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Racism, racial discrimination, xenophobia and related forms of intolerance: follow-up to and implementation of the Durban Declaration and Programme of Action

Report of the Ad Hoc Committee on the elaboration of complementary standards on its fifth session^{}**

Chairperson-Rapporteur: Abdul Samad Minty (South Africa)

Summary

The present report is submitted pursuant to Human Rights Council decisions 3/103 and 10/30 and resolution 6/21. The report is a summary of proceedings and the discussions which took place during the fifth session of Ad Hoc Committee on the elaboration of complementary standards. During the session, the Committee considered the questionnaire sent out by the Office of the United Nations High Commissioner for Human Rights and the Chairperson-Rapporteur's summary of questionnaire responses on xenophobia, national mechanisms and procedural gaps, pursuant to Council resolution 21/30. With the input of several experts in the relevant fields, substantive discussions took place on the topics of "Xenophobia", "Establishment, designation or maintaining of national mechanisms with competences to protect against and prevent all forms and manifestation of racism, racial discrimination, xenophobia and related intolerance" and "Procedural gaps with regard to the International Convention on the Elimination of All Forms of Racial Discrimination". The session also heard updates on relevant global and regional developments.

* The annexes to the present report are circulated as received, in the language of submission only.

** Late submission.

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I. Introduction

1. The Ad Hoc Committee on the elaboration of complementary international standards submits the present report pursuant to Human Rights Council decisions 3/103 and 10/30 and resolution 6/21.

II. Organization of the session

2. The Ad Hoc Committee held its fifth session from 22 July to 2 August 2013. During the session, the Ad Hoc Committee held 14 meetings.

A. Attendance

3. The session was attended by representatives of Member States, non-Member States represented by observers, intergovernmental organizations and non-governmental organizations (NGOs) in consultative status with the Economic and Social Council.

B. Opening of the session

4. The 1st meeting of the fifth session of the Ad Hoc Committee on the elaboration of complementary standards was opened on 22 July 2013 by Yury Boychenko, Chief of the Anti-Discrimination Section, Office of the United Nations High Commissioner for Human Rights (OHCHR). He noted that the Council, in its resolution 21/30 of 28 September 2012, had requested OHCHR to distribute a questionnaire, from existing resources, to gather information on the three topics discussed by the Ad Hoc Committee during its fourth session and covered in its report (A/HRC/21/59). He mentioned that the Chairperson-Rapporteur's summary of responses and the original responses received to the questionnaire were available on the OHCHR website. He noted that the Chairperson-Rapporteur had held several meetings of regional coordinators since the fourth session in order to communicate with them and prepare the fifth session, and he expressed hope that the open and constructive dialogue would continue during the session.

C. Election of the Chairperson-Rapporteur

5. During the 1st meeting, the Ad Hoc Committee elected Abdul Samad Minty, Permanent Representative of South Africa to the United Nations Office at Geneva as its Chairperson-Rapporteur, by acclamation. In his brief introductory remarks, he stated that the Committee would continue its discussion on issues with the incremental approach adopted in previous sessions. That afforded the Committee an opportunity to further reflect on and understand the issues to be discussed, as well as the link between the mandate of the Committee and paragraph 199 of the Durban Declaration and Programme of Action (DDPA). Other topics would also be introduced for consideration by the Committee.

6. Based on the consensus achieved during the previous session, he encouraged the Committee to continue its focus on the plight of victims and to ensure unconditional respect for human dignity. In that regard, he considered it useful to explore possibilities of an international regulatory framework for xenophobia, given the more aggressive manifestations of xenophobia, which needed stronger measures. He hoped that the Committee would do its utmost to fulfil its mandate and he looked forward to constructive and meaningful discussions to address the very important subject matter before it.

D. Adoption of the agenda

7. During the 1st meeting of the session, the Ad Hoc Committee adopted the agenda for the fifth session.

E. Organization of work

8. The Chairperson-Rapporteur introduced the draft programme of work at its 1st meeting. He stated that, pending final confirmation from a few remaining presenters, some changes might be introduced at a later stage. The programme of work (contained in annex IV) was adopted at the 1st meeting. The Chairperson-Rapporteur invited general statements about the session.

9. Gabon, speaking on behalf of the African Group, highlighted the need for additional complementary standards to reinforce national and international law against racism as a matter of high priority. The Group was pleased that the Committee would focus on the specific thematic topics of xenophobia, national mechanisms and procedural gaps to the International Convention on the Elimination of All Forms of Racial Discrimination. It added that there should be no complacency in ensuring that international law address those scourges and it invited the international community to enhance the fight against racism, racial discrimination, xenophobia and related intolerance. It regretted that, 12 years after the adoption of the DDPA, new manifestations were worrying and becoming virulent, that the authors of racism and xenophobia were often persons at the highest levels of authority, and that persons of African descent were often the victims. As recommended in paragraph 199 of the DDPA, it was important to reinforce laws and legal systems at national and regional levels, and to have a clear and precise definition of xenophobia.

10. The European Union stated that the late preparations for the session, which had been rescheduled from April 2014, were not conducive to consensus. It stated that the summary of the responses to the questionnaire had been made available the previous week and there had been a lack of transparency with regard to the selection of experts. It also stated that item 8 in the programme of work regarding updates on relevant global and regional developments was not acceptable to the European Union, as it did not have proper relevance to the mandate of the Committee. It reaffirmed the commitment of the European Union to the fight against racism, racial discrimination, xenophobia and related intolerance. Noting that full implementation remained an obstacle in many countries, priority should be given to effective implementation of existing instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination.

11. Egypt pointed out that the need for a comprehensive approach to the fight against racism, racial discrimination, xenophobia and related intolerance included key complementary measures, given that there were new trends and manifestations threatening many countries around the world. It noted that xenophobic manifestations required protection measures and highlighted the existence of racial, religious and cultural prejudices. States should take opportunities to combat racism, racial discrimination, xenophobia and related intolerance, including through the Internet. New topics should be discussed during the Committee's current session.

12. Norway emphasized the importance of confronting extremism. It noted that racism, racial discrimination, xenophobia and related intolerance could easily lead to hatred and violence and, in the worst cases, full-blown conflict, crimes against humanity, genocide and terrorist attacks. It recalled the terrorist attack of 22 July 2011 in Norway, in which scores of people had been killed. The multicultural society of Norway had reacted with greater democracy, openness and inclusion. It highlighted the need to take effective measures to combat hate speech and hate crimes and to investigate and sanction them. Norway was not convinced of the need for new standards and it noted the importance of improving the

implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and other relevant instruments. Norway was ready to discuss further whether new procedures within the Committee on the Elimination of Racial Discrimination could enhance its effectiveness as a monitoring body, and noted that solutions should be based on facts and acceptable to all parties.

13. Mexico, on behalf of Argentina, Brazil, Chile, Japan, Switzerland and Uruguay, expressed its regret that intersessional consultations with regional and political coordinators had been held late. It welcomed the expert presenters and the intended discussion of topics of xenophobia, national mechanisms and procedural gaps to the International Convention on the Elimination of All Forms of Racial Discrimination, but noted that the programme of work included issues under item 8 to which the Committee had yet to agree. Mexico stated that the Convention and the DDPA constituted the main and most comprehensive instruments in the fight against racism, racial discrimination, xenophobia and related intolerance and that they were committed to implementing them in the most effective manner.

14. Pakistan, speaking on behalf of the Organization of Islamic Cooperation (OIC), noted that, as there were new trends and manifestations of racism, racial discrimination, xenophobia and related intolerance, there was a need for complementary standards. It expressed support for the inclusion of item 8 “Updates on relevant global and regional developments” and noted its relevance to the Committee’s work.

15. The Bolivarian Republic of Venezuela reiterated the need to develop complementary standards, including a definition of xenophobia. It also highlighted the need to reinforce the fight against incitement to racial, ethnic, national and religious hatred.

16. The Chairperson-Rapporteur clarified that four meetings of regional coordinators had been held during the intersessional period between the fourth and the fifth sessions. He noted that, in early June 2013, regional coordinators had been invited to suggest experts to participate and topics for the session’s programme of work; however, no responses had been received.

III. Discussion of the questionnaire conducted pursuant to paragraph 4 of Council resolution 21/30

17. At the 2nd meeting on 22 July 2013, the Chairperson-Rapporteur introduced the questionnaire conducted pursuant to paragraph 4 of Council resolution 21/30. In his preliminary remarks on the questionnaire, the Chairperson-Rapporteur stated that the Council, in its resolution adopted at its twenty-first session entitled “Elaboration of international complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination”, had requested OHCHR to distribute a questionnaire to gather information on the three topics discussed by the Ad Hoc Committee during its fourth session and covered in its report (xenophobia, national mechanisms and procedural gaps), including legal and judicial frameworks and practices, substantive and procedural measures in line with the mandate of the Ad Hoc Committee, and possible recommendations. In that regard, nine questions had been posed to Member States by note verbale dated 3 December 2012, whereby all Permanent Missions in Geneva and New York were invited to forward their responses. The Office received in total 30 replies to the questionnaire. The questionnaire responses were not representative, and to some extent provided a largely anecdotal picture. He invited delegations to make supplemental interventions and elaborate on their original submissions to the questionnaire.

18. He indicated that all the responses received had outlined constitutions and national legislation as the means by which racism, racial discrimination, xenophobia and related intolerance were addressed. In most responses, it was noted that constitutions and national legislations provided for equality before the law and/or legal protection against

discrimination on a number of enumerated grounds and/or in a number of sectors. Additionally, racial discrimination and other forms of discrimination were directly prohibited by those legal frameworks and elements of such discrimination were often criminalized under criminal law. On the ratification of regional and international legal instruments, with particular reference to the International Convention on the Elimination of All Forms of Racial Discrimination, most responses highlighted their importance to addressing issues of racism, racial discrimination, xenophobia and related intolerance at the national level. Interestingly, only a few responses indicated that existing legal frameworks also addressed issues related to xenophobia domestically. The questionnaire had also invited respondents to indicate any possible recommendations or additional comments or information related to xenophobia, national mechanisms and procedural gaps. The least number of responses had been received to that general question. In that light, the Chairperson invited all Member States to consider the responses to the questionnaire as summarized, with a view to implementing the mandate of the Ad Hoc Committee as outlined in the Council decision 3/103, in which the Council stated that the Committee should elaborate, as a matter of priority and necessity, complementary standards in the form of either a convention or additional protocol(s) to the Convention.

19. The Chairperson-Rapporteur also referred to the importance of the need to elaborate, as a matter of priority, complementary standards in the form of a convention or an additional protocol to the International Convention. The Chairperson-Rapporteur raised several questions and issues and invited Member States to consider them: (a) the role and impact of constitutions, as to whether constitutions or legislation were adequate in terms of moving from constitutional protection (at law) to protection and assistance to victims on the ground; (b) information about positive measures and affirmative action in countries; (c) national experiences of xenophobia, including details about the phenomenon in the various countries in order to compare and contrast experiences — distinction/differences between xenophobia and racial discrimination and other types of discrimination, and as to whether it was a security issue, and whether there were differences between hate crimes and xenophobia and other crimes. He also requested Member States to provide related information on data collection as to how it was done, including on: disaggregated data; national mechanisms — the issue of assistance to victims, especially with respect to xenophobia; and procedural gaps, as to whether the Committee on the Elimination of Racial Discrimination was effective or whether those issues were too new for that Committee to consider. The Chairperson-Rapporteur also invited information on the implementation of recommendations and asked whether reservations entered to the Convention had proven to be obstacles for the implementation thereof.

20. The European Union expressed disappointment that States had not shown more interest in responding, that the number of responses to the questionnaire remained very low and that some regions were underrepresented in the responses. Pointing to the importance of the Convention, it reiterated that States that had not yet ratified or acceded to the Convention should do so. It maintained that it was extremely important to fully implement existing standards and procedures, and had taken note of the fact that only one respondent had expressed the view that there should be complementary standards. It maintained its longstanding position that the full implementation of the existing standards was key.

21. It reported that data collection was a work in progress within the European Union, and that, while official data was available, full quantification of the prevalence of racist crime in the European Union, or comparing trends over time was difficult since data collection mechanisms across Member States was not systematic. It reported that its Agency for Fundamental Rights regularly published new documents on issues of racism, highlighting some recent publications: “Tackling racism and discrimination in sport – guide of promising practices, initiatives and activities” (May 2013); “Inequalities and multiple discrimination in access and quality of healthcare” (March 2013); and a brief on “Crimes motivated by hatred and prejudice in the EU” (March 2013). On national mechanisms, a comprehensive global picture still remained to be drawn on the issue, as 12 of the 30

responses to the questionnaire had come from European countries. It requested more information in order to exchange good practice and draw inspiration from across the regions. It stated that the summary in places was categorical, probably attributed to the limited number of responses received, adding that this should be taken into consideration with respect to recommendations on the topics of the questionnaire.

