Greetings to all participants,

The Indian Council of South America (CISA) and the Indigenous Peoples and Nations Coalition (IPNC) presented an intervention on Tuesday 25 April concerning unresolved institutional racial discrimination that persists in national legislation due to the denial to address obligations of Administering Powers and its failure to abolish racial discrimination in the implementation of Article 73 concerning Non-Self-Governing Territories in light of Article 15 of International Convention on the Elimination of Racial Discrimination (ICERD). Today we are presenting a recommendation for the procedures of the Committee on the Elimination of Racial Discrimination pursuant (CERD) to Article 15. This proposal concerns

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1 The Indigenous Peoples and Nations Coalition (IPNC) is accredited to and attended both the 2001 World Conference Against Racism and the 2009 Durban Review Conference.

2 Article 15 1. Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960, the provisions of this Convention shall in no way limit the right of petition granted to these peoples by other international instruments or by the United Nations and its specialized agencies.

2. (a) The Committee established under article 8, paragraph 1, of this Convention shall receive copies of the petitions from, and submit expressions of opinion and recommendations on these petitions to, the bodies of the United Nations which deal with matters directly related to the principles and objectives of this Convention in their consideration of petitions from the inhabitants of Trust and Non-Self-Governing Territories and all other territories to which General Assembly resolution 1514 (XV) applies, relating to matters covered by this Convention which are before these bodies;
(b) The Committee shall receive from the competent bodies of the United Nations copies of the reports concerning the legislative, judicial, administrative or other measures directly related to the principles and objectives of this Convention applied by the administering Powers within the Territories mentioned in subparagraph (a) of this paragraph, and shall express opinions and make recommendations to these bodies.

3. The Committee shall include in its report to the General Assembly a summary of the petitions and reports it has received from United Nations bodies, and the expressions of opinion and recommendations of the Committee relating to the said petitions and reports.

4. The Committee shall request from the Secretary-General of the United Nations all information relevant to the objectives of this Convention and available to him regarding the Territories mentioned in paragraph 2 (a) of this article.
the ability of CERD to receive and transmit petitions concerning racial discrimination to the appropriate bodies of the United Nations in regard to the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

There are recommendations from the Universal Periodic Review (UPR) and the Special Procedures and other mechanisms of the Human Rights Council that directly connect with discrimination that can be addressed through Article 15 of CERD but never see the light of day. CERD is to review racial discrimination in all its forms and manifestations, including for the victims that suffer foreign colonial domination and occupation. The denial to implement the provisions of Article 15 of CERD in relation to violations of well-established principles such as the call for "the abolition in those Territories of discriminatory law and practices contrary to the principles of the Charter and the Universal Declaration of Human Rights" in General Assembly resolution 644 (VII) of 10 December 1952 is a deficiency of CERD.

This presentation serves draws attention to the gap that exist that could be resolved by creating a complementary procedure that allows for addressing the root cause of institutional racial discrimination in "national legislation" in relation to CERD, mainly Article 15. This would also address the perpetual institutional racial discrimination that persists based on the denial of the right to self-determination of the proper agents and authorities vested with the right to self-determination in Non-Self-Governing Territories under Article 73 of the Charter. Such discrimination perpetuates and has never been addressed despite several reports or attempts to resolve cases through treaty bodies, the Special Procedures of the Human Rights Council, including its Universal Periodic Review process. The cases of Namibia, South Africa and Zimbabwe are examples that assisted in setting the standard that the denial of the right to self-determination on grounds of racial discrimination is a crime against humanity. It is a well-established principle that the denial of the right to self-determination on grounds of racial discrimination is a crime against humanity.

Such discrimination violates not only Constitutional obligations in relations to its international law obligations as an Administering Power. The States that make the international treaties the "law of the land" cannot hide behind national legislation or its deficiencies to settle its international law obligations. It is easy to mislead the General Assembly when reports are not properly examined in line with the factors and principles in the General Assembly resolutions. Thus participation, consent and the general exercise of the right to self-determination in accordance with Articles 1.2 and Article 55 of the Charter go unchecked. Thus the violations of the "sacred trust" and "just treatment" and "protection of abuse" obligations under Article 73 and in several General Assembly resolutions, the principles culminated in General Assembly resolutions 1514 (XV) and 1541(XV) in 1960.

