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**Written submission of the Kingdom of the Netherlands regarding the review process of the UN human rights treaty body system**

**Introduction**

The Kingdom of the Netherlands highly values the UN Treaty Body System. It makes a significant contribution to the implementation of the UN human rights treaties. With the system already overburdened, and with more ratifications of treaties and individual complaints protocols to come, it is of the utmost importance to identify options to increase effectiveness and efficiency of the system. It is in this positive vein/spirit that the Netherlands intends to participate in the review process, while appreciating the progress already made in implementing resolution 68/268. The Netherlands would refer to the written contribution of the European Union as submitted to the co-facilitators and fully aligns itself with it. In addition, the Netherlands would make the following observations and suggestions.

1. **Procedural aspects reporting procedures**

Like most states, the Kingdom of the Netherlands has substantial reporting obligations under the Treaty body system, the Universal Periodic Review and Special Procedures, in addition to its obligations under regional human rights monitoring mechanisms. This implies a heavy workload. In particular, the preparation of and participation in the hearings of the treaty bodies require a lot of time and capacity. Due to the large time span between the moment of handing in the report and its discussion, the report is often at least partially outdated at the time of the meeting. In addition, it should be noted that reporting and replies to questions of the different treaty bodies often overlap.

The Netherlands therefore submits the following recommendations:

* [The work load could be diminished if more use could be made by States – on a voluntary basis - of common core documents as basis for all the reports. To this end the existing database of common core documents could be further developed by OHCHR while States are responsible for the content and updating of these documents. They could include general and factual information about the national legal system, national remedies, effect of international law/treaty obligations in national law, structure of the State in question, etc. This information would then not need to be included in the reports. In addition, in responses to questions of the treaty bodies States should be in a position to simply refer to this document. Such document can, of course, also serve as a source of information for the treaty bodies prior to submitting questions to the State concerned.]
* The practice of treaty bodies to request states to send intermediate information or updates in addition to the regular reporting cycles should be adapted. Intermediate reporting should be an exception rather than the rule. The Netherlands suggests that treaty bodies resort to this option only in case of urgent issues and/or serious or large scale violations that need constant follow-up and monitoring.
* The simplified reporting procedure by means of a list of priority issues prior to reporting is an excellent way of streamlining discussions and avoiding unnecessary work, both for the reporting countries and the treaty bodies. It can certainly contribute to a more focused and constructive dialogue. Expansion of this method of working should be considered for all monitoring mechanisms and all reporting cycles other than the initial report required under a treaty. However, attention should be paid that this practice does not end up in such detailed questioning that in the end, the workload becomes even heavier than standard reporting. In addition, coordination would be needed between treaty bodies regarding their lists of issues, in order to avoid overlap.
* In addition a ‘master calendar’ could be developed with a page per state with hard deadlines for all the reports due (similar to the UPR calendar). The different reports per treaty body should be posted on these country pages. In order to avoid overlap and promote a more focused approach States should be able to refer in their reports to their reports for other treaty bodies (already posted or still to come in line with the calendar). This would also stimulate coordination among and complementarity of the different treaty bodies. On a voluntary basis common core documents could be uploaded as well on these country pages.
* A maximum timespan of six months between the submission of the report and the hearing would be preferable. In addition it would be helpful if written questions or an indication of important themes could be published in advance in order to assist States in the preparations for the hearing.
* Further innovations aimed at improving the dialogue between States and treaty bodies such as dispensing of written reports and placing more emphasis on hearings or country visits should be considered. States that are open to innovative working methods may be willing to participate in tests, in order to validate and improve new ideas. Such innovation lab could also be used to test new technologies that can help with streamlining and improving procedures.

1. **Procedural aspects of individual complaints procedures**

Processing times in procedures with regard to individual communications currently tend to be extremely long. In certain cases the parties involved only receive documentation submitted by the other party a year after submission. As a consequence documents or institutional memory may no longer be available by the time responses are to be drafted.

In addition, treaty bodies in general consider the admissibility of a communication jointly with its merits. States do have the possibility to ask for a separate consideration of admissibility, but these ‘split requests’ are, in the case of the Netherlands, never granted. Especially in cases of evident inadmissibility, for instance for non-exhaustion of domestic remedies, this results in unnecessary work with regard to the merits.

