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ORGANIZATION OF AMERICAN STATES
COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

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Working Group to Prepare a Draft Inter-American
Convention against Racism and All Forms of
Discrimination and Intolerance

ACTIVITIES OF THE WORKING GROUP DURING THE 2009-2010 TERM

(Report of the Chair, presented to the
Committee on Juridical and Political Affairs on May 24, 2010)

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I. BACKGROUND

In the Charter of the Organization of American States (OAS), Article 3.1, the American states proclaim the fundamental rights of the individual without distinction as to race, nationality, creed, or sex. Further, Article II of the American Declaration of the Rights and Duties of Man provides that all persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed or any other factor. And Article I of the American Convention on Human Rights (1969) prohibits discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.

Developments

During the nineties, the OAS General Assembly General addressed the matter in resolutions AG/RES. 1271 (XXIV-O/94), “Nondiscrimination and Intolerance,” AG/RES. 1404 (XXVI-O/94), “Annual Report of the Inter-American Commission on Human Rights,” AG/RES. 1478 (XXVII-O/97), “Observations and Recommendations on the Annual Report of the Inter-American Commission on Human Rights,” and AG/RES. 1695 (XXIX-O/99), “World Conference against Racism, Racial Discrimination, Xenophobia, and Related Intolerance.”

Since 2000, the General Assembly had continued to address the matter in its resolutions AG/RES. 1712 (XXX-O/00), “Preparation of a Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance,” AG/RES. 1774 (XXXI-O/01), “Preparation of a Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance,” AG/RES. 1905 (XXXII-O/02), “Prevention of Racism and All Forms of Discrimination and Intolerance and Consideration of the Preparation of a Draft Inter-American Convention,” AG/RES. 1930 (XXXIII-O/03), “Prevention of Racism and All Forms of Discrimination and Intolerance and Consideration of the Preparation of a Draft Inter-American Convention,” and AG/RES. 2038 (XXXIV-O/04), “Prevention of Racism and All Forms of Discrimination and Intolerance and Consideration of the Preparation of a Draft Inter-American Convention.”

In 2005, the General Assembly, in resolution AG/RES. 2126 (XXXV-O/05), “Prevention of Racism and All Forms of Discrimination and Intolerance and Consideration of the Preparation of a Draft Inter-American Convention,” instructed the Permanent Council to establish a working group that would prepare a Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance; to continue to address, as a matter of priority, the subject of preventing, combating, and eradicating racism and all forms of discrimination and intolerance; and to convene a special meeting of the Working Group to examine and discuss the nature of a future Inter-American Convention against Racism and All Forms of Discrimination and Intolerance that aims to increase the level of protection afforded to human beings against acts of this type, with a view to reinforcing the international standards now in effect, and taking into account the forms and sources of

racism, discrimination, and intolerance in the Hemisphere and those manifestations not addressed in existing instruments on the subject.

In response to this mandate, the Committee on Juridical and Political Affairs of the Permanent Council installed the Working Group at its meeting of August 31, 2005. The Group began its activities on September 23 of that year. It held several meetings during the 2005-2006 term--notably the special meeting mentioned in the General Assembly resolution, which took place on November 28 and 29; the preliminary conclusions of that meeting are published in the rapporteur's report, document CAJP/GT/RDI-16/05. "Report of the Rapporteur".

The purpose of this and other meetings of the Working Group was to receive inputs, with a view to preparing a Draft Convention, from the member states, from organs, agencies, and entities of the OAS, from the United Nations and regional organizations, and from representatives of indigenous peoples, business and labor groups, and civil society organizations.

On April 18, 2006, the Chair of the Working Group submitted the "Preliminary Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance," CAJP-2357/06; this was based on inputs received during Working Group meetings from member states, civil society representatives, United Nations experts, organs, agencies, and entities of the OAS, and other regional and international agencies, as a basis for negotiations on a future Convention.

The OAS General Assembly, gathered in Santo Domingo, in the Dominican Republic, in June 2006, resolved in resolution AG/RES. 2168 (XXXVI-O/06), "Combating Racism and All Forms of Discrimination and Intolerance and Consideration of the Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance," instructed the Working Group to begin negotiations on the Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance, taking into account the aforementioned Preliminary Draft; to continue promoting meetings to receive contributions from member states, organs, agencies, and entities of the OAS, the United Nations, and regional organizations; and, bearing in mind the Guidelines for the Participation of Civil Society Organizations in OAS Activities, contained in Permanent Council resolution CP/RES. 759 (1217/99), dated December 15, 1999, that it also continue to receive contributions from representatives of indigenous peoples, entrepreneurs, labor groups, and civil society organizations.

Since that time, the General Assembly has continued to ratify this mandate through resolutions AG/RES. 2276 (XXXVII-O/07), AG/RES. 2367 (XXXVIII-O/08), and AG/RES. 2501 (XXXIX-O/09), entitled "Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance," instructing the Working Group to continue negotiations on the Draft Convention in the light of developments reflected in the "Consolidated Document: Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance" (CAJP/GT/RDI-57/07), the most recent version of which is revision 13.

II. MANDATE 2009-2010

The OAS General Assembly, gathered in San Pedro Sula, on June 4, 2009, in resolution AG/RES. 2501 (XXXIX-O/09), "Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance," instructed the Working Group to continue negotiations on that draft

Convention, taking into account the progress set forth in document CAJP/GT/RDI-57/07 rev. 11, "Consolidated Document: Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance," as well as document CAJP/GT/RDI-112/09 rev. 1, "Table Incorporating Proposals from Member States on the Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance," and in keeping with the work plan and working procedure to be adopted by the Group as it began its activities.

The General Assembly also requested the Working Group "to continue promoting contributions from member states; organs, agencies, and entities of the Organization of American States (OAS); the United Nations; and regional organizations; to urge those bodies to continue sending their written contributions to the Working Group for consideration; and, pursuant to the Guidelines for Participation by Civil Society Organizations in OAS Activities, contained in Permanent Council resolution CP/RES. 759 (1217/99), dated December 15, 1999, to request the Working Group to also continue to receive contributions from groups in vulnerable situations and from interested civil society organizations."

The Assembly also renewed the mandates to the Justice Studies Center of the Americas and the Inter-American Commission on Human Rights (IACHR), as set forth in paragraphs 5, 7, and 8 of resolution AG/RES. 2168 (XXXVI-O/06), and requested the General Secretariat to continue to provide support to the Working Group's activities, through the Executive Secretariat of the IACHR and the Department of International Law of the Secretariat for Legal Affairs.

III. OFFICERS

At its meeting of September 10, 2009, the Committee on Juridical and Political Affairs elected as Chair of the Working Group for the 2009-2010 term the Alternate Representative of Colombia, Sandra Lucía Mikan Venegas. On October 23, 2009, the Group elected as its Vice Chair the Alternate Representative of Bolivia, William Torrez Armas.

IV. ACTIVITIES OF THE WORKING GROUP (2009-2010)

A. Organization of work

On October 23, 2009, the Chair placed before the Group for consideration a draft work plan, which was approved by the delegations and is published as document CAJP/GT/RDI-121/09.

The Chair proposed therein a variation on the procedure followed thus far, such that, since the reading by the member states over the four years of discussions had been completed, for the period in question the Group's priority would be to negotiate the first chapter of the Draft Convention, pertaining to definitions, which would allow for consensus and closure so that the negotiations could move forward. Deliberations would proceed to the following chapter only once discussion of the previous chapter had been concluded in its entirety.

Similarly, only those points on which consensus had been reached would be incorporated into the text of the Preliminary Draft Convention. Until then, proposals by delegations would be

placed in the document “Table Incorporating Proposals from Member States on the Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance” (CAJP/GT/RDI-112/09 rev. 1).

The negotiation meetings were also governed by provisions of the Rules of Procedure of the Permanent Council (CP/doc.1112/80 rev.4), such as those pertaining to the adoption of decisions, the public or private nature of meetings, other relevant matters, and participation by civil society organizations as stipulated in Permanent Council resolutions CP/RES.759 (1217/99) of December 15, 1999, “Guidelines for the Participation of Civil Society Organizations in OAS Activities,” and CP/RES.840 (1361/03) of March 26, 2003, “Strategies for Increasing and Strengthening Participation by Civil Society Organizations in OAS Activities.”

B. Meetings of the Working Group

The Working Group held 11 regular meeting and three informal meetings during the 2009-2010 term. Negotiations on the Preliminary Draft began on October 23, 2009; the most recent version is provided in document CAJP/GT/RDI-57/07 rev. 13, “Consolidated Document: Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance” (see Annex I).

At the meeting of November 10, 2009, the delegation of Canada requested that the record show its position on the manner in which the Working Group should approach the topic of racism and discrimination rather than continuing with a text such as the present draft. Canada’s position is reflected in the document distributed as CAJP/GT/RDI/INF.13/09, attached hereto (see Annex II).

After a break in the meetings, in order to give time to those states that did not yet have instructions from their foreign ministries, and also for member states to consider the various views that had arisen as to how an instrument of this nature should be approached, the Chair, at the meeting of February 18, 2010, referred to certain aspects of the negotiation process. The Chair’s presentation was distributed as document CAJP/GT/RDI/INF-16/10.

A number of delegations then announced that, following consultations with their capitals, their instructions were to proceed with the negotiation of the Inter-American Convention against Racism and All Forms of Discrimination and Intolerance.

