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Agenda item 5

### **REPLIES TO THE QUESTIONNAIRE BY STATES OF LATIN AMERICA AND THE CARIBBEAN REGION**

#### **Note by the Secretariat**

In accordance with decision PC.1/10 adopted on 31 August 2007 by the Preparatory Committee of the Durban Review Conference at its organizational session, the Office of the United Nations High Commissioner for Human Rights circulated a questionnaire to Member States (see A/CONF.211/PC.2/2) through a note verbale dated 17 January 2008. The replies were to be no more than five pages and the deadline for receiving the replies from Governments was 29 February 2008. For the purposes of the Regional Conference for Latin America and the Caribbean Preparatory to the Durban Review Conference, this deadline was extended to 19 May for Member States from Latin America and the Caribbean.

As of 19 May 2008, the Office of the High Commissioner for Human Rights had received replies from nine States from Latin America and the Caribbean: Brazil, Chile, Colombia, Guatemala, Ecuador, Mexico, Panama, Uruguay and Venezuela.

In compliance with a request of the Government of Brazil, host of the Regional Conference for Latin America and the Caribbean Preparatory to the Durban Review

Conference, the Secretariat prepared the present document, containing summaries of the replies received.

Due to the page limits, the summary of each reply to the questionnaire is approximately 400 words. The replies received took various forms. Some answered only the core questions, others answered only the questions contained within the annex, some answered both the core questions and the annex, while others did not follow the structure of the questionnaire. Where the core questions were answered, the number of each question is included. In those cases where the questions in the annex were answered, this is indicated in the summary. In those cases where both the core questions and the annex questions were answered, this is mentioned; but on account of the page limits, the summary concentrated on the core questions. The summaries also attempt to focus on legislative and other initiatives that occurred after the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the avoid discussing solely constitutional protections, To the extent possible, the summaries reproduce the language used in the replies to the questionnaire.

**REPLIES TO THE QUESTIONNAIRE REPLIES FROM STATES OF LATIN  
AMERICA AND THE CARIBBEAN REGION**

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**Brazil**

**Question 1:** In 2003, the Special Secretariat for the Promotion of Racial Equality Policies (SEPPIR) and the National Council for the Promotion of Racial Equality (CNPIR) were created and the National Policy for the Promotion of Racial Equality was adopted. SEPPIR is a body that directly assists the Presidency of the Republic in the formulation, planning and coordination of policies and parameters related to the promotion and the protection of the rights of racial and ethnic groups subject to discrimination, stressing the black population. SEPPIR is also in charge of the implementation and coordination of the National Policy for the Promotion of Racial Equality – PNPIR.

**Question 2:** Among contemporary forms of racism, special attention must be given to the diffusion of discriminatory messages through new media, particularly the Internet. Brazil's response goes on to cite several examples of racism on the Internet.

**Question 3:** Brazil has several pieces of legislation that include measures against racist acts. These are the Constitution, the Torture Law, the Law of Qualified Injury for Prejudice, the Anti-discrimination Law and the Law on Afro-Brazilian and Indigenous History Education. The Brazilian State was the flagship in the organization of the Regional Conference of the Americas on Developments and Challenges for the Action Plan against Racism, Racial Discrimination, Xenophobia, and All Forms of Discrimination and Intolerance, as well as the Second Conference of Intellectuals from Africa and the Diaspora, both held in Brazil in July 2006.

**Question 4:** The international human rights protection system has not succeeded in establishing adequate protective parameters to face the new forms of racism and racial hate. The Brazilian State supports the extension of the international protection against discrimination to the other vulnerable groups. The Brazilian State considers relevant the enhancing of discussions related to traditional communities, such as the remaining *quilombos* and aborigines. Promotion strategies able to encourage the insertion and inclusion of socially vulnerable groups in the social world are essential.

**Question 5:**

Brazil signed the International Convention on the Elimination of All Forms of Racial Discrimination on 7 March 1966, and ratified it on 27 March 1968.

**Question 6:**

The response by Brazil notes its Programme for Quilombola Remainder Communities, its programmes pertaining to health, education, and development, labour and income generation, as well as the Tripartite Commission of Equal Opportunities, the National Qualification Plan and its Gender and Race Programme.

