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Chairperson: Ms. Majodina

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The meeting was called to order at 3.10 p.m.

Organizational and other matters, including the report of the working group on individual communications

Strengthening of the treaty body system

1. **The Chairperson** invited Mr. Salama (Director of the Human Rights Treaties Division of the United Nations Office of the High Commissioner for Human Rights) to inform the Committee of progress made toward the strengthening of the United Nations treaty body system and the results of the latest consultations on the matter.
2. **Mr. Salama** (Director of the Human Rights Treaties Division) said that two important meetings had been held with the States parties to international human rights instruments. The first had taken place on 12 and 13 May in Sion (Switzerland), under the joint auspices of the treaty body chairpersons and the High Commissioner for Human Rights, as an earnest sign of their commitment to the process of strengthening the treaty body system. It had been the first such meeting with the States parties on the matter. The States parties and chairpersons of the treaty bodies had also met in June 2011 to look into ways of improving procedures for the submission and consideration of reports, and for follow-up on the implementation of recommendations. Consultations with NGOs had also taken place in Seoul on 19 and 20 April and in Pretoria on 20 and 21 June.
3. Several lessons had been learned from the meetings with the States parties. Neither as a group nor individually did they have a clear vision of how to confront the crisis affecting the treaty body system. Nevertheless, they had made proposals and proffered criticisms, particularly regarding the amount of attention paid to their written and oral replies and the relevance of the questions they were asked. The States parties had also made more controversial criticisms, in particular calling into question the legitimacy of general comments and follow-up activities. France had made the most interesting proposal, suggesting that the procedure for considering communications should be standardized in the interests of more consistent jurisprudence. Communications would be considered by a joint working group, which would draft a more or less definitive version of its findings for approval by the treaty bodies concerned. One proposal by NGOs that would be given consideration was the establishment of a master calendar in which the dates for the consideration of reports submitted to the various treaty bodies by the States parties would be set in advance, along the lines of the universal periodic review. The High Commissioner, however, had recalled that the treaty bodies and OHCHR already had trouble coping with their workload at a time when less than one third of States parties submitted their reports on time.
4. Two further consultative meetings would be held in Lucerne (Switzerland) in October 2011, one with academics who were not members of treaty bodies and who could bring a fresh approach to the current workings of the system, the other with United Nations organizations, which played a crucial role in following up the implementation of recommendations made by the treaty bodies. A meeting would also be organized to address the issue of communications, on which the only proposal made to date had come from France. The proposals that emerged from those consultations and other events organized in the framework of strengthening the treaty body system would be summed up in a report to be made available on the OHCHR website and of which a draft had been distributed to members of the Committee, with a view to promoting transparency and encouraging all stakeholders to contribute to the process. Committee members were invited to acquaint themselves with that list and add their own proposals. Even if no groundbreaking proposal emerged, it should be possible to achieve the goal of a sustainable and efficient system by resolutely pursuing a coherent set of achievable measures.

5. The twenty-third meeting of the chairpersons of the human rights treaty bodies, held in Geneva on 30 June and 1 July 2011, had adopted the following four main recommendations: to create a thematic working group to establish criteria for the expertise and the independence of members of the treaty bodies; to strengthen the role of the chairpersons in the harmonization process and enable them to adopt measures applicable to all the treaty bodies, subject to consultation with members of their respective bodies and on the understanding that each body would retain the right to dissociate itself from such decisions; to abolish the inter-committee meeting in its current form and replace it with special thematic working groups in order to avoid overlaps with the chairpersons' meeting and to facilitate the speedy implementation of decisions; and to hold every second chairpersons' meeting away from Geneva in order to strengthen ties with regional and local mechanisms and stakeholders. The treaty body chairpersons had also attended a working lunch with the High Commissioner, at which it had been recalled that OHCHR and the treaty bodies were fighting for a common cause and that they had to support each other. In particular, the treaty body chairpersons had stated that they were prepared to support the OHCHR annual report if, in turn, it did not limit itself to proposing only increasingly ambitious goals and specific measures, but also a convincing vision of the way forward. The High Commissioner had indicated that she would keep the treaty bodies informed of progress on the report so that they were not caught short at the time of its publication. With that in mind, the dialogue between OHCHR and the treaty bodies should continue in a climate of openness and trust.

