

Compilation of Submissions

MEMBER STATES

Belgium

Canada

Denmark

France

Islamic Republic of Iran

Portugal

Sweden

Syria

United Kingdom of Great Britain and Northern Ireland

United States of America

GROUPS OF STATES

African Group (from Egypt)

European Union (from Czech Republic)

Organization of Islamic Conference (from the Islamic Republic of Pakistan)

JOINT CONTRIBUTION

Argentina, Brazil, Chile, Iceland, Japan, Mexico, Republic of Korea, Switzerland and Uruguay (Submitted by Argentina)

**CONTRIBUTION DE LA BELGIQUE AU COMITE AD HOC SUR
L'ELABORATION DE NORMES COMPLEMENTAIRES DANS LE DOMAINE DU
RACISME, DE LA DISCRIMINATION RACIALE, LA XENOPHOBIE ET
L'INTOLERANCE QUI Y EST ASSOCIEE**

La Belgique a l'honneur de faire de sa contribution sur la question de l'élaboration de normes complémentaires dans le domaine du racisme, de la discrimination raciale, la xénophobie et l'intolérance qui y est associée suite à la feuille de route adoptée par le Comité Ad.Hoc en décembre 2008.

En ce qui concerne le processus :

- La Belgique est d'avis que le processus doit être transparent, équitable et consensuel.
- Plusieurs contributions ont déjà nourri le processus de réflexion sur l'élaboration de normes complémentaires dans le domaine du racisme, de la discrimination raciale, la xénophobie et l'intolérance qui y est associée. Les rapports du CERD et des 5 experts sur la question des normes complémentaires doit constituer la base des travaux du Comité Ad Hoc.
- Pour que le processus soit transparent et efficace, tous les acteurs pertinents doivent être impliqués. La Belgique est d'avis que les membres du CERD, des autres organes de traités, les Procédures spéciales pertinentes ainsi que la société civile doivent être étroitement associées aux travaux.
- Toute norme complémentaire devra répondre à un besoin clairement identifié via un processus rationnel et global. Elle devra également renforcer le système international des droits de l'homme et en respecter les principes et non l'affaiblir ou le remettre en question.
- La Belgique tient également à souligner qu'il importe d'aborder ce processus dans un esprit ouvert, avec pour objectif l'élaboration éventuelle de l'outil le plus efficace pour résoudre les problèmes et manquements qui seront éventuellement identifiés. Si le Comité Ad Hoc décide par consensus de commencer l'élaboration de normes complémentaires, celles-ci ne doivent pas nécessairement être contraignantes. L'élaboration de bonnes pratiques, de lignes directrices ou encore des observations générales des organes de traités doivent également être envisagées. L'option d'une Convention ou d'un Protocole optionnel n'est certes pas la seule option à envisager. De plus, la forme d'éventuelles normes complémentaires ne peut être fixée avant même d'avoir décidé sur quel sujet elles devraient porter.

En ce qui concerne la substance :

- Comme souligné par plusieurs experts, la priorité doit être la mise en œuvre des normes complémentaires existantes. Selon les 5 experts et le CERD, c'est en effet le manque de mise en œuvre des normes existantes qui représente le défi majeur à relever. Tant que le Comité Ad Hoc n'aura pas procédé à une analyse approfondie de l'état de ratification et de mise en œuvre des normes existantes, notamment le CERD, le PIDCP et le PIDESC, et des raisons de ce manque de mise en œuvre, il ne sera pas en mesure de proposer rationnellement des domaines dans lesquels des normes complémentaires seraient nécessaires. La Belgique propose donc que le Comité Ad Hoc demande un rapport complet sur ces questions. Ce rapport devra

notamment contenir des données précises sur l'état de ratification des principaux instruments de droits de l'homme pays par pays.

- Les 5 experts ont conclu de manière convaincante qu'il n'y avait aucune raison de restreindre la protection contre les formes multiples de discrimination aux sources explicitement mentionnées dans la Déclaration et le Programme d'Action de Durban. Cette liste est en effet ouverte. La Belgique est donc d'avis que les formes multiples de discrimination impliquant aussi par exemple l'orientation sexuelle ou l'identité de genre devraient être examinées. Les directives de l'UE sur le sujet pourraient utilement alimenter les travaux du Comité Ad Hoc.

- Les experts ont également relevé que le travail principal s'opère sur le plan national. C'est donc sur ce plan qu'il faut concentrer nos efforts. Le Comité Ad Hoc devrait donc examiner comment encourager les Etats à mettre sur pied un mécanisme national chargé de prévenir et de lutter contre les discriminations. C'est en effet une des recommandations de la Conférence de Durban et du CERD qui n'est toujours pas mise en œuvre dans un bon nombre de pays.

- Le Comité Ad Hoc devrait également examiner avec attention la proposition des 5 experts d'encourager les organes des traits à envisager l'élaboration d'observations générales sur les obligations des Etats en matière de législation générale anti-discrimination.

- La Belgique tient également à préciser qu'elle appuie l'analyse des 5 experts précisant qu'il n'y a aucun besoin de normes complémentaires dans le domaine de l'intolérance religieuse ou de l'incitation à la haine religieuse. Les normes existantes couvrent ces questions de manière suffisante, y compris en ce qui concerne l'interaction entre intolérance religieuse et racisme. La Belgique voudrait rappeler qu'elle ne peut accepter la notion de diffamation des religions et que comme agréé lors de la Conférence d'Examen de Durban, cette notion doit être remplacée par la formulation « incitation à la haine religieuse ».

Submission by Canada to the Ad Hoc Committee on the Elaboration of Complementary Standards

Pursuant to Article 2(a) of the Roadmap concluded at the Committee's first session on 19 December, 2008, Canada submits the following contribution in the form of action points. We provide the below proposals on the understanding that the solicited contributions include both points of substance and points of procedure in order to facilitate the future work of the Ad Hoc Committee:

1. **A sufficiently firm foundation of international norms and standards are currently in place to address racism, racial discrimination, xenophobia and related intolerance.**

While considerable challenges exist to effectively addressing, combating and eradicating racism and racial discrimination, a lack of legally binding norms is not an obstacle to achieving progress. The existing framework of international norms and standards, which includes the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Elimination of All Forms of Discrimination against Women, provide a firm foundation to address current obstacles to effectively combat racism.

2. **Lack of implementation of existing norms and standards is a leading impediment to the fight against racism and needs to form part of the work of the Ad Hoc Committee.**

The primary obstacle to achieving results in the fight against racism, racial discrimination, xenophobia and related intolerance is a lack of implementation of existing legal norms and standards, including the obligations of States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural rights and the Convention on the Elimination of All Forms of Discrimination against Women. The Ad Hoc Committee should consider the need to encourage and strengthen implementation of existing norms and standards as a central part of any dialogue relating to its work.

3. **The phenomenon of multiple forms of discrimination and the relationship between racism and religion would benefit from further consideration.**

While the creation of additional legally binding instruments is not required to address current challenges, there would be value in further discourse in key areas. These include further study related to multiple forms of discrimination, including the elaboration of grounds of multiple discrimination and a methodology for countering this phenomenon. Furthermore, further dialogue relating to the relationship between racism and religion and the sharing of best practices relating to fostering cultural

understanding, including the role of human rights education in its development would be beneficial.

4. **Focus should be placed on achieving practical and workable solutions which best address any identified gaps.**

Should agreement be reached as to the identification of gaps, the scope, form and nature of the response could vary according to the unique characteristics of the gap to be filled. Any measures identified would need to foster practical and workable solutions to addressing racism and add value to the promotion and protection of human rights in general.

