*Unofficial translation*

**Position of the Russian Federation regarding the review
of the implementation of provisions of UN GA Resolutions 68/268
on Strengthening and Enhancing the Effective Functioning
of the Human Rights Treaty Body System**

**1. The functioning of the treaty body system: its efficiency, effectiveness, strengths and weaknesses; suggestions for its further improvement; 2. Implementation of UNGA resolution 68/268 and views on biennial report of the UN Secretary-General on the status of the treaty body system**

The Russian Federation attaches great importance to the effective functioning of the human rights treaty body system. We believe that the main goal of human rights treaty bodies is to assist States in implementing their treaty obligations, and that the efficiency of treaty bodies depends on the strict adherence by Committees to the mandates granted by States, as well as on their readiness to conduct an open and constructive dialogue, based on mutual respect, with State Parties to relevant international treaties.

The main pillars of a functional and efficient treaty-bodies system are the preservation of the independence and impartiality of expert members of the human rights treaty-bodies, the non-interference with their mandate, the principle of genuine cooperation and dialogue with States parties, and the provision of necessary support by the secretariat, along with the full respect of States parties Member States of their legal obligations under the International Human Rights Treaties to which they are party including to periodically submit relevant reports.

Russia believes that the review of the implementation of UN GA Resolution 68/268 should not become a full-scale reform of the work of human rights treaty bodies. We are convinced that the said resolution is a sufficient basis for further enhancing human rights treaty bodies’ effectiveness, especially taking into account the fact that many of its provisions are still not fully implemented.

The main shortcomings in the implementation of 68/268 are the following.

Paragraph 6 which requires that human rights treaty bodies prepare shorter and more targeted concluding observations and recommendations following the review of national periodic reports so that subsequent documents could be more focused and concrete remains unimplemented. The practice of the Committees duplicating each other’s mandates and interfering with each other’s responsibilities when formulating concluding observations remains widespread.

Some human rights treaty bodies have taken necessary steps to implement paragraph 7 of 68/268 and have included separate items for consultations in the work programmes for their meetings with States Parties. Unfortunately, no full-fledged discussion has yet taken place, including due to the lack of the involvement of the Committees themselves.

TBs should be more careful in implementing paragraph 16 of 68/268 which establishes limits not only on the volume of national reports, but also calls upon the Committees to set limits on the number of questions posed. While States are subject to strict control aimed at preventing them from exceeding the established limits when providing information, the number of questions from experts and the degree of detail thereof still remain almost unlimited. At the same time, the amount of information sent to the human rights treaty bodies by non-governmental organizations (alternative reports) is also unlimited. The Russian Federation assumes that the limits established in paragraph 16 of 68/268 should apply equally to all participants in the dialogue. The establishment of equal limits on written information in human rights treaty bodies undoubtedly requires adjustment of modalities, algorithms and time allocation during the consideration of national reports. Unclear time limits on speeches and the number of questions posed by the Committees’ experts lead in practice to the situation when States are given insufficient time for responses.

The implementation by the Committees of fundamental paragraphs 26 and 27 of 68/268 aimed at addressing the remaining backlog of the human rights treaty bodies in reviewing national reports is a matter of serious concern. Despite additional financial and human resources allocated to the treaty bodies and an increase in the number of annual sessions. CAT, for example. In 2011-2012 (before the adoption of 68/268), 16 national reports were reviewed by CAT at two sessions per year. Statistics for 2018-2019: the same 16 national reports at three sessions per year. The conclusion is clear: the number of sessions of the Committees increased, but their time was spent inappropriately.

The issue of the respect for the principle of multilingualism in the work of treaty bodies remains acute. According to 68/268, the interaction of a State Party with the treaty bodies should be carried out without prejudice in any of the six official languages of the UN. Limitations regarding the use by the Committees of only three official languages established in paragraph 30 of UN GA Resolution 68/268 have proven to exert negative impact both on the quality of discussions within the Committees and on their communication with States Parties and other stakeholders, including civil society representatives. In this regard, we welcome relevant adjustments to the implementation of paragraph 30 of 68/268 introduced during the seventy-fourth session of the UN General Assembly which provide for the use of four official working languages by the Committees in their work, as well as the possibility to include a fifth language upon the request of the State concerned. Nevertheless, the Russian Federation continues to believe that it is necessary to “restore the rights” of all the six UN official languages in the work of human rights treaty bodies, and they should be used by the Committees’ members not only when reviewing periodic reports during sessions, but also in correspondence with States Parties. We suggest that this proposal should be included as a recommendation in the final report of the co-facilitators.