6. **The Chairperson** thanked Mr. Salama and invited members of the Committee to ask him further questions.

7. **Mr. Flinterman** said that the weekly bulletins and other documents regularly sent to members of the treaty bodies by the Treaties Branch served as a reminder that those bodies were part of a broader structure that rested on two pillars: the political bodies of the United Nations working in the field of human rights; and the bodies of experts, of which the Human Rights Committee was one. The bulletins also highlighted the essential role played by the High Commissioner and OHCHR in facilitating the work of the various bodies and carrying out the mandate conferred upon them by the General Assembly in resolution 48/141 of 20 December 1993. Together, those bodies made up a system that was not an end in itself, but aimed to strengthen the protection and promotion of human rights at the national level.

8. As Mr. Salama had pointed out, numerous small-scale proposals had been made, which, put together, could help to make the human rights system less labyrinthine for outsiders and also more efficient thanks to greater coordination and harmonization among the treaty bodies. The establishment of a master calendar for the consideration of reports submitted by States parties could have a major impact on the Committee's working methods because of the increased number of reports it would need to consider each year. The constructive dialogue currently sought by the Committee might have to be replaced by a written consideration of the reports, as was the practice at the International Labour Organization, or by contact missions in the countries concerned, depending on the issues that arose in each case. The proposal by France to standardize the procedures for consideration of communications by the nine bodies concerned was also interesting, as it would help ensure that jurisprudence was consistent and forward-looking. They were important proposals that warranted detailed consideration with a view to the long term.

9. **Ms. Motoc** said that she wondered about practical steps that could be taken to reform the treaty body system and that still had not been defined after years of deliberations. Inter-committee meetings had produced no concrete results for some time. Given the lack of resources, it would be a good idea to replace those meetings with informal dialogues, which were often more fruitful. The proposal to standardize the

procedures for the consideration of communications seemed unrealistic. The specific nature of each body, in terms of its history and working methods, would hinder the implementation of such an idea, although inspiration could doubtless be drawn from the best practice of each body.

10. That the Human Rights Committee received fewer reports than other treaty bodies might be attributable to the intimidation felt by States parties when dealing with a body with an outstanding reputation where matters of law are concerned. In that context, the Committee ought to continue to boost its dialogue with civil society in order to keep up to date on the situation in any given country. Moreover, lack of resources led to delays in the consideration of communications, which sometimes went on for years, for all that the Committee rightly condemned such delays in the legal proceedings of States parties. There were therefore specific problems that could not necessarily be resolved through the harmonization of the treaty body system.

11. Strengthening the role of treaty body chairpersons was a good idea and she would like to learn more about how they could better support the work of the High Commissioner for Human Rights. Equally interesting was the idea of setting up a thematic working group to establish the criteria for the expertise and the independence of members of the treaty bodies. Such criteria could be based on those already proposed by the NGOs and those established in other organizations, such as the Council of Europe, and be applied to members of treaty bodies and special procedures mandate holders alike.

12. **Mr. Fathalla** observed that it was too early to worry about harmonizing the treaty body system when a major effort was required within the Human Rights Committee, in particular to make up the considerable backlog in the consideration of reports and communications.

13. **Mr. Thelin** said that, as far as complaint procedures were concerned, the aim of reform proposals should be less about making savings than ensuring consistency in the treaty bodies' jurisprudence. It would be interesting to see how the proposal to set up an inter-committee working group to consider communications would be received. That States wished to reduce what they saw as overlap among the treaty bodies and to rationalize the use of resources allocated to them was understandable. The system was in a state of crisis and it was the duty of each of the treaty bodies to examine its own practices and those of the others so as to identify possible synergies. But the fact remained that the treaty bodies were inadequately funded, preventing them from fulfilling their mandates as efficiently as they would wish. The report of the Sion meeting was highly instructive in that respect. It revealed, for instance, that only 10 per cent of the total OHCHR budget went to the treaty body secretariats. The Chairperson of the Committee against Torture, Mr. Grossman, had suggested in that report that a comparative study should be made of the resources allocated to the Human Rights Council and those allocated to the treaty bodies. It would indeed be very interesting to have those figures. It would be just as interesting to learn whether, since its establishment in 1993, OHCHR had maintained a constant level of funding for the treaty bodies secretariat or whether it had fallen over the years. It would also appear that, prior to the establishment of OHCHR, more ample resources had been available to the treaty bodies than was currently the case; not that OHCHR was to blame for the current difficulties, but to the extent that the personnel and material resources required by the treaty bodies in order to carry out their tasks were supposed to be made available through OHCHR, it begged the question as to how much treaty body servicing had suffered from competition from other activities assigned higher priority by OHCHR. He appreciated the efforts of OHCHR to rationalize the system, but it was very important not to lose sight of the need for resources if treaty bodies were to keep working effectively. Regrettably the matter seemed not to have been addressed at all at the last meeting of chairpersons.