5. **Responses to any identified gaps must not duplicate, confuse or weaken existing norms and standards.**

It is essential that any response identified to address any gaps avoid duplicating existing international standards, as well as avoid generating doubts and confusion as to state obligations. No response should be elaborated which in any way weakens or detracts from existing international legal standards, including those contained in the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of All Forms of Discrimination against Women.

6. **The work of the Ad Hoc Committee should proceed on a consensual basis.**

The Ad Hoc Committee should continue to conduct its work in a comprehensive and transparent manner, with a view to achieving agreement by consensus on identifying any gaps and appropriate responses.

29.5.2009

Submission by Denmark to the Ad Hoc Committee on the Elaboration of Complementary Standards

In December 2008 the Ad Hoc Committee on the elaboration of Complementary Standards concluded and adopted by consensus a roadmap for the preparation of possible complementary international standards in the field of racism, racial discrimination, xenophobia and related intolerance. As was reiterated at the session in December 2008 member state contributions in the form of action oriented bullet points include both points of procedure and substance to be taken into account in the future work of the Ad Hoc Committee.

Procedure:

- Any future work of the Ad Hoc Committee shall be holistic and carried out in a fair, transparent and all-inclusive manner.
- All future work and decisions of the Ad Hoc Committee must take place by way of consensus. Consensus must be the prerequisite for any outcome of the Ad Hoc Committee.
- Possible complementary international standards shall be based on empirical evidence and documentation which demonstrates a clear need for new international standards. Furthermore, such complementary international standards must have a clear added value to the promotion and protection of human rights and not duplicate other international instruments.
- The scope, form and nature of possible complementary international standards could vary according to the gap to be filled. All forms of complementary standards must be taken into account, including but not limited to best practices, guidelines, a protocol or a convention.
- The identified measures should be able to create practical and workable solutions to address racism and related intolerance.
- The work of the Ad Hoc Committee must take its outset in the reports and studies of the CERD and the Group of Experts previously requested by the Human Rights Council. These two base documents should be at the core of the future work of the Ad Hoc Committee.

- The future work of the Ad Hoc Committee shall, where relevant, take into account the participation of all relevant stakeholders, hereunder with members of CERD, members of other treaty bodies, Special Procedures, agencies and representatives of non-governmental organizations.

Substance:

- Efficient implementation of existing international anti-discrimination norms and standards should be a priority.
- Complementary standards which in any way undermine or infringe upon freedom of religion or belief, freedom of expression in all aspects concerned, or other fundamental human rights as enshrined in international human rights instruments are unacceptable.
- Existing international normative and legal frameworks in relation to religious intolerance and incitement to religious hatred is considered adequate to satisfy any concerns related to these issues.
- The discrepancy between existing obligations and their effective implementation and follow up remains the greatest obstacle to effectively combat the scourge of racism, racial discrimination, xenophobia and related intolerance.
- The greatest challenge is and remains the lack of effective implementation of member states' obligations with regard to standards and norms.
- Non-compliance of States parties to especially the ICERD and ICCPR with their reporting obligations is a major impediment to the work of CERD and the Human Rights Committee respectively and the effective implementation of the conventions.
- The Ad Hoc Committee should utilize its resources on encouraging and ensuring that member states implement their international obligations. This could take place via the identification of good practices or via the elaboration of a compilation of recommendations. The emphasis on implementation shall be the foundation of the work of the Ad Hoc Committee.
- The Ad Hoc Committee should urgently look into and address the phenomenon of multiple forms of discrimination, including sexual orientation and gender identity.
- It could be considered to establish guidelines with regard to the establishment and designation of national mechanisms with the aim to prevent and protect against discrimination on the grounds of race, colour, religion, descent, national or ethnic origin as well as the promotion of equality at the domestic level.

- It could equally be considered to look into the need to establish the promotion of non-discrimination, tolerance and equality of rights irrespective of race, ethnicity, and other related grounds through human rights education. The elaboration of possible complementary standards should take into account the work and content of the draft declaration on human rights education currently elaborated by the Advisory Committee of the Human Rights Council.

MISSION PERMANENTE DE LA FRANCE

AUPRÈS DE L'OFFICE DES NATIONS UNIES
A GENÈVE

36, ROUTE DE PREGNY
1202 CHAMBÉS Y

VB/cd
N° 636

La Mission Permanente de la France auprès des Nations Unies et des Organisations Internationales à Genève présente ses compliments au Haut Commissariat aux droits de l'Homme et a l'honneur de lui faire parvenir ci-joint la contribution de la France relative à l'élaboration de normes internationales destinées à renforcer et actualiser la législation internationale contre le racisme, la discrimination raciale, la xénophobie et l'intolérance qui y est associée selon les termes du paragraphe 199 du programme d'action de Durban et conformément à la feuille de route adoptée par le Comité *ad hoc* à la fin de la reprise de sa première session (décembre 2008).

La Mission Permanente de la France auprès des Nations Unies et des Organisations Internationales à Genève saisit cette occasion pour renouveler au Haut Commissariat aux droits de l'Homme les assurances de sa très haute considération.



Genève, le 29 mai 2009

Haut Commissariat aux droits de l'Homme
Palais des Nations
1211 GENEVE 10

OHCHR REGISTRY

- 9 JUIN 2009

Recipients :ADK.....

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MISSION PERMANENTE DE LA FRANCE

AUPRÈS DE L'OFFICE DES NATIONS UNIES
A GENÈVE

38, ROUTE DE PREGNY
1292, CHAMBÉSAY

La France a l'honneur de proposer sa contribution relative à l'élaboration de normes internationales destinées à renforcer et actualiser la législation internationale contre le racisme, la discrimination raciale, la xénophobie et l'intolérance qui y est associée selon les termes du paragraphe 199 du programme d'action de Durban et conformément à la feuille de route adoptée par le Comité *ad hoc* à la fin de la reprise de sa première session (décembre 2008).

1° - Le Comité *ad hoc* doit mener sa tâche dans le cadre d'un processus impartial, rationnel, consensuel et transparent. L'adoption, par lui ou le Conseil des droits de l'Homme, de décision controversée ou la prise d'initiative unilatérale sur ce sujet ne pourra que mettre en péril ce processus.

2° - Le Comité *ad hoc* doit poursuivre ses travaux pour instruire la question de savoir s'il est réellement nécessaire d'élaborer de normes complémentaires.

3° - A cet effet, le Comité *ad hoc* doit travailler à l'élaboration d'un rapport qui déterminera le statut de ratification, le respect des obligations relatives à la remise des rapports périodiques l'étendue de la mise en œuvre les principales normes internationales existantes relatives aux droits de l'Homme ainsi que la façon dont sont suivies les recommandations des organes conventionnels.

4° - En se fondant sur le constat du degré de mise en œuvre des normes internationales existantes, le Comité *ad hoc* doit évaluer de manière consensuelle l'existence d'un réel besoin de normes complémentaires destinées à combler les lacunes d'application de ces normes.

5° - En l'occurrence, le Comité *ad hoc* pourra envisager les meilleurs moyens pour inciter à la mise en œuvre de ces normes, par exemple la création de mécanismes nationaux chargés de prévenir et protéger contre toutes les formes de discrimination ou le développement de modèle de législation globale dans ce domaine. Le Comité *ad hoc* devra garder à l'esprit que les normes complémentaires qu'il pourrait envisager d'élaborer ne doivent pas forcément revêtir un caractère contraignant.