The Canadian delegation reaffirmed its position that a nonbinding instrument, rather than a convention, should be pursued. It said the Permanent Council could discuss the focus it wished to give to such a draft text, that being a way to move forward in this endeavor.

At the same meeting, the delegation of Antigua and Barbuda reaffirmed its proposal, put forward at earlier meetings, that an alternative route be sought through negotiation of an instrument that would include solely the racism aspect, which, by its nature, would garner the highest number of accessions, and which in the future could be given a series of additional protocols. That proposal is provided in document CAJP/GT/RDI/INF-18/10 (see Annex III).

In the meetings since that time, the Working Group has continued to seek consensus on paragraph 1 of Chapter I of the Draft Convention. The outcome of this negotiation is provided in revision 13 of the aforementioned consolidated text, which reflects the single agreement reached.

V. COMMENTS BY THE CHAIR

The Working Group Chair wishes to offer some reflections arising from her experience in leading the Working Group during this term:

- As agreed in the 2009-2010 Work Plan, our central task was to discuss and close Chapter I, pertaining to Definitions. It was clear that, after the series of meetings in prior years, the text in its entirety had been thoroughly considered and, moreover, enriched by the presentations of experts and specialists in the field at the special meetings that had been organized.
- This procedure made it clear, as reflected in the summaries of various meetings cited above, that within the Group there were varying inclinations as to the type of instrument that should be negotiated and the scope of topics it should encompass. The Chair believes this point must be clarified before the process continues. She feels gratified that finally the delegations have made their various positions clear, which will allow substantive decisions to be taken in the future.
- The Chair firmly believes that, despite the differences, it is possible to form certain minimal points of consensus that have already been reached in other arenas, and confirmed in other areas of this Organization, so as to conclude agreements, progressively, on the topic of discrimination, racism, and intolerance. Therefore she has called upon delegations to be mindful of the mandate that was given to this Group and was ratified at the General Assembly session in San Pedro Sula by all the member states.
- Certainly, in the context of the upcoming General Assembly session, and on the basis of what we have seen during this term, it will be necessary, at the highest political level, to reaffirm the commitment to negotiating this instrument and define the parameters of that effort, so as to make the very best use of the Organization's already scant resources and its hierarchy of mandates.
- From a perspective that might seem purely operational--but actually, as a manifestation of the states' commitment, is not--the Chair wishes to point out the quorum difficulties that were a constant in the Group meetings; this deserves thought and action on the part of the states.

VI. DRAFT GENERAL ASSEMBLY RESOLUTION

On April 20, 2009, the Chair of the Working Group submitted the draft resolution entitled "Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance,"

which, despite efforts to reach consensus, was not approved by the Group. Therefore it is placed before the Committee on Juridical and Political Affairs for its consideration as document CAJP/GT/RDI-137/10 rev.3 (see Annex IV).

The draft resolution is attached hereto for joint consideration and possible presentation to the Permanent Council, with an eye to the OAS General Assembly session that will be held in Lima, Peru, from June 6 to 8, 2010.

The entire preambular section of the draft resolution met with consensus and approval. This is not true of the operative section, especially operative paragraph 2, which reflects the greatest degree of disagreement as to how to approach or reflect the various positions toward such an instrument to be negotiated by delegations; these differences were clearly in evidence during this term.

VII. ACKNOWLEDGEMENTS

The Working Group Chair wishes to thank the Vice Chair, the Alternate Representative of Bolivia, William Torrez Armas, and to note his concern over, and dedication to, the success of the Working Group's endeavors. She wishes to thank the delegations, whose committed participation made it possible to move forward with task assigned to the Group. And she wishes to thank, for their ongoing support and advice, the Department of International Law, the Executive Secretariat of the Inter-American Commission on Human Rights, and the Permanent Council Secretariat.

Sandra Lucía Mikan Venegas
Alternate Representative of Colombia to the OAS
Chair of the Working Group to Prepare a Draft Inter-American Convention against Racism and All
Forms of Discrimination and Intolerance

ANNEX I

PERMANENT COUNCIL OF THE
ORGANIZATION OF AMERICAN STATES
COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

OEA/Ser.G
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Working Group to Prepare a Draft Inter-American
Convention against Racism and All Forms of
Discrimination and Intolerance

CONSOLIDATED DOCUMENT

DRAFT INTER-AMERICAN CONVENTION AGAINST RACISM
AND ALL FORMS OF DISCRIMINATION AND INTOLERANCE

(Presented by the Chair)

DRAFT INTER-AMERICAN CONVENTION AGAINST RACISM

(Canada)

DRAFT INTER-AMERICAN CONVENTION AGAINST RACISM,
DISCRIMINATION, AND INTOLERANCE

(Honduras)

EXPLANATORY NOTE

This version of the consolidated text of the Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance contains the changes agreed upon at the Working Group's last meeting. Throughout the text, words or phrases that the Working Group has not yet approved by consensus, but has examined, are shown as follows: **in bold**. Phrases or paragraphs on which no consensus has been reached, whether because new proposals have been presented, including proposals to delete them, or because different wording has been requested, are shown as follows: [in square brackets]. In addition, new proposals that are subject to consideration are shown as follows: (in parentheses).

CONSOLIDATED DOCUMENT

DRAFT INTER-AMERICAN CONVENTION AGAINST RACISM
AND ALL FORMS OF DISCRIMINATION AND INTOLERANCE
(Presented by the Chair)

DRAFT INTER-AMERICAN CONVENTION AGAINST RACISM
(Canada)

DRAFT INTER-AMERICAN CONVENTION AGAINST RACISM,
DISCRIMINATION AND INTOLERANCE
(Honduras)

THE STATES PARTIES TO THIS CONVENTION,

CONSIDERING that the inherent dignity and equality of all members of the human family are basic principles of the Universal Declaration of Human Rights, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights and the International Convention on the Elimination of All Forms of Racial Discrimination;

REAFFIRMING the resolute commitment of the member states of the Organization of American States to the complete and unconditional eradication of racism and of all forms of discrimination and intolerance and their conviction that such discriminatory attitudes are a negation of universal values and the inalienable and infrangible rights of the human person and the purposes and principles enshrined in the Charter of the Organization of American States, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, the Democratic Charter of the Americas, the Universal Declaration of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Universal Declaration on the Human Genome and Human Rights;

Proposal by the delegation of Mexico

REAFFIRMING the resolute commitment of the member states of the Organization of American States to the complete and unconditional eradication of racism and of all forms of discrimination and intolerance, and convinced that such discriminatory attitudes are a negation of universal values and the inalienable and infrangible rights of the human person and the purposes and

principles enshrined in the Charter of the Organization of American States, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, the Democratic Charter of the Americas, the Universal Declaration of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Universal Declaration on the Human Genome and Human Rights;

RECOGNIZING the duty of adopting national and regional measures to promote and encourage observance of the human rights and fundamental freedoms of all individuals and groups subject to their jurisdiction, without regard to race, color, ethnic origin, gender, age, sexual orientation, language, religion, political or other opinion, national or social origin, economic status, migrant, refugee or displaced status, birth, stigmatized infectious-contagious condition, genetic trait, disability, debilitating psychological distress or other social condition;

Proposal by the delegation of Mexico

RECOGNIZING the duty of adopting national and regional measures to promote and encourage observance of the human rights and fundamental freedoms of all individuals and groups subject to their jurisdiction, without regard to race, color, ethnic origin, gender, age, sexual orientation, language, religion, political or other opinion, national or social origin, economic status, migrant, refugee, or displaced status, birth, stigmatized infectious-contagious condition, genetic trait, disability,^{1/} debilitating psychological distress or other social condition;

*CONVINCED that the principles of equality and nondiscrimination among human persons are dynamic democratic concepts that foster the promotion of effective legal equality and presuppose an obligation on the State's part to adopt special measures to protect the rights of individuals or groups that are victims of discrimination, in any area of human endeavor, whether public or private, with a view to cultivating equitable conditions for equal opportunity and to combating discrimination in all its individual, structural, and institutional manifestations;

***Note:** The delegation of Colombia raised within the Group the question of whether this definition was sufficiently broad to encompass future forms of discrimination.

