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Foreword

On 22 August 2003, the Minister of Foreign Affairs and the Minister for Development Cooperation requested the Advisory Council on International Affairs (AIV) to draw up an advisory report on developments within the UN system in the field of human rights (see Annexe I).

The report was prepared by a subcommittee established for this purpose, which consisted of members of the Human Rights Committee (CMR), the Development Cooperation Committee (COS) and the Peace and Security Committee (CVV) of the AIV. The members of the subcommittee were: Prof. P.R. Baehr (CMR, subcommittee chair), Prof. T.C. van Boven (CMR), T. Etty (CMR), Prof. C. Flinterman (CMR), Prof. B. de Gaay Fortman (COS), Prof. W.J.M. van Genugten (CMR), Ms C. Hak (CMR), Prof. N.J. Schrijver (CMR) and Ms H.M. Verrijn Stuart (CMR). Dr A. Bloed (CVV), Prof. C.P.M. Cleiren (CMR) and Dr B.M. Oomen (CMR) participated mainly as corresponding members. The secretary was T.D.J. Oostenbrink (Secretary of the CMR), assisted by Ms S. Malik, Ms M. Shabaan and Ms L. Janssen (trainees).

Until her death on 22 April 2004, Dr M.C. Castermans-Holleman (CMR) contributed actively to the preparation of this advisory report. She always displayed a great commitment to and knowledge of the United Nations, in general, and the role of the Commission on Human Rights, in particular. The AIV learned of her passing with deep regret.

Among other things, the request for advice highlights the proposals of the UN Secretary-General to strengthen the human rights system. The Dutch government broadly endorses these proposals, which relate to various issues, including:

- 'mainstreaming' human rights throughout the UN system, with an emphasis on strengthening UN human rights efforts at country level;
- streamlining the procedures for reporting on compliance with human rights conventions;
- the re-examination of special procedures (rapporteurs, independent experts and working groups) set up by the Commission on Human Rights (CHR) with a view to increasing their effectiveness; and
- streamlining the management of the Office of the UN High Commissioner for Human Rights (OHCHR).

The request then addresses the key role of the CHR – of which the Netherlands is a member between 2004 and 2006 – within the UN system. Thus it notes, for example, that the CHR's credibility is in danger of being eroded. The Netherlands and its EU partners are also deeply concerned about the way in which this body functions. In recent years, in particular, the CHR has operated in an increasingly polarised atmosphere, and its effectiveness is being undermined. The request also highlights the danger of the ongoing split into regional blocs. The European Union, which takes most country initiatives, thus threatens to become isolated. Within the European Union, some countries are increasingly questioning the effectiveness of country resolutions.

With reference to the AIV's earlier advisory report on the functioning of the CHR of September 1999, the government then submits the following additional key questions:

- How can the Netherlands promote the observance of human rights more effectively and in a more integrated way, using the UN system as a whole (including the Security Council, General Assembly, functional committees, funds, programmes and possibly specialised agencies)?
- What role can the CHR play in the process of 'mainstreaming'? How can the CHR, which has done so much to set standards, be deployed now, in the 21st century, to ensure that these standards are actually upheld around the world?

The AIV was also requested to consider the following questions more specifically:

- Is it desirable to distinguish clearly between the CHR's initiatives and those of the Third Committee of the UN General Assembly? For instance, is it worth considering tabling country resolutions in the Third Committee (which is less polarised), leaving the CHR to occupy itself more with matters of implementation, technical cooperation, et cetera?
- How, and in what fields, can the Netherlands promote closer cooperation and a better division of labour between the CHR's special procedures and the treaty bodies, taking account of existing budgetary restrictions?
- How can better monitoring and follow-up of treaty-body recommendations be promoted and what role can the CHR and the Third Committee play in this respect?
- How can the CHR's system of special procedures be improved? The UN High Commissioner for Human Rights can help determine the level and quality of support for these procedures, but it is the CHR that determines mandates. How can mandates be streamlined in the interests of greater effectiveness without playing into the hands of 'malicious' countries?
- Last year, the Committee for Sustainable Development introduced a work programme consisting of a two-year cycle: a 'review' year (in which a number of issues are investigated) followed by a 'policy' year (in which resolutions are adopted to tackle problems that have been identified in relation to these issues). Could this also be a suitable system for the CHR?

In preparation for this report, the subcommittee of the AIV that was established to draft it studied the many reports and documents published in the framework of attempts to reform the UN system in the field of human rights. Furthermore, the subcommittee consulted UN expert Prof. D. Weissbrodt (then a member of the UN Subcommission for the Promotion and Protection of Human Rights), Prof. J. Doek (chair of the UN Committee on the Rights of the Child) and representatives of the Human Rights NGO Platform (BMO). In addition, a delegation from the subcommittee visited Geneva, where it conducted a large number of interviews (see Annexe II for a list of the individuals consulted). These consultations were useful, and the results are visible throughout this report. The AIV is very grateful to the staff of the Permanent Mission in Geneva for their organisational and substantive contributions to the preparation of the visit. During the advisory process, the subcommittee was also able to call upon the knowledge and experience of civil service liaison officer Ms A.D. Adema of the Ministry of Foreign Affairs' Human Rights and Peacebuilding Department/Human Rights Division (DMV/MR). The AIV is grateful to all individuals consulted for their input.

The advisory report starts by describing developments that have taken place within the UN system in the field of human rights. Over the years, the human rights system has sometimes had to operate in conditions of tension (e.g. East-West tensions and currently the tension between the fight against terrorism and the protection of human rights), which has also affected the functioning of the CHR. The report then addresses the questions in the request concerning how the Netherlands can promote the observance of human rights more effectively and in a more integrated way, using the whole UN system. In this context, Chapter II devotes paticular attention to the questions concerning the CHR.[1] Chapter III addresses the questions concerning the process of mainstreaming. The report concludes with a number of conclusions and recommendations.

The report was adopted by the AIV on 10 September 2004.

1 In two recent advisory reports, the AIV sets out proposals concerning other UN bodies. See 'The Netherlands and Crisis Management: Three Issues of Current Interest', advisory report no. 34, The Hague, March 2004, and 'Failing States: A Global Responsibility', advisory report no. 35, The Hague, May 2004. See also P.R. Baehr, 'De Verenigde Naties: een vereniging van falende staten' ('The United Nations: an association of failing states'), *Internationale Spectator*, July/August 2004, LVIII, no. 7/8, pp. 350-356, and the article by P.J.A.M. Peters and N.J. Schrijver, 'Een multilaterale aanpak van het probleem van falende staten' ('A multilateral approach to the problem of failing states') in the same issue, pp. 356-261.

I The United Nations and human rights

The UN Charter, adopted in 1945, describes the achievement of international cooperation in promoting respect for human rights as a purpose of the organisation (Art. 1, para. 3). The Charter also charges the General Assembly with assisting in the realisation of human rights (Art. 13, para 1). The Economic and Social Council (ECOSOC) may make recommendations for the purpose of promoting respect for, and the observance of, human rights and fundamental freedoms for all (Art. 62, para. 2), for instance by convening international conferences (Art. 62, para. 4) and drafting conventions (Art. 62, para. 3). Furthermore, the Charter provides that ECOSOC shall set up a commission for the promotion of human rights (Art. 68). This commission, the UN Commission on Human Rights (CHR), was established in 1946.

Since then, much has changed in the field of international relations. This chapter begins by taking a closer look at the human rights system in international relations (1.1). It then considers to what extent human rights should be regarded as universal (1.2). On the basis of the above, the final section of this chapter examines the adequacy of the present UN system in relation to human rights (1.3).

I.1 Human rights in international relations

Until the adoption of the UN Charter in 1945, the task of caring for the welfare of the inhabitants of a country was primarily a matter for the national authorities. The adoption of the Charter laid the foundations for regarding human rights as a matter of international concern. The welfare of individuals, anywhere in the world, thus also became a matter of concern for other states.

The United Nations is expected to achieve international cooperation in solving international problems of an economic, social, cultural and humanitarian character (Art. 1, para 3, and Arts. 55 and 56).[2] Its main objective is the maintenance of international peace and security (Art. 1, para. 1). This is followed by a number of other themes, including responsibility for human rights. In 2004, these Charter provisions form the basis of an intricately structured UN human rights system comprising the Universal Declaration of Human Rights (UDHR) of 1948, the International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966, the International Covenant on Civil and Political Rights (ICCPR) of 1966 and the related monitoring mechanisms. In addition, there are a number of thematic human rights conventions: (1) the International Convention on the Elimination of All Forms of Racial Discrimination (CERD); (2) the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); (3) the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); (4) the Convention on the Rights of the Child (CRC); and (5) the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW). Furthermore, the CHR has developed

2 Article 55 states: 'With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote … universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion', (para 3(c)).

procedures for responding to specific problems such as torture or other serious violations of human rights.[3]

The CHR's role has developed significantly since 1946. Initially, its activities focused primarily on the preparation of legislation in the field of human rights. After 1948, this work was hampered by sharp ideological divisions between East and West. In addition, many colonies gained political independence during the twenty-five years following World War II. This development is reflected in the first common article of the ICESCR and the ICCPR, which lays down the right of all peoples to self-determination.

During the 1980s, the CHR began to place greater emphasis on implementing monitoring procedures. Following the end of the Cold War, at the beginning of the 1990s, this trend was reinforced, which was also apparent from the sharp rise in the number of thematic rapporteurs. However, the expansion of the system made it confusing. In the words of Theo van Boven:

> *'The United Nations system comes across like a quagmire of standards, procedures and mechanisms developed in an incremental way in order to respond to political aspirations and socio-humanitarian needs rather than resulting from a coherent vision and planned strategy. The United Nations approach comes across like a roadmap through a land full of hilly obstacles and unexpected ravines.'*[4]

The collapse of the East-West balance of power allowed long-existing ethnic tensions to rise to the surface, resulting in the break-up of a number of states. These developments often went hand in hand with grave breaches of human rights, prompting military intervention by UN members on several occasions, either under the UN flag (as in Bosnia) or outside the UN framework (as in Kosovo). Interventions also took place outside Europe in response to serious human rights violations or in order to prevent them (e.g. in Somalia, Rwanda and Haiti).

It is not only the system and the importance of human rights that have changed dramatically since 1945; the number of actors has also increased. In 1945, the nation state was the most important actor. Little by little, specialised organisations and institutions, such as the International Labour Organisation (ILO), the United Nations Educational, Scientific and Cultural Organisation (UNESCO), the World Health Organisation (WHO), the United Nations Children's Fund (UNICEF), the UN Development Programme (UNDP) and the international financial institutions, have been accorded a more important role as well. The establishment of the special criminal tribunals and the International Criminal Court are also indicative of this development. Their activities have implications for human rights, as they can have a profound impact on, and make a fundamental contribution to, respect for human rights. The same also applies to socioeconomic interest groups, non-governmental organisations (NGOs) and even multinational corporations. All these actors play a prominent role in 'widening and deepening' the impact of human rights.

3 See also a study that has had a great impact on thinking in relation to the UN system: 'The Responsibility to Protect, Report of the International Commission on Intervention and State Sovereignty', International Development Research Centre, Ottawa, Canada, December 2001.

4 Theo van Boven, 'Urgent Appeals on behalf of Torture Victims', in *Mélanges en hommage au Doyen Gérard Cohen-Jonathan*, Bruylant, Brussels, 2004, pp. 1637-1652.

Human rights violations do not occur in a vacuum. They are sometimes related to a phenomenon described as 'failing states',[5] poverty and lack of development, national and international conflicts, dictatorial regimes and the absence of peace and stability. Due to increased globalisation and technological developments, it is increasingly easy to identify where serious human rights violations are taking place, or are likely to take place, and their impact on international peace and security. This helps to establish awareness of the recognition and observance of human rights and the need to condemn and fight human rights violations around the world.[6]

I.2 Universality

This section briefly looks at the extent to which the activities of the United Nations in the field of human rights constitute a universal system of values and norms. The AIV previously examined this issue in an advisory report on universality and cultural diversity.[7] At that time, it concluded that the widespread support for the adoption of the Universal Declaration of Human Rights and for the further development of the human rights system was due to the participation of representatives from a variety of states and cultural backgrounds. Human rights norms are compatible with different ethnic, religious and philosophical traditions. The AIV concluded that there was substantial agreement between different cultures on the issue of human rights. Nevertheless, the AIV called for tolerance of differences in the specific application of human rights, on the grounds that 'universality does not imply uniformity'. In relation to the implementation of certain rights, such as the prohibition on torture, states have no latitude; in relation to the implementation of other rights, they do have a certain amount of discretion, albeit a controlled form of discretion for which they are accountable.[8] The AIV is of the opinion that the conclusions of its 1998 report continue to apply in full.

The UN Millennium Declaration (2000) has since reaffirmed common values such as freedom, equality, solidarity, respect for human rights, democracy and good governance. In addition, the number of ratifications of the six main UN human rights conventions has risen considerably, and a seventh convention, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, has entered into force.[9] Various Optional Protocols to international human rights conventions have also been adopted (see Annexe III).

