

FOR THE USE OF TRANSLATORS - CHECK AGAINST DELIVERY

Universal Periodic Review - informal consultations, 2 August 2006

Mr. President,

I am speaking on behalf of the European Union and the acceding states Bulgaria and Romania.

The EU is studying the proposals made by other delegations in the first informal meeting on 21 July. Many interesting models and solutions were presented. We think that several of these proposals have merit and will benefit from further reflection and discussion before a choice between possible models is made. This brainstorming phase is valuable.

The EU welcomes the Canadian questionnaire, which in a structured way invites us to take a closer look at different aspects of the UPR. In our own discussions we have started to use these elements as a basis, but have added one important point: the purpose of the UPR. I will first take a look at this aspect of the UPR.

The key question is of course "what is the review all about?" its "raison d'être". What are we reviewing and what kind of outcome do we want from the process? Why is the UPR mechanism so important? We get guidance from the resolution that established the Council – for instance it should provide universal coverage, as to reviewing the status of human rights in all the countries and equal treatment and avoid selectivity and politicisation. But this does not say it all. A minimal requirement should be to safeguard the attention to chronic and acute human rights crises to be addressed through true dialogue. We need a clear vision of what we want the UPR to do. In the working group, we must also be able to state clearly, what we do not want the UPR to do or to become.

In addition to these basic objectives, the EU believes that the UPR should aim at establishing an efficient, transparent and meaningful system focusing on implementation of all human rights and freedoms, and follow-up. A key emphasis for those states that have not ratified many treaties should be, in addition to reviewing implementation of those human rights obligations which follow from the UDHR, to encourage ratification, and for all countries to fully cooperate and engage with independent human rights bodies, in particular Treaty Bodies and Special Procedures as well as with the HRC and relevant regional organisations. Consequently the UPR should support, inter alia, the implementation of their recommendations, conclusions and decisions. In the event of non-compliance with the Treaty Bodies and Special Procedures the UPR would focus on engagement and compliance through its possible follow-up mechanisms.

"What should the UPR mechanism look like in practice"? "Who is reviewing and how"? It is clear that this question is closely linked to the purpose of the review.

Some preliminary thoughts are crystallizing. E.g. it is clear that a debate on each country under review will at some point take place in the plenary of the HRC, at least at the final stages of the review. Also, to ensure that the Council could make its judgement and would not be overburdened by the review mechanism, a separate inter-sessional working group or sub-committee responsible for undertaking the review could be established. A use of rapporteurs on the country under review may be also considered.

The EU welcomes the suggestions made by some delegations on what the UPR mechanism could look like in practice and looks forward to discussing these in further detail in September. The question of capacity and resources must be kept in mind to keep the mechanism practical. The EU has emphasised that the UPR mechanism should follow a relatively light procedure which would rather be built upon the existing documentation expanded for the questionnaire to be filled-in by the concerned Government.

The next question is "what is reviewed - which human rights obligations"? Resolution A/60/251 says that the UPR should be a review of the fulfilment by each State of its human rights obligations and commitments. This would clearly include the rights and freedoms emanating from the

Universal Declaration on Human Rights the obligations a state has undertaken, by e.g. ratifying treaties, as well as its pledges and commitments made in the process of elections to this body. But the commitments must be implemented regardless their scope.

Clearly, these commitments are not the same for every state but all efforts should be made to promote the implementation of a truly universal human rights framework to be applied to all countries alike. Nor should the UPR repeat the work of the Treaty Monitoring Bodies. And given the limited time and resources it will have available, it will need to focus its attention on particular issues, to be eventually identified through the questionnaire, if it is to have any effect or meaning. We therefore need to brainstorm more on what the rights-basis would be for the UPR. We also need to reflect on how the principle that all rights are universal, indivisible, interrelated, interdependent and mutually reinforcing shall be taken into account in the UPR. However, the emphasis may be derived from the existing recommendations of HR bodies towards the reviewed country.

