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THE EUROPEAN UNION AND THE REVIEW OF THE HUMAN RIGHTS COUNCIL

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THE EUROPEAN UNION AND THE REVIEW OF THE HUMAN RIGHTS COUNCIL

Abstract

A review of the United Nations Human Rights Council is currently under way in Geneva and New York and is set to be finished by July 2011. This study analyses the role of the European Union in the Human Rights Council since the inception of the Council in 2006, and then considers its role in the review process. It first assesses the internal and external effectiveness of the EU in the Human Rights Council, and finds that the EU's influence in the Human Rights Council to date is mixed. The agenda and outcomes of the Human Rights Council (HRC) have been dominated by other blocs, and the EU has not been actively pushing the HRC to consider situations in which human rights are being violated. The study then assesses the debates regarding the review of the Human Rights Council, and the EU's positions regarding those debates. The study concludes by offering recommendations for increasing the EU's influence in the review process and the Human Rights Council more broadly.

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EXECUTIVE SUMMARY

A review of the United Nations Human Rights Council is currently under way in Geneva and New York and is set to be finished by July 2011. The European Union has been active in presenting proposals to the review. Its influence in the Human Rights Council to date is, however, mixed. The agenda and outcomes of the Human Rights Council (HRC) have been dominated by other blocs, and the EU has not been actively pushing the HRC to consider situations in which human rights are being violated. If the EU is to increase its influence in the review process and the Human Rights Council more broadly, several steps need to be taken.

The EU's capacity for outreach must be improved as a matter of urgency. EU activity in the HRC should be focused on building ties with moderates and thus fostering wider agreement on strengthening the HRC and ensuring it fulfils its mandate of promoting and protecting human rights. The positions which the EU takes in Geneva need to be better incorporated into the EU's external relations. A system for enlisting the support of the High Representative must be put in place, such that the High Representative or her deputies lobby capitals of third countries in support of EU positions at the HRC. The positions which third countries take in the HRC should be the subject of discussion during the EU's bilateral dialogues with all third countries, but especially with the EU's 'strategic partners'. The EU should be much more explicit about requesting support for its positions, and should express its disappointment when such support is not forthcoming.

With improved outreach capacity and better support, the EU could be more ambitious at the HRC. Such an objective should be a prominent objective of the EU's foreign relations. In addition to insisting on consideration of worrying country situations, the EU could be more active in using a wider variety of 'tools' to address human rights violations around the world. This then could help the Human Rights Council fulfil its mandate to protect and promote human rights.

LIST OF ABBREVIATIONS

CHR	Commission on Human Rights
DRC	Democratic Republic of Congo
EU	European Union
GRULAC	Group of Latin America and Caribbean States
HRC	Human Rights Council
JUSCANZ	Japan, United States, Canada, Australia, New Zealand
NAM	Non-Aligned Movement
NGO	Non-Governmental Organisation
NHRI	National Human Rights Institution
OEWG	Open-Ended Working Group
OHCHR	Office of the High Commissioner for Human Rights
OIC	Organisation of the Islamic Conference
SPs	Special Procedures
UK	United Kingdom
UNGA	United Nations General Assembly
UNHRC	United Nations Human Rights Council
UPR	Universal Periodic Review
US	United States
WEOG	Western Europe and Others Group

INTRODUCTION

The first two chapters of this study provide background information on the Human Rights Council, and on the process of the review of the Human Rights Council.

1 The Human Rights Council

There are two main intergovernmental bodies on human rights in the United Nations system: the Human Rights Council (HRC), and the Third Committee of the General Assembly. The Third Committee meets every autumn, and deals with social, humanitarian and cultural issues; human rights questions dominate its agenda, but it also considers issues relating to social development, crime prevention and cultural heritage. All UN member states sit on the Third Committee. In comparison to the Human Rights Council, the Third Committee has fewer tools available to address human rights questions. Like the Human Rights Council, it is highly politicised, and debates can be very divisive.

The Human Rights Council is a new body and is the most important of the UN's human rights institutions. In September 2005, a summit of the United Nations member states agreed to abolish the Commission on Human Rights (CHR) and replace it with a Human Rights Council. The CHR was considered too politicised by developing countries, while many developed countries criticised it because human rights violating countries could secure election to it and thus block condemnation of violations in their own countries and elsewhere. On 15 March 2006, the United Nations General Assembly approved the creation of the Human Rights Council, whose mandate is to promote universal respect for human rights and address situations of violations of human rights. The Council, in operation since June 2006, is supposed to address the shortcomings of the CHR with a slightly more rigorous election procedure and a Universal Periodic Review of the human rights records of all UN member states.

The Human Rights Council has a smaller membership than the CHR (47 rather than 53 members). States are elected by a simple majority of the General Assembly, and candidates for election may make pledges about their commitment to human rights but do not have to do so. The geographical distribution of seats among the UN's five regional groups matches more closely their share in the UN's membership than did the distribution of seats in the CHR:

UN regional group representation in UN human rights bodies		
UN regional group	CHR (53 states total) No. of states (%)	HRC (47 states total) No. of states (%)
Africa	15 (28)	13 (28)
Asia	12 (23)	13 (28)
Latin America	11 (21)	8 (17)
Eastern Europe	5 (9)	6 (13)
Western Europe and Others	10 (19)	7 (15)

EU member states form part of three regional groups. Cyprus is in the Group of Asian States; the 'Fifteen' EU member states (the EU membership from 1995 to 2004) and Malta are in the Western Europe and Others Group (WEOG); and the ten new member states from Central and Eastern Europe are in the Group of Eastern Europe States. In 2010-11, seven EU member states are serving on the Human Rights Council: Belgium, France, Hungary, Poland, Slovakia, Spain, and the UK.

Much of the first year of the Human Rights Council's existence was spent negotiating an 'Institution-Building Package' (Resolution 5/1), which laid out the working methods, rules and tools of the Human Rights Council, including rules on 'Special Procedures' (independent experts and special rapporteurs) and the Universal Periodic Review.

The Council meets three times a year, for no fewer than ten weeks, in March, June and September (in contrast, the Commission on Human Rights met once a year for six weeks). Three working group meetings (composed of all HRC members) are also held each year to conduct the Universal Periodic Review; they last two weeks each. Furthermore, to ensure that the Council can address urgent situations, one-third of the HRC membership (16 states) can call for a special session to be held. Thus far, there have been fourteen special sessions:

	Dates of special session	Topic	Special session called for by:
1.	5-6 July 2006	Human rights situation in the Occupied Palestinian Territory	Tunisia on behalf of Group of Arab States
2.	11 August 2006	Human rights violations in Lebanon caused by Israel	Tunisia on behalf of Group of Arab States and Organisation of the Islamic Conference (OIC)
3.	15 November 2006	Human rights violations emanating from Israeli military incursions in the Occupied Palestinian Territory	Bahrain on behalf of Group of Arab States and Pakistan on behalf of OIC
4.	12-13 December 2006	Human rights situation in Darfur	Finland
5.	2 October 2007	Human rights situation in Myanmar	Slovenia
6.	23-24 January 2008	Human rights violations emanating from Israeli military incursions in the Occupied Palestinian Territory	Syria on behalf of Group of Arab States and Pakistan on behalf of OIC
7.	22 May 2008	Negative impact on the realization of the right to food of the worsening of the world food crisis	Cuba
8.	28 November and 1 December 2008	Human rights in the Democratic Republic of the Congo	France on behalf of EU
9.	9 and 12 January 2009	Violations of human rights in the Occupied Palestinian Territory	Cuba on behalf of Non-Aligned Movement (NAM); Egypt on behalf of Groups of Arab States and African States; Pakistan on behalf of OIC
10.	20 February 2009	Impact of the global economic and financial crises on universal realization of human rights	Egypt on behalf of Group of African States, and Brazil
11.	26-27 May 2009	Human rights situation in Sri Lanka	Germany
12.	15-16 October 2009	Human rights situation in Occupied Palestine Territory and East Jerusalem	19 states (together)
13.	27-28 January 2010	Human rights and the recovery process in Haiti	Brazil
14.	23 December 2010	Human rights situation in Côte d'Ivoire since the elections on 28 November 2010	Nigeria on behalf of the Group of African States, and USA

The Human Rights Council meets for considerably longer each year than did the Commission on Human Rights. This strains all delegations in Geneva, but particularly those of small states and developing countries. As a result of the demanding schedule, there is a feeling of 'Council fatigue' among Geneva-based diplomats. Within the EU, there are also concerns that the EU coordination process is not well-suited for the constant engagement with human rights business that is required, in particular because there is little time for preparation, planning, and lesson learning between all the sessions.

Since its creation, the Human Rights Council has been heavily criticised from all sides. North-South polarisation has been very much in evidence (with the 'South' joined by countries such as Russia). The divisive issues are many. Developed countries and NGOs decry the Council's 'selectivity' – addressing human rights issues repeatedly in some areas (principally Israeli-occupied territories), but not others. Developing countries criticise the HRC for 'politicisation' and admonish western countries for 'unnecessarily' picking on some countries for violating human rights – but not criticising their allies or friends. They point out that there are human rights violations in rich countries (for example, rendition practices, or the

treatment of the Roma or immigrants in Europe), which do not attract as much attention as violations elsewhere. The fact that the Human Rights Council is often dominated by 'bloc politics' aggravates the situation, as moderate countries find it difficult to break free from bloc positions. There is a rift over the appropriate aims and activities of international human rights organisations. On the one side is the argument that only 'cooperative' approaches to promoting human rights should be used, meaning that the state concerned consents to measures. While this is undoubtedly a more effective way of ensuring human rights protection, the cooperative approach prioritises state sovereignty. On the other side is the argument that human rights violations occurring in 'non-cooperative' states must still be addressed, and that the principles of sovereignty and domestic jurisdiction can no longer be used to shield states from scrutiny of their human rights records (as agreed by UN member states at the 1993 World Conference on Human Rights in Vienna). The outcome of the Human Rights Council review will undoubtedly be judged according to whether it adequately addresses such criticisms and schisms.

2 The review of the Human Rights Council

In its Resolution creating the Human Rights Council (Resolution 60/251), the General Assembly indicated that there would be a review of the Council in 2011. Paragraph 1 indicates that the General Assembly 'shall review the status of the Council within five years', while paragraph 16 calls on the Human Rights Council to 'review its work and functioning five years after its establishment and report to the General Assembly.'

There are thus two review processes, one conducted by the General Assembly in New York, and the other by the Human Rights Council in Geneva. The content and timing of both reviews, as well as the relationship between them, were the subject of some debate among states.

With respect to the content of the Geneva-based review, some states and blocs (Russia, the Non-Aligned Movement, the Organisation of the Islamic Conference) wanted to focus on reviewing the Council's institutional framework, that is, the Universal Periodic Review, Special Procedures, complaints procedure, agenda, and methods of work. Others (such as Switzerland and Norway) wanted the review to focus on how well the Human Rights Council had fulfilled its mandate to promote and protect human rights.[1] As finally agreed, the HRC will evaluate the work and functioning of the Council, identify any gaps and shortcomings in its mechanisms, and consider proposals to address those gaps and shortcomings. The General Assembly is to focus on the issue of the 'status' of the HRC, as well as (probably) the relationship between the HRC and General Assembly, the financing of the HRC and its activities, and perhaps the issue of membership (at the time of writing, the focus of the General Assembly review process was still not clear).

As for the relationship between the two processes the main question was whether they should overlap, or whether the General Assembly should take into account the Human Rights Council's review. Under the compromise reached, the HRC launched its review first, and the General Assembly's review will be completed only after the HRC has reported to the General Assembly.[2] The presidents of the General Assembly and the HRC will keep each other informed and contribute to each other's work, and the General Assembly appointed two co-facilitators to liaise with the Human Rights Council.

In September 2009, the Human Rights Council established an open-ended working group (OEWG), composed of all UN member states. It met in October 2010 and again in February 2011. The Presidents of the HRC and of the General Assembly are pressing for the HRC to complete its review in March 2011, though it is more likely to be finished in June 2011. At the end of the OEWG meeting in October 2010, the President of the HRC appointed five facilitators (one from each regional group), to lead discussion on specific aspects of the review:

- the Universal Periodic Review;
- Special Procedures;
- Advisory Committee, complaints procedure and other subsidiary bodies;
- agenda and framework for programme of work; and
- methods of work and rules of procedure.

The HRC President convened an ambassadors' meeting in Bangkok from 8 to 10 December 2010, to identify areas on which agreement can be reached and areas where there would need to be more negotiation.

[1] See Russian Federation, 'Non-paper on modalities of the review of the Human Rights Council', 18 May 2010; 'NAM position on the modalities of the HRC Review', 6 June 2010; 'Switzerland's views on the process and modalities of the Human Rights Council Review'; all the papers are available from the Human Rights Council extranet: http://portal.ohchr.org/portal/page/portal/HRCExtranet (registration required). See also International Service for Human Rights, *Human Rights Monitor Quarterly*, July 2010, p. 2.

