ITEM 6. RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Although this agenda item includes "all forms of discrimination", it in fact deals mostly with racism and religious discrimination with a racial or ethnic component. Much of the debate concerned discrimination against and victimisation of Muslim minorities, especially in the climate of international terrorism and counter-terrorism. Anti-Semitism was again specifically referred to, but it was little discussed. For the first time, the Commission recognised discrimination against Christian minorities arising from concern for their situations in Pakistan in particular. Follow-up to the World Conference against Racism was also discussed under this item.

1. Combating defamation of religions as a means to promote human rights, social harmony and religious and cultural diversity

At its 59th session, the Commission on Human Rights called upon the High Commissioner to report on steps taken to implement Resolution 2003/4 on combating defamation of religions. The text of this resolution focused predominantly on Islam and expressed "alarm() at the continuing negative impact of the events of 11 September 2001". At its 60th session, the Commission considered the report of the High Commissioner on the implementation of this resolution alongside the "Progress report of the Special Rapporteur on contemporary forms of racism on the situation of Arabs and Muslims".

A. Report of the High Commissioner

The report of the High Commissioner summarises the two replies received in response to a request for information on the implementation of Resolution 2003/4 sent out by the Secretary-General. The two responding States were Morocco and Chile. Morocco's response briefly noted that Morocco is an Islamic country founded on the "unity of faith" and as such is "safe from extremist religious struggles as well as from destructive and damaging tendencies and ideologies". The response denounced the 16 May 2003 bombing attacks in Casablanca as "incompatible with the morals, traditions and values of Morocco". The Chilean Government responded with reference to its Law 19.638 (1999) relating to the legal status of religious organisations and churches, granting all religions equal status, and guaranteeing freedom to practice (and to not practice) religion in public or private. They noted that Article 19 No. 6 of the Chilean Constitution ensures freedom of conscience, belief and religious practice. The Chilean response also noted that the Constitution recognises the principle of separation of Church and State, and that the legislature is considering a motion that would criminalize all acts of discrimination, hatred, violence or aggression based on race, religion, or national or ethnic origin.

B. Progress report of the Special Rapporteur on contemporary forms of racism on the situation of Arabs and Muslims

The report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr Doudou Diène (Senegal), describes the expansion of anti-Muslim and anti-Arab racism and xenophobia in the aftermath of recent world events, especially after the attacks on New York City and Washington D.C. in September 2001.

2 E/CN.4/2004/19. The full title of the report is: Progress report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance examining the situation of Muslim and Arab peoples in various parts of the world with special reference to assaults and attacks against places of worship, cultural centres, businesses and properties in the aftermath of 11 September 2001.
Using the term "Islamophobia" the Special Rapporteur focuses on both specific acts of discrimination and hostility against Muslims and Arabs, and the general intellectual legitimisation of "increasingly overt hostility towards Islam and its followers in many countries". Although concerned about the expansion of anti-Islamic trends throughout Europe and North America, the report focuses mainly on developments in the United States of America (the USA) and France.

Throughout his report, the Special Rapporteur carefully explains that Islamophobia is a multi-faceted trend that manifests itself against both individuals and the religion of Islam itself. He further notes that Islamophobia overlaps with other resurgent racist and xenophobic practices, including anti-Semitism, nationalism, and anti-immigration policies. The report warns that political discourses on, e.g. security and/or secularism, risk being "hijacked by opportunists to feed new forms of Islamophobia" (para. 5).

The report includes country-specific sections on the USA and France. Citing several sources, the report shows that anti-Muslim acts and racist incidents have increased in the USA since September 2001. The report describes individual acts of violence against Muslims, increasingly hostile religious rhetoric against Islam, and the ongoing State practice of arbitrary detentions and arrests suffered by Muslims and Arab peoples.

The Special Rapporteur goes into greater depth when documenting both physical acts of violence against Muslims and their property and the intellectual developments in Islamophobia in France. The report describes acts of vandalism and arson against mosques, desecration of Muslim cemeteries, and expressions of Islamophobia at public events. The report warns that mainstream media are meeting anti-Islamic rhetoric with either complacency or approval.

The report also cautions that the ideological context of Islamophobia, the "material aspects of globalisation, which nourishes anti-religious sentiment in general", and the identification of Islam with terrorism have lead to new forms of discrimination targeting Islamic symbols in a "triumph of image over substance" (para. 29). The Special Rapporteur refers specifically to the current debate over wearing the Muslim headscarf in State schools (France), as "a debate in which belief, ideology, culture and identity merge". He warns that the stigmatisation of Islam, through this attack on one of its symbols "carries the serious risk of stoking and legitimising Islamophobia and discrimination against Muslims" (para. 30). Acknowledging that secularism in France "is viewed as the cement holding together the Republic", the Special Rapporteur recommends that concerned States ensure that its defence be accompanied with vigorous promotion of cultural and religious diversity (para. 5).

The report ends by recommending that all member States recognise the reality and seriousness of Islamophobia as a matter of urgency. It recommends that States develop nuanced and intellectual strategies to combat Islamophobia in the context of intercultural and inter-religious dialogue. Finally, the report invites the Commission to recommend to the Office of the High Commissioner for Human Rights (OHCHR) the establishment a centre to monitor contemporary phenomena of racism, anti-Semitism and Islamophobia.

2. World Conference against Racism and follow-up to the Durban Declaration and Programme of Action

A. Report of the High Commissioner

Pursuant to General Assembly Resolution 56/266, the High Commissioner reports annually to the Commission on the implementation and follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR). His report provides a general overview of activities taken by both States and UN bodies and specialised agencies to implement the Durban Declaration and Programme of Action. The report complements and should be read alongside the report "Comprehensive implementation of and
follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance”, submitted to the General Assembly as Document A/58/324.

The report briefly describes the legislative and institutional developments taken by several States to implement or follow-up on the Durban Declaration and Programme of Action, including the following: Argentina, Belgium, Bulgaria, Chile, Cuba, Cyprus, the Czech Republic, Georgia, Germany, Hungary, Liechtenstein, Morocco, Mauritius, Mexico, Norway, Poland, the Russian Federation, Slovenia, Sweden, Switzerland, Turkey, the USA, and Uruguay.

