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人权理事会
第三十一届会议
议程项目 9
种族主义、种族歧视、仇外心理和相关不容忍现象
《德班宣言和行动纲领》的后续行动和执行情况

拟订补充标准特设委员会第七届会议报告 * **

主席兼报告员：Abdul Samad Minty(南非)

内容提要

本报告是根据人权理事会第 3/103 号决定和第 6/21 及 10/30 号决议提交的。报告概述了拟定补充标准特设委员会第七届会议的议事情况，以及委员会在会议期间开展的实质性讨论，包括委员会审议根据理事会第 21/30 号决议开展的问卷调查及编写答复概要的情况。

* 本报告逾期提交，以反映最新动态。

** 本报告附件不译，原文照发。

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目录

一. 导言

1. 拟定补充标准特设委员会根据人权理事会第 3/103 号决定和第 6/21 及 10/30 号决议提交本报告。

二. 会议的组织安排

2. 特设委员会于 2015 年 7 月 13 至 24 日召开了第七届会议。会议期间举行了 16 次会议。

A. 出席情况

3. 各会员国、代表非会员国的观察员、政府间组织，以及在经济及社会理事会具有咨商地位的非政府组织的代表参加了本届会议。

B. 会议开幕

4. 特设委员会秘书宣布第七届会议第 1 次会议开幕。联合国人权事务高级专员办事处（人权高专办）反种族歧视科科长致开幕词。他指出，当今全球现代社会中种族歧视现象非常普遍，而且呈现很多当代表现形式。因此，特设委员会的工作不仅仅是商定新的标准，而且还要最终探讨办法来加强对所有人的保护，使其免受种族主义、种族歧视、仇外心理和相关不容忍行为的伤害，这是《德班宣言和行动纲领》明确提出的目标。他回顾了联合国人权事务高级专员在上一届会议上的开幕词，并指出委员会的任务是向国际社会指明具体方式，确保让数百万此类侵权行为的受害者过得更体面，确保他们获得更多的尊严、平等待遇和公正。

C. 选举主席兼报告员

5. 在第 1 次会议上，特设委员会以鼓掌方式选举南非常驻联合国日内瓦办事处代表 Abdul Samad Minty 为会议主席兼报告员。

6. 主席兼报告员感谢特设委员会再次选举他担任这一职务，指出他将与委员会的所有伙伴和成员共同努力。他回顾说，在《德班宣言和行动纲领》第 199 段中，反对种族主义、种族歧视、仇外心理和相关不容忍现象世界会议建议，人权委员会应制订补充性国际标准，以充实并更新旨在反对种族主义、种族歧视、仇外心理和相关的不容忍现象的国际文书所有方面的内容。他表示，特设委员会的讨论将继续采用前几届会议通过的逐步扩大成果的方法。在这一方面，考虑到仇外心理的表现更为猖獗，需要采取更强有力的应对措施，他认为应探讨建立一个仇外心理国际监管框架的可能性。他特别指出，由于很多国家没有充分开展消除

种族主义和仇外心理的行动，种族主义和仇外行为继续公然在这些国家的足球场内外上演。

D. 通过议程

7. 特设委员会在第 1 次会议上通过了第七届会议的议程(A/HRC/AC.1/7/1)。

E. 工作安排

8. 主席兼报告员介绍了工作方案草案（见附件三）。该草案在第 1 次会议上获得通过。

9. 主席兼报告员邀请各代表团和与会者作一般性发言。

10. 巴西大使表示，巴西非常重视充分、有效实施《德班宣言和行动纲领》和德班审查会议的成果文件，并指出后续机制在此方面发挥了主要作用。大使对特设委员会将在本届会议期间进一步讨论《消除一切形式种族歧视国际公约》的程序性缺漏问题表示赞赏，同时对拟议与消除种族歧视委员会成员就保留、报告和一般建议等问题开展讨论表示欢迎。巴西希望听取委员会对程序性缺漏的关键因素和最佳解决办法的看法。巴西大使还对特设委员会将种族主义与体育问题列入议程这一做法表示赞赏，同时也对第六届会议报告中关于此方面的结论表示欢迎。巴西大使强调，巴西支持 2015 年 1 月 1 日开始的主题为“非洲人后裔：承认、正义与发展”的非洲人后裔国际十年及其活动方案实施工作。

11. 阿尔及利亚代表以非洲集团的名义发言表示，此前隐而不露的种族主义、仇外心理、不容忍、伊斯兰恐惧症行为目前已经在政治言论、媒体和互联网上公然出现，变得司空见惯、昭然若揭且不受限制。种族主义和仇外行为的抬头影响着移民、难民和寻求避难者，因为他们最容易受到这些现象的伤害；同时，这些行为也损害着他们的权利。因此，当务之急是制订一项以保护受害者为宗旨的办法。尽管特设委员会已经举行六届会议，但尚未充分履行其任务，即为《公约》制订补充标准。从这些讨论看来，现有的文书在程序和实质内容上都明显普遍存在不足之处。若不制订补充标准，各国采取的措施就可能缺乏连贯性，可能不符合国际人权规范和标准。非洲集团依然深信有必要推动特设委员会履行其任务，同时，该代表补充说，不应绝对地看待现有国际文书存在缺漏一说。重要的是审视现有标准的缺漏，以便涵盖种族主义的当代形式与表现并保护受害者。非洲集团希望委员会最终能引导利益攸关方把关注的焦点放在种族主义、仇外心理和不容忍现象受害者的处境上，这个群体人数日众，他们的命运理应得到各方的关注。

12. 委内瑞拉玻利瓦尔共和国代表重申，支持并协同特设委员会执行其重要任务。该代表表示，如今已是委员会成立后的第八个年头，该国将继续致力于打击种族主义、歧视和相关的不容忍现象。该代表重申，有必要制订补充标准来加强

和更新国际法律框架，应对种族歧视和相关不容忍现象的新表现形式，并保护受害者。该代表团对一些国家这些年来未对这项重要任务提供支持表示遗憾，并再次呼吁会员国有效执行《德班宣言和行动纲领》。该国认为，与消除种族歧视委员会成员开展重要互动、共同查明《公约》的缺漏及相关问题至关重要。

13. 南非代表赞同阿尔及利亚代表非洲集团所做的发言，她表示，特设委员会自成立以来开展的对话为南非创造了充分的机会，让它仔细考虑了需拟订的一项或多项文书是要弥补《公约》中的哪些实质性和程序性缺漏。她回顾说，非洲集团和南非这些年来确定了属于种族主义当代表现形式的多个重要专题议题，包括仇外心理、伊斯兰恐惧症、反犹太主义、通过网络鼓吹种族歧视和仇外中伤（网络犯罪）、种族定性，以及煽动种族、民族和宗教仇恨。她表示，需要更好地保护在这些方面被定性的受害者，并最大限度采取补救措施，同时彻底消除对这些种族主义行为放任不咎的做法。这些犯罪行为的受害者所要求的并不是由特设委员会就是否需要制订补充标准开展一场学术辩论。因此，南非认为，这样的辩论毫无实际意义，无补于事。南非认为，当务之急的是执行《德班宣言和行动纲领》第 199 段；2001 年，世界会议已在该段中责成人权委员会制订补充标准。南非表示，否定《德班宣言和行动纲领》就等于否定德班审查会议成果文件。特设委员会保护遭受种族主义和种族主义行为伤害的受害者是责无旁贷的，承担此责任就是要改善那些受害者的处境。南非再次呼吁停止关于反对种族主义的夸夸其谈，而应该采取具体行动来根除这些社会弊病，并期待开展有建设性和切实的讨论来处理委员会面临的这一重要事宜。

14. 欧洲联盟代表指出，种族主义和仇外心理的各种表现形式完全不符合欧洲联盟的创始价值观，即尊重人的尊严、自由、民主、平等、法治、尊重人权。欧洲联盟始终坚定地致力于在欧洲联盟和全世界范围内打击这些现象。欧洲联盟各成员国都是《公约》的会员国，该代表回顾了《公约》通过五十周年纪念活动，并表示《公约》是全世界共同反对种族歧视的基石。该代表指出，欧洲联盟始终全面致力于履行世界反对种族歧视会议上提出的主要目标和承诺，并与非洲人后裔问题专家工作组、特设委员会及有效落实《德班宣言和行动纲领》政府间工作组保持合作。不过，该代表提出一个问题：每年举行为期六周的工作组会议是否是利用打击种族主义工作资源的最有效方法？关于特设委员会本届会议，该代表说，闭会期间与区域和政治协调员举行了五次非正式磋商，但很多集团都没有出席，也没有提什么意见。欧洲联盟希望委员会能继续把控工作方案中列明的主题，也希望各方都能建设性地参与讨论。对此，欧洲联盟愿意分享处理这些问题的经验，并期待听到全世界各地的意见。

15. 埃塞俄比亚大使表示，埃塞俄比亚支持阿尔及利亚代表非洲集团所作的发言。埃塞俄比亚也认为，尽管特设委员会努力理清需要解决的核心问题，至今已经取得了一定的进展，但还需开展很多工作，以加快节奏、全面地执行其任务。他回顾了理事会第 6/21 号决议中再次提及的特设委员会的任务。由于种种分歧，特设委员会编制补充标准的工作离预期目标阶段尚有一段距离，但埃塞俄比亚认为，特设委员会第六届会议有效确定了需要讨论的议题，包括本届会议上讨

论的问题。在审议过程中，委员会将更加能够解决这些分歧意见，尤其是有关种族主义、种族歧视、仇外心理和相关不容忍现象的形式和应对措施的重要专题。他重申，埃塞俄比亚时刻准备着与所有追求同样目标的其他代表团齐心协力开展富有建设性的合作，这一目标就是进一步推进制订有效、高效实施《公约》所迫切需要的补充标准。

16. 美利坚合众国代表强调，美国政府致力于完成本届会议的总体议题，即打击种族主义和种族歧视。他附和前面几位代表的发言，也提及了《公约》五十周年纪念活动和非洲人后裔国际十年。他表示，美国最近发生的一系列事件突出表明，委员会就此重要议题开展的工作是非常相关和及时的。他重申了美国长期以来的立场，即美国认为没有必要在此领域增加具有约束力的实质性国际性法律文书。然而，美国认为，委员会的任务包括推动各项倡议，如共识行动计划。虽然各方在某些议题上存在分歧意见，但美国期待特设委员会第七届会议期间能开展富有成效的对话并交换意见。他希望人权理事会审议特设委员会各届会议的会期问题，并指出九天的会期似乎超出了特设委员会的工作需要。

17. 巴基斯坦大使以伊斯兰合作组织的名义发言回顾说，2007 年第 6/21 号决议回顾了特设委员会的任务：特设委员会应作为优先必要任务，以公约或《公约》附加议定书的形式制订补充标准，以填补《公约》的现有缺漏并提供新的规范性标准，打击当代各种形式的种族主义行为，包括煽动种族和宗教仇恨的行为。在过去六届会议上，特设委员会已就若干专题领域开展了审议工作。他注意到本届会议选定的专题领域，尤其是介绍和讨论消除种族歧视委员会一般建议的目的、在有效实施《公约》的背景下发布这些建议所采取的进程，及任何可能缺陷。

18. 巴基斯坦大使关切地指出，特设委员会尚未完成其核心任务，即以《公约》的附加议定书的形式拟定补充标准。从过去六届会议开展的广泛审议来看，伊斯兰合作组织认为《公约》存在程序性和实质性缺漏，也许只有另行制订一份议定书，才能加以弥补。如果不制订这样的补充议定书，各国采取的措施就难以做到普遍、统一、客观，也很难确保遵守国际人权规范和标准，并与之保持一致。他表示，伊斯兰合作组织认为委员会本届会议应侧重于精简补充议定书的条文，包括：按照其他人权文书的原则为《公约》增加调查程序；加强国家机制；将直接引发暴力的仇恨性言论或煽动仇恨的行为定性为刑事犯罪，并将仇外行为定性为刑事犯罪；制订有效的补救措施，尤其是对受害者的补偿/赔偿；打击种族和宗教定性和歧视。最后，他请主席兼报告员在特设委员会所有七届会议审议工作的基础上，在闭会期间编制补充议定书草案的条文，并在委员会第八届会议之前分发给各会员国，供进一步审议。

三. 一般性讨论和主题讨论

A. 评估第 14 条所述投诉机制的使用情况

19. 在 7 月 13 日举行的第 2 次会议上，消除种族歧视委员会成员 Marc Bossuyt 发言介绍了对《公约》第 14 条所述投诉机制的使用评估情况。他的发言及随后与与会者的讨论概要载于本报告附件一。

B. 与《消除一切形式种族歧视国际公约》规定的报告工作相关的事项、挑战和最佳做法

20. 在 7 月 14 日举行的第 3 次会议上，主席兼报告员回顾，在第六届会议报告中，[1] 特设委员会商定在第七届会议上讨论与《公约》规定的报告工作相关的事项、挑战和最佳做法。各区域集团协调员商定，邀请各会员国在第七届会议期间就此方面自愿向特设委员会介绍各自的经验。在本届会议期间，比利时、厄瓜多尔（代表其本国及拉丁美洲和加勒比国家共同体（拉共体））、危地马拉、墨西哥、挪威、巴基斯坦、南非、美国代表都做了发言。他们的发言及随后与与会者的讨论内容概要载于本报告附件一。

C. 介绍和讨论消除种族歧视委员会一般性建议的目的

21. 在 7 月 14 日举行的第 4 次会议上，消除种族歧视委员会副主席 Anastasia Crickley 发言介绍了该委员会提出的一般性建议的目的，以及该委员会在有效执行《公约》的背景下发布这些建议的进程。她的发言及随后与与会者的讨论内容概要载于本报告附件一。

D. 比较其他条约的相关程序

22. 在 7 月 15 日举行的第 5 次会议上，人权高专办人权条约司公民、政治、经济、社会和文化权利科科长 Simon Walker 概要比较了各条约机构的相关程序。他的发言及随后与与会代表的讨论内容概要载于本报告附件一。

E. 《消除一切形式种族歧视国际公约》的程序性缺漏

23. 在 7 月 16 日举行的第 7 次会议上，特设委员会审议了“进一步完善消除种族歧视委员会就程序性缺漏和最佳解决方式的关键要素提出的意见（根据特设委员会的任务，对 2007 年研究报告和在委员会所做的各方面发言以及对其提出的

[1] 见 A/HRC/28/81，第 97(a)段。

建议开展的后续行动）”这一主题（见 A/HRC/28/81 第 97(b)(i)段）。有关该主题的讨论的概要载于本报告附件一。

F. 体育与种族主义

24. 在 7 月 20 日举行的第 9 次会议上，委员会审议了种族主义与体育的议题。马萨诸塞大学的 Todd Crosset 教授、不列颠哥伦比亚大学的 Delia Douglas 教授及国际篮球联合会治理和法律事务部负责人 Benjamin Cohen 就此议题做了发言。在当天晚些时候举行的第 10 次会议上，与会者继续讨论了种族主义与体育的议题，会上国际足球协会联合会（国际足联）可持续发展部多样性和反歧视事务主管 Gerd Dembowski、欧洲足球支持者协会的 Daniela Wurbs 及爱尔兰足球协会的 Des Tomlinson 向特设委员会做了发言。他们的发言及随后与会者开展的讨论的概要载于本报告附件一。

G. 举行专题小组讨论会，提供关于国家、区域和次区域机制的比较视角

25. 在 7 月 21 日举行的第 11 次会议上，开展了一场专题小组讨论，就国家、区域和次区域机制提出了比较视角。按照原定计划，比勒陀利亚大学人权中心的 Michelo Hansungule 会发言介绍非洲联盟人权制度反对种族主义、种族歧视、仇外心理及相关不容忍现象的努力。遗憾的是，由于差旅不便，他未能出席本届会议。欧盟委员会基本权利和欧盟公民权局的 Linda Ravo 和海牙全球正义研究所法治方案负责人 Lyal S. Sunga 参加了小组讨论。小组讨论概要载于本报告附件一。

H. 一般性讨论和交流意见，第 12 次会议

26. 在 7 月 21 日举行的第 12 次会议上，特设委员会举行了一场一般性讨论并交流了意见。主席兼报告员请各代表团考虑如何推进问卷调查和答复收集工作。他指出，问卷调查的答复率很低，但他认为问卷调查工作已经基本结束，并邀请各代表团根据小组互动讨论，在准备下一次会议的过程中酝酿提议。

27. 巴西代表对主席兼报告员的领导艺术表示赞赏，并对他组织颇具启迪作用的发言表示欢迎。她表示，在程序性缺漏方面，过去几天来各代表的发言──尤其是消除种族歧视委员会各成员的发言都表明，委员会仍缺乏采取实际行动的正式授权，如访问各国、跟进各项建议的落实情况，这些实际行动都是委员会有效行使职能并充分履行《公约》规定义务的重要保证。继委员会之后设立的其他条约机构已经就相关问题作出了规定。因此，在此领域需要制订补充标准，并需要开展进一步讨论。她对就此问题编写一份委员会增订报告的设想表示欢迎。她补充说，第七届会议的成果中应提及种族主义与体育的议题。巴西代表团赞成制订一项行动计划或准则等文书。她最后指出，巴西将于 2015 年 12 月在巴西利亚主办非洲人后裔国际十年首次区域会议。