[2] Letter from Sihasak Phuangketkeow, President of the Human Rights Council, on 'Coordination between the HRC Review Processes in New York and Geneva', 5 October 2010 (available on the HRC extranet).

The General Assembly held an open-ended informal plenary meeting on the review from 29 November to 3 December, and additional meetings are to be held in 2011. The HRC will forward its conclusions to the General Assembly, which will then be compiled with the results of the General Assembly review, and adopted as a package by the General Assembly before July 2011. The exact format of the outcome of the review is still to be decided.

Timeline: Review of the Human Rights Council	
September 2009	Human Rights Council established the Open-Ended Working Group (Resolution 12/1)
October 2009 – July 2010	Various seminars and conferences held to discuss the review[3]
March 2010	President of the General Assembly appointed two co-facilitators to liaise with HRC
25-29 October 2010	First meeting of the Open-Ended Working Group in Geneva
29 November – 3 December 2010	General Assembly informal plenary meeting on the HRC review
7, 17-18 and 23-24 February 2011	Second meeting of the Open-Ended Working Group held in Geneva
March (or June) 2011	HRC to complete the review and to submit the outcome to the General Assembly
Spring 2011	General Assembly to hold meeting(s) on the review
June 2011	General Assembly to adopt a package on the review, including the HRC's outcome and its own review

[3] France and Mexico convened a 'reflection group on the strengthening of the Human Rights Council', with about 20 states from all regions. It met four times: in Mexico City (October 2009), Paris (January 2010), Rabat (May 2010), and Seoul (July 2010). Larger numbers of states also met at a conference at Wilton Park in January 2010, a retreat in Algiers in February 2010, and a seminar in Montreux in April 2010.

In October 2010, the European Union declared that it 'attaches great importance to the review of the Human Rights Council. The 2011 review process should contribute to improving the Council's ability to systematically implement all aspects of its mandate, by addressing concrete gaps and short coming in any aspect of its work and functioning.'[4] It presented position papers before and during the OEWG meeting in October 2010.

In part I, the role of the EU in the HRC thus far is assessed. The challenges that the EU has faced in trying to exercise influence within the HRC are also considered. Part II analyses the review process so far, considering the views of the EU and other major players on key aspects under discussion. The study concludes with recommendations for EU policy during the remaining stages of the review process and in the HRC generally.

[4] European Union, 'EU Contribution for the First Session of the OEWG', 7 October 2010, p. 1; available on the HRC extranet.

PART I THE EU AND THE HUMAN RIGHTS COUNCIL, 2006-2010

3 The EU and the Human Rights Council

In 2006, the European Union strongly supported the creation of the HRC, declaring: 'The EU will make every effort to ensure that the Human Rights Council will be able to fulfil its mandate responsibly and effectively.'[5] The EU's supportive stance contrasted with the refusal of the United States to vote for the resolution creating the HRC and to run for election to it. The Obama Administration reversed this stance and in 2009 the US was elected to the HRC. The initial absence of the US had the effect of increasing pressure on the European Union to ensure the HRC fulfilled its mandate.

Those leadership expectations were disappointed, and there has been much criticism of the EU's willingness and ability to promote human rights at the HRC. Commentators have decried its passivity and apparent inability to counter the dominance of the Organisation of the Islamic Conference (OIC) in the HRC.[6] A European Council on Foreign Relations report charged that the 'EU's lack of leadership, miserliness and hypocrisy have begun to convince even its allies that making the HRC work is not a European priority'.[7] The European Parliament voted overwhelmingly in January 2009 to call on the EU to play a more prominent role and to develop a 'clear vision, political agenda and long-term strategy' regarding the functioning of the HRC.[8]

This chapter takes a closer look at the EU's experiences in the HRC thus far. Its record can be analysed by distinguishing between 'internal effectiveness' and 'external effectiveness'.[9] Internal effectiveness refers to the unity of the EU. Are the EU member states in agreement? Do they vote the same way on resolutions? Are they active in sponsoring resolutions, in making statements, in participating in debates? External effectiveness refers to the EU's influence within the UN. Does the EU influence the agenda and functioning of the HRC? Does it attract support for its views and resolutions in the HRC?

[5] Declaration by the Presidency on behalf of the European Union on the establishment of the UN Human Rights Council, Brussels, 16 March 2006. The EU's role in the negotiations on the HRC is discussed in 'The Role of the European Union in the Human Rights Council', a study prepared by Jan Wouters, Sudeshna Basu and Nadia Bernaz for the European Parliament's Subcommittee on Human Rights, November 2008.

[6] Judith Crosbie, 'EU Urged to Stand Up for UN Human Rights Council', *European Voice*, 8-14 March 2007; Leon Saltiel, 'EU Must Speak out on Human Rights', *European Voice*, 30 November – 6 December 2007.
See also Peggy Hicks, 'Statement by Human Rights Watch global advocacy director Peggy Hicks to the US Senate Foreign Relations Committee on 26 July 2007'; available at http://foreign.senate.gov/hearings/2007/hrg070726p.html.

[7] Richard Gowan and Franziska Brantner, 'A Global Force for Human Rights? An Audit of European Power at the UN', Policy Paper, European Council on Foreign Relations, 2008, p. 46. The EU's continuing lack of influence on human rights issues at the UN has been discussed in Richard Gowan and Franziska Brantner, 'The EU and Human Rights at the UN: 2010 Review', European Council on Foreign Relations, Policy Brief. Both reports are available at www.ecfr.eu.

[8] 'European Parliament Resolution of 14 January 2009 on the development of the Human Rights Council, including the role of the EU', P6_TA (2009) 0021, paragraph 58.

[9] On these two concepts, see Katie Verlin Laatikainen and Karen E. Smith, 'Introduction – The European Union at the United Nations: Leader, Partner or Failure?', in Katie Verlin Laatikainen and Karen E Smith, eds, *The European Union at the United Nations: Intersecting Multilateralisms* (Houndmills: Palgrave, 2006).

3.1 The EU's internal effectiveness

Internal effectiveness can be assessed using three indicators: the number of statements and interventions made on behalf of the EU; the cohesiveness of EU member states in voting; and the number of resolutions put forward on behalf of the EU. Statements and resolutions are clearly the result of the EU 'coordination process'; voting unity may also be discussed in EU coordination meetings.

Coordination of member state voting positions and agreement on presenting EU positions, resolutions and statements, all take place in coordination meetings in Geneva, with some preparatory work done in the Council working group on human rights (COHOM) in Brussels. Until the entry into force of the Lisbon Treaty, the rotating Council Presidency was in charge: it chaired all coordination meetings, tried to foster EU unity, and spoke for and presented resolutions on behalf of the EU.[10] The Presidency also led EU discussions with other actors at the UN. The European Commission played only a small role, although some presidencies asked the Commission for help in drafting statements – particularly to add the Community's angle – or finding a consensus. The Commission had observer status at the HRC, and delivered statements on Community human rights initiatives to it.

Over the past year, since the entry into force of the Lisbon Treaty, the Commission delegation and Council liaison office in Geneva have merged into an EU delegation. The presidency and EU delegation form a joint team, responsible for coordination in Geneva and leading negotiations with non-EU delegations. The presidency continues to represent the EU in the HRC, but the EU delegation also speaks. The joint team is widely considered to be a 'transition' stage, though it not clear what the transition stage is leading towards. The exact role of the EU delegation in coordination and representation at the Human Rights Council is still not settled; and there has been much discussion about what the final arrangements will be (leading some diplomats to complain about too much 'navel-gazing' within the EU, at a crucial time at the HRC).

The coordination process has been quite effective in producing statements to be delivered on behalf of the EU in the HRC. Table 1 in the Annex shows that the EU's 'voice' is often heard at the HRC: the EU has made many statements and interventions in HRC debates and dialogues. But Tables 2 and 3 in the Annex show a less positive record of the EU's internal effectiveness. Table 2 reports on the cohesiveness of the EU in voting on resolutions. While the EU member states were remarkably united in voting the same way for the first three years of the HRC, in 2009 and especially in 2010, they have shown signs of division. All of the 'split votes' have been over issues related to Israeli violations of human rights, and namely the Goldstone report on the Gaza conflict, and the reaction to the Israeli measures against the 'aid flotilla' in May 2010.

As seen in Table 3 in the Annex, the number of resolutions that the EU sponsors at the HRC has dropped significantly, and the reduction is starkest with respect to country situations.[11] The list of 'country resolutions' that the EU sponsored in the final years of the Commission on Human Rights but no longer does in the HRC is rather long: Belarus, Chechnya, Iran, Iraq, Turkmenistan, and Zimbabwe.[12] The EU does raise particular country situations in its regular statements on agenda item 4 ('human rights situations that require the Council's attention'), and these do convey the EU's concerns about the human rights situations in various countries. But delivering a statement does not result in more engagement of the HRC with those situations.

The EU's approach is in response to the divisive and politicised context of the HRC: given that the EU is outnumbered, and given that it is difficult to convince enough HRC members to support EU resolutions, the prevailing view is that the EU should avoid 'losing' and therefore should not run country resolutions that

[10] If the member state holding the presidency was not a member of the HRC, sometimes the EU's position was presented by an EU member state that was also a HRC member.

[11] I do not include resolutions sponsored by EU member states in these figures, as those resolutions are not, formally speaking, EU resolutions.

[12] However, the EU would drop its sponsorship of resolutions that were persistently defeated in the CHR, as can be seen in Table 3 in the Annex. But the EU's stance now is even more defensive, with few attempts to put forward country resolutions at all.

may not attract a consensus. There has been a distinct lowering of EU ambitions in the HRC. The EU has proposed fewer resolutions than the most active groups, the Group of African States and the OIC:[13]

	EU	OIC	Group of Arab States (with OIC)	Group of African States	NAM
Number of resolutions sponsored in regular sessions 1-15	28	32	19	38	15

Furthermore, the EU as such called for one special session, although three EU member states submitted requests for special sessions (with full EU support). The Group of Arab States has called for five special sessions, usually together with the OIC (see the table on pp. 3-4). Almost all of the OIC resolutions in regular sessions concern Israeli violations of human rights, or defamation of religions; all of the special sessions called by the Arab Group (and OIC) concern Israeli violations of human rights. Furthermore, some EU member state diplomats have noted that the Africa Group often seems to be working in conjunction with the OIC – and frequently OIC members will speak on behalf of the Africa Group. The OIC's concerns have thus been dominating the HRC's discussions and outcomes.

There is intense opposition in the HRC to resolutions on the human rights situations in particular countries, with the exception of Israeli violations of human rights. Human Rights Watch compared the positions of HRC members regarding seven country resolutions between March 2009 and March 2010. Argentina and Chile supported action in all seven cases. EU member states, Bosnia and Herzegovina, Japan, South Korea, Mexico, and Uruguay supported all the resolutions, with the exception of a resolution on the Goldstone report on the Gaza conflict. Other countries (such as China, Cuba, Indonesia, Pakistan, Russia, and South Africa) voted for action in almost none of the cases, with the exception of resolutions on the Goldstone report and Haiti.[14]

Opposition to 'country resolutions' has been very evident in the discussions on the review of the Council: developing countries charge that country resolutions are used to name and shame 'unnecessarily' some countries, which contributes to politicisation in the HRC. Some delegations to the HRC want the Universal Periodic Review to replace consideration of all country situations.

The European Parliament has emphasised the 'importance of country-specific resolutions in addressing serious human rights violations', and in February 2010, called on EU member states to 'actively seek the creation of dedicated UNHRC mechanisms to respond to the human rights crises in Afghanistan, Guinea Conakry, Iran, Yemen, Iraq and Western Sahara'.[15] But in 2010, the only country resolutions that the EU sponsored were on Myanmar and North Korea (the latter together with Japan). The EU's reluctance to put forward country resolutions could have implications for the EU's position in the HRC review process: it is difficult to defend the principle that the HRC should discuss country situations if the EU appears not to be committed to pushing for country resolutions.

[13] Figures include only resolutions approved by the HRC, not those deferred or withdrawn (no resolution has been rejected). The Arab Group only presents resolutions together with the OIC. GRULAC rarely presents resolutions. The Eastern Europe Group and Asia Group never do so. Occasionally ad hoc groups will sponsor a resolution (China for the 'Like Minded Group') but this is not sustained.

[14] Human Rights Watch, *Curing the Selectivity Syndrome: The 2011 Review of the Human Rights Council*, 2010, pp. 33-34.

[15] European Parliament, 'Resolution of 25 February 2010 on the 13th session of the United Nations Human Rights Council', P7_TA(2010)0036, paragraphs 6 and 9.

