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**DRAFT REPORT OF THE WORKING GROUP ON
THE UNIVERSAL PERIODIC REVIEW***

Congo

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Introduction

1. The Working Group on the Universal Periodic Review (UPR), established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its fifth session from 4 to 15 May 2009. The review of the Congo was held at the 5th meeting, on 6 May 2009. The delegation of Congo was headed by Mr. Jean-Martin Mbemba, State Minister for Civil Service and State Reform. At its 9th meeting, held on 8 May 2009, the Working Group adopted the present report on the Congo.
2. On 8 September 2008, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of the Congo: Bahrain, the Netherlands and Madagascar.
3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of the Congo:
 - (a) A national report submitted in accordance with paragraph 15 (a) (A/HRC/WG.6/5/COG/1);
 - (b) A compilation prepared by the Office of the High Commissioner for Human Rights (OHCHR) in accordance with paragraph 15 (b) (A/HRC/WG.6/5/COG/2 and Corr.1);
 - (c) A summary prepared by OHCHR in accordance with paragraph 15 (c) (A/HRC/WG.6/5/COG/3).
4. A list of questions prepared in advance by the Czech Republic, Sweden, the Netherlands, the United Kingdom of Great Britain and Northern Ireland, Argentina, Denmark and Latvia was transmitted to the Congo through the troika. These questions are available on the extranet of the UPR.

I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS

A. Presentation by the State under review

5. At the 5th meeting, held on 6 May 2009, the head of the Congolese delegation, Mr. Jean-Martin Mbemba, State Minister for Civil Service and State Reform, commended the progress made by the Human Rights Council in the three years it had existed and said that the Congo was submitting itself to the universal review in a genuine spirit of openness. He went on to thank the members of the Human Rights Council for their interest in the human rights situation in the Congo. The national report had been drawn up in compliance with the general guidelines

contained in Human Rights Council decision 6/102, following consultation and compilation of data with the involvement of government institutions, civil society organizations and human rights organizations.

6. Since its independence, the Congo had acceded to many international human rights instruments, and had taken a number of measures to ensure respect for the basic principles of human rights and the rule of law. In that regard, new institutional mechanisms had been established under the Constitution of January 2002 in order to protect and promote human rights. The measures taken by the Congolese Government covered both civil and political rights and economic, social and cultural rights. Realization of those rights was a long-term process requiring vast resources, which the State did not necessarily have. It was hoped that various forms of assistance would be provided.

7. The head of the delegation reaffirmed the Government's determination to continue its efforts to enhance the work of the existing mechanisms, with the support of bilateral and multilateral partners. The National Human Rights Commission had been assigned headquarters worthy of its status and was being assisted with accreditation to the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights and the African Commission on Human and Peoples' Rights, which were prerequisites for preparation of the National Human Rights Commission's inaugural session, thereby enabling it to guarantee full enjoyment of human rights for all sectors of the population.

8. Concerning policy on minorities, he described the special measures taken by the Government in respect of access to employment, education and health care.

9. Participation of Congolese women in national affairs was guaranteed at all levels. They received financial, logistical and technical assistance from the Maison de la Femme, an institution providing various forms of support to women's activities.

10. The State had taken important measures in the area of health, including the introduction of free HIV/AIDS testing and treatment, and free treatment of malaria for children up to the age of 15.

11. In the areas of freedom of opinion and freedom of the press, he stressed that nobody was currently being detained in the Congo for crimes of opinion and that no journalists had been

harassed by the Government in the course of their work. He gave as an example several recent local press articles strongly criticizing the Government and the Head of State, the outcome of which could have been very different.

12. To date, over 100 registered political parties and associations were able to freely exercise their activities, as were over 200 non-political organizations and associations of a social, economic and cultural nature.

13. The head of the Congolese delegation said that the Congolese parliament had recently adopted legislation on the protection of children, and other specific measures guaranteeing all children access to education and health care. While some shortcomings might remain, they did not run counter to the general policy of protecting the rights of the child.

14. With regard to problems in the justice sector, he said that judges who had violated professional ethics had recently been removed from the bench by the Supreme Council of the Judiciary.

15. The Congo had not applied the death penalty since 1979.

16. The Government was trying to remedy the irregularities that had been observed in the organization of legislative and local elections, and was doing its utmost to ensure the success of the presidential elections scheduled for July 2009. To that end, it had held a civic consultation from 14 to 17 April 2009, which had brought together all political actors, including from the opposition, civil society, religious denominations and diplomatic representations, with the exception of the “radical” opposition, which had refused to take part in the event, even before the proceedings started, despite having participated in the preliminary discussions concerning the agenda and rules of procedure. The consultation had provided a forum for the objective assessment of past mistakes, and the establishment of guidelines to ensure that elections were organized more efficiently, in an atmosphere of total calm.

B. Interactive dialogue and responses by the State under review

17. During the interactive dialogue, statements were made by 44 delegations, a number of which praised Congo for its presentation and commitment to the UPR process as well as for the involvement of various stakeholders in the preparation of the national report. Statements were also made congratulating Congo for its record on the ratification of international human rights instruments.

18. Brazil asked about the measures being taken to prevent stereotypical attitudes concerning the role and responsibilities of women and avoid discrimination against them and about the measures to prevent sexual exploitation of children and child labour. Brazil recommended that the Congo (a) reinforce women's rights within the labour market; (b) accomplish progressively human right goals as set forth in Human Rights Council resolution 9/12. Brazil noted the Congo's expectation of receiving technical assistance from the Human Rights Council and invited delegations to positively consider assisting the Congo in these endeavours.

19. Algeria noted that political commitment in relation to human rights is clear and that support of the international community remains, however, necessary. Algeria recommended that the Congo: (a) consider the appropriateness of taking measures to have the National Commission for Human Rights accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights; (b) request support from the United Nations Programmes and Agencies to establish programmes and strategies for literacy and employment training for women in order to improve their conditions and their participation in the development of the country; (c) continue efforts undertaken in the area of protection and realization of the rights of the child, particularly regarding access to education.

