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**REVIEW OF REPORTS, STUDIES AND OTHER DOCUMENTATION FOR  
THE PREPARATORY COMMITTEE AND THE DURBAN REVIEW  
CONFERENCE AND CONTRIBUTIONS OF HUMAN RIGHTS BODIES AND  
MECHANISMS**

Compilation of contributions submitted to the Preparatory Committee for the Durban  
Review Conference by specialized agencies of the United Nations system, United  
Nations bodies, regional and other intergovernmental organizations  
and non-governmental organizations

## **I. SPECIALIZED AGENCIES, UNITED NATIONS BODIES**

### **1. United Nations High Commissioner for Refugees**

#### **UNHCR'S REPLY TO THE QUESTIONNAIRE PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS PURSUANT TO DECISION PC.1/10 OF THE PREPARATORY COMMITTEE OF THE DURBAN REVIEW CONFERENCE**

##### **I. INTRODUCTION**

1. The Office of the United Nations High Commissioner for Refugees (UNHCR) contributes to the debate and efforts to combat the challenges of discrimination, racism and xenophobia from the particular perspective of its mandates to provide international protection to refugees and to assist governments in finding durable solutions for them, and to prevent and reduce statelessness and protect stateless persons. Expressions of racism and xenophobia are relevant for UNHCR in several respects: (i) as major root causes of human displacement, (ii) as an obstacle for asylum-seekers to gain admission to safety and asylum procedures and protection against *refoulement*, (iii) as an obstacle for persons of a certain race, colour, descent, or national or ethnic origin to acquire and/or retain a nationality, (iv) as an obstacle for refugees and internally displaced persons in finding quality protection, entailing full enjoyment of their human rights, in their places of displacement, and (v) as an obstacle for refugees in finding durable solutions, in the form of sustainable return and reintegration in places of origin, successful local integration in countries of asylum, or resettlement in third countries.

2. UNHCR recognizes the value of the Durban Declaration and Programme of Action (DDPA) as a tool for the protection of persons of its concern, and disseminated the DDPA under a cover memorandum to its entire staff in early 2002. This communication highlighted the fact that the DDPA contains 16 refugee-related paragraphs which cover four main areas of interest to UNHCR: a) root causes; b) fair treatment; c) respect for refugees; and d) references to the 1951 Convention and its 1967 Protocol, and encouraged UNHCR offices to use the DDPA as a framework for advocacy and capacity-building activities in this area.

3. The challenges and concerns highlighted by the aforementioned 16 refugee-related paragraphs of the DDPA are as valid today as they were back in 2001. In addition, a number of new trends and challenges have been detected over the past seven years which are having a negative impact on the ability of persons of concern to UNHCR to enjoy quality protection and to find sustainable solutions. Hence, in responding to the questions which are of particular relevance to UNHCR's mandate and work, the Office will seek to reflect on contemporary expressions of racism,

xenophobia and related intolerance affecting asylum-seekers, refugees and stateless persons.

II. CONTEMPORARY MANIFESTATIONS OF RACISM,  
RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE,  
AS THEY RELATE TO PERSONS OF CONCERN TO UNHCR

4. Racism, racial discrimination, xenophobia and related intolerance continue to be amongst the root causes of persecution leading to displacement, as well as to statelessness. In addition, several of the key contemporary challenges hampering UNHCR's ability to effectively carry out its mandate are direct or indirect manifestations of racism, racial discrimination, xenophobia and related intolerance against persons of concern. Some of these are outlined below.

5. Asylum-seekers are finding it **increasingly difficult to access territories and asylum** procedures due to tightened border security measures and restrictions on the issuance of visas for certain nationalities based on discriminatory grounds. Persons wishing to seek refugee protection are therefore often compelled to employ the services of human smugglers, and may also, during the journey, be put in situations where they are at heightened risk of becoming trafficked.

6. UNHCR has observed a **diminishing of the ‘asylum space’**, *inter alia* through an increased use of the exclusion clauses included in Article 1F of the 1951 Convention, a broadened interpretation of these clauses, as well as an increased application of the exception to the principle of *non-refoulement* in Article 33(2) of the 1951 Convention. These trends have been highlighted in reports by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. Doudou Diène (updated study on “Political platforms which promote or incite racial discrimination” of 25 May 2007, A/HRC/5/10), and the Special Rapporteur on the promotion and protection of human rights while countering terrorism (report A/62/263 of 15 August 2007).

7. UNHCR has witnessed some States taking a more restrictive interpretation of the refugee definition in the 1951 Convention, and introducing limitations on the duration of residence permits granted to refugees while adopting a more proactive use of the cessation clauses in the 1951 Convention. These measures are also contributing to a diminishing of the asylum space.

8. Refugees are moreover finding it difficult to **integrate locally** in their first countries of asylum, both because of time-limited residence permits which do not entitle their holders to enjoy all of the civil, economic and social rights needed to attain economic and social integration, and because the limited duration of the residence permits granted maintains refugees in a legal limbo without the ability to integrate as fully included members of society.

9. In the context of **resettlement** as one of the durable solutions for refugees, UNHCR is finding it increasingly difficult to identify resettlement countries for refugees coming from some countries or certain regions of the world due to a perception that they could pose a threat to national security. Some resettlement countries are also putting an increased focus on ‘integration potential’, where refugees of certain nationalities are viewed as being more difficult to integrate, or rather, assimilate.

10. While UNHCR would not claim that the root causes of all the aforementioned trends can be directly linked to racism, racial discrimination, xenophobia or related intolerance, these are clearly factors which have contributed to the emergence of these contemporary challenges and trends, as will be described below.

11. Using the conceptual framework developed by the Special Rapporteur on racism, Mr. Doudou Diène, UNHCR sees a link between the challenges outlined in the preceding paragraphs and individuals’, groups’ and even States’ fears for their personal security following the attacks on the World Trade Centre in September 2001, as well as concerns relating to the preservation of national identities versus multi-culturalism.

12. Since 9/11 and the launch of the ‘**global war on terror**’, asylum-seekers and refugees have increasingly been labeled by States, the media, and the public in general as terrorists

on account of their political, ethnic or religious affiliations or ties. This, in turn, has led to the perception by some States that the institution of asylum may provide a safe haven for terrorists. As explained in paragraph 6 above, this has, in some countries of asylum, resulted in an extensive use of the exclusion clauses and the exception to the principle of *non-refoulement*. The 'global war on terror' is also one of the factors which have led to tightened border security measures and restrictions on the issuance of visas in an attempt by States to protect their borders and territories. These measures have made it increasingly difficult for asylum-seekers to access territories in order to seek protection. UNHCR welcomes the attention given by the Special Rapporteurs on racism and on the promotion and protection of human rights, while countering terrorism to these concerns, and hopes that the impact of the 'global war on terror' on asylum-seekers and refugees, who are often themselves the victims of terror, will be raised in the context of the Durban Review process.

13. UNHCR also sees a link between fears that large numbers of foreigners, including asylum-seekers and refugees, in a country may **threaten the national identity** and the introduction of restrictive asylum policies in all of the aspects outlined above, including in regard to States' unwillingness to allow refugees to integrate in a long-term perspective.

14. Like the Special Rapporteur on racism, Mr. Doudou Diène, UNHCR has witnessed how politicians have instrumentalized peoples' feeling of insecurity, especially following 9/11, and fears towards the 'unknown foreigner', and played on the concept of national identities by, *inter alia*, promoting assimilation rather than integration in a multi-cultural society. This **political instrumentalization** of racism and xenophobia is, for example, being played out in pre-election campaigns where some political candidates portray asylum-seekers and refugees as criminals who contribute to a deterioration of social values and threaten the national security, and therefore promise to tighten borders and decrease the asylum space.

15. The **media** has also played on these fears by depicting asylum-seekers and refugees as a category of persons with many negative traits. UNHCR regrets that this trend, which was referred to in paragraph 89 of the Durban Declaration, seems to have increased rather than decreased since 2001.

16. UNHCR is also very concerned about **violent attacks** against foreigners, including asylum-seekers and refugees in some countries of asylum. While the Office has not conducted an analysis to assess whether the number of such violent attacks against persons of concern has increased, decreased or remained the same since 2001, it is still a problem of great concern.

17. In the context of UNHCR's statelessness mandate, the Office would like to highlight that deprivation of nationality is often a result of racism. Indeed, the Human Rights Council recently adopted a Resolution "[e]xpressing its deep concern at the

arbitrary deprivation of persons or groups of persons of their nationality, especially on racial, national, ethnic, religious, gender or political grounds". Similarly, UNHCR's Executive Committee has noted that statelessness may arise as a result of deprivation of nationality resulting from discriminatory practices (Executive Committee Conclusion No. 106 (LVII)-2006). Hence, as made clear by the 2007 report of the Independent Expert on Minority Issues, Ms. Gay McDougall (A/HRC/7/23 of 28 February 2008), most stateless persons around the world belong to linguistic, religious or ethnic minorities. Fortunately, a number of States have taken positive steps in recent years to address protracted statelessness situations affecting minority populations. For example, a number of States have amended their legislation and conducted citizenship campaigns such that stateless persons have been able to acquire or reacquire nationality.