## Chile

**Question 1:** In December 2000, Chile hosted the Regional Conference of the Americas, in preparation for the World Conference against Racism, to be held in September 2001 in Durban. Pursuant to the 2006-2010 government programme, the “Tolerance and No Discrimination Programme”, which was placed under the Ministry General-Secretariat

General of the Government, has acquired more relevance and has been transformed into the Department of Diversity and Non-Discrimination. The Division of Social Organizations of the above-mentioned Ministry created a plan of action with the following components: (a) a plan of action against racism; (b) the promotion of civil initiatives; and (c) the spreading of initiatives on tolerance and no discrimination.

In 2004, the first national study on disability was carried out in Chile by the National Fund on Disability and the National Institute of Statistics. There is also currently a draft bill on disability before the Chilean Congress and there is a new policy that recognizes the multicultural diversity in the country. This policy is the most important political instrument based on the Durban Conference. There is also a new programme entitled “origins” concerning the regularization of lands, scholarship, health and cultural programmes. In addition to this, a pilot project related to the health of the transgender population has been launched. There are also efforts being made by the Chile Solidarity Programme to reduce poverty in the country.

**Question 2:** The Government of Chile stated that several studies had concluded that discrimination and intolerance were embedded in the core of the national culture, and operated unconsciously with stereotypes, prejudices and beliefs. Research results confirmed that the main root of discrimination was poverty and, as a result, public policies have focused on the eradication of poverty and social exclusion.

**Question 3:** In relation to the situation of indigenous peoples in Chile, a new policy (titled Re-Conocer: Pacto Social por la Multiculturalidad, or “Recognize: social pact for multiculturalism”) has been launched. This policy includes, inter alia, a plan of action which covers the following areas: (a) the political system, rights and institutions; (b) the integral development of peoples; and (c) multiculturalism, identities and diversity.

**Question 4:** Not applicable.

**Question 5:** In 2008, the Government of Chile will submit its 15th, 16th, 17th and 18th periodic reports to the Committee on the Elimination of Racial Discrimination for the period 2000-2007.

**Question 6:** Currently, there are several initiatives to combat racial discrimination. For instance, there is a draft bill against any form or manifestation of discrimination currently before the Senate (which has been approved by the House of Representatives). Also, the inter-ministerial network and the multicultural citizen network, in the framework of Tolerance and Non-Discrimination Programme are important national initiatives.

## Colombia

**Question 1:** Colombia actively supported the Durban Conference and its Plan of Action, which is an important reference for public policies.

**Question 2:**

Racism and racial discrimination derives from the cultural process of colonialism and has no support in any legal instrument or agency. Xenophobia is not an issue. Ethnic minorities are usually the most affected by poverty and other minorities recognized and assisted are people affected by HIV-AIDS, internally displaced persons (IDPs), persons with disabilities and lesbian, gay, transgender and bisexual persons (LGTBs).

**Question 3:** The Constitution establishes the right to formal and material equality and prohibits all discriminatory practices. The Penal Code and Law 1010 on Labour Harassment include anti-discriminatory provisions. The Quota Law assures the participation of women in public life and that of indigenous and Afro-Colombians is supported through measures, such as the Consulta Previa (Prior Consultation). The last three National Plans of Development have integrated the ethnic minorities and the national census of 2005, including a variable on ethnicity, has supported an anti-discriminatory policy. The Government has developed a set of special strategies towards Afro-Colombians of the Pacific region, and it has introduced a differential approach in its policies for IDPs (women and children) and in the Integral Policy of Human Rights and International Humanitarian Law of the Ministry of Defence (vulnerable persons). The Programme to Protect Victims includes an ethnic approach and several positive measures have been developed for the provision of social benefits (housing, health, education,

culture), promoting the patrimony of indigenous peoples. Several other projects within different ministries also address discrimination.

**Question 4:** Colombia strongly supports the various United Nations mechanisms on the issue and it also strongly supported the candidacy of a national expert to become a member of the Committee on the Elimination of Racial Discrimination. In the conferences held in Brazil, Colombia recognized a broad agenda against discrimination, including discrimination based on race, but also on inter alia gender, disability, sexual orientation, religion, migration and displacement. Regionally, several mechanisms were created to fight against racism and racial discrimination.

**Question 5:** Colombia ratified the International Convention on the Elimination of All Forms of Racial Discrimination in 1981. Its resolutions have constitutional status. In 2008 Colombia submitted a report to the Committee.

**Question 6:**

Pursuant to the Constitution of 1991, actions against racism and racial discrimination seek consensus, dialogue and agreement. To that end, Colombia created a High Level Consultative Commission; the National Pedagogic Commission, with its department commissions; community councils at the local level and the inter-institutional commission to advance Afro-Colombian peoples' issues.