It is important to emphasize separately paragraph 9, according to which the activities of the human rights treaty bodies, including measures for strengthening and enhancing efficiency, “should fall under the provisions of the respective treaties, thus not creating new obligations for States Parties”. The need for such a step stems from the Committees' continuing practice of independently reviewing the provisions of international instruments in order to broaden the range of States' obligations. This usually takes place through the elaboration and adoption of general comments designed to enshrine a certain kind of interpretation of international human rights norms posing it as universal and to promote controversial human rights concepts which lack universal support. Not only does such an approach contradict international law and complicate the development of a constructive dialogue between States and human rights treaty bodies, but it also violates paragraph 9 of 68/268.

The Russian Federation believes that general comments represent only the opinion of the human rights treaty bodies’ experts and, therefore, cannot impose any obligations on States in addition to those which were undertaken by the latter when ratifying or acceding to respective international treaties, unless the State voluntarily so declares. We regret that States Parties were not involved in the consultation process of the human rights treaty bodies concerning the elaboration of general comments as envisaged in paragraph 14 of 68/268. Paragraph 14 clearly states the need to “provide for consultation with States Parties in particular” regarding this issue.

 As for the recent Secretary General report, Russia does not concur with many of its conclusions and recommendations and believes that some of them goes beyond the competence of the UN Secretariat. On a whole, Russia considers practice to take subtotals every two years as a good one. Nevertheless, it would still seem to us the best practice to conduct discussions during the meeting of States Parties. It is at such sites that one can and should substantively discuss the functioning of each individual Committee.

**3. Good practices and methodologies in relation to** **working methods and procedural matters, including harmonization and alignment of working methods**

The most important in discussing and examining of the working methods and procedural matters of the TBs is to remain within the legal competences of UN GA and not interfere in TBs’ substantial activity. UN GA should not impose any decisions on working methods etc. on TBs. TBs themselves determine their working methods based on their mandate. These issues are to be discussed at the meetings of States Parties.

The working methods cannot be identical as their nature and legal basis differ greatly. In all matters regarding the reporting process, the specific provisions of the relevant treaty must be observed.

**4. Coordination and predictability in review cycles and reporting**

The GA previously declined a proposal by OHCHR on a global calendar, which was not included in resolution 68/268 because of the extra expenses it entailed, uncertainties about its practicality, and the extra burden on Members States as well as unnecessary pressure on the States that cannot comply with their reporting obligations within that global calendar. The reporting schedule, referred to in the Resolution, already exists for each Committee. If compiled and harmonized, the schedules allow for predictability and coordination among the treaty-bodies taking into account, inter alia, the differing obligations of the State parties under the respective treaties, the overall human rights obligations of each State, and the increasing frequency of civil society participation in the reporting process. However, the current COVIUD crisis has proved futility of the long-term planning. In this regard it would be practical to do such planning for a mid-term period – two years e.g.

**5. Current reporting system, including common core document, and ways to further improve and simplify reporting for States parties whilst ensuring the substantive quality of the national reports**

It is important to work to achieve a clear and regularized schedule for reporting by the States parties. The submission of a combined report by a State party instead of two or more periodic reports, albeit an exceptional measure, has reduced the level of reports outstanding; and, in some cases, reduced backlogs. More often than not, recent developments are addressed at the time of consideration of the report before a committee. To avoid the duplication of efforts and discussions, as well as unnecessary pressure on limited resources, the reporting periods should be calculated from the date of consideration of the State party’s report instead of attempting to amend the reporting period prescribed in each treaty through a GA resolution.

The proposal to carry out the review in the absence of a report by the State has no legal basis and would be detrimental to future engagement between the State and the treaty body. Rather, treaty bodies should engage State Parties in a constructive and result-oriented dialogue. The use of costly digital aids in this regard does not seem to be indispensable.