At the same time, there are also less positive developments with respect to universality. Many western countries, in particular, pay lip service to the indivisibility of civil and political

5 See, *inter alia*, AIV and Advisory Committee on Issues of Public International Law (CAVV), 'Failing States: A Global Responsibility', advisory report no. 35, The Hague, May 2003.

6 See AIV, 'A Human Rights Based Approach to Development Cooperation', advisory report no. 30, The Hague, April 2003.

7 See AIV, 'Universality of Human Rights and Cultural Diversity', advisory report no. 4, The Hague, June 1998.

8 An example of this is freedom of religion or belief. Among other things, this freedom encompasses the freedom to have or adopt a religion or belief and the freedom to manifest a religion (Art. 18 ICCPR). The latter may be restricted, but the former may not.

9 The Netherlands is not party to this convention, which has now been ratified by 24 states.

rights, on the one hand, and economic, social and cultural rights, on the other, while in practice they actually appear to care very little about the implementation of economic, social and cultural rights around the world. Non-western countries constantly draw attention to this both within and outside the UN framework. From the point of view of universality this is not a good thing.

Another development putting pressure on the universality of human rights was set in motion by the attacks of 11 September 2001 in the United States and subsequent terrorist acts, like the one in Madrid in the spring of 2004. In themselves, these attacks constituted a grave violation of the right to life of those involved, but the ethnic and religious tensions that have since intensified in many countries similarly threaten the universal rights of all persons, especially in relation to the prohibition on discrimination. In addition, the restrictive measures that many western governments – including the US government – have imposed in the aftermath of these attacks also infringe universal rights. They include the restriction of various fundamental freedoms, the challenging of the prohibition on torture and the erosion of the right to a fair trial. In the words of UN Secretary-General Kofi Annan:

> *'The struggle against terrorism may also have a very important secondary effect: in fighting against it, we run the risk of sacrificing a great deal in terms of human rights, democracy and good governance.'*[10]

As mentioned above, the present system for the protection of human rights is built on the foundations laid by the then members of the United Nations in 1945. In the light of the horrors of World War II, the Charter even then established a link between human rights, on the one hand, and stability and development, on the other. Since then, the realisation that serious violations of human rights – both civil and political rights and economic, social and cultural rights – can constitute a threat to international peace and security, has become even stronger. In 1992, the heads of government of the members of the Security Council stated as follows:

> *'The absence of war and military conflicts among States does not in itself ensure international peace and security. The non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security.'*[11]

I.3 Adequacy of the system

As briefly noted above, the system of human rights norms has expanded considerably. This expansion is based on 'a common standard of achievement for all peoples and all nations … regardless of their political, economic and cultural systems.'[12] The recommendations set out in the remainder of this report are based on a universal concept of human rights that – on certain points – may be implemented in different ways within the boundaries approved by the various monitoring bodies. This is the only way to do justice to the

10 Implementation of the United Nations Millennium Declaration, Report of the Secretary-General, UN Doc. A/58/323, 2 September 2003, para. 75.

11 See Doc. S/PV 3046, 31 January 1992.

12 See Doc. A/CONF.157/23, pp. 2 and 5, World Conference on Human Rights, Vienna, 1993.

universality of human rights, as laid down in the Universal Declaration of Human Rights and in the international conventions that have been adopted since.

The above-mentioned developments have also led to the involvement of an increasing number of UN organs in the field of human rights. The emphasis was initially on the work of the General Assembly and the CHR. Today, the UN High Commissioner for Human Rights, the special rapporteurs, the treaty bodies, the Security Council and – to an increasing extent – the specialised organisations also play an important role. At the same time, however, it appears that the total funds available for human rights activities within the regular UN budget are woefully inadequate. All these developments justify the need for a critical evaluation of the UN system. In this report, the AIV takes the first step towards such an evaluation in a number of areas, on the basis of the assumption that a body in which all states can be challenged on and held responsible for their human rights policies is – and remains – necessary at global level. In spite of all its shortcomings, that body is still the UN Commission on Human Rights.

II The CHR and the treaty mechanisms in practice

This chapter considers the questions in the request for advice against the background of the AIV's observations. The following issues are examined: the practice of politics versus politicisation, country resolutions and alternative instruments, the '1503 procedure', bloc formation, the composition of the CHR, thematic and country rapporteurs, treaty bodies, the Subcommission for the Promotion and Protection of Human Rights ('the Subcommission'), non-governmental organisations (NGOs) and the Office of the UN High Commissioner for Human Rights (OHCHR).

II.1 The practice of politics versus politicisation

With respect to the CHR, it is important to distinguish between the practice of politics and politicisation. There should be no misunderstanding regarding the fact that the CHR is a body made up of states and can be used by them to help realise human rights but was nevertheless established on the basis of the 'relative independence' of its members.[13] The AIV recommends that the government fully acknowledge the CHR's political character and, furthermore, emphasise that there is room for such a policy-making body in addition to the Subcommission (see below), which is made up of independent members, and the treaty bodies.

Alongside the practice of politics and the conduct of policy, however, there is politicisation or polarisation. Many states exploit the CHR to settle old scores, denounce political enemies and play political power games vis-à-vis other states. In other words, they subordinate human rights to national and regional foreign policy. Conversely, in order to avoid condemnation by the CHR, states also resort to a range of arguments and tactics that are inappropriate from a human rights perspective.

Accusations of politicisation are voiced in particular by African and Asian countries in relation to country resolutions, which the CHR discusses on the basis of ECOSOC resolution 1235 of 1967. They object to the practice of 'naming and shaming' by means of country resolutions, whereby certain countries are singled out for criticism by the CHR. In their opinion, this practice is ineffective, inflationary and selectively focused on countries in the South (as in the case of Zimbabwe during the 2004 session), due in part to the 'arrogant attitude' of certain western countries (in particular the United States). On the other hand, the same countries had few problems in the past with the adoption of resolutions against South Africa, Chile and, more recently, Israel. Politicisation is also a problem in other areas. The Libyan ambassador's candidacy for the chairmanship of the CHR in 2003 led to heated discussions between the African Group and the United States. A similar incident occurred recently, when the United States objected to Sudan's candidacy for membership of the CHR. In this sense, the CHR acts as a barometer or a signal of political discord.

As much as the AIV realises that it is almost impossible in practice to distinguish between the practice of politics and the abuse of political instruments to advance aims other than those related to human rights, it recommends that the government remain constantly aware of the problem of politicisation in its policy on the CHR.

13 See, *inter alia,* AIV, 'The Functioning of the UN Commission on Human Rights', advisory report no. 11, The Hague, September 1999, p. 7.

II.2 Country resolutions

During its 2004 session, the CHR adopted resolutions under agenda item 9 (violations of human rights and fundamental freedoms anywhere in the world) with respect to Cuba (with a majority of just one vote), Turkmenistan, North Korea, Belarus and Myanmar (see Annexe IV). A number of other country resolutions were defeated (including one on the Russian Federation and Chechnya). A number of country resolutions were submitted but not discussed (through the adoption of 'no action' motions) or were ultimately not submitted, including resolutions on China, Zimbabwe and the United States (on the treatment of prisoners at the US military base at Guantanamo Bay). The fact that country resolutions only appear to have a chance if they are directed against less influential countries has prompted accusations of double standards. The same applies to the appointment of country rapporteurs by the CHR on the basis of country resolutions. In 2004, the CHR has country rapporteurs for the following countries: Belarus, Burundi, the Democratic Republic of the Congo, Myanmar, North Korea and the Palestinian Territories. It has also appointed independent experts for Afghanistan, Haiti, Liberia, Somalia, Sudan and Chad. Finally, there are representatives of the Secretary-General for Cambodia and Cuba (see Annexe V).

The value and effectiveness of country resolutions are the subject of much debate. The disadvantages of politicisation sometimes appear to overshadow the advantages of this instrument. The use of double standards, in particular, is damaging for the CHR's image. The effectiveness of country resolutions is also open to question. With regard to the resolution adopted against Cuba in 2004, for example, it is generally assumed that the Cuban government will now focus all its efforts on preventing the adoption of another resolution next year, rather than on improving the country's human rights situation. In the past, however, country resolutions have worked in relation to certain other countries. The AIV refers here to resolutions on El Salvador, Guatemala, Romania and – on certain issues – Iran. Such resolutions often result in a report, which in turn can form a basis for further action and interventions by the CHR. Another effect of country resolutions is that the victims of human rights violations in the countries concerned derive some moral support from the fact that an important body like the CHR has spoken out regarding their situation. Moreover, national and international NGOs can use such resolutions as a means to exert pressure.

Countries that have become the subject of a country resolutions may – and should – be expected to report on their progress well before the next session of the CHR, so that further targeted action can be taken. This also applies to action in forums other than the CHR. In the AIV's opinion, it is therefore advisable to examine how concerns expressed in the CHR can be taken into consideration – for example in the formulation of Dutch and European development cooperation policy towards such countries – more than they are at present. A country's human rights situation should be a matter of continuous interest, and this should result in additional activity in that area or in the restriction or suspension of cooperation if there are insufficient prospects for improvement, depending on the specific situation.[14]

Another way in which the CHR can express its opinion regarding the human rights situation in a specific country is the 'chairperson's statement', which is used to appraise local human rights situations with the cooperation of the country in question. Such statements

14 See AIV, 'A Human Rights Based Approach to Development Cooperation', advisory report no. 30, The Hague, April 2003.

open up the possibility of re-examining the same human rights situation a year later to determine whether the country has actually fulfilled its commitments. Some years see greater use of these statements than others, and their quality varies. Some are strongly worded, while others are vague and ambiguous. It remains a problem that, in contrast to resolutions, the final texts of these statements are usually hard to find, as they are 'buried' in the session reports of the CHR. If they were published separately every year, they would carry more weight. All things considered, and despite its shortcomings, the AIV is of the opinion that the chairperson's statement is one of the instruments in the CHR's 'toolbox' that will continue to be valuable in the future.

Although many doubt the value of country resolutions and chairperson's statements, it is also true that countries generally offer fierce opposition when faced with the adoption of such instruments. This shows that their importance should not be underestimated. In spite of the above-mentioned doubts, the AIV concludes that it is – and remains – very important that the CHR can examine and express its opinion concerning human rights violations wherever they occur. Country resolutions and chairperson's statements should therefore be maintained, although they should be deployed with appropriate care and restraint and stripped as much as possible of what is described above as politicisation, that is to say arguments that are not based strictly on human rights considerations. The AIV realises that this is easier said than done, as this is an issue that – combining as it does elements of politics and international law – does not lend itself to a linear approach, as if there were just one obvious answer. Acknowledging the CHR's political character, as advocated above, goes hand in hand with the observation that it is an amalgam of contradictory forces and perspectives. However, this does not alter the fact that its activities should be approached as rationally as possible, on the basis of internationally recognised human rights and the aim of enabling the CHR to contribute towards their realisation. Country resolutions and chairperson's statements should be deployed in close coordination with other instruments developed by the CHR, such as thematic rapporteurs. In addition, it is essential to develop a framework for dealing with human rights violations wherever they occur in a balanced manner (see also section II.3). If there are reasons to address positive developments in a country that is open to assistance, in addition to issuing a condemnation, under current policy action may be taken on the basis of agenda item 19 (technical assistance).

Instead of submitting updated but almost identical country resolutions every year, the AIV also examined the idea of switching to a cyclical system (e.g. submitting resolutions every two or three years). Such a system is used by the Commission on Sustainable Development (CSD).[15] The AIV has serious doubts about the suitability of such a system in relation to the CHR's activities. The main difference between the CSD and the CHR is that the former deals with general policy rather than specific country issues. The main objection to the cyclical submission of country resolutions in the CHR is therefore the undeniable risk that it might reduce the pressure on the countries concerned and create the impression that no human rights violations took place there in a year when the country was not discussed.

15 In 2003, the CSD adopted a work programme consisting of a two-year cycle: a thematic 'review' year followed by a 'policy' year, in which policy resolutions are adopted. However, these resolutions do not deal with country situations.

II.3 Alternatives?

The AIV sees little value in the suggestion (which also appears in the request for advice) that country resolutions be transferred to the Third Committee of the UN General Assembly, which is responsible for the overall monitoring of human rights and other social and cultural issues. An important difference between the CHR and the Third Committee is that the latter theoretically includes all UN members, which would amount to opening up membership of the CHR to all members (see below). In addition, the AIV believes that the transfer of country resolutions to the Third Committee would simply shift the battlefield: with even more participants, the debate would become more politicised, not less. The CHR is traditionally the main UN body dealing with human rights issues. The AIV believes that it should remain so and therefore does not advocate any change in this regard, favouring investment and changes in the CHR's functioning. In the AIV's eyes, transferring country resolutions to the Third Committee would simply more the goalposts.