Proposal by the delegation of Mexico

*CONVINCED that equality and nondiscrimination among human persons are rights that underpin the effective legal equality of a democratic society and presuppose an obligation on the State's part to adopt special measures to protect the rights of individuals or groups that are victims of discrimination, in any area of human endeavor, whether public or private, with a view to cultivating equitable conditions for equal opportunity and to combating discrimination in all its individual, structural, and institutional manifestations;

AWARE that racism has a dynamic of its own that enables it to transform itself and find new ways to propagate itself and new vehicles of political, social, cultural and linguistic expression;

Proposal by the delegation of Mexico

AWARE that racism may assume new forms of political, social, cultural and linguistic expression, as well as of propagation;

TAKING INTO ACCOUNT that the victims of racism, discrimination and intolerance in the Americas are, *inter alia*, Afro-descendants, indigenous peoples, migrants, refugees and displaced persons and their families, as well as other racial, ethnic, sexual, cultural, religious and linguistic groups or minorities that are affected by such manifestations;

Proposal by the delegation of Mexico

TAKING INTO ACCOUNT that the victims of racism, discrimination and intolerance in the Americas continue to be, *inter alia*, Afro-descendants, indigenous peoples, migrants, refugees and displaced persons and their families, as well as other racial, ethnic, sexual, cultural, religious and linguistic groups or minorities that are affected by such manifestations;

CONVINCED that certain persons and groups experience multiple or extreme forms of racism, discrimination and intolerance, driven by a combination of factors such as race, color, ethnic origin, gender, age, sexual orientation, *language*, religion, political or other opinion, national or social origin, economic status, migrant, refugee or dislocated status, birth, stigmatized infectious-contagious condition, genetic trait, disability, debilitating psychological distress, or other social condition;

Proposal by the delegation of Mexico

CONVINCED that certain persons and groups experience multiple or aggravated forms of discrimination for reasons of race, color, ethnic origin, gender, age, sexual orientation, language, religion, political or other opinion, national or social origin, economic status, migrant, refugee or displaced status, birth, stigmatized infectious-contagious condition, genetic trait, disability, debilitating psychological distress, or other social condition;

Proposal by the delegation of Argentina

CONVINCED that certain persons and groups experience multiple or aggravated forms of racism, discrimination, and intolerance motivated by a combination of factors, such as race, color, ethnic origin, gender, age, sexual orientation, language, religion, political or other opinion, national or social origin, economic status, migrant, refugee or displaced status, birth, state of health, genetic trait, disability, debilitating psychological distress, or any other social condition;

DISTURBED by the fact that various parts of the world have seen a general increase in cases of intolerance and violence motivated by anti-Semitism, Christianophobia, or Islamophobia, and against members of other religious communities, including those with African roots;

Proposal by the delegation of Mexico

DISTURBED by the fact that various parts of the world have seen a general increase in cases of intolerance and violence motivated by anti-Semitism, Christianophobia, or Islamophobia, and against members of other religious communities, including those with African roots;

RECOGNIZING that peaceful coexistence among religions in pluralistic societies and democratic States is based on respect for equality and nondiscrimination among religions and on the clear separation between the laws of the State and religious tenets;

TAKING INTO ACCOUNT that a pluralistic and democratic society must respect the ethnic, cultural, linguistic and religious identity of every person who belongs to a minority, and create the conditions that will enable that person to express, preserve, and develop his or her identity;

Proposal by the delegation of Mexico

TAKING INTO ACCOUNT that a pluralistic and democratic society must respect the ethnic, cultural, linguistic, and religious identity of every person who belongs to a minority, and create the conditions that will enable that person to express, preserve, and develop his or her identity;

CONSIDERING that the individual and collective experience of discrimination must be taken into account to combat the segregation and marginalization of racial, ethnic, cultural, linguistic and religious minorities and to protect the life plan of individuals in general and of minority communities;

ALARMED by the surge in hate crimes motivated by race, color, ethnic origin, gender, religion, sexual orientation, disability and other social conditions;

EMPHASIZING the basic role that education plays in promoting respect for human rights, equality, nondiscrimination and tolerance; and

BEARING IN MIND that while the fight against racism and discrimination is the priority of an earlier international instrument, namely the 1965 International Convention on the Elimination of All Forms of Racial Discrimination, it is imperative that the rights therein recognized be reaffirmed, developed, perfected and protected, in order to consolidate within the Americas the democratic meaning of the principles of legal equality and nondiscrimination,

Proposal by the delegation of Mexico

BEARING IN MIND that while the fight against racism and discrimination is the priority of an earlier international instrument, namely, the 1965 International Convention on the Elimination of All Forms of Racial Discrimination, it is imperative that the rights recognized therein be reaffirmed, developed, perfected and protected, in order to consolidate within the Americas, on the basis of full respect for the rights of human beings, the democratic meaning of the principles of legal equality and nondiscrimination,

AGREE upon the following:

CHAPTER I

Definitions

Article 1

For purposes of this Convention:

1. Discrimination shall mean any distinction, exclusion, restriction, or preference, in any area of public or private life, whose purpose or effect is to nullify or curtail the equal recognition, enjoyment, or exercise of one or more human rights and fundamental freedoms enshrined in the international instruments applicable to the States Parties.^{1/}

Discrimination may be based on race, color, heritage, national or ethnic origin, nationality, age, sex, sexual orientation, gender identity and expression, language, religion, political opinions or opinions of any kind, social origin, socioeconomic status, educational level, migrant, refugee, repatriate, stateless or internally displaced status, disability, genetic trait, mental or physical health condition including infectious-contagious condition and debilitating psychological condition, or any other condition.^{2/}

(CANADA: Discrimination shall mean any distinction, exclusion, restriction or preference which is based on race, color, national or ethnic origin and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of one or more human rights and fundamental freedoms enshrined in the international instruments applicable to the States Parties, in any area of public or private life. This concept also includes indirect discrimination, which shall be taken to occur, in any realm of public and private life, when an apparently neutral rule, requirement, or practice cannot be readily complied with or carried out by persons belonging to a specific group, or puts this group at a disproportionate disadvantage. However, not every distinction, exclusion, restriction or preference, whether direct or indirect, will constitute discrimination if the justification for drawing the differentiation is reasonable and objective and if the aim is to achieve a purpose which is legitimate under international human rights law.)

2. Indirect discrimination shall be taken to occur, in any realm of public and private life, when a seemingly neutral (innocuous) factor, such as a provision, criterion, or practice, results in the distinction, exclusion, or restriction of the human rights or fundamental freedoms of persons belonging to a specific group, or puts them at a disadvantage, unless said factor has some reasonable objective or justification.

(MEXICO: Indirect discrimination shall be taken to occur, in any realm of public and private life, when a seemingly neutral provision, criterion, or practice is liable to entail a particular disadvantage for persons belonging to a specific group, or puts them at a disadvantage, unless said provision, criterion, or practice has some

1. Paragraph agreed *ad referendum* of the delegation of Canada
2. Paragraph from the Working Group meeting of March 9, 2010. Its approval is pending as the subsequent meetings lacked the statutory quorum.

reasonable objective or justification and that the purported aim is legitimate under international human rights law.

Note:

The delegation of Argentina objects to the inclusion of this text because it enters into such spheres as “reasonableness,” thereby altering concepts that jurisprudence and practice have forged for years and inappropriately making them subject to negotiation.

3. Multiple or **aggravated** discrimination is any distinction, exclusion, restriction, or preference based simultaneously on two or more of the criteria set forth in subparagraph 1 of this article, the objective or result of which is to nullify or curtail, in a **more pronounced fashion**, the equal recognition, enjoyment, or exercise of one or more human rights and fundamental freedoms enshrined in the international instruments applicable to the States Parties, in any area of public or private life.

(URUGUAY: Considers it essential to maintain the word “aggravated.”)

Note by the delegation of Argentina:

Although this terminology is used internationally, Argentina suggests that this definition should not be introduced in this draft Convention, so as to avoid establishing a hierarchy with respect to discrimination in a legal instrument of this nature. Moreover, the aforementioned definition is reiterated in Article 12.

4. **Racism is any distinction, exclusion, restriction, or preference pertaining to the equal recognition, enjoyment, or exercise of one or more human rights and fundamental freedoms, in any area of public or private life, based on the establishment of a causal link between the phenotypical or genetic characteristics of certain persons and their intellectual, personality, or cultural traits. This concept includes structural racism, which refers to a system in which public policies, institutional practices, cultural representations, and other standards generally reinforce inequality among different racial groups.**

(CANADA: Proposes deletion of this paragraph.)

(BRAZIL: The term *racism* includes any theory, doctrine, ideology, or set of ideas and values that uphold the supposed existence of human races, establishing a supposed causal link between phenotypical and/or genetic characteristics of individuals or groups and their intellectual, cultural, or personality traits, including the false concept of one or more races superior to all other races, or allowing them to dominate, discriminate, take intolerant measures against, and persecute individuals and groups belonging, or supposedly belonging, to the races viewed as inferior. Any theory, doctrine, ideology, or set of racist ideas and values, as established in this article, is scientifically false, morally reprehensible, socially unjust, and dangerous, and should be condemned by the States Parties.)

(Alternate proposal from ARGENTINA: “Racism includes racist ideologies, prejudiced attitudes, discriminatory behavior, structural arrangements and

institutionalized practices resulting in racial inequality as well as the fallacious notion that discriminatory relations between groups are morally and scientifically justifiable; it is reflected in discriminatory provisions in legislation or regulations and discriminatory practices as well as in anti-social beliefs and acts; it hinders the development of its victims, perverts those who practice it, divides nations internally, impedes international co-operation and gives rise to political tensions between peoples; it is contrary to the fundamental principles of international law and, consequently, seriously disturbs international peace and security.”

Source: Declaration on Race and Racial Prejudice (Art. 2, para. 2), UNESCO.)

(MEXICO: Conceptually, it seems more appropriate to begin with the premise that racism is any theory, doctrine, ideology, or set of ideas and values that upholds the supposed existence of human races, for the purpose of justifying the supposed existence of “superior races” and other “inferior races,” and thus justifying their being granted different rights.

The foregoing should be examined in light of other articles, basically Article 5.)

Note:

- The delegation of Peru proposes that this paragraph, if approved, be moved to the preamble.
- The delegation of Uruguay is in favor of including a paragraph on racism in the operative part of the Convention. Likewise, it supports Brazil’s proposal, which could be merged with the present paragraph.

5. Special measures or affirmative action adopted for the sole purpose of ensuring adequate advancement of individuals and groups requiring such protection as may be necessary to ensure their equal enjoyment or exercise of one or more human rights and fundamental freedoms shall not be deemed discrimination provided that such measures do not lead to the maintenance of separate rights for different groups and are not continued **beyond a reasonable period or** once their objectives have been achieved.