The common core document should remain optional for States parties, but could be useful so long that it does not represent an extra reporting burden on the States parties, nor duplicate information provided in the treaty-specific documents indispensable for the work of each committee.

The limit on the number of words in other UN documentation should not impinge on the quality of the treaty-bodies work. The limitation on “ ... all State Party documentation submitted to human rights treaty ...”, has to be applied with more flexibility and to all interested stakeholders, including NGOs, shadow reports, questions and concluding observations by Treaty-Bodies. As with the word limit on UN documentation, the savings from any limits have to be allocated for more meeting time to overcome backlogs, and/or the increasing committee work resulting from increasing number of ratifications, rather than being reallocated to other non-mandated activities of the Committee or the consideration of documentations not related to the State report or to the UN relevant documents.

Approaches of the human rights treaty bodies to the implementation of paragraph 2 of the Resolution which is addressed to States and dedicated to the adoption of the simplified reporting procedure raise concerns. We note an unreasonably coercive behavior of a number of Committees, in particular, the Human Rights Committee, aimed at forcefully and unilaterally introducing the alternative simplified procedure for reporting on States’ compliance with their international obligations in a form of replies to a list of questions. The Russian Federation considers that the simplified procedure is a voluntary alternative reporting format within the human rights treaty bodies system rather than an obligation, and each State Party decides on the reporting format itself.

**6. Dialogue between States and treaty bodies both in preparation for and during States reviews as well as in follow-up to the review**

 An aligned methodology for dialogue between a human rights treaty body and a State party should be strictly based in the specific mandate of each treaty body. Meeting time for dialogue with a State party has to be allocated in such a manner as to ensure a more interactive and more productive dialogue.

Additional informal sessions, in different formats, with the States parties could also be useful to promote deeper understanding of the challenges.

**7. Assessment of the concluding observations and recommendations**

TBs at present have not fully implemented paragraph 6 of 68/268 which requires that human rights treaty bodies prepare shorter and more targeted concluding observations and recommendations following the review of national periodic reports so that subsequent documents could be more focused and concrete. The practice of the Committees duplicating each other’s mandates and interfering with each other’s responsibilities when formulating concluding observations remains widespread.

Concluding Observations of each TB should reflect accurately the inter-active dialogue with the State parties “bearing in mind the specificity of the respective committees and of their mandates, as well as the views of States parties” in accordance with operative paragraph 6 of 68/268.

 In drafting their Concluding Observations the TBs should also respect the rules of interpretation of Human rights treaties codified in the 1969 Vienna Convention on the Law of Treaties, in particular arts. 31 and 32. Treaty bodies are not judicial organs their members are not necessarily jurists and their procedures differ greatly from judicial proceedings. It appears necessary to find ways to ensure the consistency of treaty bodies’ outcomes with general international law and, in particular, with treaty law.

The Holy See is also concerned by what appears to be the increasing role of OHCHR staff in legal analysis and in the preparation of the committees’ recommendations (A/73/309, paragraphs 61-69). Those functions are the purview of the treaty bodies’ experts.

**8. Strengthening the engagement with civil society and other relevant stakeholders**

It is indispensable to ensure the independence of treaty bodies and their opportunity to communicate with different civil society groups and NGOs.

Limitations regarding the use by the Committees of only three official languages established in paragraph 30 of 68/268 have proven to exert negative impact both on the quality of discussions within the Committees and civil society representatives, who are not supposed to speak English, French or Spanish. For example, Russian speaking NGOs experience recent year significant difficulties in communicating with TBs. It is necessary to “restore the rights” of all the six UN official languages in the work of human rights treaty bodies, and they should be used by the Committees’ members not only when reviewing periodic reports during sessions, but also in communications with civil society and other stakeholders.

**9. The capacity-building programme, experiences and impact, in terms of reporting and in terms of national implementation of recommendations**

The resolution 68/268 underlined the need to further support States parties by providing funding to the provision of technical assistance. This provision requires a better allocation of the financial resources of the OHCHR to help the state parties to build sustainable capacity for the preparation of their reports to human rights treaty bodies.