28. 南非代表指出，南非代表团认为，并从各位代表的发言来看，《公约》存在缺漏，尤其是程序性缺漏。在今后各届会议上，特设委员会应在制订补充标准方面取得进展，以弥补这些缺漏。

29. 巴基斯坦代表以伊斯兰会议组织的名义发言，表示感谢主席兼报告员安排专家嘉宾在特设委员会本届会议上发言，同时强调会议迄今已经讨论了若干专题领域，包括体育与种族主义、国家机制等。从此前六届会议及本届会议的讨论来看，伊斯兰会议组织认为，《公约》明显存在实质性和程序性缺漏。她赞同巴西和南非代表的观点，即需要制订某种形式的补充标准。至于消除种族歧视委员会对于程序性缺漏的立场，该委员会之所以只提存在程序性缺漏，是因为其认为 35 条一般性意见已经填补《公约》的实质性缺漏。然而，伊斯兰会议组织认为消除种族歧视委员会的解读分析还不足以保证落实《公约》的以下任务：消除仇外心理、建立国家平等机制、制订反对种族歧视国家行动计划，这些方面都存在重大缺漏。因此，需要将这些进程标准化，确保其统一。若不制订补充议定书来阐明普遍商定的规范和标准，各国就很难组织并制订法律、政策、国家行动计划和机制，在国家一级应对种族主义、种族歧视、仇外心理及相关不容忍现象。谈及仇恨言论和仇恨罪行时，该代表指出，需要以附加议定书的形式制订补充标准，她还表示，伊斯兰会议组织认为现在就应该开始考虑该议定书的内容。至于今后的工作安排，还需要在今后几天里并在今后的会议上详尽讨论。

30. 美国代表对编制一份载列特设委员会前六届会议审议程序性缺漏情况汇编的文件草案表示赞赏。他表示，该文件表明各方对于程序性缺漏缺乏共识，体现了各方对费用问题、重复工作的顾虑，同时也表明需要充分实施现有标准和程序。关于程序性缺漏，他提到了最近开展的条约机构改革进程，并指出一些改革成果解决了与向消除种族歧视委员会报告工作相关的一些问题。工作重点应该是改进对现有义务和标准的实施工作，而不是制订新的程序性义务。他回顾了《公约》第 14 条所规定的现有个人来文程序。他表示，就这些问题开展工作的若干特别程序任务负责人已经在进行国别访问，这些负责人包括非洲人后裔问题专家工作组、当代形式种族主义、种族歧视、仇外心理和相关不容忍行为问题特别报告员、少数群体问题独立专家，以及作为非洲人后裔国际十年的部分工作而计划的活动。美国代表团并不相信，开展国别访问是使用特设委员会时间、专门知识和资源的一种良好方法。关于国家机制，他表示各国早已经可以自行建立。关于实质性缺漏，他认为，另外制订一项备选议定书会损害核心条约，因为这会削弱会员国的关注，会引出新议题，使消除种族歧视委员会的负担过重，同时也等于在暗示它解决不了某些问题，从而影响其任务范围。他回顾了有关各种不具约束力的补充标准的讨论，包括此方面的最佳做法文件和补充准则，这些文件和准则可在打击种族主义的重要斗争中具有价值和发挥作用。他表示，特设委员会可以着手制订这类不具约束力的文书。

31. 欧洲联盟代表发表了一些初步意见，并回顾说，消除种族歧视委员会的发言证实，《公约》的实质性条款已足以涵盖当代的问题。欧洲联盟强调，通过启动紧急行动程序和全面报告义务来优化委员会的现有监督程序至关重要。如果制

订新的程序，则可能会与人权理事会各机制及人权高专办的工作发生重复和重叠。

I. 根据人权理事会第 21/30 号决议第 4 段开展的问卷调查

32. 在 7 月 22 日举行的第 13 次会议上，主席兼报告员提及了在特设委员会此前几届会议上向各代表团分发、并在第七届会议前通过电子邮件向区域协调员发送的两份文件，题目分别为“拟定补充标准特设委员会第三届会议续会──第二届会议讨论议题清单”和“拟定补充标准特设委员会第五届会议续会──拟定补充标准特设委员会第三届会议报告(A/HRC/18/36)中载列的议题清单”。

33. 在第 13 次会议上再次分发了这两份文件，主席兼报告员重申了前几届会议上作为工作方案项目讨论的这份议题清单，并指出仇外心理议题和种族主义与体育议题已在三届会议上得到讨论，国家机制与《公约》的程序性缺漏问题已在四届会议上得到审议。除了该清单，他还回顾，委员会在第五届会议期间已决定必须讨论防范/认识提高工作和扶持行动/特别措施，而且也在第六届会议上作为工作方案讨论了这些议题。他表示，委员会应利用这些清单来考虑今后各届会议的议题，并确定如何推进其工作。第 13 次会议根据这两份文件开展了讨论。

34. 主席兼报告员提到了 2013 年筹备第五届会议期间向各会员国分发、并在 2014 年筹备第六届会议期间再次分发的调查问卷，并指出一共收到了 43 份答复，但这些答复并未对有些问题做出回答。问卷中的这些专题和事项都是区域协调员的共识产物，但那些答复却没有提供反馈意见，这令人惊讶。他问委员会该如何处理调查问卷。他指出，应继续推进工作并完成对一些主题的审议。在此方面，种族主义与体育的议题可能需要在另外一次会议上审议。

35. 巴西代表指出，在巴西看来，调查问卷是一份重要文件，它准确地反映了特设委员会前几届会议的讨论情况。根据收到的答复，仇外心理和国家机制是与各国密切相关的问题。然而，至于这些主题是否存在缺漏，各国尚未达成一致意见。可能需要就这些主题开展进一步讨论，而且消除种族歧视委员会如何看待《公约》与这些主题的相关性也至关重要。或者，特设委员会可以考虑是否赞成就这些问题制订行动计划、准则或由人权理事会通过一项决议。她指出，关于程序性缺漏，调查问卷已经指出，消除种族歧视委员会仍然没有得到正式授权，无法像特设委员会成员在第七届会议上介绍的那样开展相关行动，如进行国别访问、落实各项建议、建立预警程序。自消除种族歧视委员会成立以来创建的其他条约机构已经就相关问题做出规定。因此，若消除种族歧视委员会能就这些问题编写一份新报告，则对于特设委员会大有裨益。

36. 美国代表提及了调查问卷，并介绍了美国政府对 2013 年原始调查问卷所做答复的最新情况。他强调说，自那以来，美国坚决履行《消除一切形式种族歧视国际公约》及其他公约规定的义务，显著加强了内部机制，打击仇外暴力行为和各种当代形式的歧视行为。他举了两个例子。其一，2015 年 1 月，美国联邦调

查局开始收集各种偏见诱因犯罪行为的更详细数据，包括针对阿拉伯人、印度人和锡克人的犯罪行为；其二，2015 年 6 月，美国最高法院维持适用《公平住房方案》规定的差别影响责任条款，此条款旨在反对隐而不露的住房歧视行为。关于调查问卷，他建议在下届会议上就问卷提议一套结论，同时仍鼓励那些已提交答复的国家提供后续反馈，并鼓励那些尚未做出答复的国家作出答复。关于议题清单，他同意，进一步开展讨论有助于阐明种族主义与体育这一问题。不妨讨论委员会可以编制什么类型的文书。他补充说，委员会可以在制订指南或最佳做法方面发挥重要作用。

37. 欧洲联盟代表指出，欧盟的九个成员国及欧盟作为一个区域集团已经对调查问卷做出了答复。若要确保报告的代表性和相关性，需要编写一份世界各国答复简述。若决定重新分发调查问卷，则应分发给那些尚未提交答复的国家。她表示，问卷调查不应该成为一项永无休止的工作。她补充说，种族主义与体育这一主题需要开展进一步讨论。

38. 南非代表说，重新分发问卷不一定能征得更多答复，特别是由于联合国系统内还有其他许多汇报机制要求代表团给予答复，这已经让许多代表团不堪重负。关于种族主义与体育问题的提议，她建议可以先从制订指导方针和相关做法着手，并请美国代表就此进一步给予澄清。该代表建议，特设委员会今后可以就保护移民免受种族主义、歧视和仇外行为侵害这一议题加以审议。

39. 美国代表澄清说，如果种族主义与体育这一议题纳入下届会议议程，那么特设委员会则应当发挥更大的指导作用，并表示也许是时候考虑将讨论深化为具体成果了。关于分发的议题清单，他提到各代表团在各届会议期间提出的其他议题不在清单上，也可以考虑这些议题。

40. 主席兼报告员澄清说，分发的文件所列的议题是特设委员会核准的、经协商一致在本届和今后各届会议上讨论的议题，是委员会谈判和协商的结果。他请与会代表参看这些文件的脚注。另外，载有已商定的议题清单的报告已由委员会在其各届会议上通过，并已提交给人权理事会。其他建议不在清单上是因为没有得到核准；不过这些建议在特设委员会的各份报告中可能有所提及。他补充说，可能需要就种族主义与体育问题形成文件或成果。他又问到，如果本届会议无法达成共识，那么应该如何继续履行特设委员会的职责，并提出或许可以将该问题转交理事会处理。

41. 巴西代表对继续审议种族主义与体育这一议题表示欢迎。她提到委员会可以通过一些结论或一份文件，并建议委员会在下届会议上开始审议案文。她回顾了人权理事会关于“一个没有种族主义、种族歧视、仇外心理和相关不容忍现象的体育运动世界”的第 13/27 号决议，表示该决议可以用于上述目的。关于审议保护移民免受种族主义、歧视和仇外行为侵害这一议题的提议，她回顾了《保护所有移徙工人及其家庭成员权利国际公约》，并表示必须审议消除种族歧视委员会和监督该《国际公约》实施工作的特设委员会如何处理上述问题，以避免重复

工作并确定这些议题在多大程度上是相辅相成的。她指出，所有发言都谈到多种形式的歧视这一问题，这或可在下届会议作为重要议题进行讨论。

42. 南非代表说，委员会首先需要开始考虑编制一份以指导方针或最佳做法为形式的产出。关于程序性缺漏问题，应该询问消除种族歧视委员会如何弥补程序性缺漏，并请求该委员会就此问题制订一份增订报告。

43. 巴基斯坦代表以伊斯兰合作组织的名义发言，表示支持讨论由南非提出的关于保护移民免受种族主义、歧视和仇外行为侵害的问题，以及消除种族歧视委员会提交的程序性缺漏增订研究报告，因为自 2007 年该报告完稿以来，已经过去了很长时间，并且出现了新的情况。特设委员会的请求应当非常明确，以便消除种族歧视委员会能就如何弥补这些程序性缺漏提出具体的内容或建议和资料。南非对补充标准制订工作中体现的日益的开放态度表示欢迎。但是，仅确定一个问题或议题来展开讨论并不是正确的方法，也不符合特设委员会的任务规定。在承认种族主义与体育为重要议题的同时，还应全盘审议有关种族歧视的所有相关问题和方面；除了体育领域，还应包括人们因为其种族、宗教、民族出身等原因而遭受的仇恨言论、煽动仇恨或歧视。

44. 主席兼报告员强调，应给各国留有一定的空间，使它们得以向各届会议提交建议，甚至在闭会期间也应如此。关于产出或成果，有代表提出了具体建议，应由委员会审议。主席兼报告员宣布休会，以便区域协调员和其他相关代表团举行非正式会议，在各项议题上取得进展。

J. 一般性讨论和交流意见，第 14 次会议

45. 在 7 月 22 日的第 14 次会议上，特设委员会举行了一场一般性讨论并交流了意见。主席兼报告员总结了他自第七届会议召开以来所产生的想法和建议，供委员会审议。他主要以参加委员会第七届会议的各位专家的发言为基础，总结了在会议室中讨论过的一些相关问题。所讨论的议题都以特设委员会在 7 月 13 日其第 1 次会议上通过的议程和工作方案为依据。

46. 欧洲联盟代表问到，请求消除种族歧视委员会向特设委员会提供增订研究报告有何预期价值。她问到，这样做是希望得到一套不同的产出，还是实际上会收到同样的结果。她还问到，请求消除种族歧视委员会提交增订研究报告对方案预算和资源会带来怎样的影响。

47. 美国代表请主席兼报告员提供其发言的书面草案。虽然主席兼报告员关于种族主义与体育的发言中有一些信息值得关注，但在这一阶段不应就任何成果的形式下结论。例如，针对体育的指导原则也许不如最佳做法有用。他重申，特设委员会制订的补充标准不需要采取具有约束力的条约或议定书的形式，因为这种形式也许只能吸引为数不多的缔约国加入。

48. 主席兼报告员说，他的发言并没有面面俱到，他的发言稿也不准备分发。他只是出于集思广益的目的，收集了第七届会议期间此前 13 次会议上提出的想

法和观点。他补充说，他的发言代表其个人观点，供特设委员会提供指导之用，但应由委员会自行决定如何谈判并产出实际成果，甚至可以全盘拒绝他在发言中提出的观点。关于提请消除种族歧视委员会编制增订研究报告，主席兼报告员回答说，查明委员会就其 2007 年研究报告（A/HRC/4/WG.3/7）中所载的内容做了什么工作，确实是一项新举措。他指出，委员会的专家也曾表示，委员会在该报告的内容上并没有取得进展。就该研究报告提出问题并获得最新信息，是特设委员会的责任。他还指出，一旦特设委员会提出请求，则应由消除种族歧视委员会来决定如何答复该请求。有关方案预算影响和资源影响的问题，也应由消除种族歧视委员会给予答复。

49. 巴西感谢主席兼报告员的发言，并指出这为继续前进打下了良好基础。该代表希望能获得主席兼报告员的发言稿副本，以便具体回应并提出补充意见。她补充说，特设委员会或许能在种族主义与体育这一领域做出特别突出的贡献。

50. 南非代表说，南非代表团和非洲集团明确认为，补充标准的最终形式必须是议定书，而且该议定书必须具有约束力。

51. 代表伊斯兰合作组织的巴基斯坦代表感谢主席兼报告员总结了会议讨论情况，包括值得注意的专家建议。巴基斯坦代表伊斯兰合作组织对制订准则的想法表示支持，但不理解出于什么理由反对制订任择议定书，因为会员国并没有义务签署。巴基斯坦无法想象《消除一切形式种族歧视国际公约》生效 50 年后还能囊括所有新出现的情况。如果以任择议定书的形式向缔约国大致描述如何针对种族主义与体育的问题拟定具体计划，则将会得到各方欢迎。各条约机构应当为了种族歧视受害者的利益，鼓励各方切实地做出明确的变革措施。她建议，应提议在特设委员会第八届会议期间讨论议题清单中关于宣传和煽动种族、族裔、国家和宗教仇恨以及仇恨犯罪的议题。

52. 古巴代表回顾，古巴一贯支持就《公约》所涉问题拟定补充标准。特设委员会肩负着明确而紧迫的任务，但迄今各方提出了多种立场，阻碍委员会拟定一项具有约束力的标准，这实在令人遗憾。可以编制一份囊括专家提出的所有建议的文件，以此作为行动计划和指导原则的依据。古巴赞成南非和代表伊斯兰合作组织的巴基斯坦所做的发言。古巴支持种族主义与体育的议题和其他议题，同时指出宽泛的议题清单还要继续讨论。

53. 墨西哥代表指出，还有一些障碍和缺漏需要跨越和填补，实际上问题在于能否改善现有的机制。墨西哥不会反对制订关于种族主义与体育的准则，但许多其他问题仍需进一步讨论。

54. 委内瑞拉玻利瓦尔共和国代表指出，考虑到会议期间由相关领域专家提出的评论，他的代表团认为，在打击种族主义、种族歧视、仇外心理和相关不容忍行为方面显然存在程序性缺漏以及实质性缺漏，如果能够弥补这些缺漏，则将有助于消除种族歧视委员会实现其目标。一些现有机制需要修改，而另一些机制只

需要加以巩固即可得到有效实施，经济、社会、文化、公民和政治现实以及无数弱势群体的苦难证明还需要建立其他一些机制。

55. 基于上述原因，他的代表团认为有必要通过加强消除种族歧视委员会并制订补充标准来坚持遵守特设委员会的任务规定，其中制订补充标准已刻不容缓。国际社会应朝着消除所有歧视行为的目标稳步迈进，新的国际文书的内容应为此目的而制订，他的代表团将给予支持。

56. 最后，该代表说，委内瑞拉玻利瓦尔共和国的《宪法》为建立一个多民族、多文化的社会和为所有人提供免受歧视和控制的平等机会奠定了根本基础，该国遵照《宪法》规定于 2011 年颁布实施《反种族歧视法》，从而建立了相关机制以防范、应对和处罚所有表现形式的种族歧视罪行。该法律由政府与社科和法律界研究专家、专业人士和学者共同编写，并广泛征求了委内瑞拉人民的意见。该法第 10 条包含了对种族歧视、族裔、民族出身、表型、弱势群体、文化多样性、种族主义和仇外心理以及“自我种族歧视”（“endorracismo”）的定义。他表示很乐意向感兴趣的代表提供该法律的文本。

57. 巴基斯坦代表以伊斯兰合作组织的名义提出具体建议，希望根据人权理事会第 6/21 号及 10/30 号决议和理事会第 3/103 号决定，讨论《公约》补充议定书的可能内容。