Some diplomats from EU member states have argued that the UN General Assembly Third Committee should be the venue of choice for presenting country resolutions, viewing that if the EU were to work together with the US there, it could be more effective. Yet so far the record does not show that the EU is sponsoring more country resolutions in the Third Committee. It usually sponsors only two or three country resolutions each year at the Third Committee, and in autumn 2010, the EU put forward two country resolutions, on the human rights situations in Myanmar and in North Korea. In addition, a switch of focus to the Third Committee would have several disadvantages. The EU is also outnumbered in the Third Committee, and the atmosphere there is politicised as well. The Third Committee does not have as many tools for addressing human rights situations as the Human Rights Council (which can create special rapporteurs or experts on a country situation, for example). Switching attention from the Human Rights Council to the Third Committee would not bring about an improvement in the UN's capacity to promote universal respect for human rights.

3.2 The EU's external effectiveness

The EU's influence in the HRC (its external effectiveness) is mixed. It is often isolated at the HRC, unable to gather a consensus in favour of its own positions. The agenda and work of the HRC appear to be led by other blocs, notably the OIC, the NAM and the Africa Group.

As already seen, the EU is not the only grouping at the HRC that tries to put forward its own views: other groupings also coordinate and cooperate to that end, and indeed are just as successful, if not more so, at doing so as the EU. For example, the Council of the OIC Foreign Ministers regularly calls upon 'all Member States to take strong position against those resolutions submitted, at the international fora, by certain countries which exploit human rights for political purposes and target the OIC Member States for extraneous considerations.'[16] It also urges more coordination and unified voting at the UN, and recalls that the OIC is a voting block of 57 states, which could both advance the OIC's objectives and values, and successfully oppose measures that run counter to them.[17] In other words, the EU is facing concerted, focused opposition to measures that it has proposed or supported.

The fact that the WEOG's share of the HRC membership is reduced (compared to that of the CHR) could mean that fewer EU member states are elected to it. The possible reduction in the EU's share of the membership has been cited as a reason for the EU's lack of influence in the Human Rights Council. The Council of the EU and European Commission have referred to the 'numerically decreased representation of the EU' in the HRC as opposed to the CHR as a 'serious challenge' to the 'integration of EU positions in the work of the HRC'.[18] But the enlarged European Union's share of the membership of the Commission on Human Rights (2004 and 2005) and HRC is actually quite similar (between 15% and 17%). And the EU's share in the HRC is slightly higher than its share of the UN membership (27 EU member states out of 192 UN members, or 14%). The EU is still obviously in a minority, and needs to exercise influence by building cross-regional coalitions of 'moderates' in favours of its initiatives and resolutions.

The EU's isolation is evident in the voting records of the Human Rights Council. While most resolutions in the HRC are approved by consensus, roll-call votes are held on the most contentious issues. In the first fifteen regular sessions, there were a total of 89 roll-call votes. In 64 of them (72%), EU member states were in the minority.[19] On those occasions, EU member states were usually joined only by a few other HRC members, such as Bosnia and Herzegovina, Canada, Japan, Norway, Republic of Korea, Switzerland, Ukraine,

[16] Resolution no. 35/37-POL, paragraph 9 (Council meeting in Dushanbe, Tajikistan, 18-20 May 2010).

[17] Resolution no. 41/37-POL (Council meeting in Dushanbe, Tajikistan on 18-20 May 2010).

[18] Council of the European Union and European Commission, *EU Annual Report on Human Rights 2007*, p. 84.

[19] I have only included votes on which the EU member states who were members of the HRC all voted the same way; on 4 occasions the EU member states split their votes.

the United States.[20] Thus the EU is often outvoted and isolated on the most difficult issues debated at the HRC, including Israeli violations of human rights (on which the EU member states are sometimes divided as well), and defamation of religions.[21] Because 'bloc politics' is so pervasive at the HRC, moderate states in blocs opposing the EU often find it more attractive to go along with the OIC or the Africa Group or the NAM than to resist the peer pressure and vote with the EU. (The EU's own role in fostering bloc politics is considered further below.)

On a more positive note, all of the EU's resolutions have been approved by the HRC,[22] a better record than in the final years of the CHR. But given the EU's numerical inferiority, the EU has deliberately chosen to 'go for consensus' in the HRC, which means avoiding a vote on resolutions it proposes, which in turn means avoiding the inclusion of language that would generate opposition. This has meant that the EU has either compromised on its initial position, or avoided taking action altogether (as on Zimbabwe). Such consensus-seeking behaviour shows how the EU has struggled to further the agenda of the HRC in line with its own preferences and external human rights policies.

An example of the EU's consensus-seeking approach is the case of Burma/Myanmar. In March 2007, the US (from outside the HRC) was advocating a special session on the human rights situation in Burma, but the EU rebuffed its informal proposals. According to press reports, the UK maintained that this would have to wait until the HRC institution-building process was completed, and a Finnish diplomat argued that because an EU request for a special session would not secure the necessary votes, 'it would be easier to argue for a special session if something dramatic happens, which of course nobody would wish for'.[23] The EU was unwilling to push the issue and alienate other states in the HRC – regardless of the situation on the ground in Burma. Of course, a few months later, 'something dramatic' did happen (the government repressed pro-democracy demonstrators) and EU member states did request a special session, which took place in October 2007.

The EU's numerical inferiority is not the only reason why the EU may find it difficult to influence debates and outcomes at the HRC. With respect to the special session on Sri Lanka, held in May 2009, the EU was slow and as a result, outmanoeuvred. The special session was called as the Sri Lankan government's war with the Tamil Tigers drew to a close in the spring of 2009, because there were considerable concerns voiced in Europe (and elsewhere) about the lack of protection of civilians and the treatment of internally displaced persons. The UN High Commissioner for Human Rights called for an independent international investigation into the allegations of human rights violations, and the UN Secretary-General expressed concern.

Although the EU as such did not call for the special session, on 19 May, Germany and all the EU states on the HRC requested a special session on the 'human rights situation in Sri Lanka' – together with Argentina, Bosnia and Herzegovina, Canada, Chile, Mauritius, Mexico, South Korea, Switzerland, and Ukraine. The EU presidency (Czech Republic) was active in trying to gather together a cross-regional group of states calling for the special session. And the EU was successful in so far as enough signatures were gathered to call for

[20] Those eight HRC members almost always vote with the EU. In addition, Cameroon, Chile, Mexico and Uruguay vote regularly (but not always) with the EU. The list of democratic countries that do not often vote with the EU includes Argentina, Brazil, Ghana, India, Mauritius, Peru, and South Africa. Data compiled by Benedetta Voltolini.

[21] Since 2007, HRC resolutions on defamation of religions indicate that the freedom of expression should be 'exercised with responsibility', and can be limited with regard to protection of 'public health or morals, and respect for religions and beliefs'. The 2010 resolution on the matter (resolution 13/16) drops the 'respect for religions and beliefs', but still stressed that freedom of expression should be limited. In comparison, the resolution on combating defamation of religions passed by the 2005 CHR did not contain such provisions limiting free speech.

[22] The EU did lose a vote on an amendment it proposed to an Africa Group resolution on Darfur in September-October 2006, and its amendments to the resolution on Sri Lanka in May 2009 were dismissed as the result of a no-action motion.

[23] A. Rettman, 'EU wary of US idea for UN action on Burma', *EUobserver.com*, 5 March 2007.

the special session. It then worked with GRULAC on the text of a draft resolution. But a considerable amount of time was spent in internal EU coordination on the text, and then with GRULAC – and in the meantime, Sri Lanka presented its draft first. On 22 May, Sri Lanka filed its text, and only on 25 May did the EU file its draft. Under procedural rules, the Sri Lankan text would be considered first. That text, on 'assistance to Sri Lanka in the promotion and protection of human rights', reaffirmed 'the principle of non-interference in matters that are essentially within the domestic jurisdiction of states', welcomed the Sri Lankan government's commitment to the protection of human rights, and urged the international community to increase its financial assistance to the country. In contrast, the EU's draft text expressed concern about the loss of life and violations of international humanitarian law, and called on Sri Lanka to cooperate fully with Special Procedures to address the situation.[24]

During the special session, the EU (with support from Bosnia and Herzegovina, Canada, Mauritius, Switzerland and Ukraine) introduced nine amendments to the Sri Lankan draft, essentially calling for an investigation into the alleged human rights violations during the conflict. However, Cuba proposed a 'no-action motion' to suspend debate and action on the amendments. (No-action motions had been used during the Commission on Human Rights to stop debates, for instance, on the human rights situation in China, but until then had not been used in the Human Rights Council.) The Cuban motion was won, with 22 in favour, 7 abstentions and 17 against. It should be noted that abstaining states were Azerbaijan, Brazil, Gabon, Nigeria, Senegal, Ukraine, and Zambia – and that if they had voted against the motion, the motion would not have been carried. The EU's amendments were thus dismissed, and the Sri Lankan resolution was approved by the HRC by a vote of 29 in favour, 6 abstentions and 12 against.

The special session was portrayed as a disaster for the EU in the media. The Sri Lankan ambassador to the HRC wrote that the special session was a miniature diplomatic 'Dien Bien Phu or Bay of Pigs for the EU'.[25] Certainly it showed that Sri Lanka had earned widespread respect for having defeated the Tamil Tigers, and that its arguments about the sanctity of sovereignty and the principle of non-interference were widely accepted.

The Sri Lanka episode illustrates several of the challenges the EU faces at the HRC: its coordination process can be too unwieldy and slow to produce results; its forward planning can be weak; and it is confronted by a considerable number of states with hostile views towards the EU and the core aims of the Human Rights Council. Furthermore, because what goes on in Geneva is still too isolated from what goes on in Brussels, the fact that some countries are not supporting the EU does not generate attention in Brussels. The EU 'machinery' in Brussels does not lobby for EU positions in Geneva – unlike the situation in the US, where officials in Washington will call other capitals to press for their support. And failure to support EU positions is not an item for discussion in the EU's bilateral relations with third countries. If there were more synergy between the Brussels and Geneva machineries, and if human rights issues at the HRC merited more attention from the Brussels machinery (the EEAS and the High Representative), then the EU's external influence might improve.

[24] The texts of the draft resolutions are available on the HRC extranet. The adopted resolution is Human Rights Council Resolution S-11/1, 27 May 2009.

[25] He was writing his personal views, in a blog called 'groundviews', on 1 June 2009: http://www.groundviews.org/2009/06/01/battleground-geneva-the-special-session-of-the-hrc-on-sri-lanka/ See also Catherine Philip, 'Sri Lanka Forces West to Retreat over "War Crimes" with Victory at the UN', *The Times* 28 May 2009.

3.3 Coalition-building experiences

Given that EU member states are in a minority at the HRC, it is imperative that the EU engages in 'outreach', to build support for its positions and resolutions among the wider HRC membership. The EU has noted that it 'devotes considerable resources in New York and Geneva to building a broad, cross-regional base of support for UN resolutions' in the field of human rights.[26] But the seriousness, efficiency and effectiveness of such attempts is open to question.

Outreach is a significant weakness of the EU at the Human Rights Council, and diplomats from EU member states admit that it needs to be improved. The EU as a whole does little outreach, partly because the coordination process among the EU-27 takes up much of the diplomats' time. While the EU does hold some formal meetings with some groupings (such as GRULAC or JUSCANZ[27]), such meetings tend not to be very fruitful. There are complaints by some interlocutors that the EU is patronising towards them (for example, expecting all the members of regional groupings to show up, while the EU is represented only by the troika).

The EU also has a 'burden-sharing' system, in which member states are assigned the task of liaising with third countries, but the effectiveness of such approaches varies. Where the member state already has close relations with its assigned countries, the system works well; where relations are not already developed, it functions less well.

The EU does work fruitfully with some partners on some issues. It has for many years cooperated with GRULAC (the Latin America group) to present a jointly-sponsored resolution on the Rights of the Child. Each year such a resolution has been presented in the Commission on Human Rights and now in the HRC, and each year the resolution is successful. This is an example of a successful attempt to build a coalition with another grouping at the HRC. The issue is a long-standing one, there is predictability in terms of the production of a yearly resolution with GRULAC, and children's rights are a relatively uncontroversial topic at the HRC.

Likewise, the EU has worked with Japan over the years in sponsoring resolutions on the human rights situation in the Democratic People's Republic of Korea (which also renew the mandate of a special rapporteur). Their resolutions have been successful, despite the opposition of countries such as China, Cuba, Nigeria, and Russia.

Cooperation with other groups has been less successful. One reason for this is that the EU has to make serious compromises in its own position in order to retain the support of other groups. Obviously compromise is a necessary part of multilateralism, but NGOs in particular have criticised the EU for compromising too much.