6° - De plus, en se fondant sur le constat du degré de mise en œuvre des normes internationales existantes, le Comité *ad hoc* pourra identifier de manière consensuelle les sujets qui ne seraient pas couverts par la bonne mise en œuvre de ces normes.

7° - Afin de procéder à cette identification et de mener à bien sa réflexion, le Comité *ad hoc* doit prolonger ses discussions sur les constatations, conclusions et recommandations des rapports du CERD (A/HRC/4/WG.3/7) et des 5 experts (A/HRC/4/WG.3/6). A cet égard, il est nécessaire que le Comité *ad hoc* approfondisse la question des formes multiples de discrimination./.

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*Mission Permanente
de la République Islamique d'Iran
auprès des Nations Unies
et des autres Organisations Internationales à Genève*

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Attention to:
Mr. Chris Mburu

330-11/4736

The Permanent Mission of the Islamic Republic of Iran to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the latter's Note Verbal No. 0484 dated 15 May 2009 concerning the letter by H. E. Mr. Idriss Jazairy, Chairperson of the Ad hoc Committee on complementary standards on the road map adopted in 19 December 2008, has the honor to enclosed, herewith, a copy of the contribution received from the Ministry of Foreign Affairs of the Islamic Republic of Iran on the subject matter, to be submitted to the Chairperson of the Ad hoc Committee for due consideration.

The Permanent Mission of the Islamic Republic of Iran avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration. *A.A.*

Geneva, 29 May 2009



Office of the High Commissioner for Human Rights
Anti-Discrimination Unit
Palais des Nation
CH 1211 Geneva 10
Switzerland
Fax: 022.928.91.01

Cc:

H. E. Mr. Idriss Jazairy
Ambassador, Permanent Representative of People-s Democratic Republic of Algeria
to the United Nations and Chairperson of the Ad hoc Committee on complementary
standards
Fax: 022.774.30.49

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In the name of God
The Compassionate the Merciful

Ad hoc Committee on the elaboration of complementary standards

Introduction

Over the years the growing intolerance and discrimination against Muslims and insult against Islam have become pervasive and often condoned in certain countries and communities.

The growing trend of defamation of religions is arising from the following factors: the conflation of race, culture and religion, concept of clash of civilizations and religions, all these provides fertile soil for the defamation of religions. And also on the fight against terrorism, based on defense of national identity and security, it is reduced to religious dimension.

Unfortunately, insults and intolerance against Islam are being provided intellectual justification by Western scholars and political lobbies who espouse anti-Islamic agendas, hence lending support to ideological violence against Muslims. Sophisticated slogans are used to provoke systematic insults against Islam. This phenomenon reflects the Islamophobia which afflicts segments of western society.

Lack of action to prevent the reprinting of blasphemous caricatures, and indifference in airing the inflammatory documentary against the holy Quran will be perceived as manifestation of insincerity towards the principles and objectives of various efforts within the United Nations

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system aiming at promoting understanding and respect among cultures and civilizations.

Legal Aspects

Such acts against Muslims and Islam are inconsistent with the spirit of the UN Charter which seeks to promote peaceful co-existence amongst nations. They are in violation of numerous United Nations resolutions, including General Assembly resolution 62/154 on combating defamation of religions, General Assembly resolution 55/23 on Dialogue Among Civilizations as well as the security Council resolution 1624(2005) which calls upon all Member states, inter alia, to continue international efforts to enhance dialogue and broaden understanding among civilizations, in an effort to prevent the discriminate targeting of different religions and cultures. Such acts also erode the positive momentum generated by the launch of the Alliance of Civilizations and General Assembly's High Level Dialogue on Interfaith Cooperation for Peace, which, inter alia, aim to overcome misunderstandings between Islam and the West.

The elimination of discrimination and the protection against Intolerance is in part a matter of legal protection. Article 2 of the Universal Declaration of Human Rights (UNDR) States that: Everyone is Entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, Language, religion, political or other opinion, national or social origin, property, birth , or other status. Also, article 1 of the UDHR states that "All human beings are born free and equal in dignity and rights. Article 26 of the International Covenant on civil and Political rights (ICCPR) and the International Covenant on Economic Social and Cultural Rights oblige states to ensure all persons equality before the law and equal protection of the law.

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Crucially, according to article 20, paragraph.2 of the ICCPR, " any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law." This provision represents a clear limitation to the right to free speech which according to article 19 of the ICCPR carries with it special duties and responsibilities.

The committee on civil and Political Rights in its General comment 11 provided that these required prohibitions are fully compatible with the right to freedom of expression as contained in Article 19, the exercise of which carries with it special duties and responsibilities. This is clear indication that human rights instruments recognize provisions against incitement to religious hatred as being a completely legitimate safeguard against the abuse of the right to free speech.

Further in 2001 the UN Conference against racism held in Durban came to the conclusion that, at the outset of the third millennium a global fight against racism, racial discrimination, xenophobia, and related intolerance, all their abhorrent and evolving forms and manifestations is a matter of priority for international community. Moreover it was recalled that the dissemination of all ideas based upon racial superiority or hatred shall be declared an offence punishable by law. With regard to the Internet, deep concern was expressed about the use of information technologies for purposes contrary to respect for human values, nondiscrimination, respect for others and tolerance, including to propagate racism, racial hatred, xenophobia, racial discrimination and related intolerance. In this regard, the Durban Declaration made reference to article 4(b) of the International Convention on the Elimination of All Forms of

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Racial Discrimination, which it states places an obligation upon states to be vigilant and to proceed against organizations that disseminate ideas based on racial superiority or hatred, acts of violence or incitement to such acts":

The Durban Plan of Action urged States to take necessary legislative, judicial, regulatory, administrative and other measures to prevent and protect against racism, racial discrimination, xenophobia and related intolerance. It specifically urged states to take all necessary constitutional, legislative and administrative measures to foster equality among individuals who are victims of racism, racial discrimination, xenophobia and related intolerance, and to review existing measures with a view to amending or repealing national legislation and administrative provisions that may give rise to such forms of discrimination. And also urged them including their law enforcement agencies, to design and fully implement effective policies and programmes to prevent, detect and ensure accountability for misconduct by police officers and other law enforcement personnel which is motivated by racism, racial discrimination.

The 6th session of the HRC in Geneva in September 2007 was marked by Mr. Doudou Diene's report the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/6/6) which stated that "the increasing trend in defamation of religions cannot be dissociated from the ominous trends of racism, racial discrimination, xenophobia and related intolerance which in turn fuel and promote racial and religious hatred." He mentioned that "in the current context Islamophobia constitutes the most serious form of religious defamation and that Muslim minorities in the West have been in the eye

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of storm since the 9/11 attacks. He further stated that "political parties with open anti-Islamic platforms have joined governmental coalitions in several countries and started to put in place their political agendas". He referred to the cartoons of Prophet Muhammad (PBUH) as evidence on the rising Islamophobia in the West and as evidence that the basic principle of coexistence of different cultures and different religions, which is the lasting basis for peace, is threatened now. His report stated: "freedom of expression cannot be used as a pretext or excuse for incitement to racial or religious hatred."