The transfer of country resolutions from item 9 (country resolutions) to item 19 (technical assistance) of the CHR's agenda only makes sense if accompanied by a stepping up of CHR monitoring of the human rights situation in the country concerned. It is true that countries where serious human rights violations take place generally prefer to be dealt with under item 19, but this is only possible if the government of the country genuinely possesses the political will to improve the human rights situation. If not, such a transfer only indicates a weakening of the CHR's role. Where such political will does exist, however, the Office of the UN High Commissioner for Human Rights should be allowed to offer active assistance.

The option of producing a single, all-inclusive report on the human rights situation in all countries has already been recommended on several occasions, including by the former Advisory Committee on Human Rights and Foreign Policy (ACM). Such reports would contribute to the balanced screening of countries where human rights violations take place, including western countries. This could be very significant in relation to country debates. In addition, such reports could be used to examine in what areas the human rights situation in a specific country needs to be improved. One option would be a report consisting of a compilation of reports and recommendations by special rapporteurs, working groups and treaty bodies.[16] Although this could interfere with the procurement of invitations for special rapporteurs to visit countries, it might make it possible to determine in a more objective manner where action is required.[17] A compilation of this kind would need to be of a predominantly technical nature, and would therefore need to be assembled by the Office of the UN High Commissioner for Human Rights. Another option would be the compilation of a report that, in addition to the above-mentioned elements, includes information from NGOs. On the basis of such a report, the CHR could then examine how each situation developed. Both types of reports should be discussed periodically in the CHR. On the basis of those discussions, the CHR could then formulate recommendations on how to proceed. The evaluation of developments – an improvement or a deterioration in the situation – should play a key role in this regard. In this way, it might be possible to eliminate some of the objections to 'naming and shaming'. The AIV is aware that this approach also has its limitations, however, as it would allocate to the CHR a task that

16 The Office of the UN High Commissioner for Human Rights recently started producing such compilations. It is therefore impossible to provide a proper evaluation of the value of this instrument at present.

17 This was most recently proposed by Costa Rica in 2001.

independent experts are better equipped to perform than a political organ. Furthermore, this approach fails with respect to countries that have not ratified the main human rights conventions and do not cooperate with fact-finding missions by special rapporteurs. For such states, at any rate, the option of adopting country resolutions should remain open.

II.4 The '1503 procedure'

The confidential '1503 procedure', which has existed since 1970, is the subject of much debate.[18] It was established in order to call states to account, on a confidential basis, in response to complaints of systematic and serious human rights violations. The closed, non-transparent character of this procedure and the irresponsibly long period of time it consumes have given rise to serious doubts about its effectiveness. Certain regimes that are among the worst violators of human rights use (or rather abuse) the closed character of the procedure as a means of avoiding scrutiny by public monitoring mechanisms, which have increased in number and are feared more. A past example of such a regime is Argentina, while a more recent example is Saudi Arabia. In addition, it appears that the procedure is now only used for small countries, like Djibouti and Uzbekistan. Although it appears to have performed a useful function in certain cases in the past, for example in regard to Brunei,[19] the AIV concludes that, in its current non-transparent form, the procedure needs to be amended. It should therefore be subjected to a critical examination, for example on the basis of a study by the UN Secretary-General. This would also make it possible to address the current absence of feedback to the complainants.

II.5 Bloc formation

Decision making in the CHR is partly prepared in politico-geographical groups: the African Group (15 states), the Asian Group (12 states), the Latin American and Caribbean Group (11 states), the Eastern European Group (5 states) and the Western European and Others Group (10). Decision-making within the latter is usually preceded by decision-making within the European Union.[20]

The existence of regional groups is a fact. Within these groups, but also between them, 'blocs' that also make decisions have developed. Regional blocs also exist within the Third Committee of the General Assembly and other bodies. The main ones are the G-77, which comprises over 130 developing countries, and the Group of Non-Aligned Countries, both of which transcend regional groups. Regional groups serve, to a certain extent, as an antechamber for decision-making in the CHR and have a role and a voice in the Bureau of the CHR (through one or two representatives), which allows them to determine the course of events during the sessions.

18 For more details on this and other procedures, see also the two advisory reports of the former Advisory Committee on Human Rights and Foreign Policy (ACM), 'The Role of the Sub-Commission for the Prevention of Discrimination and the Protection of Minorities', advisory report no. 20, The Hague, 1996, and 'UN Supervision of Human Rights', advisory report no. 22, The Hague, 1996.

19 Action under the 1503 procedure led to the release of three prisoners who had been held in captivity for more than 34 years without any form of trial.

20 In addition, there is the 'Like-minded Group', a coalition of countries that attempts to hamper or delay substantive discussions. Although the composition and intensity of this group may vary, countries like Algeria, China, Cuba, Egypt, Iran, Malaysia, Pakistan and Sudan are usually involved.

The participation of EU member states (which are members of the Western European and Others Group) in the CHR's work constitutes a special kind of bloc formation. Consultations within the European Union are highly institutionalised. The advantages of this kind of foreign policy cooperation are clear. A common position of the European Union in the CHR has more impact than statements by individual countries. As a matter of fact, according to experts, individual démarches by large or small EU countries currently have little or no impact in the capitals of countries that violate human rights. However, when the European Union speaks, it is always listened to closely. This offers great opportunities, but also involves certain risks. If the European Union has something to say, this special status is of great value. However, if it has nothing to say, for example because the EU member states are unable to reach a unanimous decision as required in the framework of the common foreign and security policy, this also sends a message. It is thus regrettable, for example, that during the 2004 session of the CHR the European Union did not adopt a position on acts of torture in Spain, an EU member state, as described in the report of the Special Rapporteur on Torture, and said nothing about Guantanamo Bay. The EU decision-making process also reduces the flexibility of the EU. Non-members of the European Union, including other western countries, regard the EU consultations as non-transparent and time-consuming. Much would be gained if the European Union could reach agreement at an early stage on the texts and statements it intends to submit.

One consequence of its occasionally cumbersome consultation structure is that the European Union itself runs the risk of acting in an overly cautious or nuanced manner, as its common positions are always the product of a compromise. Individual member states are therefore less able to communicate their own opinions (which may differ from those of the European Union), although they are not prohibited from taking independent initiatives, provided they have first consulted with their EU partners. The Netherlands could make an important contribution to improving the functioning of the European Union's consultation structure. It has a reputation based on many years of active involvement in the promotion and protection of human rights to uphold. Although the Netherlands re-joined the CHR at the beginning of this year, there has so far been relatively little outward evidence of Dutch initiatives. Those that did emerge remained largely hidden within the EU consultations. At the very least, the EU decision-making process should be made more transparent through the publication of policy intentions and criteria. When exploring the scope for developing independent initiatives, finally, the merits of the rules relating to decision-making by unanimity should also be examined.

The AIV urges the government to continuously consider when and at what level initiatives may be developed, so that it is absolutely clear that the Netherlands is – and remains – serious about its commitment to human rights. This is obviously not an end in itself, but may be understood, for example, as support for the fight of global NGOs and other actors to realise human rights. Both the government and the States General can play a role here. In this context, Dutch efforts in relation to the protection and promotion of civil and political rights and the campaign against violence against women serve as good examples. Similar efforts could also be developed in such areas as the position of the disabled, the recognition of differences in sexual preference, the position of indigenous peoples, the position of multinational corporations and, more particularly, the importance of economic, social and cultural rights. The AIV therefore repeats its earlier recommendation that the government should support normative activities in the form of an optional protocol to the ICESCR.[21] More generally, the AIV recommends that the government work to strengthen

21 See, *inter alia,* AIV, 'Universality of Human Rights and Cultural Diversity', advisory report no. 4, The Hague, July 1998, p. 37.

cooperation that transcends groups. A good example of this is the Netherlands' participation in the Human Security Network, a framework for cooperation between countries on peace and security issues.[22]

II.6 Composition of the CHR

In discussions concerning the CHR's functioning, it is regularly suggested that the Commission's membership should be expanded, on the grounds that this might reduce the problem of selectiveness in the discussion of human rights violations and promote a more balanced make-up. The AIV does not advocate increasing the number of members. In practice, UN member states can already attend meetings and – individually or jointly –submit proposals. The CHR does not function optimally mainly because it lacks time and political will, not because of the number of its members. In recent years, moreover, an increasing number of countries where serious human rights violations occur have joined the CHR.[23] By doing so, these countries try to avoid becoming targets of criticism. Although the current number of 53 members was chosen on a relatively random basis, it suffices in practice. There thus appears to be no reason, for the time being, why this number should be changed.[24] In the AIV's opinion, the key to improvement in the CHR's functioning therefore lies not so much in the number of members as in choices concerning its membership and the influencing of these choices by adapting the existing selection procedures. A number of countries currently represented in the CHR have a bad track record. For example, ECOSOC could adopt a resolution to the effect that countries that have been assigned a special rapporteur at some point during the past five years will not qualify for membership of the CHR for a certain period. An attempt could also be made to establish a rotation system within the regional groups. As a result, all countries would know that they will become members at some point. It would also ensure that countries that in some cases have already been members for decades would be forced to give up their seats. In the AIV's opinion, the US initiative to make democracies around the world more enthusiastic about joining the CHR also merits support. Opting for such an approach may help to solve some of the CHR's current problems. In time, it may also help the CHR to function more effectively.

II.7 Thematic and country rapporteurs[25]

The number of special rapporteurs, special representatives and independent experts (and in some cases working groups) has expanded significantly over the years. There are currently no fewer than 34 of these special procedures, dealing with a variety of themes (see Annexe IV). The rapporteurs usually carry out these tasks alongside their regular responsibilities, often under difficult circumstances, and receive only limited assistance from a few

22 The Human Security Network was set up in 1999. Its members are Austria, Canada, Chile, Greece, Ireland, Jordan, Mali, the Netherlands, Norway, Slovenia, South Africa (observer), Switzerland and Thailand. 'Human security means freedom from pervasive threats to peoples' rights, their safety or even their lives'. See: <http://www.humansecuritynetwork.org>.

23 For example, Cuba, Indonesia, Iran, Libya, Sudan, Zimbabwe and Saudi Arabia.

24 The Western European and Others Group currently occupies ten of the 53 seats on the Commission.

25 On this subject, see AIV, 'The Functioning of the UN Commission on Human Rights', advisory report no. 11, The Hague, September 1999.

UN-funded staff members. Under current internal guidelines, their reports may not exceed twenty pages (10,700 words).[26] As a result of its busy agenda, moreover, the CHR has started to devote less time to these reports. Rapporteurs are usually allotted just a few minutes of speaking time to present their reports to the CHR. Often, too, there is no opportunity for considered debate, as the various reports are all discussed at the same time. The rapporteurs and the delegations interested in their work are very dissatisfied with this state of affairs. In response, the CHR decided to introduce what it calls 'interactive dialogue' in 2003. This means that a specific amount of time (approximately 45 minutes) is set aside for the annual report of each rapporteur, including oral statements by the rapporteur, comments by the interested parties and other interested delegations and the answers of the rapporteur. This interactive dialogue definitely represents an improvement in the CHR's functioning. It ensures that feedback is more focused. However, because the rapporteurs can be regarded as the eyes and ears of the CHR, and because they are very critical of the human rights situation in certain countries, the amount of time reserved for interactive dialogue is still too limited to do justice to the work of these mandate-holders.[27] As this form of communication is directed only at the CHR, moreover, the AIV recommends encouraging the rapporteurs to publicise the human rights violations and issues they have identified more widely. Such action would require a significant amount of support.

In addition, the AIV recommends examining whether it might be appropriate to rationalise the number of special thematic rapporteurs to a certain extent. Any such examination should take account of the fact that, viewed alongside the political and diplomatic character of the CHR, the special procedures make a very valuable contribution to the system for monitoring human rights, due to their expertise and independent character. A periodic examination to determine whether there are clear overlaps in certain areas would probably enable the system to function more effectively and encourage the CHR to devote more time and attention to the work of thematic rapporteurs. Furthermore, the AIV does not believe it advisable for special rapporteurs to be appointed by the CHR, as proposed by some, to ensure that the selection of these independent experts is not determined by political factors. Up to now, they have been appointed by the chairperson of the CHR, in coordination with the Bureau, and their level of expertise has in theory been the key factor in their appointment.[28] On the other hand, the selection of thematic rapporteurs in even closer cooperation with the UN High Commissioner for Human Rights, who could compose a list of candidates for this purpose, is also worth considering. This would strengthen the High Commissioner's position and might also encourage better cooperation between the Office of the HCHR and the rapporteurs.

II.8 Treaty bodies

The AIV further notes that certain treaty bodies have too little time to do their work properly. A number of them now have a large and ever-increasing backlog with regard to the

26 Documents issued by the Office of the UN High Commissioner for Human Rights in 2003 state that: 'The maximum length of documents prepared by special rapporteurs, special representatives and independent experts remains 10,700 words, including annexes and footnotes.'

27 See, or example, the debate concerning the report of the Special Rapporteur on Torture concerning the situation in countries like Spain and Uzbekistan during the most recent session of the CHR.

