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Commission on the Status of Women

Forty-eighth session

1-12 March 2004

Item 3 (a) of the provisional agenda*

**Follow-up to the Fourth World Conference on Women
and to the special session of the General Assembly
entitled “Women 2000: gender equality, development
and peace for the twenty-first century”: review of gender
mainstreaming in entities of the United Nations system**

**Results of the thirtieth session of the Committee on the
Elimination of Discrimination against Women**

Note by the Secretary-General**

I. Introduction

1. In its resolution 47/94 of 16 December 1992, the General Assembly recommended that the sessions of the Committee on the Elimination of Discrimination against Women be scheduled, whenever possible, to allow for the timely transmission of the results of the Committee's work to the Commission on the Status of Women, for information.

12. The Committee identified meetings to be attended by its Chairperson or an alternate during 2004, namely: the forty-eighth session of the Commission on the Status of Women; the sixtieth session of the Commission on Human Rights; the third inter-committee meeting of the human rights treaty bodies and the sixteenth meeting of chairpersons of human rights treaty bodies; and the fifty-ninth session of the General Assembly (Third Committee and the commemorative event for the twenty-fifth anniversary of the adoption of the Convention by the General Assembly).

13. The Committee continued consideration of measures to enhance the effectiveness of its working methods. In particular, it discussed the option of considering periodic reports submitted under article 18 of the Convention in parallel working groups, on the basis of a background note prepared by the secretariat on the implications, and possible modalities, of this option (CEDAW/C/2004/I/4/Add.2). Other alternatives, such as extending the Committee's two annual sessions by one week each, and exceptional (third) sessions, were also mentioned. The Committee agreed to consider further its working methods at the informal meeting scheduled to be held in May, in Utrecht, the Netherlands (see below), where it will

the events in Gujarat and their impact on women. The Committee also decided that its Chairperson would request a meeting with the Permanent Representative of India to the United Nations while attending the forty-eighth session of the Commission on the Status of Women in March 2004 in order to seek clarification from the Government on the status of the preparation of the above-mentioned reports.

17. The Committee agreed to include in its annual report an overview of its current working methods in order to make them more transparent and readily accessible to States parties and others interested in the implementation of the Convention, including United Nations agencies, programmes and funds and civil society organizations.

D. Action in relation to item 8

18. The Committee's Working Group on Communications under the Optional Protocol held its third session from 7 to 9 January 2004. Among other matters, it reviewed the practice of other human rights treaty bodies concerning interim measures, based on a background note prepared by the secretariat (CEDAW/C/2004/I/WGCOP/WP.2). The Working Group decided, *inter alia*, to register its third communication, and that requests for interim measures would include a request for a reply on steps taken from the State party concerned within a

Annex I**General recommendation No. 25, on article 4, paragraph 1,
of the Convention on the Elimination of All Forms of
Discrimination against Women, on temporary special
measures**

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I. Introduction

primarily, or to a different degree or in different ways than men. States parties may need to take specific temporary special measures to eliminate such multiple forms of discrimination against women and its compounded negative impact on them.

16. Article 4, paragraph 2, provides for non-identical treatment of women and men due to their biological differences. These measures are of a permanent nature, at least until such time as the scientific and technological knowledge referred to in article 11, paragraph 3, would warrant a review.

B. Terminology

17. The *travaux préparatoires* of the Convention use different terms to describe the “temporary special measures” included in article 4, paragraph 1. The Committee itself, in its previous general recommendations, used various terms. States parties often equate “special measures” in its corrective, compensatory and promotional sense with the terms “affirmative action”, “positive action”, “positive measures”, “reverse discrimination”, and “positive discrimination”. These terms emerge from

discontinued when their desired results have been achieved and sustained for a period of time.

21. The term “special”, though being in conformity with human rights discourse, also needs to be carefully explained. Its use sometimes casts women and other

27. States parties should analyse the context of women's situation in all spheres of life, as well as in the specific, targeted area, when applying temporary special measures to accelerate achievement of women's de facto or substantive equality. They should evaluate the potential impact of temporary special measures with regard to a particular goal within their national context and adopt those temporary special measures which they consider to be the most appropriate in order to accelerate the achievement of de facto or substantive equality for women.

28. States parties should explain the reasons for choosing one type of measure over another. The justification for applying such measures should include a description of the actual life situation of women, including the conditions and influences which shape their lives and opportunities — or that of a specific group of women, suffering from multiple forms of discrimination — and whose position the State party intends to improve in an accelerated manner with the application of such temporary special measures. At the same time, the relationship between such measures and general measures and efforts to improve the position of women should be clarified.

29. States parties should provide adequate explanations with regard to any failure to adopt temporary special measures. Such failures may not be justified simply by averring powerlessness, or by explaining inaction through predominant market or political forces, such as those inherent in the private sector, private organizations, or political parties. States parties are reminded that article 2 of the Convention, which needs to be read in conjunction with all other articles, imposes accountability on the State party for action by these actors.

30. States parties may report on temporary special measures under several articles. Under article 2, States parties are invited to report on the legal or other basis for such measures, and their justification for choosing a particular approach. States parties are further invited to give details about any legislation concerning temporary special measures, and in particular whether such legislation provides for the mandatory or voluntary nature of temporary special measures.

31. States parties should include, in their constitutions or in their national legislation, provisions that allow for the adoption of temporary special measures. The Committee reminds States parties that legislation, such as comprehensive anti-discrimination acts, equal opportunities acts or executive orders on women's equality, can give guidance on the type of temporary special measures that should be applied to achieve a stated goal, or goals, in given areas. Such guidance can also be contained in specific legislation on employment or education. Relevant legislation on non-discrimination and temporary special measures should cover governmental

carefully distinguish in each field between measures of an ongoing and permanent nature and those of a temporary nature.

38. States parties are reminded that temporary special measures should be adopted to accelerate the modification and elimination of cultural practices and stereotypical attitudes and behaviour that discriminate against or are disadvantageous for women. Temporary special measures should also be implemented in the areas of credit and loans, sports, culture and recreation, and legal awareness. Where necessary, such measures should be directed at women subjected to multiple discrimination, including rural women.

39. Although the application of temporary special measures may not be possible under all the articles of the Convention, the Committee recommends that their adoption be considered whenever issues of accelerating access to equal

of temporary special measures by the Secretary-General of the United Nations is a practical example in the area of women's employment, including through administrative instructions on the recruitment, promotion and placement of women in the Secretariat. These measures aim at achieving the goal of 50/50 gender distribution at all levels, but at the higher echelons in particular.

⁴ The term "affirmative action" is used in the United States of America and in a number of United Nations documents, whereas the term "positive action" is currently widely used in Europe as

Annex II

Statement by the Committee on the Elimination of Discrimination against Women on the situation of women in Iraq

The Committee on the Elimination of Discrimination against Women, during its thirtieth session, held at United Nations Headquarters in New York from 12 to 30 January 2004, noted with concern recent developments with regard to the situation of women's human rights in Iraq. In particular, the Committee noted a decision by the Governing Council of Iraq dated 29 December 2003 to repeal existing civil statutes governing issues related to marriage, divorce, child custody and inheritance.

The Committee notes the fact that Iraq is a State party to the Convention on the Elimination of All Forms of Discrimination against Women. In this regard, the Committee, at its twenty-ninth session, held from 30 June to 18 July 2003, had already sent a letter to the then Special Representative of the Secretary-General on the situation of human rights in Iraq, dated 14 May 2003.