CISA and IPNC gave evidence of discriminatory law and practices that were instituted in law and policy that were not abolished, but fully practiced and ignored in violation of the Charter of the United Nations and the Declaration of Human Rights. The opinions in high court decisions included such phrases as "the character and religion of its inhabitants afforded an apology for considering them as a people over whom the superior genius of Europe might
claim an ascendancy” (Johnson v McIntosh, 21 U.S. (8 Wheat.) 543, 1823) asserting doctrines of superiority and that the land is for the settlement of the white race (348 U.S. 272, 1955). The IPNC brought these in Petitions under Article 15 of ICERD to the Committee on the Elimination of Racial Discrimination (CERD) and CERD refused so implement its own procedures, despite the fact that they created a procedure to transmit the Petition to the appropriate bodies for instructions or to review our cases.

After imposing doctrines of discovery, manifest destiny and denial of the right to self-determination on grounds of racial and religious discrimination, the United States of America conducted a referendum that allowed it military stationed in Alaska and its American citizens and family the right to vote. This was followed by a misleading report to the General Assembly that allowed for the adoption of General Assembly resolution 1469 of 12 December 1959 to remove Non-Self-Governing Territories in violation of several principles of international law in the Charter of the United Nations, the United Nations Decolonization process and ICERD.

The IPNC and Koani Foundation brought the racial discrimination to the Committee on the Elimination of Racial Discrimination (CERD) in the form of a Petition to transmit our cases to the proper body at the General Assembly level, namely to the Committee of 24 or to receive instructions for the Special Rapporteur in CERD per Article 15 of the International Convention on the Elimination of Racial Discrimination (ICERD). For CERD to address a Petition it receives, it must come from another body of the United Nations calling on CERD to address the Petition per Article 15 to its Special Rapporteur on Decolonization. The IPNC and the Koani Foundation called upon CERD to invoke a Special Procedure it developed as expressed in the following paragraph of the Letter with the Petition (attached to request):

The Indigenous Peoples and Nations Coalition (IPNC) and the Koani Foundation (Koani) are calling upon the Committee on the Elimination of Racial Discrimination (CERD) to invoke paragraph 5 of its 1970 Procedure (enclosed) it adopted during its 2nd session (A/8027) concerning Article 15 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). This procedure calls for transmitting petitions it receives to the appropriate bodies of the United Nations without examining the petition for the purpose of obtaining further instructions on how to proceed. In this case the Letter of Petition will be transmitted through the proper channels through to the United Nations Decolonization Committee where it will either decide to examine the case with an invitation to both IPNC and Koani or to send it back to CERD for examination in accordance with ICERD or both.

\[3\text{ Paragraph 5 The Committee notes, however, that article 15 of the Convention does not, empower it to receive any petitions directly or through any channel other than the bodies mentioned in sub-paragraph 2(a) of that article. It has decided to defer to its second session consideration of the procedure it will follow if a petition is addressed to it directly or through other than the appropriate channels, with a view to adhering strictly to its terms of reference, on the one hand, while, on the other hand, not depriving the petitioner or the competent bodies of the United Nations of the opportunity to have such a petition considered by an appropriate international body.}\]
The 2001 World Conference Against Racism of 2001 and the 2009 Durban Review Conference were convened to address racism in all its forms and manifestation at the national, regional and international levels. The Outcome document of the Durban Review Conference in 2009 “Emphasizes the need to address with greater resolve and political will all forms and manifestations of racism, racial discrimination, xenophobia and related intolerance, in all spheres of life and in all parts of the world, including all those under foreign occupation” in paragraph 5 and “Reaffirms that all peoples and individuals constitute one human family, rich in diversity, and that all human beings are born free and equal in dignity and rights; and strongly rejects any doctrine of racial superiority along with theories which attempt to determine the existence of so-called distinct human races”.

