



CONSELHO INDÍGENA DE RORAIMA

Washington, 1 March 2006

**Re: Ingaricó, Wapichana, Patamona, Macuxi and Taurepang Indigenous Peoples,
P-250-04, MC 818-05 Brazil: hearing, 1 March 2007, 1500 – 1600 hrs.**

This document, submitted pursuant to the request of the Inter-American Commission on Human Rights (“Commission”) in its 1 February 2007 communication to the Conselho Indígena de Roraima and Rainforest Foundation –US (the “Petitioners”), contains no new information that has not previously been briefed by the party in written statements. As such, there is no need for the Commission, under Article 63 of its Rules of Procedure, to request the State to submit their further observations to the same. As with the Petitioner’s oral statements, this document strives to summarize the central issues of this case and the status of events on the ground in order to facilitate the Commission’s understanding and deliberations.

I. Introduction

1. Ten years ago, in its review of the general situation of human rights in Brazil, the Inter-American Commission on Human Rights recognized and detailed the serious problems being faced by Brazil’s indigenous peoples. Sadly, the rights of indigenous peoples of Raposa Serra do Sol (RSS) are still being violated and they are still confronted by all of the problems identified earlier by the Commission. This is why the case of RSS was brought before the Commission. This case is not about asking the Commission to debate the value of another health or education project in indigenous lands. This case is not about asking the Commission to fully understand and then question each detail of the Brazilian administrative process for removing non-indigenous peoples from RSS. The Commission, however, is being asked to hold Brazil accountable for its failure to protect the fundamental rights of the indigenous peoples of RSS to their lands, culture, lives and physical integrity. The enjoyment of these rights cannot be delayed for ten more years.

2. Indeed, in its 1997 review of Brazil, the Commission recognized that the right of indigenous “ownership and effective possession [in Brazil] is constantly being threatened, usurped or eroded by various acts--in particular, by invasion and unlawful intrusion for the purpose of lumbering, mining, or agricultural operations, or for non-indigenous settlements; and also by judicial and political attacks on the permanent status of rights that have already been established, or the consolidation of those in process; and finally, by decisions to establish infrastructure... without

the due consent of the indigenous populations affected thereby.”¹ The Commission further recognized that violence against indigenous peoples continues with impunity and that the creation of new municipal administrative centers within demarcated indigenous areas “results in the establishment of a new jurisdiction” which “not only erodes the limited indigenous sovereignty recognized by the Constitution, but also becomes a source of friction between the indigenous authorities and the municipal officials.”²

3. It is true that the urgent and grave situation that exists today in RSS is exactly what was described by the Commission over a decade ago. And at that time, this Commission correctly identified why this crisis is occurring throughout Brazil, with RSS being nationally recognized as perhaps the most contentious example upon which all eyes are watching. The Commission stated, the “demarcation and legal registry of the indigenous lands is in fact only the first step in the establishment and real defense of indigenous lands.”³ In Brazil, the State has recognized a right of indigenous peoples to their ancestral lands in RSS.⁴ However, like many indigenous peoples throughout Brazil, the title they hold has little value because neither the demarcation or the titling has guaranteed their exclusive and full use and enjoyment of their lands and resources. This is because the State has failed to comply with its international legal obligations to adopt the necessary measures to actually make effective the human rights.

4. Despite national and international law requiring otherwise, the lands of over 18,000 members of the Macuxi, Wapichana, Taurepang, Ingaricó and Patamona indigenous peoples living in RSS continue to be illegally occupied by non-indigenous settlements – particularly all of the rice growers that are hostile to the affirmation of the indigenous lands and responsible for violent attacks on indigenous peoples as well as serious environmental damage to the natural resources of RSS. Brutal attacks on indigenous peoples and their social and cultural institutions and property continue and those responsible for the violence and threats continue to walk the streets unpunished. Criminal investigations are still pending and nobody has been sanctioned. Most recently, the municipality of Pacaraima has established an administrative center within one of the indigenous strongholds of RSS continuing the strategy of imposing non-indigenous governance over indigenous lands. Additionally, at the national level proposed legislation threatens to expand the circumstances under which indigenous rights to their ancestral lands can be limited or abrogated altogether.