58. 日本代表请求为其提供一份主席兼报告员的发言稿，并支持为制订有关种族主义与体育的准则开展工作。她指出，必须避免与消除种族歧视委员会的工作重叠，而必须补充其工作。

59. 美国代表说，他的政府不准备讨论一项具有法律约束力的文书。他表示，关于制订任择议定书作为特设委员会拟编写的补充标准的说法只在早先的理事会决议中有所提及，但近期的决议只字未提。他补充说，增订消除种族歧视委员会的指导方针并不是利用特设委员会资源的最佳方式。他的代表团不支持关于审议“种族、族裔、国家和宗教仇恨”议题的建议，因为这个议题充满争议。他指出，已有其他进程在讨论该议题，包括打击基于宗教或信仰原因的不容忍、歧视和煽动仇恨和（或）暴力行为的伊斯坦布尔进程，以及关于禁止构成煽动歧视、敌意或暴力的鼓吹民族、种族或宗教仇恨言论的拉巴特行动计划；此外，要就这个议题达成共识非常困难。他的代表团也反对将“通过信息和通信技术实施的种族主义和仇外行为”纳入下届会议的议程。美国可以支持讨论种族主义与体育问题以及多种形式的歧视问题。

60. 南非代表说，南非支持特设委员会就“通过信息和通信技术实施种族主义和仇外行为”这一议题开展工作，也非常希望推进该议题。欧洲联盟委员会专家在其发言中强调，欧洲联盟在这方面开展了许多工作，特设委员会不妨在他们的发言后展开后续讨论。该代表还建议讨论保护移民免受种族主义、歧视和仇外行为侵害问题以及种族、族裔和宗教定性问题，并表示南非支持巴基斯坦代表伊斯

兰合作组织提出的关于讨论“宣传和煽动种族、族裔、国家和宗教仇恨以及仇恨犯罪”问题的建议。

61. 阿尔及利亚代表以非洲集团的名义发言，表示坚持认为，要尊重在人权理事会第 3/103 号决定中载列、又在其 6/21 号和 10/30 号决议中回顾的特设委员会的任务规定。该代表敦促委员会在第七届会议结束前实现切实成果。

62. 欧洲联盟代表重申，欧洲联盟不支持编写新标准，但支持更有效地利用和优化《公约》的现有程序。

63. 巴基斯坦代表以伊斯兰合作组织的名义建议，应讨论特设委员会此前议题清单中的下列议题：种族、族裔和宗教定性以及打击恐怖主义的措施，以及现代信息和通讯技术中的种族主义（种族主义网络犯罪）。他支持非洲集团关于下列议题的建议：保护移民免受种族主义、歧视和仇外行为的伤害，以及保护在外国占领之下的人民免遭种族主义和歧视行为的伤害。他说，特设委员会是讨论那些难题并达成结论的最佳场所。关于第八届会议，该代表请秘书处将各代表团提出的建议汇编成册。

64. 巴西代表期待进一步展开讨论，并指出并不是每一个问题都需要通过制订任择议定书来处理，例如种族主义与体育就不需要。她补充说，就移民问题而言，已经有了《保护所有移徙工人及其家庭成员权利国际公约》，并表示难以看到就此拟定另一项文书的价值何在。

65. 主席兼报告员重申并引述人权理事会第 6/21 号决议，其中理事会回顾了特设委员会的任务规定，即“应作为优先和必要任务，以公约或附加议定书的形式拟订补充标准，以弥补该《公约》中的现有缺漏，并提供新的规范标准，打击当代各种形式的种族主义行为，包括煽动种族和宗教仇恨的行为”。他还重申了列明支持决议、反对决议以及弃权的会员国的投票清单。

66. 他说，采取协商一致的决定是民主进程的标志，投了反对票但未获成功的国家并不能永久否决那些支持特设委员会任务的国家业已开展的工作和取得的进展。他告知委员会，他已经准备好向理事会汇报说，有的国家正在妨碍委员会的工作进展，而他作为主席兼报告员，在执行理事会决定方面正面临困难。他提到，不反对理事会授予的任务，是道义上的责任。他说，有可能会请求理事会授予另一项任务规定，有可能导致又一次成功的表决。他质疑究竟还需要多少年甚至几十年，才能就委员会的任务规定采取行动，并邀请各代表团就如何继续工作出谋献策。

67. 突尼斯代表说，他的代表团同意巴基斯坦代表伊斯兰合作组织和阿尔及利亚代表非洲集团所做的发言，并表示他的代表团赞同主席兼报告员提出的所有观点。他说，特设委员会的任务规定相当明确，没有必要求助于理事会。他补充说，要对每一个问题达成共识，则往往会导致僵局。委员会已得到理事会的充分授权，只需要完成其任务即可。

68. 巴基斯坦代表以伊斯兰合作组织的名义发言表示，她完全赞同主席兼报告员所做的发言，即再也不能忽视委员会迟迟不能开展工作的情况，而且第七届会议也已经花费了宝贵的资源。至于下一步工作，一旦委员会进入起草阶段，则可以要求获得新的任务规定；目前不需要理事会另作授权。她提请将各代表团所表达的观点和立场都载入第七届会议报告。

69. 南非代表回顾说，没有任何国际公约获得普遍批准，包括《儿童权利公约》，就连儿童权利问题都无法形成共识。她说，不能以需要寻求共识为由阻挡工作进展。最后，该代表回顾说，理事会第 3/103 号决定没有提及要制订准则或行动计划。

K. 一般性讨论和交流意见，第 15 次会议

70. 在第 15 次会议上，特设委员会又举行了一场一般性讨论并交流了意见。主席兼报告员回顾，有必要审议怎样处理新议题清单，并应请求分发了一份文件，其中载有特设委员会第七届会议第 13 和 14 次会议的一般性讨论中提出的待讨论议题。该文件汇编了各代表团前一天提出的议题。他指出，为了结束讨论并向前推进，有必要确定一些优先关注议题。出于时间管理上的考虑，他建议可以选定两个议题供第八届会议讨论。他还建议，特设委员会应在第八届会议上考虑在不影响未来各届会议的前提下，将未来会期限于七个工作日，并建议委员会不妨向理事会提出这样的建议。

71. 南非代表说，非洲集团尚无法同意任何关于将特设委员会今后会期缩短至七天的提议，南非必须与非洲集团协商。另外，委员会无权决定会议的会期长短，因为那是人权理事会的权限范围。

72. 欧洲联盟代表说，欧洲联盟已与其成员协商，并提请添加以下三个议题：“人权教育”；“实施现有准则和标准”；和“消除种族歧视委员会和其他机制的监测程序”。欧洲联盟支持讨论种族主义与体育的议题，也会支持提议讨论多种形式的歧视这一议题。

73. 美国代表支持并赞成主席兼报告员关于减少特设委员会未来各届会议工作日天数的提议。他说，美国计划继续参加今后各届会议。关于欧洲联盟提出的新议题，他说他的代表团可能会支持“人权教育”这一议题，并认为其他议题并不是当务之急。该代表重申他的政府此前关于委员会任务规定的立场：其任务规定源于《德班宣言和行动纲领》第 199 段，其中并没有指出补充标准必须采取《公约》附加任择议定书等具有法律约束力的文书的形式。他回顾说，理事会 2006 至 2009 年间关于特设委员会的决议或决定都是经过表决的文本，他的代表团认为上述文书的措辞与《德班宣言和行动纲领》所使用的措辞有所不同，但理事会 2010 至 2012 年间关于特设委员会的决议（即第 13/18 号和第 21/30 号决议）则沿用了《德班宣言和行动纲领》中有关任务规定的措辞，这些决议是经协商一致通过的。他的代表团虽然认识到其他代表团就委员会的任务规定做了不同发言，

但认为对此最重要的表述是理事会最近提出的表述，因为它们是经协商一致通过的，也是以《德班宣言和行动纲领》中所载的任务规定为依据的，而没有做修改。美国认为，补充标准可以采取没有约束力的形式，如准则、原则或行动计划。

74. 巴西代表可以支持欧洲联盟的提议，特别是因为“人权教育”已经在 2013 年由包括巴西在内的不同区域的几个国家提出。她说，只应选定两到三个议题供第八届会议讨论。关于特设委员会的会期问题，即使缩短至七个会议日，仍然可以在其余三天举行非正式会议作为补充。

75. 比利时代表重申，他的代表团认为条约机构是人权保护框架的核心所在。他回顾，消除种族歧视委员会在其 2007 年研究报告(A/HRC/4/WG.3/7)第 9 段中强调，缔约国不提交报告，阻碍了《公约》的普遍实施和委员会的工作。他指出，这些重要问题应该优先处理，并建议讨论“实施准则和标准”以及“消除种族歧视委员会和其他机制的监测程序”。比利时代表同意欧洲联盟此前所作发言。他指出，委员会在第七届会议上审议的“种族主义与体育”议题是一个良好的开端，但需要在今后会议中进一步扩大和审议。

76. 主席兼报告员建议各代表团就第七届会议的可能成果和结论展开非正式磋商。会议休会至翌日。

四. 通过报告

77. 主席兼报告员于 7 月 24 日上午宣布第 16 次会议开幕，随后宣布会议休会，以便让委员会获得更多时间继续开展非正式讨论，争取达成一致意见。

78. 会议于当天下午晚些时候复会。主席兼报告员邀请与会者作一般性发言。

79. 美国代表感谢主席兼报告员和特设委员会的所有成员，并表示委员会的议题非常重要。他的代表团认为，委员会今后必须继续以高效、切题的方式发挥富有成效的作用，并表示它将与所有代表团一同努力确保实现这一点。

80. 欧洲联盟代表也向各方表示感谢，尤其感谢巴西代表主持非正式会议，并表示她的代表团期待今后积极参与特设委员会的工作。

81. 南非以非洲集团的名义也向各方表示感谢，并指出本届会议尽管存在困难，但气氛是热情友好的，她还表示，委员会设法在某些方面达成了共识意见。但她感到遗憾的是，委员会没能利用本届会议的契机讨论专题性问题，例如会议期间由非洲集团的若干成员提出的保护移民免受种族主义、歧视和仇外行为侵害问题。

82. 巴基斯坦代表以伊斯兰合作组织的名义表达了诚挚的感谢，并表示虽然委员会最终达成几个结论并至少就一个议题达成一致，但伊斯兰合作组织感到遗憾的是，委员会在本届会议上未能把重点放在其任务规定上。该代表说，委员会远未能就以附加议定书的形式制订具体补充标准展开讨论，而且还有一些与会代表

反对委员会的任务并阻碍达成共识，他说伊斯兰合作组织欢迎在今后会议上采取更具建设性的办法。

83. 巴西代表感谢主席兼报告员发挥了领导和指导作用，并感谢各位同僚表现出建设性和灵活性态度。她说，种族主义与体育相关问题取得了良好进展，委员会也感到有必要在下届会议就程序性缺漏问题继续取得进展。今后增加有关赔偿的议题，委员会将有机会讨论并审议补充标准的问题。

84. 古巴代表对委员会及其任务规定表示支持，她说，她希望在不远的将来，委员会将能向达成一项真正具有约束力的文书的目标迈进，以填补现有缺漏。

85. 委内瑞拉玻利瓦尔共和国代表重申对特设委员会任务规定的全面支持，对特设委员会的工作继续面临障碍表示遗憾，并表示，他的代表团希望国际社会努力打击所有新形式的种族主义、种族歧视、仇外及相关的不容忍行为。

86. 美国代表发言澄清说，虽然以前有关特设委员会的决议是经表决通过的，但人权理事会（第十三和第二十一届会议）的最近两项决议并没有遭到反对，是经协商一致通过的。

87. 主席兼报告员做了个人发言，他感谢特设委员会的代表参加会议并在会议期间采取建设性的态度。他表示，不能忽视人权理事会在第 3/103 号决定中以民主的方式商定、并在第 6/21 和第 10/30 号决议中回顾的特设委员会根本的原始任务规定。他承认存在分歧，但他问道，在多边论坛上如果有人反对该任务并阻止履行该任务，那么应该如何应对。他指出，这是个复杂的问题，而且给工作的推进造成了困难。他指出，多边体系本是为了让各国共同谈判，持不同意见的国家至少不会阻止其他国家提建议并且会允许完善这些建议，但目前的情况已与这个初衷相左。他说，特设委员会目前的情况就是如此，这种讨论还尚未开始。

88. 他说，特设委员会讨论了程序性缺漏和实质性缺漏，这些问题有待解决。他提到，所有发言都证明，总体而言，国家机制并不切实奏效。他重申了有必要倾尽现有国家补救措施的问题，但是这也凸显了各种缺漏和局限，因为受害者需要资金来补救伤害，这就限制了受害者的能力，这在少数族裔和移民的情况中尤为突出。

89. 主席兼报告员请所有与会者直接向他提供非正式的书面意见，提出为填补缺漏而可能拟定的文书的内容以及任何供审议的适当文本。他说，为了充分筹备特设委员会第八届会议，他欢迎各方提出上述非正式意见和关于任何其他相关主题的意见。

90. 他接着说，关于特设委员会的第一个决定得以通过，这为人权受到侵犯的受害者带来了希望，他们只求本身的人的尊严得到保护。他说，回顾委员会过去八年来的工作，目前还不能坚定自豪地宣布委员会已经为改善受害者的处境而取得了不少成效，尽管确实有潜在的力量和机遇通过本论坛去实现上述目标。他还说，总体的情况是，一些问题的讨论在不断反复，而且各政府和集团不断重申并坚持其自特设委员会设立以来所采取的立场。工作没有丝毫进展，导致委员会依

照其改善受害者生活的任务规定采取有意义的措施的可能性越来越小。他又说，他认为这是对集体责任的轻渎，是各方无法群策群力的表现。他敦促特设委员会的成员共同努力，并在今后各届会议中牢记大局。

91. 第 16 次会议复会时，特设委员会在非正式讨论后同意于委员会第八届会议上讨论下列建议、成果和议题清单：

(a) 建议和成果：

(一) 委员会建议向所有国家重新分发调查问卷，鼓励尚未答复的国家作出答复，建议已答复的国家提供最新资料；

(二) 委员会决定继续讨论种族主义与体育的议题，并重申其在第六届会议上通过的相关结论；

(三) 委员会建议消除种族歧视委员会以增编或新报告的形式增订其 2007 年关于补充性国际标准的报告(A/HRC/4/WG.3/7)。

(b) 议题清单：

(一) 特设委员会建议消除种族歧视委员会根据其任务规定，就 2007 年研究报告和各方在特设委员会所做发言以及向其提出的建议开展后续行动，进一步完善其就程序性缺漏及最佳解决方式的关键要素所提出的意见；

(c) 种族主义与体育：

(一) 特设委员会将依照《公约》第 6 条和《德班宣言和行动纲领》第 165 段，讨论有效和充分的补救措施以及要求国家主管法庭及其他国家机构向受害者提供公正而适当的补偿和赔偿的问题。

92. 在同次会议上，第七届会议的报告获得通过，但尚待进一步审核，同时有一项谅解：如果各代表团对自己的发言有任何技术性修正，将于 2015 年 8 月 7 日前以书面形式提交给秘书处。

Annex I

Summaries of the expert presentations and initial discussions on the agenda topics

A. Assessment of the use of the complaint mechanism under article 14

1. On 13 July, at the 2nd meeting of the Ad Hoc Committee, Marc Bossuyt, Member of the CERD, gave a presentation on the assessment of the use of the complaint mechanism under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). He noted that the ICERD adopted on 21 December 1965, was the first human rights treaty adopted in the framework of the United Nations providing for a mechanism of international supervision. At present, 177 States are parties to that Convention.

2. The ICERD set up the Committee on the Elimination of Racial Discrimination (CERD) , composed of 18 independent experts, which is competent to receive periodic reports, to be submitted biannually by the States parties (Article 9), and inter-State communications (Article 11).[2] The CERD is also the first UN human rights committee which has been empowered, by Article 14 of the ICERD, to receive individual communications against States parties having made a specific declaration to that effect.

3. Mr. Bossuyt discussed individual communications before the ICERD. He explained that article 14 of the ICERD provides for an optional declaration by which the States parties may recognize the competence of the Committee to receive and consider communications from individuals or groups of individuals within their jurisdiction claiming to be victims of a violation by that State party of any of the rights set forth in that Convention. At present, 57 States have made that declaration. 22 belonging to the Group of Western European and Other States, 16 to the Group of Eastern European States, 11 to the Group of Latin-American and Caribbean States, 5 to the Group of African States and 3 to the Group of Asian States. To date, only 48 communications submitted under Article 14 of the ICERD led to a decision by the CERD. According to Article 14, section 7(b), of the ICERD, the CERD will forward "suggestions and recommendations, if any, to the State Party concerned and to the petitioner." The communications which have led to such "suggestions and recommendations" by the CERD were directed against (only) 12 of the 57 States parties to the ICERD having recognized the competence of the Committee to consider individual communications.

4. He noted that article of the ICERD which has most frequently been found to be violated is Article 6 ("effective protection and remedies […] against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention") in 11 decisions, followed by Article 2 ("to pursue […] a policy of eliminating racial discrimination)" in 8 decisions, Article 5 ("to guarantee the right of everyone […] to equality before the law, notably in the enjoyment of […] the right to freedom of movement and residence [(d), (i), …], the right to work [(e), (i), …], the right to housing [(e), (iii), …], the right to education and training [(e), (v), … or] the right of access to any place or service [(f)]") in 6 decisions and Article 4 (condemnation of "all propaganda and all organizations

[2] Up to now, no inter-State communication has ever been submitted to the CERD, nor to any other UN human rights committee.

which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin") in 6 decisions.

