

**INTERNATIONAL COMMISSION OF JURISTS
BACKGROUND NOTE**

OVERVIEW OF THE UNIVERSAL PERIODIC REVIEW MECHANISM

Composed of 60 eminent judges and lawyers from all regions of the world, the International Commission of Jurists promotes and protects human rights through the Rule of Law, by using its unique legal expertise to develop and strengthen national and international justice systems. Established in 1952, in consultative status with the Economic and Social Council since 1957, and active on the five continents, the ICJ aims to ensure the progressive development and effective implementation of international human rights and international humanitarian law; secure the realization of civil, cultural, economic, political and social rights; safeguard the separation of powers; and guarantee the independence of the judiciary and legal profession.

THE UNIVERSAL PERIODIC REVIEW MECHANISM OF THE HUMAN RIGHTS COUNCIL

The current document provides an overview of the Universal Periodic Review mechanism, first providing a background to its creation followed by an explanation of the main steps involved in the process.

Introduction

At the time that the Human Rights Council (HRC) was established by the General Assembly in 2006,¹ the Council was tasked to undertake a Universal Periodic Review (UPR) of “the fulfillment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States”.²

One year later, members of the HRC agreed on an institution-building package, a key element of which sets out the modalities for the first cycle of the UPR.³ Also in 2007, the HRC requested that the Secretary-General establish a Voluntary Trust Fund for the Participation in the UPR Mechanism and a Voluntary Fund for Financial and Technical Assistance, in order to support the least developed countries and small island States in participating in, and implementing the recommendations from, the UPR.⁴ The first cycle of the UPR commenced in February 2008 and concluded in March 2012. The second cycle commenced in May 2012.

The General Assembly intended the UPR process to be a cooperative one, based on full participation with the State under Review (SUR).⁵ Since its inception in 2008, all 193 UN Member States have participated in the UPR, creating a unique mechanism in which UN Member States can make recommendations to fellow States on how to improve their promotion and protection of human rights. This sought to address the perception that the work of the previous Commission on Human Rights in relation to country-specific situations had been “selective and based on double standards”.⁶ In addition to full participation to date, almost all States have accepted a vast majority of recommendations from other States.⁷

The UPR is not a stand-alone mechanism of the Human Rights Council as it involves contributions from Special Procedures, Treaty Bodies and other UN entities. It also makes reference to recommendations and standards from mechanisms not traditionally treated as falling within the sphere of the UN human rights machinery, including the International Labour Organization.

Desired benefits of the UPR mechanism

The UN Commissioner for Human Rights has described the UPR mechanism as one that “has opened unprecedented opportunities to initiate or strengthen dialogue and cooperation on human rights at all levels, and with all countries”.⁸

¹ GA Res 60/25, UN Doc A/Res/60/251 (2006), [1].

² Ibid, [5(e)].

³ HRC Res 5/1, UN Doc A/HRC/RES/5/1 (2007). The mechanism was further refined during the review process through HRC Res 16/21, UN Doc A/HRC/RES/16/21 (2011) and HRC Decision 17/119, UN Doc A/HRC/Dec/17/119 (2011).

⁴ HRC Res 6/17, UN Doc A/HRC/RES/6/17 (2007).

⁵ GA Res 60/251, UN Doc A/Res/60/251 (2006) at [5(e)].

⁶ Marianne Lilliebjerg “The Universal Periodic Review of the UN Human Rights Council – An NGO Perspective on Opportunities and Shortcomings” (2008) 26(3) *Netherlands Quarterly of Human Rights* 311.

⁷ UPR-Info and NGO group for the CRC Fact Sheet 1 “The Universal Periodic Review, Information for NGOs”, page 1. Available at URL: <http://www.upr-info.org/-UPR-Process-.html>.

⁸ Navi Pillay “Sharing Best Practices and Promoting Technical Cooperation: Paving the Way Towards the Second Cycle of the Universal Periodic Review” (opening statement to the Human Rights Council, 19th Session Panel Discussion, Geneva, 21 March 2012).