20. France asked about the implementation of recommendations of the Special Rapporteur on contemporary forms of racism to prevent and punish violence against members of the Pygmy community. Also, it asked if the Congo intended to respond favourably to the proposal of UNHCR to establish a joint expert commission to review and amend the draft law on refugees. France recommended (a) to take all appropriate measure to eliminate all forms of discrimination against women, in particular in respect to property, the sharing and inheritance of land and access to education, the labour market and political life. France also recommended that the Congo (b) adopt laws prohibiting such practices as female genital mutilation and take focused measures to ensure that these practices are dropped as a result of broad awareness-raising campaigns; (c) adopt measures immediately and in line with human rights international standards with respect to the rights of children to prohibit in particular child labour and prevent, criminalize and punish sexual exploitation and child trafficking; and (d) sign and ratify the Optional Protocol to the Convention of the Rights of the Child concerning the involvement of children in armed conflicts (CRC-OP-AC).

21. The Sudan noted that despite the fact that the implementation of international human rights instruments is the primary responsibility of the concerned country, it can also be realized through international cooperation and provision of technical assistance, particularly in developing countries.

The Sudan commended the ambitious programme of the Congo concerning the right to health and particularly the efforts to put an end to the HIV pandemic. It called for support to this programme at the national and international level. It also commended the Congo for the efforts made in the framework of improving, protecting and enhancing human rights in the African continent and recommended supporting these efforts particularly through the African Committee for Human and Peoples' Rights.

22. Egypt requested more information on the specific measures aimed at alleviating poverty and providing basic services. It recommended Congo (a) to continue its efforts aimed at protecting and promoting human rights and fundamental freedoms; (b) to specifically determine its needs in order to be able to seek international assistance in its endeavours; and (c) to continue to resist attempts to enforce any values or standards beyond the universally agreed base, through the exercise of its sovereign rights to implement its laws and legislation in conformity with these values and standards.

23. The Netherlands recommended that the Congo (a) guarantee that each detainee has the effective right to contest the legality of his or her arrest, (b) end immediately the detention of those who are not held in detention centres as foreseen by article 241 of the Code Penal, (c) introduce legislation that eliminates discrimination in ownership, co-sharing and inheritance of land, (d) protect victims of sexual violence and criminalize marital rape, (e) give women equal rights in marriage and pre-marriage, and (f) prohibits female genital mutilation. The Netherlands finally recommended (g) that in line with ICCPR, Congo repeals article 331 of the Penal Code that criminalizes same sex practices between consenting adults, also with a view to more effective HIV/AIDS prevention and treatment of vulnerable sectors of the Congolese population.

24. Morocco requested further information on legislation and institutional measures for children with specific needs and for those who require alternative care. Morocco recommended that the Government take additional measures to strengthen the fight against discrimination against women. Morocco noted that both countries have signed a cooperation agreement in the area of education with a view to modernizing and promoting education and vocational training. In this spirit, Morocco asked about the nature of the difficulties confronting that sector and the type of assistance the Congo would like to receive from specialized agencies of the United Nations.

25. Djibouti noted with satisfaction the electoral law of 2007 complementing the law of 2007 setting minimum quotas for female candidatures in elections. Djibouti encouraged the Congo to

continue its efforts in promoting and protecting human rights, in particular these related to women and children, and recommended that it continue efforts to combat all forms of discrimination which may victimize vulnerable groups, such as indigenous communities and the disabled. It also recommended paying special attention to the condition of persons in prisons and continuing its capacity-building policy in the field of health-care services.

26. The United States of America recommended that the Congo (a) allow for greater freedom of expression for members of the press in advance of the election, including political reporting and granting equal media access to and coverage of opposition candidates; (b) encourage civic participation, including of civil society, in the electoral process; (c) finalize and enact the draft law prohibiting all forms of trafficking; (d) develop formal procedures for identifying trafficking victims among vulnerable populations such as females in prostitution, street children and Pygmies; (e) train police and social workers to implement these procedures; (f) increase efforts to provide care to trafficking victims and end the practice of jailing children found in prostitution and increase efforts to raise awareness among vulnerable populations of the danger of trafficking.

27. The United Kingdom recommended that the Congo (a) take steps to ensure prison conditions are independently monitored, perpetrators of acts of torture are duly prosecuted and that detainees have the right to a fair trial; (b) take all necessary measures to ensure the forthcoming elections are peaceful, free and fair, and occur in a climate free of intimidation and where the right of assembly is fully respected; (c) take further steps to address discrimination against women and vulnerable groups including children, persons belonging to minorities and indigenous people; and (d) remove the provisions that criminalize homosexuality.

28. The Russian Federation asked for more information about the duties of the National Ombudsman and the recently created Commission on Human Rights; how authorities are divided between those bodies and how they can influence the decision-making process for the decisions relating to improving the national system for the protection of human rights. It also asked if the Congo is planning to adopt additional measures to ensure access to medical services for the population in rural areas including the extension of the system of medical institutions and clinics to remote areas. Noting the large numbers of indigenous peoples and that the Congo is planning to adopt an appropriate programme of action and to introduce certain legislative initiatives, it asked for more information in this regard.

29. Turkey hoped that the priority attached to gender issues will result in the improvement of equality between men and women and that the recommendations by the Committee on the Elimination of Discrimination against Women should be taken into consideration in preparing the new bill for the protection of the victims of sexual violence. Turkey invited the Congo to combat discrimination affecting women and girls in the schools, taking into account the concerns expressed by the Committee on the Rights of the Child. It encouraged the Congo to take the best possible advantage of the poverty reduction strategy initiative which should help in improving the access of the poor to basic social services.

