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

REMARKS BY THE CHAIR, SANDRA LUCÍA MIKAN VENEGAS, ALTERNATE
REPRESENTATIVE OF COLOMBIA AT THE MEETING OF THE WORKING GROUP TO
PREPARE A DRAFT INTER-AMERICAN CONVENTION AGAINST RACISM AND ALL
FORMS OF DISCRIMINATION AND INTOLERANCE
HELD ON FEBRUARY 18, 2010

At the meetings of November 10 and December 14, 2009, I clearly received a commitment from all of you to do everything possible to renew negotiations once again in 2010, equipped, in the case of delegations that did not already have them, with instructions from the ministries of foreign affairs, taking as our starting point the progress recorded in the consolidated text of CAJP/GT/RDI-57/07 rev. 11.

We also agreed, as per our Work Plan, that, in the meetings we have left in this period, our focus would be on debating and if possible concluding Chapter I on Definitions. It was clear that after the previous sessions chaired by Brazil we had completed our reading of the entire text, enriched, moreover, with presentations by experts and specialists in the subject during the special meetings scheduled for that purpose.

We also agreed that, in order to revisit the most controversial issues, we would have a presentation on the background and positions vis-à-vis such matters as the nature of the Convention and the possibility of consolidating and strengthening within the Convention some of the major advances achieved in nonbinding international instruments, such as the Declaration of Durban or the Declaration of Santiago, which represent a significant effort by the international community to combat racism and racial discrimination, all of which was entrusted to the Department of International Law and the IACHR. In addition, the respective documents were distributed electronically by the Secretariat in December and January.

The Chair has no doubt that some categories will in certain cases be difficult to apply in practice or might at times be vague or unclear, as these reflections have suggested. As was also pointed out, this may be inevitable in an instrument of this nature. For that reason, as the Department of International Law mentioned, the doctrine and case histories adduced by the bodies responsible for implementing and applying a future Convention will be essential for a gradual clarification of these concepts, as is so often the case with legal instruments.

Allow me to cite exactly what our advisor, Diego Moreno, said at the time:

“...We do not believe that a long list of the motives of discrimination will “cause the Project to collapse,” just because it is long. Of the motives listed in Article 1.1., apart from “race, color, heritage, national or ethnic origin” and “nationality,” which are clear categories of racial discrimination (because they are defined in the United Nations’ International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)), there are several more that have been conceived or could perfectly well be conceived in light of certain precedents as instances of “racial discrimination” or, at least, as factors closely associated with it, either under the ICERD or pursuant to other international instruments.”

I believe that, despite the differences, we can gradually come to agreements by using the minimum areas of consensus we have already forged and invoking definitions and concepts that have been endorsed in other parts of this Organization. I also understand the reluctance of countries like Canada, or some Caribbean countries, given their different legal system, to engage in lengthy definitions. To them I would suggest, in light of the mandate assigned to this Group and ratified by all the member states at the General Assembly held in San Pedro Sula, that we proceed to agree on the minimum to which countries can already commit themselves.

Undoubtedly, the resolution we work on for the upcoming General Assembly, based on what has been already attained here, must definitely confirm, at the highest political level, a real intent to forge ahead. It must also set clear parameters, so that we make the most of the already scant resources of the Organization and of the prioritization of mandates, now underway, based on precise targets.