¹ Report on the Situation of Human Rights in Brazil, Human Rights of the Indigenous Peoples in Brazil, Chapter VI, parr. 33 (1997) OEA/Ser.L/V/II.97, Doc. 29 rev.1 (29 September 1997).

² Ibid. Chpt. VI, sec. H and parr. 42 (the latter referring to the creation of the two municipalities headquarters in the Raposa/Serra do Sol and San Marcos district within indigenous areas of the Macuxi).

³ Ibid. parr. 33.

⁴ Brazil’s national law actually does not allow for indigenous “ownership” of their ancestral lands. The Federal Constitution of 1988 establishes that all lands traditionally occupied by indigenous people belong to the State (União). Federal Constitution of Brazil, 1988, Art. 20. This is a violation of Brazil’s obligations under existing international law which recognizes the right of indigenous peoples to own, use and control the lands, territories and resources they have traditionally used and occupied. Such a right has been affirmed by the Inter-American Commission and Court of Human Rights, by the jurisprudence of various UN treaty bodies, and numerous domestic courts. See generally, Annex II of “Indigenous Peoples’ Permanent Sovereignty over Natural Resources: Final Report of Special Rapporteur, Erica-Irene A. Daes”, UN Commission on Human Rights, E/CN.4/Sub.2/2004/30 (July 13, 2004) (describing the domestic and international legal developments recognizing indigenous land and resource rights).

II. Process before the Commission

5. On 29 March 2004, on behalf of the indigenous peoples of RSS, CIR and the Rainforest Foundation-US jointly filed a petition before the Commission. The complaint alleged the violation of articles 4 (right to life), 21 (private property); 24 (equality before the law); 5 (right to personal integrity); 12 (freedom of conscience and religion), 22 (right of circulation and residence) and 25 (judicial protection) of the American Convention on Human Rights, and articles I (Right to life, liberty and personal security), II (Right to equality before the law) III (right to religious freedom and worship), VIII (right to residence and movement), IX (right to inviolability of the home), XVIII (right to a fair trial) and XXIII (right to property) of the American Declaration of the Rights and Duties of Man. The petition was filed due to Brazil's continuous failure to protect the lives and physical integrity of the indigenous peoples living in RSS and its failure to take definitive steps to title RSS and adopt the necessary measures to make effective the indigenous peoples rights to their lands and resources. (At the time of the filing, the Presidential Decree ratifying the demarcated lands had not yet occurred, and in fact was six years overdue).

6. The complaint originally filed by the Petitioners before the Commission also included a request for precautionary measures, justified by the climate of imminent threat to the physical and cultural integrity of the indigenous communities living in the area. In communications dated August and December of 2004, the petitioners provided further information on serious legal threats of removal of indigenous communities and ongoing attacks on community members and property, including the violent raid of four indigenous communities in RSS on 23 November 2004. On December 6, 2004, the Commission adopted precautionary measures in favor of the indigenous peoples concerned (see Annex F).

7. It was in this context, with the precautionary measures issued by the Inter-American Commission still in force, that on 15 April 2005, the Brazilian Government made a final move with the adoption of the Presidential Decree ratifying the demarcation of RSS (in particular ratifying Portaria 534 which called for the removal of non-indigenous occupants within one year).⁵ During this one year period established for implementing the decree, the Commission did not take any further steps in the case. Violence against indigenous peoples increased and a situation of uncertainty and hostility towards indigenous peoples was further created. Only after April 2006 did FUNAI begin to call upon non-indigenous occupants to receive compensations which would then allow them to leave RSS. During this time when the State was given the space to satisfy its duties and obligations under both national and international law, no removals of non-indigenous peoples took place, however,. With each time that the State announced it would take an action, the indigenous peoples suffered backlashes by those who opposed their rights. The State's failure to fulfill its commitment each time, only made things worse.

8. Finally, on 14 February 2006 – two months before the deadline to complete the removal of non-indigenous settlers occurred -- the Commission requested the Petitioners to provide “any information or new fact that [they] may consider relevant and that have not been incorporated

⁵ Presidential Decree (15 April 2005) published in Diário Oficial da União, Edition No. 73 (18 April 2005). See also Portaria No. 534 of 13 April 2005, published in Diário Oficial da União, Edition No. 72 (15 April 2005).

into the petition's file". Since this request, the Petitioners have filed four substantive communications to the Commission⁶ providing it with updates as to events in RSS and the activities of the States, as well as comments to the two reports filed by Brazil during the same period.⁷ In its communication of 11 September 2006, the Petitioners renewed its request for an admissibility decision as well as reaffirmation of the continuing application of the precautionary measures granted earlier, or in the alternative, a granting of new precautionary measures. These requests were repeated by the Petitioners in all subsequent communications and at this time, the Petitioners would further suggest, given the substantial briefing of this case to date, that the Commission use its discretionary authority to simultaneously decide admissibility and the merits of this case.