30. The Holy See noted that the death penalty has not been carried out since 1979 and recommended that the Congo (a) fully abolish the death penalty. Noting that, despite efforts, one third of Congolese are still deprived of education and women and children are the most affected, it recommended that the Congo (b) continue to invest in education, giving special attention to women and girls. While noting that maternal mortality remains high despite the progress regarding maternal health, it recommended that the Government (c) further invest in obstetrics clinics and in the information of skilled birth attendants. It noted that in prisons, however, women and men, children and adults are not always separated. Prisons are often overcrowded and healthcare is inadequate. The Holy See asked how the Congo intends to confront this problem and to improve the situation of prisoners, especially of women and children.

31. Sweden recommended that the Congo (a) continue its efforts with a view to fully tackling the problem of discrimination against minority groups. Sweden noted that the Committee on the Elimination of Discrimination against Women had expressed concern about domestic violence, rape, including marital rape, and other forms of sexual abuse of women. Sweden welcomed the information that a new law is being prepared and recommended that Congo (b) continue implementing measures to handle the problem and (c) take measures to ensure full compliance with CAT and other international standards in this regard.

32. The Democratic Republic of the Congo noted that the judicial system has suffered from weakness in terms of the principle of independence and asked about the reason for it and measures to correct it. The Democratic Republic of the Congo encouraged the Congo (a) to finalize its plan to elaborate a national law on assistance and protection of internally displaced persons and (b) to define its priorities and determine its needs in order to support its request for technical assistance in the area of human rights.

33. Azerbaijan commended the establishment of the National Human Rights Commission and the Office of Mediator, but joined with CRC in recommending that those institutions be provided with an adequate mandate and financial resources. Azerbaijan recommended that the Congo increase its efforts, especially educational and public awareness measures, to improve the realization of women's rights. It urged the Congo to (a) reinforce efforts to combat discrimination against women; (b) incorporate instruction on human rights in school curricula; and (c) abolish capital punishment.

34. Argentina recommended that Congo (a) adopt all necessary measures to ensure the right to life and protection of the individual, in particular the effective incorporation in domestic legislation of the prohibition of the practice of torture in accordance with the Convention Against Torture and the abolition of the death penalty from its Penal Code; (b) adopt legislation to prohibit practices of sexual violence affecting Congolese women in line with CEDAW which Congo has also ratified. It also suggested the eradication of the practice of female genital mutilation. Argentina asked about the concrete measures to ensure women's right to health and if the Congo addresses criminalization of trafficking in children and sexual exploitation of children and if not, it recommended (c) that such acts be made criminal in line with international standards. It recommended that the Congo (d) ratify the International Convention for the Protection of All Persons from Enforced Disappearance (CED), and (e) ratify OP-CEDAW, the Convention on the Prevention and Punishment of the Crime of Genocide, the Palermo Protocol and the Optional Protocols to CRC.

35. Mexico asked about the strategies being prepared to submit reports to the treaty bodies. Mexico recommended (a) the Congo's accession to ILO Convention No. 169 concerning indigenous and tribal peoples and ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) and CED. It also recommended (b) that measures be adopted to combat attitudes and persistent stereotypes of the role and responsibilities of women in the society. Lastly, Mexico associated itself with the appeal of Congo to the Human Rights Council for the provision of material, technical and financial assistance and called on the international community to respond to this appeal.

36. Burkina Faso noted that progress has been made in terms of normative measures on human rights or in terms of creation of mechanisms in this area. It recommended that the Congo makes further efforts to combat violence and sexual abuse against children for the effective realization of their rights. It asked for more information about the bill for the promotion and protection of human

rights of indigenous communities and the present status of the adoption of this law. In conclusion, Burkina Faso encouraged the Congo to pursue efforts to continue to improve the rights of Congolese people.

37. Chad welcomed the legislative and regulatory measures to incorporate the various international agreements and treaties in the area of human rights. Chad recommended that the Congo continue its efforts to improve the human rights situation in its country and that the international community provide assistance to the Congo to take up the various challenges confronting it.

38. China noted that the Congo is progressing in the improvement of living conditions, minimum wages, the payment of domestic debts and delayed wage payments. China asked about the implementation and results of the 2008 law which eliminates payments to people with tuberculosis, malaria and AIDS. China noted that the Congo faces great difficulties in the realization of the MDGs and asked if the Congo has a specific national plan of action to promote their achievement.

39. South Africa noted that the Congo faces significant challenges particularly in the areas related to combating HIV/AIDS, high infant and maternal mortality rates, absence of legislation prohibiting the trafficking of persons, street children, access to education and health facilities and child labour. It sought clarification on the Congo has done to provide adequate schooling facilities, increase school enrolment rates and provide access to clean water and basic health services, and how it intends to facilitate access to affordable judicial services. It recommended that the Congo consider reviewing strategies aimed at comprehensive protection of children with a view to developing a plan and aligning it with the provisions of CRC and all applicable international human rights instruments to which the Congo is party.

40. Gabon noted that the status of Congolese women has improved over the years thanks to the creation of the Ministry of Promotion of the Women and the Integration of Women in Development. These trends merit the support of the international community, including technical assistance from OHCHR. Gabon recommended in line with the recommendations of the Committee on the Rights of the Child, to sign and ratify CRC-OP-AC. Gabon encouraged the Congo to further cooperate with the mechanisms for the promotion and protection of human rights, including special procedures.

41. Italy noted that according to figures provided by UNICEF, about one quarter of children are not registered at birth and recommended that the Congo (a) improve procedures aimed at raising the

percentage of children registered at birth. Italy commended the de facto moratorium on executions and recommended that the Congo (b) consider the complete abolition of capital punishment in its internal legislation. Regarding the rights of minorities, Italy acknowledged the ongoing efforts by the authorities to draft specific norms in this field and recommended that the Congo (c) approve in the shortest period of time and implement the new law regarding indigenous peoples with the aim of safeguarding minority rights in the country, specifically those of the Pygmies, and (d) guarantee the right to receive, seek and impart information and ideas in compliance with article 19 of ICCPR.

