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Summary record (partial)* of the 3173rd meeting**

Held at the Palais Wilson, Geneva, on Monday, 6 July, at 10 a.m.

Chairperson: Mr. Salvioli

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* No summary record was prepared for the rest of the meeting.

** No summary record was issued for the 3172nd meeting.

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The meeting was called to order at 10.05 a.m.

Organizational and other matters, including the adoption of the report of the pre-session working group on individual communications

Methods of work

1. **The Chairperson** invited Mr. Iwasawa to present proposals concerning the frequency of submissions by States parties that had adopted the simplified reporting procedure.
2. **Mr. Iwasawa**, presenting a paper on periodicity under the simplified reporting procedure, said that the Committee had agreed in July 2014 to make the simplified reporting procedure available as an option for the periodic reports of all States parties, but never for initial reports. By 2 April 2015, 30 States parties had adopted the procedure and four reports had been submitted. Although the procedure had been a success and should be encouraged, he wished to show the Committee that States parties using the simplified option were currently at a disadvantage compared to those using the standard procedure. In his calculations, he assumed that States parties submitted reports on time.
3. Under the standard reporting procedure, the time period between the adoption of the concluding observations and the consideration of the next report was calculated by adding together the periodicity granted to each State party between reports, the current time lag between the submission of a report and the adoption of the list of issues — which was 12 months — and the interval between the adoption of the list of issues two sessions before examination, which was 8 months. Thus the time period for one cycle under the standard reporting procedure was the periodicity plus 20 months.
4. The cycle for the simplified reporting procedure was calculated by adding the periodicity to the delay between the submission of the written replies and the consideration of the report. As the Committee endeavoured to consider written replies within a year of their submission, the time period for one cycle was the periodicity plus 12 months, which gave a result of 8 months less than for the standard reporting procedure.
5. In order to address the shortfall and encourage more States parties to adopt the newer procedure, he proposed adding one year to the periodicity value for States parties reviewed under the simplified reporting procedure. Given that the time lag under the standard reporting procedure could vary, he also suggested that the number of months or years added should be reviewed every three years or so. Lastly, as different criteria would be applied for the two procedures, he proposed that, for scheduling purposes, charts should be drawn up for the examination dates of States parties reviewed under each of the two systems.
6. **Ms. Seibert-Fohr** said that it was a good moment to take up the issue, because the Committee was currently dealing with a large number of lists of issues prior to reporting on which it was awaiting replies.
7. **Mr. Bouzid** asked whether the States parties themselves had mentioned any problems with the periodicity of reporting.
8. **Sir Nigel Rodley**, questioning the assumption in the calculations that State parties submitted their reports on time, asked whether, under the simplified reporting procedure, replies were in fact arriving later than under the standard procedure. Under the simplified system, a State party should not be expected to respond as quickly to a list of issues because its replies would effectively be its first written contribution to

the Committee, unlike the situation under the standard procedure, where the list of issues was based on an existing report.

9. **Ms. Waterval**, supported by **Ms. Jelić**, said that she was in favour of Mr. Iwasawa's proposal.

10. **Mr. Shany** said that maintaining the status quo would inevitably result in a large backlog, whereas Mr. Iwasawa's proposal would both allow the Committee to be more flexible and give States parties an incentive to meet deadlines.

11. **Mr. Politi**, voicing his approval for the proposal, said that it might serve to convince more States parties to adopt the simplified reporting procedure and encourage them to submit their reports in time.

12. **Ms. Cleveland** asked what the experience of States parties in the simplified reporting procedure had been. The greatest incentive to using the simplified reporting procedure appeared to be that States parties would not need to report twice, first in the form of the periodic report and then in response to a potentially very different list of issues. It might be a good idea to offer the additional 12 months explicitly to entice States parties into adopting the simplified reporting procedure.

13. **The Chairperson**, speaking as a member of the Committee, said that States parties had not made any formal complaints about the reporting system. He welcomed Mr. Iwasawa's proposal, as it would give the Committee more flexibility to extend time periods. He suggested, however, that the minimum period under the simplified reporting procedure should be set at four years, rather than three, but that the Committee should be able to request States parties to return after three years if the situation so required.

14. **Mr. Iwasawa** said that, when the matter had first been discussed by the Committee, the proposal had been to grant States parties 18 months to prepare written responses to the list of issues, but members had favoured one year, fearing that responses would become outdated if much more time were to pass. Unfortunately, some States parties using the new system failed to submit their responses within a year. Although they had not lodged complaints about the system, the lateness might indicate their inherent awareness of their disadvantage. Therefore, while States parties might send their responses late under the new system, it was acceptable to discount that factor in any comparison between the old and the new system because delays were just as likely to occur under the standard system through the late submission of periodic reports.

15. In response to the Chairperson's suggestion, he said that the problem with allowing a minimum period of three years under the simplified reporting procedure was that the list of issues had to be adopted one year before the replies. It therefore followed that the list of issues would be adopted only two years after the previous concluding observations. By contrast, under the standard reporting procedure, a three-year period was not such a problem, as the periodic report would be received and then the list of issues would be adopted one year after the periodic report.

16. **Ms. Fox** (Secretary of the Committee) confirmed that replies to lists of issues submitted prior to reporting tended to be late by between three months and a few years. However, any comparison of the effect of lateness in the standard and simplified systems depended on whether the comparison was being drawn with the replies or with the national reports. Although, under the regular system, States parties tended to submit replies quickly because the Committee was soon going to examine them, they were often late in submitting periodic reports.