5. Mr. Bossuyt stated that article 14 has been characterized by one prominent professor Theo Van Boven, as "one of the most under-utilized provisions of ICERD." Professor Van Boven provided two explanations for Article 14's under-utilization: (1) "many states have always considered ICERD more a (foreign) policy instrument than a domestic rights document," and, (2) "the sheer lack of knowledge and information about the existence of article 14 as a possible recourse is a major impediment." Mr. Bossuyt explained that the most striking feature of the individual communications submitted to the CERD is the foreign origin of the authors of those communications. However, only in a minority of cases (18), the author of the communication had a foreign nationality. In the majority of the cases, the authors were nationals of the State party.

6. Mr. Bossuyt described the follow up procedure on individual communications. Following the example of the Human Rights Committee, a procedure on follow-up to communications was formally established on 15 August 2005, when the Committee created the ability for Special Rapporteurs to follow-up on the Committee's suggestions and recommendations to States parties following a communication to CERD (rule 95 of the CERD Rules of Procedure). Since 2006, the Committee included a chapter on follow-up to individual communications, including sometimes in an annex, a table showing a complete picture of follow-up replies from States parties in relation to cases in which the Committee found violations of the Convention or provided suggestions or recommendations in cases of non-violation. With respect to the 10 individual communications in which the committee did not find a violation of the Convention, the Committee nevertheless made recommendations.

7. Mr. Bossuyt stated that Governments concerned are generally forthcoming in disseminating the opinion of the Committee. In some cases, they also took measures to amend the applicable legal provisions. In a few cases, they accepted to award compensation to the authors for the expenses they had made for legal assistance in submitting the communications. Up to now, no State party accepted to award any compensation for pecuniary or non-pecuniary damage.

8. He concluded by stating that in 2012, the CERD, acting upon a recommendation from its Working group on communications, proposed the creation of a joint treaty body working group on communications, composed of experts of different treaty bodies to ensure consistency of jurisprudence among treaty bodies and reinforce the justiciability and interdependence of all human rights. It would lead to more coherent outputs and to better aligned working approaches of all treaty bodies dealing with communications. Mr. Bossuyt stated that in its resolution 68/268 entitled "Strengthening and enhancing the effective functioning of the human rights treaty body system" adopted on 9 April 2014, the UN General Assembly did not act upon that recommendation.

9. The representative of Pakistan on behalf of the OIC noted that since only 48 decisions had been issued by the CERD the effectiveness of the procedure should be questioned and asked how the procedure could be strengthened to ensure complaints could be received. The representative also invited Mr. Bossuyt's views on the inquiry procedure as compared to the complaints procedure.

10. The representative of Cuba expressed appreciation for Mr. Bossuyt's comparative analysis and asked about recommendations to enhance its effectiveness.

11. Mr. Bossuyt noted that indeed, the number of decisions under the individual complaints procedure was small. The effectiveness of the procedure however was not related to the structure of the Convention. There were in general three distinct ways to legislate individual complaint mechanisms: integration of the article into the Convention at

its inception; an optional protocol adopted at the same time as the Convention itself; and an optional protocol adopted at a later stage. He recalled that the timing of these three decisions had no bearing on the effectiveness of the procedure, and that it was ultimately an optional and not mandatory procedure. The expert also pointed to the fact that to date, no inter-State communication has ever been submitted to the CERD, or to any other UN human rights committee. Inter-State communications were a mandatory procedure in CERD, and yet no complaints had been received from States. He explained that this pointed to the fact that structural and timing aspects of article 14 individual complaints procedure did not have an effect on its effectiveness. He advised that greater awareness be created about the existence of the procedure.

12. In response to the question about his views on the inquiry procedure, he noted that the introduction of such procedure was a standard request of the CERD. He added that in his view, it was more important that States parties submit their reports to the CERD, as so many were very late or had never submitted a report to the Committee.

13. The representative of Belgium said that implementation was key to the effectiveness of ICERD and that States parties should report better and in due time. Belgium also noted that Mr. Bossuyt's presentation indicated that the acceptance of Article 14 was geographically unequally distributed amongst regions and the representative inquired whether this could be improved. The expert agreed that the acceptance of article 14 by Member States was unequal, noting the high number of WEOG Member States parties, as compared to other regions. There were no acceptances in the Caribbean region at all and a very limited number in the African and Asian region. However, he was unable to provide a reason as to why that was the case, stating the States parties were better placed to do so.

14. Asked about regional mechanisms by the Belgian representative, the expert said that in his view those mechanisms were well developed in Europe, and also in Latin America. There was also an African human rights mechanism; however, there was no functioning regional mechanism in Asia.

15. The representative of the United States inquired about Mr. Bossuyt's reference that the ICERD was considered more than a foreign policy instrument than a human rights document as well as the role of civil society and non-governmental organizations when it came to the effectiveness of CERD. Mr. Bossuyt noted that the role of civil society could not be overstated, as strong non-governmental organizations had a significant role to play in the individual complaints procedure and the implementation of the ICERD as illustrated by his case law analysis. He added that Governments often initially expressed firm commitment at the international level as a political expression, but did not always have a strong influence in the domestic legal system. The provisions of ICERD should however be integrated into domestic law. CERD regularly asked States if they have done so. One of the standard questions was therefore if a State had a comprehensive discrimination law against racial discrimination.

16. When asked about his opinion on the multitude of possible avenues for individual redress for violations of racial discrimination including the Human Rights Committee and the European Court of Human Rights, by the Chair-Rapporteur, the expert said that different institutions could indeed arrive at different decisions, which was the inherent danger of the current system. CERD consequently believed that the establishment of a single unified body that dealt with complaints to all treaty bodies would be an improvement.

17. The Chair-Rapporteur inquired about an analysis of type of cases that succeeded under the article 14 procedure. He stated that confidence in the process was not bolstered by the figures and statistics provided in Mr. Bossuyt's presentation, and underlined that a great deal was dependant on the national law and domestic systems in place. Mr. Bossuyt

expressed support for further research on these cases. He also questioned whether the results were really so "dismal", perhaps more so in relation to the approximately 60,000 cases considered by the European Court of Human Rights. He explained that of only a small percentage of cases were deemed admissible, and even a smaller percentage constituted a finding of a violation, that some of those cases, might in fact be very instructive to States to rectify potential problems in advance. The table in the Annex of his presentation was valuable as it at least provided an overview of individual communications under Article 14 of ICERD dealt with by CERD.

18. Regarding gaps in ICERD, Mr. Bossuyt noted the existence of gaps in institutional coverage and protections, as different bodies and institutions could arrive at different conclusions. Procedures, such as the reporting procedure could use further improvement.

19. The representative of Ghana inquired about the attempt of CERD to redefine "race", the views of the expert with regard to the definition and content of "ethnic cleansing"; and the fact that national institutions were often taking on individual complaints. He asked if the Committee had adopted general comments to address such issues, which were also of importance in relation to the right to protect, suggesting the need for a supplementary protocol. The expert noted that CERD had done so, and had adopted a number of general comments; CERD however, had not as yet issued a comment on ethnic cleansing. But CERD had issued general comments on discrimination against noncitizens, in particular migrants; on indigenous populations, on Roma people; on people of African descent, etc. This approach showed that CERD had no narrow view on race. He added that "race" as a biological concept did not exist, but that racists did exist. He continued that he was not convinced that there was a need for an additional protocol. It would, however, be welcomed if the "machinery" could be strengthened. Such approach would be more useful than enlarging the field of application.

20. The representative of South Africa asked whether there was a gap concerning issues of religion and about the process leading to the drafting of general recommendations, as these soft laws, including the United Nations Declaration on religion were not enforceable documents. Mr. Bossuyt stated that CERD considered at times the issue of religion in its work. Some States parties noted that CERD's mandate was racial discrimination and not discrimination based on religion or belief. That objection could ostensibly be overcome by a separate instrument, but the practical challenge of drafting it would be enormous.

B. Issues, challenges and best practices pertaining to reporting under the ICERD Convention

21. At the 3rd meeting, on 14 July, the Chair-Rapporteur recalled that the outcome of the 6th session of the Ad Hoc Committee in paragraph 97 (a)(iii) provided for a discussion on "issues, challenges and best practices pertaining to reporting under the Convention", and as had been agreed by the Coordinators of the Regional Groups, all States were invited to volunteer to brief the Ad Hoc Committee on their individual experiences in this regard under this agenda item during the 7th session.

22. At this meeting, Norway recognizing the continued need to fight all forms of ethnic, racial and religious discrimination, hate crimes and xenophobia, gave an overview of Norwegian issues, challenges and best practices pertaining to reporting under the ICERD Convention, touching upon some of the issues and challenges facing the country, as well as some practices it considered successful. In order to combat discrimination effectively, Norwegian authorities believed it is important to have reliable and updated information about the extent of discrimination against different groups. In February 2015, The Norwegian Institute for Social Research published a report, which reviews existing research

on discrimination among the indigenous Sami population, national minorities and immigrants and their descendants in contemporary Norway. The fight against hate crime and hate speech remains a top priority for Norway, and free and open participation in the public debate is important in a democratic society. The combat against hate speech and hate crime has among other measures led to an interministerial Action Plan against Radicalization and Violent Extremism (June 2014). The Plan underlined that prevention in a broad perspective involves ensuring good formative conditions for children and youth, fighting poverty and working to ensure that everyone, regardless of their background, shall have a sense of belonging and be protected against discrimination. The representative stated that the general preventative efforts in many different fields can also help prevent people from choosing violence as a means of achieving their ideological or religious goals. Measures to prevent discrimination, harassment and hate expressions on the Internet and to prevent hate rhetoric are also important.

23. The Norwegian Government supports the Norwegian campaign against hate speech, which is linked to the campaign of the Council of Europe with goals to: create contact between young volunteers working to promote human rights an respond to hate speech; train and provide tools for NGOs working in the field; work to increase knowledge in the general public and civil society on how to respond to online hate speech; and, implement European campaigns/action days in Norway; An example of a very concrete initiative to fight hate rhetoric, especially that aimed at vulnerable groups and individuals, is a project for schools under the European Wergeland Centre. It has been closely linked with the national campaign 'Stop hate speech on the Internet', which is a part of the Council of Europe's 'No Hate Speech' campaign.

24. Another example is DEMBRA (Democratic Readiness against anti-Semitism and Racism), a Norwegian three-year program (2013-2015) aimed at teachers in lower secondary schools funded by the Norwegian Ministry of Education and Science, and designed to prepare and enable young people to live as democratic citizens in diverse societies to prevent racism, anti-Semitism and other forms of discrimination. DEMBRA combines the expertise of all parties involved in a program where theory meets practice, reflection meets action and history meets the future.

25. The representative discussed hate crime, which are offences motivated by racism, xenophobia or homophobia committed against individuals or groups because of their personal or social identity. A special hate crime unit has been set up by the Oslo police. At the end of 2006 the Norwegian Police started registering all reported hate crimes and since 2007 (the first full year of statistics of reported hate crimes available), the National Police Directorate has made a manual analysis of all reported cases. The latest analysis (March 2015) shows small changes in the number of hate crimes reported for the last four years. Hate crimes due to racism are the most dominant followed by hate crimes regarding religion, at then sexual orientation.

26. The representative noted that threats, damage to property, violence or discrimination motivated by hate and prejudice is serious for the individual victim, but also creates fear in larger groups of the population. It is an important goal to increase awareness about hate crime within the police force, as well as to increase awareness and police confidence among targeted groups in the population. Under Norwegian law, hate crimes are considered an aggravating factor in sentencing if the criminal offence is motivated by any of the following criteria: religion or life stance, skin colour, national or ethnic origin, sexual orientation, reduced physical or psychological ability or other circumstances related to groups of people requiring a special level of protection. This is derived from Norwegian case law, and is also explicitly stated in the new Norwegian Criminal Code, which will enter into force in 2015.

27. The Chair-Rapporteur expressed appreciation to Norway for the interesting presentation and posed some follow-up questions concerning the recognition of Finnish

population of Norway as a minority group; further information about the experiences of Norway with regard to hate speech on the internet and hate crimes; and the text of laws and procedures to assist prosecutions; and lessons learned regarding the attacks in Utoya in 2011.

28. The Norwegian representative explained that the term “Finnish” did not refer to their nationality but rather to culture and language, and that while Finns had been settling in Norway for a long period of time and are Norwegian citizens, they did face discrimination.

29. The Norwegian representative noted that the focus was on prevention concerning hate speech on the Internet and that approach would be strengthened. Currently, hate speech on the internet, criminal monitoring by the police, digital monitoring by the police, education for children regarding online activities, and increased training for police trainees was taking place. It was also important to educate people, about hate crimes with the goal of easier reporting of hate crimes. The representative explained that following the terrorist attack at Utoya in 2011, Norwegian response was towards more openness as it decided not to become a “closed society” due to this attack. There was a year of national reflection and discussion and the legal process, triggered a national open discussion about the how this could have occurred.

30. The European Union inquired about the engagement of Norway with civil society during the CERD reporting process. While not completely aware of what had been done to reach to civil society during the CERD process, the representative stated that the UPR process played a prominent role in that regard and presented a good platform for discussion, and ultimately enriching the various treaty body discussions.

31. The United States also presented on its CERD reporting experience, sharing three best practises and three challenges during the 3rd meeting. One best practice was a broad interagency approach to reporting and presentation, under the leadership of the White House (Office of the President). Second, in addition to the federal government, state and local officials were included in the United States delegation. This approach was effective and appreciated by the Committee. Third, consultations with civil society are important part of treaty body presentations. These included a civil society consultation in Geneva the day before the presentation, with about 80 civil society representatives. This consultation enabled civil society to pose questions to the Government officials, and involved detailed and at times emotional exchanges which had improved the delegation’s preparation.

32. The representative presented three challenges faced by the United States regarding CERD reporting. The first challenge is how to increase public awareness of the treaty body system and reporting process. He welcomed hearing about experiences from other delegations. Second, keeping reports within the strict page limits presented a challenge, while responding to numerous issues raised by the CERD. Third, during the actual CERD presentation the time management was not ideal, leaving the delegation limited time to respond and brief the CERD.

33. The representative also raised a point for discussion about how to strike a balance between the value of a large delegation and the limited speaking time. He explained that the United States delegation was fairly large, and was fairly representative of the country, as African-Americans, women, indigenous persons, persons with disabilities, LGBT persons and others have participated in treaty body presentations, and that broad spectrum of delegates’ experiences improved the quality and the richness of the presentation. He particularly noted that its most recent delegation included the Mayor of Birmingham, Alabama William A. Bell, who experienced racial discrimination during the civil rights era, and Loretta Lynch, who shortly afterward became the Attorney General of the United States. He added as another best practice the willingness of the United States to acknowledge and discuss its past and its shortcomings.

34. Belgium inquired about the challenge of follow-up, and the implementation of CERD recommendations, to which the representative of the United States said that the same interagency process led by the White House that served the preparation of the session was also used for the implementation of the recommendations. He also noted the overlaps in the United Nations human rights reporting cycle, and agreed that the focus of the process must be on implementation and changing the situation on the ground. The Norwegian representative added that its various reports were on time and outlined a decentralized reporting process lead by the Ministry of Foreign Affairs. For Norway, the Universal Periodic Review process was beneficial to its CERD and other treaty body reporting preparation through awareness-raising and the collection of information. Belgium also inquired about the role of parliaments and parliamentarians in CERD reporting process. Given the separation of powers between Congress and the Executive Branch of government in the United States, there was no explicit role for parliamentarians. Nevertheless, the State Department has reported to Congress on the outcomes of the treaty body presentations and its related consultations with civil society. Norway replied as well that there was no participation by the Norwegian parliament in the treaty body preparations or the review.

35. The representative of South Africa asked the representatives of Norway and the United States of America if those national approaches had also resulted in more regular reporting and about how state and local members of the delegations were chosen.

36. The United States noted that its approach was generally successful, though not perfect, in improving and that White House involvement and leadership was very important to this success. He added that timelines were clearer and that preparations commenced well in advance of reviews. Addressing the question on the selection of delegates, the representative noted that the United States considered inter alia current issues as well as areas of interest raised by the Committee.

37. At its 6th meeting, on 15 July, the Ad Hoc Committee continued its consideration of item 5 of the programme of work on “Issues, challenges and best practices pertaining to reporting under the Convention”. At this meeting, the Deputy Permanent Representative of South Africa presented a briefing to the Committee in view of South Africa’s experience. As South Africa was a microcosm of the world, racism still existed in South Africa and it would take strong mobilisation and a programme of “de-racialisation” of society to eradicate racism. She also noted that South Africa had made great strides in dismantling the structures that had legalised racial discrimination. The Government continued to allocate substantial resources towards the creation of a non-racist State. All legislation that provided for racial discrimination had been repealed and new statutes had been adopted to provide a framework for racial equality, and elaborated on the legal framework that ensured equal treatment in South Africa.

38. The Deputy Permanent Representative noted that several avenues existed in South Africa through which one could claim redress for acts of racial discrimination. Equality Courts were designed to deal with any complaint alleging unfair discrimination, publication of information that unfairly discriminates, harassment and hate speech. Aside from the Equality Courts, one could also bring a claim to the South African Human Rights Commission. Non-state actors had also shown their willingness to assist in the enforcement of rights. An example was Lawyers for Human Rights, a non-governmental organization, which offered legal assistance in South Africa.

