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### UNIVERSAL PERIODIC REVIEW

#### Report of the Working Group on the Universal Periodic Review \*

#### Turkmenistan

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## **Introduction**

1. The Working Group on the Universal Periodic Review, established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its third session from 1 to 15 December 2008. The review of Turkmenistan was held at the 11th meeting, on 9 December 2008. The delegation of Turkmenistan was headed by Dr. Shirin Akhmedova, Director of the Institute for Human Rights and Democracy under the President of Turkmenistan. At its meeting on 11 December 2008, the Working Group adopted the present report on Turkmenistan.
2. On 8 September 2008, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Turkmenistan: Chile, Gabon and the Philippines.
3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Turkmenistan:
  - (a) A national report submitted / written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/3/TKM/1);
  - (b) A compilation prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR), in accordance with paragraph 15 (b) (A/HRC/WG.6/3/TKM/2);
  - (c) A summary prepared by OHCHR, in accordance with paragraph 15 (c) (A/HRC/WG.6/3/TKM/3).
4. A list of questions prepared in advance by the Czech Republic, the United Kingdom of Great Britain and Northern Ireland, Denmark, Germany, Latvia, the Netherlands and Sweden was transmitted to Turkmenistan through the troika. These questions are available on the extranet of the universal periodic review.

## **I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS**

### **A. Presentation by the State under review**

5. On behalf of the Turkmen delegation, Dr. Shirin Akhmedova, Director of the Institute for Human Rights and Democracy under the President of Turkmenistan, expressed gratitude for the opportunity to make their presentation on the review. She said the new Turkmenistan Government had announced, as a foreign policy priority, cooperation with international organizations and declared unwavering implementation of the international obligations undertaken by the State.
6. She said Turkmenistan is carrying out broad and important reforms in education, health, social security, in the legal sphere and in improving the well-being of people, including those living in remote areas of the country.
7. Turkmenistan has joined over 40 international organizations. In 1992, it became a full member of the United Nations and of the Organization for Security and Cooperation in Europe (OSCE). Turkmenistan has joined over 110 international conventions, including in the sphere of human rights protection.
8. On 26 September 2008, Turkmenistan adopted a new Constitution. Bearing in mind the State's active international cooperation, its Parliament has created an independent provision by

which Turkmenistan acknowledges priority of the norms of international law. The principle of the precedence of international treaties over national legislation is now enshrined in the Constitution.

9. The principle of the separation of powers between the executive, judiciary and legislature has been enshrined in the new Constitution. Reference to the terms of office of judges has been eliminated from the Constitution, allowing for development of the principle of independence of the judiciary. The highest legislative body is Parliament. Judicial functions are now the sole responsibility of judges in Turkmenistan.

10. On 14 December 2008, Turkmenistan will hold elections for the new Parliament. Under the new Constitution, 125 deputies will be elected, as against 65 deputies before the reform. The deputies will elect the President of the Parliament by secret vote, not openly as in the past. The right to be elected or to elect people under the International Covenant on Civil and Political Rights is enshrined, as is the presumption of innocence. The category of citizens who have the right to elect or be elected has also been extended. For persons in detention, before they are sentenced, conditions will be created to implement their right to vote. At the invitation of the Electoral Commission of Turkmenistan, the elections will be observed by both national and foreign observers. At present, the Electoral Commission has registered 40 international observers from Commonwealth of Independent States countries.

11. The rights and freedoms of the citizens of Turkmenistan have been broadened. Implementing recommendations of the treaty bodies, the constitutional article on equality of rights of citizens has been extended to include race and gender. Article 19 guarantees equal rights and freedoms for citizens regardless of their nationality, race, gender, origin, wealth, position, place of residence, language, religion, political convictions, affiliation with a political party or lack thereof.

12. Recognizing the need to develop the private sector, the new Constitution has a new article 10 on State support for private enterprise.

13. The new Constitution will give an impetus to the work of the two commissions working on a permanent basis: the State Commission on improving and reforming legislation, and the inter-agency State Commission on implementing the State's international human rights obligations. They are currently looking at all legislation and bringing it into line with the Constitution, which is the highest law, has direct application and takes precedence over other national laws.

14. Bringing legislation into line with the standards of international conventions and the recommendations of treaty bodies is a primary task for the State. The list of conventions has been increased by accession to the Convention on the Rights of Persons with Disabilities. There is an ongoing process to prepare recommendations for the Government with regard to accession to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. International cooperation, in all areas, without exception, will facilitate successful implementation of the State's reform process. Important factors that will ensure Turkmenistan meets its international treaty obligations include constant consultations with United Nations agencies in Turkmenistan, joint measures to increase awareness, within and outside Government, and technical cooperation at the request of the Government in various areas. At present, technical assistance is needed in preparing reports on the recommendations of

United Nations treaty bodies and also on questions of implementing international standards in national legislation.

15. Turkmenistan is a socially oriented State. The new Government's domestic and foreign policy is oriented to ensure an adequate living standard for its citizens and proper rights and freedoms, adequate democratic processes, building civil society and proper implementation of international obligations. These orientations are the basis for active, positive and constructive dialogue with United Nations agencies and treaty bodies and with other international organizations.

#### **B. Interactive dialogue and responses by the State under review**

16. During the interactive dialogue, statements were made by 35 delegations. A number of delegations commended the State's ratification of most major human rights instruments. Recent positive developments and reforms were also noted by a number of delegations, such as the unanimous decision by the People's Council to adopt the new Constitution, which provides for the clear separation of powers between the executive and legislature and the establishment of an inter-ministerial commission on treaty body reporting. A number of countries also welcomed the State's cooperation with the Human Rights Council and other international bodies and mechanisms.