(ARGENTINA: Special measures or affirmative action adopted for the sole purpose of ensuring adequate advancement of individuals and groups requiring such protection as may be necessary to ensure their equal enjoyment or exercise of one or more human rights and fundamental freedoms shall not be deemed discrimination provided that such measures do not lead to the maintenance of separate rights for different groups and are not continued once their objectives have been achieved.)

6. Intolerance is the set of acts or manifestations that convey disrespect, rejection, or contempt for human dignity and the richness and diversity of the world’s cultures, religions, ideologies, traditions, and human forms of expression, quality, and ways of being.

(CANADA: Proposes deletion of this paragraph.)

(MEXICO: Conceptually, it seems more appropriate to begin with the premise that intolerance is the rejection or disavowal of, or disrespect for, the ideas, beliefs, practices, or characteristics of others when they are different from or contrary to one's own.)

(ARGENTINA: Intolerance refers to forms of conduct that, without exactly qualifying as racism or discrimination as those concepts are defined under this Convention, entail rejection, disavowal, or aversion, in any sphere of life, against a person or group of persons deliberately selected on the basis of one or more of the factors of discrimination.)

Note:

- Some delegations expressed concern that the limitation in this article may be considered a restriction on freedom of expression.

7. (BRAZIL: A distinction, exclusion, restriction, or preference that has a reasonable aim or justification and that is consistent with the aims of this Convention and with the principles of inter-American human rights law will not be considered discriminatory (or discrimination).

(MEXICO: Mexico does not approve of consideration of reasonable aims or justifications for distinctions, exclusion, or preferences.)

(ARGENTINA: Objects to the inclusion of this definition.)

CHAPTER II

Protected Rights

Article 2

All human beings have the right to equal treatment before the law and to protection against racism, [MEX: and all forms of] discrimination, and intolerance, in the public or private sphere.

Note:

- The delegation of Uruguay considers that the final draft here should coincide with the title of the Convention.

Article 3

Every human being has the right to the equal recognition, enjoyment, exercise, and protection, at both the individual and collective levels, of all human rights and fundamental freedoms enshrined in their domestic law and in the international instruments applicable to the States Parties. **at both the individual and collective levels.**

(CANADA and ARGENTINA propose deletion of the text in bold.)

Article 4

The States Parties to this Convention recognize the collective rights of indigenous peoples and [CO: ~~when pertinent,~~] of persons of African descent that are indispensable for their existence, well-being, and integral development as peoples, *inter alia*, the right to their collective action; to their social, political, and economic organization; to their legal systems; to their own cultures; to profess and practice their spiritual beliefs; to use their languages; and to administer, make use of, and control their habitats and natural resources [CO: in accordance with the Constitutional provisions of the States Parties].

(BRAZIL: The States Parties to this Convention pledge to protect the collective rights of indigenous peoples and of other peoples and ethnic groups that are indispensable for their existence, well-being, and integral development as peoples, *inter alia*, the right to their collective action; to access to public services and assets; to their social, political, and economic organization; their legal systems; to their own cultures; to profess and practice their spiritual beliefs; to use their languages; and to administer and control their lands, territories, and natural resources, in accordance with the law of the States Parties.)

(CANADA: Proposes deletion of this paragraph.)

Note:

- The possibility of eliminating this article was raised. One of the reasons is that the Organization has a working group devoted solely to this issue. Additionally, this is a matter still under discussion, one that, even in the UN Declaration on the Rights of Indigenous Peoples, has not been approved by some countries.
- The delegation of Argentina points out that from a technical legal point of view, this affirmation is unnecessary because it is not the purpose of this draft to reaffirm the rights of indigenous peoples (which are the subject of negotiations in another sphere of the OAS) or those of Afro-descendants. If it is deemed necessary to mention them in particular, excluding other groups, Argentina suggests using the following formula based on Article 2 of the Universal Declaration of the Rights of Indigenous Peoples: “Indigenous peoples and Afro-descendants are equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their origin or identity.”

CHAPTER III

Acts and Manifestations of Racism, [All Forms of] Discrimination, and Intolerance [Acts and Manifestations of Discrimination] (Canada)

(ARGENTINA proposes the deletion of this Chapter here and its inclusion in Article 6 of Chapter IV.)

Article 5

[For purposes of this Convention and based on the definitions in the preceding articles and the criteria set forth in Article 1.1, the following are among the measures or practices [PE: the following acts and manifestations] that must be classified as discriminatory and prohibited by the State:]

(CANADA: For the purposes of this Convention, and taking into consideration human rights and fundamental freedoms, States Parties shall classify as discriminatory and take appropriate measures in response to:)

(MEXICO: For the purposes of this Convention and based on the definitions in the preceding articles and the criteria set forth in Article 1.1, the following are among the measures [PRES: and/] or practices [PE: the following acts and manifestations] that shall be prohibited:

- i. Racism;
 - ii. Discrimination, including indirect and multiple or aggravated discrimination;
 - iii. Intolerance;
- i. Public or private support provided to discriminatory and racist activities or that promote intolerance, including the financing thereof;

(CANADA: State financing of unlawful discriminatory activities)

(MEXICO: Public or private support for discriminatory and racist activities or activities that promote intolerance, including the financing thereof;

- ii. Publication, circulation, or dissemination, by any means of communication, including the Internet, of any [racist or discriminatory] materials, understood as being any image or depiction of ideas or theories that advocate, promote, or incite hatred or violence against individuals or groups by reason of any of the criteria set forth in [Article 1.1];

(CANADA: Willful publication, circulation, or dissemination, by any means of communication, including the Internet, of any materials that advocate, promote, or incite hatred or violence against individuals or groups by reason of any of the criteria set forth in Article 1.1)

(MEXICO: Publication, circulation, or dissemination, by any means of communication, including the Internet, of any materials that advocate, promote, or incite hatred or violence against individuals or groups by reason of any of the criteria set forth in Article 1.1;)

Note: At the meeting on February 17, the delegation of Mexico said that it could go along with Canada's proposal for roman ii), which differs from the Mexican delegation's proposal only in respect of the word "willful" ("willful publication, circulation, or dissemination").

- iii. Publication, circulation, or dissemination, by any means of communication, including the Internet, of materials that condone or justify acts that constitute, or have constituted, genocide or crimes against humanity, as defined in international law;

(Some delegations, such as Peru and Mexico, propose adding something to clarify this paragraph, such as defining disparagement and to whom it is directed.)

(CANADA: Willful publication, circulation, or dissemination, by any means of communication, including the Internet, of materials that advocate, promote or incite acts that constitute genocide or crimes against humanity, as defined in international law)

VENEZUELA proposes incorporating into this subparagraph the text of the American Convention on Human Rights contained in Article 13.5.

(MEXICO: Publication, circulation, or dissemination, by any means of communication, including the Internet, of materials that condone or justify acts that constitute, or have constituted, genocide or crimes against humanity, as defined in international law, or that condone or justify denial of those acts;)

- iv. Violence motivated by any of the criteria set forth in Article 1.1;

Note: The Canadian delegation has made a proposal for the following paragraph and has proposed that this subparagraph be deleted.

- v. [Criminal activity instigated by hate, in which the victim or the victim's property is chosen intentionally on the basis of any of the criteria set forth in [Article 1.1]];

(CANADA: Criminal activity in which the victim or the victim's property is chosen intentionally based on any of the criteria set forth in Article 1.1)

- vi. [Any law enforcement action based on any of the criteria set forth in [Article 1.1] rather than on the person's behavior or on objective information identifying the individual as having engaged in criminal activity;]

(CANADA: Any law enforcement action that singles out PERSONS for greater scrutiny or different treatment that is not based on INDIVIDUAL CONDUCT OR behavior or on objective information)

(MEXICO AND VENEZUELA find it better to use the Durban terminology here, or to speak only of discrimination.)

(PERU proposes that the racial profile should be taken as a basis, but should be broader, in that sense, and, because of the nature of the Convention, there could be reference to a discriminatory profile.)

- vii. Restricting, in an undue or unreasonable manner, the exercise of the individual rights of ownership, administration, and disposition of property of any kind based on any of the criteria set forth in [Article 1.1];

(MEXICO proposes deleting this paragraph)

- viii. [Any distinction, exclusion, restriction, or preference applied to persons, because of their multiple or aggravated victim status, the purpose or result of which is to deny or impair the equal recognition, enjoyment, exercise, or protection of rights and fundamental freedoms.]

(CANADA and MEXICO propose deletion of this paragraph since it is already included in Article 1.)

- ix. [Any discriminatory restriction on the enjoyment of the human rights enshrined in applicable international and regional instruments and in the jurisprudence of international and regional human rights courts, particularly those applicable to minorities or groups that are in vulnerable situations and subject to discrimination;]

(CANADA: Proposes first moving this paragraph to Article 3 and then rewriting it as follows: Any discriminatory restriction on the enjoyment of the human rights enshrined in international and regional instruments, particularly those applicable to minorities or groups that are in vulnerable situations and subject to discrimination.)

- x. [Any restriction or limitation of the use of the language, traditions, customs, and culture of persons or groups who are members of minorities or vulnerable groups, in public or private activities;]

(CANADA: Any undue or unreasonable restriction or limitation of the use of the language, traditions, customs, and culture of persons or groups who are members of minorities or vulnerable groups)

(MEXICO: Any restriction or limitation of the use of the language, traditions, customs, and culture of persons or groups of persons in public or private activities;)

- xi. [Preparing and introducing teaching materials, methods, or tools that portray stereotypes or preconceptions based on any of the criteria set forth in [Article 1.1] of this Convention;]

(CANADA and MEXICO propose deletion of this subparagraph.)

