



# HANDBOOK FOR HUMAN RIGHTS TREATY BODY MEMBERS



UNITED NATIONS  
**HUMAN RIGHTS**  
OFFICE OF THE HIGH COMMISSIONER

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## FOREWORD

The United Nations human rights treaty bodies are at the heart of the human rights protection architecture. Their independence, legal analysis of treaty provisions and expert review of implementation by States parties allow them to play a crucial role in promoting and protecting human rights around the world. The recent growth of the system, which has doubled in size in the past decade, is testimony to its success, but also has significant implications for the responsibilities of the experts — currently 172 — elected as members of the 10 treaty bodies.

In her report to the General Assembly (A/66/860), my predecessor, Navi Pillay, made key proposals to strengthen the human rights treaty body system, which were adopted by the General Assembly in 2014 in its landmark resolution 68/268. In the spirit of this resolution, it is my pleasure to publish this *Handbook* on the expectations and implications of serving as a treaty body expert for aspiring, newly elected and currently serving members.

The quality, devotion and integrity of treaty body experts sustain the value and impact of the treaty body system; they are prerequisites for its effectiveness. This is why States must give their utmost priority to ensuring that their national process for nominating candidates is fair, transparent, gender-balanced and competitive, and to electing the most qualified and best suited candidates to serve on the human rights treaty bodies.

My Office is committed to continuing to provide a high standard of support to the treaty bodies and their members, and I sincerely hope that this *Handbook* will assist States in informing potential candidates for treaty body positions and will help aspiring, new and current treaty body members understand their responsibilities and be successful in their important functions.



Zeid Ra'ad Al Hussein  
United Nations High Commissioner for Human Rights

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## LIST OF ABBREVIATIONS

CSO	civil society organization
DSA	daily subsistence allowance
HRTD	Human Rights Treaties Division
NGO	non-governmental organization
NHRI	national human rights institution
OHCHR	Office of the United Nations High Commissioner for Human Rights

# I. INTRODUCTION AND FUNCTIONS

## A. Introduction

Being a human rights treaty body member is highly rewarding. The treaties and the work of the treaty bodies underpin the international human rights system. A treaty body member is at the centre of the interpretation and application of international human rights treaty law, and contributes to the promotion, protection and implementation of human rights at the national level. Through the review of State party reports, treaty body members assist States in the implementation of treaty provisions, which helps to improve the overall human rights situation nationally and across the globe. Inquiries and country visits, as well as the examination of petitions from individuals, help to resolve disputes over human rights questions and promote victims' right to a remedy, in turn strengthening the rule of law nationally. Moreover, the formulation of general comments clarifies the meaning of particular provisions and themes related to treaties. General comments have proved invaluable to courts, human rights practitioners, national policymakers and many others.

Being a treaty body member is also a significant commitment. A treaty body member attends treaty body sessions for 3 to 12 weeks a year and has responsibilities at other times, including, if mandated, preparing and undertaking country visits.

All potential candidates for nomination need the necessary expertise and should be aware of the expectations placed on members, including with regard to workload. For these reasons, the High Commissioner for Human Rights recommended, in her 2012 report to the General Assembly on strengthening the treaty body system, the preparation of a handbook on the workload and expectations for treaty body members.<sup>1</sup>

This *Handbook* responds to this recommendation. It is primarily designed as a basic guide for candidates as well as current treaty body members. It is also intended to help States parties, national human rights institutions (NHRIs) and civil society to understand the role and responsibilities of treaty body members. This chapter therefore provides some background information on the treaty bodies and their responsibilities. Chapter II sets out the process for becoming a treaty body member and provides information on nominations and elections. It also includes an example of good practice that demonstrates a transparent national nomination process.

Chapters III, IV and V explain the roles and responsibilities of treaty body members. Chapter III discusses their independence and accountability. It sets out guidelines on independence and impartiality, and identifies some practical challenges facing

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<sup>1</sup> "United Nations reform: measures and proposals" (A/66/860), sect. 4.4.3.



treaty body members. It also provides information on the privileges and immunities that they enjoy as well as the standards of conduct expected of them while performing their duties. The chapter then refers to the prohibition of discrimination, harassment and abuse. Chapter IV provides details of the workload that a treaty body member should expect. Chapter V sets out some practical details relating to travel and administration which all treaty body members need to be aware of to ensure the smooth running of a session.<sup>2</sup>

## **B. The treaty bodies and their procedures**

The international human rights treaty system comprises nine core treaties. Committees of independent experts have been established to review treaty implementation by States that have ratified or acceded to these treaties (“States parties”).<sup>3</sup> A tenth treaty, the Optional Protocol to the Convention against Torture, establishes the Subcommittee on Prevention of Torture, with a specific mandate to visit States parties with a view to preventing torture.

Each treaty body has the authority to undertake a range of activities to review and support treaty implementation. Not all treaty bodies have the same procedures, however (see also table 2):

- ✓ **Reporting procedure.** States have obligations under the nine core treaties as well as under the first two Optional Protocols to the Convention on the Rights of the Child<sup>4</sup> to submit reports on the measures they have adopted to give effect to the rights recognized in the treaties as well as on progress made in the enjoyment of those rights. Treaty bodies review these reports, usually in a dialogue with a delegation from the State party, identifying issues of concern and making related recommendations. Treaty bodies compile these issues and recommendations in what are known as concluding observations. All treaty bodies have adopted the practice of receiving written and oral submissions from non-governmental organizations (NGOs), NHRIs and United Nations entities to help in their review of State party reports. Figure I sets out the reporting cycle for most treaty bodies.

<sup>2</sup> See also the OHCHR glossary of related terms, available from [www.ohchr.org/EN/HRBodies/Pages/TBGlossary.aspx](http://www.ohchr.org/EN/HRBodies/Pages/TBGlossary.aspx) (accessed 5 August 2015).

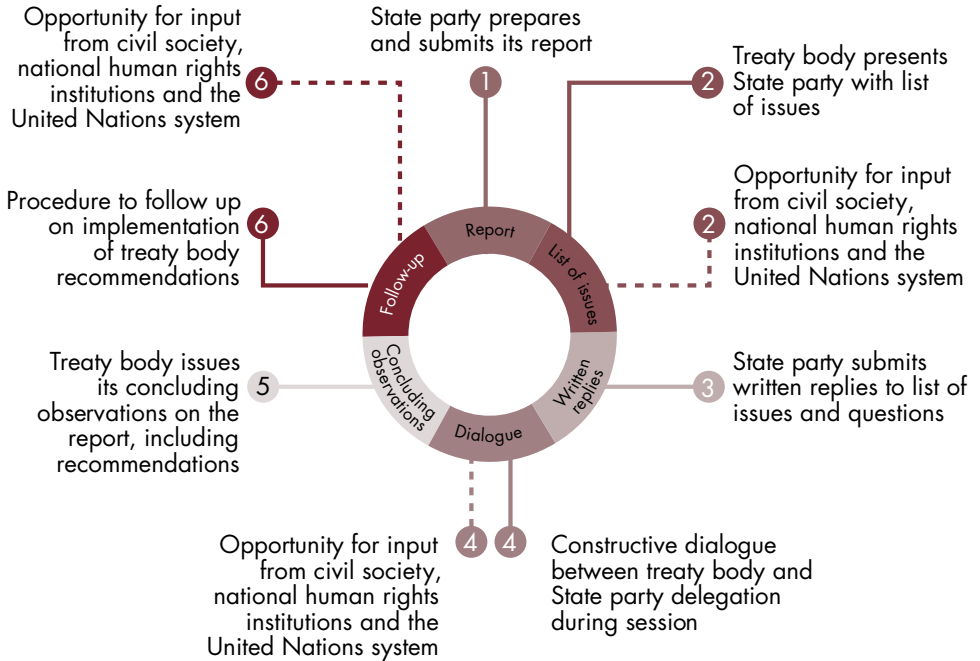
<sup>3</sup> The treaties establish all but one of these committees. The Committee on Economic, Social and Cultural Rights was established by Economic and Social Council resolution 1985/17 of 28 May 1985 to carry out the monitoring functions assigned to the Council in Part IV of the International Covenant on Economic, Social and Cultural Rights.

<sup>4</sup> Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography; and Optional Protocol on the Involvement of Children in Armed Conflict.

**Table 1: List of treaties establishing treaty bodies**

<b>Treaty</b>	<b>Treaty body</b>
International Convention on the Elimination of All Forms of Racial Discrimination (1965)	Committee on the Elimination of Racial Discrimination
International Covenant on Civil and Political Rights (1966)	Human Rights Committee
International Covenant on Economic, Social and Cultural Rights (1966)	Committee on Economic, Social and Cultural Rights
Convention on the Elimination of All Forms of Discrimination against Women (1979)	Committee on the Elimination of Discrimination against Women
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)	Committee against Torture
Convention on the Rights of the Child (1989)	Committee on the Rights of the Child
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)	Committee on Migrant Workers
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2002)	Subcommittee on Prevention of Torture
International Convention for the Protection of All Persons from Enforced Disappearance (2006)	Committee on Enforced Disappearances
Convention on the Rights of Persons with Disabilities (2006)	Committee on the Rights of Persons with Disabilities

**Figure I: The reporting cycle**



- ✓ *Individual communications procedure.* Most treaty bodies have the authority to receive complaints (known as communications) from individuals alleging that the State has breached one or more of the rights under a specific treaty. The individual communications procedures are optional, which means that the State party must have expressly agreed to the treaty body receiving such complaints from individuals under its jurisdiction. All communications are subject to certain admissibility criteria, including a requirement that the author must exhaust all domestic remedies before bringing the communication to the treaty body. Once the treaty body considers the submissions of the individual and the State party concerned, it publishes its views on the admissibility and merits and any decision on remedies, if relevant. The procedure is quasi-judicial in the sense that the treaty body is not a court and cannot enforce its decisions. However, such decisions are highly persuasive and are to be considered an authoritative source to assist States parties in complying with their treaty obligations.

## BOX 1

### How can civil society work with human rights treaty bodies?

The relationship between human rights treaty bodies and civil society, in particular NGOs and human rights defenders, is institutionalized and is an integral part of the work of treaty bodies. NGOs are sometimes the only conduit for the submission of information on alleged violations of human rights. They also provide the United Nations human rights system, as well as OHCHR, with valuable studies and reports. Civil society plays a key role in advocating follow-up at country level to the recommendations and observations made by the United Nations treaty bodies.

Stages 2, 4 and 6 of figure I are those that would especially benefit from civil society input. In addition to the secretariat teams of the respective treaty bodies, the OHCHR National Institutions, Regional Mechanisms and Civil Society Section provides support to NHRIs, regional mechanisms and civil society in their engagement with the treaty body mechanisms.

OHCHR has also published *Working with the United Nations Human Rights Programme: A Handbook for Civil Society* (HR/PUB/06/10/Rev.1), which is available from [www.ohchr.org](http://www.ohchr.org).

- ✓ **Inquiries.** Most treaty bodies have a mandate to conduct inquiries when they receive reliable information indicating grave or systematic violations by a State party of rights set forth in the treaty. The treaty body invites the State to cooperate and may, if the State agrees, visit. The treaty body prepares a confidential report on the inquiry and sends it to the State for comment. The procedure is confidential although the treaty body may publish the final report with the consent of the State concerned.
- ✓ **Visits.** The Subcommittee on Prevention of Torture has a mandate to visit any place under the jurisdiction and control of a particular State party where persons are or may be deprived of their liberty. The visits are meant to strengthen the protection of detainees against torture. According to the Optional Protocol to the Convention against Torture, States parties are *obliged* to allow visits. In addition, the Subcommittee may undertake technical assistance visits to strengthen national preventive mechanisms, which are national bodies for the prevention of torture. The Subcommittee may also undertake advisory visits. These are high-level talks with the aim of facilitating the implementation of the Optional Protocol. Finally, the Subcommittee undertakes follow-up visits to complement its follow-up procedure relating to reports of its visit.

- ✓ *Urgent actions.* The Committee on Enforced Disappearances has the authority to receive urgent requests that a disappeared person should be sought and found, from relatives of the disappeared person or their legal representative or any other authorized person. Once it is satisfied that the request meets certain criteria, the Committee may request the State party to provide it with information on the situation of the persons sought within a time limit set by the Committee.
- ✓ *Inter-State complaints.* Many treaty bodies have the authority to receive complaints from one State party that another State party is not giving effect to the provisions of the treaty. While procedures differ among the treaties, the treaty body generally makes its good offices available to the relevant States parties with a view to achieving a friendly settlement. As with the individual communications and inquiries procedures, the inter-State complaints procedure is optional. States parties must make a declaration that they accept the procedure before making or being subject to a complaint. To date, no State has invoked the inter-State complaints procedure under any of the treaties.

In addition:

- ✓ *Early warning and urgent actions.* The Committee on the Elimination of Racial Discrimination may request further information from States parties as part of its reporting procedure when it receives information justifying measures to prevent a situation from escalating into conflict ("early warning") or information requiring the Committee's urgent attention ("urgent action"). The Committee's early warning and urgent action procedure is distinct from the urgent action procedure of the Committee on Enforced Disappearances. The former considers it to be part of its reporting procedure. For the latter, it is a distinct procedure.
- ✓ *Follow-up procedures.* Most treaty bodies have adopted written follow-up procedures related to both the reporting procedure and the individual communications procedure. Under the reporting procedure, the treaty body identifies two to four recommendations that meet certain criteria (for example, they are easily achievable, are preventive or require urgent attention), and the State party has one to two years to report on implementation. The treaty body then reviews this response and expresses its level of satisfaction with the efforts that the State party has made. The treaty body may request the State party to provide additional information and report back within a fixed period of time or, alternatively, to provide such information in its next periodic report. Under the communications

procedure, States parties are requested to inform the relevant committee on measures taken to implement the committee's recommendations in individual cases where the committee has found that the State party was in breach of its treaty obligations. It should also be noted that OHCHR and other United Nations entities follow up through technical assistance and advocacy. Follow-up in this sense is separate from the committees' follow-up procedures; it comes under the general role of technical assistance of the United Nations.

- ✓ *General comments.* All treaty bodies prepare general comments—sometimes referred to as general recommendations<sup>5</sup>—to elaborate the meaning of specific provisions or themes in treaties, with a view to assisting States parties to implement them and strengthening the enjoyment of specific rights by rights holders.
- ✓ *Request for studies of the Secretary-General.* The Convention on the Rights of the Child stipulates that its Committee may recommend that the General Assembly request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child (art. 45 (c)). Two such studies have been undertaken so far: one on the impact of armed conflict on children (1996) and another on violence against children (2006). These two studies have led to the establishment of Special Representatives of the Secretary-General for these two issues.
- ✓ *Address the General Assembly.* If the Committee on Enforced Disappearances receives information which appears to it to contain well-founded indications that enforced disappearance is being practised on a widespread or systematic basis in a territory under the jurisdiction of a State party, the Committee may, after seeking from the State party concerned all relevant information on the situation, urgently bring the matter to the attention of the General Assembly of the United Nations, through the Secretary-General.

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<sup>5</sup> Committee on the Elimination of Racial Discrimination and Committee on the Elimination of Discrimination against Women.

**Table 2: List of treaty bodies and their corresponding procedures**

Treaty body	Procedures				
	Reporting	Individual communications/ complaints	Inquiries (including country visits)	Inter-State complaints	Notification to the General Assembly
Committee on the Elimination of Racial Discrimination	✓	✓	✗	✓	✗
Human Rights Committee	✓	✓	✗	✓	✗
Committee on Economic, Social and Cultural Rights	✓	✓	✓	✓	✗
Committee on the Elimination of Discrimination against Women	✓	✓	✓	✗	✗
Committee against Torture	✓	✓	✓	✓	✗
Committee on the Rights of the Child	✓	✓	✓	✓	✗
Committee on Migrant Workers	✓	✓	✗	✓	✗
Subcommittee on Prevention of Torture	✗	✗	✗	✗	✗
Committee on Enforced Disappearances	✓	✓	✓	✓	✓
Committee on the Rights of Persons with Disabilities	✓	✓	✓	✗	✗

<sup>a</sup> While neither the Committee on Enforced Disappearances nor the Subcommittee on Prevention of Torture has adopted general comments to date, both may do so in the future.

Early warning and/or urgent actions	Follow-up	General comments/recommendations <sup>a</sup>	Recommend Secretary-General's studies on specific issues	Subcommittee visits	Advisory services (national preventive mechanisms)
✓	✓	✓	✗	✗	✗
✗	✓	✓	✗	✗	✗
✗	✗	✓	✗	✗	✗
✗	✓	✓	✗	✗	✗
✗	✓	✓	✗	✗	✗
✗	✗	✓	✓	✗	✗
✗	✗	✓	✗	✗	✗
✗	✗	✓	✗	✓	✓
✓	✓	✓	✗	✗	✗
✗	✓	✓	✗	✗	✗



## **C. Relationship among treaty bodies and with other United Nations human rights mechanisms**

### **Relationship among treaty bodies**

The principal means of communication among treaty bodies is the annual meeting of their Chairs and the related activities in between sessions. The Chairs of the treaty bodies meet annually in June to discuss matters of common interest and to promote the harmonization of working methods. Over the years, their potential to promote the harmonization of working methods across treaty bodies has become stronger. At their meeting in 2011, the Chairs recommended that they should have the possibility of adopting measures on working methods and procedural matters that were common across treaty bodies and that had already been discussed by all treaty bodies. Treaty bodies would then implement such measures, unless a body subsequently disassociated itself from the recommendation.<sup>6</sup>

The role of the Chairs in harmonizing working methods recently received a boost from the General Assembly, through its resolution on strengthening and enhancing the effective functioning of the human rights treaty body system, which encouraged treaty bodies “with a view to accelerating the harmonization of the treaty body system, to continue to enhance the role of their Chairs in relation to procedural matters, including with respect to formulating conclusions on issues related to working methods and procedural matters, promptly generalizing good practices and methodologies among all treaty bodies, ensuring coherence across the treaty bodies and standardizing working methods”.<sup>7</sup>

In addition, treaty bodies sometimes organize joint meetings either during formal sessions or in between sessions, on occasion with the assistance of NGOs or academic institutions. The Optional Protocol to the Convention against Torture requires the Subcommittee and the Committee against Torture to hold their sessions simultaneously at least once a year (art. 10.3), which in practice has led to these two bodies meeting annually in formal joint meetings.

### **Relationship between the treaty bodies and the universal periodic review mechanism**

The universal periodic review is a mechanism by which the human rights record of all United Nations Member States is examined by a working group of States every four and a half years. It is an intergovernmental mechanism intended to complement and not duplicate the work of other human rights mechanisms. The basis of the review, as established in Human Rights Council resolution 5/1 of 18 June 2007, is: (a) the Charter of the United Nations; (b) the Universal Declaration of Human Rights; (c) human rights instruments to which the State is a

<sup>6</sup> A/66/175, para. 21.

<sup>7</sup> Resolution 68/268 of 9 April 2014, para. 38.

party; (d) voluntary pledges and commitments made by States; and (e) applicable international humanitarian law.

