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Forty-second session

9–27 September 2019

Agenda item 9

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

### **Report of the Ad Hoc Committee on the Elaboration of Complementary Standards on its tenth session<sup>\*</sup>, <sup>\*\*</sup>**

*Chair-Rapporteur: Taonga Mushayavanhu (Zimbabwe)*

#### *Summary*

The present report is submitted pursuant to Human Rights Council decision 3/103 and Council resolutions 6/21 and 10/30. The report is a summary of the proceedings of the tenth session of the Ad Hoc Committee on the Elaboration of Complementary Standards and the substantive discussions that took place during the session.

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

\*\* The present document was submitted late to the conference services without the explanation required under paragraph 8 of General Assembly resolution 53/208 B.

## **I. Introduction**

1. The Ad Hoc Committee on the Elaboration of Complementary Standards submits the present report pursuant to Human Rights Council decision 3/103 and resolutions 6/21 and 10/30.

## **II. Organization of the session**

2. The Ad Hoc Committee held its tenth session from 8 to 18 April 2019. During the session, the Committee held 18 meetings.

### **A. Attendance**

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

### **B. Opening of the session**

4. The tenth session of the Ad Hoc Committee on the Elaboration of Complementary Standards was opened by the Chief of the Rule of Law, Equality and Non-Discrimination Branch, Office of the United Nations High Commissioner for Human Rights (OHCHR).

### **C. Election of the Chair-Rapporteur**

5. At its 1st meeting, the Ad Hoc Committee elected Taonga Mushayavanhu, Permanent Representative of Zimbabwe to the United Nations Office at Geneva, as its Chair-Rapporteur, by acclamation.

6. The Chair-Rapporteur thanked the Ad Hoc Committee for his re-election and recommitted himself to continuing to cooperate with all Member States and stakeholders in fulfilling the mandate of the Committee.

7. He observed that the programme of work during the session would be broadly divided into two parts: the first four days would be devoted to presentations by experts and discussions on three agreed topics, while preliminary negotiations on an additional protocol to the International Convention on the Elimination of All Forms of Racial Discrimination would take up the remaining five days of the session.

8. He recalled that the Committee was mandated by the Human Rights Council in December 2006, “to elaborate, as a matter of priority and necessity, complementary standards in the form of either a convention or additional protocol/s to the Convention, filling the existing gaps in the Convention and also providing new normative standards aimed at combating all forms of contemporary racism, including incitement to racial and religious hatred”.

9. The Chair-Rapporteur added that in December 2016 and March 2017, the General Assembly in resolution 71/181 and the Human Rights Council in resolution 34/36 respectively, had requested the Chair-Rapporteur of the Ad Hoc Committee, “to ensure the commencement of the negotiations on the draft additional protocol criminalizing acts of a racist and xenophobic nature”. The General Assembly had since adopted two further related resolutions, namely, 72/157 and 73/262 in December 2017 and December 2018, respectively. He noted that these resolutions pointed to a frustration that the Ad Hoc Committee was not making the expected progress and that there was clearly a push for it to deliver on its mandate.

10. The Committee’s task during the tenth session was quite clear, in accordance with the directions given by both the General Assembly and the Human Rights Council. The Chair-Rapporteur stated that the Committee was enjoined to start negotiations on elements that

would constitute an additional protocol to the Convention. The negotiations should continue in future sessions and in that regard, he proposed that the additional protocol be the exclusive agenda item in future sessions until the matter was finalized.

11. He noted that the Committee's work was more pertinent in view of the sad reality that many people around the world continued to be victims of racism, racial discrimination, xenophobia and related intolerance, including in particular their contemporary forms and manifestations, some of which are of a violent nature. The Committee could not afford to continue to shirk its responsibility to strengthen the protection of the increasing numbers of victims of these scourges. Laws were needed to effectively fight discrimination, xenophobia and other related intolerance. Although criminalization was the objective, he contended that the Committee should also be open to considering preventive measures which would complement criminalization.

12. Regarding process, he indicated that as in his earlier message circulated by the Secretariat, he would not put forward a draft additional protocol text at this stage. He would listen to get an indication of what States wanted and then chart a way forward. It was his expectation that each regional group or individual country would prepare their own positions and input into the discussion through proposals regarding the acts of a racist and xenophobic nature that they thought should be criminalized. It was from these inputs that a draft protocol would be negotiated.

13. He urged the Committee to remain focused at all times on delivering on the mandate. It was not for the Committee to remake the mandate or to discard it, its business was to deliver on it. He called for unity of purpose among all Member States and stakeholders as it embarked on its important work.

#### **D. Adoption of the agenda**

14. At the 1st meeting, the Ad Hoc Committee adopted the following agenda for its tenth session:

1. Opening of the session.
2. Election of the Chair-Rapporteur.
3. Adoption of the agenda and programme of work.
4. Presentations on and discussion of protection of migrants against racist, discriminatory and xenophobic practices.
5. Presentations on and discussion of racism in modern information and communication technologies (racial cybercrime).
6. Presentations on and discussion of comprehensive anti-discrimination legislation.
7. General discussion and exchange of views on items 4, 5 and 6.
8. Discussion of General Assembly resolution 73/262 and Human Rights Council resolution 34/36.
9. General discussion of and exchange of views on item 8.
10. General discussion and exchange of views.
11. General discussion of and exchange of views on conclusions and recommendations.
12. Adoption of the conclusions and recommendations of the session.

## **E. Organization of work**

15. At the same meeting, the Chair-Rapporteur introduced a draft programme of work for the session, which was adopted. The programme of work, as subsequently revised, is contained in annex II. The Chair-Rapporteur invited general comments from participants.

16. Delegations warmly congratulated the Chair-Rapporteur on his election and made opening statements.

17. The Permanent Representative of Angola to the United Nations Office at Geneva delivered an opening statement on behalf of the African Group, stating that the session was timely, as it came at a critical juncture when there was increasing racism and xenophobia around the world, leaving no doubt concerning what needed to be done to counter those acts. Racism concerned the denial of humanity of human beings. No one could admit that freedom of expression should be above human dignity, but unfortunately some still did. She added that new forms of xenophobia must be legally condemned.

18. The African Group was of the view that the following items should be considered during the session not only because of their relevance but particularly because of the urgency to survey them: (a) migrants were human beings, therefore they deserved to be treated with humanity and be protected against, discriminatory and xenophobic practices; (b) despite the decentralized nature of the Internet, freedom of expression in cyberspace must be regulated and denounced in a dissuasive way in order to curb the dissemination of hate speech, incitement to racial discrimination and ideas based on racial superiority or hatred and it was the responsibility of the State to properly regulate it; (c) a comprehensive and holistic approach to anti-discriminatory legislation must be adopted by all stakeholders through human rights education in promoting a “culture of peace” and non-violence, conflict prevention and tolerance.

19. The African Group was convinced that discussions within the Ad Hoc Committee would contribute to identifying possible elements for elaboration of the complementary standards that societies needed today. It was time to update standards in order to clearly define the responsibilities of individuals, companies and Governments. The Group once again called upon all countries and stakeholders to constructively contribute to the effective fulfilment of the mandate of this important Human Rights Council mechanism.

20. The representative of Brazil reiterated the commitment of Brazil to reinforcing the international legal framework against all forms of racism, racial discrimination, xenophobia and related intolerance, including by establishing complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination. He stated that Brazil urged all countries to engage in such efforts in a spirit of compromise and commitment to a world in which every person fully enjoyed freedom from all forms of discrimination and intolerance. He welcomed the topics that would be discussed during the tenth session and called on all countries to reinforce their efforts to implement policies, programmes and activities aiming at combating all forms of racism, racial discrimination, xenophobia and related intolerance.

21. Regarding the mandate of the Ad Hoc Committee, the representative of Brazil called upon all delegations and regional groups to work to build mutual trust and compromise and find common ground on sensitive and important issues concerning the elaboration of complementary standards to the Convention. He looked forward to constructive and open exchanges during the current session.

22. The representative of China welcomed the efforts of the African Group and the Committee to eliminate racial discrimination and expressed its commitment to the work of the Ad Hoc Committee. Racism trampled on the essential values of equality, freedom and justice, seriously undermining human rights and threatening the progress of human civilization. Racism was still a serious concern in some countries. Right-wing policies and neo-Nazism were on the rise. Some political figures, ostensibly in the name of democracy, and free speech openly incited racism and xenophobia without being held accountable. The representative of China called upon countries where serious racial incidents had been observed to implement the Durban Declaration and Programme of Action and other

international instruments, in order to formulate targeted national laws and policies and to resolve the root causes of racism. He also stressed that the Committee should continue to play an important role in implementing the Durban Declaration and Programme of Action and related international instruments and in guiding all parties to consensus on the issue of complementary standards.

23. The representative of Zimbabwe aligned his delegation with the statement delivered by the Permanent Representative of Angola on behalf of the African Group. He underscored the imperative need for the full and effective implementation of the Durban Declaration and Programme of Action and the fulfilment of the mandates of all the follow-up mechanisms, including the Ad Hoc Committee. He noted that this was all the more urgent in light of the worrying trend whereby many people around the world continued to be victims of racism, racial discrimination, xenophobia and related intolerance, including their contemporary forms and manifestations. Of particular concern was the fact that persons belonging to groups in vulnerable situations, such as migrants, refugees and asylum seekers, as well as people of African descent, were the main victims.

24. The Permanent Representative of Senegal to the United Nations Office at Geneva associated his delegation with the statement of the African Group. He noted that xenophobia was expressed in many countries in flagrant contradiction to the provisions of the Charter of the United Nations. The rise of hate speech and racist acts, particularly against migrants, persons belonging to minorities and vulnerable groups, impinged upon the fundamental principles of equality and non-discrimination. Senegal believed that it was also necessary to invest in education and to ensure that it provided values that enabled people to live together in a pluralistic world. In the context of globalization, migration offered opportunities but also challenges related to vulnerability and discrimination, which is why it was important to protect human rights in order to promote inclusion and integration to migrant workers. All actors were invited to contribute significantly to the implementation of the Global Compact on Migration that took into account the concerns of the main stakeholders, namely migrants, while reconciling the interests of departure, transit and home countries.

25. With regard to combating hate speech through new information technologies, Senegal was the fiftieth State party to the Budapest Convention on Cybercrime. He stated that Senegal possessed a Police Investigation Division and a Commission for Personal Data mandated to deal with cybercrime and information technology and was home to the first centre for study and training on this subject in West Africa. Senegal was also a member of the Glacy+ (Global Action on Cybercrime Extended) cooperation platform. Finally the representative of Senegal noted that the elaboration of an additional protocol to the Convention remained more necessary than ever to combat those phenomena.

26. The representative of Botswana aligned her delegation with the statement of the African Group. Botswana viewed the newest Human Rights Council and General Assembly resolutions as a significant step in the decade-long process as they spoke to the core of the mandate of the Committee on the negotiation of an optional protocol to continue to ensure international frameworks were in line with emerging issues. It was the firm view of her country that the outcome of the negotiations should be consistent with the principles and spirit of the Durban Declaration and Programme of Action. The session would start a process that would address the many facets of discrimination, including migrants, racism in modern information and communication technologies and comprehensive anti-discrimination legislation, to ensure that the Committee filled in the gaps in the Convention for realization of the equality of all. She called on all participants to remember the main objective of the Committee and ensure a constructive dialogue that was able to produce an outcome on which all could continue to work.

27. The representative of the European Union stated that as demonstrated by the persistent spread of racism and racial discrimination in all regions of the world, the implementation of the Convention was lagging behind. The Convention was a living instrument, able to address both new and emerging challenges that could not have been anticipated at the time of its adoption. The focus should therefore remain on its full and effective implementation to achieve the goal of eliminating completely the scourges of racism in all its forms. The representative of the European Union stated that there was no agreement upon or evidence that the Convention had gaps, nor that it failed to address contemporary forms of racism.

28. She added that in the view of the European Union, the Committee on the Elimination of Racial Discrimination considered that the Convention had no gaps, as the experts who had prepared a study on complementary international standards “on the content and scope of substantive gaps in the existing international instruments to combat racism, racial discrimination, xenophobia and related intolerance” had concluded that there were gaps in implementation or that should be addressed in general comments of the Committee, but they had not concluded that there was a need for an additional protocol.

29. The European Union could not therefore support the commencement of negotiations on an additional protocol to the Convention that would criminalize acts of a racist and xenophobic nature. The representative of the European Union stated that discussions within the Ad Hoc Committee were ongoing on the need for possible complementary standards to the Convention. Other options, such as non-legally binding instruments, were still under consideration and could have been further explored on a consensual basis.

30. The European Union believed that the global fight against racism, racial discrimination, xenophobia and related intolerance was an issue that concerned everyone in every region of the world. It was an issue on which the international community should be united. In that spirit, the European Union remained open to engaging in a constructive dialogue with all stakeholders on this topic and stood ready to share best practices in that regard.