39. Article 4 of ICERD required that States Parties criminalize racism and social discrimination. In South Africa the prohibition of racial hatred was based on the Constitution, although the Constitution also guaranteed freedom of expression, the formulation made it clear that incitement that could because harm was excluded from the ambit of this right.

40. The Deputy Permanent Representative noted that, subsequent to the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban, the South African Government approved the establishment of the National Forum against Racism (NFAR) in 2003, which was comprised of various stakeholders, including national and provincial government and civil society organisations.

41. Describing challenges the Deputy Permanent Representative turned to migration and noted that South Africa remained the preferred destination for migrants and faced a host of migration-related challenges. South Africa had long and porous borders which exacerbated those challenges. Recent attacks against foreigners were referred by some as xenophobic. The attacks had been condemned by government. The government was determined to restore and maintain order within communities. Operation Fiela — Reclaim was an operation to rid the country of illegal weapons, drug trafficking, prostitution rings and other illegal activities.

42. The Deputy Permanent Representative stated that the mandate of the Ad Hoc Committee was clear, and that it was expected that progress be made during the current session. The Human Rights Council had given a clear mandate to elaborate complementary standards, and if the Ad Hoc Committee failed, it would be failing the plight of all the victims of racism.

43. The representative of Cuba reaffirmed its commitment to fight all forms of racism and xenophobia. The representative expressed extreme concern about racial discrimination and xenophobia in countries of the North in particular, in view of anti-migrant sentiment, xenophobic reactions and sophisticated contemporary forms of racial discrimination. Political will was required to eliminate these problems. The Ad Hoc Committee had a clear mandate to elaborate complementary standards to the existing legal framework, which Cuba supported. It was fundamental, the delegate stated, that that the Committee ensured that there was no loss of dignity for victims and that it take up the relevant topics related to these various problems. Cuba supported South Africa's briefing and reiterated that the mandate of the Ad Hoc Committee had to be respected and that the Committee move ahead in order to work properly.

44. During the 7th meeting, on 16 July, the Ambassador of Ecuador made a presentation on Ecuador's national issues, challenges and best practices related to ICERD. She stated that indigenous peoples, Afro-Ecuadorian and Montubio constitute 21% of the Ecuadorian population. Historically, they have been the most exploited, discriminated and excluded, due to historical colonial practices based on social classification in accordance with skin colour, language, worldview, religious beliefs, culture and forms of organization.

45. In this context, the government of Ecuador has taken up the challenge to consolidate and construct a society that is participatory, intercultural, plurinational, equal and inclusive for everyone living on its national territory.

46. Currently, there are adequate normative and programme measures, in accordance with the Constitution, enshrining the principles of full equality, inclusion, and non-discrimination. An example of the political will to make changes and revaluation is the Plurinational Plan for the Elimination of Racial Discrimination and Ethic and Cultural Exclusion 2009-2012.

47. Ecuador has various planning instruments to fight multidimensional poverty and inequalities, such as the Atlas of Inequalities. The idea is to use detailed information to improve and update public policies and implementation mechanisms, monitoring the situation of vulnerable groups. There are also five national agendas, focusing on inequalities and one of them is called National Agenda for Equality of Nationalities and Peoples, which like other national agendas, was developed through a bottom-up approach,

with the participation of National Councils for Equality. These councils were established through a law, which was adopted in May 2014.

48. On 16 July during the 8th meeting, the representative of Guatemala presented the national experiences of the country with regard to issues, challenges and best practices pertaining to reporting under the ICERD Convention. In 1982, Guatemala adopted ICERD and consequently approved a number of measures to implement the Convention. The representative said that one event stood out since the adoption. After 36 years of conflict, a peace agreement was signed in 1996, opening new possibilities such as the promotion of indigenous peoples` rights. Those rights have never been an impediment to progress, however were an integral part of the country's culture.

49. Guatemala created a presidential commission that furthered indigenous rights and an "Academy for Mayan languages" as well as other institutions that strengthen indigenous culture and rights. At the executive level a department for indigenous affairs was set up as well as a state policy to ensure the creation of a pluralistic state. Despite the progress, further actions needed to be undertaken including addressing the challenge of harmonizing national and international legislation. 112. Guatemala had now presented its 14th and 15th report to CERD and had been complying with the reporting commitment and had organised a national mechanism to follow up on recommendations. The mechanism involved a number of stakeholders such as business and civil society. Guatemala also found other mechanisms useful, such as the UPR review. Guatemala had much relied on OHCHR support in the past, as the Office was very active in the country. This contribution from the Office was much appreciated.

50. The Ambassador of Pakistan also briefed the Ad Hoc Committee on its national experiences with regard to issues, challenges and best practices pertaining to reporting under the ICERD Convention during the 8th meeting. Pakistan had presented its consolidated 15 to 20 periodic reports in 2009. The 21st report would be submitted shortly and would also be disseminated online. The report had been prepared with the involvement of a variety of stakeholders. He added that distinctions and groupings in Pakistan existed mainly on religious and linguistic grounds and that racial discrimination was nearly non-existent. However, due to terrorism ethnic and religious minorities might face discrimination. The country's legal framework guaranteed equality and there were several provisions prohibiting discrimination in the constitution. Pakistan briefed on the legal framework and also referred to the regulations for media and broadcasting companies which prohibited discrimination on a number of grounds.

51. Pakistan had also taken positive measures to support minorities and promote intercultural exchange, such as educational measures, awareness raising and special commemorative and religious festive days. The Ambassador stated that the judiciary was also concerned with upholding equality, and that the courts had handed down a number of judgements on hate speech. Decency, morality and Islam were cited as reasons to forbid speech. The Ambassador stated that media was also active in fighting discrimination and extremism, and the social media played an important role in promoting national harmony.

52. Pakistan was currently finalising an action plan for national minorities, which included a number of measures such as human rights education, and social safety nets as well as prohibitions on hate speech. Pakistan made endeavours to implement ICERD but faced a number of challenges so the biannual reporting timeframe could not be fulfilled. The periodicity of reporting should be reviewed. Pakistan also faced a challenge as it only reported to the CERD on the grounds of religious hatred, which was not fully appreciated by Committee. However, race, the Ambassador stated, did not exist in Pakistan. He continued that the scope of ICERD was too limited and therefore there should be an additional protocol to ICERD covering additional and contemporary forms of racism. The

Ambassador also mentioned that CERD took statements from non-governmental organizations at face value and that sometimes the Committee transcended its mandate.

53. The representative of Mexico also gave a briefing on the national experiences of the country with respect to issues, challenges and best practices pertaining to reporting under the ICERD Convention during this meeting. Mexico ratified ICERD in 1975 and in 2002 made the declaration concerning article 14 on individual communications. In 2011, Mexico presented to CERD, the Committee submitted its recommendations consequently. CERD emphasised interpretation services, rights of indigenous people and legal assistance in the case of Mexico. In 2012, a working group was established to follow-up on the CERD recommendations, comprised of fifteen government entities.

54. In September 2014, Mexico submitted a progress report, and the working group established a matrix on racism and the concomitant challenges in order to assist in addressing those challenges. The group also presented a work plan and a time table for its further work. In August 2014, another meeting would be held in cooperation with civil society on the implementation of the recommendations.

55. Issues, challenges and best practices pertaining to reporting under the ICERD Convention were also presented by the representative of Belgium during the 8th meeting. He stated that ICERD was important for Belgium, that enhancing equality remained a priority for the country, and that all victims should be afforded the same attention.

56. CERD recommendations had assisted Belgium in building the necessary institutions and policies to fight racism at the national level. Belgium had recently presented its 16th to 19th report to the Committee. The simplified reporting procedure would further focus the dialogue and it should be available to all State parties as soon as possible. One challenge for Belgium was the coherent follow up to over 400 CERD recommendations. Every six months, Belgium undertook a coordination exercise consolidating all recommendations, including those from regional mechanisms. The catalogue of recommendations was shared with civil society in order to increase transparency.

57. The representative stated that Belgium was not late with any of its treaty body reports and its the national mechanism ensured adequate follow up. The advantage of presenting a periodic report was that the country had an opportunity to evaluate its own situation. The national dialogue also allowed for the involvement of civil society. Belgium appreciated the dialogue with CERD as a valuable expert advice and a tool to improve national policies.

58. A number of challenges were highlighted including the complexity of the federal state structure, the sheer number of recommendations and reports that needed to be submitted; and the complexity of materials and legislation that addressed racism in a modern state. All those challenges were exacerbated by the administrative challenge of following up on all the recommendations. Belgium recommended an holistic approach as many recommendations, stemming from different Conventions, would often overlap. Clustering of recommendations, as had been earlier suggested by Mr. David, was a useful approach. The enhancing of capacities was also important, and a standing mechanism, with a clearly defined mandate, was useful in this regard. The standing mechanism should also assist in guiding the implementation of recommendations. The representative added that another good practice was to uphold transparency and always cooperate and consult with civil society. Finally, the representative of Belgium noted that awareness-raising was important.

59. Belgium presented the following conclusions: the timing of reports needed to be considered; implementation remained essential; there was a reporting deficit; and only a small number of countries had accepted the individual communications procedure under

article 14 — leading to a very partial view of the situation; and, regional mechanisms were often more advanced than the universal mechanism.

60. During its 12th meeting, on 21 July, the Ambassador of Ecuador gave a presentation on the agenda item "issues, challenges and best practices pertaining to reporting under the ICERD Convention" on behalf of CELAC. The Ambassador stated that sustainable development cannot be attained without the inclusion of groups in situations of vulnerability, such as, indigenous peoples and people of African descent, women, and older persons, persons with disabilities, migrants, children and adolescents. Equity, social and financial inclusion and access to fair credit are central to ensure overall access to justice, citizen participation, well-being and a dignified life for all. For CELAC the fight against poverty should be in full conformity with ICERD and other international instruments, particularly the Durban Declaration and Programme of Action and adopted laws and policies should not discriminate, the incitement of racial hatred should be criminalized, judicial remedies for acts of racial discrimination and public education to promote understanding and tolerance should be provided. Therefore, any future complementary international standards to strengthen and update international instruments against racism, racial discrimination, xenophobia and related intolerance in all their aspects, should guarantee full respect to democracy, the rule of law and human rights including the right to development and right to peace, in a model of sustainable development that places the person at the centre of public policies, and recognize the importance to promote plural, widespread and diverse full citizen participation.

61. CELAC Member States also consider that proper consideration should be given to measures against racial discrimination, in relation to the creation of opportunities of dignified and productive employment and decent work, the full implementation of the right to education, ensuring that no racial discrimination is applied with regard to access to education, in particular for people with special educational needs, migrants, indigenous peoples and people of African descent. Unfortunately, in several cases, racial discrimination and acts of xenophobia, incitement of racial hatred and intolerance, are associated with migration, reinforcing their situation of vulnerability. In this regard, CELAC recalled the duty of all States -of origin, transit and destination- to guarantee full respect of all human rights of migrants, irrespective of their migration status, including migration of children and adolescents, accompanied and non -accompanied and their higher interest to avoid exacerbating their vulnerabilities.

62. Finally, CELAC saluted the proclamation of the International Decade for People of African Descent, the CELAC Working Group meeting on people of African descent held in Brasilia in September 2014, the initiative of CARICOM to create the Reparations Commission of the Caribbean Community, including on the key areas of chronic diseases, education, cultural deprivation, psychological trauma and scientific and technological backwardness, as well as the World Conference of Indigenous peoples held 22-23 September 2014 in New York.

C. Presentation and discussion on the purpose of general recommendations by the CERD

63. At the 4th meeting, on 14 July, the Ad Hoc Committee heard a presentation and held a discussion on the purpose of general recommendations by the Committee on the Elimination of Racial Discrimination and the process leading to their issuance in the context of the effective implementation of the Convention, and any possible shortcomings.

64. Anastasia Crickley, Vice-Chair of the Committee on the Elimination of Racial Discrimination , presented on the purpose of the general recommendations made by the

CERD and the process leading to their issuance in the context of the effective implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Ms. Crickley provided an overview of the development of general recommendations and stated that the primary purpose of such recommendations were for a dynamic and current interpretation of the ICERD. She added that over time, the recommendations have sought to capture a number of issues including the complexity of intersectionality of gender and race and multiple forms of discrimination faced by women belonging to ethnic, indigenous or minority groups.

65. Ms. Crickley emphasized that the general recommendations were made to provide further guidance to and assist States parties in fulfilling their reporting obligations, and while concluding observations are tailored to each State party, general recommendations are made available to all States parties further facilitating the implementation of treaty provisions. She stated that since 1972 CERD had adopted 35 general recommendations. She further added that while the general recommendations are authoritative, they are not legally binding. About 20 of them are mainly focused on the interpretation of the ICERD provisions and their application. Seven general recommendations deal with specific groups at risk of racial discrimination. While others touch upon general but important issues, such as the two general recommendations on the World Conference against Racism and the Durban Review Conference. Other issues not mentioned in the ICERD were however taken up by the Committee through general recommendations, including those on self-identification, demographic composition of the population, and more recently, racist hate speech. Also, while specific and vulnerable groups subject to racial discrimination are not mentioned in the ICERD, the Committee observed that certain forms of racial discrimination were directed towards them, and decided throughout the years to adopt general recommendations to enhance their protection from racial discrimination. Thus far, the groups covered are refugees and displaced persons, indigenous peoples, Roma, non-citizens and People of African descent.

66. She emphasized in particular general recommendation No. 25 on gender-related dimensions of racial discrimination which highlights the intersectionality between gender and race and allows the Committee to draw the attention of States parties on potential or existing double/multiple discrimination faced by women belonging to ethnic, indigenous or minority general recommendations. The recent general recommendation No. 35 on combating racist hate speech is also fairly special as hate speech is not specifically mentioned in the ICERD but at the same time is covered by both articles 4, 5 and 7.

67. In describing the process leading to the issuance of general recommendations, Ms. Crickley stated that following a proposal by members of the CERD or by the bureau, the CERD Committee would appoint rapporteurs to coordinate the preparation and drafting of the general recommendations. A day of thematic discussion would then be held with State parties, NGOs, National Human Rights Institutions and interested individuals on the subject based on which the CERD Committee would then decide whether or not to issue a general recommendation. A general recommendation is also based on the assessment of periodic reports and comments, as well as information provided by stakeholders.

68. The representative of Ghana requested further elaboration on the shortcomings of the process by which general recommendations were issued. The representative of Brazil requested the speaker to provide information on substantive gaps to the ICERD and how that would relate to the general recommendations issued by the Committee.

69. The representative of Pakistan on behalf of OIC also requested further information on how the general recommendations filled the gaps that existed in the ICERD, and in terms of the process leading to the issuance of the general recommendation the representative wanted to know how much States were involved, and whether the inputs of Member States were taken on board. Given that there was no formal procedure, she queried

whether those States inputs were reflected in the final General Recommendations, noting that the General Recommendations were neither binding on States nor a legal commitment as they were not the outcome of an intergovernmental process. She added that States parties' views were sought but normally not reflected. She stated that issues such as xenophobia, hate speech, and the intersectionality of racial and religious discrimination as highlighted by the Special Rapporteur on Minorities and the Special Rapporteur on Contemporary Forms of Racial Discrimination were emerging issues and were resonant in the ICERD. She also asked whether the Convention is able to address these new dynamics, context and contemporary challenges including those highlighted in the Durban Declaration and Programme of Action and the Review Conference which reflected realities considerably changed since its adoption in 1965, and whether another legally binding instrument was required. Similarly, the representative of South Africa asked about the impact of the engagement between Ad Hoc Committee and ICERD in addressing the gaps which need to be filled.

70. The representative of the United Kingdom of Great Britain and Northern Ireland asked about the criteria and considerations used in deciding whether or not to proceed with a general recommendation following a thematic discussion by the CERD.

71. Ms. Crickley in response stated that the CERD Committee adopted flexibility in terms of taking on board the different views and that there have been times when the decision has been made not to proceed with any general recommendation after a thematic discussion, if many Member States would not find it helpful or if the timing did not appear conducive. She informed the participants that CERD would be bringing its comments procedure in line with the other treaty bodies in that Member States will be invited to comment prior to finalization, adding that indeed Committee does take notice of States comments although it was duty bound as a body to make independent expert decisions about the ICERD. In response to the issue of substantive gaps in ICERD, Ms. Crickley stated that the issue of gaps was dependent upon the political will and/or capacity of States Parties being able to fulfil their obligations under ICERD and address other challenges posed by contemporary forms of racism. While admitting that the context in which the ICERD was drafted had changed, she stated that definition of article 1 of the Convention can be interpreted in a way as fully cognizant in the current environment and indicated that CERD had produced three general recommendations on the subjects of non-citizens, hate speech and with regard to People of African descent to elaborate and shift language on issues which could be implied in the ICERD.