17. France was concerned at the lack of independence of the judiciary and the corruption in that area. It noted that cases of torture and ill treatment are widespread and that human rights defenders are subject to harassment and intimidation. France requested further information on the work of the State commission responsible for examining complaints of abuses by the police and security forces. It noted that the right to freedom of religion is limited and asked about measures to combat all forms of religious intolerance. France stressed that the Committee on the Rights of the Child was concerned at the absence of legislation explicitly banning trafficking in persons. It recommended implementing the provisions of the Palermo Protocols ratified by Turkmenistan. France also recommended that the State adopt all necessary measures to liberalize the media and ensure pluralism in order to promote full freedom of the press. France was concerned about the restrictions faced by civil society organizations when exercising the right to peaceful assembly. It recommended that Turkmenistan take steps to guarantee the right to associate and work freely for human rights defenders, in conformity with the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. France also recommended ratifying the Rome Statue of the International Criminal Court.

18. Turkey noted the State's increasing cooperation with international organizations in the field of human rights. It further noted that the adoption of a timetable for the preparation and submission of reports to treaty bodies is a significant step to that end. Turkey encouraged Turkmenistan to continue its endeavours to further this cooperation. It enquired about policies to prevent human trafficking.

19. Switzerland welcomed the visit of the Special Rapporteur on freedom of religion and belief and recommended that a standing invitation be addressed to all special procedures of the Council. It noted with appreciation that domestic legislation provides for gender equality and recommended that Turkmenistan put in place and apply sanctions against the perpetrators of domestic violence. It also recommended implementing the recommendations made by the Committee on the Elimination of Discrimination against Women in 2006, inviting Turkmenistan

to adopt all procedural laws necessary to ensure women's access to justice, and to enhance their awareness of their rights through legal literacy programmes and legal assistance. Lastly, Switzerland commended Turkmenistan for its efforts in education. It recommended that the Government widely disseminate the main human rights texts, particularly by providing courses on human rights in school curricula in order to make all social categories aware of their rights.

20. The Russian Federation expressed gratitude for the substantive national report. It noted with satisfaction the progress made in bringing national legislation into line with international norms, in enhancing the national potential for human rights protection, and in ensuring that the population is better informed. It expressed its great respect for the Government for having carried out a broad range of reforms in education, health and social security. It noted the Government's constant attention to ensuring that the country is able to observe inter-ethnic peace and harmony, and to avoiding ethnic discrimination. In this connection, it enquired about further measures envisaged by the Government.

21. Azerbaijan highlighted the establishment of the national strategy on political, economic and cultural development of Turkmenistan until 2020, and that the citizens' complaint commission allows authorities to address violations effectively. Azerbaijan also noted that Turkmenistan had abolished the death penalty and that it is reviewing the compatibility of domestic legislation with international human rights standards. Azerbaijan pointed to the positive step taken in granting more than 16,000 refugees and internally displaced persons citizenship status. It asked Turkmenistan for information on measures taken to combat human trafficking.

22. Algeria noted that, according to the national report, international instruments to which Turkmenistan is a party have precedence over domestic legislation. Algeria requested detailed information on this issue and recommended that appropriate attention be paid to the integration into domestic legislation of the commitments undertaken by Turkmenistan by virtue of international conventions on human rights. Algeria noted that the national report showed the willingness of Turkmenistan to remedy the delay in presenting its reports to the various treaty bodies. It recommended that the Government, with the assistance of OHCHR, pursue its efforts to abide by the timeline described in the national report relating to its reporting to treaty bodies. Furthermore, Algeria commended the reforms by the Government in education. It encouraged the Government to continue its efforts to establish an educational system in conformity with international standards, especially through the inclusion of human rights education in the curricula, as recommended by the Committee of the Rights of the Child.

23. Poland stressed that the situation of human rights defenders is of great concern, in the light of reports of their severe repression, harassment, torture and other ill treatment, arbitrary detention and imprisonment after unfair trials. Poland appealed to the Government to release all human rights defenders, and recommended it take measures to protect them from prosecution and ensure a safe environment for their activities. Poland noted that the Law on Public Associations greatly limits the ability of organizations and individuals to participate in public life and Government decision-making. Poland enquired about steps to be taken to remove restrictions to the functioning of independent civil society organizations. It recommended that the Government take effective measures to allow them to register and work freely. Poland noted that the application of the *propiska* system of registration of permanent residence severely restricts access to housing, employment, social benefits, free health care and education and asked about the Government's intentions to change this system and recommended the abolition of the legislation and practices arising from it.

24. Italy welcomed the visit to Turkmenistan in 2008 of the Special Rapporteur on freedom of religion, who identified legislative restrictions on registration of religious organizations and limitations related to places of worship and imports of religious material. Italy noted with concern that freedom of expression is seriously limited. Italy recommended that the Government adopt adequate measures for the protection and promotion of religious freedom to ensure effective freedom of worship for all religious communities; comply with its international obligations in this field, ensuring the right to seek, receive and impart information and ideas, including by electronic means and from foreign sources, and act against any form of harassment and intimidation of journalists; and consider positively the request of the Special Rapporteur on the question of torture to visit the country as a matter of priority. In the light of the concerns expressed in 2006 by the Special Representative of the Secretary-General on the situation of human rights defenders, Italy also recommended that Turkmenistan strengthen cooperation with OHCHR with a view to building capacity in the area of human rights.

25. Brazil welcomed the establishment of the National Institute for Democracy and Human Rights and the Inter-Institutional Commission for Human Rights. It stressed the importance of continuing to exchange information with OHCHR and the United Nations system on the realization of civil, political, economic, social and cultural rights. Brazil requested information on concrete measures taken to promote and protect the rights of children and women, to eliminate all forms of discrimination, to prevent and combat torture and to address the issue of refugees. Brazil also enquired about the most pressing needs for the full enjoyment of human rights, including in the areas of cooperation, capacity-building and technical assistance. Brazil recommended that Turkmenistan (a) reach the human rights goals set by the Council in its resolution 9/12; (b) consider ratifying the Rome Statute of the International Criminal Court, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention for the Protection of all Persons against Enforced Disappearance and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; (c) consider adopting a standing invitation to special procedures; and (d) strengthen its policy on the prevention and the combating of child labour and on the full guarantee of the rights of the child, with special attention to children without parental care.