The universal periodic review of any given country bases itself on three documents: the State report; a compilation of United Nations information; and a compilation of information from other relevant stakeholders, such as NGOs and NHRIs. Information contained in the reports of the treaty bodies on existing issues and recommendations of relevance to specific countries comprises a significant part of the compilation of United Nations information, thus ensuring that the work of the treaty bodies and the universal periodic review are complementary.

### **Relationship between the treaty bodies and the special procedure mandate holders**

Information sharing between the treaty bodies and the special procedures is a reciprocal and mutually beneficial process. Information from the special procedures is systematically made available to the treaty bodies for their examination of State party reports. In addition, specific treaty bodies have close relations with special procedures sharing common themes. For example, the Committee against Torture shares the country information it receives with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and both meet formally once a year. The Committee on Economic, Social and Cultural Rights has close relations with the Special Rapporteurs on the right to housing and on the right to education. The special procedure mandate holders and the treaty bodies also interact when the former attend sessions of the latter, for instance during thematic debates.

## **II. NOMINATIONS AND ELECTIONS**

### **A. General**

States parties to human rights treaties generally elect treaty body members at meetings of States parties. These meetings are usually held every two years at United Nations Headquarters in New York, although the elections under the Convention against Torture and its Optional Protocol take place at the United Nations Office at Geneva. The elections of the Committee on the Rights of Persons with Disabilities take place during a Conference of States parties, a meeting attended by States, civil society organizations (CSOs) and other stakeholders during which various aspects of the implementation of the Convention are also discussed. For the Committee on Economic, Social and Cultural Rights, elections take place at a meeting of the United Nations Economic and Social Council.

States parties elect treaty body members for four-year terms. To ensure some continuity in membership, elections are staggered. In other words, States parties hold elections for half the membership every two years. The Convention on the Rights of Persons with Disabilities, the Optional Protocol to the Convention against Torture and the International Convention for the Protection of All Persons from Enforced Disappearance restrict the number of successive terms to two. Other treaties have no such limits. The treaties set out various criteria to guide States parties in the nomination and election of treaty body members. Additionally, the General Assembly, in its resolution 68/268, encourages States parties, in the election of treaty body members, to give due consideration to equitable geographical distribution, the representation of the different forms of civilization and the principal legal systems, balanced gender representation and the participation of experts with disabilities in the membership of the treaty bodies (para. 13). To facilitate this, and in accordance with paragraph 12 of the same resolution, OHCHR includes in the documentation prepared for elections an information note on the current situation with respect to the composition of the treaty body. The note reflects the balance in geographical distribution and gender representation, professional background and different legal systems, as well as the tenure of current members.

Importantly, to be eligible for election, the nominees should be of high moral standing. The treaties do not define this, although it is a term widely used in many countries to qualify the suitability of individuals to enter certain professions or take up certain civic responsibilities. Certainly, an individual who has misused or misappropriated United Nations funds would not be of high moral standing and therefore ineligible.

Furthermore, the treaties include other criteria for nomination, such as recognized competence in human rights or professional experience in the field covered by the treaty. This is also echoed by the General Assembly in its resolution 68/268 (para. 10). Table 3 sets out these criteria treaty by treaty.

In addition to setting out criteria for potential nominees, the treaties include criteria to guide States parties when they nominate and elect experts. For example, most treaties allow States parties to nominate only one individual, who should be one of their nationals. While the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention against Torture allow a State party to nominate up to two individuals, under the Covenant, the Committee may not include more than one national of the same State. The Optional Protocol contains the most detailed criteria for nominating individuals and envisages the nomination of a candidate who need not be a national of the nominating State party. The Convention on the Rights of Persons with Disabilities requires consultation with persons with disabilities and their representative organizations in the nomination process.

Further to the criteria set out in the treaties, other factors may affect the candidature of specific individuals. For example, the appointment of individual experts to special procedure mandates of the Human Rights Council is subject to the principle of non-accumulation of concurrent human rights functions.<sup>8</sup> While the treaties do not refer to this principle, the implication is that special procedure mandate holders who wish to seek nomination as treaty body members should first resign their mandates.

When electing members, States parties should also give due consideration to a range of factors such as **equitable geographical distribution, and the representation of the different forms of civilization and of the principal legal systems.**<sup>9</sup> Only the Committee on Economic, Social and Cultural Rights is formally subject to membership allocation on a regional basis. Fifteen of its eighteen seats must be equally distributed among the five regional groups (as recognized by the United Nations); the other three are allocated in accordance with the increase in the total number of States parties per regional group.

Recent treaties, as well as General Assembly resolution 68/268, also require States parties to consider **gender balance** and the **participation of experts with disabilities.** Table 4 sets out the gender balance of each treaty body on 1 August 2015.

In addition to the qualifications and requirements set out in the treaties and in General Assembly resolutions, individuals interested in being nominated for election as treaty body members should consider their **availability** to prepare for and attend all treaty body meetings as well as their **ability to work confidently in at least one of the working languages of the treaty body.** It should be noted that the General Assembly, in its resolution 68/268 (para. 30), limits the working languages of the committees to three, generally English, French and Spanish.

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<sup>8</sup> Human Rights Council resolution 5/1, para. 44.

<sup>9</sup> General Assembly resolution 68/268, para. 13.

**Table 3: Criteria for the nomination and election of treaty body members**

<b>Treaty</b>	Criteria for experts to be nominated	Criteria for States in nominating members
<b>International Convention on the Elimination of All Forms of Racial Discrimination</b> (art. 8)	<ul style="list-style-type: none"> <li>✓ High moral standing</li> <li>✓ Acknowledged impartiality</li> </ul>	<ul style="list-style-type: none"> <li>✓ Each State party may nominate one person from among its own nationals</li> </ul>
<b>International Covenant on Civil and Political Rights</b> (arts. 28 – 29 and 31)	<ul style="list-style-type: none"> <li>✓ High moral character</li> <li>✓ Recognized competence in the field of human rights</li> </ul>	<ul style="list-style-type: none"> <li>✓ Each State party may nominate not more than two persons</li> <li>✓ These persons shall be nationals of the nominating State</li> <li>✓ The Committee may not include more than one national of the same State</li> </ul>
<b>International Covenant on Economic, Social and Cultural Rights</b> (Economic and Social Council resolution 1985/17 of 28 May 1985)	<ul style="list-style-type: none"> <li>✓ Recognized competence in the field of human rights</li> </ul>	<ul style="list-style-type: none"> <li>✓ Elected by the Economic and Social Council from among candidates nominated by States parties to the Covenant</li> </ul>
<b>Convention on the Elimination of All Forms of Discrimination against Women</b> (art. 17)	<ul style="list-style-type: none"> <li>✓ High moral standing</li> <li>✓ Competence in the field covered by the Convention</li> </ul>	<ul style="list-style-type: none"> <li>✓ Each State party may nominate one person from among its own nationals</li> </ul>
<b>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</b> (art. 17)	<ul style="list-style-type: none"> <li>✓ High moral standing</li> <li>✓ Recognized competence in the field of human rights</li> </ul>	<ul style="list-style-type: none"> <li>✓ Each State party may nominate one person from among its own nationals</li> <li>✓ State parties shall bear in mind the usefulness of nominating persons who are also members of the Human Rights Committee</li> </ul>

Criteria for electing members	Membership
<ul style="list-style-type: none"> <li>✓ Consideration given to equitable geographical distribution</li> <li>✓ Consideration given to the representation of the different forms of civilization</li> <li>✓ Consideration given to the representation of the principal legal systems</li> </ul>	<ul style="list-style-type: none"> <li>✓ 18 members</li> <li>✓ Four-year term</li> <li>✓ In practice, the member is eligible for re-election if renominated</li> </ul>
<ul style="list-style-type: none"> <li>✓ Consideration given to the usefulness of the participation of some persons having legal experience</li> <li>✓ Consideration given to equitable geographical distribution</li> <li>✓ Consideration given to the representation of the different forms of civilization</li> <li>✓ Consideration given to the representation of the principal legal systems</li> </ul>	<ul style="list-style-type: none"> <li>✓ 18 members</li> <li>✓ Four-year term</li> <li>✓ Members eligible for re-election if renominated</li> </ul>
<ul style="list-style-type: none"> <li>✓ Consideration given to equitable geographical distribution</li> <li>✓ Consideration given to the representation of different forms of social and legal systems</li> </ul>	<ul style="list-style-type: none"> <li>✓ 18 members</li> <li>✓ Four-year term</li> <li>✓ Members eligible for re-election if renominated</li> </ul>
<ul style="list-style-type: none"> <li>✓ Consideration given to equitable geographical distribution</li> <li>✓ Consideration given to the representation of the different forms of civilization</li> <li>✓ Consideration given to the representation of the principal legal systems</li> </ul>	<ul style="list-style-type: none"> <li>✓ 23 members</li> <li>✓ Four-year term</li> <li>✓ In practice, members eligible for re-election if renominated</li> </ul>
<ul style="list-style-type: none"> <li>✓ Consideration given to equitable geographical distribution</li> <li>✓ Consideration given to the usefulness of the participation of some persons having legal experience</li> </ul>	<ul style="list-style-type: none"> <li>✓ 10 members</li> <li>✓ Four-year term</li> <li>✓ Members eligible for re-election if renominated</li> </ul>

*(continued)*

(Table 3 continued)

<b>Treaty</b>	Criteria for experts to be nominated	Criteria for States in nominating members
<b>Convention on the Rights of the Child</b> (art. 43)	<ul style="list-style-type: none"> <li>✓ High moral standing</li> <li>✓ Recognized competence in the field covered by the Convention</li> </ul>	<ul style="list-style-type: none"> <li>✓ Each State party may nominate one person from among its own nationals</li> </ul>
<b>International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families</b> (art. 72)	<ul style="list-style-type: none"> <li>✓ High moral standing</li> <li>✓ Impartiality</li> <li>✓ Recognized competence in the field covered by the Convention</li> </ul>	<ul style="list-style-type: none"> <li>✓ Each State party may nominate one person from among its own nationals</li> </ul>
<b>Optional Protocol to the Convention against Torture</b> (arts. 5 — 6 and 9)	<ul style="list-style-type: none"> <li>✓ High moral character</li> <li>✓ Proven professional experience in the field of the administration of justice, in particular criminal law, prison or police administration, or the various fields relevant to the treatment of persons deprived of their liberty</li> </ul>	<ul style="list-style-type: none"> <li>✓ Each State party may nominate up to two candidates</li> <li>✓ Each State party shall provide detailed information on the qualifications of the nominees</li> <li>✓ Nominees shall have the nationality of a State party to the Optional Protocol</li> <li>✓ At least one of the two candidates shall have the nationality of the nominating State party</li> <li>✓ No more than two nationals of a State party shall be nominated</li> <li>✓ Before a State party nominates a national of another State party, it shall seek and obtain the consent of that State party</li> </ul>

Criteria for electing members	Membership
<ul style="list-style-type: none"> <li>✓ Consideration given to equitable geographical distribution</li> <li>✓ Consideration given to the representation of the principal legal systems</li> </ul>	<ul style="list-style-type: none"> <li>✓ 18 members</li> <li>✓ Four-year term</li> <li>✓ Members eligible for re-election if renominated</li> </ul>
<ul style="list-style-type: none"> <li>✓ Consideration given to equitable geographical distribution, including both States of origin and States of employment</li> <li>✓ Consideration given to the representation of the principal legal systems</li> </ul>	<ul style="list-style-type: none"> <li>✓ 14 members</li> <li>✓ Four-year term</li> <li>✓ Members eligible for re-election if renominated</li> </ul>
<ul style="list-style-type: none"> <li>✓ Consideration given to equitable geographical distribution</li> <li>✓ Consideration given to the representation of different forms of civilization</li> <li>✓ Consideration given to the representation of the legal systems of the State parties</li> <li>✓ Consideration given to balanced gender representation</li> <li>✓ No two members shall be nationals of the same State</li> </ul>	<ul style="list-style-type: none"> <li>✓ 25 members</li> <li>✓ Four-year term</li> <li>✓ Eligible for re-election once if renominated</li> </ul>

*(continued)*



(Table 3 continued)

<b>Treaty</b>	Criteria for experts to be nominated	Criteria for States in nominating members
<p><b>International Convention for the Protection of All Persons from Enforced Disappearance</b> (art. 26)</p>	<ul style="list-style-type: none"> <li>✓ High moral character</li> <li>✓ Recognized competence in the field of human rights</li> </ul>	<ul style="list-style-type: none"> <li>✓ Nominated by States parties from among their nationals</li> </ul>
<p><b>Convention on the Rights of Persons with Disabilities</b> (arts. 4.3 and 34)</p>	<ul style="list-style-type: none"> <li>✓ High moral standing</li> <li>✓ Recognized competence and experience in the field covered by the Convention</li> </ul>	<ul style="list-style-type: none"> <li>✓ Due consideration given to close consultation and active participation of persons with disabilities</li> </ul>

Criteria for electing members	Membership
<ul style="list-style-type: none"> <li>✓ Elected according to equitable geographical distribution</li> <li>✓ Due account taken of the usefulness of the participation of persons having relevant legal experience</li> <li>✓ Due account taken of the usefulness of balanced gender representation</li> </ul>	<ul style="list-style-type: none"> <li>✓ 10 members</li> <li>✓ Four-year term</li> <li>✓ Eligible for re-election once</li> </ul>
<ul style="list-style-type: none"> <li>✓ Consideration given to equitable geographical distribution</li> <li>✓ Consideration given to the representation of the different forms of civilization</li> <li>✓ Consideration given to the representation of the principal legal systems</li> <li>✓ Consideration given to balanced gender representation</li> <li>✓ Consideration given to the participation of experts with disabilities</li> </ul>	<ul style="list-style-type: none"> <li>✓ 18 members</li> <li>✓ Four-year term</li> <li>✓ Eligible for re-election once</li> </ul>

**Table 4: Gender balance per treaty body (August 2015)**

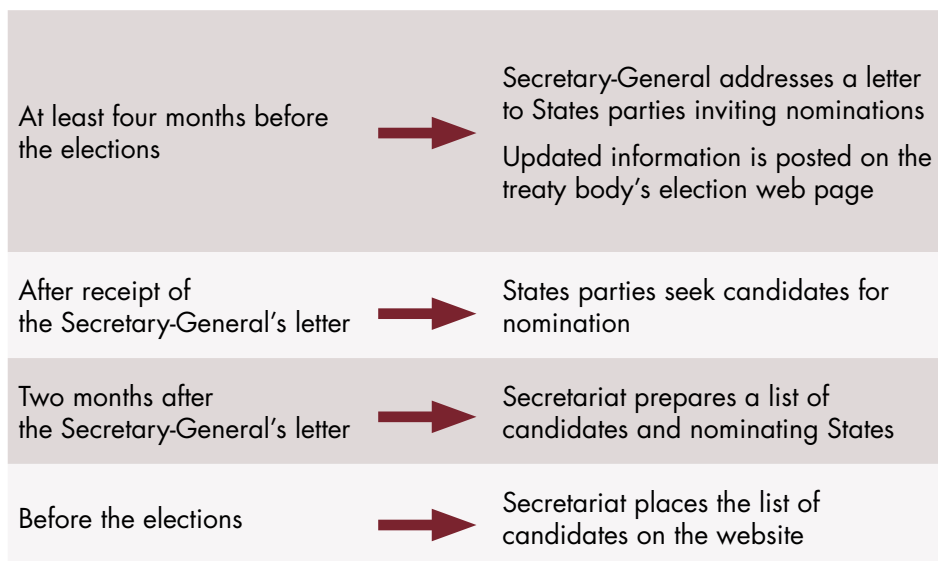
<b>Treaty body (membership)</b>	<b>Female</b>	<b>Male</b>
Committee on the Elimination of Racial Discrimination (18)	4 (22.2%)	14 (77.8%)
Human Rights Committee (18)	5 (27.8%)	13 (72.2%)
Committee on Economic, Social and Cultural Rights (18)	3 (16.7%)	15 (83.3%)
Committee on the Elimination of Discrimination against Women (23)	22 (95.7%)	1 (4.3%)
Committee against Torture (10)	3 (30.0%)	7 (70.0%)
Committee on the Rights of the Child (18)	9 (50.0%)	9 (50.0%)
Committee on Migrant Workers (14)	3 (21.4%)	11 (78.6%)
Subcommittee on Prevention of Torture (25)	13 (52.0%)	12 (48.0%)
Committee on the Rights of Persons with Disabilities (18)	6 (33.3%)	12 (66.7%)
Committee on Enforced Disappearances (10)	2 (20.0%)	8 (80.0%)
<b>TOTAL (172)</b>	<b>70 (40.7%)</b>	<b>102 (59.3%)</b>

Source: "Promotion of equitable geographical distribution in the membership of the human rights treaty bodies: Report of the Secretary-General" (A/70/257), table 4.

## B. Nomination

The nomination process is set out in each treaty and begins at least four months before the election, when the Secretary-General sends a letter to States parties to the treaty inviting them to nominate candidates. At this stage, States begin their national selection of candidates. This process is very important. A good national nomination process ensures that the best candidates are able to seek election; and the better the pool of candidates, the higher the calibre of members of a treaty body. Figure II sets out the nomination process.

**Figure II: The nomination process**



The treaties do not set out a specific process that States should follow when nominating candidates. Box 2 describes an example of good practice.

The High Commissioner for Human Rights has encouraged States parties to consider the following principles when nominating experts:<sup>10</sup>

- ✓ Rely on an open and transparent selection process;
- ✓ Consider candidates with a proven record of expertise in the relevant area (for example, through relevant work experience, publications and other achievements);
- ✓ Consider candidates who are willing to take on the full range of responsibilities of a treaty body member;

<sup>10</sup> A/66/860, sect. 4.4.2.

- ✓ Avoid nominations of experts holding any position that might expose them to pressures, conflict of interests or generate a real or perceived impression of a lack of independence;
- ✓ Limit the terms of service of members to a reasonable number for any given committee, bearing in mind that the most recent treaties allow a maximum of two successive terms.

The Secretary-General's letter specifies the date by which the secretariat should receive the nominations, which is generally two or three months before the elections. States parties should submit their nominations to the secretariat, together with the curricula vitae (CVs) of the nominees. These CVs, which follow a template and are strictly limited to five pages, should list: first and last names, date and place of birth, working languages, current position/function, main professional activities, educational background, other main activities relevant to the mandate of the treaty body and the most recent publications in the field.

The secretariat then prepares the list of nominees with their nominating States and circulates it to the Permanent Missions of the States parties. It is also posted on the treaty body's website, together with all other relevant documentation such as the rules of procedure.<sup>11</sup>

The deadline for submitting nominations is important. The secretariat must compile the list of nominees and their CVs, translate this information into the official languages and circulate it to States parties in time for States to consider the merits of the candidates. The secretariat, nonetheless, often receives nominations after the deadline. In such cases, it cannot guarantee the translation and circulation of these nominees' names and CVs. This may put them at a disadvantage. In any case, at the time of the elections, the meeting of States parties will examine any late candidates and decide whether they should be endorsed and included on the ballot paper.<sup>12</sup> At any time before the election, the nominating State may withdraw a candidate, either by writing in advance to the secretariat or, alternatively, by notifying the Chair (and informing the secretariat) of the meeting of States parties on the day of the elections.