## **Guatemala**

**Question 1:** While no mechanism is in place to follow-up on the World Conference against Racism, the Presidential Commission on Racial Discrimination (CODISRA) is conducting a study in 2008 to propose such a mechanism.

**Question 2:** CODISRA is also in 2008 elaborating the 12th report of Guatemala to the Committee on the Elimination of Racial Discrimination and following up on the Durban Declaration and Plan of Action, in close consultation with other State entities.

**Question 3:**

Several measures have been taken to combat racism and racial discrimination, among them:

- Promoting in Congress a legislative review towards abolishing laws or dispositions with discriminatory implications for indigenous peoples
- Creating judicial offices for the defence of indigenous rights providing free legal aid in the municipalities with greatest number of indigenous communities
- Establishment of a Public Policy on Tolerance and the Elimination of Racism and Racial Discrimination
- Classification of discrimination as a crime in the Penal Code
- The promulgation of a Law on Mayan Languages, and a law to recognize the right to use regional clothing in school
- The establishment of the CODISRA, which formulates public policy to eradicate racism and racial discrimination, as well as the Fund for Indigenous Development (FODIGUA), which supports social and economic development of indigenous communities
- The creation of a Commission of Indigenous Communities in Congress, and the creation of a National Commission on Reparations to carry out a compensation programme for victims of the 36-year internal armed conflict
- The creation of a Department on Indigenous Communities within the Ministry of Labour to oversee implementation of ILO Covenant 169, as well as an Indigenous Peoples Unit in the Ministry of Environment, to advise the Minister on environmental issues which affect indigenous communities
- The creation of a specialized Ombudsman for Indigenous Peoples within the national human rights institution, as well as the creation of the Academy for Mayan Languages (ALMG), which ensures application of the Law on Mayan languages, and promotes its use through a television channel.

**Question 4:** Guatemala has strengthened national institutions, ratified international instruments, established solid legal and electoral systems, promoted knowledge of human rights by indigenous peoples, and opened space for civil society to contribute to public policy, all of which contributed to promote greater tolerance and combat racism and racial discrimination. But progress still needs to be made as the phenomenon evolves. The Government highlights positive mechanisms in place in the judicial system to ensure equal



treatment before the law, and its commitment to follow recommendations made by the United Nations to Guatemala to eradicate racism and racial discrimination.

**Question 5:** Guatemala ratified the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in 1983, and is considering recommendations made by special procedures and treaty bodies in the preparation of its 12th report.

**Question 6:**

The Public Policy for Tolerance and the Elimination of Racism involves all State institutions, in six areas: (a) social and economic; (b) political and judicial; (c) cultural; (d) civic education; (e) equality and access to State services, and (f) the environment. CODISRA is launching a National Campaign against Racism and Racial Discrimination, along with workshops to sensitize the public on the issue.

### **Ecuador**

**Question 1:** A systematic programme for the application of the Durban Declaration has not yet been implemented in Ecuador. However, through the Corporación de Desarrollo Afroecuatoriano (CODAE, or Afro-Ecuadorian Development Corporation) and the Ministry of Foreign Affairs, Ecuador participated in the Regional Conference of the Americas concerning the Advances and Challenges of the Programme of Action against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Brazil on 26 and 27 July 2006.

In 2004, the Government began a national survey concerning the perceptions concerning racism and discrimination in Ecuador.

**Question 2:** The National Constituent Assembly is currently in negotiations relating to the incorporation of norms that advance and guarantee the most comprehensive application of collective rights of indigenous persons and Afro-Ecuadorians.

**Question 3:** In 2003, as part of the National Plan for Human Rights in Ecuador, the Operative Plan of Human Rights for Indigenous Communities and Afro-Ecuadorians was implemented.

Principles of non-discrimination and collective rights are enshrined within the Constitution of Ecuador. Article 1 of the Constitution clearly states that it is a multicultural nation. Articles 16 and 17 affirm that the State has the greatest responsibility to respect and ensure that human rights are guaranteed to all of its inhabitants (particularly, the collective rights of the Afro-Ecuadorians and Indigenous persons). Articles 23, 83, 84, 85 and 237 further recognize and affirm principles of non-discrimination and collective rights. The legislature declared a national day for the Afro-Ecuadorian communities and there is also a specific law relating to the collective rights for the Afro-Ecuadorian communities.

In 1998, the National Directorate for Intercultural Bilingual Education was established within the Ministry of Education and Culture, with particular emphasis on indigenous communities. In the same year, the Government also created the Council for the Development of the Indigenous Peoples and Nationalities of Ecuador.