28 The Bureau of the CHR is also involved in the filling of vacancies.

processing of country reports. This development is highly unwelcome, as it does not do justice to states that comply strictly with their treaty obligations, while awarding a bonus, as it were, to countries that report with a significant delay or not all (see Annexe III). The AIV considers it important for the treaty bodies to be given the opportunity to meet more frequently if their backlog has become too large. It therefore advises the Dutch government to support the proposals by the Committee on the Rights of the Child (CRC) and the Committee on the Elimination of Discrimination against Women (CEDAW) to meet not twice, but three times per year. The CRC's proposal to meet in two parallel chambers to discuss country reports also deserves support.

It is regrettable that CEDAW does not meet in Geneva, but exclusively in New York, where its support staff is located (within the UN Secretariat). This means that those who deal with this important issue within the field of human rights operate largely in isolation from those who monitor compliance with other human rights conventions. At the very least, it would be advisable for CEDAW to meet alternately in Geneva and New York, as an initial step, in emulation of the committee that monitors compliance with the ICCPR. The next step should then involve its relocation to Geneva. Moreover, CEDAW's support staff should become part of the Office of the UN High Commissioner for Human Rights in Geneva. This implies that the Secretariat of CEDAW and the Commission on the Status of Women (CSW), currently located in New York, should also be transferred to Geneva, where it was previously located. All UN activities in the field of human rights would then be concentrated in Geneva, with all the advantages this entails with respect to more effective coordination and lower costs. Obvisiously the transfer of staff from New York to Geneva should not come at the expense of a decline in the quality of the services provided.

The AIV also notes that there is sometimes cooperation between the treaty bodies and the thematic rapporteurs described in section II.7, but that there is sometimes no cooperation at all. This means that a lot of valuable work is carried out in parallel, but separately, which is clearly an unsatisfactory state of affairs. The AIV has studied initiatives to rectify this situation (e.g. screening special procedures and setting up country profiles) and recommends that the Dutch government lend its support to providing the UN High Commissioner for Human Rights with the facilities he or she needs to ensure that the activities of the special rapporteurs and the treaty bodies will be coordinated more effectively in future.

II.9 The Subcommission for the Promotion and Protection of Human Rights

The AIV is under the impression that the tensions that existed previously between the CHR and the Subcommission have declined. It appears that the Subcommission is currently performing the tasks it has been assigned on behalf of the CHR in a satisfactory manner. The CHR's members have voiced little criticism in this regard. However, judging by its report to the 60th session of the CHR, the Subcommission is not entirely satisfied with its role and opportunities in all areas. It has expressed particular concern regarding the time pressure under which it is obliged to do its work. In addition, it regards the limits on the length of reports as a serious problem, and many consider it a great loss that the Subcommission can no longer speak out on specific country issues. However, a more general problem, which had previously been identified by the former ACM and the AIV, has continued to exist, namely the limited degree of independence of certain members of the Subcommission (and certain members of the treaty bodies). A key problem in this regard is that states deliberately do not put forward independent members for appointment, although they are perfectly capable of doing so. The Netherlands should take a continuous public stand against this attitude, both alone and within the EU framework,

in order to safeguard the independence of the members of the Subcommission and the treaty bodies, as well as the thematic rapporteurs, as much as possible.

II.10 Non-governmental organisations

Like the Dutch government, the AIV recognises and emphasises the value of the contribution of NGOs, both at national level and in the framework of the CHR. Key aspects of their role within the CHR include identifying specific human rights violations and fine-tuning human rights norms.[29] From its conversations with representatives of NGOs in Geneva, the AIV has obtained a varied picture of their role within the CHR. On the one hand, they appreciate the fact that they have a permanent position within the CHR, with the right to speak and to have direct access to the delegations of the member states. On the other hand, they complain that the speaking time they are granted is too short (two to three minutes) and that the member states pay little attention to their input.

Furthermore, the existence of what are called GONGOs (government-organised NGOs) is increasingly regarded as a problem. It is still possible for anyone to set up an NGO. In some cases, these organisations consist of little more than the headed paper on which their statements are printed, while others serve as a cover for the promotion of government policies.[30] According to certain respondents, at least 30% of the NGOs represented in the CHR are GONGOs. This is a worrying development, as it means that actual and quasi-government representatives are increasingly manipulating the debate in the CHR (thus increasing politicisation) and restricting opportunities for other NGOs. The AIV therefore urges the Dutch government to continuously raise this worrying development in the relevant forums, including the NGO Committee in New York. In the AIV's opinion, the relevant ECOSOC criteria are sufficiently clear and easy to implement.[31] However difficult it might be to apply them strictly, it is ultimately the member states that have to make the choices, and they should therefore be called to account on a continuous basis regarding the faithful application of these criteria.[32]

NGOs also suffer from the aforementioned bloc formation within the CHR. As states tend to reach agreement within their own blocs first, many NGOs only become aware of initiatives with respect to countries or themes at a relatively late stage. As a result, opportunities for the productive exchange of recent and relevant information are not always exploited. This should be avoided wherever possible. The AIV therefore recommends that the Dutch

29 In this regard, see also AIV, 'The Functioning of the UN Commission on Human Rights', advisory report no. 11, The Hague, September 1999, pp. 21-22.

30 Some time ago, a Japanese researcher distinguished between a number of variants, including AGOs (anti-government organisations), DONGOs (donor-organised NGOs), GRINGOs (government-regulated and initiated NGOs), ODANGOs (ODA-financed NGOs), QUANGOs (quasi-NGOs) and TRANGOs (transnational NGOs). See Tatsuro Kunugi, 'The United Nations and Civil Society - NGOs Working Towards the 21st Century' (final version still forthcoming). See also AIV, 'Commentary on the 2001 Memorandum on Human Rights Policy', advisory report no. 23, The Hague, September 2001, pp. 13-14.

31 ECOSOC resolution 1996/31.

32 However, see also the report of the Panel of Eminent Persons on UN-Civil Society Relations, chaired by F. Cardoso, UNGA Doc. A/58/817 of 11 June 2004, which proposes to abolish the ECOSOC Committee on NGOs.

government continue pushing, both independently and within the EU framework, for the greatest possible transparency in this area. On the other hand, it should also be noted that NGOs still succeed – usually by organising special information meetings during sessions of the CHR – in bringing together interested delegations and experts and encouraging them to hold substantive discussions on themes and countries. These discussions often result in resolutions or support for resolutions. The contribution of NGOs to the work of the special procedures is both substantial and indispensable, and their role in relation to the treaty mechanisms (e.g. publishing shadow reports and providing relevant information) is extremely significant.

II.11 The Office of the UN High Commissioner for Human Rights

After the Secretary-General, the UN High Commissioner for Human Rights is the highest-ranking UN official in the field of human rights.[33] The position was established on the basis of a General Assembly resolution that also lays down the High Commissioner's mandate. This lends extra weight to everything the High Commissioner says in this area.[34] Of the people who have held the position so far, José Ayalo Lasso shaped the position in its early years. His successor, former Irish president Mary Robinson, publicly made herself the mouthpiece of the 'conscience of humanity' on several occasions, by speaking out on the importance of promoting human rights in general and in certain states in particular. She thus provided moral support to victims of human rights violations, which simultaneously did not endear her to all governments. Her successor, Sergio Vieira de Mello, focused mainly on management issues during his short time in office. The new High Commissioner, Louise Arbour from Canada, has indicated that she intends to give top priority to the implementation of the Secretary-General's reform programme. In addition, she intends to focus on technical assistance to countries.

The real political significance of the UN High Commissioner for Human Rights is that this high-ranking official can, on his or her own authority and without needing an explicit mandate from a policy-making body like the CHR, develop initiatives in cases of serious and acute human rights violations. Acting High Commissioner Bertrand Ramcharan thus recently made dynamic use of this power by deploying teams of investigators and reporting to the CHR and the Security Council on the human rights situation in Liberia, Sudan (Darfur) and Iraq. The High Commissioner is also in charge of the Office of the UN High Commissioner for Human Rights (OHCHR), which is a very important organ, as all the most important activities of the United Nations in the field of human rights are prepared and implemented there. The OHCHR is responsible for providing services to the CHR and the treaty bodies (apart from CEDAW, as noted above) and for the functioning of the special rapporteurs and the working groups. It is also responsible for the implementation of the technical cooperation programmes (23% of the budget), the maintenance of field offices and activities in general (26% of the budget and over 600 staff in the field) and the organisation of international conferences on human rights and other international gatherings.[35] For all these tasks, the OHCHR still receives far too little funding and

33 Bertrand G. Ramcharan, *The UN High Commissioner for Human Rights: The Challenges of International Protection*, Martinus Nijhoff, The Hague/London/New York, 2002.

34 See UNGA resolution 48/141 (1994).

35 See 'Annual Report 2003: Implementation of Activities and the Use of Funds', Office of the UN High Commissioner for Human Rights, Geneva, 2004.

therefore has a permanent shortage of sufficiently qualified personnel. The AIV recommends the Dutch government to make every effort to find a lasting solution for this undesirable state of affairs.[36] It is unacceptable that the most important UN mechanism for the promotion of human rights receives such inadequate funding. Strengthening the position of the OHCHR should therefore be – and remain – one of the key goals of Dutch human rights policy.

36 The Netherlands is currently the third or fourth largest donor to the OHCHR. The OHCHR is largely funded by a small group of countries. The ten top-contributing countries account for 78 per cent of the OHCHR's resources. They are all western countries, and this should not really be the case.

III Mainstreaming: curse or blessing?

'It has become clear that "mainstreaming" human rights is much more difficult and demanding than might have been imagined and will take longer to realise than originally planned.'[37]

III.1 The problem

Despite its ambitious objectives and countless attempts towards greater integration, the United Nations is still made up of a number of separate units that for the most part function independently of each other. This report considers whether it is right to think and act in terms of separate areas, both in a normative sense ('should things be different?') and in a practical sense ('would greater integration not be more appropriate for finding solutions to the complex problems confronting the United Nations?'). The issue of mainstreaming therefore arises.[38]

In 1997, the UN Secretary-General launched the idea of mainstreaming human rights in all UN activities. He noted that human rights no longer came second to peace and security, but that these rights and the organisation's other core issues were permanently intertwined: *'Human rights are integral to the promotion of peace and security, economic prosperity and social equity.'*[39] For its entire life as an organisation, the United Nations has actively promoted and protected human rights and developed instruments to monitor compliance with international agreements, while at the same time remaining aware of national and cultural diversity. As a result, the issue of human rights may be regarded as cutting across all the substantive areas of the UN Secretariat's activities.

With his proposal to mainstream human rights, the Secretary-General adopted a position in the debate on how human rights are best served: as a separate issue area, protected and promoted by a separate organisation, or simultaneously as an integrated issue area in all the relevant bodies and institutions. By opting for mainstreaming, the Secretary-General indicated that human rights were the business not just of the CHR or other specific human rights organisations, but of all the components of the United Nations, in the framework of an intersectoral and integrated approach. As a matter of fact, an explicit focus on human rights issues within individual components of the UN system can actually help to advance their objectives.[40] Among a multitude of issues, the AIV has chosen to

37 William O'Neill and Vegader Bye, 'From High Principles to Operational Practice: Strengthening OHCHR Capacity to Support UN Country Teams to Integrate Human Rights in Development Programming', March 2002, p. 6.

38 Ibid., at p. 7: 'No one clear definition exists on what "mainstreaming" or RBP [Rights-based Programming] means.'

39 See Secretary-General of the United Nations, 'Renewing the United Nations: A Programme for Reform', UN Doc. A/51/950, July 1997, para. 78.

40 See World Conference on Human Rights, 'Recommendations for Strengthening International Cooperation in the field of Human Rights in Conformity with the Charter of the United Nations and with International Human Rights Instruments: Enhancing the Effectiveness of United Nations Activities and Mechanisms', Note by the Secretary-General, UN Doc. A/CONF.157/3, 8 June 1993.

focus on three key areas: (1) development cooperation, (2) peace and security and (3) international economic and financial relations.

III.2 The definition of mainstreaming

It is difficult, if not impossible, to find an acceptable Dutch equivalent for the term 'mainstreaming'. Expressions such as 'insertion', 'weaving into', 'the rule rather than the exception', 'embedding', 'a matter of course', 'pervading' and 'process-based integration' do not capture its full meaning. For this reason, as well as in the light of accepted international practice, the AIV has decided to continue using the term 'mainstreaming' (which is also used in the request for advice).