14. **Ms. Chanet** said that the conclusion to be drawn from the various plans to reform the treaty body system over the previous 20 years was that bureaucratic and ideological approaches were bound to fail, as had the plan to establish a single body, and that the focus should, rather, be on pragmatic approaches based on the committees' expertise and practice. The decision to abolish inter-committee meetings was an excellent one. They had produced meagre results and the resources devoted to them would be more useful elsewhere. Each treaty body had its own structure, arrangements and mandate peculiar to the instrument for which it had been established. Therefore, while harmonization was possible in certain areas, it had its limits. The Human Rights Committee had done a great deal to improve its working methods, particularly with regard to the procedure for the consideration of reports.

15. **Mr. Salama** (Director of the Human Rights Treaties Division) observed that certain States felt that committees should not issue general comments. However, the numerous comments the Committee had received from States parties on the subject of its planned general comment on article 19 had demonstrated the considerable interest that many of them had in that aspect of the Committee's work. The fact that the Committee's general comments were widely cited in academic and legal documents was a further demonstration of their usefulness. A pioneer in that area as well, the Human Rights Committee had been emulated by other treaty bodies. Consideration should be given to ways of harmonizing the structure of general comments.

16. **Ms. Chanet** said that it was absurd to think that a single working group could be made responsible for considering communications addressed to the various treaty bodies that had a complaints procedure. She did not, however, oppose attempts to standardize the more efficient procedures. The backlog in communications was undoubtedly a problem, but efforts to improve the situation should not be limited to that single aspect. Much needed to be done to foster interaction with national and international jurisdictions and to ensure that the Committee's decisions were made more widely disseminated. It was most unfortunate that the High Commissioner's planned reforms took none of that into account.

17. **Mr. Lallah** said that criticism of the Committee was often without foundation and resulted from ignorance of what it does. Committee members, for instance, had been criticized for taking the floor time after time to repeat the same questions. That might suggest that the same question was being asked over and over when, in fact, each question approached the issue from a different angle, given that some of the Covenant's articles were very closely related. Also, the Committee, anxious to avoid pointless repetition, had made a habit of assigning questions to specific members during the consideration of reports by States parties, depending on the article of the Covenant being discussed. The Committee had greatly improved the conditions of the dialogue with States parties since its early years, when speaking time had indeed not always been fairly divided between the Committee and delegations.

18. The Committee had also been criticized for engaging in activities outside its remit, such as the drafting of general comments. The Covenant, however, expressly authorized the Committee to address general comments to the States parties as it deemed appropriate. He referred anyone who doubted the legitimacy of the practice to the summary records of the intensive discussions leading up to the Committee's decision to draft general comments. As to the possibility of a master calendar for the submission of reports to all treaty bodies, he doubted it would have any real impact on States that failed to meet their reporting obligations. It might be more effective if treaty bodies that had not already done so were to emulate the Human Rights Committee procedure and considered a country's situation in the absence of a report or a delegation. It was the States, through the instruments they had ratified, that had created the treaty bodies and made the system what it was today. The current difficulties had been caused not by the treaty bodies' working methods but by the shortage of resources and certain States' failure to meet their obligations to the treaty

bodies established under the instruments they had ratified. Pursuant to article 36 of the Covenant, the Secretary-General must provide the necessary staff and facilities for the effective performance of the functions of the Committee. He urged the Office of the High Commissioner to intensify its requests to the General Assembly for the resources needed to implement that provision.