I now come to the question on background documentation. The resolution says that the review should be based on objective and reliable information.

The EU stresses, that no additional reporting obligations should be created for states; instead, countries undergoing the review could present, for example, a brief statement of its record of fulfilling human rights obligations and the challenges it faces in doing so.

An effective diagnosis of a state's human rights challenges will be crucial for the success of the UPR. It would be useful if the OHCHR compiled available information from the country concerned (government and NHRIs) the UN system (e.g. reports and conclusions from Treaty Bodies and Special Procedures and relevant reports from other UN bodies), relevant regional human rights organisations and NGOs (including local NGOs). If the available information would prove to be insufficient or outdated, the working group needs to reflect on how new information could be compiled.

A format for the dossier should be decided and also a size limit, to make it as "user friendly" as possible.

Technical questions regarding the availability, submission and distribution of documentation as well as its transparency must be solved in such a way as to allow for the documentation to be analyzed by all parties in time (in all the UN languages). Again, a page limit will be important to avoid disproportionate resource implications. And a thorough analysis of what financial and human resources are needed for the secretariat must be part of the ongoing work of the working group.

The process of the UPR mechanism is closely linked to the question of structure and composition of the UPR which again is linked to the overall purpose of the review. The resolution states that the UPR should be a "cooperative mechanism based on an interactive dialogue". Also the resolution asks to review all countries (UN member states) and treat all countries equal. The statement is clear, but some practical issues must still be clarified also in this regard, such as how to review both members and non-members or the length of a review cycle (3 years or more ?)This working group must take a close look at the design of the interactive dialogue, to make it transparent and to allow for the participation of all stakeholders. Questions on duration and speaking time limits are among those that have to be solved.

We then come to the question "what should the discussion in the UPR focus on?". Here also it is important to design a modus operandi that makes the UPR fulfil the purpose for what is has been designed.

As stated in the resolution establishing the Council, the universal periodic review will be based on interactive dialogue and cooperation, with the full involvement of the country concerned and with consideration given to its capacity-building needs. The universal periodic review could also serve as a useful forum for exchanging best practices and identifying specific options for technical cooperation.

The obligations of many states under the treaties are wide-ranging, and a significant number of states will have received many recommendations from various examinations or visits by Special Procedures. Yet the dialogue is likely to provide for less time than a Treaty Body has when focused on just one set of treaty obligations. This again emphasises the need to find a way to focus the dialogue on a few key issues that can ensure a coherent and focused exchange. Without this, the process will lack purpose and it will be very difficult to draw any conclusions on how to provide relevant and useful assistance and support to the state in question.

The conclusions of the UPR could have different forms (either reports, summaries, recommendations, decisions etc.) and may differ in content and emphasis, reflecting also on the cooperation of the Governments. Equal treatment does not mean identical conclusions in cases where the human rights situation is totally different. The conclusions should complement the work of other HR bodies, such as TBs and Special Procedures, which work can contribute to achieving the objectives of recommendations.

We should also consider how to ensure the dissemination of information, including at the final stages of the UPR, to make sure that all stakeholders are aware of the process and outcome. If the UPR is meant to strengthen human rights worldwide it is important that its work be known outside the HRC. In this context, it could be useful to create a real time UPR database that would be open for all stakeholders (the HRC, OHCHR, UN system, States, International Community, NGOs, National Institutions, Treaty Bodies, Special Procedures) to consult freely.

The question of periodicity is very much linked to the overall design of the UPR. A three year cycle requires a different approach than a five year cycle. The EU agrees that members of the HRC should be reviewed during their membership along with non-members to encourage their involvement.

Finally, we very much look forward to seeing the documentation by the secretariat regarding other review mechanisms. In this regard the EU would like to propose that for the next meeting in September representatives from other organizations should be invited to present in more detail these models. These might include representatives of NEPAD, OSCE and ILO, among others.

Thank you, Mr. President.