The report also provides a brief overview of activities taken by the special procedures of the Commission, UN bodies, specialised agencies, and international and regional organisations. For more precise information regarding the activities taken by the special procedures, see the corresponding sections in this chapter. The High Commissioner also submitted three addenda to his annual report, covering in more detail the seminars of experts for Eastern Europe and for Western States on implementation of the Durban Declaration and Programme of Action, and a report of the regional workshop on affirmative-action policies in the Latin American and Caribbean region, which are each discussed below.

B. Reports of the regional expert seminars for Eastern Europe and Western States

The High Commissioner submitted two addenda to his annual report covering the regional expert seminars on implementation of the Durban Programme of Action in both Eastern Europe and the “Western States”. The seminar for Eastern Europe was held in Prague from 24 to 26 September 2003, that of the Western States in Brussels from 10 to 12 December 2003. The seminar for Eastern Europe bore on three themes, each of which was divided into several topics: the rights of persons belonging to national, ethnic, religious and linguistic minorities; issues and perspectives concerning the Roma people; and xenophobia. The Western States’ seminar considered five topics, each of which as likewise divided into sub-topics: institutional responses to eliminating racial discrimination; educational and public information programmes to promote tolerance and respect for diversity; reaching equality and diversity in the workplace; responses to discrimination against migrants; and national-level activities.

The seminar in Prague saw the participation of 13 regional experts. Member States, UN bodies and specialised agencies, national human rights institutions (NHRIs), intergovernmental organisations and NGOs attended as observers. The theme on minority rights included discussion of topics on: regional trends and recommendations for the elimination of discrimination; “when to educate, when to legislate”; the role of ombudspersons and NHRIs; the role of NGOs in protection and promotion of minority rights; legal avenues for advancing minority rights; and memorials and truth and reconciliation commissions. The second theme, on the rights of Roma people, included discussion of topics on: increasing participation of Roma in political, economic and social life; discrimination against Roma children in education; the role of the media in perpetuating prejudice through their portrayal of the Roma; and a general discussion on Roma youth. The theme devoted to xenophobia included discussions of “Countering anti-Semitism in Eastern Europe”, strategies to address discrimination against migrants, and strategies to address refugees and internally displaced persons.

The Western States’ seminar called on presentations by 12 regional experts. As with the Eastern European seminar, member States, UN bodies and specialised agencies, NHRIs, intergovernmental organisations and NGOs attended as observers. The section on institutional responses to eliminating racial discrimination included the following sub-topics: the role of the Committee on the Elimination of Racial Discrimination in the follow-up to the WCAR; national and regional specialised bodies to combat racism and intolerance; and the role of

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parliamentarians in contributing to the positive image of minorities. The section on educational and public information programmes included discussions on: anti-racism campaigns; tackling anti-Semitism; and issues and policies regarding Muslims in Western States. The third theme, on "reaching equality and diversity in the workplace" included sub-topics on: private sector initiatives and multi-stakeholder dialogue as a means to enhancing equality and diversity; creating equal opportunities for Roma, Gypsies, Sinti, and Travellers; and "giving ethnic minorities access to science careers". Topic 4, on "responses to discrimination against migrants" included the following themes: the rights of non-citizens; how to combine integration and diversities; and monitoring discrimination against migrants. The final topic, on national-level activities discussed both the role of different participants in national plans of action, and a general discussion.


Between 7 and 9 May 2003, government representatives, associations of ombudsmen and human rights procurators, UN specialised agencies, and NGOs of people of African descent in the Latin American and Caribbean region met in Montevideo, Uruguay for a regional workshop on the implementation of affirmative action policies throughout the region. The workshop took place in accordance with the Quito Framework adopted at the Meeting on the Promotion and Protection of Human Rights in the Latin American and Caribbean Region (1999), and followed up on the WCAR (2001).

The participants issued their conclusions and recommendations, which the High Commissioner transmitted to the Commission in his note. The note addresses over 330 recommendations in 11 categories to States, the UN system and regional international organisations, and civil society: general recommendations; reduction of poverty and promotion of development; land ownership; access to employment; participation in public life; discrimination and the law; torture, ill-treatment and the excessive use of force; health; education and cultural identity; religion; and housing.

In its conclusions, the Workshop recognised affirmative action as a means to overcoming the injustices and inequities of racism and discrimination. It pointed out that such policies are of a provisional nature specifically designed to overcome historical injustice in an effort to construct fair and just societies. Among its many recommendations, the Workshop promoted ongoing efforts in the Organisation of American States (OAS) to draft an inter-American convention against racism and discrimination.

D. Report of the intergovernmental working group established to make recommendations with a view to the effective implementation of the Durban Declaration and Programme of Action

At its 59th session, the Commission decided that the intergovernmental working group established to make recommendations with a view to the effective implementation of the Durban Declaration and Programme of Action should convene sessions for an initial period of three years. Accordingly, the working group held its second session in Geneva between 26 January and 6 February 2004. The session included representatives of UN member States, non-member States, specialised agencies, treaty-monitoring bodies, special procedures of the Commission, intergovernmental organisations and NGOs. The session included expert panels on the topics of education, poverty and complementary standards.

At the end of the session, the working group adopted by consensus a text of recommendations. The recommendations concern the roles of education and poverty in both the persistence and the elimination of racism. The recommendations also consider the organisation of the work of the next session.

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6 E/CN.4/2004/17/Add.3.
E. Report of the working group of experts on people of African descent

The working group of experts on people of African descent held its third session from 29 September to 10 October 2003 in Geneva. The session included members of the working group, observers from 52 States, UN and intergovernmental organisation representatives, and NGOs. The working group’s objectives are to "study the problems of racial discrimination faced by people of African descent living in the diaspora and to propose specific measures and provide recommendations on improving the human rights situation of people of African descent" (para. 7). The session dealt with three themes: the administration of justice; the media; and access to education and information technology.

F. Views of the independent eminent experts on the implementation of the Durban Declaration and Programme of Action

The independent eminent experts mandated to follow the implementation of the Declaration and Programme of Action adopted at the WCAR met in Geneva from 16 to 18 September 2003. At the end of the meeting, they adopted a paper expressing their views, which the Secretariat transmitted as note E/CN.4/2004/112 to the Commission.

