50. Although not envisaged in the treaties, all human rights treaty bodies have adopted the practice introduced by CERD in 1972 of considering States parties’ reports in the presence of representatives from the reporting State party. This approach may be contrasted with the paper-based procedures adopted by the International Labour Organization (ILO) Committee of Experts on the Application of Conventions and Recommendations in considering reports by States parties to the more than 150 ILO conventions that impose reporting obligations.

Number of reports examined per session

51. HRC and CRC convene three three-week sessions per year. CEDAW, CERD and CESCR convene two three-week sessions annually, whereas CAT has two annual sessions, one of two weeks and one of three weeks. CMW currently meets twice a year for a

one-week session. The committees examine between 4 and 11 reports per session: HRC and CESCR examine an average of 5 reports per session, CAT an average of 6, CEDAW 8, CRC 9 and CERD between 8 and 11 reports. Committees devote additional session time to consideration of countries in the absence of a report, and other matters such as the drafting of general comments. Some committees must also allocate a substantial part of their meeting time to the consideration of individual communications.

52. The selection of reports to be considered at future sessions is based on chronological order of receipt, with priority being given to initial reports and reports submitted by States parties that have not reported for some time. Some committees seek to achieve a geographical balance in reports to be considered, and may give priority to consideration of certain reports at their discretion.

Duration and timing of meetings for the examination of reports

53. Each committee holds two meetings of three hours a day during the session. CRC, CERD and CEDAW devote two meetings (and CAT one meeting and a half) to the public examination of each State party report and, with the exception of CEDAW, they ensure that those meetings take place on two different days, allowing members of the delegation time overnight to address issues raised in the questioning. CEDAW considers each report over one day. CESCR considers reports over three meetings, and HRC considers initial reports over three meetings and periodic reports in two meetings.

Table 4

Number of reports examined each year by the treaty bodies

| | No. of sessions per year | No. of weeks per session | No. of reports per session | No. of reports considered annually* |
|------------------|--------------------------|--------------------------|----------------------------|-------------------------------------|
| CERD | 2 | 3 | 8-11 | 16-22 |
| HRC | 3 | 3 | 5 | 10 |
| CESCR | 2 | 3 | 5 | 10 |
| CEDAW | 2 | 3 | 8 | 16 |
| CAT | 2 | 2/3 [§] | 6 | 12 |
| CRC | 3 | 3 | 9 | 27 [†] |
| CMW [‡] | 2 | 1 | - | - |

* Most committees also review a number of country situations in the absence of a State party report.

† In 2006, CRC will meet in two chambers, allowing it to take up 48 reports.

§ CAT has requested the General Assembly to extend its November session to three weeks from 2006.

‡ CMW currently convenes two annual sessions of one week each. For 2006, it has requested two sessions of one and two weeks' duration.

Briefings of the State party prior to the session

54. OHCHR and DAW provide collective briefings to representatives of States parties whose reports are due to be considered by one of the treaty bodies, generally four weeks in advance of the relevant session. These briefings provide an opportunity for States parties to familiarize themselves with the procedures of the specific committee with regard to the consideration of reports, especially in view of the differences of approach taken by each committee. The secretariat also has ongoing contact with delegations both in Geneva and New York and in the country concerned on matters relating to sessions.

Participation of members in the consideration of reports of States parties of which they are nationals

55. All committees require that members refrain from participating in any aspect of the consideration of the reports of the States parties of which they are nationals in order to maintain the highest standards of impartiality, both in substance and appearance. HRC formally specifies this in its rules of procedure (rule 71, para. 4).

Conduct of the constructive dialogue with States parties

56. The constructive dialogue in all of the committees follows the same broad structure:

- (i) The State party is invited to send a delegation to attend the meetings at which the committee will consider the State party's report;
- (ii) The head of the delegation is invited to introduce the report in an opening statement and, in some committees, replies to the lists of issues are presented;
- (iii) Members of the committee, usually led by the country rapporteur(s) or country task force members, raise questions to members of the delegation on specific aspects of the report of particular concern.

57. All treaty bodies have adopted the notion of "constructive dialogue" to describe the process, thus emphasizing the non-judgemental nature of the process of consideration of the report, which is aimed at assisting the State party in advancing implementation of the relevant treaty.

58. After a formal welcome by the chairperson, the head of the delegation is invited to make an opening statement introducing the State party's report and summarizing important developments. In the case of CEDAW, this statement should not exceed 30 minutes and the delegation is urged to provide precise, short and direct responses to questions asked in the interests of time management (A/59/38, Part II, paras. 418 to 440). After introductory comments, committee members may make comments, observations and ask questions or seek clarification with regard to the report. CEDAW imposes strict time limits on members, who may not make more than two interventions of up to three minutes each per State party (A/59/38, II, para. 419). Similarly, CESCR urges members not to raise issues outside the scope of the Covenant, repeat questions already posed or answered, add unduly to an already long list on a

particular issue, or speak for more than five minutes in any one intervention (E/C.12/2004/9, para. 30). CESCR and CRC, as well as CEDAW (for periodic reports only), consider each report by clusters of articles, inviting the delegation to reply immediately to questions that do not require further reflection or research between each cluster. The remaining committees pose all their questions together, which are formulated article by article.