III. Summary of the Current Situation in RSS

9. In accordance with Article 30 of the Commission's Rules of Procedure, the case of the indigenous peoples of Raposa Serra do Sol has now been amply briefed. Given that the case was filed three years ago, with the Commission's facilitation, all parties have had sufficient time to provide the Commission with all relevant information, observations and comments. To the best of the Petitioner's knowledge, what follows below is a brief summary of the status of the situation in RSS today:

a. The State has failed to remove all rice growers and other non-indigenous occupants from titled indigenous lands. In violation of the Presidential Decree requiring removal of the non-indigenous settlers within RSS by 15 April 2006, the State has not completed the removals and in fact has not only failed to remove all of the rice growers who contaminate the environment and vigorously oppose (sometimes violently) indigenous use and control of the area, but also has failed to even complete the evaluation and assessment of approximately 63 non-indigenous settlements.⁸ Furthermore, individuals who have been compensated have refused to leave. Others have refused to accept payments and they too have not left.

b. The State has failed to prevent the expansion of the rice plantations even after the demarcation and titling of RSS occurred. Despite the recognition of the exclusive use and possession of the indigenous peoples to RSS, a study conducted by INPA (Instituto Nacional de Pesquisas da Amazônia) and finalized in 2006 found that since 1992, the year that the first rice crop was identified in RSS, the area occupied by the rice growers has increased seven times in size.⁹ (See Annex A for satellite photos showing expansions over time of two rice plantations in particular. See also, Annex B showing Paulo Cesar Quartiero, former Mayor of the Municipality of Pacaraima and largest rice grower in RSS, overlooking his vast rice fields).

⁶ These communications were dated 10 May, 11 September, and 6 December of 2006, and 26 January of 2007.

⁷ These communications were dated 11 August and 27 December of 2006.

⁸ See FUNAI in Ofício n. 071/DAF/FUNAI, 05 February 2007 (De acordo com informacoes atualizadas pela Coordenacao General de Assuntos Fundiarios, restam 63 (sessenta e tres) ocupacoes nao-indigenas pendentes de vistoria e avaliacao).

⁹ Relatório INPA, *O avanço de monoculturas da TI Raposa Serra do Sol, Roraima. Uma análise histórico-espacial por sensoriamento remoto* Lauriola, Carneiro Filho, da Costa e Malheiro, 2006.

c. The State has not exercised its authority to stop the environmental damage that has been caused to the lands and resources in RSS, particularly by the rice growers, nor has it taken measures to restore the same. Though the Brazilian Constitution provides that indigenous peoples are “entitled to exclusive use of the riches of the soil, rivers, and lakes existing thereon”¹⁰, the State’s environmental office, IBAMA has taken no adequate measures to stop the environmental impacts that have been caused by the rice monoculture. These include not only the deforestation of large areas and the pollution of the rivers, but also the unauthorized diversion of the Surumú River to serve the rice farms. There is also evidence of burning, soil erosion, water and soil contamination and illegal fishing, illegal damming of streams, silting due to unsustainable agricultural practices, improper garbage disposal, and activities that pollute water used for drinking, bathing and cooking. These environmental pressures have threatened the lives of the indigenous of RSS as they practice a subsistence economy based on sustainable use of natural resources and periodic migration during the rainy season. They have also impeded the movement and spiritual practices of indigenous communities.¹¹ Petitioners are aware that IBAMA has issued fines for certain environmental infractions, but these have had no impact on controlling harmful activities. Some of these fines have not even been paid. And in some cases, where IBAMA has made on site visits to plantations and found environmental infractions, its monitoring reports state that the agency did not shut down the operation precisely because the owner was growing rice.¹² This is not a strategy that will lead to deterrence.

