



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-fifth session

SUMMARY RECORD OF THE 1671st MEETING

Held at the Palais des Nations, Geneva,
on Friday, 20 August 2004, at 10 a.m.

Chairman: Mr. YUTZIS

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CLOSURE OF THE SESSION

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The meeting was called to order at 10.50 a.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (agenda item 3) (continued)

Draft letter dated 20 August 2004 addressed to the Permanent Representative of Saint Lucia

1. The CHAIRMAN drew attention to a draft letter dated 20 August 2004 addressed to the Permanent Representative of Saint Lucia.
2. The draft letter was adopted.

Draft decision 2 (65) on Israel

3. The CHAIRMAN drew attention to draft decision 2 (65) on Israel.
4. Mr. ABOUL-NASR recalled that he had proposed that the Committee should adopt a decision concerning Israeli practices in the occupied territories, including the destruction of homes and the killing of Palestinians. Regrettably, the text under consideration merely requested Israel to send a report to the Committee. He would nevertheless join the consensus on the decision.
5. The draft decision was adopted.

Draft letter dated 20 August 2004 addressed to the Permanent Representative of New Zealand

6. The CHAIRMAN drew attention to a letter dated 20 August 2004 addressed to the Permanent Representative of New Zealand requesting urgent additional information concerning the Foreshore and Seabed Bill currently in the process of enactment in New Zealand.
7. Mr. CALI TZAY proposed that, in the first sentence of the second paragraph, the phrase “organizations representing indigenous groups” should be amended to read “organizations representing indigenous peoples”.
8. Mr. ABOUL-NASR proposed that the word “allegedly” should be deleted from the same sentence.
9. Mr. HERNDL said that he would prefer to retain the original wording of the sentence, since it was not clear whether the organizations referred to represented all Maori or only certain groups.
10. Mr. PILLAI expressed support for Mr. Aboul-Nasr’s proposal. The Committee was not stating categorically that the Foreshore and Seabed Bill discriminated against Maori. Rather, it was informing the Government that it had received reports to that effect. The word “allegedly” was therefore redundant.
11. Mr. AMIR pointed out that the Committee was acting in the context of article 15 of the Convention, which referred to peoples, not groups. He would prefer to use the former term.

12. Mr. THORNBERRY concurred with Mr. Cali Tzay: as a party to the Treaty of Waitangi, Maori must be regarded as peoples, not groups. He also agreed that the word “allegedly” should be deleted.
13. Mr. de GOUTTES proposed that the words “indigenous groups” should be replaced by “Maori people” and that the words “the Bill allegedly discriminates” should be amended to read “the Bill discriminated”.
14. Mr. KJAERUM pointed out that, in the last paragraph of the letter, the Committee reiterated its willingness to maintain a dialogue with the Government on the implementation of the Convention in New Zealand, whereas in a similar letter addressed to the Permanent Representative of Botswana it made an explicit offer of assistance. He was concerned that the first formulation was too vague. It was important to indicate that members would make themselves available for consultations on the Foreshore and Seabed Bill during the intersessional period. The Committee could not wait until its next session in March 2005 to pursue its dialogue with the State party, as the Bill might be adopted before the end of 2004.
15. Mr. AVTONOMOV expressed support for Mr. de Gouttes’s proposal. Responding to Mr. Kjaerum’s comments, he stressed that the two letters had been worded differently because the situations in New Zealand and Botswana were not the same.
16. Mr. ABOUL-NASR considered that the deadline of 31 August 2004 by which the Government of New Zealand was supposed to provide the information sought by the Committee was unrealistic.
17. Mr. PILLAI agreed with Mr. Kjaerum that the last paragraph of the letter did not convey any sense of urgency.
18. Mr. SHAHI said that he would welcome clarification concerning the means of maintaining the dialogue with the Government of New Zealand during the intersessional period.
19. Mr. AVTONOMOV said that the deadline was quite reasonable, the State party’s representatives having already indicated their readiness to meet with members of the Committee the following week. As Mr. Kjaerum had stated, urgent action was required since the Bill had not yet been adopted, and there was still an opportunity for the Committee to influence the outcome.
20. The CHAIRMAN emphasized that no action would be taken on the matter before the Committee’s next session. However, the Committee was willing to receive information from the Government in the meantime, and it was important to make that point in the letter. The Working Group on early warning measures and urgent action procedures had envisaged that such information could be transmitted to members through the secretariat.
21. Mr. de GOUTTES proposed that the Committee should request the Government to provide the information sought within one month.

22. Mr. KJAERUM expressed support for Mr. de Gouttes's proposal. He was concerned, however, that no mechanism had been established for responding to information that required an immediate reaction. He proposed that the Committee could assign that task to the Chairman or to the coordinator for follow-up appointed under rule 65, paragraph 2, of the rules of procedure.