### III. EXAMPLES OF UNHCR INITIATIVES AND MEASURES, INCLUDING GOOD PRACTICES, AIMED AT COMBATING RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE, AGAINST PERSONS OF CONCERN TO UNHCR

18. The paragraphs below outline some of the categories and types of activities which UNHCR has undertaken or continues to undertake with a view to combating racism, racial discrimination, xenophobia and related intolerance against persons of concern to UNHCR, including how these expressions are manifesting themselves into contemporary challenges to UNHCR's protection mandate.

19. In terms of **public awareness and information strategies and activities**, it should be noted that UNHCR devoted an issue in 2006 of its *Refugees Magazine* to the theme "Victims of Intolerance" <http://www.unhcr.org/publ/PUBL/44508c182pdf...> This issue provides many examples of the types of headlines which have appeared in newspapers, some of which could clearly incite violence and racist attacks against asylum-seekers and refugees. UNHCR is also in the process of developing a Global Communications Strategy which, amongst other things, will strive to change the negative image of refugees conveyed by some politicians and media, and to sensitize the public to the plight of refugees and the positive contributions these individuals could make to their new societies if given the chance.

20. UNHCR's Executive Committee adopted by consensus in 2005, Conclusion No. 104 (LVI) on Local Integration. This is one example of a recent **policy and standard-setting document** which, *inter alia*, emphasizes the importance of the values of diversity, non-discrimination and tolerance for the local integration process to succeed and encourages the implementation of anti-discrimination policies and awareness-raising activities aimed at combating institutionalized discrimination and promoting the positive aspects of a diverse society (OP(n)). Preambular paragraph nine of the ExCom Conclusion highlights that "*local integration in the refugee context is a dynamic and multifaceted two-way process, which requires efforts by all parties concerned, including a preparedness on the part of refugees to adapt to the host society without having to forego their own cultural identity, and a corresponding readiness on the part of host*

*communities and public institutions to welcome refugees and to meet the needs of a diverse population”.*

21. Another key message of the ExCom Conclusion is found in operational paragraph (k), in which the Executive Committee *“Acknowledges that the process of local integration is complex and gradual, comprising three distinct but inter-related legal, economic, and social and cultural dimensions, all of which are important for refugees’ ability to integrate successfully as fully included members of society”*. The reference to “fully included members of society” is, in UNHCR’s view, central. Refugees who are given a secure legal status and durable residency rights, and are embraced by their new communities as equal members of society with equal rights and obligations, are more likely to feel welcomed and motivated to integrate. In pursuance of this aim, UNHCR is **advocating** for refugees to get full access to the rights they are entitled to enjoy under international refugee and human rights law instruments. Furthermore, the Office encourages States to grant durable residence permits to recognized refugees.

22. UNHCR is also heavily engaged in activities aimed at **developing the capacity** of States to receive and protect refugees. Such activities include support to national legislative bodies in drafting legislation impacting on asylum-seekers’ and refugees’ right to seek and enjoy asylum and to enjoy other rights in a non-discriminatory manner, and training of government officials, the media and other partners working with refugees on topics relating to non-discrimination and the ‘refugee-experience’.

23. Furthermore, UNHCR gives **support to individuals** who are victims of crimes motivated by racism or xenophobia, for example through the provision of legal aid and counseling.

24. Within the **UN human rights framework**, UNHCR, *inter alia*, contributes to the work of the Committee on the Elimination of Racial Discrimination (CERD): for example, the Office assisted in the efforts which led to General Recommendation 30 on Discrimination against Non-citizens. UNHCR has also supported the affirmation by the Human Rights Committee (CCPR) and the Committee on the Rights of the Child (CRC) in their respective General Comments No. 31 (CCPR) and No. 6 (CRC), that States parties to these Conventions are required to respect and to ensure the Convention rights to all persons who may be within their territory and to all persons subject to their jurisdiction. UNHCR also supports the work of the Special Rapporteur on racism and urges the holder of this mandate to continue assessing how expressions of racism, racial discrimination, xenophobia and related intolerance are manifesting themselves in regard to asylum-seekers, refugees, returnees, stateless persons and internally displaced persons of concern to UNHCR.

25. As a means of supporting sustainable reintegration of refugees, UNHCR **promotes community coexistence** as a first step towards reconciliation. For example, UNHCR launched in 2000 a pilot project, in returnee areas of Rwanda and Bosnia and

Herzegovina, called "Imagine Coexistence", consisting essentially of support to small, community-based inter-ethnic income-generating activities, around which clusters of other activities branching off into the community - sports, theatre, culture, dialogue – were built.

#### IV. STEPS THAT SHOULD BE TAKEN TO RATIFY AND/OR IMPLEMENT THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION

26. UNHCR hopes that the Universal Periodic Review (UPR) process will be one vehicle for promoting universal ratification of the ICERD.

27. In terms of implementation, UNHCR supports the work of the CERD in monitoring States parties' compliance with the ICERD, in their national legislation and practice. For persons of concern to UNHCR, it is of utmost importance that the guidance contained in General Recommendation No. 30 is fully implemented. UNHCR therefore urges the CERD to continue its practice of consistently considering the extent to which the rights in the ICERD are being enjoyed by asylum-seekers, refugees, and stateless persons in its review of State reports, and to make recommendations on how national legislative frameworks and/or applications of such require amendment in order to ensure compliance with the ICERD.

28. In regard to the prevention and reduction of statelessness and the right to a nationality, Governments are encouraged to adopt legislative and administrative measures to prevent statelessness, as statelessness often results from, and exacerbates, discrimination. Cases of statelessness which do occur should be addressed through legal reforms which permit acquisition of nationality by individuals and populations who have an appropriate connection to the State, and through other practical measures such as citizenship campaigns. Acting under its mandate to prevent and reduce statelessness and protect the rights of stateless persons, UNHCR stands ready to provide advice and support to States in designing and implementing these measures.

## 2. Permanent Forum on Indigenous Issues

### Questionnaire for Durban Review Process

*(Contribution by SPFII/DPSD, 4 April 2007 – Questions 1, 2, 3 and 6)*

1. Based on the work of the United Nations Permanent Forum on Indigenous Issues UNPFII), the Secretariat of the Permanent Forum on Indigenous Issues (SPFII) would like to submit the following inputs.



**Question 1: Kindly assess the implementation of the Durban Declaration and Programme of Action**

2. The Durban Declaration pays particular attention to special groups, including indigenous peoples. With regard to indigenous peoples, the Durban Declaration urges States to take a number of measures to better protect indigenous rights. It calls, *inter alia*, for the participation of indigenous peoples, without discrimination, in decision-making processes. This issue is regularly addressed by the UNPFII and is explored in more detail in questions 2 and 6.

3. The Durban Declaration also calls for linguistic rights. The UNPFII hosted an international expert group meeting on indigenous languages, held from 8 to 10 January 2008. Challenges identified in the implementation of linguistic rights included the following:

- Language rights, as part of cultural rights, are inadequately recognized in many countries. They have been neglected in national legislation and policy and are often excluded from the realm of human rights and human rights implementation processes. Language rights, as part of cultural rights, are also integral elements of the right to self-determination and should be viewed within the context of the universal, interdependent and complementary nature of human rights.
- The importance of languages cannot be undervalued, as they reflect the world views of indigenous communities. For example, customary laws of indigenous communities are often in their languages, and if the language is lost the community may not fully understand its laws and system of governance. Loss of language also undermines the identity and spirituality of the community and the individual. The meeting emphasized the importance of looking at language rights from a holistic perspective, and that language rights cannot be fully enjoyed in the absence of other basic human rights, health, decent work or self-determination.
- In many countries, discriminatory language policies from the colonial era continued after independence, favouring languages that the majority of citizens do not speak as the first language in their homes. Policies, legislation and their implementation often discriminate against indigenous languages in a number of ways, including attaching special privileges in terms of participation in governance, territorial privileges or representation in the media, to speakers of certain non-indigenous languages. The prevailing situation in the world today is that certain languages are given official status and recognition while the majority of languages, and, in particular, indigenous languages, are denied legal recognition. This deplorable imbalance weakens indigenous languages and contributes to views that portray indigenous languages as inferior and give room for discriminatory and corrupt practices that are difficult to combat through legal or political means.
- An overwhelming majority of all countries have more than one language spoken within their borders, and governments frequently cite a lack of resources as a

major obstacle in protecting indigenous languages. Although this is sometimes a valid concern, it is important to view indigenous languages not as a financial drain but as a valuable resource, that language diversity is a major contribution to the wealth of the country's cultural heritage and therefore there is a need for more political will to provide the resources needed to preserve and develop this heritage. It should also be stressed that the promotion of indigenous languages does not undermine national unity; on the contrary it is a positive contribution to national heritage. Furthermore, indigenous languages often do not coincide with national borders and they should therefore be dealt with at the national level and in the context of cross-border cooperation.

- Although language loss has happened in the past, humanity is today facing an unprecedented threat to linguistic diversity and this threat is most acutely felt by indigenous peoples. Although language loss is attributed to globalization and migration, it is also a result of systemic and deliberate efforts to destroy languages using racist and discriminatory policies and laws.
- Past and current experiences have shown, for example, that whole generations of indigenous children who were placed in boarding schools away from their communities lost their language. A number of experimental programmes are attempting to create culturally appropriate and bilingual schools that may reverse this trend.
- Some States seek the revitalization, preservation and promotion of indigenous languages, but language programmes are frequently underfunded, while smaller language communities struggle to receive any funding at all. Where some funding becomes available, the sustainability of such programmes becomes a challenge.