42. The Congolese delegation gave the following answers to the questions asked.

43. The rights of the child were guaranteed. Education was mandatory up to the age of 16. Girls had equal access to education. Ensuring that girls remained in school was a continuing concern of the Congo. School fees had been abolished and measures taken to make primary school textbooks free of charge. In the area of health care, malaria treatment was free for children up to the age of 15.

44. With regard to the right to health, the Congolese delegation acknowledged that maternal and infant mortality was an issue of concern. Efforts were therefore being made to build, rehabilitate and equip hospitals and other centres for maternal and child health in all departments of the Congo. Major efforts were also under way to recruit and train health workers. Health care was provided to all patients, without distinction. HIV/AIDS testing and treatment was free for all patients, regardless of their sexual orientation.

45. Sexual violence towards children and women was punished by law. The practices of genital mutilation that had been referred to were not rooted in Congolese culture. However, the Government had taken note of the comments made in that regard.

46. With regard to the presidential election of July 2009, the civic consultation held from 14 to 17 April 2009 in Brazzaville had provided a forum for political actors, civil society and religious denominations of the Congo to establish a number of findings in order to guarantee credible, transparent presidential elections.

47. With regard to violation of the rights of vulnerable persons, the Congolese delegation stated that human rights were guaranteed and protected. Women had the same rights as men in all areas of social and political life. There was equal access to employment, the civil service and training. Equal pay was also guaranteed.

48. The Government was paying particular attention to the issue of indigenous populations. Draft legislation had been drawn up in that regard, and was currently under consideration.

49. The death penalty had not been applied in the Congo since 1979.

50. The independence of the judiciary was guaranteed under the Constitution of the Congo. Judges' salaries had been increased in order to guarantee that independence. The Supreme Council of the Judiciary, which guaranteed that independence, had met on 4 May 2009 under the authority of the Head of State, who was President of the Supreme Council, and had handed down penalties, including the removal of judges who had violated professional ethics from the bench.

51. The Congo affirmed the independence of the National Human Rights Commission, which had been established under the Constitution. The Government was working to obtain accreditation of the National Human Rights Commission to the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

52. In order to meet the Congo's reporting obligations towards the treaty bodies, an inter-ministerial technical committee had been established to draft reports.

53. The Congo had allocated funds under the 2009 investment budget in order to improve the conditions of prison inmates. Men, women and children did not share the same cells in prisons. In addition, the investment under way would make it possible to geographically separate inmates' detention quarters. Access to Congolese prisons was granted to human rights organizations which so requested. An agreement on that matter existed between the Congo and the International Committee of the Red Cross (ICRC).

54. Slovenia noted as challenges for the Congo the death penalty and the ratification of some conventions. It recommended that it (a) consider legally abolishing the death penalty as soon as possible and accelerating ratification of all human rights treaties to which it is not yet a party, particularly CESCOP, ICCPR-OP 2, CEDAW-OP, CAT-OP and both Optional Protocols to CRC. Slovenia noted the creation of the Ministry for the Advancement of Women and the Integration of Women into Development. However, according to the Committee on the Elimination of Discrimination against Women, discrimination against women persists and Slovenia is particularly concerned by female genital mutilation and the high number of rapes reported, including among the members of Pygmy community. Slovenia asked what additional measures Congo has undertaken to

decrease the number of victims of violence against women, including female genital mutilation. Slovenia recommended that the Congo (b) implement the Committee's recommendation with regard to the Act of 1920 which in current form prohibits the advertising of contraceptives and consider establishing and providing adequate resources for a sufficient number of "safe houses" for victims of domestic violence.

55. Germany asked how the Congolese Government ensures enjoyment of the right of peaceful assembly guaranteed by Congolese legislation. It noted that according to the Committee on the Rights of the Child, there is widespread ethnic-based discrimination against indigenous people finding manifestation in systematic violence even though the Constitution prohibits that discrimination. Germany asked what measures have been undertaken to guarantee the full and equal enjoyment of civil, political, social and economical rights of different ethnic groups and to combat discrimination that might occur. Germany recommended that the Congo (a) enhance the mandate as well as the capacity of the National Human Rights Commission and to bring it in line with the Paris Principles; (b) cooperate closely with United Nations bodies to address the issue of overdue reports inter alia to CESCR, the Human Rights Committee, the Committee on the Elimination of Discrimination against Women and the Committee against Torture; (c) ensure the compliance of the provisions against torture as laid down in the Penal Code and the prosecution of all perpetrators of torture; and (d) establish a monitoring mechanism in order to verify this compliance.

56. Tunisia noted that the Congo profoundly devoted to the respect and promotion of human rights and that Congolese law grants a particular place to human rights by enshrining them in the Constitution and in various codes. Tunisia referred to the achievements of the Congo in the area of human rights, in particular the policy regarding promotion of the rights of women, the national action plan and the successful projects for promoting women's emancipation by involving them in public affairs. In conclusion, Tunisia recommended that the Congo continue its efforts in the area of equality of gender and promotion of the health of mothers and the girl child.

57. Nigeria commended inter alia the reforms by the Congo with regard to vulnerable groups, the establishment of the Department for Legal Protection of Children, the centre for research, information and documentation on women and the special schools for the disabled testifies to the concerns of the Government for these vulnerable groups. Nigeria also noted the challenges that the Congo is facing and which impede the full realization of promoting and protecting human rights of its population. These challenges include weak political and socio-economic structures, lack of vital

infrastructure, corruption and misappropriation of public funds. Nigeria thereby called on the international community to provide the Congo with much-needed technical and financial assistance as well as capacity-building for the promotion and protection of human rights for its people.