31. The representative of Pakistan, speaking on behalf of the Organization of Islamic Cooperation (OIC), stated that the world was facing a myriad of challenges marked by international conflicts and worsening humanitarian crises. The reasons for those situations could be traced to rising hatred, xenophobia and intolerance. The root causes of racial abuse and discrimination were more complex than they had ever been, giving rise to new and contemporary forms of racial discrimination based on race, sex, language or religion, which were not covered by existing instruments. Consequently, there was a need for effective legislation at both the national and international levels to fill in the gaps and provide remedial measures for victims of injustice and discrimination. The OIC member countries believed that ramifications of past injustices haunted the lives of many and therefore international cooperation was necessary if obstacles to the attainment of better and equal standards of living were to be removed.

32. OIC was gravely concerned by the rise of populist politics and right-wing extremist ideologies fanning hatred and religious intolerance, particularly against Muslim populations in many countries around the world. In a dangerous tide of extreme politics and pan-nationalism in many parts of the world, nationalism was equated with patriotism. Indigenous peoples, migrant workers, refugees and other vulnerable groups would bear a disproportionate brunt of discrimination and harassment. The OIC member countries believed that the work of the Committee was pertinent and important, and reaffirmed its commitment to constructive participation in the Committee’s discussions. OIC considered it important that the proposed additional protocol covered all contemporary forms of discrimination, including any discrimination based on religion or belief, such as Islamophobia, which currently represented the most prevalent form of discrimination based on religion or belief.

33. The representative of South Africa aligned her delegation with the statement of Angola on behalf of the African Group. She noted that the incidents of the previous month in Christchurch, New Zealand, should enjoin the Committee to fully implement the Durban Declaration and its Programme of Action. Such incidents should further encourage the Committee to protect, promote and respect human rights of the most vulnerable by elaborating complementary standards to the Convention and closing any normative and procedural gaps that existed.

34. The representative of South Africa further noted that most of the historically disadvantaged groups subject to poverty and inequality fell within the purview of the DDPA as elaborated inter alia in paragraphs 104 and 105 of the Durban Declaration and Programme of Action. South Africa had enacted legislation constitutionally mandated to give effect to, among others, the prevention or prohibition of unfair discrimination and guarantee the rights of access to information and just administrative action. South Africa had recently adopted a

national action plan to combat racism, racial discrimination, xenophobia and related intolerance, which was an action of commitment to the Convention and the full and effective implementation of the Durban Declaration and Programme of Action.

35. The representative of India noted that racism and racial discrimination were the most pervasive acts that often led to serious violation of human rights. The international community was witnessing intensified forms of racism, xenophobia and related intolerance. Racism and racial discrimination were effectively prohibited under various international human rights instruments. New patterns of racial discrimination and hatred had reportedly been affecting a growing number of individuals, whether they were migrants, refugees, returnees or internally displaced persons.

36. The representative of India commended the efforts of the Ad Hoc Committee in identifying racist, discriminatory and xenophobic practices during the course of its work over the past several years, which was a matter of priority to fill the existing gaps in the Convention and establish new standards to combat all forms of discrimination. The speaker stated that racism and racial discrimination undermined human dignity and needed to be addressed in order to ensure equality and protect individuals from all discriminatory practices. He welcomed the constructive discussion that would take place in the coming days.

37. The representative of Indonesia aligned his delegation with the statement delivered by Pakistan on behalf of OIC. He stated that despite the fact that there were numerous human rights conventions and national, regional and multilateral mechanisms, the challenges faced were more prevalent and relevant than ever. New contemporary forms of racial discrimination on the basis of race, sex, language or religion that were not covered by existing instruments had begun to surface in parallel with the rise of national populism, extreme ideologies and advances in information and communication technologies.

38. Any form of discrimination, including against migrants, on the basis of race, sex, language or religion giving way to violence and hate speech under the freedom of expression were not acceptable, to the Indonesian delegation. He stated that the Committee must aim to strengthen international efforts to prevent xenophobia, Islamophobia and racial supremacy and their reoccurrence. It was necessary to complement the existing standard in order for effective legislation at both the national and international levels to be able to fill in the gaps and provide remedial measures for victims of injustice and discrimination.

39. The representative of Egypt reiterated his country's support for the Committee's mandate, set out in Human Rights Council resolution 6/21, to elaborate complementary standards to the Convention on contemporary racial discrimination, including incitement to racism, xenophobia and Islamophobia. He stressed the importance of the Committee continuing its sessions until it had implemented its mandate by drafting an international legal instrument criminalizing contemporary forms of racism. The representative noted that the world had witnessed many developments on the political, economic and social sectors in recent years, resulting in increasing waves of migrants, refugees and displaced persons, and the spread of modern forms of racial discrimination and violence, which were linked to the rise of ideologies and ideas spread by populist groups and right-wing extremist groups. He added that there had also been numerous human rights violations, acts of racial violence and terrorist attacks that had claimed the lives of many innocent people, particularly Muslims, the latest of which was the terrorist attack on the mosques of Christchurch. The Egyptian delegation considered that the time had come for all parties to seize the opportunity to work constructively on drafting an international legal instrument to criminalize new forms of racism, thereby supporting international efforts to promote respect for and protection of human rights throughout the world.

40. The Permanent Representative of Angola made a statement in her national capacity, aligning her country with the statement of the African Group. She stated that Angola remained concerned at the opposition to the drafting of a new protocol that some countries had expressed, particularly at the claims that the Convention was enough to cover all issues related to racial discrimination. As Angola was preparing to ratify the Convention in 2019, she took the opportunity to state that the country condemned all forms and acts of racial violence, xenophobia and incitement to racial hatred, and remained open to additional ideas to combat this phenomenon. Angola shared the view that a new document was needed to

address more recent forms and manifestations of racial discrimination and promote strong international cooperation on the implementation of the purposes of the Charter of the United Nations and the Convention itself. Her delegation looked forward to discussing in the Committee all pragmatic approaches and suggestions that in the end would constitute a good basis for the elaboration of complementary standards in the form of a protocol.

41. The representative of Lesotho aligned his delegation with the statement by the African Group. His delegation supported the criminalization of all acts of racism, discrimination, xenophobia and related intolerance. Like sexism, racism and xenophobia had negative effects on people and on the economy of countries. States had a moral obligation to implement appropriate and effective measures to halt and reverse the long-lasting consequences of discrimination and racism. He recalled that in the Durban Declaration and Programme of Action States were urged to take all necessary measures to address racism and racially motivated violence and hatred through policies and programmes.

42. The representative of the Bolivarian Republic of Venezuela reiterated his country's commitment to the fight against racism, racial discrimination, xenophobia and related intolerance. The country reaffirmed its compliance with paragraph 199 of the Durban Declaration and Programme of Action with respect to the need to elaborate complementary norms that reinforced and updated the international legal framework to face the new expressions and stereotypes of racism and discrimination in all their manifestations, in the protection of victims. In 2018, the national decree on the International Decade for People of African Descent had been signed in his country to promote, respect, protect and fulfil the human rights and freedoms of people of African descent.

43. The Bolivarian Republic of Venezuela considered that now was the historic and opportune moment to address all such issues, given the manifestations of racism and xenophobia in various regions of the world. It valued the work of the Committee in advancing the elaboration of complementary norms to the Convention and to fill the gaps in it, as well as to provide new normative standards aimed at combating all forms of contemporary racism, including incitement to racial and religious hatred. The representative reiterated the support of his delegation in the exercise of the important mandate of the Ad Hoc Committee.

44. The representative of Namibia aligned his delegation with the statement of the African Group. He noted that racism was a reality impacting the lives of countless humans across the globe and that it was evolving in its manifestations. His delegation was not convinced by the position that there were no gaps in the Convention. The representative stressed the importance of the Committee's work and that it was imperative that it stay focused on delivering on its mandate.

45. The representative of Switzerland stated that certain delegations, including the Swiss delegation, had not been in a position to support the resolutions requesting the Committee to commence the drafting of a legally-binding document at its tenth session. She added that Switzerland had been following the Committee's discussion in a pragmatic fashion, with a focus on tangible evidence that the Convention indeed had gaps that could only be filled by international legislation. While Switzerland was convinced that the topics that would be discussed during the Committee's session were of the utmost importance, it was not convinced that international legislation was the appropriate way to address those issues. The representative indicated that Switzerland would continue to follow the discussions in accordance with that position.

46. The representative of Japan noted that her country was aware of the importance of the issue of racial discrimination and encouraged delegates to tackle the issue jointly. She stressed that the Committee should seek consensus, as it was important to bring all views on board, although it was cautious about the introduction of new legally-binding instruments. Priority should be given to the implementation of the existing legal framework. The representative also mentioned that Japan had been reviewed by the Committee on the Elimination of Racial Discrimination in 2018. She noted that Japan would approach the Committee's discussions in a constructive spirit.



### **III. General and topical discussions**

#### **A. Presentations and discussion on the protection of migrants against racist, discriminatory and xenophobic practices**

47. At the start of the 2nd meeting, the representative of Nigeria requested the floor to make a general opening statement on the session. He aligned his delegation with the statements delivered by Angola on behalf of the African Group and Pakistan on behalf of OIC during the 1st meeting. He stated that Nigeria underscored the imperative of genuine international cooperation and constructive engagement, with the objective of elaborating complementary standards to the Convention. Nigeria was of the view that the issue of racism, racial discrimination, xenophobia and related intolerance had continued to manifest itself in new trends, underlining the importance of elaborating complementary international standards.

48. At its 2nd, 3rd and 6th meetings, the Committee considered agenda item 4 on the protection of migrants against racist, discriminatory and xenophobic practices. François Crépeau, Professor of Public International Law, McGill University, Canada, and a former Special Rapporteur on the human rights of migrants (via video link) and Ariadna Estevez, Professor and Adviser at the School of Social and Political Sciences, National Autonomous University of Mexico (via video link) gave presentations on the topic. A summary of the presentations and the discussions that followed is provided in annex I to the present report.

#### **B. Presentations and discussion on racism in modern information and communication technologies (racial cybercrime)**

49. At its 4th and 5th meetings, the Committee considered agenda item 5. Jesse Daniels, Professor of Sociology at Hunter College, New York, and Professor of African Studies at the Graduate Center, City University of New York, Ernest Chernukin, Chief of Section, Department for New Challenges and Threats, Ministry of Foreign Affairs, Russian Federation, and Seyi Akiwowo, from the NGO Glitch, United Kingdom of Great Britain and Northern Ireland, gave presentations on racism in modern information and communication technologies (racial cybercrime). A summary of the presentations and the discussion that followed is provided in annex I to the present report.

50. Also at the 4th meeting, the representative of Burkina Faso requested the floor to deliver a general statement about the session. He reaffirmed the support of his delegation for the drafting of complementary standards with a view to combating the dissemination of any racist content that sought to incite hatred, violence and racial discrimination across the Internet, including specific definitions of the crime of incitement to hatred and discrimination in cyberspace. He recalled that racism and xenophobia were at the origin of one of the most serious attacks on human rights in history, including the transatlantic slave trade, genocide and racial segregation and apartheid. Despite the existence of international standards to combat discrimination in all its forms and manifestations, the perpetrators of xenophobic attacks often enjoyed impunity, especially in the context of new information technologies.

#### **C. Presentation and discussion on comprehensive anti-discrimination legislation**

51. At its 6th and 7th meetings, the Ad Hoc Committee considered agenda item 6. At the 7th meeting, Alfred de Zayas, human rights expert and Lecturer in International Law at the Geneva School of Diplomacy, was invited to give a presentation on the topic of comprehensive anti-discrimination legislation. A summary of the presentation and the discussion that followed is provided in annex I to the present report.

#### **D. General discussion and exchange of views on items 4, 5 and 6, 8th meeting**

52. At the 8th meeting of the Ad Hoc Committee, the Chair-Rapporteur proposed that it begin with general discussions and an exchange of views on agenda items 4, 5 and 6. He invited the Committee to make general comments and asked what conclusions could be reached under each agenda item in question. He reiterated that the aim was to highlight the key points of the various expert presentations and interactive discussions thus far.

53. The Chair-Rapporteur introduced a document, which listed some general themes and ideas emanating from the expert presentations to facilitate the general discussion and exchange of views on the topics, copies of which were distributed in the room. He called for views and additional analysis from the members of the Committee. Several delegations took the floor to comment, identify themes and conclusions emanating from the presentations and suggest conclusions.

54. The Chair-Rapporteur expressed his appreciation for all the interventions made by the delegations on agenda items 4, 5 and 6 and offered to prepare a draft text of conclusions and recommendations of the tenth session based on those interventions. The draft text would be shared with the Committee at a forthcoming meeting and would be used as a basis for discussion of the conclusions and recommendations of the tenth session. The Chair-Rapporteur also asked regional coordinators to work with their groups on issues and elements concerning “the criminalization of acts of a racist and xenophobic nature” for discussion at the 9th meeting the following day.