For example, the EU has been cautious about acting strongly on Darfur, and has only worked jointly with the Africa Group – calling for a special session in December 2006, and jointly presenting resolutions to the regular sessions in 2007 and 2008. But in so doing, the EU had to compromise a great deal. In December 2007, the EU had to abandon its attempts to maintain a Experts Group on Darfur (which looked at the implementation of recommendations from various UN bodies) and settle for the creation of a Special Rapporteur (resolution 6/34). Then even the mandate for a Special Rapporteur on Darfur came under fire from the Africa Group, and in September 2008, the EU chose to compromise with the Africa Group and renew the mandate for only six months instead of a year. That was the last occasion on which the EU and Africa Group jointly presented a resolution. In June 2009, the EU presented an amendment to an Africa Group-sponsored resolution, which was successful, and the final resolution (11/10) created an Independent

[26] Council of the European Union, 'Human Rights and Democracy in the World: Report on EU Action – July 2008 to December 2009', document no. 8363/1/10 REV 1, 11 May 2010, p. 14.

[27] Japan, United States, Canada, Australia and New Zealand.

Expert on Sudan to replace the Special Rapporteur. On this occasion, the EU was joined by Mauritius, Zambia, Argentina, Brazil, Chile, and Mexico, in addition to countries that traditionally vote with the EU member states (Canada, Japan, Korea, and Ukraine). In September 2010, however, the US led on presenting the amendment to another Africa Group-sponsored resolution on Sudan; the success of this ensured that the mandate of the Independent Expert would be renewed for another year.

Cooperation with the Africa Group on the situation of human rights in the Democratic Republic of Congo has also been difficult. In March 2008, the Africa Group put forward a resolution on 'technical cooperation and advisory services in the DRC', which did not renew the mandate of the Independent Expert on human rights in the DRC (which had existed since 1994). Instead, the resolution declared that the HRC would request thematic Special Procedures to report on how best to assist the DRC in addressing human rights situations. The EU had supported the renewal of the mandate of the Independent Expert, and had negotiated with the DRC and the Africa Group to try to preserve the mandate, but was not successful. Despite this, the EU did not block the consensus vote on the resolution.[28]

A few months later, however, after intense fighting broke out in eastern DRC, France on behalf of the EU (and other countries including Canada, Japan, Mexico, South Korea and Ukraine) called for a special session on the DRC in late November 2008. No African country supported the call, and indeed the Africa Group accused the EU of 'forcing the special session down [its] throat' and of not consulting with it over the special session.[29] The EU filed a draft resolution to the special session, but so did the Africa Group. After discussions between the two blocs, the EU agreed to withdraw its resolution. The final resolution did not add much to the March 2008 resolution on the DRC, though it did firmly express concern about the violence and deteriorating human rights situation in eastern DRC. It did not include an EU suggestion to send the special rapporteurs on torture and extrajudicial executions to visit the country. The final resolution (S-8/1) was adopted by consensus. Again, then, to maintain consensus in the Human Rights Council, the EU moved quite considerably from its initial position on the DRC.

3.4 Analysis of the EU's role to date

The EU's record in the Human Rights Council thus illustrates the challenges that the EU faces in trying to influence an institution that is heavily politicised and riven by North-South splits and bloc politics. In such circumstances, exercising influence is difficult. But there are also clearly weaknesses in the EU's approach which impede its influence:

- The coordination process can be slow and unwieldy
- The coordination process has to focus on achieving internal unity first, and this can be to the detriment of external influence.
- The member states are divided amongst themselves on some of the key issues discussed at the HRC.
- The EU's reticence to present country resolutions may backfire in that it does not boost the case for discussing country situations at the HRC.
- The EU has been prone to 'going for consensus', which may not further the cause of promoting and protecting human rights.
- The EU's outreach needs to be strengthened and expanded.
- The EU's ability to build successful coalitions with other states is limited to uncontroversial and 'routine' issues.
- There is still a disconnect between what goes on in Brussels and what goes on in Geneva, and the EU's aims for the HRC are not well integrated into its other external policies.
- There appears to be a lack of strategy in the EU's approach (due partly to the intensity of the schedule of HRC meetings), in that it is not clear what the EU wishes to achieve at the HRC.

[28] See the 'EU General Statement after the adoption of the resolution', 19 March 2008; available on the HRC extranet.

[29] International Service for Human Rights, *Human Rights Monitor*, 2008, p. 30.

The impact of the Lisbon Treaty on the EU's internal and external effectiveness has yet to be gauged. Certainly a long transition process to new arrangements would drain attention away from the EU's role in the Human Rights Council. It should be noted that there are arguments both for and against a more prominent role for the EU delegation in Geneva. If the EU delegation acted as the sole representative of the EU, it would ensure continuity of EU representation, and the EU's influence in negotiations with other delegations could be magnified. And if the EU delegation could build the connections and networks with other delegations in Geneva, then the EU's outreach could be improved. To enable the EU delegation to conduct better outreach, it would need to be adequately resourced (with several diplomats assigned to outreach) and supported by the Brussels-based machinery.

But there are some disadvantages to allowing the EU delegation to speak on behalf of the EU in the HRC. In the speaking order at the HRC, states that are members of the HRC speak first, then states that are not members of the HRC (observer states), then observers from intergovernmental organisations, and finally observers from non-governmental organisations. Observers have less time to speak than states that are members of the HRC (for instance, in interactive debates with Special Procedures mandate holders, states get three minutes and observers only two minutes). Thus if the EU delegation spoke instead of the presidency (and/or other member states), EU contributions to debates would actually be reduced.

Furthermore, one response to the EU's minority position has been the 'one message, many voices' strategy: since 2005, EU member states have agreed to speak with 'one message but with many voices'; that is, they should all intervene in debates to reinforce the EU's message. The 'many voices' strategy ensures that EU member states fill the debating space that they are entitled to, rather than reduce themselves to one voice in a room filled with so many speakers who are often hostile to the EU's positions. It can also diminish perceptions of the EU as a monolithic bloc, and thus reduce the automatic opposition of other blocs to the EU. If the EU behaves more like a monolithic bloc, then it may – somewhat paradoxically – be less able to influence debates, and also spark more opposition to its initiatives and statements from other blocs. For example, up to now, the EU as such does not speak during Universal Periodic Review sessions, and the EU does not agree on a list of questions to be asked of countries undergoing review, nor does it engage in a common analysis of the reports. This is an attempt to break down the 'bloc mentality' at the HRC: if the EU does not speak, then the hope is that other groups will not gang up to protect their own members from criticism, or to condemn the records of non-members. Whether this 'self-denying' stance by the EU will continue under the Lisbon Treaty arrangements remains to be seen.

Arguably, attempting to obtain an enhanced observer status for the EU at the HRC would be counterproductive: it would only fuel more bloc politics, as other groupings would seek such a status too, or would at least be motivated to act in an even more coordinated way. While an enhanced status for the EU might counter some of the disadvantages of mere observer status, it would not eliminate all of them and might exacerbate bloc politics. Enhanced status is also unlikely to have much of an impact on the EU's external effectiveness at the HRC. The EU should thus not seek such a status at this time.

In addition, the EU delegation's role in chairing coordination meetings will need to be assessed in future, to see how successful it is. As pointed out by one analyst, 'the rotating Presidency coordinated the EU-27 as *primus inter pares*, but there is an odd disjunction between the new EU delegation with lesser legal status and the EU-27 whose votes and positions it will be required to coordinate.'[30] There is a risk that member states will feel less obliged to try to coordinate their positions at the HRC; this will need to be watched carefully over time.

[30] Katie Verlin Laatikainen, 'Multilateral Leadership at the UN after the Lisbon Treaty', *European Foreign Affairs Review*, vol. 15, no. 4, 2010, p. 480.

The role that the Council Working Group on Human Rights (COHOM) should play in providing strategic direction is also not clear. COHOM meets approximately monthly in Brussels. It does not meet often enough to be able to provide much direction to the EU delegation or to reflect on developments on the ground in Geneva, plus its agenda is packed with other issues. For example, COHOM discussed the review of the Human Rights Council in two meetings, on 7-8 September 2010 and 5 October 2010 (but not, according to the agenda available in the public register of Council documents, at its meeting on 9-10 November 2010). COHOM is thus not well-placed to provide much guidance to the EU delegation during the HRC review process. Its role in providing strategic direction following the review needs consideration: it may be best to leave coordination and strategy to the diplomats on the ground in Geneva, while strengthening the links between the EU in Geneva and the EEAS/High Representative in Brussels, so that Brussels can provide appropriate back-up and support when needed. With a permanent chair and if COHOM were to meet more often, then perhaps it could provide better strategic direction and support for the EU's efforts in Geneva. The EEAS will also need adequate human and financial resources in the area of human rights if it is to provide appropriate back-up for the EU in Geneva.

PART II THE REVIEW OF THE HUMAN RIGHTS COUNCIL

4 The Geneva-based review process

The Geneva-based process began with the first meeting of the Open-Ended Working Group held from 25 to 29 October 2010. The European Union participated actively in the process, contributing written statements to the debates under each of the agenda items. The Belgian presidency was well-organised, arranging for 'burden-sharing', so that some member states also made statements under each of the agenda items. The EU thus filled the 'debating space' allocated to it, in a coordinated way. A summary chart of some of the various suggestions made by the EU and other players is in Table 4 of the Annex. In February 2011, facilitators reported back to the Working Group on areas of agreement and disagreement; there are clearly still considerable divergences over several issues.

The European Parliament has already indicated that the review of the HRC should do the following:

- preserve the independence of the Office of the High Commissioner for Human Rights;
- safeguard and, if possible, strengthen the Special Procedures;
- guarantee the possibility for the HRC to address specific human rights violations through country resolutions and country mandates;
- stress the importance of the indivisibility of human rights; and
- strengthen the HRC without having recourse to the institution-building package.[31]

These positions do coincide with the EU's views as presented in the first OEWG meeting. Overall, the EU is concentrating on the Human Rights Council's ability to implement existing international norms and standards. It has argued that the Council needs to be better able to address 'urgent and chronic human rights issues and situations', and that it should play a more active role in preventing human rights violations. Its emphasis thus lies on the ability of the HRC to fulfil its mandate to promote and protect human rights.[32]

This chapter examines the positions of the EU and other actors with respect to the agenda of the Geneva-based review: the Universal Periodic Review; Special Procedures; Advisory Committee and Complaint Procedure; Agenda and Framework for a Programme of Work; and Methods of Work and Rules of Procedure. Chapter 5 considers the positions of the EU and others with respect to the New York-based review.

4.1 Universal Periodic Review

The Universal Periodic Review (UPR) is an assessment of the human rights situation in each of the UN's 192 member states. Each review takes place every four years, which means 48 states are reviewed each year. A troika of three HRC member states acts as rapporteurs for a state under review. The reviews take place during meetings of the UPR working group (which is composed of all the members of the Human Rights Council), which meets three times a year, in two-week sessions. Each review takes up to three hours, with discussion on an outcome report (a summary of the session, prepared by the troika with the assistance of the state under review and the Office of the High Commissioner for Human Rights) then taking half an hour. A period of 48 hours passes between the review itself and the production of the outcome report, during which time the state under review can accept or reject the recommendations made at the review. The outcome report is adopted during a plenary session of the HRC, at which point the state under review and other states and stakeholders (such as NGOs) can express opinions on the report.

[31] European Parliament, 'Resolution of 25 February 2010 on the 13th session of the United Nations Human Rights Council', P7_TA(2010)0036, paragraph 25.

[32] EU Contribution for the First Session of the OEWG, 7 October 2010; available on the HRC extranet.

There has been much praise for the UPR: all states have so far participated in the process, and governments have discussed human rights situations in a fairly cooperative environment. Governments have taken the process seriously, often sending high-level and/or large delegations to Geneva. The UPR is a way of ensuring that the human rights records of all states are assessed transparently and regularly, thus countering criticisms that the Human Rights Council unfairly picks on only some countries. Some states have already begun implementing the recommendations made during their review.[33]

But there have also been criticisms of the UPR:

- States have been able to avoid critical assessments by ensuring that friendly governments praise their human rights record and ignore any shortcomings.
- Outcomes may 'not reflect the reality of the human rights situation on the ground', in that they ignore human rights violations.[34]
- States have not had equal time to intervene during the reviews, as there is not enough time available to allow all states wishing to speak to do so.
- States under review have not always given clear responses to recommendations made by states, and they are free to reject recommendations.
- Some recommendations are vague and broad (one NGO calculates that only 30.8% of recommendations contain a specific action).[35]
- The number of recommendations made can be very high, and there can be much duplication and overlap of recommendations.
- Some recommendations have been inconsistent with international human rights commitments, with some states making recommendations in favour of discrimination on the basis of sexual orientation, for example.
- Some recommendations have been rejected by states on the grounds that they conflict with their own cultural and moral traditions.[36]
- Information compiled by national stakeholders (NGOs) and UN bodies are not formally presented during the review process (though their reports are available on the website).