19. **Mr. Amor** said that the States' behaviour did not conform to the ambitions implicit in their ratification of the international human rights instruments. The treaty bodies' working conditions had not ceased to deteriorate over the years with fewer and fewer facilities and staff, and more and more facile criticisms levelled at them. It had initially been thought that the resulting impasse could be resolved by the establishment of a single treaty body, flying in the face of the basic legal principle that each treaty body was attached to the instrument by which it was governed. That was not to say that there was no room for harmonization, but it seemed unlikely that it would be applicable to anything but working methods. Little progress on the issue had been made with the overly theoretical discussions in inter-committee meetings. It was time to adopt a pragmatic approach. One simple measure that would have considerable psychological and political impact would be to hold meetings of treaty body chairpersons away from Geneva every other year, thus developing ties with the regions while engendering a sense of solidarity among the participants, who would travel together in support of a common cause. One way of raising awareness of the treaty bodies' work and fostering their interaction with other stakeholders in the international human rights system was to ensure that they all held their sessions at the Palais des Nations. Thematic working groups bringing together representatives of all the treaty bodies could well replace inter-committee meetings and prove particularly useful so long as the themes chosen lent themselves to consensus. Working groups could be established to deal with the most pressing issues, such as the submission of State party reports, follow-up, and perhaps procedures for the consideration of communications, with a view to arriving at proposals acceptable to the various treaty bodies, which would subsequently be submitted to the meeting of treaty body chairpersons. There was little to be lost by trying and, if successful, the experiment could help foster the gradual streamlining of committee practices.

20. **Mr. O'Flaherty** said that the Human Rights Committee had made many improvements in its working methods, but some of the current issues required measures that went beyond its scope. Very interesting proposals had been made in that regard at the Sion and Seoul meetings as well as at the last inter-committee meeting, on which he would report later on in the meeting. The 2011 session had been especially rich and constructive and it was a pity to abandon inter-committee meetings just when they were beginning to bear fruit. The idea of replacing them with thematic working groups was not a bad one, but choosing to experiment with a matter as delicate as the harmonization of treaty body jurisprudence was most inadvisable.

21. It should also be borne in mind that other stakeholders needed to adopt decisive measures in order to strengthen their commitment to the treaty body system, and thereby help to improve it. For example, rather than criticizing the treaty bodies and telling them what to do, States parties ought to take action themselves, for example by taking the procedure for electing members more seriously. In general, the United Nations, the Secretary-General and OHCHR all had to undertake reforms that would help strengthen the treaty body system. It appeared that creating a single human rights portal and another portal for compensation mechanisms was more easily said than done. It was also important to take into account the context in which proposals to reform the system were being made, in particular the universal periodic review. The treaty bodies had certainly not yet fully assessed how much energy, commitment, interest and attention that the Human Rights Council procedure had diverted away from the treaty body system. It was not so much the resources of OHCHR that were under threat as the capacity of NGOs to concentrate their

efforts on one or other aspect of human rights, the will of States to make commitments, and the capacity to attract the attention of the media to the treaty bodies' work. If those issues were not considered soon, the treaty bodies risked being sidelined.

22. **Mr. Salama** (Director of the Human Rights Treaties Division) said that it was clear from the fruitful exchange of views with the Committee that OHCHR had to study and clarify the pros and cons of the suggestions made, particularly the establishment of a master calendar for the submission of reports and the setting up of an inter-committee working group to consider communications received by all treaty bodies with a complaints procedure. In general terms, those issued called for a pragmatic approach.

23. As far as the universal periodic review was concerned, the risk for the treaty bodies was not only that the procedure might overshadow them. A further problem could arise if there was divergence in the jurisprudence of the different treaty bodies on the same question and it was then compared with the conclusions of the universal periodic review on the same subject. As things now stood, it would be premature to worry about such a situation but Committee members ought to bear it in mind and be aware that it made strengthening the treaty body system all the more necessary. The treaty body system was irreplaceable and could not cease to exist. It could only be weakened and, indeed, for some years there had been a progressive decline, a kind of asphyxiation, whether deliberate or not, of the human rights treaty bodies.