To achieve a better understanding of the meaning of the term 'mainstreaming' in the field of human rights, it will help to look at previous developments in the field of equal rights and the equal treatment of men and women in all possible role divisions and role patterns.[41] Since the final document of the Vienna World Conference on Human Rights of 1993 explicitly states that the human rights of women constitute an inalienable, integral and indivisible part of universal human rights, while also referring to the obligation to mainstream the equal status and human rights of women, AIV has naturally drawn on the experience acquired in this area.[42] In 1997, ECOSOC adopted the following definition of gender mainstreaming:

> *'Gender mainstreaming is the process of assessing the implications for women and men of any planned action including legislation, policies and programmes, in any area and at all levels. It is the strategy ... so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality.'*[43]

The General Assembly has endorsed this definition.[44] The key part of the definition is the term 'process'. The ultimate aim is mentioned, but the process – a process aimed at the outside world rather than the UN system – takes centre stage. It is never an end in itself, but always a means to an end. In other words, 'mainstreaming' means causing one stream to flow into – and flow with – the main stream, as a result of which both streams become one and ultimately change course.[45]

41 In a different context – gender mainstreaming – the Secretary-General described mainstreaming as 'the placing of an issue within the pre-existing institutional, academic and discursive framework'.

42 The AIV wishes to thank Ms M. van den Brink for her contribution to the passages on gender mainstreaming. See also Marjolein van den Brink, 'De toekomst van de vrouw in het internationaal (mensen)recht. Overlevingskansen in de mainstream' 'The future of women in international law/human rights. Survival chances in the mainstream' *Nemesis*, November 2003, pp. 166-175. Ineke Boerefijn, 'Vrouwenrechten en mensenrechten. Mainstreaming in VN-verdragscomité's' ['Women's rights and human rights. Mainstreaming in UN treaty bodies'], *Nemesis*, 2001, no. 1, pp. 4-13. See also AIV, 'Integration of Gender Equality: A Matter of Responsibility, Commitment and Quality', advisory report no. 25, The Hague, January 2002.

43 Economic and Social Council, *Agreed Conclusions* 1997/2, UN Doc. A/52/3, 18 September 1997.

44 UNGA resolution 52/100, 12 December 1997, UN Doc. E/CN.6/1998/2, 20 January 1998, para. 8.

45 'What happens to a river – a mainstream – when another river of equal size and importance is chanelled into it? It may broaden out and it may flow more rapidly, but most assuredly it will change its course.' Mary Andersen, 'Focusing on Women: UNIFEM's Experience in Mainstreaming', UNIFEM, New York, 1993.

One of the lessons that can be drawn from experiences in the field of gender mainstreaming is that it is important to look at what lies *under* social constructs, which is not easy. Transparency is a key concept here. The main conditions for success are:

- a process is set in motion;
- for which time and money are made available;
- for which expertise is built up at all levels;
- for which analyses are carried out by experts at all levels;
- for which analyses and policy proposals are put down on paper;
- the leadership of each individual organisation commits itself in concrete terms and on paper;
- a monitoring mechanism that monitors periodically and responds immediately, if desired with positive or negative sanctions, is established;
- a focal point that can provide expertise and support is established in each UN organisation.

Over the years, the idea of mainstreaming human rights has been the subject of much debate, but it remains a difficult idea to put into practice, both within and outside the United Nations. One reason for this is the continued existence of major cultural differences between different worlds (e.g. the human rights world and the development world). In this context, O'Neill and Bye point out, for example, that aid workers know too little about human rights, but that human rights experts also know too little about development cooperation in practice.

Within the United Nations, two levels of mainstreaming can be distinguished: (a) within the UN system and (b) in the countries where UN activities take place. In light of the general tenor of the request for advice, this report focuses mainly on level (a).

The following sections devote closer attention to a number of areas in which mainstreaming should take place. The principal aim of mainstreaming is to tailor the programmes and projects of the various UN institutions to human rights. The premise for what follows is that, in theory, the AIV regards mainstreaming as something that is good and therefore worth pursuing. Finally, it is worth recalling – perhaps unnecessarily – that mainstreaming relates to both civil and political rights and economic, social and cultural rights.

III.2.1 Development cooperation

The AIV previously considered the issue of mainstreaming at length in its advisory report on a human rights based approach to development cooperation.[46] The present report therefore focuses primarily on developments since the publication of that report in 2003. Earlier in this report, reference was made to the important role and activities of the OHCHR with respect to the integration of human rights into poverty reduction strategies. The results of the OHCHR's activities were laid down in a document entitled: 'Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies'. This discussion document was published in September 2002 and has meanwhile been sharpened up and fleshed out to some extent in practice. Since a human rights based approach to development cooperation must be based on a matching vision, the document was further amended on the basis of an interagency meeting in May 2003. The 'UN System Common Understanding on the Human Rights Based Approach to Development', which was adopt-

46 See AIV, 'A Human Rights Based Approach to Development Cooperation', advisory report no. 30, The Hague, April 2003. Chapter V provides an overview of the activities of a number of key UN institutions in this area.

ed at this meeting, provided a focus for discussions in this area.[47] The UN Development Group has now reached agreement on the course that the OHCHR will pursue in this area. This is important, as it means that there is now agreement at a high executive level that all the other organisations (including the UNDP) will pursue the same course. The UNDP's country offices, in particular, will play a major part in the mainstreaming of the protection and assistance programmes of the UN High Commissioner for Human Rights. In order for this to succeed, and in order to intervene as early as possible if problems arise, the OHCHR will thus have to monitor operations on the ground closely. In addition, it will be essential for the OHCHR to keep in close contact with all the operational organisations in the field.[48]

In this context, the HURIST (Human Rights Institutional Strengthening) programme can also play an important role. This programme was established by the OHCHR and the UNDP to strengthen capacity in the field of human rights at national level through specific projects and gain practical experience of different methodologies. For example, HURIST programmes support national human rights action programmes and promote the integration of human rights based approaches into development cooperation programmes. As a result of increased financial support from donors, HURIST has continued to develop. In this context, it has launched a large number of activities since 2002, including general workshops on the human rights based approach, advice on the preparation of teaching materials for training parliamentarians and police officers, projects in support of indigenous peoples and evaluations of national activities in the field of human rights (e.g. in Bosnia and Herzegovina, Benin, Bolivia and the Philippines). HURIST also supports many legal initiatives, undertaking additional activities in this field in almost all post-conflict situations. The AIV believes that this is very important. A focus on and support for projects in the area of the rule of law (e.g. reforming the administration of justice, training judges and lawyers, supporting legislation, etc.) should form an integral part of the development process.

There is also a need for mainstreaming within Dutch policy. The AIV identified this need and made recommendations in its earlier advisory report. The Minister for Development Cooperation is responsible for monitoring the coordination of the various government activities in this area. A number of developments have taken place since the publication of the AIV's report (and the government's response). Thus, HURIST participated in an internal meeting at the Ministry of Foreign Affairs and the government promised to donate 1.5 million dollars to the programme. This kind of support is vital for its long-term success. The government is currently working on the development of its policy intentions. However, it is also clear that the government can achieve a great deal at home, thereby providing an example of how the mainstreaming process can get off the ground more effectively within the United Nations (and also in other countries).

III.2.2 Peace and security

The maintenance of international peace and security and the promotion and protection of human rights have for many years been bound up together in all kinds of areas. In the 1960s, the Security Council described the internal situation in Rhodesia under the white minority regime as a threat to international peace and security. In the 1970s, the Security

47 See the outcome of the interagency meeting in Stamford, Connecticut, United States, 3-5 May 2003.

48 These include the UNDP, UNICEF, the UN High Commissioner for Refugees and the World Food Programme (WFP).

Council decided that the internal situation in South Africa might constitute a threat to international peace and security and that the apartheid system therefore had to be abolished. In later years, the Security Council decided that the oppression of the Kurds in Iraq and the situation in Somalia constituted threats to international peace and security. In its resolution on the Kurds, the Security Council condemned the oppression of Iraq's civilian population, including the Kurds, 'the consequences of which constitute a threat to international peace and security'. In 1992, the heads of state and government of the states that were then members of the Security Council adopted a statement in which they confirmed the existence of a connection between human rights and international peace and security.

That same year, in a report entitled 'An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-keeping', the then Secretary-General, Boutros Boutros-Ghali, argued that the promotion and protection of human rights were an essential element of UN peacekeeping operations:

> *'Increasingly, peace-keeping requires that civilian political officers, human rights monitors, electoral officials, refugee and humanitarian aid specialists and police play as central a role as the military.'*[49]

Since then, it appears that human rights have – with more or less success – become part of peacekeeping and peacebuilding activities in numerous conflict situations. Initially, monitoring and other activities in support of human rights were established solely for the purpose of gathering information to enable the United Nations to make political decisions, as in the case of El Salvador, Guatemala and Haiti. Later, once the first UN High Commissioner for Human Rights had taken office and established a certain amount of authority, the OHCHR in Geneva also became deeply involved in such activities, among other things by establishing field offices. Broadly speaking, the human rights component in conflict situations can cover the past (truth and reconciliation, investigation and prosecution and restoration of victims' rights), the *present* (monitoring, identifying violations, reports and corrections) and the *future* (building institutions, the prison system, national human rights organisations and human rights education).[50]

The AIV recommends the government to lend active support to strengthening the capacity of the OHCHR to develop the human rights component of UN peace-keeping operations in an effective and dynamic manner. The AIV would refer here to the recommendation of the High Level Panel, chaired by Lakhdar Brahimi, which carried out a thorough assessment of UN peace and security operations:

> *'… the Panel recommends substantially enhancing the field mission planning and preparation capacity of the Office of the United Nations High Commissioner for Human Rights, with funding partly from the regular budget and partly from peace operations mission budgets'.*[51]

49 Report of the Secretary-General, UN Doc. A/47/277 - S/24111, 17 June 1992, para. 52.

50 See the following publications of the Justice and Society Program of the Aspen Institute: 'Honoring Human Rights Keeping the Peace', 1995; 'Honoring Human Rights from Peace to Justice', 1998; and 'Honoring Human Rights under International Mandates', 2003.

51 UN Doc. A/55/305 - S/2000/8098, para. 245.

The Security Council recently adopted a resolution condemning the recruitment and use of child soldiers by parties to armed conflicts.[52] The resolution requests the Secretary-General to devise an action plan for a systematic monitoring and reporting mechanism with respect to the use of child soldiers. It also calls on organisations like the European Union to mainstream the protection of children affected by armed conflict into their advocacy, policy and programmes. The preamble to the resolution refers to the second Optional Protocol to the Convention on the Rights of the Child. This Protocol, which entered into force on 12 February 2002 and has already been ratified by 71 states, sets a minimum age of eighteen for military recruitment. The AIV regrets that the Netherlands has not yet acceded to this Protocol and calls on the government to take the necessary steps to this end.

The fight against terrorism is an important aspect of the protection of the national security of states.[53] The AIV acknowledges the tension between the promotion of human rights in general and the promotion of the national security of states, especially in the context of the fight against terrorism. If this fight leads to violations of human rights, whether temporary or otherwise, such practices should at all times be subject to judicial review at national or international level, with due regard for internationally recognised human rights and, in particular, the rule that, even in times of armed conflict, states may not derogate from certain non-derogable rights.[54]

III.2.3 International economic and financial relations

This section examines the mainstreaming of human rights in the field of international economic and financial relations.

In this part of the report, the AIV expressly does not intend to assess the 'human rights level' of the entire field of international economic and financial relations as this would merit a separate report. Instead, it examines a number of organisations that could – and should – play a role in international economic and financial relations in order to achieve the objectives of the United Nations. These organisations include the World Trade Organisation (WTO), the World Bank and the International Monetary Fund (IMF). At the end of this section, the AIV offers some observations on the role of multinational corporations. In this context, the AIV refers to the International Labour Organisation (ILO) only in passing, as it has already devoted ample attention to this organisation's activities in previous reports.[55]

52 Security Council resolution 1539, adopted on 22 April 2004.

53 See OHCHR and the Center for International Organization at Columbia University, 'Human Rights, the United Nations and the Struggle against Terrorism', New York, International Peace Academy, 2003. In September 2003, during its chairmanship of the OSCE, the Dutch government organised a similar conference in The Hague. See Tammo Hoeksema and Jan ter Laak, 'Human Rights and Terrorism: A Reflection of the Seminar's Speeches and Debates, Supplemented with Concise Summaries', The Hague, Netherlands Helsinki Committee, December 2003.

54 See, *inter alia*, Article 4 of the International Covenant on Civil and Political Rights. Non-derogable rights include the right to life, freedom from torture and other cruel treatment and freedom from slavery. See also AIV, 'Universality of Human Rights and Cultural Diversity', advisory report no. 4, The Hague, June 1998, pp. 15-19 and Annexe 2.

55 See, *inter alia*, AIV, 'A Human Rights Based Approach to Development Cooperation', advisory report no. 30, The Hague, March 2003.