23. Mr. TANG Chengyuan said that the Committee should not presume to influence States parties' legislation. It could only give advice or make recommendations. He was satisfied with the text of the letter as it stood.

24. Mr. SHAHI said that he had reservations about Mr. Kjaerum's proposal to designate one member of the Committee to be responsible for follow-up on the matter during the intersessional period, as there were no precedents for delegating authority in that respect. He also objected to the use of the word "dialogue" in the last paragraph. It was hardly appropriate, since the Committee was merely requesting the Government of New Zealand to submit information.

25. Mr. AVTONOMOV said that the coordinator appointed under rule 65 of the rules of procedure was responsible for monitoring follow-up on the Committee's concluding observations and recommendations. He, too, would have reservations about the broadening of the coordinator's mandate. He would not object to the exchange of information with the Government of New Zealand during the intersessional period on condition that such information was transmitted to all members of the Committee through the secretariat.

26. The CHAIRMAN said that it was not a question of delegating authority or taking decisions between sessions. The Committee must, however, agree on a procedure whereby information could be exchanged with the Government of New Zealand following the closure of the session.

27. Mr. THORNBERRY suggested that the letter should be adopted and sent, following which the Committee could consider how to deal with the additional information provided by the State party.

28. The draft letter dated 20 August 2004 addressed to the Permanent Representative of New Zealand, as amended by Mr. de Gouttes, was adopted.

Draft letter dated 20 August 2004 addressed to the Permanent Representative of Botswana

29. The CHAIRMAN invited members to consider and adopt the letter addressed to the Permanent Representative of Botswana.

30. Mr. ABOUL-NASR said he did not agree with the content of the letter. The deadline specified for transmission of information by the State party was unreasonably short. It was not within the Committee's mandate to offer to assist a State party in the drafting of a new constitution.

31. Ms. DAH proposed amending the time limit set for a response from the State party to one month, as in the case of the Committee's letter to the Government to New Zealand.

32. Mr. VALENCIA RODRÍGUEZ endorsed Ms. Dah's proposal. He proposed amending the final paragraph of the letter to say that Committee members could provide assistance to the State party in reporting on implementation of the Convention.

33. Mr. KJAERUM said he also supported Ms. Dah's proposal for a deadline of one month for the receipt of information from the State party. He pointed out that the State party had requested assistance from the Committee in drafting a new constitution. That notwithstanding, he agreed with the proposal made by Mr. Valencia Rodríguez.

34. Mr. TANG Chengyuan agreed with Mr. Aboul-Nasr that assisting States parties in the drafting of constitutions was not within the Committee's mandate. He endorsed the proposal by Mr. Valencia Rodríguez that the Committee could offer to assist the State party in the drafting of its periodic report.

35. The draft letter dated 20 August 2004 addressed to the Permanent Representative of Botswana, as amended, was adopted.

REPORT OF THE COMMITTEE TO THE GENERAL ASSEMBLY AT ITS
FIFTY-NINTH SESSION (agenda item 9) (CERD/C/65/CRP.1, CRP.1/Add.1-8,
and CRP.2/Add.1-7)

36. Mr. THORNBERRY (Rapporteur) introduced the draft annual report of the Committee. He pointed out that paragraphs should be added on the Committee's meeting with the International Law Commission, the adoption of the document on follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the discussion with the Special Adviser on Genocide, and the possibility of holding a thematic discussion on the prevention of genocide at a future session.

37. The CHAIRMAN invited members to consider the draft report chapter by chapter.

Chapter I (CERD/C/65/CRP.1/Add.1)

38. Mr. HERNDL proposed the addition of a section on the meeting with the International Law Commission. The letter sent by the Committee to the Commission on State party reservations to provisions of the Convention should be mentioned. It was important to devote about three paragraphs of the report to the cooperation between the two bodies. The meetings with special rapporteurs should also be mentioned in that chapter of the report.

39. Mr. THORNBERRY suggested including information on the presentations given before the Committee during the sixty-fourth session by Mr. Ramcharan, the Acting High Commissioner for Human Rights, and during the sixty-fifth session by Ms. Arbour, the United Nations High Commissioner for Human Rights.

40. The CHAIRMAN asked if the Committee could adopt the chapter, on the understanding that additional information on cooperation with the International Law Commission would be included, as requested by Mr. Herndl.

41. Chapter I, as amended, was adopted on that understanding.

Chapter II

42. The CHAIRMAN said that the letters to Permanent Representatives regarding early warning and urgent action procedures, as adopted at the current meeting, could constitute the second chapter of the report, or could be incorporated in other chapters. He proposed suspending the discussion of chapter II. The Committee should consider where to include the letters.