The role of the country rapporteur

59. Most committees appoint one member (two in the case of CAT and CRC) to act as country rapporteurs with respect to the report under consideration. Where possible, CEDAW appoints a rapporteur from the same geographical region as the State party whose report is being considered. Except in the case of CEDAW and HRC, the identity of the country rapporteur is public. CMW has indicated that it will appoint two country rapporteurs for each State party report.

60. Country rapporteurs undertake a thorough study of the report and assume the task of drafting lists of issues and questions (in CERD, it is the rapporteur's decision whether or not to send a list of questions). In some committees, they take the lead in posing questions to the State party's delegation during the constructive dialogue and summing up after the discussion. Rapporteurs have primary responsibility for drafting the committee's concluding observations on the State party's report. In CERD, CAT and CRC, the country rapporteurs are the first members to pose questions to the delegation, and in the case of CERD, also the last to address the delegation. In CESCR, however, the country rapporteur does not open the questions and is not expected to sum up the discussion.

61. In HRC the members of the country task force are allocated specific questions from the list of issues to address to the delegation during the constructive dialogue. In an effort to ensure an efficient and focused dialogue, CEDAW, at its thirty-first session and on an experimental basis, appointed a "country task force" from amongst its 23 members to take the lead in posing questions to each delegation.

The delegation's responses to members' questions during the session

62. All committees provide an opportunity for members to pose questions additional to those included in the list of issues. In CEDAW, CESCR and CRC members pose questions by clusters of articles, and the delegation is invited to respond to each cluster immediately, before moving to the next group of questions. In CRC, a brief pause is allowed between each cluster of questions, in which the members of the delegation can confer. The delegation may defer answering immediately any question which it wishes to refer to its capital for information.

63. In HRC, following its statement, the delegation responds to the first part of the list of issues, and then members ask questions. The remainder of the list of questions is dealt with in the same fashion. In CERD, following the delegation's statement, the remainder of the first meeting is devoted entirely to members' questions. The delegation is not expected to respond to any questions immediately, and usually provides all its responses the next day. In CAT, initial

reports are introduced by the delegation and immediately thereafter the Committee poses questions. In the case of periodic reports, a short statement by the delegation is followed by its replies to the list of issues and questions, after which the Committee poses further questions. Where both initial and periodic reports are concerned, the delegation returns the following afternoon to reply to the Committee's questions.

Postponement of the consideration of reports and consideration of reports in the absence of a delegation

64. Although this has become the practice, the treaties do not oblige States parties to send a delegation to present their reports, and all treaty bodies have provision to consider reports in the absence of a delegation from the State party concerned, in order to address requests for last-minute postponement which have been refused by the committee and cases where the State party has failed to respond to the request to attend, or simply does not appear on that day.

65. States parties whose reports have been scheduled to be considered by a committee at a session sometimes request that consideration be postponed to a later session. In the period 2004-2005, treaty bodies responded positively to requests for last-minute postponement as a result of a natural disaster (hurricane) affecting the reporting State; problems in issuing travel documentation to delegation members; and major national political crises.

66. CESCR adheres to the formal rule that once a State party has agreed to the scheduling of its report for consideration, the Committee will proceed with the examination of that report at the time scheduled, even in the absence of a representative (rule 62, paragraph 3, of the rules of procedure). Both HRC (rule 68) and CAT (rule 66, para. 2) may, at their own discretion, either notify the State party of the alternative date on which it intends to consider the report, or consider the report as originally scheduled in the absence of a delegation. In the latter case, provisional concluding observations on the report will be submitted to the State party and the date when the report will be further considered or on which a new periodic report should be submitted will be identified. CEDAW agrees to reschedule consideration of the report to another session (rule 51, para. 5), but if at such a subsequent session the State party, after due notification, fails to have a representative present, the Committee may proceed with the examination of the report in the absence of the representative of the State party. In practice, however, CEDAW does not consider a report in the absence of a delegation (A/59/38, annex X). Neither CRC nor CERD have formal rules on this matter, but both may consider a report in the absence of representatives of the State party when, after being notified, it does not provide compelling reasons for deferral of the consideration of its report.

E. Concluding observations/comments

67. All treaty bodies have adopted the practice established by CESCR in 1990 of formulating what are variously called "concluding observations", "conclusions and recommendations" and "concluding comments" following the consideration of the reports of States parties. In general, these take the following structure: introduction; positive aspects; principal subjects of concern; and suggestions and recommendations. Concluding observations may also include factors and difficulties impeding the implementation of the treaty, a request for their wide dissemination in

the State party concerned, and a paragraph may be included requesting that additional information be provided to the respective committee by a specified deadline (usually one year), or on specific points of the concluding observations (see section F below). The concluding observations of HRC and CESCR and those committees that have adopted a flexible approach to periodicity of reporting may also indicate the provisional date when the State party's next periodic report is due. Some committees group all positive points, all points of concern and finally the recommendations together; others identify concerns followed by a corresponding recommendation. The concluding comments of CEDAW are prefaced by a factual summary of the State party's introductory statement to the Committee, prepared by the secretariat.

68. Concluding observations of the treaty bodies are normally four to five pages long; those of CRC, however, average 16 pages. In all committees, the country rapporteur coordinates the drafting process, collecting comments and suggestions from other members before the draft is discussed and adopted in formal session. The draft concluding observations of all committees except CRC which works on its drafts in English are translated during the session into the working languages of the committee, if time allows, in order to facilitate the drafting process.