**Question 2: On the basis of your experience, please assess contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance, as well as initiatives in this regard with a view to eliminating them**

4. The UNFPII has found discrimination and deficiencies in the participation of indigenous peoples in MDG and national development processes. As the UNFPII stated during its fourth session:

“Indigenous peoples have the right to benefit from the Millennium Development Goals and from other goals and aspirations contained in the Millennium Declaration to the same extent as all others. Indigenous and tribal peoples are lagging behind other parts of the population in the achievement of the goals in most, if not all, the countries in which they live, and indigenous and tribal women commonly face additional gender-based disadvantages and discrimination.”

5. The 2007 adoption of the United Nations Declaration on the Rights of Indigenous Peoples provides additional opportunities to combat exclusion in that it requires specific methods of inclusion of indigenous peoples into the development processes, such as ensuring that their right to free, prior, and informed consent applies to development

initiatives that concern them. Therefore, including indigenous peoples in the MDG context requires a culturally sensitive approach, based on respect for and inclusion of indigenous peoples' world-views, perspectives, experiences, and concepts of development.

6. To combat exclusion from development processes, the UNPFII has repeatedly called for the full and effective participation of indigenous peoples in designing, implementing and monitoring MDG-related programmes and projects that concern them or may affect them. At its 2005 and 2006 sessions, the UNPFII undertook specific examination of MDGs and indigenous peoples and highlighted elements for their greater inclusion.<sup>1</sup>

7. SPFII carries out annual desk reviews of national MDG reports to assist the Permanent Forum in assessing the degree to which indigenous issues are considered in national development plans and to which indigenous peoples participate in national-level MDG processes, as well as to promote improved methodologies in this regard. Its third annual review was conducted in 2008 and reviewed the MDG country reports of Guyana, Kenya, Myanmar, Nepal, the Russian Federation, South Africa, Suriname, Thailand, Vietnam and Zimbabwe. Report findings included the following:

- 20% percent of the MDG reports reviewed sufficiently include indigenous peoples by consistently reporting on their situation. Another 50% address indigenous issues to varying degrees, while the remaining 30% do not include any mention of indigenous peoples.
- None of the country reports under review indicate that they were prepared with consultation from indigenous peoples' organizations.
- None of the MDG reports provide disaggregated data for indigenous peoples in a consistent manner, for every goal. Guided by the recommendations of the Fourth and Fifth Sessions of the UNPFII, this review reiterates that the improved disaggregation of data on indigenous peoples is necessary to effectively monitor progress towards MDG achievement, and that this should be a key priority for Governments and the UN System.

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<sup>1</sup> The fourth session of the UNPFII (2005) addressed MDG1 and MDG 2 within the context of indigenous peoples' issues and its fifth session (2006) was devoted to the special theme "The Millennium Development Goals and Indigenous Peoples: Redefining the Goals." See the UNPFII Report of the Fourth Session (E/C.19/2005/9), Chapter 1, Section B, paras. 4-57 and the UNPFII Report to the Fifth Session (E/C.19/2006/11), Chapter 1, Section B, paras. 4-43. See also the UNPFII reports from three Meetings on Indigenous Peoples and Indicators of Well-Being (E/C.19/2006/CRP.3, E/C.19/2007/CRP.2, E/C.19/2007/CRP.3 and E/C.19/2007/CRP.10; the global synthesis report will be submitted as a document for the seventh session of the UNPFII). See also the Report of the International Expert Group Meeting on the Millennium Development Goals, Indigenous Participation, and Good Governance (E/C.19/2006/7), and the statement adopted by the Inter-Agency Support Group on Indigenous Issues regarding indigenous peoples and the MDGs, contained as an annex in the Report on its 2004 session (E/C.19/2005/2).

<sup>2</sup> See the World Summit Outcome (A/Res/60/1), paras. 46 and 56.

- The situation of indigenous women (in the context of MDGs 3 and 5) is rarely mentioned.

8. With regard to combating the exclusion of indigenous peoples from MDG processes, the report recommends the following:

- In future reporting the countries should undertake to include indigenous peoples in the context of meeting each and every Goal. Guided by the UN Declaration on the Rights of Indigenous Peoples, this review recommends that the free, prior, and informed consent of indigenous peoples should be sought in all development initiatives focused upon improving their lives, and countries should comment on this clearly in their MDG reports.
- Governments should a) include indigenous peoples in the context of the overall report, including its planning; b) include indigenous peoples in the context of meeting each specific Goal; c) include indigenous peoples' effective participation in the planning process of future interventions, as well as in the implementation, monitoring and evaluation of programmes and projects that will directly or indirectly affect them; and d) improve the collection and disaggregation of data regarding indigenous peoples.

**Question 3: Please identify concrete measures and initiatives for combating and eliminating all manifestations of racism, racial discrimination, xenophobia and related intolerance in order to foster the effective implementation of the Durban Declaration and Programme of Action**

9. Indigenous peoples continue to suffer egregious violations of their basic human rights and fundamental freedoms, and justice for many of them remains illusive at the national, regional and global levels. Even where there are laws and policies on indigenous peoples' rights, there is a big gap between policy and implementation. The compliance of many Governments with their international human rights obligations remains at a low level.

10. Existing complaint mechanisms and special procedures in the United Nations are still not popularly known and therefore are very much underutilized by indigenous peoples. In this regard, SPFII welcomes the increasing engagement of UN treaty bodies with indigenous issues, including the contributions of CERD and other committees.

11. The adoption of the United Nations Declaration on the Rights of Indigenous Peoples by the General Assembly in September 2007 marks an extraordinary contribution towards the end of discrimination against indigenous peoples. The adoption of the Declaration presents a significant opportunity to motivate states to comply with human rights and anti-discrimination standards, including those set forth in the Declaration. The UNPFII wishes to seize this historic opportunity by establishing work plans and methods

that can strengthen the protection of indigenous peoples' rights and focus on their attainment.

12. During its sixth session, the UNPFII appointed two of its members, Ms. Ida Nicolaisen (Vice-chair) and Mr. Wilton Littlechild, to conduct a report, "Study on the structures, procedures and mechanisms that presently exist and that might be established to effectively address the human rights situation of indigenous peoples and to arrange for indigenous representation and inclusion in such structures, procedures and mechanism". The study, which was completed in 2008, recommends that the Permanent Forum consider the establishment of a methodology that would provide the Forum with the capacity to discharge its new mandate under the Declaration and finds that "[t]he creation of a 'Chamber on the UN Declaration on the Rights of Indigenous Peoples' of the Forum in that regard seems as an appropriate way of proceeding, as it would provide the timeframe and specificity required for this function." (EC.19.2008.2)

**Question 6: Please identify and share good practices achieved in the fight against racism, racial discrimination, xenophobia and related intolerance**

14. SPFII has collected good practices on UN work with regard to indigenous peoples and has prepared two books on this topic: *Indigenous Women and the United Nations System* (2007) and *Good Practices on Indigenous Peoples' Development* (2006)

15. *Indigenous Women and the United Nations System* (2007) presents case studies drawn from a number of African, Asian and Latin American countries, submitted by various UN organizations. The book is concise and merits reading for a full listing of best practices found. A sample of these include the following:

- UNFPA: Strengthening of the Family and Improvement of the Sexual and Reproductive Health of the Ngöbe Indigenous People, Panama:
  - Factors contributing to success included: The project developed a model with a human face in which the Ngöbe Women's Association played an outstanding role, support by UNFPA, health, community and project staff. The perseverance of these individuals and organizations and their commitment to changing the alarming sexual and reproductive health situation of the Ngöbe indigenous peoples contributed to sustaining the project through difficult periods; Coordination existed among interested partners with respect to sexual and reproductive health, specifically regarding training of traditional birth attendants.
- UNDP: Training for Women Leaders in Decision-making: Chittagong Hill Tracts, Bangladesh. and Sabah, Malaysia
  - Factors contributing to success included: Providing comfortable space for the sharing of experiences, visions and problems; working directly with

community workers; having trainers from the same communities or peoples as the trainees; having committed and skilled trainers with experience in development and empowerment work; and working in partnership with local organizations, with government and with regional organizations.

- **FAO: Gender, Biodiversity and Local Knowledge Systems to Strengthen Agricultural and Rural Development: Tanzania, Mozambique and Swaziland**
  - Factors contributing to success included: The research team participated in various workshops conducted to sensitize them regarding gender, participation and local knowledge; each of the different steps of the study was followed by a workshop focused on analysis, report writing, feedback to the pastoral community, and planning of the next step. The feedback workshops provided an important opportunity for the research team to present the data collected to the rural community. The Maasai made comments, provided further inputs, identified gaps, and discussed with the research team how the study was to be continued.