In their concluding paper, the experts prioritised access to education, access to justice, non-discrimination in counter-terrorism, and the eradication of poverty as vital steps in the effort to eliminate all forms of discrimination. They emphasised the importance of mobilising civil society and young people to combat racism and intolerance and called upon States to develop national action plans to do so. The experts also called on the international community to find ways of measuring existing racial inequalities. Along these lines, they considered the possibility of developing a "Racial Equality Index" similar to the human development index (HDI) currently used by the United Nations Development Programme (UNDP).

3. Special Rapporteur on contemporary forms of racism

Pursuant to Resolution 2003/30, Mr Doudou Diène, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and related intolerance, submitted his annual report to the Commission on activities taken against racism, discrimination and xenophobia. His report documents activities taken by the Special Rapporteur, contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance, and specific allegations examined by the Special Rapporteur. The report ends with a set of conclusions and recommendations. The Special Rapporteur also issued four addenda to the annual report documenting his missions to Guyana and Trinidad and Tobago, Canada, Colombia, and Côte d’Ivoire, and should be read alongside his interim report A/58/313 submitted to the General Assembly.

In the section on current practices of racism, the Special Rapporteur observes generally how race, religion and culture combine into complex forms of contemporary racism, racial discrimination, and xenophobia. He notes that discrimination, racism and xenophobia by definition reject or fail to recognise differences between peoples, and warns "through its encouragement of uniformity, present-day globalisation further accentuates confinement and isolationism" and thus contributes to the political projects of certain "extreme right wing parties" who foster xenophobia, racism and intolerance (para. 5 and 6). These dynamics find clear articulation in the resurgent practice of racial profiling, which takes the form of "disproportionate checks, with frequent searches of persons belonging to targeted racial ethnic or religious groups in ports and airports, in the street or when they are driving their cars". Correspondingly, the Special Rapporteur cautions that the rising practice of racial discrimination.

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profiling in the name of security and/or counter-terrorism "appears as an alarming indicator of the rise of a racist and discriminatory culture and mentality in many societies" (para. 9). The Special Rapporteur also focuses on the situation of Roma/Gypsies/Sinti/Traveller groups, which the WCAR recognised as vulnerable groups.

The Special Rapporteur includes in his report a section on anti-Semitism and Islamophobia following on paragraph 61 of the Durban Declaration expressing "deep concern" at the increase of these racist practices. Given that the Special Rapporteur also examines Islamophobia separately in his report on the situation of Muslim and Arab peoples (E/CN.4/2004/19 (see above)), this section of his report deals mostly with anti-Semitism. The report documents how there have been alarming resurgences in the profanation of synagogues and Jewish cemeteries, attacks on Jewish people, anti-Semitic propaganda on the internet, and several highly publicised anti-Jewish remarks by internationally known personalities. The Special Rapporteur also noted that the World Jewish Congress has raised alarm at the spread of anti-Semitism in the Middle East through the large-scale distribution of the "Protocols of the Elders of Zion" – a notoriously anti-Semitic tract. The Special Rapporteur concludes that anti-Semitism remains a "particularly pregnant and resilient form of discrimination" and calls for a "full, objective study of the question" (para. 14 and 15).

In his section documenting particular measures taken by States, the Special Rapporteur conveys the current developments the USA and France. Specifically, the section documents the ongoing legislative and legal debates over affirmative action in the USA, and repeats the view held by the previous Special Rapporteur that "30 years of intense struggle against racism and racial discrimination have not yet made it possible to eliminate the consequences of over 300 years of slavery and racial discrimination" (para. 18). Similarly, the report documents new legislation in France, including, inter alia, new amendments to the Criminal Code enhancing penalties for certain crimes related to racism, xenophobia and anti-Semitism. The report also transmits information on allegations made against Belgium, Brazil, Egypt, Greece, Slovakia, the Sudan and Ukraine.

The report ends with conclusions and recommendations on the following topics: the growing intolerance of cultural and religious signs, symbols and expressions; the rejection of the "reality of ethnic, cultural and religious pluralism as an ultimate major factor" in new forms of racism and discrimination; the need to link anti-racist activities with the promotion of dialogue between peoples; and the balanced implementation of the Durban Programme of Action.

A. Mission to Guyana and Trinidad and Tobago

The Special Rapporteur visited Guyana and Trinidad and Tobago between 14 and 25 July 2003. The visit took place in light of the urgent state of race relations in Guyana, which led to political violence between the Afro- and Indo-Guyanese communities during the period of March 2001 through July 2002. The Special Rapporteur visited Trinidad and Tobago "for purposes of comparison" given the similar historical backgrounds and demographic compositions of the two nations (para. 1).

Guyana

The Special Rapporteur took note of the "harsh reality of ethnic polarization" at all levels of Guyanese society. The report comments that the ethnic composition of the political parties, the structure of State mechanisms, the army and the police all "perpetuate and reinforce" economic and social underdevelopment. The report lays specific blame on the "political exploitation of the race factor by every political leader from every point on the ideological spectrum" and goes into detailed historical explanations for the current tensions between different groups within Guyana. However, the Special Rapporteur notes that ethnic divisions
in Guyana have not resulted in feelings of hatred inasmuch as they have produced a "culture of fear and mistrust which pervades all social activity." This leads the Special Rapporteur to conclude that Guyanese society "nurture the human values necessary for overcoming ethnic polarization and collectively building genuine pluralism" (summary, para. 3 to 5).

Specifically, the Special Rapporteur met with senior Guyanese officials, including the President of the Republic, Mr Bharrat Jagdeo and several ministers. He met opposition leaders, members of an indigenous Guyanese people's party, and leaders in both religious and secular civil society. The report conveys that the Guyanese Constitution enshrines the rights and freedoms of the Universal Declaration of Human Rights, including freedom from discrimination. Moreover, the Constitution directly prohibits discrimination under Article 149 (1) and Guyana has legislation prohibiting racial discrimination in the Prevention of Discrimination Act (1997). Furthermore, Guyana is party to the main international human rights instruments, although it is not up-to-date on its reporting obligations to the treaty-monitoring bodies. Significantly, the report mentions the Committee on the Elimination of Racial Discrimination has been waiting for a report from Guyana since 1978.