22. Pakistan reported that it had submitted a written response to the questionnaire. It stated that various political strategies and preventive measures were being undertaken by the Government of Pakistan in countering racial discrimination, xenophobia and related intolerance. It also pointed out that its Constitution established criminal liabilities for racial discrimination and explained that the constitutional provisions were consistent with the opinions of the Committee on the Elimination of Racial Discrimination.

23. The United States of America stated that the Constitution and laws of the country prohibited discrimination motivated by xenophobia and that was adequately addressed by domestic and international law. It emphasized that the implementation of existing international law instruments was important in terms of obligations to fight against discrimination, adding that practical action was required to continue to combat racism and discrimination.

24. The Chairperson-Rapporteur stated that, while equality before the law might be provided in jurisdictions, it was those very mechanisms that could have certain weaknesses in them; such as access to and the receipt of remedies through those mechanisms. The situation differed from country to country. He also stated that the role of national human rights institutions would have to be considered, as they provided another layer in terms of mechanisms for advancing grievances. He stated that there was benefit in pooling regional and national expertise and best practices and looking at the advantages and shortcomings of existing mechanisms. The Chairperson-Rapporteur stated that, while some Member States were able to deal with racism, racial discrimination, xenophobia and related intolerance through existing measures, others had pointed out that xenophobia in particular was a vicious phenomenon requiring special machinery. It was therefore important to define xenophobia, and identify the motivation behind it, including attitudes, actions and consequences.

25. Mexico, noting the general nature of the questionnaire, proposed posing specific questions to Member States and possibly considering case studies.

26. The Chairperson-Rapporteur proposed to briefly adjourn the 2nd meeting in order to meet with the Regional Coordinators on the topic of the questionnaire. Following the meeting with Coordinators, the meeting was briefly reconvened later that afternoon, during which meeting the Chairperson-Rapporteur reported that he had decided to close the 2nd meeting and that the 3rd meeting would be held in the afternoon of 23 July. He urged delegations to provide additional information and updates to the questionnaire and a summary of responses received and he also noted that he would invite delegations to make general statements on the topics and work of the session at that time.

27. The Ad Hoc Committee held its 3rd meeting the following afternoon. Pakistan, speaking on behalf of OIC, stated that the Committee should build on the work of the DDPA and the Outcome Document of the Durban Review Conference. While national mechanisms had been addressed in article 6 of the International Convention, new gaps required the elaboration of new standards. OIC strongly believed that it was not possible to move forward only by strengthening national mechanisms to address xenophobia without elaborating norms and standards, and suggested a two-track approach. It highlighted new trends and manifestations of contemporary forms of racism in a number of societies, and expressed its concern over discrimination against Muslims in socioeconomic spheres. It stated that the alarming increase in incidents of Islamophobia was the manifestation of religious hatred and intolerance and served as an impediment to the attainment of a culture of cooperation and peaceful coexistence. Such incidents reflected legislative gaps that

needed to be addressed through the elaboration of norms and strengthening of national mechanisms against racial discrimination and xenophobic expressions.

28. Morocco aligned itself with the statements of Pakistan on behalf of OIC and that to be made by Gabon on behalf of the African Group, and expressed its concern with regard to the rise of xenophobic tendencies and intolerance towards different racial, religious and cultural groups, characterized by appalling violence and inexplicable and unacceptable impunity, especially in the context of economic and financial crises. In that context, the work of the Committee was primarily in response to the need for the development of complementary standards to meet the gaps in legislation against all forms of contemporary racism, including racial and religious hatred. Morocco emphasized the importance of a concept focused on the victims, including an emphasis on dangers due to the rise of racist acts that continued to impinge on the rights of individuals globally. Minorities, such as migrants, refugees, asylum seekers and illegal immigrants, were most affected by that phenomenon. It was therefore necessary to embark on the elaboration of complementary standards in order to protect the rights of victims, further adding that it was imperative to demonstrate the political will to address the various forms and manifestations of racism, racial discrimination, xenophobia and related intolerance to ensure necessary reparation and compensation for victims.

29. Ethiopia suggested that additional questions might be forwarded to Member States in order that they reflect on the need to define xenophobia as well as on measures at the national, regional and international levels. It would also enable those Member States, including Ethiopia, which had not submitted responses to the questionnaire to provide responses before the next session. It added that there were no gaps in the Convention, but there was a problem with implementation; although complementary standards were still required to address manifestations of xenophobia. There was wide consensus that the manifestations of xenophobia were different from racial discrimination, as the former involved greater hostility. It would be important to approach the definition of xenophobia cautiously, as it might be too broad or too narrow.

30. Gabon, on behalf of the African Group, stated that whether there was a need or not to develop complementary standards did not even merit questioning, since consensus documents such as paragraph 199 of the DDPA and the Outcome Document of the Durban Review Conference, as well as many resolutions, already mandated doing so. It was widely accepted that instruments had gaps which required filling. That was particularly the case with regard to the concept of xenophobia, including its manifestations and forms, which should be defined. According to the African Group, xenophobia had not been precisely defined in article 1 of the International Convention, and therefore the elaboration of complementary standards was imperative to address that new manifestation.

31. Sri Lanka stated that new trends in racism and related intolerance were being witnessed in many parts of the world and it welcomed discussion on those issues. The DDPA and the Convention constituted the basis and guiding principles upon which action could be initiated to combat racism, racial discrimination, xenophobia and related intolerance. As a country which recently emerged from a 30-year protracted conflict, and with an ongoing reconciliation process, Sri Lanka was acutely aware of the manner in which racism could be manipulated by extremist elements and terrorist groups seeking to foster separatist agenda and engender hatred and intolerance. The delegate noted that national human rights mechanisms and institutions needed to promote human rights while taking into consideration the specificities of their respective national contexts. Sri Lanka was in the process of implementing the recommendations of its domestic process of reconciliation to promote tolerance and unity among communities in the post-conflict context, including through language, sport, youth engagement and cultural expression.

32. South Africa aligned itself with the statement made by Gabon on behalf of the African Group and reiterated that the Committee's mandate, as contained in Council

resolution 6/21, was to elaborate, as a matter of priority and necessity, complementary standards in the form of either a convention or additional protocol(s) to the Convention and to provide normative standards aimed at combating all forms of contemporary racism, including incitement to racial and religious hatred. The delegate recalled that paragraph 199 of the DDPa identified that there were gaps and that the task now before the Committee was to address those gaps. The ongoing discussion on the existence or non-existence of the gaps was unnecessary. The Ad Hoc Committee, during its second session, had agreed on areas where victims required increased protection, remedies and the elimination of impunity for the perpetrators of the acts of racism. It reminded the Committee of the plight of the victims of the scourge of racism and called for constructive engagement in the process of elaborating normative standards aimed at combating all forms of contemporary racism, including incitement to racial and religious hatred. With respect to the questionnaire, South Africa had clearly indicated its strong belief that the Convention required complementary standards to address contemporary manifestations of racial discrimination, i.e., xenophobia, Islamophobia, Anti-Semitism, propagation of racist and xenophobic acts through the cyberspace (cybercrime), racial profiling and incitement to racial, ethnic and religious intolerance.

33. The United States stated that, while it saw no need for additional substantive international law instruments in that field, it believed that the mandate of the Committee included promoting initiatives such as consensus action plans that addressed the core areas of concerns, but did not create unnecessary and confusing new international law instruments. While it did not question the relevance of discussing, as planned, two recent Organization of American States (OAS) Conventions (the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance; and the Inter-American Convention against All Forms of Discrimination and Intolerance), it had repeatedly expressed its view within OAS that there was no need for additional instruments on those topics. The work of the Ad Hoc Committee should not be expanded into areas covered by existing processes such as the Istanbul Process implementing Council resolution 16/18 and its successor resolutions, or the Rabat Plan of Action. The Committee was not the venue to seek implementation or reinterpretation of substantive issues that were being addressed through their own processes. The Committee could however, acknowledge them and highlight the progress in both processes as demonstrative examples of how focusing on practical outcomes through consensus action plans that promoted the implementation of existing obligations and commitments was the best way forward. It stated that there were possibilities to achieve something similar with respect to racial discrimination and intolerance, and the United States could support discussing those processes based on its understanding that they would be discussed as illustrative examples that could help guide the future plans of the Committee. The United States would strongly oppose, and reject, any attempt to involve the Committee in those other processes directly, or to request the Committee to assess or endorse the substantive work done in those other forums.

34. The Bolivarian Republic of Venezuela stated that it had implemented a law against racial discrimination in 2011, which had established mechanisms to prevent, address and punish racial discrimination in all its manifestations as a crime. Xenophobia was defined therein as rejection, hatred or hostility towards foreign or different ethnic groups. It also reported the establishment of a national institution against racial discrimination as an effective implementation of the provisions of the Convention and the DDPa. It considered the Convention and the DDPa as fundamental pillars of the struggle for the elimination of racial discrimination in all its manifestations. However, in recent years, new manifestations of racism and intolerance, particularly those that incited racial, national or religious hatred had been observed around the world, including in the use of the Internet and other electronic media.

35. Senegal stated that it was surprised at the continued reluctance of some Member States regarding the elaboration of complementary standards. Insidious and provocative

manifestations of racism had been observed worldwide and there were limitations to the International Convention, especially as those incidents became more frequent. As existing international norms such as Convention had gaps, it was essential to confront such racism with complementary standards. The questionnaire had gathered some information that could assist with defining the content of these standards and Senegal supported the earlier statements made by Gabon, on behalf of the African Group, and Pakistan, on behalf of OIC, in that regard.

36. At the 4th meeting, Daniela Gomes, a civil society activist and journalist from Brazil, gave a presentation on the issues of racial discrimination and xenophobia in the region of Latin America. She highlighted the perspective of victims of racism, racial discrimination, xenophobia and related intolerance. Owing to the word limit for the present report, the summary of her presentation and the discussion which followed it are reflected in annex I to the present report. Following her presentation, the Chairperson-Rapporteur reiterated that the response rate of the questionnaire being fairly low, it gave only an impression of the situation. He asked the Committee to consider how to garner more information and responses.

IV. Discussion on the topic of “Xenophobia”

37. From 24 to 25 July, the Ad Hoc heard presentations from several experts on the topic of “Xenophobia”. The 5th meeting on 24 July considered issues of xenophobia related to the media. Milicia Pesic, Executive Director of the Media Diversity Institute, gave a presentation entitled “Xenophobia and (Racial) Discrimination: The Role of Media”. Also at that meeting, Edmundo Bracho, journalist and consultant also with the Media Diversity Institute, gave a presentation on “Diversity and discrimination in news media practice: views from Latin America”. Piara Powar, Executive Director of Football Against Racism in Europe, delivered a presentation on “Racism in Sport” at the 7th meeting of the Ad Hoc Committee.

38. For the second part of the 7th meeting, the Chairperson-Rapporteur invited the participants to commence a general discussion on xenophobia.

39. Japan, speaking on behalf of Argentina, Brazil, Chile, Mexico, Switzerland and Uruguay, expressed its appreciation for the inputs from the experts on issues related to xenophobia, and acknowledged the view that it was a multi-faceted, worldwide issue that required attention and action. There was no general normative definition of xenophobia in the principal international human rights instruments, which was also the case for other terms such as “minority”, “indigenous people” and “racism”. It was therefore appropriate to first examine whether the lack of such a definition had in fact hindered international human rights mechanisms in adequately addressing issues related to xenophobia. Japan also recalled contributions made by members of the Committee on the Elimination of Racial Discrimination in previous sessions of the Ad Hoc Committee. It was not possible to conclude that there was an explicit need for complementary standards at the international level in the field of xenophobia. States might consider including the concept of xenophobia in their domestic legislation to combat violence and discrimination in their national contexts. Japan reiterated its suggestion made during the fourth session of the Committee that the Committee on the Elimination of Racial Discrimination issue a possible official opinion aiming to clarify how provisions in the relevant Convention could be applied to issues related to xenophobia and how they had been addressed in practice, and that it report back to the Committee at its future sessions.