Therefore, efforts on capacity-building for State parties that opt for it should be prioritized. Such efforts should focus on enhancing the reporting capacity of State parties upon their request. The capacity to fulfill human rights treaty obligations is a much broader issue that lies beyond the scope of the review mandated by resolution 68/268. Separate funding has to be sought in this regard.

**11. Opportunity of reviews in countries or in regions**

We do not support such a proposal. We do not see a relevance of such meetings, if only for tourism. Moreover, it will further increase TBs expenses. If TBs want to “be closer” to NGO it is better to improve access to Geneva and provide an interpretation for all six UN languages.

**12. Preserve and strengthen the independence and impartiality of treaty body members and ensure diversity in terms of gender, geography, background, expertise, representation of different forms of civilization and principal legal systems, as well as the participation of persons with disabilities**

This issue is already enshrined in relevant human rights treaties. Any changes in that would mean opening up the treaty itself.

It is crucial that experts nominated have high moral standing, and recognized competence and experience in human rights, particularly in areas that fall under the mandate of each treaty-body, as mentioned in paragraph 10 of 68/268, and—above all—as stipulated in the respective treaties. The nomination and election of treaty-body members remains the sovereign prerogative of States Parties. In this regard the neutrality of the secretariat in preparing information concerning the election of the human rights treaty bodies should be preserved and encouraged.

**13. Enhancement of the coordinating role of treaty bodies Chairpersons**

The role of the chairpersons of the human rights treaty-bodies should continue to facilitate coordination and harmonization of the organizational work, strictly within its technical scope and the mandate of each treaty-body. Suggestions by the chairs have to be approved by each treaty-body, in accordance with its respective rules of procedure. Timings, durations and venues of the chairs’ meetings have to be determined with a view to rationalizing expenses and avoiding unnecessary costs. Other initiatives by chairpersons of the human rights treaty body non-related to the methods of work and organizational matters often lead to an increase in the workload and the expenditures of the treaty body and shall, therefore, be avoided.

**14. Overall coherence of the treaty body system and the collaboration among treaty bodies as well as within the UN system and with regional monitoring bodies**

The issue of coherence and collaboration between Tbs and UN system is not a subject of the review of 68/268. This item can be discussed at the meetings of States Parties of relevant treaties. The nature and legal basis of treaty bodies differ greatly from those of the UN Charter bodies as well as from those of regional and local human rights bodies. It appears difficult to envision how treaty bodies might engage with such mechanisms without compromising the specificity of their legal mandates.

**15. Funding of the treaty body system and ensuring that treaty bodies have an adequate allocation of financial and human resources for all their mandated activities**

Given the UN existing financial situation, the optimization of resources for the treaty-bodies should not mean extra expenses. A better management of available resources at by the TBs themselves and by the Secretariat will lead to such optimization.

Practical solutions are welcomed to the extent that they focus on the mandated activities of the treaty-bodies, and do not alter the distinct function, uniqueness and the particularity of each of the treaty-bodies, not only as underlined by 68/268, but—above all—as prescribed in the respective human rights treaties.

Indeed, there is a financial formula in p.28 of 68/268. We supported her because we saw the need for adequate funding and staffing. But it must be recalled that additional resources were allocated for specific purposes and the specific work of subsidiaries, mainly to deal with a backlog in consideration of Sates reports. TBs were given already additional time and resources for that. Unfortunately, most of them misused those resources mostly for self-imposed unmandated activities which some of TBs chairs admit at the recent tech briefing on 4 June. We do not understand how is such approach helping to achieve the goals of 68/268. And we do not understand that OHCHR, who also has its role in 68/268 implementation, supports such an approach. Russia believes that TBs were given already enough additional resources to comply with situation, including the rise in individual complaints. And if TBs and the OHCHR approach responsively to their distribution and use there won’t be any need in further increase.

It must be emphasized that Russia immediately began to signal this to the committees during the meetings of the participating states and briefings with the participation of experts from the TBs. But our comments were left without reaction. In such a situation, when there is a misuse of funds, we proceed from the need not to apply the formulas from 68/268 automatically. Simply saying, we believe that TBs and OHCHR should try to strengthen further its existing resources as for servicing TBs, including by increasing performance with regard its role of initial filtration instance for individual communications.