**Question 4:**

The Government periodically reports on relevant information to the Committee on the Elimination of Racial Discrimination. Since 2006, Ecuador has established a dialogue with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

**Question 5:**

Ecuador has ratified the International Convention on the Elimination of All Forms of Racial Discrimination.

**Question 6:** Ecuador has also committed itself, within the National Plan for Social Development and Productivity, to make Afro-Ecuadorian communities a priority in the political agenda.

**Question 1:**

On 14 April 2001, a constitutional reform modified article 1 of the Constitution of Mexico, with the overall aim of prohibiting any form of discrimination on any grounds. The National Council for the Prevention of Discrimination elaborated the National Programme for the Prevention and Elimination of Discrimination. In June 2006, a Law on the Administration of Indigenous Justice was introduced which recognizes the complete judicial validity of the resolutions of the indigenous persons.

**Question 2:**

On 11 June 2003, a law was introduced for the prevention and elimination of discrimination. As a consequence of this law, the National Council for the Prevention of Discrimination was created. In 2001, a law relating to the National Commission for the development of Indigenous Communities was introduced. In addition to this, the General Law on the Linguistic Rights of Indigenous Communities was introduced in 2003. This law then led to the creation of the National Institute of Indigenous Languages.

**Question 4:** The National Commission of Human Rights has the capacity to receive complaints concerning human rights violations and investigate alleged human rights violations.

**Question 5:**

The Government of Mexico is committed to its National Development Plan (2007-2012).

**Question 6:**

The Secretary for Social Development coordinates and organizes programmes to combat poverty and marginalization. On 26 February 2008, the Secretary for Employment introduced the Technical Committee for National Equality, Opportunities and Labour Inclusion.

Regarding the questions included in the annex, the Government of Mexico replied to several questions.

**Question 9:**

In March 2006, a law was approved for the protection of migrants and their families and the protection of migrants and their families was reinforced. There is also a law relating specifically to equality between the sexes and a law governing access to women to a life free of violence. An intensive programme was implemented (from 2001 to May 2007) to educate civil servants and professionals in the specific area of human rights.

**Question 14:**

Mexico is a party to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as well as to the Convention on the Elimination of All Forms of Racial Discrimination.

**Question 25:**

Mexico has ratified the Convention relating to the Status of Refugees (1951) and the Protocol relating to the Status of Refugees of 31 January (1967) in June 2002. In addition to this, the Mexican Commission to Assist Refugees has been established.

**Question 28:** On 28 November 2007, a national law for the prevention and sanction for the treatment of persons was introduced. The law, inter alia, establishes mechanisms to protect Mexican citizens in foreign countries (art. 16).

## **Panama**

**Question 2:** In Panama there are no open forms for racism. However, there are hidden forms of racial discrimination such as admission being limited to private secondary schools, bars, restaurants and discos on the basis of colour. The Government established clear norms to eliminate these practices. There have been demonstrations of xenophobia against migrants, such as Dominicans and Colombians.

**Question 3:** Racial discrimination is not a problem in the country. To counter xenophobia, the State is taking into account the indications of United Nations bodies on migrant issues.

**Question 4:** The Government believes that its mechanisms against racism, xenophobia and other forms of intolerance are efficient and humane.

**Question 5:**

As discrimination is not an official State policy, there are no government practices supporting racial discrimination.

**Question 6:**

Executive decree No. 124 of 27 May 2005 creates the Special Commission for the establishment of a governmental policy for the full inclusion of the Afro-Panamanian ethnic group. In addition, as requested by the political group Platform of the Afro-Panamanians, article 9 of the Electoral Code was modified in order to allow those deprived of liberty to vote.

With reference to measures adopted by Panama to prohibit racial discrimination, the reply highlights the fact that all the various rights are guaranteed without limitations because of racial discrimination and that there are no laws supporting this.

A directorate of Indigenous Policies was established many years ago. The Government established recently the National Council of the African Descendent Ethnic Group.

Women are affected mainly by economic discrimination.

There are no statistics related to racial discrimination. The Government also actively promotes non-discrimination through its practice, as demonstrated by the number of Afro-descendent ministers, ambassadors and consuls. People of African descent have long been participating in the political, economic, social and cultural life of Panama. Possible exclusions are due to economic factors and limited access to public wealth, rather than to racial factors. The Government is planning to adopt the Plan presented by the National Council of the African Descendent Ethnic Group.

