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The Permanent Mission of the United States of America to the United Nations and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR) and has the honor to refer to the OHCHR's Notes Verbales of 2 April 2009 and 14 April 2009 regarding the request of the Chairperson-Rapporteur of the Ad Hoc Committee on the Elaboration of Complementary Standards for contributions from Member States for the Committee's consideration. The Government of the United States hereby presents its response to the Chairperson and kindly requests the assistance of the OHCHR in transmitting this response to the Chairperson of the Ad Hoc Committee.

The Permanent Mission of the United States of America takes this opportunity to renew to the OHCHR the assurances of its highest consideration.

Enclosure: Response of the United States of America.

The Permanent Mission of the
United States of America

Geneva, May 29, 2009.

Ad Hoc Committee on the Elaboration of Complementary Standards Request for Contributions

Response of the United States of America

The United States appreciates the opportunity to respond to the request of the Chairperson-Rapporteur of the Ad Hoc Committee on the Elaboration of Complementary Standards for contributions of Member States, which should be exclusively in the form of action points, for consideration by the Ad Hoc Committee at its second session in October 2009.

The United States wishes to reiterate its commitment to fighting racism, racial discrimination, xenophobia and related intolerance and looks forward to working with other States in contributing to initiatives that promote tolerance and respect for diversity. The United States is home to individuals from diverse racial, religious and ethnic backgrounds. We are profoundly aware of the destructive consequences of racism and understand the concerns that have given rise to the work of this Committee.

The United States has learned from the experience in our own country how crucial robust free expression and a thriving marketplace of ideas are to the promotion of tolerance, religious freedom, greater understanding among individuals of different backgrounds, and ultimately to the defeat of racist and discriminatory ideas in societies. Similarly, the United States believes in the importance of engaging in proactive governmental outreach and policies to assure racial, ethnic, and religious groups are protected and respect for diversity is promoted. Such governmental outreach can take a variety of forms, including the holding of town hall meetings and conferences with affected groups to listen and learn of the challenges they face and develop ways for the government to better address their concerns. These actions, which are based upon a moral and social responsibility to combat advocacy to national, racial or religious hatred, rather than a legal obligation to punish hateful expression, are essential to simultaneously maintaining robust free expression and allowing the government to take an active role in the promotion of tolerance and respect.

In addition, the United States believes in the importance of having robust legal regimes in place to deal with acts of discrimination. Within the U.S. federal government, the Department of Justice's Civil Rights Division is the primary institution responsible for enforcing federal statutes that prohibit discrimination on the basis of race, national origin, and religion. The U.S. Department of Justice also enforces several criminal statutes that prohibit acts of violence and intimidation motivated by racial, ethnic, or religious hatred and that are directed against those participating in certain protected activities such as housing, employment, voting, and the use of public services. Prosecuting such bias crimes to the fullest extent of federal law is a priority of the United States.

The United States does not believe that amendments to the international human rights legal framework – or new interpretations of existing legal obligations – are warranted to fight the scourges of racism, racial discrimination, xenophobia and related intolerance. Rather than seeking additional restrictions to expression, the United States advocates for more robust governmental outreach policies with respect to racial, ethnic and religious groups as well as the institution of appropriate legal regimes that deal with discriminatory acts and hate crimes.

The United States views racism, racial discrimination, xenophobia, and related intolerance as serious challenges facing the international community and believes they must be dealt with by the Ad Hoc Committee in a methodical and deliberate manner. The United States submits that this process of self-examination and action by international community begin with greater opportunities to exchange views and address empirical data and practice on matters related to racial, ethnic, and religious diversity, discrimination, and intolerance so as to broaden our common understanding of these important issues and provide a solid foundation for a broad-based consensus for further actions and initiatives.

The United States therefore proposes the following action points to be conducted during a year of study for consideration by the Ad Hoc Committee on the Elaboration of Complementary Standards:

- ***Causes of Advocacy of Hatred:*** A study on the underlying causes of and social pressures contributing to the advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. The study would seek to elaborate, through a careful analysis of empirical data on the occurrence and nature of such advocacy, tailored, practical recommendations on how best to promote tolerance and diversity without restricting human rights and fundamental freedoms;
- ***Global Trends Related to Such Advocacy:*** Multi-stakeholder workshops and seminars that contribute to this study through, *inter alia*, an examination of current trends related to such advocacy, including state and societal reactions and the factors that help minimize violent societal reaction to such advocacy. Presentations would include the experiences of groups in various parts of the world facing racism, racial discrimination, xenophobia and related intolerance;
- ***Evolution of Legal and Policy Frameworks:*** An assessment of the evolution of domestic legal and policy frameworks dealing with these issues and how effective they have been in dealing with intolerance and discrimination. Such an assessment would also review any distinctions made within these frameworks between actions taken based upon a moral and social responsibility to combat advocacy to national, racial or religious hatred on the one hand and those based upon a legal obligation to prohibit such advocacy on the other, and analyze the relative results of each;
- ***Compiling Successful and Unsuccessful Approaches:*** A compilation of successful approaches and lessons learned on the ground: what has actually worked in promoting

greater tolerance and diversity? Have limitations on hate-filled speech helped to reduce acts of intolerance and promote religiously and racially diverse societies? Are limitations on hate-filled speech implemented in a non-discriminatory manner? What is the correlation in fact between domestic prohibitions on such advocacy and instances or patterns of discrimination and continued allegations of human rights violations?

The United States also strongly recommends the participation and inclusion of contributions of non-governmental organizations to the work of the Ad Hoc Committee in general, and to the above-mentioned studies in particular; such participation would greatly enhance and enrich continued efforts to fight racism, racial discrimination, xenophobia and related intolerance.