Recently Durban review Conference came to a final document that deplores the global rise and number of incidents of racial or religious intolerance and violence, including Islamophobia, anti-Semitism, Christianophobia and anti-Arabism manifested in particular by the derogatory stereotyping and stigmatization of persons based on their religion or belief; and in this regard urges all the UN Member States to implement paragraph 150 of the DDPA;

And further more it reaffirms the positive role that the exercise of the right to freedom of opinion and expression, as well as the full respect for the freedom to seek, receive and impart information can play in combating racism, racial discrimination, xenophobia and related intolerance, in line with relevant provisions of international human rights law, instruments, norms and standards,

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Programme of Action

In sum, the right to freedom of expression should be exercised with the responsibilities and limitations as prescribed by law. The international community should initiate a global dialogue to promote a culture of tolerance and peace based on respect for human rights and cultural diversity and urges states, NGOs, religious bodies and media to support and promote such a dialogue. Developing the human rights language to address emerging issues such as defamation of religions was an important step forward that is of interest not only to Muslims but to all the international community.

Islamic Republic of Iran urges the Ad hoc Committee on the elaboration of complementary standards to call upon the States to stop the publication of blasphemous caricatures, films and media as well as the campaigns for anti-Islamic regulations to take all possible legal and administrative measures to prevent continuation of these deliberate offensive acts, which impinge greatly on the right to freedom of thought, conscience and religion of the followers of Islam.

The government of the Islamic Republic of Iran requests the Ad hoc Committee on the elaboration of complementary standards to express opposition to all acts of islamophobia, and to declare that no government should be complicit in undermining the ongoing efforts to promote harmony and friendly relations amongst the various cultures, religions and civilizations.

We suggest for preparatory measures by the committee in order to reach a consensus within the UN member states or a draft for negotiating process based on international criteria and principles especially ICCPR relevant articles in order to end this inhuman process.

Government of Portugal

Reply to the letter from the Chairperson-Rapporteur of the ad hoc Committee on the Elaboration of Complementary Standards

The Government of Portugal hereby presents its contribution for the elaboration of complementary standards, pursuant to article a) of the roadmap agreed upon by Member States at the end of the ad hoc Committee's first session on 19 December, 2008.

We consider that the work of the ad hoc Committee should be based on the reports of CERD and of the 5 Independent Experts on the issue of complementary standards, and it should take into consideration the participation of all relevant stakeholders (members of CERD and treaty bodies, special procedures and representatives of NGOs)

We believe that our priority should be the efficient implementation of existing international anti-discrimination norms and standards, rather than the drafting of complementary standards, as the 5 Independent Experts and CERDR have already identified the lack of their implementation as the main challenge to overcome.

We believe that the ad hoc Committee should ask for a comprehensive report on the ratification of ICEDR, ICCPR and ICESCR with a view to identifying the reasons for their non ratification. We also consider that it would be important for the ad hoc Committee to have clear figures on the reporting status of state parties to these instruments.

We believe that the implementation of ICERD should be made more efficient and in line with new forms of racism or related intolerance. However, if there is a common feeling that there is in fact a need for complementary standards, we believe that these should be identified through a rational, comprehensive, fair, consensual and transparent process.

We do not see a need for an optional protocol to the Convention. We believe that possible complementary standards would not need to be binding, as there is a whole range of instruments at our disposal, such as guidelines, general comments of treaty bodies, etc, that could perform effectively the same function.

We believe that the issues of racism on the internet and multiple forms of discrimination, including on the ground of sexual orientation, deserve further analysis. There are several useful examples within the framework of the European Community and the Council of Europe that could be looked into at a later stage.

We also consider that there is room for improving and optimising the existing monitoring mechanisms of CERD, in particular with regards to: compliance with state reporting obligations, optimising the complaint mechanisms under art. 14 of ICERD, follow up to the Committee's recommendations, practices and effectiveness of follow up procedures.

We can support the 5 Experts proposal to encourage treaty bodies to consider adopting general comments to clarify state parties' obligations regarding a comprehensive anti-discrimination legislation.

We believe there is no need for additional norms regarding religious intolerance, incitement to religious hatred or defamation of religions, as we share the 5 Experts' opinion that religious intolerance combined with racial and xenophobic prejudices is already covered under international human rights instruments.



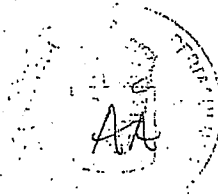
PERMANENT MISSION OF SWEDEN

Geneva

The Permanent Mission of Sweden to the United Nations and other International Organisations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to enclose the contribution of Sweden to the Ad Hoc Committee for the elaboration of complementary standards.

The Permanent Mission of Sweden to the United Nations and other International Organisations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 29 May 2009



H.E. Idriss Jazaïry
Chairperson of the Ad Hoc Committee on complementary standards
Office of the High Commissioner for Human Rights

GENEVA



PERMANENT MISSION OF SWEDEN

Geneva

The Permanent Mission of Sweden presents its compliments to the Ad Hoc Committee on the elaboration of complementary standards and with reference to the chairperson's note of 2 April 2009, has the honour to transmit its contribution for the elaboration of complementary standards in the field of racism, racial discrimination, xenophobia and related intolerance, in pursuance of Article 199 of the Durban Programme of Action and as agreed in the roadmap adopted by the Ad hoc Committee at its session in December 2008.

Sweden aligns itself with the contribution sent by the Czech Republic on behalf of the European Union

- Universal ratification and full implementation of the International Convention on the Elimination of Racial Discrimination (ICERD) and other relevant existing standards have been identified by the Committee on the Elimination of Racial Discrimination (CERD) and the Five Experts as fundamental for the fight against all forms of racism, racial discrimination, xenophobia and related intolerance. Sweden shares this view.

- To this end, Sweden would suggest that the Ad Hoc Committee requests a comprehensive report on state ratification to ICERD, ICCPR and ICESCR. Clear figures on reporting status would be helpful as well.

- Such statistical material would facilitate an in-depth analysis of existing obstacles to ratification, reporting and implementation of ICERD, ICCPR and ICESCR. Sweden recommends that the future work of the Ad Hoc Committee looks further at ways of overcoming such obstacles, based on the reports of the CERD and of the Five experts on the issue of complementary standards.

- Sweden believes that any process of elaborating complementary standards should be transparent, fair and consensual. It should take

into account participation of all relevant stakeholders, including the members of CERD and other treaty bodies, Special Procedures and representatives of non-governmental organisations.

- Complementary standards should only be elaborated in response to a specific need identified through a rational and comprehensive process. Complementary standards, if elaborated, need not necessarily be in the form of legally binding documents. Sweden is open to various forms of standards, like general comments of treaty bodies, guidelines or the sharing of best practices. In this regards we would be pleased to transmit information on our national experiences of implementing international anti-discrimination instruments later in the process, if requested.

- Sweden does not see any need for additional norms or standards regarding religious intolerance, incitement to religious hatred or defamation of religions. We firmly believe that existing international normative frameworks and legal provisions adequately addresses any concerns related to these issues.

- Sweden strongly supports the view expressed by the Five Experts, that there is no justification for restricting protection against multiple discrimination to the grounds that are explicitly mentioned in the DDPA. We see the list as open-ended and therefore consider that grounds such as sexual orientation and gender identity should be taken into account. Should any complementary standards be proposed in this regard, Sweden considers it imperative to include discrimination on the ground of gender, age, sexual orientation and religion or belief.

The Permanent Mission of Sweden avails itself of this opportunity to renew to the Chairperson of the Ad Hoc Committee on the elaboration of complementary standards the assurances of its highest consideration.