Prior to the OEWG meeting, one NGO (UPR-info.org) made quite detailed recommendations for UPR:

- Recommendations should be action-oriented and specific.
- States should provide a clear response to each recommendation, and a detailed response if they reject a recommendation.
- States should not reject recommendations from Treaty Bodies and Special Procedures (as the former are mandatory, and the latter monitor compliance with international law).
- The troika should be strengthened, by including a human rights expert.
- NGOs should be included more thoroughly in national consultations and given more speaking time at the HRC.
- The second cycle should focus on implementation.[37]

The EU's position on the review of the UPR is as follows (see also Table 4 in the Annex):

[33] See UPR-Info.org, *Analytical Assessment of the Universal Periodic Review 2008-2010*, p. 12.

[34] International Service for Human Rights, *Human Rights Monitor*, no. 67, 2009, p. 34.

[35] Data from the first seven UPR working groups. UPR-Info.org, *Analytical Assessment of the Universal Periodic Review 2008-2010* (2010), p. 14.

[36] This stance contradicts the understanding reached at the June 1993 World Conference on Human Rights in Vienna: 'While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms'.

[37] UPR-Info.org, *Analytical Assessment*, pp. 18-22. Other NGOs also made recommendations. See the recommendations of 37 NGOs: 'Joint NGO Contribution to the UPR' (http://www.upr-info.org/IMG/pdf/Joint_NGO_contribution_on_the_UPR-Seven_Key_Issues.pdf).

- Maintain the four-year periodicity of reviews (each UN member state is reviewed every four years).
- There should be no gap between the first and second cycles.
- Set a limit to the number of new recommendations that can be made during the second cycle.
- Allow National Human Rights Institutions (NHRIs) more of an opportunity to contribute to the UPR.
- Increase the time available for states to participate in each review, or at a minimum, ensure that all recommendations, even if not presented during the session of the working group, be included in the outcome report.
- States must respond to each recommendation, and provide a timetable for implementing the recommendations.
- Recommendations should be 'clustered' only with the support of the state under review and the state that made the recommendation.

During the October OEWG meeting, it was apparent that there was general agreement that the second cycle of UPR should focus on the follow-up of recommendations and voluntary pledges. There was also general agreement that more time should be allocated to each review so that more states could speak: several states suggested extending the time from three to four hours. There was division on the 'periodicity' of the UPR, with many states (Egypt on behalf of NAM and Pakistan on behalf of OIC) supporting a five-year cycle (thus 13 countries reviewed each session instead of 16), while others (including the EU) called for the four-year cycle to be maintained.[38] The same countries supporting the five-year cycle also called for a one-year gap between cycles, which the EU (among others) opposed. Developing countries (and blocs such as NAM, OIC, Africa Group and GRULAC) also called for the provision of financial assistance to states to enable them to implement the recommendations made during the UPR. The Non-Aligned Movement suggested that the assessment of any state must include an assessment of the adequacy of international financial assistance. The EU's response to this was that it has 'taken careful note that many speakers have raised the need to increase the focus on financial assistance. Some useful proposals have been made.'[39]

In February 2011, the facilitator on the UPR reported that there could be agreement to begin the second cycle in June 2012 (without the gap year), and that cycles would last four and a half years. Additional time could be allocated to each review, and to the consideration of each review outcome at the plenary session.

4.2 Special Procedures

'Special Procedures' are mechanisms agreed by the Human Rights Council to address either specific country situations or thematic issues. Currently, there are 31 thematic and 8 country mandates.[40] Special Procedures can be special rapporteurs, independent experts, special representatives, or working groups. Mandate holders examine, monitor, advise and report on human rights situations in particular countries, or with respect to classes of human rights violations. Country mandates are for one year; thematic mandates are for three years. In both cases, there must be a specific decision to renew the mandate, otherwise it lapses. In 2009, mandate holders carried out 73 visits to 51 countries and territories, sent 689 communications on specific human rights violations to 119 states (but

[38] Human Rights Watch and the OHCHR have supported the proposal to extend the cycle to five years. See Human Rights Watch, *Curing the Selectivity Syndrome*, p. 14; OHCHR 'Non-Paper by the Office of the High Commissioner for Human Rights', October 2010, p. 4 (available on the HRC extranet).

[39] Statement on behalf of the European Union under agenda item 5 of the OEWG meeting, 29 October 2010 (available on the HRC extranet).

[40] The country mandates cover Burundi, Cambodia, Democratic People's Republic of Korea, Haiti, Myanmar, Palestinian territories, Somalia and Sudan. Thematic mandates cover a wider variety of issues from housing, education, and the right to food, to freedom of expression and freedom of religion or belief. In 2000, there were 21 thematic mandates and 14 country mandates, so there has been a marked increase in the former and a decrease in the latter.

governments replied to only 32% of them), and submitted 136 reports to the Human Rights Council.[41] The Human Rights Council is supposed to consider cases of non-cooperation with Special Procedures.

The Office of the High Commission on Human Rights (OHCHR) maintains a list of eligible candidates for holding mandates; candidates are nominated by governments, NGOs, UN bodies or individuals. A Consultative Group, composed of representatives from the five regional groups, makes recommendations for the appointment of mandate holders to the HRC President. While the selection process is now more transparent and open than it had been in the Commission on Human Rights, it still generates opposition from states demanding that their preferred candidates be selected.[42]

Mandate holders are supported by the Office of the High Commissioner on Human Rights. A Coordination Committee, composed of five mandate holders, is to help the mandate holders cooperate with each other, and to act as bridge between mandate holders and the OHCHR, UN human rights framework and civil society. The Coordination Committee also considers any issues regarding the conduct of mandate holders in accordance with the Code of Conduct, which sets out the standards of professional behaviour expected of the Special Procedures.[43]

Special Procedures have been acknowledged as the Human Rights Council's 'most independent, objective, responsive, proactive and flexible mechanisms.'[44] Ted Piccone argues that they are 'catalysts for rights', and that they play 'a critical role in shaping the context of international human rights norms, shedding light on how states comply with such norms, and influencing how governments behave, to the benefit of millions of people.'[45] His report lists several examples in which the Special Procedures have effected positive change in numerous countries around the world, and he identifies several factors that contribute to such positive outcomes, including the quality of the expert's research and recommendations, the willingness and capacity of the government to cooperate with the expert, and the ability of UN staff to support the experts through preparation and follow-up work.

However, the Special Procedures have been criticised and face several obstacles. First and foremost, the lack of state cooperation obviously hinders their effectiveness. The low rate of responses by governments to communications (32%) is one illustration of this lack of cooperation. Refusal to allow visits by special procedures is another: nineteen states have never accepted Special Procedures' requests to visit, while others have left the requests pending.[46] As of 31 December 2009, only 66 countries, including all 27 EU member states, have issued a 'standing invitation' to special procedures.[47]

In addition, the Special Procedures are inadequately resourced: only $11 million was spent on all the Special Procedures in 2009, though some states do provide extra funding for particular mandates

[41] Office of the High Commissioner for Human Rights, United Nations Special Procedures: Facts and Figures 2009, p. 25.

[42] Apparently Algeria and India demanded this in June 2010. Ted Piccone, *Catalysts for Rights: The Unique Contribution of the U.N.'s Independent Experts on Human Rights*, Brookings Institution, October 2010, p. 38.

[43] The Code of Conduct was controversial when it was debated during the HRC's first year, but the EU (and others) did not block its inclusion in the institution building package.

[44] As the special procedures mandate holders note in 'Contribution of the Special Procedures Mandate Holders' to the Review of the Human Rights Council, 8 October 2010.

[45] Piccone, *Catalysts for Rights*, pp. viii-ix.

[46] Piccone, *Catalysts for Rights*, pp. 13-14.

[47] Office of the High Commissioner for Human Rights, United Nations Special Procedures: Facts and Figures 2009, p. 11. The US has not issued a standing invitation. Some of the standing invitations are not really effective, as 'requests for visits go unanswered for many years.' Human Rights Watch, *Curing the Selectivity Syndrome*, p 18.

(there is no transparency about such resources).[48] There is also a lack of systematic follow-up to Special Procedures' recommendations, and their work is not sufficiently integrated into the work of the Human Rights Council (or the wider UN system). Lastly, mandate holders may not be well-prepared or trained sufficiently to undertake their work.

Special Procedures have been under attack by states that assert they are politicised and selective. Many countries cite country-specific Special Procedures as evidence that the Human Rights Council is picking on some countries, and some countries have either advocated the abolition of all country mandates, or have stated that Special Procedures should only be allowed if the country concerned gives its consent.[49] UN General Assembly Resolution 60/251 indicated that the Human Rights Council was to assume, review, and where necessary, improve and rationalise the Special Procedures mandates passed on from the Commission on Human Rights. But right from the beginning, OIC states and the Africa Group refused to review the mandate of the Special Rapporteur on the situation of human rights in the occupied Palestinian territories, on the basis that the mandate is established until the end of the occupation. They insisted that all other mandates must be reviewed, and right at the start, the EU 'lost' in terms of its support for the continuation of the mandates on Belarus and Cuba, which were eliminated in the institution-building package deal. Later, the mandates for the Democratic Republic of Congo and Liberia were also ended.

In addition, the integrity of mandate holders has been called into question in numerous HRC sessions, and there have been several accusations that mandate holders have violated the Code of Conduct. There are perennial criticisms that mandate holders are not representative of all regions, and that there is a geographic bias (in favour of the west) in the selection process.

In the run-up to the HRC review process, several suggestions for reform of the Special Procedures were made, by NGOs, the Special Procedures mandate holders themselves, and analysts. The mandate holders proposed that:

- The HRC should make better use of the expertise and outcome of the Special Procedures' work. For example, mandate holders could initiate the consideration of a specific situation.
- Candidates for HRC membership should make a commitment to cooperate with Special Procedures.
- The HRC should take measures to protect persons cooperating with the Special Procedures (and other UN mechanisms).
- The HRC could enable more dialogue with Special Procedures, by, for example, extending the time for dialogue with them during regular sessions.
- The HRC should follow up Special Procedures' recommendations, for example, by including implementation of the recommendations in the follow up to the UPR.
- The HRC should ensure adequate resourcing. Mandate holders are working to ensure greater transparency of extra-budgetary support for their work.[50]

An experts working group (which included several former Special Procedures mandate holders) convened by Ted Piccone of the Brookings Institution also made the following recommendations:

- The selection procedure should be improved, with better advertising of posts and better information on candidates.
- All states should issue standing invitations to Special Procedures, and should cooperate with them. Their record in doing so should be taken into consideration when seeking HRC election, and those with good records should be priority candidates for technical assistance.

[48] Piccone, *Catalysts for Rights*, pp. 31-2.

[49] See the wide variety of suggestions for revising special procedures made at the retreat of Algiers on the HRC review, 20-21 February 2010 (103 countries and organisations participated in the retreat). Summary available on the HRC extranet.

[50] 'Contribution of the Special Procedures Mandate Holders' to the Review of the Human Rights Council, 8 October 2010.

- Special Procedures should follow up on their recommendations, as should the UN and OHCHR.
- Funding for all Special Procedures should be increased, by increasing contributions to the general fund for distribution across all mandates.
- Training and guidance should be provided to mandate holders.
- If states allege violations of the Code of Conduct, then the procedures already in existence for investigating allegations should be followed.
- Special Procedures mandate holders should be called upon to contribute at all stages of the review of countries in the UPR; UN country teams should incorporate Special Procedures recommendations into their annual workplans.[51]

The EU's position on Special Procedures, as presented to the OEWG meeting in October 2010, is as follows:

- There should be improved dialogue with Special Procedures, by increasing the amount of time allowed for this. This will also enable more follow-up of Special Procedures' recommendations.
- Introduce automatic independent initiation mechanisms, whereby Special Procedures can trigger consideration of country situations, either in a special session of the HRC or in the regular sessions.
- Consider with caution whether individual mandates should be converted into working groups.
- States have an obligation to cooperate with Special Procedures. HRC members should set an example by cooperating fully with all Council mechanisms when they are serving on the Council, and candidates for election for the HRC should be assessed on the level of their cooperation with Special Procedures.
- The existing mechanisms for ensuring the professional conduct of mandate holders are sufficient.
- The HRC must address any acts of intimidation or reprisals against those cooperating with mandate holders.
- Bring into line the duration of country mandates and thematic mandates.
- Where a country is not willing to cooperate and there are serious human rights violations, the HRC must nonetheless be able to act.

The EU's position thus largely coincides with the views put forward by past and current mandate holders, as outlined above. It supported extending the duration of country mandates, which was not mentioned by the mandate holders, but it was less specific about the reform of the process of selecting mandate holders (supporting GRULAC proposals, for instance; see Table 4 in the Annex), and about the proposals for boosting the funding of Special Procedures (in a 'time of austerity' this would be difficult for the EU member states to do).