40. The European Union outlined its policies to combat xenophobia as part of its general policy to fight against different forms and manifestations of racism and xenophobia, including by monitoring the implementation of relevant European Union law, providing financial support to stakeholders’ activities and through various activities related to

awareness-raising, data collection and exchange of experiences and information. The representative emphasized a multilateral and multi-stakeholder approach in the fight against racism, racial discrimination, xenophobia and related intolerance. It highlighted a number of its different policies, including article 21 of the Charter of Fundamental Rights of the European Union, the Council directive 2000/43/EC of 29 June 2000, directive 2000/78/EC of 27 November 2000 and Council framework decision 2008/913/JHA. It added that no unequivocal definition of xenophobia existed; it could be understood through other grounds of discrimination and in connection with racism and racial discrimination. It reiterated that grounds mentioned in the International Convention on the Elimination of All Forms of Racial Discrimination already cover xenophobia, as witnessed by some recent recommendations and observations made by the Committee on the Elimination of Racial Discrimination. The European Union saw no added value in the Ad Hoc Committee considering a legal definition of “xenophobia”.

41. The Czech Republic stated that the full use of the existing procedures under the Convention was sufficient to successfully fight racism, racial discrimination, xenophobia and related intolerance. The Government of the Czech Republic had declared the fight against right-wing extremism and connected violence to be one of its priorities. Measures included efforts to repress neo-Nazi militants and political leaders who spread hatred against minorities, and preventive tools such as the education of security forces, prevention of extremism on the Internet or order enforcement in socially excluded neighbourhoods.

42. The United States stated that its Government believed that new treaties or the modification of old treaties were not required, suggesting that implementation of the existing treaties was. Regarding proposals to draw up new definitions to replace or supplement that contained in the International Convention, it pointed out that not only was such an effort unnecessary, because the existing definition in the Convention prohibited xenophobic violence and discrimination, it was also dangerous. It agreed that education was essential among the tools to fight racism and xenophobia; however, it did not agree with a proposal for new treaty language on education, as article 7 of the Convention already set forth an obligation with respect to education. It also strongly disagreed with several proposals for increased regulation of the media. The United States would defend its longstanding position in favour of protecting freedom of expression and would oppose all measures designed to place Governments in control of the dissemination of ideas or to pressure the media to restrict the dissemination of even odious ideas. The suppression of ideas tended to be used against minorities and political opponents.

43. Morocco stated that it regretted the absence of a definition of xenophobia and that it was important to find ways and means to fill the gap in such a situation, given that the fight against racism was a priority for the international community. Twelve years after the DDPA, the fact remained that the scourges of racism, racial discrimination, xenophobia and related intolerance continued and had taken new forms which had not been covered by existing norms and standards. Morocco expressed its concern that xenophobia was permeating into political discourses, including in elections and sports, as well as in the media and on the Internet. That highlighted the importance of developing complementary standards.

44. The Bolivarian Republic of Venezuela stated that there were forms of racial discrimination that had not been defined in any international human rights instrument, while violations were committed daily, as was the case with xenophobia. As such, it supported the idea of defining the term “xenophobia” and, in doing so, supported the development and effective implementation of the mandate of the Ad Hoc Committee, as well as its commitment in the struggle for the eradication of racism, racial discrimination, xenophobia and other related forms of intolerance, particularly those that incite racial, national, ethnic and religious hatred.

45. South Africa stated that it was evident from the discussions that a clear understanding of xenophobia had yet to be developed, and as such a definition in legal

terms, for the purposes of transparency and consistency, was essential. Having a definition would also be beneficial from the victims' perspective and South Africa expressed its concern over the lack of progress in that regard. It was essential that discussions be held on the various issues raised in paragraph 199 of the DDPA so that the Committee fulfilled its mandate.

V. Discussion on the topic of “Establishment, designation or maintaining of national mechanisms with competences to protect against and prevent all forms and manifestation of racism, racial discrimination, xenophobia and related intolerance”

46. During its 8th meeting, on 26 July, Michel Forst, Secretary General of the French National Consultative Commission on Human Rights, and Valeriya Lutkovska, Ukrainian Parliament Commissioner for Human Rights, gave presentations on their respective national mechanisms. At the 9th meeting on 29 July, Eva Sobotka, Programme Manager at the European Union Agency for Fundamental Rights gave a presentation entitled “Developments and trends on racism, racial discrimination, Roma, and crimes motivated by racism, xenophobia and related intolerance in the European Union”.

47. For the second part of the 9th meeting, the Chairperson-Rapporteur invited the participants to commence a general discussion on national mechanisms under item 6 of the programme of work.

48. Mexico informed the participants that article 1 of its Constitution had been amended in 2001 to prohibit all types of discrimination. That important change had facilitated the adoption of the federal law on the prevention and elimination of discrimination in 2003, which also created the National Council for the Prevention of Discrimination (CONAPRED). In April 2012, the Federal Penal Code had been amended, including a chapter titled “Discrimination”, and in 2010 CONAPRED had developed a national survey on discrimination. In 2012, a national forum on people of African descent had been organized.

49. Lithuania, on behalf of the European Union, stated that the establishment of national mechanisms to promote equality and combat racism, racial discrimination, xenophobia and related intolerance was of the utmost importance. There was a need to further explore the potential of national mechanisms to improve the implementation of existing international standards — thereby ensuring their effectiveness. A comprehensive global picture still remained to be drawn, since 12 of the 30 responses to the questionnaire had been submitted by European countries. More information from other regions would be appreciated in order to exchange good practices and draw inspiration from across the regions. The Ad Hoc Committee could be entrusted with the drafting of a set of guidelines, which would cover both the criteria and the functions to be performed by such national mechanisms. The merits of that proposal were that it was both victim-oriented and action-oriented, as well as being in line with proposals made by the Committee on the Elimination of Racial Discrimination in its report to the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action (A/HRC/4/WG.3/7).

50. The Czech Republic stated that a strategy had been developed combat extremism domestically and was revised annually. The Government had also been developing a campaign against racial discrimination. With regard to methods for the prevention of racism, it highlighted the role of education and awareness-raising.

51. Morocco noted that it had adopted specific measures to combat racial discrimination, including ratification of international instruments, with the International Convention on the Elimination of All Forms of Racial Discrimination at the forefront.

Article 6 of the Constitution enshrined equality before the law and equal rights of citizens. Discrimination was an offence under the Criminal Code of Morocco, punishable by imprisonment and a fine, and was also prohibited in the Labour Code. The Press Code provided for the punishment of incitement to racial discrimination.

52. The United States stated that the important topic of national mechanisms was a very practical and useful one, and that it would be worthwhile to compare practices across countries.

53. Spain noted the importance of full implementation of existing instruments. Unfortunately, Spain had not sent a reply to the questionnaire. In 2003, Spain established a council for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin. In 2010, the Council had established a network of NGOs to enhance support to victims throughout the country, including awareness-raising, psychological support and legal aid. That network mitigated the fear of victims had of going to police stations. It expressed regret about the lack of information about the situation in other regions, noting that the sharing of practices could only enrich the discussion.

54. The Bolivarian Republic of Venezuela noted that there was a failure with regard to the implementation of international instruments, as well as the Durban-related documents. It had established an institute to eradicate discrimination in public spheres and workshops had been organized in various parts of the country to increase awareness of the issue. It highlighted the work of the Ombudsman, which had an “A” ranking, the importance of investigating cases of discrimination and the provision of assistance to victims. Shared experiences with regard to national human rights institutions could be helpful for the elaboration of complementary standards, in order to fulfil the mandate of the Committee.

55. The African Union noted that there were also worse forms of fascist crimes, which had not been taken into account. It expressed its support for the work of the Committee.

VI. Discussion on the topic of “Procedural gaps with regard to the International Convention on the Elimination of All Forms of Racial Discrimination”

56. At the 10th meeting on 29 July, Fatimata-Binta Dah, member of the Committee on the Elimination of Racial Discrimination, presented updates of that Committee’s activities, including the August 2012 discussion on hate speech. She mentioned that the Committee had identified a number of practices, which, if codified into an optional protocol to the International Convention, would improve the Committee’s existing procedures of the Committee. That conclusion was based on the analysis of its 40 years of operations and on the level of implementation of the Convention by States parties. While the Committee had been able to adapt and innovate, including through its general recommendations, urgent action, and the early warning/early action procedures, the Committee would be better served if additional monitoring procedures were in place. In particular, a gap was identified in the capacity to conduct assessment visits to countries, which were available to the Committee on the Rights of Persons with Disabilities and the possibility of which had also been raised in the context of a harmonized approach for the treaty bodies and its strengthening process.

57. She stated that the Committee’s discussion in August 2012 had focused on the concept of racist hate speech and its evolution, as well as hate speech in the political sphere and the media, including the Internet. The Committee wished to define and outline a concept of hate speech and then assess the capacity of the Convention in terms of interpretation. The thematic discussion had raised the unanimous view that there existed no definition of hate speech under international law and the concept evolved over time, varying in its intensity. While the Committee regularly asked States to adopt legislation to

penalize incitement to racial, ethnic, national and religious hatred, it was also evident that there were a number of reservations expressed by States on article 4 of the Convention which was a cornerstone of the Convention, and the conflict between tackling hate speech and the upholding freedom of expression remained challenges. She outlined the importance of reflecting on complementary standards as a supportive measure to the Committee's work.

58. Ghana inquired whether that Committee had paid attention to the ongoing discussion on the responsibility to protect, given that incitement to hate speech and genocide were related. The European Union inquired about the main obstacles to the effective implementation of the existing procedures under the Convention, and on concrete ways to improve the use of various procedures, including concluding observations. It also asked whether introducing new procedures would create a possible risk of overlap with the activities of the Human Rights Council and OHCHR. It shared information on the fight against hate speech through criminal law in the European Union and noted that the lack of an international legal definition on hate speech had not prevented action against it.

59. Pakistan on behalf of OIC, inquired if there was a threshold that could be identified between hate speech and freedom of expression. Brazil, speaking on behalf of Argentina, Chile, Japan, Mexico, Switzerland and Uruguay, shared its view that the main way to combat racism, racial discrimination, xenophobia and related intolerance was to make the best use of the existing international instruments and to enhance its implementation at the national level. Ms. Dah recalled that there were procedural gaps with regard to the Convention in areas such as evaluation and follow-up procedures. By dealing with those gaps, improving both the implementation and monitoring of the Convention would be possible. It would also have positive impacts on other the topics that had been discussed by the Ad Hoc Committee, such as xenophobia and national mechanisms. The topic of procedural gaps in the Convention should be further discussed at future sessions of the Ad Hoc Committee, so that an exchange of views on how to better and concretely deal with those gaps could take place.

60. Ms. Dah noted that the Committee on the Elimination of Racial Discrimination had discussed the responsibility to protect and had built upon the position of the Secretary-General when he had started the initiative on the issue. She stated that the Committee had adopted about 15 indicators, along with 4 other elements, to refine the analysis of genocide and a quick link had been established between the Special Adviser on the Prevention of Genocide and the Committee. She also responded about the number of the Committee's mechanisms already available, but pointed out that the Committee's inability to carry out country visits was an obstacle. On the issue of threshold, she replied that the international community as a whole had recognized that there were limits to the exercise of rights, and while some States had set thresholds, the Committee dealt with the issue of hate speech cautiously. She explained further that article 4 of the Convention criminalized hate speech and that the Committee was taking all necessary steps to confront hate speech. The Committee dealt with issues pertaining to xenophobia under article 14, but new procedures would help in investigation and follow-up.

61. On a follow-up question from Switzerland on the level of cooperation between the Committee and the special procedures mandate holders, she responded that there was close cooperation with the relevant mandate holders on various issues related to racism, racial discrimination, xenophobia and related intolerance.

62. Ecuador requested the floor to make a general statement and share best practices from the country. It reported that a compendium had been published consisting of case studies and preventive courses for public officials and the military. The Constitution of Ecuador prohibited racial hatred and there existed other provisions in the law governing the conduct of public officials in addressing acts of racial discrimination.

VII. Updates on relevant global and regional developments

63. At the 11th meeting on 30 July, Joy-Dee Davis Lake, Chair of the OAS Working Group to Prepare Draft Legally Binding Inter-American Instruments against Racism and Racial Discrimination and against All Forms of Discrimination and Intolerance, gave a presentation on the recently adopted Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance, and the Inter-American Convention against All Forms of Discrimination and Intolerance. Ibrahim Salama, Director of the Human Rights Treaties Division of OHCHR, also gave a presentation during the 11th meeting, providing an overview of the series of expert meetings on incitement to racial, ethnic, national and religious hatred and the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

64. Owing to the word limit for the present report, the summaries of these two presentations and the respective discussions with the meeting participants which followed them are reflected in annex I to the present report.