Other benefits and advantages of the UPR mechanism are said to include:

- Full compliance to date (unlike the UN treaty bodies where there is only 33 percent compliance with periodic reporting).⁹
- Emergence of dialogue between governments and civil society that has been absent in many countries.¹⁰
- Complements rather than duplicates the work of the treaty bodies.¹¹
- Created a baseline set of documentation.
- Triggered self-evaluation by States, with the prospect of a future review before the Human Rights Council.¹²
- A successful UPR process could serve as an example to create new and potentially more positive dynamics of interaction between States in the UN system.¹³
- The UPR mechanism is a product of compromise and consensus so therefore is a promising forum in which States make policy recommendations to each other.¹⁴
- Provides a forum for the SUR to make voluntary pledges with respect to improving the human rights situation in its country.
- States are likely to work towards a high acceptance rate (either because they agree they are useful and valid or because they are concerned about the perception of not accepting a large number of recommendations).¹⁵

As opposed to this, there have also been criticisms of the UPR mechanism, including on the basis that:

- The UPR requires the SUR to accept recommendations made.
- Recommendations that are accepted by the SUR are 'easy' recommendations, while more 'tough' recommendations are rejected.
- Recommendations made by the UPR Working Group, especially at the beginning of the first cycle of the UPR, were overly broad such that implementation has been difficult to measure.
- The number of recommendations made towards the end of the first cycle of the UPR became excessive, such that implementation has become extremely challenging for the SUR.
- Many States under Review have not taken adequate measures to adopt plans of implementation.
- Most States under Review have not provided the HRC with a mid-term report on the implementation of UPR recommendations.
- States participating in the second cycle of the UPR have not adequately followed up on recommendations made by them in the first cycle.
- States participating in the second cycle of the UPR have not adequately addressed certain issues, including human rights and business.

⁹ "Informal Consultation for States Parties on Treaty Body Strengthening" (2-3 April 2012) Office of the High Commissioner for Human Rights, available at URL: <http://www2.ohchr.org/english/bodies/HRTD/NewYorkConsulation2012.htm>.

¹⁰ See Alex Conte "Reflections and Challenges: Entering into the Second Cycle of the Universal Periodic Review Mechanism." (2011) 9 *New Zealand Yearbook of International Law*.

¹¹ As envisaged by GA Res 60/251 [9].

¹² Edward McMahon "The Universal Periodic Review: A Work in Progress" (September 2012), available at URL: <http://www.upr-info.org/-Articles-and-analyses-.html>.

¹³ Ibid, p. 5.

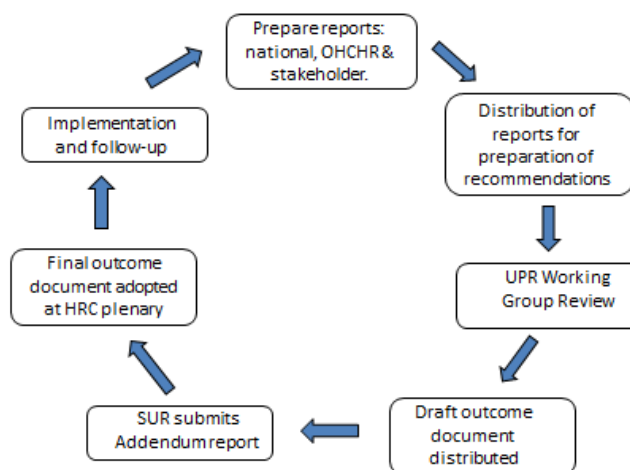
¹⁴ Ibid, p. 8.

¹⁵ Ibid, p. 13.

The UPR Process

Each review cycle comprises of three main stages:

1. Review of the human rights situation in the SUR.
2. Implementation of the accepted recommendations and voluntary commitments.
3. Report back by the SUR to the HRC on implementation and human rights situation since the last review (forming the beginning of the next cycle).