The Convention on the Rights of Persons with Disabilities expressly identifies a role for persons with disabilities and their representative organizations in the nomination by States parties of candidates for election to the Committee (arts. 4 (3) and 34); civil society involvement in this process is not envisaged in the other treaties. Civil society can nevertheless play an important role, even without being expressly referred to. For example, CSOs may:<sup>13</sup>

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<sup>11</sup>These websites are accessible from the home page of OHCHR ([www.ohchr.org](http://www.ohchr.org), click on "Human rights bodies").

<sup>12</sup>Note that, for the Committee on Economic, Social and Cultural Rights, the timeline precludes the consideration of late nominations.

<sup>13</sup>Adapted from Child Rights Connect, "Elections to the Committee on the Rights of the Child: Information for NGOs", *Fact Sheet 1* (2006). Available from [www.childrightsconnect.org](http://www.childrightsconnect.org).

- ✓ Encourage the State to undertake an open and transparent national nomination process, including through advertising the position and interviewing potential candidates.
- ✓ Identify qualified candidates and propose them to the ministry in charge of the nomination process.
- ✓ Encourage the ministry in charge of the nomination process to select candidates who meet the requirements identified in the treaty, such as high moral standing and knowledge and experience in the relevant field, and to pay due attention to gender balance in the nomination of candidates.
- ✓ Encourage the ministry in charge of the nomination process to select candidates on the basis of merit rather than political considerations.
- ✓ Establish national partnerships with civil society and intergovernmental organizations, such as the United Nations Children’s Fund (UNICEF), the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and the International Labour Organization (ILO), to work with the relevant ministry to choose well-qualified candidates.

## BOX 2

### **Nominating candidates in the United Kingdom of Great Britain and Northern Ireland**

In the context of the first election for the Subcommittee on Prevention of Torture, in December 2006, the United Kingdom of Great Britain and Northern Ireland decided to have a public and open nomination process. This was done by placing an advertisement in a leading daily newspaper as well as on the Government’s website with a description of the key requirements that the United Kingdom identified for the position of member of the Subcommittee on Prevention of Torture, namely:

#### **Essential**

- Applicants must not be civil servants or hold posts within Government.
- Knowledge and understanding of human rights or professional experience in areas covered by the Convention against Torture and its Optional Protocol.
- Proven professional experience in the field of the administration of justice, in particular criminal law, prison or police administration, or in the various fields relevant to the treatment of persons deprived of their liberty.

- Experience in discharging high-level responsibilities in an independent organization relating to human rights or other relevant public, private or voluntary sector organization.
- Ability to deal with authorities and management of high-level responsibilities in an independent and impartial manner.
- Due to the nature of this position, applicants must be prepared to report impartially in stressful and distressing circumstances.
- Cultural awareness.
- Applicants must be willing and available to travel.
- Members will be expected to commit to approximately 45 working days per year.

**Desirable**

- Knowledge and/or experience of the United Nations and its working practices.
- High-level interpersonal and teamwork skills.
- High-level negotiating and persuasion skills.
- Ability to coordinate secretarial support.

A panel of senior officials comprising the Head of the Human Rights Division in the Ministry of Justice, the Head of the Human Rights Department in the Foreign and Commonwealth Office, and a third individual independent of Government identified and interviewed a shortlist of candidates. The Ministers of Justice and of Foreign and Commonwealth Affairs then reviewed the panel's preferred candidates and selected one person, who was then nominated through the normal international process.

The United Kingdom has relied on this open nomination process on several occasions since, including for the nomination of its candidate for the Committee on the Rights of Persons with Disabilities. In this case, the Department for Work and Pensions announced the call for candidates on its website and also included a member of one of the main organizations representative of persons with disabilities on the interview panel together with a representative of the NHRI, the Equality and Human Rights Commission. The process therefore complied with the requirement of the Convention on the Rights of Persons with Disabilities that States parties should consult and actively involve persons with disabilities, through their representative organizations, in decision-making processes concerning issues relating to them.

## C. Elections

Elections are held every two years. Elections in New York generally take place in May and June. Elections for the Committee on Economic, Social and Cultural Rights take place during the session of the Economic and Social Council, generally in June.<sup>14</sup> Elections under the Convention against Torture and its Optional Protocol take place in Geneva. The elections for the Committee against Torture take place every two years in the month of October, as do those under the Optional Protocol.

Each treaty—or in the case of the Committee on Economic, Social and Cultural Rights, resolution 1985/17 of the Economic and Social Council—stipulates that the Secretary-General organizes all the meetings of States parties during which elections take place. In practice, this means that OHCHR organizes the elections for all treaty bodies, with the exception of those for the Committee on Economic, Social and Cultural Rights, which are organized by the secretariat of the Economic and Social Council, located in the Department of Economic and Social Affairs. Each treaty body's rules of procedure govern the meetings of States parties,

**Table 5: Election calendar**

<b>Treaty body</b>	<b>Timing of elections</b>
Committee on the Elimination of Racial Discrimination	Odd years (2015, 2017, 2019 ...)
Human Rights Committee	Even years (2016, 2018, 2020 ...)
Committee on Economic, Social and Cultural Rights	Even years
Committee on the Elimination of Discrimination against Women	Even years
Committee against Torture	Odd years
Committee on the Rights of the Child	Even years
Committee on Migrant Workers	Odd years
Subcommittee on Prevention of Torture	Even years
Committee on Enforced Disappearances	Odd years
Committee on the Rights of Persons with Disabilities	Even years

<sup>14</sup> This is likely to change, however, since the General Assembly, in its resolution 68/268, recommended that the Economic and Social Council consider replacing the existing procedure for the election of experts to the Committee on Economic, Social and Cultural Rights with a meeting of States parties to the International Covenant on Economic, Social and Cultural Rights, while preserving the current structure, organization and administrative arrangements of the Committee as set forth in Council resolution 1985/17.



except again for the Committee on Economic, Social and Cultural Rights, to which the rules of procedure of the Economic and Social Council apply. The rules of procedure and practices of the General Assembly provide a guide for interpreting the rules of procedure for the meetings of States parties.

At the meeting of States parties itself, a representative of the Secretary-General makes an opening statement, updating States parties on recent events and information concerning the treaty and the treaty body. The representative then moves to the first item on the agenda, which is the election of the Chair. The Chair of the meeting rotates among the regional groups in alphabetical order, as follows:

- African States
- Asian and Pacific States
- Eastern European States
- Latin American and Caribbean States
- Western European and other States

The Chair is normally the Permanent Representative or Deputy Permanent Representative of the Permanent Mission to the United Nations of the country elected to preside the meeting. The State party will nominate the candidate for Chair from the floor and election is generally by acclamation. The newly elected Chair then proceeds to the podium and chairs the rest of the meeting. The rules of procedure also require the election of up to four Vice-Chairs, although often only one is elected.

The secretariat will also ask Permanent Missions to provide tellers during the elections. The tellers supervise the collection of ballots and, together with the secretariat, participate in and endorse the counting of votes.

Once the meeting has elected its officers, the elections proceed by secret ballot. The secretariat distributes the ballot papers with the names of all candidates. Each State party indicates on the ballot paper the candidates it wishes to vote for. A State party may indicate as many as or fewer candidates than the total number of positions open for election, but not more. For example, if there are five vacant positions, the State may vote for up to five candidates by clearly marking the corresponding boxes. However, if it marks six or more, its vote is invalid and will not be counted.

The secretariat calls out the names of each State party in alphabetical order and a representative of the State proceeds to the podium or is approached by a conference officer to submit its ballot. Once all States parties have voted, the secretariat and the tellers take the ballot box to a private room and count the votes.

To be elected to the treaty body, members must obtain *both* the largest number of votes *and* an absolute majority of votes from representatives of States parties present and voting at the meeting. If the first round does not yield enough members to fill all the vacant positions, the rules of procedure provide for additional rounds of voting until all vacancies are filled.

Occasionally, a position becomes vacant before the end of the four-year term, for example because a member has resigned or passed away. Depending on the wording of the treaty, such a vacancy is filled either through the appointment of a new member by the State party that nominated the original member or through a by-election.

Generally, treaties provide that the State party that nominated the original member may appoint a replacement from among its nationals to serve the remainder of the term. However, in the case of the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child and the Committee on Migrant Workers, the treaty body must approve the appointment before it is formalized. In the case of the Committee against Torture, the Subcommittee on Prevention of Torture and the Committee on Enforced Disappearances, the States parties must approve the appointment. In the case of the Committee on Economic, Social and Cultural Rights, there is also a formal procedure for the election of a candidate from the regional group, who is usually from the State of the initial member.

When the treaty requires the appointment to be approved by the States parties, the approval is considered to be obtained automatically unless at least half the States parties reject the candidate within six weeks of the notice from the Secretary-General informing them of the proposed appointment. The Convention on the Rights of Persons with Disabilities does not set out an approval mechanism, although it requires the proposed candidate to possess the qualifications and meet the requirements for members as set out in the Convention.

The International Covenant on Civil and Political Rights requires such vacancies to be filled through a by-election at an extraordinary meeting of States parties, unless the term of office of the member being replaced expires within six months of the formal notification by the Secretary-General of the vacancy. The Secretary-General organizes the by-election in the same way as a regular election. If the term has less than six months to run, no action is necessary.

For more information on nominations and elections, see: United Nations, *Human Rights Treaty Bodies and Election of Treaty Body Members: A Guide for United Nations Delegates Based in New York* (2013), available from [www.ohchr.org](http://www.ohchr.org).

### III. INDEPENDENCE AND ACCOUNTABILITY

#### A. Independence and impartiality

The treaties indicate that members serve in their personal capacity, and some treaties specify that members must also be independent and impartial. Table 6 sets out the terminology used in the various treaties.

The treaties do not define “personal capacity”, “independence” and “impartiality”, although it is generally understood that treaty body members should act in accordance with their consciences, the terms of the treaty and in the interest of the treaty body, and that they should not act on behalf of other stakeholders, such as a Government or NGO. Similarly, members should perform their tasks fairly and without bias.

The rules of procedure of treaty bodies provide some additional guidance. For example, those of the Human Rights Committee state that a member shall not participate in the examination of a communication under the individual communications procedure if he or she has a personal interest in the case, is a national of the State party involved in the communication or has participated in any capacity in the making of any decision covered by the communication (rule 90). The rules of procedure of other treaty bodies have similar provisions.<sup>15</sup> Moreover, the Committee against Torture’s rules of procedure require members who are nationals of the State party concerned or are employed by that State to be excluded from any non-public consultations or meetings between the Committee and NHRIs and NGOs (rules 73 and 109).

Some treaty bodies have considered the independence and impartiality of their members more closely and have adopted general comments or general recommendations on the issue. In 1990, the Committee on the Elimination of Racial Discrimination adopted a general recommendation on the independence of members, noting its alarm at the tendency of States and others to put pressure on its members, particularly country rapporteurs, and strongly recommended that States and others should “respect unreservedly the status of its members as independent experts of acknowledged impartiality serving in their personal capacity”.<sup>16</sup> The Human Rights Committee also adopted guidelines related to the functions of its members covering issues such as participation in the reporting and communications procedure and relationships with Governments and NGOs.<sup>17</sup>

<sup>15</sup> See, for instance, provisional rules of procedure under the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, rule 5.

<sup>16</sup> General recommendation No. IX (1990) concerning the application of article 8, paragraph 1, of the Convention.

<sup>17</sup> Guidelines for the exercise of their functions by members of the Human Rights Committee (A/53/40, vol. I, annex III); see also the Committee’s guidelines on its relationship with NHRIs (CCPR/C/106/3) and with NGOs (CCPR/C/104/3).

The requirement that members should be independent and impartial raises some practical issues. Should a member be in the room when the treaty body reviews the country that nominated him or her? Should a member accept an invitation to attend a meeting in a country that the treaty body will review the following month? Should a member undertake a visit to a country already reviewed by a treaty body to encourage it to follow up on its recommendations? Should a member hold an important position in an NGO that works closely with the same treaty body?

In 2012, the Chairpersons of the treaty bodies endorsed the guidelines on the independence and impartiality of members of the human rights treaty bodies (“the Addis Ababa guidelines”) and recommended that each treaty body should adopt them. By March 2015, most treaty bodies had done so.<sup>18</sup> The Addis Ababa guidelines are also cited in General Assembly resolution 68/268, in which the General Assembly encourages the treaty bodies to implement the guidelines in accordance with their mandates (para. 36).

It is important to underline that members should not only be independent and impartial, but also be seen by a reasonable observer to be so. In this regard, the Addis Ababa guidelines specify that members should avoid functions or activities which are, or are seen by a reasonable observer to be, incompatible with the obligations and responsibilities of independent experts under the relevant treaties. In other words, even if a member acts completely independently and impartially, there are situations in which his or her integrity might be called into question because of the context.

The Addis Ababa guidelines apply the general principles to particular situations, including: participation in the consideration of State party reports and other aspects of the reporting procedure; participation in the consideration of communications; participation in country visits and inquiries; relationship with States; decision-making roles in any organization, such as CSOs or private corporations, that might appear not to be reconcilable with the principles of independence and impartiality; and preservation of independence and impartiality when taking part in external human rights activities, such as panels, training courses and seminars. In addition, a section on accountability puts the onus on individual members to act in accordance with their consciences, but also places a duty on the Chair of the treaty body and, ultimately, the treaty body as a whole to safeguard the requirements of independence and impartiality.

A question which treaty body members often face relates to the role they should play when their own States come up for review. According to the guidelines, a member holding the nationality of that State party should not participate in or

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<sup>18</sup> The Human Rights Committee, the Committee on the Elimination of Discrimination against Women, the Committee against Torture, the Committee on the Rights of the Child, the Committee on Migrant Workers, the Subcommittee on Prevention of Torture, the Committee on the Rights of Persons with Disabilities and the Committee on Enforced Disappearances have all endorsed the guidelines.

**Table 6: Independence and impartiality of treaty body members**

<b>Treaty</b>	<b>References to independence and impartiality</b>
International Convention on the Elimination of All Forms of Racial Discrimination (1965)	✓ Members to serve in their personal capacity (art. 8)
International Covenant on Civil and Political Rights (1966)	<ul style="list-style-type: none"> <li>✓ Members to be elected and serve in their personal capacity (art. 28)</li> <li>✓ Members to solemnly declare to perform the functions impartially and conscientiously (art. 38)</li> </ul>
International Covenant on Economic, Social and Cultural Rights (1966)	✓ Members to serve in their personal capacity (Economic and Social Council resolution 1985/17, para. (b))
Convention on the Elimination of All Forms of Discrimination against Women (1979)	✓ Members to serve in their personal capacity (art. 17)
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)	✓ Members to serve in their personal capacity (art. 17)
Convention on the Rights of the Child (1989)	✓ Members to serve in their personal capacity (art. 43)
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)	<ul style="list-style-type: none"> <li>✓ Members to be impartial (art. 72)</li> <li>✓ Members to serve in their personal capacity (art. 72)</li> </ul>
Optional Protocol to the Convention against Torture (2002)	<ul style="list-style-type: none"> <li>✓ Members to serve in their individual capacity (art. 5)</li> <li>✓ Members to be independent and impartial (art. 5)</li> </ul>
Convention on the Rights of Persons with Disabilities (2006)	✓ Members to serve in their personal capacity (art. 34)
International Convention for the Protection of All Persons from Enforced Disappearance (2006)	<ul style="list-style-type: none"> <li>✓ Members to serve in their personal capacity (art. 26)</li> <li>✓ Members to be independent and impartial (art. 26)</li> </ul>

influence the review in any way, and this has been the consistent practice across treaty bodies. Often, such a member will leave the room during the review to distance himself or herself from the dialogue. The guidelines also stipulate that such members do not participate in the consideration or adoption of concluding observations and that members holding multiple nationalities should, on their own initiative, inform the Chair and the secretariat. As noted above, if there is any doubt about the independence or impartiality of a member, the test is always whether a reasonable observer would consider the member to have a real or perceived conflict of interest in the particular situation.

Another question is whether a member of a treaty body should accept an invitation to a State party that is soon to be under review by that same treaty body. Such invitations are not uncommon and in many cases are sent through the secretariat. In 2005, the High Commissioner endorsed guidelines on country visits to assist both members and the secretariat.<sup>19</sup> According to these guidelines, “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, [OHCHR] is of the view that such invitations may be perceived as an attempt to influence the outcome of the consideration of the report.” The guidelines propose the following:

- ✓ If the secretariat receives an invitation to members to visit a State party—particularly before their treaty body considers that State’s report—it will promptly forward it to the relevant members and inform them that the secretariat will not finance the visit nor assist in its organization.
- ✓ If the secretariat receives such an invitation after the review of that State to follow up on recommendations, it may agree to provide support for the visit.
- ✓ The secretariat invites members who receive such invitations themselves to disclose this, as well as any information on costs covered by the State or honorariums paid, to the other members of the treaty body.
- ✓ If an NGO extends an invitation, the secretariat encourages members to inform the Government of the State party before the visit.
- ✓ The secretariat encourages visiting members to refrain from issuing press releases or entering into contact with the media before consideration of the State party’s report, so that there is no confusion between the outcome of the visit and the review of the report.

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<sup>19</sup> “Report on the working methods of the human rights treaty bodies relating to the State party reporting process” (HRI/MC/2005/4), annex. These guidelines are also set out in annex IV below.

## BOX 3

### **An overview of the guidelines on the independence and impartiality of the human rights treaty bodies**

The Addis Ababa guidelines, which are annexed in full below (see annex I), contain general principles to assist treaty body members and other stakeholders, and a section on the application of these general principles. The general principles provide, in brief, that:

- ✓ Treaty body members should not only be independent and impartial, but should also be seen by a reasonable observer to be so.
- ✓ A treaty body member shall not be considered to have a real or perceived conflict of interest as a consequence of his or her race, ethnicity, religion, gender, disability, colour, descent, or any other basis for discrimination.
- ✓ Treaty body members are accountable only to their own conscience and the relevant treaty body and not to their State or any other State.
- ✓ The fact that a treaty body member is a national of one or more States shall not result in, or be thought to result in, more favourable treatment of any of those States.
- ✓ Treaty body members shall avoid any action in relation to the work of their treaty body that might lead to, or be seen by a reasonable observer to lead to, bias against States.