(BOLIVIA: Proposes combining subparagraphs (vi) and (x), or placing them closer together, because they are related.)

(CHAIR: Considers this article essential because it is through teaching materials that racist and discriminatory ideas become deeply rooted in a society.)

(VENEZUELA: Will propose new wording, with greater emphasis on education.)

- xii. Denying access to public or private education, to fellowships, or to educational loan programs, based on any of the criteria set forth in [Article 1.1] of this Convention;
- xiii. Denying access to all social, economic, and cultural rights, including the right to work, to housing, to social security, and to health [CR: based on any of the criteria set forth in [Article 1.1] of this Convention;

(MEXICO: Denying access to social, economic, and cultural rights;)

- xiv. [Conducting research or applying the findings of research into the human genome, particularly in the fields of biology, genetics and medicine, aimed at human selection, cloning, and any other method disrespectful of human rights, fundamental freedoms, and the dignity of individuals and groups of persons;]

(PERU: Highly controversial article ... Why would this be considered disrespect for human rights and fundamental freedoms?)

(CHAIR: Research or research applications concerning the human genome, in particular in the fields of biology, genetics, and medicine, aimed at human selection and cloning, that prevails over respect for human rights, fundamental freedoms, and human dignity, generating any form of discrimination based on genetic characteristics.)*

*The source of this paragraph is the Universal Declaration on the Human Genome and Human Rights (Articles 10 and 11), adopted by UNESCO in 1997.

- xv. Any other discriminatory conduct that falls within the definition contained in Article 1 of this Convention.

(VENEZUELA: Considers it opportune to incorporate some elements and restore others from initial versions of this draft presented by the Chair. To that end, it makes the following proposals:

- The abuse of written, audiovisual, and electronic information media and new communication technologies, including the Internet, to incite violence motivated by racial hatred.
- All doctrines of racial superiority or the dissemination of ideas based on superiority, as well as incitement to discrimination, intolerance, acts of violence, or the provocation of such acts targeted at individuals or groups of persons for reasons based on one or more of the factors listed in Article 1.1.
- State initiatives, through the adoption of anti-terrorism laws, regulations, or public or security policies that discriminate directly or indirectly against individuals or groups of persons.)

(MEXICO: State initiatives, through the adoption of anti-terrorism laws, regulations, or public or security policies that discriminate directly or indirectly against individuals or groups of persons.)

CHAPTER IV

Duties of the States

Article 6

The States undertake to prevent, eliminate, and punish, in accordance with their domestic legislation and the provisions of this Convention, all acts and manifestations of discrimination and **intolerance**.

(CANADA: Proposes the following draft: The States Parties undertake to take steps to prevent, eliminate, and penalize, in accordance with their constitutions and the provisions of this Convention, all acts and manifestations of discrimination.)

(MEXICO: The States undertake to prevent, eliminate, and punish, in accordance with their domestic legislation and the provisions of this Convention, all acts and manifestations of discrimination, racism, and intolerance.)

(ARGENTINA: Proposes deleting Chapter III and including its component parts in Article 6, which would then read as follows:

The States undertake to prevent, eliminate, prohibit, and punish all acts and manifestations of discrimination and intolerance, especially:

- i) All support for activities designed to promote discrimination, racism, and intolerance, including the financing thereof;
- ii) Publication, circulation, or dissemination, by any means of communication, including the Internet, of any materials that:
 - (a) Advocate, promote, or incite racism, any form of discrimination, and intolerance;
 - (b) Condone, justify, or defend acts that constitute, or have constituted, genocide or crimes against humanity, or promote or incite the commitment of such acts;
- iii) Criminal activity in which the victim or the victim's property is chosen intentionally based on any of the criteria set forth in Article 1.1.
- iv) Any law enforcement action based on any of the criteria set forth in Article 1.1 is not based on the behavior of an individual or on objective information identifying the individual as having engaged in criminal activity;
Note: It would, however, be necessary to know what is meant by "law enforcement action" in this Convention. Possibly, it might be replaced by the word "detention" or some other equivalent concept.

- v) Restricting, in an undue or unreasonable manner, the exercise of the individual rights of ownership, administration, and disposition of property of any kind based on any of the criteria set forth in [Article 1.1];
- vi) Any restriction or limitation of the use of the language, traditions, customs, and culture of persons or groups who are members of minorities or vulnerable groups, in public or private activities;
- vii) Preparing and introducing teaching materials, methods, or tools that portray stereotypes or preconceptions based on any of the criteria set forth in [Article 1.1] of this Convention;
- viii) Denying access to public or private education, to fellowships, or to educational loan programs, based on any of the criteria set forth in [Article 1.1] of this Convention;
- ix) Denying access to all social, economic, and cultural rights, including the right to work, to housing, to social security, and to health;
- x) Conducting research or applying the findings of research into the human genome, particularly in the fields of biology, genetics and medicine, aimed at human selection or cloning that prevails over respect for human rights, fundamental freedoms, and human dignity, generating any form of discrimination based on genetic characteristics (proposal by the Chair).

Article 7

The States Parties undertake to adopt the special differential or preferential measures and policies needed to ensure the enjoyment or exercise of rights and fundamental freedoms of persons or groups that are subject to racism, discrimination, or intolerance for the purpose of promoting equitable conditions for equal opportunity, inclusion, and progress for such persons or groups. Such measures or policies shall not be considered discriminatory or incompatible with the purpose or intent of this Convention, shall not lead to maintaining separate rights for different groups, and shall not be continued beyond a reasonable period or after their objective has been achieved.

(SECRETARIAT: The States Parties undertake to adopt the special or affirmative action measures defined in Article 1.5.)

(CANADA: Proposes deletion of this paragraph.)

(MEXICO: The States Parties undertake to adopt special measures as defined in Article 1.5 to ensure the enjoyment or exercise of rights and fundamental freedoms of persons or groups that are subject to racism, discrimination, or intolerance for the purpose of promoting equitable conditions for equal opportunity, inclusion, and progress for such persons or groups. Such measures or policies shall not be considered discriminatory or incompatible with the purpose or intent of this Convention, shall not lead to maintaining separate rights for different groups, and shall not be continued beyond a reasonable period or after their objective has been achieved.)

(ARGENTINA: The States Parties undertake to adopt, when circumstances so advise, special or affirmative action measures that contribute to achievement of the purpose and intent of this Convention, in the manner and scope defined in Article 1.)

Article 8

The States Parties undertake to formulate and implement policies the purpose of which is to provide equitable treatment and generate equal opportunity for all persons, including educational and promotional policies and the dissemination of legislation on the subject by all possible means, including the mass media and the Internet.

(CANADA: Proposes the following draft: The States Parties undertake to formulate and implement policies the purpose of which is to provide fair treatment and generate equal opportunity for all persons, including educational and promotional policies. The States Parties shall also ensure that legislation is publicly available and accessible.)

(ARGENTINA: The States Parties undertake to formulate and implement policies the purpose of which is to provide equitable treatment and generate equal opportunity for all persons, including educational and promotional policies, as well the dissemination, accessibility, and availability to the public of legislation on the subject by all possible means and the mass media, including the Internet.)

Note:

Some delegations consider that the positions of Articles 7 and 8 should be reversed, since Article 8 is the general provision and Article 7 the specific.

Article 9

The States Parties undertake to adopt legislation that clearly defines and prohibits racism, discrimination, and **intolerance**, applicable to all public authorities as well as to all natural or legal persons, both in the public and in the private sectors, particularly in the areas of employment; participation in professional organizations; education; training; housing; health; social protection; exercise of economic activity; access to public services and other areas; and to repeal or amend any legislation that constitutes or produces discrimination or intolerance.

(MEXICO: The States Parties undertake to adopt legislation, promulgate and/or publish, and maintain in force legislation that clearly defines and prohibits discrimination, racism, and intolerance, applicable to public authorities at all levels and of all three branches of government, as well as to all natural and legal persons, in both the public and the private sectors, particularly in the areas of employment; procurement and administration of justice; participation in professional organizations; education; training; housing; health; social protection; the exercise of economic activity; access to public services and other areas; and to repeal or amend any legislation that constitutes or produces discrimination, racism, and intolerance.)

(CANADA: Proposes the following draft: The States Parties undertake to adopt legislation that clearly defines and prohibits discrimination, applicable both in the public and in the private sectors, particularly in the areas of employment; participation in professional organizations; education;

training; housing; health; social protection; exercise of economic activity; and access to public services.

Each State Party shall repeal or amend any legislation that has the effect of creating or perpetrating discrimination or intolerance.)

(ARGENTINA: The States Parties undertake to adopt effective measures to revise national and local government policies and to promulgate, amend, or repeal laws and other legislative or other provisions in order to effectively combat racism, discrimination, and intolerance, particularly in the areas of employment; participation in professional organizations; education; training; housing; health; social protection; exercise of economic activity; access to public services, and other areas; and to repeal or amend any legislation that constitutes or produces discrimination and intolerance.)

Article 10

The States Parties undertake to ensure that their political and legal systems appropriately reflect the diversity within their societies in order meet the legitimate special needs of each sector of the population.

(MEXICO: The States undertake to ensure that their distributive, legal, economic, and social and political systems appropriately reflect the diversity within their societies in order to meet the legitimate needs of all sectors of the population.)