STAGE ONE: REVIEW

The process of review forms the main part of the Universal Periodic Review. It involves the preparation of review documents; the review and interactive dialogue between the State under Review and the Working Group on the UPR; and the formal adoption by the Human Rights Council of the UPR outcome document. This process takes approximately ten to twelve months.

Preparation of information for the UPR

The review of the SUR is conducted using three primary sources: (1) a national report from the SUR; (2) a compilation prepared by the OHCHR of the recommendations to the SUR by UN human rights mechanisms; and (3) information provided by other stakeholders.¹⁶

National report

The guidelines established by the HRC require the national report of the SUR to explain the legal and policy framework for the promotion and protection of human rights, including national jurisprudence and infrastructure relevant to the implementation of the “basis of review”.¹⁷ The basis of review comes from: the UN Charter, the Universal Declaration of Human Rights, the human rights treaties to which the SUR is party and any voluntary pledges and commitments made by the State, including those made if and when the State presented its candidature for election to the Human Rights Council.¹⁸ Recognising the interrelated nature between the international human rights and international humanitarian law (IHL), the UPR should also take into account applicable IHL.¹⁹

The guidelines established by the HRC in Decision 6/102 provide that national reports should contain the following information:

¹⁶ HRC Res 5/1, above n 3, [15], and HRC Res 16/21, above n 3, [5].

¹⁷ HRC Decision 6/102, UN Doc A/HRC/Dec/6/102 (2007), part I.

¹⁸ HRC Res 5/1, above n 3, [1].

¹⁹ Ibid, [2].

- Description of the methodology and the broad consultation process followed for the preparation of information provided under the UPR;
- Background and framework of the SUR, particularly normative and institutional framework, for the promotion and protection of human rights: constitution, legislation, policy measures, national jurisprudence, human rights infrastructure including national human rights institutions and scope of international obligations identified in the “basis of review”;
- Promotion and protection of human rights on the ground: implementation of international human rights obligations, national legislation and voluntary commitments, NHRI activities, public awareness of human rights, cooperation with human rights mechanisms;
- Identification of achievements, best practices, challenges and constraints;
- Key national priorities, initiatives and commitments that the SUR intends to undertake to overcome those challenges and constraints and improve human rights situations on the ground;
- Expectations of the State concerned in terms of capacity-building and requests, if any, for technical assistance; and
- Presentation by the State concerned of the follow-up to the previous review.²⁰

In order to “guarantee equal treatment to all States and not to overburden the mechanism”,²¹ national reports must not exceed 20 pages. Deadlines for submission of national reports are published online.²² National reports are generally due for submission to the OHCHR about three months ahead of the review undertaken by the UPR Working Group.

OHCHR compilation

The second key document in the review process is prepared by the OHCHR and comprises recommendations to the State by the UN treaty bodies, the Special Procedures as well as “other relevant official United Nations documents”, including those of the International Labour Organization for example.²³ The information is divided into five main sections:

1. Background and framework

This section details the SUR’s party status to the core international human rights treaties, as well as its constitutional and legislative framework, institutional and human rights structure, and policy measures in place in the State.

2. Promotion and protection of human rights on the ground

This section details the SUR’s cooperation with treaty bodies, special procedures and the OHCHR, as well as its implementation of international human rights obligations.

3. Achievements, best practices, challenges and constraints

This section is a collection of the main observations of the UN agencies and mechanisms in these areas concerning the SUR.

4. Key national priorities, initiatives and commitments

This section includes information on pledges by the State and specific recommendations for follow-up.

²⁰ HRC Decision 6/102, above n 17, part I, further defined and adopted in HRC Dec 17/119, above n 3, part II.

²¹ HRC Res 5/1, above n 3, [15(a)].

²² See “Calendar of reviews”, available at: <http://www.ohchr.org/en/hrbodies/upr/pages/uprmain.aspx>.

²³ HRC Res 5/1, above n 3, [15(b)].

5. Capacity building and technical assistance

This section will detail situations in which the State was recommended to seek assistance.