24. With regard to the idea of setting up an inter-committee group to consider communications, the Human Rights Committee was the most experienced in dealing with communications and the largest body of jurisprudence of all the treaty bodies; it would be logical that its representation in such a group should be proportionate to the number of communications it received. By and large it would be fair if that proportionality were applied to each of the treaty bodies. The establishment of such a group could also facilitate the harmonization of jurisprudence, since the same principles were enshrined in several instruments and it was important to ensure that the treaty bodies did not interpret the same principles differently simply because they were couched in different terms. OHCHR invited the Committee to consider whether it would be interested in working together with the other treaty bodies on the specific aspect of its communications mandate; it was open to any suggestions that the Committee might wish to make on the subject. He was convinced that the treaty body system would continue to exist and develop, but even so, one should beware that the international treaty bodies enjoyed full sovereignty. He felt that the Committee members agreed that establishing an area of common ground for all the treaty bodies would definitely be useful.

25. If the inter-committee meetings were destined to disappear in their present form, the work of collective preparation would continue to be carried out on a thematic basis, and that new approach should make it possible to determine which matters would be discussed at meetings of the chairpersons. Within that framework, it was planned to submit to all treaty bodies a draft annotated agenda outlining all matters on which common measures or decisions could be taken by the chairpersons prior to their meetings. Each chairperson would consider the draft with the members of his or her respective treaty body before the chairpersons met. Treaty bodies would retain the option of not applying a decision taken on issues of common interest. OHCHR hoped that the approach would help to enhance the efficiency and diligence of the treaty body system.

26. As for the idea of holding chairpersons' meetings away from Geneva, it was conceivable that, after the pilot phase, all such meetings could be held away from Geneva.

27. The issue of resources allocated to the treaty bodies had not really been considered at the Sion meeting, which, regardless of the disappointment expressed by the States parties, had not been the appropriate forum for the subject. OHCHR intended to hold a

special meeting on the matter in Geneva in the autumn of 2011. He had noted Mr. Thelin's questions about budget resources and OHCHR would not fail to answer them. The General Assembly at its sixty-fifth session, had requested the Secretary-General to submit to the General Assembly at its sixty-sixth session concrete proposals on the human rights treaty bodies to improve their effectiveness and to identify efficiencies in their working methods and costs they needed in order better to manage their workloads, bearing in mind budgetary constraints and taking into account the varying burdens on each treaty body. The terms of that resolution could be interpreted in the following way: the problem was not a lack of resources, but a lack of efficiency, and the solution lay in restructuring or rationalizing the working methods of the treaty bodies. The reference to "varying burdens on each treaty body" appeared to indicate that the General Assembly considered that overall funding was sufficient and that some treaty bodies needed more resources than others, which dovetailed with a suggestion made at the Sion meeting to have a gross sum allocated to OHCHR, which would then assign funds to the treaty bodies in accordance with their needs, rather than establishing a statement of programme budget implications for each treaty body. The mandate that had thereby been entrusted by the General Assembly to the Secretary-General was not without problems. It was, however, for the treaty bodies and OHCHR to demonstrate that the treaty body system was not trapped by the way it had been designed. At any rate, the States parties could not decide anything in place of the treaty bodies, because the latter were independent. Nor could OHCHR take decisions on their behalf. The treaty bodies were thus the only agents of the United Nations system empowered to express their own interpretation and to take decisions on how they carried out their mandate and how the States parties should meet their responsibilities. All that was lacking were resources. The current world economic situation was clearly not favourable but, as the High Commissioner had said at the Sion meeting, it was inconceivable that the monitoring of States' implementation of the human rights instruments should be sacrificed for lack of resources. With regard to the procedure under article 40 of the Covenant, the States parties did not always — far from it — respect deadlines for the submission of their reports. At the various consultations organized by OHCHR, it had been suggested that, in order not to lose completely the benefits of constructive dialogue with States parties, a body such as the Human Rights Committee could ask States parties that submitted their reports regularly to present only one in every three before the Committee, which would then consider the State's implementation of the Covenant in the interval. The suggestion should be carefully studied and, if it was taken up, care should be taken to ensure that the principle of equal treatment of all States parties was respected. At any rate, OHCHR was considering measures that would broaden the range of possible approaches to the submission of reports, and the possibility of testing certain initiatives that would then be assessed in conjunction with the interested parties. The internal distribution of resources, whether within OHCHR or among different human rights mechanisms, was a complex matter, and conflict among them should be avoided at all costs.