26. While commending Turkmenistan for having ratified most human rights treaties, the Netherlands stressed that their implementation and translation into national law needs further improvement. It welcomed the visit of the Special Rapporteur on freedom of religion, and recommended that the Government agree to visits of other special rapporteurs who have requested access to Turkmenistan in the last five years. The Netherlands recommended, as had the High Commissioner for Human Rights had, that the State establish an independent national institute for human rights, according to the Paris Principles, which could advise the Government and receive and investigate complaints by the public. Many cases of political prisoners in the past have been critically assessed internationally, and the circumstances of their convictions remain unclear. The Netherlands enquired about plans to review these cases and measures to prevent torture in prisons and detention centres. Although the law allows for the free establishment of parties or non-governmental organizations, the relatively limited number of registered non-governmental organizations indicates that this is difficult in practice. It recommended that the Government reform the registration process to make it easier for organizations to register and work freely.

27. India noted with interest the reforms introduced in the sectors of education, health care and social security. It welcomed the activities conducted by the Government to sensitize and educate State officials and the population on the promotion and protection of human rights. India

expressed its appreciation for the “open-door” policy adopted by Turkmenistan with regard to its foreign policy and the great importance it attached to international commitments.

28. Mexico recommended that the Government submit its periodic reports as soon as possible and establish mechanisms for the implementation of recommendations with the participation of civil society. Mexico noted the State’s efforts to attend to refugees in its territory and asked what measures are being adopted to guarantee the human rights of ethnic minorities. Mexico also requested information on efforts to promote the activities of civil society organizations and recommended that Turkmenistan strengthen measures to promote freedom of association and take measures to guarantee the full exercise of the right to freedom of expression, including the right of access to public information by civil society organizations and individual citizens.

29. Canada encouraged the Government’s continued cooperation with the Council. Canada recommended that Turkmenistan (a) ensure that opposition parties are allowed to participate freely in the political process without fear of retribution; (b) remove restrictions on the ability of journalists to report and criticize Government policy freely, without fear of repression; (c) end the practice of governmental appointment of editors and senior managers to all media outlets in the country and thus foster a more independent media; (d) hold an independent inquiry into the death in prison of journalist Ogulsapar Muradova in September 2006; (e) remove constraints on civil society groups and human rights defenders; (f) abolish the system of registration for non-governmental organizations working in the country; and (g) release all political prisoners, including Valery Pal, Gulgeldy Annaniazov, Annakurban Amankylchev, Sapardurdy Khajiev and Mukhetkuli Aymuradov, and account for those prisoners whose fate is unknown. Canada expressed concern about reports of unfair and closed trials, which, as the OSCE rapporteur to Turkmenistan concluded in 2003, were in breach of all the most fundamental principles of the rule of law. It recommended that the Government bring its laws into line with articles 14 and 15 of the International Covenant on Civil and Political Rights. Canada expressed concern that Turkmenistan has been unable to slow the spread of HIV/AIDS and recommended that the Government take a proactive approach to combating HIV/AIDS through educational and awareness programmes for both the general public and drug users. Noting the Government’s willingness to re-engage with the international community and work harder to respect human rights, Canada encouraged the Government to continue with these positive developments.

30. Slovenia commended the visit by the Special Rapporteur on freedom of religion or belief, but was concerned about a large number of pending visit requests by special procedures. It recommended that the Government respond to all pending requests positively without further delay and asked if it considers issuing a standing invitation to special procedures. Slovenia enquired about the Government’s recognition of conscientious objection to military service. It recommended that Turkmenistan recognize this and stop prosecuting, imprisoning and repeatedly punishing conscientious objectors. Although Turkmenistan has acceded to the Convention on the Elimination of All Forms of Discrimination against Women, Slovenia noted that many women’s human rights issues still cause great concern, such as the practice of arranged marriages, violence against women and discrimination against divorced women. It enquired about actions to improve the situation and better protect victims of these practices. Slovenia recommended that the Government cooperate closely with UNICEF and OHCHR in the protection of the rights of the child. It enquired about the Government’s plans to seek technical assistance and capacity-building from OHCHR, and encouraged it to consider this possibility.

31. Japan noted that the Constitution was amended in September 2008 to promote human rights and expressed the expectation that constitutional norms will be implemented on the ground. Japan noted that, according to the compilation and the stakeholders' report, ethnic Turkmen are treated favourably in areas such as access to higher education and public sector employment. It requested an explanation on this issue. Furthermore, Japan stressed that an urgent task for Turkmenistan is to introduce legislation to promote and protect the rights of women, and enquired about the Government's perspective on this issue. Japan also requested information on measures taken to fully guarantee access to information.

32. Slovakia stated that the national report confirms that the Government has made an important decision to carry out significant reforms in all spheres. Referring to the contents of reports of the General Assembly and the Secretary-General, Slovakia recommended that the Government respond positively to visits requested by special procedures and that it accede to the Rome Statute of the International Criminal Court. In order to verify reports about the treatment of detainees, their whereabouts and conditions in prisons, Slovakia recommended that the Government grant the International Committee of the Red Cross (ICRC) and other international monitors access to detainees.

