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The Permanent Mission of the United States of America to the Office of the United Nations and other international organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR).

The United States thanks OHCHR for leading a process of extensive consultations on measures to strengthen the treaty body system. The United States appreciates OHCHR's ongoing multi-stakeholder consultations, including OHCHR's extensive efforts to engage States Parties to the human rights treaties (the "States Parties"), treaty body experts, national human rights institutions, and civil society. The comprehensiveness and thoroughness of this process is essential to its success. Given OHCHR's broad perspective and expertise built on working with all of the human rights treaty bodies, the United States believes that OHCHR is uniquely positioned to conduct this work. While ultimately decisions on the strengthening of the treaty body system are a matter for States Parties to decide, it is important that OHCHR's work inform such deliberations. The United States looks forward to engaging with OHCHR and other States Parties during the forthcoming consultations in Geneva and New York. It is crucial that all States Parties have the opportunity to participate in the OHCHR process, so the United States welcomes the breadth of OHCHR's consultations, and in particular the fact that OHCHR's efforts are being conducted in both Geneva and New York to ensure the greatest possible participation. This includes those States without representation in Geneva. The United States also welcomes OHCHR's efforts to make available through the internet comments by States Parties. Such broad

consultations will ensure that the OHCHR process will have the necessary level of inclusiveness.

The United States believes that treaty bodies play a critical role in reviewing States Parties' implementation of their human rights obligations, and supports ongoing efforts to strengthen their work.

This Note is in response to the High Commissioner's November 14, 2011 request to Permanent Representatives in Geneva to provide "suggestions to enhance the efficiency, effectiveness and impact of the treaty body system."

At this time, before getting into the specifics of the non-exhaustive list of proposals OHCHR has provided, the United States wanted to provide some general comments for stakeholders to consider as this process moves forward.

The United States Government's suggestions are as follows:

### **Strengthening the Existing Treaty Framework**

It bears emphasizing that the discussion of strengthening the treaty bodies and enhancing their effectiveness must take into account the framework that is set forth in the treaties themselves. In negotiating the treaties and through their ratification, States vested the treaty bodies with certain enumerated functions. It is important to bear this in mind when reviewing the various proposals to ensure that all are cognizant of when a recommendation would alter the existing framework, and possibly require consideration of an amendment to a treaty. For example, pursuant to the treaties, treaty bodies are assigned responsibility for establishing their own rules of procedure, thereby recognizing the independence of the treaty bodies. In light of the cumbersome process for amending

multilateral treaties, in the view of the United States, discussion of proposals requiring treaty amendments should be avoided.

### **Qualifications and Independence of Experts**

The United States takes the process of nominating and electing qualified and independent experts to applicable treaty bodies as a privilege and serious responsibility. In the last two years, the United States conducted rigorous vetting processes to be able to nominate highly qualified candidates to the Human Rights Committee, the Committee Against Torture, and the Committee on the Elimination of Racial Discrimination.

Once candidates have been nominated by States Parties, and before elections, the United States would welcome additional voluntary transparent mechanisms for interested civil society organizations, national human rights institutions, and academic experts to be able to provide input and analysis on candidates. It remains the prerogative and duty of individual States Parties to nominate and vote for those candidates they feel are best qualified, but outside actors can play an important role in helping to provide increased transparency, information, and recommendations to States Parties.

The United States strongly believes that candidates should be independent, and should therefore not be employed or directly affiliated with any government at the time of their candidacy or while serving on a treaty body, and also have strong substantive and legal background in the treaty subject area.

## **Core Competencies**

Given the serious backlog of reports, the United States believes it is increasingly important for treaty bodies to focus on their core function of considering States Parties' reports, and, as mandated, individual communications.

The Secretary General estimates that 19 per cent of treaty body meeting time was used for activities other than considering States Parties' reports and individual communications. The United States would appreciate a more detailed breakdown of how this percentage was calculated, a better sense of what time and resources are devoted outside of formal sessions, and how this may vary for each individual treaty body. While the United States notes that some of this time was used by the treaty bodies to discuss improvement and harmonization of their working methods, it also included time for the elaboration of general comments or recommendations, days of general discussion, informal meetings with States Parties, inquiries, etc.