Under the same reasoning that the mechanism should not be overburdened, the OHCHR compilation is restricted to ten pages.²⁴

Stakeholder information

The final basis of review is information provided by non-governmental organisations (NGOs), national human rights institutions (NHRIs), human rights defenders, academic institutions, research institutes and regional organisations. Stakeholder submissions are provided to the OHCHR approximately six to seven months ahead of the review and are then summarised by the OHCHR in a separate document.²⁵ Stakeholder information must be “credible and reliable” in order to be included.²⁶

NGOs are encouraged to follow the content suggested to States in compiling their national reports, using the same “basis for review” (the UN Charter, the UN Declaration etc).²⁷

In addition, stakeholder submissions should cover the period since the last review and focus on:

- The implementation of the accepted recommendations²⁸ (for subsequent cycles);
- Developments in the human rights situation in the SUR;
- Information specifically tailored for the UPR;
- Highlighting the main issues of concern and identifying possible recommendations and best practices.²⁹

As for the OHCHR compilation, the summary of stakeholder information cannot exceed ten pages.³⁰ In addition, each stakeholder submission is subject to a 2,815 word limit (or 5,630 words for joint submissions by coalitions of NGOs).³¹

Deadlines for stakeholder submissions are usually six to seven months prior to the meeting of the Working Group and can be found online.³² Submissions received after the specified deadlines will not be considered in the preparation of summary information.³³ The OHCHR has produced full guidelines for civil society on contributing to the UPR process, which can be found online.³⁴

Review by the UPR Working Group

²⁴ Ibid.

²⁵ Office of the High Commissioner for Human Rights “Working with the United Nations Human Rights Programme: A Handbook for Civil Society”, UN Doc HR/PUB/06/10/Rev.1 (2008). p. 137; and “Universal Periodic Review: information and guidelines for relevant stakeholders’ written submissions” (2011) OHCHR, available at URL: <http://ohvhr.org/Documents/HRBodies/UPR/TechnicalGuideENpdf>, pp. 4-5.

²⁶ HRC Res 5/1, above n 3, [6].

²⁷ “OHCHR Information and Guidelines” (2011), above n 25, pp. 7-8.

²⁸ Note that, as explained by Conte (above n 10, p.7): “It appears from discussions with the OHCHR that second cycle summaries of stakeholder submissions will not refer to NGO references that explicitly concern rejected recommendations from the first cycle. The simple solution will be for NGOs to frame relevant concerns within the broader context of implementation of human rights obligations.” See Alex Conte “Reflections and Challenges: Entering into the Second Cycle of the Universal Periodic Review Mechanism.”

²⁹ “OHCHR Information and Guidelines” (2011), above n 25, pp. 9-10.

³⁰ HRC Res 5/1, above n 3, [15(c)].

³¹ “OHCHR Information and Guidelines”, above n 25, p. 15. This restriction does not include citation references.

³² Available at URL: <http://www.ohchr.org/en/hrbodies/upr/pages/NgosNhris.aspx>.

³³ “OHCHR Information and Guidelines”, above n 25, p. 29.

³⁴ OHCHR “A Practical Guide for Civil Society: Universal Periodic Review”, available at URL: <http://www.ohchr.org/EN/ABOUTUS/Pages/CivilSociety.aspx>.

The review of the SUR is undertaken by the HRC's Working Group on the UPR, established within the Council's institution-building package.³⁵ The Working Group is chaired by the President of the Human Rights Council and facilitated by a troika of three rapporteurs, who are diplomatic representatives of member States of the Council.³⁶ Troika members are selected at previous sessions of the Council plenary by drawing lots from different regional groups. At the request of the SUR, one lot may be drawn from the same region as the SUR.³⁷

The first cycle of the UPR was conducted over a four-year period, consisting of three two-week sessions per year, in which 16 countries were reviewed in each session.³⁸ The second cycle was increased to a four and a half year period, to allow a longer review time for each country, meaning that 14 countries will be reviewed during each two-week session.³⁹ The review for each country took three hours in the first cycle, and has been extended to three and a half hours in the second.⁴⁰