33. The Republic of Korea was pleased the Government elaborated, in close cooperation with OHCHR, the European Commission and United Nations Development Programme (UNDP), a joint programme on strengthening national capacity on promotion and protection of human rights for 2008 - 2011, and that it is also working on its national human rights programme with OHCHR. It encouraged the Government to remain committed and sincerely work to achieve tangible progress in human rights. It expected that the Government would continue its efforts to fully comply with the responsibilities and obligations of treaties to which it is a party, including addressing any overdue reports to treaty bodies. It also hoped that the visit of the Special Rapporteur on freedom of religion or belief marks a beginning of cooperation with special procedures. Noting concerns expressed by treaty bodies, such as the Committee on the Elimination of Racial Discrimination, the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women on the State's policy of "Turkmenization", policies of forced assimilation and discriminatory attitudes and practices towards national and ethnic minorities, it enquired about measures taken to address them.

34. Belgium welcomed the recent ratification of the Convention on the Rights of Persons with Disabilities and invited the Government to consider acceding to other international instruments. Belgium expressed concern about the numerous difficulties faced by religious communities and asked which measures would be taken by Turkmenistan to meet its obligations with regard to freedom of religion and belief. Belgium recommended that Turkmenistan eliminate all impediments to freedom of religion and belief at both the juridical and administrative levels and put an end to the intimidation of members of religious communities.

35. Denmark commended the fact that torture is prohibited but was concerned by credible reports of ongoing torture and mistreatment of detainees in prisons and the failure to investigate into allegations. Denmark enquired about initiatives to be taken to ensure reliable investigation of deaths in custody, including that of Ogulsapar Muradova, who died in custody in 2006; and when the Government intends to adhere to the Optional Protocol to the Convention against Torture. Noting that both the Secretary-General and the High Commissioner for Human Rights have suggested that the Government issue an invitation to the Special Rapporteur on torture, Denmark enquired about when the Government expected to do so. Denmark expressed concern about serious discrimination against ethnic and other minorities, including that religious

activities of people of all faiths are severely restricted despite article 11 of the Constitution, and enquired how the Government effectively ensures religious tolerance and non-discrimination. Denmark recommended that the Government step up its efforts to eradicate impunity for torture and other ill treatment, and initiate thorough, impartial and independent investigations into all such allegations, bringing perpetrators to justice; step up its efforts to comply with its international human rights obligations and end discrimination against ethnic minorities so that they are able to carry out peaceful activities without harassment, threat of detention or imprisonment; and seriously consider issuing an invitation to the Special Rapporteur on torture.

36. Sweden noted that although some progress has been made in the democratization of Turkmenistan, it was concerned that serious human rights problems remain, especially concerning freedom of expression and of assembly, and human rights defenders, who face the risk of arbitrary detention. Sweden also noted that consensual sexual activity between persons of the same sex is forbidden by law and asked whether the Government planned to change or repeal that law. Sweden recommended that the Government (a) intensify its efforts and take appropriate measures to guarantee the right to opinion, freedom of expression and freedom of assembly; (b) consider legislation and/or additional policy measures to promote tolerance and non-discrimination of lesbian, gay, bisexual and transgender persons; and (c) take measures to eliminate torture and other cruel, inhuman degrading treatment or punishment in places of detention.

37. Norway commended the recent democratic reform initiatives in Turkmenistan. Nevertheless, it was concerned by a continued pattern of intimidation of human rights defenders, journalists and their relatives. Norway recommended that Turkmenistan (a) protect the human rights of journalists and human rights defenders and ensure that they are able to carry out their peaceful activities without harassment, threat of detention or imprisonment, in conformity with international human rights law and standards; (b) respect the right of everyone to be free to leave and return to their own country, in conformity with article 12 of the International Covenant on Civil and Political Rights; and (c) revoke any existing travel bans on human rights defenders. Furthermore, it recommended that Turkmenistan guarantee the rights to freedom of expression and information of its citizens, in conformity with article 19 of the Covenant, and thus ensure that the media is able to operate without interference.

38. Pakistan noted that the clear schedule for reports to be submitted to treaty bodies and the creation of an inter-ministerial commission for the preparation of these reports reflected the Government's commitment to working with human rights mechanisms. Pakistan appreciated the inclusive approach of the Government in working with civil society on addressing all issues of human rights. It commended the efforts of the Government in the context of the joint programme of OHCHR, UNDP and the European Commission in strengthening national capacity of the promotion and protection of human rights.

39. Malaysia observed that Turkmenistan is trying its best to ensure that the delicate balance is preserved in its implementation of civil, political, economic, social and cultural rights. Malaysia recommended that the Government continue its efforts to see through its reform agenda, as stipulated in its newly adopted Constitution; consider continuing its close cooperation with the various mechanisms and special procedures of the Council, with a view to achieving incremental improvements in the human rights situation; and continue to strike a balance between the implementation of all rights.

40. The Czech Republic asked whether any registration procedure exists to identify children of detainees/prisoners so that their rights can be protected. It recommended that Turkmenistan (a) review politically motivated trials of the past and release all human rights defenders and political prisoners; (b) abolish the *propiska* system and adopt further legislative and other measures to ensure compliance of its legal system and practice with the protection of freedom of movement; (c) accede to the Optional Protocol to the Convention against Torture and establish a national preventive mechanism in accordance with the Protocol; (d) allow regular access of ICRC to prisons and detention facilities and ensure thorough and impartial investigation of all cases of torture and ill treatment and punishment of persons responsible for them according to the law; (e) decriminalize consensual same-sex activity between adults and take measures to promote tolerance in this regard; and (f) issue and implement a standing invitation to all special procedures.