#### **E. Discussion on General Assembly resolution 73/262 and Human Rights Council resolution 34/36, 9th and 10th meetings**

55. At the beginning of the 9th meeting, the Chair-Rapporteur informed the Committee that he had received a letter from the delegation of India, expressing concern about the presentation given by Mr. de Zayas under agenda item 6. For the purposes of transparency, the Chair-Rapporteur read out the contents of the letter. He then urged that the Committee focus on the mandates given to it by the Human Rights Council and the General Assembly and noted that his report of the tenth session would focus on the Committee’s work and mandate and not on the other issues which had been raised in the presentations.

56. At the 9th meeting of the Committee, the Chair-Rapporteur proposed an initial discussion on General Assembly resolution 73/262 and Human Rights Council resolution 34/36 under agenda item 8. He provided an explanation of the remit of the Committee in that regard. He recalled that in its decision 3/103, the Human Rights Council had specifically called for the adoption of new normative standards aimed at combating all forms of contemporary racism, including incitement to racial and religious hatred. He noted that the Committee’s work was meant to enhance the Convention. He recalled that in resolution 72/157, the General Assembly had requested that he present a report on the Committee’s progress to the seventy-third session of the Assembly, but that he had been unable to do so, given that the Committee had not held a session the previous year. In its most recent resolution on this matter, resolution 73/262, the General Assembly had requested that a progress report be submitted to the General Assembly at its seventy-fourth session.

57. The Chair-Rapporteur reiterated that the process should be a bottom-up approach, informed by the input of delegations. He presented his road map, noting that an initial draft document of ideas and elements would be prepared on the basis of inputs from the tenth session and that he would like to hold an intersessional expert meeting between the tenth and eleventh sessions to consider that document, following which the report of the expert meeting would be considered by the Committee at its eleventh session. He stated that he welcomed the creation of core groups by regional coordinators to negotiate the text, adding that as Chair-Rapporteur he would not negotiate on the text. He added that all future negotiations would take place in the Committee and that in his view, there was no longer a need to invite experts to make topical presentations during the forthcoming sessions of the Committee. He also

added that his road map would not bind any future Chair-Rapporteur. He asked delegations to come prepared and to offer a pragmatic and informed approach to this exercise.

58. With regard to the presentation of Mr. de Zayas, the representative of Pakistan stated that the report of the Committee should reflect what was said during the session. She added that with the input of experts, the Committee's work was moving forward.

59. The representative of India reiterated the strong concerns of his delegation contained in its letter that the presentation of Mr. de Zayas was not on topic and outside the mandate of the Committee.

60. The representative of the Indigenous Peoples and Nations Coalition reiterated his point about the issue of transmitting petitions and expressed his support for the presentation of Mr. de Zayas.

61. The Chair-Rapporteur reiterated that the Human Rights Council and the General Assembly expected him to report on issues according to the mandate of the Committee. He added that by the end of the session, the Committee should adopt a document on the "commencement of negotiations criminalizing acts of a racist and xenophobic nature". He then invited the Committee to make interventions regarding the issues and elements concerned in that regard, pursuant to General Assembly resolution 73/262 and Human Rights Council resolution 34/36.

62. The representative of Pakistan on behalf of OIC noted that all contemporary forms of discrimination, including on the grounds of religion and belief must be addressed. Hate speech and the dissemination thereof should be addressed, both offline and online. Incitement, including aiding, abetting and supporting incitement should be included, as well as incitement which leads to racist and xenophobic hatred. All such acts should be criminalized in such an exercise.

63. The representative of Angola, on behalf of the African Group, stated that the protocol should criminalize all racist and xenophobic acts regardless of the perpetrators, whether at the national or local level and regardless of whether undertaken by individuals or groups, the media or politicians. All relevant acts should be covered, including the dissemination of hate speech, incitation, aiding and abetting, promoting or protecting xenophobic acts and dissemination through the Internet and other platforms; racism and xenophobic content must be prevented in all areas.

64. The representative of Burkina Faso noted the relevant African legal framework, including directive C/DIR. 1/08/11 of the Economic Community of West African States (ECOWAS) and the African Union Convention on Cyber Security and Personal Data Protection, which deals with the harmonization of legal norms and regulations, legal cooperation, the exchange of information between intergovernmental or regional actors and public-private partnerships. Article 20 of the ECOWAS directive states that: "Possession of racist or xenophobic written documents or pictures through a computer system is the act by which a person creates, downloads, disseminates, or makes available in whatever form, written documents, messages, photographs, drawings or any other depictions of racist and xenophobic ideas and theories by means of a computer system." Article 29 (3) (1) (e) of the African Union Convention refers to States parties making it a criminal offence to "create, download, disseminate or make available in any form writings, messages, photographs, drawings or any other presentation of ideas or theories of racist or xenophobic nature through a computer system".

65. The representative of Brazil stated that the proposal of the African Group gave some direction and noted the need to consider the language carefully. She added that the African Group elements seemed to echo the Human Rights Council resolution on the compatibility between democracy and racism and the Durban Declaration and Programme of Action.

66. The representative of India suggested that a list of all contemporary forms and issues where racism and xenophobia were prevalent and not covered by the Convention be identified first and then that the Committee should look into the criminalization of those acts.

67. The representative of Costa Rica stated that her delegation could support the proposal from the African Group, as issues of hate speech and online or offline discrimination were

not sufficiently covered in existing international standards. It was important to eliminate the possibility of discriminating on social platforms and online. There was also a need to strike a balance between freedom of expression and opinion and the issue of addressing hate speech.

68. The representative of the European Union stated that the mandate of the Committee continued to change from paragraph 199 of the Durban Declaration and Programme of Action to the present Human Rights Council and General Assembly mandates. She also stated that the European Union was of the view that there were no gaps in the Convention and asserted that the Committee on the Elimination of Racial Discrimination had also stated this. She cautioned that drafting an additional protocol would undermine the work of that Committee. As the Ad Hoc Committee continued to move ahead on the new mandates, the European Union would reiterate this same position.

69. The representative of the Indigenous Peoples and Nations Coalition agreed with the European Union statement that a broad mandate was proposed in paragraph 199 of the Durban Declaration and Programme of Action, but he said that in his view it did not preclude an additional protocol being developed. As such he would draft suggestions for the Ad Hoc Committee regarding procedural and substantive gaps.

70. The representative of Switzerland agreed with the statement of the European Union stating that the gaps in the Convention were not that evident and that members of the Committee on the Elimination of Racial Discrimination were working on the relevant issues in a pragmatic way. She added that the elements for an instrument being proposed by the African Group might not be compatible with articles 19 and 20 of the International Covenant on Civil and Political Rights.

71. The representative of Angola stated that there were indeed gaps between the speech that was being tolerated and the negative repercussions evident on all continents in real life, which were an assault on human dignity. Furthermore, the Convention created in 1965 could not anticipate eradicating racism on or through the Internet, as it was not an issue at that time. She added that information technology companies must be held responsible for the dissemination of hate speech.

72. The representative of South Africa stated that since the 1960s, the situation had become much worse for victims of racial discrimination and that colonialism continued to mutate. He added that the human rights space was shrinking and that seminal efforts to deal with racism should not be undermined. It was important to augment the Convention and the Durban Declaration and Programme of Action, and continue to consider in an open-minded manner elements that could form an additional protocol.

73. The representative of Japan stated that her delegation aligned itself with the positions of the European Union and Switzerland, stating that there were no gaps in the Convention and adding that the most effective way to address racism was to implement the Convention.

74. The representative of Nepal stated that issues of racism existed in the long history of humankind but that the issues concerning digital space dated back only about 30 years. He added that it was important to take action in a cautious manner and that information technology professionals and experts should be consulted in the work of the Committee.

75. The representative of Gambia stated that the need for an additional protocol was due to the consequential harm of racial discrimination which was taking place. He added that further harm in the future could be anticipated.

76. The representative of the European Union stated that in reading the reports of the Committee on the Elimination of Racial Discrimination, it could be seen that they were addressing several issues of racial discrimination, such as xenophobia and hate speech.

77. At the 10th meeting, also under agenda item 8 on General Assembly resolution 73/262 and Human Rights Council 34/36 regarding negotiations on the draft additional protocol to the Convention criminalizing acts of a racist and xenophobic nature, the Committee began considering a draft in-session document based on a compilation of suggestions and texts received from regional groups and delegations. This working document was screened in the room on an overhead projector.

78. The Chair-Rapporteur indicated that the document contained only proposals or “pointers”, which grouped areas to be criminalized and preventative measures. It was a very initial draft document that would be refined and amended in the Committee as the session progressed. The Chair-Rapporteur noted that it was a basket of proposals to initiate discussions on item 8. He recalled that he had sent an electronic notice to all regional coordinators and all delegations via the Secretariat a week prior to the tenth session, inviting written proposals from them with respect to item 8 on General Assembly resolution 73/262 and Human Rights Council 34/36 on criminalizing acts of a racist and xenophobic nature.

79. The Committee discussed the fact that the document was, at that stage, a compilation of proposals introduced by delegations and regional groups thus far and that further proposals were welcomed. The Chair-Rapporteur encouraged delegations to consult the Convention, the Council of Europe Convention on Cybercrime and other documents to find suitable language and text for inclusion in the compilation draft. He encouraged delegations to send additional contributions to the Secretariat for inclusion in the draft document.

80. The representative of Mexico sought clarification, asking how negotiations could proceed given that there was no consensus on the matter. She queried how the Chair-Rapporteur would guide the Committee to a consensus.

81. The Chair-Rapporteur stated that consensus on the text of a draft document was certainly the aim of the exercise, which was why he had invited inputs from all regional groups and delegations. He added that through negotiations, the Committee would arrive at a consensus. He recognized that there were differences, but that given the voting patterns of the Human Rights Council and the General Assembly, these differences also existed elsewhere. He restated that his aim was for the Committee to arrive at a consensus together.

82. The representative of Angola stated that her delegation understood the concern of the representative of Mexico; however the Human Rights Council and General Assembly resolutions were clear in that they gave the Chair-Rapporteur the mandate, albeit by vote, to commence negotiations at the tenth session on the draft additional protocol to the Convention criminalizing acts of a racist and xenophobic nature.

83. The Chair-Rapporteur encouraged a text-based discussion and the Committee proceeded to consider the text of the document projected on the screen in the room. The Chair-Rapporteur stated that as the discussions proceeded in the Committee, electronic copies of the working text would be sent regularly to all regional coordinators for onward distribution to their groups and that copies would also be made available in the room.

## **F. Discussion of General Assembly resolution 73/262 and Human Rights Council resolution 34/36, 11th, 12th, 13th and 14th meetings**

84. At the start of the Committee’s 11th meeting, the Chair-Rapporteur informed the Committee that he had received a letter from the delegation of Pakistan also concerning the presentation given by Mr. de Zayas, under agenda item 6. The Chair-Rapporteur read out the contents of the letter to the Committee. He reiterated that the Committee would focus on its mandate and work, and not on issues being dealt with in other parts of the United Nations.

85. The Committee resumed consideration of the draft in-session document under agenda item 8 at its 11th meeting. The Chair-Rapporteur invited further additions and proposals, to be submitted through the Secretariat. He stated that the Committee should look to eliminate repetition in the document and any text which could not be considered as proposed elements. It was clarified that as the Committee worked through the document, all text was open for refinement and amendment until finally adopted by the Committee.

86. The Chair-Rapporteur urged Committee members to assist and convince one another to reach consensus. He argued that all views should be heard and placed on the table so that the Committee could move forward together. He stated that nothing in the document would be agreed until everything was agreed. He encouraged all delegations and regional groups to engage constructively. The Committee continued consideration of the draft document under agenda item 8 during the 11th meeting.

87. At its 12th meeting, the Committee continued consideration of the draft in-session document. An updated text reflecting the discussion at the 11th meeting was circulated to the Committee.

88. The Committee continued to work on the draft in-session document on-screen in the room at its 13th meeting. Copies were distributed in the room and electronically to delegations through their regional coordinators.

89. At its 14th meeting, the Committee continued to work on the text of the draft document. The Chair-Rapporteur invited further views, analysis, additions and proposals and also requested that specific proposals be submitted to the Secretariat in writing.

## **G. General discussion and exchange of views, 15th and 16th meetings**

90. At its 15th meeting, the Committee resumed its consideration of the draft text on conclusions and recommendations relating to item 10. The Committee considered the document entitled “Document to facilitate discussion and exchange of views on conclusions and recommendations of the session” which was a text of themes and conclusions of the Committee emanating from the expert presentations and interactive discussions.

91. The Committee worked on the text of the document in the room on screen in follow-up to the initial draft text which it had started to consider at the 8th meeting. Copies of the text were also distributed in the meeting room. The Chair-Rapporteur invited further input and proposals to the draft document of conclusions and recommendations.

92. At the start of the 16th meeting, the representative of Indonesia requested the floor and made a statement. He noted that his delegation had been closely following the tenth session of the Committee, while bearing in mind the Committee’s mandate in relation to the Convention. The delegation considered the work of the Committee pertinent, according to Human Rights Council resolution 34/36, and that it must be concentrated on the negotiation of an additional or new protocol in criminalizing racist and xenophobic acts which would cover all contemporary forms of discrimination, including any discrimination based on religion or belief such as Islamophobia, and in identifying and analysing the gaps in the Convention. In that regard, the recent attacks in Christchurch were still fresh in the collective memory and his delegation considered it high time that the work of the Committee addressed all contemporary forms of discrimination, including on the grounds of religion and belief, as requested by OIC.