65. Following the exchange on the presentations, the Chairperson-Rapporteur invited delegations to make general statements. Pakistan, on behalf of OIC, noted the importance of that item of the programme of work and its relevance to the work of the Ad Hoc Committee. OIC was concerned about increased incidents of intolerance, negative stereotyping, stigmatization, discrimination and violence on the basis of religion or belief. A culture of solidarity, tolerance and multiculturalism required Member States to introduce adequate protection against acts of hate crimes, hate speech, discrimination, intimidation and coercion resulting from defamation and negative stereotyping of religions, and incitement to religious hatred. He stated that the adoption of Council resolution 16/18 was an important step, as that resolution included a series of practical steps to be taken by all Member States. It also highlighted the importance of the Istanbul process, as part of which OIC had organized a third event in Geneva in June 2013. OIC considered the Rabat Plan of Action a useful contribution.

66. Indonesia stated that, in the modern age, messages could spread rapidly and situations could easily become hostile. It noted the importance of public awareness and education and that contemporary forms of racism needed to be addressed. Restrictions should be in line with the provisions of the International Covenant on Civil and Political Rights. It was beneficial to learn about other experiences and processes such as the Rabat Plan of Action and the Istanbul process, and the two new conventions of OAS. It underscored the need to reach consensus and find common understanding.

67. The European Union reiterated its position with regard to item 8 of the programme of work. Substantive discussions on the Rabat Plan of Action and the Istanbul process were not part of the work of the Ad Hoc Committee and should not be considered by the Committee. Mixing of the two processes, addressing the fight against racism and the fight against religious intolerance, risked weakening them both; whereas they should remain separate and reinforce the fight against intolerance in their respective field.

VIII. Discussion on new or additional topics

68. At its 12th meeting on 30 July, the Chairperson-Rapporteur asked delegations to consider how to move forward on the topic of the questionnaires and the summary of responses received. He reiterated the low response rate and the lack of geographic balance in the responses received, and raised the suggestion of resending the questionnaire, while noting that this might not elicit substantially more information. He also asked regional coordinators to recall their objective in requesting the questionnaire as an outcome of the fourth session. After initial discussions, he deferred the matter to the final meeting of the

session, with the possibility that a solution might be reflected in the conclusions and recommendations of the report of the current session.

69. At its 12th meeting, the Committee also considered new or additional topics as contained in its report on its third session (A/HRC/18/36), or as raised during the intersessional period, pursuant to paragraph 6 of Council resolution 21/30, in which the Council recommended that the Committee, at its fifth session, discuss new topic(s) as contained in its report on the third session or additional topic(s) submitted during the intersessional period.

70. Noting that no suggestions as to topics had been received during the intersessional period or to date, the Chairperson-Rapporteur issued the list of seven topics as contained in the report of the fourth session to meeting participants. The list of topics were as follows: “Xenophobia”; “Advocacy and incitement to racial, ethnic, national and religious hatred”; “Racial and xenophobic acts committed through information and communication technologies”; “Racial, ethnic and religious profiling”; “Establishment, designation or maintaining of national mechanisms with competences to protect and prevent against racism, racial discrimination, xenophobia and related intolerance”; “Racism and sport”; and “Procedural gaps with regard to the International Convention on the Elimination of Racial Discrimination”.

71. Noting a consensus, the Chairperson-Rapporteur suggested and it was agreed that the three topics of: “Xenophobia”, “Establishment, designation or maintaining of national mechanisms with competences to protect and prevent against racism, racial discrimination, xenophobia and related intolerance” and “Procedural gaps with regard to the International Convention on the Elimination of Racial Discrimination” would be carried forward for further consideration at the sixth session. The Chairperson-Rapporteur then invited comments and a number of different proposals were put forward by delegations.

72. Pakistan, on behalf of OIC, proposed the topic of advocacy and incitement to racial, ethnic, national and religious hatred. Switzerland, on behalf of Argentina, Brazil, Chile, Japan, Mexico and Uruguay, proposed the topic of human rights education, and that of special measures, including affirmative or positive measures, for discussion at the next session. The European Union welcomed the discussion of new topics, noting that those topics should have a global approach and be agreed to by consensus. It stated that the Committee should not overload itself with too many topics for discussion and proposed two topics related to: prevention and awareness-raising, and on the implementation of existing norms and standards. South Africa proposed that the two topics on xenophobia and on national mechanisms required further discussion and indicated that the African Group supported the consideration of the topics of advocacy and incitement to racial ethnic, national and religious hatred, and human rights education. Uruguay supported the proposals suggested by Switzerland on behalf of Argentina, Brazil, Chile, Japan, Mexico and Uruguay and proposed the topic of multiple forms of discrimination. The Bolivarian Republic of Venezuela and Cuba supported consideration of the topic of advocacy and incitement to racial ethnic, national and religious hatred, and human rights education. Brazil supported the proposed topics of human rights education, special measures (including affirmative or positive measures) and multiple discrimination. The United States expressed support for the topic of human rights education and proposed the topic of discrimination on the basis of sexual orientation.

73. Following further consultations and discussions among delegations, at the 13th meeting on 31 July, the following five topics were agreed upon as topics for discussion at the sixth session: “Xenophobia”; “Establishment, designation or maintaining of national mechanisms with competences to protect and prevent against racism, racial discrimination, xenophobia and related intolerance”; “Procedural gaps with regard to the International Convention on the Elimination of Racial Discrimination”; “Special measures, including affirmative or positive measures, strategies or actions, to prevent, combat and eradicate all forms and manifestations of racism, racial discrimination, xenophobia and related

intolerance”; and “Prevention and awareness-raising, including through human rights education and training, in the fight against racism, racial discrimination, xenophobia and related intolerance”.

74. A query concerning the duration of the sixth session of the Ad Hoc Committee was raised by the United States, which noted that perhaps a two-week period was longer than what was required for the Committee’s work. Cuba noted that a decision as to the length of the session of the Committee could only be taken by the Human Rights Council during its ordinary session. Some delegations agreed, while others stated that 10 days were indeed required for the sixth session. The Chairperson-Rapporteur stated that there was no definitive answer at that stage and that the Committee could consider a reference in that regard, in its conclusions and recommendations to the report. He noted, however, that the final decision would be made by the Council when the Committee’s report of the fifth session was considered at the twenty-fifth session of the Council in early 2014.

IX. Adoption of the report

75. The Chairperson-Rapporteur opened the 14th meeting on 2 August, and announced that the draft of the report of the session had been circulated to participants. He invited them to consider the draft with a view to ensuring the accuracy of the session report and to make solely factual or technical revisions to it. The Chairperson-Rapporteur stated that further to discussions during the session, the questionnaire would be recirculated in order to invite additional responses to the questionnaire and responses from those countries that had not responded to the original invitation. As a result, the current summary of responses would not as yet be published as an official document, pending the future updating of the summary. He clarified that, as part of that process and as noted by some delegations, States were welcome to consult and receive inputs from their respective national human rights institutions. The Chairperson-Rapporteur invited general statements from the participants.

76. The United States clarified that its understanding was that, in reference to one of the proposed new topics, the sort of special measures were those as described in article 1, paragraph 4, of the International Convention and paragraph 113 of the Outcome Document of the Durban Review Conference, with a purpose of ensuring the equal enjoyment or exercise of human rights. He expressed appreciation for a worthwhile and cordial session.

77. The European Union shared some thoughts on the way forward and with regard to the three topics of the current session. Since xenophobia was being combated through various anti-discrimination measures on various grounds, the European Union saw no added value in the Committee attempting to give a legal definition to “xenophobia”. On national mechanisms, it noted a persistent need to further explore the potential of national mechanisms to improve the implementation of existing international standards, thereby ensuring their effectiveness. While an update on the activities of the Committee on the Elimination of Racial Discrimination was useful, the European Union underlined that the Committee was able to effectively carry out its work within the existing procedures, which was why implementation should be improved in the first instance. It supported the recirculation of the questionnaire with an invitation to respond or update the information already provided in order that a revised summary be prepared. It also supported the proposal that national human rights institutions respond to the questionnaire. It reiterated its position that the “fight against racism” as addressed by the Ad Hoc Committee and the “fight against religious intolerance” were two separate files to be dealt with in appropriate forums. It was also of the view that 10 working days was abundant and that the Committee should ask the Human Rights Council to consider adjusting the number of working days accordingly. It was pleased about the two new consensual topics agreed, adding that it wished to hear from States across regions about their experiences in implementing existing norms and standards. It expressed its appreciation to the Chairperson-Rapporteur for

maintaining a constructive atmosphere, and helping the Committee to find common ground on the way forward.

78. Switzerland, on behalf of Argentina, Brazil, Chile, Japan, Mexico and Uruguay, thanked the Chairperson-Rapporteur for the able and fair manner in which the session had been guided, noting its satisfaction with the topics proposed for discussion at the sixth session. It also welcomed a future discussion within the Committee on the duration of its sessions, in order to reach an agreement and issue a consensual recommendation to the Council.

79. Pakistan, on behalf of OIC, conveyed its appreciation to the Chairperson-Rapporteur for his leadership role over the previous two weeks. It reiterated the position of OIC, pointing out that the elaboration of complementary standards would further strengthen the international regulatory framework in addressing such incidents and that the issue of procedural gaps should continue to be discussed during further deliberations. OIC believed that it was not possible to move forward on national mechanisms without elaborating norms. As agreed at the Durban Review Conference, religious intolerance was a contemporary form of racism and the Ad Hoc Committee should continue to discuss the topic. It was the intention of OIC that the topic of "Advocacy and incitement to racial, ethnic, national and religious hatred" as agreed at the third session of the Ad Hoc Committee, should be discussed at the Committee's sixth session. However, to maintain consensus, it had agreed to the two new topics. With regard to the three old topics, equal time should be attributed to them, as they were relevant and should be accorded equal attention.

80. Cuba thanked all delegations for their efforts, stating that drafting complementary standards was becoming increasingly important and that the Committee had identified areas and gaps in the current and previous sessions. In many countries, there was increased manifestation of racism, racial discrimination, xenophobia and related intolerance. It cited recent topics of racial profiling and institutionalized racism, which could not be ignored, and the continuing need to eradicate those scourges showed the importance of the work of the Ad Hoc Committee. It agreed with the need for an improved rate of response to the questionnaire and noted that, along with the five topics to be considered at the sixth session, it would have also welcomed a discussion on the role of the media. With regard to the duration of the session, it stated that 10 days were required to discuss the important issues before the Committee.

81. Algeria also made a general statement in which it expressed support for the statement made by Pakistan on behalf of OIC. It thanked the Chairperson-Rapporteur for his efficiency in guiding the work of the Committee by shedding new light on the substance and constructive engagement of all delegations. It was pleased that consensus had emerged on the new topics for the sixth session and hoped that it would continue in future meetings. The issue of the duration of the sessions of the Ad Hoc Committee was secondary to the primary issue of the substantive work of the Committee.

82. South Africa reiterated that, at the beginning of the session, Gabon had made a statement on behalf of the African Group, stating that the African Group position was that the mandate of the Ad Hoc Committee was to elaborate complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination with a view to addressing gaps on contemporary manifestations of racial discrimination in the Convention. It stated that the point had been reiterated by delegations of the African Group and other delegations during the session. The African Group had made a call to all to be constructive during the session and expressed a sincere appreciation that this had indeed taken place and hoped that the same positive spirit would continue in future sessions. The African Group supported the recirculation of the questionnaire and was pleased that agreement had been reached on the two new topics for discussion for the benefit of victims of racism, racial discrimination, xenophobia and related intolerance.

83. The Ad Hoc Committee agreed at its 14th meeting that:

(a) The following five topics would be discussed at the sixth session of the Ad Hoc Committee:

- “Xenophobia”; “Establishment, designation or maintaining of national mechanisms with competences to protect and prevent against racism, racial discrimination, xenophobia and related intolerance”; “Procedural gaps with regard to the International Convention on the Elimination of Racial Discrimination”; “Special measures, including affirmative or positive measures, strategies or actions, to prevent, combat and eradicate all forms and manifestations of racism, racial discrimination, xenophobia and related intolerance”; “Prevention and awareness-raising, including through human rights education and training, in the fight against racism, racial discrimination, xenophobia and related intolerance”;

(b) The Chairperson-Rapporteur would seek additional responses to the existing questionnaire during the intersessional period by recirculating the questionnaire. An updated summary of the responses received would also be issued.