The Indian Council of South America (CISA), the Indigenous Peoples and Nations Coalition (IPNC) are requesting that the Working Group on Complementary Standards either request CERD to address the Petition of IPNC, CISA and Koani Foundation or request that CERD implement its own procedure by transmitting our case to the United Nations Decolonization Committee of 24 for review and instructions to CERD if necessary or to adopt a resolution to address this deficiency in the implementation of Article 15 of the Convention. CISA and IPNC welcome the opportunity for a dialogue to address this deficiency.

CISA and IPNC are also requesting the cooperation of all the States of the United Nations to examine such cases as mentioned in this intervention.

Thank you Mr. Chair

Ambassador Ronald Barnes, IPNC

Indian Council of South America (CISA)
sub-categories cited in the earlier communication might be misconstrued as indicating that the Committee viewed those categories or sub-categories which were not listed again in the proposed new communication as having less importance than the others.

46. The Committee therefore agreed to send out a general communication requesting that each State Party which had already submitted its report re-examine it, in comparison with the list of categories of information requested in the communication of 20 January 1970, and furnish the Committee with the missing information. The Committee requested each State Party to submit to the Committee, by 1 February 1971, such information as was requested by it but was not yet furnished by the State Party. The new communication also refers the States Parties to the summary records of the meetings of the Committee in which reports submitted by States Parties were examined.

50. Under these circumstances, Mr. Tarasov did not insist on his written amendments to Mr. Partech's draft, with the understanding that he may re-submit them at a later date during the examination of subsequent reports.

51. The final text of the communication, as adopted at the 37th meeting, appears in annex III B.

52. Regarding six States Parties whose reports were due and not received, the Committee requested the Rapporteur to draft the text of the communication to be addressed to them as a reminder in accordance with paragraph 1 of rule 66 of the provisional rules of procedure. The Rapporteur's draft, which was approved at the 58th meeting, appears in annex III C.

53. The Committee has made no suggestions or general recommendations in accordance with article 9, paragraph 2, of the Convention, pending the receipt of the additional information requested from the States Parties.

VI. CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OF OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES AND TO ALL OTHER TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

54. At its first session, the Committee had before it a note by the Secretary-General containing, inter alia, the text of General Assembly resolution 2106 B (XX) and an indication of the action taken up to that time by the organs concerned in connexion with article 15 of the Convention and the General Assembly resolution.

55. The Committee was informed that the Trusteeship Council was due to meet in May 1970 and that the following actions had been taken by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples:
(a) Test of a note verbal to the Secretary-General dated 30 December 1969 from the Acting Chairman of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples which read as follows:

"The Acting Chairman of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples presents its compliments to the Secretary-General of the United Nations and has the honour to refer to the request contained in the relevant provisions of General Assembly resolution 2106 B (XX) of 21 December 1965 and of the International Convention on the Elimination of All Forms of Racial Discrimination, to the effect that the Special Committee should transmit to the Committee on the Elimination of Racial Discrimination, periodically or at the latter's request, copies of petitions from the peoples of the colonial countries relevant to the Convention, for the comments and recommendations of the said Committee.

"At its 715th meeting on 25 September 1969, the Special Committee, following its examination of the above-mentioned request, decided that its Chairman should be authorized, so far as the current year was concerned, to undertake on behalf of the Special Committee the transmission of the petitions relevant to the Convention to the Committee on the Elimination of Racial Discrimination.

"At its 724th meeting on 2 December, the Acting Chairman submitted to the Special Committee a note (A/AC.109/346) in which he indicated his intention, pursuant to the above-mentioned decision, to transmit a number of petitions to the Committee on the Elimination of Racial Discrimination. At the same meeting, the Special Committee decided, without objection, to take note of the proposal of the Acting Chairman.