The review is conducted through an interactive dialogue between the SUR and the other member and observer States of the Council. This interactive dialogue consists of questions and recommendations posed by the member and observer States, followed by responses and comments by the SUR. The number of recommendations made during each review differs and this may be due to factors such as which country is being reviewed and the priorities of the member and observer States wanting to participate in the dialogue. This difference can be attributed to the political nature of the UPR mechanism, for which it has been observed that recommendations are commonly based on foreign relations.⁴¹ In addition, the amount and scope of recommendations has evolved and increased since the beginning of the first cycle, which may in part be attributed to the "growing confidence of the Working Group in the development of its work on the UPR".⁴²

Other stakeholders, such as NGOs, cannot directly interact during this dialogue, reflecting that it is a State-led peer review process.⁴³

The structure of the review dialogue is as follows:

1. The SUR presents its national report and responds to written questions submitted in advance;
2. Member and observer States of the Council pose questions to the SUR and make recommendations;
3. The SUR is given time to respond to questions and comments;
4. Further questions and recommendations from member and observer States are posed;
5. The SUR responds to further questions and gives closing remarks.

³⁵ HRC Res 5/1, above n 3, [18].

³⁶ Ibid, [18(d)].

³⁷ Ibid, [18(d)] and [19].

³⁸ Concerning the periodicity and order for the first cycle of the UPR, see HRC Res 5/1, [5-14]. The calendar of reviews for the first cycle can be found at <http://www.ohchr.org/EN/HRBodies/UPR/Documents/uprlist.pdf>.

³⁹ HRC Res 16/21, above n 3, [2-4].

⁴⁰ Compare HRC Res 5/1, [22]; "HRC Presidential Statement", UN Doc HRC/8/PRST/1 (2008) p. 7; HRC Decision 17/119, [3]-[4]; and HRC Res 16/21, [11].

⁴¹ See for example, International Federation of Action by Christians for the abolition of Torture "Universal Periodic Review: An Ambivalent Exercise" (2009), available at URL: http://www.fiacat.org/IMG/pdf/FIACAT_Rapport_UPR_2010_VA_VF.pdf, pp. 22-23; Roger Blackburn *Cultural Relativism in the Universal Periodic Review of the Human Rights Council* (Barcelona, Institut Catala Internacional per la Pau, 2011); Edward McMahon "Herding Cats and Sheep: Assessing State and Regional Behaviour in the Universal Periodic Review Mechanism of the United Nations Human Rights Council" (2010), available AT URL: http://www.upr-info.org/IMG/pdf/McMahon_Herding_Cats_and_Sheeps_July_2010.pdf; and Edward McMahon "The Universal Periodic Review: A Work in Progress" part 4.

⁴² Conte, above n 10, p. 11.

⁴³ See Human Rights Council, "Open-Ended Intergovernmental Working Group on the Review of the Work and Functioning of the Human Rights Council: Compilation of State Proposals", UN Doc A/HRC/WG.8/1/CRP.1/Rev.1 (2010), pp. 3-5.

In total, the SUR has 70 minutes in which to present its national report, respond to questions from the floor and deliver closing remarks.⁴⁴ 140 minutes are allocated to other States during the review.⁴⁵ The current practice is that member States have three minutes of speaking time and observer States have two minutes, although where there is a need, this time will be reduced to allow as many States as possible to speak. The List of Speakers is opened on the Monday of the week preceding the beginning of the session and States are arranged in English alphabetical order. The beginning of the list is drawn by lot.

Questions in advance

After the national report has become available, member and observer States of the Council can submit written questions to the troika in advance of the Working Group session. The troika then relays the list of questions to the Secretariat who transmits them to the SUR at least 10 working days prior to the review. These questions are also published online.⁴⁶

Adoption of the Outcome Document

Session of the UPR Working Group

Following the interactive dialogue, the troika is responsible for the production of a draft outcome document, which is a summary of the proceedings, including the recommendations made by each State and the voluntary commitments made by the SUR. All recommendations made during the review are included in the outcome document, and those that enjoyed or did not enjoy the support of the SUR are identified as such.⁴⁷ The draft is then presented by the troika at a later stage during the same Working Group session, once the SUR has seen the report and indicated which recommendations it accepts and which ones it rejects. After the report has been adopted in principle, States have two weeks to request any modifications.