During their informal consultations in January 2014, the Chairs of the human rights treaty bodies referred to the Addis Ababa guidelines in a joint statement:

*The independence and impartiality of treaty body members is of utmost importance. The Addis Ababa guidelines on the independence and impartiality of members of the human rights treaty bodies were agreed upon and endorsed by all treaty body chairpersons at the 24th meeting of chairpersons in 2012. All the treaty bodies apply the principles of the Addis Ababa guidelines in their rules of procedure and/or practice. Observance of the principles of independence and impartiality [is] under the continual and effective scrutiny of the treaty bodies.*

*The treaty bodies have traditionally promoted the awareness of treaty body members of their compliance with appropriate norms and procedures to maintain the independence, impartiality and objectivity of their work, as determined by the individual treaty bodies or adopted collectively.*

## B. Privileges and immunities

Treaty body members have the status of United Nations experts on mission.<sup>20</sup> Experts performing missions for the United Nations shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions (e.g., attending treaty bodies' sessions), including the time spent on journeys in connection with their missions. In particular they shall be accorded:

- (a) Immunity from personal arrest or detention and from seizure of their personal baggage;
- (b) In respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind. This immunity from legal process shall continue to be accorded notwithstanding that the persons concerned are no longer employed on missions for the United Nations;
- (c) Inviolability for all papers and documents;
- (d) For the purpose of their communications with the United Nations, the right to use codes and to receive papers or correspondence by courier or in sealed bags;
- (e) The same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;
- (f) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.<sup>21</sup>

The rationale for guaranteeing that members enjoy these privileges and immunities is to ensure that they are free from any interference while on mission. According to article VI, section 23, of the Convention on the Privileges and Immunities of the United Nations, privileges and immunities are granted to the members in the interests of the United Nations and not for their personal benefit. The Secretary-General has the right and the duty to waive the immunity of any member in any case where, in his or her opinion, immunity would impede the course of justice and it can be waived without prejudice to the interests of the United Nations. Whether or not privileges and immunities apply to a specific situation will depend on the facts of each case.<sup>22</sup>

<sup>20</sup> See *United Nations Juridical Yearbook*, 1969, pp. 207–210, on the privileges and immunities of the members of the Committee on the Elimination of Racial Discrimination. See also *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations, Advisory Opinion*, I.C.J. Reports 1989, p. 177, known as the *Mazilu case*. Paragraphs 40–52 are particularly relevant.

<sup>21</sup> Convention on the Privileges and Immunities of the United Nations, art. VI, sect. 22.

<sup>22</sup> *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights, Advisory Opinion*, I.C.J. Reports 1999, p. 62, para. 52.



## BOX 4

### **Advisory Opinion of the International Court of Justice on the Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights**

#### **Facts**

Mr. Dato' Param Cumaraswamy, a Malaysian jurist appointed by the United Nations Commission on Human Rights in 1994 as Special Rapporteur on the Independence of Judges and Lawyers, faced several lawsuits filed in Malaysian courts by two plaintiffs who asserted that he had used defamatory language in an interview. The plaintiffs sought damages amounting to US\$ 112 million each. However, according to the United Nations Secretary-General, Mr. Cumaraswamy had spoken in his official capacity of Special Rapporteur and was thus immune from legal process by virtue of the Convention on the Privileges and Immunities of the United Nations.

The Economic and Social Council, of which the Commission on Human Rights was a subsidiary organ, requested an advisory opinion from the International Court of Justice in August 1998, after efforts by the Secretary-General to ensure respect for Mr. Cumaraswamy's immunity had not achieved the desired result.

#### **Opinion**

The Court recalled that a special rapporteur who was entrusted with a mission for the United Nations must be regarded as an expert on mission within the meaning of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations. Moreover, the Court indicated that such experts enjoyed the privileges and immunities provided for under the Convention in their relations with States parties, including those of which they are nationals. The Court also observed that Malaysia had acknowledged that Mr. Cumaraswamy was an expert on mission.

The Court pointed out that the Secretary-General, as the chief administrative officer of the United Nations, had the primary responsibility and authority to assess whether its agents, including experts on mission, acted within the scope of their functions and, where this was the case, to protect those agents by asserting their immunity. In doing so, the Secretary-General protected the mission entrusted to the expert.

Turning to the legal obligations of Malaysia, the Court stated that, when national courts are seized of a case in which the immunity of a United Nations agent is at issue, the State in question should immediately notify the court of any finding by the Secretary-General on the question of immunity and give that

finding the greatest weight. The Court added that questions of immunity were preliminary issues which national courts had to decide upon expeditiously at the very outset of the proceedings. Since the conduct of any organ of a State, including national courts, must be regarded as an act of that State, the Court concluded that the Government of Malaysia had not acted in accordance with its obligations under international law in the present case.

The Court agreed unanimously that Mr. Cumaraswamy should be held “financially harmless for any costs imposed upon him by the Malaysian courts, in particular taxed costs.” The Court also found, by 13 votes to 2, that the Government of Malaysia had, as a consequence of the decision, “the obligation to communicate [the] Advisory Opinion to the Malaysian courts, in order that Malaysia’s international obligations be given effect and [Mr.] Cumaraswamy’s immunity be respected”.

*Source: Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights, Advisory Opinion, I.C.J. Reports 1999, p. 62.*

### **C. Standards of conduct**

The standards of conduct expected of treaty body members are set out in the Secretary-General’s Bulletin titled “Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials, and Experts on Mission” (ST/SGB/2002/9, see annex III below).

According to regulation 2 (a), “officials and experts on mission shall uphold the highest standards of efficiency, competence and integrity. The concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status.”

In addition, regulation 2 establishes the following standards of conduct for experts on mission:

- ✓ In the performance of their duties, experts shall neither seek nor accept instructions from any Government or from any other source external to the Organization.
- ✓ Experts shall discharge their functions and regulate their conduct with the interests of the Organization only in view.
- ✓ Experts shall ensure that their views and convictions do not adversely affect their official duties or the interests of the Organization, bearing in mind that their personal views and convictions remain inviolable.

Importantly, experts must avoid any action or public pronouncement that may adversely reflect on their status or on the integrity, independence and impartiality required by that status.

- ✓ Experts shall not use their office or knowledge gained as a result of exercising their official functions for private gain or for the gain of a third party.
- ✓ Experts shall not use their office for personal reasons to prejudice the positions of those they do not favour.
- ✓ Experts have to exercise the utmost discretion in regard to all matters of official business. This includes respecting the confidentiality of information and sources of information gained as a result of their official position.
- ✓ Experts may not accept any honour, decoration, favour, gift or remuneration from any Government or non-governmental source for activities carried out during the course of their official functions.
- ✓ Experts shall not be actively associated with the management of, or hold a financial interest in, any profit-making, business or other concern if it were possible for them, or the particular concern, to benefit from such an association by reason of their position with the United Nations.
- ✓ Experts must file financial disclosure statements if requested to do so by the Secretary-General.
- ✓ Experts must comply with local laws and honour their private legal obligations, including, but not limited to, the obligation to honour orders of competent courts.
- ✓ Any form of discrimination or harassment, including sexual or gender harassment, as well as physical or verbal abuse, at the workplace or in connection with work, is prohibited.
- ✓ Experts shall not intentionally misrepresent their functions, official title or the nature of their duties to Member States or any entities or persons outside the United Nations.
- ✓ Experts participating, as part of their official functions, in activities organized by a Government, intergovernmental organization, NGO or other private source may receive from the organizers travel and subsistence allowance generally in line with that payable by the United Nations. In such cases, the travel and subsistence allowance otherwise payable by the United Nations shall be reduced accordingly.

In accordance with regulation 1 (d), OHCHR provides members with a copy of the Regulations Governing the Status, Basic Rights and Duties of Officials other

than Secretariat Officials, and Experts on Mission and members are requested to acknowledge its receipt.

In addition, regulation 1 (b) specifically requires experts to make the following written declaration witnessed by the Secretary-General or an authorized representative:

*I solemnly declare and promise to exercise in all loyalty, discretion and conscience the functions entrusted to me by the United Nations, to discharge these functions and regulate my conduct with the interests of the United Nations only in view, and not to seek or accept instructions in regard to the performance of my duties from any Government or other source external to the Organization.*

According to regulation 3, experts are accountable to the United Nations for the proper discharge of their functions. The commentary to this regulation notes that, for experts, either the Secretary-General or the appointing authority may terminate an assignment or otherwise admonish the expert.

#### **D. Prohibition of discrimination, harassment and abuse**

Regulation 2 (k) prohibits discrimination, harassment, including sexual and gender harassment, as well as physical or verbal abuse.

Treaty body members have a right to perform their duties free from discrimination, harassment and abuse. Likewise, they must not themselves discriminate, harass or abuse anyone in the exercise of their functions, including other stakeholders and members of the secretariat.

## **IV. WORKLOAD AND EXPECTATIONS**

As noted in the introduction, being a treaty body member is a rewarding experience. Members can take on a variety of roles and contribute to their treaty body in a unique way. These roles include being a Chair, a country rapporteur under the reporting procedure, a rapporteur for a general comment and so on. At the same time, there are also certain expectations regarding workload that each member should take on. This chapter identifies these roles and workload expectations, and provides some basic information relevant to working with OHCHR.

### **A. Specific roles and responsibilities**

Members often take on specific roles and responsibilities that are essential to the good functioning of the committees and enable them to contribute in various

ways to the committees' work. It should be noted that many of these roles increase members' workload, including in between sessions. The main roles are:

- ✓ *Chair* – each treaty body has a Chair, generally elected by the membership for a two-year period (sometimes renewable) and generally on the basis of geographic rotation, although this is not always the case and not required by the treaties (members are independent and do not represent the States that nominated them). The Chair's principal responsibility is to preside at public and private meetings of the treaty body. In addition, the Chair presides at the meetings of the bureau (see below). He or she encourages consensus within the treaty body when decisions are taken, protects the integrity of the treaty body and its membership and encourages members to be independent and impartial. In between sessions, the Chair may have to take decisions on urgent issues on behalf of the committee and is in constant contact with its secretary about organizational and other issues. The Chair attends the annual meeting of Chairpersons and addresses the General Assembly when presenting the committee's annual or biennial report. Furthermore, as the General Assembly called for in its resolution 68/268, Chairs play a key role in formulating conclusions on issues related to working methods and procedural matters, promptly generalizing good practices and methodologies among all treaty bodies, and ensuring coherence across the treaty bodies by standardizing working methods (para. 38).
- ✓ *Member of the bureau* – most treaty bodies have a bureau, elected by members according to the treaty body's rules of procedure. The bureau consists of the Chair and members who generally (but not always) represent the four regional groups (other than the regional group of the Chair). One of the bureau members serves as committee rapporteur (see below), while the remainder are Vice-Chairs, who replace the Chair in official functions in her or his absence. The bureau meets regularly during the session, usually outside official meeting hours, to discuss any matters related to the functioning of the treaty body. The bureau assists the Chair in making decisions and also undertakes preliminary discussion of issues facing the treaty body prior to discussion/decision in plenary.
- ✓ *Rapporteur* – the rapporteur is usually the member with the responsibility for drafting and presenting the session/annual/biennial reports. The secretariat assists the rapporteur in preparing the draft and the rapporteur presents a draft to the treaty body for consideration and adoption. Also, some rapporteurs are given the task of ensuring the coherence and

consistency of all adopted concluding observations and treaty body jurisprudence.

- ✓ *Country rapporteur* – country rapporteurs are responsible for reviewing the State party report and any other material pertaining to the review of that State, including information from civil society, NHRIs and United Nations entities. The country rapporteur presents a list of issues to the treaty body for adoption (see fig. 1). Subsequently, the country rapporteur must prepare for the dialogue, including by reviewing any responses from the State party to the list of issues as well as any additional information that the committee receives related to the situation in that State. The country rapporteur leads the dialogue on behalf of the treaty body. In some committees, he or she makes a presentation directly after the introductory remarks by the head of delegation of the State party presenting its report and also makes concluding remarks at the end of the dialogue.
- ✓ *Member of a country task force* – some treaty bodies support the country rapporteur via a country task force. The task force, normally comprising between two and four additional members, assists the country rapporteur in all of the functions outlined above, especially in the preparation of the list of issues and in the dialogue with the delegation of the State party.
- ✓ *Rapporteur on new communications/interim measures* – new individual communications arrive and are registered throughout the year. The relevant treaty bodies appoint a member to serve as special rapporteur for new communications and interim measures. The rapporteur liaises with the secretariat on an ongoing basis in fulfilling this function. On occasion, the author of the communication seeks interim measures to prevent irreparable harm being done. Such requests are considered as a matter of urgency – including in between sessions – by the rapporteur, who, on the authority of the treaty body, may then issue requests to State parties for interim measures.
- ✓ *Individual communications case rapporteur* – once the file of an individual communication is ready for consideration, the treaty body assigns the case to a member known as the case rapporteur. Assisted by the secretariat, the case rapporteur reviews all the submissions from the State party and the author, and prepares a first draft of findings (such as on admissibility and the merits of the communication) for the treaty body’s review. Normally, a working group of the treaty body reviews the first draft before its review at the plenary meeting of the treaty body.

- ✓ *Rapporteur on follow-up to concluding observations* – in the periodic reporting procedure, some treaty bodies identify a limited number of recommendations (usually one to four) for immediate follow-up and request the State party to take action on them and to present a report to the committee on the action taken within one year. To assist them with this procedure, most treaty bodies appoint a rapporteur on follow-up to concluding observations. While each treaty body has its own methods, typically the rapporteur, with the assistance of the secretariat, compiles the responses from States parties regarding implementation of the recommendations as well as relevant information from other sources (such as NGOs) in a written report on follow-up, which is then presented to the treaty body. On the basis of this report, the treaty body decides whether the follow-up action has been sufficient and whether any further information or action from the State party is required.
- ✓ *Rapporteur on follow-up to views* – when a treaty body finds a violation under its individual communications procedure, it requires the State party to respond within six months of the publication of the views by detailing the remedies provided to the victim. The rapporteur on follow-up to views, with the assistance of the secretariat, reviews this response along with any further information on the matter from the authors of the communications and presents a written assessment to the treaty body of whether its findings have been complied with. On the basis of this report, the treaty body decides whether the follow-up action has been sufficient and whether any further information or action from the State party is required.
- ✓ *Rapporteur for a general comment* – if a treaty body decides to draft a new general comment or recommendation, it appoints a rapporteur to develop a first draft of the text and marshal it through the various stages of development by the committee. The precise stages vary across the treaty bodies. Typically, a draft is considered at two readings. Most committees also elicit comments from various stakeholders, including States parties, civil society and academia. The rapporteur ensures that their comments and the views expressed by the treaty body's members are reflected in the evolving draft.
- ✓ *Designated member to carry out a confidential inquiry* – if a treaty body is mandated to undertake confidential inquiries, members will be designated to conduct the inquiry and to report urgently to the committee. The designated members gather information, seek the views of the State party

concerned and prepare their findings for consideration by the committee. This process may or may not involve a visit to the State party concerned.

- ✓ *Head of a delegation for a visit* – if a treaty body undertakes an inquiry that includes a country visit, the visiting delegation is normally led by a head of delegation. The head of delegation provides guidance in relation to the substance and organization of the inquiry or visit and leads discussions with all counterparts. The head of delegation is also responsible for delivering the report on the visit and presenting it to the treaty body for consideration and adoption.
- ✓ *Country rapporteur (visits)* – for its visits, the Subcommittee on Prevention of Torture appoints a country rapporteur, who is expected to establish and build relations with States parties to the Optional Protocol as well as with the national preventive mechanisms, examine the annual reports of these mechanisms and prepare substantive papers in preparation for the visit, with the assistance of the secretariat. During the visit, the country rapporteur draws up the initial conclusions and subsequently presents them to the Subcommittee.
- ✓ *Rapporteur on reprisals* – most treaty bodies have appointed rapporteurs on reprisals. Such rapporteurs bring cases of alleged reprisals or threats by States against human rights defenders who have assisted their respective treaty bodies to their attention. On the advice of the rapporteur, the treaty body takes appropriate action, such as corresponding with the State party, issuing a statement and/or recording the allegation in its annual report.
- ✓ Members may also take on additional roles and responsibilities, such as being a member of an ad hoc working group on procedural and substantive issues.

## **B. Workload**

Potential nominees should be aware of and consider the typical workload of a treaty body member. There are expectations that each member will be present in Geneva at least during the entire plenary sessions of the respective treaty body and, in some cases, also for pre-sessional working groups (see table 7 for an overview of the current sessions per treaty body<sup>23</sup>).

<sup>23</sup> It should be noted that committees convene additional, ad hoc meetings, which are not reflected in the table.



**Table 7: Overview of treaty body sessions**

Treaty body	Annual meeting times
Committee on the Elimination of Racial Discrimination	Three sessions: April/May (three-week plenary); August (four-week plenary); and November/December (three-week plenary)
Human Rights Committee	Three sessions: March (one-week pre-sessional working group and three-week plenary); June/July (one-week pre-sessional working group and four-week plenary); and October/November (one-week pre-sessional working group and three-week plenary)
Committee on Economic, Social and Cultural Rights	Three sessions: February/March (two-week plenary and one-week pre-sessional working group); June (three-week plenary); and September/October (three-week plenary and one-week pre-sessional working group)
Committee on the Elimination of Discrimination against Women	Three sessions: February/March (three-week plenary and one-week pre-sessional working group); July (three-week plenary and one-week pre-sessional working group); and October/November (four-week plenary and one-week pre-sessional working group)
Committee against Torture	Three sessions: April/May (four-week plenary); July/August (three-week plenary); and November/December (five-week plenary)
Committee on the Rights of the Child	Three sessions: January/February (three-week plenary and one-week pre-sessional working group); May/June (three-week plenary and one-week pre-sessional working group); and September/October (three-week plenary and one-week pre-sessional working group)
Committee on Migrant Workers	Two sessions: April (two-week plenary); and August/September (eight-day plenary)
Committee on Enforced Disappearances	Two sessions: February (two-week plenary); and September (two-week plenary)
Committee on the Rights of Persons with Disabilities	Two sessions: March/April (three-and-a-half-week plenary and one-week pre-sessional working group); and August/September (three-week plenary and one-week pre-sessional working group)
Subcommittee on Prevention of Torture	Three sessions: February (one-week plenary); June (one-week plenary); and November (one-week plenary)

## **Pre-sessional workload**

All treaty body members read and analyse the country files for each State party to be reviewed at the next session. Members who are serving as rapporteurs or task force members will also need to familiarize themselves with any other information from the United Nations, NGOs, NHRIs or any other individual or organization that submits information. Where relevant, experts should also familiarize themselves with draft individual communications and other documents to be considered during forthcoming sessions. Members are also responsible for presenting draft documents (lists of issues, draft views on individual communications and so on) to the treaty body for consideration and adoption.

## **In-session workload**

At any session, a treaty body will review 5 to 10 State party reports—sometimes more. This requires a considerable amount of time for reading. Members also attend and participate in the constructive dialogues with States parties, as appropriate. Additionally, there are frequent meetings regarding other areas of work undertaken by the treaty body. This includes work in relation to its general comments or recommendations, days of general discussion, statements and so on. These meetings may take place outside the treaty body's official meeting hours.

## **Intersessional workload**

In addition, members have responsibilities in between sessions. For example, members organize travel and visas to attend sessions (see chap. V), and the United Nations requires members to take certain mandatory online training courses (e.g., security training).