58. Canada urged the Congo to ensure that democracy and rule of law, the two pillars of good governance, are respected. Canada recommended that the Congo (a) step up its efforts to make the community aware of the risks of HIV and establish a campaign to increase awareness among young people. It also recommended that the Congo (b) open an inquiry as soon as possible into all allegations of torture and of deaths in detention, and prosecute and convict those who have committed acts of torture in prisons or other places of detention and (c) establish a program to monitor places of detention and a training programme with respect to human rights for staff working in places of detention. It further recommended that the Congo (d) adopt measures, together with NGOs and anti-corruption groups, to combat corruption, in particular in the judicial system, and promote respect for human rights. Canada requested more information on the arrests of two anti-corruption activists, Christian Mounzeo and Brice Mackosso.

59. The Czech Republic recommended that the Congo (a) ensure the independence of judiciary, improve access to justice and (b) provide specific training aimed at the protection of human rights in particular of women, children and persons of minority ethnicity, sexual orientation or gender identity to all law enforcement and judicial officials. Regarding protection from torture, it commended the Congo for signing CAT-OP in 2008 and recommended (c) early ratification of CAT-OP and the establishment of a national preventive mechanism. Further in this area, it recommended the following: (d) review conditions in all prisons and detention facilities with a view of ensuring their compliance with the Minimum Standards of Treatment of Prisoners, in particular to establish separate juvenile detention facilities; (e) ensure effective investigation of and accountability for all cases of torture and death in detention. As to the protection of human rights of asylum seekers, it recommended that the Congo (f) prepare and adopt a national legislation establishing an effective asylum procedure and ensuring protection of all human rights of these persons and (g) decriminalize same-sex sexual activity between consenting adults and adopt measures to promote tolerance in this regard, which would also facilitate more effective educational programmes for the prevention of HIV/AIDS.

60. Senegal noted in the report the challenges the Congo faces with regard the promotion and protection of human rights in various areas such as education, health care, judiciary, human rights legislation, and assistance to vulnerable persons. It commended the spirit of openness and the

genuine desire of the authorities of the Congo to improve its human rights situation, not without the support of the international community. Senegal asked for more information of measures taken or envisaged to better combat violence against them. It also asked if Congo is planning to accede to other international human rights instruments.

61. Cuba noted the establishment as of June 2008 of arrangements for free treatment for those living with HIV/AIDS but also malaria and tuberculosis. In the field of education, Cuba noted the efforts of the Congolese Government despite the limited resources. The strengthening of international cooperation to relief its external debt and fulfilment of ODA commitments could significantly contribute to providing the country with resources to confront several of the identified challenges. Cuba recommended Congo to continue in the protection of the rights of people affected by HIV/AIDS, including through the approval of the bill approved by the Government for the protection of persons living with HIV/AIDS, which is now under consideration by the Council of Ministers.

62. Japan asked about the efforts to ensure fair and transparent function and guarantee the political rights of citizens at the July elections. Japan noted that issues such as the prevalence of infectious diseases like HIV/AIDS, inadequate medical care for mothers and children, and lack of access to safe drinking water, pose a large problem for Congo but applauded the efforts made with the cooperation of international organizations and donors to improve health care. It noted that concerns remain over whether these measures have been effectively implemented. Japan recommended Congo (a) to make further improvement efforts on this front. Japan noted further efforts are needed for working towards equal-opportunity education. In addition, concern was raised regarding sexual exploitation of children, including child pornography, and child labour. Japan asked what concrete measures, including provisions in the legal system being taken to address these specific concerns regarding the rights of the child. Japan commended the creation of a Ministry for the Advancement of Women and the Integration of Women into Development and a quota system for women candidates running for elected office but noted that unequal access to the labour market and educational opportunities continue to be raised. In this regard, Japan recommended that the Congo (b) strengthen its efforts regarding equal access of women to the labour market and educational opportunities.

63. Spain noted the programme of disarmament demobilization and reintegration initiated in 2006 which is still being applied. It also noted the problem of birth registration which is a matter of

national emergency. Nearly a quarter of those under 18 have not been registered at birth. Cooperation between the Government and UNICEF is exemplary in this respect. Spain noted the establishment of the Human Rights Commission and of the Office of the Mediator. Nevertheless, the mandate of these institutions is still very limited. Spain recommended (a) that these institutions be given appropriate mandates and the financial resources they need. A restructured Commission could be accredited as a national human rights institution. The Congo should increase its efforts, including through educational measures, to end discriminatory attitudes against women. Spain also recommended (b) the inclusion in domestic legislation of a definition of discrimination against women, together with the elimination of all discrimination related to possession, shared, ownership or inheritance of land; (c) that matrimonial legislation be made compatible with international instruments with a clear schedule so that family legislation can be replaced together with the abolition of the ban on advertising for contraceptives; (d) adopt legislation to prohibit such practices as well as a message to assure the eradication of female genital mutilation, including campaigns to increase awareness on this issue.

64. Ghana noted that the National Action Plan 2009-2013 for improving the quality of life of indigenous peoples has been drafted and asked the Congo to elaborate on the essential elements of this action plan. It noted overcrowd in prisons is a major problem, while most prisons lack social integration measures, and recommended that the Congo consider more non-custodial measures for offenders, particularly for women, as a means of reducing the overcrowd and the pressure on reintegration efforts. It also noted several other challenges for the Congo but was encouraged by the country's pledge to seek technical assistance from the Human Rights Council to address them and Ghana supported this call.

65. Benin encouraged the Congo to persevere in its commitment to the promotion and protection of human rights and invited the other States to support the Congo which is emerging from a period of civil war. Benin also invited the brother countries to support all the Congolese in the rapid reconstruction of the country. Benin recommended that the Congo ratify CAT-OP and establish a national preventive mechanism.

