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Working Group to Prepare a Draft Inter-American
Convention against Racism and All Forms of
Discrimination and Intolerance

METHODOLOGY SUGGESTIONS OF MEMBER STATES
ON THE DRAFT INTER-AMERICAN CONVENTION
AGAINST RACISM AND ALL FORMS OF DISCRIMINATION AND INTOLERANCE

(Brazil)

Permanent Mission of Brazil
to the Organization of American States

No. 407

The Permanent Mission of Brazil to the Organization of American States (OAS) presents its compliments to the Chair of the Working Group to Prepare a Draft Inter-American Convention against Racism and All Forms of Discrimination and Intolerance of the Committee on Juridical and Political Affairs (CAJP) of the Organization of American States, and has the honor of submitting the following comments of the Brazilian Government on the negotiation process for the Convention.

Brazil supports the proposal of Antigua and Barbuda, which provides for the negotiation of a convention against racism and racial discrimination, as well as of one or more additional protocols on other forms of discrimination. The Brazilian Government considers it necessary for the protocols to be negotiated in parallel and for one of the protocols to address discrimination on the basis of sexual orientation and gender expression.

The proposal of the delegation of Antigua and Barbuda to divide the draft convention into more than one instrument should facilitate the negotiations and make them more flexible. The proposed methodology would help to allay the concerns of delegations that fear that the text of the convention runs contrary to specific aspects of their domestic laws. It could also take into account concerns of experts, such as Ariel Dulitzsky who, in his presentation to the Working Group in January 2009, pointed out the difficulty of according the same treatment to phenomena that have disparate causes and scope as well as dissimilar remedies. Separate instruments would, in fact, make it possible for different forms of discrimination to be treated in a distinct manner appropriate to each case.

The proposal of Antigua and Barbuda could help to broaden the sphere of protection provided in the International Convention on Elimination of All Forms of Racial Discrimination (ICERD) adopted by the United Nations in 1968, given that several countries in the Hemisphere already have laws and policies in place that grant greater protection than that afforded in the ICERD. An inter-American instrument could, in that context, encompass questions such as discrimination in the private sphere and multiple or aggravated forms of discrimination, which are not recognized in the ICERD. Another positive aspect of the proposal advanced by Antigua and Barbuda has to do with the possibility of widening the range of instruments that the Inter-American Commission on Human Rights could apply in tackling discrimination, thereby serving the needs of vulnerable segments of the population in Brazil and the region, such as LGBTs, the elderly, persons with disabilities, indigenous peoples, and migrants, who are still without any specific instrument of protection.

In Brazil, the specific laws and policies adopted against discrimination, such as the Racial Equality Statute and the National Plan for the Promotion of Racial Equality (PLANAPIR), originated from instruments such as the ICERD and the Durban Declaration and Plan of Action. The adoption of regional instruments, under the terms proposed by Antigua and Barbuda, which broaden the

applicable legal framework on discrimination could serve to stimulate the adoption of new laws and policies at the national level.

At the 18th Meeting of Competent High Authorities on Human Rights and Foreign Ministries of MERCOSUR and Associated States (RAADH) held in Brasilia from October 18 to 20, the Brazilian delegation declared its support for the proposal of Antigua and Barbuda and called on the other delegations to do likewise. A joint declaration was adopted at the end of the 18th RAADH that reaffirmed the commitment of the states in the region to participate in and successfully conclude the negotiations on the draft inter-American convention. The Brazilian Government considers it important for the negotiations to move forward so as to allow the new instruments to be approved in 2011, in the context of the International Year for People of African Descent which is the subject of OAS General Assembly resolution AG/RES. 2550 (XL-O/10).

Washington, D.C., November 29, 2010