Recognizing the profound budgetary implications associated with increasing the amount of meeting time to reduce the backlog in reviewing States Parties' reports alone, not to mention costs associated with any proposals for work in new areas not contemplated by the treaties, the United States would welcome proposals that encourage and allow for the treaty bodies to increase the percentage of time spent working on responding to States Parties' reports and individual communications, and reduce the amount of time spent on other activities.

## **More Focused Exchange of Views**

The United States is in favor of exploring ways to encourage a more focused exchange of information at all stages of the reporting process, including the development of the report, the hearing and the concluding recommendations. The United States is interested in exploring whether use of the List of Issues Prior to Reporting as has been utilized by the Committee Against Torture and the Human Rights Committee has resulted in more targeted reporting and constructive dialogue on significant issues related to treaty implementation. The United States would also welcome improved time management practices during the sessions that encourage a more focused exchange of views between the treaty body members and the representatives of the States Parties. Additionally, the United States anticipates more limited and targeted conclusions and recommendations would result in further efficiencies throughout the process.

## **Transparency/Digital Video Teleconferencing**

The United States believes that the proposals that would make use of the latest technologies deserve further discussion. The United States believes it would be worthwhile for OHCHR to work with treaty body experts to offer, as a pilot program, to conduct a limited number of reviews through digital video teleconferencing.

Reviews and discussions of State Party reports could also be webcast. This would allow for greater transparency and contribute to the quality of reporting.

The United States would encourage OHCHR to explore launching a pilot program in this area within existing resources.

## **Additional Efficiencies and Budgetary Implications**

As the various proposals are discussed in more depth, and ways to strengthen the treaty body system are looked for, the United States believes it would be useful to better understand the budgetary implications of each proposal. The United States therefore encourages OHCHR to provide potential budgetary implications for each of the proposals, and also indicate which proposals may be implemented without additional resources.

For example, in the Secretary General's September 2011 report, in paragraph 25, he notes a shortfall of a minimum of 47 weeks to process the serious backlog of reports. Given that, according to OHCHR, treaty bodies met for 73 weeks in 2011, the United States would like to know if 47 weeks would still be required to process the backlog. The Secretary General estimates, in paragraph 32, an additional cost of \$630,000 per week, at minimum, plus \$68,000 to pay for travel costs of 18 experts. Both of the Secretary General's proposals would therefore require significant additional budgetary resources. For example, the Secretary General's proposal to allocate meeting time according to the actual backlog of reports pending and projections of reporting rates would therefore require, from initial estimates, additional budgetary resources of more than \$29 million (47 weeks x \$630,000 per week) to address the backlog of reports. This type of budgetary information would be useful to help evaluate how to move forward in an effective, cost-efficient way.

The Secretary General's report also notes that the review of each State Party report currently takes on average two full days, and therefore bases its proposals on 2.5 reports per week for all treaty bodies. The United States would

like a better understanding of how this figure was calculated, and whether the rate of review varies for each treaty body. The United States would also appreciate understanding, from a budgetary perspective, the full cost implications of proposals to review three to five reports per week, noting the logistical and substantive difficulties involved. The United States understands that this may increase the cost per week due to additional translation, interpretation, salaries, etc., and would require consideration of further ways to streamline the reporting and make more efficient use of the hearings, as noted above. However, such an approach would reduce the number of weeks required to reduce the backlog of States Parties' reports, and should therefore reduce overall budgetary impact, while at the same time encouraging a more focused exchange of views.

In the view of the United States, throughout the discussion of the range of proposals, detailed budgetary analysis would help to better inform the discussions. The United States looks forward to OHCHR's helpful analysis in this regard.

The Permanent Mission of the United States avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

The Permanent Mission of the  
United States of America,

Geneva, February 2, 2012.