(COSTA RICA: The States Parties undertake to address the legitimate needs of all groups and sectors of the population so that the diversity existing in society is reflected.)

(SECRETARIAT: The States Parties undertake to take the measures necessary to ensure that the diversity of their societies is respected and is reflected in all spheres of public and private activity.)

(CANADA: The States Parties undertake to encourage diversity of participation in their political and justice systems.)

(ARGENTINA supports the Secretariat's proposal.)

Article 11

The States Parties undertake to ensure that the victims of racism, discrimination, and intolerance receive equitable treatment, equal access to the justice system, expeditious and effective proceedings, and fair compensation in the civil or criminal sphere, as applicable. In addition, they **shall consider adopting** the legislative measures necessary to ensure that the burden of proof will be reversed and the defendants will have to show that procedures and practices have been adopted that ensure equitable and non-discriminatory treatment.

(MEXICO: The States Parties undertake to ensure that the victims of discrimination, racism, and intolerance receive equitable treatment and equal access to the justice system, by means of expeditious proceedings in brief and reasonable periods, and fair compensation in the civil or criminal sphere, as applicable. In addition, they **shall consider adopting** the legislative measures

necessary to ensure that the burden of proof will be reversed and the defendants will have to show that procedures and practices have been adopted that ensure equitable and non-discriminatory treatment.)

(CANADA: The States Parties undertake to take steps to encourage that the victims of discrimination receive equitable treatment, equal access to the justice system, expeditious and effective proceedings, and an effective remedy in the civil or criminal sphere, as applicable. In the context of civil proceedings, State Parties may also consider measures which would allow for an evidentiary shift to the defendant to explain any differential treatment where the complainant is first able to show discrimination.)

(ARGENTINA: The States Parties undertake to ensure that the victims of racism, discrimination, and intolerance receive equitable treatment, equal access to the justice system, expeditious and effective proceedings, and fair and adequate compensation in the civil or criminal sphere, as applicable. In addition, they shall consider adopting the legislative measures necessary to ensure that the burden of proof will be reversed and the defendants will have to show that procedures and practices have been adopted that ensure equitable and non-discriminatory treatment.)

Article 12

The States Parties undertake to consider as aggravating those acts that lead to compounded discrimination **or acts of intolerance**, i.e., any distinction, exclusion, or restriction based on two or more of the criteria set forth in [Article 1.1] of this Convention.

(CANADA: Proposes deletion of this article.)

(MEXICO: The States Parties undertake to consider as aggravating those acts that lead to compounded discrimination or acts of racism or intolerance, i.e., any distinction, exclusion, or restriction based on two or more of the criteria set forth in Article 1.1 of this Convention.)

(ARGENTINA: The States Parties undertake to consider as aggravating those acts that entail some form of discrimination.)

Article 13

[The States Parties undertake to conduct research on the nature, causes, and manifestations of discrimination or intolerance in their respective countries, at the local, regional, and national levels, and to collect, compile, and disseminate data on the situation of groups or individuals that are victims of discrimination and intolerance.]

COSTA RICA: The States Parties undertake to obtain (whether through their own means or by engaging services) studies on the nature, causes, and manifestations of discrimination and/or intolerance in their respective countries, at the local, regional, and national levels, and to collect, compile, and disseminate data and statistics on the situation of groups or individuals that are victims of discrimination and intolerance.

(CANADA: The States Parties undertake to encourage further research on the nature, causes, and manifestations of discrimination in their respective countries, at the local, regional, and national levels, and to collect, compile, and disseminate data, as appropriate, on the situation of groups that are victims of discrimination.)

(ANTIGUA AND BARBUDA: Believes that this obligation places a great financial strain on member states. It agrees with the delegations that suggest language such as: “member states should promote studies.” Antigua and Barbuda cannot commit the public purse to such research considering that there is no high incidence of racism.)

(MEXICO: The States Parties undertake to conduct research on the nature, causes, and manifestations of discrimination and intolerance in their respective countries, at the local, regional, and national levels, which may serve as a basis for the implementation of necessary measures and programs for their eradication, and to collect, compile, and disseminate data on the situation of groups or individuals that are victims of discrimination and intolerance, which will enable the States Parties to track the progress or deterioration of the situation.)

(ARGENTINA: The States Parties undertake to conduct research on the nature, causes, and manifestations of racism, discrimination, and intolerance in their respective countries, at the local, regional, and national levels, and to collect, compile, and disseminate data on the situation of groups or individuals that are victims of discrimination and intolerance.)

Note:

Some delegations, such as Brazil, Mexico, and Venezuela, consider that the obligation of the State does not exclude that of other entities, companies, or organizations, and that to use an expression such as “promote studies ...” would not be sufficient in this article. Additionally, the delegation of Venezuela alludes to the importance of inclusion in this article an emphasis on education and the promotion of a culture focused on tolerance.

Delegations such as those of Costa Rica and Peru consider that the objective of the studies is unclear.

Article 14

The States Parties undertake, in accordance with their internal legislation, to establish **or designate** a national institution that shall be responsible for monitoring compliance with this Convention, and shall inform the OAS General Secretariat of this institution. The representative of that national institution shall be that State’s representative on the Inter-American Committee for the Prevention, Elimination, and Punishment of Racism and All Forms of Discrimination and Intolerance.

(CANADA: The States Parties undertake, in accordance with their national laws, to designate one or more domestic mechanisms that shall be responsible for monitoring implementation of the provisions of this Convention, and shall inform the OAS General Secretariat of these mechanisms.)

(MEXICO: The States Parties undertake, in accordance with their internal legislation, to establish or designate a national institution that shall be responsible for monitoring compliance with this

Convention, and shall inform the OAS General Secretariat of this institution. The States Parties shall finance the participation of the representative they appoint to the Committee. In addition, a specific fund shall be set up to ensure the participation of those countries which, owing to special circumstances, are unable to finance their participation, as well as the Committee's activities. Said fund shall be administered by the OAS General Secretariat.)

(ARGENTINA: The States Parties undertake, in accordance with their internal legislation and organizational systems, to establish or designate a national body that shall be responsible for monitoring compliance with this Convention, and shall inform the OAS General Secretariat of this body.)

Article 15

The States Parties undertake to promote international cooperation to exchange ideas and experiences and to execute programs aimed at achieving the objectives of this Convention.

(ARGENTINA: The States Parties undertake to promote international cooperation to exchange ideas, experiences, and best practices, and to design and execute programs aimed at achieving the objectives of this Convention.)

CHAPTER V

Protective Mechanisms and Monitoring of the Convention

Article 16

In order to monitor the implementation of the **commitments** assumed by the States Parties to this Convention:

(CANADA: Proposes replacing the word "commitments" by "obligations.")

(MEXICO: In order to monitor the implementation of the obligations assumed by the States Parties to this Convention:)

(ARGENTINA: Argentina is in favor of keeping the term "commitments" in reference to monitoring of the Convention. It proposes the expression: "commitments and obligations".)

- i. Any person or group of persons, or non-governmental entity legally recognized in one or more Member States of the Organization of American States may submit to the Inter-American Commission on Human Rights petitions containing reports or complaints of violations of this Convention by a State Party. In addition, any State Party, when depositing its instrument of ratification of **or accession to** this Convention, or at any time thereafter, may declare that it recognizes the competence of the Commission to receive and examine communications in which a State Party alleges that another State Party has committed violations of the human rights established in this Convention. In such case, all the relevant procedural rules

contained in the American Convention on Human Rights as well as the Statutes and the Rules of Procedure of the Commission shall be applicable.

(CANADA: Considers the term “accession” important. It also proposes that the last sentence of this paragraph read as follows: In both instances, the relevant procedural rules contained in the American Convention on Human Rights (where the State concerned is a party) as well as the Statutes and the Rules of Procedure of the Commission shall be applicable.)

(ARGENTINA: Suggests consulting with the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights regarding the following formulation proposed by the Inter-American Institute of Human Rights:

“It shall be incumbent upon the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, pursuant to Articles 44 to 51 and 61 to 69 of the American Convention on Human Rights and to the corresponding provisions in their respective Statutes and Rules of Procedure, to address a violation of this Convention, attributable under the rules of international law to one of the States Parties, regardless of whether or not said State Party is a Party to the American Convention on Human Rights.”)

- ii. The States Parties may consult the Commission on questions related to the effective application of this Convention. They may also request the Commission’s advisory assistance and technical cooperation to ensure effective application of any provision of this Convention. The Commission will, to the extent that it is able, provide the States Parties with the requested advisory services and assistance.

(BRAZIL: Considers it appropriate to include the phrase: “without prejudice to the consultative competence of the Inter-American Court of Human Rights.”)

(ARGENTINA: Suggests consulting with the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights regarding the following formulation proposed by the Inter-American Institute of Human Rights:

“None of the provisions of this Convention shall limit the ability of the member states, or of the organs referred to in Chapter VIII of the Charter of the Organization of American States, amended by the Protocols of Buenos Aires, Cartagena de Indias, Washington, and Managua, to consult with or request advisory opinions from the Inter-American Commission on Human Rights or the Inter-American Court of Human Rights, respectively, in accordance with applicable rules.”)

- iii. Any State Party may, when depositing its instrument of ratification of **or accession to** this Convention, or at any time thereafter, declare that it recognizes as binding, as a matter of law and without any special agreement, the jurisdiction of the **Inter-American Court of Human Rights** on all matters relating to the interpretation or application of this Convention. In such case, all relevant procedural rules contained in the American Convention on Human Rights as well as the Statutes and Rules of Procedure of the Court shall be applicable.