The WTO and human rights

At the time of the WTO's establishment in 1994, it was made absolutely clear that no conditions relating to human rights would be imposed states wishing to join the organisation. In fact, the term 'human rights', or any equivalent thereof, does not even appear in the Marrakesh Agreement establishing the WTO (April 1994). This is in keeping with the practice that has developed over the past ten years. Many of the WTO's current 147 members do not exactly have a spotless human rights record.[56]

In spite of the above, the WTO does boast a number of objectives that are very relevant to human rights.[57] The Agreement establishing the WTO clearly incorporates the social dimension of global free trade, which is closely connected to economic and social human rights. In practice, however, the WTO often makes do in this area with the assumption that global free trade is good for human rights. Whether this assumption is correct and whether the proceeds of globalisation are also visible at micro level are matters of spirited debate among economists and development experts.[58]

The AIV focuses on the extent to which the WTO, despite not being a specialised UN organisation, should care about UN human rights standards as a whole. In this context, it notes that, during the first years of the WTO's existence, a heated and controversial debate took place in and around the organisation on whether there should be room on the global free market for products made by forced or child labour or in countries and by companies which prohibit trade unions. Since 1996, when it was agreed that it has no specific responsibilities in this regard, the WTO has nevertheless been meant to cooperate closely with the ILO.[59] No substantial progress has since been achieved in this area.

On the other hand, the World Commission on the Social Dimension of Globalisation, established at the initiative of the Director-General of the ILO, recently published a report on the social dimension of globalisation in which it argues strongly in favour of close cooperation and the coordination of social policy issues within the UN system, the international financial institutions (IFIs) and the WTO.[60]

In view of the situation that has developed and the experiences of the past ten years with respect to the 'social clause', the AIV does not believe that the government should continue to make a case for a direct link between global free trade and respect for human rights via the WTO. The fact is that this debate has become too politicised to be brought

56 For example: Colombia, China, the Democratic Republic of the Congo, Cuba, Sierra Leone and Chad.

57 See, for example, the first and second paragraphs of the preamble of the Agreement establishing the WTO.

58 See, for example, Joseph E. Stiglitz, *Globalization and Its Discontents*, W.W. Norton & Company, New York/London, 2002, and various UNDP reports, including 'Human Development Report 1999' and 'Human Development Report 2003', as well as 'Globalization with a Human Face', 1999, and 'Globalization and Human Development', 2001.

59 'Singapore Ministerial Declaration', *WTO Focus*, January 1997, p. 7. On the 1996 agreements, see further W.J.M. van Genugten, 'WTO, ILO en EG: handelen in vrijheid' ['WTO, ILO and EC: trading in freedom'], Tjeenk Willink, Deventer, 1997.

60 See '*A Fair Globalisation: Creating Opportunities for All*', Report of the World Commission on the Social Dimension of Globalisation, ILO, Geneva, 24/2004.

to a successful conclusion. On the other hand, the AIV welcomes the fact that the European Union, among others, is extending additional trade advantages in the framework of the General System of Preferences to developing countries that comply with minimum conditions of employment. In addition to this, the AIV favours the pursuit of two other options, which are outlined below.

In the AIV's opinion, in order to reveal and clarify the link between trade and human rights, it would be a good idea for the government to bring a case – preferably within the EU framework – member states are profiting from the systematic violations of human rights. Examples of this include a situation in which a country sells products on the world market that have been produced cheaply under conditions of forced or child labour or countries that systematically ignore trade union rights. Within the dynamics of the WTO, a decision by a WTO panel or the Appellate Body to the effect that such practices violate WTO law and internationally recognised human rights would provide welcome support to those that consider it unacceptable for profits to be derived indirectly from human rights violations. If the political route ('social clause') is blocked, it might thus still be possible to advance the issue along the judicial route. To improve the chances of success, moreover, the AIV also recommends the Dutch government to significantly improve the access of socioeconomic interest groups and NGOs to the work of the WTO, or simply to facilitate such access in the first place.[61] This would also contribute to the further development of mainstreaming.

The World Bank and the IMF

In common with the WTO, international financial institutions like the World Bank and the IMF do not originally have a mandate in the field of human rights. For a long time, moreover, they were not all that willing to systematically consider or invest in linkages between the two areas.

Both organisations have devoted attention to this issue, as evident from World Bank's emphasis on 'social safety nets' and the IMF's discussion of 'the distributional aspects of its policies with a view to the protection of the well-being of vulnerable groups',[62] but the human rights content of their activities essentially remains minimal.[63] However, this situation does appear to be slowly changing. Thus, for example, both organisations – each in its own way – have now elevated the issue of poverty reduction to the status of a policy goal, which is generally regarded as a significant contribution to realising a range of human rights for the poorest members of society.

On this latter point, is it even conceivable that organisations like the World Bank and the IMF, which are both members of the UN system in their capacity as highly specialised

61 See Peter L.H. Van den Bossche, 'Hoe kan het beter? Preventie van Handelsoorlogen en geschillenbeslechting door de Wereldhandelsorganisatie' ['How to improve matters? Prevention of trade wars and dispute settlement by the World Trade Organisation'], lecture at the University of Maastricht, 27 September 2002 (available on CD-ROM).

62 See, *inter alia*, Special Rapporteur on Economic, Social and Cultural Rights, D. Türk, UN Doc. E/CN.4/Sub.2/1992/16, p. 14; and see also J. Oloka-Onyango and Deepika Udagama in UN Doc. E/CN.4/Sub.2/1999/11, pp. 11-15.

63 Insofar as they do incorporate attention for human rights into their activities, they still make little or no use of the expertise of other organisations, such as the UNDP and the OHCHR.

organisations, would *not* feel bound by internationally recognised human rights in the implementation of their activities? Opinions are divided on this issue. UN Secretary-General Kofi Annan has on more than one occasion stated his belief that these organisations are bound by human rights.[64] Others believe, conversely, that the special character of the World Bank and the IMF should be taken into consideration and that these organisations should not be burdened with human rights obligations. However, the consequence of 'honouring the Charter' is that the World Bank – and the same applies *mutatis mutandis* to the IMF – is thus placed above every obligation it might incur as a result of its membership of the UN system.[65]

The AIV follows the Secretary-General's approach: many human rights norms constitute peremptory law from which these two (and other) financial institutions cannot derogate. These organisations are therefore bound to act in accordance with the law and principles of the United Nations. Apart from this, the two organisations are the 'property' of states, which morally and legally cannot afford to violate internationally recognised human rights. For the Netherlands, this means, for example, that the Dutch government instructs its officials within these institutions to declare that human rights norms apply in full. Against this background, the AIV recommends that both organisations should strive towards greater mainstreaming of human rights into their daily activities.[66]

Multinational corporations and human rights

Within the United Nations, the realisation that its objectives in the field of human rights cannot be achieved by states and their international organisations alone is increasingly gaining ground. NGOs are essential for this purpose, but so are multinational corporations. This is apparent from numerous recent UN documents and initiatives, including the UN Secretary-General's 'Global Compact'. On 31 January 1999, Secretary-General Kofi Annan called on the World Economic Forum to cooperate with UN institutions and socioeconomic interest groups in order to mainstream human rights into the activities of the corporate sector. For this purpose, the Secretary-General formulated a number of principles based on various instruments, including the Universal Declaration of Human Rights and the ILO's Declaration on Fundamental Principles and Rights at Work. From a human rights perspective, including the specific rights of workers, the key issue is that businesses should:

- support and respect the protection of internationally proclaimed human rights;
- make sure that they are not complicit in human rights abuses;
- uphold the freedom of association and the effective recognition of the right to collective bargaining;

64 See 'Report of the Secretary-General on the Work of the Organization', United Nations, New York, 1998, p. 23.

65 UN Doc. E/CN.4/Sub.2/1999/11, p. 14. See also B. de Gaay Fortman, *'Poverty as a Human Rights Deficit: Some Implications for the International Financial Institutions'*, in Willem van Genugten, Paul Hunt and Susan Mathews, eds., *World Bank, IMF and Human Right*s, Wolf Legal Publishers, Nijmegen, 2003, pp. 205-225.

66 The 'Guiding Principles on World Bank, IMF and Human Rights' can serve as a good starting point in this regard. These guiding principles are largely inspired by the 'Tilburg Guiding Principles on *World Bank, IMF and Human Rights'*, in Willem van Genugten, Paul Hunt and Susan Mathews, eds., World Bank, IMF and Human Rights, Wolf Legal Publishers, Nijmegen, 2003, pp. 247-255. See also MacAllistair I. Darrow, 'Between Light and Shadow: The World Bank, the International Monetary Fund and International Human Rights Law', Hart Publishers, Oxford/Portland (Oregon), 2003.

- uphold the elimination of all forms of forced and compulsory labour;
- uphold the effective abolition of child labour; and
- uphold the elimination of discrimination in respect of employment and occupation.

Other principles relate to the protection of workers' rights and the protection of the environment.

This call by the Secretary-General dovetails with developments that started during the 1960s and 1970s. The international codes of conduct that were adopted at that time are often described as voluntary, as they are not legally binding and cannot be invoked in judicial proceedings, and because there are no sanctions for non-compliance.[67] The question is whether this is actually true. Thus, for example, the OECD code of conduct actually does have implementation mechanisms. Although there are complaints – especially within trade union circles – regarding the procedure (e.g. that it is slow and that the decisions are sometimes unsatisfactory),[68] the AIV is of the opinion that it lends itself to more intensive use and may thus contribute in a modest way to tightening up norms governing business practices.

As to whether the Guidelines are binding, the OECD itself notes that they are voluntary and consequently not legally enforceable. According to the organisation, however, this does not imply less commitment on its part to compliance.[69] A similar situation applies in relation to the ILO's Tripartite Declaration. Employers' and employees' organisations were closely involved in its adoption. In this sense, the documents concerned can be regarded as instruments of self-regulation. In addition, they have contributed to the development during recent decades whereby more and more companies around the world have laid down in internal codes of conduct that they consider themselves bound by human rights. Companies are thus bound, by means of obligations that they have voluntarily taken upon themselves, to observe internationally recognised human rights. In addition, however, they are obliged to observe these rights due to the peremptory character of many human rights norms, in combination with the doctrine of horizontal effect. Thus, for example, companies are obliged to observe norms in the areas of trade union freedom, forced labour and child labour, as well as in the area of freedom of religion. Examples of the latter include the obligation to take the feast days of certain religions into account and to allow employees to pray at fixed times. However, the fact that companies are bound by such norms does not mean that they can actually be called to account in the framework of existing international procedures. For the time being, monitoring compliance will have to rely primarily on national legal procedures.

67 See, *inter alia*, the OECD's 'Guidelines for Multinational Enterprises' of 1976 (revised and supplemented on numerous occasions over the years) and the ILO's 'Tripartite Declaration of Principles', Official Bulletin, Geneva, ILO, 1978, Vol. LXI, Series A, no. 1, para. 8.

68 For example, the case concerning the information and consultation policy of C&A Brenninkmeyer, which was broght before the Dutch National Contact Point (NCP) by the Dutch Trade Union Confederation (FNV) in 1980 and resulted six year later in a decision by the Committee on International Investment and Multinational Enterprises (CIME) that the OECD code of conduct did not apply to C&A because the company was 'neither national nor multinational'.

69 For an overview of the various procedures and monitoring mechanisms, see: <http://www.oecd.org/dataoecd//56/36/1922428.pdf>

The AIV has previously noted that, in its opinion, the issue of multinational cooperations and human rights merits a separate advisory report. The fact that the CHR has now decided that the OHCHR should submit a study on this issue to the 2005 session of the CHR lends support to the AIV's position.

III.3 Conclusion

Any evaluation of the mainstreaming process should take account of the fact that it is a relatively new phenomenon. The main issue at present is to identify ways to give it a powerful boost. The process of mainstreaming human rights is not primarily an issue for the UN human rights bodies, like the CHR and the OHCHR. Rather, it is an issue for other UN organs, like the Security Council, the UNDP, the UN Secretariat's political and peacekeeping departments and the specialised organisations. That is where the awareness that human rights are relevant to most of their activities and programmes must gain a foothold. This will be extremely difficult and will require a great deal of effort from all concerned, including governments, international organisations, NGOs and multinationals. The government must support the Secretary-General's aims. However, the AIV realises that it is not realistic to expect swift or easy successes in this area. It will be a long-drawn-out process. The CHR and the OHCHR have an important initiatory and participatory role to play and deserve the full political and financial backing of the Netherlands. If truth be told, the AIV realises that the mainstreaming of human rights carries the risk that these rights will drown in the larger sea of UN activities. In addition to supporting the mainstreaming process, the advantages of which it fully recognises, the AIV therefore advocates that the traditional human rights watchdogs should also remain independently on the alert.

IV Conclusions and recommendations

In this advisory report, the AIV starts from the assumption that respect for human rights is a matter of international concern and that discussing the human rights situation in all countries at international level, particularly at UN level, is a matter of vital importance. In order to achieve this, the UN monitoring mechanisms should be maintained and strengthened. The present report makes a number of recommendations in this regard. In addition, the process of mainstreaming human rights in all UN activities, which has been initiated by the UN Secretary-General, should be actively supported and expanded. Human rights should be the leaven in all UN activities. All sectors of the United Nations are relevant to human rights. In this context, it speaks for itself that UN activities in the field of human rights are not an end in themselves, but a means to realise both the civil and political rights and the economic, social and cultural rights of all. The results that have so far been achieved in this area should be applied more explicitly in all areas of the UN system, and the OHCHR can play an important role in this regard.