93. The representative of Indonesia noted that it was regrettable and unacceptable that in the work of the Committee, some experts and panellists attempted to deviate from the mandate and divert the work of the Ad Hoc Committee from discussing comprehensive anti-discrimination legislation to discussing self-determination, especially under agenda item 6. That was beyond the mandate of the Committee and should therefore not be considered or included in the final report.

94. In the view of the Indonesian delegation, the Committee should instead deliberate and elaborate more on innovative measures such as “special measures, including affirmative or positive measures” as examples to fill the existing gaps in the Convention in combating all forms of contemporary racism, including incitement to racial and religious hatred. Indonesia was in full agreement with the mandate given to the Committee, in which discriminatory behaviours, practices and policies which continued to vindicate hate crimes, racial superiority, Islamophobia and other contemporary forms of racism, online or offline, must be immediately identified and brought to an abrupt end.

95. During its 16th meeting, the Committee continued its consideration of the draft document under agenda item 10 of the agenda. During the meeting, the Committee also resumed consideration of the draft in-session document under agenda item 8.

## **H. General discussion and exchange of views and conclusions and recommendations of the session, 17th and 18th meetings**

96. At its 17th meeting, the Committee resumed consideration of the draft in-session document on conclusions and recommendations (item 10).

97. At its 18th meeting, the Committee continued discussions on the draft document under agenda item 8, on General Assembly resolution 73/262 and Human Rights Council resolution 34/36, and also on the draft document on conclusions and recommendations under agenda item 10, with a view to adopting agreed language on both documents.

98. The 18th meeting was suspended to allow for additional informal consultations between regional coordinators and delegations on the draft in-session document on agenda item 8, with a view to arriving at an agreement. Following these informal consultations, the Committee was presented with revised agreed texts to the draft in-session document under agenda item 8, which would now be entitled “Summary of issues and possible elements discussed pertaining to the implementation of General Assembly resolution 73/262 and Human Rights Council resolution 34/36 on the commencement of the negotiations on the draft additional protocol to the Convention criminalizing acts of a racist and xenophobic nature.”

99. The draft in-session document also integrated two texts proposed by the representatives of the European Union and OIC. The compromise draft text concerned the incorporation of two footnotes, one explaining the position of the European Union, Japan, Switzerland and Ukraine, and the other the position of OIC, the Plurinational State of Bolivia, Cuba, the Russian Federation and the Bolivarian Republic of Venezuela on the draft in-session document being considered under agenda item 8.

## **IV. Adoption of the conclusions and recommendations of the tenth session**

100. At its 18th meeting, the Ad Hoc Committee adopted two documents by consensus: “Conclusions and recommendations of the tenth session (item 10)” and “Summary of issues and possible elements discussed pertaining to the implementation of General Assembly resolution 73/262 and Human Rights Council resolution 34/36 on ‘the commencement of the negotiations on the draft additional protocol to the Convention criminalizing acts of a racist and xenophobic nature’ (item 8).”

101. At the meeting, the Chair-Rapporteur also read out his proposal that the Human Rights Council request that OHCHR hold a two-day expert intersessional consultation, comprised of two legal experts from each region in the relevant areas of law, a member of the Committee on the Elimination of Racial Discrimination and the Special Rapporteur on racism, racial discrimination, xenophobia and related intolerance, in order to consider the draft elements on “the draft additional protocol to the Convention criminalizing acts of a racist and xenophobic nature”, pursuant to General Assembly resolution 73/262 and Human Rights Council resolution 34/36, prepared by the Committee at its tenth session and provide their expert advice/comments for the consideration of the Committee at its eleventh session.

102. The Chair-Rapporteur invited final general statements from participants.

103. The representative of South Africa and the representative of Pakistan, speaking on behalf of OIC, expressed sincere appreciation to the Chair-Rapporteur for his leadership and dedication and to all the members of the Committee for their commitment to its work.

104. In his concluding remarks, the Chair-Rapporteur thanked all the members of the Committee for their cooperation, contributions to the discussions during the session and willingness to compromise in order to arrive at a consensus documents for the session, and closed the meeting.

## Conclusions and recommendations of the tenth session (agenda item 10)

105. Protection of migrants against racist, discriminatory and xenophobic practices (agenda item 4):

(a) Migrants are caught in precarious situations worldwide as they move along the migratory routes, encompassing countries of origin, transit and destination. This insecurity in their legal and financial situation and personal safety leaves migrants open to abuse. This results in the disempowerment, disenfranchisement and silencing of migrants. They suffer from discrimination, xenophobia and violence;

(b) There is an additional vulnerability related to migrant status as they experience multiple and intersecting forms of discrimination. Migrant women and children, in particular girls, are vulnerable to sexual exploitation and violence;

(c) It was suggested that States adopt a human rights-based approach to the predicament of migrants, by taking the following measures:

(i) Prosecute individuals, politicians, political parties, movements and groups who spread hate speech and incite racial, religious and xenophobic hatred, hate crimes and violence against migrants;

(ii) Develop education and awareness-raising measures to promote positive narratives about immigration in order to foster a spirit of tolerance towards migrants;

(iii) Facilitate orderly, safe, and responsible migration and mobility of people, including through implementation of a planned and well-managed migration policy;

(iv) Adopt the necessary measures, including norms at the national and international level, to ensure that article 5 (a), (b), (d), (e) and (f) of the Convention on the Elimination of All Forms of Racial Discrimination is applicable to all migrants irrespective of their status;

(v) Foster diversity through the adoption of sociocultural integration policies;

(vi) Protect the human rights of all migrants irrespective of their status through, inter alia, equal access to basic social services and to justice under the same conditions as nationals;

(vii) Facilitate processes in which migrants are consulted, including by allowing the unionization of migrant workers.

106. Racism in modern information and communication technologies (racial cybercrime) (agenda item 5):

(a) Racism in modern information and communication technologies is transnational, elusive, increasing, harmful and widespread. Targeted online abuse and criminality has been exacerbated by the proliferation of digital platforms that have global reach and enjoy limited control from Governments. In particular, supremacist far right individuals and groups are spreading their discriminatory ideas and inciting racist and xenophobic hatred and violence online, while criminal groups and terrorists are using the dark net to recruit and train members in real time. The consequences of these actions could then manifest online or offline;

(b) This not only causes harm to individuals and communities targeted by online harassment and abuse, but also affects society at large by causing disharmony and affecting cohesiveness, which may lead to conflict;

(c) There is a significant fragmentation in how regions are seeking to address cybercrime;

(d) The following elements were raised:

(i) Address online hate crimes, in particular racist and xenophobic crimes;

(ii) Prosecute individuals, politicians, political parties, movements and groups who spread supremacist rhetoric, incite racist, religious and xenophobic hate speech, and incite hate crimes and violence, including online;



- (iii) Penalize technological companies that fail to assess and take down hate speech, racist and xenophobic content on their platforms according to national legislation, including through an international regulatory framework;
  - (iv) Align existing laws with regard to crimes committed offline to apply to online crimes to ensure that the same rights that people have offline are also protected online;
  - (v) Where they exist, diversify the cultural composition of Internet scrutiny boards in order to simplify the burden of proof on victims;
  - (vi) Promote racial literacy and awareness and resilience in the information and communication technology sector.
- (e) It was acknowledged that the exercise of the right to freedom of expression carries with it special duties and responsibilities, among which the obligation not to disseminate racist ideas is of particular importance, and that freedom of expression shall only be subject to certain restrictions that are provided by law and are necessary for respect for the rights or reputations of others, including the principles of equality and non-discrimination;
- (f) The Committee recognizes the positive contribution that the exercise of the right to freedom of expression, particularly by the media and new technologies, including the Internet, and full respect for the freedom to seek, receive and impart information can make to the fight against racism, racial discrimination, xenophobia and related intolerance.

107. Comprehensive anti-discrimination legislation (agenda item 6):

States are urged to:

- (a) Promulgate comprehensive anti-discrimination legislation in order to ensure a holistic and integrated approach for the effective protection of victims of discrimination;
- (b) Ensure the implementation of human rights norms and obligations as regards discrimination and equality, including the enactment of laws and the formulation of policies in the fields of civil, political, economic, social and cultural rights and the right to development;
- (c) Prohibit discrimination and incitement to discrimination in all spheres of public life whether by State or non-State actors;
- (d) Promote measures to deter the emergence of and to counter neo-fascist, violent nationalist ideologies which promote hatred and discrimination, as well as racist and xenophobic sentiments, including measures to combat the negative influence of such ideologies, especially on young people, through formal and non-formal education, the media and sport;
- (e) Incorporate specialized bodies which would be empowered to assist victims and to promote a culture of equal rights;
- (f) Develop a national plan of action with measures to implement the Convention on the Elimination of All Forms of Racial Discrimination, including developing enabling legislation and preventive measures to enforce the Convention in the domestic legal order.

**Summary of issues and possible elements discussed  
pertaining to the implementation of General Assembly  
resolution 73/262 and Human Rights Council resolution 34/36  
on “the commencement of the negotiations on the draft  
additional protocol to the Convention criminalizing acts of a  
racist and xenophobic nature”<sup>1</sup> (agenda item 8)**

108. States parties undertake to criminalize the following acts of a racist and xenophobic nature perpetrated online and offline against specific persons and specific groups irrespective of the author:

- (a) Dissemination of hate speech;
- (b) Inciting, aiding and abetting the commission of racist and xenophobic hate crimes;
- (c) Dissemination of ideas and materials that advocate and promote racial superiority, intolerance and violence;
- (d) [All contemporary forms of discrimination based on religion or belief].<sup>2</sup>
- (e) Compel social media networks to remove expediently, in accordance with national legislation, racist and xenophobic content from online media platforms, including social media;
- (f) Hold accountable or liable persons and companies in the information and communications technology sector who broadcast racist and xenophobic content or material;
- (g) States parties commit themselves to adopt the following preventive measures to combat racist and xenophobic discrimination:
  - (i) Promote cultural diversity through education and awareness;
  - (ii) Counter proliferation of contemporary forms of supremacist ideologies, including by awareness-raising about the horrific consequences of such ideologies in the past;
  - (iii) Put an end to discriminatory racial and ethnic profiling and derogatory stereotypes in all their forms;
  - (iv) Ensure non-discriminatory access to the enjoyment of all human rights, such as birth registration, access to health, education, employment and housing;
  - (v) Provide human rights education and training to civil servants working in the areas of justice, civil service, immigration, customs, law enforcement and social services;
  - (vi) Provide guidance on appropriate conduct by law enforcement officials;
  - (vii) Put in place systems of data collection, monitoring and tracking law enforcement and police activities;

<sup>1</sup> The 28 Member States of the European Union, Japan, Switzerland, and Ukraine maintained their position that there are no substantive or procedural gaps in the Convention. In that regard, they referenced A/HRC/4/WG.3/6 and the opinions of some experts that have been expressed during the 10 sessions of the Committee, who argued that there were no substantive or procedural gaps in the Convention. Those participants consider that the Convention is a living instrument that can adapt to contemporary reality and that the only existing gap is in implementation of the Convention and that the focus should remain on reaching universal ratification of the Convention.

<sup>2</sup> The 57 States members of OIC, the Plurinational State of Bolivia, Cuba, the Russian Federation and the Bolivarian Republic of Venezuela referenced A/HRC/4/WG.3/6, in which it was mentioned that the root causes of racial abuse, discrimination and xenophobia were complex and manifested themselves in many contemporary forms such as Islamophobia, Christianophobia and anti-Semitism. They maintained their position that it was important that the proposed additional protocol criminalize all contemporary forms of discrimination, including discrimination and hatred based on religion or belief, as an extension of the term “racial discrimination”.

- (viii) Put in place mechanisms for the internal and external accountability of law enforcement personnel;
  - (ix) Ensure greater community involvement in the development of law enforcement policies and practices;
  - (x) Make improvements to the training and recruitment of law enforcement personnel;
  - (xi) Envisage setting up a data-collection system to better combat racist and xenophobic acts in accordance with national legislation, collected appropriately with the explicit consent of the victims, based on their self-identification and in accordance with provisions on human rights and fundamental freedoms, such as data protection regulations and privacy guarantees. That information cannot be misused.
- (h) The additional protocol shall call upon States to increase international cooperation, including harmonization of legal norms and regulations in the field of fighting racism;
- (i) The preamble will make reference to relevant existing frameworks that cover racist and xenophobic discrimination.