84. Also at that meeting, the report of the fifth session was adopted ad referendum, with the understanding that delegations would forward technical corrections to their interventions, in writing, to the Secretariat by 21 August 2013. In closing the meeting, the Chairperson-Rapporteur noted that meetings would be held with Regional Coordinators during the intersessional period and he invited all participants to consider the topics and how to move forward. He also thanked participants for their statements of appreciation to him, noting that the progress made during the session was a reflection of the respect, tolerance and hard work of delegations during the fifth session.

Annexes

[English only]

Annex I

A. Summary of the expert presentations and initial discussions on the topics of “Xenophobia” and “Establishment, designation or maintaining of national mechanisms with competences to protect against and prevent all forms and manifestations of racism, racial discrimination, xenophobia and related intolerance”

1. At the 4th meeting on 24 July, Ms. Daniela Gomes, a civil society activist and journalist from Brazil, gave a presentation on racial discrimination and xenophobia in the region of Latin America. She highlighted unequal socio-economic situation, marginalization and disparities particularly affecting people of African descent and indigenous peoples in the region and that racism existed in all spheres of life. Ms. Gomes noted that it was usual for people to deny that racism and xenophobia existed in the region, while there were victims in each country. She noted that even sport could present a stage for xenophobic manifestations in Latin America. Ms. Gomes stated that xenophobia and racism had a tendency to intersect and that most of the victims are people of African descent and indigenous peoples who face racial discrimination and social exclusion.

2. She pointed out that following the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban in 2001, Governments of the region started creating national mechanisms to combat racial discrimination. She highlighted that laws could not be considered effective, if they are not implemented. Ms. Gomes emphasized that racial crimes should be processed as such, and not presented by state authorities and the judiciary as simple injuries which disregarded racist motivation as a factor. Ms. Gomes stated that laws against discrimination should be combined with public policies, which could assist the population in understanding the importance of equal rights. She highlighted the important role of public awareness-raising campaigns, including on positive measures and affirmative action programmes. She noted the responsibility of civil society in the region to actively participate and demand more from their governments and to learn to use strategically human rights mechanisms. Ms. Gomes also stated that it was important to ensure free legal aid and psychological support for victims. She stated that it was important that the police services receive training in order to abolish the practice of racial profiling.

3. Ms. Gomes noted the governments should increase awareness of the history of people of African descent and ensure that education officers monitor the implementation of laws regarding the African diaspora history and culture in the educational curriculum at schools. Media should also reflect diversity in a positive way and people of African descent and indigenous peoples should be represented in the media profession. She noted that many of the issues that she had raised and recommendations which she was making had previously been addressed and included in the UPR and CERD recommendations to countries in the region. She concluded that it was time for change and to ensure that people of African descent and indigenous peoples participated equally in the job market, education, media, law enforcement and all other domains.

4. The delegate of Brazil noted that historically Brazil had not acknowledged racism in the country, which was noticeable even in its former reports to the CERD Committee. The

World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance of 2001 was important for the country and civil society. The Government now recognized that structural discrimination exists, rooted in its slavery in the past and also linked to poverty and social exclusion. She added that most people of African descent suffer exclusion and the Government was working to address this through the adoption of laws and other public policies which were having a positive impact on people of African descent. The previous year, the Supreme Court ruled that affirmative action policies instituted by the Government are constitutional. These affirmative action policies have proven successful, however the Government has challenged to convince a sceptical public. She added that a Statute for Racial Equality had also been adopted in Brazil impacting several spheres including cultures, health, and education.

5. The Ambassador of Morocco expressed his support for the Chairperson-Rapporteur and expressed appreciation to Ms. Gomes for her presentation which provided a comprehensive snapshot of racism and xenophobia in the region of Latin America. He added that her presentation gave a broader perspective of xenophobia and racism in the world and pointed to the universality of these scourges that were not confined to a single country or region. He congratulated Brazil for the progress it was making and noted that there are other countries which deny the existence of these problems. He stated that if current laws had not remedied the situation, then it was only logical to consider new laws. He expressed disappointment at the disdain with which the Committee was treated adding that there was no hierarchy to rights and that any and all violations of human rights must be condemned. He emphasized that education and leadership were very important factors, which included a role for political, religious and academic leaders. He stated that discrimination based on religion of belief against followers of religions are amongst the worst forms of discrimination as they attack the core beliefs of people, which could lead to violence and terrorism. He noted that racism persisted as there were not strong laws to criminalize such behaviour and there was no clear definition of xenophobia. International human rights law had not been able to eradicate these problems; therefore further actions should be undertaken to combat racism and xenophobia. He stated that history would not judge kindly the Ad Hoc Committee if it was silent. Stating that the evolution of international human rights law does not end with the ICERD and Durban related documents, it was time for the Ad Hoc Committee to come together, take its responsibility and fully implement its mandate to elaborate complementary standards to the ICERD.

6. The delegate of Uruguay thanked Ms. Gomes for her presentation and reaffirmed that racism and xenophobia are indeed everywhere. He noted that in the Latin American region was still challenged by racism, often not acknowledging its existence. It was important to be self-critical and recognize that people face discrimination. He stated that Uruguay had only recently taken actions to recognize the existence of the phenomenon of racial discrimination in the country. He stated that about 10% of the population of Uruguay are people of African descent and they face social rather than structural discrimination. He highlighted a recent campaign about the positive attributes of immigration which was taking place in Uruguay. He queried how it was possible to distinguish xenophobia from racial discrimination.

7. Ms. Gomes emphasized that human rights instruments and mechanisms were important, as that without them the situation would be far worse. With regard to immigration, she noted that while new immigrants brought new issues to countries of the region, xenophobia clearly had a colour and that colour more than nationality was the factor. She reiterated the importance of raising the awareness of people about xenophobia, racial discrimination and history and culture of different communities and groups, especially since surveys in Brazil effectively showed that while there was racism, no one would admit to being a racist. She noted that affirmative action policies had always existed for others groups, such as farmers, however the reluctance seemed to have arisen with respect to affirmative action for people of African descent. While the Government was supportive of affirmative action programmes, much work remained to be carried out to

convince the public. She emphasized that improved purchasing power and decreased poverty did not eradicate racial discrimination and exclusion, as it was also a deep exclusion of people of African descent and indigenous peoples.

8. The delegate of the European Union shared recent developments with regard to assistance to victims in EU countries. She noted that in October 2012, Directive 2012/29 was adopted establishing minimum standards on the rights, support and protection of victims of crime, replacing Council Framework Decision 2001/220/JHA. It was a significant step forward in the level of protection of victims throughout the Union, in particular within the framework of criminal proceedings. The individual protection needs of victims are taken into account as well as the nature or circumstances of the crime. This Directive is part of a horizontal package of measures where any victim can rely on the same basic level of rights. Some of the elements in the Directive include access to support in accordance with victims' needs, special protection measures, assessment of vulnerability to secondary and repeat victimisation. It also takes into consideration the higher vulnerability of children. She noted that particular attention is to be paid to victims of hate crimes. Information about their case is to be provided to victims and privacy of victims and their family should be respected. The Directive contains more rights for victims, concrete steps that should take place and the deadline for its implementation is November 2015. She asked Ms. Gomes whether there is more room for the improved implementation of existing laws and policies.

9. The delegate of the Czech Republic highlighted the importance of implementation. She stated that if laws are not sufficient to eradicate racism, then more laws were unlikely to be the answer. She thanked Ms. Gomes for her presentation and expressed appreciation for the openness of the discussions during that meeting but regretted that while there was more information provided on some regions of the world, the Committee had not heard from other regions. She noted the need for greater geographic balance in the presentations and exchange of information during the sessions of the Ad Hoc Committee. Welcoming the concreteness of the presentation, she noted that challenges with respect to xenophobia and racial discrimination, i.e. on data collection and educational curriculum, coincide across regions.. She emphasized that the limited number of responses to the questionnaire did not reveal a universal interest in the subject matter and it did not provide sufficient information for the Committee's work

10. The delegate of Argentina pointed out that his Government had created a national human rights institution and adopted a national action plan, following up the World Conference against Racism in Durban in 2001. In addition, Argentina and Brazil had recently commenced bilateral and regional cooperation on policies with regard to people of African descent. He highlighted specialized programmes, such as an internet and television awareness-raising campaign on people of African descent.

11. The delegate of Angola said that given the large Angolan population in Brazil, it found Ms. Gomes' presentation especially interesting. He noted that Angola had several legal provisions in its criminal and civil laws and procedures addressing discrimination, noting that victims could file complaints and that police could take actions, including investigations. The Angolan Constitution also prohibited discrimination. He noted that the population of his country was diverse and that people were well integrated. He inquired about a public case of an Angolan student killed by a group in Brazil the previous year.

12. The delegate of the United States of America welcomed the presenter's frankness and openness and the focus on the victims. . He noted that there were similarities between the situation in Brazil and the United States of America with respect to a past history of slavery and colonialization. Similarly, affirmative action was also a subject of debate in the United States, and racially motivated crimes presented a challenge to Governments. He noted that it was important to acknowledge problems; however, it was also important to recognize that progress has been made. He highlighted a joint action plan with Brazil to address racism and discrimination. He also pointed out that if existing laws and institutions

were not being adequately implemented, whether the solution to this was necessarily new laws and institutions.

13. Ms. Gomes welcomed the victim's assistance initiatives being implemented by the European Union. She reiterated that Brazil's Law 10639 on diversity in the education curriculum was an excellent law on the books, however it required effective implementation. She gave the example of Palmares College which provided an Afro-descendant curriculum and exposure to its predominantly Afro-descendant school population since its establishment ten years ago. She commented on the importance of census as respondents were increasingly declaring themselves as Afro-descendant and indigenous and also welcomed Afro-descendant public information campaigns being undertaken by Argentina.

14. The Chairperson-Rapporteur thanked Ms. Gomes for her presentation noting that human struggles build a sense of solidarity even for people who have never met. He highlighted the situation of South Africa after apartheid and emphasized that in setting a vision for a non-racial society, it realized that laws are needed as laws govern behaviour and ensures respect for human rights. He noted the importance of statistics, categorizations and South Africa's experiences with affirmative action. He underlined that inequality and discrimination affects social cohesion and it may lead to security problems.

B. Expert presentations and initial discussion on “Xenophobia”

15. The 5th meeting on 24 July considered issues of xenophobia related to the media. Ms. Milicia Pestic, Executive Director of Media Diversity Institute (MDI), gave presentation entitled “Xenophobia and (Racial) Discrimination: The Role of Media.” She introduced the work of MDI, which involved mobilizing the power of media for deeper public understanding of diversity through a bottom-up approach involving civil society organisations and media educators. She underlined the principles of freedom of expression and opinion, participatory democracy and diversity. She noted that after education and the family, media is the third largest source of attitudes towards others. She gave examples of ongoing activities such as training for journalists in Egypt, as well as examples from the United Kingdom, where the organisation is based. She pointed out that there was, in general, a great deal of discussion in media circles in the UK for the need to institute self-regulation, although she expressed scepticism about the effectiveness of such a framework. She also stated that it was important for the media to lead the debate amidst growing right-wing sentiments across different parts of Europe, while also referring to the general silence on multiculturalism following statements in recent years by several European leaders on the “failure” of multiculturalism. She outlined what MDI thought makes good journalism, including bringing diversity into the mainstream.

16. On addressing xenophobia, Ms. Pestic, suggested that in addition to being fair, accurate and balanced, journalism needed to espouse principles of inclusiveness and sensitivity as well. In conclusion, Ms. Pestic shared studies undertaken by the Media Diversity Institute entitled “Getting the Facts Straight: Reporting Ethnicity and Religion” and “Media4Diversity: Taking the Pulse of Media for Diversity” on media and diversity which included a number of recommendations aimed at different stakeholders (government and policy makers, civil society and media) about what they could do to enhance media diversity and promote tolerance and diversity through media in Europe.

17. The delegate of Pakistan on behalf of the OIC asked whether the media, in its role as a watchdog could, at times, usurp the roles that belonged to the executive or the judiciary. He also asked about the role of the media in eliminating racism and discrimination and as to whether the media required direction in combating racism.