41. Germany stated that reports by United Nations bodies and stakeholders pointed to major deficiencies of the judiciary, such as the lack of information on rights, lack of access to justice, denial of fair trial, use of testimony and confessions obtained through violence or coercion as evidence before a court, and widespread corruption. Germany enquired how the Government intends to tackle these problems, the past injustice of persons imprisoned as a result of unfair trials, plans for a transparent review of all political cases of past years, and when those affected will have justice. Germany enquired about the number of cases that have been dealt with by the State commission to review citizen's complaints about the actions of law enforcement agencies. Regarding recommendations by the Committee on the Rights of the Child that it ensure that any statement made as a result of violence or coercion is qualified as inadmissible evidence, thoroughly investigate all allegations of torture and assure that perpetrators are rapidly brought to justice, Germany enquired about how the recommendations are translated into practice; what steps had been taken to end torture and ill treatment of detainees; what monitoring mechanisms are in place to ensure independent oversight of prisons; and about judicial action against perpetrators. Regarding freedom of expression and media, Germany enquired about two journalists working for Radio Liberty, Mr. Ovezov and Mr. Khommadov, who were arrested on 7 March 2006 and since held incommunicado. Germany recommended that the Government (a) immediately release all political prisoners; (b) take measures to grant the effective and unhindered enjoyment of the freedom of religion; (c) ensure that members of civil society are allowed, free of harassment, to meet with representatives of foreign media, Governments and international organizations; and (d) improve its cooperation with United Nations human rights mechanisms, in particular all mechanisms of the Council and treaty bodies.

42. Latvia congratulated Turkmenistan on the visit of the Special Rapporteur on freedom of religion or belief in 2008. Noting that a number of visits have been requested but not yet agreed to, Latvia recommended that the Government increase its cooperation and eventually consider extending a standing invitation to all special procedures of the Council.

43. The United Kingdom praised the new Constitution and recommended ensuring its full and effective implementation, and expressed its willingness to provide further support to Turkmenistan in this process. It also noted, inter alia, that the Constitution appears to strengthen the institution of the presidency and that the President is able to appoint and dismiss judges without parliamentary review, forms the electoral commission, and has the right to issue edicts that cannot be challenged. It recommended that Turkmenistan take steps to ensure greater independence of the judiciary, including through the establishment of a constitutional court and ombudsman system. It was concerned at the considerable restrictions on freedom of expression, association, movement and religion and belief, and recommended that the Government do more

to promote and protect freedom of religion or belief, including by safeguarding personal access to, and use and ownership of, religious literature and materials. Furthermore, it was concerned by reports that hundreds of political prisoners remain detained in Turkmen prisons after unfair trials. It recommended conducting a nationwide, transparent review of all potentially political cases of past years and releasing all those found to have been incarcerated on politically motivated charges.

44. The Islamic Republic of Iran appreciated the Government's positive approach to the review process. It noted that the Government has ratified most major human rights instruments and cooperated with United Nations human rights machinery. It recommended that the Government further develop and strengthen a culture of human rights, intensify human rights capacity-building and promote public awareness-raising of human rights.

45. Qatar noted the State's considerable accomplishments since its independence in 1991, in particular its first pluralistic, transparent elections in 2007, improvements for Turkmen citizens regarding the constitutional and legal guarantees of their fundamental freedoms and human rights, and the institutional mechanisms made available. Qatar further noted that Turkmenistan recognizes that international human rights standards and agreements have precedence over domestic law and that many instruments have been ratified, and that further work is necessary to develop and promote these rights.

46. China noted with appreciation that Turkmenistan provides its citizens with free natural gas, electricity, water, salt, medical services and free and universal education. China asked how Turkmenistan ensures free education for children in remote and isolated areas. It welcomed measures to protect the rights of women and children. It asked whether women participated in the formulation of these measures and how Turkmenistan will increase the participation of women in decision-making. Being a developing country faced with similar challenges, China wished to exchange views and experiences with Turkmenistan. Lastly, China called on the international community to provide economic and technical assistance to Turkmenistan so that it could implement a strategy for economic, political and cultural development until 2020.

47. Romania enquired whether the State was considering signing and ratifying the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, and whether institutions in Turkmenistan include a specialized structure to coordinate work on countering discrimination against women. Concerning freedom of movement, Romania enquired whether such freedom is applicable to social groups, including political groups, and asked about recent relevant developments.

48. Argentina noted that women's participation is limited in the political and public spheres, particularly in decision-making on the local level and reportedly in elections to Parliament. Argentina enquired whether Turkmenistan is envisaging taking measures, such as quotas, to increase the participation of women in these bodies; to increase the proportion of women receiving secondary education; and to encourage women to engage in professions which are today generally held by men.

49. Hungary recommended that Turkmenistan bring the provisions of its domestic laws into conformity with the international obligations laid down in the human rights instruments it has ratified. It stressed that the Committee on the Rights of the Child had noted with concern that trafficking in persons was not expressly prohibited by law. Hungary recommended taking steps to fight trafficking in human beings and to comply with the conclusions of the Committee of the

Rights of the Child and other treaty bodies. Hungary also requested information on measures planned to guarantee the safe and secure activity of human rights defenders.

50. Bangladesh noted with appreciation the firm commitment of the Government to improve human rights and its cooperation with United Nations human rights mechanism in recent years. As a developing country, Turkmenistan faces many challenges. It needs to make progress in the socio-economic conditions of its people in order to realize the full enjoyment of human rights, particularly economic, social and cultural rights in an incremental manner. Bangladesh appreciated the extension of the provision to provide free utility services until 2020. Free medical care for children and education up to secondary level are examples of good practices that could be followed in countries of a comparable milieu. Bangladesh recommended that the Government continue to cooperate with human rights mechanisms to improve the human rights situation; and continue to improve the situation of education in line with recent relevant reforms.

51. Uruguay praised Turkmenistan for having ratified a series of international human rights and that in 2007 it received the High Commissioner. Uruguay recommended that Turkmenistan cooperate with special procedures and OHCHR by authorizing and facilitating the visits of specific special procedures and by responding to the questionnaires and questions of mandate-holders. Uruguay also recommended that Turkmenistan urgently undertake a campaign and initiate programmes aimed at eliminating all forms of discrimination against women, *de jure* and *de facto*, and that all norms and practices that lead to the discrimination of members of national minorities, such as Russians, Uzbeks, Kazakhs, Turks and Kurds, be eliminated.