d. Impunity prevails in RSS. Contrary to the precautionary measures issued by this Commission, the State has not completed criminal investigations nor sanctioned the parties responsible for the acts of violence against indigenous peoples previously reported to this Commission in the context of this case. The State has begun, but not completed any investigation into the numerous threats and incidents of violence previously reported to the Committee -- including the armed attacks in 2004 of the indigenous communities of Jawari, Homologação, Brilho do Sol and Lilás as well as attacks on the community of Surumú in 2005. (See Annex C and D for descriptions of the 2004 and 2005 attacks and photos of the injuries sustained by indigenous individuals as well as the massive destruction of homes and other indigenous social and cultural institutions and property). Hence, over two years later, no individuals have been tried in a court and sanctioned for these violations. As such an atmosphere of impunity continues to exist in RSS fueling those who oppose the exclusive occupation of the indigenous peoples and thereby creating a situation of increased insecurity.

¹⁰ Brazil Constitution, Article 231(2).

¹¹ The rice-growing areas in RSS were once hunting and fishing grounds for the Macuxi. Various game animals, such as turtle, armadillo, wild boar, and deer, are no longer found in the area. The rice farms have occupied fishing grounds, including the “Pedra Preta”, a sacred place important to Macuxi history and mythology, from which fishing expeditions would begin. The areas were also pathways from Macuxi communities in the *Serras*, or Hills, to Boa Vista and to other communities. Fences built by the rice-producers have impeded passage through these areas, isolating communities. *Relatório de pesquisa de campo realizado nas comunidades Homologação, Raposa Serra do Sol, Jauari, e São Francisco no Baixo Surumu, Terra Indígena Raposa Serra do Sol*, Carlos Cirino, August 7, 2004

¹² See IBAMA Monitoring Report of Fazenda Canada (1 December 2005) (issuing a fine for the unauthorized “suppression of native vegetation” but noting in the report that despite the violation “the area was not embargoed because cultivation of rice was found.”)

e. The State has failed to adopt the necessary measures to protect the lives and physical integrity of the indigenous peoples of RSS. The State has not taken one adequate measure to provide increased security to the indigenous peoples of RSS, particularly during this increased period of tension and hostility caused by the removal process. The control post that the State established and then abandoned in 2005 has not been reestablished to impede illegal intrusions and deter other criminal activity. There has been no additional training of police reported and no steps to consult and cooperate with the indigenous of RSS to seek creative solutions. The failure of the Federal Police to conclude investigations as to past crimes and sanction those responsible further fails to deter future attacks. Despite the fact that Brazilian law authorizes the Federal Police to take measures to protect the life and patrimony of indigenous persons and their community,¹³ the presence of the Federal police in RSS has been temporary if at all, and ineffective. Recent evidence of this is the events surrounding the General Assembly of the Indigenous Peoples of Roraima in which one indigenous man was brutally attacked and agitators disrupted the meeting in a variety of ways. (See photo of victim in Annex E).

f. The State has also failed to impede the adoption and implementation of municipal laws that interfere with the indigenous peoples' right to manage and control their territory in accordance with their own laws, customs and institutions. As discussed in greater detail in the Petitioners' communication of 6 December 2006, these two new laws (Pacaraima Municipal Laws N.110/2006 and 111/2006 (6 September 2006) establish non-indigenous governance over areas of RSS and create a new administrative unit (district) directly within the most contentious and heavily populated indigenous region of RSS (the region of Surumú which was the site of the violent attacks of 2005). These laws have had the effect of interfering in the indigenous peoples' own governance as well as their political, social and cultural organizations and activities (i.e. closing an indigenous school and placing it under municipal control and requiring municipal authorization for the meeting of indigenous *tuxauas* (leaders)). As recognized by this Commission in its 1997 report (see paragraph. 2 above), this type of law "erodes the limited indigenous sovereignty recognized by the Constitution." The State's recognition of indigenous land is of little value, if the State does not comply with its obligations to exercise its authority to prevent these illegal interferences and unwanted intrusions.¹⁴

g. The State has also taken no steps to stop ongoing legislative efforts to undermine the constitutional protections for indigenous lands. While the State argues that progress is being met to protect the rights of indigenous peoples in Brazil, it fails to disclose to the Commission current efforts at the national level to adopt a proposed federal law (PLP

¹³ Decree no .4.412, art. 3 (7 October 2002). See also Presidential Decree (15 April 2005), art. 4.

