

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 principles¹

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:

¹ Sections A and B on the application of the general principles do not apply to the Subcommittee on Prevention of Torture.

(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;

(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 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.