52. The delegate from Turkmenistan thanked all the delegates who praised the preparation of the national report and its presentation, and answered the questions raised.

53. With respect to observance of the rights of the child and reforming juvenile justice, she cited the State's cooperation with UNICEF. Turkmenistan has completed a review of its legislation on minors in court and that an inter-agency commission, including representatives of the legislature and law enforcement authorities, has been established for the implementation of international human rights obligations. Cooperation with UNICEF also resulted in a tour to the United Kingdom to review the juvenile justice system there. Turkmenistan is preparing an assessment of its legislation on juvenile justice and has conducted an expert assessment of institutional structures dealing with juvenile justice. It is also preparing proposals for Parliament for the decriminalization of offences by minors and for the establishment of special structures to judge them.

54. Turkmenistan adopted a special law on human trafficking, particularly involving women and children, in 2007. The State has already acceded to all core international conventions on combating human trafficking, as well as to the Palermo Protocols, and has adopted a decree to combat trafficking in persons. Turkmenistan is also preparing a specific proposal to criminalize trafficking-related offences and is cooperating with UNICEF in this regard.

55. On the recommendations that it ratify the Rome Statute of the International Criminal Court, in 2008, Turkmenistan, at the initiative of the European Union, conducted a special seminar for parliamentary and Government representatives to ensure awareness of the Statute.

56. Turkmenistan explained that the new Constitution proclaims the right to freedom of conviction and of expression and freedom of information where information is not a State secret. A special sitting of the cabinet of ministers has been held, devoted to reforming the activities of

the media. Experts of the British Broadcasting Corporation visited Turkmenistan and met with representatives of the Ministry of Culture and Telecommunication. They worked with mass-media representatives to plan special seminars, training groups and round tables. Turkmenistan also cited a special programme to make it mandatory for all Government structures, educational and higher education institutions to have guaranteed access to the Internet. There are no prohibitions on access to foreign press, and all State structures are required to subscribe to foreign media outlets. In cooperation with USAID and representation of Internews in Central Asia, Turkmenistan was working on improving legislation governing the media. Turkmenistan has accredited more than 20 representatives of foreign agencies and the list continues to grow.

57. On freedom of religion and belief, a new law was adopted in 2003. At the invitation of the Government, the Special Rapporteur on the freedom of religion visited in September 2008 and the report of her visit includes recommendations on the need to reform legislation regulating the activities of religious organizations. A proposal has been sent to Parliament in this regard, including on the registration of religious groups. Turkmenistan is counting on cooperation, particularly with International Centre of Non-commercial Law in Washington D.C., with the assistance of USAID. Based on the results of the experts' work, the Government will make recommendations to Parliament in this regard.

58. With regard to torture, an inter-agency commission in Turkmenistan has sent parliamentary proposals on the need to draft a new prison code, in line with the International Covenant on Civil and Political Rights and other relevant standards, and on trying and incarcerating minors. Turkmenistan is cooperating with European legal experts, particularly from Germany and the United Kingdom, to prepare the new code. With regard to conditions for holding minors in jail, Turkmenistan is cooperating with UNICEF.

59. On the status of non-governmental organizations, the Government is working to reform legislation, aiming at eliminating bureaucratic problems involving their registration. Partners and experts have been identified from the International Centre for Non-Commercial Law and USAID on the issue. In November 2008, special seminars and conferences were held to review international standards on the activities of public bodies. Experts from the Centre are conducting an assessment of the legislation in Turkmenistan and proposals to Parliament will be made in early 2009.

60. On the rights of national minorities, the Government has a policy of promoting understanding between people of different ethnic groups, without limitations and preferences based on race, religious, ethnic or other origin. The policy of non-discrimination is applied consistently in Turkmenistan and is based on the mentality of the Turkmen people. Turkmenistan is a party to the Convention on the Elimination of All Forms of Racial Discrimination and has been cooperating constructively with neighbouring countries in the humanitarian sphere, including in the field of education. During exchanges of visits between the Heads of States of Turkmenistan and the Russian Federation, Uzbekistan and Kazakhstan, agreements have been reached on opening schools for ethnic minorities and on holding years and months of culture in each other's countries.

61. With regard to questions of the resettlement and movement of people, the new Constitution proclaims the right to freedom of movement and to choose freely one's residence within Turkmenistan. In 2004, the Government abolished the need for visas to leave Turkmenistan, and cancelled earlier limitations on the freedom of movement within the territories of the State.

