Unofficial translation

**Submission** **by the Government of People’s Republic of China**

**On the Consideration of the State of the UN Human Rights Treaty Body System**

China appreciates the co-facilitators’ call for written contributions regarding the consideration of the state of the UN human rights treaty body system. It is expected that the views from the Member States will be given full consideration. China is committed to cooperating with the co-facilitators, as per the provisions of paragraph 41 of UNGA Resolution 68/268, to further strengthen and enhance the effective functioning of the human rights treaty body system through the review process, to ensure faithful, full and effective delivery of the mandates under the respective treaties. China would like to submit the following responses to the issues raised by the co-facilitators:

***1. The functioning of the treaty body system( Issue 1)***

Resolution 68/268 emphasizes the importance of the treaty bodies performing “their duties and responsibilities in line with the respective treaties”. In paragraph 82 of the second biennial report to the General Assembly, the Secretary-General pointed out that "there is a wide consensus on the view that treaty body strengthening should be pursued within the existing normative framework". In previous replies to the Secretary-General's questionnaires, China expressed concerns about human rights treaty bodies acting beyond their treaty mandates, in particular, making general comments/recommendations that have the effect of interpreting the provisions of the treaties, in addition the follow-up procedure may have exceeded the mandate of the treaties and imposed extra obligations on the States parties.

China would like to reiterate that the treaty bodies are established by the respective treaties and should operate strictly within the terms of their mandates provided for under the respective treaties. The mandate, mode of work, rules of procedure and future development of the treaty bodies should be determined in accordance with the treaties. The States parties' views in this regard should be fully respected and considered.

***2. Views and comments on Resolution 68/268 and biennial report of the UN Secretary-General( Issue 2)***

In previous written replies to Secretary-General’s questionnaires, China repeatedly raised the issue of unbalanced implementation of the provisions of Resolution 68/268. For instance, treaty bodies generally do well in imposing limitations on the length of the reports, but there is evident inadequacy in implementing paragraph 16 of Resolution 68/268 which "calls upon the treaty bodies to set a limit on the number of questions posed". The three annexes to biennial reports submitted by the Secretary-General also showed that some treaty bodies have not set such limits, resulting in too many questions in the LOIPR and in the constructive dialogue.

China reiterates its request to the treaty bodies to further implement the provisions of article 16 of resolution 68/268 on limiting the number of questions, including in the LOIPR and the constructive dialogue.

***3.Further simplification the current reporting system.(Issue 5)***

China notes that some treaty bodies have begun to optionally apply the simplified reporting procedure. The list of issues for the simplified reporting procedure may deviate from the original objective of the treaties, leading to excessive attention to specific issues or details, deviating from the requirements for a comprehensive understanding and consideration of States parties' implementation of the treaties, which is counterproductive for treaty bodies to make concluding observations objectively and impartially. In this light, China is of the view that the simplified reporting procedure should not be a mandatory requirement.

***4. Dialogues between States and treaty bodies in preparation for and during States reviews as well as in follow-up to the review.(Issue 6)***

Resolution 68/268 recognizes that “the promotion and protection of human rights should be based on the principle of cooperation and genuine dialogue and be aimed at strengthening the capacity of Member States to comply with their human rights obligations for the benefit of all human beings”. The treaty bodies should conduct the reviews and follow-up to the reviews in a constructive manner. However, in the real practice of the reviews, the reports and replies submitted by the States parties are not give due respect and enough weight by the treaty bodies, unverified material and information of unconfirmed sources are arbitrarily rely on. Some questions posed in the reviews by some treaty bodies are not based on States parties' reports, rather, random expansion of the scope of the reviews, putting disproportionate and excessive focus on individual cases, is commonplace which is not only beyond the mandate from the treaties, but also unconducive to the objective and comprehensive consideration of States parties' compliance with the treaties.

China proposes that the treaty bodies, in implementing paragraph 5 of Resolution 68/268 on the alignment of the methodologies for constructive dialogue, should treat the reports submitted by the States parties pursuant to the treaties as the fundamental and overriding basis, and deal with caution the unofficial information whose sources and reliability are not confirmed.