Despite the deep conflicts that polarise Guyana along ethnic lines, the Special Rapporteur reports that the Government has taken steps to combat racial discrimination. In this regard, the report mentions the Racial Hostility Amendment Act (2002), which enhanced penalties for incitement to racial hatred, the soon to be promulgated Constitution Amendment Bill No. 9 (2003) and a process of constitutional and institutional reform emerging out of dialogue between the Government and the opposition. Moreover, the Government established an Ethnic Relations Commission with powers to investigate complaints of racial discrimination. Likewise, the visit to Guyana took place during a moment of "democratic dialogue" in which both the governing party and the main opposition signed a joint communiqué (the "6 May communiqué") "agreeing to work together to find solutions in the interests of the Guyanese people as a whole" (para. 3).

The report goes on to document actions taken to combat racism and racial discrimination by the UN, Guyanese civil society, and international NGOs, including efforts by the Guyana Human Rights Association (GHRA), the Carter Center, a conflict-resolution programme at the University of Guyana in Georgetown, and the United Nations Association of Guyana. The Special Rapporteur concludes that harsh polarisation between the Guyanese of African, Hindu and Amerindian descent remains starkly reflected in the political parties, the structure of State mechanisms, and throughout Guyanese society. He recommends that the 6 May Communiqué and its follow-up agreements be implemented as soon as possible, that State structures pay urgent attention to ethnic depolarisation and pluralism, and that Guyana establish a national commission to implement the Durban Declaration. The Special Rapporteur further recommends that that the Government adopt a dual legal and ethical strategy for targeting the roots of racism and discrimination and link the struggle against racism to long-term programmes of democratisation.

Trinidad and Tobago

By contrast, the report notes that despite having a similarly multiethnic demographic composition, Trinidad and Tobago suffers much less ethnic polarisation than nearby Guyana. The report describes that how Trinidadian political parties and institutions do not draw on an "automatic 'racial vote'' and that although racial animosity emerges within the democratic process, it "does not take on such alarming proportions as in Guyana" (para. 46). During his visit to Trinidad and Tobago, the Special Rapporteur met with the Prime Minister, other political leaders, and representatives of civil society.

The report documents that Trinidad and Tobago are members to the major international human rights instruments and that in 1998 the Government established a Human Rights Department within the Ministry of Justice. Furthermore, Chapter I, Section 4 of the Constitution guarantees the rights of the Universal Declaration of Human Rights, including non-discrimination. Likewise, the Equal Opportunity Act No. 9 (2000) and its corresponding
Equal Opportunities Commission advances the fight against discrimination.

The report attributes the fact that Trinidad and Tobago experiences less ethnic and racial polarising than Guyana to the "crucial role of interreligious dialogue" amongst Trinidad and Tobago’s religious leaders and to the efforts of the political class in putting the nation’s "multicultural potential to use for democratic, social and economic ends" (para. 51). Specifically, the report notes how the fact of the Prime Minister himself chairing the Ethnic Relations Commission suggests a political commitment to a harmonious multiracial society.

The report concludes with by recommending that: Trinidad and Tobago link the fight against discrimination with "reinforcement of the democratic process"; the ongoing intercultural and inter-religious dialogue be formalised at the political level; and the State advance legal and judicial strategies to combat all forms of discrimination (para. 60).

B. Mission to Canada

The Special Rapporteur visited Canada between 15 and 26 September 2003 for purposes of assessing the present situation with regard to racism, racial discrimination, and xenophobia in light of Canada’s implementation of the Durban Programme of Action. The Special Rapporteur visited four out of Canada’s 10 provinces and met with federal and provincial authorities, leaders of civil society, and representatives of indigenous peoples. The report notes Canada’s open-minded approach to and readiness to engage with the Special Rapporteur during his mission.

The report describes Canada’s ethnic composition and structures of Government, noting particularly that although Canada is a party to the major international human rights treaties, implementation of human rights requires the will of both provincial and federal governments. The Canadian Government has also adopted a wide range of laws that aim at eliminating discrimination, including: the Canadian Charter of Rights and Freedoms, the Canadian Bill of Rights, the Canadian Human Rights Act, the Canadian Labour Code, the Public Service Staff Relations Act, and the Criminal Code. Moreover, there are both federal and provincial institutions in place for redress in the case of violations, including courts, administrative bodies, human rights commissions, and ombudsmen. Thus, there exists in Canada a broad legal foundation for the de jure struggle against racism and racial discrimination. The report notes, however, that the province of British Columbia has disbanded its human rights commission.

Apart from Canada’s broad policy commitments to a multicultural, multiracial society, the Special Rapporteur found widespread complaints about persistent racism and racial discrimination amongst indigenous and non-white minority groups. In terms of the administration of justice, "a variety of interlocutors" pointed out to the Special Rapporteur the "systemic racism in policing" against indigenous and African-Canadian people (para. 43). The Ministry of Multiculturalism has, in fact, indicated that racial profiling remains a widespread problem.

In terms of socio-economic indicators, the report conveys that members of non-white minorities experience discrimination in the employment market, are over-represented in low-paying occupations, and face disproportionate levels of unemployment and poverty. Likewise, indigenous groups, African-Canadian groups, and Jewish-Canadian groups complained to the Special Rapporteur that Canadian media have contributed to the negative stereotyping of ethnic and racial minorities.

Indigenous groups often raise the issue of treaty and land rights, education, housing, and health rights. The report cites a study by the Royal Commission on Aboriginal Peoples (1996) that attributes the persistent marginalisation of aboriginal peoples to a breakdown of viable partnerships between indigenous groups and the Canadian Government. In conveying the complaints of the representatives of indigenous groups, however, the Special Rapporteur states plainly that "What they want is relations on an equal footing, free of any paternalism,

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between aboriginal peoples and non-aboriginals, based on signed treaties" (para. 30). The Special Rapporteur also took special note of complaints against the Indian Act, which the Quebec Native Women Inc. characterised as discriminatory and paternalist.

The Special Rapporteur also received a plea from the descendants of Africville, Nova Scotia, a former African-Canadian community dating back to the 1700s. According to the complaints, the Black residents of Africville had been forcibly removed without compensation after a long pattern of discriminatory urban policy. The Special Rapporteur comments that the case of Africville is "emblematic of the past condition of people of African descent in Nova Scotia" (para. 38).