62. On the rights of displaced persons and refugees in Turkmenistan, in keeping with a presidential decree of August 2005, unprecedented measures have been adopted for more than 13,000 refugees, who have received citizenship. In addition, in August 2005, the President granted 3,500 refugees permanent residence.
63. On the rights of women and children, Turkmenistan stated that it is party to a number of international standards and that, based on these and its own standards, it guarantees the rights of the child. In December 2007, Parliament implemented provisions of relevant conventions and adopted laws on State guarantees for gender equality and on combating human trafficking; furthermore, articles 19 and 20 of the new Constitution guarantee gender equality. With regard to the rights of women to marry, in addition to the Family and Marriage Code in Turkmenistan, there are constitutional guarantees in article 27. A new draft family code has been developed, taking into account all recommendations made by the Committee on the Rights of the Child and by the Committee on the Elimination of Discrimination against Women. The new family code will raise the marriageable age.
64. The delegation said that alternative methods of care for children may be envisaged if children are unable to be properly cared for or educated or placed in families or adopted, if it is not possible to care for the child in other ways. The question of birth registration has to be borne in mind, as the child is to be registered immediately after birth and has the right to be given a name and to acquire citizenship.
65. On the independence of the judiciary, the delegation reiterated that judges are independent and answerable to the constitution and laws of Turkmenistan and are guided by their inner convictions alone. Interference in their activities is prohibited by the Constitution and their independence is guaranteed by law.
66. The delegation acknowledged that a conflict exists between the standards of material and procedural law and said that the Government was working, with representatives of the United Kingdom and Germany, on a draft criminal procedure code and a draft civil procedure code in Turkmenistan. It hoped that the two drafts, which include international standards on court proceedings, will be adopted by Parliament when it reconvenes in January 2009. With regard to questions of criminal justice, an active dialogue is underway with OSCE and the German society for technical cooperation (GTZ).
67. On cooperation with international bodies, the delegation said the new Government has an open-door policy. Turkmenistan is working with UNDP to carry out improvements to the electoral system, and with UNFPA and UNICEF to eliminate child labour, to reform juvenile justice and further ensure gender equality. A project with UNDP dealing with improving reporting procedures is in its final stages. It referred to the inter-agency commission, which has adopted a plan on submitting reports. The delegation also cited a two-year project funded by the European Union and involving OHCHR, UNDP and the Government, entitled "Enhancing potential for protection of human rights in Turkmenistan".
68. On preparations for the review, the delegation noted that civil society representatives, including women, had taken part. The reports would be published in Russian, Turkmen and English and will be circulated in Turkmenistan. The regional OHCHR office will work with Turkmenistan in 2009 on a special regional conference on the review, given that Turkmenistan and Uzbekistan will have been reviewed by then.

## II. CONCLUSIONS AND/OR RECOMMENDATIONS

69. The recommendations formulated during the inter active dialogue have been examined by Turkmenistan and the recommendations listed below enjoy the support of Turkmenistan:

1. To continue its efforts to see through its reform agenda, as stipulated in its new Constitution (Malaysia); to pay attention to the integration into domestic legislation of the commitments undertaken by Turkmenistan by virtue of international conventions on human rights (Algeria); to ensure the full and effective implementation of the Constitution to deliver the better enjoyment of human rights for the people of Turkmenistan (United Kingdom); to bring the provisions of its domestic laws into compliance with the international obligations laid down in the human rights instruments it has ratified (Hungary);
2. To continue to strike a balance between the implementation of civil and political rights and economic, social and cultural rights (Malaysia);
3. To widely disseminate the main human rights texts, particularly by providing courses on human rights in school curricula to make all social categories aware of their rights (Switzerland); to use all appropriate ways and means to further develop and strengthen a culture of human rights, create more human rights capacity-building, and promote human rights public awareness-raising, with a view to the better promotion and protection of all human rights and fundamental freedoms in society at large (Islamic Republic of Iran);
4. To strengthen its policy on prevention and combat of child labour and on the full guarantee of the rights of the child, with special attention to children without parental care (Brazil); to cooperate closely with UNICEF and OHCHR in the protection of the rights of children (Slovenia);
5. To improve its overall cooperation with United Nations human rights mechanisms, in particular all mechanisms of the Council and the treaty bodies (Germany); to continue to cooperate with United Nations human rights mechanisms to further improve the human rights situation (Bangladesh); to continue its close cooperation with the mechanisms and special procedures of the Council, with a view to achieving incremental improvements, particularly with regard to the promotion and protection of the human rights situation of its people (Malaysia, Republic of Korea); to cooperate with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Working Group on Arbitrary Detention, the Special Rapporteur on summary, arbitrary or extrajudicial executions and the Special Rapporteur on violence against women, its causes and consequences and with OHCHR by responding to the questionnaires and questions sent to Turkmenistan by those mandate-holders (Uruguay);

6. To pursue its efforts, with the assistance of OHCHR, to abide by the timeline described in item 2 of paragraph 105 of the national report relating to its reporting to treaty bodies (Algeria); to strengthen cooperation with OHCHR with a view to building capacity in the area of human rights (Italy); to submit its periodic reports as soon as possible and establish mechanisms for the implementation of recommendations with the participation of civil society (Mexico);
7. To undertake urgently a campaign and initiate programmes aimed at eliminating all forms of de jure and de facto discrimination against women (Uruguay);
8. To step up its efforts, in complying with its international human rights obligations, and end discrimination of ethnic minorities to ensure they are able to carry out peaceful activities without harassment, threat of detention or imprisonment (Denmark); to eliminate all norms and practices that lead to the discrimination of members of national minorities, such as Russians, Uzbeks, Kazakhs, Turks and Kurds (Uruguay);
9. To put in place and apply sanctions against the perpetrators of domestic violence (Switzerland);
10. To implement the provisions of the Palermo Protocols ratified by Turkmenistan, in particular with a view to criminalizing trafficking in persons (France); to take steps to fight against trafficking in human beings and to comply with the conclusions of the Committee of the Right of the Child and other treaty bodies (Hungary);
11. To follow-up on the recommendations formulated by the Committee on the Elimination of Discrimination against Women in 2006, and to adopt all necessary procedural laws to ensure women's access to justice, and to enhance women's awareness of their rights through legal literacy programmes and legal assistance so that they can claim all their rights (Switzerland);
12. To bring Turkmenistan's laws into line with articles 14 and 15 of the International Covenant on Civil and Political Rights (Canada);
13. To comply with its international obligations for the exercise of freedom of expression, ensuring the right to seek, receive and impart information and ideas, including by electronic means and from foreign sources, and to act against any form of harassment and intimidation of journalists (Italy); to strengthen measures to promote freedom of association and take measures to guarantee the full exercise of the right to freedom of expression, including the right to access to public information by civil society organizations and individual citizens (Mexico); to intensify its efforts and take appropriate measures to guarantee the right of opinion, freedom of expression and freedom of assembly (Sweden);
14. To take effective measures to allow independent non-governmental organizations to register and work freely (Poland); to reform the registration process to make it easier for organizations to register and work freely (Netherlands); to ensure that members of civil society are allowed, free of harassment, to meet with representatives of foreign media and Governments and international organizations (Germany);