MISSION PERMANENTE
DE LA
RÉPUBLIQUE ARABE SYRIENNE
GENÈVE



الجمهورية العربية السورية
البعثة الدائمة لدى مكتب الأمم المتحدة
جنيف

N° 237/09

Geneva, 5th of May 2009

The Permanent Mission of the Syrian Arab Republic to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR) and with reference to its note N° 0327 dated 2 April 2009 and its attachment, letter of the Chairperson-Rapporteur of the Ad Hoc Committee on the Elaboration of Complementary Standards, has the honour to advise that there is a necessity for the allocation of a specific article, in the complementary standards, to the increasingly demonstrated causative link between foreign occupation and the emergence and prevalence of racist practices and discriminatory acts.

Furthermore, the Syrian Mission affirms that the content of such an article should be based on the language contained in paragraph 5 and paragraph 9 of the Durban Review Conference outcome document, and also in light of recommendations 97 and 98 of the study of the five experts on the content and scope of substantive gaps in the existing international instruments on racism, racial discrimination, xenophobia and related intolerance.

The Syrian Mission kindly requests that this note be transmitted to the Chairperson - Rapporteur of the Ad Hoc Committee so that he can proceed on the basis of the steps outlined in the road map, agreed upon by member states at the end of the Committee's First Session on 19 December 2008.

The Permanent Mission of the Syrian Arab Republic avails itself of this opportunity to renew to office of the High Commissioner for Human Rights (OHCHR) the assurances of its highest consideration.

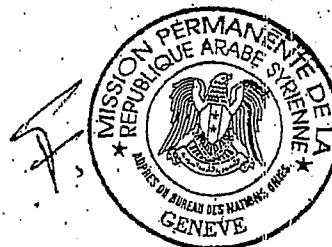
United Nations Office of the
High Commissioner for Human Rights
Palais Wilson
1202 GENEVA

OHCHR REGISTRY

7 MAY 2009

Assistants: ADCI

MENA



**NOTE VERBALE 059**

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to submit the following contribution for the elaboration of complementary standards, pursuant to article 2 (a) of the roadmap agreed upon by Member States at the end of the Ad Hoc Committee's first session on 19 December, 2008.

We welcome this consultation as a basis for the work of the second session of the Ad Hoc Committee scheduled for October 2009.

The UK is of the strong view that our priority should be to encourage full implementation of existing standards before turning our attention to the issue of new legal standards. In this vein, we note that the recently agreed Durban Review Outcome Document reaffirms the importance of the CERD and stresses that full implementation of the Convention is fundamental for the fight against racism. The UK believes that states' commitment to implement existing agreements is paramount. In any continuing process, we should focus on ensuring that states have capacity at the national level, for example by creating national human rights institutions to deal with racism and discrimination, and co-operate fully with the CERD and other relevant mechanisms. We believe that the Working Group on Complementary Standards could usefully look at best practice in these areas.

The study of the five experts (A/HRC/AC.1/1/CRP.4) suggests that more work is needed in the field of multiple forms of discrimination, which, in the view of the experts, constitutes a new class of discrimination. In paragraph 110 in particular, the experts provide suggestions for modalities for work on this area. The United Kingdom is of the view that the Ad Hoc Committee should focus its attention on investigating the gap in international law in this area. At a national level, the United Kingdom has recently outlawed discrimination on the grounds of sexual orientation and we would be happy to share our experience in this area at the Committee meeting in October.

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland avails itself of this opportunity to renew to the Human Rights Committee on Economic, Social and Cultural Rights through the Office of the United Nations High Commissioner for Human Rights, assurances of its highest consideration.

**UNITED KINGDOM MISSION
GENEVA**

28 May 2009



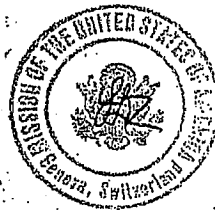
No. 018/2009

The Permanent Mission of the United States of America to the United Nations and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR) and has the honor to refer to the OHCHR's Notes Verbales of 2 April 2009 and 14 April 2009 regarding the request of the Chairperson-Rapporteur of the Ad Hoc Committee on the Elaboration of Complementary Standards for contributions from Member States for the Committee's consideration. The Government of the United States hereby presents its response to the Chairperson and kindly requests the assistance of the OHCHR in transmitting this response to the Chairperson of the Ad Hoc Committee.

The Permanent Mission of the United States of America takes this opportunity to renew to the OHCHR the assurances of its highest consideration.

Enclosure: Response of the United States of America.

The Permanent Mission of the
United States of America
Geneva, May 29, 2009.



DIPLOMATIC NOTE

**Ad Hoc Committee on the Elaboration of Complementary Standards
Request for Contributions**

Response of the United States of America

The United States appreciates the opportunity to respond to the request of the Chairperson-Rapporteur of the Ad Hoc Committee on the Elaboration of Complementary Standards for contributions of Member States, which should be exclusively in the form of action points, for consideration by the Ad Hoc Committee at its second session in October 2009.

The United States wishes to reiterate its commitment to fighting racism, racial discrimination, xenophobia and related intolerance and looks forward to working with other States in contributing to initiatives that promote tolerance and respect for diversity. The United States is home to individuals from diverse racial, religious and ethnic backgrounds. We are profoundly aware of the destructive consequences of racism and understand the concerns that have given rise to the work of this Committee.

The United States has learned from the experience in our own country how crucial robust free expression and a thriving marketplace of ideas are to the promotion of tolerance, religious freedom, greater understanding among individuals of different backgrounds, and ultimately to the defeat of racist and discriminatory ideas in societies. Similarly, the United States believes in the importance of engaging in proactive governmental outreach and policies to assure racial, ethnic, and religious groups are protected and respect for diversity is promoted. Such governmental outreach can take a variety of forms, including the holding of town hall meetings and conferences with affected groups to listen and learn of the challenges they face and develop ways for the government to better address their concerns. These actions, which are based upon a moral and social responsibility to combat advocacy to national, racial or religious hatred, rather than a legal obligation to punish hateful expression, are essential to simultaneously maintaining robust free expression and allowing the government to take an active role in the promotion of tolerance and respect.

In addition, the United States believes in the importance of having robust legal regimes in place to deal with acts of discrimination. Within the U.S. federal government, the Department of Justice's Civil Rights Division is the primary institution responsible for enforcing federal statutes that prohibit discrimination on the basis of race, national origin, and religion. The U.S. Department of Justice also enforces several criminal statutes that prohibit acts of violence and intimidation motivated by racial, ethnic, or religious hatred and that are directed against those participating in certain protected activities such as housing, employment, voting, and the use of public services. Prosecuting such bias crimes to the fullest extent of federal law is a priority of the United States.

The United States does not believe that amendments to the international human rights legal framework – or new interpretations of existing legal obligations – are warranted to fight the scourges of racism, racial discrimination, xenophobia and related intolerance. Rather than seeking additional restrictions to expression, the United States advocates for more robust governmental outreach policies with respect to racial, ethnic and religious groups as well as the institution of appropriate legal regimes that deal with discriminatory acts and hate crimes.

The United States views racism, racial discrimination, xenophobia, and related intolerance as serious challenges facing the international community and believes they must be dealt with by the Ad Hoc Committee in a methodical and deliberate manner. The United States submits that this process of self-examination and action by international community begin with greater opportunities to exchange views and address empirical data and practice on matters related to racial, ethnic, and religious diversity, discrimination, and intolerance so as to broaden our common understanding of these important issues and provide a solid foundation for a broad-based consensus for further actions and initiatives.