The report also conveys that representatives of the Chinese Canadian National Association have been seeking compensation for impositions of a racist head tax on Chinese immigrants during the Exclusion Era of 1885 to 1923. According to the representatives, the head tax devastated Chinese communities and contributed to the long-term marginalisation of Chinese people in Canadian society. The Special Rapporteur suggests that the 1988 agreement for redress between the federal Government and the National Association of Japanese Canadians could serve as a model for the conflict over the compensation for the head tax. In the latter case, which concerned treatment of Japanese Canadian citizens during World War II, the Government formed the Canadian Race Relations Foundation (CRRF) in order to combat racism and all forms of racial discrimination.

The Special Rapporteur also takes note of alarming rises in the incidents of anti-Semitism and Islamophobia. B’nai B’rith Canada, for instance indicated that anti-Semitic incidents, including harassment, vandalism and violence have risen 60.48% since 2001. Canada’s Muslim and Arab populations have also seen rises in discriminatory or racial-based attacks.

Finally, the Special Rapporteur takes note of the perverse effects of the Official Languages Act, which tends to discriminate against non-European French speakers – namely French-speaking immigrants living outside of Quebec. The Act provides for services to French speakers in the English-speaking provinces, but only according to whether or not someone speaks French as a "mother tongue" (para. 64). In practice, this means that immigrants from French-speaking countries whose mother tongue is neither French nor English may not qualify for services under the Act. The Special Rapporteur notes that one group from the Black francophone community has filed complaints for discrimination against the Act.

In line with the concerns raised in his report, the Special Rapporteur issues a series of conclusions and recommendations to the Canadian authorities asking the Government to: launch a national programme against racism with both legal and intellectual strategies for combating racism in line with the Durban Declaration and Programme of Action; establish a national commission to combat discrimination and promote multiculturalism; reinforce its political, legal and judicial safeguards to ensure that anti-terrorist measures do not aggravate racism, discrimination, nor xenophobia; and restart consultations with members of the Chinese community to consider the possibility of compensation for the descendants of persons who paid the discriminatory head tax. Moreover, the Special Rapporteur recommends the urgent review of: the situation of aboriginal communities, especially as regards the application of treaties and economic, social, and cultural empowerment; the situation of the Afro-Canadian community as relates to employment, habitat, health and education; and law enforcement agencies, as regards their behaviour, composition and training system in light of Canada’s multicultural society.

C. Mission to Colombia

The Special Rapporteur visited Colombia from 27 September to 11 October 2003 in order to evaluate progress achieved in the efforts to improve the situation of Afro-Colombians and indigenous populations following on the 1996 visit of the former Special Rapporteur, Mr

[13 E/CN.4/2004/18/Add.3.]
Maurice Glèlè-Ahanhanzo (Benin). The Special Rapporteur visited four of Colombia’s 32 departments and the capital Bogotá. He met with national and local level dignitaries and members of civil society. He made special efforts to also examine the situation of the Roma, who generally "receive very little attention from human rights defenders" yet suffer from "age-old" discrimination (summary, para. 1.)

The report acknowledges that since 1991, Colombia has created a new Constitution and established laws and institutions to counter discrimination and guarantee human rights. However, the Special Rapporteur cautions that deepening violence by "all actors in the Colombian drama" jeopardise progress that has been made (summary, para. 2). Specifically, the Special Rapporteur visited regions and cities populated by many of the estimated 890’000 to 3 million displaced persons who have fled because of the forty-year civil war. The fact that a disproportionate number of these displaced persons are either indigenous or Afro-Colombian reflects the persistently precarious socio-economic status of racial and ethnic minorities in Colombia.

The report specifies that the Government pledged to respect international human rights commitments following the 1996 visit by the Special Rapporteur. Colombia is party to the principle human rights instruments, but has not recognised the competence of the Committee on the Elimination of Racial Discrimination to examine individual complaints under Article 14 of the International Convention on the Elimination of all Forms of Racial Discrimination. That noted, the report acknowledges several of Colombia’s national human rights protection mechanisms, including a national ombudsman and the General Procurador. Furthermore, the 1991 Constitution recognises the basis for government action against all forms of discrimination. In this context, the report conveys that Colombia has adopted legislation to respect the traditions and enhance economic development of the Afro-Colombian populations. The report also describes Act No. 70 (1993), which recognises the right of Black communities to collectively own uncultivated land in the regions they inhabit. As regards indigenous populations, Article 330 of the Constitution establishes their right to govern themselves according to their traditions and customs. In spite of this, and in spite of the previous Special Rapporteur’s recommendation to do so, Colombia has not yet adopted a general act on racism and racial discrimination.

The report documents how following Act No. 70, the Government drew plans for improving living environments in Afro-Colombian communities. However the plan never materialised for lack of resources, and the new Government dropped it. Rather, they formulated an overall policy for ethnic groups and abolished the Directorate of Black Community Affairs that had been responsible for the programme. The current leadership on such matters rests with the new Office of Ethnic Affairs within the Ministry of the Interior. This office accordingly informed the Special Rapporteur of recent initiatives to "reformulate its policy in support of Afro-Colombians" (para. 18), including the holding of two conferences organised by grassroots organisations in concerned communities. Moreover, the Office of Ethnic Affairs sponsored a Conference on Strengthening of Afro-Colombian Institutions, in Cartagena in July and August 2003. The report describes a plethora of other government initiatives regarding Afro-Colombians.

The Government also informed the Special Rapporteur of its policy initiatives regarding indigenous peoples, including Act No. 691 (2001) guaranteeing indigenous peoples’ "right of access to health services and their participation in them" (para. 27). Under this system, the Government has provided 497’000 indigenous peoples with some coverage. Moreover, the Government is "preparing to establish the first indigenous territorial entities" and intending "to reactivate the Commission on the Human Rights of Indigenous Peoples" (para. 29 and 30).

Not surprisingly, representatives of indigenous, Afro-Colombian, and Roma groups complained to the Special Rapporteur that the Government’s efforts to improve their situations have proven inadequate. Indigenous groups considered that national and local authorities do not respect the autonomy granted to them in law, and Afro-Colombian
representatives note that government policies have had feeble impact. Socio-economic indicators for both groups remain overwhelmingly poor, and many complain about social and religious discrimination. The Roma in particular complain of long-standing marginalisation from mainstream Colombian society in spite of Colombia recognising that the Convention concerning Indigenous and Tribal Peoples in Independent Countries (International Labour Organisation (ILO) Convention No. 169) applied to the Roma people.