Plenary session of the Human Rights Council

The final outcome document will be officially adopted at the next plenary session of the Human Rights Council.⁴⁸ In between the session in which the draft was presented, and the adoption of the final outcome document, the SUR should provide written communication to the Council that clearly outlines its position on all received recommendations.⁴⁹ These responses form an addendum report to the outcome document. This addendum is also posted online.

The SUR can also use the time offered during the plenary session to provide further replies to issues that were insufficiently addressed during the interactive dialogue,⁵⁰ and to inform the Working Group of any further recommendations accepted or voluntary commitments made.⁵¹ Twenty minutes are allocated for this during the plenary. Member and observer States as well as NGOs and NHRIs then have the remaining 40 minutes to express their views on the outcome document.⁵²

⁴⁴ HRC Dec 17/119, above n 3, [3]. The first cycle allocation was 60 minutes: see "HRC Presidential Statement", above n 41, p. 7.

⁴⁵ UN Doc A/HRC/17/L.29 part III.

⁴⁶ Available at URL: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>.

⁴⁷ "HRC Presidential Statement", above n 41, p. 10.

⁴⁸ HRC Res 5/1, above n 3, [29]-[32]; and HRC Res 16/21, above n 3, [12].

⁴⁹ The provision of written communication is called for in HRC Res 16/21, above n 3, [16].

⁵⁰ HRC Res 5/1, above n 3, [29]; and "HRC Presidential Statement 9/2", UN Doc HRC/9/PRST/2 (2008), p. 13.

⁵¹ HRC Res 5/1, above n 3, [32].

⁵² Ibid, [30]-[31]; and HRC Res 16/21, above n 3, [13].

Status of the UPR recommendations

UPR recommendations are not legally binding and are dependent on being accepted by the SUR. However, once accepted, the SUR has made a public undertaking to implement that recommendation and this has therefore been described as empowering “civil society and the international community to hold States to their word”.⁵³

STAGE TWO: IMPLEMENTATION

The second key stage of the UPR process involves the implementation of accepted recommendations and voluntary pledges and commitments by the SUR. The implementation stage is the task and responsibility of the State under Review,⁵⁴ but it can be assisted by the international community as part of their commitment to provide technical assistance and capacity building under the Human Rights Council’s institution-building package.⁵⁵ The Voluntary Trust Fund is also available for States at this stage.⁵⁶

States are also encouraged to “conduct broad consultations with all relevant stakeholders” in the implementation stage of the UPR process.⁵⁷

Implementation of accepted recommendations has been identified by some States as the priority issue for the second and subsequent cycles of the UPR mechanism.⁵⁸ This is reflected in the 2011 resolution of the Human Rights Council concerning the working methods of the UPR process.⁵⁹ Recognising this, the ICJ and other stakeholders have advocated for the adoption of two mechanisms to assist States to adequately implement recommendations of the UPR:⁶⁰

1. National implementation plan

The first is for the presentation to the Human Rights Council, as soon as possible after the adoption of the outcome document, of a national plan of action for the implementation of accepted recommendations and voluntary pledges and commitments. It has been suggested that such plans should be developed within 12 months of the adoption of the UPR outcome document and should include a clear timeframe and key milestones for implementation.⁶¹

2. Mid-term report

The second mechanism advocated for improvement in the implementation of UPR recommendations is to require States under Review to provide the HRC with a mid-term report on the status of the implementation of recommendations and commitments.⁶² This idea was a subject of much contention during the review of the work and functioning of the Council, with a number of States holding a firm position

⁵³ Conte, above n 10, p. 11.