The Netherlands therefore submits the following recommendations:

* Acknowledging that the informal guidance note (January 2017) has contributed to more clarity and efficiency of the processes, there still is room for improvement through harmonization of working methods of different treaty bodies, including developing common timeframes for the examination of communications.
* More serious consideration by treaty bodies of the requests by States for a ‘split request’ regarding the admissibility of a communication.

1. **Quality of conclusions, recommendations, general comments, and views in individual cases**

The number of treaty bodies handling individual communications has increased significantly. Going forward, coherence and consistency in the treaty body jurisprudence is key. In addition, diverging jurisprudence in relation to other international monitoring bodies (such as ECHR) may undermine the authority of the treaty body system. It is essential that recommendations and views are always thoroughly motivated, with due consideration of the national context and judicial system.

Capacity-wise the high number of recommendations in concluding observations in reporting cycles are challenging for States to follow up. Sometimes they do not leave States with a margin, but are very directive and detailed about how to follow up and do not seem to respect the principle of subsidiarity. It is not always clear how information provided by States has been taken into account, including States’ comments on draft general comments.

Therefore the Netherlands submits the following recommendations:

* In order to advance coherence, consistency and complementarity of the recommendations and jurisprudence of treaty bodies it is necessary to create a common platform for the treaty bodies to reflect on jurisprudence. This would strengthen the overall effectiveness of the system, including in areas where human rights treaties share similar provisions, such as those on non-discrimination and gender equality.
* Ideally this would be realized by the creation of a joint treaty body working group on communications, composed of experts of different treaty bodies. The draft views emanating from this working group would be brought to the attention of the plenary of the treaty body to which the communication was addressed for formal adoption (in line with proposal HCHR 2012). Such a working group would enhance consistency of jurisprudence among treaty bodies.
* For the quality of the concluding observations, recommendations, general comments, and views in individual cases it is important that legal expertise within the treaty bodies is ensured/available. Therefor a third of the members of the treaty bodies should be practicing lawyers or at least have a legal background.
* Ways to increase interface/dialogue with regional systems of human rights protection should be considered and developed.

1. **Authority treaty body and selection of experts**

NL agrees with the guidelines from the Dublin 2009, Poznan 2010 and Dublin II (2011) expert meetings (signed by treaty body chairpersons) on expertise and independence of treaty body members and the Addis Ababa guidelines (2012) on the independence and impartiality of treaty body members, by the treaty bodies themselves. One fundamental point from these guidelines is that treaty body members 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.

In order to ensure high quality expertise and independence of treaty body members the Netherlands submits the following recommendations:

* A third of the members of the treaty bodies should be practicing lawyers or at least have a legal background (see also above under 3).
* Securing a wide base for the selection of candidates in order to improve diversity and gender composition of treaty bodies.
* Limitation of the terms of service of experts to a maximum of two terms for a given committee, in line with the most recent treaties.

1. **OHCHR secretariat**

Over the last few years improvements to the system have been made without extra budget (rationalization of processes, limitation of documentation through page limits, etc.). Nevertheless the system is stretched to its limits and the secretariat is unable to fully perform its role to provide legal, procedural, administrative and logistical support, due to a lack of capacity.

The Netherlands therefore submits the following suggestions:

* Improve efficiency by developing a tracking system for all communications, with easy accessible information regarding the status of reports, individual complaints, follow-up activities etc.
* More capacity within secretariat to assist experts on procedures and content, but also support for States to implement recommendations. This should not just be paper exercise but mean that the secretariat and States are true sparring partners.

This should be reflected in future budget proposals. Implementation could be covered by technical assistance.

* Further streamlining/harmonization of procedures and working methods.
* Ensure real time webcast of sessions.
* Reform calendar of reporting and hearings to rationalize work, back-to-back meetings of treaty bodies to enhance coordination between them (not just meeting of the chairs of the treaty bodies).
* One expert for each report or complaint as case manager, in order to enhance the mutual dialogue.