(CANADA: Delete the phrase “as well as the Statutes and Rules of Procedure of the Court” at the end of the paragraph.)

- iv. An Inter-American Committee for the Prevention, Elimination, and Punishment of All Forms of Discrimination and Intolerance shall be established and shall be comprised of independent experts from each of the States Parties. The first meeting of the Committee shall be convened by the Secretary General of the OAS as soon as the tenth instrument of ratification has been received, and the first meeting shall be held at the headquarters of the Organization three months later for the purpose of declaring its establishment, approving its Rules of Procedure and its Working Method, and electing its officials. That meeting shall be presided over by the representative of the country that deposits the first instrument of ratification of this Convention.

(Canada: Proposes deletion of this article.)

Note:

The delegation of Mexico proposes separating the articles that refer to the Committee and those that refer to the Commission to make this chapter clearer.)

- v. The Committee shall be the forum for the exchange of ideas and experience, as well as for examining progress made by the States Parties in implementing this Convention and any circumstance or difficulty affecting the extent of compliance therewith. Said Committee may recommend to the States Parties that they adopt the appropriate measures. For this purpose, the States Parties undertake to submit a report to the Committee, within one year of its first meeting, with respect to performance of the obligations contained in this Convention. The reports that the States Parties submit to the Committee shall also contain disaggregated data and statistics on vulnerable groups. Thereafter, the States Parties shall submit reports every four years. The General Secretariat of the OAS shall give the Committee any support it requires for the performance of its functions.

(CANADA: Proposes deletion of this paragraph.)

(MEXICO: The Committee shall be the forum for the exchange of ideas and experience, as well as for examining progress made by the States Parties in implementing this Convention and any circumstance or difficulty affecting the extent of compliance therewith. Said Committee may recommend to the States Parties that they adopt the appropriate measures. For this purpose, the States Parties undertake to submit a report to the Committee, within one year of its first meeting, with respect to performance of the obligations contained in this Convention. Thereafter, the States Parties shall submit reports every four years. The reports that the States Parties submit to the Committee shall also contain disaggregated data and statistics on vulnerable groups. The General Secretariat of the OAS shall give the Committee any support it requires for the performance of its functions.)

(ARGENTINA: With respect to subparagraphs iv) and v), in addition to generating a possible overlap with the functions of the Committee on the Elimination of Racial Discrimination (CERD), in accordance with the position taken by Argentina, there could also be some duplication of the work of the IACHR. Accordingly, the delegation of Argentina points out that there already exists, in this area, the Special Rapporteurship on the Rights of Afro-Descendants and against Racial Discrimination. Finally, the Argentine delegation points out the discrepancy between Article 14, which establishes

that a representative of the national institution will represent the State on the Inter-American Committee, and subparagraph iv), which establishes that the Committee will be made up of one independent expert from each State Party. The delegation of Argentina proposes that the body competent to ensure compliance with the established rules be the Inter-American Commission on Human Rights. Its powers should include the option of convening, in specific cases, a committee of experts and rapporteurs, to hold special meetings on the subjects, give presentations, and receive and requests reports, and so on.)

CHAPTER VI

General Provisions

Note: The delegation of Canada proposes deletion of the titles of all the articles in this chapter.

Article 17. Interpretation

1. No provision of this Convention shall be interpreted as restricting or limiting a domestic law of any State Party that affords protections and guarantees equal to or greater than those established in this Convention.

2. Nothing in this Convention shall be interpreted as restricting or limiting the American Convention on Human Rights or any other international convention on the subject that affords equal or greater protections in this regard.

(ARGENTINA suggests reviewing the need for this, if current Article 3 of the Convention is kept)

Article 18. Depositary

The original instrument of this Convention, whose English, French, Portuguese, and Spanish texts are equally authentic, shall be deposited with the General Secretariat of the Organization of American States.

Article 19. Signature and Ratification

(MEXICO: After its entry into force, this Convention shall be open to accession by all States that have not signed it.)

1. This Convention is open to signature by all Member States of the Organization of American States.

(VENEZUELA: Requests the insertion of the following phrase at the end: which shall send copies thereof to all States Parties.)

(CANADA: Proposes the following draft: This Convention shall be open to signature, ratification, and accession by all member states of the Organization of American States.)

2. This Convention is subject to ratification by the signatory States in accordance with the procedures set forth in their constitutions. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States.

(CANADA: Proposes the following draft: This Convention is subject to ratification or accession in accordance with the procedures set forth in applicable constitutions and laws. The instruments of ratification or accession shall be deposited with the General Secretariat of the Organization of American States.)

Article 20. Reservations

The States Parties may enter reservations to this Convention when signing or ratifying it, provided that such reservations are not incompatible with the aim and purpose of the Convention and relate to one or more specific provisions thereof.

(CANADA: Proposes the following draft: The States Parties may enter reservations to this Convention at the time of signature, ratification, or accession provided that such reservations are not incompatible with the object and purpose of the Convention and relate to one or more specific provisions thereof.)

(MEXICO: This article is not necessary since the provisions of the Vienna Convention on the Law of Treaties serve the same purpose.)

Article 21. Entry into Force

1. This Convention shall enter into force on the thirtieth day following the date on which the second instrument of ratification of the Convention is deposited with the General Secretariat of the Organization of American States.

(CANADA: Proposes the following draft: This Convention shall enter into force on the thirtieth day following the date on which the eleventh instrument of ratification of or accession to the Convention is deposited with the General Secretariat of the Organization of American States.

2. For each State that ratifies the Convention after the second instrument of ratification has been deposited, the Convention shall enter into force on the thirtieth day following deposit by that State of the corresponding instrument.

(CANADA: Proposes the following draft: For each State that ratifies the Convention after the eleventh instrument of ratification or accession has been deposited, the Convention shall enter into force on the thirtieth day following deposit by that State of the corresponding instrument.)

Note:

The delegation of Mexico considers that an appropriate number of ratifications needed for the entry into force would seem to be between five and 10.

Article 22. Denunciation

This Convention shall remain in force indefinitely, but any State Party may denounce it through written notification addressed to the Secretary General of the Organization of American States. The Convention shall cease to have force and effect for the denouncing State one year after the date of deposit of the instrument of denunciation, and shall remain in force for the other States Parties. Such denunciation shall not exempt the State Party from the obligations imposed upon it under this Convention in respect of any action or omission prior to the date on which the denunciation takes effect.

(CANADA: Proposes the following draft: Any State Party may denounce this Convention through written notification addressed to the Secretary General of the Organization of American States. The Convention shall cease to have force and effect for the denouncing State one year after the date of receipt of the instrument of denunciation. Such denunciation shall not exempt the State Party from the obligations imposed upon it under this Convention in respect of any action or omission prior to the date on which the denunciation takes effect.)

(MEXICO: Any State Party may denounce this Convention through written notification addressed to the Secretary General of the Organization of American States. The Convention shall cease to have force and effect for the denouncing State one year after the date of receipt of the instrument of denunciation, and shall remain in force for the other States Parties. Such denunciation shall not exempt the State Party from the obligations imposed upon it under this Convention in respect of any action or omission prior to the date on which the denunciation takes effect. This Convention shall remain in force as long as it remains in effect for the number of States required for its entry into force.)

(ARGENTINA supports the wording proposed by the delegation of Canada.)

Article 23. Additional Protocols

Any State Party may submit for the consideration of the States Parties gathered during the General Assembly draft protocols in addition to this Convention, with a view to gradually including other rights within its system of protection. Each protocol shall determine the manner of its entry into force and shall be applied only among the States Parties to it.

(CANADA: Proposes the following for this article:

1. Any State Party may propose an amendment to this Convention and submit it to the General Secretariat of the Organization of American States. The General Secretariat shall thereupon disseminate any proposed amendments to the States Parties.

2. Amendments shall come into force when they have been accepted by a two-third majority of the States Parties to this Convention.

3. When amendments enter into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendments that they have accepted.)

(ARGENTINA indicates that it might be worth considering the need to keep this Article if the broad formula established in Article 3 is maintained.)

(CANADA proposes the following new Article 24:

Article 24

The General Secretariat shall notify all member states of the Organization of the following particulars:

- (a) Signatures, ratifications and accessions under the present Convention;
- (b) The date of entry into force of the Convention;
- (c) Any denunciation under Article 22; and
- (d) Any amendment under Article 23.)

ANNEX II

PERMANENT COUNCIL OF THE
ORGANIZATION OF AMERICAN STATES

COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

OEA/Ser.G
CAJP/GT/RDI/INF.13/09
11 November 2009
Original: English

Working Group to Prepare a Draft Inter-American
Convention against Racism and All Forms
of Discrimination and Intolerance

STATEMENT BY THE DELEGATION OF CANADA DURING THE MEETING OF THE
WORKING GROUP TO PREPARE A DRAFT INTER-AMERICAN CONVENTION AGAINST
RACISM AND ALL FORMS OF DISCRIMINATION AND INTOLERANCE

(November 10, 2009)

General

- Canada is strongly committed to the promotion and protection of human rights, and we have been actively engaged in the fight against racism both at home and internationally for many years. Canada's objective in the course of the Working Group consultations is to achieve a realistic and workable end product - one which will foster cooperation and workable solutions to eliminate racism and discrimination in the region.
- Canada continues to favor a more practical, cooperative framework to addressing racism and promoting tolerance and non-discrimination rather than a new convention. However, no matter the end result, any instrument resulting from this process must be effective, credible and achievable as well as fully consistent with States' obligations under international human rights law.
- Canada valued the Special Meeting of the Working Group held last November in which States benefited from the views shared by experts and civil society. We think it is important that the Working Group continue to reflect on the overarching issues which were raised in the context of the Special Meeting as we continue our discussions on how to best move forward to achieve our shared goal of combating racism and discrimination.
- Such issues include whether this instrument is going to be focused on racism or on broader issues of discrimination. Without greater clarity on this issue, it will be difficult for us to focus our efforts appropriately and to achieve an agreed outcome. As currently drafted, the text remains too ambitious and has the potential to duplicate and overlap with existing international instruments.