The United States therefore proposes the following action points to be conducted during a year of study for consideration by the Ad Hoc Committee on the Elaboration of Complementary Standards:

- ***Causes of Advocacy of Hatred:*** A study on the underlying causes of and social pressures contributing to the advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. The study would seek to elaborate, through a careful analysis of empirical data on the occurrence and nature of such advocacy, tailored, practical recommendations on how best to promote tolerance and diversity without restricting human rights and fundamental freedoms;
- ***Global Trends Related to Such Advocacy:*** Multi-stakeholder workshops and seminars that contribute to this study through, *inter alia*, an examination of current trends related to such advocacy, including state and societal reactions and the factors that help minimize violent societal reaction to such advocacy. Presentations would include the experiences of groups in various parts of the world facing racism, racial discrimination, xenophobia and related intolerance;
- ***Evolution of Legal and Policy Frameworks:*** An assessment of the evolution of domestic legal and policy frameworks dealing with these issues and how effective they have been in dealing with intolerance and discrimination. Such an assessment would also review any distinctions made within these frameworks between actions taken based upon a moral and social responsibility to combat advocacy to national, racial or religious hatred on the one hand and those based upon a legal obligation to prohibit such advocacy on the other, and analyze the relative results of each;
- ***Compiling Successful and Unsuccessful Approaches:*** A compilation of successful approaches and lessons learned on the ground: what has actually worked in promoting

greater tolerance and diversity? Have limitations on hate-filled speech helped to reduce acts of intolerance and promote religiously and racially diverse societies? Are limitations on hate-filled speech implemented in a non-discriminatory manner? What is the correlation in fact between domestic prohibitions on such advocacy and instances or patterns of discrimination and continued allegations of human rights violations?

The United States also strongly recommends the participation and inclusion of contributions of non-governmental organizations to the work of the Ad Hoc Committee in general, and to the above-mentioned studies in particular; such participation would greatly enhance and enrich continued efforts to fight racism, racial discrimination, xenophobia and related intolerance.

African Group
Action points for the "outcome" document on
complementary international standards

The "outcome" referred to in the agreed roadmap must conform with the format outlined in Human Rights Council decision 3/103 establishing the Ad Hoc Committee on the Elaboration of Complementary Standards.

I- General principles and provisions the "outcome" on complementary standards should include:

- Although laws alone are not sufficient to eradicate racism and racial discrimination, laws remain essential to such efforts.
- International standards on combating racism must provide for deterrence and be perceived, as far as possible, by actual and potential victims, as satisfactory.
- No attempt to legitimize racism and racial discrimination can be tolerated in a society ruled by law.
- The exercise of the right to freedom of expression, assembly and association may be restricted with a view to combating racism in accordance with international human rights law.
- The prohibition of racism and racial discrimination applies to all public authorities as well as natural and legal persons, both in the public and private spheres.
- There is a need for a uniform and consistent application of the law to ensure the effectiveness of international efforts to counter racism and racial discrimination.

II - Definitions:

- Introducing a definition of racism, in addition to that of racial discrimination contained in article 1 of ICERD, describing this phenomenon as "the belief that a ground such as race, color, language, religion, nationality or national or ethnic origin justifies contempt for a person or group of persons, or the notion of superiority of a person or group of persons".
- Definitions of "direct " and "indirect" racial discrimination should be elaborated in order to establish a more comprehensive approach towards combating racism and racial discrimination. Furthermore,

the concepts of "segregation" and "discrimination by association" may be considered.

- A definition of "xenophobia" should also be introduced using existing literature on this phenomenon. It should contain explicit reference to possible causal links such as minority, migrant and refugee status.
- A definition of "Islamophobia", "Anti-Semitism" and "Christianophobia" should be introduced. These scourges should also be criminalized in all their manifestations, and made punishable offences in accordance with international human rights law.
- A definition of racial and ethnic profiling should be elaborated, prioritizing human rights protection
- Provide for the prohibition of Cybercrime in international human rights law, where cybercrime is used to promote racial and religious hatred and intolerance.
- Hate crimes must also be defined in the "outcome" document on complementary standards so as to incorporate, inter alia, the recognition that both individuals, groups of individuals and property can be the target and victim of hate crimes; a mix and amalgam of the concepts of race, ethnicity, religion and national origin in order to cover the widest scope possible in addressing hate crimes; an emphasis on the link between hate crimes committed against individuals with specific characteristics and the risks and crimes encountered by the broader group to which the individual belongs to.

III - Substantive provisions:

- A- Strengthening monitoring procedures of the CERD and establishing national monitoring bodies.
- B- Modern information and communication technologies must be explicitly recognized as falling under the scope of the "outcome" document on complementary standards. Within this context, cybercrime should be made a punishable offence in international human rights law.

- C- Measures to combat terrorism must be consistent with the principles of non-discrimination and with efforts to confront racism. This must include, inter alia, the prohibition, by law, of racial and religious profiling as well as other grounds of discrimination stipulated in international human rights law.
- D- Measures to address the denial of genocide, as recognized by the United Nations, as an attempt to undermine the recognition of genocide as a crime under international law;
- E- Combating incitement to racial and religious hatred. Such acts include:
 - Public insults and defamation and threats against a person or group of persons on the grounds of their race, color, language, religion, nationality, or national or ethnic origin.
 - The public expression which has the purpose or effect of denigrating a group of persons on the basis of the above-mentioned grounds.
 - The public dissemination or distribution, or the production of written, audio or visual or other material containing manifestations of racism and racial discrimination in accordance with the ICERD and the present submission.
 - In addition, these acts must be criminalized in national laws, and the perpetrators thereof punished, as well as those instigating, aiding or abetting them.
- F- Impunity for acts of racism, racial discrimination, xenophobia and related intolerance must be prevented and combated.
- G- Reparation for victims of racial discrimination must include compensation for both material and moral damage.

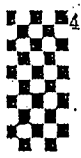
VI - Additional essential and practical provisions related to the obligations of States:

- A- Where required, taking decisions on Interim measures in the interest of victims of acts of racial discrimination.
- B- Regular review of laws, regulations, policies and administrative measures, with a view to ensure their consistency with efforts to combat racism, racial discrimination, xenophobia and related intolerance.

- C- Elaboration of provisions on Human Rights Education with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations, racial and ethnic groups.
- D- The provision of free legal aid and assistance to victims of racism, racial discrimination, xenophobia and related intolerance in accordance with the victim's needs and requirements.
- E- The compilation of disaggregated statistics, in a manner which respects human and privacy rights, with a view to assessing the overall situation, in particular at the socio-economic level, of racial, ethnic and national minorities.

V- Status of the Non-Paper on Complementary International Standards:

In addition to the elements/action points enumerated in the present submission, the "Non-Paper on Complementary International Standards" circulated by the Chairperson-Rapporteur of the Ad Hoc Committee prior to the commencement of the second part of its First Session in December 2008, remains a good and valid basis for discussion.



OHCHR REGISTRY

08 JUN 2009

Recipients : ADU

No. 822/2009

The Permanent Mission of the Czech Republic to the United Nations Office and other International Organisations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and has the honour to forward, attached to this note, the contribution of the European Union to the Ad Hoc Committee for the elaboration of complementary standards.