Finally, the report assesses the impact of the longstanding Colombian armed conflict on questions of racism, racial discrimination and xenophobia. Acknowledging that civilian populations of all types fall victim to armed conflict, the Special Rapporteur claims that the socio-economic vulnerability of the indigenous and Afro-Colombian groups place them at the mercy of the "Manichean strategies" of all actors in the Colombian violence. Moreover, the high numbers of indigenous and Afro-Colombian groups in the regions of economic importance to the conflict increase their vulnerability and likelihood to be dislocated.

The report ends with conclusions and recommendations based on the above-noted concerns, some of which concern general human rights practice beyond the specific mandate of the Special Rapporteur. Specifically, the report suggests that lasting resolution to the crisis in Colombia will require linkage between political solutions and respect for human rights. More closely linked to racism, racial discrimination and xenophobia, the Special Rapporteur concludes that the Government needs to adopt urgent measures "to alleviate and put an end to the precarious economic and social situation of the communities most vulnerable to political violence" (para. 51). Moreover, the Special Rapporteur recommends the establishment of a National Commission on Displaced Populations, and the adoption of a general act prohibiting racial discrimination. Furthermore, he reiterates the recommendation that Colombia recognise the competence of the Committee on the Elimination of Racial Discrimination to examine individual complaints of racial discrimination under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination.

D. Mission to Côte d’Ivoire

The Special Rapporteur visited Côte d’Ivoire from 9 to 21 February 2004. Because of its timing, the complete mission report was not available by the time of the 60th session of the Commission. The Special Rapporteur will present the full report to the 61st session of the Commission.

E. Debate

Mr Doudou Diène, Special Rapporteur on contemporary forms of racism, initiated the debate by warning against the vigorous resurgence of traditional forms of discrimination in addition to the occurrence of new forms of discrimination. The Special Rapporteur identified several trends from his visits to Canada, Côte d’Ivoire, Guyana, Colombia and Trinidad and Tobago. He explained that modern forms of discrimination notably affect refugees and immigrants and are embedded in an overarching culture of discrimination culture that manifests itself through various forms of caste system, racism of colour, anti-Semitism, and Islamophobia.

On a positive note, the Special Rapporteur applauded the increased political will by State authorities to facilitate his visits. On a less positive note, however, he remarked that domestic strategies to combat racism are all too often reduced to legal aspects and thus fail to take history and culture into account. Mr Diène illustrated this by describing Canada’s introspective need to reflect on its historical roots in order to modify its legal course of action to combat racism.

The Special Rapporteur further depicted the regrettable new ideological picture, characterised by the isolation of groups engaged in "identification practices" as a result of excessive security measures to combat terrorism. On this ground, Mr Diène opposed
Colombia’s strategy of "democratic security", whose over-emphasis on security has paved the path for political violence and forced displacement of minorities. He similarly encouraged Canada to be more vigilant in its exercise of democracy, while combating terrorism and abolishing racial profiling. The Special Rapporteur notably deplored the general rejection of religious and ethnic pluralism as well as parallel growths in Islamophobia and anti-Semitism. Mr. Diène further noted that racism, racial discrimination and xenophobia often occur as a consequence of political conflicts, as exemplified in Côte d’Ivoire.

As concerned countries, Guyana and Canada assured the Commission that the implementation of their policies to fight racial and ethnic polarisation would be consistent with their human rights obligations. The representative of Guyana reported on the formation of multiethnic parties and on its determination to eradicate socio-economic disparities as well as to build a multiracial and multicultural society. While observing that the ethnic and racial discrimination taking place in Guyana ought to be recognised as a colonial legacy, the speaker stipulated that capacity building and resources would succeed in overcoming the taint of history. He likewise asserted that many measures have been put in place to move toward a more transparent society since the visit of the Special Rapporteur.

The Canadian delegate admitted that many citizens still confront racism, but that the State has initiated several measures in the struggle against racism. The Canadian delegation asserted that bilingualism, biculturalism and the participation of all Canadians at all levels of society form the basis of the Canadian identity. He stated that multiculturalism is necessary in order for citizens to retain their identity while maintaining a sense of belonging to the nation. Canada expressed its conviction that multiculturalism facilitates racial and ethnic harmony and intercultural understanding, while preventing the emergence of hatred, discrimination and violence.

Although recognising the quality of the work of the Special Rapporteur, the representative of Côte d’Ivoire observed that his report would have been more complete and more representative if it also accounted for the northern part of the country. He objected to the Special Rapporteur’s characterisation of his country as non-inclusive and reiterated his country’s tradition of hospitality. He advised that in regard to conflict, the Special Rapporteur carry out an in-depth analysis of the emergence of the crisis and include proposals to advance the peace process in his future work.

As States engaged in an interactive debate with the Special Rapporteur, Pakistan, on behalf of the Organisation of the Islamic Conference (OIC), welcomed the reports of the Special Rapporteur, notably his report on the situation of Muslim and Arab peoples in the aftermath of the events of 11 September 2001. Pakistan encouraged the Special Rapporteur to further explore the pervasiveness of Islamophobia and to propose solutions for its elimination.

The representative of India engaged in debate with the Special Rapporteur in regard to his references to the caste system. Admitting that the caste system constituted a sensitive issue, the delegate interrogated the Special Rapporteur about the added value in singling it out. The delegate mentioned that India allocated 1.5 million dollars within affirmative action programmes to facilitate the socio-economic uplifting of the certain castes. India thus regretted this "spotlighting" and deemed it a waste of resources. It concluded by asserting that the Indian caste system is rooted in 3,000 years of history and did not qualify as racism. The Special Rapporteur retorted "caste is one of the most painful historical systems". He declared that racism and discrimination could not solely be assessed with legal and political measures, but that actors must address historical and ethical dimensions as well. To do so, he promoted "intercultural dialogue" in order to identify the cultures and value systems that promote racism and discrimination.