16. *Good Practices on Indigenous Peoples' Development* (2006) focused on the work of the International Fund for Agricultural Development (IFAD), an international financial institution which took up the challenge of having its projects scrutinized by indigenous peoples. The study included a review of IFAD projects in India, Brazil, Bolivia and Peru, and both identified both good practices and made recommendations for improvements. With regard to good practices, the study concluded that, on the whole, IFAD's approach to the projects attempted to provide the following:

- Access to, and security of tenure of the land and related natural resources because these are conditions that are crucial to the objective of poverty reduction to be achieved, but this provision results in securing both the individual and collective rights of the indigenous and tribal peoples to their territorial, land and resource rights;
- Empowerment, equality and participation with a special focus on women because that appears to consequently ensure sustainable natural resource management and biodiversity conservation – thus, acknowledging women's capacities to promote social transformation, rural and economic development, and peace; and Acknowledgment of the role of indigenous knowledge systems because they can improve food security, increase household income and foster self-esteem.

## **II. INTERGOVERNMENTAL ORGANIZATIONS**

### **1. The Council of Europe**

**Council of Europe Action to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance**

1. Since the adoption of the Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban on 8 September 2001, the Council of Europe has continued to strengthen its action to combat all forms of racism and intolerance. The Council of Europe's contribution to the implementation of the Programme of Action of the World Conference is built upon the action of the different independent monitoring mechanisms in the field of human rights, as well as other activities of the Organisation.
2. The main body responsible for these issues is the **European Commission against Racism and Intolerance (ECRI)**. The Political Declaration adopted by Ministers of the Council of Europe member States at the concluding session of the European Conference against Racism (European Contribution to the World Conference) held in Strasbourg in October 2000 contained a commitment "To consider how best to reinforce European bodies active in combating racism, discrimination and related intolerance, in particular the European Commission against Racism and Intolerance". On 13 June 2002, the Committee of Ministers of the Council of Europe adopted an autonomous Statute for ECRI, thereby consolidating its role as an independent human rights monitoring body specialised in combating racism and racial discrimination. ECRI's action covers all measures needed to combat violence, discrimination and prejudice against persons or groups of persons on the grounds of their race, colour, language, religion, nationality or national or ethnic origin. ECRI is composed of independent and impartial members and its statutory activities include: country-by-country monitoring; general policy recommendations; relations with civil society.
3. The third round of ECRI's country-by-country monitoring took place from January 2003 to December 2007. During this round, ECRI produced one report on each of the 47 member States of the Council of Europe. In these reports, ECRI closely examines the situation and draws up, following this analysis, suggestions and proposals as to how the problems of racism and intolerance identified in each country might be overcome. The aim is to formulate helpful and well-founded proposals which may assist governments in taking practical and precise steps to counter racism and intolerance. The third round reports focus on "implementation". They examine if ECRI's main recommendations from previous reports have been implemented and if so, with what degree of success. The third round reports also deal with "specific issues", chosen according to the different situations in each country, and examined in more depth in each report.
4. ECRI's General Policy Recommendations are addressed to all member States and provide guidelines which policy makers are invited to use when drawing up national strategies and policies in various areas. Since the Durban conference, ECRI has adopted five new General Policy Recommendations. ECRI's General Policy Recommendation No.7 on National Legislation to Combat Racism and Racial

Discrimination (adopted on 13 December 2002) sets out the key elements which should feature in a comprehensive national legislation to effectively combat racism and racial discrimination. The scope of the Recommendation is very wide and covers all branches of the law: constitutional, criminal, civil and administrative. It addresses not only direct and indirect discrimination, but also other legal aspects of the fight against racism, including racist expressions, racist organisations and racially motivated offences. ECRI's General Policy Recommendation No.8 (adopted on 17 March 2004) focuses on how to ensure that the fight against terrorism does not infringe upon the rights of persons to be free from racism and racial discrimination. ECRI's General Policy Recommendation N°9 (adopted on 25 June 2004) is devoted to the fight against antisemitism. It sets out a comprehensive set of legal and policy measures to help Council of Europe member States for combating effectively antisemitism. ECRI's General Policy Recommendation No.10 (adopted on 15 December 2006) on combating racism and racial discrimination in and through school education proposes specific measures to member States for ensuring compulsory, free and quality education for all; for combating racism and racial discrimination at school; and for training members of the teaching profession to work in a multicultural environment. Finally, ECRI's most recent General Policy Recommendation No.11 on combating racism and racial discrimination in policing, adopted on 29 June 2007, aims to help the police to promote security and human rights for all through adequate policing and covers racism and racial discrimination in the context of combating all crime, including terrorism. It focuses particularly on racial profiling; racial discrimination and racially motivated misconduct by the police; the role of the police in combating racist offences and monitoring racist incidents; and relations between the police and members of minority groups.

5. Combating racism can only be effective if the anti-racist message filters down to society in general. For this reason, awareness-raising activities and a comprehensive communication strategy are crucial. In 2002, ECRI adopted a programme of action to consolidate this aspect of its work, and notably its co-operation with nongovernmental organisations active in the fight against racism and intolerance.

6. The law is a particularly powerful tool to combat racism and intolerance. Of special importance in this respect is Article 14 of the **European Convention on Human Rights (ECHR)**, which contains a non-discrimination clause with respect to the rights and freedoms set forth in it. The European Court of Human Rights, which safeguards the respect of obligations under the European Convention on Human Rights by issuing judgments which are legally binding on States Parties, has developed an important case law on the subject. In its case-law, the Court has established a clear link between combating racism and promoting a vision of a democratic society based on respect for diversity. Based on the premises that "racial discrimination is a particularly invidious kind of discrimination" and that "racial violence is a particular affront to human dignity", it requires "special vigilance and vigorous reaction" from state authorities. In addition, Protocol No.12 to the European Convention on Human Rights was adopted in June 2000, providing for a general prohibition of



discrimination. Protocol No.12 came into force on 1 April 2005 and, to date, 16 States have ratified and 21 have signed it.

7. Another key instrument is the **European Social Charter**, which sets out rights and freedoms and requires that all rights protected be guaranteed without discrimination. Compliance with the rights guaranteed is monitored by the European Committee for Social Rights (ECSR) through a mandatory reporting procedure and optionally through a collective complaints mechanism.

8. The protection of national minorities is an integral element of the fight against racism and intolerance: The **Framework Convention for the Protection of National Minorities** and its monitoring mechanism, including an Advisory Committee of independent experts, play a central role in this respect. The Framework Convention sets out principles to be respected as well as goals to be achieved by the Contracting Parties, in order to ensure the protection of persons belonging to national minorities. Its substantive provisions cover a wide range of issues, inter alia: non-discrimination; the promotion of effective equality; the promotion of the conditions necessary for the preservation and development of the culture and preservation of religion, language and traditions; freedoms of assembly, association, expression, thought, conscience and religion; access to and use of media; freedoms relating to language, education and transfrontier contacts; participation in economic, cultural and social life; participation in public life and prohibition of forced assimilation. The Advisory Committee adopts opinions on the implementation of the Framework Convention in each State Party (to date, 64 opinions were adopted), which it transmits to the Committee of Ministers. The latter body adopts resolutions (to date, 54 resolutions were adopted) that contain conclusions and recommendations to the State concerned.

9. Another important legal instrument of the Council of Europe for combating racism and intolerance is the **Additional Protocol to the Convention on Cybercrime**, which has been opened for signature on 28 January 2003 and requires States to **criminalise the dissemination of racist and xenophobic material through computer systems**. This Protocol aims at harmonising criminal law, in the fight against racism on the Internet, and improving international co-operation in this area. This legal instrument entered into force on 1 March 2006. It has been ratified by 11 European countries and signed by another 19.

10. The **Commissioner for Human Rights of the Council of Europe** is tasked with the promotion of effective observance of all human rights, including the fight against racism and intolerance. The Commissioner's work encompasses both the prevention of all risks of violations, through education and awareness-raising of States and other actors, as well as the monitoring and making concrete proposals to remedy specific problems. In February 2006, the Commissioner published a report on the human rights situation of the Roma, Sinti and Travellers in Europe, which highlighted major

human rights concerns regarding their situation and underlined the necessity to take urgent remedial actions. The Commissioner is also concerned by the treatment of migrants and foreigners in member states. In 2001, a Recommendation on the rights of foreigners wishing to enter the territory of member states of the Council of Europe and the carrying out of expulsion procedures was issued. In December 2007, the Commissioner published an Issue paper on the Human Rights of Irregular Migrants in Europe, describing the various risks faced by such migrants and proposing measures to enhance their protection.

11. The Commissioner for Human Rights also monitors the respect for human rights in member states through his country visits and reports. Measures adopted by States aimed at combating racism, discrimination, xenophobia and intolerance are issues regularly assessed during his visits. Also, an analysis of the national legal framework i.a. non-discrimination legislation and penal provisions against racially motivated crimes, including hate speech, is carried out. He also studies available data on manifestations of racism, discrimination, xenophobia and intolerance, availability and effectiveness of remedies as well as national action plans to combat racism. The recommendations by the UN Committee on the Elimination of Racial Discrimination are taken into account in this connection. The Commissioner has paid particular attention to countering manifestations of Anti-Ziganism, Islamophobia, Anti-Semitism and Homophobia. Moreover, the treatment of persons with disabilities, national minorities, indigenous peoples and foreigners is regularly evaluated. Multiple forms of discrimination are of increasing concern. The country reports regularly contain concrete recommendations and often call for the preparation and the implementation of national action plans, in consultation with national human rights actors, in line with the Declaration and Programme of Action of the Durban Conference.