## Annex I

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

#### Protection of migrants against racist, discriminatory and xenophobic practices

1. At its 2nd meeting, on 8 April, the Committee considered the issue of the protection of migrants against racist, discriminatory and xenophobic practices. François Crépeau, Professor of Public International Law at the Faculty of Law of McGill University in Montreal, Canada and former United Nations Special Rapporteur on the Human Rights of Migrants gave a presentation on the topic.
2. In his presentation, François Crépeau argued that facilitating regular mobility, notably through long-term, sustainable and human rights-based mobility strategies and diversity policies, is the best way to ensure the human rights of all migrants. He explained that prohibiting means, such as anti-immigration policies and practices, not only fail to prevent cross-border mobility but also push many migrants in situations of precarious or absent administrative status where all discriminations and human rights violations are possible. He noted that, in contrast, States should seek to govern mobility, in order to legalize, regulate and tax mobility.
3. Mr. Crépeau discussed how the Global Compact for Safe, Orderly and Regular Migration (GCM), as well as the UN Agenda 2030, contribute towards achieving this objective. He noted that the GCM, which embraces the spirit of target 10.7 of the UN Agenda 2030, provides a remarkably coherent, if incomplete, conceptual roadmap for facilitating mobility and fostering diversity. He highlighted several specific objectives of the GMC, including objectives 5 and 7 by which States committed to ‘enhance availability and flexibility of pathways for regular migration’ and ‘to implement processes allowing undocumented migrants to regularize their situation. In this regard, he noted the importance of facilitating the movement of people who seek work and putting in place quick processes for obtaining work permits when a foreigner secures a work contract. He also stated that facilitating the regularization of undocumented status should become a major policy tool and that, in the long-term, the objective should be that most migrants are provided with travel documents.
4. He noted that the GCM recognizes that migrant children deserve protection as children, and that their migration status or that of their parents should never interfere with such protection. The GCM also recognizes that the principle of the ‘best interests of the child’ should always be a primary consideration and that the right to family unity and family life should be enforced.
5. He discussed objective 15 by which States committed to “ensure that all migrants, regardless of their migration status, can exercise their human rights through safe access to basic services” and objectives 16 and 18 that aim at facilitating the labour and social integration of migrants. He recalled that access to basic services for ‘all’ is key and that one important aspect for protecting such rights is the establishment of ‘firewalls’ between immigration enforcement and public services.
6. Mr. Crépeau also discussed objective 6 of the GCM by which States committed to facilitating “fair and ethical recruitment and safeguard conditions that ensure decent work.” On this subject matter, he regretted that the GCM does not mention the need for destination countries to reduce their underground labour markets, which act as a major pull factor for undocumented migration. He explained that the precariousness of the undocumented or temporary migrant worker condition is socially constructed through the interaction of their absent or precarious legal status and the lack of government enforcement of labour law against unscrupulous employers. As long as millions of employers across the world will offer jobs in exploitative working conditions without fear of being held accountable, smuggling rings will offer means to bypass migration controls, and several industry lobbies will continue defending the status quo. According to him, sustained political will to develop an economic,

social and political conversation on this issue over a generation will be required to implement effective reforms and transition those industries towards a non-exploitative economic model.

7. He noted that, unfortunately, mobility facilitation is not the direction that most destination countries are currently taking. In fact, a majority of their political leaders seem especially hostile to such a vision. The toxic nationalist, populist, prohibitionist discourse is dominant and risks remaining so for quite some time. He stressed the need to mobilise all forces to change the mindset towards migrants.

8. Mr. Crépeau concluded by stating that empowering people to defend their own rights is the only strategy that has ever worked for protecting human rights. Migrants need empowerment and this will only be possible when a regular administrative status will be available to them, as it will mean the elimination of the constant fear of being arbitrarily detected, detained and deported. He recommended increasing the possibilities for migrants to have their voice heard by, for example, facilitating the consultation of migrants every time the legislator discusses immigration or labour laws; facilitating the creation of migrants' associations and the unionisation of all migrant workers; facilitating access to justice for all migrants; ensuring effective labour inspections and audits; and ensuring that employers are not abusing their position of authority. Over the long term, he recommended redirecting the vast resources dedicated to preventing people from crossing the border, towards policies that will help migrants integrate and find or create jobs, and towards ensuring that local populations are not afraid of the newcomers.

9. During the interactive discussion, the Chairperson-Rapporteur asked Mr. Crépeau whether the GCM fills the gaps in the existing international protection framework and when anti-migrant attitudes and sentiments become racism and xenophobia. To the first question, Mr. Crépeau replied that the GCM lays the ground of what needs to be done for the next ten years. He explained that gaps in the protection of the rights of migrants are often the result of their precarious administrative status. Therefore, there is a need to facilitate access to legal documents in order to ensure better integration of migrants; to avoid disempowering migrants; to make sure that migrants are less vulnerable to abuses and exploitation, as well as to racism and xenophobia; to facilitate access to all basic services and respect of the human rights of migrants; to ensure better labour inspections; and to train police to protect migrants and their rights. To the second question, Mr. Crépeau replied that the distinction between anti-migrant attitudes and sentiments, on the one hand, and racism and xenophobia, on the other hand, must be established by court decisions. He noted that the doctrine on the subject matter is evolving.

10. The representative of Zimbabwe was interested to hear about the ways in which a change of mind-set regarding negative stereotypes against migrants can be achieved. Mr. Crépeau replied that there are already several initiatives, notably from non-governmental organisations, aiming at changing the mind-set towards migrants. However, this is a difficult task. In his view, what is missing in public debate today is the voice of the migrants themselves and, therefore, more efforts should be put on helping migrants to speak up for their rights.

11. The representative of South Africa requested the expert's perspective on whether there are gaps in the International Convention on the Elimination of all forms of Racial Discrimination concerning migrants and what complementary standards to put in place. In response, Mr. Crépeau noted the importance that all laws protecting workers and against discrimination are applicable to all, including migrants. He stated that the new instrument should draw the attention of existing institutions to the vulnerability of migrants and ensure that existing human rights and labour norms and standards are implemented for migrants.

12. The representative of Angola on behalf of the African group noted that negative stereotypes and perceptions against migrants continue to prevail and have consequences for the migrants themselves and their access to their rights. She noted the need to promote positive aspects of migrations, notably the role of migrants in development and economic prosperity. She inquired about the main measures to be taken to achieve this goal. In response, Mr. Crépeau indicated three main measures to be taken by States, namely to reduce precariousness of migrant; to ensure the implementation of labour standards for migrants, including by strengthening labour inspection and facilitating regularisation of foreign

workers; and to ensure non-discriminatory access to all services, including access to education and health services for migrants and members of their families regardless of their migrant status.

13. During the 3rd meeting on 9 April, the Committee met in small groups in an informal session to consider questions and issues relating to migration, protection gaps regarding migrants and asylum seekers, national mechanisms, stereotyping, non-citizens, the Migrant Workers Convention, Global Compact on Safe, Orderly and Regular Migration, and the role and impact of the ICERD in this regard.

14. At its 6th meeting on 10 April, the Ad Hoc Committee continued its consideration of agenda item 4 on the protection of migrants against racist, discriminatory and xenophobic practices. Ms. Ariadna Estevez, Professor and Advisor at the UNAM School of Social and Political Sciences, Mexico gave a presentation (via video link) on this topic.

15. Ms. Estevez noted that international migration was increasingly forced rather than voluntary. Migrants left their countries for economic, environmental, political or other reasons. The expert first described manifestations of racist, xenophobic and discriminatory practices directed against migrants in the region of Latin America. She explained why she thought it would be important that the Committee endorsed an Additional Protocol and thirdly, she explained why it seemed important that the Protocol focused on the phenomenon and the concept of xenophobia rather than on racism and racial discrimination.

16. In the first part of her presentation, the expert focused on the situation of Hondurans in Tijuana and then Venezuelans in Cúcuta, who have fled the violence and fear in their countries to encounter xenophobia abroad. She then argued that an additional Protocol could counteract the growing hegemony of fascist politics around the world, and addressing xenophobia was a way to reverse racism, xenophobia and discrimination against migrant men and women. She argued that current international legislation was not sufficient as could be seen in the racist legislation of the European Union on migrants. She noted that the EU's racist approach to migration and refugees was institutionalized by the Dublin III Regulation, which came into force in 2014 and is based on the Convention Dublin 1990, Regulation I and the Dublin II Regulation of 2003. Such racist perspective had also been globally reinforced by the Global Compact for Safe, Orderly and Regular Migration, and the Global Compact on Refugees, adopted in December 2018, the expert stated.

17. The purpose of these regional and international instruments was to prevent asylum seekers and migrants from reaching the West. Prosperous countries would only accept refugees and migrants through "legal" and limited means, such as family reunification, scholarships for students or humanitarian visas. An Additional Protocol could counteract measures such as those adopted by several Western countries to prevent migrants from entering.

18. In response to the presentation of Ms. Estevez, the representative of the Bolivarian Republic of Venezuela noted that Venezuela adhered to the CELAC agreement on migration and the Global Compact for Migration. The representative stated that his country did not accept what in his view were false and inaccurate versions of the facts which were disseminated about the country and that misinterpreted the movement of Venezuelans as resulting from a humanitarian crisis. He added that external humanitarian interventions in the country were contrary to international law, and were aimed destabilizing the country and political interference. He informed that Venezuela had enacted a "return to the homeland" programme that would enable Venezuelans who had left to voluntarily return to the country.

#### **Racism, in modern information and communication technologies (racial cybercrime)**

19. At its 4th meeting on 9 April, the Committee considered the issue of Racism, in modern information and communication technologies (racial cybercrime). Ms. Jesse Daniels, Professor of Sociology, Hunter College & Professor Africana Studies, The Graduate Center, CUNY, USA, and Mr. Ernest Chernukin, Chief of Section, Department for New Challenges and Threats, Ministry of Foreign Affairs, Russian Federation gave presentations on the topic.

20. In her presentation, Ms. Jesse Daniels illustrated how the rise of the popular Internet since the mid-1990s has facilitated the globally networked spread of white supremacy. The

confluence of global linkages facilitated by information and communication technologies means that true believers in white supremacy can connect a white identity across national boundaries. The recent massacre in Christchurch, New Zealand, for which the shooter drew inspiration from white extremist terrorism attacks in other parts of the world, illustrated how the connections between perpetrators of those attacks span continents and highlighted how the Internet and social media facilitate the spread of white supremacist ideology and violence.

21. Ms. Daniels further insisted on the importance of distinguishing between different dynamics in the spread of hateful ideology online, namely the dynamic of being inspired to violent action, the dynamic of being recruited into a social movement organization, and the dynamic of encountering white supremacist content online. Though it may not lead to violence, the latter dynamics encourages the mainstreaming of white supremacy into national politics. According to her, all three dynamics are equally concerning.

22. Ms. Daniels described two main transition phases in the spread of white supremacy rhetoric through the new information and communication technologies. First, the mid- and late-1990s were marked by the transition from the print-only era, characterised by the “one-to-many” paradigm of broadcast news and print media with its gatekeepers, to the early Internet, characterised by the “many-to-many” media paradigm without gatekeepers. Ms. Daniels observed that white supremacists had demonstrated a great ability at exploiting this paradigm shift to further their ideological goals. The early Internet era facilitated the global networking of white supremacists, but also eased the broadcasting and dissemination of their hateful rhetoric, notably through the development of what she called “cloaked sites,” i.e. websites that intentionally disguise authorship in order to conceal a political agenda.

23. She further explained that the second transition phase begun in 2008 with the emergence of social media platforms operating algorithmically. On each of these platforms, white supremacists have found opportunistic ways to exploit them to spread conspiracy theories and racist propaganda. By creating a reverberating feedback loop that systematically spreads white supremacy propaganda through social media, algorithms have become a key feature of the way racism spreads online. In addition, the social media platforms have made easier targeted abuse online by white supremacists. Because the platform puts the burden on the user who is being harassed to block people, it creates a differential cost to the victims relative to the perpetrators.

24. Ms. Daniels discussed the central role of US-based tech industry in facilitating the spread of the hateful ideology. There are currently five undisputed rulers of the ICT industry that are all based in the United States: Amazon, Apple, Facebook, Google/Alphabet and Microsoft. Grounded in Barlow’s “cyberlibertarianism,” the dominant view in this industrial sector is that freedom of speech is absolute. This echoes the prevailing view in the US towards white supremacy online. There is also a strong belief in colour-blindness, which is the belief that there is no racism operating in algorithms, platforms or tech companies. This shows a general lack of awareness about both the history and contemporary reality of racial inequality in the US in an industrial sector dominated by White men and in which the inequalities of race, class and gender that prevailed in the industry’s social context were reinscribed. She stressed that this industry exerts an outsized influence over the rest of the world and, therefore, the disregard on the part of the United States dramatically reduces the likelihood that nations who wish to regulate white supremacy online will be able to do so. She added that the United States also undermines international efforts by operating as a “safe heaven” for white supremacy online as well as primary creator of this content available globally.

25. She highlighted several features of the economics of the global spread of the Far Right. One important element is the “dark money” that refers to funds raised for the purpose of influencing elections by non-profit organizations that are not required to disclose the identities of their donors and, therefore, that are difficult to trace. Billionaires have allegedly used this avenue to fund the promotion of the far-right agenda. Some studies show that cryptocurrencies are being used by the alt right. Ms. Daniels also pointed out the influence of media conglomerates, as well as the hands-off approach of social media platforms as enabling factors in the spread of white supremacist rhetoric.