18. The delegate of Egypt inquired about the impact of media on decisions of policymakers at the level of regional and international politics, as well as its role in dealing

with hatred and incitement, and whether the media felt the need for common code of conduct in tackling such issues. The delegate of Switzerland asked the presenter about her views with regard to self-regulation of the media.

19. Morocco commented that some media outlets lacked sensitisation about minority groups and encouraged xenophobia through tendentious reporting, resulting in tragic consequences. The delegate stated that journalists could be advocates for equitable societies. She asked Ms. Pestic whether it was possible to develop a code of conduct for cultural diversity in and by the media and how the media could play a role in highlighting the value of multiculturalism in European Union, given the general situation that the presenter alluded to in earlier presentation. Ms. Daniela Gomes commented on the role of online social media including blogs and websites in Brazil as a new platform that countered the often exclusionary media environment in the country.

20. The delegate of the United States of America expressed concern over increased media regulations and stated that they were contrary to the culture of freedom of expression in his country, noting that “best way to counter bad speech was with more speech.” The delegate asked about the presenter’s impression of the US approach in comparison with various approaches in addressing such issues. The delegate of South Africa commented that the presentations through the day were interesting and thought-provoking and had emphasized the need for more training and education at various levels to combat xenophobia. The delegate added further that the issue may not have been sufficiently addressed by Article 7 of the ICERD which provided for “effective measures, particularly in the fields of teaching, education, culture and information.”

21. The delegate of Japan stated that regulatory mechanisms could be counterproductive as the inherent role of the media was a check on governments to ensure that they were “doing the right thing”. The delegate pointed out that giving more power to the state by instituting more legislative measures could contradict or undermine the role of media, while self-regulation was a more suitable approach. The delegate of Japan concurred with the earlier comments made by the delegate of the USA that education and freedom of expression, as well as awareness raising activities on developing tolerance of diversity, were more effective tools in countering xenophobia and acts of violence, than regulation.

22. In response, Ms. Pestic pointed out that in democratic societies it has been the duty of media to watch the activities of the authorities and discrepancies on this role existed in non-democratic countries. In response to the role of the media in regard to the events in Egypt, she said that as in most conflicts, media has taken different sides and hoped that the monitoring of events closely will be able to provide further information on the evolving situation. The presenter emphasized that although self-regulation often did not function well, it was considered by the media as a suitable framework. She further pointed out that there existed different frameworks throughout the world as evidenced by those in the USA and Europe. The respective and appropriate model was informed by culture, history and development of a given country. She underscored the importance of training for journalists, especially since journalism in recent times had become simply storytelling. Journalists required educations about how to report, how to diversify newsrooms, in terms of media professionals, sources and perspectives. In terms of enhancing multiculturalism, Ms. Pestic stated that public debate on the issue was important and that it was important to share examples and good practices from other societies in such debates. On the issue as to whether an international instrument was needed, Ms. Pestic replied that any such document would have to be turned into application or it would become just another document. She pointed out the relative lack of information among journalists in EU about human rights instruments, further to the research that the Media Institute had conducted. The presenter concurred with the growing space of online social media for vulnerable communities and education and awareness-raising not only for the public, but the mainstream journalists was equally important.

23. The Chairperson-Rapporteur, in thanking the presenter stated that different countries had varying experiences and that national contexts were also important on the need to develop regulatory mechanisms. He gave the example of South Africa where racism is illegal, and is not be allowed to be propagated as freedom of expression, as it would only create more potential for conflict. As rights entail responsibilities, he added that evolving issues and context needed to be understood to address complex issues such as hate speech and xenophobia. He gave an example of the functioning of the banking sector under a self-regulatory framework, which lead to problems in recent years, and thereby commencing an introduction of regulatory frameworks. He stated that that the question might be: What amount of state intervention is required, so as not to damage community and society by its consequences?

24. Mr. Edmundo Bracho, journalist and consultant also with the Media Diversity Institute, gave a presentation on “Diversity and discrimination in news media practice: views from Latin America.” Mr. Bracho stated that MDI had been in contact with journalists and media scholars in Colombia, Cuba and Venezuela to assess and improve journalistic practice by looking at the perceptions and opinions news practitioners have of their own work, the national media, and cultural industries and by also looking into minority and interest groups, based on gender, race, ethnicity, religion, age, sexual orientation, language, nationality, political and ideological inclinations, cultural origins and practices, and other less traditional categories of diversity. Based on the research, Mr. Bracho pointed out that their findings suggested that one aspect that stood out as quite specific to the region when observing issues such as race, ethnicity and nationhood identity in relation to the news media is the strong presence in the majority of Latin American countries of a numerous indigenous population and of Afro-descendent groups.

25. However, Mr. Bracho elaborated that they are positioned by the media as essentially marginal with regards to citizen participation and as such they still needed to be represented in the media and in the socio-cultural narratives with a more intense, plural and positive presence. He also added that while the news and community media have made the minorities more visible and participative than before, racial and ethnic minorities are not represented adequately and that when so, they often fall into stereotypical prototypes with negative connotations in the publicity and the entertainment businesses, and in non-news broadcast media content. While legal frameworks set forth in the last 15 years by some of Latin American governments have favored the participation of indigenous and Afro-descendent representatives in institutional and official spaces, more inclusive shifts are still limited and partial.

26. Ms. Daniela Gomes, commenting on the presentation, stated that often it was not the absence of racial vocabulary by the media but the manner and context in which certain issues and words were being expressed that still gave the impression of racial prejudice. She also noted the limited impact of community television in comparison to mainstream media. The delegate of Argentina inquired about the study methodology and the delegate of the United States of America stated that denial of the prevalence of racism in societies is a significant concern that recurred in the presentations.

27. The delegate of the Bolivarian Republic of Venezuela highlighted the issue of visibility and the pluri-ethnic and multicultural character of the country and also outlined its on-going efforts to criminalize racism and hear the concerns of the people of African descent. The delegate added further that the category for people of African descent was included in Venezuela’s latest census and the government had supported people of African descent with resources and to raise the profile of their communities. He noted that while there was freedom of expression and opinion, there was also responsibility for what was said. In this regard, it was important to address issues of incitement.

28. In his closing comments, Mr. Bracho stated that the methodology of the research was essentially a qualitative approach with interviews with journalists from different outlets, backgrounds, categories of age, gender and ideological positions to arrive at a

balanced opinion. Given the regional context of denial of racism and xenophobia, he considered that it would be challenging to create guidelines of protocols. He welcomed the boom of community media in Venezuela adding that MDI would like to see this strengthened as it served as a model for other countries in the region.

29. Due to a logistical issue with the arrival of an expert presenter on the morning of 25 July, the Chairperson-Rapporteur proposed that the 6th meeting be devoted to an informal meeting. The participants discussed informally issues relating to xenophobia, affirmative action, data collection and replies to the questionnaire.

30. Mr. Piara Powar, Executive Director of the Football against Racism in Europe (FARE), delivered a presentation on Racism in sport at the 7th meeting of the Ad Hoc Committee. Mr. Powar stated that racism was rife in sport and that while expression of nationalism in sporting events signified unity, it has increasingly spilled over into various forms of hatred, racism, xenophobia and other manifestations in sporting events. He noted that the fault lines or spectator sports like football, racism, xenophobia and nationalism tended to overlap. He attributed the increase in racism and racial hatred to increasing migration flows, re-emergence of far-right youth movements, local, national and regional rivalries as well as social and urban conflicts spilling over into the sporting arena. He said while recent incidents involving the walkout by AC Milan player Kevin Prince Boateng and other players in Europe highlighted the situation, monitoring of sporting events had shown that racist activities in sporting events had taken place in 28 countries outside of Europe and in all parts of the world. He explained that due to a glass ceiling in sports, while the flow of talent was from the South to the North, very few people of African descent or from other groups held top level managerial or senior corporate level positions in the football world. According to Mr. Powar, the xenophobia and racism in sport was often built on the mythologies of the “other” and stereotyping. He also highlighted the lack of gender diversity in sports management. He proposed that mobilization at the street level in creating awareness about racism was important in addressing the issue of racism in sports. Similarly, it was essential that icons of sports led initiatives to highlight the situation as well as awareness campaigns aimed at countering racism. Mr. Powar also proposed that better data collection and sharing of good practices on countering racism in sports, together with the UN Office on Sports for Development was important.

31. The delegate of Switzerland inquired as to whether low representation of women in sports or discrimination against women in sports was a subject matter that had been researched by the FARE Network. The representative of the European Union asked about the success of training programmes, whether it was possible to change behaviour through training and also requested information on FARE campaigns as well as the sharing of good practices with other regions of the world. She also inquired how discrimination on multiple grounds was being addressed by FARE.

32. The delegate of the USA highlighted the role of race in sports in the United States, such as in major league baseball, and also noted the issue of diversity in the management structures of sports. Pakistan inquired if there was a difference between xenophobia and racism in sports activities. In addition, he stated that for spectators and viewers who watched sports on the basis of national affiliation, where did nationalism cross over into racism and hatred? The delegate of Greece commented that racism had always been prevalent in sports. The delegate of South Africa asked whether Mr. Powar’s organisation had encountered racist attitudes in countries where people were of similar ethnic backgrounds. The delegate of Mexico asked about the mechanisms that the FARE Network used in establishing dialogue with local authorities. The delegate of Morocco highlighted the prevalence of discrimination of women in sports and also posed the question as to whether an institutional mechanism to monitor racial discrimination in sports could be established as international governing bodies such as the International Olympic Committee did not appear to have such a monitoring body or lacked the capacity to monitor. Ethiopia stated that contemporary forms of racism and particularly xenophobia were issues not

envisaged when ICERD came into existence in 1969, and therefore it was essential to address issues, and hence it expressed its support for complementary standards.

33.. Mr. Powar responded to the queries stating that gender-based discrimination was indeed prevalent in sports and that the culture around mass spectator sport engendered multiple forms of discrimination and intersectionality. He also referred to the ongoing cooperation between OHCHR, FIFA, UEFA and other sports related organizations to tackle the issue of racism in football. In terms of mechanisms of cooperation with local authorities, Mr. Powar stated that preventative measures aimed at enforcing and strengthening the ability of governing bodies to regulate and combat racism in sport was the key.

35. The Chairperson-Rapporteur thanked the speaker for his presentation and also spoke about the South African experience on sports as a uniting element as evidenced in its nation building process and including the successful holding of the FIFA World Cup in South Africa in 2010. He then invited general statements from the participants on the topic of xenophobia.

C. Expert presentations and initial discussion on the topic of “Establishment, designation or maintaining of national mechanisms with competences to protect against and prevent all forms and manifestations of racism, racial discrimination, xenophobia and related intolerance”

36. During the 8th meeting, on 26 July, Mr. Michel Forst, Secretary General of the French National Consultative Commission on Human Rights (CNCDH) focused his presentation on three main areas: i) the Commission and its role in the fight against racism, anti-Semitism and xenophobia; ii) the French National Action Plan against Racism; and, iii) some observations and ideas on the work of the Ad Hoc Committee.

37. He stated the Commission was created in 1946 it was again accredited in 2013 by the International Coordinating Committee of national human rights institutions in conformity with the Paris Principles. Its functions, composition and operation have been clarified and extended by a law passed in March 2007. The CNCDH has a broad mandate on all matters relating to human rights and international humanitarian law. It monitors and proposes initiatives for follow up; undertakes quantitative and qualitative research and survey; and it provides advice and also has a reporting obligation.

38. He informed that the Commission is preparing the 25th annual report for 2013 on racism, anti-Semitism and xenophobia. Mr. Forst explained that the title of the report clearly distinguished racism and anti-Semitism, as whereas anti-Semitism is a special form of racism, to which particular attention should be paid. Xenophobia is also a specific phenomenon, which is often racist in nature.

39. Mr. Forst noted that data provided by the Ministry of the Interior on the acts and threats of a racist, anti-Semitic and anti-Muslim character mark, once aggregated, a sharp increase. For 2012, the sum of acts and threats of a racist, anti-Semitic and anti-Muslim character totaled 1,539, representing an increase of 23%. A detailed look at the figures revealed that the anti-Semitic and anti-Muslim increased by the greatest number: anti-Semitic acts and threats reached 58% and anti-Muslim acts and threats increased by 30%, confirming the upward trend recorded in 2011. He also pointed out that for the third consecutive year the survey indicated a growing intolerance in France. While the early 2000s was marked by a continuous movement toward greater tolerance, since 2010 there has been an increase of racism and intolerance, which was particularly worrying. Furthermore, 94% of the respondents also believed that it is essential that foreigners who come to live in France adopt the habits of French life. Problems with integration are also

significantly attributed to foreigners and not to society in general. He stated that taken in the broader context of negative climate and strong socio-economic degradation, there is an increasing overall tolerance for racism, anti-Semitism and intolerance, assisted by internet and political actors.