12. From June 2006 to September 2007, the Council of Europe ran a **Campaign for Diversity, Human Rights and Participation**, based upon the slogan “**All Different – All Equal**”. Various meetings, events, training courses and symposia were organised, concerning issues related to three pillars of the campaign: diversity, participation and human rights. Among the various events which took place all over Europe, five “thematic” weeks were organised in different European cities in order to raise public awareness and to stimulate reflection on issues closely related to the themes of the campaign.

13. The Third Summit of Heads of State and Government of the Council of Europe (Warsaw, May 2005) in its Action Plan explicitly endorsed intercultural dialogue – together with political and interreligious dialogue – as a means of ensuring that the diversity of European cultures becomes a source of mutual enrichment. The Summit also committed itself to a new dialogue between Europe and its neighbouring regions – the southern Mediterranean, the Middle East and Central Asia. Since then, the promotion of intercultural dialogue has been a major political priority of the Council of Europe. The following conference of European Ministers responsible for

Cultural Affairs (Faro/Portugal, 27-28 October 2005) was an important milestone for the implementation of this policy. Here, the Ministers adopted the “Faro Declaration” containing the Council of Europe strategy for developing intercultural dialogue. The document places the strategy for the promotion of intercultural dialogue in the context of the overall remit of the Council of Europe to promote human rights, democracy and the rule of law, to strengthen social cohesion, peace and stability. The Declaration thus clears the ground for the “mainstreaming” of intercultural dialogue in all working areas of the Council of Europe. In 2006, the Committee of Ministers launched the preparations of the **White Paper on Intercultural Dialogue** of the Council of Europe, which will be published in 2008.

## **2. The European Union Agency for Fundamental Rights**

### **Response to OHCHR Questionnaire on the implementation of the Durban Declaration and Programme of Action**

The European Union Agency for Fundamental Rights (FRA) welcomes the opportunity to provide feedback relevant to the implementation of the Durban Declaration and Programme of Action inside the European Union.

FRA is a body of the European Union established through Council Regulation (EC) No 168/2007 of 15 February 2007. It is based in Vienna and its predecessor was the European Monitoring Centre on Racism and Xenophobia (EUMC). Its objective is to provide the relevant institutions and authorities of the Community and its Member States, when implementing Community law, with assistance and expertise relating to fundamental rights in order to support them to fully respect fundamental rights when they take measures or formulate courses of action within their respective spheres of competence. The Agency carries out its tasks independently. It cooperates with national and international bodies and organisations, in particular with the Council of Europe.

FRA builds upon and continues the work of its predecessor the EUMC on combating all forms and manifestations of racism, xenophobia and related intolerances which are phenomena incompatible with the values that the European Union is based upon.

The responses below are limited to those questions lying within the field of competence and mandate of the European Union Agency for Fundamental Rights.

For further information on the mandate and activities of FRA and its predecessor, the EUMC, please refer to:

[http://fra.europa.eu/fra/index.php?fuseaction=content.dsp\\_cat\\_content&catid=2](http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=2)

***Question 2:*** *On the basis of your experience please assess contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance, as well as initiatives in this regard with a view to eliminating them.*

FRA response (please also refer to the response to the Question 3):

The Agency (EUMC/FRA) has issued a wide range of reports and studies on a variety of issues related to the phenomena of racism and xenophobia. Over the period since 1998, the Agency, and its predecessor the EUMC, has identified contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance in the fields of employment, education, housing and healthcare to varying degrees and levels within Member States of the European Union. The manifestations were identified both in the public and private sphere and relate to issues of access, direct and indirect discrimination, unequal treatment and quality of service and service delivery. In addition, examples of racist violence and incidents have continued to be reported. Members of a variety of groups and communities have been identified as the victims of racism, racial discrimination and related intolerance, these include the Roma and Traveller communities, ethnic minorities and people with or perceived to have a migrant background. Members of other groups and communities have faced distinct forms of racism and these include those with or perceived to have a Muslim background. The phenomenon of anti-Semitism continues to be recorded.

With regard to initiatives aimed at eliminating racism, the European Union as a whole and the Member States individually have agreed and adopted a wide range of measures both legal and political, many practical and action-oriented consistently since 1977. In addition, the European Union, through its institutions and community agencies, has developed a variety of tools and networks which engage stakeholders, civil society, representatives of victim groups, policy makers at the national and local level and the social partners in developing responses to eliminate racism. A series of awareness raising campaigns focusing on combating racism (1997), equal opportunities (2007) and intercultural dialogue (2008) have taken or are taking place.

With regard to legal developments to combat racism, particular mention must be given to the Charter of Fundamental Rights of the European Union and the inclusion of a non-discrimination article in the EC (European Community) Treaty, both legislative developments providing the Union with a legal context tackle racism.

**The Charter of Fundamental Rights of the European Union**, proclaimed at the Nice European Council on 7 December 2000, prohibits in its Article 21 any discrimination on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, sexual orientation or nationality.

**Article 13 of the EC Treaty** enables the EU Council of Ministers to take action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation within the limits of the powers conferred to it by the Treaty. On the basis of this article, the EU has adopted two **anti-discrimination directives**<sup>2</sup>:

- Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin sets out a binding framework by prohibiting racial discrimination throughout the EU in the areas of employment, education, social protection (including social security and health care), social advantages and access to goods and services (including housing). The Directive bans direct and indirect discrimination. All EU Member States have now transposed this Directive into national legislation. The European Commission ensures correct implementation of this instrument, and has issued a report on the implementation of this so-called "Racial Equality Directive".
- Council Directive 2000/78/EC of 27 November 2000) establishes a general framework for equal treatment in employment and occupation. This Directive covers direct and indirect discrimination, as well as harassment, in employment and training on the grounds of religion or belief, age, disability and sexual orientation. It includes specific requirements on reasonable accommodation for disabled persons. The European Commission ensures correct implementation of this instrument, and is undertaking an impact assessment on the possible enlargement of the scope of this so-called "Employment Equality Directive".<sup>3</sup>

In addition, the European Commission periodically undertakes attitude surveys of the population to enable it to identify and better target policy.

For a general overview, FRA has analysed trends over time in its publication "Trends and Developments 1997-2005: Combating Ethnic and Racial Discrimination and Promoting Equality in the European Union". This publication summarises and analyses relevant data and information, collected by the Agency since 2000. The report is available in English and French at:

[http://fra.europa.eu/fra/index.php?fuseaction=content.dsp\\_cat\\_content&catid=3fb38ad3e22bb&contentid=46e8f66448a73](http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=3fb38ad3e22bb&contentid=46e8f66448a73)

In a series of annual reports published since 1998, the Agency focussed on racism and racial discrimination in the fields of employment, education and housing. In addition, it has reported on the impact of legislative instruments collecting relevant case law, and

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<sup>2</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, OJ L 180 of 19.7.2000, p. 22, and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, OJ L 303 of 2.12.2000, p. 16.

<sup>3</sup> For more details, please consult:

[http://ec.europa.eu/employment\\_social/fundamental\\_rights/legis/legln\\_en.htm](http://ec.europa.eu/employment_social/fundamental_rights/legis/legln_en.htm); [www.stop-discrimination.info](http://www.stop-discrimination.info)

collected information and data on racist violence and crime. These reports have also identified examples of “good practice” positive initiatives in these areas.

Annual Reports on the situation regarding racism and xenophobia are available at:  
[http://fra.europa.eu/fra/index.php?fuseaction=content.dsp\\_cat\\_content&catid=3fb38ad3e22bb&contentid=46d3ce2da38d9](http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=3fb38ad3e22bb&contentid=46d3ce2da38d9)

The Agency’s latest “Report on Racism and Xenophobia in the Member States of the EU” (August 2007) is available at:  
[http://fra.europa.eu/fra/index.php?fuseaction=content.dsp\\_cat\\_content&catid=3fb38ad3e22bb&contentid=46d3ce2da38d9](http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=3fb38ad3e22bb&contentid=46d3ce2da38d9)

In addition, the Fundamental Rights Agency maintains a database with relevant information on the situation regarding racism and racial discrimination in individual EU Member States at <http://infobase.fra.europa.eu/>. This information is clustered into the following key thematic areas: employment, education, housing, legal issues and racist violence.

Finally, the Fundamental Rights Agency maintains a database of relevant positive initiatives by both government and civil society organisations. The database contains a selection of projects with the objective to combat discrimination by means of practical action with a direct impact on the lives and experiences of vulnerable groups. The database further includes: a selection of important national decisions/cases (for instance “landmark court decisions” but also decisions of Special Bodies or similar institutions) related to issues of discrimination law and organisations addressing various aspects of fundamental rights focusing on combating racism, xenophobia, anti-Semitism and Islamophobia.

<http://www.raxen.fra.europa.eu/>

***Question 3:*** *Please identify concrete measures and initiatives for combating and eliminating all manifestations of racism, racial discrimination, xenophobia and related intolerance in order to foster the effective implementation of the Durban Declaration and Programme of Action.*

**FRA response:**

European Community action against racism and xenophobia preceded the adoption of the Durban Declaration and Programme of Action. Racism and xenophobia were first formally identified by the then European Economic Community as a serious concern in the late 1970s. In 1977 the first important action by the European Economic Community was the Joint Declaration on Fundamental Rights. From 1986 onwards this action was intensified with the first report by the European Parliament and the Joint Declaration against Racism and Xenophobia by the Parliament, the Council, and the Commission. This was followed periodically by joint declarations and resolutions, as the fight against racism and xenophobia became more integral to the development of the Community. The

year 1994 marked a watershed. At the Corfu Summit, the European Union initiated a series of decisions which aimed to look at the phenomena in more depth and to develop specific policy responses.