26. Ms. Daniels presented policy recommendations for concrete actions to be taken in five main areas: a) to specifically name white supremacy, a form of racial supremacism, as an

imminent threat to human life, dignity and rights as an additional iteration of article 9 of the on the Elimination of All Forms of Racial Discrimination of 1963; b) to establish a global database to document white supremacist violence in order to track white supremacist violence and advance our understanding of the scope of this problem; c) to create international regulation that holds tech companies accountable for contributing to the spread of white supremacy, including by imposing fines. To combat the spread of white supremacy online, we need regulation of tech companies that reaches beyond the borders of individual nation-states; d) to develop literacies of racism, antiracism and social justice for those working in the tech industry, to be able to recognize and impede with white supremacy online when they see it; e) to create de-radicalization protocols for those who have been exposed to white supremacist content and are vulnerable to its influence.

27. The Chairperson-Rapporteur asked Ms. Daniels what aspects of racial cybercrime can be effectively criminalized. He further inquired about the kind of regulations that could be adopted at international level and how effective these regulations would be.

28. The representative of European Union sought the expert's perspective regarding criticisms raised in some countries that new laws adopted to criminalize certain behaviours online may be used to close down human defenders' websites or to criminalize behaviours that are beyond the scope of the issues addressed by the Committee.

29. The representative of Morocco noted the importance of racial literacy and of having people of diverse background in the information and technology sector. He further emphasized the need to educate and to put forward the contributions of individuals from different ethnic groups and from different countries in the pursuit of scientific and cultural advancement. In this regard, he asked Ms. Daniels whether, in her view, education and putting forward the positive contributions of people from diverse background in the development of new technologies are effective tools to contain the development of white supremacy.

30. The representative of Angola raised concerns about the rapid spread of racial content online and the lack of effective measures to prevent it and inquired about what States must undertake to address collectively the spread of White Supremacist ideology online.

31. The representative of the African Union noted the peculiar nature of the cyberspace, which is a space that extends beyond national borders. Because of its specific nature, the regulation of the cyberspace requires the development of an international instrument that covers all acts, whether they are perpetrated. He further asked Ms. Daniels about what kind of responsibility Internet stakeholders, such as Internet providers, webmasters and software developers, should be liable.

32. In response to the questions posed by the Chairperson-Rapporteur, Ms. Daniels indicated that incitement to violence and language that may lead to genocide are elements that can be criminalized. Regarding the question of what regulations are most effective, especially at international level, she noted that technology companies appear to be more responsive to fines, than to other types of sanctions.

33. In response to the concerns raised about the use of legal provisions that aim at regulating online content against human rights activists, she explained that part of the vulnerability in these regulations comes from the fact that they define their object in generic terms rather than specifying the kind of racial superiority targeted. This is why she recommended specifically naming white supremacy, as a form of racial supremacism.

34. She agreed with the representative of Morocco regarding the importance of racial literacy, education and putting forward the contributions of other people and groups from different regions of the world, including people of African descent and others, in the development of new technologies. She also indicated that individuals who come from outside to work in the Silicon Valley represent the ideal audience for racial literacy.

35. In response to the concerns raised by the representative of Angola, she explained that she has been observing a shift in the discussion in recent years with increased attention given to the question of what are people's responsibilities and of what States and tech companies can do to address this issue at stack.



36. In response to the question posed by the representative of the African Union, Ms. Daniels stated that it is possible to have some international regulations that will be recognised in all countries. In this regard, she indicated that one of the main challenges is if a major player, like the United States that has a peculiar view on the right to freedom of speech as being an absolute right, does not take action within the international context. She added that Internet service providers and other stakeholders must be held accountable and that regulations like the European Unions' General Data Protection Regulation (GDPR) and other regulations are important for the way forward.

37. The representative of Angola on behalf of the African Group stated that the decentralised nature of the Internet must not be an excuse not to take action. On the contrary, freedom of expression has to be contained when it comes to the dissemination of violent content, incitement to hatred and xenophobia, which undermines human rights. It is by establishing the framework for fundamental freedoms that other rights can be respected. The dissemination of racist content must be subject to control and liabilities clearly defined. She added that the information and communication technology sector, including webmasters and platforms, should be on-board when it comes to combating racism online.

38. The representative of Burkina Faso supported the statement made by Angola on behalf of the African group and asked Ms. Daniels to explain what avenues could be pursued with a view to drafting complementary standards.

39. The representative of Gambia raised concerns about the difficulty to draw the line between freedom of expression and the need to ensure that incitement through language that is not appropriate in the digital space is subject to some control. He added that those defending the absolute right to freedom of expression should engaged in the discussion. He noted the need to strengthen national regulatory authorities and the importance of exerting continuous pressure and some form of control over the five major firms of the ICT sector who are based in Silicon Valley.

40. In response to the questions raised by the representatives of Burkina Faso, Ms. Daniel indicated that there is a large body of research on language that leads to genocide that could serve as a source of reference for drafting legal definitions of what needs to be criminalized in the view to develop complementary standards.

41. She agreed that the persons who are defending freedom of expression need to take part in the discussion on regulating racist content online. She added that, in recent years, the ICT industry has started to show more openness to regulations but claimed not to know how such regulations would work.

42. During the 4th meeting, the representative of the European Union made a statement on countering illegal hate speech online.

43. The representative of the European Union stated that the European Commission had over the past years worked intensively to ensure that the internet remains a free, safe and tolerant space where EU laws are enforced, in full respect of the right to freedom of expression. Significant efforts have been made in particular to counter the proliferation of illegal hate speech online, as defined by national laws implementing the Framework Decision on Racism and Xenophobia. A major flagship initiative led by the Commission in this area is the Code of Conduct on countering illegal hate speech online. In addition to progress in terms of removal of illegal hate speech, the Code of Conduct has fostered synergies between the IT companies, civil society and Member State authorities in the form of a structured process of mutual learning and exchanges of knowledge. The Code of Conduct also recognises the value of independent counter-narratives and support to educational programs fostering positive narratives. In the area of media policy and the digital single market, the revised Audiovisual Media Services Directive adopted in 2018 aligned its existing provisions on 'hate speech' with the relevant definition in the Framework Decision on Racism and Xenophobia while extending its remit to cover all the discriminatory grounds listed in Article 21 of the Charter and to cover 'video sharing platforms'. A set of operational measures to be taken by companies and Member States, was set out in the 2018 Recommendation on measures to tackle effectively illegal content online. Furthermore, a number of key actions were put forward and are being implemented with regard to media literacy and critical thinking.

44. Also at the 4th meeting Mr. Ernest Chernukhin, Chief of Section, Department for New Challenges and Threats of the Ministry of Foreign Affairs of the Russian Federation gave a presentation entitled “Countering the use of information and communication technologies for criminal purposes”. He noted that twenty years since the inclusion of the issue of information security into the global agenda, the issue of combating unlawful use of information and communications technologies (ICT), in terms of its scale and coverage, has become a real threat for both developing and developed countries. He emphasized the tendency to conflate terrorism and cyber-criminality and pointed out that social media, communication applications and other internet channels are actively used by terrorists for recruiting, fund raising and organisational coordination of terrorists attacks through the establishment of communication channels and real-time control of the actions carried out by terrorists or individuals.

45. In the coming years, cyberattacks and cybercrimes both on state and commercial networks will be organised with the assistance of robotics and smart attacking instruments according to Mr. Chernukhin. Both software and hardware will make it possible to scale up the level of attacks significantly. He underlined that in the absence of a genuine political legal discussion within the United Nations in the quest for a resolution of this problem, it has not been currently possible to work out a universal approach to combat this global phenomenon. He noted that this is something that works to the benefit of the cybercriminals, who have for some time felt to be impervious online.

46. Mr. Chernukhin stated that the Russian Federation believes that there is a need to strengthen the international cooperation and harmonize the national legislations of States in this sphere. He added that at the international level, the situation is complicated not only by the absence of the fully-fledged international legal basis, but also by the lack of a single conception framework. He underlined that even with the existing bilateral mechanisms of partnership it is not possible to say that there is a panacea for the problem of cybercrime. Since even with these bilateral agreements, States may refrain from providing the necessary information, citing specificities of national legislation in terms of cross border information exchange or simply by replying with a delay. It can also be the case that information exchange is not possible because of real technical reasons, for example, in case of expiry term of the IT data retention under the national law.

47. The Russian Federation together with a group of like-minded States favours the development of universal principles and standards which should be shared by all interested parties and which would establish the basis for effective and transparent international cooperation in combating this threat. Such an instrument could take the form of a United Nations convention on countering crime in information and communications technologies use, which would take into account the current situation, faced by all countries without exception and would be based on principles of sovereign equality of States, non-interference in the internal affairs of States and respect for human rights.

48. Mr. Chernukhin underlined that in this connection the Russian Federation considers it has made an intellectual contribution to these discussions by introducing the draft universal convention on cooperation in combating cybercrime on the 28 December 2017, which became an official document of the 72nd session of the United Nations General Assembly. The idea behind the preparation of the universal convention is also reflected in the outcome declaration of the 10th BRICS summit in Johannesburg on 25–27 July 2018. The five leaders underscored in particular the importance of international cooperation in combating the use of ICT for terrorist and criminal purposes and in consequences of this, once again affirmed the need for the preparation under the auspices of the United Nations of a universal legally binding regulatory document countering the use of information and communications technologies in criminal purposes. Mr. Chernukhin also reminded that at 73rd session of the United Nations General Assembly the project of the Russian Federation resolution A/RES/73/187 “Countering the use of information and communications technologies for criminal purposes” was approved by the majority of votes. He emphasized that the main idea of the document on the initial level is to start relevant wide political discussion within the United Nations General Assembly in New York on the issue of misuse of ICT. The resolution provides an inclusion of the issue “Countering the Use of Information and Communication

Technologies for Criminal Purposes” on the provisional agenda of its 74th session and requests the Secretary-General to present a report to the General Assembly at its 74th session.

49. In conclusion, Mr. Chernukhin stressed that publication and dissemination of extremist statements as well as holding racists or xenophobes flesh mobs, cross-border computer attacks on critical infrastructure can be used to heat up the situation in any county to the point of “social explosion”. He concluded that the ability to uphold human rights in the information sphere is being held hostage to the absence of universal international legal basis under the United Nations auspices. Such a globally reaching problem should be resolved by the whole international community under the auspices and leading discussion forum of the United Nations, where all States will be able to speak and to bring their proposals with the consideration to the sovereign rights and peculiarities of their legal systems. In this way, it would be possible to set up a reliable platform for discussion of the conceptual aspects of international cooperation in countering cybercrime on the basis of the world wide use of pre-existing specialised regional legal instruments as well as exchange of best practices in this sphere. Mr. Chernukhin expressed hope that all this will serve as a next step towards a world without cybercriminals.

50. During the interactive discussions, the representative of the Republic of the Gambia thanked Mr. Chernukhin for the presentation and pointed out few questions. Firstly he wanted to clarify how the figure of mentioned in the presentation forty millions of cybercriminals existing nowadays has been got, weather it is any specific criteria that was used to label them as cybercriminals and is there any segregated data on how these forty millions of cybercriminals are divided into categories. The delegate also noted that the Russian Federation is a member of the United Nations Security Council and wondered why the five permanent members could not lead on the issue of cybercrime, which is in such an importance. He clarified that he is talking not only about the crime committed but also about the various forms of crime in terms of reputation and in terms of inciting hate and developing another lay of racism, that as they thought had been denounced. The Chair-Rapporteur raised the question about the successful examples of combating terrorists and pulling down their websites, wondered how successful it was with the ISIL and weather this experience can be extended to other organisations and the cyberspace in general.

51. In response, Mr. Ernest Chernukhin noted that as to the figures, this is an information from independent professional organisations that adopt their professional statistics gathering approach. He continued that according to independent experts of Interpol and Europol the economic crimes are in the heart of all of cybercrimes, therefore the challenge faced before our law enforcements is to identify, arrest and retrain the cyberhooligans. Answering the second question Mr. Chernukhin expressed regret that the question of ICT security has never been included into the agenda of the United Nations Security Council and recommended to the representative of Gambia that his State could raise an issue of ICT security to be considered by the UN Security Council. He underlined that this is a topic that has a long deserved consideration as a standalone political issue. In his response to the Chairperson-Rapporteur Mr. Chernukhin emphasised that the terrorist organisation ISIL and other organisations operated on certain territories have raised this problem to the highest level. Terrorists themselves have found new ways of using internet for their own ends. He noted that terrorist cells are very effective in recruiting. Terrorists have started to encrypt their own networks, their own cells and therefore in countering terrorist activity the security services of many States have united and showed a good example of how to work. He concluded that, in view of the reports of security services, the trend is that we are unlikely to see any significant improvements soon however, an effective cooperation on this basis need to be achieved.

52. At its 5th meeting on 10 April, the Ad Hoc Committee continued its consideration of agenda item 5 on “Racism, in modern information and communication technologies (racial cybercrime).”, during which Ms. Seyi Akiwowo, Executive Director of the non-governmental organization, Glitch based in the United Kingdom presented on this topic.