⁵⁴ HRC Res 5/1, above n 3, [33].

⁵⁵ Ibid, [36].

⁵⁶ HRC Res 16/21, above n 3, [19]-[21].

⁵⁷ Ibid, [17].

⁵⁸ Including Colombia and the Russian Federation, for example. See UN Doc A/HRC/WG.8/1/CRP.1/Rev.1 (2010), above n 44, p. 9.

⁵⁹ HRC Res 16/21, above n 3, [6].

⁶⁰ ICJ, *Four parameters for a successful second cycle of the UPR*, UN Doc A/HRC/20/BGO/57 (2012), available at URL: http://ap.ohchr.org/documents/alldocs.aspx?doc_id=20120, pp.3-4; and Human Rights Council “List of non-State observers’ contributions” UN Doc A/HRC/WG.8/1/CRP.2/Rev.1 (2010) at part I(C)(2).

⁶¹ Amnesty International “Making it Work: The Reviews of the Human Rights Council” (2011), available at URL: <http://www.amnesty.org/en/library/asset/IOR41/001/2011/en/d272fd2a-02e5-4ab7-bef6-d8d8e16ef770/ior410012011en.html>, p. 17.

⁶² UN Doc A/HRC/20/BGO/57 (2012); above n 61; UN Doc A/HRC/WG.8/1/CRP.1/Rev.1 (2010), above n 44, p. 12; and UN Doc A/HRC/WG.8/1/CRP.2/Rev.1 (2010), above n 61, part I(C)(2).

that mid-term reporting should not be compulsory⁶³ and some States even proposing that such reporting should not form part of the UPR exercise.⁶⁴ The compromise has been that, under the second cycle of the UPR, States are encouraged to provide the Council, on a voluntary basis, with a mid-term update on the implementation of accepted recommendations.⁶⁵

STAGE THREE: FOLLOW-UP / REPORTING BACK TO THE HUMAN RIGHTS COUNCIL

Completing the continuing cycle of Universal Periodic Review involves the State under Review reporting back to the UPR Working Group on what steps it has taken to implement the accepted recommendations of the previous cycle and the voluntary pledges and commitments made during that cycle. This completes the previous cycle and forms the start of the new cycle, since such information will be included in the national report.⁶⁶ Other relevant stakeholders are also encouraged to provide views and perspectives on State compliance with accepted recommendations as part of their contribution to the next review.⁶⁷

One provision of the Council's institution-building package is that, in considering the outcome of each review, the Council has the authority to decide if and when any specific follow-up is necessary.⁶⁸ Because the first cycle was only concluded in March 2012, this procedure has not yet been used. It is envisaged that it will be used for States who have not implemented first cycle recommendations or have only done so for a minority of accepted recommendations, so that the outcome document for the second (and subsequent) cycle would identify such follow-up action.⁶⁹

If a State chooses not to cooperate with the UPR mechanism, HRC resolution 5/1 provides that "after exhausting all efforts to encourage a State to cooperate with the universal periodic review mechanism, the Council will address, as appropriate, cases of persistent non-cooperation with the mechanism".⁷⁰ It is unclear what steps might be taken in this regard, since the institution-building package does not elaborate on this point. It is conceivable, however, that the situation of human rights in such a State might be addressed in the plenary of the Human Rights Council under item 4 of its agenda (human rights situations that require the Council's attention).

⁶³ Including, for example, China and the Islamic Republic of Iran: see UN Doc A/HRC/WG.8/1/CRP.1/Rev.1 (2010), above n 44, p. 12.

⁶⁴ Including, for example, Azerbaijan and Bangladesh: *ibid.* p. 13.

⁶⁵ HRC Res 16/21, above n 3, [18].

⁶⁶ HRC Res 16/21, above at n 3, at [6].

⁶⁷ *Ibid.*, at [8].

⁶⁸ HRC Res 5/1, above n 3, [37].

⁶⁹ Conte, above n 10, p. 15.

⁷⁰ HRC Res 5/1, above n 3, [38].