15. To adopt adequate measures for the protection and promotion of religious freedom, in order to ensure effective freedom of worship for all religious communities (Italy); to take measures to grant effective and unhindered enjoyment of the freedom of religion (Germany);
16. To fully respect the rights of everyone to be free to leave and return to their own country, in conformity with article 12 of the International Covenant on Civil and Political Rights to which Turkmenistan is party (Norway);
17. To take a proactive approach to combating HIV/AIDS through educational and awareness-raising programmes for both the general public and drug users (Canada);
18. To continue to improve the situation of education in line with recent reforms in this sector (Bangladesh); to continue its efforts to establish an educational system in conformity with international standards, especially, as recommended by the Committee of the Rights of the Child, through the inclusion of human rights education in the curricula (Algeria);
19. To call on the international community to provide economic and technical assistance to Turkmenistan to allow it to implement a strategy for economic, political and cultural development until 2020 (China).

70. The following recommendations will be examined by Turkmenistan, which will provide responses in due time. The responses will be included in the outcome report to be adopted by the Council at its tenth session. In the course of the discussion, the following recommendations were made to Turkmenistan:

1. Accede to/ratify the Rome Statue of the International Criminal Court (France, Brazil, Slovakia); consider ratifying the Optional Protocol to the Convention against Torture (Brazil) and establish its national preventive mechanism according to the Protocol (Czech Republic); consider ratifying the Convention for the Protection of all Persons against Enforced Disappearance and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (Brazil);
2. To establish an independent national institute for human rights according to the Paris Principles, which could advise the Government and receive and investigate complaints by the public (Netherlands);
3. To reach the human rights goals set by the Council in its resolution 9/12 (Brazil);
4. To increase cooperation with the special procedures and eventually consider extending a standing invitation to all special procedures (Latvia); to address a standing invitation to all special procedures of the Council (Switzerland); to consider adopting a standing invitation to human rights special procedures (Brazil); to issue and implement a standing invitation to all special procedures (Czech Republic); to cooperate with special procedures and OHCHR by authorizing and facilitating procedures for the Special Rapporteur on the question of torture, the Special Rapporteur on the right to health, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the

independence of judges and lawyers, the Special Rapporteur on freedom of opinion and expression, the Working Group on Arbitrary Detention, the Special Rapporteur on extrajudicial executions and the Special Rapporteur on violence against women requesting to visit the country (Uruguay); to agree to visits of other rapporteurs who have requested access to Turkmenistan in the last five years (Netherlands); to respond positively to all pending requests of special procedures for visits without further delay (Slovenia); to respond positively to visits already requested by special procedures (Slovakia); to consider positively the request of the Special Rapporteur on the question of torture to visit the country as a matter of priority (Italy); to seriously consider issuing an invitation to the Special Rapporteur on the question of torture (Denmark); to address effectively the concerns expressed in 2006 by the Special Representative of the Secretary-General on the situation of human rights defenders and invite the him to visit the country (Italy);

5. To eliminate the use of torture and other cruel, inhuman degrading treatment or punishment in places of detention (Sweden);
6. To grant access to detainees to ICRC, according to the usual terms of the Committee, as well as to international monitors (Slovakia); to allow regular access of ICRC to prisons and detention facilities (Czech Republic);
7. To protect the human rights of journalists and human rights defenders and ensure that they are able to carry out peaceful activities without harassment, threat of detention or imprisonment (Norway);
8. To take steps to ensure greater independence of the judiciary, including through the establishment of a constitutional court and ombudsman system (United Kingdom);
9. To increase its efforts to eradicate impunity for torture and other ill treatment, and to initiate thorough, impartial and independent investigations into all such allegations, and that alleged perpetrators are brought to justice (Denmark); to ensure a thorough and impartial investigation of all cases of torture and ill treatment and ensure punishment of persons responsible for them according to the law (Czech Republic);
10. To adopt all necessary measures for the liberalization and plurality of the media in order to promote full freedom of the press (France); to remove restrictions on the ability of journalists to report and criticize Government policy freely and without fear of repression (Canada); to end the practice of governmental appointment of editors and senior managers to all media outlets in the country to foster a more independent media (Canada); to guarantee the rights to freedom of expression and information of its citizens in conformity with article 19 of the International Covenant on Civil and Political Rights and thus ensure that the media are able to operate without interference (Norway);
11. To take the necessary steps to guarantee the right to associate and work freely for human rights defenders, in conformity with the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to

Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (France); to take measures to protect human rights defenders from prosecution and ensure a safe environment for their activities (Poland); to remove constraints on civil society groups and human rights defenders (Canada);

12. To recognize conscientious objection to military service in law and practice and stop prosecuting, imprisoning and repeatedly punishing conscientious objectors (Slovenia); to eliminate all impediments to freedom of religion and belief at juridical and administrative levels, and put an end to the intimidation of members of religious communities (Belgium); do more to promote and protect freedom of religion or belief, including by safeguarding personal access to, and use and ownership of, religious literature and materials (United Kingdom);
13. To ensure that opposition parties are permitted to participate freely in the political process without fear of retribution (Canada).

71. Recommendations noted in the report in paragraphs 23 (last sentence), 29 (d), (f) and (g), 36 (b), 37 (c), 40 (a), (b) and (e), 41 (a) and 43 (last sentence) above did not enjoy the support of Turkmenistan.

72. All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and /or the State under review thereon. They should not be construed as endorsed by the Working Group as a whole.

**Annex**

**COMPOSITION OF THE DELEGATION**

The delegation of Turkmenistan was composed of Dr. Shirin Akhmedova, Director of the Institute for Human Rights and Democracy under the President of Turkmenistan, as head of the delegation; and Ambassador Esen Aydogdyev, Permanent Representative of Turkmenistan to the United Nations Office at Vienna.

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