"The Acting Chairman accordingly has the honour to request that the petition under reference, which are listed below, be brought to the attention of the Committee on the Elimination of Racial Discrimination:

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<th>Petition concerning</th>
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<td>Territories under Portuguese administration</td>
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<td>Southern Rhodesia</td>
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<td>Territories in southern Africa</td>
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(b) As regards article 15, paragraph 2 (b), of the Convention, the Special Committee decided at its 71st meeting on 29 September 1969 that copies of the working papers prepared for it annually by the Secretariat on political, economic, social and educational conditions in the Territories with which it is concerned should be transmitted to the Committee on the Elimination of Racial Discrimination.

56. In accordance with the above note verbaux, the Secretary-General distributed copies of the petitions mentioned therein to the members of the Committee. In addition, in accordance with the decision of the Special Committee, the Secretary-General also distributed to the members of the Committee the working papers prepared for the Special Committee in 1969 and annexed to the chapters relating to individual Territories of the Special Committee's report to the General Assembly. 1/

57. At its 11th meeting, held on 29 January 1970, the Committee adopted a statement, based on a draft prepared by Mr. F.A. Sayegh, the Rapporteur, on the responsibilities of the Committee under article 15 of the Convention and agreed that the statement should be transmitted by the Secretary-General, on behalf of the Committee, to States Parties to the Convention and to the bodies of the United Nations referred to in article 15 of the Convention. The text of the statement appears in annex IV.

58. At its second session, the Committee was informed that the Secretary-General had transmitted the Committee's statement to the Trusteeship Council and to the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

59. The Trusteeship Council, at its thirty-seventh session took the following decisions:

"(a) To transmit to the Committee on the Elimination of Racial Discrimination the annual reports submitted to it by the Administering Authorities as soon as they were received;

(b) To authorize the President to propose which of the petitions before it seemed to relate to racial discrimination and subsequently to transmit them to the Committee;

(c) To transmit information on the action taken on the relevant petitions as well as the records of the meetings at which they were discussed;

(d) To transmit to the Committee copies of the Trusteeship Council's reports to the General Assembly and the Security Council which it pointed out incorporated the working papers prepared by the Secretariat after they had been approved by the Council.

The Council also agreed that it was not possible for it to transmit information on the petitioners since it was not always possible for the Council to inquire into the bona fides of petitioners.

"With regard to the request to it to indicate those portions of the reports it received which were directly relevant to the principles and objectives of the Convention, the Council felt that this imposed a difficult task on it. In its view, the Committee itself, which was a body of experts, seemed to be the most competent body to make the decision as to relevancy.

ANNEX IV

STATEMENT OF THE RESPONSIBILITIES OF THE COMMITTEE UNDER
ARTICLE 15 OF THE CONVENTION ADOPTED AT THE FIRST SESSION
OF THE COMMITTEE ON 29 JANUARY 1970

1. At the 3rd, 4th and 12th meetings of its first session, held on 21, 22 and 28 January 1970, respectively, the Committee on the Elimination of Racial Discrimination considered the scope and the limits of its responsibilities under article 15 of the International Convention on the Elimination of all Forms of Racial Discrimination. The following paragraphs reflect the consensus of the Committee with respect to its terms of reference under that article.

A. Territories to which article 15 applies

2. The Committee holds the view that article 15 empowers it to consider all the information it receives from the bodies and organs of the United Nations referred to in paragraphs 2 and 4 of article 15, relating to matters covered by the Convention, in all Trust and Non-Self-Governing Territories and all other Territories to which General Assembly resolution 1514 (XV) applies, whether or not the administering Powers of the Territories in question are parties to the Convention.