The culmination of the EU's deliberations was to declare 1997 as the 'European Year Against Racism', to establish the EUMC, and to begin the process of developing a legislative response to combating discrimination. The EUMC was established in Vienna by Council Regulation 1035 of 1997, as an independent body tasked with collecting data and conducting research on phenomena of racism, xenophobia and anti-Semitism across the Member States of the European Union. In 2007, the mandate of the EUMC was extended by Council Regulation 167 of 2007 to cover fundamental rights more broadly, while retaining its focus on phenomena of racism, xenophobia and related intolerances.

The work of the EUMC/FRA has been an important component of the European Union's measures and actions to understand the phenomena of racism, xenophobia and related intolerance and to take evidence based action to tackle these phenomena. As an expert body of the EU, the Agency has conducted a wide range of activities to improve collection, recording and reporting on racism and to raise awareness of measures to prevent and protect against racism, racial discrimination, xenophobia and related intolerance.

The Agency also worked to enhance regional coordination on combating racism within the EU and has collaborated with relevant intergovernmental organisations, the Council of Europe's European Commission against Racism and Intolerance (ECRI) in particular, but also with the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) and the United Nations (OHCHR Anti-Discrimination Unit, Special Rapporteur on Contemporary Forms of Racism and Racial Discrimination, Committee for the Elimination of Racial Discrimination, UNESCO Section Against Discrimination and Racism, etc.).

The Annual Reports on activities of EUMC/FRA provide further information on the Agency's activities related to supporting the EU's policies and practices against racism, and regional/international cooperation.  
[http://fra.europa.eu/fra/index.php?fuseaction=content.dsp\\_cat\\_content&catid=41bf16ffcf4ae](http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=41bf16ffcf4ae)

Through its annual reports and other comparative studies, the EUMC/FRA provides the bodies of the EU and its Member States with the necessary evidence and advice to deal with racism, xenophobia and related intolerance effectively. The Agency continues to collect and analyse data and information on a wide range of issues identified in the Durban Declaration and Programme of Action, including:

- (1) Key thematic areas that the Durban Declaration and Programme of Action recognised as being critical to combating racism, racial discrimination, xenophobia and related

intolerance. In particular, EUMC/FRA collects and analyses data and information at EU level on education, employment, housing, health and racist violence, as well as legislative developments to prevent and protect against racism and racial discrimination.

- (2) Specific victim groups that the Durban Declaration and Programme of Action recognised as being particularly vulnerable to racism, racial discrimination, xenophobia and related intolerance. More specifically, EUMC/FRA collects and analyses data and information at EU level on racism against Jews, Muslims, Roma (children and women in particular), as well as migrants and other ethnic minorities.

**Legislative, judicial, regulatory, administrative and other measures to prevent and protect against racism, racial discrimination, xenophobia and related intolerance**

FRA has reported in its annual reports and other studies on civil and criminal anti-discrimination and anti-racist legislative provisions and significant case law in the EU Member States.

The European Union's main progress in this field has been the adoption and implementation of Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin ("Racial Equality Directive"). As a common standard across the EU Member States, the Directive gives protection against discrimination in employment and training, education, social protection (including social security and healthcare), social advantages, membership and involvement in organisations of workers and employers and access to goods and services, including housing. It allows for positive action measures to be taken, in order to ensure full equality in practice. It also provides for the establishment in each Member State of an organisation to promote equal treatment and provide independent assistance to victims of racial discrimination. Furthermore, there are important provisions related to sharing the burden of proof between the complainant and the respondent in civil and administrative cases. The deadline for Member States to transpose the Racial Equality Directive was 19 July 2003 or 1 May 2004 for the European Union's Accession countries. Some Member States have requested an extension period to complete the transposition of the Directives into national law. For the latest implementation status of the EU's anti-discrimination Directives into national law in all EU Member States and Candidate Countries, please see the European Commission's website, at:

[http://ec.europa.eu/employment\\_social/fundamental\\_rights/legis/impl\\_en.htm](http://ec.europa.eu/employment_social/fundamental_rights/legis/impl_en.htm)

In 2000, most EU Member States already had in place some legal provisions addressing the issue of discrimination on the grounds of race or ethnic origin. For example, by 2000 all Member States of the EU had ratified the UN Convention on the Elimination of All Forms of Racial Discrimination (CERD). Nevertheless, some important differences existed between EU Member States at the time: Some Member States had already systematically applied legislation in the field (as in Belgium, Ireland, the Netherlands, Sweden and the United Kingdom); some others had formally introduced anti-



discrimination legislation in the 1970s and 1980s in connection with CERD, which was nonetheless not applied systematically (as in Austria, Denmark, Finland, France, Greece, Italy and Portugal); and finally others did not have adequately detailed anti-discrimination legislation in place (as in the Czech Republic, Cyprus, Germany, Hungary, Estonia, Spain, Latvia, Lithuania, Luxembourg, Malta, Poland, Slovakia and Slovenia).

An important development across the EU and a consequence of the transposition of the Racial Equality Directive (Directive 2000/43/EC of 29 June 2000) was the strengthening of the national legal frameworks addressing discrimination on the grounds of race and ethnic origin. For some Member States, this meant only relatively minor changes to existing legislation in order to comply with the Racial Equality Directive as these countries already disposed of significant legislation in the field: Denmark, Ireland, the Netherlands, Sweden and the United Kingdom fall into this group. For other Member States, important new legislation was introduced due to the Racial Equality Directive, as seen in Belgium, Spain, France, Cyprus, Lithuania, Hungary, Austria, Greece, Italy, Portugal, Slovenia, Slovakia and Finland. For some of these countries, it was the first time in their respective history that adequately detailed anti-discrimination legislation covering racial or ethnic discrimination was introduced in their legal system and the Racial Equality Directive played a groundbreaking role for them: Estonia, Spain, Cyprus, Lithuania, Hungary, Poland, Slovenia and Slovakia fall into this group.

All EU Member States have criminal legislative provisions to punish racist acts, while ensuring the right to freedom of expression. In terms of European Community legislation the Fundamental Rights Agency has worked since 2000 together with the European Commission for the adoption of a Council Framework Decision to approximate Member States' legislation and to ensure that racism and xenophobia are punishable in all Member States by effective, proportionate and dissuasive criminal penalties. In April 2007, following a European Commission proposal, the Justice and Home Affairs Council of the European Union reached political agreement on a "Council Framework Decision on Combating certain forms and expressions of racism and xenophobia by means of criminal law". The aim of this Framework Decision is to approximate criminal law provisions and to combat racist and xenophobic offences more effectively by promoting a full and effective judicial cooperation between Member States. The Framework Decision deals with such crimes as incitement to hatred and violence and publicly condoning, denying or grossly trivialising crimes of genocide, crimes against humanity and war crimes.

#### **Establishment and reinforcement of independent specialized national institutions and mediation**

The European Union's Racial Equality Directive requires the establishment of specialised bodies at national level, or the reinforcement of existing bodies, in order to provide assistance to victims of discrimination and to promote equality (the "National Equality Bodies").

As a consequence of the transposition of the Racial Equality Directive, Member States have created specialised bodies promoting equal treatment, as envisaged by the Racial Equality Directive. An important function of these specialised bodies is the provision of assistance to victims of discrimination so as to make the legal system more accessible for them, to collect data and information and to focus public attention on this area of law.

Alongside specialised bodies, the most important assistance offered to victims of racial or ethnic discrimination is provided by civil society organisations often empowered and supported by the state. For example, in Germany, Austria and Portugal the Racial Equality Directive has led to the empowerment of important civil society organisations assisting victims of racial or ethnic discrimination. In Italy, since December 2005, 320 associations are entitled to bring action before a court in the name and on behalf or in support of the person subject to discrimination. In Poland, an agreement between the Ministry of the Interior and Administration and the Union of Citizens' Advice Bureaux (a non-governmental organisation that coordinates Citizens' Advice Bureaux in Poland) was signed in July 2005. According to the agreement, the Citizens' Advice Bureaux in Poland commit themselves to provide free and independent assistance to victims of discrimination on the grounds of race or ethnic origin. The Ministry of the Interior and Administration has also signed contracts with three other research institutions and non-governmental organisations on the subject of citizens' advice on anti-discrimination issues.

Detailed information on these specialised bodies is available at [http://ec.europa.eu/employment\\_social/fundamental\\_rights/rights/neb\\_en.htm#nat](http://ec.europa.eu/employment_social/fundamental_rights/rights/neb_en.htm#nat)

#### **Data collection and disaggregation, research and study**

FRA, according to its founding Regulation, collects reliable, objective and comparative data, on a variety of fundamental rights issues, in accordance to its Multiannual Framework, including on racism, xenophobia and related intolerance. In order to obtain its data on racism and xenophobia at national level, the Agency operates since 2000 a European Racism and Xenophobia Information Network (RAXEN) composed of National Focal Points (NFPs) in each Member State. These NFPs are selected through an open call for tender and contracted to collect publicly available data and information at the local, regional and national level. The output of the NFPs is used as background material for the Agency's comparative reports. The FRA publishes its findings and analysis in its annual reports, as well as reports and studies specific to different subjects (such as anti-Semitism, Islamophobia, or the situation of Roma).