The Permanent Mission of the Czech Republic to the United Nations Office and other International Organisations in Geneva avails itself of this opportunity to renew to the United Nations High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 28 May 2009



Enclosure: 1 page

H. E. Idriss Jazairy
Chairperson of the Ad Hoc Committee on complementary standards
Office of the United Nations High Commissioner for Human Rights
Palais Wilson
Geneva

Ad hoc Committee on the Elaboration of Complementary Standards – contribution by the Czech Republic

In accordance with the Roadmap adopted by the Ad hoc Committee at its Session in December 2008, the Czech Republic would hereby like to propose the following action points on the elaboration of complementary standards in the field of racism, racial discrimination, xenophobia and related intolerance, in pursuance of Article 199 of the Durban Programme of Action:

- 1) Complementary standards need not necessarily be binding. Different forms should be considered, including guidelines, general comments of treaty bodies, etc. All these options should be seriously considered by the Ad hoc Committee;
- 2) Given the importance of any international standards, the process should be transparent and continue on a consensual basis;
- 3) In terms of substance, the reports of CERD and the Five experts offer good analyses of the needs and possibilities and should therefore constitute the basis of the Committee's deliberations and work. Based on these two documents, the Czech Republic can identify two main areas to be explored further:
 - i. As concluded by the 5 experts, there is no justification for restricting the protection against **multiple discrimination** to the grounds that are explicitly mentioned in the DDPA. The list is open ended. Grounds such as sexual orientation and gender identity should therefore also be considered.
 - ii. As identified by CERD, one option to reinforce the implementation of international standards at national level would be to establish, designate or maintain **national mechanisms** with competences to protect and prevent against discrimination.
- 4) At the same time, priority must be given to the full implementation of existing norms and standards. This issue has been identified both by CERD and by the Five experts as one of the important obstacles in the fight against racism.

No. 764/2009

The Permanent Mission of the Czech Republic to the United Nations Office and other International Organisations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and in its capacity of the Presidency of the European Union, has the honour to forward, attached to this note, the contribution of the European Union to the Ad Hoc Committee for the elaboration of complementary standards.

The Permanent Mission of the Czech Republic to the United Nations Office and other International Organisations in Geneva avails itself of this opportunity to renew to the United Nations High Commissioner for Human Rights the assurances of its highest consideration. *ly*



Geneva, 28 May 2009

OHCHR REGISTRY

- 4 JUN 2009

Receivés : ADU

H. E. Idriss Jazairy
Chairperson of the Ad Hoc Committee on complementary standards
Office of the United Nations High Commissioner for Human Rights
Palais des Nations
Geneva

**Ad hoc Committee on the Elaboration of Complementary Standards –
contribution by the European Union**

The European Union is pleased to hereby attach its proposals on the elaboration of complementary standards in the field of racism, racial discrimination, xenophobia and related intolerance, in pursuance of Article 199 of the Durban Programme of Action and as agreed in the Roadmap adopted by the Ad hoc Committee at its Session in December 2008.

On process and methods of work:

- the process should be transparent, fair and consensual
- future work of the Ad hoc Committee should be based on the reports of CERD and of the Five experts on the issue of complementary standards
- the eventual elaboration of complementary standards should equally take into account the participation of all relevant stakeholders, including the members of CERD, members of other treaty bodies, Special Procedures and representatives of non-governmental organisations
- priority should be given to the implementation of existing norms and standards. The lack of implementation of existing norms and standards has indeed been identified by the 5 experts and by CERD as the main challenge to overcome. Therefore, the Ad hoc Committee should ask for a comprehensive report on the ratification of ICERD, but also of ICCPR and ICESCR with identification of reasons for the non ratification. The Ad hoc Committee should also have clear figures on the reporting status of States Parties to these instruments
- any complementary standards should respond to a specific need identified through a rational and comprehensive process
- complementary standards, if elaborated, need not necessarily be binding. Different forms should be considered, including guidelines, best practices, general comments of treaty bodies, etc. The EU is convinced that the format of a convention or an optional protocol is by far not the only option to be seriously discussed by the Ad hoc Committee

On substance:

- A. Complementary standards on multiple forms of discrimination, i. a. discrimination based on sexual orientation, gender, disability, religion or belief, age

As concluded by the 5 experts, there is no justification for restricting the protection against multiple discrimination to the grounds that are explicitly mentioned in the DDPA. The list is open ended. Grounds such as sexual orientation and gender identity should therefore also be considered.

- B. Complementary standards on the obligation of states to establish, designate or maintain national mechanisms with competences to protect and prevent against discrimination

This is one of the alternatives outlined by CERD to reinforce i. a. the implementation of international standards at national level.

C. Comprehensive anti-discrimination legislation

As suggested by the 5 experts, Treaty Bodies could be encouraged to consider elaborating General Comments to clarify State Parties obligations regarding comprehensive anti-discrimination legislation.

1/4



PERMANENT MISSION OF PAKISTAN
TO THE UNITED NATIONS AND
OTHER INTERNATIONAL ORGANIZATIONS

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E-mail: mission.pakistan@tics.itu.int

No. Pol/Adhoc-CCS/09

30th May 2009

The Permanent Mission of the Islamic Republic of Pakistan accredited to United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the esteemed office's letter dated 14th April 2009 regarding contributions of the Member States for the Adhoc Committee on the Elaboration of Complementary Standards has the honour to enclose OIC Group in Geneva's contribution/input for the consideration of the Chairperson of the Adhoc Committee.

The Permanent Mission of the Islamic Republic of Pakistan avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Anti Discrimination Unit,
Office of the High Commissioner for Human Rights,
Geneva
Fax: 022- 9289208

OHCHR REGISTRY

- 3 JUN 2009

Recipients :ADU.....

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Adhoc Committee for Complementary Standards

In the last few years, especially in the wake of 9/11 attacks, the most blatant form of discrimination has emerged in the shape of intolerance against a particular community. The OIC has continued to express its concern on this contemporary manifestation of discrimination, which has manifested itself in the form of intolerance against Muslims, Muslim communities and defamation of religions in particular Islamophobia.

Human Rights Council decision 3/103 also acknowledged the importance of this fact and has led to the establishment of this Ad Hoc Committee with the specific mandate to elaborate, as a matter of priority and necessity, complementary standards in the form of either a Convention or additional protocol to the International Convention on the Elimination of All forms of Racial Discrimination, filling the existing gaps in the convention and also providing new normative standards aimed at combating all forms of contemporary racism, including incitement to racial and religious hatred.

It would, therefore, be important that the new convention or protocol must deliberate on inter alia following important issues: -

Action Points

- elaboration by introducing new definition of the following concepts;
 - racism, (in addition to that of racial discrimination, contained in article 1 of ICERD), describing this phenomenon as "the belief that a ground such as race, color, language, religion, nationality or national or ethnic origin justifies contempt for a person or group of persons, or the notion of superiority of a person or group of persons",
 - "direct" and "indirect" racial discrimination (in order to establish a more comprehensive approach towards combating racism and racial discrimination)
 - "segregation" and "discrimination by association",
 - hate crimes, and
 - further defining the existence of link between an act of incitement and the likelihood of a violation, or the threshold required for reaching such a determination, to achieve consistent and uniform application and maximize protection for actual or potential victims.

- development of new internationally binding normative standards in the area of racism, racial discrimination, xenophobia and related intolerance while incorporating the following contemporary issues;
 - defamation of religions, religious personalities, holy books, scriptures and symbols,
 - provocative portrayals of objects of religious veneration as a malicious violation of the spirit of tolerance,
 - prohibition of publication of material with the aim of protecting the rights of others and against seriously or gratuitously offensive attacks on matters regarded as sacred by the followers of any religion,
 - racio-religious profiling, intolerance and discrimination,
 - incitement to religious hatred, discrimination and violence,
 - abuse of the right to freedom of expression in the context of racio-religious profiling, negative or insulting stereotyping, incitement to discrimination, hatred and violence,
 - Islamophobia, xenophobia, and ideological racism,
 - measures to combat terrorism with full respect for universally recognized standards of international human rights law and international humanitarian law, and
 - double and multiple discrimination, namely gender-related racial discrimination and double discrimination on the grounds of race and religion.