17. **Sir Nigel Rodley** said that it was to be expected that States parties would take longer to reply to lists of issues under the simplified reporting procedure than under

the standard procedure, inasmuch as the ensuing report would constitute their first submission in the reporting cycle. Accordingly, States parties reporting under the simplified procedure should perhaps be allowed 18 or 20 months, instead of the existing 12-month time limit, in which to submit their replies.

18. **Mr. Ben Achour** said that it would be helpful for Committee members to have time to reflect further on the issues involved. He therefore proposed that a decision on the matter should be deferred to the following session.

19. **Mr. Shany** said that States parties would not necessarily need more time under the simplified procedure to submit a report. Although such reports were the first documents submitted in the reporting cycle, it should be easier and quicker for States to respond to specific questions under the simplified procedure than to compile a comprehensive report on the implementation of the Covenant under the standard procedure. Furthermore, a time frame of 18 months for the submission of replies could diminish the usefulness of the procedure, since States parties might have to subsequently update the Committee on more recent developments. He was therefore in favour of the Committee's continuing with the current one-year time limit for the submission of replies. He hoped that the Committee would be able to reach a decision on the proposal during the current session.

20. **The Chairperson** said that the Committee should also take into account the need to ensure that the simplified procedure did not overlap with the follow-up procedure to a State party's previous report.

21. **Mr. Iwasawa** said that, when the Committee had adopted the current simplified procedure in 2010, it had discussed the issue of the time frame for the submission of replies and agreed that one year, rather than 18 months, was the appropriate period. He was of the view that that period should be maintained in order to ensure that the replies were up to date. He noted that under the standard procedure most States parties managed to reply to lists of issues within either four or eight months.

22. **The Chairperson** said that the Committee would resume consideration of the matter at its next meeting on methods of work. He trusted that a decision on the proposal could be reached before the end of the current session. It might in due course be appropriate to consider amending the Committee's rules of procedures in order to reflect the decisions on methods of work that had been taken in recent sessions.

Meeting with representatives of United Nations bodies, specialized agencies, national human rights institutions and non-governmental organizations

Statement by the National Consultative Commission for Human Rights of France

23. **The Chairperson** invited the representative of the National Consultative Commission for Human Rights (CNCDH), the national human rights institution of France, to take the floor.

24. **Ms. Lafourcade** (National Consultative Commission for Human Rights of France) said that she was pleased to have the opportunity to appear publicly before the Committee, since the independent voice of national institutions should be better heard within the United Nations system. She regretted, however, that the Committee had not been able to agree to the Commission's request to make its presentation after the Committee had considered the report of France.

25. The Commission was concerned about the ability of individuals in France to enjoy in practice the rights to which they were entitled in theory. For instance, foreign victims of trafficking in persons were by law entitled to a residence permit; however, the draconian conditions imposed by the authorities had meant that only five such permits had been issued in 2011 and 2012. Similarly, many of the poorest members of

society could not gain access to a range of rights because they were unable to provide an address, as required by law.

26. The Commission was further concerned at the increasing number of policies and legislative reforms driven by prejudice or fear that had led to certain groups, such as foreigners, migrants and Roma, being viewed as suspect. One such reform was a bill amending the law on aliens, which contained new provisions on the permanent and widespread surveillance of foreigners. Another matter of concern was the situation of some 3,000 migrants in Calais, who were living in appalling conditions, without shelter or adequate access to water, sanitation or health care. Voluntary organizations were obliged to provide the services that should be the responsibility of the State and the local authorities. Despite the hopes raised by the interministerial circular of August 2012, Roma continued to be denied their rights to, for example, health care, social benefits and education, as a result of unlawful administrative practices.

27. Legislative reforms relating to counter-terrorism and intelligence gathering granted excessive, disproportionate and insufficiently regulated powers to the public authorities. In that regard, the Commission wished to alert the Committee to the risk of an erosion of fundamental rights, in particular the right to privacy under article 17 of the Covenant. While recognizing the need for updated legislation on intelligence-gathering techniques, the Commission nevertheless wished to reiterate that States must not adopt measures that had the effect of undermining, rather than promoting, democracy. It was regrettable that, under the reforms, measures that should be subject to review by judges had been transferred to the competence of the administrative police.

28. The Commission shared the Committee's concerns regarding the cumulative and restrictive conditions introduced into the Code of Criminal Procedure, which made it difficult to prosecute and convict persons alleged to have committed crimes against humanity, genocide and war crimes. It called on the Government to repeal, in particular, the conditions relating to habitual residence and dual criminality. The Commission also wished to draw the Committee's attention to the additional protocol to the agreement on mutual legal assistance in criminal matters between France and Morocco, which called into question provisions of international law giving French courts jurisdiction over foreign nationals suspected of committing acts of torture abroad. Lastly, the Commission wished to inform the Committee that a fund for the implementation of measures to combat trafficking in persons provided for under a 2014 interministerial plan had not yet been established.

29. **The Chairperson** said that he wished to clarify that the Committee had in no way sought to limit the opportunity of the Commission to participate in proceedings before it. It had considered, however, that it should not reduce the time allocated to the dialogue with the State party itself.

30. **Sir Nigel Rodley** endorsed the Chairperson's remarks. He welcomed the Commission's request to make its presentation in public, which he viewed as a positive development.

31. **Mr. Politi** asked the Commission to provide details of the problems raised by the additional protocol to the agreement on mutual legal assistance in criminal matters with respect to fighting impunity for serious international crimes.

32. **Ms. Lfourcade** (National Consultative Commission for Human Rights of France) said that, among other considerations, the vagueness of the provisions of the additional protocol was likely to make it difficult for investigations to be conducted properly. There were also concerns that the protocol was not in accordance with the obligations of France under international treaties.

The discussion covered in the summary record ended at 11.15 a.m.