For treaty bodies that carry out inquiries and visits, members prepare for visits in between sessions, including reading background documents and undertaking administrative preparations (travel arrangements, visas, etc.). Members set aside approximately two weeks for each visit. Visits are very intensive, with many meetings and often much internal travel (sometimes in challenging conditions). At times, States parties seek to change the dates of visits, which, if requested in good faith, may require a degree of flexibility on the part of members. Finally, members have to prepare a report on the visit as soon as possible after their return. While the secretariat generally compiles members' notes in a preliminary draft report, members finalize the draft, which must be submitted for editing and translation in time for consideration by the treaty body at its next session.

Treaty body members are sometimes invited to participate in various training workshops and academic seminars related to their respective treaties. On

occasion, OHCHR may invite a member to participate in an event such as a panel discussion of the Human Rights Council or an OHCHR-sponsored seminar, either as representative of the treaty body or in an independent capacity. Such events can be useful to ensure synergies between the work of treaty bodies and other human rights bodies and mechanisms, such as the special procedures.

Once a year, normally in June, the Chairs of all treaty bodies hold a joint meeting for five working days. Generally speaking, the meeting provides a forum for the Chairs to discuss their work and consider ways to make the treaty body system more effective. The agenda for the meeting changes from year to year but typically includes issues such as the streamlining and overall improvement of the reporting procedure, harmonization of methods of work, follow-up to world conferences and joint statements. The meeting is an official meeting of the United Nations and the Secretary-General transmits its report to the General Assembly.

### **C. Working with OHCHR**

All treaties stipulate that the Secretary-General must provide the treaty bodies with the necessary facilities and resources for their work. As a result, the Secretary-General has designated OHCHR as the secretariat of the 10 treaty bodies. In practice, the secretariat's work is carried out in the Human Rights Treaties Division of OHCHR. The relationship between OHCHR and the treaty bodies has evolved over the years and can today be described as a genuine partnership. OHCHR provides direct support for treaty body sessions and visits but also assists the treaty bodies in many other ways, for example, through its field presences and its research capacity, by raising the work of the treaty bodies in the universal periodic review and through advocacy by the High Commissioner. In turn, the work of the treaty bodies is one of the fundamental pillars of the work of the High Commissioner and OHCHR, by providing expert and authoritative clarifications of treaties and country analyses and recommendations that provide an objective guide for the Office's work. For example, the concluding observations of treaty bodies are taken into account in the formulation of the OHCHR quadrennial management plans.

Two other parts of the United Nations Secretariat also provide direct support to the treaty bodies: the Division of Conference Management at the United Nations Office at Geneva (UNOG) houses the sections responsible for conference services, editing and translation of documents as well as interpretation; and the United Nations Information Service at UNOG provides information coverage of the treaty bodies' public meetings.

## The structure of the Human Rights Treaties Division

The Human Rights Treaties Division (HRTD) is one of the four divisions of OHCHR. It comprises four sections, all of which support the 10 treaty bodies in different ways. Figure III illustrates the division of work across these sections. The Civil, Political, Economic, Social and Cultural Rights Section and the Groups in Focus Section comprise the secretariats of the nine treaty bodies related to the core international human rights treaties. The Petitions and Inquiries Section consists of the Petitions Unit, which supports the individual communications procedure of all treaty bodies and the urgent action procedure of the Committee on Enforced Disappearances, and the secretariat of the Subcommittee on Prevention of Torture.

The Capacity-building and Harmonization Section supports the annual meeting of the Chairpersons, supports the strengthening and harmonization of the treaty body system, conducts capacity-building activities such as training and technical cooperation, develops publications, maintains the universal human rights index and treaty body documentation database, and leads public information and outreach efforts, such as the *Weekly Updates* and the *Newsletter* of HRTD. This Section also manages the United Nations Voluntary Fund for Victims of Torture, the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery and the Special Fund established by the Optional Protocol to the Convention against Torture.

Each treaty body receives substantive and administrative support from a team. The team consists of the secretary of the committee and, where relevant, the secretary of the working group on communications, both of whom are supported by professional staff and administrative assistants.

The secretariat supports the preparation of lists of issues, lists of themes and lists of issues prior to reporting, concluding observations, views/decisions and reports on inquiries and visits.<sup>24</sup> Staff members also undertake research and provide preliminary drafts of documents, including general comments, for review by the treaty body. Secretariat staff members consult treaty body members, integrate comments and finalize draft documents. Similarly, the secretariat assists the rapporteurs in the preparation and submission of the committees' annual reports as well as other documents such as press statements, press releases and statements and documents relating to working methods or meetings of States parties. In addition, the secretariat registers communications under the individual communications procedures and supports treaty bodies by sending correspondence to the parties to a communication. Similarly, the secretariat prepares inquiries and formal visits

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<sup>24</sup> Lists of issues are lists of questions sent to the State party that are prepared on the basis of the State party's report in order to gather additional information from the State party prior to the State party review so as to inform the dialogue; the State party should provide written responses to the questions. Lists of themes are lists of specific issues sent to the State party that are prepared on the basis of the State party's report in order to provide a structure to the State party review but do not require written responses from the State party prior to the review. Lists of issues prior to reporting are lists of questions sent to the State party to assist it in the preparation of its report.

**Figure III: Human Rights Treaties Division**

<b>Division Director</b>			
<b>Civil, Political, Economic, Social and Cultural Rights Section</b>	<b>Groups in Focus Section</b>	<b>Capacity-building and Harmonization Section</b>	<b>Petitions and Inquiries Section</b>
Committee on the Elimination of Racial Discrimination	Committee on the Elimination of Discrimination against Women	Meeting of Chairpersons and treaty body strengthening and harmonization	Petitions
Committee on Economic, Social and Cultural Rights	Committee on the Rights of the Child	Capacity-building on engagement with the treaty bodies	
Human Rights Committee	Committee on the Rights of Persons with Disabilities	Outreach, tools and publications	
Committee against Torture	Committee on Migrant Workers	United Nations Voluntary Fund for Victims of Torture, United Nations Voluntary Trust Fund on Contemporary Forms of Slavery and Special Fund of the Optional Protocol to the Convention against Torture	Subcommittee on Prevention of Torture
Committee on Enforced Disappearances			

(under the Subcommittee on Prevention of Torture) for treaty body members and participates in such visits as support.

The secretariat also provides technical briefings to States parties and induction training for new treaty body members. During the induction, the work of the treaty bodies is presented and issues related to travel, security, privileges and immunities, standards of conduct and other issues of interest to new members are explained. Moreover, the secretariat organizes thematic discussions, special events and meetings with States, civil society, United Nations agencies and other international organizations, and other stakeholders.

The secretariat further undertakes all administrative tasks for the treaty bodies' sessions, including facilitating travel arrangements in coordination with members and the travel section of OHCHR, formatting and submitting documents for editing and translation to the Division of Conference Management, and liaising with this Division on organizational issues such as meeting room bookings and interpretation services. All staff members supporting treaty bodies are international civil servants answerable to the Secretary-General, which in practice means the High Commissioner for Human Rights and the Director of the Human Rights Treaties Division. HRTD staff work under the supervision of secretaries and chiefs of section under an established HRTD workplan. Staff members of other parts of the United Nations providing support to the treaty bodies are similarly answerable to the Secretary-General and, in practice, to the Director-General of UNOG and the Director of the Division of Conference Management or the United Nations Information Service.

### **Other divisions of OHCHR and their support to the treaty bodies**

Other divisions in OHCHR also support the work of the treaty bodies. OHCHR field presences have an important role in providing information on country situations for the reporting process and in assisting States and others in following up on treaty body recommendations. Similarly, OHCHR and other United Nations field presences can help in the organization of inquiries and visits. The Research and Right to Development Division in OHCHR supports treaty bodies by providing research to assist with the drafting of general comments/recommendations and by convening seminars and workshops on issues related to specific treaties.

The OHCHR Communications Section organizes press conferences, circulates press statements and raises awareness of the treaty bodies' work through various media, including social media, the press as well as radio and television. The OHCHR National Institutions, Regional Mechanisms and Civil Society Section also supports the work of the human rights treaty bodies by reaching out to its constituencies.

## Gender integration

Treaty body members are encouraged to apply a gender perspective in the conduct of their work by giving consideration to the differentiated concerns of women and men.<sup>25</sup> This aims at fighting discrimination on the basis of sex as well as on other grounds, such as sexual orientation and gender identity. A gender perspective can be integrated by using gender-sensitive language, by raising gender-related questions during the constructive dialogues and, when relevant, by issuing concluding observations that take into account the different impact on women and men of certain violations or situations. The secretariat supports members in this endeavour by systematically integrating a gender perspective in the analysis of State party reports and in the preparation of any draft documents for consideration by the treaty bodies.

### **D. Media relations**

Treaty body members are becoming increasingly solicited and engaged with the media, including social media. Some treaty bodies hold press conferences after a session or issue press releases after reviewing State party reports and adopting views on individual communications and general comments/recommendations. The media also request interviews with members, particularly in relation to specific country situations and on occasions such as Human Rights Day on 10 December. Webcasting of public sessions of treaty bodies is becoming more common, as is the uploading of such sessions and interviews with members on social media. The General Assembly, in its resolution 68/268, specifically referred to the aim of making the human rights treaty bodies more accessible and more visible through webcasts and video archives (para. 22).

Treaty body members should be aware of the importance of engaging with the media and know how to use them. Treaty bodies often deal with very sensitive issues. Representatives of States as well as other stakeholders, such as CSOs, often have very specific views on the human rights situation in their own countries. Messages might be misunderstood, misinterpreted or even manipulated in ways that can distort the work of the treaty bodies. On occasion, engagement with the media can put individuals cooperating with the treaty bodies at risk. At the same time, treaty body work can be technical and involve processes and procedures which are not sufficiently understood by the media, or the general public. Consequently, treaty body members are increasingly expected to be able to present very complex issues using clear and simple messages that are not open to distortion.

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<sup>25</sup> See, for instance, General Assembly resolution 57/202 of 18 December 2002, in which the Assembly “encourages the efforts of the human rights treaty bodies to monitor more effectively the human rights of women, bearing in mind the workshops on gender integration, and reaffirms that it is the responsibility of all treaty bodies to integrate a gender perspective into their work” (para. 22).

## BOX 5

### Public relations and media strategy of the Human Rights Committee

Bearing in mind the importance of the media as a means for treaty bodies to communicate with a wider public, the Human Rights Committee has adopted a public relations strategy which also covers the media (CCPR/C/94/3). It recommends in particular: encouraging the webcasting, podcasting and streaming as well as radio broadcasting and filming of the Committee's public sessions; encouraging individual members to comment publicly on the Committee's work (stipulating that they are doing so in their individual capacity and not on behalf of the Committee); encouraging country rapporteurs to speak at press conferences at the end of sessions on the conclusions of the country review; holding press conferences at the end of each session provided there is sufficient media interest; holding press briefings at other times about items of public interest on the Committee's agenda; and, when appropriate, issuing press releases approved by the Chair.

## V. PRACTICAL DETAILS

### A. Pre-session

Preparations for a treaty body session start months before the actual session. While the specific organizational details differ from committee to committee, this section covers the main issues that generally apply to all sessions. Comprehensive information on the rules and procedures governing United Nations official travel for members is provided in annex II below.

Early in the year, the relevant secretariat sends members an invitation with information about all the sessions of that year. Typically, the letter provides the following details:

- ✓ Dates of the sessions for the year, including dates of pre-session working groups where necessary;
- ✓ Information on how to make travel reservations. All reservations must be made with Carlson Wagonlit Travel (CWT) at the United Nations in Geneva, except for travel by members based in the United States, who make their arrangements with American Express at the United Nations in New York;
- ✓ A contact person in the secretariat to whom travel itineraries need to be sent;
- ✓ A request to complete the mandatory United Nations online security training;



- ✓ Information on the daily subsistence allowance (DSA) paid to members for their time attending the session;
- ✓ Information on supplementary health insurance while in Geneva.

Two months before each session, the secretariat sends an e-mail to all members with information relating to the upcoming session, including the programme of work, other documentation, and reminders about travel and hotel arrangements.

Members make their own travel arrangements and hotel bookings. To this end, members should contact CWT or the designated agent about six weeks before the session, but no later than three weeks before their travel date. The secretariat provides members with contact information for the travel agent. The United Nations pays for the most economical and direct route in business class. If members want a different route or ticket, they need to bear any additional costs themselves. The Secretariat of the United Nations has implemented an advance purchase policy whereby all official travel requests purchased by the United Nations are ticketed at least 16 calendar days prior to departure. Members should nevertheless avoid making reservations more than six weeks in advance, as the authorization to pay for the ticket will not be ready in time and the booking may lapse. Members are responsible for making any changes to their itinerary and should provide the secretariat with an updated itinerary as soon as possible after making the change.

It is important to note that it is the responsibility of the members to request Schengen visas to enter Switzerland—or visas for any other country in the case of inquiries or visits. Members should ensure that they put in their visa requests well before the session.

### ***B. During the session***

On the first day of the first session, new or newly re-elected members should obtain a badge so as to be able to enter the United Nations premises. The secretariat sends out application forms to members before the session; however, members must go in person to the Pregny Gate at the Palais des Nations in Geneva to obtain their badges. As many United Nations meetings start on Mondays and there may be a queue, members should present themselves at least 90 minutes early. This should give them enough time not only for the administrative arrangements but also to travel from Palais des Nations to Palais Wilson, where most treaty body sessions take place. The badge is valid for four years.

At their first session, members receive a United Nations certificate to certify that they are treaty body members. The certificate does not provide members with any privileges or immunities beyond those that they have automatically, as outlined above in chapter III, section B. The certificate is renewed every year.

Members receive one set of business cards for the duration of their term. Before the first session of a new or newly re-elected member, the secretariat prepares business cards which include the member's name and treaty body, the official address of the treaty body and the United Nations emblem. The business cards are for committee-related work and contacts, either during the session or in between sessions. The United Nations emblem may not be used on privately prepared business cards.<sup>26</sup>

The United Nations covers members for any "service-incurred" accidents that may arise as a direct result of their participation in official meetings or missions. However, the United Nations does not provide any insurance for illness, injury or death that is not service-incurred, such as illness occurring as a result of a chronic condition. Members are therefore recommended to have their own medical insurance. Supplementary medical insurance cover is offered to members at their own expense and can be organized in conjunction with their travel arrangements.

Treaty body members will be provided security information cards during their induction, with contact details for emergencies, including emergency numbers in Switzerland and France. Members should also provide the secretariat with an emergency contact telephone number.

### **C. Documentation**

The Division of Conference Management in UNOG is responsible for editing and translating documentation. However, the secretary of the treaty body is responsible for submitting documents, posting them online and circulating them among members in preparation for the session.

When treaty bodies submit documents—such as annual reports, lists of issues, reports on follow-up or reports on inquiries or visits—it is important that this is done in a timely manner. All official documents must be edited, referenced and translated at the United Nations. The general rule is that documents must be submitted for editing 12 weeks before the date at which they are needed. If the submission date is respected, the Division of Conference Management will edit, translate and issue the document on time. However, if the document is submitted late, there is no guarantee that it will be circulated in a timely manner.

The secretariat has traditionally provided treaty body members with hard copies of documents. Given the many documents related to the review of a State party report, as well as the background and reference documents that treaty bodies rely on, the number of documents reproduced for members is high. This involves human, financial and environmental costs.

In order to reduce the environmental impact of the United Nations, the Secretary-General has stipulated that all United Nations meetings will be paperless by 2015.

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<sup>26</sup> The use of the United Nations emblem is governed by General Assembly resolution 92 (I) of 7 December 1946.

Treaty bodies have been playing a role in reducing paper and becoming paper-smart. The Committee on the Rights of Persons with Disabilities, the Committee on Migrant Workers, the Subcommittee on Prevention of Torture and the Committee on Enforced Disappearances are all paper-smart to some degree. For example, neither the Committee on the Rights of Persons with Disabilities nor the Committee on Enforced Disappearances has any distribution of hard copies before the session. Instead, their members all access documents through personal computers. In line with the Secretary-General's policy, the provision of hard copies will be phased out.

#### **D. Financial matters**

Treaty body members do not receive a salary for their work. Some treaties indicate that States parties or the United Nations are responsible for the expenses incurred by treaty bodies or their members during the session or in implementing the treaty body's mandate. Others require the General Assembly to approve emoluments for treaty body members.<sup>27</sup>

In practice, this translates into the United Nations paying the travel costs of members as well as a daily subsistence allowance (DSA) to cover accommodation and other costs, such as board, local transport, communications, hospitality, etc., when members travel to Geneva or elsewhere for sessions or other official tasks, for instance country visits, or attend mandated meetings, such as panels of the General Assembly. Similarly, as the annual meeting of Chairpersons and the presentation of annual reports to the General Assembly in New York are official meetings, the United Nations covers travel costs and DSA for the Chairs.

For treaty body sessions and official visits, members receive a DSA at 140 per cent of the applicable rate for the place of the official mission. The amount is established by the International Civil Service Commission. DSA is linked to attendance at sessions. Consequently, members sign an attendance register daily. If a treaty body member does not attend a session, or part of a session, the daily allowance for those days is deducted. DSA is paid for weekends during the session if the member is present at the last meeting of the week and the first meeting of the following week. All members now receive their DSA paid directly into their bank accounts. If members have provided their banking details in advance, they should receive it on the first day of the meeting. The note on administrative arrangements for experts, set out in annex II below, provides more detail on DSA. When a treaty body member is invited to another United Nations meeting that is not part of the

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<sup>27</sup> International Convention on the Elimination of All Forms of Racial Discrimination, art. 8 (6); International Covenant on Civil and Political Rights, art. 35; Convention on the Elimination of All Forms of Discrimination against Women, art. 17 (8); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 17 (7); Convention on the Rights of the Child, art. 43 (12); International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 72 (8); Optional Protocol to the Convention against Torture, art. 25 (1); Convention on the Rights of Persons with Disabilities, art. 34 (12); and International Convention for the Protection of All Persons from Enforced Disappearance, art. 26 (8).

regular sessions of his or her treaty body, such as a workshop, the United Nations will pay the normal DSA rate (100 per cent).

As a general rule the United Nations Secretariat does not provide support for any intersessional meetings or travel except for those that are official. Consequently, if a treaty body member is invited to take part in a training course, workshop or academic seminar organized by a State, another United Nations entity (such as UNICEF or UN-Women), an academic institution or an NGO, the United Nations Secretariat will not cover travel costs. These organizations may cover travel and DSA themselves, although they are likely to have different rules.

The regular budget approved by the General Assembly provides OHCHR with resources that cover the travel and DSA of treaty body members, as well as staff to support treaty body work. Furthermore, the regular budget foresees resources for all conference services provided by UNOG to treaty bodies, including simultaneous interpretation of meetings and the costs related to documentation (editing, translation and reproduction).

Despite the increases that the General Assembly approved under the recent treaty body strengthening process, the regular budget remains insufficient to cover all the resources needed to support the treaty bodies. In particular, OHCHR relies on extrabudgetary resources—namely from donor States and others—to cover a portion of staffing and other costs. The High Commissioner for Human Rights makes an annual appeal to donors to seek additional resources to support all the work of OHCHR, including some limited support for treaty bodies. This appeal contains the proposed extrabudgetary funding requirements for which voluntary contributions are sought.