72. The Chair-Rapporteur asked Ms. Crickley whether all general recommendations are adopted by consensus and whether this had any bearing on the very long time it took to adopt the general recommendations on hate speech. Ms. Crickley replied that general recommendations are normally adopted by consensus; in the case of the hate speech general recommendation it was adopted related to the timeliness of the subject and was developed in a sensitive and informed manner. The Chair-Rapporteur asked about the issue of political will and what happened to victims in the meantime, and whether the Committee considered the impact on victims. Ms. Crickley stated that the Committee is very cognizant of victims and that general recommendations are always aimed at reflecting the ongoing and timely issues affecting the rights of people. The Chair-Rapporteur also mentioned the voluntary nature of general recommendations and asked how adequate remedies could be ensured given legal costs and access, to which Ms. Crickley stated that while legally-binding States' Parties are influenced by them and they are used as a guide to implementation and for future responses to the Committee.

73. The Chair-Rapporteur inquired as to whether CERD could conduct a quantitative analysis of the status of implementation of its general recommendations identifying satisfaction and weaknesses in order for the Ad Hoc Committee to provide a response as at

present there did not appear to be a way to judge the impact of general recommendations. Ms. Crickley responded that though welcome, such an analysis would be a large undertaking requiring considerable resourcing. However, States Parties could be asked how they were implementing the general recommendations, adding that a source for this information could be the "follow up process" of the Committee with States Parties which was creating increased engagement with the Committee and represented a turnaround time of about a year for follow up between the Committee and the given States party.

D. Comparison of the relevant procedures of other treaties

74. At its 5th meeting, on 15 July, Simon Walker, Chief of the Civil, Political, Economic, Social and Cultural Rights Section of the Human Rights Treaties Division (HRTD) at the Office of the United Nations High Commissioner for Human Rights presented a comparative overview of the relevant procedures of the treaty bodies. He provided an outline of the procedures of all treaty bodies, stating that the main procedure for all ratifying Member States is the reporting procedure, which is essentially an invitation to the State party to hold a constructive dialogue with the Committee. He discussed this traditional procedure as well as the simplified reporting procedure developed in recent years. In this optional procedure which must be accepted by the State party, the reporting procedure is triggered by the Committee which sends a list of questions to the State party. It is simplified because the State Party is informed in advance about the area on which the Committee will focus during the dialogue. This procedure has been adopted initially by the Human Rights Committee and Committee against Torture, followed by other committees. He explained that General Assembly resolution A/RES/68/268 on strengthening and enhancing the effective functioning of the human rights treaty body system recognised this and encouraged State parties to adopt this procedure. CERD has adopted it and it has sent such a request to certain States parties to see if they are interested in adopting that procedure. Connected to the reporting procedure is the follow up procedure, which not all committees have it but an increasing number now have this procedure.

75. He referred to different procedures under specific United Nations treaty bodies, including the follow-up procedure; the early warning and urgent action procedure; the individual complaint procedure; the inquiry procedure; the inter-State procedure; and, the urgent action procedure. In terms of comparing each of these procedures, he emphasized that the reporting procedure is a constructive dialogue and it applies to all States parties of a particular treaty. It is aimed at considering the implementation of the treaty provisions by its States parties with the view to assisting them to improve the implementation of that treaty. This is different form individual communications which consider alleged specific violations, and deal with different situations. There are, however, other specific procedures, such as the urgent action procedure under the Committee on Enforced Disappearances which are specific to a particularly treaty.

76. With regard to resources, he mentioned that while the General Assembly had adopted these procedures it has not always provided concomitant resources. Resources are particularly needed when a Committee receives reliable information on serious, grave or systematic violations by a State party of the Conventions it monitors, and the inquiry procedure is initiated. He informed that when a committee decides to visit a State party, it requires six weeks of staff intensive work, and that resources have not been provided for this mechanism. In conclusion, in the context of resolution 68/268 and the reduction of extra-budgetary funds is presenting a significant challenge to the Office of the High Commissioner for Human Rights and is placing the treaty body system under strain.

77. The European Union representative thanked Mr. Walker for his presentation and noted that ICERD provides for the reporting procedure, the follow up procedure, the urgent

action/early warning and individual complaints procedures asked his view on the main obstacles to the effective implementation of the ICERD. Regarding concluding observations and recommendations of ICERD, she asked what could be done in terms of further supporting the implementation of observations and recommendations and whether OHCHR provides capacity building for States in terms of reporting obligations.

78. The representative of Brazil mentioned that some procedures, for example, visits were not foreseen in the ICERD and asked whether in his view an additional protocol would help to cover this procedural gap.

79. Mr. Walker explained that the adoption of resolution 68/268, strengthened the capacity of OHCHR to assist follow up and reporting and resulted in ten staff members at P3 level posted in all OHCHR regional offices, with the exception of Brussels and the regional office in Qatar. The capacity-building staff are supported by a small section in Geneva, through for example, developing training materials, organising regional workshops, assisting in the development of work plans, etc. He noted that it will be interesting to see if these efforts will result in increasing the number of reports as some countries are very late, while some countries have never reported. When lack of reporting is due to technical problems the capacity building programme could help to improve the situation, as this presented the most serious challenge. In response to the question about possible duplication with the mechanisms of the Human Rights Council, he mentioned that the Office does its best so that there is cross-fertilization in order to avoid duplication as much as possible.

80. The representative of Belgium highlighted that reporting and constructive dialogues are essential for the effective implementation of the ICERD. He noted that there is essentially universal ratification to the ICERD, but a very uneven reporting profile. It was almost always the same States parties reporting and some States are very late or have not reported yet, which is a weak point which can be identified as a gap in the machinery. He asked about the main obstacles to State party reporting, and about what relevant assistance could be made available to States to improve reporting.

81. The Chair-Rapporteur inquired about the effectiveness of the committees given the non-binding nature of the general recommendations and the uneven level of implementation of the treaty body recommendations, and the limited resources available. He asked about how far treaty bodies could be streamlined while ensuring that all human rights are protected. He also asked about whether there was information concerning the satisfaction of victims with the treaty bodies and whether other avenues were known to them. He mentioned that it was essential to have information about how far countries responded to the recommendations made by the various committees, in order to see how far existing mechanisms existing are effective, particularly for the victims. In terms of victims and complaints, he inquired if it could be answered intelligently the percentage of satisfaction of the victims with regards to complaints. Additionally, he asked that if the gap was as large as it appeared, what could be done to improve these mechanisms.

82. Mr. Walker mentioned that in terms of the satisfaction of victims, the fact that an alleged victim has recourse to lodge a complaint to an international body could bring satisfaction in itself, and has symbolic value. He noted that the fact that the process brings together States and civil society, facilitating a network of dialogue at the national level. He noted that an overall assessment would require a review of all follow up reports of the Committee. Thus far, OHCHR resources have been focused on supporting State reporting and individual communications leaving little time and resources for undertaking analysis.

83. The representative of Tunisia asked for clarification with regards to the simplified reporting procedure in terms of the conditions for appeal. Tunisia noted that it is working with OHCHR on a professional national mechanism that will focus on the preparation of

treaty body reports and follow up to establishing recommendations from treaty bodies and special procedures.

84. Mr. Walker clarified that although it varies from committee to committee, CERD has set the criteria for opening the simplified reporting procedure to those States Parties which are ten or more years overdue in their reporting. As a progressive introduction of the procedure, the next stage will open this procedure to States parties that are five years overdue in terms of reporting. In comparison, CESCR offers the possibility of the simplified reporting procedure to State Parties which are more or less on time with their reports to allow the Committee to test the use of this reporting procedure. He added that all the committees at this stage apply the procedure to periodic but not to initial reports.

85. The representative of Belgium was interested to learn that there had been some reporting developments in the Office and inquired whether the OHCHR could make a presentation on this specific aspect of capacity development during the current Ad Hoc Committee session.

86. The Chair-Rapporteur agreed and requested the Secretariat to follow up on the possibility of such a briefing during the 7th session.

87. At the 8th meeting on 16 July, and following the earlier request of the Ad Hoc Committee, Paolo David, from the Treaty Bodies Division of the Office of the United Nations High Commissioner for Human Rights gave a briefing on national reporting and follow up mechanisms. Mr. David explained the history of the treaty body strengthening process. He referred to General Assembly resolution 68/268 that contained various measures that should strengthen the treaty body system, including the assistance to States to develop and reinforce their institutional capacity. The Office had commenced a study to follow up on this initiative and was in the process of finalising the study. The presentation of the results of the study would also be linked to a practical guide.

88. One of the conclusions of the study was that in a number of States parties, temporary reporting mechanisms were evolving into permanent mechanisms. The objective was to facilitate the preparations of reports and cooperate with special procedures and follow-up on recommendations from international and regional mechanisms. The study concluded that mechanisms were more effective if they also dealt with regional mechanisms. Those national mechanisms needed to have the capacity and power to coordinate response and follow-up action. They also needed to be able to consult with a variety of stakeholders, such as national human rights institutions and civil society. The capacity to draft reports and responses (or facilitate the drafting of responses) under individual communications procedures of the treaty bodies and special procedures was also a useful capacity. And finally, the national mechanisms should have more efficient knowledge management capacities and political ownership.

89. Pakistan on behalf of OIC inquired whether OHCHR was aware of the number of States with such permanent mechanisms. Mr. David said that while there were no solid figures available, he estimated that approximately thirty States had a permanent mechanism, and added that several countries were lately moving from ad-hoc to standing mechanisms for the purpose of treaty body reporting.

90. The representative of Belgium said that reporting was an essential step towards implementation, and asked what assistance the new treaty body capacity building program of the Office of the High Commissioner for Human Rights was ready to provide to countries. Mr. David said that the Office had recently trained staff of such a mechanism at country level, and that experts and consultants were also ready to visit countries to provide expert advice and guidance to interested States parties. The representative also asked if there was a best practice example for a permanent national mechanism. The study, Mr. David noted, clearly concluded that the ad hoc format was not optimal. There were three

different typologies that had been established and had proven meeting the efficiency criteria. Those models foresee different coordination roles for the government ministries involved.

91. The representative of Tunisia said that it was currently setting up a permanent mechanism which could be linked to the office of the Prime Minister. The delegate sought Mr. David`s advice on this undertaking and wanted to know if OHCHR's website featured the various responses from States to the relevant note verbale that had been sent to countries. Mr. David said that a few countries used interministerial platforms which were not placed under a specific ministry, which was slightly different than the Tunisian approach. He added however, that various models were possible. He agreed that OHCHR would follow up by placing the relevant information onto the OHCHR website.

92. The representative of Belgium added that Belgium had received assistance from the Office , in order to improve the performance of its mechanisms. The delegate asked whether the Office suggested particular follow-up methods to recommendations, such as a special software. Mr. David stated that there would be a capacity building webpage created on the website of the Office of the High Commissioner for Human Rights. The new capacity building team consisted of 16 people (10 placed in various regions) and the team in Geneva would indeed, develop a number of tools to assist States in implementing their treaty obligations. One good approach taken by a number of States was to cluster recommendations thematically, in order to manage the follow-up. He added that the use of deadlines was also recommended. A small number of countries had developed information technology IT tools, the Office could provide relevant information.

E. Procedural gaps with regard to the ICERD

93. At its 7th meeting, on 16 July, the Committee considered the agenda item "Further elaboration of the views of the Committee on the Elimination of Racial Discrimination on key elements with regard to procedural gaps and best ways to address them (follow-up to the 2007 study and the different presentations given and proposals made to the Ad Hoc Committee in accordance with its mandate)". The Chair-Rapporteur gave an account of the work of the Ad Hoc Committee thus far, on the topic of procedural gaps. He also presented a draft compilation document of the 2007 CERD report, and various presentations by CERD members as well as Member States interventions on the topic of procedural gaps to ICERD as considered by the Ad Hoc Committee on the Elaboration of Complementary Standards from its 1st to 6th sessions. He pointed out that the excerpts in the document reflected the exact language used during the 1st through 6th sessions of the Ad Hoc Committee. This document was distributed to all participants.

94. He recalled that the 2007 "Study of the Committee on the Elimination of Racial Discrimination on possible measures to strengthen implementation through optional recommendations or update of its monitoring procedures" (A/HRC/4/WG.3/7) focused on five issues. With regard to reporting and review procedures it was noted that non-compliance of States parties with their reporting obligations remained a major obstacle to the Committee's work and the effective implementation of the Convention. Therefore, the Committee suggested the adoption of revised reporting guidelines. On the issue of follow-up procedures, CERD suggested that the practice of follow-up visits be further developed and that the framework for such visits should be explored, including through the adoption of an optional protocol to the Convention. With regard to the individual communication procedure, it was noted that the potential of the procedure had not been fully exploited, and

that it was essential that more States parties make declarations under article 14 of the Convention.

95. The 2007 study also addressed the need to enhance the effectiveness of the CERD through the establishment of an evaluation visit/inquiry procedure. CERD proposed to explore the need to enhance its capacity to prevent serious forms and consequences of racial discrimination through an evaluation visit/inquiry procedure. In relation to the need to enhance the promotion of racial equality and protection against discrimination through national mechanisms, CERD suggested the inclusion in an optional protocol of provisions on the obligation of States to establish, designate or maintain national mechanisms that will operate in cooperation with the Committee so as to strengthen the effectiveness of the monitoring role of CERD.

96. The draft compilation document also included excerpts from the session reports of the Ad Hoc Committee summarizing presentations and interventions made by delegates on the topic of procedural gaps at the first, third, fourth, fifth and sixth sessions.

97. The Chair-Rapporteur stated that the document was a compilation of previously published Ad Hoc Committee reports and the 2007 CERD study and that he welcomed further consideration of the document. He explained that CERD had been approached to present on this agreed agenda item, however the experts indicated that they had no further information or developments to present on the issue of procedural gaps. The Chair-Rapporteur suggested that some of the meetings of the following week be devoted to a discussion on this topic. He stated that the Ad Hoc Committee should address the CERD proposals with regard to procedural gaps and take steps to assist the Committee in this regard.

98. The representative of Pakistan on behalf of the OIC thanked the Chair-Rapporteur for presenting the compilation. Pakistan supported the idea of an additional protocol to ICERD. She stated that the OIC was of the view that additional protocols are required, as evident in the Committee on the Elimination of Racial Discrimination, the Intergovernmental Working Group on the Effective Implementation of the **Durban** Declaration and Programme of Action , and Ad Hoc Committee sessions and discussions. While it was agreed that there are gaps, there is a disagreement about how to address these gaps.

99. Based on all these deliberations thus far, the Ad Hoc Committee should start considering consolidating elements for an optional protocol. She noted that the issues on which there were substantive gaps were known and the subject of General Assembly and Human Rights Council resolutions; and that issues such as racism and sport, or elements from Human Rights Council resolution 16/18 on "Combating intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief" could be integrated in such an optional protocol. Rather than separate sets of protocols, a comprehensive additional protocol should be considered to address all the gaps which have been identified, and that discussions could take place on how to move ahead on this. As is the case with any additional optional protocol, States Parties are given the opportunity to ratify or not such an instruments, but it should not delay the Committee from progressing with the drafting of the optional protocol. The representative suggested that a similar compilation on the issue of substantive gaps be prepared. The following week of the 7th session of the Ad Hoc Committee should be dedicated streamlining these elements, so that proposal could be placed on the table. She stated that this OIC proposal should be taken on board and reflected in the Ad Hoc session report.

100. The representative of the European Union also thanked the Chair-Rapporteur for the compilation and reiterated its position that the substantive provisions are sufficient. It was

important to collectively look at how to use the monitoring mechanism of the Convention more effectively before moving ahead. It was also important to bear in mind capacity and resource issues. There is lack of reporting by so many states and lack of response to concluding observations. With regard to victims, it should be noted that progress at national level has been made since the 2007 report of CERD.

101. The representative of Brazil pointed out that based on the compilation, CERD lacked some procedures which other treaty bodies had. The Ad Hoc Committee could not continue discussing matter indefinitely; it should discuss how to address these procedural issues, if in the form of an additional protocol, and move ahead.

102. The representative of South Africa stated that the compilation is a good basis for the exchanges which would be held the following week and for moving forward. There are points of agreement: for example, paragraph 18 referred to "the need for something complementary to what is already in existence". There is a need to complement the Convention and it is time to think about a possible text. The name of the text could be agreed at a later stage. She pointed out that, for example, the situation that had unfolded in Rwanda and issues concerning ethnicity were not covered by ICERD. Some have said that there are clear challenges and gaps that have to be filled, the question is whether the document will be binding or not. The representative invited members to agree and move forward.

103. The representative of the United States noted in his preliminary remarks, that position of his Government on the issue of procedural gaps had not changed. The best approach was to improve implementation of existing obligations rather than creating new procedural mechanisms. With regard to the issue of country visits, he said that UN special procedures mandate holders already undertake such visits. Action oriented, practical and useful initiatives need to be taken by the Ad Hoc Committee. He pointed out that the lack of reporting from states is a significant problem, and that the work of the Ad Hoc Committee should not be extended to include the Istanbul process and Rabat Plan of Action, but they can be highlighted as illustrative examples of a possible way forward.

104. The representative of Algeria stated that unfortunately there are still a number of gaps, despite the international instruments. The international efforts should not be in vain. She added that the presented draft compilation could be a good basis to move forward. She emphasized the importance of moving forward in order to fulfil the terms of reference for the establishment of the Ad Hoc Committee, adding that the following week the Ad Hoc Committee could start a substantive discussion, which could be reflected in the concluding remarks.