The guidelines for data collection developed by the Agency and the experience and expertise gathered since the establishment of the EUMC in 1997 have been shared and exchanged both at the national level with States and at the regional level with organisations such as the Council of Europe and OSCE/ODIHR.

An overview of the data collection and research activities on racism and xenophobia by the EUMC (2000-2006) is available at:  
[http://fra.europa.eu/fra/material/pub/discussion/EUMC\\_methodology\\_paper\\_en.pdf](http://fra.europa.eu/fra/material/pub/discussion/EUMC_methodology_paper_en.pdf)

The Agency has reported in its annual reports and other publications on the relative paucity of official statistical data on the situation regarding racial discrimination and racist violence. A key conclusion and opinion in all areas of past FRA/EUMC work has therefore been the need for the EU Member States to develop more effective systems and mechanisms to collect, record, and assess data and information related to racism and xenophobia within the framework of data protection legislation and guidelines.

The Fundamental Rights Agency is currently carrying out a major study on 'Discrimination and Victimisation in EU Member States: Experiences and Attitudes of Immigrants and Other Minorities'. This study was developed to address the lack of comparable criminal justice data on racist crime in the EU, which is due to the different, and in many cases non-existent, data collection systems in the EU Member States. The study is designed to capture the 'vulnerable' communities' experiences of criminal victimisation, including any incidents that are 'racially', ethnically or religiously motivated, including "racial profiling". Within the scope of the survey a 'mini questionnaire' on randomly selected members of the majority population who are neighbours of the survey's minority respondents will also be conducted in selected Member States. This will focus specifically on experiences of law enforcement controls to see if there are striking differences between majority and minority respondents concerning such experiences. Currently there is no EU-wide data on law enforcement controls, so this information will provide "matched" results concerning how often majority and minority respondents are being controlled, and, importantly in the context of discriminatory treatment, how they are treated when they are controlled.

#### **Victims of racism, racial discrimination, xenophobia and related intolerance**

The EUMC/FRA approach is to collect data and plan activities in thematic areas related to EU policy development on non-discrimination and equality, integration, violent crime and social inclusion, in particular employment, education, housing, racist violence and media discourse. Should members of particular groups or communities appear to be disproportionately affected in the thematic area, the Agency has followed this up by examining specifically the situation of those groups or communities, for example the situation of the Roma in the fields of employment, education and housing, Jewish communities in the areas of racist crime and violence and media discourse and Muslims communities in the areas of racist crime and violence, media discourse, education, employment, housing and integration.

A selection of reports which identify concrete measures and initiatives aimed at specific groups include the following:

- Muslims in the European Union: Discrimination and Islamophobia (December 2006)  
[http://fra.europa.eu/fra/index.php?fuseaction=content.dsp\\_cat\\_content&catid=3fb38ad3e22bb&contentid=4582d9f4345ad](http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=3fb38ad3e22bb&contentid=4582d9f4345ad)

- Community Cohesion at local level: addressing the needs of Muslim communities  
[http://fra.europa.eu/fra/index.php?fuseaction=content.dsp\\_cat\\_content&catid=3fb38ad3e22bb&contentid=47c835b451255](http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=3fb38ad3e22bb&contentid=47c835b451255)

- Anti-Semitism Summary overview of the situation in the European Union 2001-2005 (updated version January 2008)  
[http://fra.europa.eu/fra/index.php?fuseaction=content.dsp\\_cat\\_content&catid=449677441f3f3](http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=449677441f3f3)

- Manifestations of Antisemitism in the EU 2002 – 2003 (March 2004)  
[http://fra.europa.eu/fra/index.php?fuseaction=content.dsp\\_cat\\_content&catid=3fb38ad3e22bb&contentid=4146a7b291fff](http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=3fb38ad3e22bb&contentid=4146a7b291fff)

- Roma and Travellers in Public Education (May 2006)  
[http://fra.europa.eu/fra/index.php?fuseaction=content.dsp\\_cat\\_content&catid=43d8bc25bc89d&contentid=448ee6612aa4c](http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=43d8bc25bc89d&contentid=448ee6612aa4c)

- Roma Women and access to public health care (2003):  
[http://fra.europa.eu/fra/index.php?fuseaction=content.dsp\\_cat\\_content&catid=3fb38ad3e22bb&contentid=403231a31521f](http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=3fb38ad3e22bb&contentid=403231a31521f)

### **Strengthen partnerships with civil society**

One of the main tasks of the Fundamental Rights Agency is to promote dialogue with civil society to raise public awareness of fundamental rights, including the fight against racism, xenophobia and related intolerances. In this context the predecessor of the Agency, the EUMC had developed close collaboration with civil society organisations organising annually a European Round Table Conference on relevant issues and supporting similar events at national level.

The Fundamental Rights Agency is currently in the process of developing new forms of cooperation and networking with civil society that includes the establishment of a Fundamental Rights Platform. The main aim of the Fundamental Rights Platform will be the pooling of knowledge on relevant issues, including the fight against racism, as well as the active exchange of information between relevant stakeholders (non-governmental organisations dealing with human rights, trade unions and employer's organisations, relevant social and professional organisations, churches, religious, philosophical and non-confessional organisations, universities and other qualified experts of European and international bodies and organisations).

### **Education and awareness-raising**

The Agency's mandate includes the task to take measures to raise the awareness of the general public about their fundamental rights, and about possibilities and different mechanisms for enforcing them in general, without, however, dealing itself with individual complaints.

The Agency is in the process of devising innovative awareness-raising initiatives in the context of its future strategy to communicate results of its work. Continuing the work of the EUMC, FRA has so far focussed on raising awareness on issues regarding racism, xenophobia and related issues. Young people have been a particular target group of the Agency's awareness-raising work to date.

The European Union declared 2007 the European Year of Equal Opportunities for All to raise awareness on the importance of combating discrimination, including on the basis of race and ethnic origin. FRA organised a number of youth-related activities to support the objectives of the year, including a Diversity Day for 2000 school kids and an intercultural school agenda 2007/2008, which was disseminated widely. More info is available at Commission's website on the European Year of Equal Opportunities for All: [http://ec.europa.eu/employment\\_social/eyeq/index.cfm?page\\_id=415&language=DE](http://ec.europa.eu/employment_social/eyeq/index.cfm?page_id=415&language=DE)

The themes of the 2008 European Year of Intercultural Dialogue are also related to the issue of racial equality. With a budget of EURO 10 million, the European Year of Intercultural Dialogue consists of a variety of projects implemented in the framework of EU programs and other European Community actions and mobilising civil society and other actors at the European, national and local levels. The Year aims to raise awareness among people in the EU, particularly young people, that intercultural dialogue will improve their daily lives and help them integrate better in today's complex societies. Culture, education, youth, sport and citizenship are the main implementation fields. [http://ec.europa.eu/culture/eac/dialogue/year2008\\_en.html](http://ec.europa.eu/culture/eac/dialogue/year2008_en.html)

The Fundamental Rights Agency will contribute with a number of youth-related activities to the implementation of the Year.

### **Communication and the media**

FRA cooperates with media professionals for the purpose of raising awareness among journalists on issues relevant to its mandate, including the fight against racism. In cooperation with the European Broadcasting Union (Europe's largest media organisation), it published the "Diversity toolkit for factual programmes in public service television" (November 2007). This Toolkit is a training and self-learning guide for TV journalists on how to bring greater cultural diversity into the newsroom. It contains good practices, samples of news programmes dealing with cultural diversity, and practical reference material. Many public service broadcasters and organisations such as the

International Federation of Journalists have contributed to, and supported work on this toolkit.

[http://fra.europa.eu/fra/index.php?fuseaction=content.dsp\\_cat\\_content&contentid=478dc355bcd41&catid=3cddba5601ad4&lang=EN](http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&contentid=478dc355bcd41&catid=3cddba5601ad4&lang=EN)

The EUMC/FRA also held roundtables, conferences and other events on the subject of racism and the media, including a Euro-Mediterranean conference of media professionals in the aftermath of the controversy around the publication of cartoons of the Prophet Mohammed in a Danish newspaper. The conclusions and recommendations of this conference have been summarised in the report "Racism, Xenophobia and the Media: Towards respect and understanding of all religions and cultures" available at:

[http://fra.europa.eu/fra/index.php?fuseaction=content.dsp\\_cat\\_content&catid=3e6c61340870c&contentid=452a173c53b66](http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=3e6c61340870c&contentid=452a173c53b66)

### **Enhancing regional cooperation to combat racism**

Since its establishment of the EUMC in 1997, the Agency (EUMC/FRA) has been an important element in enhancing regional coordination on combating racism between the Member States of the European Union. Each Member State has nominated a government official to act as contact point for the Agency (National Liaison Officer). The National Liaison Officers (NLOs) help promote the work and findings of FRA among relevant government departments and bodies. The NLOs meet regularly under the auspices of the Agency (EUMC/FRA) for the purpose of information sharing with the Agency. These meetings, which have been held since March 2000 (first meeting of "EUMC government liaison contacts"), have also fostered the exchange of information and "good practice" between relevant national government officials at EU on the combat against racism and racial discrimination.