Release of the concluding observations/comments

69. Advance unedited versions of the concluding observations are normally given to the State party concerned before they are made available to others. HRC releases the text of its concluding observations during the session, as soon as they have been adopted, finalized and transmitted to the State party, while the concluding observations of CESCR, once formally adopted, are usually not made public until 6 p.m. on the final day of the session, when they are sent to the States parties concerned. Similarly, CAT and CERD make their concluding observations public at the end of the session. CRC concluding observations are made public on the last day of a committee session during the adoption of the session report, of which they form part. CEDAW sends its concluding comments to the State party the week after the session and makes them public within a few days thereafter.

70. Concluding observations/comments are included in the respective committee's sessional or annual reports, in accordance with specific provisions of most of the treaties, and all committees publish their concluding observations as separate official documents in all official languages. These are posted on the OHCHR web site, and in the case of CEDAW, on the DAW web site, initially in advance unedited form to allow interested parties immediate access. Once the translated texts are finalized, they are publicly available on the ODS. The concluding observations/comments are also distributed electronically to subscribers to the treaty bodies listserv, an electronic notification service administered by OHCHR.

Comments by States parties on concluding observations/comments

71. In accordance with specific provisions in the treaties, States parties may, if they wish, submit to the relevant committee comments on the concluding observations/comments adopted with respect to their reports. All treaty bodies may make any such comments received publicly available. Observations by States parties on concluding comments of CEDAW are circulated to the Committee members and their receipt acknowledged in an annex to the Committee's report

to the General Assembly (Decision 21/II, A/54/38/Rev.1, p. 45). The Committee may also decide to make the observations available independently of its annual report. In accordance with article 9 of the Convention, comments on CERD concluding observations are included in the Committee's annual report to the General Assembly. Comments on the concluding observations of HRC and CAT may be issued as an official document, and they may be referred to, but not included, in their annual reports. It should be noted that some States parties are also required to submit follow-up reports under these committees' follow-up procedures. CRC will similarly acknowledge comments received in its sessional and biennial reports, and may reproduce them as separate documents upon formal request. CESCR makes any comments received public, as submitted, for information purposes only, as Committee documents and mentions them in its annual report (E/2005/22).

F. Follow-up to concluding observations

Follow-up procedures

72. All treaty bodies request States parties to provide information on implementation of the recommendations contained in previous concluding observations/comments in their subsequent reports or during the constructive dialogue. Several treaty bodies have also recently introduced formal procedures to monitor more closely implementation of specific concluding observations.

73. Since March 2001, HRC has systematically applied a follow-up procedure whereby the Committee identifies a number of specific recommendations in its concluding observations as requiring immediate attention, and requests the State party to provide additional information on their implementation within a set period (usually one year). The concluding observations set a provisional date for submission of the next periodic report. A rapporteur on follow-up to concluding observations reviews the information received from the State party and, on the basis of this follow-up progress report, the Committee may confirm or amend the date for submission of the next periodic report (rule 72). This procedure is currently not applied in cases where the Committee examines implementation of the Covenant by a State party in the absence of a report.

74. At its thirtieth session, in May 2003, CAT introduced a follow-up procedure (rule 68, para. 1), whereby the Committee requests follow-up reports within one year. A rapporteur to monitor the State party's compliance with these requests has been appointed.

75. CERD has a long-standing procedure, set out in rule 65 of its rules of procedure, whereby the Committee may request further information or an additional report concerning, *inter alia*, action taken by States parties to implement the Committee's recommendations. At its sixty-fourth session, in March 2004, the Committee decided to supplement this procedure with the appointment of a coordinator on follow-up. The coordinator, the first of whom was appointed at the sixty-fifth session in August 2004, is appointed for a period of two years and works in cooperation with the country rapporteurs. A working paper clarifying the mandate of the coordinator was adopted by CERD at its sixty-sixth session in February/March 2005.

76. CESCR may, in its concluding observations, make a specific request to a State party to provide more information or statistical data prior to the date on which the next periodic report is due. Information provided in accordance with this procedure will be considered at the next

pre-sessional working group, which, based on that information, can recommend that the Committee take note of the information, adopt specific additional concluding observations in response to that information, recommend that the matter be pursued through a request for further information, or authorize the Chairperson to inform the State party, in advance of the next session, that the Committee will take up the issue at that session, preferably in the presence of a representative of the State party. If the additional information requested in accordance with these procedures is not provided by the specified date, or is considered to be unsatisfactory, the Chairperson, in consultation with the Bureau, may pursue the matter with the State party. Where the Committee has been unable to obtain the information it requires, it may request that the State party accept a technical assistance mission consisting of one or two Committee members, an approach which it has applied in relation to two States parties. In cases where the State party is unwilling to accept the proposed mission, the Committee may make appropriate recommendations to the Economic and Social Council.

G. Strategies to encourage reporting by States parties

77. All committees have adopted strategies to encourage reporting by States parties. Several allow for the combination of reporting obligations in a single document. A document on the recent reporting history of States parties is prepared for the annual meeting of chairpersons of human rights treaty bodies, and a list of reports that are overdue are included in the annual reports of most treaty bodies, with some, such as HRC, CEDAW and CERD, providing lists of States parties whose reports are 5 and 10 years overdue, respectively. Most committees send targeted reminders to States parties whose reports, in particular initial reports, are overdue. In the case of CAT, two members have been appointed by the Committee to maintain contacts with representatives of non-reporting States in order to encourage the preparation and submission of reports.