66. Côte d'Ivoire noted the efforts made by Congolese authorities for their community despite an uncertain economic environment and the progress made to restore the rule of law. It commended the efforts of the Congo in the peace consolidation process. Côte d'Ivoire congratulated and encouraged

the Government to continue in the path of democracy and rule of law. In conclusion, it urged the Government to continue strengthening its institutional reform in the field of human rights and in particular, encourage concluding the consideration of the bill for the promotion and protection of the rights of indigenous populations.

67. Latvia welcomed the fact that Congo has ratified most international human rights instruments and the Rome Statute of the International Criminal Court. On the issue of a standing invitation to special procedures, which Latvia had also addressed as a written question before the session, and considering the recent request by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people to visit the country, Latvia recommended that the Congo consider extending a standing invitation to all special procedures of the Human Rights Council.

68. Guinea noted that the Congo has ratified a large number of human rights instruments, most which have been backed by domestic law. However, the promotion of human rights is a complex and ongoing process which requires resources. Guinea requested the Council, OHCHR and the international community to provide all necessary assistance to strengthen Congo's institutional capacities and the efforts to promote and protect human rights.

69. Equatorial Guinea commended, inter alia, the establishment of the Mediator of the Republic, and the Ministry for the Promotion of Women and the Integration of Women in Development. It welcomed the adoption of decree 2008 providing for free medical care for those suffering from malaria, tuberculosis and HIV/AIDS. It supported the effort made to guarantee and protect the rights of indigenous peoples and efforts for the promotion and protection of the rights of the internal displaced, as well as the initiative to create a national commission to assist refugees sponsored by the Ministry of Foreign Affairs and the Francophone community. Equatorial Guinea urged the Congo to remain committed to promotion of human rights and to engage in a continuous and constructive dialogue with the leading human rights bodies and international community.

70. The Central African Republic noted that conditions of vulnerable communities and their education need to be addressed. It also noted that the development of a national human rights policy for the translation of various human rights instruments increasing awareness to communities concerned into the national languages, requires technical, material and financial support and called for the assistance of the international community and the technical aid of the Human Rights

Council. The Central African Republic recommended the Congo continue with its efforts to assist the indigenous communities, including the Pygmies who are sharing the same culture as those living in the Central African Republic.

71. Cameroon noted with satisfaction *inter alia* the provisions and the diversity of the programmes adopted on questions such as HIV/AIDS, and the fight against discrimination against women. Cameroon encouraged the Congo to intensify its measures to promote and protect the rights of the child, the rights of the handicapped, and to strengthen the rule of law and good Governance while continuing its efforts in the policy regarding displaced persons and refugees. It urged the international community to provide massive support through multiform aid to Congo to strengthen its technical capacity in the area of human rights.

72. Angola noted that gender inequality in access to education remains a challenge particularly in rural areas and asked on policies to improve this situation. Angola recommended that the Congo (a) continue its efforts to promote and facilitate school attendance, in particular among children from economically disadvantaged families and ensure non-discrimination within the school environment. It noted that the Congo ratified the Convention for the Suppression of the Traffic and the Exploitation of the Prostitution of Others. Angola recommended that the Congo (b) reinforce national legislation prohibiting trafficking in persons, in particular children. As the rights of indigenous peoples continue to be a challenge, Angola recommended to (c) streamline and fine-tune policies to improve indigenous people's rights.

73. Belgium considered major challenges in the field of human rights remain in respect to justice, prison system and violence against women. It stressed specifically that the current situation of the National Human Rights Institution which is no longer accredited to the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. In past, the Committee on the Rights of the Child had already expressed concern about the mandate and source of financing of this institution. Belgium recommended that the Congo (a) do everything to fulfil its obligations in the field of human rights and step up its efforts with respect to the rights of persons from vulnerable groups, including persons in detentions, women and children. Belgium also recommended that the Congo (b) ensure that the national human rights institution complies with the Paris Principles and that the institution seek accreditation from the International Coordination Committee.

74. In answer to other questions asked, the Congolese delegation stated that public freedoms, including freedom of association, freedom of assembly and freedom of the press, were protected by law. There were no prisoners of conscience in the Congo.

75. However, as in all democracies, enjoyment of the right to freedom of assembly was subject to certain conditions laid down by law.

76. With regard to extending a standing invitation to Human Rights Council special rapporteurs, the Congolese delegation reiterated its commitment to cooperating with United Nations bodies. An invitation had been issued to the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people who, because of scheduling problems, had been unable to visit the Congo in 2008. The visit would take place in 2010.

77. With regard to decriminalization of the offence of homosexuality, the Congolese delegation considered the issue to be a cultural one, persistent prejudice being such that the status quo remained unchanged.

78. The Congolese delegation thanked all the delegations that had taken the floor and undertook to consider in depth the recommendations that had been made with the aim of improving the human rights situation in the Congo.

II. CONCLUSIONS AND/OR RECOMMENDATIONS

79. The recommendations formulated during the interactive dialogue have been examined by Congo and the recommendations listed below enjoy the support of Congo:

1. Sign and ratify the Optional Protocol to the Convention on the Right of the Child on the involvement of children in Armed Conflict (CRC-OP-AC) (France, Gabon); ratify both Protocols to the Convention on the Rights of the Child (CRC) (CRC-OP-AC and the Optional Protocol on the sale of children, child prostitution and child pornography, CRC-OP-SC) (Argentina, Slovenia);
2. Consider accelerating the ratification of all human rights treaties to which it is not yet party, particularly ICESR-OP, ICCPR-OP 2, CEDAWC, CAT-OP, CRC-OP-AC, and CRC-SC-OP (Slovenia); ratify CEDAW-OP, as well as the Convention on the Prevention and Punishment of the Crime of Genocide, the Palermo Protocol and the

optional protocols to CRC (Argentina); ratify the Convention on the protection of all persons against enforced and involuntary disappearances (Argentina); ratify the ICRMW, as well as the International Convention for the Protection of All Persons from Enforced Disappearance (Mexico); ratify CAT-OP and establish a national preventive mechanism (Czech Republic, Benin);