43. Consideration of chapter II was deferred.

Chapter III

44. Consideration of chapter III was deferred.

Chapter IV (CERD/C/65/CRP.1/Add.2)

45. Mr. HERNDL suggested that reference to Saint Lucia should be made in paragraph 6 of chapter IV. He proposed publishing a summary of the first letter sent by the Committee to the Permanent Representative of Saint Lucia, and the complete texts of the reply to the Committee from the Permanent Representative of Saint Lucia and the Committee's response.

46. Mr. PILLAI pointed out that the concluding observations on Saint Lucia were still provisional and should therefore not be made public.

47. The CHAIRMAN proposed including the concluding observations on Saint Lucia, with a note specifying that the text was provisional. A provisional text was in the process of being drafted by Mr. Sicilianos, but was yet to be completed. He asked if the Committee would be willing to adopt the chapter on the understanding that Mr. Sicilianos and Mr. Thornberry would make the necessary amendments.

48. Chapter IV was adopted on that understanding.

Chapter V (CERD/C/65/CRP.1/Add.3)

49. Mr. HERNDL said that the case of Dragan Durmic (communication No. 29/2003) also needed to be mentioned.

50. Mr. KJAERUM reminded the Committee of a number of pending cases, which should be mentioned in the report.

51. Mr. THORNBERRY said that, in accordance with previous Committee practice, a short reference was generally included on inadmissible cases. If cases had been declared admissible, reference to them was deferred pending the receipt of additional information on the merits.

52. Chapter V, as amended, was adopted.

Chapter VI (CERD/C/65/CRP.1/Add.4)

53. Mr. de GOUTTES proposed that reference should be made to the general recommendation on discrimination in the administration of justice, which he had been asked to draft. He wondered whether chapter VI might be an appropriate place for that.
54. Mr. THORNBERRY said that chapter VI of previous reports had contained information on a variety of thematic discussions, but had not mentioned future general recommendations. He nevertheless had no objection to Mr. de Gouttes's proposal.
55. Mr. SHAHI suggested that a reference to the proposal to hold a thematic debate on genocide should be included in chapter VI and offered to draft an appropriate paragraph. If the question of discrimination in the administration of justice was to be addressed within the context of a thematic debate leading to a general recommendation, it should also be mentioned in chapter VI.
56. The CHAIRMAN reminded the Committee that the proposed general recommendation on discrimination in the administration of justice would not be the subject of a thematic debate. However, he would not object to the inclusion of a reference to it in chapter VI.
57. The thematic debate on the prevention of genocide was not intended to lead to a general recommendation.
58. Mr. LINDGREN ALVES suggested that the thematic debate on the prevention of genocide should be held in public meetings, with the participation of relatives of victims of genocide. While he considered that it would be appropriate to include a reference to the general recommendation to be drafted by Mr. de Gouttes, his own proposal for a thematic debate on multiculturalism should also be mentioned.
59. The CHAIRMAN said that the thematic debate on the prevention of genocide would follow the same format as previous thematic debates, the sole difference being that no general recommendations would be drafted as a result of that debate.
60. Mr. AMIR supported Mr. Lindgren Alves' proposal to discuss the issue of multiculturalism and to open that discussion to a wider public. Discussing the concept of multiculturalism was crucial to a better understanding of related problems, which, in their most extreme form, could lead to genocide.
61. The CHAIRMAN said that he did not see any need to mention forthcoming general debates in the report to the General Assembly.
62. Mr. de GOUTTES proposed changing the title of chapter VI from "Thematic discussions" to "Thematic issues" or "Thematic questions" and inserting two sub-headings, namely, "Thematic questions with debate" and "Thematic questions without debate". The general recommendations could come under the second sub-heading.
63. Ms. DAH said that Mr. Lindgren Alves' point should be taken into account. She proposed including a reference to the debate on multiculturalism in chapter X.

64. The CHAIRMAN proposed amending Mr. de Gouttes's proposal to include a third sub-heading. The final version would then contain three sub-headings, namely, "Thematic discussion", "General recommendations" and "General discussion". The rapporteur would be entrusted with drafting the relevant paragraphs.

65. Chapter VI was adopted on that understanding.

Chapter VII (CERD/C/65/CRP.1/Add.5)

66. Chapter VII was adopted.

Chapter VIII (CERD/C/65/CRP.1/Add.6)

67. Mr. HERNDL suggested including a reference to the Committee's discussion concerning the inter-committee meeting on the draft guidelines on an expanded core document. During the debate, the Committee had discussed the report of the sixteenth meeting of chairpersons of human rights treaty bodies and paragraph 2 should be updated accordingly.

68. Chapter VIII was adopted on that understanding.

Chapter IX (CERD/C/65/CRP.1/Add.7)

69. Mr. VALENCIA RODRÍGUEZ suggested that chapter IX should contain a reference to the document on follow-up to the Durban Declaration and Programme of Action which the Committee had prepared for presentation to the intergovernmental working group.

