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Intergovernmental Working Group on the
effective implementation of the Durban
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Information note by the Secretariat

**Update on the present work of the Intergovernmental Working Group
on the effective implementation of the Durban Declaration and
Programme of Action**

Introduction

1. This note is intended to provide some background information pertaining to the work accomplished to date by the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action and on its present work.

I. RECOMMENDATIONS WITH A VIEW TO THE EFFECTIVE IMPLEMENTATION OF THE DURBAN DECLARATION AND PROGRAMME OF ACTION

2. The Commission on Human Rights, in its resolution 2002/68, created the Intergovernmental Working Group to follow up on the implementation of the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in South Africa in 2001. The mandate of the Intergovernmental Working Group, as set out in the above resolution, is: “(a) To make recommendations with a view to the effective implementation of the Durban Declaration and Programme of Action”; and “(b) To prepare complementary international standards to strengthen and update international instruments against racism, racial discrimination, xenophobia and related intolerance in all their aspects”.

3. At its first session, held from 21 to 31 January 2003, the Intergovernmental Working Group decided to organize its work on a thematic basis. During its two-week annual sessions, it would examine various themes connected with racism, racial discrimination, xenophobia and related intolerance with a view to enhancing understanding and arriving at recommendations which, once implemented, would serve to better protect victims and potential victims from racism.

4. The second session of the Intergovernmental Working Group, held from 26 January to 6 February 2004, brought together experts as panellists to discuss the themes of education, poverty and complementary international standards. The third session took place from 11 to 22 October 2004 and discussed the themes of racism and health, racism and the Internet, and complementary international standards. The fourth session took place from 16 to 27 January 2006 and included a high-level seminar on racism and the Internet and on complementary international standards, and examined the theme of racism and globalization.

5. In its decision 3/103, the Human Rights Council requested that the Intergovernmental Working Group divide its fifth annual session in two parts. In the light of this decision, the Intergovernmental Working Group held the first part of its fifth session from 5 to 9 March 2007. During this part, it examined the role of national action plans in strengthening national programmes for eradicating racism and maximizing the benefits of diversity. It also held a preliminary exchange of views with the five experts selected to conduct the study on complementary international standards. During the second part of the fifth session, held from 3 to 7 September 2007, the Intergovernmental Working Group considered the study on complementary international standards prepared by the Committee on the Elimination of Racial Discrimination and the study by the five experts.

II. PREPARING COMPLEMENTARY INTERNATIONAL STANDARDS

6. The Intergovernmental Working Group has devoted an important part of its agenda to discussions on the following questions: (a) are there gaps in the legal framework for countering racism and xenophobia? (b) if so, how are they to be filled? Answers to these questions should contribute to strengthening, updating and, if needed, supplementing relevant international instruments.

7. At its fourth session (Geneva, 16-20 January 2006), the Intergovernmental Working Group “identified and/or considered” specific substantive and procedural gaps and recommended that, with regard to procedural gaps, the Committee on the Elimination of Racial Discrimination be requested to conduct a further study on possible measures to strengthen implementation through additional recommendations or to update its monitoring procedures. Regarding the substantive gaps, OHCHR was to select five highly qualified experts to study the content and scope of the substantive gaps in the existing international instruments to combat racism, racial discrimination, xenophobia and related intolerance.

8. In its resolution 1/5, the Human Rights Council requested the group of experts, in consultation with human rights treaty bodies, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and other relevant mandate-holders, to “produce a base document that contains concrete recommendations on the means or avenues to bridge these gaps, including but not limited to, the drafting of a new optional protocol to the International Convention on the Elimination of All Forms of Racial Discrimination or the adoption of new instruments such as conventions or declarations”.

A. The study by the five experts

9. Pursuant to the above resolution, OHCHR selected five experts to conduct the study. The experts held three meetings, and finalized their study, entitled “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). The study comprises three sections: a first section examining complementary international standards with regard to positive obligations of States parties; the second examining complementary international standards with regard to groups requiring special protection against racism, racial discrimination, xenophobia and related intolerance; and a third section, on complementary international standards with regard to manifestations of racism, racial discrimination, xenophobia and related intolerance.