## **E. Contacts**

The Office of the United Nations High Commissioner for Human Rights provides support to human rights treaty body members in the fulfilment of their important responsibilities. Table 8 sets out the e-mail addresses and the websites of the 10 treaty bodies.

**Table 8: Contacts**

<b>Treaty body</b>	<b>Generic e-mail address</b>	<b>Website</b> (accessed 5 August 2015)
Committee on the Elimination of Racial Discrimination	cerd@ohchr.org	<a href="http://www.ohchr.org/EN/HRBodies/CERD/Pages/CERDIndex.aspx">www.ohchr.org/EN/HRBodies/CERD/Pages/CERDIndex.aspx</a>
Human Rights Committee	ccpr@ohchr.org	<a href="http://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx">www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx</a>
Committee on Economic, Social and Cultural Rights	cescr@ohchr.org	<a href="http://www.ohchr.org/en/hrbodies/cescr/pages/cescrindex.aspx">www.ohchr.org/en/hrbodies/cescr/pages/cescrindex.aspx</a>
Committee on the Elimination of Discrimination against Women	cedaw@ohchr.org	<a href="http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx">www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx</a>
Committee against Torture	cat@ohchr.org	<a href="http://www.ohchr.org/en/hrbodies/cat/pages/catindex.aspx">www.ohchr.org/en/hrbodies/cat/pages/catindex.aspx</a>
Committee on the Rights of the Child	crc@ohchr.org	<a href="http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx">www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx</a>
Committee on Migrant Workers	cmw@ohchr.org	<a href="http://www.ohchr.org/EN/HRBodies/CMW/Pages/CMWIndex.aspx">www.ohchr.org/EN/HRBodies/CMW/Pages/CMWIndex.aspx</a>
Subcommittee on Prevention of Torture	opcat@ohchr.org	<a href="http://www2.ohchr.org/english/bodies/cat/opcat/index.htm">http://www2.ohchr.org/english/bodies/cat/opcat/index.htm</a>
Committee on Enforced Disappearances	ced@ohchr.org	<a href="http://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx">www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx</a>
Committee on the Rights of Persons with Disabilities	crpd@ohchr.org	<a href="http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx">www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx</a>

## ANNEX I

# Guidelines on the independence and impartiality of members of the human rights treaty bodies (“the Addis Ababa guidelines”)

### I. PREAMBLE

*Recognizing* the importance of the human rights treaties in ensuring the independence and impartiality of the treaty body members, and stressing the common will of the Chairs at their twenty-fourth meeting, convened in Addis Ababa in June 2012, to clarify and reinforce the treaty body provisions in this regard,

*Recalling* that the Secretary-General has affirmed that the United Nations human rights treaty body system is one of the greatest achievements in the history of the global struggle for human rights and that these bodies stand at the heart of the international human rights protection system,

*Noting* that the report of the United Nations High Commissioner for Human Rights on the strengthening of the United Nations human rights treaty body system (A/66/860), which is the outcome of extensive consultations with all stakeholders, underlined the powers of the treaty bodies to decide on their own working methods and rules of procedure and to guarantee their independence as defined in the respective treaties,

*Noting with appreciation* that the General Assembly has also recognized the important, valuable and unique role and contribution of each of the human rights treaty bodies to the promotion and protection of human rights and fundamental freedoms,

*Recalling* the right and statutory competence of each treaty body to adopt its own rules of procedure,

1. The Chairs of the United Nations treaty bodies, at their twenty-fourth meeting, following their decision at the twenty-third meeting in 2011 and after consulting their respective committees, discussed and endorsed guidelines on the independence and impartiality of treaty body members (“the Addis Ababa guidelines”), which they strongly recommend for prompt adoption by the respective treaty bodies, *inter alia* through inclusion, in an appropriate manner, in their rules of procedure.

## II. GENERAL PRINCIPLES

2. The independence and impartiality of members of the human rights treaty bodies is essential for the performance of their duties and responsibilities and requires that they serve in their personal capacity. Treaty body members shall not only be independent and impartial, but shall also be seen by a reasonable observer to be so.
3. Real or perceived conflicts of interest and challenges to the requirements of independence and impartiality may be generated by many factors, such as a member's nationality, place of residence, current and past employment, membership of or affiliation with an organization, or family and social relations. In addition, conflicts of interest may also arise in relation to the interest of a State of which a member is a national or resident. Consequently, a treaty body member shall not be considered to have a real or perceived conflict of interest as a consequence of his or her race, ethnicity, religion, gender, disability, colour, descent or any other basis for discrimination as defined in the core international human rights treaties.
4. Treaty body members commit themselves to abide by the principles of independence and impartiality when making their solemn declaration under the relevant treaty.
5. The principle of independence requires that members not be removable during their term of office, except to the extent that the treaty in question so provides. They may not be subject to direction or influence of any kind, or to pressure from the State of their nationality or any other State or its agencies, and they shall neither seek nor accept instructions from anyone concerning the performance of their duties. Consequently, members are accountable only to their own conscience and the relevant treaty body and not to their State or any other State.
6. Considering that within each treaty body, members are nationals of only a limited number of States parties, it is important that the election of one of its nationals to a given treaty body shall not result in, or be thought to result in, more favourable treatment for the State or States, as the case may be, of which the member is a national. In this regard, members holding multiple nationalities shall inform, on their own initiative, the chairperson of the relevant treaty body and its secretariat accordingly. Members holding multiple nationalities shall not participate in the consideration of reports, individual complaints, or take part in visits or inquiries relating to any of the States of which she or he is a national.

7. All members shall avoid any action in relation to the work of their treaty body which might lead to or might be seen by a reasonable observer to lead to bias against States. In particular, members shall avoid any action which might give the impression that their own or any given State was receiving treatment which was more favourable or less favourable than that accorded to other States.

### **III. APPLICATION OF THE GENERAL PRINCIPLES<sup>o</sup>**

#### ***A. Participation in consideration of State party reports and other report-related procedures***

8. A member shall not participate or influence in any way the consideration of a State party report by the treaty body, or by any of its subsidiary bodies, if he or she may be seen by a reasonable observer to have a conflict of interest with respect to that State party. The same principle shall apply to any other treaty body procedure, such as follow-up, early warning or urgent action, which is not specifically mentioned in these guidelines.
9. In case of a real or perceived conflict of interest with respect to a State party, a member:
  - (a) Shall not participate or influence in any way the preparation, course or outcome of dialogues, discussions or any other public meetings of the treaty body, but may be present as an observer;
  - (b) Shall not be present during any non-public consultations, briefings or meetings with a single country focus of his or her treaty body with other entities or partners, such as United Nations entities, national human rights institutions and civil society organizations. However, the member may receive the relevant documentation;
  - (c) Shall not be present during discussions, deliberations or any other non-public meetings of his or her treaty body, such as for the preparation, drafting, discussion and adoption of concluding observations or any other related treaty body documents.

#### ***B. Participation in the consideration of communications***

10. A member shall not participate in, be present during, or influence in any way the examination of a communication, either at the admissibility or the merits stage, if:
  - (a) The member is a national of the State whose acts are impugned by the communication or has any personal or professional conflict of interest in the case, or if any other real or perceived conflict of interest is present;

<sup>o</sup> Sections A and B on the application of the general principles do not apply to the Subcommittee on Prevention of Torture.



- (b) The member has participated in any capacity, other than as a member of his or her treaty body, in the making of any decision on the case covered by the communication.

### **C. Participation in country visits and inquiries**

11. A member shall not participate in the preparation or conduct of or follow-up to a country visit or inquiry or in the consideration of ensuing reports if any real or perceived conflict of interest is present.

### **D. Relationship with States**

12. The independence and impartiality of treaty body members is compromised by the political nature of their affiliation with the executive branch of the State. Members of treaty bodies shall consequently avoid functions or activities which are, or are seen by a reasonable observer to be, incompatible with the obligations and responsibilities of independent experts under the relevant treaties.
13. When acting as a consultant or as counsel for any State in connection with the process of reporting to the treaty body on which they serve or in any other matter that might come up for consideration before his or her treaty body, treaty body members shall take all necessary measures to ensure that they do not have, and are not seen by a reasonable observer as having, a conflict of interest.

### **E. Other situations which might entail a situation of a possible conflict of interest**

14. Individuals holding or assuming decision-making positions in any organization or entity which may give rise to a real or perceived conflict of interest with the responsibilities inherent in the mandate as a member of a treaty body shall, whenever so required, not undertake any functions or activities that may appear not to be readily reconcilable with the perception of independence and impartiality. Such organizations or entities may include private corporations or entities, civil society organizations, academic institutions or State-related organizations.

### **F. Participation in other human rights activities**

15. When treaty body members participate in other human rights activities of intergovernmental organizations, such as panels, training courses and seminars, they shall make it clear that the views they are expressing are their own and not those of the treaty body in question unless the members have been expressly mandated by the latter. The same applies to meetings

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organized by States, civil society organizations and national human rights institutions.

### **G. Accountability**

16. Observance of the above guidelines falls first and foremost within the individual responsibility of each treaty body member and his or her own conscience. If for any reason a member considers that he or she is facing a potential conflict of interest, he or she shall promptly inform the chairperson of the treaty body concerned. Furthermore, if and when necessary, it is the duty of the chairperson of the relevant treaty body to remind individual members of the content of these guidelines if the situation so requires. Ultimately, the relevant committee as a whole shall take any measures deemed necessary to safeguard the requirements of independence and impartiality of its members.

## ANNEX II

# Administrative arrangements for experts: Note by the Secretariat\*

## I. INTRODUCTION

1. This note provides information on the basic rules and procedures governing United Nations official travel for experts. This includes all members of United Nations organs, such as members of human rights treaty bodies, independent experts, special rapporteurs, representatives and members of working groups, members of commissions of inquiry, etc. It also includes information on administrative formalities experts are required to complete when they take up their functions.

## II. TRAVEL ARRANGEMENTS

### A. *Authorization for official travel*

2. All official travel organized by the United Nations for experts must comply with the United Nations travel regulations and rules and is governed by the Secretary-General's bulletin ST/SGB/107/Rev.6 and Administrative instruction ST/AI/2006/4. Official travel from place of residence to official destination and back is authorized through a travel authorization (TA), issued well in advance (minimum four weeks) of the proposed travel. Upon taking up their functions the experts are required to provide information regarding the place of residence and relevant contact details, including emergency contacts details, have to be communicated to the Secretariat. Any change of place of residence has to further be communicated to the Secretariat with official supporting documents. Travel requests are prepared by the substantive units of OHCHR supporting the expert(s), certified by the Travel Unit and approved by the United Nations Office at Geneva (UNOG).
3. The OHCHR Travel Unit processes more than 4,000 TAs per year. OHCHR initiates and certifies TAs for official missions according to the official itinerary and in accordance with the established United Nations travel regulations and rules.

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\* This annex has not been formally edited.

4. The authorized cost of individual tickets indicated on a TA is calculated by the UNOG Travel Subunit and therefore the final cost of any ticket is beyond the control of OHCHR. In compliance with United Nations regulations and rules, the best market fare established for the requested travel for experts is in business class, taking into consideration any special purchase agreements negotiated between the United Nations and airline companies. The UNOG Travel Subunit then approves the request and forwards it to the United Nations travel partner, currently Carlson Wagonlit (CWT), which issues electronic tickets. The itinerary and the electronic ticket will be communicated via e-mail by CWT. It is essential that the expert carefully reads through this documentation as vital information on visa/transit visa, etc. will be indicated. It is the expert's responsibility to comply with the instructions (and obtain appropriate visas/transit visas) and respond to CWT in order for the ticket to be issued. In line with the Secretary-General's mandate to improve efficiency and reduce costs, the Secretariat of the United Nations has implemented an advance purchase policy which requires that all official travel requests purchased by the United Nations are ticketed at least 16 calendar days prior to departure. It is therefore of the utmost importance that the expert confirms the issuance of the ticket as soon as possible, as ticket prices constantly change and usually increase closer to the date of departure.
5. In order to improve the services to experts, a dedicated CWT travel agent has been appointed to deal exclusively with experts' travel. The agent can be reached by e-mail ([unogvip.ch@contactcwt.com](mailto:unogvip.ch@contactcwt.com)) or by phone (+41 22 917 47 43). More information about this service is provided in the invitation letters sent to experts.
6. The United Nations regulations and rules provide that travel must be via the most economical and direct route. The best value and most economical business class air ticket cost is not fixed, and may change from day to day depending on availability. Quoted airfares are thus subject to change and cannot be guaranteed until the reservation is made and the ticket is issued. Neither the United Nations nor the traveller can choose one airline over another, as it is obligatory to use the ticketing arrangement which provides the best value to the Organization. Experts may request to utilize a specific airline or itinerary, but any costs in excess of the approved itinerary must be borne by them personally (see also sect. C below). In cities like New York, itineraries via JFK or Newark may be authorized depending on what is most cost-efficient.

## **B. Purchase of ticket**

7. Unless there is specific advance authorization by OHCHR to the traveller indicating that he or she may make other arrangements, including tickets with low-cost airlines, all tickets shall be purchased by the United Nations in advance of the actual travel, and issued through the travel partner of the United Nations, CWT. Experts who choose to purchase their tickets without prior authorization may not be fully reimbursed as the reimbursement will cover only the amount originally authorized by the United Nations. Reimbursement may also take some time to be completed and will take place only if the original receipt of the ticket purchase is provided.

## **C. Standard of accommodation**

8. When a traveller requests a class of ticket (standard of accommodation) different from his/her entitlement or travel authorization, for reasons of personal preference or convenience, or by a route or mode of transportation other than that approved by the United Nations, the traveller is required to pay any additional cost incurred. Such costs are not reimbursable. It should be noted that, should a lower standard of accommodation be selected, the entitlement will be recalculated for that lower fare class.

### **1. By air**

9. The standard of accommodation for experts is the class immediately below first class—i.e., business class—when available. In cases where business class is not available, economy class will be approved. The maximum travel expenses shall be calculated on the basis of the most economical airfare by a direct route at the appropriate standard and rate. The Organization shall assume responsibility for any surcharge that may be imposed after tickets have been issued only if changes in the original travel plans resulted through actions of the Organization.

### **2. By rail**

10. Unless otherwise specified on the TA, travel by rail is authorized in first class with appropriate seat reservation. This mode of travel will be made available upon request by the expert.

### **3. By car**

11. Travel by car may be authorized only upon a request to the United Nations, but at the traveller's own risk. Experts who travel to Geneva by car are reimbursed for fuel based on a standard rate per kilometre. The rate is subject to change without notice. The final rate awarded is calculated based on

the point of departure, number of hours travelled, etc. Experts who wish to travel by car are required to notify substantive offices of OHCHR well in advance of the session or visit, in order to avoid complications arising from the issuance and cancellation of an authorization for travel through other means. Experts can expect reimbursement through bank transfer following submission of a travel claim, which must be submitted shortly after the completion of their travel. If the claim is not submitted in a timely fashion or needs to be resubmitted because of incompleteness, the reimbursement may take some time.

12. Only in exceptional cases, when no appropriate public transportation is available, may the rental of a car be authorized. In such a situation, a request has to be made to OHCHR Administration prior to the departure on mission and a car will be selected based on the established procurement regulations and rules.

#### **D. Entitlements**

13. For committee meetings and the yearly special rapporteurs' meeting in Geneva only, experts will be paid their entire entitlement (including daily subsistence allowance, terminal expenses and travel time as described below) by a bank transfer. It is not necessary to submit a travel claim for travels for such meetings in Geneva. Only in exceptional cases, involving reimbursement for self-ticketing, payment of visas, etc., will a travel claim be required.
14. In order to implement these payment arrangements of the entire entitlement, staff members from the substantive unit are required to submit attendance records as supporting documentation. Each expert is required to attend the sessions and to sign the attendance list on a daily basis confirming his/her attendance. No daily subsistence allowance will be payable for any day on which the expert is not present at the meetings scheduled for that day. It is to be noted that if an expert is absent on a Monday or Friday, the weekend will be recovered as well (see ST/SGB/107/Rev.6, para. 10 (b)). Any excess daily subsistence allowance paid will be recovered from the payment for the next meeting session.
15. The arrangement of full entitlement does not apply for individual missions to Geneva, such as when an expert presents a report to the Human Rights Council. In these cases, a partial payment will be made on arrival, with the remainder to be settled through submission of a travel claim, i.e., for travel time, terminal expenses, etc. For official travel to Geneva including only a one-night stay, the DSA will be reimbursed on the travel claim.

## 1. Daily subsistence allowance

16. A daily subsistence allowance (DSA) is payable for each day involving a required overnight stay away from the expert's residence (in essence, it is paid on the basis of *nights* rather than *days*). This includes travel time both outward and inward, and weekends between meeting weeks, as required. DSA is paid to cover meals, accommodation, local transportation (including taxis), gratuities and any other personal expenses, such as personal telephone expenses. In this connection, experts should be advised that when travelling with OHCHR staff, they would still be required to cover all their personal expenses, including taxis, hospitality and meals.
17. DSA for travel time is payable where official travel starts before midnight. The allowance paid during travel time is the DSA rate applicable for the area of destination, i.e., for a mission to Geneva the expert would receive the rate for Geneva for an overnight flight. For the last leg of a return travel on official business, the allowance is paid at the rate applicable to the last authorized place where the traveller spent the night.
18. The International Civil Service Commission (ICSC) establishes a monthly updated DSA rate for every country and, in some cases, for different regions within a country. The DSA rate paid to experts is the standard rate of DSA plus an additional 40 per cent. The experts receive an additional 40 per cent of the applicable DSA rate to cover representational costs that they may potentially incur due to their official functions. The rate including the 40 per cent allowance is currently SwF 532 for Geneva and \$529 for New York but varies depending on the exchange rate. For each travel of an expert on mission outside their country of residence, the applicable DSA rate, including the 40 per cent, is applied. In some instances a fraction of the DSA is paid. If travel does not involve an overnight away from the residence, no DSA will be paid for a journey of less than 10 hours while 40 per cent of the allowance will be paid for a journey of 10 hours or more. An expert who resides at the place of the meeting shall receive DSA at 20 per cent of the usual rate for each full day of attendance to cover their incidental expenses. Finally, DSA is reduced by 50 per cent if accommodation is provided, by 30 per cent if meals are provided or by 80 per cent if both accommodation and meals are provided.
19. When experts are required to attend meetings in Geneva, their DSA will be paid by bank transfer to their bank account or transferred to a local UBS bank account, as indicated below. It is to be noted that the DSA covers accommodation, meals and all other expenses while the experts are on official mission to Geneva. Other expenses such as bank charges or exchange losses should also be covered by the DSA allowance as the United Nations does

not reimburse these costs separately. If experts are concerned about using their foreign bank accounts, the option exists for experts to open a local UBS account. UBS waives bank charges where a minimum of SwF 6,000 is transferred into the bank account in a calendar year. Otherwise UBS will levy service charges, which are not reimbursable by OHCHR.