Mr. Peter Lesa Kasanda (Zambia), Chair of the working group of experts on people of African descent then provided an overview of the third session of the working group to the Commission. He related as the three major themes explored during the session: the administration of justice; the media; and access to education. As regards the administration of justice, he described the session’s discussion of racial bias faced by people of African
descent in regard to jury selection, judicial appointment and law enforcement. Mr Kasanda also described how the working group emphasised the role of the media in shaping public opinion and thus in promoting the rights of the African community. He remarked that the media disseminates stereotypes and prejudice through the depiction of depreciatory images of people of African descent. He also described how the working group emphasised the importance of education systems free from structural inequalities.

The Chair of the intergovernmental working group established to make recommendations with a view to the effective implementation of the Durban Declaration and Programme of Action, Mr Juan Martabit (Chile), then stressed the importance of complementary norms, education and poverty eradication in combating racism. He called for international co-operation in order to reach the Millennium Development Goals for primary education for all by 2015. Mr Martabit urged States to design development policies as to include the vulnerable segments of the population. He announced that the subsequent session of the working group would investigate junctions between health, the internet and racism.

Numerous States welcomed the existing UN mechanisms to combat racism, racial discrimination, xenophobia and other forms of intolerance during their interventions. Nigeria and India specifically welcomed the first meeting of the group of independent eminent experts on the implementation of the Durban Declaration.

Most delegations reiterated the significance of the Durban Declaration whereby the international community expressed its determination to close the gap between principles and practice in fighting racism, racial discrimination, xenophobia and related intolerance. Towards this goal, participating States enumerated the development of constitutional, legal and social policies designed to combat racism and discrimination. Some of these intra-constitutional improvements include adoption of national affirmative action plans, as is the case in Brazil, the Sudan and India. The Republic of Korea, Liechtenstein and Indonesia announced the elaboration of legislative measures facilitating the economic or political integration of non-nationals. While Bahrain and Yemen reiterated the fact that their legislation criminalized racial discrimination, the Sudanese and the Korean representatives reported the development of constitutional provisions outlawing discrimination.

Several delegations contrasted these developments with the failure of some countries - particularly Western countries - to fulfil their obligations in the fight against racism. Pakistan, on behalf of the OIC, expressed concern at the slow pace of the implementation of the Durban Declaration and Programme of Action and expressed its hope that the Anti-Discrimination Unit in the OHCHR will contribute to the follow-up of the former. More specifically, South Africa referred to the "half-hearted attitude" and the "defensive tactics" of the Western and Eastern European groups in the follow-up to Durban. Cuba and Algeria denounced the consolidation of racism, racial discrimination and xenophobia in the industrialised North wherein they claimed that political parties with racist platforms, discriminatory anti-terrorist legislation and migration laws are gaining momentum. Cuba referred to the USA as the most "illustrative case of systematic institutionalisation of racism".

In spite of these condemnations, several Western countries asserted the magnitude of their achievements in combating racism and discrimination. For instance, the representative of the USA, a former Vietnamese refugee, stressed the facility of immigrants in overcoming language barriers and becoming integrated parts of the USA society. Providing the example of his family’s educational and professional achievements, the representative described his host country as "increasingly colour-blind and pluralistic".

Yemen and Syria pointed out to the pervasive racist policies adopted by Israel. Syria noted the irony of the fact that Israel, which legitimised its existence on the ground of past racism, now perpetrates racism itself. The Democratic People’s Republic of Korea denounced the racist nature of Japan’s national policies against its Korean population.

The general debate on racism included an extensive thematic discussion on the contemporary manifestations of racism and discrimination. Coining racism the "cancerous tumour of our society", China deplored its new manifestations as neo-fascism and neo-racism. Several States noted the recrudescence of racist ideologies and extremism, the re-
emergence of pogroms, genocide and ethnic cleansing. Eritrea warned against political elites who manipulate perceptions of difference in order to establish distinctions in identity or to enlarge their territories. Ireland, on behalf of the European Union (EU), noted the intersectionality of discrimination on the grounds of race, colour, descent, national or ethnic origin with discrimination based on religion, gender, political affiliation or sexual orientation.

Cuba, India, Eritrea, Norway and Venezuela expressed some concern over the misuse of information technology – notably the Internet – as a means to spread racist ideologies. In the face of the rise in internet-based racism, Norway recommended the intergovernmental working group established to make recommendations with a view to the effective implementation of the Durban Declaration and Programme of Action to engage in a thematic investigation of racism and the internet at its next session. Israel deplored the use of both cyberspace and the media by extremist groups to depict dehumanising images of the Jewish people. In a similar vein, Algeria remarked upon the media’s tendency to vilify the image of the African community.

A substantial portion of the general debate on racism focused on the rise of Islamophobia. Pakistan, on behalf of the OIC, voiced its concern over the violence and discrimination directed to Muslims and Arabs under the pretence of anti-terrorist measures. They voiced the Islamic community’s condemnation of religious profiling, discriminatory visa regimes as well as the increased defamation of Islam in the media. Iran reiterated the rights of Muslims to practice their religion. Pakistan, on behalf of the OIC, and Saudi Arabia reminded the Commission that the principles of non-discrimination and tolerance are enshrined in the teaching of Islam and that Islam thus constitutes a religion of peace and tolerance. Egypt demanded States to end arbitrary measures and to take initiatives to protect Arabs and Muslims.

As numerous delegations addressed the scourge of Islamophobia, Israel and several NGOs denounced the one-sided approach of the general debate, which they claimed overlooks the magnitude of Judeophobia. They cited the frequency of anti-Semitic attacks, arson and/or bombings against synagogues and the desecration of Jewish cemeteries as attestation to the qualitative and quantitative rise of said Judeophobia.

Participating delegations suggested several ways to counter racism, discrimination, xenophobia and other forms of intolerance. Benin, Egypt, Ireland, on behalf of the EU, Mexico, Switzerland, and the Holy See stressed the need to increase efforts in the field of education as a fundamental tool to eliminate discrimination and xenophobia and promoting tolerance. These delegations emphasised the importance of awareness raising and training to combat all forms of discrimination. The representative of Republic of Korea also emphasised the vital importance of educating younger generations about the principles of non-discrimination and respect. The representative of the Sudan likewise informed the Commission that a conference in Khartoum last December on the topic of "Human rights education in the Sudan" considered the incorporation of human rights education into the curricula of primary to university level education.