B. Sources and channels of information

3. Such information, relating to matters covered by the Convention and to Trust and Non-Self-Governing Territories and all other Territories to which General Assembly resolution 1514 (XV) applies, shall include:

(a) Copies of petitions from the inhabitants of those Territories, transmitted to the Committee by the bodies of the United Nations referred to in sub-paragraph 2 (a) of article 15 of the Convention and paragraph 2 of General Assembly resolution 2106 B (XX);

(b) Copies of the reports concerning the legislative, judicial, administrative or other measures applied by the administering Powers, transmitted by the competent bodies of the United Nations;

(c) All information relevant to the objectives of the Convention and relating to the Territories mentioned in sub-paragraph 2 (a) of article 15 of the Convention which is available to the Secretary-General and requested by the Committee.

4. As far as copies of petitions are concerned, the Committee, while recognizing that it is not called upon to define the meaning of the word "inhabitants" in the phrase, "petitions from the inhabitants of Trust and Non-Self-Governing Territories and all other territories to which General Assembly resolution 1514 (XV) applies" (which appears in sub-paragraph 2 (a) of article 15 of the Convention), nevertheless adopts a broad definition of that word on its own work. Accordingly, it is willing to receive from the competent
bodies of the United Nations, and to consider and express opinions and make recommendations on, copies of petitions addressed to those bodies not only by persons actually resident in a territory at the time of submission of a petition but from other persons, including persons who, though originating in the territory, might find themselves outside it at the time they submitted the petition to the appropriate body of the United Nations. The Committee is also willing to receive from the competent bodies of the United Nations and to consider all petitions transmitted to it by those bodies by whomever they may be addressed, provided that they satisfy the requirements of sub-paragraph 2 (a) of article 15 of the Convention.

5. The Committee notes, however, that article 15 of the Convention does not empower it to receive any petitions directly or through any channel other than the bodies mentioned in sub-paragraph 2 (a) of that article. It has decided to defer to its second session consideration of the procedure it will follow if a petition is addressed to it directly or through other than the appropriate channels, with a view to adhering strictly to its terms of reference, on the one hand, while, on the other hand, not depriving the petitioner or the competent bodies of the United Nations of the opportunity to have such a petition considered by an appropriate international body.

6. Without prejudice to the provisions of article 9, paragraph 1, of the Convention, the Committee notes that there is no provision in article 15 of the Convention authorizing the Committee to request an administering Power to furnish it with information on matters related to the principles and objectives of the Convention in a territory administered by it. Nor does article 15 empower the Committee to invite an administering Power to send representatives to appear before the Committee for the purpose of supplying additional information or clarification or replying to inquiries. Article 15 of the Convention, however, does not limit the competence of the Committee to request a body of the United Nations, which has transmitted to it reports of an administering Power or other pertinent information, to furnish it with such additional information as may be available to it.

7. The Committee decides to request the competent bodies and organs of the United Nations referred to in paragraphs 2 and 4 of article 15 of the Convention and in paragraphs 1 and 2 of General Assembly resolution 2106 E (XX):

(a) To supply it, together with the copies of relevant petitions they will transmit to the Committee, with (i) such information as may be available to those bodies about the petitioners, (ii) information on the action which those bodies may have taken on the petitions, and (iii) records of the meetings at which the petitions were considered or the petitioners were heard;

(b) To transmit to the Committee, as soon as they become available, copies of the reports submitted by the administering Powers, including reports submitted in accordance with Articles 73 e and 88 of the United Nations Charter, and other relevant reports, such as working papers prepared by the Secretariat;

(c) To indicate those portions of every report which, in the opinions of the appropriate bodies, are directly relevant to the principles and objectives of the Convention.
C. Responsibilities of the Committee

8. The Committee is charged, under paragraph 2 of article 15 of the Convention, with considering the copies of petitions and reports transmitted to it by the competent bodies of the United Nations and with submitting expressions of opinion and recommendations on them to those bodies.

9. In discharging this task, however, the Committee shall endeavour to avoid, as far as possible, duplicating the work of other competent bodies of the United Nations.

10. The Committee is charged also, under paragraph 3 of the article, with including in its annual reports to the General Assembly summaries of the petitions and reports it has received, together with the expressions of opinion and the recommendations it has made with respect to them and submitted to the competent bodies of the United Nations.