40. For many years CERD had recommend to France to develop and implement a national action plan against racism. The Commission has welcomed the development of this plan and was pleased to be consulted on the draft, hoping that its adoption would inform, sensitize and mobilize all concerned stakeholders, including government and citizens. The Commission regrets that the draft plan does not include additional financial resources to support ongoing or new activities.

41. During the last part of his presentation, Mr. Forst offered some observations and ideas about the work of the Ad hoc Committee. He stated that from the perspective of the Commission, the focus should be on the implementation and application of existing norms. The Commission, also within the broader debate on the reform of treaty bodies, was attentive to any proposals for better management of individual communications and, in this respect, the old proposal for an international court on human rights, which would deal with individual communications from all treaty bodies, could present a solution. He also noted the Commission's interest in the general comments and recommendations of CERD that would gradually refine the interpretation of the Convention and according to the Commission, this dynamic interpretation of ICERD was, in his view, the best way to make it live and adapt to the changing world and society.

42. The delegate of Switzerland thanked the presenter and inquired about the reasons behind increasing intolerance in France. She stated that her government is also concerned with migration issues and asked about good practices that were in place in France, noting that dialogue was important to her country.

43. The delegate of Pakistan asked if, according to Mr. Forst there was a link between the French law banning the hijab/veil and the recent violence against women wearing the veil/hijab. He also raised a question on racial profiling about racial profiling by the police and if there are training courses and directives targeted at its prevention.

44. The delegate of the European Union agreed that the implementation of existing standards was key and asked about how to ensure efficiency in access of victims to remedies.

45. Bangladesh asked if integration measures could infringe upon the right of freedom of religion and belief and cultural practices and questioned whether integration policies could cause fear and gaps which required filling.

46. In reply, Mr. Forst highlighted the important role of human rights defenders and NGOs that follow up on cases. He stated that he did not have a proposal for a definition of xenophobia, stating that in general it is rejection of aliens, blaming them for problems in France, including security. He noted that rejection of differences leads to racism and anti-Semitism. There were also prejudice and negative attitude towards Roma in France. He noted "unacceptable" statements by politicians, Ministers, parliamentarians and other state officials which encourages the same discourse by the general public. Such kind of behaviour of state officials encouraged the public to make racist statements.

47. With regard to the link between law prohibiting the veil/hijab and violence, Mr. Forst stated that the French law had a balanced approach as it was not aimed at the Muslim population. In many cities, women wore veils and the problem only arose when the face was covered, contrary to the law. Notwithstanding, the police may demand that the woman reveal her face and they sometimes they overstepped their authority. Police were encouraged to organize trainings on racial profiling. One suggestion was to issue receipts to those who were stopped and searched by the police, allowing for a control or investigation as to why a person was checked several times.

48. Mr. Forst emphasized that implementation of standards was of greater importance than the development of new norms. There were ways to ensure better implementation such as country visits by the treaty monitoring bodies which might be costly, but effective. If more country visits were carried out, better information about what is happening on the ground will be gathered. In this context, the old proposal for an international court on human rights might be considered. There is a legislative process to integrate aliens and foreigners in France. Despite existing legislation and other measures, it was proving challenging in some areas to accept of foreigners and different cultural practices.

49. The Ukrainian Parliament Commissioner for Human Rights, Ms. Valeriya Lutkovska also gave a presentation during the 8th meeting of the Committee. She said that the Commissioner's mandate on equality and non-discrimination was envisaged in article 3(6) of the Law on Parliament Commissioner for Human Rights which refers to prevention of any forms of discrimination in exercise of rights and freedoms and article 10 of the Law "On Fundamentals of Preventing and Combating Discrimination" refers to control over observance of the principle of non-discrimination in various spheres of public relations, monitoring of observance of the principle of non-discrimination in various spheres of public relations, review of individual and group petitions/complaints on discrimination, elucidation of issues concerning prevention and combating of discrimination and observance of the principle of non-discrimination in the Commissioner's Annual Report. With regard to the structure of the Secretariat she noted that it includes Commissioner's Representative on Child Rights, Non-Discrimination & Gender Equality, Department on Child Rights, Non-Discrimination & Gender Equality, Non-Discrimination Division, Expert Board on Non-Discrimination and Gender Equality.

50. She pointed out that in 2012, 792 complaints were received: 56 proceedings were initiated, 675 explanations and advice were given and 61 were unacceptable. These complaints include 3 based on Race/Color of skin, 49 on Ethnic/National origin and 682 on Religion and belief. With regard to monitoring draft laws and governmental legal documents for discriminatory provisions, in 2013 the Commissioner provided 8 expert opinions and recommendations submitted to Parliamentary Committees, worked closely with civil society organizations on joint monitoring efforts (e.g. Centre for Civil Liberties, Coalition Against Discrimination) and provided analysis of laws in force (e.g. Commissioner's opinion on Law "On Fundamentals of Preventing and Combating Discrimination in Ukraine", provisions of the Criminal Executive Code of Ukraine that discriminate on the ground of sex, etc.). Various awareness raising initiatives were also organized, including conferences and trainings.

51. With regard to legal challenges, Ms. Lutkovska highlighted the limited scope of competence in article 2 of the Law on Parliament Commissioner for Human Rights, which is not sufficient for an effective work in the field of non-discrimination, article 161 of the Criminal Code of Ukraine, lack of key competences such as ability to initiate Action Popularis Cases and Amicus Curiae is not institutionalized. She also noted that legislation on equality and non-discrimination requires further improvement (e.g. principal laws, secondary normative acts, anti-discrimination assessment procedures). There are also organizational and operation challenges, such as specialized expertise on equality and non-discrimination and human resources.

52. The Ukrainian Commissioner also pointed out that legislation on non-discrimination was quite new in Ukraine. The general public did not have an understanding of the possibilities provided by the new law. In 2012 and 2013 there were few applications regarding discrimination. She explained that more education and awareness-raising was needed by the general public. More capacity-building work is also required for civil society organizations, Ministries, state agencies, and local administration to prevent human rights violations. She briefly referred to challenges posed by legislation on data protection and non-discrimination.

53. With regard to a question posed by a participant on freedom of religion and belief, the Commissioner noted that while in the past, the Church was prohibited it now plays a very important role in the society, with implications for the political and legal situation in the country. She explained that people were facing problems with legislation regarding data protection, due to religious belief and could contact the her office which could discuss it with the respective state body in order to solve the problem. She said that there had been positive experiences with regard to this issue.

54. At the 9th meeting on 29 July, Ms. Eva Sobotka, Programme Manager at the European Union Agency for Fundamental Rights (FRA) gave a presentation entitled “Developments and Trends on racism, racial discrimination, Roma, and crimes motivated by racism, xenophobia and related intolerance in the EU”. She provided an overview of the mandate of FRA, as contained in primary and secondary legislation, including article 3, paragraph 3 of the Treaty on the European Union (TEU), articles 10 and 19 of the Treaty on the Functioning of the European Union (TFEU), article 21 of the EU Charter of Fundamental Rights, the Racial Equality Directive (RED) 2000/43/EC. She also referred to Communication COM (2011) 173 on the EU Framework for National Roma Integration Strategies up to 2020.

55. With regard to key developments in the area of racism and ethnic discrimination, Ms. Sobotka noted the persistence of mainstreaming of elements of extremist ideology in political and public discourse and ethnic discrimination in healthcare, education, employment and housing, throughout the European Union (EU). She said that Member States had made efforts to develop comprehensive approaches to Roma integration. Nevertheless, more has to be done in order to secure sufficient funding for Roma inclusion and ensure that it benefits the targeted groups, put in place robust and effective monitoring mechanisms, and fight discrimination and segregation. She highlighted that several Member States had addressed crimes motivated by racism, xenophobia and related intolerances, by redefining what constitutes such crimes, and changing and enhancing their data collection systems. Some Member States had taken steps to enable the collection of data disaggregated by ethnicity, thereby allowing for better recording and identification of potentially discriminatory practices.

56. Ms. Sobotka pointed out that when considering trends, it was important not to confuse the rate of recorded incidents of racist, xenophobic and related crime with the actual rate of such crimes, as it is widely acknowledged that this type of crime is grossly under-recorded. Moreover, variations observed within EU Member States from one year to the next could be the result of: (1) how these crimes are defined in criminal law; (2) changes in how (the characteristics of) incidents are recorded; (3) the willingness of victims and/or witnesses to report incidents; and, (4) the actual occurrence of racist, xenophobic and related crime.

57. She also presented results from the 2012 survey, which included Roma and non-Roma respondents, in the areas of poverty, housing, education, employment and discrimination. She noted that 60% of the Roma respondents identified members of the majority population as being the perpetrators with regard to the last incident of assault, threat or serious harassment they had experienced, which makes it clear that ‘racist’ perpetrators are not only a product of extremist ‘racist’ gangs but also from the general population. The results indicated that reasons for non-reporting are less often to do with the trivial nature of an incident (32%) and more to do with lack of confidence in the police and law enforcement (72%).

58. She concluded that making hate crimes visible and acknowledging the rights of victims of crimes entails taking action at three levels: legislation, policy and practice. She said that with regard to legislation, it means recognising hate crime, the bias motivations underlying it and the effect it has on victims in both national legislation and European law. At the policy level, it means implementing policies that will lead to collecting reliable data on hate crime that would record, at a minimum, the number of incidents of hate crime

reported by the public and recorded by the authorities; the number of convictions of offenders; the grounds on which these offences were found to be discriminatory; and the punishments served to offenders. At the practical level, it means putting instruments in place to encourage victims and witnesses to report incidents of hate crime, as well as mechanisms that would show that authorities are taking hate crime seriously.

59. Replying to the questions of the delegates from Ghana and the United States of America, Eva Sobotka noted that there was a survey in 2007, which collected data on people with different background, including people of African descent and of 1st, 2nd and 3rd generation immigrants. This survey will be repeated in 2014. With regard to legal instruments, she said that in addition to the EU surveys, FRA considered United Nations and Council of Europe (CoE) standards and approaches to issues, which does not lead to any conflict, and provides continuity. She noted that FRA approaches discrimination against Roma as ethnic/racial discrimination and there can be also multiple forms of discrimination for example with regard to Roma women and children. Nationality is also taken into consideration, depending on the situation.

60. The delegate of Ghana expressed concerns regarding the treatment of African migrants in Europe, in particular mass deportation and expulsion of aliens and foreigners from European countries. He noted the need for respect for dignity of those who are deported, giving them reasonable time to collect personal items. He stated that in cases of mass deportation, court cases are considered on the basis of merit; however dignity and due process tended to be compromised in the administrative processes. He mentioned that people with pending cases before courts should not be deported; yet immigration officials exercised pressure on embassies rather than await the outcome of the court processes.

61. In her reply to the delegate of the Republic of South Africa, Ms. Sobotka stated that racist incidents have to be addressed more broadly as national human rights institutions (NHRIs) could not address the entire scope of such crimes. Improvements were required in police and prosecution services and NHRIs should raise awareness about hate crimes; however, it was the responsibility of the justice system to address these crimes.

62. In her reply to the questions of the Chairperson-Rapporteur, Ms. Sobotka noted that the difference between good and bad data was primarily linked to the data collector and standardization of the process. She highlighted the importance of prosecution, as it was not enough to solely register a hate crime. Proper training and procedures had an impact on the prosecution of hate crimes and the collection of data. With regard to victims-friendly mechanisms, she said that in the United Kingdom victims could report crimes online, avoiding the need to interact directly and attend the police station as the online submission is re-routed to the responsible police station. She stated that it was not possible, at this juncture to make a comparison of data collection as practices vary between Member States and within States. She added that sometimes victims could approach civil society organizations, ombudsman office or NHRIs, to assist with the filing of a complaint and follow up on their case.

63. With regard to the practice of racial profiling, Ms. Sobotka stated that there existed various studies, proving that the practice is counterproductive and that the cost and adverse effects are disproportionate to the results. She noted that police protocols for investigation of hate crimes have proved to be very useful and they are usually present in Member States with comprehensive data collection. On the issue of racism in football, she did not consider it a new phenomenon. According to her the new element was the increased expression of extremist views in parliaments and political discourses.