The review procedure: consideration of a country situation in the absence of a report

78. All committees have adopted the practice, pioneered by CERD in 1991 under its “review procedure”, of proceeding with examination of the state of implementation of the relevant treaty by the State party even though no report has been received (see CERD, A/58/18, annex IV, Section P; CESCR, E/C.12/2004/9; CEDAW, rule 65; HRC, rule 70; CAT, rule 65; CRC, CRC/C/33, paras. 29 to 32 and rule 67). In general:

- (i) The committee notifies a non-reporting State party of its intention to examine implementation of the relevant treaty by the State party in the absence of a report during a public meeting on a specified date. The State party may respond by submitting a report, at which time the procedure is suspended and the normal process of consideration of the report begins. Where the State party concerned indicates that a report will be provided, pending receipt of that report, the review may be postponed to another session;
- (ii) The committee may formulate a list of issues and questions for the State party, which is invited to send a delegation to attend the session. If the State party is not represented, the committee may decide to proceed with the review, or it may notify the State party of a new date for consideration;

- (iii) The committee reviews the situation in the country on the basis of information available to it, including any dialogue with the State party delegation and information submitted by United Nations partners and NGOs. The committee will prepare provisional concluding observations, which will be referred to, but not published, in its annual report and which will be transmitted to the State party. These provisional concluding observations become final if the State party does not respond or indicate that it will submit a report in the near future.

79. This procedure is used in exceptional cases only. In many cases, notification by the committee that it intends to consider the situation in a country in the absence of a report encourages the State party to produce a report. As the procedure constitutes an important strategy to encourage States parties to submit reports, it is generally invoked where reports are very overdue. CERD, for example, reviews States parties that are at least five years late in the submission of their initial or periodic reports. When no report has been received from a State party after the initiation of the first review, a subsequent round of reviews may take place.

80. CRC has yet to carry out a review under this procedure, but, in 2004, issued 10 notices of planned reviews, resulting in submission of the 10 initial reports. For the first time, in July 2004, CEDAW invited two States parties whose initial reports were long overdue to submit them by a specified date.

H. Early warning and urgent action procedures

81. Since 1993, CERD has developed procedures relating to early warning measures and urgent action (A/48/18, annex III), the former directed at preventing existing problems in States parties from escalating into new conflict or preventing a resumption of conflict, and the latter to respond to problems requiring immediate attention to prevent or limit the scale or number of serious violations of the Convention.

82. The procedures may be invoked by the Committee itself or by interested parties such as NGOs. The Committee has established a working group to direct its work under the procedures, which may request written submissions from the State party and may formulate questions for it. A delegation from the State party is invited to attend the meeting at which the matter will be discussed in order to respond to members' questions, but the Committee may proceed with consideration of the matter even if the State party declines to send a delegation. Written submissions may also be made by other interested parties. After considering the matter, the Committee adopts a formal decision, which may include requests for action by the State party and the provision of further information in the next periodic report. These procedures have been used since 1993 in relation to more than 20 States parties. The Committee has conducted two field visits in connection with the procedure and has drawn the attention of the Secretary-General, the Security Council and other relevant bodies to situations in relation to six States parties.

83. In the 1990s, HRC requested that several States parties facing serious difficulties in the implementation of rights contained in the Covenant either present their overdue initial/periodic reports without delay or prepare ad hoc reports on specific issues. Three States parties submitted

ad hoc reports as requested. In March 2004, the Committee's Bureau discussed the possibility of reviving this urgent procedure/ad hoc reporting procedure and in March 2005, after further discussion, the Committee requested one State party to produce an ad hoc report.

I. Participation of United Nations agencies, funds and programmes

84. Most treaty bodies have adopted modalities for interaction with specialized agencies and other bodies of the United Nations. This interaction is specifically envisaged in the provisions of some of the treaties (articles 16 to 24 of the International Covenant on Economic, Social and Cultural Rights; article 40, paragraph 2, of the International Covenant on Civil and Political Rights; article 22 of the Convention on the Elimination of All Forms of Discrimination against Women; article 45 of the Convention on the Rights of the Child; and article 74 of the Convention on the Rights of Migrant Workers. Most treaty bodies have made provision for this in their rules of procedure (HRC, rule 67; CEDAW, rules 44 and 45; CAT, rule 62; CRC, rule 70). Two treaties, the Conventions on the Rights of the Child and on Migrants, mention specific specialized agencies in relation to the work of their treaty bodies - the United Nations Children's Fund (UNICEF) in article 45 of the Convention on the Rights of the Child and ILO in article 74 of the Convention on the Rights of Migrant Workers.

85. Most of the treaties provide for their committees to forward States parties' reports to relevant United Nations entities through the Secretary-General, although not all committees actually do this. Reports, as official documents, are sent to these entities as part of the general distribution, are available through the ODS and are posted on the OHCHR and DAW web sites.