3. Accede to ILO Convention N° 169 concerning Indigenous and Tribal Peoples in Independent Countries (Mexico);
4. Consider the appropriateness of taking measures to have the National Human Rights Commission accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (Algeria); enhance the mandate and capacity of the National Human Rights Commission and bring it into line with the Paris Principles (Germany); give appropriate mandate and financial resources to the National Human Rights Commission and the Office of the Mediator of the Republic (Spain); ensure that the National Human Rights Commission complies with the Paris Principles and that the institution seeks accreditation from the International Coordinating Committee (Belgium);
5. Support efforts aimed at protecting and enhancing human rights on the African continent, particularly through the African Commission on Human and Peoples' Rights (Sudan); continue efforts aimed at protecting and promoting human rights and fundamental freedoms (Egypt); continue efforts to improve the human rights situation (Chad); continue efforts in promoting the Congolese people's rights (Burkina Faso);
6. Specifically determine its needs in order to be able to seek international assistance in its endeavours (Egypt); define its priorities and determine its needs in order to support its request for technical assistance in the area of human rights (Democratic Republic of the Congo); seek assistance from the international community to take up the various challenges confronting it (Chad);
7. Cooperate closely with United Nations bodies and address the issue of overdue reports to ICESR, the Human Rights Committee, CEDAW and CAT, among others (Germany);

8. Remain committed to promoting human rights and engage in a continuous and constructive dialogue with the leading human rights bodies and the international community (Equatorial Guinea);
9. Adopt all necessary measures to ensure the right to life and protect individuals (Argentina); prohibit torture in its domestic legislation in line with CAT and abolish the death penalty (Argentina); fully abolish the death penalty (Holy See); abolish capital punishment (Azerbaijan); consider legally abolishing the death penalty as soon as possible (Slovenia); consider the complete abolition of capital punishment in its internal legislation (Italy);
10. Guarantee that each detainee effectively has the right to contest the legality of his or her arrest (Netherlands); end immediately the detention of those who are not held in detention centres as foreseen by article 341 of the Penal Code (Netherlands);
11. Ensure compliance with the provisions against torture laid down in the Penal Code and the prosecution of all perpetrators and establish a monitoring mechanism in order to verify this compliance (Germany);
12. Open inquiries, as soon as possible, into all allegations of torture and death in detention and prosecute and convict all those who have committed acts of torture in prisons or other places of detention (Canada); ensure effective investigation of and accountability for all cases of torture and death in detention (Czech Republic);
13. Ensure the independence of the judiciary and improve access to justice (Czech Republic);
14. Review conditions in all prisons and detention facilities with a view to ensuring their compliance with the Standard Minimum Rules for the Treatment of Prisoners, in particular to establish separate juvenile detention facilities (Czech Republic);
15. Take steps to ensure that prison conditions are independently monitored, perpetrators of acts of torture are duly prosecuted and detainees have the right to a fair trial (United Kingdom); take measures to ensure full compliance with the CAT and other international standards regarding the treatment of detainees (Sweden); pay special attention to the condition of persons in prisons and continue its capacity-building policy

in the field of health-care services (Djibouti); establish a programme to monitor places of detention and a human rights training programme for staff working in places of detention (Canada);

16. Consider non-custodial measures for offenders, particularly for women, as a means of reducing overcrowding in prisons and the pressure on reintegration efforts (Ghana);
17. Reinforce women's rights within the labour market (Brazil);
18. Adopt measures to combat attitudes and persistent stereotypes concerning the role and responsibilities of women in society (Mexico); increase its efforts, especially educational and public awareness measures, to improve the realization of women's rights (Azerbaijan);
19. Request the support of United Nations programmes and agencies to establish programmes and strategies for literacy and employment training in for women in order to improve their conditions and their participation in the development of the country (Algeria);
20. Take all appropriate measures to eliminate all forms of discriminations against women, in particular with respect to property, the sharing and inheritance of land and access to education, the labour market and political life (France); introduce legislation that eliminates discrimination in ownership, co-sharing and inheritance of land, protects victims of sexual violence, criminalizes marital rape and gives women equal rights in marriage and pre-marriage (Netherlands);
21. Include provisions in domestic legislation to define discrimination against women and to eliminate all discrimination related to the possession, sharing, ownership and inheritance of land (Spain);
22. Take additional measures to strengthen the fight against discrimination against women (Morocco); reinforce efforts to combat discrimination against women (Azerbaijan);
23. Continue implementing measures to handle the problem of violence against women and combat impunity in this regard (Sweden); take further steps to address discrimination against women and vulnerable groups, including children, persons belonging to minorities and indigenous people (United Kingdom);

24. Adopt laws prohibiting female genital mutilation and take focused measures to ensure that such practices are dropped as a result of broader awareness-raising campaigns (France); prohibit female genital mutilation (Netherlands); adopt legislation to prohibit female genital mutilation and measures to eradicate this practice, including campaigns to increase awareness of this issue (Spain);
25. Adopt legislation prohibiting practices of violence affecting Congolese women in line with CEDAW and eradicate female genital mutilation (Argentina);
26. Continue efforts undertaken for the protection and realization of the rights of the child, particularly regarding access to education (Algeria);
27. Consider reviewing strategies aimed at the protection of children with a view to developing a comprehensive plan for the care of children and aligning them with the provisions of the CRC and all applicable international human rights instruments to which the Congo is a party (South Africa);
28. Improve procedures aimed at raising the percentage of children registered at birth (Italy);
29. Make further efforts to combat violence and sexual abuses against children for the effective realization of their rights (Burkina Faso);
30. Adopt measures immediately and in line with international human rights standards to protect the rights of children and in particular to prohibit child labour and prevent, criminalize and punish sexual exploitation and child trafficking (France);
31. Reinforce national legislation prohibiting trafficking in persons, in particular children (Angola); criminalize trafficking in children and sexual exploitation of children, in line with international standards, (Argentina);
32. Finalize and enact the draft law prohibiting all forms of trafficking and develop formal procedures for identifying trafficking victims among vulnerable populations such as females in prostitution, street children and Pygmies, and train police and social workers to implement these procedures (United States);