D. Summary of the presentations and initial discussions on the updates on relevant global and regional developments

64. At the 11th meeting, on 30 July, Ms. Joy-Dee Davis Lake, Chair of the Organisation of American States (OAS) Working Group to Prepare an Inter- American Convention on Racism, Racial Discrimination and Related Forms of Intolerance and an Inter -American Convention against All Forms of Discrimination and Intolerance gave a presentation on the recently adopted Inter-American Convention against Racism, Racial Discrimination, and Related Forms of Intolerance as well as the Inter-American Convention against All Forms of Discrimination and Intolerance.

65. She noted that since 2000, the OAS General Assembly and successive Summits of the Americas, the highest policy-making bodies of the Inter-American system, have repeatedly raised concerns and reiterated a determination to combat the phenomena of racism, discrimination and intolerance. She said that it was felt that a convention such as this would reflect and project concrete steps, legally enforceable, that would contribute to Member States collaborating to give effect to the principle of equality among human beings.

66. She stated that in addition to the migratory phenomena of the present time, there are new forms of intolerance, no longer only concerning race and ethnicity, but involving much other human diversity. Intolerance had moved beyond an individual's phenotypical characteristics to encompass other characteristics such as social condition, health, gender identity, national identity and religion. Therefore, the purpose of the Inter-American Convention was to improve, strengthen, and enlarge the margins of protection already offered by the ICERD.

67. She said that after a thorough examination of how the Inter American Convention would look, a Working Group was installed in 2005, by General Assembly Resolution AG Res 2126 and negotiations began on the Draft Inter American Convention against Racism, Racial Discrimination and All Forms of Intolerance. The negotiations took eight years, and on many an occasion the process was beset with acrimony and stagnation. She noted that there were two notable impediments to the process: the non-participation of the US and the withdrawal of Canada, and the ideological difference that led to the split of the draft into two draft conventions.

68. With regard to substantive outcomes, she highlighted that the two conventions together represent the most ambitious catalogue of prohibited bases of discrimination under international law, including a binding definition of racism, a requirement that States Parties undertake affirmative measures, and for the first time, in the hemisphere there will be legal reprieve for groups that continue to experience multiple or extreme forms of racism, discrimination and intolerance that are driven by a combination of factors. These Conventions have expressly bound States Parties to ensure that security measures do not discriminate directly or indirectly against any person or group of persons, based, among other factors, on their race, ethnicity, culture or religion. For the first time, the categories of sexual orientation and gender identity and expression are included in a binding international instrument for the protection of human rights.

69. The delegate of Brazil noted that the OAS could serve as an example for this Committee, and how it developed complementary norms. Although negotiations took 8 years, it managed to fulfil the commitment made in 2000. Morocco noted the need of the OAS to adopt new complementary standards, which is echoed by practices in other regions, and presents additional proof for the need for such norms and standards at the international level. Uruguay stated that the OAS experience provided a good example about how sensitive issues could find consensus. He noted that any form of discrimination should be considered equally.

70. In her reply to several questions, Ms. Davis Lake stated that approaches such as national measures as well as complementary international standards should not be seen as mutually exclusive. A legal basis or framework could give effect to national processes. She said that the OAS Conventions provide for establishment of a Committee to monitor their implementation and that this will be the place where States Parties will share good practices.

71. Mr. Ibrahim Salama, Director of Human Rights Treaties Division at OHCHR, also gave a presentation during the 11th meeting of the Ad Hoc Committee, providing an overview of the series of experts meetings on incitement to racial, ethnic, national and religious hatred and the Rabat Plan of Action. In his presentation, he referred to the general context and history of the exercise which reflected the subject matter, the substance and the potential it constituted. He noted that there were political and intellectual tensions and underlined that there was a false dichotomy with regard to freedom of religion and freedom of expression and opinion. There were indeed legitimate and perceived risks linked to the issue of incitement to hatred, which was considered a grey zone and risky area. To deepen the understanding of the subject matter, the first meeting was held in October 2008, focusing on the relationship between articles 18 and 19 of the ICCPR. He said that during the Durban Review Conference, the High Commissioner promised to launch a process of reflection. The meetings considered State practices, national mechanisms and empirical evidence on effective measures. He noted that it was based on a bottom up approach. There were expert discussions, which were opened to Member States that took the opportunity to enrich the discussions. The legislative approach included comparisons, case law and policy analysis. For each workshop there were about 20 experts from the region; participants included Special Rapporteurs, treaty-monitoring bodies, NHRIs, NGOs and Member States.

72. He explained that the Rabat Plan of Action was based on a comparative analysis and it draws on common ground. At a political and intellectual level, it is an expert-driven process, though still open to Member States. He explained that there was de facto complementarity with Human Rights Council resolution 16/18 and the Istanbul process. The plan of action created double monitoring processes and included thresholds for speech that need to be adapted to the national context. The Plan is not limited to legal measures as it includes recommendations on media, education, but also to governments. It offers a platform for action that Member States can consider voluntarily and being outside of the inter-governmental process it diffuses the political context and there is no compelling force. Based on the knowledge that was generated during these meetings, it extended beyond rhetoric thereby improving reality.

73. The delegate of the United States noted that the Rabat Plan of Action is different from HRC resolution 16/18 with its related Istanbul process, as Rabat was developed through expert meetings, while 16/18 and Istanbul are State-led processes. The Czech Republic also noted that the Rabat process and the Istanbul process are separate from the mandate of the Ad-hoc Committee. She noted that there is discrepancy among participants of the Committee, reflected in the will to share national policies and national experience and abstract calls about the need to draft international instruments. It was still not clear what are the universal challenges that needed to be overcome: who has a problem; where exactly; and, what are the obstacles in practice?

74. Mr. Salama referred to the 'politics of rights' and stated that demystifying the issues at stake was the beginning of the solution. Unfortunately, misuse of words and misuse of religions cost the lives of so many people. He explained that threshold was an important consideration: What is that constitutes advocacy of hatred? The answer was extremely difficult and complex. He added that, in his view, between a normative and an implementation gap, there were shades of other gaps, such as interpretation gaps, multi-stakeholders gap, and understanding gaps. With regard to follow ups to the Plan of Action, he stated that this was a work in progress. The Ambassador of African Union noted the

importance of school programmes and curriculum to prepare young people for adopting a responsible attitude. He highlighted the role of UNESCO in this regard.

75. Mr. Salama replied that it was perplexing how the discussion remained mired in ideology. He agreed that more had to be done with regard to education, which also included religious authorities and leaders who need to educate and raise awareness of their constituents and followers. He underscored that training and capacity building, in this regard, could also prove difficult.

76. With regard to some questions, Ms. Davis Lake clarified that during the preparatory work for the OAS Convention, there were two schools of thought on the issue of race: one that stated that there is one human race and the other which stated that there were many races, and that all are equal. The compromise was to include a definition of racism that satisfied both constituencies.

77. The delegate of Ghana raised a question with regard to the presence or lack of definition of ethnic cleansing in the OAS Conventions. The delegate of the United States of America noted with interest that there was one treaty body for the implementation of the two OAS instruments.

78. Ms. Davis Lake said that the idea of one monitoring body for the two OAS conventions was due to the fact that initially the negotiations started with one instrument, and that in effect it was advisable to have only one monitoring body for financial reasons. She noted that OAS did not elaborate a definition on ethnic cleansing. There is not yet an educational and awareness-raising programme for schools, as the Conventions had only been signed two months ago.

79. Brazil explained that all States Parties could have a representative on the envisaged monitoring body. If a given State did not recognize the Inter-American Court of Human Rights, they could still participate through the Conventions.

Annex II

Agenda

1. Opening of the session.
2. Election of the Chairperson-Rapporteur.
3. Adoption of the agenda and programme of work.
4. Presentations and discussions on the topics.
5. General discussion and exchange of views.
6. Adoption of the report.

Annex III

List of attendance

A. Member States

Algeria, Angola, Argentina, Austria, Bahrain, Bangladesh, Benin, Brazil, Bulgaria, Chile, China, Colombia, Cote d'Ivoire, Croatia, Cuba, Czech Republic, Denmark, Ecuador, Egypt, Ethiopia, Finland, France, Gabon, Germany, Ghana, Greece, Honduras, India, Indonesia, Iraq, Italy, Japan, Lithuania, Malaysia, Mexico, Monaco, Mongolia, Montenegro, Morocco, Netherlands, Nigeria, Norway, Pakistan, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Senegal, South Africa, Spain, Sri Lanka, Sudan, Switzerland, Timor Leste, Togo, Turkey, Ukraine, United States of America, Uruguay, Venezuela (Bolivarian Republic of)

B. Non-Member States represented by observers

Holy See, Palestine

C. Intergovernmental organizations

African Union, European Union, Organisation internationale de la Francophonie, Organization of the Islamic Cooperation

D. Non-governmental organizations in consultative status with the Economic and Social Council

Ariel Foundation International, Espace Afrique International, Federation of Environmental and Ecological Diversity for Agricultural Revampment and Human Rights (FEEDAR & HR), IGFM Suisse, Youth Crime Watch Nigeria

E. Non-governmental organizations not in consultative status with the Economic and Social Council

Villages unis pour le développement, Zagros Human Rights Center

Annex IV

Programme of work

<i>1st week</i>					
	Monday 22.07	Tuesday 23.07	Wednesday 24.07	Thursday 25.07	Friday 26.07
10:00 – 13:00	Item 1 Opening of the Session	Item 4	Victims’ advocate/perspective	Xenophobia	Item 6 Establishment, designation or maintaining of national mechanisms with competences to protect against and prevent all forms and manifestations of racism, racial discrimination, xenophobia and related intolerance
	Item 2 Election of the Chair	Questionnaire [presentation and discussion]	Ms. Daniela Gomes, Brazilian civil society advocate/journalist	Mr. Piara Powar, Executive Director, FARE Network dealing with discrimination in sport	Mr. Michel Forst, Secrétaire Général, La Commission nationale consultative des droits de l’homme (CNCDH), France
	Item 3 Adoption of the Agenda and Programme of Work		--- Questionnaire [presentation and discussion] --- Questionnaire [Conclusions]		
	Item 4 Questionnaire [introduction of the summary and discussion]	Questionnaire [Expert presentation/discussion: Constitutions/ Legislation]	Item 5 Xenophobia Ms. Milicia Pesic, Executive Director; Mr. Edmundo Bracho, Journalist/Consultant, Media Diversity Institute	Xenophobia --- General discussion and exchange of views	Establishment, designation or maintaining of national mechanisms with competences to protect against and prevent all forms and manifestations of racism, racial discrimination, xenophobia and related intolerance Ms. Valeriya Lutkovska, Ukraine Parliamentary Commissioner/Ombudsman Office

<i>2 st week</i>					
	<i>Monday 29.07</i>	<i>Tuesday 30.07</i>	<i>Wednesday 31.07</i>	<i>Thursday 1.08</i>	<i>Friday 2.08</i>
10:00 – 13:00	<p>Item 6(continued)</p> <p>Establishment, designation or maintaining of national mechanisms with competences to protect against and prevent all forms and manifestations of racism, racial discrimination, xenophobia and related intolerance</p> <p>Ms. Eva Sobotka, Programme Manager, Equality and Citizens' Rights Department, EU Fundamental Rights Agency-FRA</p> <p>---</p> <p>General discussion and exchange of views</p>	<p>Item 8</p> <p>Updates on relevant global and regional developments</p> <p>Ms. Joy-Dee Davis-Lake, Chair of the Organisation of American States Working Group to Prepare an Inter-American Convention on Racism, Racial Discrimination and Related Forms of Intolerance;</p> <p>Mr. Ibrahim Salama, Chief HRTD, OHCHR;</p> <p>Mr. Slimane Chikh, OIC Ambassador in Geneva – tbc</p>	<p>Item 10</p> <p>Conclusions and Recommendations</p> <p>---</p> <p>General discussion and exchange of views</p>	UN Holiday	<p>Item 10(continued)</p> <p>Conclusions and Recommendations</p> <p>---</p> <p>General discussion and exchange of views</p>
15:00 – 18:00	<p>Item 7</p> <p>Procedural gaps with regard to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)</p> <p>Ms. Fatimata-Binta Dah, CERD member</p> <p>---</p> <p>Update on CERD activities, including August 2012 discussion on hate speech</p>	<p>Item 9</p> <p>Discussion on the introduction of new/list topics...consideration of new/list topics</p>	<p>Compilation of the Report</p>	UN Holiday	<p>Item 11</p> <p>Adoption of the report of the 5th session</p>