Submission of written information by specialized agencies to the treaty bodies

86. Three of the treaties (the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child) provide for United Nations specialized agencies to submit specific reports to the relevant treaty bodies on implementation of the treaty in areas falling within the scope of their activities. In practice, these committees do not require the specialized agencies to submit separate reports on their own activities, but most committees may invite specialized agencies to provide written reports containing country-specific information on States parties whose reports are before them. Depending on the committee, such information is requested for the full committee session and the pre-session working group/country task force. All relevant agencies are informed by e-mail or fax of the countries whose reports are due to be considered in the pre-sessions or sessions of CEDAW, CESCR, CRC and HRC, and input is requested. CERD systematically receives information from ILO and the Office of the United Nations High Commissioner for Refugees (UNHCR) at the request of the secretariat. CAT maintains regular contacts with UNHCR, which provides confidential information on a regular basis. UNICEF, ILO, the World Health Organization and UNHCR provide written information systematically to the treaty bodies. The Food and Agriculture Organization of the United Nations, the Office for the Coordination of Humanitarian Affairs, UNAIDS, the United Nations Educational, Scientific and Cultural Organization, the United Nations

Development Fund for Women, the United Nations Population Fund and the International Organization for Migration (which is outside the United Nations system) also provide input on occasion. Some agencies, in particular UNHCR, may request that written information submitted be kept confidential.

87. CEDAW has adopted specific guidelines for reports of United Nations specialized agencies and entities (A/56/38, part two, paras. 392-395). Country-specific information should be provided and questions posed by the Committee's pre-sessional working group kept in mind and put into perspective by reference to global and/or regional data and trends on the subject. Country-specific information should be complemented with additional information on the agency's programmes in the country or region. Wherever possible, United Nations bodies and specialized agencies are also invited to include in their reports information on ongoing efforts made towards supporting the ratification of the Optional Protocol.

Provision for participation of representatives of specialized agencies

88. Representatives of specialized agencies are also invited by CEDAW, CESCRC, CRC and HRC to meet with the committee during the session to discuss the situation in the countries whose reports are being considered. Representatives of United Nations entities may address CESCRC, CEDAW and CRC during a designated meeting at the beginning of the pre-sessional working group. HRC invites representatives to a designated meeting in plenary at the beginning of the session. CEDAW and CESCRC invite representatives to the session, in addition to the pre-sessional working group meetings.

89. The participation of specialized agencies in the pre-sessional working groups of CEDAW and CRC and the beginning of CEDAW and HRC sessions takes place in closed meetings. In CESCRC, all or part of the meeting may be open or closed, according to the wishes of the representatives of the agencies present. In order for the Committee to benefit fully from the information provided, CEDAW encourages in its guidelines that agencies or bodies ensure that representatives are equipped to respond to the questions and comments that may be raised by Committee members.

90. Certain agencies maintain close links with specific committees. The working relationship between UNICEF and CRC, encouraged by the Convention, is close and extends beyond consideration of reports to include assistance to States parties to facilitate the reporting process, drafting of general comments, involvement in days of general discussion and assistance with informal field visits. The relationship between ILO and CMW is also specified in the Convention. CESCRC has forged a close working relationship with UNESCO in connection with the right to education. Some United Nations agencies, funds and programmes have also worked together with certain treaty bodies to assist in the drafting of specific general comments.

91. CEDAW designates individual members to serve as focal points for various United Nations entities. In 2003, CERD also appointed such focal points, but they have hitherto not been active.

J. Interaction with special procedures of the Commission on Human Rights

92. Although relevant information from the reports of country-specific and thematic special rapporteurs is routinely provided to treaty bodies by OHCHR and DAW, input from the special procedures of the Commission on Human Rights to the reporting process is irregular, except for the close collaboration between the Special Rapporteur on torture and CAT, which includes the sharing of country-specific information relating to States parties' reports and individual communications.

93. Outside of its work in considering of reports, CESCR has consistently invited special rapporteurs of the Commission on Human Rights and of the Sub-Commission on the Promotion and Protection of Human Rights, chairpersons of Commission working groups and others to address it and engage in discussions. Similarly, special procedures mandate holders have attended CERD sessions in the context of both its annual thematic debate and other ad hoc debates that are held periodically, and the Committee has sought to exchange information with international or regional mechanisms or bodies entrusted with monitoring the observance of or respect for human rights, particularly in matters covered by the Convention or the Durban Declaration and Programme of Action. CEDAW has interacted in particular with the Special Rapporteur on violence against women, its causes and consequences, while the independent expert appointed by the Secretary-General to lead an in-depth study of the question of violence against children and several special rapporteurs have interacted with CRC.

K. Participation of national human rights institutions (NHRIs)

94. Three committees have adopted general comments on the role of national human rights institutions in their work. General comment No. 10 of CESCR acknowledges the role of NHRIs in monitoring implementation of the Covenant at the national level. In its general recommendation No. XVII concerning the establishment of national institutions to facilitate implementation of the Convention, CERD recommends that where NHRIs have been established, "they should be associated with the preparation of reports and possibly included in government delegations in order to intensify the dialogue between the Committee and the State party concerned". The detailed general comment No. 2 (2002) of CRC includes a section on reporting to the Committee and cooperation between NHRIs and United Nations agencies and human rights mechanisms. The Committee suggests that NHRIs should contribute independently to the reporting process and "monitor the integrity of government reports to international treaty bodies with respect to children's rights, including through dialogue with the Committee on the Rights of the Child at its pre-sessional working group and with other relevant treaty bodies". It also considers it appropriate for States parties to consult with independent human rights institutions during the preparation of their reports to the Committee, provided that the independence of these bodies and their independent role in providing information to the Committee is respected. In contradiction to CERD, the CRC considers that "it is not appropriate to delegate to NHRIs the drafting of reports or to include them in the government delegation when reports are examined by the Committee". CEDAW will consider its interaction with NHRIs at its thirty-third session in July 2005.