- Furthermore, as a Working Group, we need to address some of the current text's real legal challenges. States are already accountable to existing international standards and do not want to create any confusion about the content of such obligations.
- Finally, it remains a priority for Canada that any future instrument be useful in furthering the implementation of existing international obligations. This can be achieved through the development of a framework for enhanced hemispheric cooperation and the sharing of best practices, including governance models.

ANNEX III

PERMANENT COUNCIL OF THE
ORGANIZATION OF AMERICAN STATES

COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

OEA/Ser.G
CAJP/GT/RDI/INF-18/10
25 March 2010
Original: English

Working Group to Prepare a Draft Inter-American
Convention against Racism and All Forms
of Discrimination and Intolerance

PROPOSAL BY THE PERMANENT MISSION OF ANTIGUA AND BARBUDA FOR THE
WORKING GROUP TO PREPARE A DRAFT INTER-AMERICAN CONVENTION AGAINST
RACISM AND ALL FORMS OF DISCRIMINATION AND INTOLERANCE

(March 23, 2010)

PROPOSAL BY THE PERMANENT MISSION OF ANTIGUA AND BARBUDA

The delegation of Antigua and Barbuda proposes that the Working Group to Prepare a Draft Inter American Convention against Racism and All Forms of Discrimination take the necessary steps to divide the current Draft into a **main Convention** focusing on racism/racial discrimination and an **additional Protocol** focusing on discrimination and all forms of intolerance.

Impasse in Working Group

Negotiations began in 2005 by mandate of the resolution Ag RES 2126. At present, Member States have come to an impasse because delegations cannot agree on the scope of the Draft Convention. Currently, the Draft addresses discrimination based on:

Race, color, heritage, national or ethnic origin, nationality, age, sex, sexual orientation, gender identity, and expression, language, religion, political opinions or other opinions of any kind, social origin, socioeconomic status, educational level, migrant, refugee, repatriate, stateless or internally displaced status and/or condition, infectious – contagious condition or any other mental or physical health-related condition, genetic trait, disability, debilitating psychological condition, or any other social condition

All delegations have, in principle, agreed to the provisions of the Draft relating to racial discrimination. However, the exhaustive list that follows continue to pose a problem in achieving consensus.

Despite the provisions of AG Res 2126, some delegations have expressed preference for having a Convention that is narrowly focused on racial discrimination, while others have expressed favor for a broad Convention which encompass rights that go beyond those not enshrined in the major international human rights instruments.

Delegations have varied reasons for their preference. Those who favor a narrow Convention have explained that their legal systems would not allow for ratification of the current Draft because certain issues in the exhaustive list have not been conclusively addressed. For example, with respect to homosexuality national consensus has not been achieved in certain CARICOM jurisdictions including Antigua and Barbuda. Delegations have also cited the logistical difficulty that they would face in mobilizing numerous national machinery for implementation of the exhaustive list of current Draft.

Delegations that favor a broad Convention do so citing that the OAS should go beyond what has been established in the current major Human Rights Instruments. They maintain the uselessness of the OAS merely duplicating what has already been enshrined.

Efficacy of Antigua and Barbuda's Proposal

Antigua and Barbuda proposes that the main Convention focus on discrimination based on race, color, heritage, national or ethnic origin. The Protocol should focus on discrimination based on all the other issues contained in the current Draft. This proposal consisting of a Convention and a Protocol, would satisfy all delegations, in that:

1. It would encompass the major issues relating to racism, and with the Protocol, it would go a step beyond the current global instruments in addressing all other forms of discrimination and intolerance.
2. Consensus could be reached in the short run on a Convention focusing solely on Racism / Racial Discrimination. All delegations could sign immediately.
3. With respect to the Protocol on Discrimination and Intolerance, delegations that have expressed preference for a broad convention could sign immediately while those who have incongruous legal systems could sign on when it is legally feasible for them to do so.

The complete set (Convention and Protocol) would achieve everything that the current Draft is attempting to address but incrementally.

ANNEX IV

PERMANENT COUNCIL OF THE
ORGANIZATION OF AMERICAN STATES

COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

OEA/Ser.G
CAJP/GT/RDI-137/10 rev. 3
21 May 2010
Original: Spanish

Working Group to Prepare a Draft
Inter-American Convention against Racism
and All Forms of Discrimination and Intolerance

DRAFT RESOLUTION

DRAFT INTER-AMERICAN CONVENTION AGAINST RACISM AND
ALL FORMS OF DISCRIMINATION AND INTOLERANCE

(Presented by the Chair)

(The result of negotiations at the Group's meeting of May 20, 2010)

THE GENERAL ASSEMBLY,

HAVING SEEN the Annual Report of the Permanent Council to the General Assembly;

REAFFIRMING the content of resolution AG/RES. 2501 (XXXIX-O/09), "Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance," as well as all prior resolutions on the subject: AG/RES. 2367 (XXXVIII-O/08), "Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance"; AG/RES. 2276 (XXXVII-O/07), "Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance"; AG/RES. 2168 (XXXVI-O/06), "Combating Racism and All Forms of Discrimination and Intolerance and Consideration of the Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance"; AG/RES. 2126 (XXXV-O/05), "Prevention of Racism and All Forms of Discrimination and Intolerance and Consideration of the Preparation of a Draft Inter-American Convention"; AG/RES. 2038 (XXXIV-O/04) and AG/RES. 1930 (XXXIII-O/03), "Preparation of a Draft Inter-American Convention against Racism and All

Forms of Discrimination and Intolerance”; AG/RES. 1905 (XXXII-O/02), AG/RES. 1774 (XXXI-O/01), and AG/RES. 1712 (XXX-O/00); and

REAFFIRMING the resolute commitment of the member states of the Organization of American States to the complete and unconditional eradication of racism and of all forms of discrimination and intolerance and their conviction that such discriminatory attitudes are a negation of universal values and the inalienable and infrangible rights of the human person and the purposes and principles enshrined in the Charter of the Organization of American States, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, the Democratic Charter of the Americas, the Universal Declaration of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Universal Declaration on the Human Genome and Human Rights; (Preamble to the Draft Convention CAJP/GT/RDI-57/07 rev. 13);

REAFFIRMING the principles of equality and non-discrimination and recognizing that human diversity is a cherished asset for the advancement and welfare of humanity at large (Declaration of Durban, 2001);

OBSERVING with concern that there are still countless human beings in our Hemisphere who are still “victims of longstanding and contemporary manifestations of racism, discrimination, and intolerance”; (taken from AG/RES. 2126 (XXXV-O/05))

HAVING SEEN document CAJP/GT/RDI-57/07 rev. 13, “Consolidated Document: Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance”; and

NOTING the progress achieved and the diverse positions expressed by the member states in the Working Group to Prepare a Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance,

RESOLVES:

1. To reaffirm the will and the resolute commitment of the member states to the negotiation process taking place in the Working Group to prepare a Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance.

[2. To instruct the Working Group to continue **said process** and negotiations, taking into account the progress set forth in document CAJP/GT/RDI-57/07 rev. 13, "Consolidated Document: Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance" (CAJP/GT/RDI-57/07 rev.13) **and the "Proposal of the Permanent Mission of Antigua and Barbuda for the Working Group to Prepare a Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance"** (CAJP/GT/RDI/INF.18/10).]

["To instruct the Working Group to continue deliberations towards developing such an instrument taking into account the work done to date and the proposals made by Member States." LANGUAGE PROPOSED BY ANTIGUA AND BARBUDA]

3. To request the Working Group to consider, when adopting its Work Plan, methodology suggestions that may contribute to the negotiation process.

4. To request the Working Group to continue promoting contributions from member states; organs, agencies, and entities of the Organization of American States (OAS); the United Nations; and regional organizations; to urge those bodies to continue sending their written contributions to the Working Group for consideration; and, pursuant to the Guidelines for Participation by Civil Society Organizations in OAS Activities, contained in Permanent Council resolution CP/RES. 759 (1217/99), to request the Working Group to also continue to receive contributions from groups in vulnerable situations and from interested civil society organizations.

5. To renew the mandates to the Justice Studies Center of the Americas and the Inter-American Commission on Human Rights (IACHR), as set forth in paragraphs 5, 7, and 8 of resolution AG/RES. 2168 (XXXVI-O/06).

6. To request the General Secretariat to continue to provide support to the Working Group's activities, through the Executive Secretariat of the IACHR and the Department of International Law of the Secretariat for Legal Affairs.

7. To request the Permanent Council to report to the General Assembly at its forty-first regular session on the implementation of this resolution, the execution of which shall be subject to the availability of financial resources in the program-budget of the Organization and other resources.