20. Experts may open local (Swiss franc) bank accounts at UBS in Switzerland into which the United Nations can transfer their DSA disbursements. Attestations will be provided by OHCHR to experts who wish to select this option. The attestation, which should be requested from the Office, must be presented to the UBS office at Palais des Nations when the expert requests to open a bank account. Because of bilateral banking agreements, American citizens who reside outside the United States who wish to open an account are required to present their individual attestations to the UBS headquarters in Geneva, located at 8 Rue du Rhone. American citizens who reside in the United States may not open bank accounts in Switzerland.
21. In line with United Nations rules, an advance of 75 per cent of the applicable DSA for short-term missions to Geneva and field visits will be provided via a bank transfer. For any mission that starts in Geneva and is followed by a field visit, the entitlement will be provided via a bank transfer. The remaining amount of the entitlement will be reimbursed on the basis of a travel claim submitted after completion of travel. The Travel Unit provides advance information on the approximate DSA amounts for field visits.

## **2. Terminal expenses**

22. In addition to DSA, the traveller will receive terminal expenses for transportation to/from the air or rail terminal for each part of the official trip. Terminal expenses are not provided for an intermediate stop that:
  - (a) Is not authorized;
  - (b) Does not involve leaving the terminal; or
  - (c) Is exclusively for the purpose of making an onward connection.
23. The standard payment for terminal expenses is presently \$38 per transit on departure and arrival, except for New York City, which is \$63. This figure is reduced to \$11 when an official United Nations or government vehicle is made available for any part of the trip.

## **3. Travel claims**

24. For all field visits and ad hoc missions to Geneva, experts must submit a completed travel claim to OHCHR within two calendar weeks after completion



of travel. Original documents (not photocopies or scans) of the claims, boarding passes, receipts, etc. proving travel and length of stay are required for audit purposes. Accordingly, without complete supporting documentation, the claim will not be processed. No further travel advances will be paid to a traveller who has failed to submit the necessary completed claim for a prior travel.

25. Travel claims are reviewed by OHCHR but settled by UNOG. Due to the heavy workload of UNOG Finance, during peak periods the claims may take several months to settle.

### ***E. Mobile phones***

26. OHCHR does not provide telephones (either landline or mobile) to non-staff of the United Nations. Calls of an official nature to OHCHR or, for example, government officials in the country a mandate holder is visiting may be made by the mandate holder using an OHCHR telephone assigned to an accompanying staff member but calls relating to matters outside the mandate, such as to a mandate holder's family or place of work would need to be reimbursed to the Organization. OHCHR practice is to confine the use of the mobile phone to staff members who must account for its use and pay for any unofficial calls.

### ***F. Provisions for persons with disabilities***

27. In line with the Organization's commitment to continuing to improve accessibility and full inclusion of persons with disabilities (as reflected in General Assembly resolutions 65/186, para. 15 (d), and 68/268 among others), the United Nations has in place arrangements aimed at the progressive implementation of standards and guidelines for the accessibility of facilities and services of the United Nations system by experts with disabilities.
28. The United Nations also has in place arrangements to provide reasonable accommodation for an expert with disabilities. Reasonable accommodation may include the adjustment of a practice, condition or requirement to take into account the specific needs of the expert with a disability, to enable her/him to fully discharge her/his official functions. Such reasonable accommodation must be made within existing resources or with any additional resources approved for this purpose by the General Assembly.

### ***G. Schengen visa for Switzerland***

29. Given that Switzerland is a party to the Schengen Agreement, this has implications for those requiring a visa for Switzerland. As the documentation required for obtaining a Schengen visa may vary from one country to another,

it is strongly recommended that the experts contact the Swiss representation in their country as soon as possible to enquire whether a visa is needed and, if so, the documentation required. The time required for a Schengen visa to be processed also varies from case to case. It is important to take the necessary steps to apply for a visa at least 15 days prior to the date of travel. Experts are able to obtain a one-year multiple-entry Schengen visa upon submission of the invitation from OHCHR indicating the dates of meetings for the coming year. If experts experience any difficulties obtaining a one-year Schengen visa, they should immediately contact OHCHR for further follow-up.

30. A requirement for issuance of the Schengen visa is that travellers be insured at a specified level for the duration of their stay in the Schengen zone. Should it be necessary for the expert to obtain temporary travel insurance specifically for the Schengen visa requirement, he or she may request reimbursement for its cost via a travel claim. This must be supported by submission of the original receipt for the insurance policy. Please note that only temporary policies which cover the period of official travel specifically can be reimbursed.
31. In some cases, additional expenses are incurred by experts who need to travel within their countries to obtain visas for official travel. In these cases, OHCHR will cover the related additional expenses incurred through a travel claim, but the travel within the country must be justified in a memorandum or note from the expert and all original supporting documents (train/bus tickets, etc.) must be retained and forwarded with the travel claim.

## **H. Medical expenses**

32. Experts are covered for any “service-incurred” accidents that may arise as a direct result of their participation in official meetings or missions as indicated by the Secretary-General’s bulletin on “Rules Governing Compensation to Members of Commissions, Committees or Similar Bodies in the Event of Death, Injury or Illness Attributable to Service with the United Nations” (ST/SGB/103/Rev.1). The bulletin outlines the terms and conditions for coverage. This coverage does not extend to illness, injury or death that is not service-incurred, such as illness occurring as a result of a chronic condition. Experts are therefore recommended to have their own medical insurance coverage.
33. An ad hoc insurance coverage specifically for official travel can be made available by the United Nations to experts through the Van Breda insurance company. This insurance covers expenses for medical treatment resulting from sickness or accident, other than service-incurred. Experts who choose this insurance will be charged \$1.25 per day, which will be deducted from their DSA in relation to meetings in Geneva or recovered through the travel claim

for short-term official travel to Geneva or elsewhere. Experts who wish to take advantage of this coverage must complete a form supplied by OHCHR authorizing the deductions. Terms and conditions of the scheme, including coverage, are available from Van Breda through the Secretariat. Experts can opt out of the scheme at any time by notifying the Secretariat in writing.

34. Experts are covered while on official field missions to most countries by an emergency medical evacuation insurance through SOS International.

## **I. Security**

35. In view of the serious liability and insurance implications, OHCHR security clearance for travel is issued only after experts have fulfilled the following mandatory requirements:

### **1. Basic Security in the Field (BSITF online training)**

36. Every expert is required to complete the United Nations “Basic Security in the Field” training. Preferably, it should be completed before/immediately after taking up their functions as an expert. The training can be accessed online at <http://dss.un.org/BSITF>. Upon satisfactory completion of the online training, a certificate is automatically generated; it must be printed and sent to [sioc@ohchr.org](mailto:sioc@ohchr.org) for future reference.

### **2. Advanced Security in the Field (ASITF online training)**

37. Every expert who is travelling to a location identified as a field duty station by the International Civil Service Commission is required to complete the United Nations “Advanced Security in the Field” training prior to travelling. It is strongly recommended that the ASITF be completed as soon as possible after the expert takes up his/her functions, so as to avoid difficulty with issuance of security clearance before travel. This training is valid for three years and must be re-taken before expiration of the certificate, if necessary. The training can be accessed online at <http://dss.un.org/ASITF>. Upon satisfactory completion of the online training, a certificate is automatically generated; it must be printed and sent to [sioc@ohchr.org](mailto:sioc@ohchr.org) for future reference.

### **3. Integrated Security Clearance and Tracking System (ISECT online DSS security clearance programme)**

38. United Nations security policy requires that experts travelling to countries with a security phase must obtain a travel security clearance from the Designated Official for Security for the country to be visited, through the ISECT system. Even for travel to countries with *no* security phase, the Designated Officials must be notified of the arrival and departure times. This allows the United

Nations to provide appropriate security support in the event of a serious security development while the experts are on official travel. This security clearance is requested by OHCHR on behalf of the expert.

### III. ADMINISTRATIVE FORMALITIES

39. Immediately after taking up their functions as an expert, incoming experts are requested to provide to the Secretariat:
  - (a) A photocopy of a valid passport (page with personal data and signature); in the event the expert holds multiple nationalities, a copy of the passport for the nationality referenced when the expert was appointed as a committee member, mandate holder, etc. should be provided.
  - (b) Completed United Nations banking forms;
  - (c) Request for UNOG security grounds pass;
  - (d) Application for United Nations Certificate;
  - (e) Certificate of completed Basic Security in the Field online course; and
  - (f) Confirmation of place of residence.
40. A photocopy of the passport is necessary for the creation of a record for the experts in the United Nations information management system, which integrates all administrative functions within the Organization. This system is used to generate travel authorizations as well as payments.
41. As payments of travel claims through the information management system are made by electronic transfer into the bank account designated by the expert, each expert is required to provide their complete banking details (including the relevant international branch sorting code for their bank, e.g., IBAN/CB/RIB/ABA/etc.) through the United Nations banking form. Banking information should also be included on all travel claims. If this information is incomplete, the claim cannot be processed and the form will be sent back to experts and reimbursement will be delayed.
42. For the Secretariat to provide proper service, experts are requested to indicate *their preferred working language among the official working languages of the United Nations* (English and French).

## ANNEX III

# Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials, and Experts on Mission

## I. INTRODUCTION

1. Article 105, paragraph 3, of the Charter of the United Nations empowers the General Assembly to make recommendations with a view to determining, inter alia, the privileges and immunities of officials of the Organization or to propose conventions to Member States for this purpose. The Assembly did so by adopting the Convention on the Privileges and Immunities of the United Nations<sup>a</sup> on 13 February 1946 (hereinafter called “the General Convention”).
2. The United Nations has persons performing full-time services for it, at the direction of its legislative organs, who are not staff. For example, article 13 of the statute of the Joint Inspection Unit (approved by the General Assembly in its resolution 31/192 of 22 December 1976) provides that the Inspectors shall have the status of officials of the Organization but shall not be staff members. In addition, pursuant to article V, section 17, of the General Convention, the Secretary-General has specified and submitted to the Assembly proposals that a number of persons who occupy certain positions within the Organization be accorded privileges and immunities under articles V and VII of the General Convention, even though they are not staff members. Those persons are the presiding officers of United Nations organs performing functions for the Organization on a substantially full-time basis (for example, the Chairman of the Advisory Committee on Administrative and Budgetary Questions and the Chairman and Vice-Chairman of the International Civil Service Commission). Those officials are not in a separate category under the General Convention, but their names are submitted by the Secretary-General to the host country together with those of Secretariat officials who are staff members. These persons have been consistently referred to by the General Assembly as “officials other than Secretariat officials”.
3. Experts on mission may be retained by way of a contract known as a consultant contract, which sets out the terms of their appointment and the tasks that they must discharge. Other individuals may have the status of experts on mission, even though they do not sign a consultant contract, if they are designated by

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<sup>a</sup>United Nations, *Treaty Series*, vol. 1, No. 4, p. 15.

United Nations organs to carry out missions or functions for the United Nations (for example, rapporteurs of the Commission on Human Rights, rapporteurs and members of its Subcommission on the Promotion and Protection of Human Rights and members of the International Law Commission).

4. Article VI of the General Convention provides that experts (other than officials coming within the scope of article V) shall be accorded privileges and immunities necessary to enable them to carry out their missions for the United Nations and specifies a number of those privileges and immunities. Article VII, section 26, of the General Convention provides that facilities similar to those specified in section 25 (concerning applications for visas and facilities for speedy travel) shall be accorded to experts and other persons who are travelling on the business of the United Nations.
5. The Regulations contained in the present bulletin will apply to officials other than Secretariat officials, and to experts on mission. The Regulations are in most parts very general since they must apply to all officials other than Secretariat officials, and experts on mission. However, the application of the Regulations and the commentary to officials other than Secretariat officials, and to experts on mission who perform functions in respect of the United Nations and other organizations in the common system in accordance with their mandates (e.g., the Chairman and Vice-Chairman of the International Civil Service Commission and the Inspectors of the Joint Inspection Unit), is explained in various provisions of the Regulations and the commentary (see, e.g., regulation 1 (f), paragraph 3 of the commentary to regulation 1 (a) and the commentary to Regulation 1 (b)). The Regulations contained in the present bulletin will form part of the contract of employment or terms of appointment of any individual, including officials other than Secretariat officials, and experts on mission, who are appointed through Assembly action or through the actions of other representative bodies.

### **Role of the commentary**

6. Each provision of the Regulations set out in the present bulletin is followed by a commentary. The commentary is designed to explain those provisions and will thus be of help to those persons subject to the Regulations. The commentary is not part of the Regulations adopted by the Assembly, and so is not a legal norm; nor does it have the legal force of a rule. It is, however, an official guide published by the Secretary-General on the scope and application of the Regulations. The commentary will be updated from time to time in the light of experience gained in applying the Regulations to specific instances.

## II. REGULATIONS GOVERNING THE STATUS, BASIC RIGHTS AND DUTIES OF OFFICIALS OTHER THAN SECRETARIAT OFFICIALS, AND EXPERTS ON MISSION

### Regulation 1 – Status

- (a) The responsibilities of officials other than Secretariat officials (hereinafter referred to as “officials”) and of experts on mission are not national but exclusively international.
- (b) Officials and experts on mission shall make the following written declaration witnessed by the Secretary-General or an authorized representative: “I solemnly declare and promise to exercise in all loyalty, discretion and conscience the functions entrusted to me by the United Nations, to discharge these functions and regulate my conduct with the interests of the United Nations only in view, and not to seek or accept instructions in regard to the performance of my duties from any Government or other source external to the Organization.”
- (c) The Secretary-General shall seek to ensure that the rights and duties of officials and of experts on mission, as set out in the General Convention, are respected. The Secretary-General shall also seek to ensure, having regard to the circumstances, that all necessary safety and security arrangements are made for officials and experts on mission carrying out the responsibilities entrusted to them.
- (d) Experts on mission will receive a copy of the present Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials, and Experts on Mission (hereinafter referred to as “the Regulations”) when they receive documentation from the United Nations relating to their mission and will be required to acknowledge receipt of the Regulations. Officials will receive a copy of the Regulations at an appropriate opportunity.
- (e) The privileges and immunities enjoyed by the United Nations by virtue of Article 105 of its Charter are conferred in the interests of the Organization. These privileges and immunities furnish no excuse to those who are covered by them to fail to observe the laws and police regulations of the State in which they are located; nor do they furnish an excuse for non-performance of their private obligations. In any case where an issue arises regarding the application of these privileges and immunities, an official or an expert on mission shall immediately report the matter to the Secretary-General, who alone may decide whether

such privileges and immunities exist and whether they shall be waived, in accordance with the relevant instruments. The Secretary-General should inform and may take into account the views of the legislative bodies that appointed the officials or experts on mission.

- (f) These regulations are applicable to the Chairman and Vice-Chairman of the International Civil Service Commission and the Inspectors of the Joint Inspection Unit, without prejudice to and in accordance with the statutes of the International Civil Service Commission and the Joint Inspection Unit, which stipulate that these officials perform their functions in respect of the United Nations and other organizations that accept their statutes.

## **Regulation 2 – Conduct**

- (a) Officials and experts on mission shall uphold the highest standards of efficiency, competence and integrity. The concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status.
- (b) In the performance of their duties, officials and experts on mission shall neither seek nor accept instructions from any Government or from any other source external to the Organization.
- (c) Officials and experts on mission shall discharge their functions and regulate their conduct with the interests of the Organization only in view. Loyalty to the aims, principles and purposes of the United Nations, as set forth in its Charter, is a fundamental obligation of all individuals covered by the present Regulations.
- (d) While the personal views and convictions of officials and experts on mission, including their political and religious convictions, remain inviolable, they shall ensure that those views and convictions do not adversely affect their official duties or the interests of the United Nations. Officials and experts on mission shall conduct themselves at all times in a manner befitting their status. They shall not engage in any activity that is incompatible with the proper discharge of their duties with the United Nations. They shall avoid any action and, in particular, any kind of public pronouncement that may adversely reflect on their status, or on the integrity, independence and impartiality that are required by that status.
- (e) Officials and experts on mission shall not use their office or knowledge gained from their official functions for private gain, financial or otherwise, or for the gain of any third party, including family, friends and those they favour. Nor shall they use their office for personal reasons to prejudice the positions of those they do not favour.



- (f) Officials and experts on mission shall exercise the utmost discretion in regard to all matters of official business. Officials and experts on mission shall not communicate to any Government, entity, person or any other source any information known to them by reason of their official position that they know or ought to have known has not been made public, except as appropriate in the normal course of their duties or by authorization of the Secretary-General. If they are not appointed by the Secretary-General, such authorization shall be conferred by the body that appointed them. These obligations do not cease upon the cessation of their official functions.
- (g) Officials and experts on mission may not accept any honour, decoration, favour, gift or remuneration from any Government or non-governmental source for activities carried out during the course of their official functions while in the service of the United Nations.
- (h) Officials and experts on mission shall not be actively associated with the management of, or hold a financial interest in, any profit-making, business or other concern, if it were possible for them or the profit-making, business or other concern to benefit from such association or financial interest by reason of their position with the United Nations. Officials or experts on mission who are in such a situation shall either dispose of that financial interest or formally excuse themselves from participating with regard to any involvement in that matter that has given rise to the conflict-of-interest situation.
- (i) Officials and experts on mission shall file financial disclosure statements if requested to do so by the Secretary-General. The Secretary-General shall prescribe the format and information to be provided in such statements and shall establish procedures for filing them. The financial disclosure statements will remain confidential and will be used, as prescribed by the Secretary-General, only in making determinations pursuant to regulation 2 (h). It will be for the Secretary-General, in due consultation with the appointing authority in the case of officials not appointed by the Secretary-General, to judge whether a particular fact has given rise to a conflict-of-interest situation.
- (j) Officials and experts on mission must comply with local laws and honour their private legal obligations, including, but not limited to, the obligation to honour orders of competent courts.
- (k) Any form of discrimination or harassment, including sexual or gender harassment, as well as physical or verbal abuse, at the workplace or in connection with work, is prohibited.

- (l) Officials and experts on mission shall not intentionally misrepresent their functions, official title or the nature of their duties to Member States or to any entities or persons external to the United Nations.
- (m) Officials and experts on mission participating, as part of their official functions, in activities organized by a Government, intergovernmental organization, non-governmental organization or other private source may receive from the Government, intergovernmental organization, non-governmental organization or private source accommodation and travel and subsistence allowance generally in line with those payable by the United Nations. In such cases, the travel and subsistence allowance that may otherwise be payable by the United Nations shall be reduced in the same manner as in respect of staff members of the Organization.

### **Regulation 3 – Accountability**

Officials and experts on mission are accountable to the United Nations for the proper discharge of their functions.

## **III. REGULATIONS GOVERNING THE STATUS, BASIC RIGHTS AND DUTIES OF OFFICIALS OTHER THAN SECRETARIAT OFFICIALS, AND EXPERTS ON MISSION, WITH COMMENTARY**

### **Regulation 1 – Status**

#### **Regulation 1 (a)**

The responsibilities of officials other than Secretariat officials (hereinafter referred to as “officials”) and of experts on mission are not national but exclusively international.