28. The Committee's new procedure, whereby lists of issues were drawn up prior to the submission of reports, was an initiative that, if it proved to be efficient, could certainly be adopted by other treaty bodies. It was hoped that the procedure would restore the original function of the submission of reports, by making it a national consultative process conducted in a spirit of openness and in which a State would periodically make a critical examination of its own actions.

29. OHCHR had taken note of all the comments made by Committee members and would continue to consider proposals as they emerged. He hoped that the report that the High Commissioner would submit on those issues to the General Assembly in 2012 would be approved without the need for further discussion. In the meantime, he would endeavour to meet, in New York, representatives of States parties that had serious reservations about the treaty body system in order to persuade them of its usefulness. He invited all Committee

members to do the same by mobilizing their networks of national and international contacts. In the following months, OHCHR would join the treaty bodies to study ways of transforming the growing list of proposals into a set of experimental and pragmatic ideas, which would then be submitted to the General Assembly for approval, with the ultimate aim of adopting a resolution setting out measures binding on all stakeholders.

30. **Sir Nigel Rodley** said that he did not understand why the chairpersons had decided to abandon inter-committee meetings, which in his view were a means of promoting harmonization and facilitating joint activities by the treaty bodies. Indeed, he remembered why the meetings had been instituted: treaty body chairpersons were not always in a position to promote efficiently the type of inter-committee activities that needed to be fostered, while the greater number of participants than in meetings of the chairpersons had led to a more efficient and lucid dialogue. Several inter-committee meetings had yielded positive results, such as the recommendation to chairpersons that at least one of the two meetings should have a theme of common interest to all the treaty bodies and the idea of establishing a common follow-up procedure. That was an interesting idea and he would like to know whether it had been dropped.

31. It was important for the treaty bodies to keep States parties informed of the efforts they were expending on harmonization and inter-committee activities. The treaty bodies could certainly not spend all their time innovating, but it was equally important that each one did not decide merely to improve its own operating methods, ignoring that it formed part of a system. In that regard, the idea of creating an inter-committee group to consider all communications addressed to the treaty bodies probably would not work, but it was possible to envisage at some future point ways of harmonizing the work of pre-sessional groups, on the understanding that the treaty bodies meeting in plenary were sovereign. That was perhaps worth a try. What was certain, however, was that, given States parties' concerns about fund allocation, the treaty bodies must demonstrate that they were willing to take concrete action.

32. **Mr. Salama** (Director of the Human Rights Treaties Division) said that the chairpersons had not taken an official decision to drop inter-committee meetings, since they could only make recommendations. They had therefore submitted a recommendation to that effect to the treaty bodies and wished henceforth to take decisions on issues of common interest, provided they were discussed within the treaty bodies beforehand and on the understanding that a treaty body could decide not to implement such decisions.

33. Following up on Sir Nigel Rodley's remarks, he noted that the proposal to hold inter-committee meetings had reflected the failure of the idea to establish a single treaty body. It was a way of telling the treaty bodies that, if the idea of a single body was not acceptable to them, then they at least must move faster to take measures in areas of common interest which would streamline working methods and expedite decision-making. True, the inter-committee meetings enabled the chairpersons to give more exposure to treaty body members' views when considering issues of common interest. But they had led only to recommendations, most of which had not been implemented. In practice, they had ended up duplicating the work of the chairpersons' meetings. In any event, inter-committee meetings would not be discontinued, but would cease to exist in their current form. The ability and the need to discuss topics of common interest within a structure, whose form was yet to be determined would remain. That structure must come out of a pragmatic approach, which OHCHR hoped would make things better.

34. **Ms. Chanet** said that when she had been chairperson of the Committee she had often felt that the inter-committee meetings, followed by those of the chairpersons, were not really useful and that savings perhaps could be made by abolishing them. Nonetheless, the inter-committee meetings might certainly be continued for discussion of topics of common interest, they having made progress on, for example, States parties' reservations. She would

like to hear more about the proposal to create an inter-committee group to consider communications. When Ms. Arbour, the then High Commissioner for Human Rights, had proposed creating a single treaty body, Mr. de Gouttes, then Chairperson of the Committee on the Elimination of Racial Discrimination, had made a counter-proposal to set up a joint body for the consideration of communications. The Human Rights Committee had subsequently held a meeting with States parties, at which that proposal had been severely criticized by the States parties, particularly by the representative of the Russian Federation, a lawyer, who had shown that, in the light of the various optional protocols to the relevant instruments, it was not legally viable. There was therefore a major legal obstacle to setting up an inter-committee group for the consideration of communications. If the idea was that such a group would be responsible for harmonizing procedures, in other words, matters relating to the treaty bodies rules of procedure, rather than the instruments by which they were governed, she did not object to the Committee discussing it.