Not surprisingly, the review of the Special Procedures is one of the areas where there is considerable divergence among states. During the OEWG meeting in October, several states (Pakistan on behalf of the OIC, Egypt on behalf of the NAM, Nigeria on behalf of the Africa Group, Russia, Cuba, China and South Africa) proposed setting up a monitoring mechanism or committee to assess mandate holders' compliance with the Code of Conduct. The obvious risk of such a committee is that it would be used to limit the influence and autonomy of the mandate holders.

There were also proposals to restrict further the approval of country mandates. Egypt on behalf of NAM, Pakistan on behalf of OIC, and Nigeria on behalf of the Africa Group all argued that country-specific mandates should only be approved with the consent of the country concerned, and Egypt/NAM and Pakistan/OIC further proposed that a two-thirds majority of the HRC would be necessary as well.

Proposals to increase the time for dialogue with Special Procedures were more widely supported. And several other states (including the US) agreed that cooperation with Special Procedures should be a condition for HRC membership.

[51] Piccone, *Catalysts for Rights*, pp. 38-43.

In February 2011, the facilitator on Special Procedures suggested that there was agreement that the selection and appointment process for mandate holders should be strengthened, for example by circulating vacancies widely, and that the OHCHR could strengthen induction and orientation of mandate holders. But divergences between states remain on several issues, including a mechanism to enforce compliance with the Code of Conduct.

At a minimum, the EU will need to prevent further restrictions on the independence and integrity of Special Procedures (such as by instituting a committee to enforce their compliance with the Code of Conduct), and to ensure that the Human Rights Council does not place further barriers to the use of country mandates.

4.3 Advisory Committee

HRC Resolution 5/1 set up an Advisory Committee, which was to act as the Council's 'think tank'. Eighteen experts provide expertise as requested by the Council and under the Council's guidance. The experts are nominated by the regional groups and then elected by the HRC; there are five experts each from the African and Asian states, three each from Latin American and Western Europe/Other states, and two from Eastern European states. The exact mandate of the Advisory Committee is not clear, however. In particular, some members have maintained that the committee cannot take up *any* matter on its own initiative, even though the Institution-Building Package (in Resolution 5/1, Annex, paragraph 77) indicates that the Committee may make 'further research proposals within the scope of the work set out by the Council'.[52]

The Advisory Committee has widely been considered to be of marginal importance and its role has not been much discussed during the review process. One of the committee members has suggested that the Advisory Committee should be allowed to initiate work, and suggest issues for study (as its predecessor in the CHR, the Sub-Committee on the Promotion and Protection of Human Rights, did).[53] The OHCHR suggested that the Committee should be able to report to the Council after each of its two sessions per year, and that the Committee should be involved in Council activities such as panels or briefings.[54]

The EU's position is as follows:

- The selection of experts should be transparent and instead of the practice of electing experts, a system similar to the one for selecting Special Procedures mandate holders should be developed.
- A roster of experts could be established. Experts would be nominated for inclusion in the roster on the basis of their expertise in a particular field of human rights.
- Once the Council has mandated a study or asked for expert input, the HRC President could appoint an expert or group of experts from the roster to carry out the work.
- The Council should provide clearer mandates, specifying its needs for research and advice.
- There should be enough flexibility in the annual meeting calendar for the provision of timely expert input.
- The Committee needs to be more cost-effective, use new technologies such as teleconferencing, and thus render the Committee's plenary meetings unnecessary.

The positions of other states vary. The United States suggested abolishing the Advisory Committee altogether. Other states – Pakistan (on behalf of the OIC), Cuba, Russia, China, India, Venezuela, and Saudi Arabia – argued in favour of the status quo. Some countries – Nigeria (on behalf of the Africa Group), Philippines, Morocco, Chile, China – argued in favour of increasing the involvement of the Advisory

[52] International Service for Human Rights, *Human Rights Monitor Quarterly*, October 2010, p. 9.
[53] International Service for Human Rights, *Human Rights Monitor Quarterly*, July 2010, p. 4.
[54] 'Non-paper by the Office of the Human Commissioner for Human Rights (OHCHR): Issues to be Discussed in the Context of the Human Rights Council Review', October 2010, p. 6.

Committee in discussions in the Council. In February 2011, the facilitator indicated some agreement among states that the HRC would resort to the Advisory Committee more often for advice and expertise.

4.4 Complaints Procedure

The Human Rights Council includes a mechanism enabling individuals to submit complaints about human rights violations. Two working groups, the Working Group on Communications and the Working Group on Situations, examine communications alleging violations of human rights and can bring to the HRC's attention consistent patterns of gross and reliably attested human rights violations. The Working Group on Communications is composed of five experts, each from the five geographical regions represented by the regional groups; the Working Group on Situations is composed of representatives of five member states of the HRC, appointed from each regional group. The state concerned is informed of the communication and asked for its views of it, but all information is kept confidential. The Working Group on Communications assesses a communication for admissibility, and if it is admissible, passes it to the Working Group on Situations, which can report to the HRC on patterns of violations and make recommendations on courses of action to take. The HRC would then take a decision on the situation.

The EU noted in its contribution to the OEWG that the complaints procedure is not working as it should: between January and June 2008, the OHCHR received 3093 communications, of which the Working Group on Communications submitted only six to the Working Group on Situations. Only one complaint was then referred to the HRC, which decided to take no action. 'The EU feels that is it highly unlikely that so few complaints were in line with the admissibility criteria.'[55]

The EU proposed the following changes to the complaints procedure:

- The HRC should look at 'all gross and reliably attested violations of all human rights and fundamental freedoms' (not just patterns of such violations).
- It supports the Swiss proposal that the HRC be given a list of all the cases considered under the complaints procedure (including those judged inadmissible).
- The Working Group on Communications should be strengthened and the Working Group on Situations abolished.
- The President of the HRC should nominate members of the Working Group on Communications, from a roster of experts.
- The complaints procedure should be able to deal with a case even if another Special Procedure, treaty body or other mechanism is involved with the country, as long as it is not addressing the specific case.

Mexico suggested abolishing the complaints procedure altogether, and favouring other mechanisms to deal with victims. The United States called for more transparency, including a report on all cases considered under the procedure. Many other states, however, called for maintaining the complaints procedure as is, including Pakistan on behalf of OIC, Nigeria on behalf of Africa Group, Cuba and Russia. The facilitator reported in February 2011 that there is opposition to merging the two working groups.

[55] Statement on behalf of the European Union, Item 4.3 Advisory Committee and Complaints Procedures, 27 October 2010. However, the International Service for Human Rights notes that there is a higher response rate of states subject to the complaints procedure ('reportedly more than 90%') than there is to Special Procedures. International Service for Human Rights, *Human Rights Monitor Quarterly*, July 2010, p. 4.

4.5 Agenda and Framework for a Programme of Work

The current agenda of the Human Rights Council is as follows:

The Agenda of the Human Rights Council	
Item 1.	Organizational and procedural matters
Item 2.	Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General
Item 3.	Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development
Item 4.	Human rights situations that require the Council's attention
Item 5.	Human rights bodies and mechanisms
Item 6.	Universal Periodic Review
Item 7.	Human rights situation in Palestine and other occupied Arab territories
Item 8.	Follow-up and implementation of the Vienna Declaration and Programme of Action
Item 9.	Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action
Item 10.	Technical assistance and capacity-building

The HRC's agenda is considerably shorter than that of the Commission on Human Rights.[56] During the negotiations to set up the HRC, the OIC pushed hard for a permanent agenda item on the human rights situation in Palestine and other occupied Arab territories. While the EU believed 'that this issue should not have been singled out in the agenda', it did not block it.[57] It would have been difficult to prevent the inclusion of the agenda item, given that it had also been an agenda item of the CHR. The EU did insist on having a general agenda item on human rights situations requiring the Council's attention.

The fact, however, that there is a separate item on the human rights situation in Palestine and occupied Arab territories – along with the refusal of many states to 'review' the mandate of Special Procedure on the Palestinian territories – indicates the extent to which this issue is singled out. The position of many states – including Pakistan on behalf of OIC, Egypt on behalf of NAM, and Nigeria on behalf of Africa Group – is that the agenda should remain as it is.

Other states have suggested that 'rationalising' the HRC's agenda should be looked at again. The US has called for grouping agenda items 4, 7, and 10 together, and agenda items 3 and 9 together. Australia and Canada have also called for merging agenda items 4, 7 and 10, and merging items 3, 8 and 9. In its first submission to the OEWG, the EU argued that 'it should be considered to merge all country related items (item 4, 7 and 10) as well as current item 3, and 9.' During the OEWG discussion the EU 'noted with interest' the US proposal.[58] The EU also proposed to add an 'element of mainstreaming' to the discussion of agenda item 2 (including a panel discussion with the heads of different UN organisations), and to include 'follow-up'

[56] The agenda of the Commission on Human Rights was clearly much longer. All of the following were separate agenda items: organisational matters; report of the UN High Commissioner for Human Rights; the right of peoples to self-determination; racism and all forms of discrimination; right to development; question of the violation of human rights in the occupied Arab territories, including Palestine; violation of human rights in any part of the world; economic, social and cultural rights; civil and political rights; integration of the human rights of women and the gender perspective; rights of the child; specific groups and individuals; indigenous issues; report of the sub-Commission on the promotion and protection of human rights; promotion and protection of human rights; effective functioning of human rights mechanisms; technical cooperation and advisory services; rationalisation of the work of the Commission.

[57] Council of the European Union, 'Human Rights Council – Declaration by the Presidency on Behalf of the EU on the Outcome of the Institution Building Process', Press release 11074/07 (Presse 147), 21 June 2007.

[58] Compare the EU's paper of 12 October 2010 with its statement on 27 October 2010 on item 4.4 (both available on the HRC extranet).

under agenda item 8. As of February 2011, there was still a wide divergence of views on the question of rationalising the agenda.

There is more consensus within the HRC regarding rationalising the programme of work and even altering the calendar of sessions. Many states have called for the programme of work to be reconsidered so as to avoid duplication and repetition, to balance the workload across sessions and to ensure that there is a greater predictability about when items will be discussed. Furthermore, some states have suggested that one of the three sessions should be dedicated wholly to agenda item 6 and the adoption of UPR outcome reports. The US has called instead for mini-sessions to be held throughout the year – though this proposal has not gathered much support. The EU did not put forward proposals on the programme of work, but it later stated it was 'encouraged' by the consensus on the idea to decouple item 6 from the main sessions, though it would need to see how this would relate to the three UPR working group sessions held each year.[59]

In February 2011, there was much discussion about the possibility – raised by the facilitator – of holding only two regular sessions of the HRC per year, and separating out the adoption of UPR working group reports from the regular sessions. Instead, the UPR working group reports could be considered in short plenary sessions appended to the UPR working group sessions. However, some states (and the EU) expressed resistance to reducing the number of regular sessions if there is not a concomitant move to facilitate the consideration of urgent situations (for example, by developing automatic initiation mechanisms that would trigger such a consideration).

4.6 Methods of Work and Rules of Procedure

During the October OEWG meeting, several issues were discussed under this category: debates, dialogues, and panels; the work format (the 'toolbox' of mechanisms for addressing human rights situations) and special sessions; resolutions; the role of the Human Rights Council presidency; stakeholder participation; and the HRC's relations with the Office of the High Commissioner for Human Rights.

The 'toolbox' for addressing human rights situations

The issue of the 'toolbox' is one that was discussed during the October OEWG meeting, but does not necessarily need to fall within the scope of the review. As NGOs have argued, the Human Rights Council is not limited to agreeing country resolutions and country mandates in response to human rights situations. There are more 'tools' that it could use – and doing so could address human rights situations while hopefully avoiding politicised and divisive debates on resolutions or country mandates. Human Rights Watch suggested that the Council could:

- Hold a briefing session (to inform, not to result in a resolution);
- Reach agreement on technical assistance needed to address the situation
- Send a letter of inquiry to the concerned state;
- Solicit and receive pledges from the concerned state on steps it will take to address the situation;
- Issue a statement on the situation by the HRC president;
- Hold a specific discussion of the situation under agenda item 4;
- Organise a hearing with victims of a particular situation;
- Request that the High Commissioner for Human Rights give a briefing on the situation;
- Group Special Procedures' reports relating to a situation together, and consider them in an in-depth discussion;

[59] Statements on behalf of the EU: on agenda item 4.4 (27 October 2010) and agenda item 5 (29 October 2020); both available on the HRC extranet.

– Appoint an expert or group of experts to engage with a concerned government regarding the implementation of recommendations already issued by UN bodies, including the HRC.[60]

The conundrum is that clearly, the effectiveness of responses to human rights violations depends fundamentally on the cooperation of the state concerned. If the state is willing to work with international mechanisms, then violations of human rights can be fruitfully addressed – and the variety of tools listed above could be used more effectively. The position of developing countries and blocs that resolutions and country mandates require the consent of the state concerned is one that emphasises the need for a 'cooperative' approach to the promotion and protection of human rights, but also places the principle of sovereignty over the universal respect for human rights.