33. Continue efforts to combat all forms of discrimination which may victimize vulnerable groups such as indigenous peoples and the disabled (Djibouti);
34. Allow for greater freedom of expression for members of the press in advance of the elections, including political reporting, granting equal media access to and coverage of oppositions candidates (United States); take all measures to ensure that the forthcoming elections are peaceful, free and fair and occur in a climate free of intimidation and where the right of assembly is fully respected (United Kingdom);
35. Encourage civic participation, including of civil society in the electoral process (United States);
36. Guarantee the right to receive, seek and impart information and ideas in compliance with article 19 of ICCPR (Italy);
37. Adopt measures, together with non-governmental organizations and anti-corruption groups, with a view to combating corruption, particularly within the judicial system, in order to promote the respect of human rights (Canada);
38. Continue to invest in education, giving special attention to women and girls (Holy See);
39. Continue efforts to promote and facilitate school attendance, in particular among children from economically disadvantaged families, and to ensure non-discrimination within the school environment (Angola);
40. Incorporate instruction on human rights in school curricula (Azerbaijan);
41. Further invest in obstetric clinics and in the formation of skilled birth attendants (Holy See);
42. Continue its efforts in the area of the promotion of gender equality and of the health of the mother and the girl child (Tunisia);
43. Improve efforts aimed at increasing access to safe drinking water and reducing cases of infectious diseases (Japan);

44. Continue efforts for the protection of the rights of people affected by HIV/AIDS, including through the approval of the bill prepared by the Government for the protection of persons living with HIV/AIDS, which is now under consideration by the Council of Ministers (Cuba);
45. Strengthen its efforts to address unequal access to the labour market and educational opportunities (Japan);
46. Continue efforts with a view to fully tackling the problem of discrimination against minority groups (Sweden);
47. Fulfil its obligations in the field of human rights and step up its efforts with respect to the rights of people from vulnerable groups, including persons in detention, women and children (Belgium);
48. Prepare and adopt national legislation establishing an effective asylum procedure and ensuring protection of all human rights of asylum-seekers (Czech Republic);
49. Approve in the shortest period of time the new law regarding indigenous peoples with the aim of safeguarding minority rights, specifically those of the Pygmies (Italy); continue strengthening its institutional reform in the field of human rights and, in particular, encourage rapid consideration of the bill for the promotion and protection of the rights of indigenous populations (Côte d'Ivoire); continue its efforts to assist indigenous communities, including the Pygmies, who share the same culture as those living in the Central African Republic (Central African Republic); streamline and fine-tune policies to improve indigenous people's rights (Angola);
50. Continue to resist attempts to enforce any values or standards beyond the universally agreed base, through the exercise of its sovereign right to implement its laws and legislation in conformity with those values and standards (Egypt);
51. Accomplish progressively human rights goals as set forth in Human Rights Council resolution 9/12 (Brazil).

80. The following recommendation will be examined by the Congo which will provide responses in due time. The response of the Congo to this recommendation will be included in the outcome report to be adopted by the Human Rights Council at its twelfth session:

Finalize its plan to elaborate a national law on assistance and protection of IDPs (Democratic Republic of the Congo).

81. The recommendations noted in the present report at paragraphs 23 (g), 26 (f), 27 (d), 54 (b), 58 (a), 59 (b), 59 (g), 63 (c) and 67 above did not enjoy the support of Congo.

82. 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 Congo was headed by Monsieur Jean-Martin MBEMBA, Ministre d'Etat, Ministre de la Fonction Publique et de la Réforme de l'Etat and composed of 19 members:

Monsieur Jean-Martin MBEMBA, Ministre d'Etat, Ministre de la Fonction Publique et de la Réforme de l'Etat ;

M. Paul MBOT, Ministre de l'Ordre Public et de la Sécurité;

Mme Rosalie KAMA NIAMAYOUA, Ministre de l'Enseignement Fondamental et Secondaire, Chargé de l'Alphabétisation ;

M. Luc-Joseph OKIO, Ambassadeur Extraordinaire, Représentant Permanent de la République du Congo auprès de l'Office des Nations Unies à Genève et des autres Organisations Internationales en Suisse ;

M. Michel MVOUO, Premier Avocat Général près la Cour Suprême ;

M. Cyrille LOUYA, Directeur de la Coopération au Ministère de la Justice et des droits humains ;

M. Martin MAFOUMBA, Directeur de la Promotion et de la Protection des libertés fondamentales du Ministère de la Justice ;

M. Jean-Baptiste DIAMOUNZO KIONGA, Attaché Administratif à la Présidence de la République ;

M. Thierry GOMBET, Premier Vice- Président par intérim de la Commission nationale des droits de l'homme ;

M. Maurice MASSENGO TIASSE, Deuxième Vice- Président de la Commission nationale des Droits de l'Homme ;

M. Etienne MOKONDJI-MOBE, Trésorier à la Commission des droits de l'homme ;

M. Jean-Marcellin MEGOT, Premier Conseiller à la Mission Permanente du Congo à Genève ;

M. MASSAMBA, Conseiller à la Mission Permanente du Congo à Genève ;

M. Placide MOUDOUDOU, Conseiller Administratif et juridique du Ministre de l'Ordre Public ;

M. Guillaume BOUKOUTOU, Conseiller à l'Ordre public du Ministère de l'Ordre Public.