95. NHRIs of the States parties which are to be considered by CAT are routinely informed about the forthcoming consideration and invited to submit written information. NHRIs may request a private meeting with CRC. NHRIs are also informed about the programme of work of CERD for each session and provided with copies of the reports due to be considered by the Committee (A/58/18, annex IV). NHRIs may provide information to any interested members on issues relating to the consideration of reports of States parties, in informal meetings outside the Committee's working hours, and may respond to requests to clarify or supplement such information. On several occasions, NHRI representatives have taken part in such informal lunchtime briefings. At its sixty-sixth session, with the agreement of the State party's delegation, CERD provided one NHRI with the opportunity to make an oral presentation in the plenary on the second day of the consideration of the State party's report. NHRI representatives were seated separately from representatives of NGOs, with a sign clearly identifying them.

L. Participation of non-governmental organizations

96. Although all treaty bodies have developed modalities for interaction with NGOs, article 45 (a) of the Convention on the Rights of the Child is the only human rights treaty provision that expressly envisages a role for NGOs in the work of the treaty body. It entitles CRC to seek expert advice on implementation of the Convention from specialized agencies and UNICEF, and "other competent bodies", which is understood to include NGOs. Since its first session in 1991, the Committee, in cooperation with the NGO Group for CRC, has systematically encouraged NGOs to submit reports, documentation or other information in order to provide it with a comprehensive picture and expertise as to how the Convention is being implemented in a particular country. Written information is received from international, regional, national and local organizations, and may be submitted by individual NGOs or national coalitions or committees of NGOs.

97. CESCR and CRC have adopted specific guidelines on NGO participation in their work (CESCR, E/C.12/2000/6; CRC, CRC/C/90, annex VII). CESCR requires that NGO statements be specific to the articles of the Covenant, focusing on the most pressing issues from the NGO perspective and providing suggestions for specific questions that the pre-sessional working group may consider incorporating in the list of issues with respect to the State party concerned. NGO input should also be of direct relevance to matters under consideration by the Committee, be reliable, and not abusive. CEDAW invites representatives of NGOs to make oral or written statements and provide information or documentation to the Committee or its pre-sessional working group (rule 47).

Submission of written information

98. HRC, CERD and CAT invite NGOs to provide reports containing country-specific information on States parties whose reports are due for consideration (see for example CAT, rule 62). CESCR, CEDAW and CRC similarly welcome written information from national and international NGOs at both their pre-sessional working groups, during the drafting of the list of issues, and the full committee session at which the State party report will be considered. The CRC requires submissions to be made two months prior to its pre-sessional working group. CERD also accepts written submissions from NGOs in relation to its early warning and urgent action procedures, and these procedures may be invoked by NGOs.

Confidentiality of NGO information

99. CESCR asks the secretariat to ensure that any written information formally submitted to it by individuals or NGOs in relation to the consideration of a specific State party's report be made available as soon as possible to the representative of the State concerned. CAT has adopted the same practice, although individual NGOs may object to the State party being given its written submission, in which case the Committee will disregard the submission. At its thirty-fourth session in May 2005, CAT, on a trial basis, made NGO information available through a designated Extranet web site. The CRC guidelines allow NGOs to request that their written submissions be kept confidential.

Oral briefings during pre-sessional preparations

100. CESCR, CEDAW and CRC devote specific meetings during their pre-sessional working groups to NGOs to enable them to brief members orally on the situation in States parties whose reports are under consideration. In March 2005, HRC invited NGOs to address the country task force, which was in the process of drafting a list of issues for one State party. The practice will be continued at forthcoming sessions.

101. NGOs wishing to participate in the CRC pre-sessional working group must submit a written request to the Committee at least two months in advance. The Committee then invites selected NGOs to attend, on the basis of the written information submitted. Introductory remarks by participants are limited to a maximum of 15 minutes for NGOs coming from the country concerned and 5 minutes for others, allowing time for a constructive dialogue. The CRC and CEDAW pre-sessional working groups meet in private, and CESCR meets with NGOs in an open meeting.

Oral briefings during session time

102. Most committees make provision for representatives of NGOs to brief members during the session at which the State party's report is to be considered. HRC and CESCR set aside meeting time on the first day of the session for this purpose, and CEDAW at the beginning of the first and second week of the session, according to its schedule. CAT invites NGOs to brief Committee members orally in private during formal meetings, devoted to one country at a time, the day before the report of the State party is considered. Exceptionally, CRC may allow NGOs to update the Committee during the session at which the report of the State party concerned is to be considered. NGOs do not brief CERD during formal session time. Except in the case of CESCR, where the meeting is open and covered by the press services, and CEDAW, where the meeting is open, oral briefings during session time take place in closed meetings.

Country-specific briefings to members at the time of committee session

103. Additional lunchtime briefings are regularly convened for HRC to allow NGOs to provide the most up-to-date country-specific information to members, in advance of the examination of a particular State party's report by the Committee. The Committee has reserved

the right, in the future, to determine whether other briefings by NGOs should also become part of the Committee's official programme and thus be provided with interpretation (A/57/40, vol. I, annex III, para. 12). NGOs may request a private meeting with CRC, while NGO briefings of CERD, which may be private, take place outside of the Committee's working hours in meetings.