105. The Chair-Rapporteur stated that CERD would hold a session in a few weeks and that the Ad Hoc Committee could ask CERD to prepare an updated report on this issue of procedural gaps, as CERD had not followed up on its own 2007 report and it would be useful to have updated information. He inquired about any objections in the Ad Hoc Committee to this proposal.

106. The delegates of the European Union and the United States said that they would consult further in this regard as they were not in a position to endorse the idea of an updated CERD report.

F. Sport and racism

107. At the 9th meeting, on 20 July, the Committee considered the issue of racism and sport. Todd Crosset, Professor at the University of Massachusetts, and Delia Douglas,

Professor at the University of British Columbia, and Benjamin Cohen, Head of Governance & Legal Affairs, International Basketball Federation presented on this topic.

108. In his presentation, Todd Crosset, Professor at the University of Massachusetts, illustrated how racism is a global system with particular local expressions, drawing examples from the American context. He explained how current events made the topic of structural racism in sport especially important. Just as mind shaped conscience, he explained that body also shaped our conscience and people carried their racial identity deep within their bodies. Consequently, we could not just say no to racism. Sport was inherently conflictual, and so was racism. Every game is an opportunity for peace-making, but also carries the threat of the opposite. Fan engagement with a spectacle of physical conflict provides a context ripe for the expression of racist ideas. He added that ideas rarely espoused in public found their way into sporting events. The expert stressed that sport "recapitulates" rather than "reflects" dynamics of human relationships and societal values.

109. After the Second World War, athletes and sport pioneered an American version of integration and ushered in a tumultuous period of integration in American society. The expert stated that while post World War II integration of sport failed to adequately address racial justice, it did provide a road map for a broader approach to integration in America.

110. One central feature of American history was amalgamation. Another one was white supremacy — which resulted in a sense of being "normal" for white Americans. Today, we have become a society with few admitted racists yet with profoundly racialized outcomes.

111. He quoted scholar Harry Edwards that "Sport inevitably recapitulates the character, structure and dynamics of human and institutional relationships within (and between) societies. And it recapitulates ideological values and sentiments that motivate and rationalize those relationships." He argued that sport is not a mirror of society. The unique structures and practices of sport re-express and give new form to the character, structure and ideologies of a culture.

112. Mr. Crosset also discussed what he termed "the racial re-segregation of youth sport"; the repeated defence of demeaning symbols of indigenous people in sport; and racial inequities in the American collegiate sport system. Since the United Nations had weighed in on similar issues (such as the Sport for Development and Peace initiative) which declared that sport can contribute to community development and peace under the right conditions, he wondered if the United Nations, through this committee, couldn't make a similar statement about sport's anti-racist potential.

113. The expert closed his presentation by making a number of recommendations to the Committee with regards to their work involving racism in sport. In addition to encouraging equal access to sport, free of discrimination, the United Nations could also declare that athletes should be able to participate in sport free from excessive economic exploitation and athletes should receive reasonable compensated. Further, recognizing that sport governing bodies have a responsibility to the development of sport across a broad spectrum and levels of sports, and he posited that the Committee might encourage the promotion and development of sport in a manner that also ensures racial fairness and in a US context, discourage systems that disproportionately benefit white athletes.

114. He stated that the United Nations might also support research; provide encouragement, guidelines and best practices for coaches and communities on how to employ the sport experience to challenge racism much as they have for Sport Development and Peace. It might also, through this Committee, encourage national and international governing bodies of sport to develop generative strategies to support multi-racial youth teams, particularly those with leadership of colour at all levels; team, club, league with the expressed intent to combat racism. He also encouraged the Ad hoc Committee to reaffirm

that it was a right of indigenous peoples to determine their identities and their portrayal by sporting teams.

115. In addition to encouraging equal access to sport, free of discrimination, the UN could also declare that athletes should be able to participate in sport free from excessive economic exploitation and athletes should receive reasonable compensated. Further, recognizing that sport governing bodies have a responsibility to the development of sport across a broad spectrum and levels of sports, and he posited that the Committee might encourage the promotion and development of sport in a manner that also ensures racial fairness.

116. The representative of the United States was interested to hear about how post-World War II integration in sport had been a model for American society at large. This integration of African-American athletes might have hurt black sport associations, but it was important to have universal institutions rather than racially divided ones. He also noted that, in his experience, private Youth Leagues in Washington D.C. were very integrated. The representative queried whether it was the recommendation of the expert that collegiate athletes be compensated for their participation in collegiate athletics. The representative then requested the expert's perspective on the presence of other forms of discrimination in sport, such as gender, disability and sexual orientation.

117. The representative of the United States noted that post-World War II integration in sport brought benefits to universal institutions, as well as the harm noted by the expert to black sport associations, such as the Negro Leagues. He also noted that, in his personal experience, private youth leagues in Washington D.C. were in fact, quite integrated. The representative queried whether it was the recommendation of the expert that collegiate athletes be compensated. The representative then requested the expert's perspective on the presence of other forms of discrimination in sport, on such grounds as gender, disability and sexual orientation.

118. The representative of Ghana requested the expert afford the Committee clarity on his use of the term, "people of colour." The representative then queried if there were any positive aspects to having mascots representing indigenous groups. Finally, he asked about current trends in race relations and whether the expert had seen any positive trends regarding racism in sport.

119. In response to the questions of the United States delegation, Mr. Crosset stated that the goals of post-World War II integration were well meaning, however there were flaws in the methodology of the integration process. The expert provided the example of how, at the time, the black community lost leaders because black athletes were integrated into white teams. The ultimate goal was full integration, but racial justice should have been a more integral part to the integration process.

120. The expert further noted that as the participation of black athletes in collegiate athletics resulted in a disproportionate financial gain to collegiate institutions, the topic of athletic compensation was especially important to the black community. Athletes whose talents create significant revenue for collegiate institutions should be reasonably compensated for their efforts. The expert also agreed with the United States delegation that there was intersectionality between many forms of discrimination and noted that all forms of discrimination needed to be addressed under the umbrella of non-discrimination.

121. In response to the questions from the representative of Ghana, the expert also stated that he would be conscious of using more specificity in the future in substitution of the term "people of colour." Regarding mascots, the expert explained that many team mascots represent offensive racial stereotypes. He used the example of the American Football team, the "Washington Redskins" as an example of a team name that rose to the level of a racial slur. Regarding the behaviour of spectators, the expert noted that in the American sporting

context, racism rarely occurs in the stadium, but that it manifests itself in more subtle ways in American sports.

122. Delia Douglas of the University of British Columbia said that racism in sport is an important topic, because sport was a key part of North American culture.It was a place where different histories, traditions and myths met and intersected, creating cultural meanings and identities that travelled across different mediums, national borders and commercial markets. As a site of interracial competition, cooperation, and antagonism, sport had played a profound role in civil rights, and social justice struggles in North America and across the globe. She addressed several issues of access and inclusion in her presentation.

123. She said that sport is a complex and contradictory space, for it is a place where the presence and success of one or two Indigenous or racial minority female athletes is seen as evidence of equality — or of the absence of racism — rather than exceptions to systemic racial exclusion and racial tension. The expert then explained the relationship between gender and sport focusing on the perception that athleticism and femininity could not be combined. She then offered specific examples of athletes that encountered discrimination because of gender, belonging to an indigenous group, geographical origin, different belief systems etc. The pattern of exclusions seemed to profit a privileged culture that did not accept minority participation in sport. Funding opportunities (scholarships) seemed to further that status. There was also a scarcity of minority women as coaches, she said. Race class and gender informed our opinions. A lack of visibility in sport reflected a larger social injustice. It was clear that the public, media, and sport officials use a vocabulary reminiscent of the dehumanization of black women during slavery equating their physicality and athletic performance to that of men or animals. She referred to the experiences of famous African-American tennis and basketball players such as Venus and Serena Williams and their experiences with racism and gender bias.

124. Ms. Douglas stated that racism in sport was an area that had not been routinely acknowledged in North American dialogues, and stressed the importance of the topic as it magnified racism and helped sustain racism in society. Racism in sport therefore, was an important human rights issue. The expert then recommended three possible areas of United Nations involvement. First, society needed to have some understanding of what racism involved — and to recognize its diversity and complexity. In turn, our responses had to be multidimensional and expansive; society had to acknowledge it was not an individual problem, but a social issue. Second, society needed useful research on the topic for analysing the relationship between racism and sport in order to define ways to diversify society. Finally, the expert said that it was clear that media and sport institutions did not correspond to the multiracial, pluri-cultural and pluri-lingual characteristics of North American populations. As a way of redressing this imbalance, legislation could be developed and applied to sport governing bodies — inter and intra-nationally, including: FIFA, FIBA, IAAF and IOC.

125. The representative of the United States appreciated the elaboration on different forms of discrimination and intersectionality by the expert, including groups such as African Americans, women, Asian, indigenous, and LGBT persons. He asked how to address the difference that she noted in perceptions between black and white sport successes, and queried whether the expert had any optimism or thoughts regarding how to improve the situation.

126. The expert stated that systemic exclusion and disparate racial standards needed to be addressed by societal education. She then contrasted similarities and differences between forms of discrimination and emphasized the need for visibility across all forms of discrimination. The expert added that she did have hope on this topic and stressed the need to acknowledge the current state of racial circumstances in order to move forward.

127. The representative of South Africa referred to social media and queried whether North American legislative policies have addressed discrimination in social media. In response, Ms. Douglas noted that the United States and Canada exhibited political difference regarding free speech. The expert stated that online bullying was an issue that had been addressed in Canada, but she was unaware of any examples of government addressing online racism. She stated that she was aware of the tension between prohibitions and the freedom of speech, and noted that there was inequality at the various levels involved.

128. The representative of Ghana stated that the sisters - Venus and Serena Williams - should not be left alone to fight issues of racism in the sport of tennis. He then questioned if governments are working steadfastly to mitigate the effect of racism on athletes. The expert responded that governments could do more to assist athletes in their fight against racism. She posited that sport was not separate from society and therefore governments had to address this issue. Additionally, an increased number of media voices combating racism in sport could have a positive impact.

129. The representative of Cuba thanked the presenters for the diverse examples of discrimination in sport they had illustrated. She asked if the experts had cooperated with United Nations Office of Sport for Development and Peace (UNOSDP)and the Committee on the Elimination of Discrimination against Women (CEDAW)., and also asked if the Committee could work on racial discrimination of women in sport — in order to connect initiatives and questioned whether there was a database on those issues relating to sport. Ms. Douglas responded that her research drew from United Nations reports in a number of cases, but had not as yet had the opportunity to collaborate with UNOSDP or CEDAW on these issues.

130. At this meeting, Benjamin Cohen, Head of Governance of Legal Affairs for the International Basketball Association (FIBA), also presented on the issues of racism in sport. He stated that he considered sport as one of the most powerful tools to fight racism. In his view, athletes regularly did not care about race, but were more concerned about their team and the sport. It was important for sports federations and the United Nations to promote the positive side of sport in order to combat racism by promoting unity. He outlined the work of FIBA and its regulatory structure as relates to issues of anti-discrimination.

131. Mr. Cohen mentioned that players regularly encountered racial problems. The expert used the example of Switzerland, stating that although there were Swiss laws against racism in existence, they are not regularly implemented. The expert posited that this lack of implementation was not as large of a problem in a sport stadium. The expert explained that the foremost problem with racism in sport were sport fans that abused sports for their discriminatory messaging. The expert then referred to the pertinent legal framework, in particular the Olympic Charter, which forbids discrimination on all grounds. He described the Comprehensive Code of Ethics prohibiting discrimination instituted by FIBA, adding that in his view this legal framework was sufficient to deal with any discriminatory behaviour in basketball stadiums.

132. The expert stated there had been very few incidents of racism in FIBA. He added that without cooperation between States and sport federations all sanctions were toothless.

133. Mr. Cohen then explained FIBA’s position concerning its rule on the ban on head scarves and other garments during FIBA play. He stated that FIBA rules needed to apply in more than 200 countries, and that reaching uniformity was an on-going challenge. He explained that, absent this rule, there was no limit on what players could wear during a match. He stated that discrimination was also present in some country’s which did not invest in the training of girls, or allow men or male coaches at the games. Therefore, there could be claims of discrimination directed against FIBA, while discrimination was being

practised by the complaining country. The expert suggested that the United Nations could provide direction to sporting associations regarding best practices in difficult areas surrounding racism.

134. Mr. Cohen replied that in his view racism was not the top priority of sports organisations, though it was an important issue. He stated that nearly all organisations have zero tolerance policies on racism in sport. On the subject of inter-agency cooperation, he noted that there were common meetings where good governance was being discussed.

135. The representative of Greece welcomed the introduction of the theme on racism and sport to the program of work of the Committee and referred to the country's activities at the Human Rights Council on the issue of promoting human rights through sport. She specifically referred to the participation of Greece as one of the main sponsors of the resolution "Promoting Human Rights through Sport and the Olympic Ideal" and to the "Joint Statement on Sport and Human Rights" that Greece presented, together with China, at the 28th Session of the Human Rights Council. She also stressed that Greece had set the fight against racism as a top priority in its National Action Plan on Human Rights. The delegate stated that the Advisory Committee would present a study on sport and human rights during the 30th session in September. She also stressed that, especially on the occasion of the 50th anniversary of its adoption, the ICERD is an important instrument in the universal efforts to prevent, combat and eradicate racism. She then queried if there was existing cooperation between sport organisations on the issue of discrimination.

136. The representative of South Africa cautioned that it was inadvisable that the suffering of victims be trivialized in the context of presentations to the Ad Hoc Committee. The representative inquired about the high level business model in the United States where white managers managed black players. She also queried in what ways players wearing a head scarf could impede the sports matches.

137. Ms. Douglas agreed with the South African representative and illustrated that the discussion on the issue of the hijab or head scarves became more salient after 9/11. The expert highlighted the importance of questioning sporting rules and regulations, as the agendas behind the rule and regulations are important to keep in mind. The expert also expressed a danger in asserting the notion of universality in regulation, because the issues being considered are not homogenous.

138. The representative of Ghana questioned if it may be a good practice to alert audiences that discrimination was forbidden by printing such a statement on tickets. He then noted that there were clear rules against racism in sport in many countries, but the problem was enforcement and stated that education and related sectors needed to be strengthened in order to address this important issue.

139. The representative of Argentina highlighted the efforts of the country against racism and described the work of the Instituto Nacional contra la Discriminación, la Xenofobia y el Racismo (INADI) in the area of sport and racism. Additionally, the delegate explained Argentina's current efforts to conduct studies in the area of fan behaviour and racism in sport.

140. The discussion on racism and sport continued at the 10th meeting of the Ad Hoc Committee on 20 July. Gerd Dembowski, Diversity and Anti-Discrimination Manager at FIFA Sustainability Department, briefed the Committee on FIFA`s strategic approach and actions on non-discrimination. He said that it was of importance that FIFA pursued a strategic approach to combating racism in FIFA rather than acting on a case by case basis. The strategy was based on the FIFA statutes, particularly Article 3 on non-discrimination. All other existing FIFA codes drew from Article 3.

141. The strategic approach of FIFA to anti-discrimination had five main pillars: Communications, Controls and Sanctions (individual bans, fines, and point deductions), Education, Regulations, Networking and Cooperation. Only FIFA games and competitions were covered. Currently, FIFA organised 860 games "on the road" to Russia.

142. The expert explained that while regulations and sanctions were important portions of FIFA's anti-discrimination strategy, but education was an equally vital aspect. He stated that enhancing education on a global level had proved challenging but could be assisted by advocating best practice examples. Mr. Dembowski highlighted that networking and cooperation were an important part of FIFA's ability to combat racism as FIFA did not have experts on all relevant issues. The expert stressed the need for FIFA to cooperate with experts on racism to further their strategic approach.

143. The expert explained how FIFA assisted all member federations to improve along those five pillars. Although FIFA's power was limited as member associations were independent, FIFA could intervene to a certain degree. FIFA has implemented a Task Force on Racism, which was interdisciplinary and had recently hired a specialist on non-discrimination in order to enhance the operative level. The expert further explained how FIFA trained football federations and match commissioners on anti-discrimination issues and highlighted the recent implementation of a FIFA anti-discrimination monitoring system. Mr. Dembowski then explained how high risk matches were identified and match observers (trained by the non-governmental organization FARE) were sent to those matches. Following each match FIFA received a match report that had the same importance as the referee's match report. From that report FIFA decided if a case needed to be opened and whether an incident necessitated investigation. FIFA has also implemented and continues to celebrate annual anti-discrimination days.

144. The expert finally highlighted the intersectional approach of FIFA to anti-discrimination and explained that FIFA not only dealt with racism but consistently checked on what grounds a person was attacked (e.g. because she was a women, gay, lesbian etc.) The expert stressed the importance of addressing discrimination at large. The expert closed by describing FIFA's online platform to enable an ongoing exchange on best practices with the hope to encourage federations to take national action.

145. Daniela Wurbs, of the non-governmental organization Football Supporters Europe (FSE) introduced the FSE network which connected fans, organized campaigns, worked for the empowerment of fans and held dialogues with a variety of institutions.

146. Ms. Wurbs stated that fans were often only perceived as the main problem of football. There was a variety of reasons for racism in sport: athletes were mirrors of society but racism could also be used as a means for provocation by a minority of fans during a competition (the "us" against the "other"); and sport infrastructure often supported the exclusion of certain groups of society (such as women).