70. Chapter IX was adopted on that understanding.

Chapter X (CERD/C/65/CRP.1/Add.8)

71. Mr. HERNDL proposed that the penultimate sentence in paragraph 3 should be amended to read: "The Committee decided to add a new paragraph to rule 65 of its rules of procedure concerning the Appointment of a coordinator in connection with any request for additional information to States parties." The appointment of Mr. Kjaerum and Mr. Amir as coordinators should also be mentioned.

72. Mr. THORNBERRY endorsed Mr. Herndl's proposal. It might also be useful to include a separate chapter on follow-up procedures in the next report so as to highlight the fact that new procedures had been adopted.

73. Chapter X, as amended, was adopted.

Annexes I, II, IV, V and VI (CERD/C/65/CRP.2/Add.1-5)

74. Annexes I, II, IV, V and VI were adopted.

Annex VII (CERD/C/65/CRP.2/Add.6)

75. Ms. PROUVEZ (Secretary of the Committee) said the Permanent Representative of Mauritania had informed the secretariat that the delegation would forward comments on the Committee's concluding observations that day.

76. Mr. HERNDL said that the relevant cross-reference, which had already been decided, should be inserted at the foot of page 2.

77. Mr. PILLAI, supported by Mr. VALENCIA RODRÍGUEZ and Mr. AMIR, suggested that the correspondence between the Committee and Saint Lucia should not be included in that section of the report, since it concerned provisional concluding observations, not concluding observations that had been adopted by the Committee.

78. Mr. LINDGREN ALVES said that, since the Committee had not previously made public provisional concluding observations, it was acceptable to include that correspondence in chapter IV. It would receive greater attention if it was placed near the beginning of the report, and that would be helpful since the idea was to urge the Government to take action.

79. Mr. THORNBERRY suggested that the title of annex VII could be amended to include the words "provisional observations", thus allowing for inclusion of the letter from the Government of Saint Lucia in that section. The title of chapter IV should be amended accordingly.

80. Mr. de GOUTTES considered that the Committee should adhere to its previous decision and include the correspondence with Saint Lucia at the end of chapter IV; annex VII concerned comments of States parties.

81. Ms. PROUVEZ (Secretary of the Committee) explained that the Committee had decided to include the provisional concluding observations on Saint Lucia in section E of chapter IV. Mr. Thornberry had proposed that the letter received from the Government of Saint Lucia should be included in annex VII, together with other comments of States parties. The title of that annex should in that case be changed to include a reference to provisional concluding observations.

82. Mr. PILLAI considered that the solution suggested by the Secretary should be adopted.

83. Annex VII, as amended, was adopted.

Annex VIII (CERD/C/65/CRP.2/Add.7)

84. Annex VIII was adopted.

Chapter III

85. Mr. THORNBERRY asked where the Committee wished the letters to the Governments of New Zealand and Botswana to be included in the report.

86. Ms. PROUVEZ (Secretary of the Committee) said that since those letters did not constitute decisions, they should not necessarily be included in the same section as the decisions adopted under the early warning and urgent action procedures (chap. II). While the letter to New Zealand requested more information within the framework of early warning and urgent action procedures, the letter to Botswana related to follow-up.

87. Mr. KJAERUM suggested that the title of chapter II should be amended to include a reference to follow-up procedure. The 2005 annual report should include a separate chapter on follow-up, as Mr. Thornberry had suggested.

88. Mr. SHAHI, supported by Mr. PILLAI and Mr. THORNBERRY, proposed that the separate chapter on follow-up should be included in the 2004 annual report.

89. It was so decided.

90. Mr. THORNBERRY said that the new chapter on follow-up would be chapter IV and would come after the chapter on consideration of reports.

91. The CHAIRMAN, responding to a proposal by Mr. Lindgren Alves, said he understood that the Committee had no comments on the concluding observations, since they had already been adopted.

92. Mr. AVTONOMOV asked when it would be possible to read the amended versions of the concluding observations that had been adopted during the session.

93. Mr. THORNBERRY assured the Committee that he would address all editorial questions without delay.

94. Ms. PROUVEZ (Secretary of the Committee) said that the final version of the concluding observations would be forwarded to members by electronic mail.

95. The draft report of the Committee as a whole, as amended, was adopted.

96. Mr. LINDGREN ALVES said that he was concerned about the credibility of the Committee, since it had adopted two new mechanisms, one relating to a coordinator on follow-up and the other to a working group on urgent action procedure. While those initiatives were positive, the Committee had begun to move away from the mandate of the Convention. Work should therefore be initiated immediately with a view to an appraisal of the two new systems in June 2005.

CLOSURE OF THE SESSION

97. After the customary exchange of courtesies, the CHAIRMAN declared the sixty-fifth session closed.

The meeting rose at 1.10 p.m.