Regarding indigenous peoples, the Government has carried out policies to put an end to discriminatory practices against them. Indigenous laws are used in indigenous areas, if they do not affect the national integrity. State laws are agreed on with the various ethnic groups through a consensus process.

Regarding migrants, the laws conform to United Nations standards and norms.

Regarding refugees, asylum-seekers and displaced persons, anti-Semitism and anti-Arabism is not a practice in Panama and these two communities include the main investors in the country.

## Uruguay

**Question 1:** The Government of Uruguay notes the creation of the Human Rights Directorate within the Ministry of Education and Culture, the mission of which is to promote compliance with and respect for human rights. Within the directorate there is a body that coordinates and promotes public policies for affirmative action with regard to people of African descent at the national, departmental and regional levels. In 2004, Uruguay approved a law against racism, xenophobia and all forms of intolerance and created the Honorary Commission Against Racism, Xenophobia and All Forms of Discrimination, constituted of State representatives and civil society. The Commission proposes national policies and concrete measures to prevent and combat racism, xenophobia and discrimination.

**Question 2:** Discrimination in Uruguay manifests itself in inferior incomes and levels of education. Statistical evidence shows that education levels of Afro-descendants are lower than those of the white population. Uruguay's Equity Plan will attempt to address this imbalance. As regards employment, Afro-descendants are more commonly found performing unskilled labour.

**Question 3:** The response indicates that Uruguay has created several mechanisms and policies designed to address discrimination against vulnerable sectors of society, particularly against Afro-descendants. These include specific initiatives to address the situation of Afro-descendent women and young people.

### **Question 4**

The Government of Uruguay considers that the current Durban follow-up mechanisms are insufficient and that there is a need for affirmative action, particularly in the realms of

education and employment. Scholarships should be created at all levels of education for the economically disadvantaged. Also, education should promote human rights and include in the curriculum the history of slavery of Afro-descendants forebears.

**Question 5:**

The Government of Uruguay states in its response that it ratified the International Convention on the Elimination of All Forms of Racial Discrimination in 1968 and that discrimination is criminalized in the Criminal Code. In compliance with recommendations made by the Committee on the Elimination of Racial Discrimination in 1999, the Government disaggregated information on Afro-descendants in its household survey.

**Question 6:**

The Government mentioned several initiatives to combat racial discrimination such as programmes to access education for disadvantaged sectors of society, official recognition of Afro-descendent women achievers and the participation of Montevideo in the Coalition of Cities Against Racism.

## **Venezuela**

1. In answer to the questions contained within the annex to the questionnaire, the V Government of Venezuela made reference to domestic legislation that protects human rights, particularly the Constitution; it gives pre-eminence within the national legal framework to international human rights treaties ratified by Venezuela. It also pointed out that the Constitution, in its article 19, guarantees the respect of human rights for all persons. The Defensoría del Pueblo is mentioned as the State body charged with defending human rights, and Venezuela's response describes the various functions attributed to this body to carry out its mandate. The rights to non-discrimination and equality are mentioned as important elements of the Defensoría's mandate.

2. The reply makes reference to several programmes and projects related to health issues, particularly those directed at addressing the needs of the most vulnerable sectors of society. Mention is made of the Presidential commission against discrimination that was

created in 2003 and a proposal to create a law against racial discrimination. Also, reference was made to broad policy lines designed to generate social inclusion and which foster non-discrimination and specific missions designed to benefit more vulnerable sectors of society, including victims of discrimination.

3. As regards the participation without discrimination of women in society, the response points to an ample participation of women in posts of significant responsibility in government and the State, and outlines the work and mandate of institutions charged with advancing the participation of women, as well as laws formulated with the same end. Similar measures have been adopted as regards Afro-descendants and the indigenous population.

4. Statistical information on Afro-descendants is gathered and analysed by a Sub-Committee of the National Statistical Committee formed for the purpose in August 2007. Information on racism and programmes to combat this phenomenon in accessing education are organized by the Presidential Commission for the Prevention and Elimination of all forms of Racial Discrimination and other distinctions in the education system. The response indicates that human rights training has been provided to several key branches of the civil service since 2000.

5. Social organizations work collaboratively with the State in confronting inequalities, discrimination and diverse forms of intolerance. In keeping with this, the State created an office for relations with indigenous communities and an office for relations with Afro-descendent communities. Through these offices, the State maintains a permanent dialogue with these groups. Also, the State is currently implementing four projects directed at people of African decent with the collaboration of UNICEF and the office for relations with Afro-descendent communities.

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