35. **Mr. Salama** (Director of the Human Rights Treaties Division) said that while the proposal was to create an inter-committee working group, its mandate would not be standardization of procedures for the consideration of communications, but one that went as far as consideration of communications submitted to all the treaty bodies, which it would then refer to them so that each could take decisions on the communications concerning them. In any event, if the Committee did not like the idea, it would simply be abandoned.

36. **Ms. Motoc** pointed out that the Committee had also considered holding its sessions away from Geneva. While it was actively cultivating closer ties with civil society, much remained to be done and other treaty bodies had made more progress in that regard. She would like to learn what the Office of the High Commissioner thought about the possibility of holding Committee sessions away from New York or Geneva.

37. As to an inter-committee working group to deal with communications, she failed to see its usefulness, since each treaty body's communications procedures were quite different. She would like to learn the OHCHR position on that issue.

38. With a view to saving resources, it might be possible to address certain concrete issues outside formal meetings; for example by designating certain Committee members to communicate by e-mail. It could also be useful for the members of treaty bodies that met on the same dates to hold joint informal meetings. The savings thus made could be used to fund essential services to the Committee, particularly in the area of communication.

39. **Mr. Fathalla** said that the existence of a joint working group to consider communications did not appear to be legally compatible with the Optional Protocol. Indeed, article 5, paragraph 3, stipulated that Committee meetings to consider communications should be private. They would no longer be private if members of other committees were present.

40. **Mr. Neuman** said that if 80 per cent of communications concerned the Human Rights Committee then 80 per cent of the members of the joint working group should be members of that Committee. If each of the seven other committees was represented by one member, the Human Rights Committee would need to be represented by 28 members, but it had only 18. Such a working group would therefore pose problems not only of different competencies, but also from the point of view of its numerical composition.

41. **Mr. Salama** (Director of the Human Rights Treaties Division) said that the Committee must first determine whether such a working group would be useful and make for more consistent jurisprudence and a common authoritative interpretation of all the instruments. In the affirmative, the technical and legal aspects would be explored in greater depth. In legal terms, discussions in a joint working group would constitute a sort of common, even informal, pre-session meeting, since the formal adoption of decisions

relating to each communication would take place in a private meeting of committees concerned. If that was not to the liking of the Committee, other ideas could be considered.

42. The possibility of holding Committee meetings away from Geneva or New York was on the list of new proposals and would have no impact on members' travel expenses. The only foreseeable difficulty was the movement of secretariat staff who would have to be seconded from the Division to service the Committee. That, however, was a relatively minor problem, compared with the potential added value of holding meetings in other locations, particularly in terms of the system's visibility. Indeed, as Committee members had pointed out, local NGOs really needed close access to the Committee and there were more and more regional and interregional mechanisms in Africa, Asia and the Arab world that would derive great benefit from interaction with the Committee.

43. As the High Commissioner for Human Rights, Ms. Pillay, had stated at the opening of the Human Rights Council dialogue on 3 March 2011, streamlining could not displace the need to find additional resources. She had also called for States' greater compliance with their obligations. That being so, if the Secretary-General, represented by the High Commissioner for Human Rights, and all the treaty bodies joined forces in support of a coherent, pragmatic list of proposals, the States would have to take the necessary financial decisions.

44. **The Chairperson** thanked Mr. Salama for informing the Committee of progress on the process of strengthening the treaty body system. The latest series of consultations that had taken place in Seoul in April 2011, in Sion in May 2011 and in Pretoria in June 2011 on the matter had been very open and had included the States parties, NGOs and national human rights institutions. Further consultations would be held with academics. Much time had been spent discussing and clarifying various issues, including the very principle of harmonization, and had led to several interpretations. The States parties themselves had not settled on a common vision of harmonization. The Committee might not have found much ground in common with the States parties, the dialogue had served to dispel many of the fears relating to the treaty body strengthening process.