¹⁴ In February the Petitioners received a letter from the Ministry of Justice stating the following: "Em relacao a ampliacao do núcleo urbano de Pacaraima e elevacao da Vila Surumu a categoria de distrito, informamos que foi encaminhado o Oficio no 43/PGF-GF/FUNAI/07 a Secretaria Especial de Direitos Humanos, uma vez que nao cabe a esta DAF emitir parecer sobre material jurídica." The Petitioners were not provided a copy of this communication so it is unclear of what its intent. However, its likely impact, five months after the adoption and ongoing implementation of the laws, seems negligible.

260-90) which would undermine the constitutional protections for indigenous lands.¹⁵ This proposed law seeks to do this by defining the terms “relevant public interest” (as utilized in Article 231 of the Brazilian Constitution) so as to increase the circumstances in which interference with indigenous peoples’ “permanent possession” and “exclusive use” of their lands is permitted. (This effort is described in greater detail in the Petitioner’s earlier communication of 6 December 2007). If adopted, this new federal law would open up the possibility of transferring the occupation, use and dominion of indigenous lands to the State (including those already demarcated and titled), for installation and consolidation of population centers; for areas where agricultural activities can be developed; and for the construction of military facilities and infrastructure projects. Even the formation of towns within indigenous lands would be enough to restrict the territorial right of indigenous peoples and allow the State to take those lands from indigenous peoples. Again, if adopted, the demarcation and titling of RSS will mean very little in practice.

h. The State has failed to provide adequate measures to protect the right of indigenous peoples to their lands, territories and resources. While an administrative mechanism exists to demarcate and title indigenous lands in RSS, the inability of the State to implement these measures within a reasonable time period, particularly due to recurring, numerous legal challenges and its vulnerability to local political influences, demonstrates that these measures are not adequate to make effective the rights of the indigenous of RSS. As such, the State has not complied with its obligation under Article 2 of the American Convention.¹⁶ A June 2006 decision of the Federal Supreme Court recently clarified that it had jurisdiction over all matters relating to RSS. In theory, this could help to address the multiple and often inconsistent rulings that have emerged in cases involving RSS. This decision, however, has only resolved the competency (jurisdictional) issue as between Brazilian courts. Numerous cases regarding RSS are now pending before this Court and require a ruling, and each of these open cases allows the non-indigenous settlers, especially the rice farmers, to continue their activities and their illegal occupation by arguing that the *sub judice* situation is evidence that the administrative demarcation of RSS is not consolidated and can actually be reversed.

i. Lastly, the State’s failures and delays have now created the space for the rice growers to commence their new planting within the next few weeks (as soon as the rains begin) thereby increasing the urgency of the situation by making an imminent conclusion of the removal process more elusive and the likelihood of increased tensions more probable.

¹⁵ Proposed law PLP 260-90, 29 November 2006, presented by Congressman Alceste Almeida, Congressional Commission on Foreign Relations and National Defense, Amendment 04.

¹⁶ Article 2 requires the “State Parties...to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights or freedoms” affirmed in the Convention.

IV. Request

i. Precautionary Measures

10. For the reasons stated above, including the ongoing threats to the lives and physical integrity of the indigenous of RSS and the imminent commencement of the rice planting in March and April which will irreparably damage the lands and resources of RSS, there is a great urgency for the Commission to not only admit and decide on the merits of this case, but also to affirm, in accordance with Art. 25 of the IACHR Rules of Procedure, the continued application of the precautionary measures previously granted in this case, or in the alternative, grant new precautionary measures. (See Annex F for a copy of the measures previously granted.)¹⁷

ii. Admissibility and a Decision on the Merits

11. Moreover, given that this case has been pending before the Commission for three years and that the Parties have now substantially briefed the various issues in question as contemplated by Article 30 of the of the IACHR Rules of Procedure, the Petitioners request that the Commission admit this case and use its discretionary power to decide admissibility and the merits of this case at the same time. As described in greater detail in the initial petition and in particular in the Petitioner's communication to the Commission dated 11 September 2006 (Section IV) the petition satisfies all requirements for admissibility as established by the Commission's Rules of Procedure, including the following:

a. As required by Article 23 of the Rules of Procedure, CIR and Rainforest are nongovernmental entities legally recognized in Brazil and the US, respectively and has presented facts alleging Brazil's responsibility for the violation of human rights recognized in both the American Convention on Human Rights and the American Declaration of the Rights and Duties of Man.¹⁸

b. As provided by Article 31(2), the Petitioners have established that they were not required to exhaust all of their domestic remedies as the domestic legislation of Brazil does "not afford due process of law for protection of the right or rights that have allegedly been violated" once demarcation has begun *and* given that both the administrative procedure for vindicating rights as well as judicial mechanisms, have proven inadequate and ineffective as a result of "unwarranted delay in rendering a final judgment." The administrative procedure for securing the rights of indigenous peoples to their lands has been ongoing for thirty years and there is still no conclusion. Numerous legal challenges regarding the territorial rights of indigenous peoples in RSS have been before the courts at least as far back as 1995, yet still there is no resolution. Moreover,

¹⁷ Povos Indígenas Ingaricó, Macuxi, Patamona, Taurepang e Wapichana, 818-04, Brasil, Pedido de Medidas Cautelares (6 December 2004) cited in Annual Report of the Inter-American Commission on Human Rights 2004, OEA/Ser.L/V/II.122, Doc. 5 rev. 1 (23 February 2005) (finding that the "lives, personal safety, and territorial occupation of the members of these indigenous peoples are in imminent danger because of the process of delimiting lands, which has been pending since 1977").

¹⁸ The facts substantiating each of the alleged violations have been detailed in several communications to this Commission, most prominently in the initial petition and in the Petitioner's communication of 11 September 2006, see Section III.

while legal actions have been filed regarding attacks against the life and physical integrity of indigenous peoples, failure of the State to complete criminal investigations have impeded the cases from being heard in a court of law.

c. In accordance with Article 32(2) of the Rules of Procedure, and given that this is a circumstance where violations have been ongoing over a long period of time, the Petitioners have submitted their original petition “within a reasonable period of time” – in this case, within two months of the deadline first established by Minister of Justice, Marcio Tomaz Bastos to secure the ratification of the RSS lands (via the issuance of the Presidential Decree), and within three weeks of a decision by a Brazilian court to suspend the effect of then Portaria 820 which was issued by the then Minister of Justice and recognized the entirety of FUNAI’s original delimitation of RSS.¹⁹

d. Lastly, as required by Art. 33, there is no “pending settlement” before another international governmental organization to which Brazil is a member, nor is this case pending before or has it already been “examined and settled” by another international governmental organization. (Consistent with Article 33(a) of the Commission’s Rules of Procedure, however, the UN Committee on the Elimination of all Forms of Racisms is reviewing the matter of RSS pursuant to its authority to provide general recommendations based on the examination of the reports and information received from the States.²⁰

12. With the aforementioned provided, the Petitioners extend their deepest appreciation to the Commission for its attention to this case and remain available to respond to any further inquiries from this esteemed body and its members.

¹⁹ As previously described by the Petitioners, this is consistent with prior decisions of this body allowing indigenous peoples of Paraguay to submit their case within six months of a decision by the national Senate to not expropriate “private” lands for the benefit of indigenous communities. Report No 12/03, Petition 0322/2001, Admissibility, Comunidad Indígena Sawhoyamaya del Pueblo Enxet, Paraguay, par. 47 (20 February 2003); Report No 11/03, Petition 0326, Admissibility, Comunidad Indígena Xakmok Kásek del Pueblo Enxet, Paraguay, par. 40 (20 February 2003).

²⁰ This authority arises under Article 9 of the Convention on the Elimination of All Forms of Racism, 660 U.N.T.S. 195, entered into force Jan. 4, 1969, and is distinct from the review of specific cases as permitted under article 14 of the Convention. Article 14 provides individuals and groups with the ability to file complaints against Member State for violation of human rights. At present, the Committee is looking at the situation of RSS in the context of following up on recommendations it made in 2004 upon receiving Brazil’s 14th – 17th periodic report discussing the general measures it has taken to implement the entirety of the Convention. See Conclusions and Recommendations of the Committee on the Elimination of Racial Discrimination, UN Doc. CERD/c/64/C/2 (2004), parr. 15. Conclusions and Recommendations of the Committee on the Elimination of Racial Discrimination, UN Doc. CERD/c/64/C/2 (2004), para. 15.