#### **Commentary**

*1. The United Nations has persons who perform services for it on a substantially full-time basis but who are not staff members. These persons have consistently been referred to by the General Assembly as “officials other than Secretariat officials”. In addition, pursuant to article V, section 17, of the General Convention, the Secretary-General has specified and submitted to the Assembly proposals that a number of persons who occupy certain positions within the Organization be accorded the privileges and immunities*

under articles V and VII of the General Convention, even though they are not staff members. These persons have also been referred to as “officials other than Secretariat officials”.

2. The United Nations also has experts who perform assignments for the Organization. Article VI of the General Convention provides that experts (other than officials coming within the scope of article V) shall be accorded privileges and immunities necessary to enable them to carry out their missions for the United Nations and specifies a number of those privileges and immunities. These experts have been referred to as “experts on mission”.

3. The Regulations and the commentary, as applied to the Chairman and the Vice-Chairman of the International Civil Service Commission, the Inspectors of the Joint Inspection Unit and other officials and experts who perform functions in respect of the common system, in accordance with the statute of the International Civil Service Commission or that of the Joint Inspection Unit, respectively, or other mandates approved by the General Assembly or other relevant main bodies and organs of the United Nations, should be construed in the light of those functions and mandates. References to the United Nations or the United Nations Organization in the context of these Regulations and the commentary should be applied, bearing in mind that the functions of those officials and experts are related to the common system.

4. Regulation 1 (a) is similar to the second sentence of staff regulation 1.1 (a).<sup>b</sup>

### **Regulation 1 (b)**

Officials and experts on mission shall make the following written declaration witnessed by the Secretary-General or an authorized representative:

“I solemnly declare and promise to exercise in all loyalty, discretion and conscience the functions entrusted to me by the United Nations, to discharge these functions and regulate my conduct with the interests of the United Nations only in view, and not to seek or accept instructions in regard to the performance of my duties from any Government or other source external to the Organization.”

### **Commentary**

*Regulation 1 (b), which is similar to staff regulation 1.1 (b), contains the declaration of office of officials and experts on mission.*

*In view of the system-wide functions of the International Civil Service Commission and the Joint Inspection Unit, the term “United Nations” in the*

<sup>b</sup> Hereinafter, references to staff regulations and rules denote the provisions contained in article I of the Staff Regulations and chapter I of the 100 series of the Staff Rules that came into effect on 1 January 1999, pursuant to General Assembly resolution 52/252.

written declaration will be replaced by the words "United Nations and other participating organizations", and the word "Organization" will be replaced by the word "organizations" in the case of the Chairman and Vice-Chairman of the International Civil Service Commission and the Inspectors of the Joint Inspection Unit.

### **Regulation 1 (c)**

The Secretary-General shall seek to ensure that the rights and duties of officials and experts on mission, as set out in the General Convention, are respected. The Secretary-General shall also seek to ensure, having regard to the circumstances, that all necessary safety and security arrangements are made for officials and experts on mission carrying out the responsibilities entrusted to them.

### **Commentary**

1. *The first sentence of regulation 1 (c), which is similar to staff regulation 1.1 (c), codifies an implicit duty that falls upon the Secretary-General, namely, to seek to ensure that the rights and duties of officials and experts on mission as set out in the General Convention are respected (as such rights are granted by Governments, the Secretary-General can only "seek to ensure" that they are respected). The protection accorded to officials and experts on mission under this provision relates to their official acts and thus does not lapse upon cessation of their service for the Organization, or, if they are part-time, on days when they are not in service.*

2. *The second sentence of regulation 1 (c), which reproduces the essence of the second sentence of staff regulation 1.2 (c), sets forth the responsibility of the Secretary-General to seek to ensure the safety of officials and experts on mission.*

### **Regulation 1 (d)**

Experts on mission will receive a copy of the present Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials and Experts on Mission (hereinafter referred to as "the Regulations") when they receive documentation from the United Nations relating to their mission and will be required to acknowledge receipt of the Regulations. Officials will receive a copy of the Regulations at an appropriate opportunity.

### **Commentary**

1. *Experts on mission retained by the Secretariat sign a consultant contract or receive a letter or other documentation indicating the scope of their mission*

for the Organization. The consultant contract or other documentation will incorporate the Regulations by reference, and experts will be required to acknowledge that they will abide by the Regulations.

2. At times, legislative bodies entrust tasks to individuals to perform assignments for those bodies (for example, members and special rapporteurs of the International Law Commission and other bodies). Those individuals have the status of experts on mission. Although their appointments may have been concluded without the signature of any document of appointment, their attention will be drawn to the Regulations when they receive documentation from the Secretariat relating to their functions and/or their assignment. That documentation will include a copy of the Regulations explaining that they were adopted by the General Assembly and thus constitute part of the conditions of those individuals' assignment for the United Nations.

3. Officials will receive a copy of the Regulations at an appropriate time, such as when they make the declaration of office (see regulation 1 (b)).

### **Regulation 1 (e)**

The privileges and immunities enjoyed by the United Nations by virtue of Article 105 of its Charter are conferred in the interests of the Organization. These privileges and immunities furnish no excuse to those who are covered by them to fail to observe the laws and police regulations of the State in which they are located; nor do they furnish an excuse for non-performance of their private obligations. In any case where an issue arises regarding the application of these privileges and immunities, an official or an expert on mission shall immediately report the matter to the Secretary-General, who alone may decide whether such privileges and immunities exist and whether they shall be waived, in accordance with the relevant instruments. The Secretary-General should inform and may take into account the views of the legislative bodies that appointed the officials or experts on mission.

### **Commentary**

1. Regulation 1 (e), which deals with privileges and immunities, is similar to staff regulation 1.1 (f) (see paras. 32, 49, 54 and 55 of the report on standards of conduct in the international civil service 1954,<sup>c</sup> which was prepared by the International Civil Service Advisory Board (hereinafter referred to as "the ICSAB report")).

2. Regulation 2 (j) specifies the obligations on those who are covered by such privileges and immunities to honour their private legal obligations.

<sup>c</sup>A/52/488, annex III.

3. Pursuant to article V, section 20, and article VI, section 23, of the General Convention, it is only the Secretary-General who has the right to waive the privileges and immunities accorded to officials and experts on mission. In deciding whether such privileges and immunities exist and whether they should be waived, the Secretary-General may take into account the views of the legislative body that appointed the officials or experts on mission.

### **Regulation 1 (f)**

These regulations are applicable to the Chairman and Vice-Chairman of the International Civil Service Commission and the Inspectors of the Joint Inspection Unit, without prejudice to and in accordance with the statutes of the International Civil Service Commission and the Joint Inspection Unit, which stipulate that these officials perform their functions in respect of the United Nations and other organizations that accept their statutes.

*[There is no commentary to this provision.]*

## **Regulation 2 – Conduct**

### **Regulation 2 (a)**

Officials and experts on mission shall uphold the highest standards of efficiency, competence and integrity. The concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status.

### **Commentary**

1. Regulation 2 (a), which describes basic values expected of officials and experts on mission, is similar to staff regulation 1.2 (b).
2. The first sentence of regulation 2 (a) is derived from Article 101, paragraph 3, of the Charter of the United Nations by virtue of affirmatively placing upon officials and experts on mission the obligation to uphold the highest standards of efficiency, competence and integrity. As pointed out in paragraph 4 of the ICSAB report, the concept of integrity includes “honesty, truthfulness, fidelity, probity and freedom from corrupting influences”.

### **Regulation 2 (b)**

In the performance of their duties, officials and experts on mission shall neither seek nor accept instructions from any Government or from any other source external to the Organization.

## Commentary

*Regulation 2 (b), which is similar to staff regulation 1.2 (d), flows from the first sentence of Article 100, paragraph 1, of the Charter of the United Nations (see ICSAB report, paras. 7, 18 and 31).*

## Regulation 2 (c)

Officials and experts on mission shall discharge their functions and regulate their conduct with the interests of the Organization only in view. Loyalty to the aims, principles and purposes of the United Nations, as set forth in its Charter, is a fundamental obligation of all individuals covered by the present Regulations.

## Commentary

1. *Regulation 2 (c) in substance contains the same obligations as are contained in staff regulation 1.2 (e) applicable to staff. The first sentence of regulation 2 (c) sets forth an idea that is contained in staff regulation 1.1 (a) and in staff regulation 1.1 (b), which contains the written declaration of office, that is to say, the idea that staff must regulate their conduct with the interests of the Organization only in view (ibid., para. 4).*

2. *The second sentence of regulation 2 (c) focuses on the concept of loyalty to the aims, principles and purposes of the Organization as set forth in the Charter of the United Nations (which is alluded to in the declaration contained in regulation 1 (b)) (ibid., paras. 5, 6 and 21).*

## Regulation 2 (d)

While the personal views and convictions of officials and experts on mission, including their political and religious convictions, remain inviolable, they shall ensure that those views and convictions do not adversely affect their official duties or the interests of the United Nations. Officials and experts on mission shall conduct themselves at all times in a manner befitting their status. They shall not engage in any activity that is incompatible with the proper discharge of their duties with the United Nations. They shall avoid any action and, in particular, any kind of public pronouncement that may adversely reflect on their status, or on the integrity, independence and impartiality that are required by that status.

## Commentary

1. *Regulation 2 (d) is similar to staff regulation 1.2 (f). The core idea of conduct befitting an international civil servant was considered by the*

*International Civil Service Advisory Board in 1954. The Advisory Board remarked that “high standards of conduct are best attained by a universal understanding among staff members of the relation between their conduct and the success of the international organizations, and by the development of a strong tradition among men and women who are jealous of the reputation of the organizations that they serve and are anxious to safeguard it” (ICSAB report, para. 2; see also para. 4, on the integrity expected of international civil servants; paras. 5, 6 and 21, on loyalty; paras. 7 and 18, on independence; and paras. 8 and 48, on impartiality).*

2. *In respect of the last sentence of the regulation, it would be for the Organization to characterize an action or pronouncement as adversely reflecting on the status of an official or an expert on mission.*

### **Regulation 2 (e)**

Officials and experts on mission shall not use their office or knowledge gained from their official functions for private gain, financial or otherwise, or for the gain of any third party, including family, friends and those they favour. Nor shall they use their office for personal reasons to prejudice the positions of those they do not favour.

### **Commentary**

1. *Regulation 2 (e), which is similar to staff regulation 1.2 (g), codifies principles set out in the ICSAB report (see paras. 17, 28 and 42). The use of one’s office for personal gain is clearly unacceptable. This includes not only conducting a business from a United Nations office but also such activities as using United Nations facilities for a business, using the United Nations name, logo or address for a business and approving a contract for a family business without disclosure. Regulation 2 (e) also reflects the principle set out in staff regulation 1.2 (g) that a staff member shall not use information that has not been made public for the private advantage of the staff member or of any third party.*

2. *The regulation, for clarity, makes specific reference to prohibiting an official or expert on mission from so favouring a third party, including family or friends, as to enable that third party to profit from the position of the official or expert on mission or from the exercise of his or her functions. The term “friends” is broad and seeks to encompass not only friends as normally understood, but also relationships that are not recognized by the United Nations as creating a dependency.*



3. *The regulation also prohibits the use of office or knowledge gained from that office for personal reasons to prejudice or harm third parties.*

### **Regulation 2 (f)**

Officials and experts on mission shall exercise the utmost discretion in regard to all matters of official business. Officials and experts on mission shall not communicate to any Government, entity, person or any other source any information known to them by reason of their official position that they know or ought to have known has not been made public, except as appropriate in the normal course of their duties or by authorization of the Secretary-General. If they are not appointed by the Secretary-General, such authorization shall be conferred by the body that appointed them. These obligations do not cease upon the cessation of their official functions.

### **Commentary**

1. *Regulation 2 (f), which is similar to staff regulation 1.2 (i), reflects the principle that official information may not be used for private purposes, except with authorization. This flows from the idea that officials and experts on mission are obligated to regulate their conduct with the interests of the Organization only in view (see ICSAB report, para. 4) and also from the requirements of regulation 2 (e). It follows that permission must be obtained for disclosure to third parties of information that has not been made public, unless such disclosure is specifically authorized or is in the normal course of duties of the official or expert on mission. Authorization of the Secretary-General is not required for officials and experts on mission who have not been appointed by the Secretary-General. Those officials and experts on mission would require the authorization of the body that had appointed them if the communication of the information was not a normal part of their duties.*

2. *The last sentence of the regulation provides that the obligations contained in the provision do not cease upon cessation of official functions. It may be difficult to enforce such a provision, but, at the very least, if a former official or expert on mission ignored the obligations contained in this regulation, the official file of the former official or expert on mission could be noted so as to prevent his or her re-engagement.*

### **Regulation 2 (g)**

Officials and experts on mission may not accept any honour, decoration, favour, gift or remuneration from any Government or non-governmental

source for activities carried out during the course of their official functions while in the service of the United Nations.

### **Commentary**

*To ensure that officials and experts are perceived as impartial, regulation 2 (g) prohibits the acceptance of any honour, decoration, favour, gift or remuneration from any Government or non-governmental source for activities carried out during the course of their official functions while in the service of the United Nations.*

### **Regulation 2 (h)**

Officials and experts on mission shall not be actively associated with the management of, or hold a financial interest in, any profit-making, business or other concern, if it were possible for them or the profit-making, business or other concern to benefit from such association or financial interest by reason of their position with the United Nations. Officials or experts on mission who are in such a situation shall either dispose of that financial interest or formally excuse themselves from participating with regard to any involvement in that matter that has given rise to the conflict-of-interest situation.

### **Commentary**

1. *The first sentence of regulation 2 (h) is similar to staff regulation 1.2 (m). The purpose of the provision is to put officials and experts on mission on notice that they cannot be actively associated with a profit-making, business or other concern, if either the concern or the official or expert on mission is to profit therefrom by reason of the association with the Organization. It will be for the Secretary-General or the appointing authority to judge whether a particular act has given rise to a conflict-of-interest situation.*
2. *The second sentence of regulation 2 (h) is similar to the second part of staff rule 101.2 (n), which deals with the consequences of a staff member's having a possible conflict-of-interest situation. In such cases, the official or expert on mission shall dispose of the interests or, if practicable, shall excuse himself or herself from dealing with the matter on behalf of the Organization.*
3. *Generally, experts on mission are appointed on a part-time basis, and it is therefore likely that they are engaged in other activities, including employment, when they are not performing services for the Organization. While there is no question that experts on mission may be so engaged, they must ensure that those activities are not incompatible with their status or functions as experts on mission.*

## Regulation 2 (i)

Officials and experts on mission shall file financial disclosure statements if requested to do so by the Secretary-General. The Secretary-General shall prescribe the format and information to be provided in such statements and shall establish procedures for filing them. The financial disclosure statements will remain confidential and will be used, as prescribed by the Secretary-General, only in making determinations pursuant to regulation 2 (h). It will be for the Secretary-General, in due consultation with the appointing authority in the case of officials not appointed by the Secretary-General, to judge whether a particular fact has given rise to a conflict-of-interest situation.

### Commentary

*Regulation 2 (i) is similar to, but more general than, staff regulation 1.2 (n), which requires all staff at the assistant secretary-general level and above to submit financial disclosure statements upon appointment and at intervals as prescribed by the Secretary-General, in respect of themselves and their dependent children, including any substantial transfers of assets and property to spouses and dependent children from the staff member or from any other source that might constitute a conflict of interest. This requirement is designed to minimize the risk of a perception of officials and experts on mission as using their position for personal gain. The regulation enables the Secretary-General to require officials and experts on mission to file financial disclosure statements, which will remain confidential and will be used only in dealing with conflict-of-interest situations (for example, in assessing whether an official was in such a situation).*

## Regulation 2 (j)

Officials and experts on mission must comply with local laws and honour their private legal obligations, including, but not limited to, the obligation to honour orders of competent courts.

### Commentary

1. *Regulation 2 (j), which is similar to staff rule 101.2 (c), is really an amplification of regulation 1 (e), which provides that the privileges and immunities of the Organization afford no excuse for non-performance of private obligations (ibid., paras. 32, 54 and 55).*
2. *Regulation 2 (j) makes clear that private obligations must be honoured. It is the responsibility of those subject to the present Regulations, if they have a court order against them that they contest, to avail themselves of all means*

*existing under the applicable national law to appeal the order and/or to secure relief from the obligation to comply with the order pending its appeal.*

### **Regulation 2 (k)**

Any form of discrimination or harassment, including sexual or gender harassment, as well as physical or verbal abuse, at the workplace or in connection with work, is prohibited.

### **Commentary**

*Regulation 2 (k), which is similar to staff rule 101.2 (d), reproduces the core of Secretary-General's bulletin ST/SGB/253 of 29 October 1992, which established United Nations policy on equal treatment of men and women in the Secretariat and also prohibited all forms of discrimination or harassment.*

### **Regulation 2 (l)**

Officials and experts on mission shall not intentionally misrepresent their functions, official title or the nature of their duties to Member States or to any entities or persons external to the United Nations.

### **Commentary**

*Regulation 2 (l) is similar to staff rule 101.2 (f), which prohibits the intentional misrepresentation of an official title or duties to outside parties (for example, by placing misleading titles on business cards). The use of the word "intentional" makes clear that this does not refer to careless or accidental acts.*

### **Regulation 2 (m)**

Officials and experts on mission participating, as part of their official functions, in activities organized by a Government, intergovernmental organization, non-governmental organization or other private source may receive from the Government, intergovernmental organization, non-governmental organization or private source accommodation and travel and subsistence allowance generally in line with those payable by the United Nations. In such cases, the travel and subsistence allowance that may otherwise be payable by the United Nations shall be reduced in the same manner as in respect of staff members of the Organization.

### **Commentary**

1. *Regulation 2 (m), which is similar to staff rule 101.2 (s), deals with the issue of participation at various official functions. Officials and experts on*

*mission who as part of their official functions participate in activities organized by a Government, intergovernmental organization, non-governmental organization or other private source may receive from it accommodation and travel and subsistence allowance generally in line with those payable by the United Nations, and in such cases the allowances that may otherwise be payable by the United Nations shall be reduced in the same amount as in respect of staff members of the Organization. Such provisions are presently found in staff rule 107.15 (a).*

2. *It should be noted that accommodation and travel and subsistence allowance may be accepted only if their acceptance would be appropriate to the status of officials and experts on mission and to the integrity, independence and impartiality that are required by that status. There may therefore be situations in which it would not be appropriate to accept those allowances from a Government, intergovernmental organization, non-governmental organization or other private source.*

### **Regulation 3 – Accountability**

Officials and experts on mission are accountable to the United Nations for the proper discharge of their functions.

#### **Commentary**

*Regulation 3, which is similar to staff regulation 1.3 (a), makes clear that officials and experts on mission are accountable for their actions. The method of accountability may vary. For officials appointed by the General Assembly, that accountability would be a matter for the Assembly. For experts on mission, it would be the Secretary-General or the appointing authority who could terminate an assignment or otherwise admonish the expert.*

## ANNEX IV

# **Guidelines on country visits endorsed by the 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 [Office of the United Nations High Commissioner for Human Rights (OHCHR)] 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, [OHCHR] 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.

[OHCHR] 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.