As a grouping of NGOs has argued, 'when egregious violations of human rights are taking place, the concerned state frequently dismisses the allegations or makes no genuine efforts to address violations. In these cases, violations often occur as a deliberate policy of the state, rather than because the state fails to act or lacks the capacity to protect human rights.'[61] The NGOs suggest tailoring the HRC's response according to the level of cooperation from the state concerned – but that action must still be taken even if the state refuses to cooperate, including through the use of resolutions and country mandates.

The EU's position papers for the OEWG meeting in October listed the following proposals in terms of the toolbox:

– The HRC should develop a set of criteria for addressing human rights situations and identify the range of tools by which such situations could be addressed
– The HRC should develop an automatic independent initiation mechanism for holding special sessions and addressing urgent situations during the regular sessions

These proposals try to address the criticisms about selectivity, by giving UN actors more of a role in raising human rights situations, and by establishing standards against which human rights situations could be gauged with a view to taking different sorts of actions in response to different situations.

[60] Human Rights Watch, *Curing the Selectivity Syndrome*, pp. 10-11.
[61] 'Joint NGO Submission on the 2011 Review of the Human Rights Council', 15 October 2010, p. 2.

The Council's method of work

The other issues discussed under this agenda item at the October OEWG meeting related more directly to the way the HRC functions. The EU's position papers put forward the following suggestions:

Resolutions

- Sponsors of resolutions must include an assessment of the likely budget implications of their resolutions at an early stage of the negotiations
- Ensure timely information on resolutions that will be tabled, and allow adequate time for discussion on them
- Resolutions should be more action-oriented
- Bi-annualise resolutions, on commonly established criteria (that is, put forward resolutions on specific topics once every two years)

Meeting formats

- The HRC should consider ways of enabling more participation during panel discussions, either by allowing more time or allowing written contributions to be publicly recorded
- Meeting formats should be more flexible and open-ended
- The time for interactive dialogues with Special Procedure mandate holders should be expanded, and dialogues should not be 'clustered' (that is, with several mandate holders at the same time).

Office of the HRC President

- The work of the HRC President could be facilitated and improved

Relationship with OHCHR

- The relationship between the HRC and the OHCHR does not fall within the purview of this Council, and therefore is an inappropriate subject for action during the review. In any event, the High Commissioner for Human Rights should report to every session and not be limited to what issues she can raise.

Several of the EU's proposals are echoed by many other states: there seems to be consensus that there needs to be more time for discussion during Council meetings (though this could actually be logistically quite difficult to arrange), that resolutions should be action-oriented and that resolutions should be 'bi-annualised' or 'tri-annualised'.

However, there is less agreement on other issues. Numerous states called for maintaining the modalities for convening special sessions – Nigeria on behalf of the Africa Group, Pakistan on behalf of the OIC, and Egypt on behalf of the NAM. They are also opposed to the creation of independent initiation mechanisms for considering urgent situations. The same line-up of states maintains that the HRC presidency should maintain a strictly procedural and organisational role. The idea that country resolutions should be adopted only with a 2/3 majority of the HRC was put forward (again) by Egypt on behalf of the NAM, Iran, Russia and Cuba (even though this proposal had been rejected during the institution-building phase of the Human Rights Council, in 2006-07). And several states (Egypt on behalf of NAM, Pakistan on behalf of the OIC, Nigeria on behalf of the Africa Group) proposed that the High Commissioner report to the HRC only once a year, and that there should be a dialogue on the OHCHR Strategic Framework.

These last two points – regarding the threshold for country resolutions and the independence of the OHCHR – are likely to be 'red line' issues for the EU. As pointed out above, however, the EU's defence of country resolutions is rather weakened by its own reticence to put forward country resolutions.

5 The New York- based review process

The exact content of the General Assembly's review of the Human Rights Council is not yet clear, other than that it will cover the HRC's 'status'. As there is unlikely to be any change in the formal position of the HRC in the UN's institutional set-up, the discussion of 'status' is likely to include the relationship between the UN General Assembly (and its Third and Fifth Committees) and the HRC. In addition, the issue of the membership of the HRC could also be discussed.

5.1 Status

When it created the Human Rights Council in 2006, the General Assembly specified that the Council was to be a 'subsidiary organ' of the Assembly. There had been initial discussion about putting the Human Rights Council on the same level of the UN Security Council (that is, a principal organ of the UN), but this proposal was never likely to be accepted as it would require amending the UN Charter to do so (amending the UN Charter requires the consent of all UN member states, and is thus very difficult to do).

Although Resolution 60/251 indicates that the General Assembly is to review the Council's 'status' after five years, it is extremely unlikely that there will be any change to the Council's current status as a subsidiary organ of the General Assembly – and therefore states have generally agreed not to re-open the discussions on this matter. However, there is still scope to reconsider the relationship between the HRC and the General Assembly (and indeed the UN system more generally).

In particular, there are two issues that could be clarified:

- Reporting lines between the General Assembly's Third Committee (which deals with human rights issues) and the Human Rights Council.
- Funding of Human Rights Council resolutions.

UN General Assembly Resolution 60/251 states that the annual report of the Human Rights Council should be presented to the General Assembly (not one of its committees, such as the Third Committee), and that any recommendations for the further development of international law in the field of human rights should be made to the General Assembly. However, every year there is a debate in the HRC about whether the annual report should go to the General Assembly or the Third Committee. The International Service for Human Rights suggests that the annual report should indeed go to UNGA, which not only would avoid the highly-politicised Third Committee but might also increase the General Assembly's willingness to provide funding for HRC resolutions that require it.[62]

There has been widespread frustration in the HRC about the procedure for requesting funding from the General Assembly. Only the General Assembly can approve funding for HRC activities or recommendations. But sometimes the General Assembly has not approved funding requests. And the reporting cycle of the Council is not synchronised with General Assembly meetings: the Council's reporting cycle in July-June of each year, whereas the General Assembly's budget period is from January to December.[63]

During the October OEWG meeting, several states (but not the EU) called for creating a mechanism by which the General Assembly could give fast-track approval to HRC resolutions with financial implications. Other options include aligning the HRC's cycle of sessions with the calendar year, so that the annual report could be presented in time for the Fifth Committee (which deals with the UN's budget) to act on the report by the end of the General Assembly session.[64]

[62] International Service for Human Rights, *Human Rights Monitor Quarterly*, July 2010, p.7.
[63] International Service for Human Rights, *Human Rights Monitor Quarterly*, July 2010, p.7.
[64] See the document 'Main areas involving an overlap between the reviews of the Human Rights Council in Geneva and in New York. HRC contribution to New York review process', 19 November 2010. Available on the HRC extranet.

5.2 Membership

During the discussions regarding a replacement for the Commission on Human Rights, the issues of the size and quality of the membership were considered. The then UN Secretary-General, Kofi Annan, recommended that the Human Rights Council be smaller than the CHR (which had 53 member states) and that states be elected to it by a two-thirds majority of the General Assembly.[65] This could help ensure that states whose human rights records were generally considered to be poor would not be elected to the HRC. In the end, however, the General Assembly could only agree that the HRC would be smaller (47 member states), and that a simple majority of the General Assembly would be required for election to the Council. Candidates for election may make pledges about their commitment to human rights but do not have to do so. Therefore, human rights violators could still be elected to the HRC (this was one reason why the US refused to vote in favour of the General Assembly resolution creating the Council). Of the states elected to the HRC since May 2006, several have attracted criticism of their human rights records, including Azerbaijan, China, Cuba, Pakistan, Russian Federation, and Saudi Arabia. But other states who sought membership, such as Iran, Venezuela and Belarus, were defeated (the latter after a concerted effort led by the US and NGOs to block its membership[66]).

States are elected to the HRC on the basis of their membership in a regional group (see p. 2 above). One practice that seems to be developing is for the regional groups to put forward 'clean slates' – that is, the number of candidates for election from the regional group is equal to the number of seats available for that group. This means that elections are not competitive. In May 2010, *every* regional group – including WEOG – put forward a clean slate of candidates.[67] This has not always been the case. In the first ever elections to the HRC, in 2006, there were more candidates than seats available for every regional group, and the elections were competitive, in that most of the losing candidates received over 50 votes. In 2007, there were again more candidates than seats available for every regional group, but with one exception,[68] the elections were not competitive in that the losing candidates received only 1 or 2 votes (indicating that the candidacy was not really pursued). The 2008 election was more competitive: losing candidates for seats for WEOG (Spain), Eastern Europe Group (Serbia), and Asia Group (Sri Lanka and Timor-Leste) received more than 90 votes. In 2009, only the elections for candidates from the Group of African States and Eastern Europe States were competitive, with losing candidates receiving more than 80 votes.

No state wishes to run for election to the HRC and lose; this holds true for EU member states as well. The conundrum is that if all regional groups put forward clean slates, then it will be impossible to block the election of particular countries. While clean slates mean that some western states (such as the US) would thus be sure to be elected, it also means that states with terrible human rights records could also be elected. Without competitive elections, it is impossible to implement any requirements for HRC membership: states could still be elected to the HRC despite not issuing a standing invitation to Special Procedures, for example. The European Parliament has reiterated its opposition to 'clean slates' and called for competitive elections for all regional groups.[69]

Quite a variety of suggestions about the HRC's membership were made in workshops and conferences held in the run-up to the HRC review process:

- Expanding the HRC membership to the entire UN membership.
- Having a limited expansion of the HRC to 64-65 member states.

[65] United Nations Secretary-General, 'In Larger Freedom: Towards Development, Security and Human Rights for All', A/59/2005, 21 March 2005, paragraph 183.

[66] The EU was not involved in this effort, because it does not coordinate on elections from regional groups to UN bodies.

[67] Iran had announced its candidacy but was openly opposed by the US; it then agreed to withdraw its candidacy and was instead given a seat on a committee dealing with women's rights.

[68] The exception was Belarus, whose election from the Eastern Europe Group was blocked by active diplomacy led by the US.

[69] European Parliament, 'Resolution of 25 February 2010 on the 13th session of the United Nations Human Rights Council', P7_TA(2010)0036, paragraph 13.

- Disallowing the use of clean slates by regional groups.
- Requiring HRC members to cooperate with Special Procedures; their records of cooperation should be assessed during the elections.

But the widely-shared view is that size of Council, and the geographic distribution of seats should not be revisited. Expanding the HRC membership to the entire UN membership would create severe problems for developing countries with little or no diplomatic presence in Geneva, for example, and the rationale for an expansion of the membership to 64-65 seats is not clear.

There is more support for reopening the question of membership criteria. The EU's position thus far is that:

- States have an obligation to cooperate with special procedures. HRC members should set an example by cooperating fully with all Council mechanisms when they are serving on the Council, and candidates for election for the HRC should be assessed on the level of their cooperation with special procedures.

The EU's position is shared by others, including other WEOG members. The EU has, however, not called openly for disallowing the use of clean slates. In fact, only the US indicated that clean slates should be avoided, at the October 2010 OEWG meeting.

PART III CONCLUSIONS AND RECOMMENDATIONS

6 Conclusions

The promotion and protection of human rights through international institutions is an imperfect process. Diplomacy at the Human Rights Council could be seen as simply 'symbolic' politics, with delegates just 'posturing' and playing to domestic audiences. It is thus important to recall what international human rights institutions can and cannot do.

Institutions can set standards, and if those standards are set through a process which states feel is legitimate, then the standards themselves can have a far-reaching, long-term impact. Institutions can promote those standards, for instance by praising states that are meeting them and providing aid to those experiencing more difficulty doing so. Where states are willing to cooperate with institutions, then such approaches can be productive. Institutions can also try to 'enforce' the standards, but are essentially limited to the tool of public scrutiny of human rights records. Condemnation of violations may have a shaming effect on the country concerned; it may also signal to others that they would pay a diplomatic price if they too violate human rights. But condemnation also needs to be seen to be legitimate, that is, used in a non-selective manner. Naming and shaming, of course, never goes down well with the governments subjected to it, and there has always been opposition to such criticism from international bodies.

Cooperation within international human rights institutions has *never* been without tensions: there were, for example, serious divergences between the 'East' and the 'West' during the Cold War over human rights standards and implementation. No state can claim that it never has double standards, or concerns about sovereignty, though there are states that have better records on this than many others. The UN Commission on Human Rights was still able to draft new standards, and developed a system of Special Procedures to try to promote and implement them. Since the end of the Cold War, the East-West tensions have been supplanted by North-South rifts. This creates limits to what institutions such as the HRC can do, but does not close down all opportunities to use the HRC to promote and protect human rights. Given the limitations of the General Assembly's Third Committee in promoting and protecting human rights and the toolbox available to the Human Rights Council, the EU should remain focused on enabling the Human Rights Council to fulfil its mandate.