The Agency has also worked to enhance regional coordination with relevant intergovernmental organisations, the Council of Europe's European Commission against Racism and Intolerance (ECRI) in particular, but also with the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) and the United Nations (OHCHR Anti-Discrimination Unit, Special Rapporteur on Contemporary Forms of Racism and Racial Discrimination, Committee for the Elimination of Racial Discrimination, UNESCO Section Against Discrimination and Racism, etc.).

FRA, ODIHR, ECRI and OHCHR have instituted regular inter-agency coordination meetings and other forms of co-operation. This has served the purpose of identifying synergies, avoiding duplication and undertaking complementary activities. This inter-agency co-operation has helped to realise projects and initiatives to support States in dealing with hate/racist crimes, policy-making for Roma, and developing responses to specific forms of intolerance such as anti-Semitism and Islamophobia. It has also advanced common efforts to highlight the importance of improving data collection on racist crime and racial equality.

***Question 6:*** Please identify and share good practices achieved in the fight against racism, racial discrimination, xenophobia and related intolerance.

**FRA response:**

See responses to questions 2 and 3

Past EUMC annual reports as well as FRA's first report on racism and xenophobia in the Member States of the EU have identified examples of good practice or initiatives in the related areas.

[http://fra.europa.eu/fra/index.php?fuseaction=content.dsp\\_cat\\_content&catid=3fb38ad3e22bb&contentid=46d3ce2da38d9](http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=3fb38ad3e22bb&contentid=46d3ce2da38d9)

In addition, the Fundamental Rights Agency maintains a database of relevant positive initiatives by both government and civil society organisations, which is publicly available at

<http://www.raxen.fra.europa.eu/>

### **3. The Association of Southeast Asian Nations (ASEAN)**

**Subject: Answer to questionnaire in line with Durban Review Conference**

This has reference to your letter dated 4 March 2008 requesting the ASEAN Secretariat to answer a questionnaire in line with the Durban Review Conference. We regret to inform you that the ASEAN Secretariat is not in a position to respond to the questionnaire. In this regard, we would like to direct you to the ASEAN Member States.

Notwithstanding that, however, we would like to highlight key declarations and agreements in ASEAN, which are supportive of the Durban Declaration and its Programme of Action. These include the establishment of an ASEAN human rights body in the ASEAN Charter (2007); the ASEAN Commitments on HIV and AIDS (2007); ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (2007); the ASEAN Declaration Against Trafficking in Persons Particularly Women and Children (2004); and the ASEAN Declaration on the Elimination of Violence Against Women in the ASEAN Region (2004).

We hope that the above declarations and agreements by ASEAN Member States would prove informative in your review of the Durban Declaration and its Programme of Action.

### **III. NON-GOVERNMENTAL ORGANIZATIONS**

#### **1. English International Association of Lund**

##### **Question 1**

The Durban Declaration and Programme of Action provided important guidelines for combating racism. It brought attention to the fact that there is a need for new norms in a some areas and brought attention to the fact that there is the need to implement existing standards and adopt new ones.

##### **Question 2**

Contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance includes aggravated forms of racial discrimination, targeting migrant workers for exclusion, ethnic cleansing, ethnic genocide religious intolerance, the defamation of religious symbols, cemeteries, racial discrimination in the public and private spheres, structural discrimination, incitement to racial hatred, the publication and dissemination of hate speech, the presence of stereotypical characters in films and on television, caricatured cartoons and photographs, the spread of racist material through traditional mass media and the internet.

##### **Question 3**

Concrete measures include identifying the facts of overt, covert and structural racism within government institutions such as judicial systems and all areas of private and public employment, housing, health care and education; adopting sound policies that include affirmative action programmes, punitive and compensatory remedies for victims; maintaining statistics in order to better assess the effects of racial discrimination and the remedies needed to remedy its effect on victims.

States should recognise the importance of national action plans and other measures that serve to strengthen efforts to combat and monitor racism, racial discrimination, xenophobia and related intolerance. Such plans should be adopted to strengthen all efforts to monitor and combat racism and States should ensure that national action plans are consistent with international human rights instruments to which they are parties, and in particular the International Convention on the Elimination of All Forms of Racial Discrimination and the Durban Declaration and Programme of Action.

States should also take adequate measures to ensure appropriate human and financial resources are made available in the consultations leading to the preparation, elaboration and implementation of such plans and analyse, review and update all existing laws and policies which could have a potentially adverse effect on the preparation, implementation and monitoring of national action plans.



**Question 4**

The effectiveness of existing follow-up mechanisms depends very much on the OHCHR, but this could use some improvements. For one, the OHCHR enable more visibility by regularly posting and updating all relevant information on Durban follow-up activities on its website. This would facilitate the exchange of information on follow-up and implementation and contribute to a higher visibility of those activities.

Furthermore, the OHCHR could increase its collaboration with NGOs, United Nations agencies and others with regard to the follow-up and implementations, and take a more proactive stance with regards to its capacity to assist States in the preparation and implementation of their adoption of national action plans. Finally, the OHCHR should initiate a campaign for the universal ratification of the Convention and call upon States parties to consider withdrawing reservations made to its article 4 and consider making the declaration under article 14, providing for the possibility for individuals and groups to submit communications to CERD.

**Question 5**

States should ensure that national action plans are consistent with international human rights instruments to which they are parties, and in particular the International Convention on the Elimination of All Forms of Racial Discrimination and the Durban Declaration and Programme of Action.

**Question 6**

One of the best “good practices” is the 151-page national action plan of South Africa. The plan is comprehensive, contains a detailed description of its development, is comprehensive, and is user friendly.

**2. The Afro-Swedish National Association and the Swedish Centre against Racism**

**Trans-Atlantic Slave Trade issues**

*Transatlantic slave trade and the roots of racism*

A major accomplishment of the Durban World Conference against Racism was its profound analyses of the historical roots of modern racism emerging from the Slave Trade era with lasting consequences for large groups of people today.

The agreement on qualifying slave trade as a crime against humanity received much public attention as well as the debates on history and remembrance of the transatlantic slavery, apologies, reparations and other forms of remedies in relation to the lasting social and economic injustices which the transatlantic slave trade has contributed to. These deliberations are also reflected in several paragraphs in both the Declaration and the Programme of Action.

*Intergovernmental follow up*

Despite the attention given to the historical roots of racism and the Transatlantic Slave Trade and its continuing legacies at Durban no follow up has taken place in the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action which has covered only a small number of issues of the Durban agreements. Part of the lack of interest in the work of the Intergovernmental Working Group may be explained by not dealing with the Durban agreements in a more comprehensive manner that would attract the attention of the public and the NGO-community that was developed around the Durban conference.

*Recent action by the UN General Assembly*

The UN General Assembly on 28 November 2006 adopted by consensus a resolution on “Commemoration of the two-hundredth anniversary of the abolition of the transatlantic slave trade” which further developed the international recognition of the horrors of the transatlantic slave trade and acknowledged that “the slave trade and the legacy of slavery are at the heart of situations of profound social and economic inequality, hatred, bigotry, racism and prejudice, which continue to affect people of African descent today.” A further resolution was adopted by the General Assembly by consensus in December 2007, entitled “Permanent Memorial to and Remembrance of the Victims of Slavery and the Transatlantic Slave Trade” which designated 25 March as an annual “International Day of Remembrance of the Victims of Slavery and the Transatlantic Slave Trade”. The resolution agreed on the need “to inculcate future generations with the causes, consequences and lessons of the transatlantic slave trade and to communicate the dangers of racism and prejudice.”

*Proposals by Working Group of Experts on People of African Descent and by Member States*

At its 7<sup>th</sup> session the Working Group of Experts on People of African Descent strongly recommended that the question of reparations be included in the Durban follow up. This was supported by African states while Western countries expressed some reservations regarding inclusion of reparations. However the European Union has previously taken the position that the Durban follow up was the proper place to consider different aspects of slavery and the transatlantic slave trade. In its explanation of vote in the General Assembly, 28 November, 2006, on the consensus resolution on “Commemoration of 200<sup>th</sup> Anniversary of the abolition of the trans-Atlantic slave trade” the European Union stated that the EU “wants to consider the complex historical, social and legal issues related to the slave trade in a transparent manner“. Furthermore the EU stated its conviction “that these issues are best addressed within the framework of the Durban Declaration and Programme of Action.”

*Conclusion and proposal*

Based on the proposals from the Working Group of Experts on People of African Descent, NGOs and Member States to more actively consider slavery and the Transatlantic Slave Trade in the Durban follow up and the expressed support of the EU

for deliberations on the slave trade issues within the Durban framework stated at the General Assembly it should be possible to find broad agreement on an active consideration of the implementation of the Slave Trade related provisions in the Durban Review process. The Preparatory Committee should consider the organizing of a seminar or hearing on the implementation of the Slave Trade agreements with a view to present relevant recommendations to the Preparatory Committee. As an alternative the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action could be requested to devote its next session to this matter which hitherto has not figured in its deliberations and contribute its report to the next session of the Preparatory Committee. This consideration should be seen as a collaborative exercise where experts and NGOs can contribute to the deliberations which would cover the different issues relating to the slave trade which are referred to in the Durban Declaration and Programme of Action.

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