The conclusions and recommendations contained in this report are as follows:

Country resolutions

- It is very important that the CHR will also be able to examine and express its opinion in the future concerning human rights violations, wherever they may occur. Country resolutions and chairperson's statements are important in this context and should therefore be maintained, although they should be deployed with appropriate care and restraint and stripped as much as possible of politicisation. In addition, country resolutions and chairperson's statements should be deployed in close coordination with other instruments developed by the CHR, such as thematic rapporteurs.
- The AIV has serious doubts concerning the desirability of switching to a cyclical system of decision-making in relation to country resolutions, as is customary in the Commission on Sustainable Development (CSD), in the context of the CHR. The main concern is the risk that this might reduce the pressure on the countries concerned and create the impression that serious human rights violations have not taken place there during the years in which they are not discussed.
- The AIV does not support the suggestion (which also appears in the request for advice) to table country resolutions in the Third Committee of the UN General Assembly. This would only shift the battlefield and increase the number of participants in the debate. The CHR is traditionally the main UN body dealing with human rights issues. The AIV believes that it should remain so, and therefore favours investment and changes in the CHR's functioning.
- The transfer of country resolutions from item 9 (country resolutions) to item 19 (technical assistance) of the CHR's agenda only makes sense if accompanied by a stepping up of CHR monitoring of the human rights situation in the country concerned. In such cases, the government of the country concerned must have a genuine political will to improve the human rights situation. In addition, the OHCHR should be allowed to provide active assistance.
- The final texts of the chairperson's statements may be hard to find, but despite their shortcomings they remain one of the instruments in the CHR's 'toolbox' that will continue to be valuable in the future. If they were published separately every year in the CHR's annual report, these statements would start to carry more weight.
- The proposals for a single report on the human rights situation in all countries fall into two categories. The first takes the form of a compilation of reports and recommenda-

tions by special rapporteurs, working groups and treaty bodies. A technical compilation of this kind could be assembled by the OHCHR. Reports in the second category could also include information from NGOs. Both types of report should be discussed periodically in the CHR, after which it could formulate recommendations. The AIV is aware that this approach also has its limitations, as it would allocate to the CHR a task that independent experts are better equipped to perform. In addition, this method fails with respect to countries that have not ratified the main human rights conventions and do not cooperate with fact-finding missions by special rapporteurs. For such states, at any rate, the option of adopting country resolutions should remain open.

- The AIV recommends examining how concerns expressed in the CHR can be taken into consideration in the formulation of Dutch and European development cooperation policy. A country's human rights situation should be a matter of continuous interest, and this should result in additional activity in that area or in the restriction or suspension of cooperation if there are insufficient prospects for improvement, depending on the specific situation.

The '1503 procedure'

- It should therefore be subjected to a critical examination, for example on the basis of a study by the UN Secretary-General, especially with respect to the absence of feedback to the complainants.

Bloc formation

- EU cooperation in the CHR needs to be improved. Much would be gained if the European Union could reach agreement at an early stage on the texts and statements it intends to submit. At the very least, the EU decision-making process should be made more transparent through the publication of policy intentions and criteria.
- The European Union runs the risk of acting in a way that is too cautious or too balanced. The Netherlands, which has a reputation to maintain in the field of human rights, can make an important contribution to improving the functioning of the EU consultations. The AIV urges the government to continuously consider when and at what level initiatives may be developed, so that its involvement remains visible. At the very least, the EU decision-making process should be made more transparent through the publication of policy intentions and criteria. When exploring the possibilities for developing independent initiatives, finally, the Netherlands should also consider the merits of the rules relating to decision-making by unanimity.

Expanding membership

- The AIV does not advocate increasing the number of members of the CHR in order to reduce the problem of selectiveness in the discussion of human rights violations. The CHR does not function optimally mainly because it lacks time and political will. The key to improved functioning therefore lies in making rational choices during elections. Much can be gained by electing countries that can play a positive role in the field of human rights. The US initiative to make democracies around the world more enthusiastic about joining the CHR therefore merits support. ECOSOC could adopt a resolution to the effect that countries that have been assigned a special rapporteur at some point during the past five years will not qualify for membership of the CHR for a certain period. An attempt could also be made to establish a rotation system within the regional groups. As a result, all countries would know that they will become members at some point. It would also ensure that countries that in some cases have already been members for decades would be forced to give up their seats.

Thematic and country rapporteurs

- The AIV concludes that thematic and country rapporteurs should be able to publicise the human rights violations and issues they have identified more widely. Reporting and communication should be improved and better funded.
- The AIV believes that the possibility of rationalising the number of special thematic rapporteurs should be examined by periodically checking whether there are obvious overlaps in certain areas.
- The CHR should not be allowed to appoint special rapporteurs, to ensure that the selection of these independent experts is not determined primarily by political factors. On the other hand, the selection of thematic rapporteurs in even closer cooperation with the UN High Commissioner for Human Rights is worth considering. This would strengthen the latter's position and might also strengthen cooperation between the OHCHR and the rapporteurs.

Treaty bodies

- Certain treaty bodies have too little time to do their work properly. A number of them now have an increasing backlog with regard to the processing of country reports. The AIV considers it important that, in such cases, the treaty bodies are given the opportunity, financially and otherwise, to meet more frequently. The AIV advises the Dutch government to support the proposals by the CRC and CEDAW to meet not twice, but three times per year. The CRC's proposal to meet in two parallel chambers to discuss country reports also deserves support.
- It is regrettable that CEDAW meets exclusively in New York, where its support staff is located. It is advisable that CEDAW meet alternately in Geneva and New York, as an initial step, in emulation of the committee that monitors compliance with the ICCPR. The next step should then involve its relocation to Geneva. The support staff should become part of the OHCHR in Geneva while maintaining the quality of the services provided.
- There is sometimes cooperation between the above-mentioned rapporteurs and the treaty bodies, but at other times there is no cooperation at all. The AIV recommends that the government lend its support to providing the UN High Commissioner for Human Rights with the facilities he or she needs to ensure that these activities will be coordinated more effectively in the future.
- The AIV repeats its earlier recommendation that the government should support normative activities in the form of an optional protocol to the ICESCR and recommends striving towards strengthening cooperation that transcends groups.

Non-governmental organisations

- The number of GONGOs (government-organised NGOs) is increasing. This is a worrying development, and the AIV urges the Dutch government to continuously raise this issue in the relevant forums, including the NGO Committee in New York. In the AIV's opinion, the relevant ECOSOC criteria are sufficiently clear and easy to employ in order to exclude GONGOs. It is ultimately the member states that have to make the choices, and they should therefore be called to account on a continuous basis regarding the faithful application of these criteria.
- Opportunities for the productive exchange of recent and relevant information between governments and NGOs are not fully exploited. This should be avoided wherever possible. The AIV therefore recommends that the Dutch government continue pushing, both independently and within the EU framework, for the greatest possible transparency towards NGOs.

The Office of the UN High Commissioner for Human Rights

- The OHCHR still receives too little funding and therefore has a permanent shortage of sufficiently qualified personnel. The AIV regrets that the most important UN mechanism for the promotion of human rights receives such inadequate funding and that there is no prospect of improvement in the short or medium term. Strengthening the position of the OHCHR should be – and remain – one of the key goals of Dutch human rights policy.

With regard to mainstreaming the AIV has reached the following conclusions:

- The AIV will continue using the term 'mainstreaming' (which is also used in the request for advice). The AIV starts from the premise that, in theory, mainstreaming is something that is good and worth pursuing.
- The concept of mainstreaming human rights has been much discussed in recent years, but it remains a difficult concept to put into practice.
- Within the United Nations, two levels of mainstreaming can be distinguished: (a) within the UN system and (b) in the countries where UN activities take place. In light of the general tenor of the request for advice, this report focuses mainly on level (a).

Mainstreaming in the field of development cooperation

- The AIV's advisory report on a human rights based approach to development cooperation, which examined the issue at hand at length, is still relevant. The present report therefore focuses primarily on developments since the publication of the previous report in 2003. For the record, the AIV refers once more to its recommendations concerning the mainstreaming of human rights into Dutch policy.
- The UN High Commissioner for Human Rights has an important role to play in this area. The OHCHR must keep a clear record of all the human rights approaches of (by) the UN organisations and closely monitor how they operate in practice. If problems arise, the OHCHR must intervene at the earliest possible opportunity. For this reason, among others, it is important for it to keep in close touch with all the operational organisations in the field.

Mainstreaming in the field of peace and security

- The government should lend active support to strengthening the capacity of the OHCHR, both in Geneva and in New York, in order to develop the human rights component of UN peace operations in an effective and dynamic manner.
- The AIV regrets that the Netherlands has not yet acceded to the (second) Optional Protocol to the Convention on the Rights of the Child and calls on the government to take the necessary steps to this end.
- The AIV acknowledges the tension between the promotion of human rights in general and the promotion of the national security of states, especially in the context of the fight against terrorism. However, if this fight leads to violations of human rights, whether temporary or otherwise, such practices should at all times be subject to judicial review at national or international level, with due regard for internationally recognised human rights and, in particular, the rule that states may not derogate from certain rights, even in times of armed conflict.

Mainstreaming in the field of international economic and financial relations

- With regard to the WTO, the AIV focused on whether the organisation should care about UN human rights standards as a whole. The AIV answers this question in the affirmative.
- In the AIV's opinion, it would be a good idea for the government to bring a case – preferably within the EU framework – before the WTO's supervisory bodies concerning

a situation in which one or more WTO member states are profiting from the systematic violation of human rights. A decision by a WTO panel could determine whether such practices violate WTO law and internationally recognised human rights. The AIV recommends the government to significantly improve the access of socioeconomic interest groups and NGOs to the work of the WTO, or simply to facilitate such access in the first place.

- The AIV follows the approach of the Secretary-General, who is of the opinion that many human rights norms constitute peremptory law from which the World Bank, the IMF and other financial institutions cannot derogate.
- In the AIV's opinion, the World Bank and the IMF should strive to mainstream human rights further into their activities. The 'Guiding Principles on World Bank, IMF and Human Rights' can serve as a good starting point in this regard.
- The AIV is of the opinion that the issue of multinational corporations and human rights merits a separate advisory report.

In general, the AIV notes that any evaluation of the mainstreaming process should take account of the fact that it is a relatively new phenomenon. Human rights are integral to the promotion of peace and security, economic prosperity and social equity. The main issue at present is to identify ways to give this process a powerful boost. The process of mainstreaming human rights is an issue not only for the UN human rights bodies, like the CHR and the OHCHR, but also – in particular – for other UN organs, like the Security Council, the UNDP, the UN Secretariat's political and peacekeeping departments and the specialised organisations. That is where the awareness that human rights are relevant to many of their activities and programmes must gain a foothold. This will be extremely difficult and will require a great deal of effort from all concerned. The government must support the Secretary-General's aim to mainstream human rights into all UN activities. The AIV realises that it is not realistic to expect swift or easy success in this area, as it is a long-drawn-out process. The CHR and the OHCHR have an important initiatory and participatory role to play and deserve the full political and financial backing of the Netherlands.

Annexes

Mr F. Korthals Altes
Chairman of the Advisory Council on
International Affairs
Postbus 20061
2500 EB Den Haag

The Hague, 22 August 2003

Dear Mr Korthals Altes,

Over the past ten years, there have been major changes within the UN in the field of human rights. At the 1993 World Conference on Human Rights in Vienna, for instance, a High Commissioner for Human Rights was appointed and the universality of human rights affirmed. Moreover, the notion of the indivisibility of all human rights - economic, social and cultural rights as well as civil and political rights - has continued to evolve, a great many more countries have ratified human rights conventions and the mainstreaming of human rights in the UN system as a whole is being actively pursued. The Netherlands has done much to further these developments, and it broadly endorses the proposals to strengthen the system of human rights made by the UN Secretary-General in his report of September 2002 'Strengthening of the United Nations: an agenda for further change'.

These relate to:

- The integration of human rights throughout the UN system, with emphasis on strengthening UN human rights-related actions at country level. This is an excellent step towards using UN instruments as a whole to promote and protect the rights of citizens in individual countries.
- Streamlining the procedures for reporting on compliance with human rights conventions. However, combining the mandatory reports to the six human rights treaty bodies in a single report seems less desirable. At a seminar on treaty body reform organised by the Liechtenstein government and the High Commissioner's Office (4-7 May 2003) most countries opposed this idea on the grounds that a single report might hamper rather than facilitate reporting. It might be worth considering reports focusing more on specific themes.

- The re-examination of special procedures (rapporteurs, independent experts, working groups) set up by the Commission on Human Rights with a view to increasing their effectiveness. The High Commissioner has already introduced a few improvements in this respect, amongst others in the field of clerical and policy support for rapporteurs.
- The strengthening of management at the Office of the High Commissioner for Human Rights. Here, too, much has been achieved, and progress is still being made.