Rapporteurs play an important role in the constructive dialogue. The selection criteria and procedures for rapporteurs should be transparent and fair, and ensure that at least one of the rapporteurs come from the same region of the State under review or from a State that has a similar legal system. China notes that the practice of some treaty bodies in selecting rapporteurs needs to be improved, e.g. some treaty bodies allow their members to voluntarily apply for the position of the rapporteur for certain State party, without a sound mechanism to prevent conflict of interests (the current mechanism only prohibits members from participating in the consideration of the national report of his or her own). China proposes that the treaty bodies establish a more just, reasonable, formal and transparent selection procedure for rapporteurs, which should allow the State party under review have opportunity to comment on the selection of the rapporteur, and these comments should be given full consideration.

***5.Assessment of the concluding observations and*** ***recommendations. (Issue 7)***

China notes that some progress has been made by the treaty bodies in implementing paragraph 6 of Resolution 68/268. However, implementation in this respect is inadequate in the following respect. Firstly, the concluding observations given by some treaty bodies failed to objectively and comprehensively reflect the progress and the positive aspects of the States parties in implementing the treaties; some recommendations did not fully consider the situations and realities of the States parties. Secondly, in the process of drafting concluding observations, some treaty bodies relied on unverified materials and information from non-governmental organizations and made irresponsible and impractical recommendations. Thirdly, the concluding observations from some treaty bodies did not follow the requirement in paragraph 6 of Resolution 68/268 (stipulating that concluding observations should objectively "reflect the dialogue with the relevant State party"), in particular,failed to objectively reflect the clarifications and explanations offered by the State party regarding untrue or erroneous information.

***6. Strengthening the engagement of civil society and other stakeholders. (Issue 8)***

The participation of civil society and other stakeholders should strictly adhere to the general rules of the United Nations system based on Resolution 96/31 of the Economic and Social Council. The treaty bodies, as part of United Nations, have the responsibility to urge and request civil society and other stakeholders acting consistent with the Charter of the United Nations and other relevant rules, and be professional, constructive, responsible and not politicized.

The treaty bodies should be objective and fair, and strictly screen the materials submitted by civil society and other stakeholders. When publishing on the website or otherwise disseminating materials submitted by relevant civil society and other stakeholders, the treaty bodies should ensure that such materials conform to the purposes and principles of the Charter of the United Nations, and do not contain content that directly or indirectly advocate terrorism, extremism, or undermine the sovereignty and territorial integrity of the State party.

***7. Preserve and strengthen the independence and impartiality of treaty body members and ensure the diversity of its composition. (Issue 12)***

**(1) Preserve and strengthen the independence and impartiality of treaty bodies members.** Resolution 68/268 emphasizes the importance of “independence and impartiality” of treaty bodies members. China is of the view that a responsible international institution should perform its duties in accordance with its mandate and subject itself to supervision and accountability. The treaty bodies are no exception. The treaty bodies and OHCHR should take measures to ensure that treaty bodies members work objectively and fairly within the treaty mandate, prevent abuse of power, or selective or politicized practices due to the lack of mechanisms for supervision and checks. Some treaty bodies members and officials from the secretariat (OHCHR), by circumventing the normal procedures and channels, accept the interviews by the media or non-governmental organizations, and make irresponsible and groundless comments against the States parties. This violates the treaty mandates and the basic principles of impartiality, undermines the credibility of treaty bodies and their members, and the OHCHR and its officials. The treaty bodies, the OHCHR and its officials should take measures to prevent such erroneous incidents from recurring.

**(2) The diversity in the composition of treaty bodies members.** China agrees that the composition of treaty bodies members should give due consideration to the principle of equitable geographical distribution, the representation of different cultural background and major legal traditions, gender balance and the participation of experts with disabilities.

***8. Efficient and effective use of the meetings of States parties. (Issue 18)***

Paragraph 7 of the resolution 68/268 recommends "the more efficient and effective use of the meetings of States parties". China notes that the meetings of States parties to some treaties have added the item of "any other business" on the agenda, in addition to the election of treaty body members. This has provided a platform for the States parties to comments on substantive issues related to the work of treaty bodies and the implementation of the treaties. China proposes that this practice be promoted, and request the meetings of States parties for all treaties add an agenda item for general or themed debate on the work of the treaty bodies.