China and Madagascar identified poverty as a main cause of racism and thus called for its eradication. Brazil and Nepal similarly committed to fight poverty in recognition of the interrelation between racism, discrimination and economic and social inequality.

Several States indicated that discrimination constituted a fundamental obstacle to peace and security. The representative of Indonesia stipulated that a culture of respect and tolerance was a prerequisite for peace. Other suggestions to annihilate racism and discrimination included the need to improve solidarity and co-operation at both national and international levels, the need to optimise political will as well as the need to provide technical assistance.
F. Resolutions

- **Combating defamation of religions (2004/6)**

This year’s resolution on defamation of resolutions adds two new paragraphs to an otherwise identical text. As in past years, the Commission focuses predominantly on Islam, expressing once again "deep concern that Islam is frequently and wrongly associated with human rights violations and terrorism" and noting "with deep concern the intensification of the campaign of defamation of religions, and the ethnic and religious profiling of Muslim minorities, in the aftermath of the tragic events of 11 September 2001" (OP 5 and 6). The resolution "strongly deplores physical attacks and assaults on businesses, cultural centres and places of worship of all religions", and once more "calls upon the international community to initiate a global dialogue to promote a culture of tolerance based on respect for human rights and respect for religious diversity..." (OP 11 and 14).

This year, the resolution introduces two paragraphs relating to education. Firstly, the Commission "urges States to ensure equal access to education for all in law and in practice, and to refrain from any legal or any other measures leading to imposed racial segregation in any form in access to schooling" (OP 3). Secondly, the Commission "also urges States to commit themselves to ensuring access to education, including access to free primary education for all children, both girls and boys, and access for adults to lifelong learning and education..." (OP 4).

**Pakistan**, on behalf of the **OIC**, introduced this draft resolution. The **EU** regretted that its efforts for a more balanced resolution – namely one less dominated by concerns with Islamophobia – had been unsuccessful. The delegate argued that the draft text should be based on the right to freedom of religion. The **USA** stated that the draft was incomplete, although they agreed with it in part. The delegate opined that the resolution inadequately addresses defamation of all religions and asserted that it should incorporate more inclusive language. **Costa Rica** and **Guatemala** expressed similar concerns with the resolution’s bias. **India** again regretted the use of the unclear term "non-Muslim countries" but expressed their support for operative paragraphs 3 and 4 concerning equal access to education.

The resolution was adopted by **29 States in favour, 16 against** (Australia, Austria, Croatia, the Dominican Republic, France, Germany, Guatemala, Hungary, Ireland, Italy, Japan, the Netherlands, Sweden, Ukraine, the United Kingdom and the USA), with **7 abstentions** (Armenia, Chile, India, Mexico, Nepal, Peru and the Republic of Korea).

- **Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2004/16)**

In a resolution recalling provisions of the Durban Declaration, the Commission reaffirms States' condemnation of "the persistence and resurgence of neo-Nazism, neo-Fascism and violent nationalist prejudice" (OP 1). In doing so, the resolution recalls, in addition to the United Nations Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Convention on the Elimination of all Forms of Racial Discrimination, the Charter of the Nürnberg Tribunal and the Judgment of the Tribunal, "which recognised the SS organisation and all its integral parts as criminal and declared (them) responsible for many war crimes and crimes against humanity" (PP 2).

The resolution "expresses deep concern over the fact of the glorification of former members of the Waffen SS" and stresses that doing so does an "injustice to the memory of the countless victims of the SS organisation and poison(s) the minds of young people" (OP 3). The resolution requests the Special Rapporteur to reflect on this issue and to "make relevant recommendations" in his next report to the Commission.
The Russian Federation introduced the resolution. The ensuing debate centred on whether the resolution was unbalanced in its substance and whether it targeted specific countries. In their explanation of vote, Ireland, on behalf of the EU, argued that the resolution was not balanced. India, Egypt, Pakistan, Armenia, Saudi Arabia, Bahrain and Qatar supported the resolution. After the EU requested a vote, the Commission adopted the resolution 36 States in favour, 13 against (Australia, Austria, Croatia, France, Germany, Hungary, Ireland, Italy, Japan, the Netherlands, Sweden, the United Kingdom and the USA), with 4 abstentions (the Dominican Republic, Guatemala, Honduras and the Republic of Korea).

- World Conference against Racism (2004/88)

The resolution on the WCAR is much shorter than last year’s. The Commission acknowledges the entry into force of the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, and expresses its deep concern over increases in “anti-Semitism, Christianophobia and Islamophobia in various parts of the world” (PP6). The resolution acknowledges the non-derogable nature of the prohibitions against racial discrimination, genocide, apartheid and slavery. It once again stresses that States and international organisations engaged in counter-terrorism “do not discriminate in purpose or effect on grounds of race, colour, descent or national or ethnic origin” (OP 2). It likewise urges States to “mainstream a gender perspective” in the design and development of measures aimed at the eradication of racism and discrimination (OP 5).

The Commission also calls upon States to comply with the recommendations of the WCAR as a matter of urgency. It welcomes the outcome of the intergovernmental working group established to make recommendations with a view to the effective implementation of the Durban Declaration and Programme of Action and welcomes the inaugural session of the group of independent eminent experts. The resolution moreover expresses its “full support and appreciation” for the work of the Special Rapporteur on contemporary forms of racism and “reiterates its call to all Member States, intergovernmental organisations, relevant organisations of the United Nations and non-governmental organisations to co-operate fully” with him.

The Congo introduced this resolution on behalf of the African Group. In the debate on the resolution, Ireland, on behalf of the EU, regretted that while there were many positive elements in the draft, such as the call for national action plans under national responsibility, the integration of the gender perspective and the equal mentioning of anti-Semitism and Islamophobia, consensus could not be reached. The delegate noted that the proposed development of a racial equality index was incompatible with EU member States’ legislation. Cuba lamented the Commission’s double standards and lack of commitment. The resolution was adopted by 38 in favour, 1 against (the USA), with 14 abstentions (Australia, Austria, Croatia, France, Germany, Hungary, Ireland, Italy, Japan, the Netherlands, the Republic of Korea, Sweden, Ukraine, and the United Kingdom).