53. Ms. Seyi Akiwowo, presented on Fix the Glitch – End Online Abuse. Ms. Akiwowo commenced by telling the Committee about her personal experiences relating to online abuse. She then told the Committee about her organisation “Fix the Glitch” and said that the organisation was built on three pillars: awareness, advocacy and action.

54. Ms. Akiwowo noted that Internet companies were often unaware of the nuances of racial and other discrimination. She stressed, that Fix the Glitch – End Online Abuse was mostly about finding solutions since online abuse was according to her definition, a glitch that did not allow the Internet to work properly. An important part of Glitch’s work was “digital resilience”. Glitch supported persons who had a public (online) presence and taught them how to stay safe online. Glitch’s vision was to make the online space safer for all.

55. Glitch campaigned for a stop of online abuse. The presenter noted that it had only recently been accepted by the public that online abuse had turned into a major problem threatening the Internet. However, tools to intervene in the case of abuse did not exist yet. International frameworks might be of use. Such frameworks should respect the freedom of expression. Self-regulation by Internet companies had in the past not been efficient. The more the Internet expanded – and that was a fantastic development, the presenter noted – the more important such tools would become.

56. Too few cases of abuse were going too court, Ms. Akiwowo said and presented examples. She also reported that the UK police had not the capacity to support her when she had faced online abuse, instead the police recommended her to stay offline for some time. The presenter said that her organisation supported the idea to educate young people on how to face online abuse and how to deal with the Internet. The presenter then told the Committee about the Fix the Glitch tool kit that had become popular among online users on a global level. Ms. Akiwowo introduced her organisation’s workshops that educated young people, in particular women, on the risks of the Internet and on how to overcome those. The workshop had to date been delivered to 50 participants and could be delivered in a Webinar.

57. Ms. Akiwowo showed the Committee statistics that showed the size of online abuse. She underlined that online hate groups worked in echo chambers that strengthened hateful messages. Much of the online activity that was hateful was, she noted, organised by groups. Past events had shown that those online activities have had a profound impact on real life. Past and recent terror attacks were gruesome reminders of that fact.

58. She then told the Committee about “dead naming” that targeted the trans-sexual community. Dead naming occurred when someone, intentionally or not, referred to a person who was transgender by the name they used before they transitioned. The practice could be seen in the context of extortion. In that practise parents, relatives and friends of LGTB people were being informed about their – not yet public – sexual orientation. Blackmailing based on sexual images was another major problem for many youth.

59. The presenter underlined that Committee had an important role to play, by drafting an intersectional international treaty that considered all forms of online discrimination and abuse in the context of cybercrime. The presenter said that it was very clear what constituted abuse and where freedom of expression began, freedom of expression should therefore not hinder the development of further work in that area. The Committee could also encourage investment in the area of education. Young people needed to learn about the concept of digital citizenship and on how to become “active bystanders”, who could intervene in the case of abuse. The Committee could also consider how to internationally enforce anti abuse regulation. She mentioned best practice examples from Austria and Australia on how such regulation could be implemented. She was in particular impressed by the e-security commissioner of Australia and recommended the replication of the Australian experience. Finally, the presenter underlined how important it was to empower civil society groups and other stakeholders that worked in the area of online abuse, so they could continue their work.

60. During the interactive discussions which followed, the representative of Ghana noted that the countries could use artificial intelligence to track abuse. Social media platforms needed to update their engagement and ensure that abusive material was taken down. International social media companies should also partner with countries and report online abusers to the respective authorities.

61. The representative of Ethiopia commended the presenter on her presentation and said that there was more online than offline abuse. Direct social interaction was regulated by “social norms and “disciplines” but the anonymity of the Internet disinhibited people. Consequently, abuse had increased. The challenge for African countries was the lack of control over the platforms and a problem of jurisdiction. Abusers were often located in other

jurisdictions. The dangers of suppressing freedom of speech or controlling the media were often misrepresented. An instrument that would discipline the platforms and social media would be useful. Those platforms were also lucrative businesses. Followers were key to the success of online personalities, abuse might be one of the factors that actually encouraged people to follow a person online.

62. The representative of Venezuela asked how abuse could be countered, if that abuse came via Internet “Bots.” Venezuela also welcomed Ethiopia’s statement on managing social networks, as the major problem of social networks was the fact that they were based outside the national jurisdiction.

63. Ms. Akiwowo agreed that “Bots” were a major problem. In particular, Bots run by foreign governments were problematic. Such foreign-run “Bots” had been used during the Black Lives Matters” campaign and the Brexit referendum, aiming at creating unrest and disagreement.

64. The representative of Niger noted that one of the most important issues when it came to online abuse was how to track it. Once cyber-crime could be tracked, such crimes could be dealt with as strict liability offences. Cybercrime was a question of security and should be dealt with as such Niger noted that the Australian experience of an official e-security Commissioner could be replicated by other countries. The delegate also encouraged the Committee to support a UN convention on cyber security.

65. The representative of the Russian Federation agreed with representatives of Ghana, Ethiopia and other delegations, as they had identified some issues that were at the core of the problem. The Russian Federation had already introduced legislation regarding the abuse of ICT in the 1990s. She underlined that due to the multi-ethnicity of the Russian population, hate crimes were treated seriously. Other countries, such as the UK or Germany had also passed legislation on online abuse. Internet self-regulation was however, not effective. The representative pointed to recent efforts to draft resolution A/C.1/73/L.27/Rev.1 on “Developments in the field of information and telecommunications in the context of international security” and referred in its para 1.5 to “the right to privacy in the digital age, to guarantee full respect for human rights, including the right to freedom of expression.” He noted that the resolution underlined “the importance of respect for human rights and fundamental freedoms in the use of ICTs.” As of September, discussions on the issue would be taken up again during the 74th General Assembly and in an open-ended working group acting on a consensus basis that would further develop the “rules, norms and principles of responsible behaviour of States.”

66. The representative of Gabon was concerned about the issue of online abuse, in particular by the fact that it was hard to identify the perpetrator of online abuse. Anonymity in the Internet was a major problem as it made it impossible to punish the perpetrator. The delegate asked how that problem could be resolved.

67. Ms. Akiwowo replied that for civil society groups in many countries anonymity was essential, as many individuals might not be able to speak up without the protection of anonymity. She was therefore critical of the idea to limit anonymity. However, she noted that there were many cases when the perpetrator was indeed known, but not brought to justice. That was the case when it came to the issue of foreign meddling in the Brexit referendum. The perpetrators were known, but no action had been taken to persecute them. Another example involved abuse by public figures. Those people were not reprimanded for their behaviour.

### **Comprehensive anti-discrimination legislation**

68. At the sixth meeting on 10 April, the Ad Hoc Committee began a consideration of agenda item 6, The Chair-Rapporteur explained that while many experts on this topic had been approached, it had not been possible to secure more than one expert to make presentations on the topic of comprehensive anti-discrimination legislation.

69. He invited delegations to volunteer to make presentations on comprehensive anti-discrimination legislation and relevant legislative frameworks in their respective countries. The representatives of Algeria, Cuba, India, Malaysia, Pakistan, South Africa, Venezuela

(Bolivarian Republic of), and the representatives of the African Group, European Union and the Organization of Islamic Cooperation (OIC) took the floor during this meeting.

70. The representative of Malaysia stated that racism, racial discrimination, xenophobia and related intolerance were on the rise in various parts of the world, and had been exacerbated by the rise of right-wing populism propagating xenophobic sentiment and hate crimes. History had shown that if those were not addressed in an urgent and holistic manner, they would lead to serious human rights violations. The international community needed to redouble efforts to fight racial discrimination xenophobia and related intolerance in all forms and manifestations. The work of the Ad Hoc Committee was pertinent and an important contribution to these efforts.

71. He added that Islamophobic acts were contemporary forms of racism and discrimination and they violated the internationally recognised human rights norms and standards. Legal and administrative measures which rendered defamation of religions illegal and punishable by law were required to curb Islamophobic acts. In this regard, Malaysia wished to underscore that the proposed additional protocol covers all contemporary forms of discrimination, including any discrimination based on religion or belief such as Islamophobia which currently represented the most prevalent form of discrimination on the basis of religion or belief.

72. In the context of sharing Malaysia's experience, the Government of Malaysia was developing a National Harmony Bill in 2019. The Harmony Bill, comprising three new Acts, would be the thrust in the Government's efforts to enhance and strengthen race relations among Malaysians. The new Acts were the Racial and Religious Hate Crimes Bill, the National Harmony and Reconciliation Bill, and the National Harmony and Reconciliation Commission Bill. In addition, education and reconciliatory dialogues were also being implemented to advance the values of moderation, tolerance and mutual respect. The Government had also established a National Committee for Promoting Understanding and Harmony to: strengthen bonds among the people of various religions; become a mediating body for issues raised among religious adherents; encourage all religious associations to respect as well as adhere to the Federal Constitution; and ensure the government is attentive to the voices of religious organisations.

73. He noted that Malaysia had also partnered with religious organisations, ministries, agencies and local universities to conduct interfaith dialogues at local, regional and international levels. Malaysia actively participated in UN-sponsored dialogues on faiths and cultures and would continue implementing policies and programmes to prevent racism, discrimination and religious bigotry in Malaysia.

74. The Bolivarian Republic of Venezuela noted that its constitution forbid all sorts of discrimination. The country had in addition a wide spectrum of legislation to protect its inhabitants from discrimination. The Revolutionary Government of the Bolivarian Republic of Venezuela had undertaken legal reforms to make those who were dispossessed or deprived of such rights for decades more visible. The Revolutionary Government through the Plan de la Patria 2019–2025, had presented a plan for the defence and protection of the historical and cultural heritage of Venezuelans. For that purpose, it was necessary to counter the production of cultural and historical narratives generated from the dominant neo-colonial perspective. Instead it was mandatory to develop liberation strategies and cultural emancipation with an emphasis on vulnerable social groups, such as Afro-descendants. Another plan in Venezuela was the Human Rights Plan 2016–2019, in which strategic guidelines were developed to advance the human rights of people of African descent, the creation of a National Institute against Racial Discrimination, and the National Plan against Racial Discrimination. Venezuela also had special laws against discrimination, with emphasis on the protection of vulnerable groups, such as the Law on Labour that prohibited any distinction, exclusion, preference or restriction in access and working conditions, based on reasons of race, religion and social origin, among others. Another example of legislation in Venezuela was the Law on Social Responsibility in Radio, Television and Electronic Media, that prohibited the dissemination of messages that incited or promoted hate and intolerance for religious reasons, political reasons, gender differences, racism or xenophobia, as well as any other form of discrimination. That Law provided for sanctions against TV, Radio and electronic media broadcasters. In November 2017, as a consequence of the political violence in the country,

the Sovereign National Constituent Assembly approved the Constitutional Law against Hate, for Peaceful Coexistence and Tolerance, that aimed to generate the necessary conditions to promote and guarantee the recognition of diversity, tolerance and reciprocal respect, as well as to prevent and eradicate all forms of hatred, contempt, harassment, discrimination and violence. The law prohibits propaganda and messages of intolerance and hate, including the responsibility for the dissemination of this type of messages through social networks that promoted war or incited national, racial, ethnic, religious, political, and social hate as well as ideological and gender discrimination.

75. Pakistan on behalf of the Organization of Islamic Cooperation stated that the OIC countries were multicultural and multi ethnic. The OIC had since 2011 been leading on the 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” at its implementation through the Istanbul process as a ways and means to address issues of religious intolerance around the world. The OIC considered it important to build a narrative with regard to racial discrimination against migrants and refugees in receiving societies and, thus, the importance for the Ad Hoc Committee to address the issue of hate speech, that could also take the form of xenophobic and Islamophobic speech. As the Secretary General of the OIC had been highlighting, Islamophobia was a contemporary manifestation of racism and combating Islamophobia as well as the vilification of religions and personalities sacred to religions was a matter of priority.

76. The European Union recalled the “Report on the study by the five experts on the content and scope of substantive gaps in the existing international instruments to combat racism, racial discrimination, xenophobia and related intolerance” A/HRC/4/WG.3/6 of 27 August 2007. The delegate drew the Committee’s attention to paragraph 34 of the report: “The DDPA identifies lack of political will, weak legislation and lack of implementation strategies and overall concrete action by States as the major obstacles to overcoming racial discrimination and achieving racial equality. The DDPA stresses unequivocally that the faithful implementation of human rights norms and obligations, including enactment of laws and political, social and economic policies are crucial in this regard. It is in light of the nature of these obstacles that States should be specifically required to adopt and implement anti-discrimination legislation and equality policies as a matter of highest priority and urgency.” The delegate further cited from the report, noting that the experts did not identify substantive gaps in ICERD. Replying to the statement made by Pakistan, the EU delegate noted that the European Union was delighted that the European Union had organised a stock taking exercise in the framework of the Istanbul process, as the European Union supported that process.