The Commission on Human Rights continues to play a key role in all these developments. However, the Secretary-General noted in his report that the Commission's credibility was in danger of being eroded. The Netherlands, together with the other EU partners, shares his concern about the way in which this body functions. In recent years there has been an increasingly polarised atmosphere, and some member states have even resorted to destructive tactics designed to undermine the Commission's effectiveness. Use of the country resolution instrument under agenda item 9 (widely perceived as 'naming and shaming') is meeting with increasing resistance from some regional blocs. The European Union, which takes most country initiatives, thus threatens to become isolated. Within the EU, some countries have come to question the effectiveness of country resolutions.

The Advisory Council previously issued an advisory report on the functioning of the Commission in September 1999. We should now like you to consider, in particular, the following questions.

I. How could the Netherlands promote the observance of human rights more effectively and in a more integrated way, using the UN system as a whole (including the Security Council, General Assembly, functional committees, funds, programmes and perhaps specialist agencies)?
II. What role can the Commission play in the process of mainstreaming? How can the Commission, which has done much to set standards, be deployed now, in the 21st century, to ensure that they are actually applied?

In this respect, the Advisory Council might consider the following questions more specifically:

- Is it desirable to distinguish clearly between Commission initiatives and those of the Third Committee of the UN General Assembly? For instance, is it worth considering tabling country resolutions in the Third Committee (which is less polarised), leaving the Commission to occupy itself more with matters of implementation, technical co-operation etc?
- How, and in what fields, could the Netherlands promote closer co-operation and a better division of labour between the Commission's special procedures and treaty bodies, taking account of existing budgetary restrictions?
- How could better monitoring and follow-up of treaty body recommendations be promoted and what role could the Commission and the Third Committee play in this respect?

- How could the Commission's system of special procedures be improved? The High Commissioner can help determine the level and quality of support for these procedures, but it is the Commission that determines mandates. How could mandates be streamlined in the interests of greater effectiveness without playing into the hands of 'malicious' countries?
- Last year the Committee for Sustainable Development introduced a working programme with two-year cycles, with a 'review' year (in which a number of themes are investigated) alternating with a 'policy' year (in which resolutions are adopted to tackle problems that have been identified). Could this be a useful working method for the Commission?

We look forward to receiving your advisory report.
Yours sincerely,

(signed)

Jaap de Hoop Scheffer
Minister of Foreign Affairs

(signed)

Agnes van Ardenne-Van der Hoeven
Minister for Development Cooperation

List of persons consulted in Geneva

1. Permanent Mission of the Kingdom of the Netherlands to the United Nations

- Mr I.M. de Jong
  Ambassador
- Mr H. Würzner
  Counsellor
- Mr E. Faber
  First Secretary
- Ms P. de Bie
  Intern

2. Others

- Ms M.H. Abdel Latif
  Counsellor, Permanent Mission of Egypt to the United Nations
- Mr L.A. De Alba
  Ambassador, Permanent Mission of Mexico to the United Nations
- Ms N. Al-Hajjaji
  Ambassador, Permanent Mission of Libya to the United Nations
- Ms A.H. Ajamay
  Minister Counsellor, Permanent Mission of Norway to the United Nations
- Mr J. Cedergren
  Chief, Activities and Programme Branch, OHCHR
- Mr J. Danies
  First Secretary, Permanent Mission of the United States to the United Nations
- Mr M.S. Dembri
  Ambassador, Permanent Mission of Algeria to the United Nations
- Ms J. Dempster
  First Secretary, Permanent Mission of New Zealand to the United Nations
- Ms L. Freih
  Geneva Director, Human Rights Watch
- Ms N. Gabr
  Ambassador, Permanent Mission of Egypt to the United Nations
- Mr A.I. Gamaleldin
  Director, Human Rights & International Humanitarian & Social Affairs, Egyptian Ministry of Foreign Affairs
- Mr M.M.S. Hamaima
  Minister Plenipotentiary, Permanent Mission of Libya to the United Nations

- Mr I. Hussain
  Ambassador, Permanent Mission of Pakistan to the United Nations
- Ms F. Ize-Charrin
  OHCHR
- Ms D. Kent
  First Secretary, Permanent Mission of Canada to the United Nations
- Mr T. Kriekoukis
  Ambassador, Permanent Mission of Greece to the United Nations
- Mr A.A. Mojtahid-Shabestari
  Ambassador, Permanent Mission of Iran to the United Nations
- Mr H.S. Puri
  Ambassador, Permanent Mission of India to the United Nations
- Mr B.M. Rahman
  Head, Global Issues Research Group and Research Analysts, Foreign & Commonwealth Office
- Mr B. Ramcharan
  Acting UN High Commissioner for Human Rights
- Mr Chris Sidoti
  Director, International Service for Human Rights
- Mr P. Splinter
  International Secretariat of Amnesty International, Representative to the United Nations
- Mr F.N. Tirmizi
  Second Secretary, Permanent Mission of Pakistan to the United Nations
- Mr M. Thomson
  APT
- Ms Mary Whelan
  Ambassador, Permanent Mission of Ireland to the United Nations

Overview of human rights conventions, contracting parties and overdue reports

Conventions	3 June 2004		21 October 1996		June 1988	
	Contracting parties	Overdue reports[1]	Contracting parties	Overdue reports	Contracting parties	Overdue reports
International Covenant on Economic, Social and Cultural Rights	149	232	135	124	91	169
International Covenant on Civil and Political Rights	152	46	135	126	87	54
International Convention on the Elimination of All Forms of Racial Discrimination	169	366	148	415	124	170
Convention on the Elimination of All Forms of Discrimination against Women	177	217[2]	154	197	94	57
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	136	161	99	82	37	n.a.
Convention on the Rights of the Child	192	134[3]	187	73	n.a.	n.a.
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	27					
Total	**1002**	**1156**	**858**	**1017**	**433**	**450**

Optional Protocols	Contracting Parties		
	2004[4]	1996	1988
First Optional Protocol to the International Covenant on Civil and Political Rights	104	89	43
Second Optional Protocol to the International Covenant on Civil and Political Rights	50	29	n.a.
International Convention on the Elimination of All Forms of Racial Discrimination	42	23	14
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	53	37	25
First Optional Protocol to the Convention on the Rights of the Child	67[5]	n.a.	n.a.
Second Optional Protocol to the Convention on the Rights of the Child	69[6]	n.a.	n.a.

1 As of 31 December 2003.
2 As of 1 August-2004.
3 As of 2 April 2004.
4 As of 3 June 2004.
5 As of 31 December 2003.
6 As of 31 December 2003.

Overview of decisions adopted on country issues during the 60th session of the CHR

Agenda items		*Submitted by*
Item 3 (Organisation of work)		
Resolution	Grave situation in the Palestinian occupied territories	OIC
Statement	Human rights situation in Colombia	Chairperson CHR
Decision	Human rights situation in Sudan	African Group
Item 5 (Self-determination)		
Resolution	Situation in Occupied Palestine	Saudi Arabia
Resolution	Question of the Western Sahara	Chairperson CHR
Item 8 (Occupied territories)		
Resolution	Human rights violations in the Arab occupied territories	OIC
Resolution	Human rights in the occupied Syrian Golan Heights	Saudi Arabia
Resolution	Israeli settlements in the Arab occupied territories	EU
Item 9 (Human rights violations)		
Resolution	Human rights situation of Lebanese prisoners in Israel	Postponed
Resolution	Human rights situation in Cuba	Honduras
Resolution	Human rights situation in Turkmenistan	EU
Resolution	Human rights situation in the Democratic People's Republic of Korea	EU
Resolution	Human rights situation in Belarus	US
Resolution	Human rights situation in Chechnya	EU (defeated)
Resolution	Human rights situation in Zimbabwe	EU (no action)
Resolution	Human rights situation in Myanmar	EU
Resolution	Human rights situation in China	US (no action)
Statement	Human rights situation on Cyprus	Chairperson CHR
Item 19 (Technical cooperation and advisory services)		
Resolution	Technical cooperation and advisory services in Cambodia	Japan
Resolution	Assistance to Somalia	Italy
Resolution	Human rights situation in Burundi	African Group
Resolution	Assistance to Sierra Leone	African Group
Resolution	Technical cooperation and advisory services in Liberia	African Group
Resolution	Technical cooperation and advisory services in the Democratic Republic of the Congo	African Group
Resolution	Technical cooperation and advisory services in Chad	African Group
Statement	Human rights situation in Nepal	Chairperson CHR
Statement	Technical cooperation with Afghanistan	Chairperson CHR
Statement	Technical cooperation and advisory services in East Timor	Chairperson CHR
Statement	Human rights situation in Haiti	Chairperson CHR

Special Rapporteurs (S.R.) 23[1]		
African Group (7)	**Asian Group (4)**	**Eastern European Group (1)**
S.R. on trafficking in persons, especially in women and children	S.R. on adequate housing as a component of the right to an adequate standard of living	Rapporteur on the situation of human rights in Belarus
S.R. on the situation of human rights in the Palestinian territories since 1967	S.R. on freedom of religion or belief	
S.R. on the contemporary forms of racism, racial discrimination, xenophobia and related intolerance	S.R. on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination	
S.R. on the promotion and protection of the right to freedom of opinion and expression	S.R. on the situation of human rights in Korea	
S.R. on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights		
S.R. on the situation of human rights in Burundi		
S.R. on the situation of human rights in the Democratic Republic of Congo		

Independent Experts (I.E.) 10		
African Group	**Asian Group**	**Eastern European Group**
Independent Expert (I.E.) on technical cooperation and advisory services in Liberia	I.E. appointed by the Secretary-General on the situation of human rights in Somalia	
I.E. on the situation of human rights in Sudan	I.E. on the question of human rights and extreme poverty	
I.E. on the situation of human rights in Afghanistan		
I.E. on the effects of structural adjustment policies and foreign debt		

Representatives of the Secretary-General (SG) 4		
African Group	**Asian Group**	**Eastern European Group**
Special Representative of the SG on children in armed conflict	Special Representative of the SG on the situation of human rights defenders	

1 As per 1 July 2004. There are also three working groups: (1) Working Group on Enforced or Involuntary Disappearances; (2) Working Group on Arbitrary Detention; and (3) Working Group of Experts on People of African Descent. These working groups each consist of five members from the above-mentioned five groups.

Special Rapporteurs (S.R.) 23[1]

Group of Western European and Other States (5)	Latin American and Caribbean Group (6)
S.R. on torture and other cruel, inhuman or degrading treatment or punishment	S.R. on the right to education
S.R. on the right to food	S.R. on the sale of children, child prostitution and child pornography
S.R. on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health	S.R. on the situation of human rights in Myanmar
S.R. on extrajudicial, summary or arbitrary executions	S.R. on the human rights of migrants
S.R. on violence against women, its causes and consequences	S.R. on the situation of human rights and fundamental freedoms of indigenous people
	S.R. on the independence of judges an lawyers

Independent Experts (I.E.) 10

Group of Western European and Other States	Latin American and Caribbean Group
I.E. appointed by the Secretary-General on the situation of human rights in Haiti	I.E. on the situation of human rights in Chad
I.E. on the protection of human rights and fundamental freedoms while countering terrorism	I.E. on violence against children

Representatives of the Secretary-General (SG) 4

Group of Western European and Other States	Latin American and Caribbean Group
Special Representative of the SG for human rights in Cambodia	
Personal Representative of the High Commissioner for Human Rights on the situation of human rights in Cuba	

List of abbreviations

ACM	Advisory Committee on Human Rights and Foreign Policy
AIV	Advisory Council on International Affairs
BMO	Human Rights NGO Platform
CAT	Committee against Torture
CAVV	Advisory Committee on Issues of Public International Law
CEDAW	Committee on the Elimination of Discrimination against Women
CERD	Committee on the Elimination of Racial Discrimination
CHR	Commission on Human Rights
CMR	Human Rights Committee of the AIV
CMW	Committee on Migrant Workers
COS	Development Cooperation Committee of the AIV
CRC	Committee on the Rights of the Child
CSD	Commission for Sustainable Development
CSW	Commission on the Status of Women
CVV	Peace and Security Committee of the AIV
DMV/MR	Ministry of Foreign Affairs' Human Rights and Peacebuilding Department/Human Rights Division
ECOSOC	Economic and Social Council of the United Nations
EU	European Union
GONGO	Government-organised NGO
HURIST	Human Rights Institutional Strengthening programme
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IE	Independent expert
IFI	International Financial Institution
ILO	International Labour Organisation
IMF	International Monetary Fund
NGO	Non-governmental organisation
OECD	Organisation for Economic Cooperation and Development
OHCHR	Office of the UN High Commissioner for Human Rights
OIC	Organisation of the Islamic Conference
UN	United Nations
UNDP	United Nations Development Programme
UNESCO	United Nations Education, Scientific and Cultural Organisation
UNGA	United Nations General Assembly
UNICEF	United Nations International Children's Emergency Fund
WFP	World Food Programme
WHO	World Health Organisation
WTO	World Trade Organisation

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*** Joint report by the Advisory Council on International Affairs (AIV) and the Advisory Committee on Aliens Affairs (ACVZ).