**16. Current system of processing individual communications, inter-State communications and urgent actions: its efficiency, effectiveness, strengths and weaknesses; suggestions for its further improvement**

The individual complaints procedure in TBs works with difficulties because of lack of efficiency in selection of complaint on the criteria of admissibility by Secretariat. The procedure is highly politicized: admissibility criteria are not met.

Russian national experience shows that clearly inadmissible communications easily pass through the OHCHR staff and being approved for further communications with States-parties. By the end such communications are being found inadmissible anyway, but only after significant time and human resources are already spent for its processing. This consumes a lot of the time and resources of the TBs secretariat.The secretariat was assigned an unnatural for it role in the selection of complaints. The selection procedure itself is not transparent and is carried out by the special rapporteur on new complaints based on proposals prepared by the secretariat, although all this should be done collectively by all committee experts.

The complaints selection and process must be transparent, carried out collectively by experts, not by Secretariat. And the admissibility criteria must be fully respected.

**17.** **Accessibility for persons with disabilities and wider accessibility and visibility of the work of the treaty bodies**

The issue of accessibility for persons with disabilities is not an issue for the review but rather an issue for the functioning of the UN system as a whole. UN should elaborate and introduce unified standards and modalities for convening meetings and publication of information to ensure the access for persons with disabilities.

**18. Efficient and effective use of the meetings of States parties**

To fulfill paragraph 7 of 68/268, the Russian Federation each year takes concrete steps aimed at using such meetings not only for electing new experts to the Committees, but also for discussing the human rights treaty bodies’ working methods in order to increase the level of trust between the Committees and States Parties, to improve the situation in the countries as regards the implementation of obligations under international treaties and the work of the monitoring mechanisms themselves.

We note that some human rights treaty bodies have taken necessary steps to implement paragraph 7 of 68/268 and have included separate items for consultations in the work programmes for their meetings with States Parties. Unfortunately, no full-fledged discussion has yet taken place, including due to the lack of the involvement of the Committees themselves, although paragraph 39 of the Resolution calls on human rights treaty bodies to do so. It seems that a possible way out of the situation is to include a mandatory additional item on the follow-up to 68/268 on the agenda of all meetings of States Parties. We suggest that this proposal should be included as a recommendation in the final report of co-facilitators.

**The Role of the Secretariats of Treaty-Bodies and the Human Rights Treaty Section**

The role of each secretariat is to provide support for the respective treaty-body it is assigned to, in order to help it fulfill its mandate under the treaty establishing it while avoiding any substantive interference in the treaty-body functions. The OHCHR has the administrative responsibility to assign personnel and coordinate among the different secretariats of the treaty-bodies.

In doing so, the Human Rights Treaty Section and the secretariats of the treaty-bodies have to comply with paragraph 35 of 68/268 which stipulates that: “[the Assembly] underlines the importance of all stakeholders of the treaty-body system, as well as the Secretariat, respecting fully the independence of treaty-body members and the importance of avoiding any act that would interfere with the exercise of their functions;"

Since the adoption of resolution 68/268, considerable financial resources have been consistently allocated to the OHCHR and the secretariats of the treaty-bodies in order to provide better support for treaty-bodies, not only in reviewing the States parties’ periodic reports, but also in overcoming backlogs of reports pending consideration, and, when mandated and with the consent of State Party, in conducting field visits. In this context, the OHCHR has the duty to maximize the performance of the secretariats of the treaty-bodies through an efficient management within existing resources.

The secretariats of the treaty-bodies have an important function to fulfill in the preparation of accurate schedule of meetings and programs of work for consideration and approval by the treaty-bodies, and in making available copies of States parties reports with all attachments and appendices, civil society reports, relevant material from UN organs and specialized agencies, country briefs and analyses as well as other credible material which are crucial for the conduct of a constructive dialogue with the State party delegation, hence allowing for the adoption of accurate and concise concluding observations with viable and concrete recommendations.

Members of the secretariats should be carefully selected. While respecting equitable geographic representation, the different forms of civilization and the principal legal systems, and a balanced gender representation, they must be of high moral standard, sincerely committed to human rights, ready to work under the guidance of the treaty-bodies, and duly respecting the independence of all these bodies.