147. Ms. Wurbs stated that there might be a lack of such counter reactions by fans to racism in sport due to: a lack of education/information (adding that FSE did not support this argument as it presented an easy excuse); non racist fans fear of speaking up (culture of fear in the stands); anti-racism could be seen as breaking an established "no politics" consensus within the fan base; and, clubs and football associations were sometimes part of the problem — by virtue of marginalizing the problem.

148. She explained that the solution might be found in simple crowd dynamics. Indiscriminate use of force was seen by the crowd as illegitimate. Such force led to a counter reaction (solidarity effects of the crowd with the perpetrators). The aim was therefore for fans to regulate themselves. Peer pressure was the most valuable tool to achieve change. FSE acknowledges that this was the most sustainable solution. Consequently, fans needed to be empowered in order for peer pressure to be applied and for

good examples to be shown. In order to implement this solution a multi-agency approach should be applied; indiscriminate treatment of fans (as the majority of the fan base consisted of non-racist fans) should be avoided; and clear messaging and credible long term messaging was needed (not red cards once a month).

149. Ms. Wurbs said that some of the key principles that should determine interventions were: the clear recognition of a problem; that institutions set clear messages (until the message becomes part of the sport's DNA); messages needed to target individual perpetrators; clubs and football associations needed to encourage fans to speak up and report incidents; and positive developments and actions needed to be supported (such actions were however, seldom reported); and cooperation with local civil society.

150. She also introduced some fan projects which existed in a number of European countries and enabled long term cooperation with football fans in order to create a positive fan culture. She added that Supporter Liaison Officers (SLOs) were also a successful tool (and part of UEFA's licensing criteria, for example). Concluding she said that there needed to be clear national action plans against discrimination in sports (and society); sanctions should be directed against individuals; the focus of the strategies should be on prevention; community schemes should be introduced on club level; national funds that could fund grassroots projects against discrimination should be established; and diversity within the stadium should be promoted; and inclusive infrastructure in stadia should be provided.

151. The representative of Argentina made a statement emphasizing the importance of taking action in stadia. The Instituto Nacional contra la Discriminación, la Xenofobia y el Racismo (INADI) worked in Argentina on that subject and furthered mechanisms that promoted diversity. INADI also observed behaviour in stadia and addressed discrimination, including discrimination on the basis of race and sexual orientation, in football.

152. Des Tomlinson, of the Football Association of Ireland (FAI), introduced the intercultural football programme of the FAI. He noted the social potential of sport from enhancing the social good to its potential in addressing social divisions. Football could play a role, however partnership with other actors was needed to address social issues.

153. Mr. Tomlinson briefed the committee on the social environment in Ireland and the fact that its cultural landscape had evolved. The European Union Commission developed a policy paper on sport and its role in integration. In 2006 the intercultural football plan was developed in order to compliment state policy objectives (integration, antiracism etc.) The objectives of the intercultural strategy were: to promote participation; to challenge racism in football and beyond; and to support the process of integration. Based on those objectives the FAI developed a number of core programmes.

154. Mr. Tomlinson then explained the anti-racism rules and protocols of FAI and pointed to the various tools that could be used to support clubs (guidance, assistance for referees etc.). Referees cold use Law 5 mechanisms to stop, temporarily suspend or abandon matches. He also briefed the committee on the various forms of incidents, such as player to player incidents and the range of sanctions applied. The national league furthered anti-discrimination by emphasising intercultural football standards. It was important, Mr Tomlinson noted, that the UEFA 10 point plan became part of the licensing scheme. Match observers were also used on match days. Mr. Tomlinson further touched upon grass root movements, education, the FARE football week and the FAI's integration work. Mr. Tomlinson finally made a number of recommendations that were contained in his power point presentation that can be found online.

155. The representative of Ghana requested that experts give their perspective on the impact their respective policies and initiatives have had on the ground. Mr. Tomlinson responded that a good measurement of impact of the FAI initiatives was the decreasing number of incidents recorded following implementation. Ms. Wurbs stated that there

needed to be supporting structures in order for a supporter not to be seen as a problem. Where there were structures (such as in the FSE best practise examples) in place, one could see positive results. Mr. Dembowski stated that the most important impact was that all football federations started to understand that the issue of discrimination needed to be addressed, and he believed that there was significant progress being made in this regard. Mr. Crosset stressed the need for partnerships and supported the fact that FIFA was intentionally taking preventive actions against racism.

156. The representative of the United States underlined that "sport and non-discrimination" was an important topic, worthy of consideration. He requested comments on why Mr. Cohen mentioned that player-to-player incidents were not common in basketball, whereas Mr. Tomlinson mentioned that those incidents were common in football. He also noted that FIFA might seem slow to act in response to the issue of racism.

157. Mr. Dembowski and Mr. Tomlinson stated that in grassroots football there were more player-to-player incidents than in professional football, which likely accounted to a large degree for the difference in statistical evidence.

158. Mr. Dembowski noted that FIFA started working on the anti-discrimination programme in 2001 and that the programme took some time to implement as there were many countries that were slow in adapting, but there was a good policy basis that could be used. He stated that it would be helpful to have partners in the various football confederations, as often there was no counterpart interaction.

159. Ms. Wurbs stated that UEFA and FIFA were indeed late with tackling anti-discrimination because an early strategy was absent and FIFA had until recently relied on a negative approach, which has now been changed to a positive approach.

160. The representative of Tunisia stated that it was good to dedicate a day to this topic as sport reflected society, and inquired why the regime of sanctions that was applied when supporters threw objects (stones etc.) was not applied when it came to discrimination. Ms. Wurbs agreed with the representative of Tunisia in that racism should at least be sanctioned in the same way as throwing of objects.

161. The representative of Uruguay asked Mr. Dembowski how FIFA cooperated with referees, for example, what are referees trained to do when bananas were thrown into the pitch). He also asked how that issue would be dealt with in the context of the upcoming World Cup. Mr. Dembowski noted that the FIFA monitoring system should help referees to address discrimination.

162. The Chair-Rapporteur stated the topic was an issue for the Ad Committee and should remain a key priority for the Committee, and also suggested that it would be useful for each of the expert presentations to be posted on the Ad Hoc Committee webpage.

G. Panel discussion to provide a comparative perspective on national, regional and subregional mechanisms

163. At its 11th meeting, on 21 July, a panel discussion to provide a comparative perspective on national, regional, and subregional mechanisms was held. At short notice, the scheduled speaker on the African Union human rights system which addresses racism, racial discrimination, xenophobia and related intolerance, Michelo Hansungule from the Centre for Human Rights and the University of Pretoria, was unable to attend the session in Geneva due to a travel constraint. Linda Ravo, Directorate Fundamental Rights and Union Citizenship at the European Commission and Lyal S. Sunga, Head of the Rule of Law Programme at the Hague Institute for Global Justice participated in the panel discussion.

164. During her presentation, Linda Ravo, Directorate Fundamental Rights and Union Citizenship at the European Commission, emphasized that preventing and combating racial discrimination and xenophobia is a top priority for the European Union. She said that a solid legal framework has been developed over the years to address racism, xenophobia and hate crimes at the European Union level, including the Race Equality Directive and the Employment Equality Directive of 2000, which provide for the obligation to ensure availability of judicial remedies to victims, provide for grounds for taking positive actions and setting up of equality bodies.

165. The European Union also adopted the Framework Decision to combatting racism and xenophobia by means of criminal law, which sets the frame for a common response to hate speech and hate crimes, ensuring accountability for perpetrators. The Framework Decision provides for liability of legal persons, ex-officio investigations and prosecutions, and jurisdictional rules. There are also the Victims' Rights Directive of 2012, including specific provision for bias motivated crimes and the directive concerning the broadcasting of cross—border audio-visual media services of 2010. These legal instruments envisage the minimum standards for harmonization but Member State can go beyond them. The challenge is not the transposition but their effective implementation. Laws are only as good as they can be implemented and monitored.

166. The speaker said that despite all the legal instruments, ethnic and religious minorities across the European Union continue to face racism, discrimination, verbal and physical violence. Recent reports show that racial and ethnic discrimination in areas such as healthcare or education persist within the European Union, with discrimination against Roma and immigrants, but also discrimination on the ground of religion or belief, being regarded as the most widespread form of discrimination in Europe.

167. She also emphasized the importance of preventive measures, systematic collection of data such as Eurobarometer and efforts to tackle underreporting of bias crimes. It is important to work with civil society organizations and to support them financially, enabling them to carry on their work in an independent manner. Capacity building and a multidisciplinary approach are also essential, and the demonstration of concrete data influences perceptions and limits populist discourse. Finally, a strong commitment was required from political leaders, local authorities and others.

168. The representative of Pakistan on behalf of OIC asked if hate speech has been criminalized in the European Union framework and about the definition of hate speech in terms of which crimes are covered. She also asked whether by the European Union instruments only racially- motivated crimes in the context of hate speech and xenophobia or whether it also covers religiously-motivated crimes which lead to incitement to hatred and imminent violence. She also asked if the Eurobarometer addresses discrimination on religious grounds apart from racism, given the issues of intersectionality of racism and religion, ethnic origin and migrants' status.

169. The representative of the United States asked if definitions of hate speech and hate crimes and discrimination address sexual orientation and gender identity, and whether there were available statistics on this particular ground. He also inquired about the European Union position on affirmative action.

170. Ms. Ravo replied that the European Union framework does not include definition of hate speech, although there was one in the initial draft of 2001. She noted the importance of the element of incitement with regard to hate crimes. She confirmed that religion is addressed by the European Union instruments while sexual orientation and gender identity are not part of the minimum requirements, but some States have extended the scope and addressed these grounds. She added that disability is also not covered by the European Union directive. She said that the 2000 Race Equality Directive includes a provision

leaving Member States free to adopt affirmative actions in different areas, but there is no obligation.

171. Lyal S. Sunga, Head of the Rule of Law Programme at the Hague Institute for Global Justice, gave a presentation entitled "Improving coordination among national human rights institutions (NHRIs) on discrimination: considerations and recommendations from a comparative perspective". He emphasized that the issue of coordination is a very important one. National human rights institutions mandated to address racial discrimination constitute a critical link between international and regional human rights standards and their practical implementation at domestic level. They are less effective where they don't conform to the Paris Principles and can fall prey to majoritarian tendencies and be insufficiently inclusive. Moreover, in any country, NHRIs often fail to coordinate with other NHRIs on matters of discrimination and sometimes duplicate the work of other NHRIs.

172. The speaker noted that the 2011 study of the Office of the High Commissioner for Human Rights on NHRIs in federal states is worth considering because the coordination challenges that federal states face, illustrate particularly well the same challenge that unitary States with multiple NHRIs face since racial discrimination is a cross cutting issue.

173. He provided an overview of NHRIs in Australia, Canada, India, Mexico, South Africa, the Russian Federation, Switzerland, Belgium, Germany and Brazil. In regard to the study recommendations, he emphasized that the government should not mandate human rights institutions to prepare its State report, but only to contribute to it, otherwise it could act more like an arm of Government and become less independent. He said that NHRIs with narrower anti-discrimination mandates should coordinate with more broadly mandate NHRIs and broader mandate NHRIs should have a special unit devoted to discrimination and vulnerable groups.

174. He also recalled that CERD recommended the establishment of NHRIs specifically mandated to prevent discrimination on the grounds of race, colour, and descent, national or ethnic origin and that an optional protocol should oblige States to establish, designate or maintain national anti-discrimination mechanisms that work in close cooperation with CERD.

175. The representative of the United States emphasized the importance of working with civil society organisations as well as the preventative aspects of anti-discrimination work.

176. Ms. Ravo asked a question with regard to the independence of NHRIs.

177. Mr. Sunga replied that the optional protocol notion was not part of the 2011 study of the Office of the High Commissioner for Human Rights and that he had utilized solely for the current presentation. The added value of establishing a focused body through an optional protocol would be for the complaints handling, not for promotion activities, as they are not a problem. Efficient and competent complaints handling requires expertise. An optional protocol might not attract a large number of ratifications, as there is a certain fatigue amongst Member States, and adding one more instrument might not attract interest. With regard to independence, he said that it is a difficult balance and the Paris principles do not clarify how the NHRIs should interact with the government. NHRIs representatives should not be part of drafting committees as drafting is a qualitatively different thing: it entails policy decisions, prioritization, frankness to articulate challenges and solutions.

178. The Chair-Rapporteur raised the issue of access to remedies for victims and the exhaustion of domestic measures. Mr. Sunga noted that the principle of exhaustion of domestic measures is very well established in international law and would likely not change without good reason. International mechanisms are intended to support and guide, and complement domestic jurisdiction. Ms. Ravo also emphasized the importance of the rule

concerning the exhaustion of local remedies. Prosecution and investigation, amongst others are very important to effective national remedies.

Annex II

Programme of work

	1st week				
	Monday 13.07	*Tuesday 14.07*	*Wednesday 15.07*	*Thursday 16.07*	*Friday 17.07*
10:00 – 13:00	**Item 1** Opening of the Session ***Yury Boychenko***, Chief of the Anti-Racial Discrimination Section **Item 2** Election of the Chair **Item 3** Adoption of the Agenda and Programme of Work General statements	**Item 5** Issues, challenges and best practices pertaining to reporting under the ICERD Convention [Presentations by individual States of the regional/other groups: Norway, United States of America]	**Item 7** Presentation by OHCHR: comparison of relevant procedures of other treaties [***Simon Walker***, Chief of the Civil, Political, Economic, Social and Cultural Rights Section, OHCHR]	**Item 8** Further elaboration of the views of the CERD on key elements with regard to procedural gaps and best ways to address them (follow-up to the 2007 study and the different presentations given and proposals made to the Ad Hoc Committee in accordance with its mandate)	UN Holiday
15:00 – 18:00	**Item 4** Assessment of the use of the complaint mechanism under article 14 [***Marc Bossuyt***, Member, Committee on the Elimination of Racial Discrimination]	**Item 6** Purpose of general recommendations by the CERD and the process leading to their issuance in the context of the effective implementation of the Convention, and possible shortcomings [***Anastasia Crickley***, Member, Committee on the Elimination of Racial Discrimination]	**Item 5 continued** Issues, challenges and best practices pertaining to reporting under the ICERD Convention [Presentations by individual States of the regional/other groups: South Africa]	**Item 5 continued** Issues, challenges and best practices pertaining to reporting under the ICERD Convention [Presentations by individual States of the regional/other groups: Pakistan, Guatemala, Ecuador, Belgium, Mexico]	UN Holiday

	2nd week				
	Monday 20.07	*Tuesday 21.07*	*Wednesday 22.07*	*Thursday 23.07*	*Friday 24.07*
10:00 – 13:00	**Item 9** Sport and racism [***Todd Crosset***, Professor, University of Massachusetts, USA; ***Delia Douglas***, Professor, University of British Columbia, Canada; ***Benjamin Cohen***, Head of Governance & Legal Affairs, International Basketball Federation (FIBA)]	**Item 10** Panel discussion to provide a comparative perspective on national, regional and subregional mechanisms [***Michelo Hansungule***, Professor, Centre for Human Rights, University of Pretoria, South Africa & Commissioner, International Commission of Jurists; ***Linda Ravo***, Directorate Fundamental Rights and Union Citizenship, European Commission; ***Lyal S. Sunga***, Head, Rule of Law Programme, The Hague Institute for Global Justice]	**Item 11** Questionnaire [Oral updates; Discussion on the questionnaire and follow up] General discussion and exchange of views	**Item 12** Discussion on the introduction of new/list topics…consideration of new/list topics Conclusions and Recommendations	Conclusions and Recommendations General discussion and exchange of views
15:00 – 18:00	**Item 9 continued** Sport and racism [***Gerd Dembowski***, Diversity & Anti-Discrimination Manager, Fédération Internationale de Football Association (FIFA); ***Daniela Wurbs***, Football Supporters Europe (FSE) Coordinator/CEO; ***Des Tomlinson***, Intercultural National Coordinator, Irish Sports Federation]	General discussion and exchange of views Conclusions and Recommendations	General discussion and exchange of views Conclusions and Recommendations	Compilation of the Report	**Item 13** Adoption of the report of the 7th session

Annex III

List of attendance

Member States

Algeria, Argentina, Austria, Belgium, Brazil, China, Colombia, Côte d'Ivoire, Cuba, Ecuador, Egypt, Ethiopia, Ghana, Germany, Greece, Guatemala, Ireland, Japan, Latvia, Mexico, Morocco, Namibia, Norway, Pakistan, Panama, Portugal, the Russian Federation, Rwanda, Saudi Arabia, South Africa, Spain, Sri Lanka, Switzerland, Tunisia, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Uruguay, Venezuela (Bolivarian Republic of)

Non-member States represented by observers

Holy See

International organizations

International Labour Organization, United Nations Development Programme, World Health Organization

Intergovernmental organizations

European Union

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

African Commission of Health and Human Rights Promoters, Association of World Citizens, International Youth and Student Movement for the United Nations (ISMUN), Mouvement International pour les Réparations, Rencontre Africaine pour la Defense des Droits de l'Homme, World Against Racism Network

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

AFROMADRID, Association des Bassas de Suisse, Association des femmes du Kwango-Kwilu "Mukubi", Collectif Afro-Swiss Humaine (CRED), Culture of Afro-indigenous Solidarity, Mouvement contre le racisme et pour l'amitié entre les peuples (MRAP), SOS Rassismus Deutschweiz