B. The study by the Committee on the Elimination of Racial Discrimination

10. The “Study by the Committee on the Elimination of Racial Discrimination on possible measures to strengthen implementation through optional recommendations or the update of its monitoring procedures” (A/HRC/4/WG.3/7) is divided into two parts: a first part concerning current procedures and obstacles to the effectiveness of the monitoring role of the Committee; and the second relating to recommendations to States and proposals for increased effectiveness of the CERD monitoring procedures.

11. During the second part of the fifth session, following the presentation of each study, the Intergovernmental Working Group held an interactive dialogue on the contents of the studies and issued recommendations which were adopted by consensus (see A/HRC/6/10).

C. End of the mandate of the Intergovernmental Working Group to prepare complementary international standards

12. The fifth session of the Intergovernmental Working Group marked the conclusion and closure of the Working Group's debates and deliberations on the question of complementary standards, as the Human Rights Council in its decision 3/103 entrusted this task to the Ad Hoc Committee on the elaboration of complementary international standards.

13. In the same decision, the Council also decided "to request that the Ad Hoc Committee ... use all the documents presented to it as background material for commencing its process of elaborating complementary standards, and that one of its main priorities be to ensure that the draft instrument(s) is/are produced for negotiations".

14. During the first part of the sixth session of the Human Rights Council, on 25 September 2007, the Chair of the Intergovernmental Working Group transmitted the report of the five experts to the Ad Hoc Committee. In a letter dated 25 October 2007, the Chairperson of the Intergovernmental Working Group informed the Chairperson of the Human Rights Council of his resignation.

III. THE MANDATE OF THE INTERGOVERNMENTAL WORKING GROUP WITHIN THE CONTEXT OF THE DURBAN REVIEW CONFERENCE

15. The General Assembly, in its resolution 61/149, decided to convene in 2009 a review conference on the implementation of the Durban Declaration and Programme of Action to be conducted within the framework of the General Assembly, and, to this end, requested the Human Rights Council to undertake preparations for this event, making use of the three existing and ongoing follow-up mechanisms, and to formulate a concrete plan and provide updates and reports on this issue on an annual basis starting in 2007.

16. The Preparatory Committee for the Durban Review Conference held its organizational session in Geneva from 27 to 31 August 2007. The decisions adopted by the Preparatory Committee were endorsed by the General Assembly in its resolutions 62/143 of 18 December and 62/220 of 22 December 2007.

17. The Preparatory Committee agreed on issues pertaining to the modalities of the Durban Review Conference; contributions of human rights bodies and mechanisms to the Conference; and the review of reports, studies and other documentation prepared for the Preparatory Committee and the Durban Review Conference. In this regard, the Intergovernmental Working Group has been requested to contribute to the Durban Review Conference.

IV. PREPARATION OF THE SIXTH SESSION OF THE INTERGOVERNMENTAL WORKING GROUP

18. At the end of its fifth session of the Intergovernmental Working Group, on 7 September 2007, the Chairperson decided that he would hold consultations with the regional coordinators of States to organize the programme of work of the sixth session of the Working Group, while taking into consideration the role that the Intergovernmental Working Group is to play in the preparations for the Durban Review Conference.

19. Given that the Chairperson resigned immediately after the session of the Intergovernmental Working Group, the regional coordinators met three times, in the light of the facts that: (a) the Human Rights Council, in its decision 3/103, recommended that the fifth session of the Intergovernmental Working Group mark the conclusion and closure of its debates and deliberations on the question of complementary international standards; (b) the group does not have a chair to lead its work; and (c) it is expected to contribute to the Durban Review Conference.

20. During the consultations, the coordinators expressed various views as to the programme of work of the Intergovernmental Working Group for its sixth session. Opinions were shared as to the importance of coherence between the resolutions and decisions adopted by both the Preparatory Committee for the Durban Review Conference and the General Assembly regarding Durban follow-up and the Durban Review Conference.

21. Opinions were expressed about the need for the Intergovernmental Working Group to pursue the remaining aspect of its mandate, which is to make recommendations with a view to the effective implementation of the Durban Declaration and Programme of Action. The coordinators did not reach consensus as to the programme of work for its sixth session. It is expected that, during the session, the Intergovernmental Working Group will elect a Chairperson and that the programme of work will be discussed.