- new instrument should provide for:
 - mandatory prohibition by law to eliminate racio-religious profiling or profiling based on any grounds of discrimination recognized under international human rights law with provisions for legal action against perpetrators, as well as legal guarantees to remedy and reparation for victims,
 - legal restrictions on the dissemination or distribution or production, in public or otherwise, of all ideas in any form based upon racial and religious superiority or hatred and incitement to hatred, and violence, including by use of modern information and communication technologies,
 - legal prohibition of publication of material that negatively stereotypes, insults, or uses offensive language on matters regarded by followers of any religion or belief as sacred or inherent to their dignity as human beings, with the aim of protecting their fundamental human rights,

4/4

- legal restriction to public insults and defamation, public incitement to violence, threat against a person or a grouping of persons on the grounds of their race, colour, language, religion, nationality, or national or ethnic origin,
 - criminal law to penalize on public expression, with a racist aim, of an ideology which claims the superiority of, or which depreciates or denigrates, a grouping of persons on the grounds of their race, colour, language, religion, nationality, or national or ethnic origin, and
 - legal prohibition of offences in which religious motives are an aggravating factor.
- criminal law of states should penalize the above acts without any discrimination in order to combat impunity to those who commit, or instigate, or aid directly or indirectly;
 - the new instrument should also provide for establishment of an independent specialized body to monitor the whole process related to racio-religious discrimination; collect, compile, analyze, publish, and disseminate statistical data on racism and racial discrimination; assist victims, investigate cases, monitor legislation, advice to legislative and executive authorities and provide training to police, prosecutors and judges on legislation, planning and execution of relevant provisions of the instrument as well as to raise awareness on promoting tolerance and preventing defamation of religions;
 - the adhoc committee should also look into ways and means to promote intercultural and inter-religious dialogue and cooperation at all levels, especially the grass-roots level; and
 - revision of curriculum in schools that should give emphasis on the role of cultural diversity and human rights education in promoting tolerance and preventing racism, racial discrimination, xenophobia and related intolerance;



Misión Permanente
de la República Argentina
CSB/jgz
V/700
No. 179/09

The Permanent Mission of the Argentine Republic to the International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and, with reference to the letter dated 14 May 2009 of the Chairperson-Rapporteur of the Ad Hoc Committee on the elaboration of complementary standards, has the honour to send a joint contribution on behalf of the following countries: Argentina, Brasil, Chile, Iceland, Japan, México, Republic of Korea, Switzerland and Uruguay.

The Permanent Mission of the Argentine Republic avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 29 May 2009



OHCHR REGISTRY

- 2 JUN 2009

Recipients: ADU

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
Mr. Idriss Jazairy, Chairperson of the Ad Hoc Committee on Complementary Standards
Fax: (022) 928.92.08
Geneva

OHCHR REGISTRY

- 2 JUN 2009

Recipients: ADU

Ad Hoc Committee on Complementary Standards

Contribution of Argentina, Brazil, Chile, Iceland, Japan, Mexico, Republic of Korea, Switzerland, Uruguay

Introduction

The roadmap adopted by the Ad Hoc Committee on Complementary Standards in December 2008 provides that Member States should submit contributions exclusively in the form of action points.

As a follow-up to this decision, Argentina, Brazil, Chile, Iceland, Japan, Mexico, Republic of Korea, Switzerland, Uruguay invite the Ad Hoc Committee to consider implementing the following actions and thank the President of the Ad Hoc Committee on Complementary Standards, in line with paragraph 2(b) of the roadmap, to compile, structure and integrate all contributions received and then to consult Member States on the outcome of (b) above.

Principles

1. The Ad Hoc Committee should not duplicate, undermine or contradict existing norms and standards,

The work of the Ad Hoc Committee should not duplicate, undermine or contradict existing norms and standards, including in particular those contained in legally binding instruments such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Elimination of All forms of Racial Discrimination (ICERD) as well as in other documents such as the Universal Declaration on Human Rights, the Durban Declaration and Programme of Action of Durban and the Outcome Document of the Durban Review Conference.

2. The Ad Hoc Committee should have an agreement by consensus on the identification of any gaps as well as on the way to address them

As stated in the December 2008 Roadmap, the scope, form and nature of the complementary international standards could vary according to the gap to be filled. To give effect to any complementary standards and to implement them widely, the Ad Hoc Committee should make sure that there is a common agreement on the identification of any gaps and on the way to best address them.

In this connection, we note with appreciation Human Rights Council resolutions 6/10 and 10/28 on Human Rights Education and Training as an example of how gaps identified can be addressed in a consensual manner.

Action points

Action point 1 - The Ad Hoc Committee should look at all possible options to address the issue of complementary standards

Delegations may have different concerns and proposals regarding the way to prepare complementary standards to strengthen and update international instruments against racism, racial discrimination, xenophobia and related intolerance.

These concerns do not need to be addressed in one single instrument. The Ad Hoc Committee has multiple options to address the issue of complementary standards. The most appropriate way to address specific concerns should be identified on a case by case basis.

For example, some procedural aspects could be addressed through an optional protocol and some other issues could be addressed by, inter alia, general comments of treaty bodies, the compilation and appropriate dissemination of relevant best practices, guidelines, a declaration.

Action point 2 - The Ad Hoc Committee should address implementation and/or procedural gaps with regard to the ICERD.

Following the study of the Committee on the Elimination of Racial Discrimination on possible measures to strengthen implementation through optional recommendations or the update of its monitoring procedures (A/HRC/4/WG.3/7), the Ad Hoc Committee should consider concrete proposals to put into effect recommendations on

- a follow-up procedure to recommendations ;
- an inquiry procedure ;
- country visits in the framework of these procedures ;

Action point 3 - The following themes may benefit from further consideration by the Ad Hoc Committee:

- *incitement to hatred* : Incitement to racial hatred and violence is addressed in article 4 of the ICERD and incitement to national, racial or religious hatred is addressed in Article 20 of the ICCPR. We recognize, however, the need to further look into the topics and propose that the Human Rights Committee and the Committee on the Elimination of Racial discrimination consult with States and stakeholders and consider elaborating a joint General Comment on the issue of incitement to hatred, in the framework of their respective competences and bearing in mind article 19 ICCPR.

- *multiple and aggravated forms of discrimination* : The object and purpose of the ICERD is to address racial discrimination which refers to any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life (art 1 ICERD). We recognize,

however, the need to further explore the intersectionality of racial discrimination and multiple and aggravated forms of discrimination as set out in the DDPA. Therefore, we propose that the Committee on the Elimination of Racial Discrimination consult with States and stakeholders and consider elaborating a General Comment on the issue.

- *discrimination based on religion* : Considering that the Human Rights Committee has examined cases of discrimination on religious grounds affecting the enjoyment of human rights enshrined in ICCPR, a digest of case studies should be published in order to shed light on existing practice in this field and regionally developed jurisprudence could also be included therein.

- *hate crimes* : the Ad Hoc Committee on Complementary Standards should consider compiling national legislation in the field of hate crime and preparing guidelines or model provisions.