77. The representative of Ethiopia noted that Ethiopia’s constitution as well as a number of laws prohibited any discrimination based on any grounds. In addition, criminal law prohibited discrimination among the population, as well as the incitement of hatred and similar offences. Article 9/4 of the Constitution also clarified that even if there was no specific national legislation, all international law, such as ICERD, was automatically part of the national canon of law.

78. The representative of Algeria stated that the principles of equality and anti-discrimination were enshrined in Article 32 of the Constitution. The Constitution consequently ruled out any discrimination. In addition, the legal national framework, such as the criminal code ruled out discrimination. The criminal code was adapted in 2014 for that purpose. In addition Algeria promoted inclusion, equality and the acceptance of differences by education.

79. The representative of Pakistan stated that the country was promoting equal rights for all citizens. Several articles in the Constitution addressed discrimination and prohibited it on all grounds. The country’s population was diverse and the value of diversity was essential to the country. Pakistan had consistently condemned all forms of discrimination and promoted understanding among all sectors of the population.

80. The representative of India noted that the Constitution of India provided an overall framework to achieve equality of opportunity to all its citizens and persons alike. Articles 14, 15, 16 and 18 of the Constitution of India were the key provisions that guaranteed equality and non-discrimination For instance, Article 14 of the Constitution of India stated: “The State

shall not deny to any person equality before the law and equal protection of laws within the territory of India.” Article 15 (1) said, “The State shall not discriminate against any citizen on grounds of religion, race, sex, place of birth or any of them” Again Article 16 (1) stated, “There shall be equality of opportunity of all citizens in matters relating to employment of appointment to any office under the State”.

81. In the context of private sector employment, India had a comprehensive action plan that would address discrimination and harassment at the work place. The Indian judiciary had taken a pro-active approach to protect employees in the instances of discrimination and harassment by any employer At work places, most new-age employers comprehensively covered all general discrimination and harassment issues as part of their internal policies Specific laws were for example: Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 which was a notable statute that would ensure non-discrimination and protection of women from being harassed at the workplace.

82. Further, many private workplaces in India had already ensured as a matter of their internal policy, free and fair access to their employees having disabilities In a recent decision of the Indian judiciary, it had been noted that a company had the duty to treat all persons with disabilities with dignity and respect, and any discrimination against or harassment of such persons with disabilities shall result in a fine imposed on or other action being taken against the company.

83. He noted that India was one of the first countries that had signed and ratified the International Convention on the Elimination of All Forms of Racial Discrimination Having extensive Constitutional provisions and other legislations in place, India was fully committed to ensure the effective implementation of international obligations under ICERD The national legal and policy framework, therefore, aimed at achieving equality and non-discrimination was based on three pillars: (i) Expansion of the safety net; (ii) Positive duty of practising diversity in the society; and (iii) Remedial measures.

84. India also recognized the effectiveness of the Durban Declaration and Programme of Action It was a notable achievement by the international community aimed at developing international standards to strengthen and update international instruments against racism, racial discrimination and xenophobia in all its aspects. In fact, the Durban Declaration explicitly called upon States to design, implement and enforce effective measures to eliminate this phenomenon.

85. The representative of Cuba suggested that the Office of the High Commissioner for Human Rights should increase its support to anti-discrimination. The Cuban delegate than stated that the new Constitution that was adapted on 24 February 2019 held that all Cubans had equal rights without any distinction on any grounds. In a next step Cuba would adapt all existing laws to be coherent with the constitution.

86. The representative of South Africa stated that the country had enshrined non-discrimination and equality in its constitution. There were various acts that were enacted during the post-Apartheid era that built on the Constitution. “The Promotion of access to information” act, was one of those pieces of legislation. It provided that any citizen had access to information held by government. Another legislation regulated the promotion of administrative justice. South Africa had also enacted an act to promote equality and to prohibit unfair discrimination. Recently South Africa had elaborated a national action plan to combat racism racial discrimination xenophobia and related intolerance. Another new development was the enactment of a policy framework on combatting on and offline discrimination. Such framework should close all existing gaps in the national framework.

87. The representative of Angola on behalf of the African Group said that the thematic discussions should contribute to identifying complementary standards. The discussion could focus to a larger degree on xenophobia. The discussion on national developments should, among covering other issues, identify those situations where antiterrorist measures had increased racism. Further studies on the subject of racism, racial discrimination, xenophobia and related intolerance should apply an intersectional approach. Legislation, the delegate continued, was important when it came to incitement to hate and hate speech. Angola, the delegate noted on behalf of her delegation, would ratify the ICERD as during the 1960s Angola was still a colony and could not ratify it then.



88. At the seventh meeting on 11 April, the Ad Hoc Committee continued its consideration of agenda item 6. Mr. Alfred de Zayas, Human Rights Expert and Lecturer in international law at the Geneva School of Diplomacy, was invited to give a presentation on the topic of comprehensive anti-discrimination legislation.

89. Mr. de Zayas commenced by indicating that his presentation would focus on victims of racial discrimination, notably minorities and indigenous peoples. He stated that as a former United Nations Independent Expert on the promotion of a democratic and equitable international order, he regularly received information concerning the discrimination against indigenous populations in North and South America. He noted that he had also received information on killings and intimidation by para-militaries. In addition, he received documentation on the lack of investigation of crimes by governments and the prevailing impunity concerning land theft in certain countries. He stated that he had learned about a large number of cases of racial discrimination and killings of members of minorities and indigenous persons, primarily in connection with the defence of their ancestral lands against the extracting industries. Mr. de Zayas highlighted the systematic discrimination of indigenous peoples in several countries, and also noted that between the two world wars there was widespread discrimination against minorities in Europe. There was discrimination against minorities in many parts of the world. He noted that the issue of racial discrimination directed against minorities and indigenous people was linked to the right of self-determination. He stated that those victims suffered racial discrimination and deserved the same attention as other victims of gross violations of human rights, but they were left behind.

90. With regard to complementary standards, Mr. de Zayas noted his reservations about adopting complementary standards to the Convention on the Elimination of all Forms of Racial Discrimination, because by implication it would mean that the Convention did not cover those issues. In his view, a plan of action accompanied by the creation of mechanisms and procedures to implement the provisions of the existing Convention was more urgent.

91. Professor de Zayas also said that article 15 procedure should be used to advance indigenous claims. Petitions directed to CERD Committee should be transmitted to the General Assembly's Committee of 24, the Decolonization Committee, because indigenous peoples were denied effective remedies. Whereas refugees had their Convention as do migrants, indigenous only had a "Declaration on the rights of Indigenous peoples", that was only "soft law" largely ignored by States, while the land-grabbing, exploitation and systematic discrimination of indigenous peoples continued.

92. The representative of the non-governmental organization the Indigenous Peoples and Nations Coalition welcomed the presentation of Mr. de Zayas. He suggested that the Ad Hoc Committee could recommend that indigenous people should be allowed to transmit petitions. In his view, such a recommendation would be compatible with the mandate of the Ad Hoc Committee. The denial of justice to indigenous peoples in North and South America was based on the notion of superiority. He stated that many resolutions were adopted with a focus on other regions but earlier efforts to bring forward the issue had been blocked. He said that it was only the lack of political will and the fear of States that was blocking the Ad Hoc Committee from moving forward to make such a recommendation. The delegate asked the Committee to overcome those obstacles.

93. He also pointed out his organization's struggle to support a "decolonization" of Alaska, and asked about a United Nations body that would consider this cause. He mentioned this as proof of a gap in the current international legal framework that was linked to racism, as he believed that the colonialization of Alaska was based on racist beliefs.

94. The representative of India stated that neither the content of the presentation of Mr. de Zayas nor the following discussion complied with the Committee's mandate, and his invitation to make a presentation under item 6 on "Comprehensive anti-discrimination legislation." On migrants, the delegate noted, that each country had a different regime with respect to the treatment of migrants, the Global Compact was however ensuring that whatever the status of a migrant, human rights were applied.

95. Pakistan thanked Mr. Alfred de Zayas for his presentation mentioning specific country situations, as those cases were important issues that were of interest to the Ad Hoc

Committee. The representative of Palestine also thanked Professor de Zayas for his presentation and remarks.

96. Mr. de Zayas, replied to these interventions, noting his report to the General Assembly (A/69/272). He added that certain countries did not agree with the analysis, though in his view the legal analysis was correct and confirmed in a 2010 Advisory Opinion of the International Court of Justice.

## Annex II

### Programme of work – tenth session of the Ad Hoc Committee on the Elaboration of Complementary Standards (as adopted on 8 April 2019)

<i>1st week</i>				
<i>Monday 08.04</i>	<i>Tuesday 09.04</i>	<i>Wednesday 10.04</i>	<i>Thursday 11.04</i>	<i>Friday 12.04</i>
10:00 – 13:00  Item 1 Opening of the Session Mona Rishmawi, Chief, Rule of Law, Equality and Non-Discrimination Branch, OHCHR  Item 2 Election of the Chairperson  Item 3 Adoption of the Agenda and Programme of Work General statements	Item 4 Protection of migrants against racist, discriminatory and xenophobic practices	Item 5 continued Racism, in modern information and communication technologies (racial cybercrime)  Seyi Akiwowo, Glitch, United Kingdom	Item 6 Comprehensive anti-discrimination legislation  Alfred de Zayas, Human Rights Expert and Lecturer in International law at the Geneva School of Diplomacy	Item 8 General Assembly resolution 73/262 and Human Rights Council resolution 34/36 <sup>3</sup>

<sup>3</sup> ... negotiations on the draft additional protocol to the Convention criminalizing acts of a racist and xenophobic nature”.

<i>1st week</i>				
<i>Monday 08.04</i>	<i>Tuesday 09.04</i>	<i>Wednesday 10.04</i>	<i>Thursday 11.04</i>	<i>Friday 12.04</i>
Item 4	Item 5	Item 6	Item 7	Item 5 continued
Protection of migrants against racist, discriminatory and xenophobic practices	Racism, in modern information and communication technologies (racial cybercrime)	Comprehensive anti-discrimination legislation	General discussion and exchange of views on items 4, 5 and 6	General Assembly resolution 73/262 and Human Rights Council resolution 34/36
15:00–18:00 François Crepeau, Professor of Public International Law, Faculty of Law, McGill University, Canada and Former UN Special Rapporteur on the human rights of migrants (via videolink)	Jesse Daniels, Professor of Sociology, Hunter College & Professor Africana Studies, The Graduate Center, CUNY, USA;  Ernest Chernukin, Chief of Section, Department for New Challenges and Threats, Ministry of Foreign Affairs, Russian Federation	Rescheduled: Ariadna Estevez, Professor and Advisor at the UNAM School of Social and Political Sciences, Mexico (via videolink)		[National contexts and regional experiences]

<i>2nd week</i>				
<i>Monday 15.04</i>	<i>Tuesday 16.04</i>	<i>Wednesday 17.04</i>	<i>Thursday 18.04</i>	<i>Friday 19.04</i>
Item 8 continued	Item 9 continued	Item 10	Item 10 continued	UN holiday
General Assembly resolution 73/262 and HRC resolution 34/36	General discussion and exchange of views on item 8	General discussion and exchange of views	General discussion and exchange of views	
10:00–13:00 [National contexts and regional experiences]		–  Conclusions and recommendations of the session	–  Conclusions and recommendations of the session	

<i>2nd week</i>					
	<i>Monday 15.04</i>	<i>Tuesday 16.04</i>	<i>Wednesday 17.04</i>	<i>Thursday 18.04</i>	<i>Friday 19.04</i>
15:00–18:00	Item 9 General discussion and exchange of views on item 8	Item 9 continued General discussion and exchange of views on item 8	Item 10 continued General discussion and exchange of views — Conclusions and recommendations of the session	Item 11 Adoption of the conclusions and recommendations of the 10th session	UN holiday

## **Annex III**

### **List of attendance**

#### **Member States**

Afghanistan, Algeria, Angola, Azerbaijan, Bangladesh, Belgium, Bolivia (Plurinational State of), Botswana, Brazil, Burkina Faso, Burundi, Canada, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Djibouti, Egypt, Eswatini, Estonia, Ethiopia, Gabon, Gambia, Ghana, Greece, Guatemala, Haiti, India, Indonesia, Iraq, Italy, Japan, Jamaica, Jordan, Kenya, Kuwait, Libya, Lesotho, Luxembourg, Madagascar, Malaysia, Malta, Mexico, Montenegro, Morocco, Namibia, Nepal, Nigeria, Pakistan, Qatar, Romania, Russian Federation, Rwanda, Senegal, Sierra Leone, Singapore, Slovakia, South Africa, Spain, Sudan, Switzerland, Tunisia, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, Venezuela (Bolivarian Republic of), Zambia and Zimbabwe.

#### **Non-Member States represented by observers**

Holy See, Palestine.

#### **Intergovernmental Organizations**

African Union, Organization of Islamic Cooperation, European Union.

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

African Commission of Health and Human Rights Promoters, Indian Council of South America and the Indigenous Peoples and Nations Coalition, Association of World Citizens, International Human Rights Association of American Minorities (IHRAAM), International Youth and Student Movement for the United Nations (ISMUN).

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

Culture of Afro-Indigenous Solidarity, World against Racism Network (WARN).

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