'Reforming' any institution is a difficult process: the status quo is much easier to maintain. So what is likely to come out of the review of the Human Rights Council? A consensus will have to be found if the process is to be seen as legitimate. The most likely scenario is that there will be agreement on making improvements to the UPR process and the workload of the Human Rights Council (making it more predictable and manageable, and thus freeing up more time for substantive discussion). A clarification of the relationship between the HRC and the General Assembly is also probable. All such improvements would be welcome, and a more predictable workload could enable the EU to be more effective at the HRC.

If the EU wants to ensure that more of its proposals attract a consensus, then it will need to engage in considerable outreach to do so. It will also need to guard against unwelcome change, and make it clear that there are some issues on which compromise is not possible. This will undoubtedly require a better integration of the work done by the EU in Geneva with the broader external relations of the EU as conducted from Brussels.

7 Recommendations

The recommendations given here include recommendations for the EU's position within the review process, and broader recommendations about the EU's role in the Human Rights Council more generally.

The EU and the Review

The EU has made numerous clear and useful suggestions for improving the work and functioning of the Human Rights Council. It – and the member states – could also do the following:

- State clearly its opposition to the practice of regional groups putting forward clean slates for elections to the HRC.
- Push strongly for the use of 'independent triggers': UN representatives and Special Procedures mandate holders could call for a special session or a debate on an issue during a regular session.
- Support improvements to the process of selecting Special Procedures mandate holders, to try to ensure that the best people for the positions are selected.
- State firmly its opposition to the creation of a committee or mechanism to police compliance of mandate holders with the Code of Conduct.
- Support proposals to boost the transparent funding of Special Procedures.
- Stress the possibility of using a wider range of tools to address country situations, but defend vigorously the need to address some situations through the use of country resolutions and country-specific mandates (without the need for the consent of the country concerned, or a 2/3 majority vote).
- Reiterate its absolute support for maintaining the independence of the OHCHR and ensuring that the HRC does not gain oversight of the OHCHR.

The EU and the HRC

- The EU's capacity for outreach must be improved as a matter of urgency. The EU delegation could help with this, by reaching out to third countries and building networks of contacts. EU activity in the HRC should be focused on building ties with moderates and thus fostering wider agreement on addressing situations in which human rights are being violated. A larger, well-resourced EU delegation in Geneva is needed so that it can perform that task better.
- The positions which the EU takes in Geneva need to be better incorporated into the Brussels-based machinery (in particular the EEAS/High Representative). A system for enlisting the support of the High Representative must be put in place, such that the High Representative or her deputies lobby capitals of third countries in support of EU positions at the HRC. The positions which third countries take in the HRC should be the subject of discussion during bilateral dialogues with all third countries, but especially with the EU's 'strategic partners'. The EU should be much more explicit and open about requesting support for its positions, and should express its disappointment when such support is not forthcoming.
- The above will require the EU as a whole to make human rights a high priority in its external relations, and to ensure that it is united on a coherent and consistent strategy for engaging with third countries on human rights issues in general and in Geneva. It will also require the EU to defend its values more vigorously and confidently – both externally and internally (to reduce the appearance of hypocrisy).[70]
- The system of 'one message, many voices' should be maintained and strengthened, to ensure that the EU (and its members states) exercise their influence in debates and discussions.
- The EU delegation in Geneva should play a prominent role by chairing coordination meetings, engaging in outreach with third countries, and fostering the incorporation of EU positions in Geneva into the EU's external relations.
- The EU delegation need not represent the EU in the HRC itself, given the costs that such a role could have for EU influence. Thus the EU's status within the HRC does not need to be enhanced.

[70] This has been argued by Susi Dennison and Anthony Dworkin, in 'Towards an EU Human Rights Strategy for a Post-Western World', European Council on Foreign Relations, September 2010; available at www.ecfr.eu.

- The EU could even take the radical stance of presenting *fewer* statements; this might help to reduce bloc-against-bloc politics at the HRC. Instead of EU statements, the EU could ensure that there is one message, but that it is delivered by many voices.
- The EU should be much bolder in terms of pushing for country resolutions, but could also consider whether this would be better done by sharing out the burden of leading on resolutions to member states.

ANNEX: EU 'output' at the CHR and HRC, 2003-10[71]

Table 1: The EU's 'voice'

	CHR 2003	CHR 2004	CHR 2005	HRC 2006 (regular sessions 1-3)	HRC 2007 (regular sessions 4-6)	HRC 2008 (regular sessions 7-9)	HRC 2009 (regular sessions 10-12)	HRC 2010 (regular sessions 13-15)	HRC Special sessions 1-14
Statements made/interventions in interactive debates and dialogues	10	14	12	55	70	96	80	92	14
Explanations of vote/statements made at time of vote	30	32	35	15	22	34	27	23	10

[71] The data on the CHR is provided to allow comparison, although it should be borne in mind that the CHR met only once a year, for six weeks, and the HRC meets more often. Sources: Karen E. Smith, 'Speaking with One Voice? European Union Coordination on Human Rights Issues at the United Nations', *Journal of Common Market Studies*, vol. 44, no. 1, March 2006, and 'The European Union at the Human Rights Council: Speaking with One Voice but Having Little Influence', *Journal of European Public Policy*, vol. 17, no. 2, 2010; Commission on Human Rights annual reports to the General Assembly; reports on each session of the Human Rights Council to the United Nations General Assembly.

Table 2: EU unity in voting

	CHR 2003	CHR 2004	CHR 2005	HRC 2006 (regular sessions 1-3)	HRC 2007 (regular sessions 4-6)	HRC 2008 (regular sessions 7-9)	HRC 2009 (regular sessions 10-12)	HRC 2010 (regular sessions 13-15)	HRC Special sessions 1-14
Split votes as % of all roll-call votes	12.3% (7 of 57 votes)	3.48% (3 out of 86 votes)	6.25% (4 of 64 votes)	0%	0%	0%	4% (1 out of 25 votes)	15% (3 of 20 roll-call votes)	20% (2 out of a total of 10 roll-call votes)

Table 3: Resolutions or decisions sponsored by the EU (Those in bold type were defeated in a vote.)

CHR 2003	CHR 2004	CHR 2005	HRC 2006 (sessions 1-3)	HRC 2007 (sessions 4-6)	HRC 2008 (sessions 7-9)	HRC 2009 (sessions 10-12)	HRC 2010 (sessions 13-15)	HRC Special sessions 1-14
11	10	8	2	8	9	6	3	1
Chechnya Democratic Republic of Congo Iraq Israeli settlements Myanmar North Korea **Sudan** Turkmenistan **Zimbabwe** Rights of the child Death penalty	Belarus **Chechnya** Israeli settlements Myanmar North Korea Turkmenistan **Zimbabwe** Rights of the child Death penalty Religious intolerance	Chad (advisory services) Liberia Myanmar North Korea Rights of the child Death penalty Religious intolerance [+ Sudan (withdrawn)]	Afghanistan (advisory services) (November) Nepal (advisory services) (November)	Darfur (March and June) Religious intolerance (March and Dec.) Alliance of civilizations (December) Follow-up re Myanmar (December) Darfur - Group of Experts (December) Liberia (advisory services) (December)	Rights of the child (March) North Korea (March) Sudan (March and Sept.) Myanmar (March and June) Myanmar: special rapporteur (March) Liberia: special rapporteur; advisory services (Sept) Burundi (advisory services) (Sept.)	Rights of the Child (March) Religious discrimination (March) Publication of sub-committee reports (March) North Korea (March) Myanmar (March) Aung San Suu Kyi (October)	Rights of the child (March) North Korea (March) Myanmar (March)	Myanmar (October 2007) [+ 1 withdrawn (DRC, November 2008)]

Table 4: Positions on Aspects of the HRC Review

	UPR	Special Procedures (SPs)	Agenda, programme of work, methods of work	Addressing human rights situations	Relationship with UN system
EU	2nd cycle to focus on implementation; strengthen role of civil society and NHRIs; keep 4 years periodicity and no break between 1st and 2nd cycles; cluster recommendations; responses to recommendations should be clear and states should provide timetable for implementing them; need more time for discussion in working group; could have 1 session for UPR	Strengthen provision of expert advice; need to hear the voices and concerns of victims; strengthen system for choosing SPs; bring mandate duration of country mandates in line with thematic mandates; cooperation with SPs should be basis for judging HRC membership	Expand time for interactive dialogue with SPs; programme of work should be predictable; could merge agenda items 4, 7 and 10; and 3 and 9; need timely information on resolutions to be tabled; resolutions should be action-oriented; bi-annualise resolutions	Give voice to UNSG; use entire toolbox of mechanisms; improve modalities for interaction and dialogue; trigger mechanisms for holding of special sessions	Improve interaction with UN specialised agencies; mainstream UPR recommendations (share them with other parts of the UN system). Relationship between HRC and OHCHR does not fall within scope of the review
US	Allow all states who want to speak the time to do so; OHCHR should assess country's response to recommendations from 1st round	Extend support for SPs re dissemination of findings; public record of how states cooperate with SPs (benchmarks for gauging cooperation) and cooperation should be criterion for HRC membership	Merge agenda items 4, 7, and 10, and items 3, 8 and 9; hold monthly mini-sessions; submit resolution drafts before session; thematic and country resolutions to be introduced every 2 years	UNSG can request special session of HRC; other tripwires for action = requests from concerned country, coup or significant unrest, formal request from NHRI; if 5 different SPs cite same country as one of concern	

	UPR	Special Procedures (SPs)	Agenda, programme of work, methods of work	Addressing human rights situations		Relationship with UN system
NAM	UPR is intergovernmental process; strengthen voluntary funds to provide technical assistance for UPR; review should include assessments of adequacy of assistance received from international community; extend cycle to 5 years, with 1 year gap between 1st and 2nd cycle; use 1 of the regular HRC sessions to adopt reports		Establish monitoring mechanism to assess compliance of mandate holders with Code of Conduct; must have equitable geographical representation among mandate holders; consent of country is basis of any decision for appointment of country-specific mandates; country mandates must be approved by 2/3 majority; no voluntary contributions to individual mandate holders; allocation of funding should be transparent and all SPs treated equally	Maintain agenda as is; could have half-day panel with heads of UN agencies on specific themes; proliferation of resolutions should be avoided; all states should be informed of informal negotiations	Maintain modalities for convening special sessions; need a 2/3 majority for adoption of country-specific resolutions	High Commissioner should report to HRC only once a year; improve interaction with other UN agencies; HRC president should consult with UNGA president about how to get fast-track approval for HRC resolutions with financial implications
OIC	UPR is intergovernmental process; strengthen voluntary funds to provide technical assistance for UPR; review should include assessments of adequacy of assistance received from international community; extend cycle to 5 years, with 1 year gap between 1st and 2nd cycle; use 1 of the regular HRC sessions to adopt reports		Establish monitoring mechanism to assess compliance of mandate holders with Code of Conduct; must have equitable geographical representation among mandate holders; consent of country is basis of any decision for appointment of country-specific mandates; country mandates must be approved by 2/3 majority; convert some mandates to working groups; allocation of funding should be transparent and all SPs treated equally	Maintain agenda as is; proliferation of resolutions should be avoided	Maintain modalities for convening special sessions	High Commissioner should report to HRC only once a year

	UPR	Special Procedures (SPs)	Agenda, programme of work, methods of work	Addressing human rights situations	Relationship with UN system
Group of African states	UPR is intergovernmental process; extend cycle to 5 years, with 1 year gap between 1st and 2nd cycle; strengthen voluntary funds to provide technical assistance for UPR		Establish monitoring mechanism to assess compliance of mandate holders with Code of Conduct; must have equitable geographical representation among mandate holders; consent of country is basis of any decision for appointment of country-specific mandates; convert some mandates to working groups; allocation of funding should be transparent and all SPs treated equally	Maintain agenda as is; b-annualise resolutions; reduce number of resolutions and length of each of them; make resolutions action-oriented	Maintain modalities for convening special sessions
GRULAC	Use 1 of HRC regular sessions to adopt UPR reports: strengthen voluntary funds to provide technical assistance for UPR; resolve the problem of time for all speakers		More attention should be given to securing most qualified experts as mandate holders; have more open consultations prior to selecting mandate holders; allocation of funding should be transparent; funding for SPs should be ensured before they are approved		
Russia	Extend cycle to 5 years; recommendations should be consistent with international standards; encourage mid-term reports on voluntary basis; 2nd cycle to focus on implementation; maintain current role of troika; maintain current modalities for participation of stakeholders (NGOs); 1 of HRC regular sessions could be devoted to UPR		Establish monitoring mechanism to assess compliance of mandate holders with Code of Conduct; candidates for selection as mandate holders should undergo an interview; country mandates must be approved by 2/3 majority	Maintain agenda as is	

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