The role of coalitions of NGOs in coordinating NGO input into the treaty bodies

104. In the case of several treaty bodies, coalitions are active in coordinating input. For example, CRC maintains a close working relationship with the NGO Group for the CRC, a coalition of some 60 to 70 international NGOs, which were active in the drafting of the Convention and work together to promote its implementation. The NGO Group has a liaison unit that supports participation of NGOs, particularly national coalitions, in the CRC reporting process, including coordination of NGO written submissions. It also supports attendance of national NGOs at the Committee's sessions in Geneva. International Women's Rights Action Watch (IWRAP), and in particular IWRAP-Asia Pacific, facilitates interaction between NGOs and CEDAW through training sessions convened in New York at the time of the Committee's sessions. IWRAP-Asia Pacific also coordinates the submission of NGO reports to CEDAW in advance of sessions.

IV. OTHER ACTIVITIES RELATED TO THE REPORTING PROCESS

A. General comments/recommendations

105. All committees have adopted the practice of elaborating their views on the content of the obligations assumed by States parties in the form of "general comments". Two committees, CEDAW and CERD, refer to these as "general recommendations". CERD issued its first general recommendation in 1972 on the basis of article 9 of the Convention, which allows the Committee to make suggestions and general recommendations based on its examination of reports. CEDAW issues its general recommendations under article 21 of the Convention and HRC under article 40, paragraph 4, of the Covenant. CESCR began preparing general comments at the invitation of the Economic and Social Council, with a view to assisting the States parties in fulfilling their reporting obligations (rule 65). General comments have evolved in length and complexity and now constitute detailed and comprehensive commentaries on specific provisions of the treaties and on the relationship between the articles of the Convention and specific themes/issues. Several treaty bodies have revised or replaced their general comments in the light of experience gained through consideration of reports.

106. CESCR has defined the purpose of issuing general comments as:

- (i) To make the experience gained so far through the examination of States parties' reports available for the benefit of all States parties, in order to assist and promote their further implementation of the Covenant;
- (ii) To draw the attention of States parties to insufficiencies disclosed in a large number of reports;

- (iii) To suggest improvements in the reporting procedures, and to stimulate the activities of the States parties, international organizations and the specialized agencies concerned in achieving progressively and effectively the full realization of the rights recognized in the Covenant.

Process of adoption of general comments

107. All treaty bodies have developed modalities for the formulation of general comments, which broadly follow the procedure adopted by CEDAW in 1997 (A/52/38/Rev.1, para. 480). This includes the following three basic stages:

- (i) Wide consultations with specialized agencies, NGOs, academics and other human rights treaty bodies, sometimes in the context of a day of general discussion or thematic debate;
- (ii) Elaboration of a draft by a designated member of the committee on the basis of the consultation process, for further discussion by the committee and interested parties;
- (iii) Formal adoption of the revised draft of the general comment in plenary session;
- (iv) Some committees seek expert advice from United Nations specialized agencies or other sources, including academics, in the elaboration of general comments, and informal background papers may be requested from other interested parties.

108. CESCR has adopted an outline for drafting general comments (E/2000/22, annex IX). The outline aims at ensuring consistency and clarity in the content, format, structure and ambit of future general comments, thus promoting their accessibility and strengthening the authoritative interpretation of the Covenant provided. In the Committee's view, general comments should be reader friendly and readily understandable to a broad range of readers, primarily States parties to the Covenant.

109. At any time, members of a treaty body may propose that a general comment relating to a specific article, provision or theme be prepared. The Committee generally shares draft general comments with a selected number of experts, including those from other treaty bodies, for comments. Some treaty bodies request that draft general comments be posted on the OHCHR web site to allow for wider input.

B. Days of general discussion and thematic debates/discussions

110. Four treaty bodies (CESCR, CERD, CRC and CMW) have adopted the practice of organizing what are variously described as "thematic debates", "thematic discussions" or "days of general discussion" in order to discuss issues of general concern to the implementation of their treaties. Thematic discussions have been convened by CERD on specific themes in order to specify the extent of its responsibilities under the Convention and provide States parties with guidance on more complete fulfilment of their obligations. CERD and CRC hold regular annual

thematic discussions, whereas CESCR organizes these on an ad hoc basis, mainly in relation to the preparation of a general comment, and may decide to invite general participation or restrict it to a limited number of experts. CEDAW convenes open discussions in the context of preparation of general comments only.

111. Since 1992, CRC has convened 13 days of general discussion days, open to all interested parties, including discussions in working groups on sub-themes, identified in an outline adopted by the Committee up to eight months in advance. At the end of its discussion days, CRC adopts recommendations. The general discussions of CRC's can also work in conjunction with article 45 (c) of the Convention, a unique provision that allows the Committee to recommend that the General Assembly request the Secretary-General to undertake action on specific issues related to the rights of the child. The 1992 discussion day on children in armed conflict formed the background to the Secretary-General's comprehensive study on the impact of armed conflict on children, while the general discussion days in 2000 and 2001 led to the General Assembly's request to the Secretary-General to conduct an in-depth study on violence against children.

C. Country visits by treaty body members

112. Treaty bodies have not established formal guidelines or criteria to responding to invitations to committee members from States parties. The United Nations High Commissioner for Human Rights has endorsed guidelines for invitations to treaty bodies by States parties before the consideration of reports (annex I).