The meeting was suspended at 5.35 p.m. and resumed at 5.45 p.m.

Twelfth inter-committee meeting of the human rights treaty bodies

45. **Mr. O'Flaherty** said that the programme of work for the twelfth inter-committee meeting, which had been held in Geneva from 27 to 29 June 2011, had been dense and properly structured. The meeting had been held in a very positive and constructive atmosphere, concentrating mainly on the procedure for the submission of reports. The question of follow-up procedures had been speedily dispatched, as it had been the subject of a thematic inter-committee meeting at which it had been deemed sufficient to submit the relevant reports to the chairpersons of the committees for consideration. A number of ideas that had been aired informally during the meetings in Seoul, Sion and Pretoria had been reviewed and some would be taken into consideration.

46. The impending abolition of inter-committee meetings had not been on the agenda, so that the participants had not had the opportunity to point out that the treaty body chairpersons had taken the decision without seeking their opinion. The Human Rights Committee practice had been regarded as exemplary in many aspects. The Committee secretariat's standard practice of sending, prior to the consideration of reports, a note explaining the procedure involved to the permanent missions of States parties had set an example for the other committees. They had also been recommended to adopt the model of special teams to consider the reports of States parties; have such teams or country rapporteurs, as was already the case in the Committee on the Elimination of All Forms of Discrimination against Women, inform other members of their committees, prior to the dialogue with the State party, of the key points to be addressed; draft more specific and

targeted recommendations in their concluding observations; and refer more often to other treaty bodies' recommendations.

47. He had spoken about the threats and intimidation to which members of NGOs that provided information to the treaty bodies were sometimes exposed upon returning to their countries, in the wake of a problem in a specific State party, with which the Human Rights Committee had had to deal in 2010. He had explained how the Committee acted in such cases, and the ensuing discussion had resulted in a fairly strong recommendation. Another recommendation had also been made on new technology, particularly concerning the use of Skype to communicate with NGOs, and webcasting of the committees' deliberations. Credit for that initiative must be given to the NGOs, especially the Centre for Civil and Political Rights, which was a pioneer in the field.

48. A proposal, put forward by some States at the Sion meeting, that the treaty bodies should devote only one meeting — in other words, three hours — to consideration of each State party's report, as occurred with the universal periodic review, had been unanimously rejected. It had been stressed that nearly 50 States had submitted a common core document under the revised guidelines, as opposed to the 10 or 15 that had done so by 2010. It had been recommended that the treaty bodies should occasionally hold regional meetings. In that regard, the Human Rights Committee and the Committee on the Elimination of Discrimination against Women had been seen as best placed to guide the other treaty bodies, as they had already budgeted for the holding of at least one session per year away from Geneva. Lastly, the project for the establishment of indicators was well advanced and a user guide would be forthcoming.

49. **The Chairperson** said she did not think that the inter-committee meetings would simply be abolished, but, rather, transformed into specific thematic working groups. She had not objected to the decision at the meeting of chairpersons of the human rights treaty bodies because she had not been there and, as a first-time participant in the chairpersons' meeting, had been unfamiliar with its working methods.

50. **Mr. Iwasawa** said that he had attended inter-committee meetings and that their discussions had not been structured. The possibility of switching to thematic working groups had already been considered and brought to each treaty body's attention.

51. **Sir Nigel Rodley** said that the main idea behind the inter-committee meetings had been that the membership of the chairpersons' meeting was not necessarily truly representative of the committees. For that reason it was very hard to accept the chairpersons' decision to abolish inter-committee meetings without consulting the committees, especially given that there was nothing to indicate that funding would be available for the thematic working groups proposed as a replacement. He could have understood reducing the number of meetings from two to one per year but could not accept their abolition pure and simple. He proposed that the Committee should ask the chairpersons to review the decision at their next meeting.

52. **Ms. Motoc** said that on the contrary, she was of the opinion that the treaty body chairpersons were truly representative of their committees. As other Committee members had pointed out, most of the inter-committee meetings had achieved little.

The meeting rose at 6.05 p.m.