D. Committee statements

113. Some treaty bodies formulate statements on international developments and issues that bear upon the implementation of their treaties. CESCR has adopted statements in the context of a number of world conferences, as well as statements on globalization and intellectual property. CERD has adopted statements directed to world conferences and on terrorism and a "declaration on prevention of genocide". Statements by CEDAW have covered issues such as reservations, gender and racial discrimination, solidarity with Afghan women, gender and sustainable development, discrimination against older women, and the situation of women in Iraq. Several committees have issued statements jointly with other United Nations bodies: CESCR has issued a joint statement with the special rapporteurs with regard to the Millennium Development Goals, and CAT issues an annual joint statement with the Special Rapporteur on torture and the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture on the occasion of the United Nations International Day in Support of Victims of Torture. HRC has not adopted the practice of issuing formal statements.

114. CRC adopts what it formally terms "recommendations", but now terms "decisions", which can concern either its methods of work or substantive issues. Since 1991, the Committee has adopted over 40 such decisions/recommendations (see CRC/C/19/Rev.10). Recent decisions by the Committee have included the exceptional combination of reports, content and size of reports and the proposal for the committee to sit in two chambers. Other decisions, such as those concerning children in armed conflict, administration of juvenile justice and children without parental care have been made in the context of the Committee's days of general discussion.

V. OTHER MATTERS

A. Meetings with States parties

115. All committees have convened informal consultations with States parties to discuss matters of mutual concern. CEDAW has also convened such a meeting with States that are not party to the Convention.

B. Sources of additional information concerning the treaty bodies

Official publications

116. OHCHR publishes a series of human rights fact sheets on a range of human rights issues, which include individual fact sheets on each of the human rights treaties, setting out in accessible language the provisions of the treaty and the work of its treaty body. These were supplemented in 2005 by a fact sheet on the “United Nations Human Rights Treaty System”, which provides an overview of the seven core treaties and the seven human rights treaty bodies. A full list of fact sheets is available on the OHCHR web site, as well as the fact sheets themselves, in Portable Document Format (PDF).

117. In 2004, the OHCHR regional office in Santiago published compilations of the concluding observations relating to States parties from Latin America and the Caribbean for three treaty bodies: HRC (with the Centro de Derechos Humanos of the University of Santiago), CESCR (with UNDP), and CRC (with the UNICEF regional office for Latin America and the Caribbean-TACRO, Panama).

The treaty bodies database

118. OHCHR maintains a treaty bodies database, which contains all official documentation related to the State party reporting process in English, French and Spanish, as well as the full reporting history of each State party to each treaty. The database is accessible through the OHCHR web site. The database will be upgraded during 2005 and a search facility for documentation in all six official languages will be added.

Information related to the treaty bodies on the OHCHR and DAW web sites

119. The secretariat maintains web pages for each of the Geneva-based treaty bodies, hosted on the OHCHR web site presenting information related to the work of the treaty bodies and their sessions in a consistent way. The DAW web site contains the CEDAW web pages.

Annex

**GUIDELINES ON COUNTRY VISITS ENDORSED BY
THE UNITED NATIONS HIGH COMMISSIONER
FOR HUMAN RIGHTS**

Note on visits of treaty body experts to reporting States

(Endorsed by the High Commissioner on 23 March 2005)

Within the past few years, some States reporting to human rights treaty bodies have invited the chairperson and/or other members of treaty bodies concerned to visit their respective territories before the consideration of their report by a treaty body. States extending invitations have been predominantly from the Asian region and Hong Kong, under the former United Kingdom administration and at present, as Special Administrative Region of China, has been particularly active in this regard. Hong Kong has systematically invited treaty body experts to visit its territory before the consideration of reports of the United Kingdom (until 1999) and of China (after 1999), which contain a section concerning Hong Kong. Recently, the treaty body that has received the highest of such invitations has been the Committee on the Rights of the Child.

The Treaties and Commission Branch (TCB) does not encourage treaty body experts to visit the territory of a reporting State party before the consideration of its report. Inviting States frequently suggest that visits prior to consideration provide a direct opportunity for treaty bodies to assess the degree of implementation of treaty provisions. However, the Branch is of the view that such invitations may be perceived as an attempt to influence the outcome of the consideration of the report. In addition, it often happens that the media and civil society in the countries confuse human rights treaty bodies with the Office of the High Commissioner for Human Rights and may attribute statements made or positions taken by the treaty body experts during their visit to the High Commissioner.

TCB has adopted the following guidelines regarding invitations to and visits by treaty body experts:

1. If an invitation to visit a reporting State party is sent by the Government concerned to treaty body experts through the secretariat, the invitation will be delivered promptly to its addressees. However, all treaty bodies should be informed that normally, the secretariat will not be involved in the preparation of the visit, nor in its conduct, and that no administrative nor financial support will be made available for it. This will be applied, in particular, when visits take place before the consideration by the treaty body of the State party's report. OHCHR may agree to provide support when the invitation to visit the country is made after the consideration of the report and when it is directed to following up on treaty body recommendations.
2. The treaty body experts invited are encouraged to seek the agreement of their colleagues on the purpose and the usefulness of the visit and to report in writing to them after the visit. It

would be advisable to disclose whether expenses were covered by the country (or by an NGO), and whether an honorarium was paid in relation to any lecture, conference, etc., related to the visit.

3. If an invitation to visit the country of a reporting State party is sent to treaty body experts by NGOs, those experts are encouraged to inform the Government of that State party accordingly.

4. In all cases of invitation to visit a country of a reporting State party before its report is considered by the treaty body concerned, visiting experts are advised to refrain from press conferences and media relations so as not to run the risk of pre-empting the result of the consideration of the State party's report.
